

Rev. Rul. **66-79**

Contributions to a domestic charity described in section 170(c)(2) of the Internal Revenue Code of 1954 which are solicited for a specific project of a foreign charitable organization are deductible under section 170 of the Code where the domestic charity has reviewed and approved the project as being in furtherance of its own exempt purposes and has control and discretion as to the use of the contributions.

Revenue Ruling 63-252, C.B. 1963-2, 101, amplified.

The Internal Revenue Service has been requested to clarify Revenue Ruling 63-252, C.B. 1963-2, 101, with respect to the deductibility of contributions to a domestic charitable corporation which may solicit contributions for a specific project of a foreign charity in the manner presented below.

X corporation is a domestic charitable organization formed under the nonprofit laws of the state of Y. It is exempt from Federal income tax as being organized and operated exclusively for charitable, educational, and scientific purposes described in section 501(c)(3) of the Internal Revenue Code of 1954. Contributions to it are deductible since it is an organization described in section 170(c)(2) of the Code.

The corporation's charter provides, in part, that in furtherance of its educational, scientific, and charitable purposes it shall have the power to receive and allocate contributions, within the discretion of the board of directors, to any organization organized and operated exclusively for charitable or educational purposes within the meaning of section 501(c)(3) of the Code.

In contrast to the broad generality of the purposes stated in its charter, the name X corporation suggests a purpose to assist a named foreign organization. The individuals who organized X corporation had become interested in furthering the work of the named foreign organization, a corporation organized and operated in a foreign country exclusively for charitable, scientific, and educational purposes. The individuals concerned, who are United States citizens not acting on behalf of the foreign organization, did not wish X corporation to function simply as a fund raising medium for the foreign organization. Instead, they were interested in raising funds for specific projects, such as scientific research projects, to be carried out by the foreign organization, or individuals connected with the foreign organization, pursuant to grants previously reviewed and approved by the board of directors of X corporation.

The bylaws of X corporation provide, in part, that: (1) The making of grants and contributions and otherwise rendering financial assistance for the purposes expressed in the charter of the organization shall be within the exclusive power of the board of directors; (2) in furtherance of the organization's purposes, the board of directors shall have power to make grants to any organization organized and operated exclusively for charitable, scientific or educational purposes within the meaning of section 501(c)(3) of the Code; (3) the board of directors shall review all requests for funds from other organizations, shall require that such requests specify the use to which the funds will be put, and if the board of directors approves the request, shall authorize payment of such funds to the approved grantee; (4) the board of directors shall require that the grantees furnish a periodic accounting to show that the funds were expended for the purposes which were approved by the board of directors; and (5) the board of directors may, in

its absolute discretion, refuse to make any grants or contributions or otherwise render financial assistance to or for any or all the purposes for which funds are requested.

The bylaws also provide that after the board of directors has approved a grant to another organization for a specific project or purpose, the corporation may solicit funds for the grant to the specifically approved project or purpose of the other organization. However, the board of directors shall at all times have the right to withdraw approval of the grant and use the funds for other charitable, scientific or educational purposes.

In accordance with the provisions of its charter and bylaws, X corporation at times solicits contributions which are to be used to provide grants to the foreign organization mentioned above, or to individuals connected with such foreign organization, for specific purposes approved by X corporation's board of directors in accordance with its bylaws. At all times all of the pertinent facts, including the fact that the board of directors may withdraw its approval of a particular grant even after it has been made, are available to any contributor not previously informed of such facts should the contributor so request either before or after a contribution has been made. The corporation refuses to accept contributions so earmarked that they must in any event go to the foreign organization.

Section 170(a) of the Code provides, in part, that there shall be allowed as a deduction any charitable contribution as defined in subsection (c), payment of which is made within the taxable year.

Section 170(c) of the Code defines a charitable contribution as meaning, in part, a contribution or gift to or for the use of a corporation, trust, or community chest, fund or foundation which is organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals. However, the organization must be created or organized in the United States or in any possession thereof, or under the law of the United States, any State or Territory, the District of Columbia, or any possession of the United States.

Revenue Ruling 63-252, C.B. 1963-2, 101, discusses the deductibility of contributions by individuals to a charity organized in the United States which thereafter transmits some or all of its funds to a foreign charitable organization. Example (4) of that ruling concerns a domestic organization described in section 170(c) of the Code which makes grants to a foreign organization for purposes which the domestic organization has reviewed and approved as in furtherance of its purposes. Contributions to the domestic organization are not earmarked in any manner for a foreign organization and the use of such contributions is subject to control by the domestic organization. For these reasons, the domestic organization is considered to be the recipient of such contributions within the meaning of section 170(c)(2) of the Code.

Under the provisions of its charter and bylaws, X corporation may make grants to any organization organized and operated exclusively for charitable, scientific, or educational purposes within the meaning of section 501(c)(3) of the Code. An organization described in that section can be either a domestic or a foreign organization. The operations of X corporation bring it within the purview of example (4) of Revenue Ruling 63-252 except for the manner in which it

may solicit contributions for its foreign grants. This raises a question as to whether the contributions are earmarked for the foreign organization so as to prohibit a deduction under section 170 of the Code.

Revenue Ruling 62-113, C.B. 1962-2, 10, holds that where gifts to an organization described in section 170(c) of the Code are not earmarked by the donor for a particular individual, the deduction will be allowable where it is established that a gift is intended by the donor for the use of the organization and not as a gift to an individual for whose benefit the amount given may be used by the donee organization. The test in each case is whether the organization has full control of the donated funds, and discretion as to their use, so as to insure that they will be used to carry out its functions and purposes.

In the instant case the domestic corporation may only solicit for specific grants when it has reviewed and approved them as being in furtherance of its purposes. Furthermore, under the terms of its bylaws the domestic corporation may make such solicitations only on the condition that it shall have control and discretion as to the use of the contributions received by it. Therefore, contributions received by the domestic organization from such solicitations are regarded as for the use of the domestic corporation and not for the organization receiving the grant from the domestic organization.

Accordingly, contributions paid to the domestic organization under the circumstances described above are deductible, for Federal income tax purposes, in the manner and to the extent provided by section 170 of the Code.

Revenue Ruling 63-252 is hereby amplified.