Valuing charitable gifts of property: How much deduction?

Russell James, J.D., Ph.D., CFP® Director of Graduate Studies in Charitable Planning Texas Tech University

Giving cash requires no valuation

000,000

Valuing gifts of property can be more complex

Common valuation options

Current Fair Market Value

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

Cost Basis (if lower than current value)

FMV, unless...

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

Cost basis



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

Current Value: \$25

icroso

1990 Paid \$1



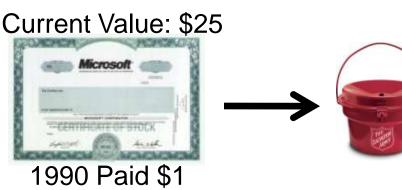
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licrosol

ERTIFICATE OF STOCK

1990 Paid \$1



• To a private foundation



- "Special election" (50% income limitation)
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- Short-term capital gain
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Current Value:

\$1800/acre

1990 Paid \$600/acre BILL&MELINDA GATES foundation

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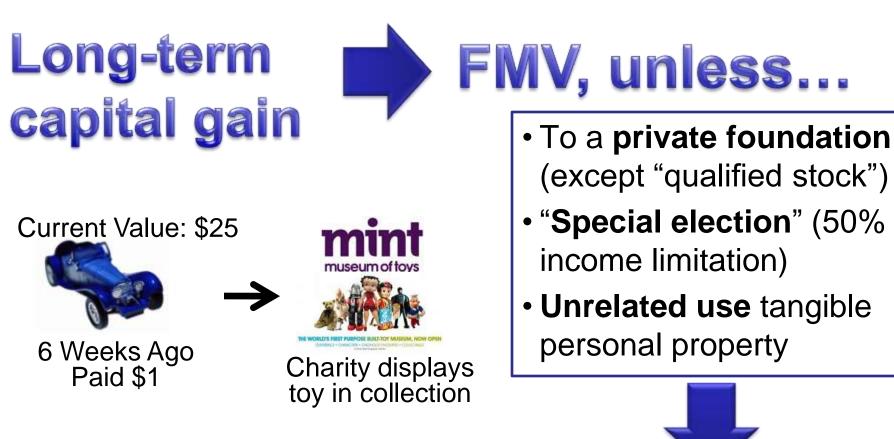
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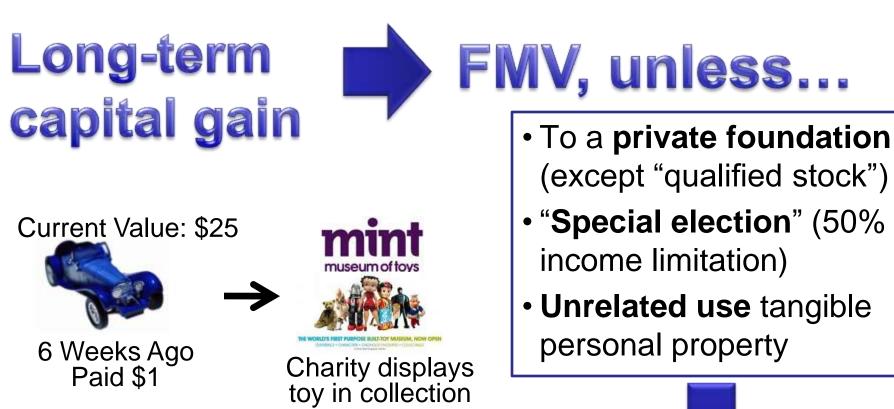


Ordinary income



Cost basis

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

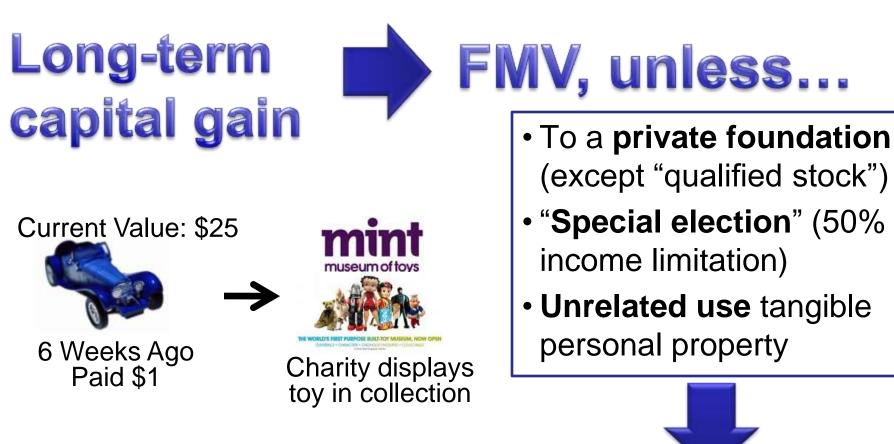


Ordinary income



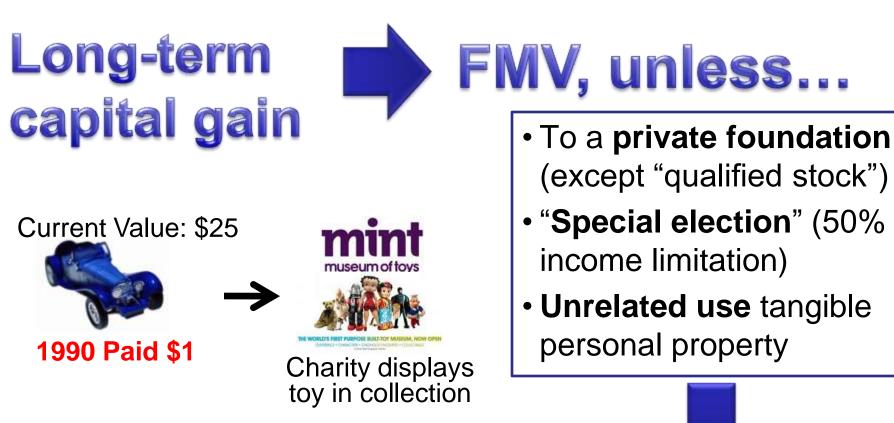
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Ordinary income



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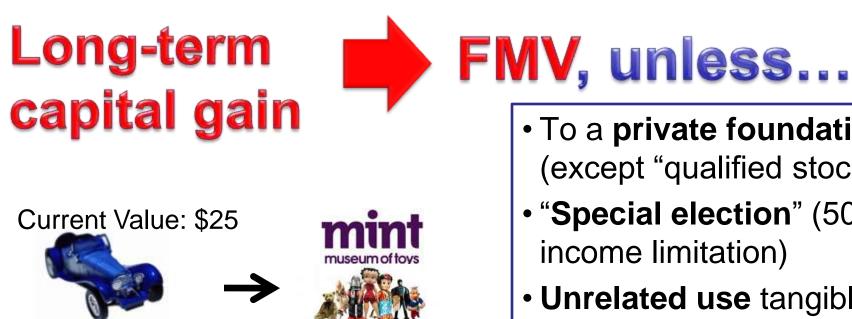
Charity displays toy in collection

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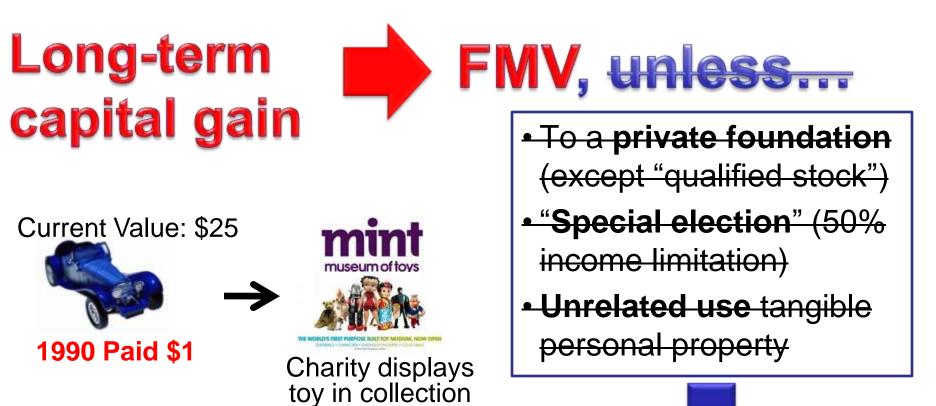
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Charity displays toy in collection



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- Inventory or creative works by donor



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

Cost basis

Current Value: \$25

1990 Paid \$1



Charity displays toy in collection



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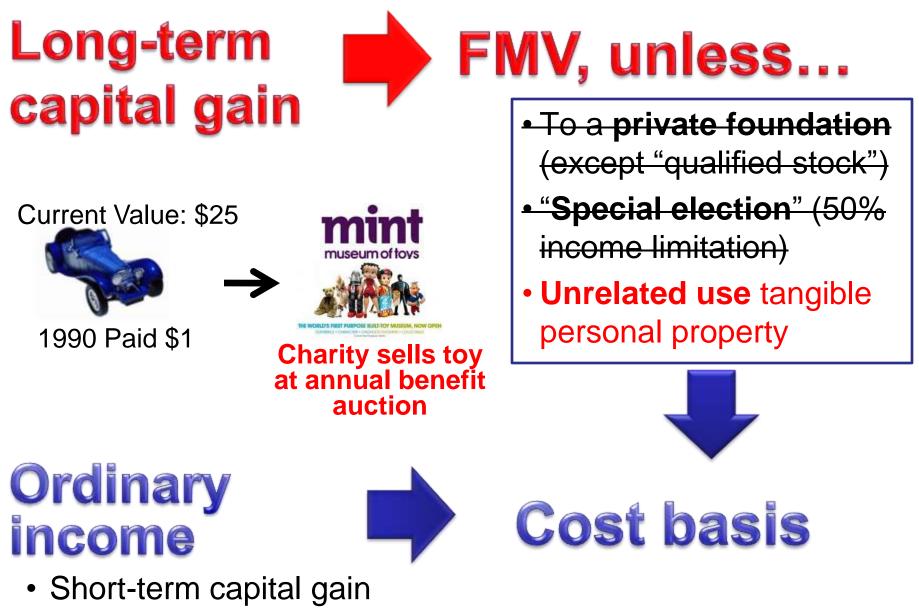
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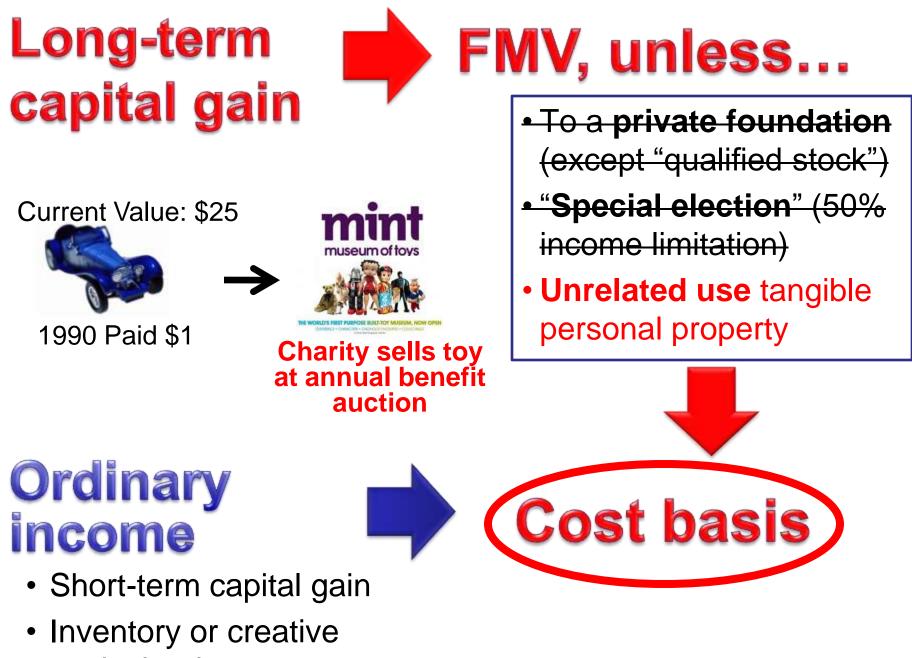
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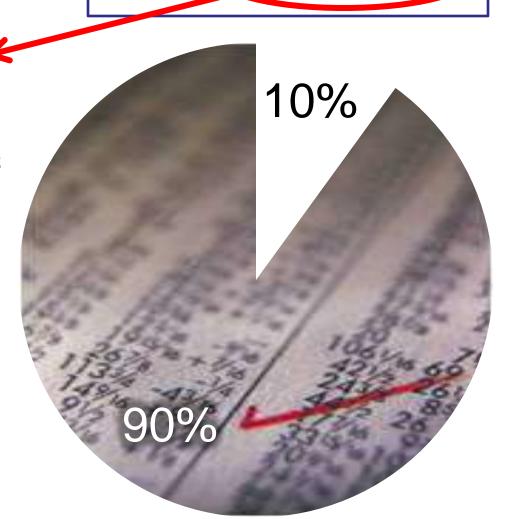


works by donor



 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)



Current Value: \$25

1990 Paid \$1

10,000 Shares



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Long-term capital gain



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- Unrelated use tangible personal property

Cost basis



1990 Paid \$1 10,000 Shares

BILL& MELINDA GATES foundation

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

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!

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

Hunt on safari for free!



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



If charity sells, deduct sales price



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



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% 80% Year 4 70% Year 5 Year 6 60% 50% Year 7 40% Year 8 30% Year 9 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

75% penalty

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

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.



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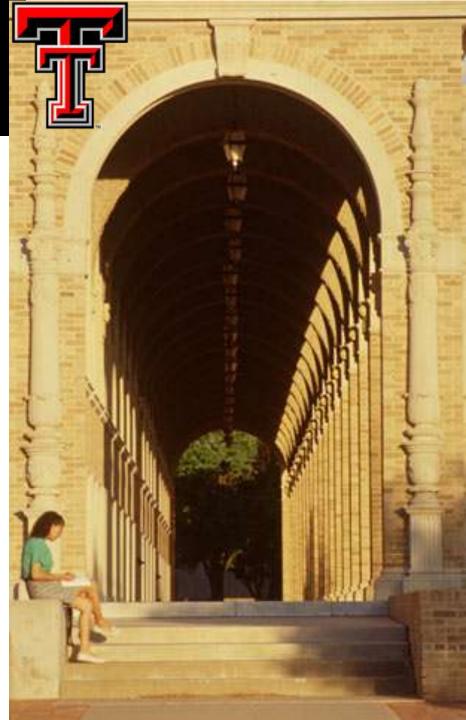
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at Texas Tech University

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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



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.



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)