



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

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The Honorable Joe Wilson
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Wilson:

I apologize for the delay in responding to your letter dated January 24, 2006, on behalf of your constituent, . He wrote about the rules for charitable contribution deductions for expenses incurred for donating the use of vacant rental property to Hurricane Katrina victims. You asked us to publish guidance that would allow taxpayers to take charitable contribution deductions for these expenses.

A charitable contribution is a gift or contribution to or for the use of certain charitable organizations. A gift to a private individual is not deductible [section 170(a) and (c) of the Internal Revenue Code (the Code)]. See *Thomason v. Commissioner*, 2 T.C. 441 (1943); Rev. Rul. 61-66, 1961-1 C.B. 19.

A taxpayer cannot take a deduction for a charitable contribution of less than the taxpayer's entire interest in property, called a "partial interest" [section 170(f)(5) of the Code]. A contribution of the right to use property that the donor owns (such as a rent-free lease) is a contribution of a partial interest [section 1.170A-7(a) of the Income Tax Regulations].

No exception exists to the rules that deny a deduction for gifts to private individuals or for gifts of partial interests. The Katrina Emergency Tax Relief Act of 2005 provides tax benefits to certain taxpayers who help Katrina victims such as an additional personal exemption for a taxpayer who provides housing in the taxpayer's principal residence to a Hurricane Katrina displaced person. However, the law does not allow a charitable contribution deduction for a taxpayer who holds rental property and temporarily allows a displaced individual to reside in that property.

I hope you find this letter helpful. If you would like additional information, please contact me at .

Sincerely,

Jeffery G. Mitchell
Chief, Branch 6
(Income Tax & Accounting)