



Robert W. Wood

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Donate Art, Take Big Tax Deduction? IRS Issues Stern Warning



The IRS has warned taxpayers to watch for promotions involving exaggerated art donation tax deduction deals that target high-income filers. The IRS even offers tips to avoid getting caught in a scheme. There are ways to properly claim donations of art. But some unscrupulous promoters may use direct solicitation to promise values of art that are too good to be true. These

promoters persuade taxpayers, usually high-income taxpayers, to purchase the art, wait to donate the art and then take an incorrect deduction for the art donated. As part of a larger effort to increase compliance work on high-income individuals and corporations, and protect taxpayers from scams, the IRS has active promoter investigations and taxpayer audits underway in this area.

The IRS is using a variety of compliance tools to combat abusive art donations through audits of tax returns and civil penalty investigations. The IRS reminds taxpayers, including high-income filers that may be targets of these schemes, to watch out for aggressive promotions. In addition, following Inflation Reduction Act funding, the IRS is focused on increasing compliance efforts on high-income and high-wealth individuals to ensure filers pay the right amount of tax owed.

How the scheme works. Promoters encourage taxpayers to buy various types of art, often at a “discounted” price. This price may also include additional services from the promoter, such as storage, shipping and arranging the appraisal and donation of the art. The promoter promises the art is worth significantly more than the purchase price.

These schemes are designed to encourage purchasers to donate the art after waiting at least one year and to claim a tax deduction for an inflated fair market value, which is substantially more than they paid for the artwork. Promoters may suggest taxpayers donate art annually and allow them to buy a quantity of art that guarantees a specific deductible amount. Promoters may even arrange for certain charities to take the donations.

IRS is conducting promoter investigations, taxpayer audits involving art donations. As the IRS works to increase compliance activity involving high-income and high-wealth areas as well as complex partnerships and

corporations, abusive schemes like art donations are on the agency's radar. The IRS has multiple active abusive art donation promoter investigations underway and questionable art donations by taxpayers have been – and will continue to be – under audit when questions arise. These donations can involve art valued at millions of dollars. More than 60 taxpayer audits have been completed with more in the works; those audits that have produced more than \$5 million in additional tax.

Watch for red flags. Taxpayers should be wary of buying multiple works by the same artist that have little to no market value outside of what the promoter might be advertising. Another red flag in this scheme is that promoters might line up specific appraisers for participants to use. An appraisal that supports this scheme often fails to adequately describe the art. It may not address the value characteristics, such as rarity, age, quality, condition, stature of the artist, price paid and the quantity purchased.

Taxpayers should remember they are always responsible for the accuracy of information reported on their tax return. Participating in an illegal scheme to avoid paying taxes can result in repayments of the taxes owed with penalties and interest and potentially even fines and imprisonment. Charities also need to be careful they don't knowingly enable these schemes.

Properly claiming an art donation. To properly claim a charitable contribution deduction for an art donation, a taxpayer must keep records to prove:

- Name and address of the charitable organization that received the art.
- Date and location of the contribution.
- Detailed description of the donated art.

These items are required to properly claim a charitable contribution deduction. There are additional requirements based on the value of the claimed deduction. If the claimed deduction for an art donation is:

- \$250 or more, the taxpayer must obtain a [contemporaneous written acknowledgement](#) of the contribution from the charitable organization. They need to have that document on or before the earlier of the date on which they file a return for the taxable year in which they made the contribution, or the due date, including extensions, for filing such return.
- More than \$500 but not over \$5,000, the taxpayer must also complete a [Form 8283, Noncash Charitable Contribution](#), Section A, and attach it to their tax return.
- More than \$5,000, the taxpayer must complete Form 8283, Section B, including signatures of qualified appraiser and donee. They must also obtain a qualified written appraisal of the donated property.
- \$20,000 or more, the taxpayer must do all the above and attach a complete copy of the qualified appraisal to their return. They should also have a high-resolution photo or digital image of the object and provide it, if asked.

See [Publication 561, Determining the Value of Donated Property](#), for requirements of a qualified written appraisal. The IRS has a team of professionally trained Appraisers in [Art Appraisal Services](#) who provide assistance and advice to the IRS and taxpayers on valuation questions in connection with personal property and works of art.

Although organized under the IRS Independent Office of Appeals, Art Appraisal Services assists IRS' examination function, lawyers from the IRS Office of Chief Counsel and the Department of Justice, as well as Appeals Officers, on the valuation of personal property and works of art. In certain cases, the Art Appraisal Service is advised by the Commissioner's Art Advisory Panel. The panel is comprised of up to 25 renowned art experts who serve without compensation and provide advisory opinions. IRS Appraisers, the Director of Art Appraisal Services, and panel members meet regularly to discuss the valuation of art works submitted for review by Art Appraisal Services.

How to report tax schemes. Taxpayers can report tax-related illegal activities relating to charitable contributions of art using:

- [Form 14242, Report Suspected Abusive Tax Promotions or Preparers](#), to report a suspected abusive tax avoidance scheme and tax return preparers who promote such schemes.
- They should also report fraud to the [Treasury Inspector General for Tax Administration](#) at 800-366-4484.

For more information, see:

- [Publication 526, Charitable Contributions](#)
- [Publication 561, Determining the Value of Donated Property](#)
- [Form 8283, Noncash Charitable Contributions](#)
- [Tax Topic 506, Charitable Contributions](#)

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