

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Taxpayer =  
X =  
Y =  
Donee =  
Network =  
Purchaser =  
Date 1 =  
Date 2 =

Dear :

This letter refers to a request for a private letter ruling dated October 18, 2010, filed on behalf of Taxpayer, on the application of section 170 of the Internal Revenue Code ("Code") to the taxpayer's transfer of broadcast station licenses to Donee.

**FACTS**

Taxpayer is the owner of several low-power television broadcast station licenses, each authorizing the use of X megahertz of licensed spectrum at up to Y kilowatts of digital power. Taxpayer operates these low-power broadcast television stations to deliver television programming over the airwaves to a local community. Taxpayer has a network affiliation with Network, whereby Network delivers a satellite network broadcast signal to Taxpayer and taxpayer uses its facilities to broadcast Network programming in the community in which each of taxpayer's stations is located. Broadcast advertising time is split between Network and Taxpayer according to an affiliation agreement.

On Date 1, Taxpayer purchased fourteen low-power broadcast station licenses pursuant to a bankruptcy sale of an unrelated third party, and immediately sold all of its rights, title, and interest in seven station licenses to Purchaser. Taxpayer represents that it received approval from the Federal Communications Commission (“FCC”) for both of these transactions. Since that time, Taxpayer has been operating three of the broadcast station licenses according to the network affiliation agreement with Network.

On Date 2, Taxpayer transferred all of its rights, title, and interest in five of the low-power broadcast station licenses purchased on Date 1 to Donee. As of Date 2, Taxpayer had title to the station licenses for longer than one year. The call signs for the five station licenses transferred to Donee are \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_. Taxpayer represents that it received FCC consent to transfer the station licenses to Donee. Taxpayer represents that it donated station equipment related to each of the five station licenses to Donee. Taxpayer represents that Donee is an organization described in section 170(c)(2), and is an “operating foundation” as described in section 4942(j)(3). Taxpayer continues to operate three low-power television broadcast stations to broadcast Network programming according to the affiliation agreement with Network.

#### LAW AND ANALYSIS

Section 170(a) allows as a deduction any charitable contribution, as described in section 170(c), payment of which is made in the taxable year, only if verified under regulations prescribed by the Secretary. A charitable contribution means a contribution to or for the use of an organization described therein. Section 170(c).

Section 170(f)(3)(A) generally disallows a charitable contribution deduction for a contribution of an interest in property which consists of less than the donor’s entire interest in the property, unless the interest is an interest in property described in section 170(f)(3)(B). See Treas. Reg. § 1.170A-7(a)(1). However, a deduction is allowed for a contribution of a partial interest in property if such interest is the donor’s entire interest in the property. Treas. Reg. § 1.170A-7(a)(1)(i).

Treas. Reg. § 1.170A-1(c)(1) 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 donation, subject to the reductions provided in section 170(e) and Treas. Reg. § 1.170A-4.

Section 170(e) reduces the charitable contribution deduction for appreciated property by the amount of gain which would not have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value at the time of contribution. Section 170(e)(1)(A). The amount of the charitable contribution is further 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 at the time of

contribution. Section 170(e)(1)(B). However, the reduction of the contribution by the amount of the long-term capital gain does not apply to property contributed to a private operating foundation within the meaning of section 4942(j)(3). See Section 170(b)(1)(F) and (e)(1)(B)(ii). For this purpose, property which is used in a trade or business within the meaning of section 1231(b) shall be treated as a capital asset. Section 170(e)(1).

Here, Taxpayer has transferred all of its rights, title, and interest in the five low-power broadcast station licenses that were held for longer than one year identified above to a private operating foundation. Taxpayer also contributed related station equipment. A charitable contribution deduction for the broadcast station licenses is not disallowed under section 170(f)(3) since Taxpayer contributed its entire interest in the property. Additionally, there is no reduction under section 170(e) by the amount of gain that would have been long-term capital gain had the taxpayer sold the licenses, since Taxpayer contributed the licenses to a private operating foundation within the meaning of section 4942(j)(3). The licenses were held for longer than one year and were used in a trade or business prior to the contribution. Therefore, the licenses are properly treated as long-term capital assets for purposes of section 170(e).

## CONCLUSION

Taxpayer's contribution of low-power television broadcast station licenses to Donee is a deductible charitable contribution under section 170(a), subject to the percentage limitation of section 170(b), so long as Taxpayer properly substantiates the value of the property contributed. See, for example, Section 170(f)(8) and Treas. Reg. §§ 1.170A-13 and 1.170A-14.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Thomas D. Moffitt  
Branch Chief, Branch 2  
(Income Tax & Accounting)

cc: