Income Tax Topics: Charitable Contributions

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 claim a subtraction on their Colorado return for a portion of any qualifying charitable contributions they make during the tax year.

This publication is designed to provide general guidance regarding the charitable contribution subtraction and is intended to supplement guidance provided in the *Colorado Individual Income Tax Guide*. Nothing in this publication modifies or is intended to modify the requirements of Colorado's statutes and regulations. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

Eligible taxpayers

The charitable contribution subtraction is allowed only to taxpayers who satisfy all three of the following requirements:

1) The taxpayer must be either an individual or two individuals filing a joint return;
2) The taxpayer must have claimed the standard deduction, instead of itemized deductions, on their federal income tax return for the tax year; and
3) The taxpayer must have made qualifying charitable contributions.

A taxpayer who satisfies all of these requirements can claim the charitable contribution subtraction, even if the taxpayer has claimed a charitable contribution deduction on line 10b (for tax year 2020) or line 12b (for tax year 2021) of their federal Form 1040 or Form 1040-SR.

Taxpayers who cannot claim the subtraction

Taxpayers cannot claim the charitable contribution subtraction if they claim itemized deductions on Schedule A of their federal Form 1040 or Form 1040-SR. Anyone who claims itemized deductions on Schedule A of their federal return cannot claim any charitable contribution subtraction on their Colorado 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, but are not limited to:

- taxpayers who can be claimed as a dependent by another taxpayer;
- married individuals filing separate returns if either spouse claims itemized deductions;
- non-resident alien individuals;
- individuals who file a federal tax return for a period of less than 12 months in order to change their annual accounting period;
- estates, trusts, corporations and other legal entities.

Qualifying charitable contributions

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.

Certain rules and limitations relating to the subtraction are discussed below. Please see *IRS Publication 526* for additional information regarding qualifications.

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 either the items are in good used condition or better or the item of clothing or household item is valued at more than $500 by a qualified appraisal. Please see *IRS Publication 526* for additional information regarding qualified appraisals.

Contributions from which you benefit

A taxpayer who receives or expects to receive a financial or economic benefit as a result of making a contribution cannot claim the subtraction for any part of the contribution that represents the value of the benefit they receive. Please see *Calculating the allowable subtraction*, later in this publication, for information about calculating the subtraction for contributions that exceed the amount of benefit the taxpayer receives in return.

Certain non-qualifying contributions

The Colorado charitable contribution subtraction cannot be claimed for any contribution that does not qualify for the federal charitable contribution deduction. Qualified charitable distributions and contributions of services are two types of nonqualifying contributions and are discussed briefly below. For additional information about non-qualifying contributions, please see the section titled "Contributions You Can't Deduct" in *IRS Publication 526*.

Qualified charitable distributions

Qualified charitable distributions, made directly by the trustee of an individual retirement arrangement (IRA), that are excluded from federal taxable income do not qualify for the subtraction. Please see *IRS Publication 526* for additional information about qualified charitable distributions.

Contributions of services

Contributions of services do not qualify for the subtraction.

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; and
- Nonprofit hospitals and medical research organizations.

This is not an exhaustive list of qualified organizations. Qualified organizations can be verified online at *IRS.gov/TEOS*. Please see *IRS Publication 526* for additional information regarding qualified organizations.

Nonqualified organizations

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; and
- Political groups or candidates for public office.

This is not an exhaustive list of nonqualified organizations. Please see *IRS Publication 526* for additional information regarding qualified and nonqualified organizations.

Calculating the allowable 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 Publication 526*.

Contributions from which you benefit

If a taxpayer receives a benefit as a result of making a contribution to a qualified organization, only the amount of the contribution that is more than the value of the benefit received may qualify for the subtraction. If a taxpayer pays more than fair market value to a qualified organization for goods or services, the excess may be a charitable contribution. For the excess amount to qualify, the taxpayer must pay it with the intent to make a charitable contribution.

Contributions that qualify for tax credits

In general, if a taxpayer who makes a charitable contribution receives or expects to receive a state or local tax credit as a result of the contribution, then the amount that is eligible for the subtraction is reduced by the amount of the credit, even if the taxpayer cannot claim the credit in the tax year. The required reduction does not apply if the state or local tax credit allowed for the contribution is 15% or less of the contribution. State tax credits that may reduce the amount of the contribution that is eligible for subtraction include, but are not limited to, the child care contribution credit and the enterprise zone contribution credit.

Valuing 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 was 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 on adjusted gross income (AGI)

The allowable amount of the charitable contribution subtraction is subject to the same limitations as the federal charitable contribution deduction. In general, the federal deduction is limited to a percentage of the taxpayer's adjusted gross income (AGI). A subtraction claimed in excess of $5,000 for a noncash charitable contribution of one item or a group of similar items generally requires an appraisal. Please see *IRS Publication 526* for additional information regarding limitations on the amount of the subtraction.

No carryforward of excess subtraction

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 Colorado return for the current year, prior year, or subsequent year for the excess contributions.

Claiming the 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 the *Subtractions from Income Schedule (DR 0104AD)*. Any charitable contribution subtraction claimed by a part-year resident or nonresident on form DR 0104AD ***is not*** entered on the subtractions line on the *Part-Year Resident/Nonresident Tax Calculation Schedule (DR 104PN)*.

Substantiation requirements

Taxpayers claiming the charitable contribution subtraction must retain records sufficient to verify any contributions for which the subtraction was claimed. Additionally, taxpayers may be required to submit documentation with their Colorado return, including, for example, a completed *IRS Form 8283*, depending on the amount of their cash and noncash contributions. Please see the substantiation requirements in *IRS Publication 526* and the instructions for *Colorado form DR 0104AD* and *IRS Schedule A* for additional information.

Additional Resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the charitable contribution subtraction. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes and regulations

- § 39-22-104, C.R.S. Income tax imposed on individuals.
- Rule 39-22-104(4)(m). Charitable contribution subtraction.
- Rule 39-22-110. Apportionment of tax for part-year residents and nonresident individuals.
- 26 U.S.C. § 170. Charitable contributions.
- 26 C.F.R. §§ 1.170A-1 through 1.170A-18.

Forms and guidance

- *Tax.Colorado.gov*
- *Subtractions from Income Schedule (DR 0104AD)*
- *IRS Publication 526, Charitable Contributions*
- *IRS Publication 561, Determining the Value of Donated Property*