Revenue Ruling 78-38

Section 170. Charitable, Etc., Contributions and Gifts

Credit card; charitable contributions. A contribution made to a qualified charity by a charge to a bank credit card is deductible as a charitable contribution under section 170 (a) of the Code in the year the charge is made regardless of when the bank is repaid; Rev. Rul. 68-174 distinguished and Rev. Rul. 71-216 revoked.

The Internal Revenue Service has given further consideration to Rev. Rul. 71-216, 1971-1 C.B. 96, which holds that a taxpayer who used a bank credit card to contribute to a qualified charity may not deduct any part of the contribution under section 170 (a) (1) of the Internal Revenue Code of 1954 until the year the cardholder makes payment of the amount of the contribution to the bank.

Rev. Rul. 71-216 cites section 1.170-2 (a) (1) of the Income Tax Regulations (predecessor to current section 1.170A-1 (a) (1) of the regulations) which provides that a deduction is only allowable to an individual under section 170 of the Code for charitable contributions "actually paid" during the taxable year, regardless of when pledged and regardless of the method of accounting employed by the taxpayer in keeping books and records.

In Rev. Rul. 71-216 the assumption was made that a charitable contribution made by a taxpayer by use of a credit card was tantamount to a charitable contribution made by the issuance and delivery of a debenture bond or a promissory note by the obligor to a charitable organization, as discussed in Rev. Rul. 68-174, 1968-1 C.B. 81, which holds that, under the facts presented, the issuance of a debenture bond or a promissory note represents a mere promise to pay at some future date, and delivery of the bond or note to a charitable organization is not "payment" under section 170 of the Code.

Upon further study, it has been concluded that there are major distinctions between contributions made by the use of credit cards and contributions made by debenture bonds and promissory notes. In Rev. Rul. 68-174, the charitable organization that received the debenture bond or promissory note from the obligor received no more than a mere promise to pay. Conversely, the credit card holder in Rev. Rul. 71-216, by using the credit card to make the contribution, became immediately indebted to a third party (the bank) in such a way that the cardholder could not thereafter prevent the charitable organization from receiving payment. The credit card draft received by the charitable organization from the credit card holder in Rev. Rul. 71-216 was immediately creditable by the bank to the organization's account as if it were a check.

Since the cardholder's use of the credit card creates the cardholder's own debt to a third party, the use of a bank credit card to make a charitable contribution is equivalent to the use of borrowed funds to make a contribution.

The general rule is that when a deductible payment is made with borrowed money, the deduction is not postponed until the year in which the borrowed money is repaid. Such expenses must be deducted in the year they are paid and not when the loans are repaid. Granan v. Commissioner, 55 T.C. 753 (1971).

Accordingly, the taxpayer discussed in Rev. Rul. 71-216, who made a contribution to a qualified charity by a charge to the taxpayer's bank credit card, is entitled to a charitable contribution deduction under section 170 (a) of the Code in the year the charge was made and the deduction may not be postponed until the taxpayer pays the indebtedness resulting from such charge.

Pursuant to the authority contained in section 7805 (b) of the Code, contributions made by credit card use before January 1, 1978, may be deducted either in the year in which the contribution is charged or in accordance with Rev. Rul. 71-216.

Rev. Rul. 68-174 is distinguished; Rev. Rul. 71-216 is revoked.