TAXATION BASICS FOR FUNDRAISERS

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I. INTRODUCTION

There are two Federal tax systems of particular interest for fundraisers:

- Income tax system – including income taxes and capital gains taxes
- Transfer tax system – including estate taxes and gift taxes

Both the income and transfer tax systems include incentives to encourage charitable giving. However, the impact of these incentives on an individual donor varies depending upon the donor's personal circumstances.

While the income tax system affects all taxpayers, the most significant income tax incentives for charitable giving are available only to those taxpayers who itemize their deductions. However, only about 10% of all income tax filers itemize, and therefore 90% are unable to take advantage of the income tax charitable deduction. It might seem pointless to devote time exploring the income tax charitable deduction since it is out of reach for the vast majority of potential donors. Nevertheless, there are several reasons to be familiar with the charitable deduction. First, those who itemize tend to be more affluent and therefore have the means to make larger contributions. Second, potential donors often ask about the deductibility of their contributions even if they never claim a deduction.

On the other hand, although the transfer tax affects only a very small percentage of all taxpayers – estimates are that at least 99.8% of all estates will not be subject to the Federal Estate Tax[1] – in many cases the value of estate tax incentives is greater than the value of income tax savings because, the effective Federal Gift and Estate Tax rate (40%) is higher than the highest Federal Income Tax rate (37%).

A key concept for fundraisers is the "after-tax cost of the gift." The after-tax cost of a gift is, simply, the out-of-pocket cost of the gift minus the amount by which the contribution reduces the donor's tax bill:

	Amount Contributed
minus	Amount of Tax Reduction
equals	After-tax Cost of Gift

These tax savings are real. Even though the donor may not receive the savings until the following April 15 when she files her income tax return, the reduction in the amount of tax paid will decrease the donor's cost of making a charitable contribution. And, since most tax rates are progressive – that is the rate rises as the taxable amount increases – the amount of tax savings is greater for donors in higher tax brackets. This means that the after-tax cost of making a gift is even lower for higher bracket taxpayers.

[1]) According to the Urban-Brookings Tax Policy Center, fewer than 0.2% of all estates are subject to the Federal Estate Tax.

II. THE FEDERAL INCOME TAX

Taxable Income

The Federal income tax generally applies to all "income." We usually think of income as wages, salary, interest, and so forth. But the definition of income is much broader. In fact, the Internal Revenue Code defines income by exception. Section 61(a) says, "Except as otherwise provided in this subtitle, gross income means all income from whatever source derived" and then goes on to list dozens of exceptions including income received as a gift or inheritance. Essentially, if you get richer, it's generally considered gross income unless the law specifically says otherwise.

However, not all income is taxed because adjustments, exclusions, and deductions reduce the amount of income that is taxable. Most taxpayers file some variant of the Form 1040, which calculates "taxable income" as follows:

Gross Income	Everything earned or received as income during the year
minus adjustments	Certain items (e.g., contributions to certain qualified retirement accounts, some business expenses, some student loan interest, certain alimony payments[2]) are subtracted from gross income
Adjusted Gross Income	"AGI" is a key figure that determines the maximum amount of charitable deduction that can be taken in any one year
minus deductions	Certain items, including charitable contributions, are deducted from income, however, deductions are usually itemized only if they exceed the "standard deduction" amount ($32,200 for joint filers and $16,100 for single filers in 2026, adjusted each year for inflation) Note that taxpayers over age 65 are entitled to an additional deduction of $1,650, or $2,050 if the individual is also unmarried and not a surviving spouse (in 2026), which means a married couple filing jointly, both over age 65 would be entitled to an effective standard deduction of $35,500
Taxable Income	Amount subject to Federal Income tax

Key Point → **The charitable deduction reduces taxable income, and therefore reduces the amount of income tax due.**

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2) Alimony payments ordered under divorce decrees after December 31, 2018, are no longer an adjustment to income for the payor and are not taxed as income to the recipient. Under the previous rules, the payor could avoid income tax on the amount paid in alimony with the expectation that the recipient would report as income the amount of alimony received. The rules were changed because research indicated that the aggregate amount of alimony deducted by payors was regularly exceeding the amount reported as taxable income by recipients. The solution was to eliminate the adjustment for alimony payments.

Variations on AGI: Modified Adjusted Gross Income and Contribution Base

Modified Adjusted Gross Income, or "MAGI" is used to set limits for certain deductions and reductions, including limitations on contributions to qualified retirement plans. In general, MAGI is Adjusted Gross Income with the addition of certain items including tax-exempt income, untaxed foreign income, and the untaxed portion of Social Security income. The calculation of MAGI varies somewhat depending upon the purpose.

The **Contribution Base** is AGI without "Net Operating Loss" (NOL) carryback deductions. For most donors the Contributions Base is the same as AGI because most NOL deductions were eliminated by the Tax Cuts and Jobs Act of 2017.

Income Tax Brackets

Federal Income Tax rates are "progressive" so that a higher percentage rate applies to larger amounts of taxable income. They are also "graduated" so that everyone pays the lowest rate on the first dollar of taxable income and only those who have larger amounts of taxable income are subject to the higher rates. The tax "brackets" (dollar ranges at which each rate is effective) are adjusted for inflation each year.

Following are the Federal income tax rates and income brackets for 2026:

Tax Rate	Married Filing Jointly	Single
10%	$1 – $24,800	$1 – $12,400
12%	$24,801 – $100,800	$12,401 – $50,400
22%	$100,801– $211,400	$50,401 – $105,700
24%	$211,401 – $403,550	$105,701 – $201,775
32%	$403,551 – $512,450	$201,776– $256,225
35%	$512,451 – $768,700	$256,226 – $640,600
37%	$768,701 and over	$640,601 and over

Note: Different tax rate tables apply depending upon the filing status of the taxpayer (e.g., single, joint, etc.).

One of the implications of the graduated tax rate system is that the "marginal tax rate" – the top tax rate which is applied to the last dollar of taxable income – is usually much higher than the "effective tax rate," the overall tax rate paid. For example, a taxpayer filing jointly in 2026 with a taxable income of $250,000 will pay a total Federal income tax of $45,196, as follows:

	Taxable Income	Tax Rate	Tax Due
	the first $24,800	10%	$2,480
	the next $76,000	12%	$9,120
	the next $110,600	22%	$24,332
	the last $38,600	24%	$9,264
TOTALS	$250,000		$45,196

A total Federal income tax of $45,196 on a taxable income of $250,000 is an "effective rate" of about 18% even though the "marginal rate" paid on the last taxable dollar earned is 24%.

Capital Gains Tax

For our purposes, "capital gain income" is the "profit" when an investment is sold for more than it cost. It is "long-term capital gain income" if the investment was owned for more than twelve months before being sold and is "short-term capital gain income" if held for a year or less. Short-term capital gain income is taxed at ordinary income tax rates. However, long-term capital gain is taxed at lower rates: a maximum Federal rate of 15% for most taxpayers although there is a 20% Federal rate for higher income levels and no tax at the lowest income levels.

Although most taxpayers will pay a 15% rate on long-term capital gains, in 2026, married couples filing jointly with taxable income over $613,700 and single filers with taxable income over $545,500 pay a rate of 20%. Married couples filing jointly with taxable income of $98,900 or less in 2026 and single filers with taxable income of $49,450 or less pay no tax on long-term capital gains. These dollar thresholds are adjusted for inflation each year.

In addition, there are a few exceptions where capital gains may be taxed at other rates, sometimes greater than 20%. The taxable part of a gain from selling certain qualified small business stock can be taxed at 28% unless it is held more than five years, in which case the rate is zero. The net capital gains from selling collectibles (such as coins or art) may be taxed at a 28% rate. Under certain circumstances a portion of the gain from selling real property associated with a business may be taxed at a 25% rate.

While the general long-term capital gains tax concepts outlined here apply to most gift planning circumstances, as always you should encourage prospective donors to consult a qualified tax advisor for advice on their specific circumstances and to review the latest revisions to tax law.

Net Investment Income Tax (the "Medicare surtax"[3])

Taxpayers with income above a certain threshold must pay a 3.8% surtax called the Net Investment Income Tax, commonly known as the "Medicare surtax." This tax is imposed on top of the taxpayer's regular income tax.

The Net Investment Income Tax is applied to the lesser of net investment income or the amount by which Modified Adjusted Gross Income exceeds a specific dollar threshold. The threshold depends upon filing status. For those married filing jointly, it is $250,000 and for single filers it is $200,000. The threshold amounts are not indexed for inflation, so they remain the same each year unless Congress modifies them with new legislation. Note that the Net Investment Income Tax can effectively increase a taxpayer's marginal tax rate which can make the after-tax cost of charitable contributions all the more attractive.

3) A little Treasury Trivia: When it was enacted the official name of this tax was the "Unearned Income Medicare Contribution Tax," implying that the revenue would be used to fund Medicare. However, the revenue from this tax has never been earmarked for Medicare and has always flowed directly into the General Fund of the United States Treasury. Nevertheless, the label "Medicare Surtax" persists even though it is actually the "Net Investment Income Tax."

Amount of the Deduction: Fair Market Value

In general, a donor is entitled to a charitable deduction for the "fair market value" of the contribution. The fair market value is defined as the price that would be reached between a willing buyer and a willing seller, both having equivalent knowledge of the facts and circumstances surrounding the transaction, and neither being under any compulsion to complete the transaction.

Determining the fair market value is straightforward for most contributions:

- **Cash** – total of the cash contributed
- **Publicly traded securities** – the mean (average) between the high and low prices for the securities on the date of the contribution

However, the rules become more complicated for harder to value items such as property, collections, and personal items. In general, the donor makes a reasonable estimate of the fair market value but must obtain a "qualified appraisal" if the charitable deduction is more than $5,000.

Valuation of "non-cash" contributions has been the subject of scrutiny by the Internal Revenue Service and Congress over the years. Claiming a deduction for a non-cash contribution can heighten the audit risk of the taxpayer's return. IRS Publication 526, *Charitable Contributions*, and Publication 561, *Determining the Value of Donated Property*, provide useful guidance.

Donors should be made aware that the amount of the charitable deduction may be significantly different than the amount eventually received by the charity. For example, while the deduction for a contribution of appreciated securities will be based upon the average between the high and low prices on the date of the gift, the amount received by the charity will depend upon the actual sales price (minus commissions and other costs of sale).

Substantiating the value of a charitable deduction is a matter between the donor taxpayer and the Internal Revenue Service. Although charities should, of course, be helpful to their donors, it is best to leave the specific valuation of non-cash contributions to the donor. A good practice is for the charity to acknowledge the contribution with a complete description of the item contributed but omitting mention of a specific dollar value. IRS Publication 1771, *Charitable Contribution Substantiation and Disclosure Requirements*, is a resource for charitable organizations.

After-tax Cost of a Gift

Charitable contributions are deductible from taxable income. Reducing the amount of taxable income reduces the amount of income tax due. This tax savings reduces the actual cost of making a contribution.

Example: After-tax Cost of a Gift of Cash

Assume a donor who is in the 24% marginal tax bracket contributes $10,000 in cash:

$10,000	:	Cash contributed
-2,400	:	Income taxes saved ($10,000 x 24%)
$7,600	:	After-tax cost of the contribution

Key Point → **The charitable deduction reduces taxable income at the margin (the last dollar of income) and therefore produces tax savings at the taxpayer's highest marginal tax rate.**

After-tax Cost of Gift of Appreciated Property

A donor may contribute long-term capital gain property to charity, receive an income tax deduction for the full fair market value of the property, and pay no capital gains tax which would have been due if the property had been sold.

Example: After-tax Cost of a Gift of Appreciated Securities

Assume a donor who is in the 24% marginal tax bracket contributes securities now worth $10,000 that cost $2,000 more than a year ago (a long-term gain of $8,000):

$10,000	:	Value of securities contributed
-2,400	:	Income taxes saved ($10,000 x 24%)
-1,200	:	Capital gains tax avoided ($8,000 x 15%)
$6,400	:	After-tax cost of the contribution

The examples above reflect Federal income tax and capital gains tax savings only. The after-tax cost of the gift may be even less when the donor's state tax savings and potential Net Income Investment Tax saving are considered.

Special Note → **Even donors who do not itemize can take advantage of the opportunity to avoid capital gains tax by contributing appreciated property. In the above example, a non-itemizer would still avoid $1,200 in long-term capital gains tax that would have been due if the appreciated property were sold.**

In order to avoid the capital gains tax on a contribution of appreciated property, it is extremely important that the donor **contribute the appreciated property itself, not the proceeds from the sale** of the appreciated property. In short, if the sale of the property is arranged before the contribution, then the donor may be deemed to have sold the property and contributed the proceeds from the sale, in which case the donor would be liable for capital gains tax on the sale.

Securities are a common contribution of appreciated property. In the case of a contribution of securities, it is critical that donors that they must transfer the securities themselves to the charity, and that their stockbroker must not sell the securities except at the direction of the charity after it has become the owner.

In other cases, for example real estate, it is critically important that there be no pre-arranged agreement to sell or buy the property prior to the contribution to charity.

Charitable Deduction Limitations

Although the full fair market value of a charitable contribution is deductible, there are rules that limit the amount of deduction and the tax savings in any one year: a minimum amount must be contributed each year before a charitable deduction can be taken, the tax savings for taxpayers in the highest marginal tax bracket is limited to 35%, and total charitable deductions cannot exceed a certain percentage of the donor's Contribution Base which, for most donors, is the same as Adjusted Gross Income (see discussion above).

Charitable Deduction "Floor"

Charitable contributions are deductible only if the total exceeds 0.5% of the donor's Contribution Base (the same Adjusted Gross Income for most taxpayers). Effectively, this creates a "floor" for the charitable deduction. For example, if a donor's Contribution Base is $100,000 then the floor is $500 (0.5% of $100,000). If this donor contributes a total of $10,000 during the year, the charitable deduction will be $9,500 ($10,000 contributed minus the $500 floor).

35% Limit on Tax Savings

Although the charitable deduction reduces taxable income, the tax savings is limited to a maximum of 35%. This affects only donors in the 37% marginal tax bracket. While most donors can save taxes at their highest marginal rate, the tax savings for those in the 37% bracket is limited to 35¢ for each dollar of deducted as a charitable contribution.

Maximum Deduction and Carryover

The maximum allowable charitable deduction in any one year is limited to 60% of the donor's Contribution Base (Adjusted Gross Income for most taxpayers). In addition, different limits apply depending upon the type of contribution. Here is a brief summary of the annual charitable deduction limits for contributions to public charities:

- 60% – contributions of cash
- 30% – contributions of long-term appreciated property if deducting full fair market value
- 50% – contributions of short-term appreciated property or long-term appreciated property if the donor elects to limit the charitable deduction to cost basis

Contributions to private foundations are subject to lower limits: 30% for cash and 20% for appreciated property.

If a donor exceeds these limits in any one year, the unused charitable deductions can be carried forward and used to reduce taxable income for up to five additional years. However, charitable deductions carry forwards must be used as soon as possible. In other words, the donor cannot "save up" carry forward charitable deductions and choose when to use them.

For example, assume a generous donor has an Adjusted Gross Income of $150,000 and no Net Operating Loss transactions, therefore the Contribution Base is the same as Adjusted Gross Income. The donor makes cash contributions to public charities totaling $100,000 during the year. This donor's charitable deduction for the year would be limited to $90,000 (60% of Contribution Base) leaving $10,000 in unused deduction which the donor can use to reduce taxable income in the following year.

Complex rules come into play when a donor gives both cash and appreciated property and especially if the donor has carryforward charitable deductions from previous years. In general, if contributions consist of both cash (60% limit) and appreciated property (30% limit) the donor must first deduct all cash (60% limit) contributions up to 60% of the Contribution Base and may then deduct appreciated property contributions (30% limit) up to the lesser of 30% of Contribution Base or 60% minus the cash contributions deducted.

For example, assume a donor with a Contribution Base of $50,000 gave a church $2,000 in cash and made a contribution of appreciated property with a fair market value of $28,000. The $2,000 cash contribution to the church is considered first and is fully deductible because it is less than 60% of Contribution Base. Next, the donor is allowed to deduct $15,000 (30% of $50,000 of Contribution Base) of the $28,000 contribution of appreciated property this year. In this case, the deduction this year is limited to $17,000. The unused portion of the appreciated property contribution ($13,000) can be carried forward for next year, and up to four additional years if necessary.

In addition, a donor may elect to have 30% contributions (gifts of appreciated property) treated as 50% contributions. However, the deduction will be limited to the cost basis of the appreciated property and the election will apply to all appreciated property contributions that year. Under certain circumstances this election may be advantageous, but this is a complex matter and the donor should be urged to consult his or her tax advisor.

The charitable deduction rules along with a step-by-step worksheet to determine how different contributions and carry forward deductions apply are included in IRS Publication 526, *Charitable Contributions*.

Quid Pro Quo Reduction

The amount of the charitable deduction must be reduced by the value of goods or services the charity makes available to the donor as a result of the contribution. This arises most often when the charity offers a premium or other reward in exchange for the contribution or in cases of benefit-type events. A key point is that the deduction is reduced by the *value of the goods or services, not the cost of these items to the charity*. In addition, it is the *availability of goods or services* that reduces the deduction, whether or not the donor actually receives or takes advantage of them. It seems the assumption is that, absent the enticement of the offer of goods or services, the donor would not have been induced into making the charitable contribution. Therefore, the mere offer of goods or services reduces the value of the deduction *whether or not the goods or services are actually accepted*.

This information must be completely disclosed to the donor at the time of the contribution. Phrases such as "deductible to the extent allowed" should be avoided. If the solicitation indicates that a contribution is tax deductible, then it should also provide the details of how much will be deductible.

Finally, if nothing of value has been made available to the donor, the contribution acknowledgement should include a statement indicating that that no goods or services were made available as a result of the contribution.

IRS Publication 1771, *Charitable Contribution Substantiation and Disclosure Requirements*, provides a primer on the quid pro quo disclosure requirements.

Limited Deduction for Non-itemizers

Non-itemizers can still claim an income tax charitable deduction, up to an annual total of $1,000 for single filers and $2,000 for those filing a joint return. These amounts are not indexed for inflation. The non-itemizer deduction is limited to contributions of cash and contributions to donor advised funds are not allowed.

Date of Gift

The charitable deduction becomes available on the date the gift is completed. The date of gift is a key concern for contributions made toward year end because, in order to be claimed as a contribution deduction, a gift must be completed by December 31 of the year in which the donor wishes to claim the deduction.

The general rule is that the date of gift is the day on which the donor has irrevocably and unconditionally surrendered control of the gift. Determination of the date of gift is straightforward for most contributions:

Mode of Contribution		Date of Gift
By mail	:	Postmark date (see note)
Physical delivery	:	Date delivered
Credit card	:	Date authorized by donor (see note)
Electronic/telephone transfer	:	Date completed by bank
Stock/security certificates	:	Date delivered in negotiable form
Stock/security in brokerage account	:	Date transferred to charity's account

Donors can create unanticipated complexity if they procrastinate at year end. For example, while a contribution dropped in the mailbox at the post office minutes before midnight on December 31 is no longer under control of the donor and ought to be considered complete, the proof of date will be the postmark which is likely to be January 2 of the next tax year. Similarly, credit card contributions are sometimes processed in batches (either by the charitable organization or an intermediary) with the result that the transaction will appear on the donor's credit card statement at a later date than the donor intended. The best advice as year-end approaches? "Don't delay, give today."

As a general rule, the donor must surrender control over the gift in order for the contribution to be complete. While in most cases this is not an issue, fundraisers should be careful to avoid inadvertently creating circumstances under which a gift is not complete because of commitments made to the donor. For example, if a contribution is made subject to a promise that unused funds will be returned to the donor, then the gift will not be completed until the funds are actually used by the charity.

Substantiation Requirements

It is the donor's responsibility to substantiate the date and amount of their charitable deduction. The organization is required to provide a written disclosure statement to the donor if it receives a payment that is more than $75 and is partly a contribution and partly for goods or services. Nevertheless, charities usually make additional efforts to be of assistance to their donors. In general:

- Most organizations provide written acknowledgements for all contributions although donors are not required to obtain written documentation unless the deduction is $250 or more. Donors need not submit the written acknowledgement but should keep it and must produce it if requested by the IRS.
- If a donor claims more than $500 in deductions for non-cash contributions, he or she must complete Form 8283 which provides a description of the item(s) contributed and explains how the fair market value was determined. While the donor must have a reasonable basis for the claimed fair market value, an appraisal is not necessarily required (except for contributions of clothing and household goods valued at more than $500, which require a qualified appraisal substantiating the value).
- If the deduction amount is more than $5,000 ($500 for certain contributions of clothing and household goods), then the donor must also secure a qualified appraisal to determine the fair market value. In addition, the charity must also sign the Form 8283. Note that by signing the Form 8283 the charity is not vouching for the value of the item(s), acknowledging only that it has received the contribution.
- Contributions of vehicles are subject to special rules. A donor who claims a deduction of more than $500 for a contribution of a vehicle must attach to his or her tax return a copy of a written acknowledgement, usually an IRS Form 1098C issued by the charity. The amount of the deduction is limited to the lesser of the fair market value of the vehicle or the gross proceeds from the sale of the vehicle unless the charity makes use of the vehicle for its charitable purposes.
- Although a contribution made via a Qualified Charitable Distribution (QCD) from an Individual Retirement Arrangement (IRA) is not deductible as a charitable contribution, the donor still must get a written acknowledgement of the contribution from the charitable organization. As with deductible contributions, this acknowledgement must state the date and amount of the contribution and indicate whether the donor received anything of value in return.

Notes: If the charity signs a Form 8283, then it is required to file a Form 8282 if it sells or disposes of the contributed property within three years of the contribution. The Form 8282 requires the charity to report the amount that it received from the sale.

In general, the charity should avoid listing a dollar value on the receipt or acknowledgement for a non-cash gift. A statement describing the property in sufficient detail to identify it is usually enough.

Gifts of Tangible Personal Property

The term "tangible personal property" includes all the "things" that a donor might wish to contribute, for example: equipment, tools, furniture, antiques, collections, or libraries. In general, a donor is entitled to an income tax deduction for a contribution of tangible personal property, but subject to certain rules regarding the use of the item:

"Related use" items – If the item can be put to a use that is related to the tax-exempt purpose of the charitable organization, then the donor may take a deduction for the full fair market value of the item. For example, a contribution of specialized mechanic's tools might be a related use contribution if given to a vocational school but might not be if contributed to a childcare center.

"Unrelated use" items – If the use of the item is unrelated to the tax-exempt purpose of the charitable organization, then the deduction is limited to the *lesser of* the donor's cost basis in the item or its current fair market value.

There is an exception that applies to taxpayers who are "dealers" in certain items of personal property. Contributions of personal property made by a dealer may be a gift of ordinary income property (see below) which generally limits the charitable deduction to cost basis. Donors should be urged to consult their tax advisors regarding the rules that apply in these circumstances.

In addition, caution should be exercised when gifts of tangible personal property are accepted with the intention that they will be sold, e.g., items for a charity auction. In most cases auctioning of property does not fall within an organization's tax-exempt purpose and, therefore, items contributed with the expectation that they will be sold at a charity auction are unrelated use contributions and the deduction is limited to the donor's cost basis.

Gifts of Ordinary Income Property

"Ordinary income property" is any item which, if the donor were to sell it, would result in taxable income. The determination of ordinary income property can be very specific to the individual. For example, a casual collector of antique dolls is different than one who is a dealer in the same items. For the dealer, the dolls are ordinary income property, for the collector they are not.

The income tax deduction for a contribution of ordinary income property is its fair market value less any appreciation in value. Generally, this limits the charitable deduction to cost basis. These rules can be especially challenging for artists who wish to contribute their own works. In most cases an artist who contributes her or his own work will find that the charitable deduction is limited to the cost of materials.[4]

> ***Example:*** **Contribution of ordinary income property – the artist's own work**
> Assume an artist contributes a painting he has created to an art museum and that the fair market value of the painting on the day he donated it is $1,000,000. Further assume that the donor spent $500 to produce the painting (the cost of paint, brushes, and canvas), and therefore the appreciation in value is $999,500. The donor's deduction is limited to $500. However, if the same painting was contributed by an individual other than the artist, the deduction would be $1,000,000.

Non-deductible Contributions

It might seem antithetical, but there can be circumstances under which a donor might find it beneficial to make a charitable contribution even though there is no income tax deduction. A carefully planned contribution of ordinary income property can reduce taxable income which can provide other financial and tax savings.

For example, assume a farmer who produces a commodity crop like corn chooses to give a portion of the crop to charity instead of selling it on the open market. The farmer receives no income tax deduction for this charitable gift because it is a contribution of ordinary income property. However, the farmer will not receive taxable income from this portion of the crop either, so the farmer's income tax bill will be lower than it would have been had the crop been sold. Lowering the farmer's income tax bill can reduce other taxes – Social Security, self-employment, perhaps state and local taxes. In addition, the farmer can deduct the costs of producing the crop from other taxable income.

In this example it is important to document that ownership and control of the commodity has been given to the charity, although the charity does not need to have physical custody of the crop. Commodity crops are considered to be "fungible" – each bushel of corn is like the others. The farmer can deliver the harvested crop to the local gain elevator and then, before selling it, transfer ownership of a certain number of bushels to the charity. The charity, as the new owner of those bushels, can then direct the grain elevator to sell them and receive payment from the sale.

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4) While this rule might seem draconian, especially to the artist whose deduction is limited to the cost of materials, there is a logic to it. In the eyes of the Internal Revenue Service, the value of a work of art is simply the cost of the materials plus the value of the time and labor added by the artist. Had the artist chosen to, she could have instead used her time and labor to produce income, which would have been taxable. However, since she chose to forego the opportunity to produce taxable income she cannot then take an income tax deduction for the value of that foregone income.

Deductibility of Short-Term Capital Gain Property

Like contributions of ordinary income property, the amount deductible for a gift of short-term capital gain property is its fair market value less the amount that would be taxable as short-term capital gain if the property had been sold. Thus, the deduction for short-term capital gain property will generally be the cost basis.

Contributions of Capital Loss Property

Of course, investments do not always increase in value. Sometimes donors hold capital loss or "depreciated" property – investments that are now worth less than the donor paid for them. Contributions of capital loss property are usually unwise. The charitable deduction for a contribution of capital loss property will be for the current fair market value of the property, which is less than the donor paid for it.

Donors with depreciated or capital loss property should consult with their advisors about the advisability of selling capital loss property and using the loss to offset other capital gains.

III. Transfer Taxes: Gift and Estate Tax (the "Death Tax")

The Federal transfer taxes – Estate Tax, Gift Tax, and Generation Skipping Transfer Tax – are taxes that apply when an individual transfers money, property, or other items of value to someone else. The individual (or the estate) making the gift must pay the transfer tax. Unlike the income tax, the recipient does not owe a tax because of receiving the gift.

Fewer than 0.2% of estates are affected by the Federal Gift and Estate Tax. A complete discussion of the complexities of the transfer taxes and the financial and estate planning considerations is well beyond the scope of this text. For these reasons, the following discussion is limited to an overview of key points regarding transfer taxes highlighting areas where caution should be exercised when discussing estate and gift taxes with donors.

Essentially, any transfer of value from one person to another is subject to a Federal transfer tax. However, most people are not affected by these taxes because of generous exclusions and exemptions that effectively eliminate these taxes under most circumstances:

> Taxes have been levied on estates since the 18th century. Over the past two decades there has been on-going debate about transfer taxes (often called "the death tax"). Transfer taxes have been modified several times and, for one year in 2010, the Estate Tax was temporarily eliminated. In 2013, the American Taxpayer Relief Act brought more or less permanent rates and rules to the transfer tax system.

Annual exclusion – Taxpayers can give up to $19,000 each year to as many individuals as they choose without a gift tax. In addition, payment of some expenses (e.g., certain medical expenses) on behalf of another individual can be excluded from the gift tax. The $19,000 annual exclusion amount is adjusted periodically for inflation, although not necessarily annually.[5] The annual exclusion applies to each taxpayer; a married couple can give a total of $38,000 per year without incurring the gift tax.

Lifetime exclusion – In addition to the annual exclusion amount, an individual can transfer a cumulative total of $15 million either as gifts during lifetime or at death without either gift or estate taxes. The $15 million exclusion amount is for 2026 and is adjusted for inflation each year.

Spousal exclusion – An unlimited amount can be contributed to a spouse without gift tax, allowing a married couple dying in 2026 to leave a total of $30 million tax-free.

Charitable deduction – There is an unlimited deduction from transfer taxes for contributions to charitable organizations.

Gift and Estate Tax Summary

Up to $19,000 per year	-	Can be given to each of an unlimited number of individuals (a married couple can give $38,000)
More than $19,000 per year	-	File a Federal Gift Tax Return and pay 40% tax when cumulative lifetime gifts exceed $15,000,000*
Up to $15,000,000* in total lifetime and estate giving	-	No Federal Gift or Estate Tax
More than $15,000,000*	-	Total value of combined taxable lifetime and estate giving in excess of this amount is taxed at 40%
* Note: The $15,000,000 exclusion is the threshold for 2026 and is adjusted for inflation each year. The $19,000 annual exclusion is the threshold for 2026 and is adjusted from time to time (but not necessarily annually).		

Stepped-up Basis versus Carry-over Basis

There is an important difference in the way capital gains are treated depending upon whether individuals make the gift while they are alive versus through their estates.

When a recipient sells appreciated property that was received as a gift from a living individual, the recipient must pay capital gains tax on all of the appreciation in value based upon the donor's cost basis. This is called "carry over basis."

However, if a recipient sells appreciated property that was received from an estate, capital gains tax is due only on the appreciation since the date of death. This is called "stepped-up basis."

For example, if, during their lifetimes, parents give their children appreciated property, then the children will be liable for capital gains tax on all the appreciation that occurred during the parents' ownership as well as after the date of the gift. If the parents instead leave that same

5) The annual exclusion amount is maintained at an even thousand number so the annual exclusion amount is not changed until the cumulative inflation reaches the next thousand. This is why the annual exclusion amount might not change every year, although it has changed nearly annually in recent years.

property to their children in their will, then the children will be pay capital gains tax only on the appreciation occurring since the date of death.

Generation-Skipping Transfer (GST) Tax

The Generation-Skipping Transfer Tax (GST) is designed to prevent wealthy taxpayers from avoiding one or more levels of taxation by leaving substantial amounts of money or property to grandchildren instead of children, thus skipping the tax that would have been due if they had left it to their children who then left it to the younger generation. In general, the GST taxes generation skipping transfers as though the transfer had first gone to the intervening generation. For example, if a grandparent transfers to a grandchild, the Generation Skipping Transfer Tax would essentially double the tax as though the transfer had been made from grandparent to parent to grandchild. The GST applies to any heir who is more than 37.5 years younger than the deceased.

State Taxes

Our discussion has been focused on Federal taxes. However, each of the states has its own tax laws that can have a significant impact on the after-tax cost of giving. A complete discussion of the states' tax laws is beyond the scope of this presentation. However, a few general notes may be helpful.

Some states have income taxes and their own rules about the deductibility of charitable contributions. For residents of these states, the after-tax cost of giving can be reduced even further due to state income tax savings. In some states the charitable deduction is limited and in other states there is no state income tax at all. Donors in these states enjoy less or sometimes no additional tax savings as a result of their charitable giving.

Many states have an estate or inheritance tax. Often, state tax law has not kept pace with the changes in the Federal law over the past few years. As a result, the thresholds for state estate and inheritance taxes can be significantly lower than for Federal Estate Tax. The consequence is that an estate may be subject to state tax even though it is well below the threshold for Federal taxation. In addition, although state estate and inheritance tax rates vary, they can be significant.

State income tax is deductible from Federal taxable income subject to a limit of $40,000 in 2025. However, the deduction is phased out for joint filers with income over $500,000 and single filers with income over $250,000. All these amounts will increase by 1% annually through 2029. The limit on the deductibility of state income tax from Federal taxable income is scheduled to drop to $10,000 in 2030.

State estate taxes are deductible when calculating the Federal Gift and Estate Tax.