PacificCPE

COURSE
40402A

Charitable Trusts: Structure, Rules, and Planning

Charitable giving through trusts offers significant tax advantages, but the rules governing these arrangements require careful attention. Covering federal rules for charitable gifts, the mechanics of charitable trust structures, and annotated sample trust agreements, this course gives CPAs and tax professionals the practical foundation needed to evaluate and support charitable planning strategies. Whether you're advising donors, reviewing trust documents, or coordinating with estate planning attorneys, this course helps you engage with confidence.

CREDIT HOURS 2 | FIELD OF STUDY BUSINESS | EXAM QUESTIONS 7

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Final Exam Copy ↓

Assignment

- Study the full course materials included here.
- Complete the review questions after each chapter.
- Answer 7 final exam questions.
- Final exam is scored immediately, 70% or better passes.
- Certificate of completion is available in your account.
- Failed exams can be retaken free of charge.

Course Objectives

- Identify the estate planning benefits of charitable giving and the various types of charitable trusts available.

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Chapter 1: CHARITABLE TRUSTS

Chapter Objective

After completing this chapter, you should be able to:

- Identify the estate planning benefits of charitable giving and the various types of charitable trusts available.

I. INTRODUCTION

Charitable giving is a common component of estate planning. Regardless of their level of income or the value of their estates, many people want to make gifts to one or more of the many religious, educational, charitable, or philanthropic organizations and institutions that qualify as charities.

Charitable gifts given during a person's lifetime are also common and can reduce the giver's estate and subsequently lower estate and inheritance taxes when the person's estate is settled. Itemized deductions for charitable gifts are deductible limited to a percentage of the taxpayer's contribution base.

For CPAs helping a client to consider a charitable donation, either during life or after death, it is important to consider the following questions. The answers will help the individual to develop a plan, including the use of charitable trusts:

- What is the purpose of the gift?
- What assets do you want to donate?
- Which charity or charities do you want to receive the gift?
- How many charitable gifts do you want to make?
- When do you want to make the gifts?

In the course of planning charitable gifts, individuals will want to consider all of these questions, and probably others as well. This chapter will first focus on federal law governing charitable contributions. This is extremely important because a donor's tax planning can be for naught if the designated charity does not meet IRS guidelines. The details of charitable trusts will then be discussed.

II. CHARITABLE GIFTS: FEDERAL RULES

A. ORGANIZATIONS THAT QUALIFY TO RECEIVE DEDUCTIBLE CONTRIBUTIONS

The tax purpose of any charitable trust is defeated if the organization for whose benefit the trust is created does not meet the federal guidelines of a charity. The first consideration in the creation of a charitable trust, therefore, is whether the intended beneficiary or beneficiaries qualifies to receive tax- deductible contributions. An individual can only deduct his or her contributions if they are made to a qualified organization. To become a qualified organization, most organizations – other than churches and governments – must apply to the IRS.

1. Types of Qualified Organizations

Generally, only the five following types of organizations can be qualified organizations:

- A community chest, corporation, trust, fund, or foundation organized or created in or under the laws of the United States, any state, the District of Columbia, or any possession of the United States (including Puerto Rico). It must be organized and operated only for one or more of the following purposes: (a) religious, (b) charitable, (c) educational, (d) scientific, or (e) literary; or (f) the prevention of cruelty to animals. Certain organizations that foster national or international amateur sports competition also qualify;
- War veterans' organizations, including posts, auxiliaries, trusts, or foundations, organized in the United States or any of its possessions; and
- Domestic fraternal societies, orders, and associations operating under the lodge system; [1]
- Certain nonprofit cemetery companies or corporations; [2] and
- The United States or any state, the District of Columbia, a U.S. possession (including Puerto Rico), a political subdivision of a state or U.S. possession, or an Indian tribal government or any of its subdivisions that perform substantial government functions[3].

Example 1

Michael contributes cash to his city's police department to be used as a reward for information about a crime. The city police department is a qualified organization, and Michael's contribution is for a public purpose. He can deduct the contribution.

Example 2

Cindy makes a voluntary contribution to the Social Security trust fund, not earmarked for a specific account. Because the trust fund is part of the U.S. Government, Cindy contributed to a qualified organization. She can deduct her contribution.

2. Sample Qualified Organizations

The following list gives some examples of qualified organizations:

- Churches, a convention or association of churches, temples, synagogues, mosques, and other religious organizations;
- Most nonprofit charitable organizations such as the Red Cross and the United Way;
- Most nonprofit educational organizations, including the Boy (and Girl) Scouts of America, colleges, museums, and day-care centers if substantially all the child care provided is to enable individuals (the parents) to be gainfully employed and the services are available to the general public. However, if an individual's contribution is a substitute for tuition or other enrollment fee, it is not deductible as a charitable contribution;
- Nonprofit hospitals and medical research organizations;
- Utility company emergency energy programs, if the utility company is an agent for a charitable organization that assists individuals with emergency energy needs;
- Nonprofit volunteer fire companies;
- Public parks and recreation facilities; and
- Civil defense organizations.

3. Canadian Charities

A taxpayer may be able to deduct contributions to certain Canadian charitable organizations covered under an income tax treaty with Canada. To deduct contributions to a Canadian charity, a taxpayer generally must have income from sources in Canada.

4. Mexican Charities

A taxpayer may be able to deduct contributions to certain Mexican charitable organizations under an income tax treaty with Mexico. The organization must meet tests that are essentially the same as the tests that qualify U.S. organizations to receive deductible contributions. The organization may be able to tell you if it meets these tests. In addition, to deduct a contribution to a Mexican charity, a taxpayer must have income from sources in Mexico.

5. Israeli Charities

A taxpayer may be able to deduct contributions to certain Israeli charitable organizations under an income tax treaty with Israel. To qualify for the deduction, the contribution must be made to an organization created and recognized as a charitable organization under the laws of Israel. The deduction will be allowed in the amount that would be allowed if the organization was created under the laws of the United States, but is limited to 25% of the taxpayer's adjusted gross income from Israeli sources.

TABLE 11.1 EXAMPLES OF CHARITABLE CONTRIBUTIONS

Deductible as Charitable Contributions	Not Deductible as Charitable Contributions
Money or property you give to:	Money or property you give to:
• Churches, synagogues, temples, mosques, and other religious organizations	• Civic leagues, social and sports clubs, labor unions, and chambers of commerce
• Federal, state, and local governments, if your contribution is solely for public purposes (for example, a gift to reduce the public debt or maintain a public park)	• Foreign organizations (except certain Canadian, Israeli, and Mexican charities)
• Nonprofit schools and hospitals	• Groups that are run for personal profit
• The Salvation Army, American Red Cross, CARE, Goodwill Industries, United Way, Boy Scouts of America, Girl Scouts of America, Boys and Girls Clubs of America, etc.	• Groups whose purpose is to lobby for law changes
• War veterans' group	• Homeowners' associations
Expenses paid for student living with you, sponsored by a qualified organization	• Individuals
Out-of-pocket expenses when you serve a qualified organization as a volunteer	• Political groups or candidates for public office
	Cost of raffle, bingo, or lottery tickets
	Dues, fees, or bills paid to country clubs, lodges, fraternal orders, or similar groups
	Tuition
	Value of your time or services

Deductible as Charitable Contributions	Not Deductible as Charitable Contributions
	Value of blood given to a blood bank

B. DEDUCTIBLE CONTRIBUTIONS

Generally, a taxpayer can deduct the contributions of money or property that he or she makes to, or for the use of, a qualified organization. A contribution is "for the use of" a qualified organization when it is held in a legally enforceable trust for the qualified organization or in a similar legal arrangement. The contributions must be made to a qualified organization and not set aside for use by a specific person. If an individual gives property to a qualified organization, he or she can generally deduct the fair market value of the property at the time of the contribution.

A taxpayer's deduction for charitable contributions is generally limited to 60% (2018 - 2025) of his or her adjusted gross income, but in some cases 20%, 30%, and 50% limits may apply. In addition, the total of an individual's charitable contributions deduction and certain other itemized deductions may be limited.

1. Contributions from Which the Individual Benefits

If an individual receives a benefit as a result of making a contribution to a qualified organization, the individual can deduct only the amount of his or her contribution that is more than the value of the benefit he or she receives. If an individual pays more than fair market value to a qualified organization for merchandise, goods, or services, the amount paid that is more than the value of the item can be a charitable contribution. For the excess amount to qualify, the individual must pay it with the intent to make a charitable contribution.

Example 1

Ralph pays $65 for a ticket from his charitable trust to a dinner-dance at a church. All the proceeds of the function go to the church. The ticket to the dinner-dance has a fair market value of $25. When Ralph buys his ticket, he knows that its value is less than his payment. To figure the amount of his charitable contribution, Ralph subtracts the value of the benefit he received ($25) from his total payment ($65). Ralph can deduct $40 as a charitable contribution to the church.