

FineAnswers

Answers to questions on Tax, Finance and Management Charitable Donations – Volume 6, Issue 1 – November 2007,

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1) How much would qualified charitable donations reduce my taxes annually?

The amount of income tax reduction equals the total amount of donations multiplied by the highest marginal tax rate for individuals (2007 for Ontario varies 40.16% to 46.43%*), except for the first \$200, which is at the lowest marginal rate for individuals (2007 for Ontario varies 21.5% to 27.80%*).

* The range is because of the application of surtax.

2) How much would charitable donations affect taxes of a corporation?

Charitable donations are deductible from the corporation's taxable income.

3) Can one spouse pool and claim donations by both spouses?

Yes. The advantage is that the lowest marginal tax rate applicable to the first \$200, of charitable donations for each spouse, is only applied once rather than twice. Therefore, donations above \$200, rather than \$400, receive a tax reduction at the highest rate.

4) Donations to which organizations are qualified and reduce taxes?

Donations to the following organization are qualified:

- a registered Canadian charity
- a registered Canadian amateur athletic association
- a tax-exempt housing corporation resident in Canada that only provides low-cost housing for seniors
- a municipality in Canada, or under proposed legislation, for gifts made after May 8, 2000,

a municipal or public body performing a function of government in Canada
the United Nations or one of its agencies
a prescribed university outside Canada
a charitable organization outside Canada to which the Government of Canada has made a donation in the tax year, or the previous tax year

the Government of Canada,
a province,
or a territory

Generally, if you have U.S. source income, you can claim any donations to the U.S. Charities that would be allowed on a U.S. return.

5) Is there an annual limit to deductible donations for individuals and corporations?

Yes, 75% of the taxable income plus gifts to the Crown, ecological gifts and gifts of Canadian cultural property. The taxable income for the purpose of applying the 75% excludes gains realized on the donations in kind. Such gains are added to the amount resulting from the application of the 75% thereby increasing the threshold.

6) Will the annual limit on deductible donations change if the donor passes away during the year?

Yes, it increases to 100% of the taxable income.

7) If one donates more than the allowable limit, can it be used in future years?

Yes, it can be carried forward for up to five years.

8) Must donations be in cash?

No. Donations can also be made in kind, but not in services.

9) Will a donation of capital property, which has appreciated in value, automatically trigger a taxable capital gain? What if the capital property is eligible securities such as publicly traded stocks and bonds?

No. The donor can elect to have the value of his donation be its cost and thereby not trigger a gain on the deemed disposal of the property. However, since 2006, capital gains on the disposal (as a result of donation) of eligible securities will not be subject to tax. (*ITA Section 38*)

10) Will the capital gains exemption on the donation of eligible securities apply if the donee is a private foundation?

Yes, but only since March 19, 2007. (*ITA Section 38*)

11) Will donation of a depreciable property with a market value above its undepreciated capital cost (UCC) trigger a taxable income?

Not always. Unless, you elect above the UCC, in which case it may trigger both a recapture (taxable as income) and a capital gain (50% taxable).

12) How should one determine the market value of a donation in kind?

Canada Revenue Agency's response is quoted below:

"If the fair market value of an item can be reasonably determined, an appraisal is not required. Generally, if the fair market value of an item is less than \$1,000, a member of the charity with sufficient knowledge of the item can determine its value. However, if the fair market value is expected to be more than \$1,000, the Charities Directorate

strongly recommends that the property be appraised by a third party (i.e., someone who is not associated with either the donor or the charity). The person who determines the fair market value of the property should be competent and qualified to evaluate the particular property being transferred by way of a gift.

Note: If the property is appraised, the name and address of the appraiser must be included on the official donation receipt."

13) How is a private foundation different from a charitable organization?

Individuals can set-up their own family foundation and make donations to it. The advantage is that only 80% of funds donated to the foundation need to be used in the charitable activity of the private foundation or donated to another charitable organization.

14) What is the difference between Charitable Giving Private Foundations set-up by some financial institutions and your own charitable private foundation?

Some financial institutions have an arrangement that is called the Charitable Giving Private Foundation, which they claim allows you to achieve more or less the same result as having your own charitable private foundation. Except that you cannot define your own charitable cause and also you cannot spend 20% of the donations on administration expenses. Some other differences are as follows:

The funds donated must be invested in one of the financial institution's mutual funds until you designate the charity to which the funds should be donated.

A fee, usually 1%, is paid to the financial institution for managing the foundation.

The advantage is that you will receive a donation receipt for the entire amount given to the foundation; whether or not you

designate a charity to receive donations from the foundation. Also, you can donate stocks of publicly traded companies with less hassle. However, you are required to designate a minimum to a charity each year, which is usually between 4% and 5% of the market value of the funds invested in the foundation.

15) If a donor receives a benefit from his donation, will the donation qualify for a deduction from tax?

Not under common law. But, statutory law allows for a donor to receive an advantage. As long as the benefit is below 80% of the market value of the property donated, the excess of market value over the benefit qualifies as a charitable donation.

16) How did charitable tax shelters work and how has new legislation attempted to counter it?

One example would be to buy listed personal property (such as jewellery, rare coins, paintings, etc.) and donate it. The cost would be much lower than the market value giving a higher tax reduction than the cost. Also, the disposal would not trigger a capital gain, as, both cost and the donated market value are kept under \$1,000; *ITA 46(1)*. New legislation, *ITA 248(35)*, effectively limits the eligible amount of the donation to its cost. Check the link below for CRA alert on charitable donation tax shelters.

<http://www.cra-arc.gc.ca/newsroom/alerts/2006/a061031-e.html>

17) How does naming a charity as the beneficiary of your life insurance affect your taxes?

The executor of a taxpayer naming a charity as the beneficiary of his life insurance policy will receive a donation receipt equal to the proceeds of the life insurance policy, which he can then claim in the deceased's final

return. Another way to plan the tax deduction is to have the charity own the policy in which case the insured receives donation receipts for the life insurance premiums while he is alive, but his estate will not be entitled to a tax receipt on the proceeds of life insurance.

18) What is the tax effect of donating RRSP and RRIF funds?

The charity would issue a receipt for the fair market value of the RRSP or RRIF assets while the estate or the individual will be taxed on the same value transferred.

19) When would the owner of a corporation benefit by donating out of his corporation rather than personally making the donation?

Generally speaking and depending on the circumstances, when the owner's highest marginal tax rate is below the highest combined provincial and marginal rates, then it pays to receive a bonus or a dividend as the case may be and make the donation individually, otherwise it makes little difference.

20) I was told by my broker that if I purchased a qualified flow through shares and donated it to a qualified charity, I could get a double write off, is this true?

In theory it is possible. What is important is the market value of the flow through shares at the time of donating them to a charity; the higher the value the greater the benefit to the charity. Therefore, you should compare your write off against the benefit received by the charity. If the flow through shares you purchased trade at the same value as you paid for them at the time you donated them to charity, you will effectively get a double write off, or more, if you are below the highest (46.43%) marginal tax rate. Flow through shares invariably trade lower than their issue price; therefore, the write off rarely is twice the value received by the charity. However, if the flow through shares, appreciate in value to a level beyond your purchase price, you will effectively get a write off equal to more than twice to the amount you paid for them and also, the charity gets a donation with a value more than what you paid for shares.

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