

Valuing charitable gifts of property: How much deduction?



Giving cash requires
no valuation



Valuing gifts of property can be more complex



Common valuation options

Current Fair
Market Value

\$0

Cost Basis (if lower
than current value)



What you paid for it
less depreciation
deductions already
taken

Cost Basis



Its value (less any depreciation deductions already taken)

Current Fair
Market Value



Which valuation applies?

Current Fair
Market Value

\$0

Cost Basis (if lower
than current value)



**Long-term
capital gain**



FMV, unless...

- To a **private foundation** (except “qualified stock”)
- “**Special election**” (50% income limitation)
- **Unrelated use** tangible personal property



**Ordinary
income**



Cost basis

- Short-term capital gain
- Inventory or creative works by donor

Long-term capital gain



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Cost basis

Current Value: \$25



1990 Paid \$1



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Cost basis

Current Value: \$25



1990 Paid \$1



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FMV, unless...

Current Value:
\$1800/acre



1990 Paid
\$600/acre



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FMV, unless...

Current Value: \$25



6 Weeks Ago
Paid \$1



Charity displays
toy in collection

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Long-term capital gain



FMV, unless...

Current Value: \$25



6 Weeks Ago
Paid \$1



mint
museum of toys



THE WORLD'S FIRST PURPOSE BUILT-TOY MUSEUM, NOW OPEN
GARDEN • CHINA • GERMANY • ITALY • JAPAN • KOREA • RUSSIA • U.S.

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➔ **FMV.** ~~unless...~~

Current Value: \$25



1990 Paid \$1



Charity displays toy in collection

Recapture

If charity transfers donor's "related use" tangible personal property >\$5,000 within 3 years, it must certify substantial related use (or that intended use became impossible), otherwise valuation changes to cost basis



Ordinary income



Cost basis

- Short-term capital gain
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Long-term capital gain



FMV, unless...

Current Value: \$25



1990 Paid \$1



**Charity sells toy
at annual benefit
auction**

- To a **private foundation** (except “qualified stock”)
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- **Unrelated use** tangible personal property



Ordinary income



Cost basis

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Ordinary income



Cost basis

- Short-term capital gain
- Inventory or creative works by donor

Long-term capital gain



FMV, unless...

- To a **private foundation** (except "qualified stock")

- Market quotations available
- Not more than 10% of company given to the foundation (counting all family member transfers)



Long-term capital gain



FMV, unless...

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Cost basis

Current Value: \$25



1990 Paid \$1
10,000 Shares

Ordinary income



- Short-term capital gain
- Inventory or creative works by donor

Long-term capital gain



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Cost basis

Current Value: \$25



1990 Paid \$1
10,000 Shares

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Long-term capital gain



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Cost basis

Current Value: \$25



1990 Paid \$1
10,000 Shares

Ordinary income



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Current Value: \$25



1990 Paid \$1
10,000 Shares

Ordinary income



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Cost basis

Current Value: \$25



1990 Paid \$1
10,000 Shares

Ordinary income



- Short-term capital gain
- Inventory or creative works by donor

Special asset rules

- Clothing or household items
- A car, boat, or airplane
- Taxidermy
- Inventory from your business
- A patent or other intellectual property

A close-up photograph of a person's hand holding a playing card. The card is the Ace of Hearts, showing a red heart symbol and the letter 'A' in red. The hand is positioned on the left side of the frame. Above the hand, a black suit jacket sleeve with a button is visible. The background is a plain, light-colored surface.

Why so many special asset rules?

...to prevent abuse

With potential income tax deductions worth nearly half of a gift's "value", property with uncertain valuation creates opportunities for abuse



¹ex: 35% Federal
11% Oregon

Don't throw
away those
old clothes,
give them
away and
deduct it!



Of course your old junker is worth its
blue book value...if you donate it!



A close-up photograph of a person's hand holding a small, white, rectangular card. The card is held between the thumb and index finger, with the other fingers slightly curled. The card has bold, black, sans-serif text on it. The background is a soft, out-of-focus blue and white.

**Hunt on safari
for free!**

Donate the
stuffed
game to a
museum
and take
the
charitable
tax
deduction
for all
equipment
and travel



From the Wyobraska Wildlife Museum
in Gering (pop: 7,751) Nebraska (plus four train
cars storing another 800 animals each)

I hereby give you
the copyright to my
novel. It will be a
best seller, I'm
sure.

P.S. I'll be taking a
large deduction
today for this very
valuable gift.



Special asset rules

- Clothing or household items
- A car, boat, or airplane
- Taxidermy
- Inventory from your business
- A patent or other intellectual property

Problem:

Clothing & Household Items

Don't throw away those old clothes, give them away and deduct it!



Solution:

Clothing & Household Items

No deduction unless in “good used condition or better” or giving >\$500 worth with a qualified appraisal



Household items include

- ✓ Furniture
- ✓ Electronics
- ✓ Appliances
- ✓ Linens



X Food

X Art

X Antiques

X Jewelry

X Collections



Problem: Donors deduct “Blue Book” value but charity sells for much less



If charity sells, deduct sales price

Current Value
\$6,000



1990 Paid
\$5,000



\$3,000

Charity
sells at
auction

If charity sells, deduct sales price

Current Value
\$6,000



1990 Paid
\$5,000



Deduction

Charity
sells at
auction

Applies to any car, boat, or plane deduction >\$500

Current Value
\$6,000



1990 Paid
\$5,000



Deduction

Charity
sells at
auction

Use normal gift valuation if charity certifies (Form 1098-C) it will **use** the vehicle **or give** it to a needy person





Problem: Deducting cost of hunting trip
when animal given to museum

Deduction
for taxidermy
property is
limited to
cost of
stuffing the
animal only



Problem: How to
value intellectual
property?

“I give you the
copyright to my
novel that I think
will be a best seller”





Deduction for copyrights,
patents, and trademarks

=

Cost basis (if < FMV)

+

Share of next 12 years income
(n/a private foundations)

Year 1	100%
Year 2	100%
Year 3	90%
Year 4	80%
Year 5	70%
Year 6	60%
Year 7	50%
Year 8	40%
Year 9	30%
Year 10	20%
Year 11	10%
Year 12	10%

Final Exception



C-corporations may deduct average of basis and FMV (not more than 2X basis) for inventory gifts

1. To public charity for care of ill, needy, or infants
2. Of qualified research property to a higher education or scientific institution

Some common items can be hard to value

- For used cars use “private party” value, not dealer retail
- For boats an individual appraisal is required
- For used clothing compare with consignment or thrift shops
- For large quantities, value as a group, not individual value X number



Penalties for bad valuation are a percentage of the unpaid taxes

20% penalty

- More than 1.5X actual value AND
- More than \$5,000 underpayment of tax

40% penalty

- More than 2X actual value
- AND more than \$5,000 underpayment of tax

75% penalty

- Misstatement due to fraud

Can you
blame the
appraiser
and avoid
the penalty?



No taxpayer
penalty if:

1. Based on
qualified
appraisal
2. Donor made
a good faith
investigation
of value
3. Valuation
<2X actual



If valuation
>1.5X actual,
appraiser
penalty is
greater of
\$1,000 or 10%
of tax
underpayment,
up to 125% of
appraisal fee.



Valuing charitable gifts of property: How much deduction?



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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).