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A Tax Incentive for Oregon's Artists to Donate Their Work

Lane Powell White Paper

Oregon tax law, unlike federal tax law, gives an incentive to Oregon resident artists to donate their own artwork to charities. In general, when an artist donates her art, and has obtained an appraisal, she can deduct the appraised value of the art.

The donation can save the artist taxes equal to nearly 10 percent of the art's value, depending on the artist's circumstances. This is because Oregon residents pay Oregon income tax at a rate of 9 percent on taxable income between $5,000 and $125,000, and 9.9 percent on taxable income over $125,000. For federal income tax purposes, a taxpayer can generally deduct the value of property donated to organizations exempt from tax under section 501(c)(3) of the Internal Revenue Code.

However, a taxpayer who donates property other than long-term capital gain property can deduct only the amount paid to acquire or produce the property.[1] For example, a painter who donates her own work to a charity can deduct only the costs incurred in producing the painting (e.g., the paint, canvass, model fees) on her federal income tax return.

For Oregon income tax purposes, however, the painter can deduct the full appraised value of the painting, provided she attaches a qualifying appraisal of the painting to her return.[2] This treatment applies to many kinds of artwork, including paintings, sculptures, photographs, graphic or craft arts, industrial designs, costume or fashion designs, sound recordings, and film.

For both federal and Oregon income tax purposes, an individual taxpayer's aggregate deduction of donations to charities, including donations of artwork, is subject to limitations based on the individual's income.[3] Also, in general, a taxpayer's deduction of any property donation is subject to strict substantiation and record-keeping requirements.[4]

Artists seeking to take advantage of this tax break should consult professional tax advisors to ensure that they comply with all technical requirements.

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[1] Internal Revenue Code Section 170(e) and Treasury Regulation Section 170A-4(b)(1).

[2] ORS 316.838.

[3] Internal Revenue Code Section 170(b)(1)(A).

[4] Treasury Regulation Section 170A-13.