



TAX READ TIME: 3 MIN

Donating Art: Taxation Abstraction

The varied reasons to donate art include a personal affinity for a museum, the desire to create a legacy, and the tax consideration that may come with the donation.

The tax rules surrounding the tax deduction of art are complex and confusing.¹

When donating art, donors can generally claim a federal tax deduction of up to 30% of their adjusted gross income each year. If the value of the donation exceeds this 30% limit, the excess can be deducted in subsequent years—up to five years—subject to the 30% limit in each year.²

Where It Becomes Complicated

The deduction may be based on the appraised value of the donated artwork if the recipient qualifies as a public tax-exempt organization, which is generally defined as an institution that receives at least a third of its financial support from the public. Museums, schools, hospitals, and churches are examples of a public tax-exempt organization.

If you are donating art to a private tax-exempt organization, e.g., a private foundation, your deduction will be based on the price you paid for the donated art.

Even if you are donating art to a public tax-exempt organization, a deduction based on the appraised value requires that the donation be related to the recipient's mission—a requirement not likely met by organizations other than museums. A failure to meet that test results in a deduction based on the purchase price.

Look Before You Leap

Even if your donation passes the test, potential land mines remain.

If the recipient sells the donated art within three years, the allowable deduction will revert to the purchase price instead of the appraised value, leaving you with a potential exposure to back taxes. Since you are able to negotiate the terms of your gift, you may want to secure a promise not to sell the art within three years of its donation.

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The Internal Revenue Service may choose to challenge your appraisal with its own to ensure against inflated appraisals. Penalties can be stiff, so you should make sure your appraiser has facts, such as comparable sales, to back up his or her appraisal.

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2. This is a hypothetical example used for illustrative purposes only. It is not representative of any specific art donation.

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