Tax Expenditures from Noncash Charitable Contributions

by

Deena Ackerman
Office of Tax Analysis
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220
(202) 622-2125
deena.ackerman@do.treas.gov

Gerald Auten
Office of Tax Analysis
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220
(202) 622-1792
gerald.auten@do.treas.gov

DRAFT - PLEASE DO NOT CITE

3-24-2008

This paper was prepared for presentation at the NBER Conference, "Incentive and Distributional Consequences of Tax Expenditures," held in Bonita Springs, FL on March 27-29, 2008. This paper reflects the views of the authors and does not necessarily reflect the views of the U.S. Treasury Department. The authors thank Janette Wilson and Michael Strudler of the IRS Statistics of Income Division for their work in preparing the Form 8283 data, Susan Brown and Don Kiefer for helpful suggestions, and Brett Hollenbeck for his research assistance.

The Federal tax code allows taxpayers who itemize to claim a deduction for charitable contributions of property as well as donations of cash. Every year, a wide range of goods is donated to charity and deductions are claimed for many but not all of these donations. Contributions include the mundane, such as used household and personal items, as well as the unique, including museum-quality art, racing cars, and real estate. For 2005 25.4 million itemizing taxpayers reported $48.1 billion in deductions for noncash charitable contributions, $41.1 billion of the contributions were from the 6.6 million donors who made at least $500 in noncash gifts. These donations resulted in a tax expenditure of over $9 billion for 2005.[1]

This paper examines tax expenditures for noncash charitable giving by analyzing tax return data from 2003 through 2005. Most of the analysis is restricted to those taxpayers who made donations of at least $500 because only these taxpayers are required to report detailed information about their donated items. Although this does mean we do not know what most noncash givers have donated, the vast majority of the value of noncash gifts is included in our analysis, and thus, most of the tax expenditures. In addition to a more general focus on all noncash gifts, this paper pays specific attention to the incentives and behavior surrounding donations of vehicles, which were the subject of Congressional scrutiny and recent law changes.

This paper continues as follows. Section 2 briefly describes the rationale for a charitable deduction in general. Section 3 analyses a set of concerns that arise specifically with noncash giving. Section 4 follows with a more formal treatment of the relevant law. Section 5 presents an analysis of the tax return data on cash and noncash gifts. Section 6 explores the specific case of vehicle donations, which illustrates many of the themes described in Section 3. Section 7 continues with a brief discussion of recent policy proposals to reform the deduction for noncash donations.

[1] See Table 3 for sources. See also Tax Stats-Table 3 for 2005: Individual Income Tax Returns with Itemized Deductions and SOI Bulletin Article (forthcoming) on Form 8283.

2. Rationales for Charitable Deductions

A tax deduction for charitable contributions has been part of the income tax code since 1917. Initially only high income individuals were subject to the income tax (and hence, eligible for a deduction) and the deduction was limited to 15 percent of income. The percentage limitation was increased several times and reached its current level of 50 percent in 1970. Economists and policy makers provide two primary rationales for the deduction. The first points to incentives – the deduction lowers the price of a charitable gift, thereby providing an incentive to increase charitable giving. To the extent that charities provide public goods (such as altering the distribution of income by providing benefits to low-income households) or services with positive externalities, a charitable deduction incentive can be viewed as increasing economic efficiency through a type of Pigouvian subsidy. Some proponents of this view would prefer a tax credit rather than the current deduction to equalize the price of giving among taxpayers, while others propose expansion of the "benefit" to non-itemizers.[2] The other rationale points to the definition of income, and the principle that taxes should be based on ability to pay. Since it could be argued that making a charitable gift diminishes ones' ability to pay, it is appropriate to exclude the value of the gift from the tax base by allowing a deduction from income when calculating tax liability.

3. How Are Tax Expenditures for Noncash Donations Different?

Individuals and businesses may obtain the benefit of a tax deduction for donations of property as well as donations of cash. A wide range of property types is donated to charity including securities, art and collectibles, real estate and easements, computers and office equipment and supplies, vehicles, new and used clothing and household items, food and drugs, inventory property of businesses, and intellectual property such as patents and personal papers. The donated property may be used directly by a charity for a charitable purpose, used for indirect charitable benefit through the management and oversight of the charitable organization, or sold by the charity in order to obtain funds. In general, deductions for donations of services are not

[2] See Ackerman & Auten (2006) for a discussion.

allowed because the income associated with the service is not included in income subject to tax and because of the practical difficulty of valuing services in many situations.[3]

The donation of such diverse types of property raises many issues with respect to the value and rationale for the charitable deduction, the enforcement of tax rules, and the effects on charities. This section considers several of these issues, including valuation, potential differences between the value of the deduction and the value to the charity, and the rationale for current tax treatment.

A key issue raised by the deduction for property gifts is determining the fair market value of the donated property. For publicly traded securities with active markets, this is relatively straight-forward as transactions with arms-length prices can be observed and are widely reported.[4] Valuation becomes more difficult for securities that are not publicly traded or traded in thin markets. Valuation of other types of property can be more difficult and there have been many disputes between taxpayers and the IRS, and many cases of abuses by taxpayers.

The valuation of donations of works of art has long been an area of disputes, abuses and court cases. While art auctions establish the value of particular works and the works of some artists, the value of other works and other artists can be difficult to determine. There have been many cases of abuses such as purchasing works of art and then claiming a much higher market value when the art is donated to a charity after a short time or selling works of art to a charity at a "below market price" and then claiming a deduction for the discount. In response to problems like these, Congress authorized the IRS to establish the Art Advisory Panel in 1968 to review values claimed by taxpayers. Works of art, real estate, conservation and façade easements and other high value property can potentially be valued by professional appraisers. This Panel assists the IRS by evaluating the appraisals submitted by taxpayers in support of a charitable deduction. Appraisal is art as well as science and opinions will vary widely among even the most scrupulous

[3] A more thorough description of the law governing deductions for noncash donations is provided in Section 3.
[4] Even here there are some ambiguities, such as establishing the date for determining the market value when there are lags between mailing a letter authorizing a donation, receipt of the letter and the sale of the security. IRS regulations provide specific rules, but these may not be known by taxpayers. There have been various court cases over this issue.

appraisers. Furthermore, there are no uniform national standards or professional certifications of appraisers that have been established as acceptable for tax purposes.[5]

For other types of property, there are multiple markets where the goods are exchanged with significant differences in prices. For used cars, for example, the price of a used car purchased from a dealer is commonly three to four times higher than the price the dealer would offer on a trade-in and the price at an auction, with the typical price of private party sales being somewhere in between.[6] For used clothing, the prices charged by premium used clothing stores are likely to be much higher than prices at, for example, Goodwill stores, thrift shops operated by religious organizations, flea markets and garage sales. While these prices vary widely, they are all prices at which transactions occur and could be said to reflect fair market value. The variation may in part reflect intangible characteristics such as style and designer label. The price may include an implicit or explicit warrantee or assurance of quality, while in other cases it may reflect a desire on the part of the charity to offer subsidized products to low-income families. For tax policy, however, it raises issues of what standards are appropriate and how to write clear rules and regulations providing guidance to taxpayers that result in consistent and fair deductions among taxpayers.

Furthermore, there is a natural tension between the competing goals of accurate valuation and limited complexity and burden, particularly with low value items like articles of clothing. Variation in initial purchase price may be extreme (for instance, a simple cotton t-shirt may have sold for ten or more than $200 dollars initially) but the deduction would be small regardless.[7] Therefore, from a tax policy perspective, appraisals, audit, or even elaborate record keeping on such items may be inappropriate. On the other hand, in 2005, the small valuation decisions by over 5 million taxpayers translated into seven billion dollars of deductions for used clothing and household items.

[5] Proposals have been for the IRS to develop standards for certifying appraisers for certain types of property, and some professional appraisal groups have offered their services for this purpose. Such proposals have thus far foundered on the issues of which of the competing organizations would be acceptable and how they should be chosen, however. To the extent that standards exist, however, they are determined at the State, and not the Federal level.

[6] Prices are closer for older vehicles and for vehicles in worse condition.

[7] These amounts were retail prices for cotton t-shirts at Target and Saks Fifth Avenue. We leave it to the reader to determine what such shirts are "worth" new and used.

A related question is who should have the responsibility and bear the burden of valuing donated property. Current rules generally place the responsibility and burden on the taxpayer or the taxpayer's agents, but some proposals would require recipient charities to provide valuations or guidance on valuations.[8] A 2003 dispute between the IRS and a taxpayer over violins sold at a below-market price to the New Jersey Symphony Orchestra illustrates this issue.[9] In this case, the taxpayer's valuation was far higher than the Orchestra's own assessment of the instruments' value, which was still considerable. Although the charity had no legal responsibility to ensure the accuracy of the taxpayer's return, public opinion and the Senate Finance Committee questioned if the charity was complicitous in the apparent fraud.

Unlike normal market transactions, where the buyer and seller have opposing interests, charities do not currently have any incentive to limit the values claimed by donors of property. They may have an incentive to support high valuations in order to obtain a desired gift. This lack of opposing parties further complicates the issue of proper valuations and the search for appropriate reforms.

The inherent difficulty determining the fair market value of property other than securities is therefore an issue in evaluating the tax expenditure for non-cash charitable contributions. To the extent that taxpayers are overstating the value of property donations more than cash donations to charities, there may be a greater case for restricting property deductions than cash deductions. Interestingly, evidence from the 1988 TCMP does not suggest great differences in non-compliance levels, at least as of that date. In the 1988 TCMP data, non-cash donations were overstated in 23 percent of the cases. Total non-cash donations were found to be overstated overall by 8.5 percent. By comparison, total cash donations were overstated by 11.9 percent.[10] This is not necessarily conclusive because it may reflect greater difficulty by the IRS auditors in

---

[8] Some recent proposals, for example, would have required charities to provide taxpayers with lists of clothing values or prices charged in their stores.

[9] NY Times, (May, 2004). A second case involved the Smithsonian Institution and a donation of gems. Both cases, involved "below market" purchases.

[10] These are based on tabulations by the authors from the 1988 TCMP file and do not include the IRS "multipliers" for noncompliance that the auditors did not find. Charitable deductions may have been disallowed by IRS auditors because of the lack of adequate receipts or for claiming excessive amounts of donations made in cash rather than by check.

challenging taxpayer valuations or a smaller proportion of clothing, household items and other hard to value property. The 1988 TCMP showed, for example, that while the auditors found no overstatement of either cash or noncash donations over $1 million, non-cash donations under $5,000 were overstated by about 20 percent. This compares to about 15 percent for cash donations under $1,000 and 7 percent for cash donations of $1,000 to $5,000. Results from the 2001 NRP may be available soon to provide more up to date information.

A second kind of valuation issue is that the deduction claimed or other benefit to the taxpayer may differ from the fair market value of the item to the charity as measured by the price the charity would otherwise have to pay to receive the same benefit. Some donated property can be used directly by the charity. For example, a donated work of art may be displayed in a museum or a donated computer may be given to a low-income family or used in the charity's office. In other cases, however, the donated property may impair the welfare of the charity by imposing costs for the processing and disposal of property it may not want and may be costly to sell. The Salvation Army and similar organizations incur considerable costs sorting donations of clothing and disposing of unusable items. The case of vehicle donations highlights the potential wedge between the deducted value and the ultimate value to the charity in cases where the donation is quickly sold. The taxpayer generally deducts the *gross proceeds* from the sale of the vehicle by the charity or its agent while the charity receives the *net proceeds* from the sale. (Prior to recent changes, the taxpayer could deduct the fair market value, which was often much greater than the amount of gross proceeds from sale at an auction.[11]) Another problem arises when property is donated to a different charity than one that could actually make use of it. Before the recent law changes, for example, there were reports of technology patents being donated to national charitable organizations known for helping low-income persons rather than to, say, a university with a research program in the area. In some cases, charities may have accepted donations so as to encourage cash donations as well from particular donors.

Fair market value also deviates from taxpayer benefit when a taxpayer donates appreciated stock or other property that has appreciated in value. In this case, the taxpayer

[11] In this example, we refer strictly to cases where all parties act according to their understanding of the law. Of course, if the taxpayer intentionally overstates the value of the vehicle, the benefit to the taxpayer will exceed the benefit to the charity.

potentially escapes capital gains tax on the amount of appreciation as well as obtaining a fair market value deduction (assuming that the taxpayer would otherwise have sold the property around the time of the donation).[12] Furthermore, because under current law collectibles face higher capital gains rates than stock (a maximum rate of 28% as compared to 15%), donated collectibles receive the most favored treatment of all. This asymmetric treatment may have implications for the mix of property and cash donated, and may have implications for charities in terms of the mix of goods they receive or in terms of disposal costs and risks.[13] In prior periods when tax rates were higher, some taxpayers could actually save more in tax from the charitable deduction and avoidance of capital gains taxation than the market value of the property, thereby making money by giving it away (Auten, Clotfelter and Schmalbeck, 2001). A similar problem, sometimes called the "baking cookies problem" could occur without the current limitations on the deductions allowed for inventory property.[14]

Deviations between the value received by the charity and the value obtained by the taxpayer raise issues with respect to how tax expenditures are measured. Tax expenditures for charitable contributions are generally measured by calculating the additional revenue if the deduction were repealed. Deductions for donations of appreciated property, however, raise the question of whether the foregone capital gains revenues should be treated as an additional amount of tax expenditure. This would, of course, be inconsistent with the traditional procedures. And it is not known whether the taxpayer would have otherwise immediately sold the asset or held it for life to obtain the step-up in basis. However, some scholars have argued that failing to tax the capital gain is inappropriate under an income tax, thereby implicitly considering the capital gains a tax expenditure (Halperin, 2002). Costs imposed on Goodwill and other charities from having to sort and dispose of unusable donations are also ignored in the traditional calculation. As discussed in Section 7, in the case of vehicles, the costs to the charity of turning donations into cash may be substantial relative to the value of the deduction.

---

[12] If the property were not donated, the taxpayer would have the opportunity to hold for life and then no capital gains tax would be owed as heirs would receive the benefit of the step-up in basis at death (except those dying in 2010).
[13] Wall Street Journal (Dec 2003). This article discusses recent increases noncash gifts as well as the development of a small industry to process them.
[14] The baking cookies example occurs when a taxpayer could bake cookies with relatively low-cost ingredients and then claim a market value based on prices charged in premium cookie stores. With a sufficient markup, a taxpayer could make an after-tax profit by giving away cookies or other products whose value to the charity may be much less. This is generally prevented by the rules limiting the deduction of inventory property to basis in most cases.

The solicitation and receipt of property donations may divert the energies and resources of the charity away from its charitable purpose and into the operation or oversight of a business activity that has little or nothing to do with its charitable purpose. Solicitation may reduce the charity's goodwill (an asset) by associating it with commercial activities. Such effects were noted with respect to the activities and involvement of charities in the donation of used cars, and in the donation of museum quality objects, but this problem may trouble other similar activities.

Although the tax expenditure per dollar of donation may be greater for donations of appreciated property and the tax expenditure per dollar of value to the charity may be greater for donations of noncash property overall, efficiency concerns may be reduced if the price responsiveness of noncash giving is greater than that of cash giving. For example, noncash charitable contributions of the highest income class as a share of total charitable contributions declined significantly and average noncash contributions fell by about 50 percent after the Tax Reform Act of 1986 made appreciation in property donations an AMT preference.[15] Clotfelter (1990) found that donations of art to 19 art museums and of appreciated property to 16 private universities declined significantly from 1985 to 1988 after a temporary surge in 1986. O'Neil, et al. (1996), found that the price elasticity for noncash donations was about twice as large as that of cash donations (-1.30 versus -0.78). When they divided their sample by income class, they found that the responsiveness of noncash giving increased with income and was very large for the highest income class, but was insignificant or the wrong sign for taxpayers with incomes under $200,000 in 1985. The results for lower and middle-income taxpayers may indicate different factors at work for those claiming deductions for property donations. Eaton and Milkman (2004) found that the proportion of noncash donations was highly sensitive to the relative price of noncash donations, with an elasticity that often exceeded -1.0. Thus, there is some evidence that noncash donations may be more responsive to deduction incentives.

[15] Auten, Cilke and Randolph (1992) reported that mean noncash contributions on tax returns with constant law real AGI over $1,000,000 declined from about $40,000 in 1983-1985 to about $20,000 in 1988-1990 (omitting the shifting that occurred in 1986 and 1987).

4. Current Law Treatment of Noncash Donations

Under current law, taxpayers who itemize their deductions may be eligible to deduct their cash and noncash charitable contributions. In general, deductible contributions may not exceed 50 percent of the taxpayer's adjusted gross income (AGI) but lower income limits apply in certain cases. Under current law, taxpayers who elect the standard deduction may not claim a deduction for charitable contributions.

The rules regarding the allowable deduction for donations of property and the valuation of such property are complex.[16] In general, donors are entitled to a deduction of the lesser of fair market value and basis. Basis is most commonly the cost of the item. There are a number of exceptions to this rule. First, a deduction of fair market value is almost always permitted for donations of stock (including closely held stock) and real estate, as long as the property has been held by the taxpayer for at least a year.[17] Second, a deduction of fair market value is usually permitted for noncash donations that will be used in a manner consistent with the exempt purpose of the charity. For example, a donor may deduct the fair market value of a painting that is donated to a museum, but may only deduct basis if the painting is donated to a charity auction raising money for an unrelated cause. Third, vehicles, intellectual property, and certain inventory property are subject to their own unique rules, which will be discussed later in this text.[18]

Deductions for charitable contributions in a given year are limited by a complicated set of income-based ceilings. The total deduction for charitable contributions is limited to 50 percent of the taxpayer's AGI. The deduction for contributions of appreciated property is limited to 30 percent of AGI, thereby limiting an individual's ability to "escape" taxation on the appreciation. Deductions of contributions to certain private foundations, where the donor may retain some control over the disbursement of the donated assets, are also limited to 30 percent of AGI.

---

[16] A thorough description of the charitable contribution rules are described in IRS Publication 526 for the appropriate tax year. IRS Publication 561 describes the specific rules for determining the value of donated property.

[17] Deductions for donations of appreciated property to certain private foundations are restricted to basis, except in the case of publicly traded stock.

[18] Donations of certain intellectual property entitle the donor to a deduction of basis plus a share of the proceeds. In most cases, donors of automobiles may deduct the proceeds from the charity's resale of the auto. Prior to 2005 donors were entitled to fair market value. In certain cases, donors of inventory property may be able to deduct as much as twice basis for donations to charities aiding the needy.

Finally, a 20 percent limit applies to deductions for donations of appreciated property to certain private foundations. Taxpayers who exceed these limits in a given year may carry forward unused contributions of each type for up to five years. Deductions for charitable contributions are also subject to the general limitation in the value of itemized deductions ("Pease"). In the wake of Hurricanes Katrina and Rita in 2005, the 50 percent of AGI limit was increased to 100% for the last four months of the year. Anecdotal evidence and reports by the Chronicle of Philanthropy show that some taxpayers responded to this opportunity for an immediate deduction for larger contributions. An important question is whether this increase represented new giving, or simply acceleration of the timing of previously planned gifts.[19]

An additional set of rules guide itemizers on how to document and value their charitable contributions. The following basic description covers the laws in place during the period of our analysis. With the exceptions noted above for vehicles, intellectual property and inventory, and for some tightening of the laws governing the donations of used personal items, these rules are still in place. In general, the documentation requirements faced by taxpayers become more stringent as the value of the donation increases. For small donations of cash or property under $250 each, no receipt from the charity is required.[20] For donations of $250 or more, taxpayers must receive a receipt from the charitable organization (but need not attach it to the return). Donors of noncash gifts worth more than $500 must submit additional information with their return on IRS form 8283. (Its contents provide the bulk of the data analyzed in this paper). A qualified appraisal is generally required for donations of property valued at $5,000 or more (except for publicly-traded common stock for which values are publicly known). The appraisal must be attached to the return if the value of the donated property exceeds certain additional limits.

---

[19] Evidence in the literature suggests that much of the induced giving would not be an increase in net giving but a change in the timing of gifts. Documents from the period interviewing givers suggest mostly shifting, rather than new. See Chronicle of Philanthropy (2005)

[20] Donors are required to keep records, however. Charities must always provide a statement declaring the value of the charitable gift portion of a donation over $75 when the value of the contribution is split between a deductible and nondeductible portion. (For example, a donor may receive a tote bag or dinner at a gala as part of their contribution). As of 2007, the record of the contribution must either be a bank record or written communication from the charity for a deduction to be taken.

Taxpayers (and the appraisers they may hire), and not the donees, are generally responsible for establishing the value of donations – even for donations for which a receipt is required. The IRS provides instructions to taxpayers on how to value their donations in Publication 561. This is a guide for both individuals and to the appraisers they may hire. In recent years, the instructions have become more precise, reflecting both changes in the law, as in the case of used clothing donations,[21] and in response to IRS efforts to improve compliance.[22]

5. What Do People Actually Deduct?

Cash and Noncash Donations

Table 1 shows deductions for total and noncash charitable contributions for tax years 2003, 2004, and 2005. In 2005, for example, 41.4 million tax returns (31 percent of the 134.4 million returns filed and 87 percent of the 47.4 million returns with itemized deductions) reported charitable contributions. About 61 percent of those with charitable deductions claimed deductions for a noncash donation. Overall, taxpayers claimed total deductions for noncash contributions of $48 billion, accounting for 26 percent of total charitable deductions. Noncash charitable deductions are claimed by taxpayers in all income classes, generally accounting for 18 to 20 percent of total deductions in the second through 9th income deciles. Noncash contributions are even more important in the highest income classes. Noncash contributions accounted for 41 to 42 percent of total contributions by taxpayers in the top 1 percent during these three years. The value of noncash contributions is highly concentrated, with the top 1 percent of taxpayers accounting for nearly half of noncash contributions (41 to 48 percent) and the top 10 percent accounting for two-thirds or more of noncash contributions.

[21] Deductions for clothing donated after August 17, 2006 are only permitted for clothing in good used condition or better, and appraisals are required on items valued at more than $500. This change will not be reflected in the data analyzed in this paper.
[22] See Section 7 for a discussion of vehicle donations.

Table 1: Non-Cash Charitable Contributions and Tax Expenditures, 2003-2005

Panel 1: Tax Year 2003

	Returns (in 1000s)		Dollar Amounts (in millions)			Non-cash Percentages	
Income Decile	Total Contributions	Non-cash Contributions	Total Contributions	Non-cash Contributions	Tax Expenditures	Percent of total Contributions	Distribution by Income Class
1st	241	115	470	223	12	47.4	0.6
2nd	426	190	560	107	4	19.2	0.3
3rd	860	432	1,335	247	18	18.5	0.7
4th	1,625	874	2,771	576	42	20.8	1.5
5th	2,367	1,260	4,529	869	102	19.2	2.3
6th	3,522	2,042	7,037	1,399	174	19.9	3.7
7th	4,613	2,727	10,575	2,139	300	20.2	5.7
8th	6,317	3,952	15,801	2,912	465	18.4	7.8
9th	8,369	5,498	23,270	4,438	873	19.1	11.8
10th	10,241	6,819	77,961	24,542	5,555	31.5	65.5
Top 5%	4,209	2,778	23,725	5,106	1,194	21.5	13.6
Top 1%	1,066	615	36,372	15,202	3,506	41.8	40.5
Total	38,610	23,919	144,398	37,490	7,556	26.0	100.0
Income Class							
Negative	33	17	247	152	11	61.6	0.4
0 to 25k	2,324	1,170	3,528	663	40	18.8	1.8
25 - 50k	9,329	5,289	18,555	3,595	453	19.4	9.6
50 - 75k	9,472	5,847	23,669	4,606	705	19.5	12.3
75 - 100k	6,825	4,555	19,307	3,690	737	19.1	9.8
100 - 250k	8,798	5,955	36,626	8,111	1,767	22.1	21.6
250 - 500k	1,226	762	11,289	2,599	642	23.0	6.9
500k 1m	391	217	7,578	2,080	453	27.4	5.5
$1m +	185	96	23,511	11,957	2,737	50.9	31.9
Total	38,610	23,919	144,398	37,490	7,556	26.0	100.0

Panel 2: Tax Year 2004

	Returns (in 1000s)		Dollar Amounts (in millions)			Non-cash Percentages	
Income Decile	Total Contributions	Non-cash Contributions	Total Contributions	Non-cash Contributions	Tax Expenditures	Percent of total Contributions	Distribution by Income Class
1st	267	135	515	138	10	26.7	0.3
2nd	498	272	697	161	4	23.1	0.4
3rd	915	480	1,445	302	18	20.9	0.7
4th	1,725	974	2,980	687	52	23.1	1.6
5th	2,568	1,407	4,899	881	96	18.0	2.0
6th	3,863	2,238	8,123	1,536	196	18.9	3.5
7th	4,985	2,902	11,265	1,890	310	16.8	4.4
8th	6,636	4,212	17,273	3,191	526	18.5	7.4
9th	8,711	5,705	25,135	4,643	944	18.5	10.7
10th	10,417	6,925	93,146	29,921	6,714	32.1	69.0
Top 5%	4,285	2,847	25,712	5,467	1,398	21.3	12.6
Top 1%	1,075	625	47,903	20,691	4,440	43.2	47.7
Total	40,623	25,267	165,564	43,373	8,872	26.2	100.0
Income Class							
Negative	50	23	279	75	8	27.0	0.2
0 to 25k	2,292	1,230	3,453	834	41	24.2	1.9
25 - 50k	9,510	5,413	19,300	3,507	435	18.2	8.1
50 - 75k	9,721	6,032	24,494	4,417	736	18.0	10.2
75 - 100k	7,222	4,678	20,356	3,795	750	18.6	8.7
100 - 250k	9,640	6,561	40,870	8,164	1,948	20.0	18.8
250 - 500k	1,437	911	13,155	2,888	774	22.0	6.7
500k 1m	467	273	8,718	2,666	535	30.6	6.1
$1m +	245	130	34,852	17,004	3,641	48.8	39.2
Total	40,623	25,267	165,564	43,373	8,872	26.2	100.0

Panel 3: Tax Year 2005

Income Decile	Returns (in 1000s) Total Contributions	Returns (in 1000s) Non-cash Contributions	Dollar Amounts (in millions) Total Contributions	Dollar Amounts (in millions) Non-cash Contributions	Dollar Amounts (in millions) Tax Expenditures	Non-cash Percentages Percent of total Contributions	Non-cash Percentages Distribution by Income Class
1st	373	162	587	160	6	27.3	0.3
2nd	630	290	985	155	5	15.8	0.3
3rd	943	478	1,585	308	14	19.4	0.6
4th	1,530	832	2,692	547	40	20.3	1.1
5th	2,606	1,448	4,938	990	102	20.0	2.1
6th	3,818	2,182	7,863	1,355	176	17.2	2.8
7th	5,193	3,107	12,064	2,316	335	19.2	4.8
8th	6,803	4,194	17,863	2,998	486	16.8	6.2
9th	8,898	5,796	26,804	4,622	937	17.2	9.6
10th	10,559	6,869	107,922	34,577	7,334	32.0	72.0
Top 5%	4,322	2,795	27,751	5,906	1,453	21.3	12.3
Top 1%	1,098	617	59,667	24,767	4,980	41.5	51.5
Total	41,381	25,371	183,391	48,057	9,442	26.2	100.0
Income Class							
Negative	56	32	276	70	6	25.4	0.1
0 to 25k	2,699	1,347	4,312	832	40	19.3	1.7
25 - 50k	8,529	4,822	17,032	3,185	379	18.7	6.6
50 - 75k	9,685	5,912	24,362	4,347	673	17.8	9.0
75 - 100k	7,279	4,714	21,046	3,630	687	17.2	7.6
100 - 250k	10,546	7,008	44,253	8,119	1,974	18.3	16.9
250 - 500k	1,695	1,048	15,481	3,723	869	24.0	7.7
500k 1m	556	316	10,333	2,320	540	22.4	4.8
$1m +	307	161	46,208	21,799	4,268	47.2	45.4
Total	41,381	25,371	183,391	48,057	9,442	26.2	100.0

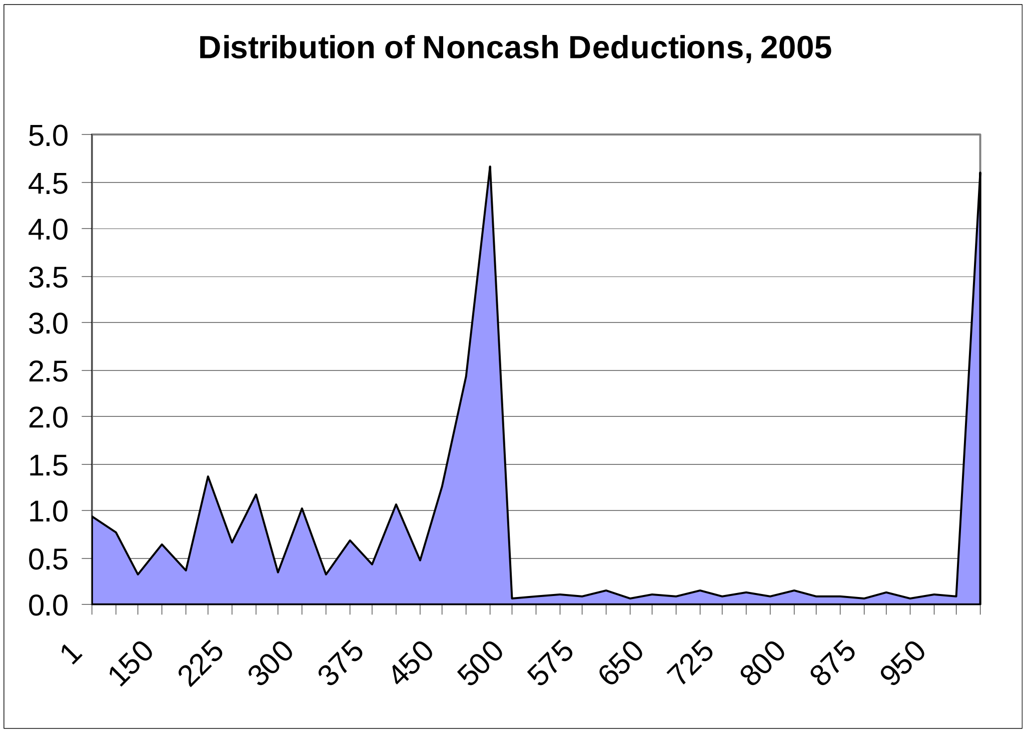
Source: IRS Statistics of Income, Individual Income Tax Files, 2003-2005. Tabulations by the authors.
Notes: Income classes based on cash income as defined in the Appendix. Returns of dependent filers are included in totals but not allocated by income class.

A different perspective on the amounts of deductions claimed for noncash donations is provided by Figure 1. This figure shows a frequency distribution of the amounts of noncash charitable contributions reported for 2005 by $25 intervals up to $1,000. The most notable feature is the sharp spike at $500, the threshold beyond which noncash charitable contributions must be reported on IRS Form 8283, which requires additional reporting on the types of property donated, the name of the recipient charity, the signature of an appraiser (if required) and other detailed information about the deductions being claimed.[23] While this spike in donations is curious and may appear suspicious, there is no way to know for sure the proportion of taxpayers

[23] The second spike at the right includes all taxpayers reporting $1,000 or more in total noncash contributions. The size of the spike shows that the total number with contributions of $1,000 or more is about the same as the number reporting exactly $500.

who donated property worth more than $500 and rounded down compared to the numbers that rounded up to the largest number that they could claim without making a detailed report.[24]

Figure 1



The remaining analysis focuses on noncash donations reported by taxpayers on Form 8283. Since this form is required only when total noncash contributions exceed $500, many noncash contributions are not included. Thus these tables include noncash contributions by only one-fourth of the returns that reported noncash donations, but these returns accounted for almost all of the value of these deductions and all of the value of the larger donations.

Types of Donated Property

As shown in Table 2 on the types of property donations, stock and mutual funds accounted for about 40 percent (38.5 to 43.3 percent) of the total amount of noncash deductions

[24] Buchheit, et al., were the first to document the tendency for taxpayers to bunch deductions in the $400 to $500 range, and attributed this to the $500 threshold for filing Form 8283 which requires taxpayers to report detailed information about the donated property. They found that this bunching dates to 1985 when Form 8283 and the $500 threshold were introduced. Previously, taxpayers were required to attach a statement describing noncash donations of any amount.

in years 2003 through 2005.[25] This contrasts with the 2003 General Accountability Office (GAO) estimate that donations of stock accounted for 63 percent of the value of noncash contributions in tax year 2000. Much of this difference likely reflects the decline in stock prices from the peak in the spring of 2000.[26] The average deduction of corporate stock was $80,675, but the median deduction was only $8,411. Thus many donations of stock are for relatively modest amounts. Real estate was the second largest category at 15.9 percent in 2003, though this declined to only 7 and 10 percent in 2004 and 2005. These results are consistent with expectations. What is surprising are the large numbers of taxpayers claiming deductions for donations of clothing and household items and how much of total noncash donations this accounts for. Over two-thirds of those with noncash donations (rising to 72 percent by 2005) reported donations of clothing and 40 percent reported donations of other household items. Deductions for clothing accounted for from 15.7 percent to 18.5 percent of the value of donations and exceeded the value of donations for real estate in 2004 and 2005. Deductions for donations of household items, such as furniture and kitchenware accounted for about 9 to 10 percent of noncash deductions during this period. Deductions for donations of vehicles, which were subject to much scrutiny and ultimately rule tightening, were much smaller, with deductions of $2.4 billion or 6.3 percent of the total in 2003, dropping to only $0.6 million and 1.5 percent of the total in 2005. Given the considerable publicity about car donations, it is perhaps surprising that the numbers of donations and dollar amounts are so much smaller than those for clothing and household items.

[25] Calculations of the amount of tax expenditures for each type of property donation are to be added.

[26] The GAO analysis was based on a much smaller sample of 509 tax returns selected as a roughly a 1.7 percent random subsample of the 2000 individual cross-section file. Thrift store donations accounted for 23 percent, real estate property for 9 percent and vehicles for 6 percent of the dollar amount of noncash contributions in the GAO sample.

Table 2 - Non-Cash Charitable Deductions by Type of Property, 2003-2005

(Returns are in thousands. Dollar amounts are in millions of dollars)

	Number of Returns with Donations			Total Deduction Claimed			Percent of Deductions Claimed		
Type of Property	2003	2004	2005	2003	2004	2005	2003	2004	2005
Stock	178	177	189	14,325	14,799	17,006	38.5	43.3	41.4
Other Securities	5	5	5	1,079	849	1,577	2.9	2.5	3.8
Real Estate	24	25	18	5,913	2,453	4,099	15.9	7.2	10.0
Easements	2	3	3	1,736	790	2,123	4.7	2.3	5.2
Art & Collectibles	88	109	111	830	584	1,245	2.2	1.7	3.0
Food	167	195	197	79	104	106	0.2	0.3	0.3
Clothing	4,056	4,452	4,746	5,836	6,325	7,080	15.7	18.5	17.2
Computers	473	551	518	376	475	475	1.0	1.4	1.2
Household Items	2,384	2,628	2,870	3,231	3,418	3,858	8.7	10.0	9.4
Vehicles	803	918	310	2,334	2,540	610	6.3	7.4	1.5
Other	590	847	819	1,436	1,809	2,891	3.9	5.3	7.0
All	5,960	6,565	6,559	37,177	34,146	41,071	100.0	100.0	100.0

Source: Internal Revenue Service, Statistics of Income, Individual Income Tax Returns, Form 8283 Studies for 2003-2005. Tabulations by the authors.

Notes: The sum of the numbers in the rows exceeds the number in the total because some returns report more than one type of donation.

Distribution of Amounts Claimed

Table 3 shows the distribution of donations of broader categories of property by income class.[27] Not surprisingly, donations of stock account for a large percentage of the donations of the highest income households. For example, stock donations accounted for about 71 percent of the non-cash charitable donations of the top 1 percent of taxpayers. For taxpayers with incomes of $1 million and over, stock donations accounted for 88 percent of non-cash charitable deductions. These results are consistent with higher income taxpayers having both the greater tax incentives to donate appreciated property and larger amounts of such property.[28]

Among middle-income households, donations of clothing and other household items and vehicles are much more important. For tax households in the 2nd through the 9th income deciles, donations of clothing and household items generally accounted for about two-thirds of the value of deductions claimed and vehicle donations accounted for another 14 to 20 percent.[29] Only small percentages of the value of deductions in these groups were for donations of stock.

---

[27] In Table 3, donations were combined into broader categories. In this table, real estate includes conservation and façade easements. The household items category includes donations of clothing and accessories as well as household items.

[28] The reported basis of donated stock was only about 15 percent of the market value of stock donated by the top 1 percent of taxpayers and 12 percent of the value of stock donated by taxpayers with incomes of $1 million and over. These computations understate the true percentages because some taxpayers failed to report their basis. Since some taxpayers, such as executives who received "founders" stock may have a zero basis, it is not possible to distinguish cases of unreported basis from those where the basis is zero.

[29] The one exception was the 5th quintile, where 80 percent of the value of deductions was for clothing and other household items.

Table 3: Non-Cash Charitable Deductions by Type of Property and Income, 2004

(Dollar amounts are in millions of dollars)

Income Decile	Amount of Deductions: Stock	Real Estate	HH Items	Vehicles	Other	Total	Percent of Total Non-cash Deductions: Stock	Real Estate	HH Items	Vehicles	Other	Total
1st	103	28	57	32	34	253	40.6	11.2	22.4	12.5	13.3	100.0
2nd	10	0	56	9	15	90	10.8	0.0	62.0	10.2	17.0	100.0
3rd	0	0	83	23	16	122	0.1	0.0	67.8	19.2	13.0	100.0
4th	8	2	205	44	61	319	2.4	0.5	64.2	13.8	19.1	100.0
5th	1	0	386	50	46	482	0.1	0.0	80.1	10.4	9.5	100.0
6th	15	0	563	171	115	863	1.7	0.0	65.2	19.8	13.3	100.0
7th	30	0	682	207	137	1,056	2.8	0.0	64.6	19.6	13.0	100.0
8th	96	4	1,253	353	245	1,951	4.9	0.2	64.2	18.1	12.6	100.0
9th	65	12	2,067	609	362	3,115	2.1	0.4	66.4	19.5	11.6	100.0
10th	14,430	3,192	4,392	1,041	2,791	25,846	55.8	12.4	17.0	4.0	10.8	100.0
Top 5%	992	301	2,094	353	535	4,276	23.2	7.0	49.0	8.3	12.5	100.0
Top 1%	12,997	2,689	680	165	1,827	18,357	70.8	14.6	3.7	0.9	10.0	100.0
Total	14,799	3,242	9,743	2,540	3,821	34,146	43.3	9.5	28.5	7.4	11.2	100.0
Income Class												
Negative	10	2	251	57	49	368	2.7	0.4	68.1	15.5	13.3	100.0
0 to 25k	31	0	1,320	308	264	1,923	1.6	0.0	68.6	16.0	13.8	100.0
25 - 50k	118	4	1,700	508	326	2,656	4.4	0.2	64.0	19.1	12.3	100.0
50 - 75k	35	12	1,680	497	303	2,527	1.4	0.5	66.5	19.7	12.0	100.0
75 - 100k	1,007	409	3,475	885	796	6,571	15.3	6.2	52.9	13.5	12.1	100.0
100 - 250k	736	681	812	129	364	2,721	27.0	25.0	29.8	4.7	13.4	100.0
250 - 500k	956	354	273	58	325	1,965	48.6	18.0	13.9	2.9	16.5	100.0
500k 1m	11,762	1,748	199	78	1,361	15,148	77.6	11.5	1.3	0.5	9.0	100.0
$1m +	42	4	0	2	0	48	87.8	7.8	0.0	3.5	0.9	100.0
Total	14,799	3,242	9,743	2,540	3,821	34,146	43.3	9.5	28.5	7.4	11.2	100.0

Source: IRS Statistics of Income, Form 8283 Study, 2004. Tabulations by the authors.

Notes: Income is cash income as defined in the appendix. Stock category includes mutual funds.

Table 4 shows the distribution of the size of deductions claimed for each type of property. In this table, for taxpayers with more than one reported donation of a type of property, all donations of each type of donated property are aggregated. While there were only about 2,000 donations of corporate stock valued at $1 million or more, these large donations accounted for $8.9 billion or 60 percent of the $15 billion value of all stock donations. Similarly, 58 percent of the $2.5 billion in donations of real estate were accounted for by taxpayers contributing at least $1 million. In contrast, the typical deduction amounts for clothing were much smaller, though perhaps larger than one might have expected given that most of the value of such donations is from households with incomes under $100,000. In 2004, the median deduction for donations of clothing was $981, and two-thirds of the value of clothing donations was accounted for by taxpayers who deducted between $1,000 and $5,000. This may be partly the result of the so-called "ItsDeductible" phenomenon of the inclusion of valuation programs along with computer tax preparation programs. These programs provide taxpayers with suggested values for deductions for different items of clothing that depend on the taxpayer's self-assessment of their condition. ItsDeductible calls itself the "Bluebook of Donated Items." While the values in the computer programs are said to reflect market prices, the authors have noted that values often exceed retail prices at high-volume department stores.[30] The large amounts being claimed for clothing donations have generated various proposals for reform and stirred Congress to deny a deduction for clothing in less than "good" condition beginning in 2005. While relatively little of the value of deductions in Table 4 is from individual donations of less than $500, note that taxpayers are not required to file this detailed information when total noncash deductions are less than $500.

Table 4: Donations by Type of Property and Amount of Donations, 2004

(Dollar amounts are in millions. Numbers of returns are in thousands)

Amounts of Deductions

	Size of Deduction								
Type of Property	Under $500	$500 - 1,000	$1,000 - 5,000	$5,000 - 10,000	$10,000 - 100,000	$100,000 - 1 million	$1 million and over	Total	Median Deduction
Stock	0	1	150	263	1,896	3,569	8,919	14,799	9,555
Other Securities	0	0	1	3	35	297	513	849	2,079
Real Estate	0	2	8	3	92	928	1,419	2,453	775
Conservation Easements	0	.	0	0	12	347	430	790	0
Art & Collectibles	9	12	106	26	125	220	86	584	672
Food	18	17	46	10	11	2	.	104	145
Clothing	242	981	4,237	598	234	8	27	6,325	981
Computers	61	72	308	24	10	1	.	475	450
Household Items	197	484	2,209	334	184	10	.	3,418	814
Vehicles	4	60	1,969	334	39	117	17	2,540	2,200
Other	76	134	599	103	236	357	304	1,809	650
Total	607	1,762	9,632	1,697	2,874	5,856	11,717	34,146	969

Numbers of Returns

	Size of Donation								
Type of Property	Under $500	$500 - 1,000	$1,000 - 5,000	$5,000 - 10,000	$10,000 - 100,000	$100,000 - 1 million	$1 million and over	Total	Mean Deduction
Stock	4	2	49	36	70	14	2	177	83,585
Other Securities	2	0	1	0	1	1	0	5	164,622
Real Estate	12	2	4	0	3	3	0	25	96,728
Conservation Easements	2	0	0	0	0	1	0	3	253,461
Art & Collectibles	41	19	39	4	4	1	0	109	5,380
Food	143	26	23	2	1	0	0	195	534
Clothing	876	1,373	2,095	93	15	0	0	4,452	1,421
Computers	290	108	148	4	1	0	0	551	862
Household Items	814	681	1,071	50	13	0	0	2,628	1,300
Vehicles	20	79	765	52	2	1	0	918	2,766
Other	349	189	279	17	12	1	0	847	2,134
Total	2,553	2,481	4,471	259	123	22	3	6,565	5,201

Source: IRS Statistics of Income, Form 8283 Study, 2004. Tabulations by the authors.

Notes: Income is cash income as defined in the appendix. Stock category includes mutual funds.

[30] For example, in 2003, ItsDeductible valued used maternity pants at $24. In that year, the retail price for maternity pants at mass-market stores was between $18 and $28 (Numbers based on on-line "shopping trip" by Treasury Staff).

6. Vehicle Donations: A Case Study of a Policy Change

This next section, presents a detailed analysis of vehicle donations.[31] Although anecdotal evidence and audit results suggest that many taxpayers overstate the value of their noncash charitable contributions, direct evidence of overvaluation is hard to come by for automobiles and used personal items because audits rates are low, and supporting information about the donated objects contains little detail. However, the limited information available suggests that over-reporting is common. For example, the GAO study from 2003 examined a small set of donated autos and found that most of the autos were resold at auction at a fraction of the value claimed on the returns.[32] The authors' experience when describing this research project is that everyone has a donation story, usually one involving a generous interpretation of the law.[33] Recent law changes have limited taxpayer discretion when valuing vehicles donated for resale. Because the data span the period of the tax change, we have a unique opportunity to explore the effects of the law and to examine taxpayer valuation and overvaluation.

The Law – Then and Now

Until recently, vehicle donations were subject to the same rules as donations of most other used property. That is, taxpayers donating vehicles with a claimed value of less than $5,000 were responsible for assigning the value themselves. Recipient charities were required to supply a receipt, but they were not required to confirm the taxpayers' assessment of the value of the vehicle or to supply their own valuation. IRS instructions offered guidance, which generally suggested to taxpayers that they use used car pricing guides, but also included admonitions to the taxpayer to consider vehicle condition when assigning value.[34] IRS did not distinguish between

---

[31] This analysis is restricted to donations of automobiles, vans, and light trucks. Although a wide range of vehicles are donated every year, this restriction includes the overwhelming majority of donated vehicles.
[32] The GAO results are suggestive, but cannot be generalized because their sample is not statistically valid. The auction values should have been closer to wholesale values than to fair market values and therefore lower than the taxpayer reports, but the differences were extreme, and cannot solely be explained by the differences between wholesale and private party prices.
[33] The stories reflect a common perception that the valuation rules are more generous than they actually are, and not necessarily rampant fraud among the economists in our circle.
[34] The main used car pricing guides are Kelly Blue Book and Edmunds, which are never mentioned by name in IRS instructions. These guides do not provide pricing information for vehicles in poor condition.

donations of vehicles for resale and donations for future use by the charity. IRS instructions guided taxpayers to the private-party sales price, but were not explicit.

In response to perceived abuse and other concerns, Congress passed changes to the laws governing vehicle donations as part of the American Jobs Act of 2004. The changes to the vehicle laws became effective for tax year 2005, and are thus reflected in the last year of our data. Unlike the taxpayer-assigned valuation method used in prior law, the current law deduction for a donated automobile, boat or airplane with a claimed value of more than $500 is generally limited to the gross proceeds from the sale of the vehicle by the charity receiving the donation.[35] The charity is required to provide the donor and IRS with this information within 30 days of the sale.[36] If, instead, the charity intends to use the vehicle, the taxpayers receives a FMV deduction valued as in the past - FMV is determined by the taxpayer (if the vehicle is worth less than $5,000) or by an appraisal. In this case, the charity is also required to provide the donor and IRS with information certifying that the vehicle would be used for an exempt purpose.[37] The charity is not required to assess or confirm the value of the vehicle assigned by the taxpayer. However, IRS instructions under current law are more explicit than before about how the appropriate price should be determined. To preview the results, this law change, combined with the expectation of increased scrutiny by IRS has led to a large decrease in the number of vehicle donations. Specifically between 2003 and 2005, donations have dropped 66 percent and the average value 50 percent.[38]

Historical Background on Vehicle Donations

Vehicle donations programs have existed for thirty years. As reported in the Washington Monthly,[39] Davis Memorial Goodwill of Metropolitan DC began the first car donation program in 1978 with five donations that were resold at a fundraising event. By 1991 at least six national charities (including Goodwill Industries, National Kidney Foundation and the Salvation Army)

[35] Thus, low value vehicles may fall under the old self-assessment rules as a practical matter since no third party reporting is required for such vehicles. These vehicles are valued at the lesser of fair market value and $500.
[36] The form is 1098-C. The information is also reported to the IRS.
[37] The charity doesn't have to use the vehicle itself, but can sell it below market to a poor person or use it in a school.
[38] This calculation excludes vehicles donated by itemizers who did not fill out an 8283 and by nonitemizers.
[39] Cabot, Tyler. "The Tow-Away Tax Break: Why car donation programs benefit everyone but the charities they're intended to help." *Washington Monthly* (June 2002)

were operating vehicle donation programs.[40] Although car donation programs were still limited and relatively unknown by the general public – the deduction was called "offbeat" by Money Magazine[41] – the California attorney general's office had already taken notice of the large gap between what was raised by commercial fundraisers through the sale of donated vehicles, and what ultimately found its way to charity.[42] Rapid expansion continued throughout the 1990s and by tax year 2000 more than 730 thousand vehicles were donated to charity at a cost to the IRS of 654 million.[43] That year, the American Kidney Foundation's "Kidney Car Program," the nation's largest program collected more than 72,000 automobiles.[44]

When vehicle donation programs first developed, they were run by the charities themselves. However, within a few years, a small for-profit industry developed to assist non-profits in the processing of donated automobiles and light trucks. This development enabled small charities to accept donations as well. By 2001, roughly 4,300 charities accepted vehicle donations.[45] Most charities accepting donations had contractual relationships with one of several private companies. Vehicles donated to charities under such contracts would be picked up, towed, processed and ultimately sold by the private contractor at an auction (often for liquidation prices), or to a salvage yards for scrap. The for-profit handler would supply a receipt identifying the automobile, but making no reference to condition. The taxpayer would claim a deduction based on the "fair market value' of the vehicle. The non-profits would receive a share of the net proceeds from the sale, or a fixed payment per car. After reducing the sales proceeds by the vehicle processing (including towing) and fundraising costs, the benefit to charity would generally be a small percentage of the amount claimed by the donor as a charitable deduction; the for-profit handlers would receive the bulk of the proceeds.[46] Charities contracting with for-

---

[40] The larger programs generally accept boats and RVs as well as automobiles.
[41] Get a Write Off by Giving Away Your Clunker. Marguaritte T Smith. April 1, 1992.
[42] California's Attorney General's Office releases an annual study on commercial fundraising. They reported that in the best case, charities received only a third of the gross proceeds.. $37 million raised in 2001.
[43] 733.000 were on returns 8283. Vehicles donated by taxpayers who itemized but whose total noncash charitable contributions were less than $500 would not be included in this number. See GAO (2003).
[44] Washington Monthly (2002)
[45] GAO (2003). This represents less than three percent of the public charities with revenues over $100,000.
[46] The popular press, the Attorney General's office in California and the GAO provide evidence that charities were receiving very little relative to the value of the donated automobiles.

profit firms might “do little more than cash a monthly check."[47] Reports from the period suggest that many of the donated automobiles were in extremely poor condition. For example, in an interview with an executive at a major processor, the Nonprofit Times reported that nearly half the cars received didn't run at the time the donations were accepted, and sold on average for $400 (factoring in those that were nearly worthless)."‘We have had a few quality cars through the years,’ [the executive] said. ‘But I’m sure the number of “quality” cars, if you want to define it as a late model, nothing wrong with the car, is less than 2 percent. It might even be less than 1 percent.'”[48] Another industry executive quoted in the same article described the relationship between charities and their agents as “prostituting their 501(c)(3) status" and the good name of the charities involved.

The vehicle donation programs illustrate many of the themes discussed in Section 3 of this paper: the importance of accurate valuation and the deviations from tax efficiency that result when the property donated has more value to the donor on a return than to the recipient charity. However, it should be noted that even with the rampant abuse and low payoffs per car, vehicle donation programs were very valuable to most charities that participated, and often generated a steady and reliable stream of revenues.

In 2002, the Senate Finance Committee, concerned about tax abuse requested the GAO study cited earlier. The report was released in 2003 and was followed by Congressional hearings. The GAO report looked at a very small sample of donated automobiles for which they could match the donation to the resale outcome. Although they documented extensive overstatement on the tax returns, and very small returns to the charity, it was difficult to generalize from their results because of the small sample. At the Congressional hearings, the GAO, industry representatives and others described extensive fraud and exploitation of the charities. Much attention was focused on the discrepancy between “fair market value” of the donated vehicles, and “the value of the car” to a charity facing substantial disposal costs.

[47] Bennet Weiner, CEO of the Wise Giving Alliance (Better Business Bureau) quoted in Washington Monthly. Cabot (2001).
[48] Nonprofit Times (2000)

In 2004, as part of the American Jobs Act, Congress enacted the changes described at the beginning of the section.   The law changes certainly eliminated a portion of the abuse: it took much of the discretion away from the taxpayers when valuing an automobile and lowered the allowable deduction in most cases. However, many charities still remain in the automobile disposal business (as opposed to charitable functions such as providing cars to low-income families to improve their employment opportunities), when perhaps this should be considered a business unrelated to the charity's exempt purpose.

What the Tax Data Tell Us about Vehicle Donations

This section, explores the donations of automobiles, vans, and light trucks (hereafter, "vehicles") using a unique dataset that combines tax return information on used vehicles donations in 2003 through 2005 with sales information for similar used vehicles sold in online auctions in 2003. The data span the recent law changes aimed at limiting abusive deductions for vehicle donations. IRS data are matched to sales data constructed from the roughly 300,000 vehicles sold on eBay in 2003. Although we definitely do not match a donated vehicle to the sales price of that *particular vehicle or necessarily an exactly identical one*, we are able to match taxpayer vehicles to sales data for vehicles of the same year, make, and model. This dataset is used to explore how the stated values of the donated vehicles on the tax returns compare to the price distribution of similar vehicles that were sold in the same year.[49] If donated vehicles were similar to resold vehicles, (an admittedly unlikely assumption) and taxpayers accurately valued their vehicles, the conditional distributions of sales prices and donor valuations should be similar. To the extent that the conditional distributions differ, the reader should ask if the differences are consistent with our beliefs about donors and their vehicles and what these differences may imply about taxpayer behavior and belief. Thus, the gap between taxpayer valuations and eBay prices, does not necessarily measure overvaluation, but rather indirectly measures taxpayer claims about the quality of their vehicles.

Unfortunately, little or nothing is known about donations by non-itemizers, and about

[49] Hereafter, "vehicles" refers to automobiles and light trucks. Although the SOI sample contains donations of boats, airplanes, golf carts and other vehicles, we do not have an alternative valuation source for these vehicles. The used markets are less well developed for these vehicles.

vehicle donations by taxpayers for whom less than $500 in total noncash contributions were claimed. Although tax data are necessarily nearly silent on these donations, reports from charities do suggest there are many donated. Presumably, free disposal of a nearly worthless automobile would appeal to non-itemizers, even without any additional (tax) benefit. However, to the extent there is a tax issue with donations by non-itemizers, it is not an individual income tax issue, but part of a more general discussion of the obligations and responsibilities of tax exempt businesses.

Table 5 shows basic summary statistics for the charitable donation of vehicles. Although taxpayers donate boats, airplanes, and other vehicles,[50] the overwhelming majority of donations are of cars and light trucks. Nearly all taxpayers donate only one vehicle in a given year. Vehicles donated in 2003 and 2004 were valued by the taxpayers or their agents. In 2005, the vehicles were valued one of two ways: taxpayers could donate the vehicle to charity for resale and accept the gross proceeds as the value of the automobile, or taxpayers could donate the vehicle for an exempt purpose and deduct their best estimate of the private party price. The two groups of automobiles cannot be distinguished in the data. These tables show that nearly a million vehicles were donated in 2004, an increase of 12 percent from 2003.[51] The total value of the vehicles in 2004 claimed by taxpayers was 2.3 billion dollars, or nearly two thirds of the noncash giving by those donating vehicles. After the law changed in 2005, the total number of donated vehicles fell by 70 percent while the total value of deductions claimed dropped by 84 percent. Vehicle donations declined to 56 percent of the total noncash contributions by these donors.

[50] Donated vehicles include golf carts, racing cars, and segways.
[51] The totals in this section differ slightly from SOI totals in recent SOI Bulletin Articles. These differences are minor and due to coding decisions.

Table 5
Basic Summary Statistics on Non-Cash Donations and Donations of Vehicles by Donor Taxpayers

	Tax Year								
	2003			**2004**			**2005**		
Income Category	total non-cash	total claimed value of donated vehicles	total vehicles	total non-cash	total claimed value of donated vehicles	total vehicles	total non-cash	total claimed value of donated vehicles	total vehicles
< $0	2,701	3,156	1,419	13,689	11,449	4,358	3,800	3,371	715
$0 - 24,999	87,700	76,554	32,603	61,944	57,172	29,671	12,263	5,708	8,656
$25-49,999	477,413	417,327	168,805	345,632	285,382	131,986	70,887	45,249	41,505
$50-74,999	605,954	467,846	200,124	662,861	495,699	210,278	94,436	64,957	59,978
$75-99,999	488,960	394,695	159,905	610,360	492,536	199,633	106,236	52,000	46,174
$100-250	903,745	649,750	238,081	1,038,809	773,756	307,512	245,026	144,900	100,609
$240-500	151,652	101,456	25,876	202,765	116,057	36,797	49,192	23,075	14,236
$500-1 mil	62,842	34,416	6,821	146,235	44,253	10,957	37,577	10,844	4,485
$ 1 - 5 mil	60,280	12,720	2,695	132,923	24,373	4,363	59,439	7,950	2,440
> $5 mil	160,719	2,563	225	295,055	3,467	393	150,293	6,232	237
Total	3,001,966	2,160,482	836,553	3,510,273	2,304,144	935,947	829,148	364,286	279,035

Source: Internal Revenue Service, Statistics of Income, 2003 - 2005 Individual Income Tax Returns. Tabulations by the authors.
Note: Income classes are based on cash income. Includes automobiles, vans, and light trucks. Collections also excluded.

Table 6 repeats the same structure but presents the mean and the median value of the donated vehicles followed by the median value of non-vehicle gifts for each cash income class. The population is restricted to common makes and models. We see some indication that average claimed values dropped a bit in 2004, perhaps in response to the IRS announcement of increased scrutiny. Dramatic decreases are apparent on both counts in 2005. Also clear from this table is the important role of a vehicle donation in moving a taxpayer to Form 8283. In 2003 and 2004, most donors of ordinary vehicles filling out Form 8283 would not have been required to do so in absence of the vehicle donation. In 2005, this was no longer the case for most donors, but still true for many.

Table 6
Basic Statistics on Donated Automobiles, Vans, and Light Trucks and Other Non-Cash Gifts
Common Makes and Models Between 5 and 22 Years Old

	Tax Year								
	2003			**2004**			**2005**		
Income Category	mean value of vehicles	median value of vehicles	median value non-vehicle noncash	mean value of vehicles	median value of vehicles	median value non-vehicle noncash	mean value of vehicles	median value of vehicles	median value non-vehicle noncash
< $0	3,949	4,525	479	2,676	2,800	0	4,944	5,000	492
$0 - 24,999	2,547	2,000	0	2,222	1,560	0	666	500	500
$25-49,999	2,501	2,052	0	2,096	1,535	0	1,086	575	350
$50-74,999	2,328	2,050	0	2,368	2,063	250	1,114	700	300
$75-99,999	2,461	2,350	200	2,488	2,135	250	1,093	800	500
$100-250	2,720	2,555	300	2,506	2,300	335	1,413	875	400
$240-500	3,595	3,375	405	3,021	3,000	425	1,733	1,200	459
$500-1 mil	4,372	3,780	500	4,189	3,725	458	1,786	1,200	500
$ 1 - 5 mil	4,536	4,000	500	4,243	3,775	900	3,169	2,000	623
> $5 mil	5,909	4,445	2,769	4,890	4,000	3,906	14,327	2,550	2,000
Total	2,573	2,300	125	2,456	2,135	250	1,278	750	450

Source: Internal Revenue Service, Statistics of Income, 2003 -2005 Individual Income Tax Returns. Tabulations by the authors.
Note: Income classes are based on cash income. Includes automobiles, vans, and light trucks. Collections also excluded.

Figure 2 presents the age distribution of ordinary donated vehicles for the three years of data. Thus, as in Table 6, the vehicles here are between five and 22 years old and of common makes (thus not inventory, collectibles, or antiques). In general, taxpayers are donating older vehicles - the average age is around 13 years old. In this figure, it is again clear that after the law changed, overall donations decreased. Less apparent is that after the law change, proportionately fewer vehicles less than 9 years old were donated.

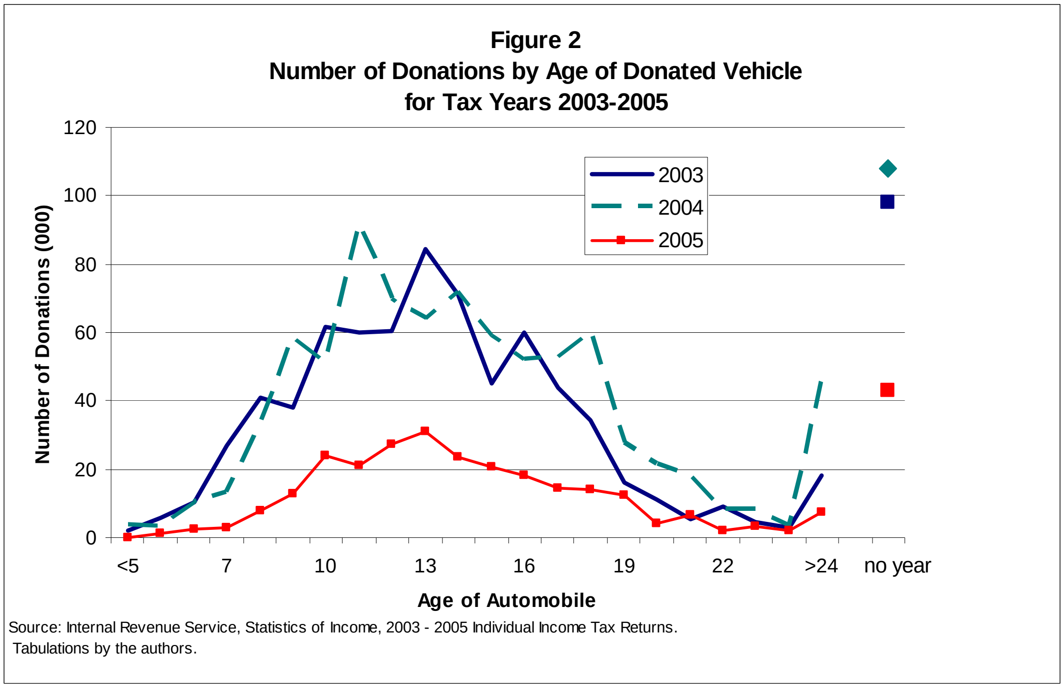
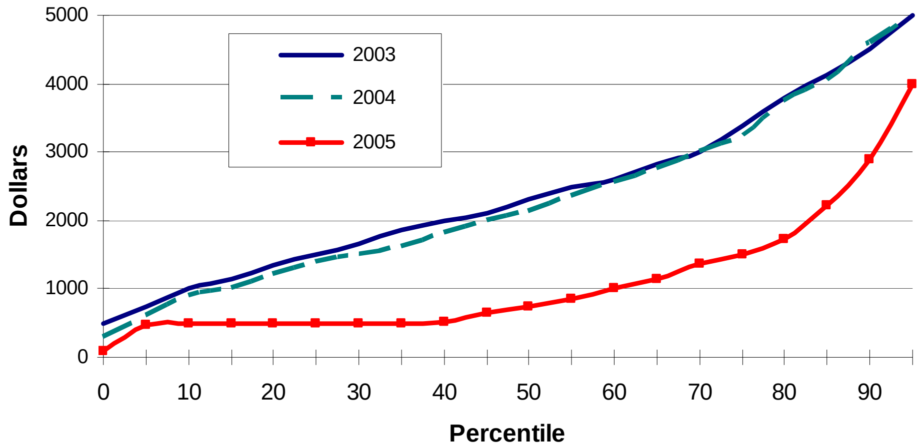


Figure 3 presents the percentile distribution of taxpayer valuations in each of the three years. The most startling feature is that nearly a third of the 2005 automobiles were valued at $500; no such bunching is apparent prior to the law change. Taxpayers with vehicles worth less than $500 are not required to participate in the information reporting regime, and instead establish the value on their own. As discussed in Section 5 bunching suggests a failure of taxpayers to accurately assess values – be it by understating the value of the donation, or motivated by a belief that overstatement beneath the threshold will pass unnoticed.

Figure 3
Median Taxpayer Valuation of Donated Automobiles Before and After the Law Change

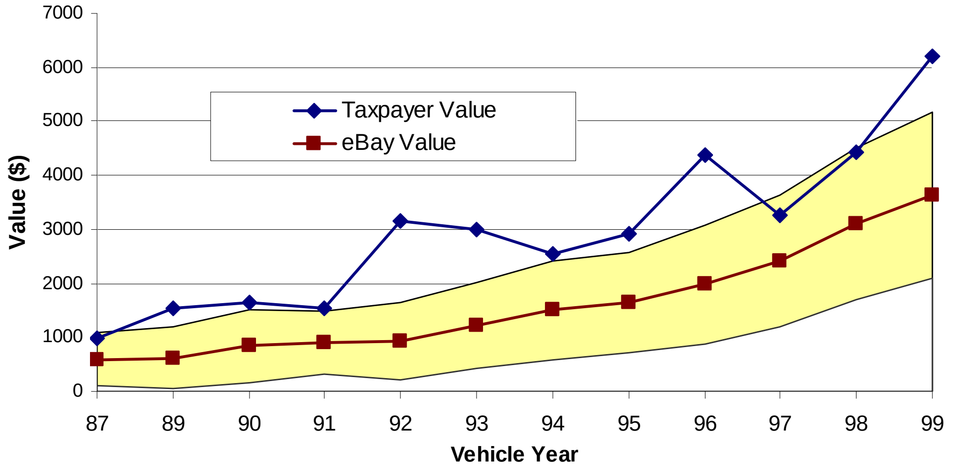


Source: Internal Revenue Service, Statistics of Income, 2003 - 2005 Individual Income Tax Returns. eBay Motors 2003. Tabulations by the authors.

Figure 4 provides a comparison of eBay prices and taxpayer valuations for the donations of 55 Ford Taurus's in 2003 that are in our sample. This figure shows the mean fair market value claimed by taxpayers and the mean and standard deviation of the auction prices on eBay for Tauruses sold that year. As is clear from the graph, taxpayer vehicles were consistently valued as if they were of better quality than most equivalent Tauruses. For a thirteen year old Taurus, the taxpayer value translates into an LX sedan in excellent condition with 80,000 miles, a moon roof and other premium features. The eBay mean translates into an LX sedan in good condition, with 120,000 miles, and manual windows and mirrors.[52] The difference between the eBay prices and the taxpayer valuations doesn't necessarily reflect abuse by these 55 taxpayers – the comparisons are between different cars. However, since the evidence supporting the generally low quality of the donated automobiles, this figure does call into question the accuracy of the taxpayer claims.

[52] These prices were from Kelly Bluebook and represent values as of March 2008.

Figure 4
Taxpayer and Auction Valuations of Used Ford Tauruses by Model Year (2003 Tax Year and Sales)



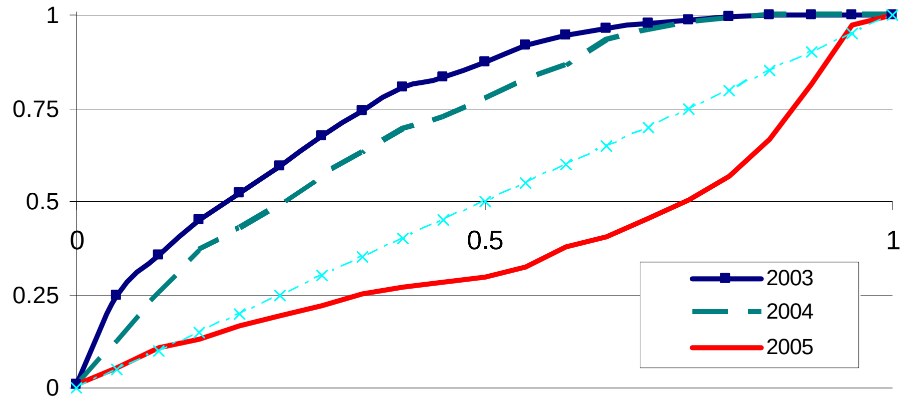
Source: Internal Revenue Service, Statistics of Income, 2003 - 2005 Individual Income Tax Returns; eBay Motors 2003. Tabulations by the authors.

A closer focus on eBay prices and taxpayer valuations is presented in Figure 5. Using the distributional characteristics of the eBay automobiles, the values claimed for the donated vehicles are compared to the conditional distribution of auctioned vehicles with the same year, make, and model. We are able to match over two thirds of the common make and year vehicles to the eBay information. (Most of the unmatched contained incomplete descriptions) In 2003, only 20 percent of the donated vehicles were valued at less than the conditional mean value for that vehicle, and nearly half were valued in the top ten percent of the conditional distribution. One way to interpret the conditional mean is as follows. The mean valued eBay vehicle is, nearly by definition, of average quality for vehicles of that year, make, and model. A valuation significantly above that implies that the quality of the donated vehicle is far better than the average - perhaps due to condition, mileage, or features. Thus, although this figure does not provide direct evidence of any taxpayer's overstatement, it clearly suggests that over all, the taxpayer valuations in 2003 and 2004 are implausibly high. 2004 donation data and a stylized distribution of eBay values,[53] show that taxpayers seem to be slightly more conservative in their valuation after the announcement of the policy change. Similar treatment with 2005 data suggests that conditional values dropped significantly - nearly 70% of the 2005 donations were

[53] The stylized version essentially moves the eBay data one year into the future by shifting years and inflating prices. To the extent that makes and models don't vary in quality over time, this is a reasonable assumption. However, results should be interpreted with some caution.

valued below the conditional mean. The interpretation of 2005 is tricky, however, because many of the donations should have been valued at wholesale, and eBay represents the private party price.

Figure 5
Prior to the Law Change, Taxpayers Valued Their Donated Automobiles Far Above the Average Value of Similar Automobiles



A Comparison of Taxpayer Valuations Relative to the Mean Value of Similar Automobiles

Source: Internal Revenue Service, Statistics of Income, 2003 - 2005 Individual Income Tax Returns. Tabulations by the authors; eBay Motors.

Finally, Table 7 presents a series of regressions that explore the relationship between relative implied automobile quality (as measured by taxpayer valuation relative to eBay valuation) and taxpayer and automobile characteristics. Presumably, at least some of the implied high quality represents overstatement. The first six regressions present IV estimates where first dollar tax price instruments for the last dollar tax price.[54] The dependent variable is the measure of implied quality discussed in Table 5. The remaining regressions present standard probits. The dependent variables in regression 7 and 8 is an indicator variable for "above the eBay mean" and the dependent variable in the last regression is an indicator variable that equals one if the taxpayer valued the automobile at least one standard deviation above the eBay mean. All regressions are weighted. These regressions show no evidence that the propensity to claim a high value for an automobile is related to key taxpayer characteristics including taxpayer income and marginal tax rates. Coefficients on taxpayer income and the tax price of charitable donations are

[54] This is a standard procedure.

neither significant nor large. Overstatement is related to the characteristics of the vehicle, specifically there is less overvaluation for lower priced automobiles, and donors of luxury cars are more likely to assign a high value. Surprisingly, users of Turbotax and other software are less likely to assign a high value. Those donating vehicles in 2003 were more likely to assign a

Table 7: Basic Regression Describing the Relationship Between Taxpayer Valuation and eBay Price

	Instrumental Variable Estimation							Probit	
	File Years 2003 and 2004			File Year 2003 Only			Both Yrs.	File Year 2003	
	1	2	3	4	5	6	7	8	9
	relative price	relative price	relative price	relative price	relative price	relative price	taxpayer > eBay	taxpayer > eBay + sd	taxpayer > eBay + sd
log(tax price, last dollar)	0.003	0.013	0.003	0.007	-0.004	-0.031	0.115	-0.543	-0.528
	(0.267)	(0.268)	(0.269)	(0.318)	(0.319)	(0.312)	(0.580)	(1.076)	(1.085)
log(cash income)	0.035	0.037	0.032	0.033	0.028	0.022	0.151	0.124	0.122
	(0.033)	(0.034)	(0.034)	(0.040)	(0.041)	(0.040)	(0.090)	(0.143)	(0.143)
log(eBay mean)	-0.226	-0.226	-0.226	-0.245	-0.246	-0.245	-0.873	-1.062	-1.063
	(0.014)	(0.014)	(0.014)	(0.022)	(0.022)	(0.022)	(0.088)	(0.161)	(0.161)
luxury car	0.062	0.061	0.063	0.089	0.089	0.092	0.266	0.306	0.307
	(0.029)	(0.030)	(0.030)	(0.041)	(0.041)	(0.044)	(0.156)	(0.242)	(0.242)
age of car	-0.011	-0.011	-0.011	-0.019	-0.020	-0.020	-0.049	-0.059	-0.059
	(0.003)	(0.003)	(0.003)	(0.004)	(0.004)	(0.004)	(0.014)	(0.023)	(0.023)
used paid preparer	-0.046	-0.047	-0.044	-0.067	-0.070	-0.071	-0.082	-0.392	-0.393
	(0.031)	(0.030)	(0.030)	(0.039)	(0.040)	(0.040)	(0.190)	(0.278)	(0.278)
used turbo tax	-0.088	-0.087	-0.084	-0.092	-0.094	-0.095	-0.317	-0.416	-0.415
	(0.033)	(0.033)	(0.033)	(0.045)	(0.046)	(0.046)	(0.200)	(0.299)	(0.299)
tax year 2003	0.121	0.121	0.121				0.542		
	(0.017)	(0.017)	(0.017)				(0.101)		
late filer	0.158	0.157	0.155				1.361	0.293	0.290
	(0.023)	(0.023)	(0.023)				(0.320)	(0.445)	(0.446)
married	-0.020	-0.020	-0.020	-0.038	-0.037	-0.034	-0.109	-0.227	-0.226
	(0.027)	(0.027)	(0.027)	(0.035)	(0.035)	(0.035)	(0.125)	(0.196)	(0.196)
log(noncash giving*)		-0.002	-0.002		0.006	0.006	-0.007	0.035	0.034
		(0.004)	(0.004)		(0.005)	(0.005)	(0.021)	(0.285)	(0.285)
log(cash giving)			0.004						
			(0.004)						
balance due						0.016			0.022
						(0.029)			(0.166)
constant	2.111	2.097	2.113	2.548	2.580	2.635	6.021	-0.011	-0.011
	(0.319)	(0.322)	(0.004)	(0.373)	(0.380)	(0.369)	(1.094)	(0.032)	(0.032)
N	3081	3081	3081	1161	1161	1161	3081	1161	1161

All regressions also include characteristics for taxpayer age.
* excludes value of vehicle

high value to their auto, as were late filers. Variables that describe the individual's remaining giving behavior or having a balance due to IRS had no effect on high valuation. The regressions were robust to alternative specifications.

Concluding Remarks on Vehicle Donations

It is clear from the data that the change in the law governing vehicle donations has had a big effect on donations. Taxpayers are donating fewer automobiles (at least of sufficient value to warrant reporting on a Form 8283), and they are claiming lower values for these vehicles. Charities also report a large drop in donations.[55] A recent follow-up study by GAO found that of the ten charities revisited in 2006, six saw a drop in donations.[56] (Three saw no change, and one did not respond.) There is evidence of other changes within the industry. For example, anecdotal evidence and the GAO follow-up suggest that donation programs are specializing in either disposal (accepting all cars for quick turnover) or exempt purpose donations (accept only automobiles suitable for the poor or other groups). Consistent with specialization, GAO found that three of the ten charities reported an increase in quality and three reported a decrease in quality of the donated vehicles. Also, at least one for-profit firm now competes with the charitable programs - their business model is the same except the donor receives the net proceeds instead of the charity.[57] Finally, charities in general report a decrease in revenues since the law took effect. Six of the ten charities interviewed by the GAO saw a decrease in revenues, and all reported increased administrative costs. In addition, the press has reported examples of charities shutting down their donation programs.

Although the tax expenditure problem has been minimized (which does solve a large problem), the solution is not complete. Vehicles donated for an exempt purpose, must still be valued by the taxpayer. Although the rules are tighter, taxpayers must rely on their own judgment and publicly available pricing guides – a source that may not provide accurate or

---

[55] Tax Analysts (June 2005). Volunteers of America, which runs a large program, reported a drop of about 40% from the previous year.
[56] GAO (Feb 2008). GAO revisited ten charities first interviewed on this topic in 2003.
[57] As stated on the website of CarAlternative.Com "It's the exact same, easy process as donating your car, but instead of earning a small tax savings, you can receive a much larger amount back in cash immediately."

complete guidance.[58] Vehicles donated for resale are still more highly valued to the taxpayer (who claims gross proceeds) than to the charity receiving the donation which on average will receive one third of that amount. Finally, the link between charities and automobile disposal remains close after the law change and potentially diverts energy and resources away from charitable activity more closely aligned with the exempt purpose of the charity.

7. Policy Issues: Options and Considerations

Many ideas have been put forward to reform the rules governing tax deductions for non-cash property. Some have emanated from academics and others studying tax reform, while others have come from tax administrators, members of Congress and their staffs, and the charitable sector itself. Some reformers are concerned with abuse, others with encouraging giving, and still others with improving efficiency. Proposals range from relatively modest administrative proposals to more draconian changes that would effectively or intentionally repeal deductions for certain types of donations. The reductions in tax expenditures would be corresponding modest or large. This section presents a number of different types of reforms for deductions of non-cash deductions. We do not draw conclusions or offer specific recommendations, but note some of the rationales behind the proposals and the common objections that have been made to them.

One type of proposal would place additional limits on the allowable deduction for donations of appreciated property including limiting the deduction to a taxpayer's basis in the case of appreciated property or eliminating the preferred tax treatment of appreciated gifts.[59] For example, Dan Halperin has proposed treating the gift of appreciated property as a taxable event (Halperin, 2002).[60] Under this proposal, taxpayers donating appreciated property could continue to claim a full fair market deduction, but would separately pay the capital gains tax on the amount of appreciation. Halperin considered a possible exception of for property uniquely

---

[58] Blue Book values are known to be inflated – dealers say they represent starting prices, not closing prices. Furthermore, no online resource is willing to value automobiles that are not roadworthy.

[59] Current limitations include the lower income caps on donations of appreciated property, and the stricter rules governing donations of certain appreciated property to private foundations.

[60] Halperin notes that imposing the capital gains tax would be more favorable for taxpayers than limiting the deduction to basis in some cases.

important to the charitable mission of the recipient, such as art donated to an art museum. He argues that this is the correct approach for tax policy reasons and concludes that donations would be little affected. A more restrictive option, presented by the Joint Committee on Taxation, would limit deductions to the lesser of fair market value or basis for nearly all noncash donations, with exceptions for publicly traded securities and possibly property to be used to substantially further exempt purposes.[61] An innovative proposal by the 2005 President's Tax Reform Panel would allow owners of appreciated property to sell the property and claim the full sale proceeds as a deduction without being taxed on the capital gain. The proceeds would have to be transferred to the charity within a relatively short period. The intent of this proposal was to avoid the valuation problems associated with many property gifts and to shift the disposal costs from the charity to the donor. The proposal (with safeguards in place to ensure arms' length transactions) largely removes valuation issues.

A second type of proposal would limit the maximum amount that could be claimed for certain types of non-cash donations. For example, a report of the Joint Committee on Taxation included a proposal to cap deductions of clothing at $250. The Panel on the Nonprofit Sector[62] noted, however, that this cap would discourage donation of higher value and high quality clothing, while continuing to allow a deduction for items of little value. Previous cap proposals (such as the non-itemizer deduction from 1982 to 1984) have sometimes been criticized for providing taxpayers with a target amount that they might safely claim even if no actual donation was made. Some versions of this proposal have extended the deduction to non-itemizers, as well, while imposing a cap on all donors. The extreme case would be to set the cap at zero and eliminate the deduction for donations of certain types of property altogether. Proposals have been offered that would eliminate deductions for all or some of the following: clothing and accessories, and household items. Recent changes in the American Jobs Act eliminated the deduction for clothing and accessories in less than good condition, but evidence on effect on donations or deductions is not yet available.

[61] JCT (2005).

[62] The Panel on the Nonprofit Sector was convened by Independent Sector, an advocacy group for nonprofit organizations. The final report was released in 2005.

Still others proposals have called for a floor under deductions for charitable contributions, including a possible separate floor for non-cash donations. This idea has been debated for many years. Treasury's 1984 tax reform plan (Treasury I) included a proposal to limit deductions for charitable contributions to those in excess of two percent of income.[63] The 2005 President's Tax Reform Panel proposed that the charitable deduction be limited to donations in excess of one percent of income. Others have suggested fixed dollar floors. As shown by Ackerman and Auten (2006) a floor can result in a substantial efficiency gain for the charitable deduction while still providing an incentive at the margin for most taxpayers to increase contributions. Additional reformers, recognizing that the compliance problems differ between cash and noncash contributions, have proposed separate floors for each category. Having separate floors would be slightly more complex than a single floor. Complexity could be reduced by using a fixed dollar floor (such as $200) rather than a percent of income and using the same floor for both cash and non-cash donations. Such floors would not address the problems associated with taxpayers claiming deductions for more than $1,000 for donated clothing, however.

Another focus of reform has been to tighten the valuation requirements for claiming deductions of property. For example, the Independent Sector proposed requiring qualified appraisers to be certified by a recognized professional appraiser organization as meeting education and experience requirements to be determined by the IRS. Appraisers of real estate valued over $100,000 would have to an appraiser certified under the Uniform Standards of Professional Appraisal Practice. The main critique is that this standard would make the IRS beholden to the appraiser's professional organization, a body that may not have the same incentives, goals, and needs as the IRS. The report also recommended a new penalty for taxpayers claiming a value more than 50 percent higher than the actual value of the item. For donations of clothing and household items, the Report recommended that the IRS develop price lists for specific items based on thrift store operations.

[63] *Tax Reform for Fairness, Simplicity, and Economic Growth: The Treasury Department Report to the President*, November 1984.

Another approach to reducing non-compliance problems has been to increase reporting requirements. Third-party reporting is thought to be particularly effective. Some reformers propose requiring charities to provide receipts to both taxpayers and the IRS giving the value of donated property that exceeds some threshold.[64] Such proposals, however, may impose significant increases in compliance costs on charities associated with the new reporting requirements. A less draconian approach would be to reduce the $500 threshold at which taxpayers are required to report detailed information about their non-cash donations.

Finally, an additional set of proposals would address concerns about deductions for donations of conservation easements and façade easements. Concerns include valuation issues, the claiming of deductions for conservation easements in urban areas,[65] particularly where the right to make changes to an historic facade is already constrained by local law, and lack of oversight over the easements once given. An easement is generally worth the difference between the value of a property with and without the constraint the easement imposes. Valuation will always be challenging for properties for which an easement may be granted. By definition, the properties are fairly unique: e.g. the resident endangered animals have few other habitats available, the view is unobstructed and magnificent, or the residence has historic significance due to the stature of prior occupants or the architecture. Appraisers generally rely on comparables when assigning value and comparables will be hard to find. There is no easy solution to this challenge. A second challenge is compliance. For example, facade easements in a neighborhood already protected by state and local law should have no effect on the property's value, and thus have no value as a tax deduction. However, many were claimed in the early years of this decade, and at least some of the nonprofit firms accepting the responsibility of enforcement seem unlikely to honor that responsibility.[66] The Panel on the Nonprofit Sector proposed requiring recipient charities to list easements that they are responsible for monitoring on their annual Form 990s filed with the IRS. Other proposals have included even greater

[64] This idea would mark a major break with current policy because the valuation burden is shifted to charities and their agents. The charities have argued against such ideas, stating that they would lead to disputes between charities and donors and to unwarranted pressure on the charities to inflate values.
[65] For example, 3 of the 5 members of the Arlington County Board, that promotes the view that Arlington is an urban community, reported donation of easements as among their environmental accomplishments in a 2007 list. (Arlington Sun, 2007).
[66] Rushing for Tax Breaks on Historic Houses. *New York Times*. Dec 12, 2004 and A For-Profit Facade, *Washington Post* December 14, 2004.

oversight of these nonprofits, including imposing penalties and fees on those firms that have failed to enforce the terms of the easements.

8. Conclusions

New data on the types of property donations and the amounts being claimed have provided the first real opportunity for analyzing noncash donations. Analysis in this area is important so that researchers and policy makers are able to make informed policy judgments about possible reforms and proposals that would reduce the tax expenditures associated with such deductions. This paper has presented these new data, calculated the tax expenditures associated with non-cash deductions,[67] and highlighted the special characteristics of noncash donations that make developing good tax policy a challenge.

[67] Will be included in the next draft.

References

Ackerman, Deena, and Gerald Auten. "Floors, Ceilings, and Opening the Door for a Non-Itemizer Deduction." *National Tax Journal* 49 No. 3 (September, 2006): 509-530.

Andrews, William D. "Personal Deductions in an Ideal Income Tax," *Harvard Law Review* 86 No. 2 (December, 1972): 309-385.

Aprill, Ellen. “Churches, Politics, and the Charitable Contribution Deduction.” *Legal Studies Paper No 2006-13*. Los Angeles, CA: Loyola Law School, 2001.

Auten, Gerald. “What Do Taxpayers Deduct? A First Look at New Evidence on Noncash Charitable Deductions.” *Proceedings of the Ninety-Eighth Annual Conference on Taxation, 2005*, 336-343. Washington, D.C., 2006.

Auten, Gerald, James Cilke, and William Randolph. "The Effects of Tax Reform on Charitable Contributions." *National Tax Journal* 45 No. 3. (September 1992): 267-290.

Auten, Gerald, Charles Clotfelter, and Richard Schmalbeck. “Taxes and Philanthropy among the Wealthy,” in *Does Atlas Shrug? The Economic Consequences of Taxing the Rich*, edited by Joel Slemrod, 392-424. Cambridge, MA and New York: Harvard University Press and Russell Sage Foundation, 2000.

Auten, Gerald, and Gabriel Rudney. “Tax Reform and Individual Giving to Higher Education.” *Economics of Education Review* 5, No. 2 (1986): 167-178.

Auten, Gerald and Gabriel Rudney. "The Variability of Individual Giving in the U.S." *Voluntas* 1 No. 2 (Fall, 1990): 80-97.

Auten, Gerald, Holger Sieg, and Charles Clotfelter. “Charitable Giving, Income and Taxes: An Analysis of Panel Data.” *American Economic Review* 92 No. 1 (March, 2002): 371-382.

Bernstein, Fred A. "Rushing for Tax Breaks on Historic Houses." *New York Times* (December 12, 2004.)

Bittker, Boris. “The Propriety and Vitality of a Federal Income Tax Deduction for Private Philanthropy.” in *Tax Impacts on Philanthropy*, 145-170. Princeton: Tax Institute of America, 1972.

Buchheit, Steve, Teresa Lightner, John Masselli, and Robert Ricketts. “Noncash Charitable Giving: Evidence of Aggressive Taxpayer Reporting Following a Compliance Change” *Journal of the American Taxation Association* 27 Supplement (2005): 1-17.

Cabot, Tyler. “The Tow-Away Tax Break: Why Car Donation Programs Benefit Everyone But The Charities They're Intended to Help”. *Washington Monthly*. (June 2002.)

Clotfelter, Charles. "The Impact of the Tax Reform Act on Charitable Giving: A 1989 Perspective," in *Do Taxes Matter? The Impact of the Tax Reform Act of 1986.* edited by Joel Slemrod, 203-235. Cambridge: MIT Press, 1990.

Duquette, Christopher M. "Is Charitable Giving by Nonitemizers Responsive to Tax Incentives? New Evidence." *National Tax Journal* 52 No. 2 (June 1999): 195-206.

Eaton, David and Martin Milkman. "An Empirical Examination of the Factors that Influence the Mix of Cash and Noncash Giving to Charity." *Public Finance Review* 32, No. 6 (November 2004): 610-630.

Feldstein, Martin and Amy Taylor. "The Income Tax and Charitable Contributions." *Econometrica* 44 No. 6 (November 1976): 1201-1222.

Feldstein, Martin and Lawrence Lindsey. "Simulating Nonlinear Tax Rules and Nonstandard Behavior: An Application to the Tax Treatment of Charitable Contributions." In *Behavioral Simulation Methods in Tax Policy Analysis*, edited by Martin Feldstein, 139-167. Chicago: University of Chicago, 1983.

General Accountability Office. *Vehicle Donations: Benefits to Charities and Donors, but Limited Program Oversight*. Washington, D.C. GAO Report 04-73, November 2003.

General Accountability Office. *Vehicle Donations: Selected Charities Report Mixed Experiences after Changes in Vehicle Donation Rules*. Washington, D.C. GAO Report 08-367, February, 2008.

Hall, Holly and Leah Kerkman. "Few Signs of 'Donor Fatigue' Appear as Year-End Appeals Wrap Up." *Chronicle of Philanthropy* (December 8, 2005.)

Halperin, Daniel. "A Charitable Contribution of Appreciated Property and the Realization of Built-in Gains," *Tax Law Review* 56 (2002): 1-34.

Independent Sector. *Panel on the Nonprofit Sector: Strengthening Transparency, Governance, Accounting of Charitable Organizations (a Final Report to Congress and the Nonprofit Sector*. Washington DC.: Independent Sector. June 2005.

Jones, Richard Lezin et al. "A Violin's Value, And What to Pay The I.R.S. Fiddler." *New York Times* (May 2, 2004.)

Joulfaian, David. "Basic Facts on Charitable Giving." OTA Paper 95, June 2005. Washington D.C.: U.S. Treasury Department, Office of Tax Analysis.

Office of the Attorney General, California Department of Justice. *Attorney General's Summary of Charitable Solicitations by Commercial Fundraisers, Supplemental Report: Donations of*

Personal Property, (Thrift Stores, Vehicle Donation Programs, etc.) Sacramento, CA: California Department of Justice, 2004.

Office of the Secretary, U.S. Department of the Treasury. *Tax Reform for Fairness, Simplicity, and Economic Growth: The Treasury Department Report to the President*, Washington D.C.: U.S. Government Printing Office, November 1984.

Office of Tax Analysis, U.S. Treasury Department. *Report to the Congress on the Use of Tax Deductions for Donations of Conservation Easement*s. Washington, D.C.: U.S. Government Printing Office, December 1987.

O'Neil, Cherie, Richard Steinberg, and G. Rodney Thompson. "Reassessing the Tax-favored Status of the Charitable Deduction for Gifts of Appreciated Assets," *National Tax Journal* 49 No. 2 (June 1996): 215-233.

President's Advisory Panel on Federal Tax Reform. *Simple, Fair, and Pro-Growth: Proposals to Fix America's Tax System.* Washington D.C., November 2005.

Randolph, William C. "Dynamic Income, Progressive Taxes, and the Timing of Charitable Contributions." *Journal of Political Economy* 103 No. 4 (August 1995): 709-738.

Sinclair, Matthew. "IRS Plans Inspections of Car Donations" *Nonprofit Times* (April 1, 2000)

Stokeld, Fred. "Charities Report Dip in Vehicle Donations in Wake of New Rules." *Tax Analysts.* June 14, 2005.

Staff. "Why It Makes Sense to Donate the Family Jewelry: Changes in Tax Law Prompt People to Give Hard Assets Instead of Stocks and Cash." *Wall Street Journal* (December 16, 2003.)

Staff Editorial. "A For-Profit Façade." *Washington Post* (December 14, 2004.)