

CARS FOR CHARITY: IS IT A SCAM, OR, IS IT A SCAM?

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ABSTRACT

Anybody remember the tax shelter industry of the early nineteen-eighties? Well, there is at least one current industry related to tax benefits, real or not real. That industry involves contributions of vehicles and similar properties to charities. Aggressive adverting programs promise tax benefits to contributors who only benefit if they itemize their deductions. Less than 15 percent of individual taxpayer returns report itemized deductions and for-profit industries usually benefit from fees for towing, auctioning and otherwise facilitating the related transactions.

INTRODUCTION

The deduction for a charitable contribution originated in 1917, when the tax law permitted a deduction for contributions to a charitable organization [War]. Since that time, the rules regarding a deduction for charitable contributions have evolved [War]. Over the years guidance has been issued regarding the types of organizations that qualify, the value or amount of the contribution, limitations on the amount currently deductible, and the concept that the amount of the deduction should be reduced if the donor receives something in return (referred to as a “quid pro quo test”).

One type of charitable contribution that has been permitted over the years, is the donation of an auto, boat, or plane by an individual taxpayer. For many years, these donations were treated similarly to other noncash donations of capital tangible personal property: a deduction equal to the fair market value of the property seemingly making the donation of a used car at times more valuable than the sale of same. In 2004, Congress and the IRS created sweeping changes to the process and amount associated with the deduction of a vehicle to stem perceived abuses. This article discusses the history of the donation of cars and how, for the most part, changes made to statute and process, largely served to protect the federal fisc, but did not protect taxpayers from continuing to fall prey to shady charitable contribution schemes.

OVERVIEW OF CHARITABLE CONTRIBUTIONS

Charitable contributions are direct gifts of money and other property to designated charities. Generally, the contribution must be transacted by the end of the taxpayer's taxable year, and deductions are limited.

The basic charitable organizations are easily recognized. They are governmental units, including the Federal, state, and local government bodies, and entities formed and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including church bodies, nonprofit hospitals, schools and universities, libraries, and social service agencies. Other qualifying organizations are war veterans' organizations, nonprofit volunteer fire and civil defense organizations, domestic fraternal organizations operating under the lodge system, and certain nonprofit cemetery organizations [2].

Direct contributions to needy or worthy individuals are not deductible, and contributions to organizations that are restricted to use by a specific person are generally disallowed. A deduction limited to \$50 per month is allowed, however, for a taxpayer who maintains in his or her home a student in the twelfth or lower grade under a written agreement between the taxpayer and certain charities for educational purposes (IRC § 170(g)).

Amount of Contribution.

Contributions of money and other property are allowable. The contribution is generally allowed in the amount of money plus the fair market value of other property at the time of the contribution. A receipt must be issued by the charity for contributions in excess of \$250.

Contributions of property are valued at fair market value unless the holding period is 12 months or less, the property is ordinary income property, or the property is tangible personalty that is not used by the charity in its charitable activity. In these cases, the deduction is the lesser of fair market value at the time of the contribution or the adjusted basis of the property. Interestingly, contributions of stock or securities are not subject to this limit because they are intangible. Similarly, real estate is also not subject because it is not personalty.

Contributions of the taxpayer's time and the use of the taxpayer's property do not qualify for deductibility since the taxpayer has no tax basis in these items. Similarly, contributions of blood to charitable organizations do not qualify. The taxpayer can deduct out-of-pocket costs incurred related to volunteer work with a charitable organization. This includes transportation expenses, and if the taxpayer uses his or her personal automobile, either actual costs or 14 cents per mile may be used.

Limitations on Deductions.

Different limits apply to different types of charitable contributions and depend on to whom the contribution is made. Charitable contributions can be made to organizations classified one of two ways: (1) a “50-percent organization” or (2) any other charitable organization (a non-50-percent organization). Generally, the following organizations qualify as 50-percent organizations:

- Public charities
- churches
- most educational institutions
- hospitals
- The United States or any state or local government
- Private operating foundations
- Private nonoperating foundations if they distribute their contributions to public charities within a specified time period

Any other qualified organization is a non-50-percent organization [IRC 170].

There are currently four different limitations for individual taxpayers (Corporations are subject to a 10% limitation under §170(b)(2)), all of which represent a percentage of the taxpayer’s AGI:

1. 60-percent limitation
2. 50-percent limitation
3. 30-percent limitation
4. 20-percent limitation

The 60-percent limitation applies to deductions for contributions of *cash* to a 50-percent organization and is scheduled to expire at the end of 2025 [IRC 170].

The 50-percent limitation applies to non-cash contributions to a 50-percent organization but excludes capital property for which a deduction of the property’s fair market value is sought. The taxpayer may elect, however, to reduce the contribution amount by any gain, thereby making them subject only to the 50-percent limit. This election applies to all contributions of capital gain property for a year. Contributions subject to the 50-percent limit also includes any deductions taken subject to the 60-percent limit.

Example 1: Theo makes a cash donation of \$5,000 and a non-cash donation of \$3,000 (not capital gain property), both to a 50-percent organization. If Theo’s AGI is \$20,000, his cash donation is subject to the 60-percent limitation, which is \$12,000 and thus all \$8,000 is deductible. His non-cash donation of \$3,000 is subject to the 50-percent limitation (\$10,000) but he must include the cash donation in the overall limit as well. Thus the 50-percent limit of \$10,000 leaves only \$2,000 after deducting the \$8,000 cash donation.

The 30-percent limitation applies to two types of charitable contributions: (1) capital gain property donated to a 50-percent organization (and deducted at market value) and (2) non-capital gain property donated to a non-50-percent organization.

Lastly, the 20-percent limitation applies to contributions of capital gain property to a non-50-percent organization.

Each of these limitations is subject to the 50-percent limitation for any deductions taken at the previous limitation level.

Example 2: In 2022, Glenda, a single taxpayer with AGI of \$45,000, makes the following donations:

- \$10,000 cash to a 50-percent organization
 - \$7,000 non-cash (not capital gain property) to a 50-percent organization
 - \$5,000 capital gain property (basis \$2,000) to a 50-percent organization\
 - \$4,000 cash to a non-50-percent organization
1. The \$10,000 cash donation is below the 60-percent limit of \$27,000 ($\$45,000 \times 60\%$) and thus, is deductible.
 2. The non-cash donation of \$7,000 is subject to a limit of 50 percent of AGI decreased by any deductions taken at the 60-percent level. The \$7,000 donation is less than \$12,500 ($\$45,000 \times 50\%$ less the previous deduction of \$10,000) and can be deducted.
 3. The \$5,000 capital gain property donation is less than the 30-percent of AGI limit (\$13,500) and also less than \$5,500, which is the 50-percent limitation of \$22,500 less \$17,000 ($\$10,000 + \$7,000$) of other donations subject to the 50-percent limitation.
 4. The \$4,000 cash donation to a non-50-percent organization is less than the 30-percent limitation (\$13,500) but is not less than the 50-percent limitation of \$22,500 less all other donations subject to the 50-percent limitation of \$22,000 ($\$10,000 + \$7,000 + \$5,000$) leaving only \$500 available against which to deduct the \$4,000. As a result, Glenda's total deduction is \$22,500 ($\$10,000 + \$7,000 + \$500 + \$5,000$) or 50 percent of AGI, with an excess of \$3,000 remaining that can be carried forward for up to 5 years.

A taxpayer that donates capital gains property to a 50-percent organization can elect to deduct their basis in the property rather than fair market value. If this election is made, the 50-percent limit would apply instead of the 20-percent limit.

Contributions in excess of any of the limits may be carried forward for up to five years and treated as if made in the carryover year. The contributions actually made in the carryover year are deducted first in determining which contributions are carried over to the succeeding year if the limits are again exceeded.

Contributions of Property

The annual limits described above must be applied and two exceptions also apply:

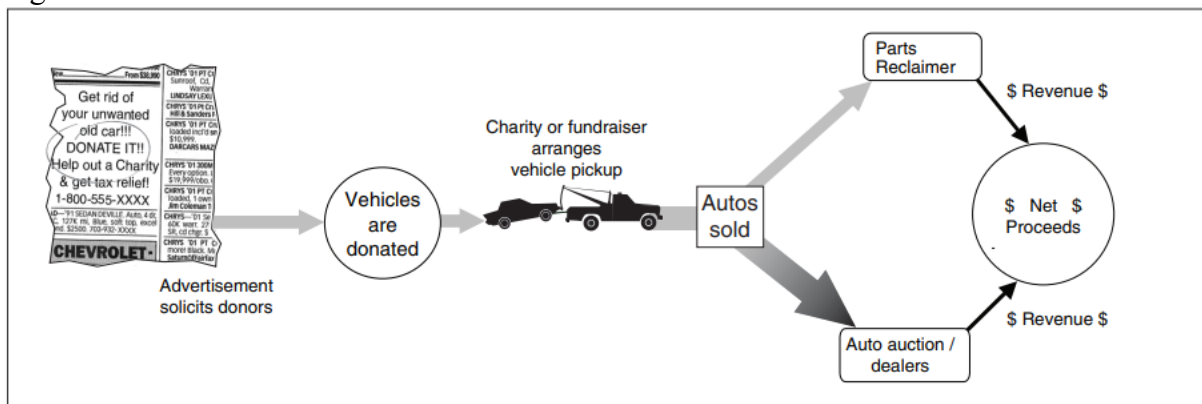
1. Ordinary income property—such as inventory, short-term capital gain property, and others—are valued at fair market value minus any ordinary gain that would be recognized if the property were sold at its fair market value.
2. Any long-term capital gain property (including § 1231 property) that is tangible personalty and is given to a private nonoperating foundation or given to any other charity that does not use the property in its exempt function is valued at fair market value minus the unrealized capital gain (i.e., the gain that would be recognized if the property were sold at its fair market value).

Special rules for Contributions of Motor Vehicles, Boats and Airplanes

In 2001, the IRS released a notice urging care be exercised by taxpayers when making vehicle donations [IR-2001-112]. By 2003, the IRS and congressional concerns with potential deductions related to the contribution of vehicles to charities was a catalyst for the GAO-prepared study of vehicle donations that was provided to the Senate Finance Committee on April 1, 2003 [SOI Tax Stats]. This report contained four significant findings:

1. That vehicle donation programs are generally either operated by in-house by charities or operated by third-party fund-raisers. For in-house programs, charities advertise for donated vehicles, pick up the vehicles, and sell the vehicles, generally at auto auctions or they salvage the vehicles for parts. Fund-raising programs perform the advertising, pick up, and selling functions, and also retain a portion of the net vehicle proceeds, after expenses. The report provided vehicle donation process as presented in Figure 1.

Figure 1: GAO Vehicle Donation Process

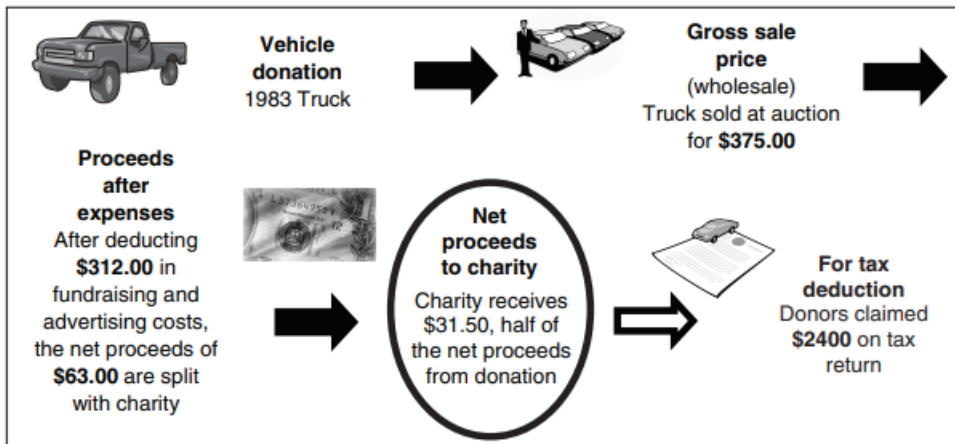


Source: GAO.

2. The proceeds a charity receives from a vehicle donation are sometimes less than what a donor expects. Two factors were identified that contribute to the difference: (1) charities and fund-raisers often sell vehicles at auto auctions at wholesale prices which are generally lower than the prices donors might receive if they sold their vehicles to private

parties, and (2) vehicle processing and fund-raising costs are subtracted from sales price of the vehicle revenue, reducing the proceeds received by the charity. In surveys gathered by the GAO, individuals most often donated their vehicles in order to claim a tax deduction, or to dispose of an unwanted vehicle. Of the 147 advertisements for vehicle donations reviewed by the IRS' Tax Exempt Division, 117 mentioned a tax deduction while only 7 ads pointed out that the individual must itemize in order to receive the deduction. Figure 2 presents a GAO analysis of an actual vehicle donation from around the time of the report.

Figure 2: GAO Analysis of Example Vehicle Donation



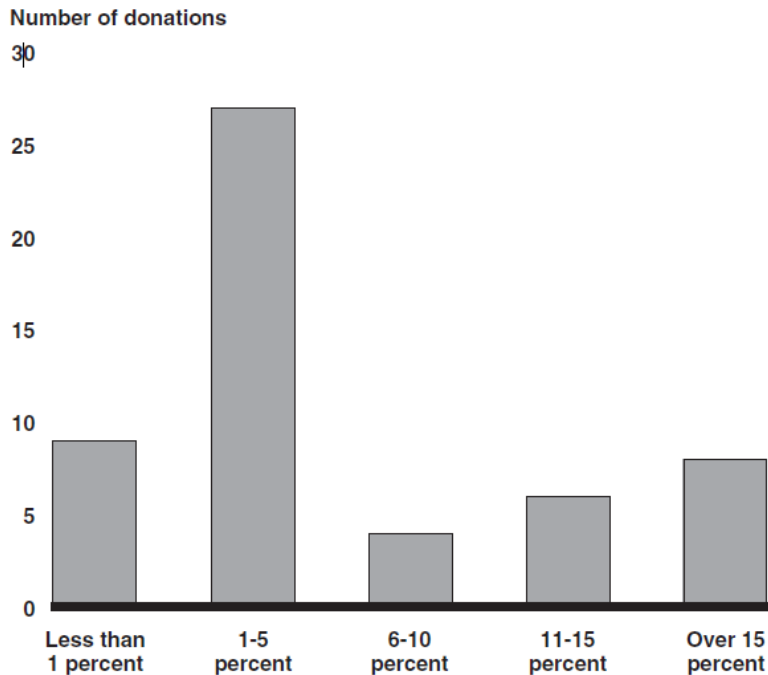
Source: GAO.

Note: GAO analysis of an actual vehicle donation.

3. In tax year 2000, an estimated 733,000 returns, had tax deductions for vehicle donations totaling an estimated \$2.5 billion in noncash contributions claimed [GAO, November].
4. The IRS and other organizations have issued guidance potential donors should consider before donating their vehicles to charity and claiming associated tax deductions including verifying that the recipient organization is a tax-exempt charity, inquiring about vehicle donation proceeds, and deducting only the fair market value of the vehicle.

The April 2003 GAO report was followed up with a more comprehensive report on vehicle donations in November 2003. This report noted that of the 65 charities examined, 45 used third-party assistance in the vehicle donation process and about half of those allowed the third party to run the entire program. For most charities, vehicle donations represented a small portion of revenue; however, one national charity received over 70,000 vehicles amounting to over \$8.8 million. The GAO was able to collect information on 54 specific vehicles donated. The sale prices for donated vehicles in this sample ranged from 1 percent to 70 percent of donor tax deduction claims, and in over half of the cases the sales prices were 10 percent or less of what donors' claimed. Figure 3 shows that in most vehicle donations, the revenue to charity was only about 5 percent of the donor's claimed deduction.

Figure 3: GAO Report on Differences Between Charity Proceeds and Donor Deduction



Source: GAO analysis of 54 tracked vehicle donations.

At the time of both GAO reports, the reporting rules around noncash donations required the taxpayer to attached Form 8283 to for any deduction related to a noncash donation greater than \$500.

The two GAO reports along with a number of state reports of noncompliance by organizations involved with vehicle donations spurred the U.S. Senate Finance Committee into action. In June 2004, the Finance Committee held hearings surrounding issues associated with charitable organizations including those accepting vehicle donations. The then IRS Commissioner, Mark Everson provided testimony on a number of issues associated with charitable contributions and charities including vehicle donation programs. Although just a small part of a myriad of issues, the Commissioner addressed the GAO report,

We cannot ignore the clear implications of the study. The Administration’s FY2005 Budget includes a proposal to curtail the problem of inflated deductions being claimed for donated vehicles by allowing a deduction only if the taxpayer obtains a qualified appraisal of the vehicle.

The Commissioner also mentioned the release in 2001 of IRS Notice IR-2001-112, which provides a warning to taxpayers to exercise care when selecting a charity for a vehicle donation and also reminds taxpayers that a deduction is only available if they itemize.

The 2004 Senate Finance Committee hearing also included the testimony of a confidential witness that had worked inside the vehicle donation process as a “middleman.” This

testimony included describing the practice of “fixing cars” which involves disabling or harming the performance of the donated vehicle between the time of donation and the sale of the auto through auction in order to drive the price down. The middleman then purchases the car at a lower value and repairs the vehicle in order to sell it closer to its donated value; however, the charity receives a portion of the proceeds from the auction sale. The unidentified witness condemned the existing vehicle donation process:

There has to be something that can be done about this. So many people out there donate their cars to make a difference for research, treatment and transplants. But the truth is, there wouldn't be enough money from that car donation to buy my mother's medication for one month let alone help the progress of research and treatment.

Whether driven by Senate Finance hearings or IRS requests, Congress took action shortly afterward with the introduction of §170(f)(12).

§170(f)(12) CONTRIBUTIONS OF USED MOTOR VEHICLES, BOATS, AND AIRPLANES

(A) In general. In the case of a contribution of a qualified vehicle the claimed value of which exceeds \$500—

- (i) paragraph (8) shall not apply and no deduction shall be allowed under subsection (a) for such contribution unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization that meets the requirements of subparagraph (B) and includes the acknowledgement with the taxpayer's return of tax which includes the deduction, and
- (ii) if the organization sells the vehicle without any significant intervening use or material improvement of such vehicle by the organization, the amount of the deduction allowed under subsection (a) shall not exceed the gross proceeds received from such sale.

(B) Content of acknowledgement. An acknowledgement meets the requirements of this subparagraph if it includes the following information:

- (i) The name and taxpayer identification number of the donor.
- (ii) The vehicle identification number or similar number.
- (iii) In the case of a qualified vehicle to which subparagraph (A)(ii) applies—
 - (I) a certification that the vehicle was sold in an arm's length transaction between unrelated parties,
 - (II) the gross proceeds from the sale, and a statement that the deductible amount may not exceed the amount of such gross proceeds.
- (iv) In the case of a qualified vehicle to which subparagraph (A)(ii) does not apply—
 - (I) a certification of the intended use or material improvement of the vehicle and the intended duration of such use, and
 - (II) a certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of such use or improvement.
- (v) Whether the donee organization provided any goods or services in consideration, in whole or in part, for the qualified vehicle.

(vi) A description and good faith estimate of the value of any goods or services referred to in clause (v) or, if such goods or services consist solely of intangible religious benefits (as defined in paragraph (8)(B)), a statement to that effect.

In 2004, PL 108-357 added both §170(f)(12) and §6720, both of which were intended to bring a halt to perceived abuses in the deduction for a donation of an auto vehicle. Internal Revenue Code § 170(f)(12) generally allows a charitable deduction for donated vehicles equal to the smaller of (1) amount the charitable organization received from selling the vehicle or (2) the fair market value of the vehicle on the date of the contribution. Fair market value is allowed only when the donee organization uses the vehicle as part of its charitable business. IRC §170(f) further provides that any recipient organization must provide an acknowledgment with the date of the contribution, the name and taxpayer identification number of the donor, the vehicle identification number. The acknowledgment must also include an estimate of the value of any goods or services provided to the donor as part of the transaction. Additionally, tax law has been shaped to, at least in part, restrict abuses with respect to donations of vehicles. IRC § 6720, Fraudulent Acknowledgments with Respect to Donations of Motor Vehicles, Boats, and Airplanes, was also codified as part of the American Jobs Creation Act of 2004 (P.L. 108-357). IRC § 6720 provided penalties on donee organizations that provided false or fraudulent acknowledgments related to donated vehicles. The penalties range from the product of the highest tax rate and the sales price stated on the acknowledgment to the gross proceeds from the sale of the vehicle.

Separate from contributions of vehicles, the American Jobs Creation Act of 2004 [AJCA] added new specific substantiation requirements for contributions of property [IRC § 170(f)(11)(B–D)].

1. For property valued at more than \$500, the tax return for the taxable year in which the contribution is made must include a description of such property
2. For property worth more than \$5,000, a qualified appraisal must be obtained and a description of such property is included in the return.
3. For property worth more than \$500,000 the qualified appraisal must be attached to the return.

A qualified appraisal is one completed by a qualified appraiser who meets specific requirements established by Code and Regulations [IRC § 170(f)(11)(E)]. In general, a qualified appraiser is an individual who has earned an appraisal designation from a recognized appraisal organization. The individual must regularly perform appraisals for compensation (IRC § 179(f)(11)(E)(ii)).

The effects of §170(f)(12) were felt by taxpayers almost immediately.

TAX REFORM

The Tax Cuts and Jobs Act of 2017 (TCJA) (Tax Cuts and Jobs Act, 2017) is known for a large number of changes including temporary (generally 2018 – 2025) reductions in tax rates,

repeal of the personal and dependency exemptions, increase in the child tax credit, and a substantial increase in the standard deduction. Perhaps the most significant aspect is whether taxpayers itemize their deductions or not. Fewer taxpayers are itemizing their deductions after tax reform due to the enhanced standard deduction and the \$10,000 limit on deductions for state and local taxes. This may especially be true for couples, as the \$10,000 limit is the same for them as for singles and heads of household. These individuals may not have enough deductions to itemize or may only benefit from a fraction of their charitable contributions.

The increase in the number of taxpayers claiming the standard deduction, rather than itemizing, is revealed in the Internal Revenue Service’s Statistics of Income Report.

Table 1. Individual Tax Return Statistics (selected).

Individual Income Tax Returns Complete Report, Table A) [SOI]

| | <u>2017</u> | <u>2018</u> | <u>2019</u> |
|--|-------------|-------------|-------------|
| Number of individual tax returns filed | 152,903,231 | 153,774,296 | 157,796,807 |
| Number of individual tax returns claiming the standard deduction | 104,013,115 | 134,271,137 | 138,307,604 |
| Percentage of tax returns claiming the standard deduction | 68.03% | 87.32% | 87.65% |

Taxpayers who think they receive a benefit from charitable contributions of property do not benefit unless they itemize.

OVERVIEW OF CHARITABLE CONTRIBUTIONS

Charitable contributions are direct gifts of money and other property to designated charities. The contribution must be transacted by the end of the taxpayer’s taxable year, and deductions are limited.

The basic charitable organizations are easily recognized. They are governmental units, including the Federal, state, and local government bodies, and entities formed and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including church bodies, nonprofit hospitals, schools and universities, libraries, and social service agencies. Other qualifying organizations are war veterans’ organizations, nonprofit volunteer fire and civil defense organizations, domestic fraternal organizations operating under the lodge system, and certain nonprofit cemetery organizations [IRS, Cumulative].

Direct contributions to needy or worthy individuals are not deductible, and contributions to organizations that are restricted to use by a specific person are generally disallowed. A deduction limited to \$50 per month is allowed, however, for a taxpayer who maintains in his or her home a student in the twelfth or lower grade under a written agreement between the taxpayer and certain charities for educational purposes (IRC § 170(g)).

Amount of Contribution.

Contributions of money and other property are allowable. The contribution is generally allowed in the amount of money plus the fair market value of other property at the time of the contribution. A receipt must be issued by the charity for contributions in excess of \$250.

Contributions of the taxpayer's time and the use of the taxpayer's property do not qualify for deductibility since the taxpayer has no tax basis in these items. Similarly, contributions of blood to charitable organizations do not qualify. The taxpayer can deduct out-of-pocket costs incurred related to volunteer work with a charitable organization. This includes transportation expenses, and if the taxpayer uses his or her personal automobile, either actual costs or 14 cents per mile may be used.

Limitations on Deductions.

Charitable contributions are limited annually based on specified percentages of AGI.

- An individual's deduction for contributions of cash to public charities may not exceed 60% of AGI.
- The deduction for contributions to private charities is limited to the lesser of 30% of AGI (20% for capital gain property) or 50% of AGI minus cash contributions to public charities.
- Charitable contributions of long-term capital gain property valued at current fair market value that are discussed later are limited to 30% of AGI.

Contributions of property are valued at fair market value unless the holding period is 12 months or less, the property is ordinary income property, or the property is tangible personalty that is not used by the charity in its charitable activity. In these cases, the deduction is the lesser of fair market value at the time of the contribution or the adjusted basis of the property.

Interestingly, contributions of stock or securities are not subject to this limit because they are intangible. Similarly, real estate is also not subject because it is not personalty.

The taxpayer may elect, however, to reduce the contribution amount by any gain, thereby making them subject only to the 60% limit. This election applies to all contributions of capital gain property for a year.

Contributions in excess of any of the three limits may be carried forward for up to five years and treated as if made in the carryover year. The contributions actually made in the carryover year are deducted first in determining which contributions are carried over to the succeeding year if the limits are again exceeded.

Contributions of Property

The annual limits must be applied and two exceptions also apply:

4. Ordinary income property—such as inventory, short-term capital gain property, and others—are valued at fair market value minus any ordinary gain that would be recognized if the property were sold at its fair market value.
5. Any long-term capital gain property (including § 1231 property) that is tangible personalty and is given to a private nonoperating foundation or given to any other charity that does not use the property in its exempt function is valued at fair market value minus the unrealized capital gain (i.e., the gain that would be recognized if the property were sold at its fair market value).

The American Jobs Creation Act of 2004 [AJCA] added new specific substantiation requirements for contributions of property [IRC § 170(f)(11)(B–D)].

6. For property valued at more than \$500, the tax return for the taxable year in which the contribution is made must include a description of such property
7. For property worth more than \$5,000, a qualified appraisal must be obtained and a description of such property is included in the return.
8. For property worth more than \$500,000 the qualified appraisal must be attached to the return.

A qualified appraisal is one completed by a qualified appraiser who meets specific requirements established by Code and Regulations [§ 170(f)(11)(E)]. In general, a qualified appraiser is an individual who has earned an appraisal designation from a recognized appraisal organization. The individual must regularly perform appraisals for compensation (IRC § 179(f)(11)(E)(ii)).

Special rules for Contributions of Motor Vehicles, Boats and Airplanes

Due to the perceived, and many times actual, abuses regarding donation of vehicles, IRC 170(f) details specific requirements of the donee organization in order to allow the donor a deduction. These rules apply to vehicles with a claimed value in excess of \$500. An excerpt of the relevant law follows:

(12) CONTRIBUTIONS OF USED MOTOR VEHICLES, BOATS, AND AIRPLANES.

(A) In general. In the case of a contribution of a qualified vehicle the claimed value of which exceeds \$500—

- (i) paragraph (8) shall not apply and no deduction shall be allowed under subsection (a) for such contribution unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization that meets the requirements of subparagraph (B) and includes the acknowledgement with the taxpayer's return of tax which includes the deduction, and

- (ii) if the organization sells the vehicle without any significant intervening use or material improvement of such vehicle by the organization, the amount of the deduction allowed under subsection (a) shall not exceed the gross proceeds received from such sale.
- (B) Content of acknowledgement. An acknowledgement meets the requirements of this subparagraph if it includes the following information:
- (i) The name and taxpayer identification number of the donor.
 - (ii) The vehicle identification number or similar number.
 - (iii) In the case of a qualified vehicle to which subparagraph (A)(ii) applies—
 - (II) a certification that the vehicle was sold in an arm’s length transaction between unrelated parties,
 - (II) the gross proceeds from the sale, and a statement that the deductible amount may not exceed the amount of such gross proceeds.
 - (iv) In the case of a qualified vehicle to which subparagraph (A)(ii) does not apply—
 - (III) a certification of the intended use or material improvement of the vehicle and the intended duration of such use, and
 - (IV) a certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of such use or improvement.
 - (v) Whether the donee organization provided any goods or services in consideration, in whole or in part, for the qualified vehicle.
 - (vi) A description and good faith estimate of the value of any goods or services referred to in clause (v) or, if such goods or services consist solely of intangible religious benefits (as defined in paragraph (8)(B)), a statement to that effect.

ECONOMICS OF THE GIFT

Only taxpayers that itemize deductions receive a benefit for donations of property to qualified organizations. The group of potential beneficiaries of such a deduction was substantially reduced by The Tax Cuts and Jobs Act of 2017 (TCJA) (Tax Cuts and Jobs Act, 2017). Itemizers dropped from 32% of tax filers to about 13% due to the increased standard deduction. In spite of this, taxpayers often base their actions on misinformation.

Example 1.

Practical Jane had a minivan that he was planning to give to charity some time before 2018. Jane figured the minivan was worth about \$800 as a charitable contribution. When Jane was approached by a neighbor about buying the minivan for family members, Jane figured that his state and federal savings would approach \$300, so he told the neighbor that he would accept \$500. The next day, the neighbor showed up with 5 new \$100 bills.

After 2017, Jane and millions of individuals who once itemized no longer itemize thus eliminating the benefit for a property donation.

Example 2.

Oblivious Phil called Convincing Health Services (fictional) to see if they would like to pick up Phil's inoperable, unregistered 20-year-old Camaro convertible. Estimates are that the vehicle might be worth \$1,800. The next day, a tow truck from Rick's Towing (fictional) arrived and took the Camaro away. In sequence, the Camaro was delivered to Owen's Auction House (fictional) and sold for \$1,200. Assuming the auction house charges \$180, the towing company charges \$120, and the auto donation facilitating company, Zachary's Charity Services (fictional), charges \$240, a check for \$660 is sent to Convincing Health Services.

Oblivious Phil, who doesn't itemize, but thinks he gets a tax benefit, isn't even aware that his designated charity only received \$660, while three other commercial enterprises generated revenue.

In spite of the reduction in potential beneficiaries of vehicle donations, an entire industry revolving around the purported benefits has grown and continues to thrive. An example is the "Cars Helping Charities" organization which works with charitable organizations seeking to benefit from vehicle donations. "Cars Helping Charities" provides a technology platform designed to provide an effective means of adding this donative pathway to the charity. An internet search of "donating cars to charity" produces a plethora of organizations ready to accept the unformed taxpayer's property donation.

With fewer and fewer taxpayers able to get a tax benefit for vehicle donation, the question becomes, who are the real winners?

Charities Now Encourage Gifts of Real Property

One such organization is Kars 4 Kids (Kars 4 Kids at <https://www.kars4kids.org/real-estate/>). This recent addition to the charitable organization game plan is still relatively new. The question remains, will taxpayers be sufficiently informed to recognize whether a tax benefit will accrue on donation of real property?

CONCLUSION

Charitable giving is an important part of our culture. During 2021, Americans are estimated to have given about \$484.5 billion in cash and property a 4% increase from 2020 [Giving]. In addition, corporate giving in 2021 was approximately \$21.08 billion, a whopping 23.8% increase from 2020. It is clear that the hearts of donors are in the right place; however, it makes sense to question the motivation of charitable organizations offering, in many cases, unobtainable tax benefits to encourage potential donors. Clearly, the real winners in this scenario are the charitable organizations.

APPENDIX A—Cited Portions of AJCA 2004

PUBLIC LAW 108-357—OCT. 22, 2004

AMERICAN JOBS CREATION ACT OF 2004

SEC. 883. INCREASED REPORTING FOR NONCASH CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding after paragraph (10) the following new paragraph:

“(11) QUALIFIED APPRAISAL AND OTHER DOCUMENTATION FOR CERTAIN CONTRIBUTIONS.—

“(A) IN GENERAL.—

“(i) DENIAL OF DEDUCTION.—In the case of an individual, partnership, or corporation, no deduction shall be allowed under subsection (a) for any contribution of property for which a deduction of more than \$500 is claimed unless such person meets the requirements of subparagraphs (B), (C), and (D), as the case may be, with respect to such contribution.

“(ii) EXCEPTIONS.—

“(I) READILY VALUED PROPERTY.—Subparagraphs (C) and (D) shall not apply to cash, property described in section 1221(a)(1), publicly traded securities (as defined in section 6050L(a)(2)(B)), and any qualified vehicle described in paragraph (12)(A)(ii) for which an acknowledgement under paragraph (12)(B)(iii) is provided.

“(II) REASONABLE CAUSE.—Clause (i) shall not apply if it is shown that the failure to meet such requirements is due to reasonable cause and not to willful neglect.

“(B) PROPERTY DESCRIPTION FOR CONTRIBUTIONS OF MORE THAN \$500.—In the case of contributions of property for which a deduction of more than \$500 is claimed, the requirements of this subparagraph are met if the individual, partnership or corporation includes with the return for the taxable year in which the contribution is made a description of such property and such other information as the Secretary may require. The requirements of this subparagraph shall not apply to a C corporation which is not a personal service corporation or a closely held C corporation.

“(C) QUALIFIED APPRAISAL FOR CONTRIBUTIONS OF MORE THAN \$5,000.—In the case of contributions of property for which a deduction of more than \$5,000 is claimed, the requirements of this subparagraph are met if the individual, partnership, or corporation obtains a qualified appraisal of such property and attaches to the return for the taxable year in which such contribution is made such information regarding such property and such appraisal as the Secretary may require.

“(D) SUBSTANTIATION FOR CONTRIBUTIONS OF MORE THAN \$500,000.—In the case of contributions of property for which a deduction of more than \$500,000 is claimed, the requirements of this subparagraph are met if the individual, partnership, or corporation attaches to the return for the taxable year a qualified appraisal of such property.

“(E) QUALIFIED APPRAISAL.—For purposes of this paragraph, the term ‘qualified appraisal’ means, with respect to any property, an appraisal of such property which is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary.

“(F) AGGREGATION OF SIMILAR ITEMS OF PROPERTY.— For purposes of determining thresholds under this paragraph, property and all similar items of property donated to 1 or more donees shall be treated as 1 property.

“(G) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.

“(H) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after June 3, 2004.

SEC. 884. DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

(a) IN GENERAL.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules), as amended by this Act, is amended by inserting after paragraph (11) the following new paragraph:

“(12) CONTRIBUTIONS OF USED MOTOR VEHICLES, BOATS, AND AIRPLANES.—

“(A) IN GENERAL.—In the case of a contribution of a qualified vehicle the claimed value of which exceeds \$500—

“(i) paragraph (8) shall not apply and no deduction shall be allowed under subsection (a) for such contribution unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization that meets the requirements of subparagraph (B) and includes the acknowledgement with the taxpayer’s return of tax which includes the deduction, and

“(ii) if the organization sells the vehicle without any significant intervening use or material improvement of such vehicle by the organization, the amount of the deduction allowed

under subsection (a) shall not exceed the gross proceeds received from such sale. “(B) CONTENT OF ACKNOWLEDGEMENT.—An acknowledgement meets the requirements of this subparagraph if it includes the following information:

“(i) The name and taxpayer identification number of the donor.

“(ii) The vehicle identification number or similar number.

“(iii) In the case of a qualified vehicle to which subparagraph (A)(ii) applies—

“(I) a certification that the vehicle was sold in an arm’s length transaction between unrelated parties,

“(II) the gross proceeds from the sale, and

“(III) a statement that the deductible amount may not exceed the amount of such gross proceeds. “(iv) In the case of a qualified vehicle to which subparagraph (A)(ii) does not apply—

“(I) a certification of the intended use or material improvement of the vehicle and the intended duration of such use, and

“(II) a certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of such use or improvement.

“(C) CONTEMPORANEOUS—For purposes of subpara- graph (A), an acknowledgement shall be considered to be contemporaneous if the donee organization provides it within 30 days of—

“(i) the sale of the qualified vehicle, or

“(ii) in the case of an acknowledgement including a certification described in subparagraph (B)(iv), the contribution of the qualified vehicle.

“(D) INFORMATION TO SECRETARY—A donee organization required to provide an acknowledgement under this paragraph shall provide to the Secretary the information contained in the acknowledgement. Such information shall be provided at such time and in such manner as the Secretary may prescribe.

“(E) QUALIFIED VEHICLE—For purposes of this para- graph, the term ‘qualified vehicle’ means any—

“(i) motor vehicle manufactured primarily for use on public streets, roads, and highways,

“(ii) boat, or

“(iii) airplane

Such term shall not include any property which is described in section 1221(a)(1).

“(F) REGULATIONS OR OTHER GUIDANCE—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this paragraph. PUBL357

The Secretary may prescribe regulations or other guidance which exempts sales by the donee organization which are in direct furtherance of such organization’s charitable purpose from the requirements of subparagraphs (A)(ii) and (B)(iv)(II).”.

(b) PENALTY FOR FRAUDULENT ACKNOWLEDGMENTS—

(1) IN GENERAL—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by inserting after section 6719 the following new section:

“SEC. 6720. FRAUDULENT ACKNOWLEDGMENTS WITH RESPECT TO DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

“Any donee organization required under section 170(f)(12)(A) to furnish a contemporaneous written acknowledgment to a donor which knowingly furnishes a false or fraudulent acknowledgment, or which knowingly fails to furnish such acknowledgment in the manner, at the time, and showing the information required under section 170(f)(12), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty equal to—

“(1) in the case of an acknowledgment with respect to a qualified vehicle to which section 170(f)(12)(A)(ii) applies, the greater of—

“(A) the product of the highest rate of tax specified in section 1 and the sales price stated on the acknowledgment, or

“(B) the gross proceeds from the sale of such vehicle, and

“(2) in the case of an acknowledgment with respect to any other qualified vehicle to which section 170(f)(12) applies, the greater of—

“(A) the product of the highest rate of tax specified in section 1 and the claimed value of the vehicle, or

“(B) \$5,000.”.

(2) CONFORMING AMENDMENT—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by inserting after the item relating to section 6719 the following new item:

“Sec. 6720. Fraudulent acknowledgments with respect to donations of motor vehicles, boats, and airplanes.”.

(c) EFFECTIVE DATE—The amendments made by this section shall apply to contributions made after December 31, 2004.

APPENDIX B—Form 1098-C

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7878 VOID CORRECTED

| | | | | |
|--|-------------|--|---------|---|
| DONOR'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. | | 1 Date of contribution | | OMB No. 1545-1959 Form 1098-C (Rev. November 2019) For calendar year 20 ____ |
| | | 2a Odometer mileage | | |
| | | 2b Year | 2c Make | |
| DONOR'S TIN | DONOR'S TIN | 3 Vehicle or other identification number | | |
| DONOR'S name | | 4a <input type="checkbox"/> Donee certifies that vehicle was sold in arm's length transaction to unrelated party | | |
| Street address (including apt. no.) | | 4b Date of sale | | |
| City or town, state or province, country, and ZIP or foreign postal code | | 4c Gross proceeds from sale (see instructions) \$ | | |
| 5a <input type="checkbox"/> Donee certifies that vehicle will not be transferred for money, other property, or services before completion of material improvements or significant intervening use | | | | |
| 5b <input type="checkbox"/> Donee certifies that vehicle is to be transferred to a needy individual for significantly below fair market value in furtherance of donee's charitable purpose | | | | |
| 5c Donee certifies the following detailed description of material improvements or significant intervening use and duration of use | | | | |
| 6a Did you provide goods or services in exchange for the vehicle? ► Yes <input type="checkbox"/> No <input type="checkbox"/> | | | | |
| 6b Value of goods and services provided in exchange for the vehicle \$ | | | | |
| 6c Describe the goods and services, if any, that were provided. If this box is checked, donee certifies that the goods and services consisted solely of intangible religious benefits ► <input type="checkbox"/> | | | | |
| 7 Under the law, the donor may not claim a deduction of more than \$500 for this vehicle if this box is checked ► <input type="checkbox"/> | | | | |

Contributions of Motor Vehicles, Boats, and Airplanes

Copy A
For Internal Revenue Service Center
File with Form 1096.

For Privacy Act and Paperwork Reduction Act Notice, see the current General Instructions for Certain Information Returns.

Instructions for Donor

Caution: You must attach Copy B of Form 1098-C to your income tax return in order to take a deduction for the contribution of a qualified vehicle with a claimed value of more than \$500. (If you *e-file* your return, you must (a) attach Copy B of Form 1098-C to Form 8453 and mail the forms to the IRS, or (b) include Form 1098-C as a PDF attachment if your software program permits.) If you do not attach Copy B of Form 1098-C to your return (or to Form 8453) when required, the IRS will disallow your deduction. Generally, you must also attach Form 8283, Noncash Charitable Contributions, if the amount you deduct for all noncash gifts is more than \$500. See the Instructions for Form 8283 for exceptions.

You received Form 1098-C because you donated a motor vehicle, boat, or airplane ("donated vehicle") to the charity shown on the front of this form. Generally, the charity must furnish this form to you no later than 30 days after the date it sold the donated vehicle (if box 4a is checked) or 30 days after the date of the contribution (if box 5a or 5b is checked). If none of these boxes is checked, you must obtain this form by the due date (including extensions) of your tax return for the year of the contribution (or, if earlier, the date you file that return).

Donor's taxpayer identification number (TIN). For your protection, this form may show only the last four digits of your TIN (social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN)). However, the issuer has reported your complete TIN to the IRS.

Box 1. Shows the date the charity received the donated vehicle.

Boxes 2a–2d. Shows the vehicle odometer mileage reading (motor vehicles only), make, model, and year of the donated vehicle.

Box 3. Shows the vehicle identification number (VIN) for a motor vehicle, the hull identification number for a boat, or the aircraft identification number for an airplane.

Box 4a. This box is required to be checked by the charity to certify that the donated vehicle was sold for more than \$500 to an unrelated party in an arm's length transaction.

Box 4c. Shows the gross proceeds the charity received from the sale of the donated vehicle. If box 4a is checked, you generally can take a deduction equal to the smaller of the amount in box 4c or the vehicle's fair market value (FMV) on the date of the contribution. However, if that value was more than your cost or other basis, see Pub. 526, Charitable Contributions.

Box 5a. This box is required to be checked by the charity to certify that the donated vehicle will not be sold before completion of a significant intervening use or material improvement by the charity. If the box is checked, you generally can take a deduction equal to the vehicle's FMV on the date of the contribution. However, if that value was more than your cost or other basis, see Pub. 526.

Box 5b. This box is required to be checked by the charity to certify that the donated vehicle is to be transferred to a needy individual in direct furtherance of the donee's charitable purpose of relieving the poor and distressed or underprivileged who are in need of a means of transportation. If this box is checked, you generally can take a deduction equal to the vehicle's FMV on the date of the contribution. However, if that value was more than your cost or other basis, see Pub. 526.

Box 6b. Shows a good faith estimate by the charity of the value of any goods and services provided to you for the donated vehicle. Generally, the amount of your charitable contribution is reduced by the value of the goods and services provided. However, see the instructions for box 6c below. Also, see *Contributions From Which You Benefit* in Pub. 526.

Box 6c. This box is required to be checked by the charity if the goods and services consisted solely of intangible religious benefits. If checked, you do not have to reduce the amount of your charitable contribution by the value of such benefits. An intangible religious benefit means a benefit that generally is not sold in a commercial transaction, such as admission to a religious ceremony.

Box 7. If this box is checked, your deduction in most cases equals the **smaller** of \$500 or the donated vehicle's FMV on the date of the contribution. However, if that value was more than your cost or other basis, see Pub. 526.

Future developments. For the latest information about developments related to Form 1098-C and its instructions, such as legislation enacted after they were published, go to www.irs.gov/Form1098C.

APPENDIX C—Instructions for Form 1098-C

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REFERENCES

American Jobs Creation Act of 2004 (AJCA), Public Law 108–357 (2004).

GAO April 2023. VEHICLE DONATIONS Taxpayer Considerations When Donating Vehicles to Charities. Testimony prepared by the U.S. General Accounting Office for the Committee on Finance, U.S. Senate, April 3, 2003 (<http://www.gao.gov/cgi-bin/getrpt?GAO-03-608T>).

GAO November 2003: VEHICLE DONATIONS Benefits to Charities and Donors, but Limited Program Oversight.

GIVING USA ANNUAL REPORT. <https://store.givingusa.org/products/2021-annual-report?variant=39329211613263>.

IRC (Internal Revenue Code) §170.

IRS Cumulative List of Organizations, IRS Publication 78. Most, but not all, qualified charities are listed.

IRS Notice IR-2001-112

SOI Tax Stats -- Statistics of Income. <https://www.irs.gov/statistics/soi-tax-stats-statistics-of-income>.

War Revenue Act of 1917, ch. 63, section 1201(2), 40 Stat. 300, 330