

**INCOME TAX FUNDAMENTALS FOR GIFT  
PLANNERS  
AND OTHER FUNDRAISERS**

**NCPGC PRIMER COURSE**

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- ❖ Introduction and Background
- ❖ Basic Overview of Income Tax
  - ❖ Gross Income
  - ❖ Adjustments to Gross Income = AGI
  - ❖ Deductions from Gross Income = Taxable Income
    - ❖ Charitable Contribution deduction
  - ❖ Calculation of Tax
    - ❖ Marginal Rate v. Effective Rate
    - ❖ Ordinary Income v. Capital Gains

## ❖ Major Tax Attributes of Charities

- ❖ Organizations exempt from Income Tax

  - ❖ Note: UBTI

- ❖ Donors receive charitable contribution deduction for gifts to qualified organizations

- ❖ Donors avoid Capital Gains for certain gifts of qualified appreciated property

## ❖ Introduction to the Charitable Contribution Deduction

❖ IRC Sec. 170/IRC Sec. 501(c)(3)

❖ Determination of deduction:

❖ Is there a qualified gift?

❖ Is recipient a qualified organization?

❖ What is proper amount of deduction?

## ❖ Qualified Gift

### ❖ Contribution of money or property

- » No deduction for contribution of services
- » Note: unreimbursed expenses incurred to provide volunteer services to a qualified organization are deductible
- » Conferring benefit on charitable organization
  - » Objective analysis of intent
  - » “quid pro quo”
  - » Intangible religious benefits
- » No substantial benefit to donor
- » Distinction between “to” and “for the use of”

# Qualified Organization

- ❖ Federal, state or local governments, for public purposes
- ❖ Organizations organized and operated exclusively for religious, charitable, scientific or educational purposes...
  - so long as formed within US
  - no part of the earnings of which inures to benefit of any private individual or shareholder
  - no substantial part of the activities of which is attempting to influence legislation or which participates or intervenes in any political campaign on behalf of a candidate for public office
- ❖ Certain war veteran posts/fraternal organizations/cemetery organizations

## ❖ Proper Amount of Deduction

- ❖ The limitation on maximum amount of deduction turns on the nature of the charitable donee and the nature of the gift
- ❖ Limitations
  - » Contribution Base= Adjusted Gross Income computed without NOLs
  - » Maximum limitation
    - » 50% of Contribution Base
      - » Gifts (other than gifts of appreciated capital gain property) to “public charities” and “private operating foundations” provided the gifts are “to” rather than “for the use of” the charity
    - » 30% of Contribution Base
      - » Gifts (other than gifts of appreciated capital gain property) to organizations other than public charities or private operating foundations OR for the use of public charities
    - » 20% of Contribution Base
      - » Gifts of LTCG property to private foundations
  - » 5-year carryforward

## Special rules for gifts of appreciated capital gain property

- Most assets: FMV minus any ordinary income or short term capital gain the donor would receive on sale
- Beware of assignment of income issues
- Definition of Fair Market Value



- » Tangible Personal Property
  - » General Rule—deduction equal to basis
  - » Special Rule—deduction equal to FMV if charity uses the property to carry out its exempt purpose

- ❖ Gifts of LTCG property to Private Foundations:
  - ❖ Public stock = FMV (limited to 20% of Contribution Base)
    - Any other asset = Basis

## Bargain Sales

- ❖ When a donor transfers property to a charity and receives consideration that is less than FMV
- ❖ Donor can deduct difference between the FMV donated and the value of consideration received
- ❖ NOTE: Donor must also recognize gain (or loss) in the sale portion of the transaction
  - ❖ Allocation of basis

## ❖ Certain Split Interest Trusts

### ❖ Charitable Remainder Trusts

- ❖ Unitrusts

- ❖ Annuity Trusts

### ❖ Charitable Lead Trusts

- ❖ Grantor v Nongrantor

- ❖ Unitrusts

- ❖ Annuity Trusts

### ❖ Personal Residences

### ❖ Charitable Gift Annuities (CGAs)

## Substantiation Requirements

### Cash Gifts below \$250

Donor must have bank record or receipt

### Property Gifts below \$250

Donor must have receipt OR

Reliable written record exception

### Any gift of \$250 or more

Donor must obtain contemporaneous written acknowledgement from charity stating (i) amount of cash or description of property and (ii) confirming whether charity provided any goods or services in consideration

### Any gift of \$5,000 or more:

Qualified appraisal

Form 8283

### Charities obligation to provide acknowledgement

# ❖ CONCLUDING REMARKS