

5 tips for donating artwork

Valuable works of art may be ideal candidates for charitable donation. Generally, it's advantageous to donate appreciated property to avoid capital gains taxes. Because the top capital gains rate for art and other "collectibles" is 28%, donating art is particularly effective.

If you're considering a donation of art, here are five tips to keep in mind:

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," and 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. If you donate art to a private foundation, your deduction will be limited to your cost. Keep in mind that the amount you may deduct in a given year is limited to a percentage of your adjusted gross income (50% for public charities, 30% for private foundations) with the excess carried over to future years.

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 3 years after receiving it. If that happens, you can preserve your tax benefits by obtaining a certification from the charity stating that:

- Its use of the artwork before the sale or disposition was substantially related to its exempt purpose; or
- The charity intended to use the artwork in a manner related to its exempt purpose, but such use became impossible or infeasible.

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.

5. Consider a fractional donation. Donating a fractional interest in art allows you to generate tax savings while still continuing to enjoy your art for part of the year. For example, if you donate a 25% interest in your art collection to a museum, the museum receives the right to display the collection for 3 months of each year. You deduct 25% of the collection's fair market value immediately and continue to display the art in your home for 9 months of each year.

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 are complex. We can help you achieve your charitable goals while maximizing your tax benefits.

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