

Contributions by individuals to a university endowment association organized and operated for the purpose of receiving and holding in trust any property given, devised, or bequeathed in trust, or in any other way made over to the organization for the use of a university, do not constitute gifts to the university within the meaning of section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954. Accordingly, the additional deduction for charitable contributions to the extent of ten percent of adjusted gross income provided by the special rule in section 170(b)(1)(A) of the Code does not apply to contributions made to such organization by individual donors.

Revenue Ruling 60-111, page 123, this Bulletin, distinguished.

Advice has been requested whether contributions by individuals to a nonprofit university endowment association organized and operated for the purpose of receiving and holding in trust property given or made over to the corporation for the use of a state university will qualify for the deduction of ten percent of adjusted gross income provided by the special rule under section 170(b)(1)(A) of the Internal Revenue Code of 1954.

The instant corporation, a university endowment association, was chartered under the laws of a state as a nonprofit educational corporation for the purpose of promoting, receiving, administering and disbursing private gifts and bequests for the exclusive benefit of a state university. The association's activities consist of encouraging and soliciting private support for the university; receiving and holding in trust all property given to the association for the benefit of the university; the administration of endowment funds; and the maintenance of separate funds for gifts and bequests received for uses for which state appropriated funds are not available, such as scholarships, students loans, equipment, furnishings, supplies, lectureships and libraries. The association holds title to over 50 percent of the property comprising the university campus area. Gifts for specific purposes specified by donors are expanded upon the request and approval of proper university officials; however, the expenditure of unrestricted gifts received from donors require the approval of the association's executive committee as well as the approval of appropriate university officials. No gift or bequest is reduced in any way by administrative expenses of the association as all such expenses are paid from the resources provided by one of the association's benefactors.

The Internal Revenue Service has held that the instant corporation is exempt from Federal income taxation, and that contributions made to it are deductible by the individual donors to the extent of the general limitation of 20 percent of adjusted gross income as provided by section 170(b)(1)(B) of the Code.

Section 170(b)(1)(A) of the Code provides, in part, that an additional deduction under a special rule whereby contributions to certain specific classes of organizations, including educational organizations referred to in section 503(b)(2) of the Code, shall be allowed to individuals to the extent that the aggregate of such additional contributions does not exceed ten percent of the donor's adjusted gross income. Section 503(b)(2) of the Code refers to an educational organization as one which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

With reference to section 17(b)(1)(A)(i), (ii), and (iii) of the Code, Senate Report No. 1622, 83rd Cong., on page 207, states as follows:

It is to be noted that such charitable contribution must be paid to the organization and not for the use of the organization. Accordingly, payments to a trust (where the beneficiary is an organization described in said clauses (i), (ii), or (iii)) are not included under this special rule.

Section 1.170-2(b)(3) of the Income Tax Regulations states, among other things, that a gift to an educational institution through an alumni association or a class organization, which acts simply as a fund-raising or collection agency through which gifts may be made currently to the institution, is a gift to the educational organization if the entire gift inures to its benefit, but not if any part of it inures to the general or operating fund of the agency.

In the instant case, however, the corporation, in accordance with the provision of its charter, functions as a trust to receive and hold property given to it for the use and benefit of the university, rather than as an agency for the collection of gifts which are transferred to the university. Thus, a contribution made to the corporation may not be considered a gift to the university within the meaning of section 1.170-2(b)(3) of the regulations.

In view of the above, it is held that contributions made by individuals to a university endowment association organized and operated for the purpose of receiving and holding in trust any property given, devised, or bequeathed in trust, or in any other way made over to the organization for the use of a university, do not constitute contributions paid to the university within the meaning of section 170(b)(1)(A)(ii) of the Code. Accordingly, the additional deduction for charitable contributions to the extent of ten percent of the taxpayer's adjusted gross income provided by the special rule in section 170(b)(1)(A) of the Code does not apply to contributions made to such organization by individuals.

This case is distinguishable from Revenue Ruling 60-111, below, this Bulletin, where contributions received by an

association of educational organizations for its participating colleges were considered to be gifts to such colleges since the association in that case merely made temporary investments of such gifts for an interim period prior to the annual distributions thereof in their entirety to the colleges; whereas, in the instant case, donations to the endowment association are placed by it in various funds which it administers and maintains on a permanent basis, including the holding of title indefinitely to some of the gifts.