



# Planned Giving in a Nutshell

Craig C. Wruck

## **Craig C. Wruck**

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# Planned Giving in a Nutshell

## ***Introduction***

*The term “gift planning” is replacing “planned giving,” but there is a real change beyond mere terminology. Planned giving is often thought of as a specific type of charitable gift. Gift planning, on the other hand, is a process that helps the donor and the charitable organization determine which technique will provide the greatest charitable potential for both the donor and the organization. The purpose of gift planning is to simultaneously help donors achieve their philanthropic and financial goals while helping charitable organizations fulfill their charitable missions.*

*Throughout this text we will consider not just specific planned gifts, but also the broader methodology of gift planning and how it can be applied to unlock charitable potential for donors and the charitable organizations they choose to support.*

### **KNOWLEDGE OF THE SUBJECT**

Years ago a development officer was asked by a generous donor to explain how a charitable gift annuity worked. The development officer was stumped. Until then his primary concern as a fundraiser had been to secure outright gifts, not planned gifts. He was embarrassed to admit that he didn't know enough about the charitable gift annuity to answer the donor's questions. A week later, following some in-depth study, the development officer sent the donor a letter that he hoped would help. However, neither the development officer's letter nor subsequent visits could revive the donor's interest in a charitable gift annuity.

Development officers know from experience that this can be the consequence when a prospective donor loses confidence because we appear unprepared. Lacking knowledge about the tools of charitable gift planning not only closes the door to opportunities, but it can also contribute to a loss of confidence between the donor and the fundraiser. One requirement of our profession is that we know our subject. This includes not only knowing the mission of the organization—the reasons to give—but also the many different ways in which a contribution can be made.

We need not become experts on all the details and fine points of charitable gift planning, but we should have a good working knowledge of the fundamentals. We should know the differences

among gift annuities, annuity trusts, and the varieties of unitrusts. We should be able to explain the tax treatment of contributions, such as the amount deductible, 50% and 30% limitations, carry forward provisions, and the taxation of income. We should know what we're talking about when we discuss holding period, cost basis, capital gain, bargain sales, and property valuation.

In short, we should have enough knowledge about charitable gift planning so that we can confidently work with our donors and their advisors to help them plan their charitable contributions. This text is dedicated to providing development officers with a working understanding of the basic concepts involved in charitable gift planning. The emphasis is on "plain English" explanations with examples and illustrations to help equip the development officer to carry on a conversation about charitable gift planning with a prospective donor.

## **INSTITUTIONAL COMMITMENT AND SUPPORT**

In addition to development staff who are knowledgeable in the fundamentals of charitable gift planning there must be a serious commitment by the charitable organization if the planned giving program is to be successful. Institutional support should include:

- Formal action by the governing board authorizing the program, together with written policies and procedural guidelines.
- An adequate budget which includes educational opportunities for the staff, resource materials, access to professional help, and a marketing program.
- Administrative support to handle investments, record keeping, make payments to income beneficiaries, prepare tax returns, manage property and ultimately ensure that gift proceeds are used for appropriate charitable purposes.

Throughout this text we will discuss many of the elements that make up a successful planned giving program, but the bottom line is this: charitable gift planning is a team effort, and all members of the team must work together with mutual trust and respect. The development staff is responsible for marketing and securing charitable gifts, and, in most organizations, the business office is responsible for administering the gifts once they are secured. Nevertheless, the strength of the "team" is much greater than these two parts alone.

## **ACRONYMS ENCOUNTERED IN GIFT PLANNING**

Like other technical fields, charitable gift planning has developed its own extensive set of acronyms commonly used as shorthand references to various terminology. Here are a few of the more common acronyms you may encounter:

ACGA American Council on Gift Annuities  
AFR Applicable Federal Rate  
AMT Alternative Minimum Tax  
CGA Charitable Gift Annuity  
CLAT Charitable Lead Annuity Trust



CLT Charitable Lead Trust  
 CLUT Charitable Lead Unitrust  
 CMFR Charitable Mid-Term Federal Rate  
 CRAT Charitable Remainder Annuity Trust  
 CRT Charitable Remainder Trust  
 CRUT Charitable Remainder Unitrust  
 FMV Fair Market Value  
 IRC Internal Revenue Code  
 IRS Internal Revenue Service  
 LTCG Long-Term Capital Gain  
 NICRUT Net Income Charitable Remainder Unitrust  
 NIMCRUT Net Income with Makeup Charitable Remainder Unitrust  
 PIF Pooled Life Income Fund  
 PLR Private Letter Ruling  
 SCRUT Standard Charitable Remainder Unitrust  
 STCG Short Term Capital Gain  
 UBI Unrelated Business Income  
 UBIT Unrelated Business Income Tax  
 UBTI Unrelated Business Taxable Income

## **A BRIEF GIFT PLANNING GLOSSARY**

Annuity	A contract or legal obligation to pay specified amounts over a specified period of time to specified individual(s) in exchange for cash, securities, or other tangible property.
Beneficiary	One named in a Will, Trust or other legal document to receive an interest in an estate. One named in a trust to receive either income or the remainder of the trust. The income recipient or “annuitant” of a charitable gift annuity.
Bequest	A direction in a Will to distribute property or money, a “legacy.”
Estate Tax	A tax on the transfer at death of property or money.
Charitable Gift Annuity	A contract to pay a fixed dollar amount annually to one or two beneficiaries for life issued by a charitable organization in exchange for a contribution.
Charitable Lead Trust	An irrevocable trust that pays income to charity for a number of years and then distributes its remainder to one or more individuals.
Charitable Remainder Trust	An irrevocable trust that pays income to one or more individuals either for life or for a number of years and then distributes its

remainder to one or more charitable organizations.

Gift Tax A tax on the transfer made during lifetime of property or money.

Grantor The creator of a trust or other legal instrument.

Gross Estate Everything in which the deceased person owned an interest in at the time of death.

Irrevocable Trust A trust that cannot be changed or dissolved.

Legacy A direction in a Will to distribute property or money, a “bequest.”

Life Estate A gift of property in which the donor retains the right to use the property for life.

Life Income Gift A charitable gift plan allowing a donor to make a contribution and, as a result, receive an income for one or more individuals.

Personal Property

- Tangible: physical objects such as jewelry, artwork, antiques, automobiles, and clothing.
- Intangible: items the value of which is not tied to their physical form such as stocks, bonds, notes, and patents.

Probate The legal process of proving the validity of a Will, used loosely to mean the administration of an estate.

Real Property Land and the buildings, fixtures, and other items that are attached to it in a relatively permanent manner.

Remainder The amount remaining in a trust after income payments have ended.

Revocable Trust A trust that can be changed or dissolved by the grantor or others.

Testamentary Trust A trust established through the Will of a grantor.

Trust An arrangement whereby property is held and managed for the benefit of others.

Trustee Party legally responsible for carrying out the terms of a trust.

Will A legal instrument disposing of a person's property at the time of his or her death.

## **MODEL STANDARDS OF PRACTICE FOR THE CHARITABLE GIFT PLANNER**

Planned giving involves collaboration among a number of different professional advisors. The National Committee on Planned Giving (now the partnership for Philanthropic Planning) has developed a set of guidelines describing ethical practices for charitable gift planners whether they are nonprofit fundraisers or for-profit advisors.

### **MODEL STANDARDS OF PRACTICE FOR THE CHARITABLE GIFT PLANNER**

#### **PREAMBLE**

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and as such often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

#### **I. PRIMACY OF PHILANTHROPIC MOTIVATION**

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

#### **II. EXPLANATION OF TAX IMPLICATIONS**

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

#### **III. FULL DISCLOSURE**

It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

#### **IV. COMPENSATION**

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finder's fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift are never appropriate. Such payments lead to abusive practices and may violate certain state and federal

regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

#### **V. COMPETENCE AND PROFESSIONALISM**

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

#### **VI. CONSULTATION WITH INDEPENDENT ADVISORS**

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisors of the donor's choice.

#### **VII. CONSULTATION WITH CHARITIES**

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planners, in order to insure that the gift will accomplish the donor's objectives, should encourage the donor, early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planners shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

#### **VIII. DESCRIPTION AND REPRESENTATION OF GIFT**

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

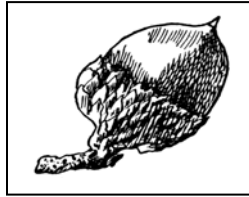
#### **IX. FULL COMPLIANCE**

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

#### **X. PUBLIC TRUST**

Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

*Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities, May 7, 1991. Revised April 1999*



# Planned Giving in a Nutshell

## ***Tax Fundamentals***

*For many of us, the U.S. Federal Tax Code seems like the most complex set of laws and regulations ever written. What is more, Congress is forever adjusting, changing, and tinkering with the tax laws. Fortunately, in order to be successful a charitable gift planner need be conversant with only a few key concepts in the Federal tax law. It's true that many gift planners pursue a much broader knowledge and deeper understanding of tax law, and that can be a definite advantage. However, a confident understanding of the basic concepts is sufficient for most gift planners.*

*The point is this: a gift planner need not become an expert in all of the subtleties and nuances of tax law. The job of the non-profit gift planner is to suggest creative solutions to prospective donors. Donors should always consult their own advisors in order to ensure that a contemplated gift will perform in the way they anticipate. And gift planners, particularly those employed by charitable organizations, should never exceed the limits of their expertise and knowledge.*

### **THE FEDERAL TAX SYSTEM**

There are two Federal tax systems that are of particular interest in charitable gift planning:

- the income tax system – including income taxes and capital gains taxes
- the transfer tax system – including estate taxes, gift taxes, and the generation skipping tax

Tax incentives to encourage charitable giving are included in both the income and transfer tax systems. However, the impact of these incentives on an individual donor varies depending upon the donor's personal circumstances. While the income tax system itself generally applies to all taxpayers, the greatest income tax incentives for charitable giving are available only to the approximately one-quarter of taxpayers who itemize their deductions. On the other hand, the transfer tax affects only a very small percentage of all taxpayers—estimates are that the current Federal Estate Tax applies to fewer than 1% of estates—but in many cases the value of estate tax incentives is significantly more generous.

A key concept for charitable gift planners is the “after tax cost of the gift.” The after tax cost of a gift is, simply, the out-of-pocket cost of the gift minus the tax savings. Since most tax rates are

progressive—that is the rate rises as the taxable amount increases—the amount of tax savings is relatively greater for donors in higher tax brackets. This means that the after tax cost of making a gift is lower for higher bracket taxpayers.

## THE FEDERAL INCOME TAX

### ORDINARY INCOME TAX

The Federal income tax generally applies to all “income” from whatever source. However, not all income is subject to taxation because a number of exclusions and deductions reduce the amount of income that is ultimately taxable. Most taxpayers file some variant of the Form 1040, which is reproduced for your reference at the end of this chapter. In general, “taxable income” is calculated as follows:

<b>Gross Income</b>	everything earned or received as income during the year
minus adjustments	certain items (e.g., casualty losses, alimony payments, IRA contributions) are subtracted from gross income
<b>Adjusted Gross Income</b>	“AGI” is a key figure that determines the maximum amount of charitable deduction that can be taken in any one year
minus personal exemptions	a flat amount is subtracted for the taxpayer and each dependent claimed on the return (the exemption amount is \$3,650 in 2009, adjusted for inflation each year) <sup>1</sup>
minus deductions	certain items—including charitable contributions—are deducted from income, however, deductions are itemized deductions only if they exceed the “standard deduction” amount (\$5,700 for single filers and \$11,400 for joint filers in 2009, adjusted each year for inflation) <sup>2</sup>
<b>Taxable Income</b>	the amount subject to Federal Income tax

<sup>1</sup> Under current law (June, 2009), the value of the personal exemption is phased out for high income taxpayers, defined as adjusted gross income (AGI) of over:

- \$125,100 for Married Filing Separately
- \$166,800 for Single
- \$208,900 for Head of Household
- \$239,950 for Married Filing Jointly

<sup>2</sup> Under current law (June, 2009) the value of itemized deductions is phased out for high income taxpayers, defined as adjusted gross income (AGI) of over:

- \$83,400 for Married Filing Separately
- \$166,800 for Single
- \$166,800 for Head of Household
- \$166,800 for Married Filing Jointly

**Key Point → The charitable deduction reduces taxable income, and therefore reduces the amount of income tax due.**

Federal Income Tax rates are “progressive” so that a higher percentage rate applies to larger amounts of taxable income. They are also “graduated” so that everyone pays the lowest rate on the first dollar of taxable income and only those who have larger amounts of taxable income are subject to the higher rates. Below are the income tax rates for joint filers in 2009<sup>1</sup>:

<b>Taxable Income</b>	<b>Tax Rate</b>
\$1 to \$16,700	10%
\$16,701 to \$67,900	15%
\$67,901 to \$137,050	25%
\$137,051 to \$208,850	28%
\$208,851 to \$372,950	33%
\$372,951 or more	35%

**Note:** Different tax rate tables are used depending upon the filing status of the taxpayer (e.g., single, joint, etc.). For reference, the complete Federal Income Tax tables are reproduced at the end of this chapter.

One of the implications of the graduated tax rate system is that the “marginal tax rate”—the top tax rate which is applied to the last dollar of taxable income—is usually much higher than the “effective tax rate”—the overall tax rate paid. For example, an individual filing jointly in 2009 with a taxable income of \$150,000 will pay a total tax of \$30,138, as follows:

<b>Taxable Income</b>	<b>Tax Rate</b>	<b>Tax Due</b>
the first \$16,700	10%	\$1,670
the next \$51,200	15%	\$7,680
the next \$69,150	25%	\$17,288
the last \$12,500	28%	\$3,500
<b>TOTALS</b>		
\$150,000		\$30,138

A total tax of \$30,138 on a taxable income of \$150,000 is an “effective rate” of 20% even though the “marginal rate” paid on the last taxable dollar earned is 28%.

## CAPITAL GAINS TAX

For our purposes, “capital gain income” is the “profit” when an investment is sold for more than it cost. It is “long term capital gain income” if the investment was owned for more than twelve

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<sup>1</sup> Under current law (June, 2009), “qualified dividends” are taxed at a maximum rate of 15% (5% for taxpayers in the 10% or 15% brackets). As always, prospective donors should be encouraged to consult a qualified tax advisor for advice on their specific circumstances and for the latest revisions to tax law.

months before being sold and is “short term capital gain income” if held for less than a year. Short term capital gain income is taxed at ordinary income tax rates. However, long term capital gain is taxed at lower rates: a maximum rate of 15%.<sup>1,2</sup> For example, if a taxpayer in the 28% bracket sells for \$10,000 an investment that cost \$2,000 some years ago, he or she would owe a tax of \$1,200—15% of the \$8,000 long term capital gain.

#### AFTER TAX COST OF A GIFT

A charitable contribution is deductible from taxable income, therefore reducing the amount of income tax due. This tax savings effectively reduces the cost of making a contribution.

##### ***Example: After Tax Cost of a Gift of Cash***

Assume a donor who is in the 28% marginal tax bracket makes a cash contribution of \$10,000:

\$10,000	:	cash contribution
-2,800	:	income taxes saved
\$7,200	:	after tax cost of the contribution

**Key Point → The charitable deduction reduces taxable income at the margin (the last dollar of income) and therefore produces tax savings at the taxpayer’s highest marginal tax rate.**

#### AMOUNT OF THE DEDUCTION: FAIR MARKET VALUE

In general, a donor is entitled to a charitable deduction for the “fair market value” of the contribution. The fair market value is defined as the price that would be reached between a willing buyer and a willing seller, both having equivalent knowledge of the facts and neither being under any compulsion to complete the transaction.

Determining the fair market value is straightforward for most contributions:

**cash** – total of the cash contributed

**publicly traded securities** – the mean (average) between the high and low prices for the securities on the date of the contribution

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<sup>1</sup> Beginning in 2008, there is a zero percent capital gains tax rate for taxpayers in the 10% or 15% marginal tax brackets. The zero percent rate is scheduled to expire in 2010.

<sup>2</sup> Current (June, 2009) tax law includes several special categories of taxable capital gains, each with a different tax rate:

1. capital gain on the sale of “collectibles” (taxed at up to 28%)
2. capital gain on the sale of real property subject to depreciation recapture (taxed at up to 25%)
3. capital gain on the sale of securities (taxed at a maximum rate of 15%)

Some of these rates are temporary. Although the general Long Term Capital Gain rules outlined here apply in most gift planning circumstances, as always, prospective donors should be encouraged to consult a qualified tax advisor for advice on their specific circumstances and to review the latest revisions to tax law.



However, the rules become more complicated for harder to value items such as property, collections, and personal items. In general, the donor must make a reasonable estimate of the fair market value and must obtain a “qualified appraisal” if the deduction is \$5,000 or more.

- Notes:** | Valuation of “non-cash” contributions has been the subject of increasing scrutiny by the Internal Revenue Service and the Congress in recent years. The rules have been changed and deductions for non-cash contributions are being scrutinized more carefully. IRS Publication 526, *Charitable Contributions*, and Publication 561, *Determining the Value of Donated Property*, which are available from the Internal Revenue Service Web site, are useful guides.
- Substantiating the value of a charitable deduction is a matter between the donor/taxpayer and the Internal Revenue Service. Although charities should, of course, be helpful to their donors, it is best to leave the matter of valuation of contributions to the donor.
- Donors should be fully informed that the amount of their charitable deduction may be significantly different than the amount eventually received by the charity. For example, while the deduction for a contribution of appreciated securities will be based upon the average between the high and low prices on the date of the gift, the amount received by the charity will depend upon the actual sales price (minus commissions and other costs of sale).

#### AFTER TAX COST OF GIFT OF APPRECIATED PROPERTY

A donor may contribute long term capital gain property to charity, receive an income tax deduction for the full fair market value of the property, and pay no capital gains tax which would have been due if the property had been sold.

##### **Example: After Tax Cost of a Gift of Appreciated Securities**

Assume a donor who is in the 28% marginal tax bracket contributes securities now worth \$10,000 that cost \$2,000 more than a year ago:

\$10,000	:	value of securities contributed
-2,800	:	income taxes saved
-1,200	:	capital gains tax avoided
\$6,000	:	after tax cost of the contribution

**Key Point → A donor can receive a charitable deduction and avoid capital gains taxes by contributing long term capital gain property to charity.**

- Notes:** | In order to avoid the capital gains tax on a contribution of appreciated property,

it is extremely important that the donor contribute the appreciated property itself, not the proceeds from the sale of the appreciated property. In short, if the sale of the property is arranged before the contribution, then the donor may be deemed to have sold the property and contributed the proceeds from the sale, in which case the donor would be liable for capital gains tax on the sale.

Securities are the most common contribution of appreciated property. In the case of a contribution of securities, it is critical that stockbrokers understand that they are to transfer the securities themselves to the charity, and that they should not sell the securities except at the direction of the charity as owner.

In other cases, for example real estate, it is critically important that there be no pre-arranged agreement to sell or buy the property prior to the contribution to charity.

## DEDUCTION LIMITATIONS

Although charitable contributions are 100% deductible, the maximum amount a donor can claim in any one year is limited to 50% of Adjusted Gross Income (AGI) for contributions of cash and 30% for contributions of appreciated property.<sup>1</sup> Charitable deductions that exceed the limit in one year may be carried forward for up to five additional years. There are special rules that apply when a donor has contributed both cash and appreciated property. These rules are detailed in IRS Publication 526, *Charitable Contributions*, which is included in the Appendix.

A donor may elect to have 30% contributions treated as 50% contributions, however the deduction will be limited to the cost basis of the appreciated property and the election will apply to all appreciated property contributions. Although, under certain circumstances, this may be advantageous, this is a complex matter and the donor should be urged to consult his or her tax advisor.

## QUID PRO QUO REDUCTION

The amount of the deduction must be reduced by the value of goods or services the charity makes available to the donor as a result of the contribution. This arises most often when the charity offers a premium or other reward in exchange for the contribution or in cases of benefit-type events. A key point is that the deduction is reduced by the *value* of the goods or services, not the cost of these items to the charity. In addition, note that it is the *availability* of goods or services that reduces the deduction, whether or not the donor actually receives or takes advantage of them.

This information should be completely disclosed to the donor at the time of the contribution. Phrases such as “deductible to the extent allowed” should be avoided. If the solicitation

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<sup>1</sup> The 50%/30% AGI limits generally apply to contributions to “public charities.” Contribution to other charities (e.g., private foundations), while still deductible for income tax purposes, are subject to lower AGI limitations: 30% for contributions of cash and 20% for contributions of appreciated property.

indicates that a contribution is tax deductible, then it should also provide the details of how much will be deductible.

Finally, where nothing of value has been made available to the donor, the contribution receipt should include a statement that no goods or services were made available as a result of the contribution.

#### DATE OF GIFT

The charitable deduction becomes available on the date the gift is completed. The date of gift is a key concern for contributions made toward year end because in order to be claimed as a contribution deduction a gift must be completed by December 31 of the year in which the donor wishes to claim the deduction. The general rule is that the date of gift is the day on which the donor has surrendered control of the gift. Determination of the date of gift is straightforward for most contributions:

<b>Mode of Contribution</b>	<b>Date of Gift</b>
by mail	postmark date (see note)
physical delivery	date delivered
credit card	date authorized by donor (see note)
electronic/telephone transfer	date completed by bank
stock/security certificates	date delivered in negotiable form
stock/security in brokerage account	date transferred to charity's account

The rules applicable to other situations and circumstances can be found in IRS Publication 526, *Charitable Contributions*, see the Appendix.

<b>Notes:</b>	<p>Donors can create unanticipated complexity if they procrastinate at year end. For example, while a contribution dropped in the mailbox at the post office minutes before midnight on December 31 is no longer under control of the donor and ought to be considered complete, the proof of date will be the postmark which is likely to be January 2 of the next tax year. Similarly, credit card contributions are often processed in batches (either by the charitable organization or an intermediary) with the result that the transaction will appear on the donor's credit card statement at a later date than the donor intended. The best advice as year end approaches? "Don't delay, give today."</p> <p>As a general rule, the donor must surrender control over the gift in order for the contribution to be complete. While in most cases this is not an issue, gift planners should be careful to avoid inadvertently creating circumstances under which a gift is not complete because of commitments made to the donor. For example, if a contribution is made subject to a promise that unused funds will be returned to the donor, then the gift will not be completed until that contingency is removed.</p>
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## SUBSTANTIATION REQUIREMENTS

As noted above, it is the donor's responsibility to substantiate the fact and amount of their charitable deduction. Nevertheless, charities usually make efforts to be of assistance to their donors. In general:

- Taxpayers must obtain a written acknowledgement from the charity for any deductible contribution of \$250 or more, although the donor need not submit this acknowledgement with his or her tax return.
- If a donor claims more than \$500 in deductions for non-cash contributions, then he or she must complete Form 8283 (a copy is included in the Appendix) which provides a description of the item(s) contributed and how the fair market value was determined.
- If the deduction amount is more than \$5,000, then the donor must also secure a qualified appraisal to determine the fair market value.<sup>1</sup> In addition, the charity must also sign the Form 8283. (Note that by signing the Form 8283 the charity is *not* vouching for the value of the item(s), only acknowledging that it has received the contribution.)

<b>Notes:</b>	<p>If the charity signs a Form 8283, then it is required to file a Form 8282 if it sells or disposes of the contributed property within two years of the contribution. The Form 8282 requires the charity to report the amount that it received from the sale.</p> <p>In general, the charity should avoid listing a dollar value on the receipt or acknowledgement for a non-cash gift. A statement describing the property in sufficient detail to identify it is usually enough.</p>
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## GIFTS OF PERSONAL PROPERTY

The term “tangible personal property” includes all of the “things” that a donor might wish to contribute, for example: equipment, tools, furniture, antiques, coin collections, appliances, or motor vehicles. In general, a donor is entitled to an income tax deduction for a contribution of tangible personal property, but subject to certain rules regarding the use of the item:

**“related use” items** – If the item can be put to a use that is related to the tax-exempt purpose of the charitable organization, then the donor may take a deduction for the full fair market value of the item. For example, a contribution of specialized tools might be a related use contribution if given to a vocational school, but might not be if contributed to a hospice.

**“unrelated use” items** – If the use of the item is unrelated to the tax exempt purpose of the charitable organization, then the deduction is limited to the *lesser of* the donor's cost basis in the item or its current fair market value.

<b>Note:</b>	<p>There is an exception which applies to taxpayers who are “dealers” in certain items of personal property. Contributions of personal property made by a</p>
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<sup>1</sup> A new law, effective August 2006, requires an appraisal to determine the fair market value for contributions of clothing and household goods valued at more than \$500.