

Section 170

ing contributions to commission a portrait of a recently appointed judge. Contributions are solicited and the portrait is donated to X in the same year.

The portrait is the property of political subdivision X and is on display in the courthouse.

LAW AND ANALYSIS

Section 170(a)(1) of the Code allows as a deduction any charitable contribution made during the tax year.

Section 170(c)(1) of the Code defines a charitable contribution as a contribution or gift to or for the use of a state, a possession of the United States, any political subdivision of a state or possession, the United States, or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

Because the portrait becomes the property of political subdivision X and hangs in the courthouse on public display, contributions to the committee to acquire the portrait are made for exclusively public purposes.

HOLDING

Contributions to the portrait fund, as described above, are deductible in the manner and to the extent provided under section 170 of the Code for the tax year of the contribution.

26 CFR 1.170A-1: Charitable, etc., contributions and gifts; allowance of deduction.

Charitable contribution; reward money to a police department. A contribution of reward money by a parent of a murdered individual to the police department of a political subdivision for information leading to the conviction of the murderer is for exclusively public purposes and is deductible under section 170 of the Code.

Rev. Rul. 81-307

ISSUE

Is a contribution of a reward, as described below, deductible under section 170 of the Internal Revenue Code?

FACTS

A was murdered in 1980. B, A's parent, contributed 10x dollars to the police department of CI to be used as a reward for information leading to the conviction of A's killer or killers. If the money is not used to pay the reward, the police department will use the money for exclusively public purposes. CI is a political subdivision described in section 170(c)(1) of the Code.

LAW AND ANALYSIS

Section 170(a)(1) of the Code allows as a deduction any charitable contribution made during the tax year.

Section 170(c)(1) of the Code defines a charitable contribution as a contribution or gift to or for the use of a state, a possession of the United States, any political subdivision of a state or possession, the United States, or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

Rev. Rul. 67-446, 1967-2 C.B. 119, holds that contributions are for "exclusively public purposes" when made to a city to enable it to provide railroad companies with new facilities outside the city in exchange for the railroads' removal of their inner-city facilities and relinquishment of their right of way through the city. The revenue ruling states that although merchants and owners of property in the city who make contributions may receive some benefit from the removal of the railroad facilities, any benefit is incidental in comparison to the benefits accruing to the public at large. See also: Rev. Rul. 79-323, 1979-2 C.B. 106; and Rev. Rul. 69-90, 1969-1 C.B. 63.

Rev. Rul. 74-246, 1974-1 C.B. 130, concerns an organization that makes funds available to a police department to assist the department, as a regular part of its operations, in offering rewards for information leading to the apprehension and conviction of persons engaging in criminal activity within a particular community. The revenue ruling states that providing funds to enable a police department to perform its regular duties assists the government in carrying out its function.

The establishment of the reward in this case helps the police department of CI maintain the public safety and assists it in carrying out its governmental functions. Therefore, the reward serves an exclusively public purpose and any benefit B receives from the conviction of A's killer or killers is incidental in comparison to the benefits accruing to the public at large.

HOLDING

The contribution of 10x dollars by B to the police department of CI is deductible as a charitable contribution in the manner and to the extent provided under section 170 of the Code.

26 CFR 1.170A-1: Charitable, etc., contributions and gifts; allowance of deduction.

Standard mileage rate for computing the allowable deduction for the cost of operating an automobile for transportation in connection with rendering gratuitous services to a charitable organization. See Rev. Proc. 81-54, page 649.

26 CFR 1.170A-7: Contributions not in trust of partial interests in property.

Charitable contribution; voting stock. A contribution of voting stock to a charitable organization with the donor retaining the right to vote that stock constitutes a contribution of a partial interest under section 170(f)(3) of the Code for which a charitable contribution deduction is not allowable.

Rev. Rul. 81-282

ISSUE

Are contributions of stock deductible under section 170 of the Internal Revenue Code in the situation described below?

FACTS

A, an individual, is a shareholder of X corporation. A contributes 100x shares of A's voting stock in X to Y, an organization described in section 170(c) of the Code. A retains the right to vote the contributed stock.

LAW AND ANALYSIS

Section 170(a)(1) of the Code allows a deduction, subject to certain limita-

tions, for any charitable contribution (as defined in section 170(c) paid during the tax year.

Section 170(f)(3) of the Code denies a charitable contribution deduction for certain contributions of partial interests in property. Section 170(f)(3)(A) provides that no charitable deduction is allowed for a contribution of less than the taxpayer's entire interest in property unless the contribution would have been allowed had it been transferred in trust. A contribution by a taxpayer of the right to use property is treated as a contribution of less than the taxpayer's entire interest in property.

Section 170(f)(3)(B)(ii) of the Code and section 1.170A-7(b) of the Income Tax Regulations provide that a deduction is allowed under section 170 of the Code for a contribution not in trust of a partial interest that is less than the donor's entire interest in property if the partial interest is an undivided portion of the donor's entire interest. An undivided portion of a donor's entire interest in property must consist of a fraction or percentage of each and every substantial interest or right owned by the donor in such property. A charitable contribution in perpetuity of an interest in property not in trust if the donor transfers some specific rights and retains other substantial rights will not be considered a contribution of an undivided portion of the donor's entire interest in property to which section 170(f)(3)(A) of the Code does not apply. Thus, for example, a deduction is not allowable for the value of an immediate and perpetual gift not in trust of an interest in original historic motion picture films to a charitable organization if the donor retains the exclusive right to make reproductions of such films and to exploit such reproductions commercially. Section 1.170A-7(B)(1).

Rev. Rul. 76-143, 1976-1 C.B. 63, considered two situations involving an irrevocable assignment to a college of the cash surrender value of a life insurance policy. In Situation 1 the college was given possession of a paid-up policy, but the taxpayer retained the right to name or change the beneficiary and to assign the policy subject to the col-

lege's right to the cash surrender value. Even though the donor could not defeat the charity's interest in the life insurance policy, the revenue ruling stated that the rights retained by the donor were substantial rights and held that, in this situation, the taxpayer's gift was a gift of a partial interest in property that was not deductible under section 170 of the Code. See also Rev. Rul. 76-331, 1976-2 C.B. 52.

The right to vote stock is inherent in the ownership of common stock and, as such, is a property right. This right gives the holder a voice in the management of the corporation and is crucial in protecting the stockholder's financial interest. Therefore, the right to vote the stock of X is a substantial right in that stock. See *Brown v. McLanahan*, 148 F.2d 703 (4th Cir. 1945); and *DuVall v. Moore*, 276 F. Supp. 674 (N.D. Iowa 1967).

While A's retention of the right to vote the stock will not defeat Y's right to dividends or the right to dispose of the stock, and, while the right retained by the donor will not defeat the donee's interest in the transferred property, nevertheless, A has not transferred all substantial rights in the stock to Y. Therefore, A has transferred a partial interest in property to Y within the meaning of section 170(f)(3) of the Code. See Rev. Rul. 76-143.

HOLDING

A is not entitled to a charitable contribution deduction under section 170 of the Code for the transfer of the X stock to Y.

26 CFR 1.170A-9: Definition of section 170(b)(1)(A) organization.

Whether a professional standards review organization is described in 170(b)(1)(A)(vi) of the Code and thus is not a private foundation. See Rev. Rul. 81-276, page 128.

Section 179.—Election to Expense Certain Depreciable Business Assets

26 CFR 5c.0: Time and manner of making certain elections under the Economic Recovery Tax Act of 1981.

Temporary regulations relating to certain elections under the Economic Recovery Tax Act of 1981. See T.D. 7793, page 62.

Part VII.—Additional Itemized Deductions for Individuals

Section 213.—Medical, Dental, Etc., Expenses

26 CFR 1.213-1: Medical, dental, etc., expenses.

Standard mileage rate for computing the allowable deduction for the cost of operating an automobile in connection with transportation for medical care. See Rev. Proc. 81-54, page 649.

26 CFR 1.213-1: Medical, dental, etc., expenses.

Disallowance of deductions as medical expenses for amounts paid by employee to State disability benefit fund or a private plan in lieu thereof. See Rev. Ruls. 81-192, 81-193 and 81-194, pages 50, 52 and 54.

Section 217.—Moving Expenses

26 CFR 1.217-2: Deduction for moving expenses paid or incurred in taxable years beginning after December 31, 1969.

Simplified, optional method that may be used for computing deductions for the costs of operating a passenger automobile for moving expense purposes. See Rev. Proc. 81-54, page 649.

Part IX.—Items Not Deductible

Section 262.—Personal, Living, and Family Expenses

26 CFR 1.262-1: Personal, living and family expenses.

Nondeductible personal expense for amounts paid by employees to State disability benefit fund or private plan in lieu thereof. See Rev. Ruls. 81-192, 81-193 and 81-194, pages 50, 52 and 54.

Section 264.—Certain Amounts Paid In Connection With Insurance Contracts

26 CFR 1.264-4: Other life insurance, endowment, or annuity contracts.

Interest paid; indebtedness to pay life insurance premiums; policies as collateral. The interest paid or accrued on an indebtedness secured