

Revenue Ruling 84-61

January 1984

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

Charitable contribution; reimbursed expenditures. The Service will follow the decision of the U.S. Court of Appeals for the Second Circuit in *Rockefeller v. Commissioner* that unreimbursed expenses incurred in rendering services to charitable organizations were contributions made "to" the charitable organization. Rev. Ruls. 56-508, 1956-2 C.B. 126, 57-38, 1957-1 C.B. 96, 58-279, 1958-1 C.B. 145, 67-362, 1967-2 C.B. 117, 67-364, 1967-2 C.B. 120, 69-473, 1969-2 C.B. 37, 70-519, 1970-2 C.B. 62, 77-280, 1977-2 C.B. 14, 79-142, 1979-1 C.B. 58, and 80-45, 1980-1 C.B. 54 modified.

ISSUE

Whether unreimbursed expenditures qualify as contributions "to" a charity under section 170 of the Internal Revenue Code.

FACTS

A, an individual, incurred expenditures incident to the rendition of gratuitous services to X, an organization described in section 170 (b) (1) (A) and 170 (c) of the Code. A was not reimbursed for the expenditures.

LAW AND ANALYSIS

Subject to certain limitations, section 170 (a) of the Code allows a deduction for contributions and gifts to or for the use of organizations described in section 170 (c), payment of which is made within the taxable year.

Section 170 (b) (1) (A) of the Code allows individuals to claim charitable contribution deductions for gifts "to" certain qualified organizations to the extent that the aggregate of such contributions does not exceed 50 percent of the taxpayer's contribution base for the taxable year.

However, if the taxpayer makes a charitable contribution "for the use of" certain charitable organizations, the taxpayer may only deduct charitable contributions made during the taxable year to the extent of 20 percent of the taxpayer's contribution base during the taxable year. See section 170 (b) (1) (B) of the Code and section 1.170A-8 of the Income Tax Regulations.

Section 1.170A-1 (g) of the regulations provides that no deduction is allowable under section 170 of the Code for a contribution of services. However, unreimbursed expenditures made incident to the rendition of services to an organization to which contributions are deductible may constitute a deductible contribution.

In *Rockefeller v. Commissioner*, 676 F.2d 35 (2nd Cir. 1982), *aff'g.* 76 T.C. 178 (1981), the taxpayer incurred unreimbursed expenses in rendering services to qualified charitable organizations. The court held that such contributions were made "to" these charitable entities, and the taxpayers were allowed a charitable contribution deduction under section 170 (b) (1) (C) of the Code, repealed by the Tax Reform Act of 1976, section 1901 (a) (28) (A) (ii), 1976-3 (Vol. 1) C.B. 1, 244.

The Internal Revenue Service will follow the decision of the United States Court of Appeals for the Second Circuit in *Rockefeller* as precedent in the disposition of similar cases involving either section 170 (b) (1) (C) of the Code, now repealed, or section 170 (b) (1) (A).

Accordingly, in the instant case, *A* is entitled to a charitable contribution deduction, to the extent provided under section 170 (b) (1) (A) of the Code, for the unreimbursed expenditures that were made incident to the rendition of services to *X*.

EFFECT ON OTHER RULINGS

Rev. Rul. 56-508, 1956-2 C.B. 126; Rev. Rul. 57-38, 1957-1 C.B. 96; Rev. Rul. 58-279, 1958-1 C.B. 145; Rev. Rul. 67-362, 1967-2 C.B. 117; Rev. Rul. 67-364, 1967-2 C.B. 120; Rev. Rul. 69-473, 1969-2 C.B. 37; Rev. Rul. 70-519, 1970-2 C.B. 62; Rev. Rul. 77-280, 1977-2 C.B. 14; Rev. Rul. 79-142, 1979-1 C.B. 58; and Rev. Rul. 80-45, 1980-1 C.B. 54, are modified to the extent that they imply that unreimbursed expenditures may not qualify as contributions "to" a charity for the purpose of qualifying under, now repealed, section 170 (b) (1) (C) of the Code, or under section 170 (b) (1) (A).