



# GIVING SECURITIES



It is always wise to carefully consider the best property to use to fund charitable gifts. While most gifts are made in the form of cash, additional tax savings and other financial benefits may make gifts of securities that have increased in value especially attractive.

## **Why the Asset You Choose Matters**

Not all charitable gifts are created equal. The tax treatment of your gift depends largely on what you give -- and when. Securities that have appreciated in value offer a particularly powerful giving opportunity because you can avoid the capital gains tax you would owe on a sale while still receiving a deduction based on the full fair market value.

The following pages illustrate several approaches, depending on your situation and what you believe about the future value of your holdings.

## **Special Benefits of Giving Securities**

Many are surprised to learn they can make charitable gifts of stocks, bonds, mutual funds, and certain other marketable securities that have increased in value since purchase, receive an income tax deduction based on their full fair market value, and avoid capital gains tax that would otherwise be due upon sale.

To receive the most favorable tax treatment, the securities must be long-term appreciated assets, meaning they have been held for more than one year.

Gifts of long-term appreciated securities to public charities are generally deductible up to 30 percent of adjusted gross income (AGI) in the year the gift is made. Any excess deduction may be carried forward for up to five additional tax years.

The following pages illustrate several methods for making gifts of appreciated securities that may enhance tax savings while supporting your philanthropic goals.

### Securities That Might Otherwise be Sold

If you have securities that have increased in value since their purchase, and you are considering selling them, you might want to consider using these assets to fund your charitable gifts.

**Example:**

John and Sarah Fox purchased 100 shares in Acme Corporation several years ago at a cost of \$2,500. The shares have been worth as much as \$12,000. They are worth \$10,000 today and yield a dividend of 1 percent.

If the Foxes sold the stock, they would realize a \$7,500 capital gain. Because they have held the securities long term (for more than one year), they would owe as much as \$1,500 in federal capital gains tax on a sale. In addition, more could be due in state taxes as well, depending on where they live.

John and Sarah plan to make charitable gifts totaling \$10,000 this year. They normally make their gifts in the form of cash.

Assuming they are in the maximum federal income tax bracket (37%), let's take a look at that possibility and two alternatives:

	<b>Option A Give \$10,000 in Cash</b>	<b>Option B Sell Securities &amp; Give Cash</b>	<b>Option C Give Securities Outright</b>
Gift Value	\$10,000	\$10,000	\$10,000
Ordinary Income Tax Savings	\$3,700	\$3,700	\$3,700
Capital Gains & Medicare Contribution Tax Saved or Paid Assuming 20% Tax Rate**	N/A	\$1,785 paid	\$1,785 saved
<b>Net Tax Savings</b>	<b>\$3,700</b>	<b>\$1,915</b>	<b>\$5,485</b>

\*\*Total of 20% capital gains tax & 3.8% Medicare Contribution Tax (MCT)

In their income tax bracket, the least desirable alternative would be to sell the securities and give the proceeds, as the payment of the capital gains tax would reduce their net tax savings.

If they instead made their gifts in the form of the Acme shares, they would save capital gains tax on the increased value of \$7,500. Their combined regular, capital gains and Medicare contribution tax (MCT) savings would be \$5,485, more than twice the savings than if they had sold the securities and given \$10,000 in cash. They may enjoy additional state income and capital gains tax savings as well.

By giving the securities, the Foxes have preserved their cash, generated current income tax savings, been relieved of capital gains and other tax that would be due on a sale, all while making a significant charitable gift.

Because of the different ways capital gain taxes are determined, including length of time held and other factors, it is important to select the right asset when considering a charitable gift of securities or other investments. The best choice will normally be securities held more than one year that would be subject to the most tax if sold.

### **Donor Advised Fund**

An alternative to gifting securities outright to a charity is to establish a Donor Advised Fund (DAF). A DAF is a charitable giving account designed exclusively to invest, grow, and give assets to charities for meaningful and lasting impact.

Giving appreciated securities to a DAF rather than directly to a charity will make it easier to spread your contributions to more charities over a longer time period. You can make your contributions now, then have an unlimited amount of time to decide which charities to support. DAFs can also be left to your heirs who can continue your charitable giving bequest.

A DAF can also help you make a few years' worth of contributions in a single year, so you can cross the threshold that makes filing an itemized return worthwhile. You'll be able to deduct the contribution in the year you give the stock or other money to the DAF, even if you don't grant the money to charities for several years. The size of the deduction will be the value of the stock on the day you make

the contribution, as long as you've held the stock for longer than a year.

### **Giving a Security While "Keeping" it**

Suppose you are reluctant to give a particular stock or mutual fund that has performed well over the long term. There is a way to make a charitable gift using such a security while, in effect, keeping it.

For example, you might wish to make a \$10,000 tax-deductible gift using a security for which you paid \$5,000, thereby bypassing taxes on the \$5,000 profit.

You could then use \$10,000 in cash you might otherwise have donated to repurchase the same security. You will then own the same investment with a new, higher cost basis of \$10,000.

In the event of a sale after a future decline in value, you may then benefit from a capital loss in the security rather than simply realizing less gain. If the security grows in value, you will owe tax only on future sale proceeds in excess of your new \$10,000 cost basis.

### **Balancing Capital Gains Through Gifts**

What if you believe that a security you own is less likely to grow in value and may even decline in value in the future?

In that case, a way to make a significant gift is through a *balanced sale*. Under this alternative, you make a gift of part of your investment while selling the remainder.

**Example:**

George Wyatt would like to make a gift of \$5,000. He owns securities worth \$25,000 for which he paid \$14,500 ten years ago. He believes it is unlikely the shares will continue to increase in value, and he would like to sell them. He does not, however, wish to pay capital gains tax on the \$10,500 gain.

If he sold all the securities, he would net just \$22,500 after paying some \$2,500 in taxes.

Through a balanced sale, he sells shares worth \$20,000 and gives shares worth \$5,000, with the following tax consequences, assuming maximum income, capital gains and Medicare contribution tax:

	<b>Give \$5,000 in Securities</b>	<b>Sell \$20,000 in Securities</b>
Gift Value	\$5,000	\$0
Income & Other Tax Savings	\$2,060	\$0
Combined Tax Liability	\$0	\$2,000
<b>Difference</b>	<b>\$0</b>	<b>\$60</b>

Note that Mr. Wyatt's tax savings of \$2,060 as a result of his gift more than offset the capital gains tax on the shares that were sold.

He now enjoys all the cash proceeds of the sale and the satisfaction of making a \$5,000 gift.

This is just one example of special incentives Congress has provided for those who wish to redirect a portion of their tax liability for charitable purposes.

**When Securities Have Declined in Value**

If you own securities that are worth less than their original cost, it is usually better to sell them and make a charitable gift using the cash proceeds. You may then be able to claim tax benefits for both the capital loss and the charitable gift.

**Completing Your Gift of Securities**

Making gifts of appreciated securities need not be complicated.

If your financial services provider holds the securities (including mutual funds) for your account, instruct that they be transferred electronically. This is the most convenient way to make a gift.

On the other hand, if you hold stock certificates, mail the unendorsed certificate and a signed stock power (available from your financial services provider) in separate envelopes to the charitable recipient. The gift is complete on the date of postmark of the later envelope.

We're happy to provide you and your advisors with any information that may be needed to complete the transfer.

**Giving While Retaining Income**

Making a gift of appreciated securities doesn't necessarily mean giving up income. Several planning strategies allow you to contribute securities, avoid capital gains tax on the transfer, and still receive fixed or variable payments for life or a specified period of time.

Two of the most common approaches are described below.

### ***Charitable Remainder Annuity Trust***

A Charitable Remainder Annuity Trust (CRAT) is an irrevocable trust funded with cash, securities, or other assets. Once established, the trust pays a fixed dollar amount each year to you or other named beneficiaries for life or a specified term. At the end of the trust term, the remaining assets pass to the charitable organization.

Because the trust is usually funded with appreciated securities, capital gains tax on the transfer is generally avoided at the time of the gift. You also receive an income tax deduction in the year the trust is created based on the charitable portion of the transfer, and the assets are generally removed from your taxable estate.

The fixed payment amount is determined at the time the trust is created and does not change, which makes this approach well suited for donors who want predictable, stable income.

### ***Charitable Remainder Unitrust***

A Charitable Remainder Unitrust (CRUT) works similarly to the annuity trust but with one key difference -- payments are variable rather than fixed. Each year, the trust pays a set percentage of the trust's value as recalculated annually. If the trust grows in value, payments increase. If it declines, payments decrease.

Like the annuity trust, the CRUT offers potential capital gains tax avoidance on the transfer of appreciated assets, an income tax deduction in the year of the gift, and removal of the assets from the taxable estate.

The unitrust may be a better fit for donors who are comfortable with some variability in their payments and want the potential for income growth over time. With both arrangements, the full value of the donated securities -- not just what would remain after tax -- can be reinvested within the trust to generate income. Payments may also be taxed at more favorable rates than ordinary income depending on how trust earnings are classified.

### ***Charitable Gift Annuity***

A charitable gift annuity is an agreement between a donor and a charitable organization. In exchange for a gift of cash, securities, or other assets, the organization agrees to pay the donor -- and in some cases a second beneficiary -- a fixed amount each year for life. Payment rates are based on the age of the recipient at the time the gift is made and are set by the American Council on Gift Annuities.

When appreciated securities are used to fund a gift annuity, only a portion of the capital gain is recognized, and that amount may be spread over the donor's life expectancy. A portion of the contribution also qualifies for a current income tax deduction, and a portion of each annuity payment may be tax-free for a period based on life expectancy. If the annuity benefits only the donor and/or spouse, the contributed amount is generally removed from the taxable estate.

For donors who want guaranteed lifetime income without the complexity of a trust arrangement, a charitable gift annuity is worth considering.

## Next Steps

If the ideas presented in these pages are of interest to you, we will be pleased to provide further information upon request. You may also wish to share this booklet with your financial advisors. They may find the following section especially helpful.

## Technical Advisory Section

The following information and references to additional resources are provided for those who assist you in your estate and financial planning.

### Amount of Donor's Charitable Contribution

*Securities held long term:* In general, if an individual donates securities held long term to a public charity, such as a church, educational institution, health care organization or other cause, the amount he or she can claim as a charitable gift for federal income tax purposes is the securities' fair market value on the date of the gift. See Internal Revenue Code section 170(b)(1)(A).

*Long term:* means longer than one year. See IRC section 1222(3). The holding period to qualify as long-term property for deduction of appreciated property gifts at full market value is more than one year.

*Securities held short term:* The amount that can be claimed as a charitable gift in the case of donated securities held short term is the donor's cost basis in the securities if the cost basis is less than the securities' fair market value. See IRC section 170(e)(1)(A).

*Securities that have declined in value:* Shares that have gone down in value since being purchased generally should not be donated because a gift of such an investment does not cause the potential capital loss to be realized for federal income tax purposes. Instead, the donor should sell the shares to realize the loss to the extent possible and give the cash from the sale.

*Fair market value:* For purposes of determining the amount of the donor's charitable gift, the fair market value of publicly traded securities is generally the average of its high and low trading prices on the date of the gift. See Regulation section 25.2512-2(b)(1).

*Private foundations:* Special rules may apply to gifts of appreciated property to private foundations. See IRC section 170(e). Donors should be well advised regarding current rules before completing such gifts.

## **The Donor's Income Tax Charitable Deduction**

The federal income tax charitable deduction is subject to various percentage limitations.

The overall ceiling on the deduction is 60 percent of adjusted gross income (AGI). Cash contributions to public charities are deductible up to this 60 percent limit. See IRC 170(b)(1)(G).

Gifts of appreciated stock held long-term, along with other forms of long-term capital gain property, are generally deductible up to 30 percent of AGI if contributed to a public charity. See IRC 170(b)(1)(C).

Short-term capital gain property and ordinary income property (e.g., certain life insurance policies or inventory) are deductible only up to the donor's cost basis, and are subject to the 60 percent limit if donated to public charities. See IRC 170(e)(1)(A) and 170(b)(1)(A).

Excess contributions that exceed applicable AGI limits may be carried forward for up to five subsequent tax years. See IRC 170(d)(1).

The interplay of the 60 percent and 30 percent limits and the carryover rules set out a hierarchy that governs the order in which various types of gifts (to public charities) are to be deducted as follows:

- 1) Current contributions subject to the 60% limit (e.g., cash gifts to public charities)
- 2) Current contributions subject to the 30% limit (e.g., appreciated long-term property)

- 3) Carryforward contributions subject to the 60% limit
- 4) Carryforward contributions subject to the 30% limit

See IRC section 170(b)(1)(B).

## **Additional Savings**

A contributor of appreciated stock or other appreciated assets subject to the 30 percent AGI limitation may find this restriction too limiting and prefer to apply the higher 60 percent limitation to their gift.

For example, the donated asset may be only modestly appreciated, or the donation amount may be large relative to the donor's income, resulting in a substantial portion of the deduction being carried forward to future years—when the donor's income or tax situation may no longer support full use of the carryover.

In these situations, donors may make an election under IRC 170(b)(1)(C)(iii) to deduct the contribution at cost basis rather than fair market value. This allows the gift to be deducted under the more generous 60 percent AGI limitation.

The election can be advantageous in certain cases but must be approached with care. It is irrevocable for the year in which it is made and applies to all gifts that would otherwise be subject to the 30 percent limitation, including any carryover contributions from prior years.

## **Deduction Reduction Rule (Pease Limitation)**

As of 2026, certain high-income taxpayers will see their itemized deductions reduced by the lesser of 3% of the amount by which their adjusted gross income exceeds a specified threshold, or 80% of their total itemized deductions. See IRC Section 68.

In practice, this limitation rarely impacts charitable contributions because, for most taxpayers, other major deductions—such as mortgage interest, state and local taxes, and property taxes—absorb the reduction first. As a result, charitable gifts often remain outside the so-called “deduction reduction zone” (DRZ).

### **Substantiating Gift Value**

Ordinarily, no *qualified appraisal* (as that term is defined in Reg. section 1.170A-13(c)) is needed to sustain a claim of an income tax charitable deduction with respect to a gift of publicly traded securities.

If, however, shares of stock are subject to a sale restriction—such as a restriction under Securities and Exchange Commission (SEC) Rule 144—then even though the stock itself is publicly traded, the shares are not considered to be publicly traded. They therefore fall within the requirement for a qualified appraisal if the donor claims a value of more than \$5,000 for the shares. See Reg. section 1.170A-13(c)(7)(xi)(C).

*Substantiation rules:* It is important for donors to keep any written acknowledgments they receive from charities for charitable gifts. Since 1994, donors have been required to have special receipts from charities to which they have made gifts valued at \$250 or more. Receipts must specify the value of any benefits received in exchange for gifts or state that no benefits were received.

### **“S” Corporation Stock**

A provision in the Small Business Job Protection Act of 1996 allowed charitable organizations to be shareholders of S corporation stock beginning in 1998. However, it is important to note that any income or gain realized by the charitable organization from its ownership of S corporation stock is treated as unrelated business taxable income (UBTI). As such, it may be

subject to taxation under the rules governing the unrelated business income tax (UBIT).

### **Restricted Stock**

Gifts of stock options, warrants or stock restricted under Section 144 of the IRC or subject to other restrictions are beyond the scope of this publication. Specialized advice should be obtained prior to making charitable gifts of such assets.

### **Funding Alternative Charitable Gifts with Securities**

Appreciated securities can be an effective way to fund charitable remainder trusts and other gift planning arrangements that provide income for life or another period of time. Charitable remainder trusts come in two forms. A Charitable Remainder Annuity Trust (CRAT) pays a fixed dollar amount each year based on the initial value of the trust -- at least 5% and no more than 50% of that value annually. A Charitable Remainder Unitrust (CRUT) pays a variable amount based on a fixed percentage of the trust's net fair market value as recalculated each year, subject to the same 5% to 50% range. In both cases, the present value of the charitable remainder interest must equal at least 10% of the initial contribution.

When appreciated securities are used to fund either type of trust, capital gain on the transfer is generally not recognized at the time of the gift. Instead, gain is recognized as distributions are made to income beneficiaries, ordered according to the trust's distributable net income. The income tax deduction is based on the present value of the remainder interest passing to charity, calculated using IRS tables. The assets are also generally removed from the donor's taxable estate.

Because the full value of the donated securities -- not just what would remain after tax -- can be reinvested within the trust, the arrangement may generate more income than selling the securities outright and investing the after-tax proceeds.

See IRC section 664 and the regulations thereunder for additional information.

### **Charitable Gift Annuity**

A charitable gift annuity is a contractual arrangement between a donor and a charitable organization governed by state law, which varies. The deductible portion of a charitable gift annuity is the difference between the fair market value of the property transferred and the present value of the annuity payments to be received, calculated using IRS tables. See IRC section 1011(b) and the regulations thereunder for the treatment of bargain sales, which govern the tax treatment when appreciated property is used to fund a gift annuity. When appreciated securities are used, the capital gain is not avoided entirely but is recognized only in proportion to the gain element of the transaction and may be spread over the donor's life expectancy. Annuity rates are generally set in accordance with suggested rates published by the American Council on Gift Annuities. State regulations governing the issuance of gift annuities vary and should be reviewed before completing such a gift.

### **Gifts of Closely Held Stock**

In some situations, a person may wish to make a gift of stock in a closely held corporation. A donor who holds highly appreciated stock in a company with substantial cash reserves may be well-positioned to make a sizable charitable gift. This type of arrangement—sometimes referred to as a "charitable stock bailout"—is often followed by a redemption of the donated stock by the corporation.

If the donor owns all of the stock in the company, the gift does not reduce the donor's ownership percentage, but the corporation effectively provides the cash to fund the gift through the redemption.

In cases where the donor intends to pass control of the company to others, the gift will reduce the donor's ownership percentage

and increase the relative ownership of others, accomplishing this shift without triggering gift or estate tax.

However, the IRS has ruled that neither the donor nor the corporation may be in a position to compel redemption—such as through an agreement made before the gift is completed. See Revenue Ruling 78-197.

The donor is generally entitled to an income tax deduction for the full fair market value of the donated stock, subject to the 30 percent AGI limitation applicable to gifts of appreciated property. See IRC 170(b)(1)(C).

A qualified appraisal is required if the claimed value of the stock exceeds \$10,000. See Reg. 1.170A-13(c)(2)(ii).

### **Other Information Available**

See [www.irs.gov](http://www.irs.gov) for a variety of publications and forms including: charitable contributions (#526), non-cash contributions form and instructions (#8283) and determining the value of donated property (#561).

The purpose of this publication is to provide general gift, estate, and financial planning information. It is not intended as legal, accounting, or other professional advice. For assistance in planning charitable gifts with tax and other financial implications, the services of appropriate advisors should be obtained. Consult an attorney for advice if your plans require revision of a will or other legal documents. Tax deductions vary based on applicable federal rates, which can change. Some opportunities may not be available in all states.