

Title:

Donating Art

Word Count:

875

Summary:

Compare donating art to adopting art: both require planning.

- Locate a qualifying institution to accept the item.
- Pass the related use test.
- Arrange for an appraisal not more than 60 days ahead of the date of gift.
- Obtain a letter of acceptance dated prior to December 31 of the year you plan to take the deduction.
- Deliver the property to the institution.

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Keywords:

Article Body:

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Want to make sure what you are about to read is correct? Get the IRS publications 1) 526 Charitable Contributions and 2) 561 Determining the Value of Donated Property. You can get these publications on the Internet at www.irs.ustreas.gov or you can call 800-TAX-FORMS (800 829-3676) to order them.

Publication 526 specifies that "a charitable contribution is a donation or gift to, or for the use of, a qualified organization." A qualified organization is a "nonprofit group that is religious, charitable, educational, scientific or literary in purpose or that work to prevent cruelty to children or animals." The

amount is generally limited to 50% of your adjusted gross income, but in some cases 20% and 30% limits may apply. The detailing of which of these limits applies is on page 9 and 10 of Publication 526. You can carryover unused deductions for a maximum of 5 years.

Form 8283

You must complete Form 8283 and have it accompany your donation. This form identifies who receives the gift, its condition, how, and when you acquired the gift, and its fair market value as of the date of gift. If you received the item as a gift from an artist, you can only deduct the artist's basis, which is the cost of materials needed to create the art work.

Related-Use Test

Related use is a concept that was instituted roughly 10 years ago to prevent citizens from donating items to organizations that were inconsistent with their collection direction. For example, if you gift a Civil War sword to a clock museum, a 19th century doll to a contemporary art museum, an Art Deco sculpture to a science museum, this pairing will not pass the related-use test. Flunking the related-use test mandates a deduction that is limited to your cost or basis.

The first question in Tax Court is: "On what day did the appraiser view the property?" Your appraiser must personally inspect the property. If you jump ahead and send the piece across the country to a qualified organization that fits the related use test, you will also need to ship your appraiser to inspect it or find one who can visit the piece in person. The following people cannot perform the appraisal: anyone associated with the qualified organization receiving the gift, the dealer who sold it to you, anyone who a reasonable person could imagine would have a bias in producing a value. The appraiser must be someone who holds themselves out to be a professional appraiser.

The report can be prepared after the date of gift, but not more than 60 days before the date of donation. Another time sensitive element is the date of the qualifying organization's acceptance letter. A representative of the qualifying organization using that organization's stationery must write the donor an acceptance letter dated no later than December 31 of the year you plan to take the deduction. If giving a fractional interest, a new appraisal must be prepared for each year a percentage of the item is given.

Timing is a key issue with respect to accession meetings. These generally take place once a month and often a quorum of Trustees or committee members must be present. Contact the organization on December 20 and you may be told they held

their last meeting for the year on December 11.

Word of caution, a gift means "it is not yours anymore". Most organizations will not allow you to specify how and when it is to be exhibited. Deliver the item to the organization and mentally separate from it. Do consider closely if you want to be cited as the donor or if you would prefer to have the citation read "anonymous donor".

Tax forms frighten everyone, but thankfully, the 8283 Form is quite simple to complete. Specify your name and social security number and then fill in different parts, depending on the fair market value of the property given. Section A Part I is to be filled in if the deduction is \$5,000 or less. There you give the name and address of the organization receiving the gift as well as a description of the property. Then specify the date of the contribution, the date acquired, how it was acquired and the your cost or basis, its fair market value and the method used to determine fair market value. Section B Part I is for property that is worth more than \$5,000, where you are asked the same information. If the fair market value is greater than \$5,000, the qualifying organization has to complete Part IV of Section B. Part III is completed by the appraiser.

If you are donating property with a fair market value of \$500 or more, you must complete Form 8283. You may be asked for an appraisal if the value is greater than \$5,000. You must attach an appraisal to your IRS filing, if the value is \$20,000 or greater. It is generally understood that donated property valued at \$20,000 or greater will be reviewed by the Art Advisory Panel.