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Revenue Ruling 63-73

Amounts paid by a corporation to a charitable organization for the use of its name and cooperation in connection with the corporation's advertising program are not gifts or contributions but constitute allowable deductions under section 162(a) of the Internal Revenue Code of 1954 without regard to the limitations imposed by section 170 of the Code, provided such payments are reasonable in amount.

Advice has been requested whether amounts paid by a corporation to a charitable organization for the use of its name and cooperation in connection with the corporation's advertising program are deductible as ordinary and necessary business expenses.

In the instant case, as a part of an advertising campaign designed to promote additional sales and net profits, a corporation entered into an agreement with an organization contributions to which would be deductible under section 170 of the Internal Revenue Code of 1954. The agreement provides that the corporation will pay the charitable organization a certain amount on each unit of a specified product manufactured by it for which a label is [*2] mailed to the organization by the purchaser of the product. In return for these payments, the organization agreed to permit the use of its name in connection with the advertising and, through its president, undertook to secure testimonial letters from prominent individuals for use in the campaign.

Section 162 of the Internal Revenue Code of 1954 provides, in part, as follows:

- (a) IN GENERAL.-There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business * *

- (b) CHARITABLE CONTRIBUTIONS AND GIFTS EXCEPTED.-No deduction shall be allowed under subsection (a) for any contribution or gift which would be allowable as a deduction under section 170 were it not for the percentage limitations, the dollar limitations, or the requirements as to the time of payment, set forth in such section.

Section 1.162-1 of the Income Tax Regulations provides, in part, that among the items included in business expenses are advertising and other selling expenses.

Section 1.162-15 of the regulations provides, in part, that no deduction is allowable under section 162 (a) of the Code for a contribution or gift by an individual [*3] or a corporation if any part thereof is deductible under section 170 of the Code. However, this limitation applies only to payments which are in fact contributions or gifts to organizations described in section 170 of the Code.

The obligation by the organization in this case to permit its name to be used in connection with the corporation's advertising campaign is considered sufficient consideration for the amounts received and such amounts are not in fact contributions or gifts within the meaning of section 170 of the Code.

Based on the facts of this case, it is held that the amounts paid by the corporation to the charitable organization are not gifts or contributions but constitute ordinary and necessary business expenses, deductible under section 162(a) of the Code without regard to the limitation imposed by section 170 of the Code, providing such payments are reasonable in amount.