

# CHARITABLE PLANNING TOOLS YOUR CLIENTS CAN USE

MICKEY R. DAVIS AND  
MELISSA J. WILLMS  
DAVIS & WILLMS, PLLC  
HOUSTON, TEXAS  
DECEMBER 4, 2020

1

## Charitable Income Tax Deduction Basics (pp. 2-7)

- ▶ Charitable income tax deduction depends upon:
  - Type of donee organization
  - What is donated (cash vs. various types of property)
  - Donor's "contribution base"
- ▶ Charities broadly characterized as:
  - "50% Charities":
    - Hospitals, medical research org's Churches
    - Schools, colleges, universities University supporting org's
    - State and local governments Publicly supported org's
  - "30% Charities":
    - Private foundations (other than private operating foundations and "conduit private foundations")

2

## Cash Contribution Limits (pp. 3-4)

- ▶ "50% Charities"
  - Normal rule: Deduction limited to 50% of contribution base
  - TCJA 2017: Increased to 60% of contribution base for 2018-2025
  - CARES Act: Increased to 100% of contribution base for 2020 and \$300 "above the line" deduction for taxpayers that don't itemize
- ▶ "30% Charities"
  - Up to 30% of contribution base
  - No special enhanced deductions after 2017
- ▶ "Contribution Base" is donor's Adjusted Gross Income, computed without regard to net operating loss carry-backs
  - TCJA eliminated most post 2017 NOL carry-backs
  - CARES Act permits 5-year carry-back of 2018-2020 losses

## Property Contribution Limits (p. 4)

- ▶ Capital gain property (property that if sold would yield long-term capital gain)
  - 50% Charities: Deduct full fair market value up to 30% of CB
  - 30% Charities:
    - Deduct lesser of FMV or basis up to 20% of CB
    - "Qualified Appreciated Stock" gets full FMV deduction up to 20% of CB
- ▶ Tangible personal property
  - Property related to donee's exempt purpose? Deduct FMV, otherwise basis
  - 30% and 20% contribution limits apply
- ▶ Ordinary income property (e.g., inventory, crops, etc.)
  - Donations limited to basis
  - Applies also to short-term capital gain property

## Substantiation Requirements (pp. 4-5)

- ▶ Requirements vary with amount of gift
- ▶ **Less than \$250:** donor must keep written documentation (cancelled check or receipt from charity)
- ▶ **\$250 or more:** Charity must provide written receipt by tax return due date. Must state whether donor received any benefits and charity's estimate of FMV of benefit received
- ▶ **Non-cash gifts \$500-\$5,000:** Donor must keep written record of basis
- ▶ **Non-cash gifts > \$5,000:** Qualified appraisal required except for gifts of publicly traded securities
- ▶ **> \$500,000:** Donor must attach qualified appraisal to tax return

## Benefits Received by Donor (pp. 5-6)

- ▶ Donor must reduce deduction by benefits received
- ▶ Failure to report benefit received results in denial of deduction
- ▶ Charity must provide good faith estimate of benefit
- ▶ Exception for "de minimus" benefits
  - No reduction if benefit is less than lesser of \$112 or 2% of gift
  - No reduction if donor gives at least \$56 and benefit bears charity's logo and costs less than \$11.20
  - Amounts are 2020 values (\$80, \$40, and \$8, adjusted for inflation)

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Charitable Planning Ideas Your Clients Can Use

Also available as part of the eCourse

[2020 Stanley M. Johanson Estate Planning eConference](#)

First appeared as part of the conference materials for the  
2020 Stanley M. Johanson Estate Planning Workshop session  
"Charitable Planning Ideas Your Clients Can Use"