



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

3/25/2005

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Dear \_\_\_\_\_ :

Thank you for your inquiry dated May 10, 2004, in which you ask whether you are entitled to claim a charitable contribution deduction under § 170 of the Internal Revenue Code for payments made to a \_\_\_\_\_ at which your children attend \_\_\_\_\_ school tuition-free. This letter is not a ruling, but rather provides information in response to the general question of what is deductible as a charitable contribution.

To be deductible under § 170, a payment must be a gift. A gift is a voluntary transfer of money or property that is made with no expectation of procuring a financial benefit commensurate with the amount of the transfer. *United States v. American Bar Endowment*, 477 U.S. 105, 118 (1986). No charitable contribution deduction is allowed for payments that are, in fact, tuition. Whether a payment is non-deductible tuition, or is a gift, is determined on a case by case basis, and is based on all the facts and circumstances. Rev. Rul. 83-104, 1983-2 C.B. 46.

If you believe that you need to report criminal activity, the Internal Revenue Service Criminal Investigation Informant Hotline can be reached by calling 1-800-829-0433.

For your convenience, I have enclosed Publication 526, "Charitable Contributions." If you have any questions, please call \_\_\_\_\_, ID. No. \_\_\_\_\_, at \_\_\_\_\_.

Sincerely,

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

Enclosure