

Part III - Administrative, Procedural, and Miscellaneous

Charitable Contributions of Inventory Property Under § 170(e)(3)

Notice 2008-90

SECTION 1. OVERVIEW

This notice announces that the Internal Revenue Service (Service) and the Treasury Department are studying the computation of the deductible amount and adjustment to cost of goods sold for charitable contributions of inventory property that constitute qualified contributions as defined in § 170(e)(3)(A) of the Internal Revenue Code.

The Service and the Treasury Department are aware that some taxpayers making qualified contributions may, because of the income limitation of § 170(b)(2), prefer to apply the provisions of § 170(e)(1) and § 1.170A-1(c) of the Income Tax Regulations rather than the provisions of § 170(e)(3) and § 1.170A-4A(c).

SECTION 2. GUIDANCE UNDER SECTION 170(e)

For a particular qualified contribution of inventory property under § 170(e)(3) that otherwise satisfies the requirements of § 170 and the relevant regulations, the Service will not challenge a taxpayer's computation of the deductible amount and the required adjustment to cost of goods sold under either (1) § 170(e)(3) and § 1.170A-4A(c), or (2) § 170(e)(1) and § 1.170A-1(c).

SECTION 3. RELIANCE ON NOTICE

Taxpayers may rely on this notice unless and until further guidance is issued.

SECTION 4. COMMENTS REQUESTED

The Service and the Treasury Department request comments regarding the computation of the deductible amount and the required adjustment to cost of goods sold for charitable contributions of inventory property under § 170(e)(3) as well as any other issues related to inventory contributions that should be addressed in future guidance.

Comments should be submitted in writing on or before January 26, 2009, and should include a reference to Notice 2008-90. Send submissions to: CC:PA:LPD:PR (Notice 2008-90), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (Notice 2008-90), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, DC. Alternatively, comments may be submitted electronically directly to the Service via the following e-mail address: Notice.comments@irs.counsel.treas.gov. Please include "Notice 2008-90" in the subject line of any electronic communication. All materials submitted will be available for public inspection and copying.

SECTION 5. DRAFTING INFORMATION

The principal author of this notice is Susan J. Kassell of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice contact Ms. Kassell at (202) 622-5020 (not a toll free call).