



Tax Implications of Charitable Contributions

“The highest use of capital is not to make more money but make money do more for the betterment of life.”

- Henry Ford, 1863-1647

Did You Know? In 2013, a whopping 98.4% of households participated in charitable giving. Total gifts to charity in 2013 reached over \$335 billion, continuing the trend for four straight years of increased giving with a 4.4% jump!

The decision to donate your horse to a charitable organization can be rewarding for you, your horse, and the charity. If your donation is eligible for a tax deduction, it is important to keep good records and research the charities to which you choose to donate. What follows is a summary of the tax rules on charitable contributions of property, specifically horses. For reference, rules related to charitable donations are located in Section 170 of the Internal Revenue Code and the underlying Treasury regulations.

The Charity: Your donation will be tax deductible only if it is made to a properly formed and qualified Internal Revenue Code §501(c)(3) charitable organization. These include public charities, educational institutions, hospitals, governments, humane organizations, and private foundations.

To get the most tax benefit out of your donation, the horse must be used by the donee charity in connection with the charitable purpose for which it was formed. If a horse is donated to a charity that in turn uses the horse in a manner unrelated to its charitable purpose, the donor taxpayer can deduct only their income tax basis in the horse, usually the purchase price, less depreciation proceeds. Basis in a homebred horse normally is zero.

It is important to note that if the charity simply sells the horse and keeps the proceeds, then the donor taxpayer's deduction is limited to the basis in the horse because its sale is unrelated to the charity's purpose. Thus, owner-initiated surrenders to an adoption program or re-training facility may not be eligible for the charitable deduction. Monetary gifts made concurrent with or subsequent to the surrender may be eligible for a tax deduction under general charitable contribution rules

Before finalizing the donation of your horse, you should request and examine the charity's IRS Exemption Letter and get a statement in writing from the charity affirming the charity's tax exempt purpose and its intended use of the donated horse. Some possible charities to research for horse donations include therapeutic riding centers, horse clubs, mounted police units, and educational institutions with equine programs. A complete list of qualified organizations can be found in IRS Publication 78, available on the www.irs.gov website.

The Donation: As a general rule, you can deduct the fair market value of a horse donated to a charitable organization if

- The donation is made without expectation or receipt of a financial or economic benefit in return,
- The horse will be used by the charity in connection with its charitable purpose, and

- The horse was held by the donor for their business involving sporting, breeding, or draft purposes for more than 24 months prior to the donation; **or** held for more than 12 months if for personal rather than business use.

There are, of course, exceptions to the general rule that may reduce the amount of the deduction. For example, when a horse eligible for capital gain treatment has been depreciated and is donated to a charity, the amount of the gift is the value of the horse reduced by the amount of depreciation that would have been recognized as ordinary income (depreciation recapture) if the horse had been sold for its fair market value. Section 170(e) of the Internal Revenue Code lists these exceptions, including horses eligible for capital gains treatment and a donation to a charity that does not relate to the charity's exempt purpose.

Note that if a horse's fair market value is less than its income tax basis, the contribution is limited to the lower fair market value. The tax loss (the excess of basis over fair market value) is not an allowable tax loss. As a result, a better tax strategy in such a case often is to sell the horse to an unrelated person (as such term is defined by applicable tax law), recognize the loss, and then give the sale proceeds to the charity. This is helpful only if the horse has been a business asset rather than used in a non-business activity.

In addition, the total of all charitable contributions that can be deducted in one year cannot exceed 50% of the donor taxpayer's adjusted gross income in some cases, 30% in others, and 20% in some, depending on the type of donee charity and whether appreciated property is being donated (IRC §170(b)).

Required Records: In all horse donations to a charity, the taxpayer must have a record of

- The name and address of the charity,
- The date of the donation,
- The location of the donation,
- A description of the horse in detail reasonably sufficient under the circumstances (note: the required amount of detail increases with the horse's value),
- The fair market value of the horse at the time of the donation and the method used to determine the value, including a written and signed appraisal, if used or required, and
- The terms of agreement relating to the horse's use or disposition.

If the horse is worth \$250 or more, the donor seeking the deduction must also have a written acknowledgment from the charity. The acknowledgment must include

- A description of the horse,
- A statement concerning whether or not any goods or services were provided to the donor by the charity in exchange for, in whole or part, the horse, and
- A description and good faith estimate of any value or services given by the charity in exchange for the horse.

If the horse is worth more than \$5000, the taxpayer seeking the deduction must also complete and file with their tax return IRS Form 8283, available at <http://www.irs.gov/pub/irs-pdf/f8283.pdf>. In addition to the information above, Form 8283 requires the taxpayer to disclose (1) how the horse was acquired, (2) the date of acquisition, and (3) the cost basis of the horse. In addition, the donor must obtain a written appraisal by a qualified appraiser. Unless a herd of horses is donated to one charity at one time by one donor, each donated horse must have a separate written appraisal. If a herd is donated, then one appraisal is allowed, but it must describe and value each horse individually. Finally, the donor must attach a Form 8283, signed by the donee and the appraiser, to their tax return.

Qualified Appraisal: The qualified appraisal for horses valued at more than \$5000 must be completed not earlier than 60 days prior to the date of donation and not later than the due date of the tax return on which the deduction is taken. The qualified appraisal must be conducted by a qualified appraiser, which is defined by the IRS as someone who

- Holds himself or herself out to be an appraiser or who performs appraisals on a regular basis;
- Is able to make appraisals of horses because of his or her qualifications;
- Is not within a group of disqualified people, including the donor, the person who sold, gave, or exchanged the horse to or with the donor, anyone who acted as an agent in the sale, exchange or gift of the horse (unless the donation is within two months of the date of acquisition and the appraisal value does not exceed the acquisition value), the donee, and any employees, spouses, or relatives of the people above; and
- Understands and acknowledges in writing that an intentionally false or fraudulent overstatement of the horse's value may subject the appraiser to penalties.

A declaration of the above signed by the appraiser must be included with Form 8283. The fee charged for the appraisal cannot be based on a percentage of the appraised value of the horse.

The written qualified appraisal must be prepared, dated and signed by the appraiser and must include

- A description of the horse(s);
- The physical condition of the horse;
- The date or expected date of the donation;
- The terms of agreement, if any, regarding the use, sale, or other disposition of the horse;
- The identity and qualifications of the appraiser, including background, professional memberships, education, etc.;
- A statement that the appraisal is being made for income tax purposes;
- The date of the appraisal;
- The appraised value of the horse(s);
- The method of evaluation; and
- The specific basis for valuation.

Donors and their advisors are cautioned to carefully review and comply with the requirements relating to Form 8283, qualified appraisers, and qualified appraisal reports. Otherwise valid charitable contribution dedications have been disallowed for failures to comply with these detailed requirements.

Another tax issue to keep in mind is monetary gifts to qualified 501(c)(3) charitable horse organizations, including many rescue groups. Monetary gifts to charities are deductible as charitable contributions if made to a qualified organization, do not exceed specified limits usually no more than 50% of a taxpayer's adjusted gross income, and are truly a gift rather than an exchange for a financial or economic benefit.

Planning to get the most tax benefit from a charitable contribution of a horse is very fact-specific. The tax rules described in this document are general, and the UHC strongly recommends consulting with a qualified tax professional who can help you apply applicable tax rules to your specific facts.

Sub-topic: A charity must report to the IRS the sale of donated property other than marketable securities and cash within a certain amount of time (3-years) after receiving the item. This could have implications to the donor, based on the difference between the asserted or appraised fair market value of the horse when donated and its subsequent sale price. Please contact your tax professional for more information on this issue.