

Internal Revenue Service

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Date: October 16, 2001

Dear [REDACTED]:

This letter responds to your letter of December 13, 2000 relating to donations of [REDACTED] items to the [REDACTED]. We are pleased to provide the following general information.

Section 170(a) of the Internal Revenue Code allows, subject to certain limitations, a deduction for charitable contributions to or for the use of organizations described in section 170(c), payment of which is made within the taxable year.

Section 170(c)(1) of the Code provides, in part, that the term "charitable contribution" means a contribution or gift to or for the use of a state, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

Generally, a fund that is an integral part of a governmental unit is eligible to receive deductible charitable contributions. See Rev. Rul. 73-296, 1973-2 C.B. 67 (contributions to United States Army Unit Funds, which are integral parts of the Army, are deductible under § 170).

Section 1.170A-1(c)(1) of the Income Tax Regulations provides that if a charitable contribution is made in property other than money, the amount of the contribution is the fair market value of the property at the time of the contribution reduced as provided in § 170(e)(1) and § 1.170A-4(a).

Under § 170(e)(1)(A) of the Code, the amount of any charitable contribution of property is reduced by the amount of gain that would not have been long-term capital gain if the property had been sold by the taxpayer at its fair market value, determined at the time of the contribution. Furthermore, under § 170(e)(1)(B)(i), in the case of a contribution of tangible personal property, if the use by the donee is unrelated to its purpose or function, then the charitable contribution must be reduced by the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value.

Section 1.170A-4(a) of the regulations provides, in part, that if an individual or corporation contributes ordinary income property, as defined in § 1.170A-4(b), the amount of the charitable contribution is reduced by the gain that would have been

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recognized as ordinary income if the property had been sold by the donor at its fair market value at the time of its contribution.

Section 1.170A-4(b) of the regulations defines the term "ordinary income property" to mean property, any portion of the gain on which would not have been long-term capital gain if the property had been sold by the donor at its fair market value at the time of its contribution. Such term includes property held by the donor primarily for sale to its customers in the ordinary course of its trade or business, certain property created by the donor, and a capital asset held by the donor for not more than one year.

Section 1.170A-4(b)(3)(i) of the regulations defines "unrelated use" for purposes of § 170(e)(1)(B) as, in the case of a contribution of property to a governmental unit, the use of such property by such unit for other than exclusively public purposes.

Section 1.170A-4(b)(3)(i) of the regulations allows a taxpayer who makes a charitable contribution of tangible personal property to treat such property as not being put to an unrelated use by the donee if: (a) the taxpayer establishes that the property is not in fact put to an unrelated use by the donee, or (b) at the time of the contribution or at the time the contribution is treated as made, it is reasonable to anticipate that the property will not be put to an unrelated use by the donee. In the case of a contribution of tangible personal property to or for the use of a museum, if the object donated is of a general type normally retained by such museum or other museums for museum purposes, it will be reasonable for the donor to anticipate, unless he has actual knowledge to the contrary, that the object will not be put to an unrelated use by the donee, whether or not the object is later sold or exchanged by the donee.

Section 170(f)(8) of the Code disallows a deduction for a charitable contribution of \$250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of section 170(f)(8)(B). Section 170(f)(8)(B) requires that the acknowledgment include the following information: (a) the amount of cash and a description of any property other than cash contributed, (b) whether the donee organization provided any goods or services in consideration, in whole or in part, for any property contributed, and (c) a description and good faith estimate of the value of any goods or services provided.

Section 1.170A-13(b)(3) of the regulations provides in part, that if contributions of property other than money exceed \$500, the taxpayer shall maintain written records, and file a statement as required by the return form or its instructions, indicating the manner and date of acquisition, and the taxpayer's basis in the contributed property. For noncash contributions in excess of \$500, the taxpayer must submit the required statement by completing Form 8283, *Noncash Charitable Contributions* (enclosed).

Section 1.170A-13(c) of the regulations provides certain substantiation requirements for deductions by an individual in excess of \$5,000 for noncash charitable contributions. Specifically, a donor must obtain a qualified appraisal and attach to the donor's income tax return a fully completed appraisal summary (Form 8283, *Noncash Charitable Contributions*). A qualified appraisal includes an appraisal by a qualified appraiser that

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is made not earlier than 60 days prior to the date of the contribution of the appreciated property nor later than the due date, including extensions, of the donor's return on which the deduction is claimed.

Section 170(b)(1)(A)(v) of the Code allows a deduction for contributions by individuals to a governmental unit described in § 170(c)(1) of up to 50 percent of the taxpayer's contribution base for the taxable year.

Section 1.170A-9(d) of the regulations provides that a governmental unit is described in § 170(b)(1)(A)(v) if it is referred to in § 170(c)(1). Section 170(c)(1) defines "charitable contribution" as including a gift to or for the use of the United States, but only if made for exclusively public purposes.

Section 170(b)(1)(F) of the Code provides that for purposes of § 170, the term contribution base means adjusted gross income (computed without regard to any net operating loss carryback to the taxable year under § 172).

Generally, taxpayers who itemize their deductions may deduct the fair market value of contributions to a governmental unit, subject to the requirements and limitations of § 170. Of course, the tax consequences of any such contribution are determined based upon the facts and circumstances of that contribution. To further explain rules for charitable contribution deductions, we have enclosed Publication 526 *Charitable Contributions* and Publication 561 *Determining the Value of Donated Property*.

I hope this information is helpful. Please call Sean Dwyer, at the number above, if you have any questions.

Sincerely,

Karin G. Gross
Senior Technician Reviewer, Branch 1
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosures: (3)
Pub 526
Pub 561
Form 8283 and Instructions