

Income 48: Charitable Contribution Subtraction

Any individual who claims the basic standard deduction on their federal income tax return, and is therefore unable to claim a federal itemized deduction for charitable contributions, can take a subtraction on their Colorado return for a portion of the charitable contributions they make during the tax year.

WHO CAN CLAIM THE CHARITABLE CONTRIBUTION SUBTRACTION

A taxpayer who both makes qualifying charitable contributions and claims the standard deduction on their federal income tax return for the same tax year can claim a Colorado charitable contribution subtraction for a portion of their contributions.

Taxpayers who cannot claim the charitable contribution subtraction

Taxpayers cannot claim the charitable contribution subtraction if they claim itemized deduction on their federal income tax return. Instead, they will generally be able to claim a charitable contribution deduction on their federal return. Additionally, the charitable contribution subtraction cannot be claimed by any taxpayer who is not allowed to claim a standard deduction on their federal return. Taxpayers who cannot claim a federal standard deduction and therefore cannot claim the charitable contribution subtraction include:

- taxpayers who can be claimed as a dependent by another taxpayer;
- married individuals filing separate returns if either spouse claims itemized deductions;
- non-resident aliens;
- taxpayers who file a federal tax return for a short year in order to change their annual accounting period;
- estates, trusts, and other legal entities that are not natural persons.

CHARITABLE CONTRIBUTIONS THAT QUALIFIES FOR THE SUBTRACTION

A contribution must meet the qualifications applicable to the federal charitable contribution deduction in order to be eligible for the charitable contribution subtraction. Contributions of both money and property can qualify for the subtraction, but the contribution must be made to a qualified organization to be eligible for the subtraction. Examples of qualified and nonqualified organizations are listed below. Additionally, no subtraction is allowed for the portion of any contribution for which you receive a direct benefit. Please see IRS Publication 17, Chapter 24 and IRS Publication 526 for additional information regarding qualifications.

Qualified organizations

Contributions made to the following types of organizations will generally qualify for the charitable contribution subtraction.

- Religious organizations including churches, temples, synagogues, or mosques
- Nonprofit charitable organizations
- Nonprofit educational organizations
- Nonprofit hospitals and medical research organizations

This is not an exhaustive list of qualified organizations. Please see IRS Publication 17, Chapter 24 for additional information regarding qualified organizations.

Nonqualified organizations

Contributions made to individuals (as opposed to qualified organizations) do not qualify for the subtraction. Additionally, contributions made to the following types of organizations generally do not qualify for the charitable contribution subtraction.

- Civic leagues, social and sports clubs, labor unions, and chambers of commerce
- Foreign organizations (except certain Canadian, Israeli, and Mexican charities)
- Groups that are run for personal profit
- Groups whose purpose is to lobby for legislative changes
- Homeowners' associations
- Political groups or candidates for public office

This is not an exhaustive list of nonqualified organizations. Please see IRS Publication 17, Chapter 24 for additional information regarding qualified and nonqualified organizations.

Non-monetary contributions of property

Non-monetary contributions of property made to qualified organizations are generally eligible for the charitable contribution subtraction. However, contributions of clothing and household items qualify for the subtraction only if they are in good used condition or better or if the item of clothing or household item is valued at more than \$500 by a qualified appraisal.

HOW TO CALCULATE THE CHARITABLE CONTRIBUTION SUBTRACTION

In general, the charitable contribution subtraction is calculated by subtracting \$500 from the total amount of qualifying contributions made by the taxpayer during the tax year. For example, if a taxpayer who is eligible to take the charitable contribution subtraction made several qualifying contributions totaling \$1,200 during the tax year, the taxpayer could claim a charitable contribution subtraction of \$700. However, there are a variety of other federal rules that may affect the calculation of the subtraction. Some of these rules are described below. Additional information regarding these rules can be found in IRS Publications 17 and 526.

Valuing non-monetary contributions of property

For non-monetary contributions of property, the amount of the charitable contribution is generally the fair market value of the property at the time of the contribution, not the original cost of the property. The fair market value of used clothing and household goods is usually far less than what you paid for them when they were new and is determined by the price the used item would sell for in a consignment store or thrift shop. Please see IRS Publication 561 for guidance in valuing donated property.

Limitation based upon adjusted gross income (AGI)

The charitable contribution subtraction you can claim is generally limited to 50% of your adjusted gross income (AGI) reported on your federal income tax return. The subtraction may be further limited to 30% or 20% of your AGI, depending on the type property you contribute or the type of qualified organization to which the contribution is made. No limitation applies if your total contributions are less than 20% of your AGI. Please see IRS Publication 526 for additional information regarding limitations on the amount of the subtraction.

No carryforward of excess subtraction of deduction

Any excess charitable contributions that cannot be subtracted because of the limitations discussed above cannot be carried forward or carried back and subtracted on any subsequent or prior Colorado income tax return. Additionally, if the charitable contribution deduction a taxpayer claims on their federal return is limited, the taxpayer cannot claim a charitable contribution subtraction on their current year, prior year, or subsequent year Colorado return for the excess contributions.

HOW TO CLAIM THE CHARITABLE CONTRIBUTION SUBTRACTION

Eligible taxpayers who make qualifying charitable contributions can claim the charitable contribution subtraction by entering the appropriate amount on the applicable line ("Qualifying Charitable Contribution") of their Colorado income tax return. For tax years 2015 and prior, the subtraction is claimed on the Colorado Individual Income Tax Return (Form 104). For tax year 2016 and later, the subtraction is claimed on the Subtractions from Income Schedule (Form DR 0104AD). For part-year residents and nonresidents, the subtraction is entered on the appropriate form (Form 104 or Form DR 0104AD, depending on tax year), but the subtraction **is not** entered on the subtractions line on the Part-Year Resident/Nonresident Tax Calculation Schedule (Form 104PN).

Documentation

You must retain records sufficient to verify any contributions for which you claim a subtraction, but you are not required to submit that documentation with your return, except in certain cases. If your subtraction includes more than \$500 in donated property (non-cash contributions), you must complete and submit federal Form 8283 with your Colorado return. If you are claiming a total charitable contribution subtraction greater than \$5,000, you must submit documentation, such as a letter or statement, from the qualified organization(s) confirming your contribution(s). For donated property, DO NOT submit receipts from the original purchase of the donated items, but rather submit a letter or statement from the qualified organization confirming your contribution. You must also submit a qualified appraisal for the contribution of any item or similar group of items valued at more than \$5,000 (see IRS Publication 561 for information about qualified appraisals). Submit this documentation when you file your return using the E-Filer Attachment function of Revenue Online, or attach the documentation to your paper Colorado income tax return.

ADDITIONAL RESOURCES

- Colorado statutes and regulations
 - o § 39-22-104(4)(m), C.R.S.
 - o Dept. Rule 39-22-104(4)(M) (charitable contribution subtraction)
 - o Dept. Rule 39-22-110(1)(a)(iii) (subtractions claimed by part-year residents and non-residents)
- Colorado forms and guidance
 - o Form 104 booklet (Colorado Individual Income Tax Form)
- Federal laws
 - o 26 U.S.C. § 170 and 26 C.F.R. § 1.170, et seq. (charitable contributions)
 - o 26 U.S.C. § 63 (standard deductions)
- IRS forms, publications, and guidance
 - o IRS Publication 17, Chapters 20 (standard deductions) and 24 (qualifying contributions)
 - o IRS Publication 526 (charitable contributions)
 - o IRS Publication 561 (valuing donated property)
 - o IRS Tax Topic 506 (charitable contributions)

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