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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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Dear _____ :

This letter responds to your letter dated December 30, 2003, relating to charitable contributions of certain property. We are pleased to provide the following general information.

This letter is an "information letter," within the meaning of section 2.04 of Rev. Proc. 2004-1, 2004-1 I.R.B. 7. An information letter calls attention to a well-established interpretation or principle of tax law without applying it to a specific set of facts. In accordance with section 2.04 of Rev. Proc. 2004-1, this information letter is advisory only and has no binding effect on the Internal Revenue Service.

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 §170(c), payment of which is made during the taxable year.

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), or § 170(e)(3) and § 1.170A-4A(c). Section 1.170A-1(c)(2) provides that the fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

Section 1.170A-4(c)(2)(ii) defines a “bargain sale” as a transfer of property that is in part a sale or exchange of the property and in part a charitable contribution, as defined in § 170(c), of the property.

To qualify for a charitable contribution deduction, a transfer must be a “contribution or gift” within the meaning of § 170(c). A charitable contribution or gift is a transfer of money or property without adequate consideration, made with donative intent. A donation generally does not qualify as a charitable contribution under § 170 if the donor expects a substantial benefit in return. However, if a taxpayer receives only a nominal benefit in return for his contribution, the taxpayer generally may claim as a charitable contribution the difference between the payment to a charitable organization and the market value of the benefit received in return.

I hope this information is helpful. Please call

, if you have any questions.

, at

Sincerely,

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