

# Income Limits on Charitable Deductions



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We pay taxes  
on income.



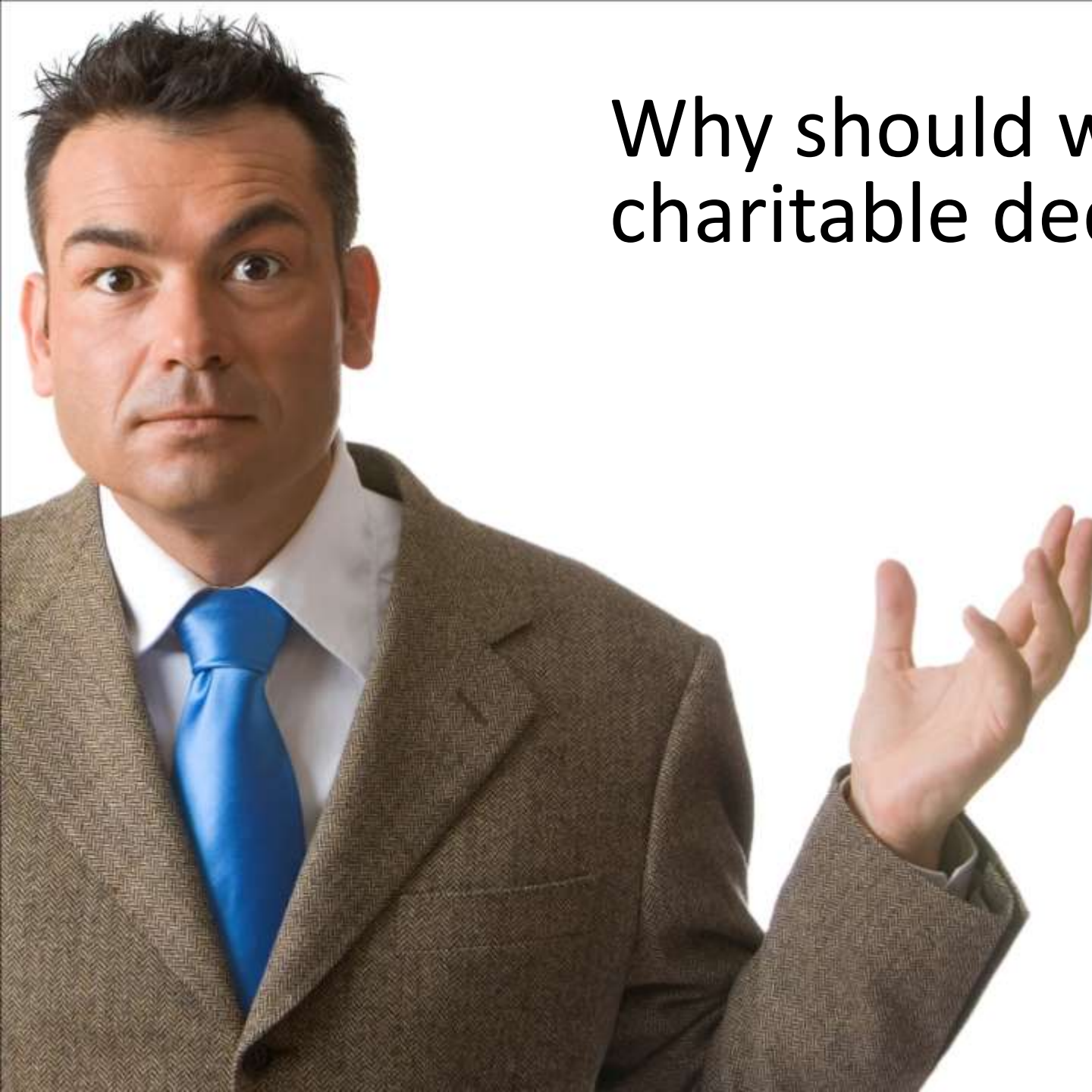
Charitable gifts  
can sometimes  
be deducted  
from taxable  
income,  
thereby  
reducing taxes  
owed.



Charitable deductions are limited to 20%, 30%, or 50% of income depending on the gift and recipient.



Why should we limit  
charitable deductions?





Encouraging  
giving is good,  
but at least some  
revenue should  
go to the  
government.



Wealthy with high incomes could pay zero taxes by annually transferring assets to charity.

0.00

*Taxes? Oh, no, we don't pay taxes.*





Why are people  
making such large  
donations, anyway?



Are people taking  
vows of poverty  
and giving away  
everything they  
earn?

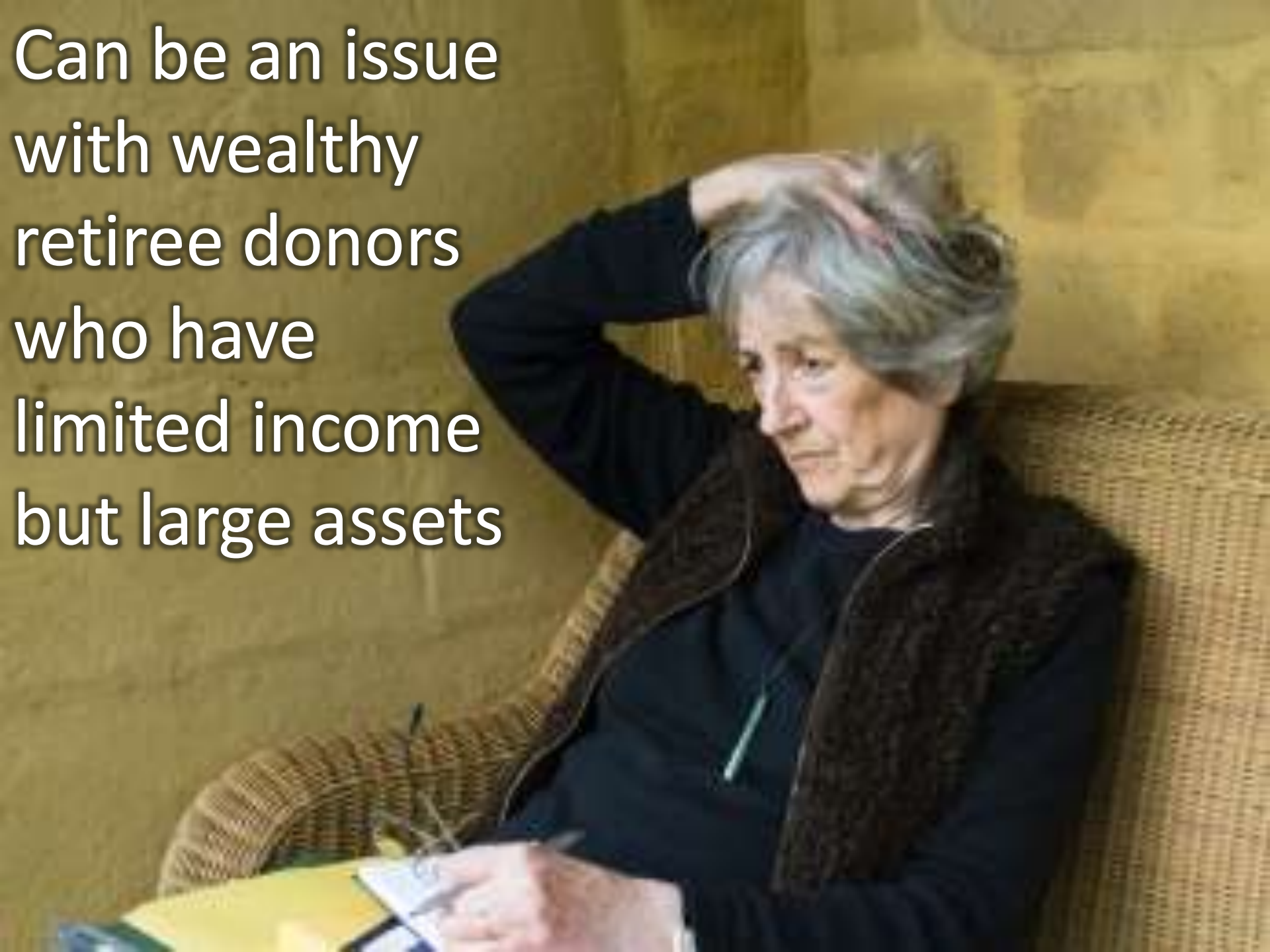


Actually, the limits are an issue with gifts from assets, where wealth is far greater than annual income.





Can be an issue  
with wealthy  
retiree donors  
who have  
limited income  
but large assets





Some gifts may  
be deducted up  
to 50% of income  
if given to a  
public charity,  
government, or  
an *operating*  
private  
foundation



# 50% limit



## Money

(given or spent performing services for the charity)

## Public Charity

50% limit



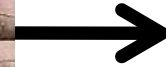
Public  
Charity

Ordinary  
Income  
Property



Inventory

50% limit



Public  
Charity



50% limit



Short-Term  
( $\leq 1$  year)  
Capital Gain  
Property

Public  
Charity

For all other charitable organizations, such as private (non-operating) foundations, the maximum deduction is 30% or less.



BILL & MELINDA  
GATES *foundation*





# 30% limit



## Money

(given or spent performing services for the charity)

## Private Foundation (non-operating)

30% limit



Private Foundation  
(non-operating)

Ordinary  
Income  
Property



30% limit



Private Foundation  
(non-operating)



30% limit



Short-Term  
( $\leq 1$  year)  
Capital Gain  
Property



Private Foundation  
(non-operating)

# All ordinary income property is usually treated the same





Long-term (>1 year) capital gain property  
is treated differently

**Current Value: \$1,800/acre**

**1990 Paid \$600 acre**



# Long-term capital gain property

Current Value: \$25



1990 Paid \$1

(split adjusted)

# 30% Limit

Current Value: \$25



1990 Paid \$1



Public  
Charity

# 50% limit with “special election”

- Deduct cost basis instead of value (if lower)
- Covers all long-term capital gain gifts for the year

Current Value: ~~\$25~~



1990 Paid **\$1**



Public Charity



# 20% limit

Current Value: \$25



1990 Paid \$1

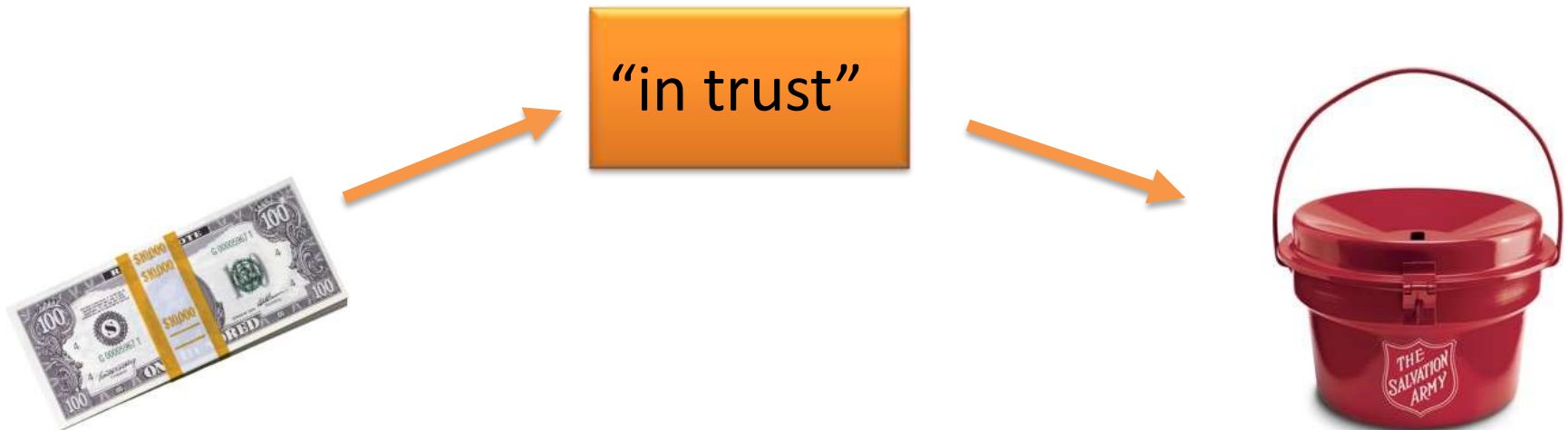


Private Foundation  
(non-operating)

# 30% limit if “for the use of” charity

Means money given “in trust” to another entity but charity gets current benefit

- Ex: paying premiums to a life insurance company for a charity-owned policy
- Ex: money in a trust where charity gets income for a time (Charitable Lead Trust)



So, that covers gifts of cash, capital assets, and ordinary income property.

What's left?





All the stuff in your garage  
(tangible personal property)





50% when valued at lower of cost basis or current value

Current Value: ~~\$25~~



1970 Paid **\$1**

Public Charity

50% when valued at lower of cost basis or current value

Current Value: ~~\$1~~



1970 Paid ~~\$25~~



Public Charity

30% when valued at current value due to “related use” by a public charity

Current Value: ~~\$25~~



1970 Paid ~~\$1~~



Public Charity

20% when given to a private non-  
operating foundation

Current Value: ~~\$25~~



1970 Paid **\$1**





# CORPORATIONS

C-corps limited to 10% of taxable income with 5-year Carryforward.

S-corps pass through all deductions to shareholders.



Ordinary  
income  
property

Cash

Inventory

Short-term  
capital gain

Public  
Charity

## 50% Gifts



Current Value: ~~\$25~~

1990 Paid **\$1**



Long-term capital gain  
(special election)

Tangible personal  
property  
("unrelated" use)

Public  
Charity



BILL & MELINDA  
GATES foundation



Private Foundation  
(non-operating)

## 30% Gifts



Current Value: ~~\$25~~

1990 Paid ~~\$1~~



Long-term capital gain  
(no special election)

Tangible personal  
property  
("related" use)

Public  
Charity





Current Value: ~~\$25~~

1990 Paid ~~\$1~~



BILL & MELINDA  
GATES foundation

Private Foundation  
(non-operating)

Tangible personal property  
("related" or "unrelated" use)

## 20% Gifts



Current Value: ~~\$25~~

1990 Paid ~~\$1~~



BILL & MELINDA  
GATES foundation

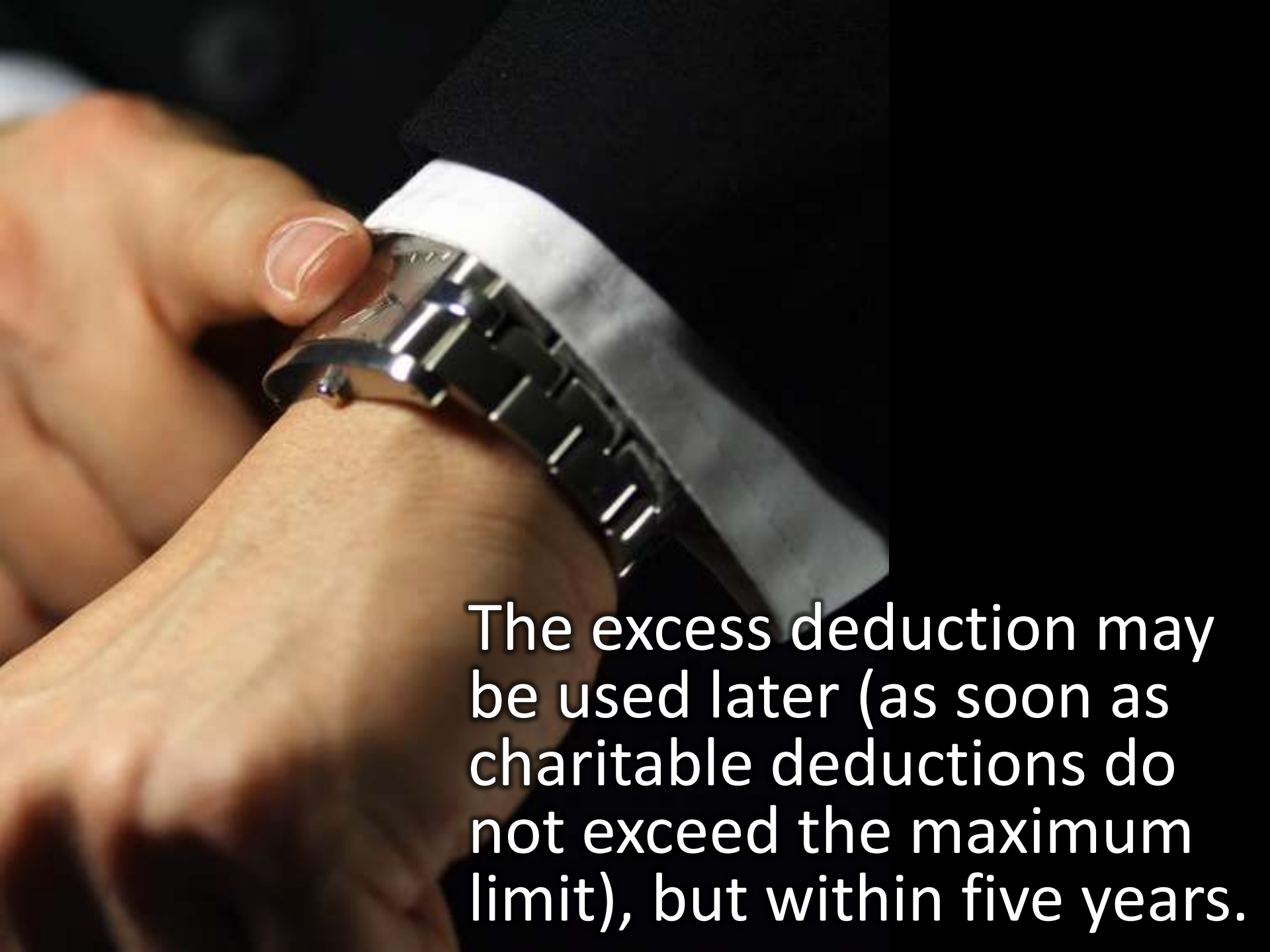
Private Foundation  
(non-operating)

Long-term capital gain  
(any)



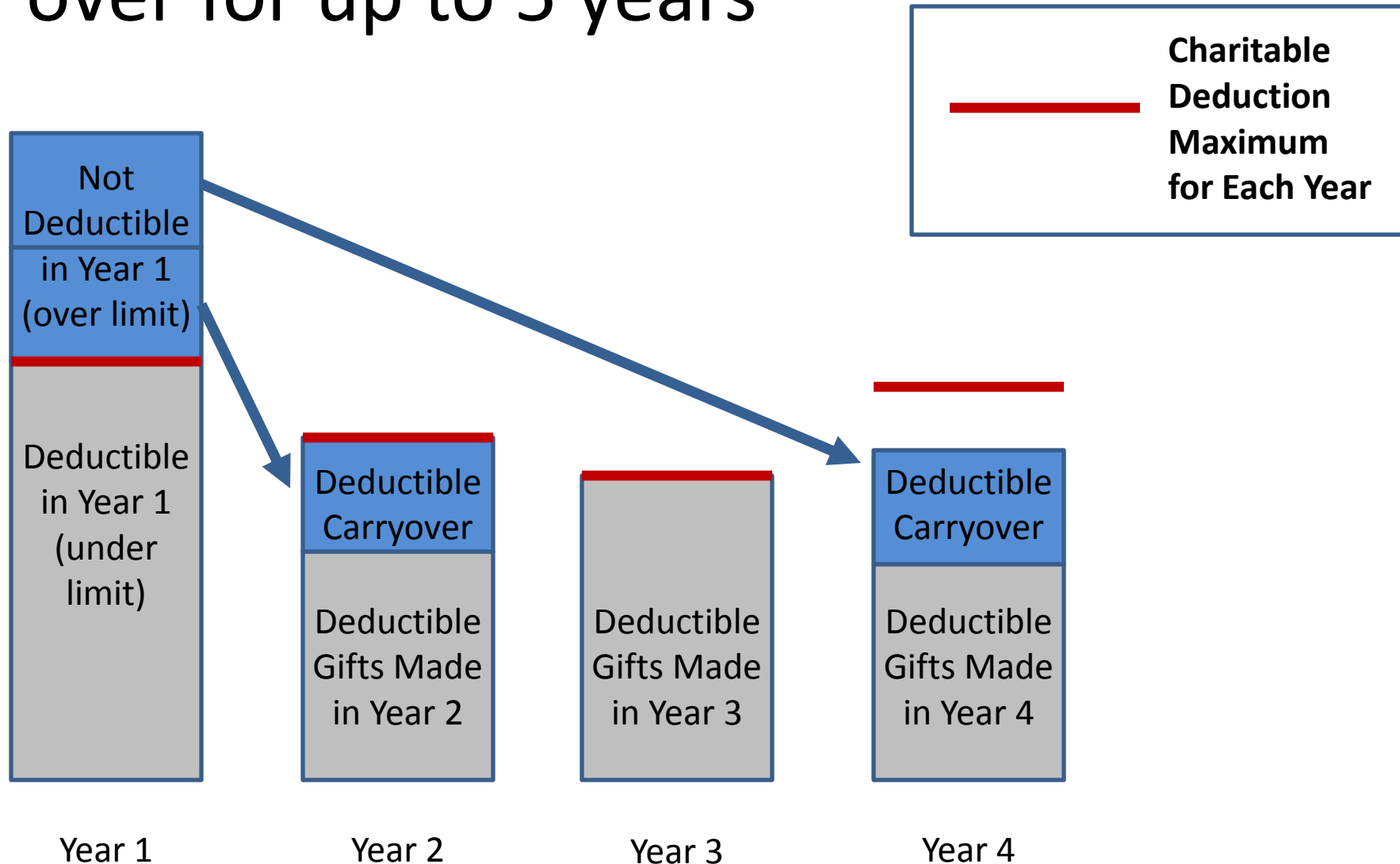
What happens if you give  
more than the limit?



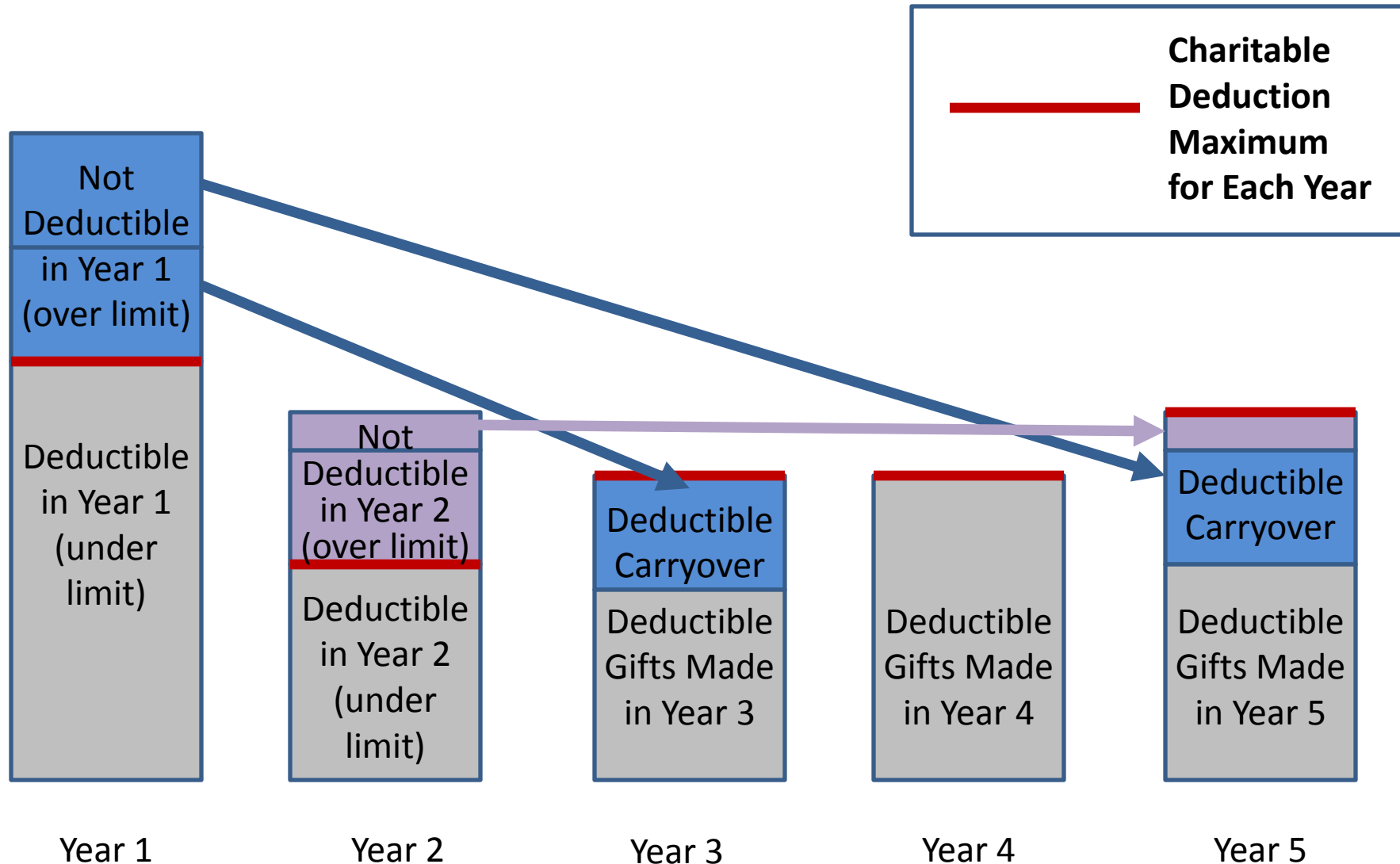


The excess deduction may be used later (as soon as charitable deductions do not exceed the maximum limit), but within five years.

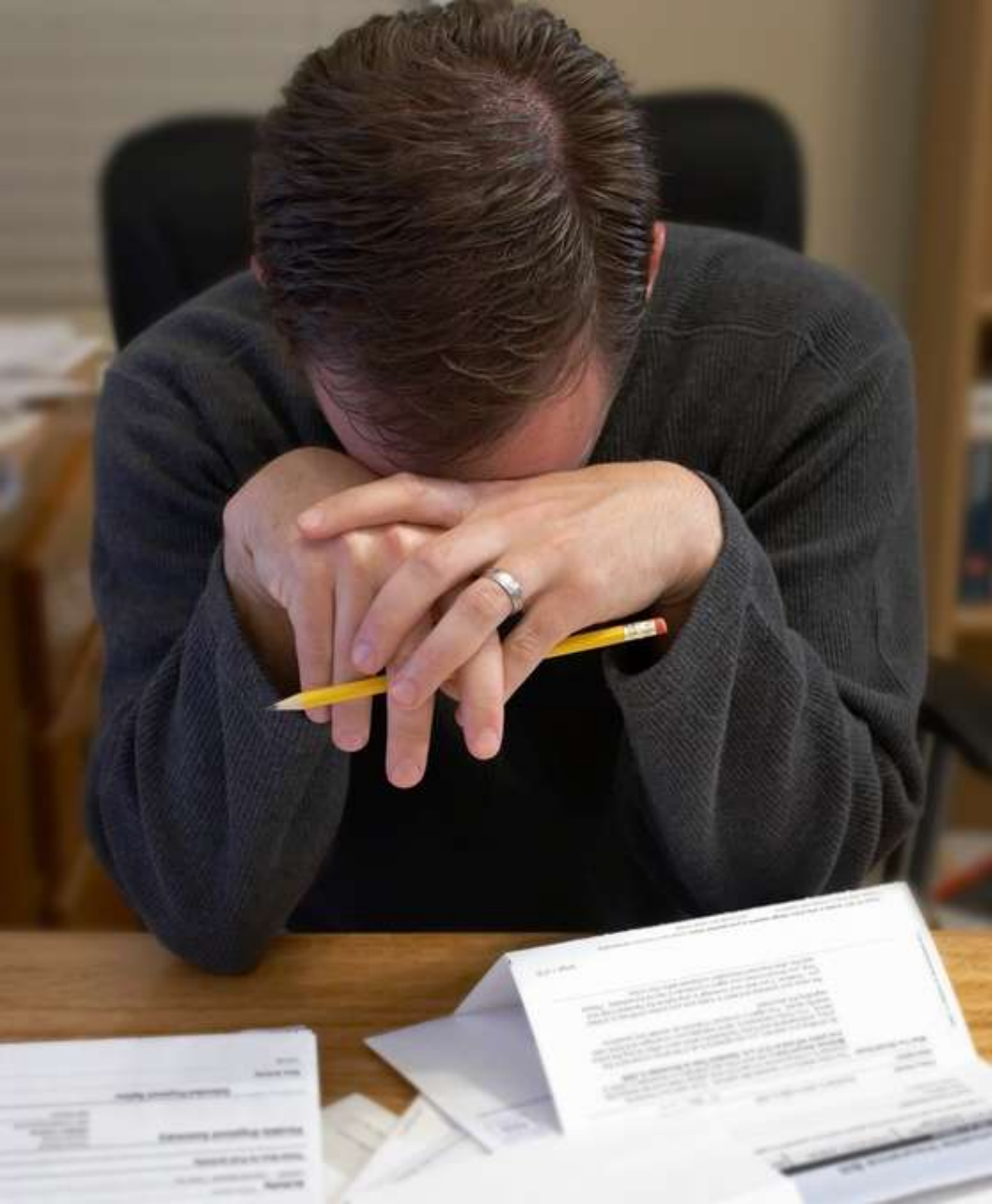
# Unused charitable deductions may be carried over for up to 5 years



# Oldest carryover deductions are used first

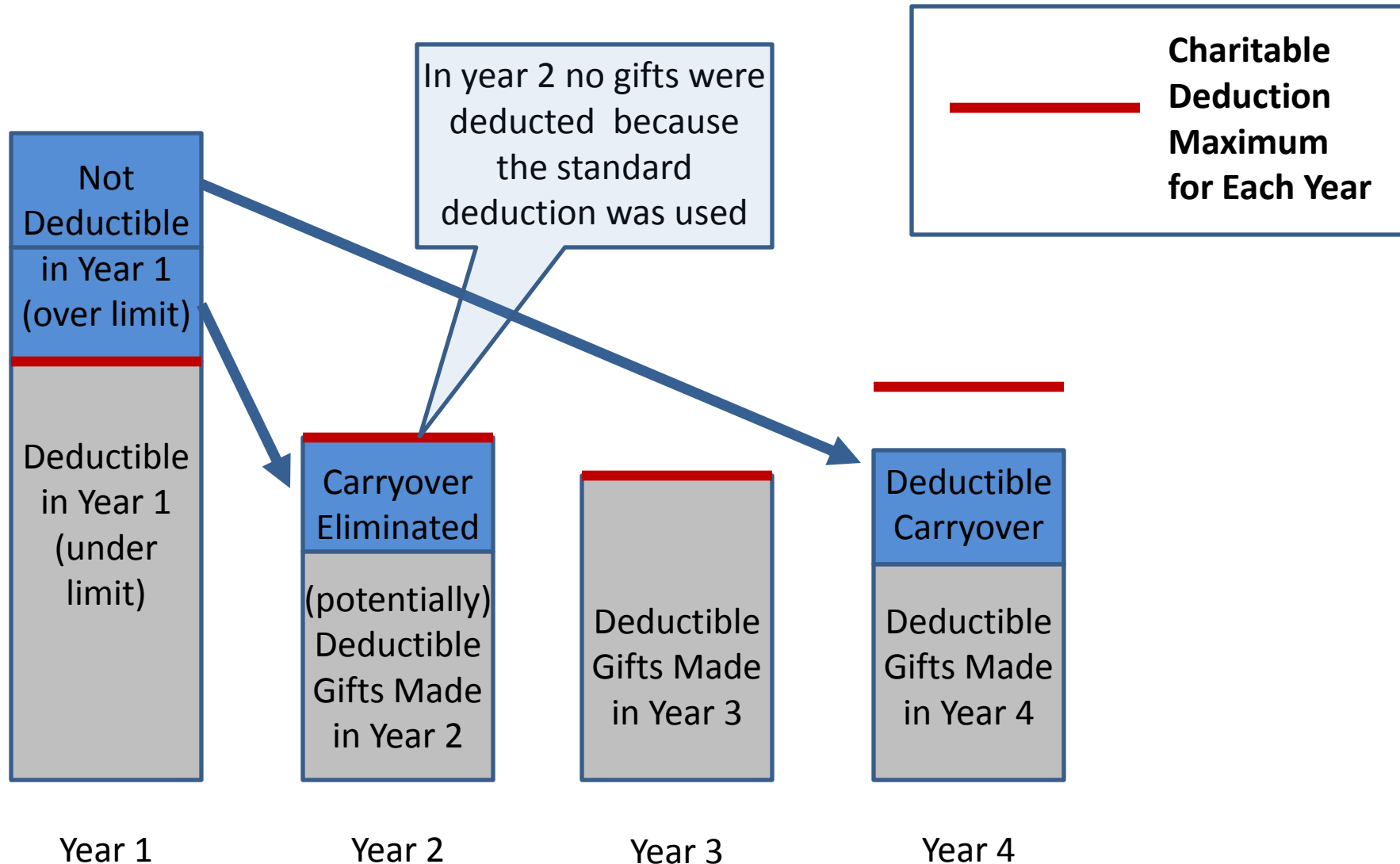






What happens to a carryover deduction if I don't itemize (i.e., just take the standard deduction)?

# The carryover is reduced as if you took the largest possible charitable deduction



What happens to a carryover deduction if the donor dies?

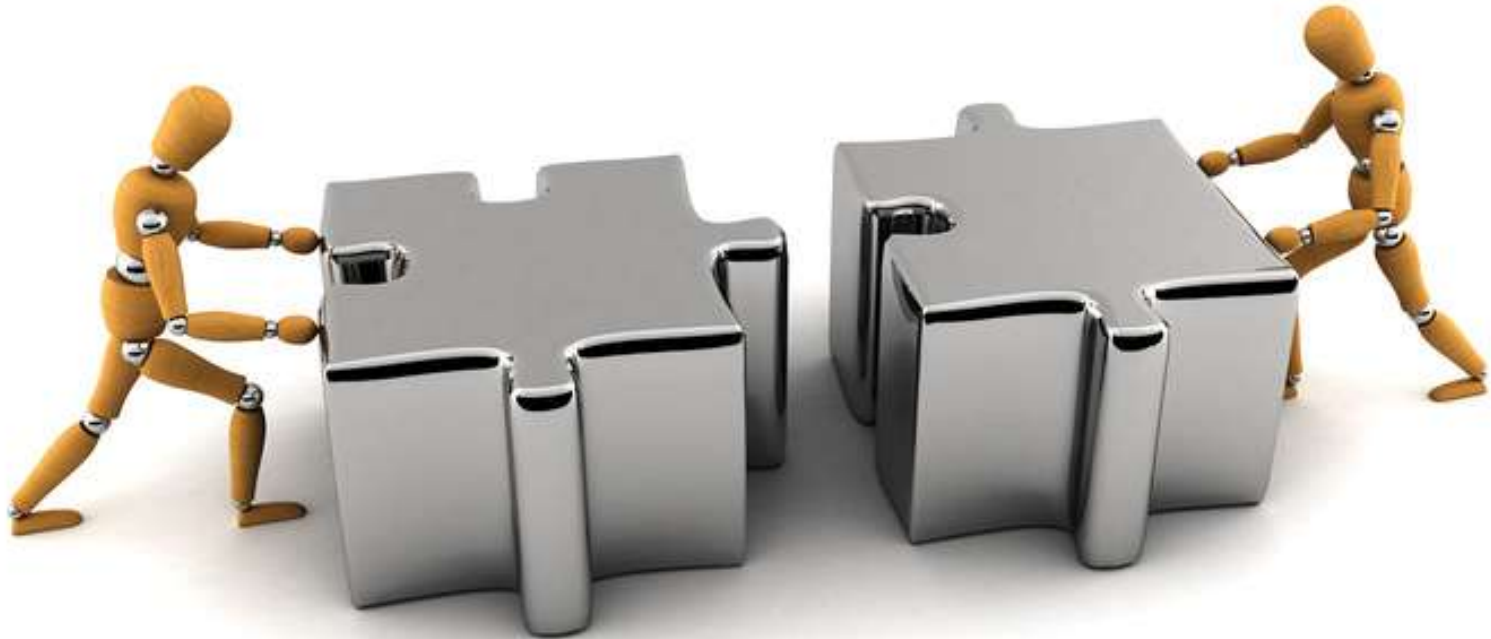


The carryover deduction is lost at death. For joint returns, the carryover that would have been claimed by the decedent if the couple had filed separately is lost.





How do the  
different limits  
work together?



# Any overflow is carried over



Holds  
**50%**  
of  
Income

All gifts



Holds  
**30%**  
of Income

All capital gain  
property except  
“special election”



Holds  
**30%**  
of Income

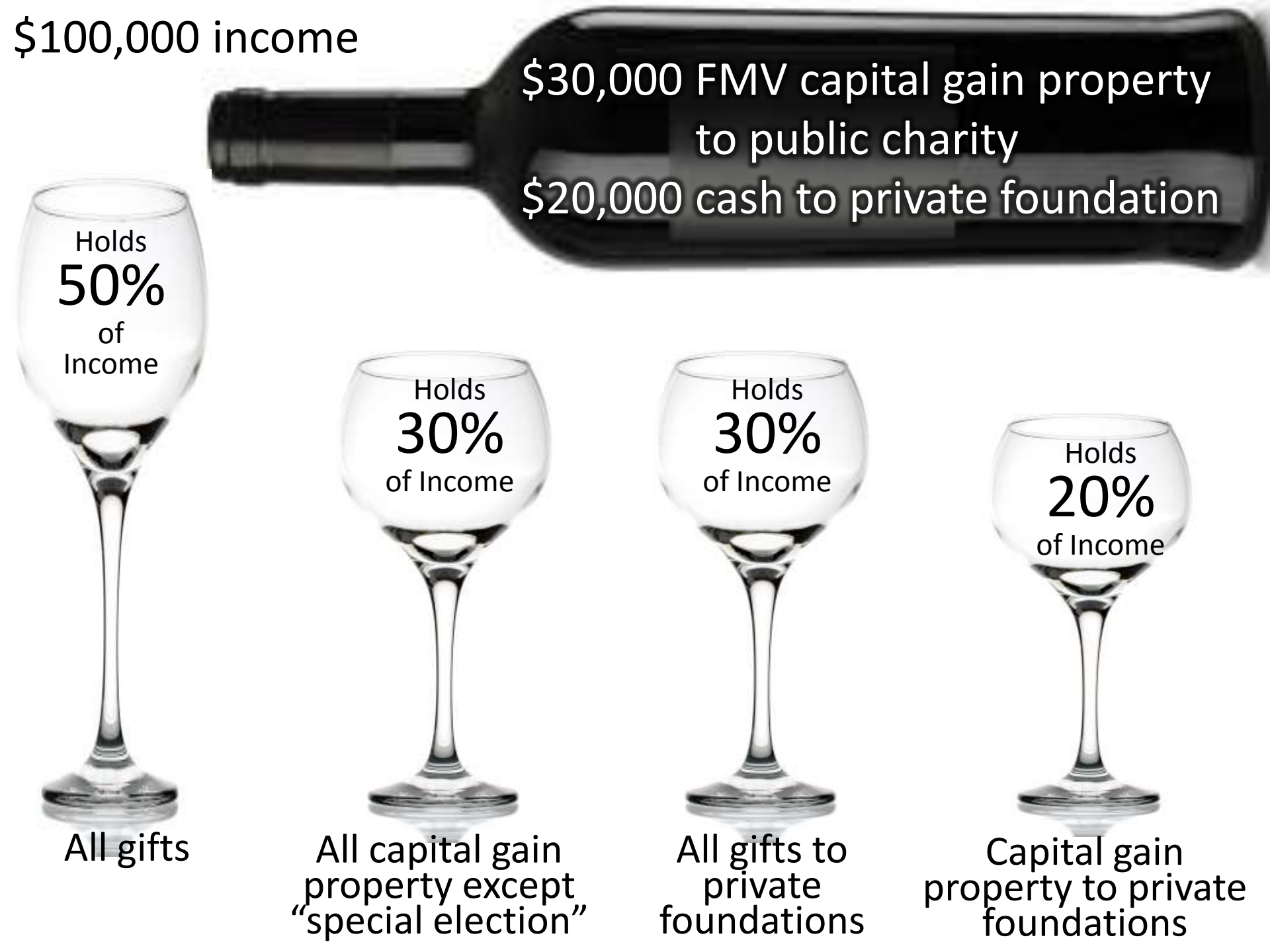
All gifts to  
private  
foundations

or “for the use of” public charities



Holds  
**20%**  
of Income

Capital gain  
property to private  
foundations



Holds  
**50%**  
of  
Income

All gifts

Holds  
**30%**  
of Income

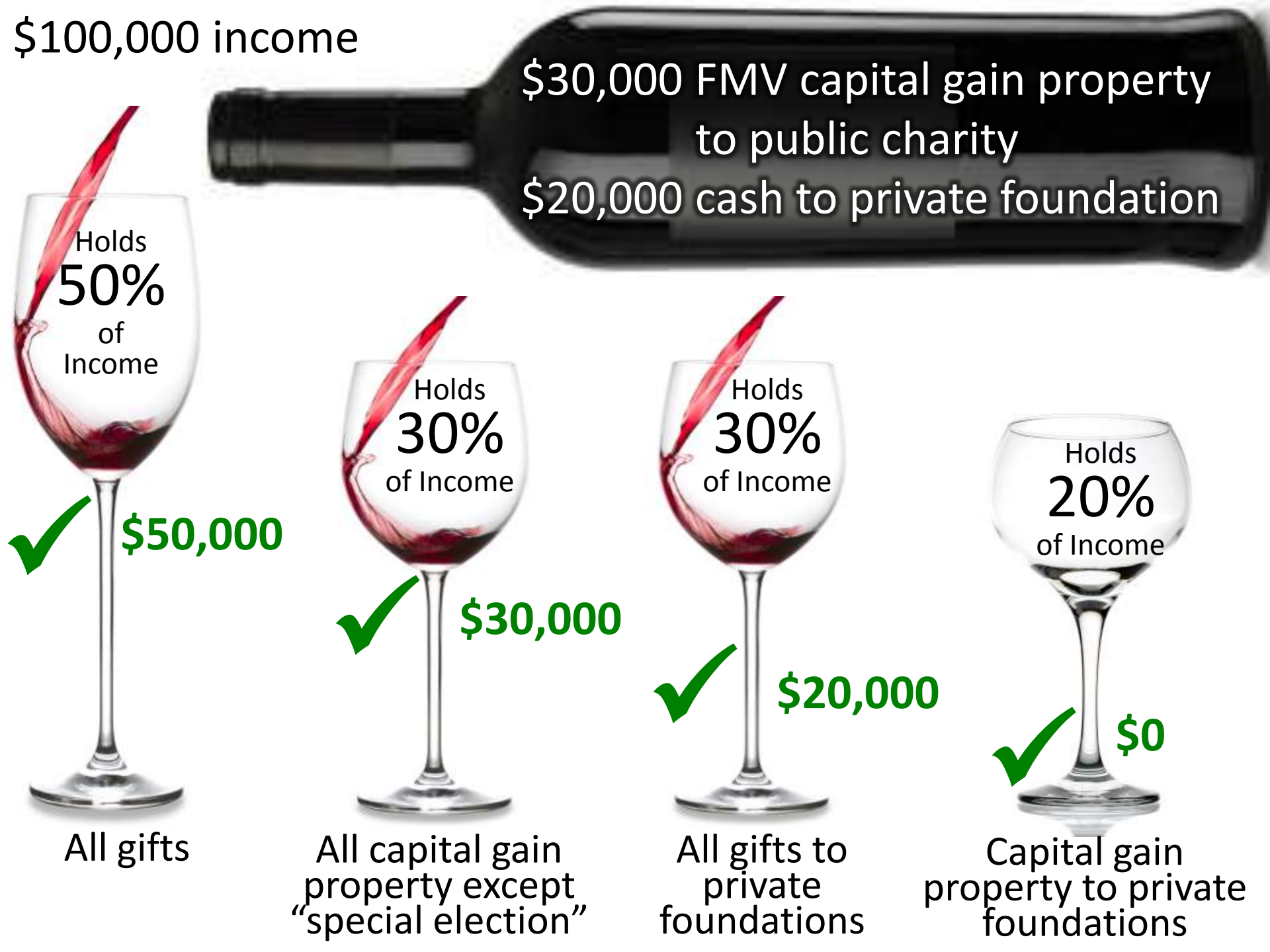
All capital gain  
property except  
"special election"

Holds  
**30%**  
of Income

All gifts to  
private  
foundations

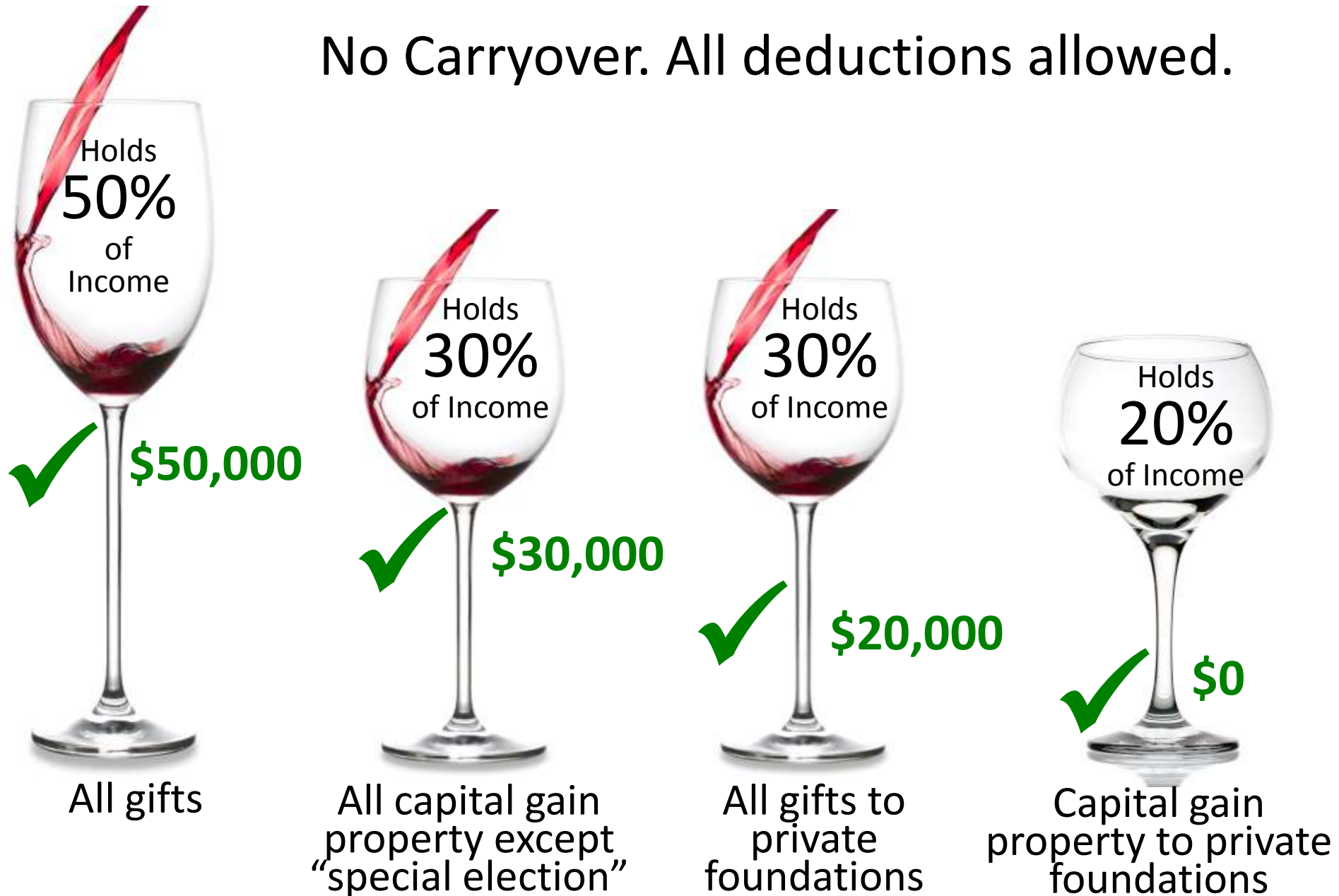
Holds  
**20%**  
of Income

Capital gain  
property to private  
foundations





No Carryover. All deductions allowed.



Which gifts get counted first if the total is too great?



# 50% Gifts

1<sup>st</sup>



Current Value: ~~\$25~~

1990 Paid: ~~\$1~~



# 30% Gifts

2<sup>nd</sup>



Current Value: ~~\$25~~

1990 Paid: ~~\$1~~



3<sup>rd</sup>



BILL & MELINDA  
GATES foundation

# 20% Gifts

4<sup>th</sup>



BILL & MELINDA  
GATES foundation



\$100,000 income

\$30,000 cash to public charity  
\$30,000 FMV capital gain property to public charity



All gifts



All capital gain property except "special election"



All gifts to private foundations



Capital gain property to private foundations





\$100,000 income

\$30,000 cash to public charity  
\$30,000 FMV capital gain property to public charity

Holds 50% of Income

X \$60,000

All gifts

Holds 30% of Income

✓ \$30,000

All capital gain property except "special election"

Holds 30% of Income

✓ \$0

All gifts to private foundations

Holds 20% of Income

✓ \$0

Capital gain property to private foundations

\$100,000 income



\$30,000 cash to public charity  
\$30,000 FMV capital gain property to public charity

Holds 50% of Income

\$10k FMV capital gain property
\$20k FMV capital gain property
\$30k cash

Holds 30% of Income

✓ \$30,000

Holds 30% of Income

✓ \$0

Holds 20% of Income

✓ \$0

All gifts

All capital gain property except "special election"

All gifts to private foundations

Capital gain property to private foundations

**\$10,000 carryover**

Holds  
**50%**  
of  
Income

Holds  
**30%**  
of Income

Holds  
**30%**  
of Income

Holds  
**20%**  
of Income

**\$10k FMV capital  
gain property**

**\$20k FMV capital  
gain property**

**\$30k cash**



**\$30,000**



**\$0**



**\$0**

All gifts

All capital gain  
property except  
“special election”

All gifts to  
private  
foundations

Capital gain  
property to private  
foundations



\$100,000 income

\$2,000 cash to public charity  
\$56,000 FMV capital gain property to public charity  
\$5,000 cash to private foundation



Holds  
**50%**  
of  
Income

All gifts



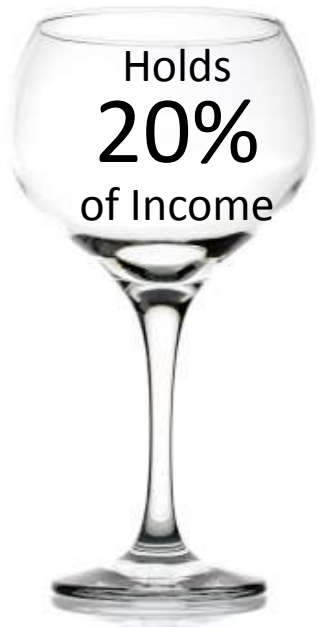
Holds  
**30%**  
of Income

All capital gain property except "special election"



Holds  
**30%**  
of Income

All gifts to private foundations



Holds  
**20%**  
of Income

Capital gain property to private foundations



\$100,000 income

\$2,000 cash to public charity  
\$56,000 FMV capital gain property  
to public charity  
\$5,000 cash to private foundation



**X** \$73,000

All gifts



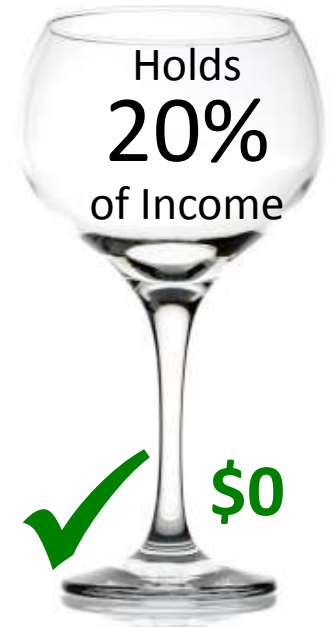
**X** \$56,000

All capital gain  
property except  
"special election"



**✓** \$5,000

All gifts to  
private  
foundations



**✓** \$0

Capital gain  
property to private  
foundations

\$100,000 income

\$2,000 cash to public charity  
\$56,000 FMV capital gain property to public charity  
\$5,000 cash to private foundation



\$5k cash to private foundation
\$8k FMV capital gain property
\$48k FMV capital gain property
\$2k cash to public charity

All gifts

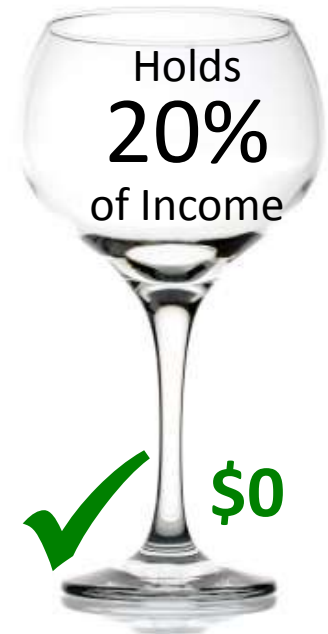


\$26k FMV capital gain property
\$30k FMV capital gain property

All capital gain property except "special election"



All gifts to private foundations



Capital gain property to private foundations

**\$5,000 carryover of cash to private foundations**

**\$26,000 carryover of FMV capital gain property**



\$5k cash to private foundation
\$8k FMV capital gain property
\$48k FMV capital gain property
\$2k cash to public charity

All gifts



\$26k FMV capital gain property
\$30k FMV capital gain property

All capital gain property except "special election"



✓ **\$5,000**

All gifts to private foundations



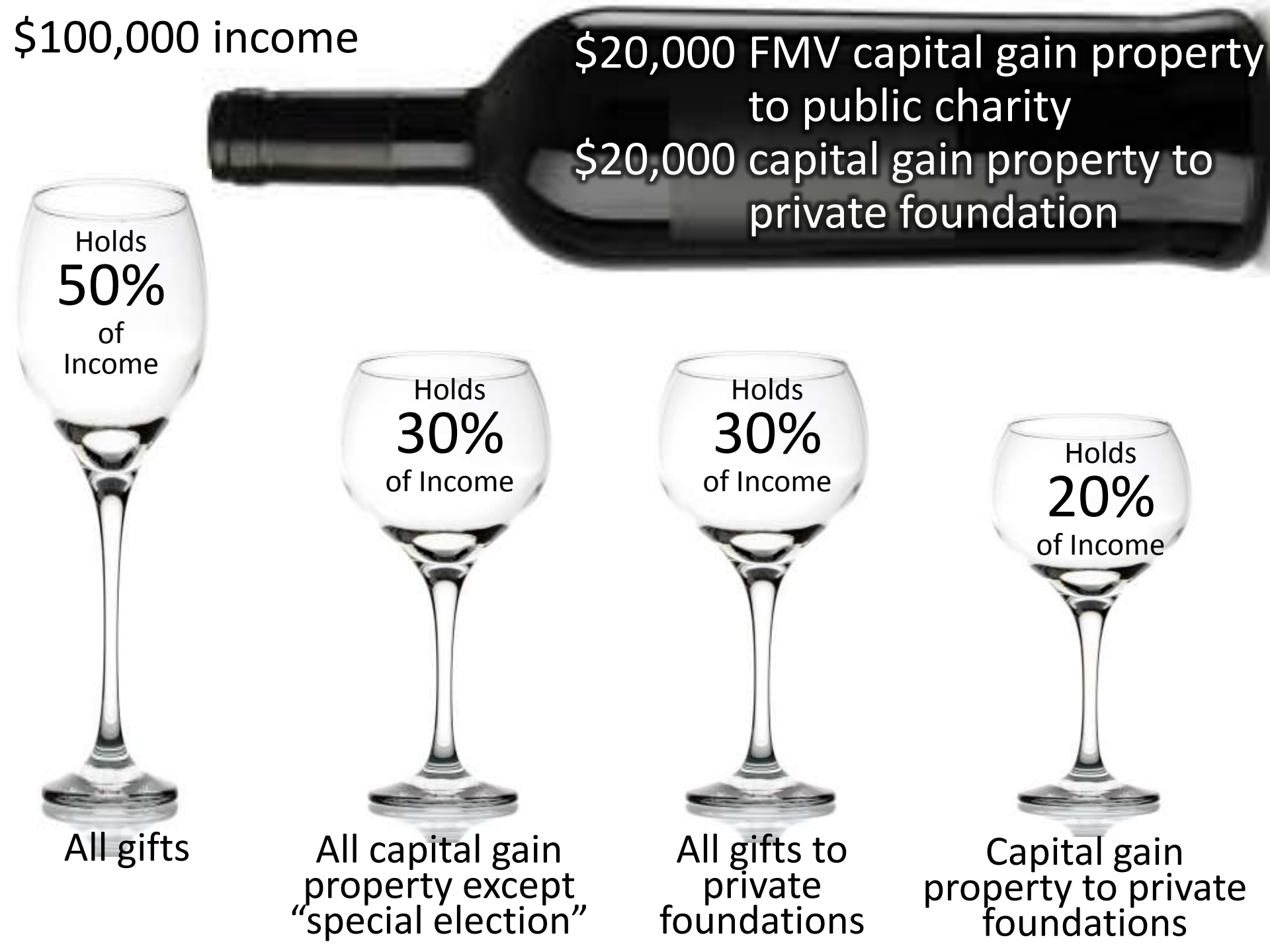
✓ **\$0**

Capital gain property to private foundations

\$5,000 carryover of cash to  
private foundations

\$26,000 carryover of FMV  
capital gain property

\$5,000 cash to private foundation: Deduct \$0  
\$2,000 cash to public charity: Deduct \$2,000  
\$56,000 FMV capital gain property to public charity:  
Deduct \$30,000



\$100,000 income

\$20,000 FMV capital gain property to public charity

\$20,000 capital gain property to private foundation

Holds  
**50%**  
of  
Income

All gifts

Holds  
**30%**  
of Income

All capital gain property except "special election"

Holds  
**30%**  
of Income

All gifts to private foundations

Holds  
**20%**  
of Income

Capital gain property to private foundations



\$100,000 income

\$20,000 FMV capital gain property  
to public charity  
\$20,000 capital gain property to  
private foundation



\$40,000

All gifts



\$40,000

All capital gain  
property except  
"special election"



\$20,000

All gifts to  
private  
foundations



\$20,000

Capital gain  
property to private  
foundations

\$100,000 income

\$20,000 FMV capital gain property  
to public charity  
\$20,000 capital gain property to  
private foundation



✓ **\$40,000**

All gifts



**\$10k cap gain to  
private foundation**  
**\$10k cap gain to  
private foundation**  
**\$20k FMV cap gain  
to public charity**

All capital gain  
property except  
“special election”



✓ **\$20,000**

All gifts to  
private  
foundations



✓ **\$20,000**

Capital gain  
property to private  
foundations

**\$10,000 carryover of  
capital gain property given  
to a private foundation**

Holds  
**50%**  
of Income

✓ **\$40,000**

All gifts

Holds  
**30%**  
of Income

**\$10k cap gain to  
private foundation**

**\$10k cap gain to  
private foundation**

**\$20k FMV cap gain  
to public charity**

All capital gain  
property except  
“special election”

Holds  
**30%**  
of Income

✓ **\$20,000**

All gifts to  
private  
foundations

Holds  
**20%**  
of Income

✓ **\$20,000**

Capital gain  
property to private  
foundations

# Income Limits on Charitable Deductions





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# Graduate Studies in Charitable Financial Planning

at Texas Tech University



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To find out more about the M.S. or Ph.D. in personal financial planning at Texas Tech University, go to

[www.depts.ttu.edu/pfp/](http://www.depts.ttu.edu/pfp/)





## About the Author

Russell James, J.D., Ph.D., CFP® is an Associate Professor and the Director of Graduate Studies in Charitable Planning in the Division of Personal Financial Planning at Texas Tech University. He graduated, *cum laude*, from the University of Missouri School of Law where he was a member of the Missouri Law Review. While in law school he received the United Missouri Bank Award for Most Outstanding Work in Gift and Estate Taxation and Planning and the American Jurisprudence Award for Most Outstanding Work in Federal Income Taxation. After graduation, he worked as the Director of Planned Giving for Central Christian College, Moberly, Missouri for six years and also built a successful law practice limited to estate and gift planning. He later served as president of the college for more than five years, where he had direct and supervisory responsibility for all fundraising. Dr. James received his Ph.D. in Consumer & Family Economics from the University of Missouri where his dissertation was on the topic of charitable giving. Dr. James has over 100 publications in print or in press in academic journals, conference proceedings, professional periodicals, and books. He writes regularly for *Advancing Philanthropy*, the magazine of the Association of Fundraising Professionals. He has presented his research in the U.S. and across the world including as an invited speaker in Ireland, Scotland, England, The Netherlands, Spain, Germany, and South Korea. ([click here for complete CV](#))



Me (about 5 years ago)



Lecturing in Germany. 75 extra students showed up. I thought it was for me until I found out there was free beer afterwards.



At Giving Korea 2010. I didn't notice until later the projector was shining on my head (inter-cultural height problems).