



Benefits of Donating Restricted Stock to Charity

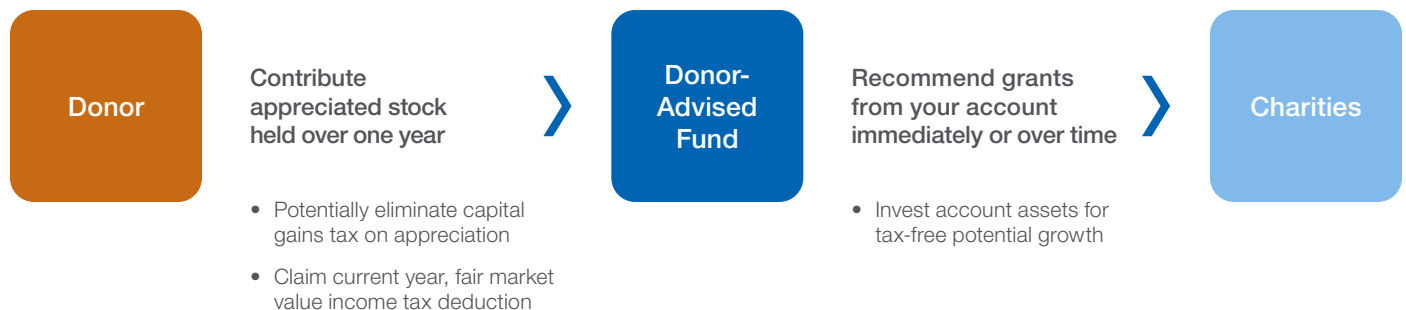
A tax-smart approach to maximize your philanthropic impact

by the Charitable Strategies Group at Schwab Charitable

As a charitably minded business executive or successful entrepreneur, donating your restricted stock may help you to achieve maximum impact with your charitable giving. Your restricted stock investments held more than one year likely have a low cost basis (generally, the price at purchase) and may have a high current market value, which will generate large capital gains taxes when sold.

If you itemize deductions on your tax return instead of taking the standard deduction, donating restricted stock held more than one year can unlock additional funds for charity in two ways. First, you potentially eliminate the capital gains tax you would incur if you sold the stock yourself and donated the proceeds, which may increase the amount available for charity by up to 20%. Second, you may claim a fair market value charitable deduction for the tax year in which the gift is made and may choose to pass on that savings in the form of more giving.

Donor-advised funds, which are 501(c)(3) public charities, provide an excellent gifting option for donations of restricted stock, as the funds typically have the resources and expertise for evaluating, receiving, processing, and liquidating the assets. How does gifting restricted stock to a donor-advised fund work?



Please be aware that gifts of appreciated non-cash assets can involve complicated tax analysis and advanced planning. This article is only intended to be a general overview of some donation considerations and is not intended to provide tax or legal guidance. In addition, all gifts to donor-advised funds are irrevocable. Please consult with your tax or legal advisor.

What is restricted stock?

Restricted stock is stock that cannot be transferred or sold to the public—including by charities—until certain legal and/or regulatory conditions have been met.

At times, the restriction involves the removal of a “legend” that is placed on the stock itself. Stock is restricted by legend when it has not been registered with the Securities and Exchange Commission (SEC) under the Securities Act of 1933 or state securities law. At other times, the resale restriction may apply to the person (i.e., an Affiliate) attempting to transfer or sell “control” stock.

SEC Rule 144 provides an exemption to the SEC registration requirements and permits the public resale of restricted (legend) and control stock if a number of conditions are met, including how long the stock is held, the way in which it is sold, and the amount that can be sold in a certain time period. In addition to the restrictions described above, there may be additional restrictions placed on the timing of the transfer or sale (e.g., lock-up periods or closed trading windows).

For a donation of stock that is restricted by legend, and/or where you are considered an Affiliate (senior officer, director, or greater than 10% shareholder) of the company, your company’s general counsel must give permission for you to transfer the stock to a public charity, including a donor-advised fund. The charity then works with your company’s general counsel to remove the restriction. Please note that the donation process may require certain paperwork and filings, which can delay the timing of the stock transfer to charity.

Once the restriction is lifted, your stock may be donated to and sold by the charity. The charity’s sale allows you to potentially eliminate capital gains taxes and claim a current year, fair market value income tax deduction.

Additional considerations

In addition to the potential tax benefits described above, the following considerations may apply.

1. Donate after restrictions are removed.

In order to maximize the potential tax benefits described above, you should transfer your appreciated restricted stock held for more than one year to a public charity, including a donor-advised fund, after working with that charity and your legal counsel to remove the restriction. Failure to remove the restriction prior to transfer may discount the valuation of your charitable deduction and require you to obtain a qualified appraisal from a qualified appraiser to substantiate the gift value.

2. Public charities generally may sell stock once restrictions are removed.

As discussed above, if your stock is subject to restrictive legend, and/or you are considered an Affiliate in the company, the company’s general counsel must give you permission to transfer your stock to charity. Also, the public charity will work with the company’s general counsel to satisfy requirements of Rule 144 to remove the restrictive legend. As explained, the contribution of restricted stock may require certain paperwork and filings.

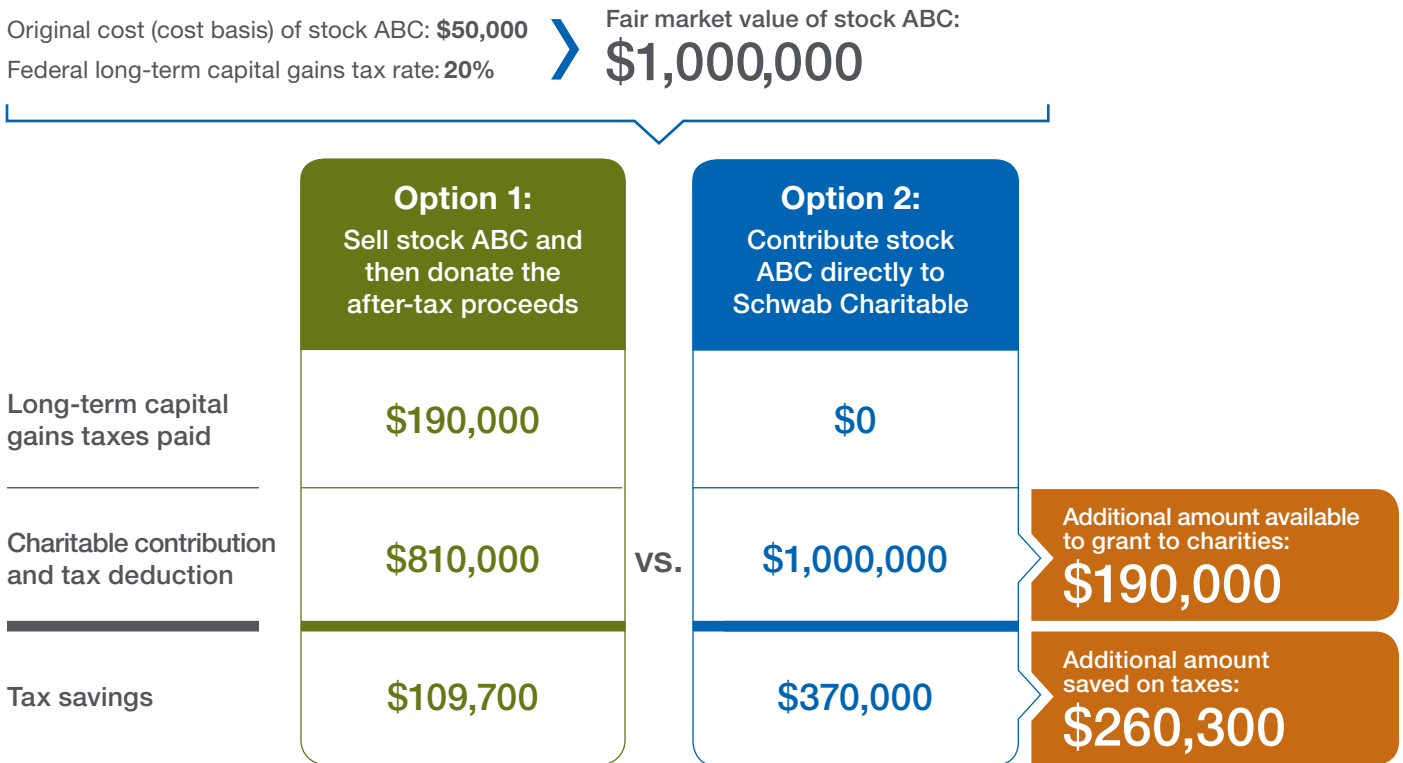
Public charities are usually exempt from the ordinary notice, aggregation, and timing rules under Rule 144 as a non-affiliate of the company. This means that, once restrictions are lifted from the stock, the charity is generally free to sell the stock—with an exception for periods of time where the stock may be subject to lock-ups or closed trading windows, for example.

Case study: making a larger gift while increasing tax savings

To illustrate the impact of donating restricted stock, consider Michael, a senior executive at ABC Media. Michael has a concentrated and highly appreciated stock position in ABC. He has been with ABC since its founding and through its IPO and, as such, Michael's cost basis in the stock is very low. His ABC stock awards are restricted by a legend, which must be removed prior to public resale (including resale by a public charity). In an effort to save on taxes and support causes that are important to him, he has considered donating a portion of his ABC holdings to charity.

Michael decides to open a donor-advised fund account as a way to maximize charitable impact while potentially mitigating capital gains tax exposure on appreciation of the stock. In consultation with the donor-advised fund's staff, Michael's corporate counsel at ABC completes the necessary paperwork to lift the restrictive legend. Once the restriction is lifted, Michael transfers \$1 million of ABC shares, with a \$50,000 cost basis, to his donor-advised fund account.

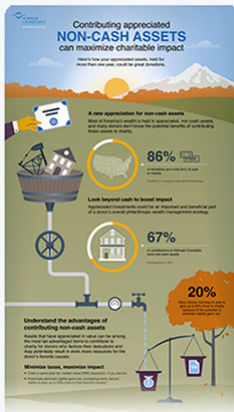
In this instance, how does a direct contribution to a donor-advised fund compare to a scenario where Michael sells \$1 million of ABC first, pays the capital gains taxes, and then donates the net proceeds?



By donating \$1 million of ABC directly to a donor-advised fund or other public charity after restrictions are lifted, as shown in Option 2, Michael potentially eliminates \$190,000 in projected federal capital gains taxes and thereby has an additional \$190,000 for a tax deduction and available to grant to charities. He also has an additional \$260,300 in tax savings.

This hypothetical example is only for illustrative purposes. The example does not take into account any state or local taxes or the Medicare net investment income surtax. The tax savings shown is the tax deduction, multiplied by the donor's income tax rate (37% in this example), minus the long-term capital gains taxes paid.

Gifts of restricted stock to charity are typically deductible, for those who itemize, at fair market value. Values may be subject to discount based on the specific restrictions if the restrictions are not cleared prior to contribution. In the above hypothetical case study, the restriction was cleared prior to contribution. For gifts of more than \$5,000, the donor must obtain a qualified appraisal if the restriction is not cleared prior to contribution. Such valuations vary wildly, depending on the nature of the specific restrictions. No discount was applied in this example because the restriction on the gift was cleared prior to contribution. The example assumes full deductibility (gifts to public charities, including donor-advised funds, of property held longer than one year are generally limited to 30% of AGI with a five-year carryover of any unused amount).



Interested in learning more?

The Charitable Strategies Group at Schwab Charitable is a team of professionals with specialized knowledge about non-cash asset contributions to charities. Our team stands ready to support you and your advisors, from initial consultation through asset evaluation, receipt, processing, and sale. We strive to provide unbiased guidance and frequent communication at every step of the process to help you and your advisors make informed decisions and stay aware of the time required for your transaction.

For more information about the advantages of contributing appreciated non-cash assets, you can review our [infographic](#), read an [overview article](#), or call us at 800-746-6216.

If you would like to learn more about Schwab Charitable donor-advised fund accounts, [click here](#).



Giving is good.
Giving wisely
is great.

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