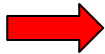


Reg. Section 1.170A-1(c)(2)

Charitable, etc., contributions and gifts; allowance of deduction

(c) Value of a contribution in property.

(1) If a charitable contribution is made in property other than money, the amount of the contribution is the fair market value of the property at the time of the contribution reduced as provided in section 170(e)(1) and paragraph (a) of § 1.170A-4, or section 170(e)(3) and paragraph (c) of § 1.170A-4A.



(2) The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. If the contribution is made in property of a type which the taxpayer sells in the course of his business, the fair market value is the price which the taxpayer would have received if he had sold the contributed property in the usual market in which he customarily sells, at the time and place of the contribution and, in the case of a contribution of goods in quantity, in the quantity contributed. The usual market of a manufacturer or other producer consists of the wholesalers or other distributors to or through whom he customarily sells, but if he sells only at retail the usual market consists of his retail customers.

(3) If a donor makes a charitable contribution of property, such as stock in trade, at a time when he could not reasonably have been expected to realize its usual selling price, the value of the gift is not the usual selling price but is the amount for which the quantity of property contributed would have been sold by the donor at the time of the contribution.

(4) Any costs and expenses pertaining to the contributed property which were incurred in taxable years preceding the year of contribution and are properly reflected in the opening inventory for the year of contribution must be removed from inventory and are not a part of the cost of goods sold for purposes of determining gross income for the year of contribution. Any costs and expenses pertaining to the contributed property which are incurred in the year of contribution and would, under the method of accounting used, be properly reflected in the cost of goods sold for such year are to be treated as part of the costs of goods sold for such year. If costs and expenses incurred in producing or acquiring the contributed property are, under the method of accounting used, properly deducted under section 162 or other section of the Code, such costs and expenses will be allowed as deductions for the taxable year in which they are paid or incurred whether or not such year is the year of the contribution. Any such costs and expenses which are treated as part of the cost of goods sold for the year

of contribution, and any such costs and expenses which are properly deducted under section 162 or other section of the Code, are not to be treated under any section of the Code as resulting in any basis for the contributed property. Thus, for example, the contributed property has no basis for purposes of determining under section 170(e)(1)(A) and paragraph (a) of § 1.170A-4 the amount of gain which would have been recognized if such property had been sold by the donor at its fair market value at the time of its contribution. The amount of any charitable contribution for the taxable year is not to be reduced by the amount of any costs or expenses pertaining to the contributed property which was properly deducted under section 162 or other section of the Code for any taxable year preceding the year of the contribution. This subparagraph applies only to property which was held by the taxpayer for sale in the course of a trade or business. The application of this subparagraph may be illustrated by the following examples:

Example 1. In 1970, A, an individual using the calendar year as the taxable year and the accrual method of accounting, contributed to a church property from inventory having a fair market value of \$ 600. The closing inventory at the end of 1969 properly included \$ 400 of costs attributable to the acquisition of such property, and in 1969 A properly deducted under section 162 \$50 of administrative and other expenses attributable to such property. Under section 170(e) (1)(A) and paragraph (a) of § 1.170A-4, the amount of the charitable contribution allowed for 1970 is \$400 ($\$600 - [\$600 - \$400]$). Pursuant to this subparagraph, the cost of goods sold to be used in determining gross income for 1970 may not include the \$ 400 which was included in opening inventory for that year.

Example 2. The facts are the same as in example (1) except that the contributed property was acquired in 1970 at a cost of \$ 400. The \$ 400 cost of the property is included in determining the cost of goods sold for 1970, and \$ 50 is allowed as a deduction for that year under section 162. A is not allowed any deduction under section 170 for the contributed property, since under section 170(e)(1)(A) and paragraph (a) of § 1.170A-4 the amount of the charitable contribution is reduced to zero ($\$600 - [\$600 - \$0]$).

Example 3. In 1970, B, an individual using the calendar year as the taxable year and the accrual method of accounting, contributed to a church property from inventory having a fair market value of \$ 600. Under § 1.471-3(c), the closing inventory at the end of 1969 properly included \$ 450 costs attributable to the production of such property, including \$ 50 of administrative and other indirect expenses which, under his method of accounting, was properly added to inventory rather than deducted as a business expense. Under section 170(e)(1)(A) and paragraph (a) of § 1.170A-4, the amount of the charitable contribution allowed for 1970 is \$450 ($\$600 - [\$600 - \$450]$). Pursuant to this subparagraph, the cost of goods sold to be used in determining gross income for 1970 may not include the \$ 450 which was included in opening inventory for that year.

Example 4. The facts are the same as in example (3) except that the contributed property was produced in 1970 at a cost of \$ 450, including \$ 50 of administrative and other indirect expenses. The \$ 450 cost of the property is included in

determining the cost of goods sold for 1970. B is not allowed any deduction under section 170 for the contributed property, since under section 170(e) (1)(A) and paragraph (a) of § 1.170A-4 the amount of the charitable contribution is reduced to zero (\$600 - [\$600 - \$0]).

Example 5. In 1970, C, a farmer using the cash method of accounting and the calendar year as the taxable year, contributed to a church a quantity of grain which he had raised having a fair market value of \$ 600. In 1969, C paid expenses of \$ 450 in raising the property which he properly deducted for such year under section 162. Under section 170(e)(1)(A) and paragraph (a) of § 1.170A-4, the amount of the charitable contribution in 1970 is reduced to zero (\$ 600 - [\$600 - \$0]). Accordingly, C is not allowed any deduction under section 170 for the contributed property.

Example 6. The facts are the same as in example (5) except that the \$ 450 expenses incurred in raising the contributed property were paid in 1970. The result is the same as in example (5), except the amount of \$ 450 is deductible under section 162 for 1970.

- (5) Transfers of property to an organization described in section 170(c) which bear a direct relationship to the taxpayer's trade or business and which are made with a reasonable expectation of financial return commensurate with the amount of the transfer may constitute allowable deductions as trade or business expenses rather than as charitable contributions. See section 162 and the regulations thereunder.

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