

Charitable Gifts of Business Interests

Gifts of business interests to charity can provide significant **tax benefits** and support a donor's philanthropic goals. Here's an overview of the **benefits and process** involved:

Benefits of Donating Business Interests

Avoid Capital Gains Tax

- Donors can **avoid capital gains tax** on the appreciated value of the business interest if donated before a sale.
- This is particularly beneficial for **closely held stock, LLC interests, or S-Corp shares**.

Charitable Deduction

- The donor may receive a **fair market value (FMV) deduction** for the gift:
 - For C-corp stock held >1 year: generally deductible at FMV.
 - For S-corp or LLC/partnership interests: generally **deductible at FMV**, but **subject to limitations** and may be reduced by the share of ordinary income assets (like depreciation recapture).
- Deduction limits: Up to **30% of AGI** for gifts of appreciated property.

Legacy and Philanthropic Impact

- Donors can **create a lasting legacy** by supporting causes they care about with a high-value asset.
- May allow donors to **fund a donor-advised fund (DAF) or charitable remainder trust (CRT)** for ongoing giving or income.

Ideal Scenarios

- **Pre-sale planning:** Gift before a known business sale.
- **Owners of illiquid but appreciated entities (long term hold of business interests):** S-Corps, LLCs, partnerships.
- **Estate and exit planning:** Incorporate philanthropy while minimizing taxes.

Process for Donating Business Interests

Step 1: Appraisal & Valuation

- Obtain a **qualified independent appraisal** of the business interest (required by IRS for gifts >\$5,000).
- Valuation sets the deduction amount and substantiates the gift.

Step 2: Charity Review and Acceptance

- Confirm the **charity can accept and manage business interests** (not all can).
- Often, donors use an **intermediary** like a **donor-advised fund sponsor** or **charitable foundation** with experience in illiquid assets.

Step 3: Legal & Tax Structuring

- Consult with a tax advisor and attorney:
 - Review operating agreements, shareholder agreements, and bylaws.
 - Ensure **no binding sale agreement is in place before the gift** (to avoid IRS recharacterizing the gift as a taxable event).
- File necessary forms:
 - **IRS Form 8283** (for non-cash gifts).
 - Charity files **Form 8282** if sold within 3 years.

Step 4: Transfer of Interest

- Legally transfer shares or interest to the charity or DAF.
- Update corporate records, notify other owners as required.

Step 5: Post-Gift Sale (Optional)

- Charity or DAF may **liquidate the interest** to use proceeds for charitable work.
- No capital gains tax is due if the interest was properly gifted **prior to any binding sale**.