

06-003

NAME
ADDRESS

Re: Re quest for Private Letter Ruling

Dear TP REPRESENTATIVE

I enjoyed our telephone conversation on DATE. We are seeking a Private Letter Ruling regarding donations made to the STATE AGENCY.

The STATE AGENCY is a state agency and is an arm of the DIVISION. The STATE AGENCY is authorized to receive gifts, bequests, donations, and devices. We have in the past provided letters to donors, who have remarked that some items donations to our agency are not considered to be a charitable contribution as per the second to last paragraph of letter from 2ND NAME, TITLE, dated DATE (see attached). Also attached is a letter dated DATE from 3RD NAME, TITLE.

Therefore, we are seeking a Private Letter Ruling that donations to the STATE AGENCY and the DIVISION are in fact, for the purposes of state income tax law, charitable contributions or charitable deductions. Deductions are treated as charitable contributions and therefore, deductions for the purpose of state income tax.

If you need additional information, please feel free to contact me at PHONE or email at EMAIL ADDRESS.

Sincerely,

NAME

June 7, 2006

NAME
ADDRESS

Re: Private Letter Ruling Request

Dear NAME:

We are in receipt of your request for a private letter ruling on behalf of the Utah STATE AGENCY, an arm of the DIVISION, regarding the deductibility of gift, bequests, donations, and devises made to STATE AGENCY. You provided to letters from the Attorney Generals' Office with your request.

For reasons expanded upon in the analysis below, the Commission cannot issue a binding ruling in matters that involve third parties. In your case, most, if not all, of our findings ultimately depend on the determination of facts that are under the purview of the Internal Revenue Service (IRS).

Pursuant to Utah Code sections 59-10-111 and 59-10-112, state taxable income is determined by federal taxable income. Included in the calculation of federal taxable income are charitable contributions claimed as an itemized deduction on the federal return. If contributions made to the Utah Historical Society are deductible under section 170(a) of the Internal Revenue Code (IRC), then they would be deductible on the Utah return as part of itemized deductions.

Section 170(a)(1) of the IRC provides, subject to certain limitations, a deduction for contributions or gifts to or for the use of organizations described in section 170(c), payment of which is made within the taxable year.

Section 170(c)(1) of the IRC states that the term "charitable contribution" includes 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 any possession of the United States, the United States, or the District of Columbia, but only if the contribution is made for exclusively public purposes.

With regard to the requirement that the gift be for "exclusively public purposes", generally the contributions must be made either directly to the governmental entity or to the organization acting on behalf of such governmental entity, provided that there are

sufficient assurances that the contributions will be solely for the benefit of the general public. (See IRS Rev. Rul. 79-323).

The Commission believes STATE AGENCY's duties and objectives appear to have "an exclusively public purpose," as required by section 170(c)(1) for contributions to a State or a political subdivision of a State. However, as mentioned above, the starting point on the Utah return is federal taxable income and Utah would allow the same itemized deductions that have been claimed on the federal return. The taxpayer should refer their question to the Internal Revenue Service to make a determination as to whether charitable contributions to the STATE AGENCY are deductible under section 170 IRC. The Internal Revenue Service has issued several Revenue Rulings and Private Letter Rulings related to this subject.

Further, once it is determined that contributions to the STATE AGENCY qualify as a charitable contribution under section 170(a) of the Internal Revenue Code, section 170(b)(1) of the Code provides limitations on the amount that an individual can deduct for charitable contributions in a taxable year. Section 170(b)(1)(A)(v) provides that any charitable contribution to a "government unit" referred to in section 170(c)(1) is allowed to the extent that the aggregate of such contributions does not exceed 50 percent of the taxpayer's contribution base for the taxable year.

If the donation is deductible on a federal income tax return, it would be deductible on a State income tax return. If it is not deductible on a federal income tax return, unless Utah law created a specific deduction to be applied on a Utah income tax return, it would not be deductible. As this generally will be a question of federal law, we suggest STATE AGENCY request a private letter ruling from the Internal Revenue Service on whether donations to STATE AGENCY may be deducted on a taxpayer's federal income tax return.

This conclusion is based on the information provided to us. Our response might be different if the facts are other than those upon which our response is based. Should you have further questions, please contact us.

For the Commission,

Marc B. Johnson
Commissioner

MBJ/SR
06-003