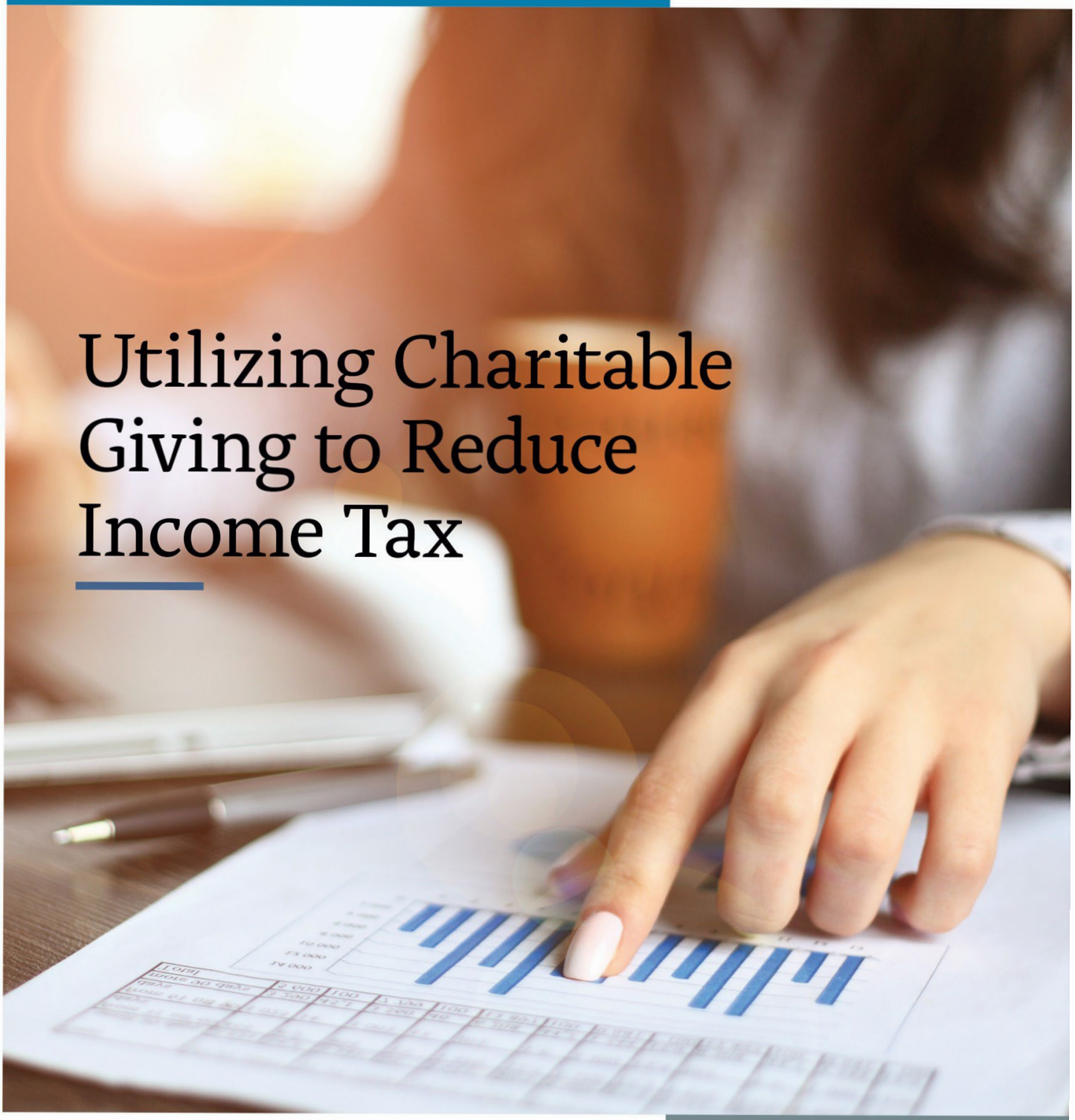
THE NAUTILUS GROUP®

Utilizing Charitable Giving to Reduce Income Tax



Utilizing Charitable Giving to Reduce Income Tax

Under Internal Revenue Code §170, individuals and entities may deduct charitable contributions of cash or property made to qualified organizations. The deduction is subject to specific limitations based on the donor's identity, the type of organization, and the nature of the donated property. To qualify, contributions must reflect genuine charitable intent; donations that yield personal benefit may be denied by the IRS. Properly structured gifts may reduce income, gift, and estate tax exposure.

How is the amount of a charitable deduction determined?

To determine the deductible amount, consider the following factors:

- Who is the donor?
- What type of charity is receiving the donation?
- What type of property is being donated?

Who is the donor?

Any individual or entity may make a charitable contribution. For individuals, deductions may be limited to a percentage of adjusted gross income (AGI), depending on the type of property donated and the classification of the recipient charity. For example, cash contributions to public charities may be deductible up to 60% of AGI. Estates may claim an unlimited deduction for testamentary charitable gifts, regardless of the recipient's classification.

C corporations may deduct contributions up to 10% of taxable income and carry forward excess contributions for five years. Pass-through entities such as partnerships or S corporations allocate charitable deductions to their owners, who apply the individual limitations.

What type of charity is receiving the donation?

The Internal Revenue Code classifies nonprofit organizations into various tax categories, including private foundations and public charities. An organization must meet certain requirements set forth in the IRC to qualify as a non-profit organization. Some organizations must also file a request with the Internal Revenue Service to gain status as a tax-exempt non-profit charitable organization under IRC §501(c)(3) of the tax code. There are two general categories that nonprofit organizations fall into: public charities and private foundations.

A public charity is a charitable organization that (a) has broad public support, (b) actively functions to support another public charity, or (c) is devoted exclusively to testing for public safety. Many public charities rely on contributions from the general public. Public charities generally fall into one of the following categories:

- A church or convention of churches,
- Educational institutions,
- Certain hospitals and medical research organizations, or
- Federal, state, or local governments or a unit of such governments.

Private foundations are charitable organizations that are not public charities. These are usually nonprofits established with funds from a single or specific source, such as family or corporate money, endowments, or bequests.

However, contributions to civic leagues, social and sports clubs, labor unions, chambers of commerce, foreign organizations (with exceptions), groups that are run for personal profit, groups whose purpose is to lobby for law changes, homeowners' associations, individual political groups, and candidates for public office do not receive a deduction.

What type of property is being donated?

Deductibility depends on the type of property donated and whether the recipient is a public charity or private foundation. The table below summarizes allowable deductions:

	Public Charity		Private Foundation	
Type of Property Contributed	**Deduction Value**	**AGI Limitation***	**Deduction Value**	**AGI Limitation***
Cash or Check	**Face Value**	**60%**	**Face Value**	**30%**
Ordinary-Income Property	**Cost Basis**	**50%**	**Cost Basis**	**30%**
Short-Term Capital Gain Property	**Cost Basis**	**50%**	**Cost Basis**	**30%**
Long-Term Capital Gain Property (General Rule)	**FMV**	**30%**	**Cost Basis**	**20%**
Long-Term Capital Gain (Reduced Election)	**Cost Basis**	**50%**	**N/A**	**N/A**
Qualified Appreciated Stock	**FMV**	**30%**	**FMV**	**20%**
Tangible Personal Property - Unrelated Use	**Cost Basis**	**50%**	**Cost Basis**	**20%**

**NOTE: Donor advised funds (DAFs) and private operating foundations are generally treated as public charities for these purposes. Proposed Treasury Regulations issued in 2023 may further affect the treatment of DAF contributions.*

Five-year carryover of unused charitable deductions

Contributions that cannot be deducted due to AGI limitations may be carried forward for up to five years. The applicable AGI limit from the original contribution year continues to apply. Unused deductions expire at death but may be claimed on the decedent's final return.

If a taxpayer uses the standard deduction in a future year, the carryforward is reduced by the amount that would have been deductible had itemized deductions been claimed.

This tax-related discussion reflects an understanding of generally applicable rules and was prepared to assist in the promotion or marketing of the transactions or matters addressed. It is not intended (and cannot be used by any taxpayer) for the purpose of avoiding any IRS penalties that may be imposed upon the taxpayer. Unless otherwise noted in the material, tax specific information, such as rates, credits, exclusions, exemptions and deductions are specific to 2023. New York Life Insurance Company, its agents and employees may not give legal, tax or accounting advice. Individuals should consult their own professional advisors before implementing any planning strategies. These materials are prepared by The Nautilus Group®, a service of New York Life Insurance Company, and are made available to all Nautilus Group member agents, and, as a courtesy to select agents of New York Life Insurance Company.
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