



OFFICE OF THE CHIEF COUNSEL

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

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The Honorable Bill Huizenga
Member, U.S. House of Representatives
4555 Wilson Avenue SW, Suite 3
Grandville, MI 49418

Attention:

Dear Congressman Huizenga:

I am responding to your letter dated July 3, 2013, on the behalf of your constituent,

, . He requested an exemption from the provisions of section 170(e)(3) of the Internal Revenue Code (the Code) that currently prohibits charging the recipient of the donated food for the food or the cost of its distribution.

A taxpayer may deduct any charitable contribution that is paid within the taxable year under section 170(a) of the Code. For a charitable contribution 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 by an amount as stated in the Code and accompanying Income Tax Regulations (section 1.170A-1(c)(1)). In general, the deduction is limited to the lesser of the fair market value or the taxpayer's basis in the contributed property.

There is an exception to this general rule: taxpayers can claim a higher deduction amount if they meet certain requirements, including that the donee cannot transfer contributed property in exchange for money, other property, or services (often called the "enhanced deduction," section 170(e)(3)(A) of the Code). Therefore, according to the tax law, the enhanced deduction only applies if the recipient does not transfer the donated food to its clients in exchange for money, other property, or services.

We administer the tax law as enacted. Any change in the law would require legislative action by the Congress.

I hope this information is helpful. If you have any questions, please contact _____, Identification Number _____, at _____.

Sincerely,

Norma C. Rotunno
Acting Branch Chief, Branch 2,
Office of Associate Chief Counsel
(Income Tax and Accounting)