

### Reg. Section 1.170A-1(j)(4)

Election to expense certain depreciable assets.

(a) Allowance of deduction. Any charitable contribution, as defined in section 170(c), actually paid during the taxable year is allowable as a deduction in computing taxable income irrespective of the method of accounting employed or of the date on which the contribution is pledged. However, charitable contributions by corporations may under certain circumstances be deductible even though not paid during the taxable year as provided in section 170(a)(2) and section 1.170A-11. For rules relating to recordkeeping and return requirements in support of deductions for charitable contributions (whether by an itemizing or nonitemizing taxpayer) see section 1.170A-13. The deduction is subject to the limitations of section 170(b) and section 1.170A-8 or section 1.170A-11. Subject to the provisions of section 170(d) and sections 1.170A-10 and 1.170A-11, certain excess charitable contributions made by individuals and corporations shall be treated as paid in certain succeeding taxable years. For provisions relating to direct charitable deductions under section 63 by nonitemizers, see section 63 (b)(1)(C) and (i) and section 170(i). For rules relating to the determination of, and the deduction for, amounts paid to maintain certain students as members of the taxpayer's household and treated under section 170(g) as paid for the use of an organization described in section 170(c) (2), (3), or (4), see section 1.170A-2. For the reduction of any charitable contributions for interest on certain indebtedness, see section 170(f)(5) and section 1.170A-3. For a special rule relating to the computation of the amount of the deduction with respect to a charitable contribution of certain ordinary income or capital gain property, see section 170(e) and sections 1.170A-4 and 1.170A-4A. For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and section 1.170A-5. For rules with respect to transfers in trust and of partial interests in property, see section 170(e), section 170(f) (2) and (3), sections 1.170A-4, 1.170A-6, and 1.170A-7. For definition of the term "section 170(b)(1)(A) organization," see section 1.170A-9. For valuation of a remainder interest in real property, see section 170(f)(4) and the regulations thereunder. The deduction for charitable contributions is subject to verification by the district director.

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(j) Exceptions and other rules.

- (1) The provisions of section 170 do not apply to contributions by an estate; nor do they apply to a trust unless the trust is a private foundation which, pursuant to section 642(c)(6) and section 1.642(c)-4, is allowed a deduction under section 170 subject to the provisions applicable to individuals.

- (2) No deduction shall be allowed under section 170 for a charitable contribution to or for the use of an organization or trust described in section 508(d) or 4948(c)(4), subject to the conditions specified in such sections and the regulations thereunder.
- (3) For disallowance of deductions for contributions to or for the use of communist controlled organizations, see section 11(a) of the Internal Security Act of 1950, as amended (50 U.S.C. 790).
-  (4) For denial of deductions for charitable contributions as trade or business expenses and rules with respect to treatment of payments to organizations other than those described in section 170(c), see section 162 and the regulations thereunder.
- (5) No deduction shall be allowed under section 170 for amounts paid to an organization:
  - (i) Which is disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, or
  - (ii) Which participates in, or intervenes in (including the publishing or distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office. For purposes of determining whether an organization is attempting to influence legislation or is engaging in political activities, see sections 501(c)(3), 501(h), 4911 and the regulations thereunder.
- (6) No deduction shall be allowed under section 170 for expenditures for lobbying purposes, the promotion or defeat of legislation, etc. See also the regulations under sections 162 and 4945.
- (7) No deduction for charitable contributions is allowed in computing the taxable income of a common trust fund or of a partnership. See sections 584(d) (3) and 703(a)(2)(D). However, a partner's distributive share of charitable contributions actually paid by a partnership during its taxable year may be allowed as a deduction in the partner's separate return for his taxable year with or within which the taxable year of the partnership ends, to the extent that the aggregate of his share of the partnership contributions and his own contributions does not exceed the limitations in section 170(b).
- (8) For charitable contributions paid by a nonresident alien individual or a foreign corporation, see section 1.170A-4(b)(5) and sections 873, 876, 877, and 882(c), and the regulations thereunder.
- (9) Charitable contributions paid by bona fide residents of a section 931 possession as defined in section 1.931-1(c)(1) or Puerto Rico are deductible only to the extent allocable to income that is not excluded under section 931 or 933. For the rules for allocating deductions for charitable contributions, see the regulations under section 861.
- (10) For carryover of excess charitable contributions in certain corporate acquisitions, see section 381(c)(19) and the regulations thereunder.
- (11) No deduction shall be allowed under section 170 for out-of-pocket expenditures on behalf of an eligible organization (within the meaning of section 1.501(h)-2(b)(1)) if the expenditure is made in connection with influencing legislation (within the meaning of section 501(c)(3) or section 56.4911-2), or in connection with the payment of the organization's tax liability under section 4911. For the treatment of similar expenditures on behalf of other organizations see paragraph (h)(6) of this section.

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