



Current Tax Laws and Their Influence on Philanthropy

Planned Giving Group of New England
Nuts and Bolts Program
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Tax Laws' Influence:

- + Federal tax laws influence 4 main aspects of donors' decisions regarding charitable gifts:
 - + Asset Selection: What to give?
 - + Timing: When to give it?
 - + Structure: How to give it?
 - + Recipient: Who/What to give it to?

Planned Giving =

Optimizing both:

1. The tax benefits of major charitable gifts for donors, and
2. The financial benefits of those gifts for donee organizations.





Lifetime Gifts

Federal Income Tax Rates – Ordinary Income

Single Individuals

Taxable income is over -	But not over -	The tax is:	Of the amount over -
\$0	\$8,375	\$0 + 10%	\$0
8,375	34,000	837.50 + 15%	8,375
34,000	82,400	4,681.25 + 25%	34,000
82,400	171,850	16,781.25 + 28%	82,400
171,850	373,650	41,827.25 + 33%	171,850
373,650	-	108,421.25 + 35%	373,650

Federal Income Tax Rates – Ordinary Income

Married Filing Jointly

Taxable income is over -	But not over -	The tax is:	Of the amount over -
\$0	\$16,750	\$0 + 10%	\$0
16,750	68,000	1,675.00 + 15%	16,750
68,000	137,300	9,362.50 + 25%	68,000
137,300	209,250	26,687.50 + 28%	137,300
209,250	373,650	46,833.50 + 33%	209,250
373,650	-	101,085.50 + 35%	373,650

Federal Income Tax Rates – Long Term Gains and Qualified Dividends

- + Taxpayers in 10% or 15% Brackets = 0% Rate on LT Gains and Dividends
- + Other Brackets = 15% Rate on LT Gains and Dividends
- + Gain on Collectibles (coins, art, antiques) = 28%

Income Tax Charitable Deduction

- + IRC Section 170: Charitable contributions during the tax year allowed as a deduction in determining taxable income.
- + Benefits Increase with Tax Bracket:
 - + \$100 Contribution by a Donor in the 35% Bracket Costs \$65.
 - + \$100 Contribution by a Donor in the 10% Bracket Costs \$90.
- + Double Dipping: Lifetime Gifts Provide an Income Tax Deduction And Assets Are Removed from Donor's Estate.

Asset Selection: What to Give

- + The Percentage Limitations:
 - + Cap on Percentage of Adjusted Gross Income that can be claimed as a charitable deduction in one tax year.
 - + 50% Charities: Churches, Hospitals, Educational Organizations, Publicly-Supported Charities, and Domestic Governmental Units.
 - + 30% Charities: Private Foundations, Fraternal Organizations, Nonprofit Cemeteries, and Veterans' Organizations.

Asset Selection: What to Give (Cont.)

- + Cash Gifts:
 - + 50% Limit on Cash Gifts to 50% Charities.
 - + 30% Limit for 30% Charities.

- + Gifts of Capital Gain Property:
 - + 30% Limit on Gifts to 50% Charities.
 - + 20% Limit on Gifts to 30% Charities.

- + Gifts of Ordinary Income Property:
 - + Deduction limited to basis for assets that would produce ordinary income if sold
 - + Inventory, Artworks and Manuscripts (if donor is the artist/author), and Short Term Gain Property

Asset Selection: What to Give (Cont.)

- + All or Nothing Rule = No deduction for gifts of partial interests in property.
 - + Example: Rent-free use of office space.
 - + Exceptions:
 - + Remainder interests in home or farm;
 - + Undivided fractional interest;
 - + Income or remainder interests in charitable remainder trusts, charitable lead trusts and pooled income funds;
 - + Qualified conservation contributions.

Asset Selection: What to Give (Cont.)

- + Patents and intellectual property.
 - + Deduction limited to basis.
 - + Additional deductions available for income received by donee in future years.
 - + Gift must include all of donor's rights.

- + Qualified Conservation Contribution.
 - + Qualified real property interest (e.g., donor's entire interest, conservation restriction, remainder).
 - + Qualified conservation organization.
 - + Used only for conservation purposes.

Asset Selection: What to Give (Cont.)

- + Tangible Personal Property.
 - + Deduction limited to basis if donee puts property to an unrelated use.
 - + Fractional interest can be deductible if all interests are held by donor and donee.
 - + Future interest cannot be deducted until all intervening interests have expired.

Timing: When to Give

- + Lifetime Gifts: Entitled to both Income and Gift Tax Deductions – Assets Removed from Estate.
- + Impact of Percentage Limitations: Carryovers
 - + If deductions capped by percentage limitations, excess deductions can be carried forward for 5 tax years.
 - + 15 Year Carryover for qualified conservation contributions.
 - + Loss of carryovers at death.
- + Impact of Income Timing: Accelerate or defer charitable gifts to years in which income is higher.

Structure: How to Give

- + Direct Gifts
- + Split Interests:
 - + Charitable Remainder Trusts
 - + Charitable Lead Trusts
 - + Pooled Income Funds
 - + Remainder Interest in Residence or Farm
- + Bargain Sales
 - + Charitable Gift Annuities
 - + Gifts of Encumbered Property

Recipient: What/Who to Give to

- + 50% Charities vs. 30% Charities
- + Direct Gifts vs. Split Interests
- + Donor Advised Fund vs. Direct Gift
- + Foreign Charities
 - + Exceptions under tax treaties
 - + Gift to domestic charity earmarked for foreign organization

Federal Gift Tax

- + Gift Tax = Excise tax on lifetime gifts; imposed on donor; based on fair market value of property transferred as of date of gift.
- + 2010 Rules:
 - + \$13,000 Annual Exclusion (per donee); \$26,000 for a married couple who elect to “split” gifts.
 - + \$1,000,000 Lifetime Exemption.
 - + 35% Top Rate on Taxable Gifts over \$500,000.
- + 2011 Rules: Compromise recently reached on 2011 estate tax, but gift tax changes remain unclear.
 - + Hope for reunification of gift and estate tax exemptions?