

Claiming the Charitable Deduction

As discussed in the previous section, when the donor makes a contribution to a charitable remainder unitrust, the deduction is based on the present value of the future charitable gift. However, there are limitations and reduction rules that may limit or reduce the amount of deduction the donor can claim on their income tax return in any given year.

The tax rules are designed so taxpayers cannot use the charitable deduction to completely eliminate their income tax liability. Therefore, the amount of charitable deduction the donor can claim in any given year is limited to a percentage of their income. The percentage depends on:

- the type of property given,
- how it is given,
- and the type of charitable organization to which it is given.

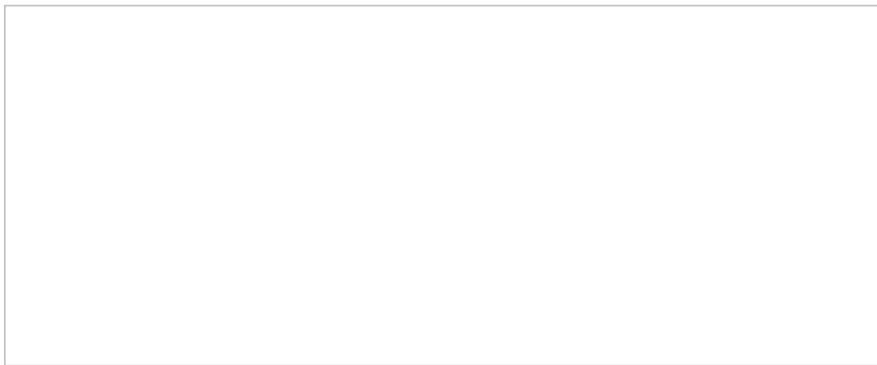
Furthermore, the amount of the deduction may be reduced based on the type of property contributed.

The following rules apply for federal income tax purposes. The rules for state income tax purposes may vary. Consult with your tax professional.

Long-Term Capital Gain Property

Most charitable remainder unitrusts are funded with long-term capital gain property. If the remainder interest will be paid to a **public charity**, the **fair market value of the property** is used to calculate the discounted present value of your gift. You can claim the resulting amount as a deduction against up to **30% of your adjusted gross income** in the year you create the trust.

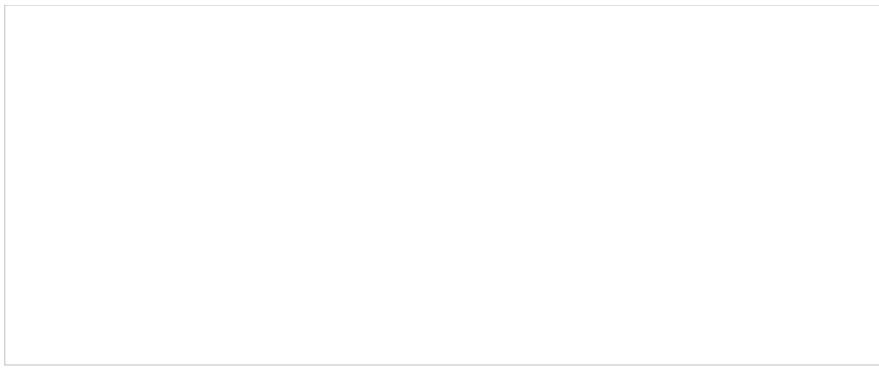
If your contribution consists of an asset **other than publicly-traded securities** and you name a **private nonoperating foundation** as remainderman, the deduction is based on the lesser of the asset's fair market value and your cost basis. The resulting deduction is subject to a **20% income limitation**.



NOTE: Contributions to Private Nonoperating Foundations of LTCG assets other than publicly traded stock are not only limited to 20% of AGI, but the deduction is based on the lesser of the FMV of the asset or its cost basis. This may dramatically reduce the deduction.

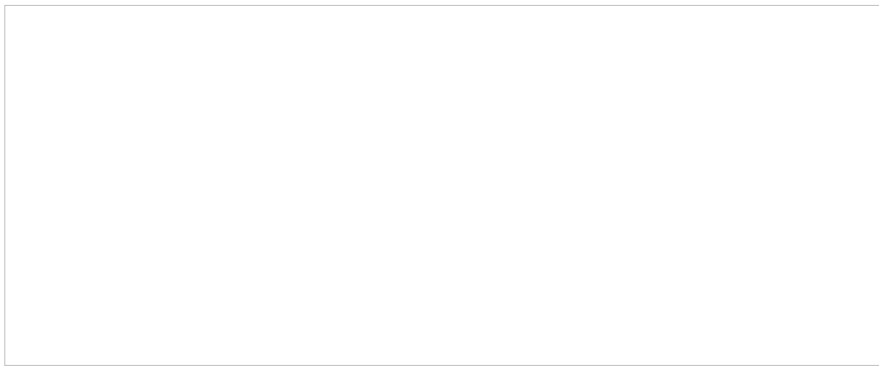
Cash

If you contribute **cash** to a trust that names a **public charity**^[3] as the remainder beneficiary, you can use the deduction against up to **50% of your adjusted gross income** in the year you create the trust. If the remainder interest will be paid to a **private nonoperating foundation**, the deduction is subject to a **30% limitation**.



Ordinary Income Property

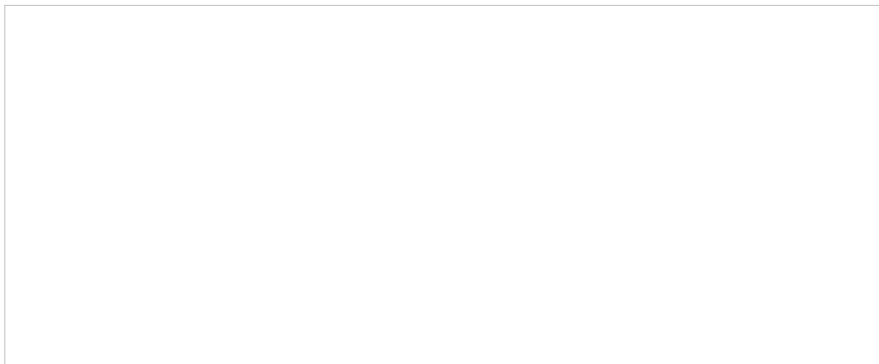
If you fund the trust with property that if sold would produce **ordinary income**, your deduction is subject to a **50% income limitation**; however, the deduction is calculated based on the lesser of the property's value or your adjusted cost basis. If you name a **private nonoperating foundation** as remainderman, the income limitation is **reduced to 30%**.



NOTE: The deduction for contributions to Private Nonoperating Foundations of ordinary income assets is based on the lesser of the FMV of the asset or its cost basis. This may dramatically reduce the deduction.

Carryover Rule

In all cases, if you can't use all of your deduction in the year of your contribution, you can carry any excess deduction over up to five more tax years, if necessary.



[3] For purposes of this discussion, public charities are described in IRC §170(b)(1)(A). They include all For purposes of this discussion, public charities are described in IRC §170(b)(1)(A). They include all qualified charitable organizations except private nonoperating foundations.

© Copyright 2021 by Sharpe Group. All Rights Reserved.

Source URL (retrieved on 09/27/2021 - 22:23): <https://brethren.givingplan.net/charitable-remainder-unitrust-presentation/claiming-charitable-deduction>