Canada Revenue Agency   Agence du revenu du Canada

Gifts and Income Tax

2023

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Canada

Find out if this guide is for you

Are you an individual planning to give money or other property to a registered charity or other qualified donee? Do you own land or a building, or have stocks or bonds that you would like to give to a registered charity or other qualified donee? Do you own an oil painting, stamp collection, etching, sculpture, antique, or coin set that you would like to give to a gallery or museum that are qualified donees? Are you having your gift appraised? If so, the decisions you make may affect your tax situation.

This guide will provide you with information about making a gift in 2023. If you require information about a gift made in a previous year, you will need a version of this guide for the year in which you made your gift. You can get previous versions of this guide by going to **canada.ca/cra-forms-publications** and clicking on "Previous years," then entering "P113" in "Filter items" or by calling **1-800-959-8281**.

The CRA's publications and personalized correspondence are available in braille, large print, e-text, and MP3. For more information, go to **canada.ca/cra-multiple-formats** or call **1-800-959-8281**.

La version française de ce guide est intitulée Les dons et l'impôt.

New for 2023

There are no legislative changes with respect to gifts for 2023.

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Definitions

Adjusted cost base (ACB) – This is usually the cost of a property plus any expenses to acquire it, such as commissions and legal fees. It also includes capital expenditures, such as the cost of additions and improvements to the property. You cannot add current expenses, such as maintenance and repair costs, to the cost base of a property. For more information, read Chapter 3 of Guide T4037, Capital Gains.

Advantage – This is generally the total value of any property, service, compensation, use, or any other benefit that you are entitled to as partial consideration for, in gratitude for, or in any other way related to the gift. The advantage may be contingent or receivable in the future, either to you, or a person or partnership not dealing at arm's length with you.

For example, you donate $1,000 to the Anytown Ballet Company, which is a registered charity. In gratitude, the company provides you with three tickets to a show that are valued at $150. You are therefore considered to have received an advantage of $150. The eligible amount of the gift (see definition later on this page) is $850 ($1,000 – $150).

The advantage also includes any limited-recourse debt (including amounts owed by persons not dealing at arm's length with you) in respect of the gift at the time it was made. For example, there may be a limited-recourse debt that can reasonably relate to a gift to a qualified donee as part of a gifting arrangement that is a tax shelter. Generally, a limited-recourse debt is one where the borrower is not at risk for the repayment. In this case, the eligible amount of the gift will be reported in box 13 of Form T5003, Statement of Tax Shelter Information. For more information on tax shelters and gifting arrangements, see Guide T4068, Guide for the Partnership Information Return (T5013 Forms).

Arm's length – This refers to a relationship or a transaction between persons who act in their separate interests. An arm's length transaction is generally a transaction that reflects ordinary commercial dealings between unrelated parties acting in their separate interests.

Eligible amount of the gift – This is the amount by which the fair market value (FMV) of the gifted property exceeds the amount of an advantage (see definition above), if any, in respect of the gift. There are situations in which the eligible amount may be deemed to be nil. For more information, see "Official donation receipts" on page 8 and "Deemed fair market value" on page 10.

Fair market value (FMV) – This is usually the highest dollar value you can get for your property in an open and unrestricted market, between a willing buyer and a willing seller who are acting independently of each other.

> **Note**
> For the purposes of this guide, there are certain situations in which the FMV will be deemed to be less than the actual FMV of the property described above. For more information, see "Deemed fair market value" on page 10.

Related persons – They are not considered to deal with each other at arm's length. Related persons include individuals connected by blood relationship, marriage, common-law partnership, or adoption (legal or in fact). A corporation and another person or two corporations may also be related persons.

Unrelated persons – They may not be dealing with each other at arm's length at a particular time. Each case will depend upon its own facts. The following criteria will be considered to determine whether parties to a transaction are not dealing at arm's length:

- whether there is a common mind that directs the bargaining for the parties to a transaction
- whether the parties to a transaction act in concert without separate interests; "acting in concert" means, for example, that parties act with considerable interdependence on a transaction of common interest
- whether there is de facto control of one party by the other because of, for example, advantage, authority, or influence

For more information, see Income Tax Folio S1-F5-C1, Related Persons and Dealing at Arm's Length.

Gifts and income tax

If you made a gift of money or other property to a qualified donee (see "Gifts to registered charities and other qualified donees" on page 5), you may be able to claim federal and provincial or territorial non-refundable tax credits when you file your income tax and benefit return, provided that you receive an official donation receipt from the qualified donee. If you lived in Quebec on December 31, claim your provincial tax credit on your Quebec income tax return.

In most cases, a gift is a voluntary transfer of property without valuable consideration. However, a transfer of property for which you received an advantage (as defined on this page) is still considered a gift for purposes of the Income Tax Act as long as the Canada Revenue Agency (CRA) is satisfied that the transfer of property was made with the intention to make a gift. The fact that you received an advantage will not by itself disqualify the transfer from being a gift when the fair market value (FMV) of the advantage does not exceed 80% of the FMV of the transferred property. For more information, see Income Tax Folio S7-F1-C1, Split-receipting and Deemed Fair Market Value.

> **Note**
> If the amount of the advantage exceeds 80% of the FMV of the transferred property, the CRA may still consider the transfer to be a gift for purposes of the Income Tax Act. For more information, write to:
>
> Charities Directorate
> Canada Revenue Agency
> Ottawa ON K1A 0L5
>
> You can also call the Charities Directorate at **1-800-267-2384**.

It is the eligible amount of the gift (as defined on page 4) that is used to calculate your non-refundable donation tax credits.

The tax consequences of a gift depend on such facts as whether it is:

- a gift to a qualified donee (as defined below)
- a gift of ecologically sensitive land
- a gift of certified cultural property to a designated institution or a public authority under the Cultural Property Export and Import Act
- a gift of a share, debt obligation or right listed on a designated stock exchange, a share of the capital stock of a mutual fund corporation, a unit of a mutual fund trust, an interest in a related segregated fund trust, or a prescribed debt obligation
- a gift of publicly listed flow-through shares acquired after March 21, 2011
- a gift of non-qualifying securities
- a gift of options to acquire property

It will also depend on whether the property was capital property, listed personal property, or inventory of a business.

Gifts you can claim

Gifts to registered charities and other qualified donees

You can claim a tax credit based on the **eligible amount** of your gift to a qualified donee. Qualified donees are:

- registered charities
- registered journalism organizations (RJO)
- registered Canadian amateur athletic associations
- registered national arts service organizations
- registered housing corporations resident in Canada set up only to provide low-cost housing for the aged
- registered municipalities in Canada
- registered municipal or public bodies performing a function of government in Canada
- the United Nations and its agencies
- Government of Canada, a province, or a territory
- universities outside Canada, the student body of which ordinarily includes students from Canada, that are registered with the CRA
- registered foreign charities to which the Government of Canada has made a gift

To further assist donors in determining which organizations may issue official donation receipts, qualified donees must appear on the publicly available lists that the CRA maintains. Go to **canada.ca/charities-giving** and click on "List of charities and other qualified donees" to access these lists. The United Nations and its agencies, as well as the Government of Canada, a province, or territory are not included on these lists because they qualify automatically.

Generally, you can claim part or all of the eligible amount of your gifts, up to the limit of 75% of your net income for the year. You may be able to increase this limit if you give capital property (including depreciable property). For more details, see "Calculating your increased donation limit" on page 13.

Gifts of non-qualifying securities

Special rules apply if you make a gift of a non-qualifying security, such as shares of a corporation you control, or obligations or any other security issued by yourself (other than shares, obligations, and other securities listed on a designated stock exchange and deposits with financial institutions).

For more information, go to **canada.ca/charities-giving**, click on "A to Z index of topics for charities" and see "Non-qualifying security," or see Guide T4037, Capital Gains. You can also contact the Charities Directorate at **1-800-267-2384**.

Gifts to U.S. charities

Generally, if you have U.S.- source income, you can claim a gift to a U.S. charity if the charity meets the following conditions:

- it is generally exempt from U.S. tax
- it could qualify in Canada as a registered charity if it were a resident of Canada and created or established in Canada

You can claim the eligible amount of your U.S. gifts up to 75% of the net U.S. source income you report on your Canadian return. However, you may be able to claim the eligible amount of your gifts to U.S. organizations up to 75% of your net world income. You can do this if the gift would be allowed as a deduction under the United States Internal Revenue Code and you meet all the following conditions:

- you live near the border in Canada throughout the year
- you commute to your principal workplace or business in the United States
- that employment or business was your main source of income for the year

Similarly, your claim will also not be restricted to net U.S.-source income if your gift is to a U.S. college or university at which you or a member of your family is or was enrolled in, or if your gift is to a registered U.S. university as referenced in the list of qualified donees that begins on page 5.

Gifts to government bodies

You can claim a tax credit based on the **eligible amount** of gifts to the Government of Canada, a province, a territory, registered municipalities in Canada, or registered municipal or public bodies performing a function of government in Canada. These types of charitable donations do not include contributions to political parties. The amount that qualifies for the tax credit is limited to **75%** of your net income. Enter the eligible amount on line 32900 of Schedule 9, Donations and Gifts.

Monetary gifts to Canada should be made payable to the Receiver General. Send the gift, along with a note stating that the money is a gift to Canada, to:

Place du Portage, Phase III
11 Laurier Street
Gatineau QC K1A 0S5

If you made such a gift, you should have been provided with an official donation receipt.

Gifts of ecologically sensitive land

You can claim a tax credit based on the **eligible amount** of a gift of ecologically sensitive land, including a covenant, an easement, or, in the case of land in Quebec, a real servitude or a personal servitude (the rights to which the land is subject and which has a term of not less than 100 years) you made to any of the following:

- the Government of Canada, a province, or a territory
- a municipality in Canada, or a municipal or public body performing a function of government in Canada, that is approved by the Minister of Environment and Climate Change Canada (ECCC) or a person designated by that Minister in respect of the gift
- a registered charity approved by the Minister of ECCC or the designated person in respect of the gift

A gift of ecologically sensitive land cannot be made to a private foundation.

The Minister of ECCC, or a person designated by that Minister, has to certify that the land is ecologically sensitive land, the conservation and protection of which is important to the preservation of Canada's environmental heritage. The Minister also will determine the fair market value (FMV) of the gift.

For a gift of a servitude, covenant, or easement, the FMV of the gift will be the **greater** of:

- the FMV of the gift otherwise determined
- the amount of the reduction of the land's FMV that resulted from the gift

The FMV of the donated property, as determined or redetermined by the Minister of ECCC, will apply for a 24-month period after the last determination or redetermination. If you make a gift of the property within that 24-month period, it is the last determined or redetermined value that you use to calculate the eligible amount of the gift, whether you claim the gift as a gift of ecologically sensitive land or as an ordinary charitable gift.

Ecologically sensitive land must be protected and should not be used for other purposes. A tax of 50% of the FMV of the land will be charged to recipients who change the use of the land or dispose of it without the consent of the Minister of ECCC, or a person designated by that Minister.

Your claim for a gift of ecologically sensitive land is not limited to a percentage of your net income.

For a gift of ecologically sensitive land made before February 11, 2014, any unclaimed portion of the eligible amount of the gift can be carried forward for up to **five** years.

For a gift of ecologically sensitive land made after February 10, 2014, the carry-forward period is **10** years.

Enter the eligible amount of the gift of ecologically sensitive land on line 34200 of Schedule 9, Donations and Gifts. See "Official donation receipts" on page 8.

You may have a capital gain or loss for the land that you donated. For more information, see the section called "Capital gains and losses" on page 12.

Gifts of certified cultural property

Special incentives have been put in place to encourage Canadians to keep in Canada cultural property that is of "outstanding significance." You can donate this type of property to Canadian institutions and public authorities that were designated under the Cultural Property Export and Import Act by the Minister of Canadian Heritage at the time of the gift.

If you made a donation of cultural property on or after March 19, 2019, the requirement that property be of "national importance" is no longer required by the Income Tax Act in order to qualify for the enhanced tax incentives for donations.

You can claim a tax credit based on the eligible amount of gifts of certified cultural property. The eligible amount of your gift is calculated based on the fair market value (FMV) of the property, as determined by the Canadian Cultural Property Export Review Board (CCPERB).

The FMV of the donated property, as determined or redetermined by the CCPERB, will apply for a 24-month period after the last determination or redetermination. If you make a gift of the property within that 24-month period, it is the last determined or redetermined FMV that you use to calculate the eligible amount of the gift, whether you claim the gift as a gift of cultural property or as an ordinary charitable gift.

For gifts of certified cultural property, the deemed FMV rules explained in the section called, "Deemed fair market value," on page 10, apply when the property is acquired as part of a gifting arrangement that is a tax shelter.

Your claim for a gift of certified cultural property is not limited to a percentage of your net income.

If you donate cultural property, certified by the CCPERB, to a designated institution or a public authority, the CCPERB will issue you Form T871, Cultural Property Income Tax Certificate, indicating the FMV of the gifted property. Enter the eligible amount of the gift of certified cultural property on line 34200 of Schedule 9, Donations and Gifts. See "Official Donation Receipts" on page 8.

When you donate certified cultural property to a designated institution or public authority, you do not realize a capital gain. You can, however, deduct capital losses within specified limits. For more information, see Guide T4037, Capital Gains.

For more information on the certification of cultural property donations as well as contact information for the CCPERB, see the section called “The Cultural Property Export and Import Act” on page 13.

For more information, see Income Tax Folio S4-F14-C1, Artists and Writers.

Carrying forward tax credits

You do not have to claim, on your income tax and benefit return for the current year, the **eligible amount** of gifts you made in the year. It may be more beneficial for you to carry them forward and claim them on your return for any of the next **5** years (or any of the next **10** years for a gift of ecologically sensitive land made after February 10, 2014). No matter what your choice is, you can claim them only once.

You have to claim tax credits for gifts you carried forward from a previous year **before** you claim tax credits for gifts you give in the current year. If you are claiming a carry forward, keep a record of the portion of the **eligible amount** you are claiming this year, and the amount you are carrying forward.

Gifts in the year of death

You can claim on the deceased’s final return, the eligible amount of gifts that a deceased person gave in the year of death. The amount claimed is limited to whichever of the following is less:

- 100% of the deceased person’s net income
- the eligible amount of the gift(s) made in the year of death, plus the unclaimed portion of the eligible amount of any gifts made in the **5** years before the year of death (or, for a gift of ecologically sensitive land made after February 10, 2014, in the **10** years before the year of death)

Any excess can be claimed on the return for the previous year (up to 100% of the deceased person’s net income for that year).

A designation donation is a donation of a direct distribution of proceeds to a qualified donee who is the designated beneficiary of a registered retirement savings plan (RRSP), including a group RRSP, a registered retirement income fund (RRIF), a tax-free savings account (TFSA), or a life insurance policy including a group life insurance policy. This does not apply if the qualified donee is a policyholder under the life insurance policy or is the assignee of an interest under the life insurance policy.

Estate donations (donations made by will and designation donations) are deemed to be made by the individual’s estate and where certain conditions are met, by the individual’s graduated rate estate (GRE). The donations are deemed to be made at the time the property is transferred to the donee.

A GRE of an individual at any time is the estate that arose on and as a consequence of the individual’s death, if that time is no more than 36 months after the death of the individual and the estate is at that time a testamentary trust that meets the following conditions:

- The estate designates itself as the deceased individual’s GRE when filing the T3, Trust Income Tax and Information Return for its first taxation year
- No other estate designates itself as the GRE of the deceased individual
- The estate must include the deceased individual’s social insurance number in its T3 return for each taxation year of the estate during the 36-month period after the death of the individual

For more information about GREs, see Guide T4013, T3 Trust Guide.

GRE donations are donations by a GRE to a qualified donee. The donated property must be property that was acquired by the estate on and as a consequence of the death (or property that was substituted for such property). GRE donations also include designation donations.

You can allocate a GRE donation among any of the following:

- the taxation year of the GRE in which the donation is made
- an earlier taxation year of the GRE
- the last two taxation years of the deceased individual (the final return and the return for the preceding year)

In addition, a gift made after the 36-month period, but within 60 months after the date of death, by a former GRE that continues to meet all of the requirements of a GRE except for the 36-month time limit, can be allocated among any of the following:

- the taxation year of the estate in which the donation is made
- an earlier taxation year of the estate if the estate was a GRE in that preceding year
- the last two taxation years of the deceased individual (the final return and the return for the preceding year)

An estate, whether it is a GRE or not, can claim a charitable donations tax credit for an estate donation in the year in which the donation is made or in any of the 5 following years (or 10 years for a gift of ecologically sensitive land made after February 10, 2014).

Donations made by the individual in the year of death, but prior to the date of death, can still be claimed on the deceased individual’s final return or the return for the preceding year.

Generally, when an individual dies, the individual is deemed to have disposed of all capital property immediately before the individual’s death.

Where the estate of a deceased individual donates property that was the subject of a deemed disposition by the individual immediately before the individual’s death and the property’s fair market value upon transfer to the qualified donee has changed, the difference will result in a gain or loss to the estate that will generally be recognized for income tax purposes. This will be the case whether or not the donation is a GRE donation or a former GRE donation. There are exceptions for gifts of certain types of capital property. See "Gifts of capital property" on page 9 and "Capital gains realized on gifts of certain capital property" on page 12 for more information.

For more information on gifts in the year of death and the treatment of capital gains on disposition, see Guide T4011, Preparing Returns for Deceased Persons or Guide T4013, T3 Trust Guide.

Gifts in kind

A gift in kind refers to a gift of property (a non-cash gift) such as capital property (including depreciable property) and personal-use property (including listed personal property). These terms are defined in the "Definitions" section in Guide T4037, Capital Gains. A gift in kind does not include a gift of services.

Donating property

Here are some things to keep in mind when you donate property:

- Any capital gain you have made on the property since you acquired it may be subject to tax. For more information, see "Capital gains and losses" on page 12
- Your own situation will affect the tax treatment of the gift. If you are an artist, a dealer, a collector, or an individual carrying on a business, different tax rules apply when you donate property from your inventory
- The CRA cannot advise which museum, art gallery, archive, municipality, or institution you should approach. You have to decide to which organization you are going to donate your property. Remember that the tax implications may differ depending on the way in which you make the gift and to whom
- Once you have chosen a qualified donee and have determined that it is willing to accept your gift, you or the qualified donee may need to have the property appraised to determine its fair market value

Donation appraisals

Donors and qualified donees often approach appraisers, dealers, and other people who are knowledgeable about particular objects to get appraisals for income tax purposes. Determining fair market value (FMV), as defined on page 4, can be a complex process. You must consider numerous facts regarding the property.

You may need to get one or more appraisals to establish the FMV of the property you are donating. Use the appraised FMV to calculate the eligible amount of gifts unless the deemed FMV rules apply (for more details, see page 10). The eligible amount is used to calculate the tax credit you can claim on your income tax and benefit return. The appraised FMV is also used in calculating any capital gain or loss you may have from donating your property.

Appraisers

For every situation, whether the property is personal property, real property, or intangible property, the CRA encourages donors and qualified donees to contact a professional appraiser, valuator, or other individuals who are accredited in the field of valuation. These individuals should be knowledgeable about the principles, theories, and procedures of the applicable valuation discipline, and follow the Uniform Standards of Professional Appraisal Practice or the standards of the profession. Also, they should be knowledgeable about and active in the marketplace for the specific property.

The chosen individuals should be independent. For instance, they should not be associated with the donor, the qualified donee, or another party associated with the purchase, sale, or donation of the property.

The chosen individuals should also be knowledgeable about the elements of a properly prepared and credible valuation report.

Where the FMV of the property to be gifted is less than $1,000, a professional appraisal will probably not be required, but the donor should keep all documents supporting the determination of the FMV, in case the CRA asks to see them.

The appraisal report

The appraisal or valuation report should be based on the principles, theories, and procedures of the applicable valuation discipline and follow the standards of the profession. The report has to be an estimate of the FMV of the property as of the date of donation. Also, if you owned the property on Valuation Day (December 31, 1971), you may need to get a valuation reflecting the value on that date.

> **Note**
> For gifts of cultural property, the Canadian Cultural Property Export Review Board (CCPERB) has requirements for appraisals. Before applying for certification, please consult the Review Board Secretariat. Contact information for the secretariat is given on page 14. Similarly, for gifts of ecologically sensitive land, the Minister of ECCC (or if the land is located in Quebec, the Minister of the Environment and the Fight against Climate Change) has additional requirements for appraisals.

Donation date

The donation date is the date that the gift is made. The donation date may not be the date of physical delivery, since a property may be on loan to the qualified donee before the actual donation date.

Official donation receipts

The eligible amount of a gift is deemed to be nil if the donor fails to inform the donee of information that would be relevant to the application of the rules that would cause the eligible amount of a gift to be less than the FMV of the property gifted (see "Deemed fair market value" on page 10).

For gifts in kind, the qualified donee can issue an official donation receipt after the property has been appraised. The receipt should show the FMV or deemed FMV of your gift. It will also show the eligible amount of the gift. For more information on what must appear on the receipt, go to **canada.ca/charities-giving** and click on "A to Z index of topics for charities" in Services and information. Then, click on "What information must be on an official donation receipt from a registered charity?"

If your gift comes under the Cultural Property Export and Import Act, and the CCPERB has certified it, you will receive Form T871, Cultural Property Income Tax Certificate, from the CCPERB. Keep Form T871 for your records.

If your gift is ecologically sensitive land and the federal Minister of Environment and Climate Change, or a person designated by that minister, has certified that the conservation and protection of the land is important to the preservation of Canada's environmental heritage, you will receive a Certificate for Donation of Ecologically Sensitive Land. Keep the certificate for your records.

If your gift of ecologically sensitive land is located in Quebec, you will instead receive a Certificate for a Gift of Land or a Servitude with Ecological Value, issued by the Minister of the Environment and the Fight against Climate Change. Keep the certificate for your records.

Generally, the eligible amount that qualifies for the tax credit applies for the year you give the gift. You can choose the part of the **eligible amount** of the gift you want to claim in the year and you can carry forward any unused part for up to 5 years (or over the next 10 years for a gift of ecologically sensitive land made after February 10, 2014).

If you are filing electronically, keep all of your documents in case the CRA asks to see them. If you are filing a paper return, include your Schedule 9, Donations and Gifts, but keep your official donation receipts in case the CRA asks to see them. If you receive a T5003 slip from a tax shelter with an amount in box 13, you must submit this slip with your return along with a completed Form T5004, Claim for Tax Shelter Loss or Deduction.

Where a qualified donee returns a property to you that is either the original property that you previously donated, or any other property that may reasonably be considered compensation for, or a substitute for, the original property and where the fair market value of the returned property is more than $50, the qualified donee must file an information return with us. The qualified donee must send the information return to the Audit Section, Compliance Division of the CRA's Charities Directorate within 90 days of the transfer of property. The qualified donee must also provide a copy of this information return to you. The CRA may then reassess your tax return (or the tax return of the person who claimed the tax credit) for the applicable tax year to reduce the amount of your prior claim and to amend the reporting of the disposition of the original property.

For more information, go to **canada.ca/charities-giving**, then click on "Guidance, videos, forms and more," then "Policies and guidance," then "Alphabetical Index of all policies and guidance." Under the letter G, click on the "Qualified donees – Consequences of returning donated property" link. You can also contact the Charities Directorate at **1-800-267-2384**.

Gifts of capital property

Capital property includes depreciable property, and any property that, if sold, would result in a capital gain or a capital loss. Capital property **does not** include the trading assets of a business, such as inventory.

The following properties are generally capital properties:

- cottages
- securities, such as stocks, bonds, and units of a mutual fund trust
- land, buildings, and equipment you use in a business or a rental operation

> **Note**
> All references to fair market value (FMV) in this section are subject to the deemed FMV rules as discussed under "Deemed fair market value" on page 10.

If you donate capital property, you are considered to have disposed of that property for proceeds **equal** to the FMV of the property. You have to report any capital gain on your income tax and benefit return in the year you donated the property. In some cases, you may be able to claim a capital loss in the year you donated the property.

However, if you make a gift of capital property to a registered charity or other qualified donee such as Canada or one of its provinces or territories, and the FMV of the donated capital property, otherwise determined, is **more** than its adjusted cost base (ACB), you may designate an amount that is less than the FMV to be the proceeds of disposition. This may allow you to reduce the capital gain otherwise calculated.

The amount that you may choose to designate in respect of the donation cannot be greater than the FMV and not less than the greater of:

- any advantage in respect of the gift
- the ACB of the property (or, if the property was depreciable property, whichever is less: its ACB or the undepreciated capital cost of the class of the property)

Use the amount you choose as the proceeds of disposition when you calculate any capital gain. Also use this amount to determine the eligible amount of the gift, which you need to calculate the tax credit. For more information, see "Capital gains and losses" on page 12.

For more information, see Archived Interpretation Bulletin IT-288R2, Gifts of Capital Properties to a Charity and Others.

Deemed fair market value

For a gift of property made to a qualified donee, the fair market value (FMV) of the property gifted is deemed to be whichever of the following amounts is **less**:

- FMV otherwise determined
- cost (ACB if it is capital property or adjusted cost basis if it is a life insurance policy) to the donor immediately before the gift was made

This FMV limitation applies to property that was acquired as part of a gifting arrangement that is a tax shelter. Unless the gift is made as a consequence of the taxpayer's death, this FMV limitation also applies if the property was acquired in one of the following periods of time:

- less than **3** years before the day the gift was made
- less than **10** years before the day the gift was made and it is reasonable to conclude that when the property was acquired, one of the main reasons for the acquisition was to make a gift of it

If a gifted property was acquired in a non-arm's length transaction during the 3-year or 10-year period, the cost (or ACB if it is capital property) of the property is deemed to be equal to whichever of the following is less:

- the cost (or ACB if it is capital property) to the donor
- the cost (or ACB if it is capital property) to a party to the transaction

The limitation does not apply to any of the following gifts:

- inventory
- real or immovable property located in Canada
- certified cultural property (unless it was acquired as part of a gifting arrangement that is a tax shelter)
- certified ecologically sensitive land, including a covenant or an easement to which land is subject or, in the case of land in Quebec, a personal servitude where certain conditions are met or a real servitude
- a share, debt obligation, or right listed on a designated stock exchange
- a share of the capital stock of a mutual fund corporation
- a unit of a mutual fund trust
- an interest in a related segregated fund trust
- a prescribed debt obligation
- a share of the capital stock of a corporation that was issued by the corporation to the donor in exchange for a property, if both of the following apply:
  - immediately before the share was gifted, the corporation was controlled by the donor or other persons related to the donor
  - FMV limitation described above would not have otherwise applied to the property exchanged for that share
- a property by a corporation, if **all** of the following apply:
  - the property was acquired by the corporation for consideration that included shares of the corporation's capital stock in a rollover transaction
  - immediately before the gift, the shareholder from whom the corporation acquired the property (or other persons related to the shareholder) controlled the corporation
  - FMV limitation described above would not have otherwise applied had that property been gifted by the shareholder instead of the corporation

If a donor attempts to avoid the limitation(s) described under "Deemed fair market value" on page 10 by undertaking artificial transactions or by selling a property to a qualified donee and then gifting the proceeds to the donee, special rules apply.

For more information on these rules and the FMV limitations, see Income Tax Folio S7-F1-C1, Split-receipting and Deemed Fair Market Value.

If the property was acquired as part of a gifting arrangement that is a tax shelter, the eligible amount will be reported in box 13 of your T5003 slip.

> **Note**
> Despite numerous warnings and audit actions by the CRA, some taxpayers may be tempted to participate in gifting arrangements that are tax shelters. If you are considering entering into such an arrangement, you should obtain independent professional advice from a tax advisor before signing any documents. For more information, go to **canada.ca/en/revenue-agency/news/newsroom/alerts** and click on "2014" and then click the link under "November 2014."

The normal reassessment period in respect of a participant in a tax shelter or reportable transaction will be extended when an information return that is required for the tax shelter or reportable transaction is not filed as required and when required. The normal reassessment period will be extended to three years after the date that the relevant information return is filed.

For more information, go to **canada.ca/tax-shelters-reassessment-period.**

For amounts assessed in respect of tax shelter claims that involve a charitable donation, the following rules apply:

- When a taxpayer has filed an objection or an appeal to the Tax Court of Canada, the CRA can take collection action in respect of 50% of the amount, interest, and penalties in dispute
- If an amount in dispute has already been paid, the taxpayer can apply in writing to have the CRA repay that amount or to release the security that is held in respect of the amount in dispute, but only up to 50% of the amount

For more information, go to **canada.ca/tax-shelters-donations**.

Gifts of securities acquired under a security option plan

You can claim an additional deduction on line 24900 of your income tax and benefit return for donating shares of a corporation listed on a designated stock exchange or mutual fund units you acquired through your employer's security option plan. However, you must meet **all** of the following conditions:

- You acquired the security under an option that was granted to you as an employee of a corporation or a mutual fund trust
- You disposed of the security in the year it was acquired, and not more than 30 days after its acquisition, by donating it to a qualified donee
- You are entitled to claim a security option deduction on line 24900 for the acquisition of the security

The additional deduction is equal to 50% of the amount of the taxable benefit, which may effectively exempt from tax the employment benefit associated with the exercising of the stock option.

When calculating the amount of the additional deduction that can be claimed on line 24900, you determine the employment benefit by using whichever of the following two amounts is less:

- the FMV of the security at the time of acquisition
- the FMV of the security at the time of disposition (through donation)

You may have a capital gain on the disposition of the security. For more information, see "Capital gains and losses" on page 12.

Granting of options to a qualified donee

You may not claim a gift in respect of an option to acquire a property that is granted to a qualified donee until such time as the qualified donee either exercises or sells the option. At that time, the amount of the gift that you may claim is generally equal to:

- where the option is exercised by the qualified donee, the FMV of the underlying property minus any consideration that you receive from the qualified donee for the property and the option
- where the option is sold by the qualified donee, whichever of the following amounts is less:
  - the FMV of the underlying property
  - the FMV of any consideration, other than a non-qualifying security of any person, received by the qualified donee for the option

  minus any consideration that you receive from the qualified donee for the option.

For artists

If you are an artist, any works you create and own usually are considered as inventory, not capital property. When an artist creates a work of art intending to sell it, but instead donates it to a qualified donee, the gift is considered to be a disposition of property from the artist's inventory.

As an artist, if you donate a gift from your inventory and the gift's fair market value (FMV) is more than its cost amount, you can designate any amount for the value of the donated property as long as it meets the following conditions:

- the amount is not greater than the FMV
- the amount is not less than the greater of the two following amounts:
  - the amount of any advantage in respect of the gift
  - the cost amount

Use the amount you choose for the value of the gift as proceeds of disposition to determine your income. This amount will also be used to calculate the eligible amount of the gift, which you need to calculate the tax credit.

For more information, see "Capital gains and losses" on page 12.

As an artist, you may donate a work of cultural property you created, from your inventory, to a designated institution or public authority. If you do this, and the Canadian Cultural Property Export Review Board (CCPERB) certifies the gift, you are considered to have received proceeds of disposition equal to the greater of the cost amount of your gift and the amount of any advantage in respect of the gift. Provided that you meet all other requirements outlined in the section called "Gifts of certified cultural property" on page 6, the FMV of the certified cultural property (as determined by CCPERB) will be used to determine the eligible amount of the gift that qualifies for the tax credit.

> **Notes**
> An artistic endeavour, for these purposes, occurs when you are in the business of creating paintings, murals, original prints, drawings, sculptures, or similar works of art. An artistic endeavour does not include reproducing works of art.
>
> When you calculate your income from an artistic endeavour, you can choose to value your ending inventory at nil. If you do this, the cost amount of your gift is considered to be nil. Your choice stays in effect for each following year, unless the CRA allows you to change it. For more information, see Income Tax Folio S4-F14-C1, Artists and Writers.

For art or antiques dealers

If you buy and sell art, antiques, rare books, or other cultural property as a business and donate one of these objects, the objects are considered to be part of your inventory, not capital property or personal-use property. Therefore, the proceeds are considered to be business income based on the fair market value of the donated property at the time you donated it. You can claim a tax credit based on the eligible amount of the gift if it otherwise qualifies.

If your gift is from a private collection that you maintain apart from those works that are considered to be your business inventory, the usual rules for donating capital property or personal-use property apply.

Listed personal property

Personal-use property includes a special class of property called **listed personal property**. Items in this class usually increase in value. Listed personal properties include:

- prints, etchings, drawings, paintings, sculptures, or other similar works of art
- jewellery
- rare folios, rare manuscripts, or rare books
- stamps
- coins

All or any part of such properties, a part interest in them, or any right to them, are considered to be listed personal property. You should have a Valuation Day value established for any listed personal property you acquired before December 31, 1971, that is worth more than $1,000, either separately or as a set. In most cases, you may find an indication of the fair market value for many of these items by checking dealers' catalogues, or by asking art, antiques, coin, jewellery, or stamp dealers.

Special rules may apply to personal-use property and listed personal property. For more information, see Guide T4037, Capital Gains.

Capital gains and losses

To have a capital gain or loss, the property involved has to be capital property. You will find examples of capital property in the section called "Gifts of capital property" on page 9.

If you donate capital property, you are considered to have disposed of that property. You have to report any resulting capital gain or loss on your return for the year that you donate the property.

You need to know the following three amounts to calculate a capital gain or a capital loss:

- the proceeds of disposition (generally the fair market value of the property at the time of donation)
- the adjusted cost base (ACB) of the property
- the outlays and expenses you incurred when donating the property

You have a capital gain when you dispose of a capital property for more than its ACB plus the outlays and expenses incurred to dispose of it.

When you dispose of a non-depreciable capital property for **less** than its ACB plus the outlays and expenses incurred to dispose of it, you have a capital loss. Report the disposition and related capital loss on Schedule 3.

When you dispose of depreciable capital property, no capital loss results. Certain rules on capital cost allowance (CCA) may require you to add a recapture of CCA to your income or allow you to claim a terminal loss.

For more details, see Guide T4037, Capital Gains and either Guide T4002, Self-employed Business, Professional, Commission, Farming, and Fishing Income 2023 or Guide T4036, Rental Income 2023 (whichever applies).

Capital gains realized on gifts of certain capital property

If you donated certain types of capital property to a registered charity or other qualified donee, you may not have to include in your income any amount of capital gain realized on such gifts. You may be entitled to an inclusion rate of **zero** on any capital gain realized on such gifts.

The inclusion rate of **zero** applies if you donate any of the following property:

- a share of the capital stock of a mutual fund corporation
- a unit of a mutual fund trust
- an interest in a related segregated fund trust
- a prescribed debt obligation
- certified ecologically sensitive land including a covenant or an easement to which land is subject or, in the case of land in Quebec, a personal servitude where certain conditions are met or real servitude gifted to a qualified donee other than a private foundation (for more details, see "Gifts of ecologically sensitive land" on page 6)
- a share, debt obligation, or right listed on a designated stock exchange

For donations of publicly traded securities, this treatment is extended to any capital gain realized on the exchange of shares of the capital stock of a corporation for those publicly listed securities donated when they meet **all** of the following conditions:

- at the time they were issued and at the time of disposition, the shares of the capital stock of a corporation included a condition allowing the holder to exchange them for the publicly traded securities
- the publicly traded securities are the only consideration received on the exchange
- the publicly traded securities are donated within 30 days of the exchange

In cases where the exchanged property is a partnership interest (other than prescribed interests in a partnership), the capital gain will generally be whichever of the following amounts is **less**:

- the capital gain otherwise determined
- the amount, if any, by which the cost to the donor of the exchanged interests (plus any contributions to partnership capital by the donor) exceeds the ACB of those interests (determined without reference to distributions of partnership profits or capital)

If you donate property to a qualified donee that is, at the time of the donation, included in a flow-through share (FTS) class of property, in addition to any capital gain that would otherwise be subject to the zero inclusion rate discussed earlier in this section, you are deemed to have a capital gain from the disposition of another capital property equal to the whichever of the following amounts is less:

- the amount of your exemption threshold, at that time, in respect of the FTS class of property
- the total capital gains from the actual disposition

For more information, call the CRA at **1-800-959-8281**.

If there is no advantage received in respect of the gift, the full amount of the capital gain is eligible for the inclusion rate of zero. However, if there is an advantage in respect of the gift, only a portion of the capital gain is eligible for the inclusion rate of zero. The rest is subject to an inclusion rate of **50%.**

The amount subject to the inclusion rate of **zero** is calculated using the following formula:

A × (B ÷ C)

Where

A = the capital gain

B = the eligible amount of the gift

C = the proceeds of disposition

Report all donations of these properties on Form T1170, Capital Gains on Gifts of Certain Capital Property, whether the inclusion rate is **50%** or zero. Report the applicable amounts calculated on this form on line 13200 or line 15300 of Schedule 3, Capital Gains (or Losses).

Note
The capital gain realized on an exchange of partnership interests for publicly listed securities that are then donated should not be reported on Form T1170. Instead, it should be reported directly on line 17400 of Schedule 3.

Calculating your increased donation limit

If you donate cash or other property to a registered charity or other qualified donee in the year, your total donations limit will generally be **75%** of your net income for the year. However, you can increase your total donations limit if you donate capital property in the year. If you received an advantage in respect of the donation of the property, include, in your calculations, only the portion of taxable capital gains and recapture of depreciation that related to the gift portion of your donation.

To do so, complete Chart 1 below, and enter the result on Schedule 9, Donations and Gifts. Your donations limit cannot exceed your net income for the year.

Chart 1 – Gifts of capital property

Amount of current-year taxable capital gain from capital property donated in the year	$ ________	**1**
Amount of current-year capital gains deduction from capital property donated in the year	– $ ________	**2**
Line 1 minus line 2	= $ ________	**3**

Enter this amount on line **33900** of **Schedule 9**.

You can also increase your total donations limit if you have to include a recapture of depreciation on your current-year income tax and benefit return as a result of donating the property.

To do so, complete Chart 2 below and enter the result on Schedule 9. Your total donations limit cannot exceed your net income for the year.

Chart 2 – Gifts of capital property that is depreciable property

Class No. of property ________				
Amount of recaptured depreciation included on your current-year return			$ ________	**1**
Net proceeds of disposition of the current year donated property for this class	$ ________	**A**		
Capital cost of the current year donated property for this class	$ ________	**B**		
Enter the amount from line A or line B, **whichever is less**.			$ ________	**2***
Enter the amount from line 1 or line 2, **whichever is less**.			$ ________	**3**

Enter this amount on line **33700** of **Schedule 9**.

If you included on your 2023 income tax and benefit return recaptured depreciation from more than one class, complete a separate Chart 2 for each class, add the results, and enter the total on line 33700 of Schedule 9.

* If you donated more than one property in this class in the year, complete lines A and B for each property and enter the total on line 2.

For more information, see Income Tax Folio S3-F4-C1, General Discussion of Capital Cost Allowance.

The Cultural Property Export and Import Act

The Income Tax Act and the Cultural Property Export and Import Act (CPEIA) provide tax incentives to individuals who want to sell or donate significant movable cultural property to Canadian heritage institutions or public authorities.

The Canadian Cultural Property Export Review Board (CCPERB) is responsible under the CPEIA for certifying property as cultural property that is of "outstanding significance."

It is also responsible for determining the fair market value of such property for income tax purposes. Deemed fair market value rules may apply. For more information, see "Deemed fair market value" on page 10.

When you donate cultural property to a designated Canadian institution or public authority and the CCPERB certifies it, you do not realize a capital gain. You will have a capital loss if the fair market value of the property at the time you disposed of it was less than the ACB of the property plus the expenses incurred to dispose of the property. Report the capital loss if you have one on line 8, Listed Personal Property (LPP) of Schedule 3. You may use the **eligible amount** of the gift to calculate the non-refundable tax credit.

After the CCPERB certifies your donation of cultural property, it will provide you with Form T871, Cultural Property Income Tax Certificate. However, it must first receive written confirmation from the institution or public authority that the legal transfer of ownership of the donation was made and the gift is irrevocable.

Certification of cultural property

Cultural property may be anything from paintings and sculptures to books and manuscripts to ethnographic and decorative art material. This property does not have to be of Canadian origin.

If you want your gift to be certified under the CPEIA, you need to contact the CCPERB. Contact information for the Review Board Secretariat is given on this page.

The CCPERB may determine that an object is of "outstanding significance" because of its:

- close association with Canadian history or national life
- aesthetic qualities
- value in the study of the arts or sciences

Certification by the CCPERB is only necessary if you want the CRA to treat your donation as a gift of cultural property. It is not necessary if you want the CRA to treat your donation as a charitable gift to a registered charity or other qualified donee.

Designated institutions and public authorities

Cultural property is eligible for certification only if the receiving institution or public authority is designated by the Minister of Canadian Heritage before the legal transfer of ownership takes place.

Designation ensures that institutions receiving cultural property have the appropriate measures in place to collect, preserve, and make cultural property accessible to the public for research or display purposes.

"Category A" designation status is granted indefinitely to institutions and public authorities that are well established and meet all of the criteria for designation.

"Category B" status is granted exclusively in relation to the proposed acquisition of a specific object or collection. The concerned institution must meet most of the criteria for designation and prove its ability to effectively preserve the specific property for which certification by the CCPERB is desired.

For more information about designation or the certification of cultural property or to consult the CCPERB's publication called Certification of Cultural Property for Income Tax Purposes by the Canadian Cultural Property Export Review Board – Application Guide and Supplementary Information, contact the Review Board Secretariat in one of the following ways:

Telephone **613-943-8360**

Toll free **1-833-254-8944**

Fax **613-943-8841**

Email .... **ccperb@tribunal.gc.ca**

Website .... **canada.ca/ccperb**

For more information

If you need help

If you need more information after reading this guide, go to **canada.ca/charities-giving**.

To verify if a charity is registered under the Income Tax Act, and access its information returns, see "List of charities and certain other qualified donees" at **canada.ca/charities-list**.

Forms and publications

The CRA encourages you to file your return electronically. If you need a paper version of the CRA's forms and publications, go to **canada.ca/cra-forms-publications** or call **1-800-959-8281**.

Digital services for individuals

The CRA's digital services are fast, easy, and secure!

My Account

My Account lets you view and manage your personal income tax and benefit information online.

Use My Account throughout the year to:

- view your benefit and credit information and apply for certain benefits
- view your notice of assessment or reassessment
- view uncashed cheques and request a replacement payment
- change your address, phone numbers, direct deposit information, marital status, and information about children in your care
- manage notification preferences and receive email notifications when important changes are made to your account
- check your tax-free savings account (TFSA) contribution room, your registered retirement savings plan (RRSP) deduction limit, and your first home savings account (FHSA) participation room
- track the progress of certain files you have submitted to the CRA
- make a payment online to the CRA with the My Payment service, create a pre-authorized debit (PAD) agreement, or create a QR code to pay in person at Canada Post for a fee. For more information on how to make a payment, go to **canada.ca/payments**
- view and print your proof of income statement
- manage authorized representatives and authorization requests
- submit documents to the CRA
- submit an audit enquiry
- link between your CRA My Account and Employment and Social Development Canada (ESDC) My Service Canada Account
- manage Multi-factor authentication settings

To sign in to or register for the CRA's digital services, go to:

- My Account, at **canada.ca/my-cra-account**, if you are an individual
- Represent a Client, at **canada.ca/taxes-representatives**, if you are an authorized representative

Receive your CRA mail online

Set your correspondence preference to "Electronic mail" to receive email notifications when CRA mail, like your notice of assessment, is available in your account.

For more information, go to **canada.ca/cra-email-notifications**.

Teletypewriter (TTY) users

If you use a TTY for a hearing or speech impairment, call **1-800-665-0354**.

If you use an operator-assisted relay service, call the CRA's regular telephone numbers instead of the TTY number.

Tax Information Phone Service (TIPS)

For tax information by telephone, use the CRA's automated service, TIPS, by calling **1-800-267-6999**.

Formal disputes (objections and appeals)

You have the right to file an objection if you disagree with an assessment, determination, or decision.

For more information about objections and related deadlines, go to **canada.ca/cra-file-objection**.

CRA service feedback program

Service complaints

You can expect to be treated fairly under clear and established rules, and get a high level of service each time you deal with the CRA. For more information about the Taxpayer Bill of Rights, go to **canada.ca/taxpayer-rights**.

You may provide compliments or suggestions, and if you are not satisfied with the service you received:

1. Try to resolve the matter with the employee you have been dealing with or call the telephone number provided in the correspondence you received from the CRA. If you do not have contact information for the CRA, go to **canada.ca/cra-contact**.
2. If you have not been able to resolve your service-related issue, you can ask to discuss the matter with the employee's supervisor.

3. If the problem is still not resolved, you can file a service-related complaint by filling out Form RC193, Service Feedback. For more information and to learn how to file a complaint, go to **canada.ca/cra-service-feedback**.

If you are not satisfied with how the CRA has handled your service-related complaint, you can submit a complaint to the Office of the Taxpayers' Ombudsperson.

Reprisal complaints

If you have received a response regarding a previously submitted service complaint or a formal review of a CRA decision and feel you were not treated impartially by a CRA employee, you can submit a reprisal complaint by filling out Form RC459, Reprisal Complaint.

For more information, go to **canada.ca/cra-reprisal-complaints**.