

ACKNOWLEDGED SIGNIFICANT ADVICE, MAY BE DISSEMINATED

**Office of Chief Counsel
Internal Revenue Service**

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memorandum

TL-N-5625-97

date: December 4, 1997

to: District Counsel, Brooklyn, CC:NER:BRK

from: Assistant Chief Counsel, CC:DOM:IT&A /s/KGG/RAF

subject: Charitable Significant Service Center Advice
Donation -- Vehicles

This responds to your request for Significant Advice dated September 4, 1997, in connection with a question posed by the Examination function of the Brookhaven Service Center.

DISCLOSURE STATEMENT

Unless specifically marked "Acknowledged Significant Advice, May Be Disseminated" above, this memorandum is NOT to be circulated or disseminated except as provided in CCDM (35)2(13)3:(4)(d) and (35)2(13)4:(1)(e). This document may contain confidential information subject to the attorney-client and deliberative process privileges. Therefore, this document shall not be disclosed beyond the office or individual(s) who originated the question discussed herein and are working the matter with the requisite "need to know." In no event shall it be disclosed to taxpayers or their representatives.

ISSUE

What is the appropriate valuation method to determine the fair market value of used automobiles donated for purposes of determining charitable contribution deductions?

CONCLUSION

The fair market value for charitable contribution deduction purposes of used automobiles donated to a charitable organization is the price, determined on a case by case basis, at which the automobile would change hands between a willing buyer and a willing seller, neither having any compulsion to buy or sell and both having a reasonable knowledge of relevant facts.

FACTS

Taxpayers are claiming charitable contribution deductions for donations of used automobiles to charities. Such donations are often made in response to advertising campaigns by charitable organizations that actively solicit such donations. The charitable contribution deductions claimed are at times consistent with values listed in used car guidebooks such as the

Kelly Blue Book and the National Automobile Dealer's Association (NADA) Used Car Guide. Donee organizations that receive the used automobiles file Forms 8282, Donee Information Returns, that may indicate that the donee disposed of the donated vehicle within days of receipt for less than the amount reported as a charitable contribution deduction on the taxpayer's return.

DISCUSSION

Section 170(a)(1) of the Internal Revenue Code allows a deduction for any charitable contribution to or for the use of an organization described in § 170(c), payment of which is made during the taxable year. Generally, under § 1.170A-1(c)(1) of the Income Tax Regulations, the amount of a charitable deduction for a contribution of property is the property's fair market value. Section 1.170A-1(c)(2) defines fair market value as the price at which the property would change hands between a willing buyer and a willing seller, neither having any compulsion to buy or sell and both having a reasonable knowledge of relevant facts.

An argument can be made that a charitable organization's subsequent disposition of an automobile for a particular amount is an indication of the automobile's fair market value for purposes of determining the amount of a taxpayer's charitable contribution deduction. However, the fair market value of an automobile donated to a charity must be determined on a case by case basis and, in some cases, may have little or no relation to the amount the charitable organization receives on disposition of the automobile.