

The Internal Revenue Service discusses the rules which may be relied upon in determining whether a contribution made by an individual will qualify as a gift to a 'publicly supported' organization for purposes of section 170 of the Internal Revenue Code of 1954.

Proposed Income Tax Regulations, relating, among other things, to the determination of whether an organization is 'publicly supported' for purposes of the additional deduction not to exceed 10 percent of adjusted gross income for charitable contributions of an individual, were published in the Federal Register for November 10, 1965 (30 F.R. 14158). The rules set forth in these proposed regulations differ in certain respects from the provisions set forth in the following paragraphs.

Until such time as the final regulations have been adopted, taxpayers may rely upon either the provisions of the proposed regulations or the provisions set forth in this Revenue Ruling (previously announced in Technical Information Release No. 667, Announcement 65-9, I.R.B. 1965-4, 49) in determining whether a contribution made by an individual will qualify as a gift to a 'publicly supported' organization for purposes of section 170 of the Internal Revenue Code of 1954.

Under the provisions of the Revenue Act of 1964, Public Law 88-272, C.B. 1964-1 (Part 2), 6, 'publicly supported' organizations qualify as '30 percent organizations.' Charitable contributions by an individual to a 'publicly supported' organization, as is the case with respect to gifts to other types of '30 percent organizations,' generally may be deducted to the extent that such contributions do not exceed 30 percent of the donor's adjusted gross income. Contributions to privately supported organizations are normally subject to a 20 percent limitation.

Gifts to '30 percent organizations' by an individual which exceed 30 percent of his adjusted gross income generally may be carried over and deducted in later years under the 'carryover' provision in section 170(b)(5) of the Code as added by the Revenue Act of 1964.

Section 170 of the Code contains a limitation which allows individual taxpayers a charitable deduction of up to 20 percent of their adjusted gross income (computed without regard to any net operating loss carryback) for contributions made to or for the use of certain organizations, known as '20 percent organizations,' including, among others, organizations organized and operated exclusively for religious, charitable, educational, etc., purposes, and to the United States, a State, or a local governmental unit if the contribution is made for exclusively public purposes.

Prior to the Revenue Act of 1964, a deduction limited to an additional 10 percent of adjusted gross income (computed without regard to any net operating loss carryback) was also allowable in the case of contributions made to certain other organizations, known as '30 percent organizations,' including churches, or conventions or associations of churches, certain educational organizations, hospitals, certain medical research organizations, and certain organizations affiliated with State colleges or universities. The Revenue Act of 1964 continued this provision and expanded the group of '30 percent organizations' to include organizations which normally receive a substantial part of their support from a governmental unit or from direct or indirect contributions from the general public. See section 170(b) (1) (A) (vi) of the Code.

Contributions to '30 percent organizations' by individuals generally are deductible to the extent that such contributions, when added to deductible contributions to '20 percent organizations,' do not exceed 30 percent of the donor's adjusted gross income. For example, if a taxpayer makes a contribution which equals 18 percent of his adjusted gross income to an organization in the 20 percent group and makes an additional contribution which equals 12 percent of his adjusted gross income to an organization in the 30 percent group, both contributions are fully deductible.

In addition, contributions to organizations in the 30 percent group in excess of 30 percent of the donor's adjusted gross income generally may be carried over and deducted in a later year under section 170(b) (5) of the Code. However, such carryover is available only if the contributions to organizations in the 30 percent group alone exceed 30 percent of the taxpayer's adjusted gross income without considering contributions to organizations in the 20 percent group. Furthermore, contributions to organizations in the 30 percent group are 'qualified contributions' under the new provisions dealing with the unlimited charitable contribution deduction which also were added by the Revenue Act of 1964.

In determining whether an organization is 'publicly supported,' the term 'support' not only includes contributions received by the organization, but also includes investment income, such as interest, rents, royalties, dividends, and capital gains, and net income from related and unrelated business activities. However, in determining the amount of any capital gain to be included in support, the organization should use as its basis the fair market value of any contributed property at the time of its contribution. 'Support' does not include any income from the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis of its exemption under section 501(a) of the Code, such as fees charged for admission to a museum.

Whether or not an organization receives a 'substantial' part

of its support from the sources required by the statute depends upon the facts and circumstances in each case. The term 'substantial' is used in many places in the tax law and its meaning in one section is not necessarily applicable in other sections. However, an organization will be considered to be one which normally receives a substantial part of its support from donations by a governmental unit, from donations made directly or indirectly by the general public, or from donations from a combination of these sources, if such organization received one-third or more of its support for each of three out of its last four taxable years ending prior to July 1, 1964, from such sources. Indirect contributions from the general public includes contributions from other 'publicly supported' organizations, such as a United Givers Fund.

The requirement that the support be received from the general public means that such support must be received from a wide segment of the public, and not solely from a few individuals or families. Therefore, contributions by any individual, trust, or corporation shall be taken into account in determining whether the one-third of support test is met only to the extent that such contributions do not exceed 1 percent of the organization's total support. In applying this 1 percent limitation, all contributions made by a donor and a related person within the meaning of section 267(b) of the Code shall be treated as made by one person. The 1 percent limitation does not apply to contributions from governmental units or from other 'publicly supported' organizations.

The application of these rules may be illustrated by the following example:

In 1963, X, an organization referred to in section 170(c)(2) of the Code received total support of \$50,000 from the following sources:

Investment income		\$30,000
Contributions:		
100 gifts, each of less than \$500	\$15,000	
4 gifts of \$750 each	3,000	
1 gift of \$2,000	<u>2,000</u>	
Total contributions		<u>20,000</u>
Total support of x		\$50,000

The amount of support which X received from the general public may be computed by adding the following: (1) Since none of the 100 gifts exceeds 1 percent of total support, the full amount of such gifts (\$15,000); (2) the portion of each \$750 gift which does not exceed 1 percent of total support ( $\$50,000 \times 1\% = \$500$ ;  $\$500 \times 4 = \$2,000$ ); and (3) the portion of the \$2,000 gift

which does not exceed 1 percent of total support (\$500). The total contribution from the general public would be \$17,500 (\$15,000 plus \$2,000 plus \$500). Since this amount exceeds one-third of X's total support, X will be considered to have received a substantial part of its support from the general public for 1963.

The guides set forth above are not exclusive, and a donor may be able to establish, on the basis of all the facts and circumstances, that an organization to which he has contributed is a 'publicly supported' organization.