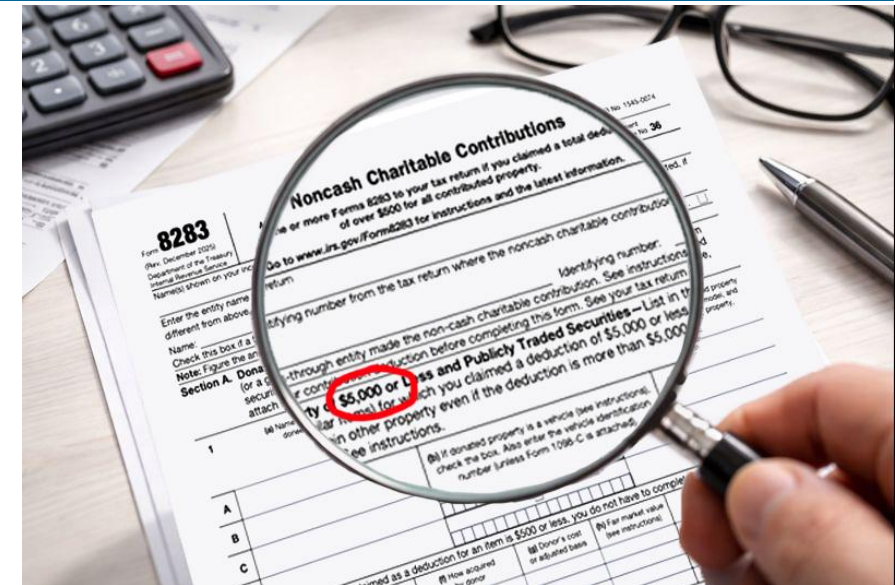




Charitable Contributions: Under the Microscope: Deductions, Documentation, and Conservation Easements



Presented by:
Victoria Boon, EA



About the Author: Victoria Boon

Victoria Boon is a seasoned tax consultant and nationally recognized expert in federal taxation, with more than 20 years of experience in audit strategy, IRS compliance, and professional education. A former IRS Senior Revenue Agent and Subject Matter Expert with the Internal Revenue Service, Victoria brings deep technical knowledge and real-world insight to her consulting and training work in the private sector.

Throughout her career, Victoria has specialized in complex areas of the tax code, including IRC §§ 1031, 162, 274, and conservation easements. She has led large corporate audits, developed continuing education programs for IRS staff and tax professionals, and contributed to key IRS publications such as Publications 544, 551, and 946. Victoria also served as a campaign expert on aircraft taxation and conservation easements, shaping national audit priorities and training curricula.

Now in private practice, Victoria offers consulting services, CE instruction, and expert guidance on audit defense, tax law interpretation, and IRS procedure for practitioners, firms, and financial advisors across the country.

You can contact Victoria at victoria@boon.tax. More information on her consulting and educational firms can be found at www.boon.tax and www.boontaxeducators.com.



Course Objectives

At the end of this presentation you will be able to:

- ❖ Understand the basics of what makes a charitable contribution deductible
- ❖ Understand the issues related to contributions
- ❖ Understand taxpayers' responsibilities and requirements when substantiating charitable contributions

2026 Deduction for Non-Itemizers

Starting in 2026, if anyone takes the standard deduction (which roughly **90% of taxpayers do**), for cash, you can now deduct up to:

- ❖ \$1,000 in charitable donations as a single filer or
- ❖ \$2,000 if you're married filing jointly.
- ❖ No itemizing required.

Rules to Keep In Mind to get this deduction:

- ❖ It must be a cash gift.
- ❖ It must go directly to a qualified public charity.
- ❖ It must be substantiated.
- ❖ It can't be contributed to a donor advised fund.

2026 OBBBA Changes to floors

- ❖ C corporations have a new minimum threshold, requiring that charitable contributions exceed 1% of taxable income before any deduction is allowed
- ❖ Individuals who itemize have a new floor equal to 0.5% of the contribution
- ❖ Top deduction benefit is 35% (as opposed to the highest rate)

Charitable Contributions

A Charitable Contribution must:

- ❖ Be made within the taxable year
- ❖ To a qualified organization
- ❖ Made with charitable intent
- ❖ Be an entire interest (with limited exceptions)



Charitable Intent

To be deductible as a charitable contribution, a transfer must:

- ❖ be a gift (IRC § 170(c))
- ❖ made without receipt of adequate consideration
- ❖ voluntary

Qualified Organization

Qualified Organizations per IRC §170(c) include, but are not limited to:

- ❖ Federal, state, and local governments, if the contribution is solely for public purposes
- ❖ Nonprofit groups that are religious, charitable, educational, scientific, or literary in purpose, or that work to prevent cruelty to children or animals
- ❖ Nonprofit hospitals or schools
- ❖ War Veterans groups

Note: Not every not-for-profit organization is a qualified organization. A country club or homeowners association may be a not-for-profit; however, it will not qualify as a donee organization under IRC §170(c)

How to lose your Tax-Exempt Status

- ❖ Private Benefit/Inurement
- ❖ Lobbying
- ❖ Political activity
- ❖ Unrelated Business Income (UBI)
- ❖ Annual reporting obligation
- ❖ Operation in accord with stated exempt purpose(s)

Quid Pro Quo

A "quid pro quo" is a benefit received or expected to be received.

- ❖ Deduction is limited to the amount transferred that exceeds the FMV of the quid pro quo
- ❖ Burden is on the taxpayer to show he purposely transferred to charity something with a FMV that exceeds the quid pro quo

Conditional Gifts

A conditional gift is not deductible

Exception:

- ❖ if there is only a negligible chance that the gift will be defeated



Earmarking

- ❖ A taxpayer may not deduct contributions earmarked for the benefit of a particular individual, family, or nonqualified organization.
- ❖ Earmarked amounts are treated as transfers to the earmarked donee and not transferred to the qualified organization

Partial Interest

IRC § 170(f)(3) provides the denial of a deduction in case of certain contributions of partial interests in property not made in trust except:

- ❖ Donations of remainder interest in personal residence or farm
- ❖ Undivided portion of the taxpayer entire interest
- ❖ Conservation easement



Valuation – FMV or Limited to Basis?

In general, the deduction allowed is the fair market value (FMV) of the property at the time of the transfer.

❖ Donations are reduced by amounts that are not long-term capital gain (Ex. inventory or STCG) See IRC 170(e)(1)

Inventory Donation

In general, deduction for contribution of inventory is limited to its cost basis per IRC § 170(e)(1)

Enhanced Charitable Deduction of any form of inventory for C corporations per IRC § 170(e)(3):

- ❖ Certain requirements must be met
- ❖ Charitable deduction = FMV of property - $\frac{1}{2}$ appreciation in the property's value, limited to twice the property's basis. See IRC § 170(e)(3)(B) and Treas. Reg. § 1.170A-4A(c)

Food Inventory

- ❖ Any taxpayer, whether a C corporation or not, engaged in a trade or business is eligible to claim an enhanced deduction for donations of food inventory only, per IRC § 170(e)(3)(C).
- ❖ This provision was made permanent by Protecting Americans from Tax Hikes Act of 2015 (PATH Act).
- ❖ Food must be “apparently wholesome food”.



Substantiation

A charitable contribution is not deductible unless it is properly substantiated in accordance with the Internal Revenue Code and applicable regulations:

- ❖ IRC § 170(a)(1)
- ❖ IRC § 170(f)(8)
- ❖ IRC § 170(f)(11) (Reasonable Cause IRC § 170(f)11(A)(ii)(II))
- ❖ IRC § 170(f)(17)
- ❖ Treas. Reg. §§ 1.170A-13, -15, -16, -17, -18
- ❖ Notice 2006-96

Substantiating Cash Donations

- ❖ Cash Donations of Any Amount: Any amount: a bank record or written communication from the charity showing the name of the charity, the date of the contribution, and the amount.
- ❖ Cash Donations \$250 or More: In addition, donor needs a written acknowledgment from the charity confirming your gift and stating you received nothing in return.

Required Substantiation

No Charitable Deduction unless substantiated

\$250 or more -
Contemporaneous
written
acknowledgment (CWA)

Over \$500 non-cash -
Completed Form 8283
(aka appraisal summary)

Over \$5,000 non-cash -
Qualified appraisal by a
qualified appraiser

Over \$500,000 non-cash
- Qualified appraisal by a
qualified appraiser must
be attached to the return

Contemporaneous Written Acknowledgement Timing

The taxpayer must obtain the acknowledgment by the earlier of:

- ❖ the date on which the taxpayer files his or her tax return claiming the charitable contribution deduction
- ❖ or the due date (including extensions) for the return.

Contemporaneous Written Acknowledgement Contents

This acknowledgment must contain:

- ❖ Name of the donee organization
- ❖ Amount of any cash contribution
- ❖ Description (but not the value) of any noncash contribution
- ❖ Statement that no goods or services were Provided by the organization in return for the contribution
Description and good faith estimate of the value of goods or services, if any, that an organization provided in return for the contribution
- ❖ Statement that goods or services /if any) that an organization provided in return for the contribution consisted entirely of intangible religious benefit
- ❖ An acknowledgement from a donor advised fund requires a statement that they have exclusive legal control over the assets donated.

Form 8283, Noncash Charitable Contributions

Form 8283:

- ❖ It must be fully completed.
- ❖ It is required for donations over \$500.
- ❖ Noncash contributions over \$5,000 are reported on Section B (except publicly traded stock).
- ❖ It is not a substitute for the contemporaneous written acknowledgment.



Qualified Appraisal

A qualified appraisal is an appraisal document that:

- ❖ Relates to an appraisal made not earlier than 60 days before the date of contribution of the appraised property and by the due date of the tax return including extensions,
- ❖ Does not involve a prohibited appraisal fee
- ❖ Includes required information and
- ❖ Is prepared, signed, and dated by a qualified appraiser.
- ❖ Must be attached to the return where the deduction claimed is more than \$500,000

Qualified Appraiser

A qualified appraiser is an individual who declares on Section B, Part III of Form 8283 that he or she:

1. Holds himself or herself out to the public as an appraiser or performs appraisals on a regular basis,
2. Is qualified to make appraisals of the type of property being valued,
3. Is not an excluded individual, and
4. Understands that an intentionally false overstatement of the value of property may result in a penalty for aiding and abetting

Reasonable Cause IRC 170(f)(11)(A)(ii)(II)

Taxpayer's reliance on the advice of a professional, such as a certified public accountant (CPA), constitutes reasonable cause and good faith if the taxpayer can prove by a preponderance of the evidence that:

1. the taxpayer reasonably believed the professional was a competent tax adviser with sufficient expertise to justify reliance;
2. the taxpayer provided necessary and accurate information to the advising professional; and
3. the taxpayer actually relied in good faith on the professional's advice. 26 C.F.R. § 1.6664-4(c){1}.

Carryovers

Contributions that cannot be taken in current year due to limitations may generally be carried forward for up to 5 years.

The carryover period for conservation easements is 15 years.

8282 Match Program

- ❖ The Form 8282 is filed by the charity if the asset received is sold within 3 years of the donation.
- ❖ Taxpayer receives a copy of the form.
- ❖ Currently the matching is not done through IRP program due to potential time lag and ability to match.
- ❖ Forms are paper filed in Odgen and information entered into a database.
- ❖ Information compared to filing data to identify potential issues.

Charitable donation or business expense?

- ❖ A charitable donation can be deducted as a business expense (IRC § 162) if:
 - The donation is an ordinary and necessary business expense has a direct relationship to the taxpayer's trade or business and
 - The donation is made with a reasonable expectation of a commensurate financial return.
- ❖ No business expense deduction is allowed, however, for a contribution or gift that would be allowable under § 170 were it not for the percentage limitations, the dollar limitations, or the requirements as to time of payment in § 170.
 - This should never be an issue because intent governs whether § 170 or § 162 applies.
- ❖ *Marquis v. Commissioner*, 49 T.C. 695 (1968); 26 C.F.R. § 1.170A-1(h); *United States v. American Bar Endowment*, 477 U.S. 105 (1986).

Questions?

