

If art donations are part of your estate plan, consider these four tips

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Charitable giving is a key part of estate planning for many people. If you have a collection of valuable art and are charitably minded, consider donating one or more pieces to receive tax deductions. Generally, it's advantageous to donate appreciated property to avoid capital gains taxes. Because the top federal capital gains rate for art and other "collectibles" is 28%, donating art is particularly effective.

Considerations before donating

If you're considering a donation of art, here are four tips to remember:

1. Get an appraisal. Given the subjective nature of art valuation and the potential for abuse, the IRS scrutinizes charitable donations and other transactions involving valuable artwork. Most art donations require a "qualified appraisal" by a "qualified appraiser." IRS rules contain detailed requirements about the qualifications an appraiser must possess and the contents of an appraisal.

IRS auditors are required to refer all gifts of art valued at \$20,000 or more to the IRS Art Advisory Panel. The panel's findings are the IRS's official position on the art's value, so it's critical to provide a solid appraisal to support your valuation.

2. Donate to a public charity. To maximize your charitable deduction, donate artwork to a public charity, such as a museum or university with public charity status. These donations generally entitle you to deduct the artwork's full fair market value. However, your charitable deduction may be reduced if it exceeds certain limits based on your adjusted gross income, the type of donation and the type of charity receiving the donation.

3. Beware the related-use rule. To qualify for a full fair-market-value deduction, the charity's use of the artwork must be related to its tax-exempt purpose. So, for example, if you donate a painting to a museum for display or to a university for use in art classes, you'll satisfy the related-use rule.

Even if the related-use rule is satisfied initially, you may lose some or all of your deductions if the artwork is worth more than \$5,000 and the charity sells or otherwise disposes of it within three years after receiving it.

4. Transfer the copyright. If you own both the work of art and the copyright to the work, you must assign the copyright to the charity to qualify for a charitable deduction.

Fractional donations

At one time, it was possible to give art away gradually using a series of fractional gifts, and claim increasing deductions if the art continued to appreciate. Under current rules, however, the deduction for future fractional gifts is limited to the value of the initial fractional gift (or, if lower, the fair market value of the later fractional gift).

The rules surrounding donations of art can be complex. We can help you achieve your charitable giving goals while maximizing your tax benefits.

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