Tax Treatment of Donations
How can a donation to the National Gallery of Australia be made?

A donation to the National Gallery of Australia may take the form of cash, or property, such as shares and securities or a work of art, which meet the Gallery’s acquisition policy. Gifts of cash or property may be made to the National Gallery of Australia ("the Gallery") or cash, shares and securities, to the National Gallery of Australia Foundation ("the Foundation").

I understand the tax treatment of donations has been made more attractive?

Yes they have. Since 1 July 1999, the tax treatment of donations and gifts of property has improved. Specifically, tax deductions for donations of cash and property have been enhanced and the impact of capital gains tax has been diminished.

The Gallery welcomes these measures and the increased benefits they deliver for donors of property or works of art.

If I make a donation of cash to the Gallery or the Foundation is it tax deductible?

Yes it is, provided your donation or ‘gift’ is over $2. The Gallery and the Foundation are registered as a deductible gift recipient with the Australian Taxation Office. The amount of the cash donated is available as a tax deduction over a period of up to 5 years.

A deduction for a gift cannot add to or create a tax loss.

You should also be aware that any ‘gift’ must be freely given and cannot be made with conditions attached which could provide you with any benefits of a material nature.

What is the position if I make a donation of property?

A donation of property, such as shares and securities, which does not qualify under the Cultural Gifts Program (see later) will be tax deductible provided that the property is either valued at over $5,000 or was made within 12 months of the date that you acquired it.

The deduction available in each case varies. If the property was acquired less than 12 months ago you may claim a deduction for the lower of the cost of the property or its market value on the day the gift is made. However, if the property is worth more than $5,000 and has been held for more than 12 months your deduction is based on the valuation determined by the Australian Taxation Office.

Once again where the property is worth more than $5,000 the deduction can be spread over a period of up to 5 years.

If I donate property is this treated as a disposal for capital gains tax purposes?

No, if the property donated is not real estate or an interest in real estate. Ordinarily, a gift of property to a gift deductible entity would be treated as a disposal of an asset for capital gains tax purposes. However, as a public art gallery, gifts of property, other than real estate or an interest in real estate, to the Gallery are disregarded.

What is the position if I donate real estate?

In the case of a donation of real estate whether capital gains tax is payable will depend on when the property ‘gifted’ was acquired, the nature of the property and how long you have owned the property. Very generally any capital gain would be the difference between the market value of the property and what you paid for it. Where the property has been held for twelve months or more an individual can reduce the gain by one half.

Generally, the amount of the donation that can be claimed as a tax deduction will exceed the amount of any capital gain. However, if the property was acquired less than twelve months ago this may not necessarily be the case because the tax deduction is limited to the lower of the cost and market value.

I would like to donate a painting to the Gallery can this be tax deductible under the Cultural Gifts Program?

Yes, the Cultural Gifts Program, effective from 1 July 1999, now encourages gifts of significant cultural items to public art galleries, museums and libraries by offering donors a tax deduction for the market value of their gifts.
You may claim an income tax deduction equivalent to the market value of the works of art and can spread your tax deduction over five tax years.

The general rule is that the amount you can deduct is the average of the market values specified in two formal valuations received from independent valuers. The Department of Communications, Information Technology and the Arts has issued guidelines to assist valuers in making valuations of certain property.

The Australian Taxation Office has accepted the Gallery as an eligible recipient under the Program. As an eligible recipient the Gallery is required to assess the property’s cultural importance relative to the collection. Gifts of real estate or interest in real estate are not eligible to be donated under the Cultural Gifts Program.

When should I have valuations carried out?

Valuations must be done within 90 days before or after the date of formal acceptance of the gift, to reflect the current market value.

Do I have to use particular valuers?

You should approach the Gallery to help you choose suitable valuers approved, for the purposes of the Cultural Gifts Program, to value your gift.

Can I claim a tax deduction for the cost of valuations?

Yes, if the valuations are obtained specifically for the Cultural Gifts Program they are deductible as a tax-related expense.

The Gallery may consider alternative arrangements in relation to costs of valuation, if appropriate.

How does the ‘5 year spreading’ of the deduction work?

You may spread the deduction over up to five years by making a written election in the approved form before you lodge your income tax return for the year in which the ‘gift’ is made. In the case of a gift under the Cultural Gifts Program the election is sent to the Secretary, Committee on Taxation Incentives for the Arts, of the Department of Communications, Information Technology and the Arts. Otherwise you must keep the election with your tax records.

In the election you must specify the percentage of the deduction you wish to claim for that year and the subsequent four tax years. You do not have to ‘spread’ the deduction over five years - for example, you may choose to apply the deduction over only two years or in the first year alone - and can elect not to claim a deduction in one or more of the years.

If your circumstances change you may vary your election for all years for which a deduction has not yet been claimed. This election provides you with the flexibility to plan your financial affairs.

Will a donation of works of art to the Gallery be subject to Capital Gains Tax?

No, a donation of works of art under the Cultural Gifts Program is exempt from capital gains tax.

Will I be liable for Capital Gains Tax on a bequest of a cultural gift or other property to the Gallery?

No – since 1 July 1999 the gift of property to the Gallery by way of Will has been exempt from Capital Gains Tax. However, testamentary gifts are not tax deductible to you or the executor of your estate.

How can I make a longer term financial contribution to the Gallery without contributing every year?

You could consider establishing a prescribed private fund or contributing to a public foundation such as The Perpetual Foundation with the specified beneficiary being the Gallery in either case.
A SUMMARY OF THE TAX TREATMENT OF DONATIONS TO THE GALLERY

<table>
<thead>
<tr>
<th>Nature of the donation/gift</th>
<th>Is the donation/gift tax deductible?</th>
<th>Can any excess deduction be claimed in a subsequent year?</th>
<th>Is the donation/gift subject to Capital Gains Tax?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>Yes(a)</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Property</td>
<td>Yes(b)</td>
<td>Yes(c)</td>
<td>(d)</td>
</tr>
<tr>
<td>Works of art</td>
<td>Yes</td>
<td>Yes(e)</td>
<td>No</td>
</tr>
<tr>
<td>Bequest via your Will (f)</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

(a) The amount of the deduction is limited to your assessable income after deduction of other tax-deductible expenditure except tax losses brought forward in the year in which the donation is made.
(b) Deduction depends upon when the property was acquired and is limited as in (a) above.
(c) A tax deduction for a gift of property valued by the Tax Office at more than $5,000 may be spread over five years.
(d) Whether a donation of property is subject to capital gains tax or not depends upon whether the property is real estate or an interest in real estate. In the case of real estate several other factors including when the property was acquired are also important. The area of capital gains tax is complicated and you should seek independent professional advice of its impact on your own position.
(e) The deduction may be spread over 5 years at the option of the donor.
(f) The beneficiary must be a deductible gift recipient.

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