DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, 25, and 602

[T.D. 8069]

Income Taxes; Qualified Conservation Contributions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to contributions not in trust of partial interests in property for conservation purposes. Changes to the applicable law made by the Temporary Tax Provisions, Extension and the Tax Reform Act of 1984 are reflected in this document. These regulations provide necessary guidance to the public for compliance with the law and affect donors and donees of qualified conservation contributions.

DATES: Except as otherwise provided in § 1.170A-14(g)(4)(ii), the regulations apply to contributions made on or after December 18, 1980, and are effective on December 18, 1980.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T), Telephone 202-566-3287 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1983, the Federal Register (48 FR 22940) published proposed amendments to the Income Tax Regulations (26 CFR Part 1) and Estate and Gift Tax Regulations (26 CFR Parts 20 and 25) under sections 170(h), 2055 and 2522 of the Internal Revenue Code of 1954 (Code). The amendments were proposed to conform the regulations to section 6 of the Temporary Tax Provisions, Extension (Pub. L. 98-541, 98 Stat. 3206). A public hearing was held on September 15, 1983. Subsequent to the hearing, section 170(h)(5) of the Code was amended by section 1035(a) of the Tax Reform Act of 1984 (Pub. L. 98-369, 98 Stat. 1042). On December 10, 1984, the Service issued a news release (IR-84-125) reminding taxpayers claiming deductions for donations of conservation easements that such deductions are limited to the fair market value of the easement at the time of the contribution. The news release further indicated that if the donation of the easement does not decrease the value of the property on which the easement is granted, the fair market value of the easement, and thus, the deduction, is zero.

After consideration of all comments regarding the proposed amendments and of the revision made by the Tax Reform Act of 1984, those amendments are adopted as revised by this Treasury decision.

Summary of Comments

Qualified Contribution of Entire Interest of Donor Other Than Qualified Mineral Interest

In response to many comments regarding the donation of an entire interest of the donor other than a qualified mineral interest, proposed § 1.170A-14(b) has been revised to provide that section 170(h) will not disallow a deduction for a conservation contribution where the donor has previously transferred a portion of the entire interest unless the donor has purposefully reduced his interest before the contribution is made, for example, by transferring a portion to a related person in order to retain control of more than a qualified mineral interest.

Access

The final regulations have been revised to clarify the extent of public access required for each type of qualified conservation contribution under section 170(h). Thus, in order to qualify for a deduction under section 170(h), donations of property to preserve land areas for outdoor recreation by or for the education of the general public, for the preservation of a view, for the preservation of land pursuant to a governmenal conservation policy, or for the preservation of historic structures or land areas must provide for either physical or visual access. Examples have been included to clarify the public access requirement in specific circumstances.

Inconsistent Use

Section 1.170A-14(e)(2) provides that a deduction will not be allowed if a contribution would accomplish one of the enumerated conservation purposes but would permit impairment of other enumerated conservation interests. However, inconsistent use of the property is permitted if that use is necessary for the protection of the conservation interests that are the subject of the contribution. Commenters felt that the proposed regulations were not specific enough regarding permitted inconsistent uses. Therefore, the final regulations have been revised to include examples of certain uses that are not prohibited if, under the circumstances, they do not impair significant conservation interests. See § 1.170A-14(e)(2).

Third Party Mineral Rights

The proposed regulations provided that the interest in property that is retained by the donor (and the donor's successor in interest) must be subject to legally enforceable restrictions that will prevent uses of the retained interest inconsistent with the conservation purposes of the donation. In addition, there was a prohibition against any method of mining on property that is the subject of a gift that would be inconsistent with the conservation purposes of the donation. Furthermore, a contribution was disallowed if at any time there may be surface mining on the property.

Many comments were received requesting relief from this rule because in many areas of the country, the mineral rights are not and may never have been owned by the donor; thus the donor cannot ensure that a third party owner of the mineral rights will not engage in surface mining on the property that is the subject of the gift.

Subsequent to publication of the proposed regulations, section 1035(a) of the Tax Reform Act of 1984 amended section 170(h)(5)(B) (relating to surface mining) to provide an exception to the general rule precluding a deduction for a conservation contribution if there is any likelihood of surface mining occurring at any time on the property to which the contribution relates. For conservation contributions made after July 18, 1984, the general rule with respect to surface mining will not apply to preclude a deduction if the surface estate and mineral interests were separated before June 13, 1976, remain so separated up to and including the time of the gift, and the probability of surface mining occurring on the property is so remote as to be negligible. Factors that may be considered in determining if the probability of surface mining is so remote as to be negligible are provided in the final regulations. In addition, the regulations provide that no deduction for a conservation contribution of the surface estate is permitted under this exception if the present owner is related to the owner of the surface estate at the time of the gift. Finally, these regulations clarify that any person may retain the mineral interest so long as the donor can guarantee observance of the restrictions to protect the conservation interests. See § 1.170A-14(g)(4) and the example thereunder.

Preservation of Open Space

In general, the statute provides that a donation of real property to preserve open space for conservation purposes (including farmland and forestland) will qualify as a deductible contribution if either of two tests are met: (1) The preservation must be pursuant to a clearly delineated governmental policy and must yield a significant public benefit, or (2) the preservation must be for the scenic enjoyment of the general public and must yield a significant public benefit. In connection with the first test, the final regulations retain the "sliding scale" approach adopted in the proposed regulations which is used to establish a relationship between the two requirements. Thus, although the requirements of governmental policy and public benefit must be met independently, the more specific the governmental policy with respect to a particular site to be protected, the more likely the governmental decision, by itself, will tend to establish the significant public benefit associated with the donation.

Commenters felt the regulations did not sufficiently clarify the standards under which deductions are allowed for the preservation of open space. Many of the comments received suggested revisions in the final regulations to provide donors with procedural "safe harbors" to avoid uncertainty regarding the deductibility of their donations. Commentators believed that without safe harbors, donors either will have to bear the expense of seeking advance rulings, or will risk additional tax liability if their deductions are later disallowed. Generally, the commenters suggested the following:

(1) A declaration by a unit of government identifying a particular property as worthy of protection should meet the clearly delineated governmental policy test and thus be sufficient to eliminate the need to meet the significant public benefit test.

(2) Acceptance of a donation by a unit of government (federal, state or local) or a duly constituted commission of such unit of government, should establish both a clearly delineated governmental policy and significant public benefit.

(3) A sliding scale approach should be extended to the relationship between scenic enjoyment of the general public and significant public benefit. Thus, the more scenic the view and the more people who see it, the more it tends to confer a significant public benefit.

(4) The regulations should encourage donations of farmland for agricultural uses by expanding references to the preservation of farmland to uses other than just the preservation of farmland pursuant to a state program for flood prevention and control. See § 1.170A-14(d)(4)(iv)(B). Commenters believed the reference was misleading because it implied that such is the only use for which there can be a deductible donation of farmland.

(5) Acceptance of a donation by a qualified conservation organization should be conclusive evidence of deductibility. Because the Internal

Revenue Service lacks the expertise to make the subjective determinations of "significant public benefit" and "scenic enjoyment", that responsibility should be delegated to either a private organization or to another governmental agency with acknowledged expertise in this area.

In general, the rules in the proposed regulations relating to open space easements have been retained in the final regulations. However, in response to the comments, some clarifications have been made regarding such easements. First, the fact that a unit of government has identified a particular property as worthy of protection does not by itself show the existence of a clearly delineated governmental policy, and thus, the significant public benefit associated with the donation must be independently demonstrated. Second, when there is a rigorous review of a donation by a unit of government or a duly constituted commission of a unit of government, the acceptance of a donation by such unit or commission of government tends to establish the clearly delineated governmental policy.

An example of a rigorous review process has been included in the final regulations. The more specific the governmental policy with respect to a particular site to be protected, the more likely it is that the governmental decision to accept the donation will tend, by itself, to establish the significant public benefit associated with the donation. A degree of certainty is available to donors in jurisdictions that have clearly articulated preservation policies, but as with any subjective test, there must ultimately be some exercise of judgment and responsibility by both donors and donees. Third, the terms "significant public benefit" and "scenic enjoyment" necessarily require a case-by-case factual determination and hence cannot be defined precisely. The list of factors included at § 1.170A-14(d)(4)(iv) with respect to "significant public benefit" and § 1.170A-14(d)(4)(ii) with respect to "scenic enjoyment" are intended to be illustrative, rather than all-inclusive. In a particular case, other facts and circumstances may be relevant. Fourth, the regulations clarify that farmland, as recognized by the statute, is merely a category of open space that must meet either of the two prescribed tests in order to be a deductible contribution. Finally, acceptance of a donation by a qualified organization is not conclusive evidence of the deductibility of a donation. The Internal Revenue Service has the responsibility for making final determinations as to the deductibility of donations. That responsibility cannot be delegated to a private organization or to another governmental agency, although the Service accords substantial weight to the determinations of qualified organizations and governmental agencies in its decision-making process.

Donations of Mortgaged Property

Section 170(b)(5) provides that the conservation purposes of the donation must be protected in perpetuity. The proposed regulations did not specifically address how this requirement applies to mortgaged property.

In response to comments received, the final regulations clarify that when a contribution of mortgaged property is made to a qualified organization, the mortgagee must subordinate its rights under the mortgage to the right of the qualified organization to enforce the conservation purposes of the gift in perpetuity. However, since certain donees, unaware of this clarification, accepted (or will have accepted) contributions of mortgaged property prior to February 12, 1986, without requiring subordination of the mortgagee's rights in the property, a donor will be allowed a deduction for such a contribution provided that the donor can demonstrate that the conservation purposes of the gift are protected in perpetuity absent subordination.

Valuation

Section 1.170A-14(h)(3)(i) of the final regulations has been revised to indicate that increases in the value of *any* property owned by the donor or a related person—not just contiguous property—resulting from the granting of a perpetual conservation restriction must be taken into account in determining the amount of the deduction.

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking which solicited public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public comment procedure requirement of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these regulations is Ada S. Rousso of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.61-1—1.281-4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR Part 20

Estate taxes.

26 CFR Part 25

Gift taxes.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1, 20, 25, and 602 are amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

§ 1.167(a)-5 [Amended]

Par. 2. Section 1.167(a)-5 is amended by adding at the end thereof the following new sentence: "For the adjustment to the basis of a structure in the case of a donation of a qualified conservation contribution under section 170(h), see § 1.170A-14(h)(3)(iii)."

Par. 3. Section 1.170A-7 is amended as follows:

a. The first sentence of paragraph (b)(1)(ii) is amended to begin with the phrase "With respect to contributions made on or before December 17, 1980,".

b. Paragraph (b)(1)(ii) is amended by adding at the end the following new sentence: "For the deductibility of a qualified conservation contribution, see § 1.170A-14".

c. A new paragraph (b)(5) is added immediately after paragraph (b)(4), as set forth below.

d. The first sentence of paragraph (c) is amended to begin with the phrase "Except as provided in § 1.170A-14.".

e. Paragraph (e) is revised as set forth below.

§ 1.170A-7 Contributions not in trust of partial interests in property.

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(b) *Contributions of certain partial interests in property for which a deduction is allowed.* * * *

(5) *Qualified conservation contribution.* A deduction is allowed under section 170 for the value of a qualified conservation contribution. For the definition of a qualified conservation contribution, see § 1.170A-14.

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(e) *Effective date.* This section applies only to contributions made after July 31, 1969. The deduction allowable under § 1.170A-7(b)(1)(ii) shall be available only for contributions made on or before December 17, 1980. Except as otherwise provided in § 1.170A-14(g)(4)(ii), the deduction allowable under § 1.170A-7(b)(5) shall be available for contributions made on or after December 18, 1980.

Par. 4. A new § 1.170A-14 is added after § 1.170A-13T to read as set forth below.

§ 1.170A-14 Qualified conservation contributions.

(a) *Qualified conservation contributions.* A deduction under section 170 is generally not allowed for a charitable contribution of any interest in property that consists of less than the donor's entire interest in the property other than certain transfers in trust (see § 1.170A-6 relating to charitable contributions in trust and § 1.170A-7 relating to contributions not in trust of partial interests in property). However, a deduction may be allowed under section 170(f)(3)(B)(iii) for the value of a qualified conservation contribution if the requirements of this section are met. A qualified conservation contribution is the contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes. To be eligible for a deduction under this section, the conservation purpose must be protected in perpetuity.

(b) *Qualified real property interest*—(1) *Entire interest of donor other than qualified mineral interest.* (i) The entire interest of the donor other than a qualified mineral interest is a qualified real property interest. A qualified mineral interest is the donor's interest in subsurface oil, gas, or other minerals and the right of access to such minerals.

(ii) A real property interest shall not be treated as an entire interest other than a qualified mineral interest by reason of section 170(b)(2)(A) and this paragraph (b)(1) if the property in which the donor's interest exists was divided prior to the contribution in order to enable the donor to retain control of more than a qualified mineral interest or to reduce the real property interest donated. See Treasury regulations § 1.170A-7(a)(2)(i). An entire interest in real property may consist of an undivided interest in the property. But see section 170(b)(5)(A) and the regulations thereunder (relating to the requirement that the conservation purpose which is the subject of the donation must be protected in perpetuity). Minor interests, such as rights-of-way, that will not interfere with the conservation purposes of the donation, may be transferred prior to the conservation contribution without affecting the treatment of a property interest as a qualified real property interest under this paragraph (b)(1).

(2) *Perpetual conservation restriction.* A perpetual conservation restriction is a qualified real property interest. A "perpetual conservation restriction" is a restriction granted in perpetuity on the use which may be made of real property—including, an easement or other interest in real property that under state law has attributes similar to an easement (e.g., a restrictive covenant or equitable servitude). For purposes of this section, the terms "easement", "conservation restriction", and "perpetual conservation restriction" have the same meaning. The definition of "perpetual conservation restriction" under this paragraph (b)(3) is not intended to preclude the deductibility of a donation of affirmative rights to use a land or water area under § 1.170A-13(d)(2). Any rights reserved by the donor in the donation of a perpetual conservation restriction must conform to the requirements of this section. See e.g., paragraph (d)(4)(ii), (d)(5)(i), (e)(3), and (g)(4) of this section.

(c) *Qualified organization*—(1) *Eligible donee.* To be considered an eligible donee under this section, an organization must be a qualified organization, have a commitment to protect the conservation purposes of the donation, and have the resources to enforce the restrictions. A conservation group organized or operated primarily or substantially for one of the conservation purposes specified in section 170(h)(4)(A) will be considered to have the commitment required by the preceding sentence. A qualified organization need not set aside funds to enforce the restrictions that are the subject of the contribution. For purposes of this section, the term "qualified organization" means:

(i) A governmental unit described in section 170(b)(1)(A)(v);

(ii) An organization described in section 170(b)(1)(A)(vi);

(iii) A charitable organization described in section 501(c)(3) that meets the public support test of section 509(a)(2);

(iv) A charitable organization described in section 501(c)(3) that meets the requirements of section 509(a)(3) and is controlled by an organization described in paragraphs (c)(1) (i), (ii), or (iii) of this section.

(2) *Transfers by donee.* A deduction shall be allowed for a contribution under this section only if in the instrument of conveyance the donor prohibits the donee from subsequently transferring the easement (or, in the case of a remainder interest or the reservation of a qualified mineral interest, the property), whether or not for consideration, unless the donee organization, as a condition of the subsequent transfer, requires that the conservation purposes which the contribution was originally intended to advance continue to be carried out. Moreover, subsequent transfers must be restricted to organizations qualifying, at the time of the subsequent transfer, as an eligible donee under paragraph (c)(1) of this section. When a later unexpected change in the conditions surrounding the property that is the subject of a donation under paragraph (b)(1), (2), or (3) of this section makes impossible or impractical the continued use of the property for conservation purposes, the requirement of this paragraph will be met if the property is sold or exchanged and any proceeds are used by the donee organization in a manner consistent with the conservation purposes of the original contribution. In the case of a donation under paragraph (b)(3) of this section to which the preceding sentence applies, see also paragraph (g)(5)(ii) of this section.

(d) *Conservation purposes*—(1) *In general.* For purposes of section 170(h) and this section, the term "conservation purposes" means—

(i) The preservation of land areas for outdoor recreation by, or the education of, the general public, within the meaning of paragraph (d)(2) of this section,

(ii) The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, within the

meaning of paragraph (d)(3) of this section.

(iii) The preservation of certain open space (including farmland and forest land) within the meaning of paragraph (d)(4) of this section, or

(iv) The preservation of a historically important land area or a certified historic structure, within the meaning of paragraph (d)(5) of this section.

(2) *Recreation or education*—(i) *In general.* The donation of a qualified real property interest to preserve land areas for the outdoor recreation of the general public or for the education of the general public will meet the conservation purposes test of this section. Thus, conservation purposes would include, for example, the preservation of a water area for the use of the public for boating or fishing, or a nature or hiking trail for the use of the public.

(ii) *Access.* The preservation of land areas for recreation or education will not meet the test of this section unless the recreation or education is for the substantial and regular use of the general public.

(3) *Protection of environmental system*—(i) *In general.* The donation of a qualified real property interest to protect a significant relatively natural habitat in which a fish, wildlife, or plant community, or similar ecosystem normally lives will meet the conservation purposes test of this section. The fact that the habitat or environment has been altered to some extent by human activity will not result in a deduction being denied under this section if the fish, wildlife, or plants continue to exist there in a relatively natural state. For example, the preservation of a lake formed by a man-made dam or a salt pond formed by a man-made dike would meet the conservation purposes test if the lake or pond were a nature feeding area for a wildlife community that included rare, endangered, or threatened native species.

(ii) *Significant habitat or ecosystem.* Significant habitats and ecosystems include, but are not limited to, habitats for rare, endangered, or threatened species of animal, fish, or plants; natural areas that represent high quality examples of a terrestrial community or aquatic community, such as islands that are undeveloped or not intensely developed where the coastal ecosystem is relatively intact; and natural areas which are included in, or which contribute to, the ecological viability of a local, state, or national park, nature preserve, wildlife refuge, wilderness area, or other similar conservation area.

(iii) *Access.* Limitations on public access to property that is the subject of a donation under this paragraph (d)(3) shall not render the donation nondeductible. For example, a restriction on all public access to the habitat of a threatened native animal species protected by a donation under this paragraph (d)(3) would not cause the donation to be nondeductible.

(4) *Preservation of open space*—(i) *In general.* The donation of a qualified real property interest to preserve open space (including farmland and forest land) will meet the conservation purposes test of this section if such preservation is—

(A) Pursuant to a clearly delineated Federal, state, or local governmental conservation policy and will yield a significant public benefit, or

(B) For the scenic enjoyment of the general public and will yield a significant public benefit.

An open space easement donated on or after December 18, 1980, must meet the requirements of section 170(h) in order to be deductible.

(ii) *Scenic enjoyment*—(A) *Factors.* A contribution made for the preservation of open space may be for the scenic enjoyment of the general public. Preservation of land may be for the scenic enjoyment of the general public if development of the property would impair the scenic character of the local rural or urban landscape or would interfere with a scenic panorama that can be enjoyed from a park, nature preserve, road, waterbody, trail, or historic structure or land area, and such area or transportation way is open to, or utilized by, the public. "Scenic enjoyment" will be evaluated by considering all pertinent facts and circumstances germane to the contribution. Regional variations in topography, geology, biology, and cultural and economic conditions require flexibility in the application of this test, but do not lessen the burden on the taxpayer to demonstrate the scenic characteristics of a donation under this paragraph. The application of a particular objective factor in to help define a view as "scenic" in one setting may in fact be entirely inappropriate in another setting. Among the factors to be considered are:

(1) The compatibility of the land use with other land in the vicinity;

(2) The degree of contrast and variety provided by the visual scene;

(3) The openness of the land (which would be a more significant factor an urban or densely populated setting or in a heavily wooded area);

(4) Relief from urban closeness;

(5) The harmonious variety of shapes and textures;

(6) The degree to which the land use maintains the scale and character of the urban landscape to preserve open space, visual enjoyment, and sunlight for the surrounding area;

(7) The consistency of the proposed scenic view with a methodical state scenic identification program, such as a state landscape inventory; and

(8) The consistency of the proposed scenic view with a regional or local landscape inventory made pursuant to a sufficiently rigorous review process, especially if the donation is endorsed by an appropriate state or local governmental agency.

(B) *Access.* To satisfy the requirement of scenic enjoyment by the general public, visual (rather than physical) access to or across the property by the general public is sufficient. Under the terms of an open space easement on scenic property, the entire property need not be visible to the public for a donation to qualify under this section, although the public benefit from the donation may be insufficient to qualify for a deduction if only a small portion of the property is visible to the public.

(iii) *Governmental conservation policy*—(A) *In general.* The requirement that the preservation of open space be pursuant to a clearly delineated Federal, state, or local governmental policy is intended to protect the types of property identified by representatives of the general public as worthy of preservation or conservation. A general declaration of conservation goals by a single official or legislative body is not sufficient. However, a governmental conservation policy need not be a certification program that identifies particular lots or small parcels of individually owned property. This requirement will be met by donations that further a specific, identified conservation project, such as the preservation of land within a state or local landmark district that is locally recognized as being significant to that district; the preservation of a wild or scenic river, the preservation of farmland pursuant to a state program for flood prevention and control; or the protection of the scenic, ecological, or historic character of land that is contiguous to, or an integral part of, the surroundings of existing recreation or conservation sites. For example, the donation of a perpetual conservation restriction to a qualified organization pursuant to a formal resolution or certification by a local governmental agency established under state law specifically identifying the subject property as worthy of protection for conservation purposes will meet the requirement of this paragraph. A

program need not be funded to satisfy this requirement, but the program must involve a significant commitment by the government with respect to the conservation project. For example, a governmental program according preferential tax assessment or preferential zoning for certain property deemed worthy of protection for conservation purposes would constitute a significant commitment by the government.

(B) *Effect of acceptance by governmental agency.* Acceptance of an easement by an agency of the Federal Government or by an agency of a state or local government (or by a commission, authority, or similar body duly constituted by the state or local government and acting on behalf of the state or local government) tends to establish the requisite clearly delineated governmental policy, although such acceptance, without more, is not sufficient. The more rigorous the review process by the governmental agency, the more the acceptance of the easement tends to establish the requisite clearly delineated governmental policy. For example, in a state where the legislature has established an Environmental Trust to accept gifts to the state which meet certain conservation purposes and to submit the gifts to a review that requires the approval of the state's highest officials, acceptance of a gift by the Trust tends to establish the requisite clearly delineated governmental policy. However, if the Trust merely accepts such gifts without a review process, the requisite clearly delineated governmental policy is not established.

(C) *Access.* A limitation on public access to property subject to a donation under this paragraph (d)(4)(iii) shall not render the deduction nondeductible unless the conservation purpose of the donation would be undermined or frustrated without public access. For example, a donation pursuant to a governmental policy to protect the scenic character of land near a river requires visual access to the same extent as would a donation under paragraph (d)(4)(ii) of this section.

(iv) *Significant public benefit*—(A) *Factors.* All contributions made for the preservation of open space must yield a significant public benefit. Public benefit will be evaluated by considering all pertinent facts and circumstances germane to the contribution. Factors germane to the evaluation of public benefit from one contribution may be irrelevant in determining public benefit from another contribution. No single factor will necessarily be determinative. Among the factors to be considered are:

(*1*) The uniqueness of the property to the area;

(*2*) The intensity of land development in the vicinity of the property (both existing development and foreseeable trends of development);

(*3*) The consistency of the proposed open space use with public programs (whether Federal, state or local) for conservation in the region, including programs for outdoor recreation, irrigation or water supply protection, water quality maintenance or enhancement, flood prevention and control, erosion control, shoreline protection, and protection of land areas included in, or related to, a government approved master plan or land management area;

(*4*) The consistency of the proposed open space use with existing private conservation programs in the area, as evidenced by other land, protected by easement or fee ownership by organizations referred to in § 1.170A-14(c)(1), in close proximity to the property;

(*5*) The likelihood that development of the property would lead to or contribute to degradation of the scenic, natural, or historic character of the area;

(*6*) The opportunity for the general public to use the property or to appreciate its scenic values;

(*7*) The importance of the property in preserving a local or regional landscape or resource that attracts tourism or commerce to the area;

(*8*) The likelihood that the donee will acquire equally desirable and valuable substitute property or property rights;

(*9*) The cost to the donee of enforcing the terms of the conservation restriction;

(*10*) The population density in the area of the property; and

(*11*) The consistency of the proposed open space use with a legislatively mandated program identifying particular parcels of land for future protection.

(B) *Illustrations.* The preservation of an ordinary tract of land would not in and of itself yield a significant public benefit, but the preservation of ordinary land areas in conjunction with other factors that demonstrate significant public benefit or the preservation of a unique land area for public employment would yield a significant public benefit. For example, the preservation of a vacant downtown lot would not by itself yield a significant public benefit, but the preservation of the downtown lot as a public garden would, absent countervailing factors, yield a significant public benefit. The following are other examples of contributions which would, absent countervailing factors, yield a significant public benefit: The preservation of farmland pursuant to a state program for flood prevention and control; the preservation of a unique natural land formation for the enjoyment of the general public; the preservation of woodland along a public highway pursuant to a government program to preserve the appearance of the area so as to maintain the scenic view from the highway; and the preservation of a stretch of undeveloped property located between a public highway and the ocean in order to maintain the scenic ocean view from the highway.

(v) *Limitation.* A deduction will not be allowed for the preservation of open space under section 170(h)(4)(A)(iii), if the terms of the easement permit a degree of intrusion or future development that would interfere with the essential scenic quality of the land or with the governmental conservation policy that is being furthered by the donation. See § 1.170A-14(e)(2) for rules relating to inconsistent use.

(vi) *Relationship of requirements*—(A) *Clearly delineated governmental policy and significant public benefit.* Although the requirements of "clearly delineated governmental policy" and "significant public benefit" must be met independently, for purposes of this section the two requirements may also be related. The more specific the governmental policy with respect to the particular site to be protected, the more likely the governmental decision, by itself, will tend to establish the significant public benefit associated with the donation. For example, while a statute in State X permitting preferential assessment for farmland is, by definition, governmental policy, it is distinguishable from a s state statute, accompanied by appropriations, naming the X River as a valuable resource and articulating the legislative policy that the X River and the relatively natural quality of its surrounding be protected. On these facts, an open space easement on farmland in State X would have to demonstrate additional factors to establish "significant public benefit." The specificity of the legislative mandate to protect the X River, however, would by itself tend to establish the significant public benefit associated with an open space easement on land fronting the X River.

(B) *Scenic enjoyment and significant public benefit.* With respect to the relationship between the requirements of "scenic enjoyment" and "significant public benefit," since the degrees of scenic enjoyment offered by a variety of open space easements are subjective and not as easily delineated as are

increasingly specific levels of governmental policy, the significant public benefit of preserving a scenic view must be independently established in all cases.

(C) *Donations may satisfy more than one test.* In some cases, open space easements may be both for scenic enjoyment and pursuant to a clearly delineated governmental policy. For example, the preservation of a particular scenic view identified as part of a scenic landscape inventory by a rigorous governmental review process will meet the tests of both paragraphs (d)(4)(i)(A) and (d)(4)(i)(B) of this section.

(5) *Historic preservation*—(i) *In general.* The donation of a qualified real property interest to preserve an historically important land area or a certified historic structure will meet the conservation purposes test of this section. When restrictions to preserve a building or land area within a registered historic district permit future development on the site, a deduction will be allowed under this section only if the terms of the restrictions require that such development conform with appropriate local, state, or Federal standards for construction or rehabilitation within the district. See also, § 1.170A-14(h)(3)(ii).

(ii) *Historically important land area.* The term "historically important land area" includes:

(A) An independently significant land area including any related historic resources (for example, an archaeological site or a Civil War battlefield with related monuments, bridges, cannons, or houses) that meets the National Register Criteria for Evaluation in 36 CFR 60.4 (Pub. L. 89-665, 80 Stat. 915);

(B) Any land area within a registered historic district including any buildings on the land area that can reasonably be considered as contributing to the significance of the district; and

(C) Any land area (including related historic resources) adjacent to a property listed individually in the National Register of Historic Places (but not within a registered historic district) in a case where the physical or environmental features of the land area contribute to the historic or cultural integrity of the property.

(iii) *Certified historic structure.* The term "certified historic structure," for purposes of this section, means any building, structure or land area which is—

(A) Listed in the National Register, or

(B) Located in a registered historic district (as defined in section 48(g)(3)(B)) and is certified by the Secretary of the Interior (pursuant to 36 CFR 67.4) to the Secretary of the Treasury as being of historic significance to the district.

A "structure" for purposes of this section means any structure, whether or not it is depreciable. Accordingly easements on private residences may qualify under this section. In addition, a structure would be considered to be a certified historic structure if it were certified either at the time the transfer was made or at the due date (including extensions) for filing the donor's return for the taxable year in which the contribution was made.

(iv) *Access.* (A) In order for a conservation contribution described in section 170(h)(4)(A)(iv) and this paragraph (d)(5) to be deductible, some visual public access to the donated property is required. In the case of an historically important land area, the entire property need not be visible to the public for a donation to qualify under this section. However, the public benefit from the donation may be insufficient to qualify for a deduction if only a small portion of the property is so visible. Where the historic land area or certified historic structure which is the subject of the donation is not visible from a public way (*e.g.*, the structure is hidden from view by a wall or shrubbery, the structure is too far from the public way, or interior characteristics and features of the structure are the subject of the easement), the terms of the easement must be such that the general public is given the opportunity on a regular basis to view the characteristics and features of the property which are preserved by the easement to the extent consistent with the nature and condition of the property.

(B) Factors to be considered in determining the type and amount of public access required under paragraph (d)(5)(iv)(A) of this section include the historical significance of the donated property, the nature of the features that are the subject of the easement, the remoteness or accessibility of the site of the donated property, the possibility of physical hazards to the public visiting the property (for example, an unoccupied structure in a dilapidated condition), the extent to which public access would be an unreasonable intrusion on any privacy interests of individuals living on the property, the degree to which public access would impair the preservation interests which are the subject of the donation, and the availability of opportunities for the public to view the property by means other than visits to the site.

(C) The amount of access afforded the public by the donation of an easement shall be determined with reference to the amount of access permitted by the terms of the easement which are established by the donor, rather than the amount of access actually provided by the donee organization. However, if the donor is aware of any facts indicating that the amount of access that the donee organization will provide is significantly less than the amount of access permitted under the terms of the easement, then the amount of access afforded the public shall be determined with reference to this lesser amount.

(v) *Examples.* The provisions of paragraph (d)(5)(iv) of this section may be illustrated by the following examples:

Example (1). A and his family live in a house in a certified historic district in the State of X. The entire house, including its interior, has architectural features representing classic Victorian period architecture. A donates an exterior and interior easement on the property to a qualified organization but continues to live in the house with his family. A's house is surrounded by a high stone wall which obscures the public's view of it from the street. Pursuant to the terms of the easement, the house may be opened to the public from 10:00 a.m. to 4:00 p.m. on one Sunday in May and one Sunday in November each year for house and garden tours. These tours are to be under the supervision of the donee and open to members of the general public upon payment of a small fee. In addition, under the terms of the easement, the donee organization is given the right to photograph the interior and exterior of the house and distribute such photographs to magazines, newsletters, or other publicly available publications. The terms of the easement also permit persons affiliated with educational organizations, professional architectural associations, and historical societies to make an appointment through the donee organization to study the property. The donor is not aware of any facts indicating that the public access to be provided by the donee organization will be significantly less than that permitted by the terms of the easement. The 2 opportunities for public visits per year, when combined with the ability of the general public to view the architectural characteristics and features that are the subject of the easement through photographs, the opportunity for scholarly study of the property, and the fact that the house is used as an occupied residence, will enable the donation to satisfy the requirement of public access.

Example (2). B owns an unoccupied farmhouse built in the 1840's and located on a property that is adjacent to a Civil War battlefield. During the Civil War the farmhouse was used as quarters for Union troops. The battlefield is visited year round by the general public. The condition of the farmhouse is such that the safety of visitors will not be jeopardized and opening it to the public will not result in significant deterioration. The farmhouse is not visible from the battlefield or any public way. It is accessible only by way of a private road

owned by B. B donates a conservation easement on the farmhouse to a qualified organization. The terms of the easement provide that the donee organization may open the property (via B's road) to the general public on four weekends each year from 8:30 a.m. to 4:00 p.m. The donation does not meet the public access requirement because the farmhouse is safe, unoccupied, and easily accessible to the general public who have come to the site to visit Civil War historic land areas (and related resources), but will only be open to the public on four weekends each year. However, the donation would meet the public access requirement if the terms of the easement permitted the donee organization to open the property to the public every other weekend during the year and the donor is not aware of any facts indicating that the donee organization will provide significantly less access than that permitted.

(e) *Exclusively for conservation purposes.* (1) *In general.* To meet the requirements of this section, a donation must be exclusively for conservation purposes. See paragraphs (c)(1) and (g)(1) through (g)(6)(ii) of this section. A deduction will not be denied under this section when incidental benefit inures to the donor merely as a result of conservation restrictions limiting the uses to which the donor's property may be put.

(2) *Inconsistent use.* Except as provided in paragraph (e)(4) of this section, a deduction will not be allowed if the contribution would accomplish one of the enumerated conservation purposes but would permit destruction of other significant conservation interests. For example, the preservation of farmland pursuant to a State program for flood prevention and control would not qualify under paragraph (d)(4) of this section if under the terms of the contribution a significant naturally occurring ecosystem could be injured or destroyed by the use of pesticides in the operation of the farm. However, this requirement is not intended to prohibit uses of the property, such as selective timber harvesting or selective farming if, under the circumstances, those uses do not impair significant conservation interests.

(3) *Inconsistent use permitted.* A use that is destructive of conservation interests will be permitted only if such use is necessary for the protection of the conservation interests that are the subject of the contribution. For example, a deduction for the donation of an easement to preserve an archaeological site that is listed on the National Register of Historic Places will not be disallowed if site excavation consistent with sound archaeological practices may impair a scenic view of which the land is a part. A donor may continue a pre-existing use of the property that does not conflict with the conservation purposes of the gift.

(f) *Examples.* The provisions of this section relating to conservation purposes may be illustrated by the following examples.

Example (1). State S contains many large tract forests that are desirable recreation and scenic areas for the general public. The forests' scenic values attract millions of people to the State. However, due to the increasing intensity of land development in State S, the continued existence of forestland parcels greater than 45 acres is threatened. J grants a perpetual easement on a 100-acre parcel of forestland that is part of one of the State's scenic areas to a qualifying organization. The easement imposes restrictions on the use of the parcel for the purpose of maintaining its scenic values. The restrictions include a requirement that the parcel be maintained forever as open space devoted exclusively to conservation purposes and wildlife protection, and that there be no commercial, industrial, residential, or other development use of such parcel. The law of State S recognizes a limited public right to enter private land, particularly for recreational pursuits, unless such land is posted or the landowner objects. The easement specifically restricts the landowner from posting the parcel, or from objecting, thereby maintaining public access to the parcel according to the custom of the State. J's parcel provides the opportunity for the public to enjoy the use of the property and appreciate its scenic values. Accordingly, J's donation qualifies for a deduction under this section.

Example (2). A qualified conservation organization owns Greenacre in fee as a nature preserve. Greenacre contains a high quality example of a tall grass prairie ecosystem. Farmacre, an operating farm, adjoins Greenacre and is a compatible buffer to the nature preserve. Conversion of Farmacre to a more intense use, such as a housing development, would adversely affect the continued use of Greenacre as a nature preserve because of human traffic generated by the development. The owner of Farmacre donates an easement preventing any future development on Farmacre to the qualified conservation organization for conservation purposes. Normal agricultural uses will be allowed on Farmacre. Accordingly, the donation qualifies for a deduction under this section.

Example (3). H owns Greenacre, a 900-acre parcel of woodland, rolling pasture, and orchards on the crest of a mountain. All of Greenacre is clearly visible from a nearby national park. Because of the strict enforcement of an applicable zoning plan, the highest and best use of Greenacre is as a subdivision of 40-acre tracts. H wishes to donate a scenic easement on Greenacre to a qualifying conservation organization, but H would like to reserve the right to subdivide Greenacre into 90-acre parcels with no more than one single-family home allowable on each parcel. Random building on the property, even as little as one home for each 90 acres, would destroy the scenic character of the view. Accordingly, no deduction would be allowable under this section.

Example (4). Assume the same facts as in *example (3),* except that not all of Greenacre is visible from the park and the deed of easement allows for limited cluster development of no more than five nine-acre clusters (with four houses on each cluster) located in areas generally not visible from the national park and subject to site and building plan approval by the donee organization in order to preserve the scenic view from the park. The donor and the donee have already identified sites where limited cluster development would not be visible from the park or would not impair the view. Owners of homes in the clusters will not have any rights with respect to the surrounding Greenacre property that are not also available to the general public. Accordingly, the donation qualifies for a deduction under this section.

Example (5). In order to protect State S's declining open space that is suited for agricultural use from increasing development pressure that has led to a marked decline in such open space, the Legislature of State S passed a statute authorizing the purchase of "agricultural land development rights" on open acreage. Agricultural land development rights allow the State to place agricultural preservation restrictions on land designated as worthy of protection in order to preserve open space and farm resources. Agricultural preservation restrictions prohibit or limit construction or placement of buildings except those used for agricultural purposes or dwellings used for family living by the farmer and his family and employees; removal of mineral substances in any manner that adversely affects the land's agricultural potential; or other uses detrimental to retention of the land for agricultural use. Money has been appropriated for this program and some landowners have in fact sold their "agricultural land development rights" to State S. K owns and operates a small dairy farm in State S located in an area designated by the Legislature as worthy protection. K desires to preserve his farm for agricultural purposes in perpetuity. Rather than selling the development rights to State S, K grants to a qualified organization an agricultural preservation restriction on his property in the form of a conservation easement. K reserves to himself, his heirs and assigns the right to manage the farm consistent with sound agricultural and management practices. The preservation of K's land is pursuant to a clearly delineated governmental policy of preserving open space available for agricultural use, and will yield a significant public benefit by preserving open space against increasing development pressures.

(g) *Enforceable in perpetuity.*—(1) *In general.* In the case of any donation under this section, any interest in the property retained by the donor (and the donor's successors in interest) must be subject to legally enforceable restrictions (for example, by recordation in the land records of the jurisdiction in which the property is located) that will prevent uses of the retained interest

inconsistent with the conservation purposes of the donation. In the case of a contribution of a remainder interest, the contribution will not qualify if the tenants, whether they are tenants for life or a term of years, can use the property in a manner that diminishes the conservation values which are intended to be protected by the contribution.

(2) *Protection of a conservation purpose in case of donation of property subject to a mortgage.* In the case of conservation contributions made after February 13, 1986, no deducion will be permitted under this section for an interest in property which is subject to a mortgage unless the mortgagee subordinates its rights in the property to the right of the qualified organization to enforce the conservation purposes of the gift in perpetuity. For conservation contributions made prior to February 12, 1986, the requirement of section 170 (h)(5)(A) is satisfied in the case of mortgaged property (with respect to which the mortgagee has not subordinated its rights) only if the donor can demonstrate that the conservation purpose is protected in perpetuity without subordination of the mortgagee's rights.

(3) *Remote future event.* A deduction shall not be disallowed under section 170(f)(3)(B)(iii) and this section merely because the interest which passes to, or is vested in, the donee organization may be defeated by the performance of some act or the happening of some event, if on the date of the gift it appears that the possibility that such act or event will occur is so remote as to be negligible. See paragraph (e) of § 1.170A-1. For example, a state's statutory requirement that use restrictions must be rerecorded every 30 years to remain enforceable shall not, by itself, render an easement nonperpetual.

(4) *Retention of qualified mineral interest*—(i) *In general.* Except as otherwise provided in paragraph (g)(4)(ii) of this section, the requirements of this section are not met and no deduction shall be allowed in the case of a contribution of any interest when there is a retention by any person of a qualified mineral interest (as defined in paragraph (b)(1)(i) of this section) if at any time there may be extractions or removal of minerals by any surface mining method. Moreover, in the case of a qualified mineral interest gift, the requirement that the conservation purposes be protected in perpetuity is not satisfied if any method of mining that is inconsistent with the particular conservation purposes of a contribution is permitted at any time. See also § 1.170A-14(e)(2). However, a deduction under this section will not be denied in the case of certain methods of mining that may have limited, localized impact on the real property but that are not irremediably destructive of significant conservation interests. For example, a deduction will not be denied in a case where production facilities are concealed or compatible with existing topography and landscape and when surface alteration is to be restored to its original state.

(ii) *Exception for qualified conservation contributions after July 1984.* (A) A contribution made after July 18, 1984, of a qualified real property interest described in section 170(h)(2)(A) shall not be disqualified under the first sentence of paragraph (g)(4)(i) of this section if the following requirements are satisfied.

(*1*) The ownership of the surface estate and mineral interest were separated before June 11, 1976, and remain so separated up to and including the time of the contribution.

(*2*) The present owner of the mineral interest is not a person whose relationship to the owner of the surface estate is described at the time of the contribution in section 267(b) of section 707(b), and

(*3*) The probability of extraction or removal of minerals by any surface mining method is so remote as to be negligible.

Whether the probability of extraction or removal of minerals by surface mining is so remote as to be negligible is a question of fact and is to be made on a case by case basis. Relevant factors to be considered in determining if the probability of extraction or removal of minerals by surface mining is so remote as to be negligible include: Geological, geophysical or economic data showing the absence of mineral reserves on the property, or the lack of commercial feasibility at the time of the contribution of surface mining the mineral interest.

(B) If the ownership of the surface estate and mineral interest first became separated after June 12, 1976, no deduction is permitted for a contribution under this section unless surface mining on the property is completely prohibited.

(iii) *Examples.* The provisions of paragraph (g)(4)(i) and (ii) of this section may be illustrated by the following examples:

Example. (1) K owns 5,000 acres of bottomland hardwood property along a major watershed system in the southern part of the United States. Agencies within the Department of the Interior have determined that southern bottomland hardwoods are a rapidly diminishing resource and a critical ecosystem in the south because of the intense pressure to cut the trees and convert the land to agricultural use. These agencies have further determined (and have indicated in correspondence with K) that bottomland hardwoods provide a superb habitat for numerous species and play an important role in controlling floods and purifying rivers. K donates to a qualified organization his entire interest in this property other than his interest in the gas and oil deposits that have been identified under K's property. K covenants and can ensure that, although drilling for gas and oil on the property may have some temporary localized impact on the real property, the drilling will not interfere with the overall conservation purpose of the gift, which is to protect the unique bottomland hardwood ecosystem. Accordingly, the donation qualifies for a deduction under this section.

Example (2). Assume the same facts as in example (1), except that in 1978, K sells the mineral interest to A, an unrelated person, in an arm's-length transaction, subject to a recorded prohibition on the removal of any minerals by any surface mining method and a recorded prohibition against any mining technique that will harm the bottomland hardwood ecosystem. After the sale to A, K donates a qualified real property interest to a qualified organization to protect the bottomland hardwood ecosystem. Since at the time of the transfer, surface mining and any mining technique that will harm the bottomland hardwood ecosystem are completely prohibited, the donation qualifies for a deduction under this section.

(5) *Protection of conservation purpose where taxpayer reserves certain rights.* (i) *Documentation.* In the case of a donation made after February 13, 1986, of any qualified real property interest when the donor reserves rights the exercise of which may impair the conservation interests associated with the property, for a deduction to be allowable under this section the donor must make available to the donee, prior to the time the donation is made, documentation sufficient to establish the condition of the property at the time of the gift.

Such documentation is designed to protect the conservation interests associated with the property, which although protected in perpetuity by the easement, could be adversely affected by the exercise of the reserved rights. Such documentation may include:

(A) The appropriate survey maps from the United States Geological Survey, showing the property line and other contiguous or nearby protected areas;

(B) A map of the area drawn to scale showing all existing man-made improvements or incursions (such as roads, buildings, fences, or gravel pits), vegetation and identification of flora and fauna (including, for example, rare species locations, animal breeding and roosting areas, and migration routes), land use history (including present uses

and recent past disturbances), and distinct natural features (such as large trees and aquatic areas);

(C) An aerial photograph of the property at an appropriate scale taken as close as possible to the date the donation is made; and

(D) On-site photographs taken at appropriate locations on the property. If the terms of the donation contain restrictions with regard to a particular natural resource to be protected, such as water quality or air quality, the condition of the resource at or near the time of the gift must be established. The documentation, including the maps and photographs, must be accompanied by a statement signed by the donor and a representative of the donee clearly referencing the documentation and in substance saying "This natural resources inventory is an accurate representation of [the protected property] at the time of the transfer.".

(ii) *Donee's right to inspection and legal remedies.* In the case of any donation referred to in paragraph (g)(5)(i) of this section, the donor must agree to notify the donee, in writing, before exercising any reserved right, e.g. the right to extract certain minerals which may have an adverse impact on the conservation interests associated with the qualified real property interest. The terms of the donation must provide a right of the donee to enter the property at reasonable times for the purpose of inspection the property to determine if there is compliance with the terms of the donation. Additionally, the terms of the donation must provide a right of the donee to enforce the conservation restrictions by appropriate legal proceedings, including but not limited to, the right to require the restoration of the property to its condition at the time of the donation.

(6) *Extinguishment.* (i) *In general.* If a subsequent unexpected change in the conditions surrounding the property that is the subject of a donation under this paragraph can make impossible or impractical the continued use of the property for conservation purposes, the conservation purpose can nonetheless be treated as protected in perpetuity if the restrictions are extinguished by judicial proceeding and all of the donee's proceeds (determined under paragraph (g)(6)(ii) of this section) from a subsequent sale or exchange of the property are used by the donee organization in a manner consistent with the conservation purposes of the original contribution.

(ii) *Proceeds.* In case of a donation made after February 13, 1986, for a deduction to be allowed under this section, at the time of the gift the donor must agree that the donation of the perpetual conservation restriction gives rise to a property right, immediately vested in the donee organization, with a fair market value that is at least equal to the proportionate value that the perpetual conservation restriction at the time of the gift, bears to the value of the property as a whole at that time. See § 1.170A-14(h)(3)(iii) relating to the allocation of basis. For purposes of this paragraph (g)(6)(ii), that proportionate value of the donee's property rights shall remain constant. Accordingly, when a change in conditions give rise to the extinguishment of a perpetual conservation restriction under paragraph (g)(6)(i) of this section, the donee organization, on a subsequent sale, exchange, or involuntary conversion of the subject property, must be entitled to a portion of the proceeds at least equal to that proportionate value of the perpetual conservation restriction, unless state law provides that the donor is entitled to the full proceeds from the conversion without regard to the terms of the prior perpetual conservation restriction.

(h) *Valuation*—(1) *Entire interest of donor other than qualified mineral interest.* The value of the contribution under section 170 in the case of a contribution of a taxpayer's entire interest in property other than a qualified mineral interest is the fair market value of the surface rights in the property contributed. The value of the contribution shall be computed without regard to the mineral rights. See paragraph (h)(4), *example (1)*, of this section.

(2) *Remainder interest in real property.* In the case of a contribution of any remainder interest in real property, section 170(f)(4) provides that in determining the value of such interest for purposes of section 170, depreciation and depletion of such property shall be taken into account. See § 1.170A-12. In the case of the contribution of a remainder interest for conservation purposes, the current fair market value of the property (against which the limitations of § 1.17A-12 are applied) must take into account any pre-existing or contemporaneously recorded rights limiting, for conservation purposes, the use to which the subject property may be put.

(3) *Perpetual conservation restriction*—(i) *In general.* The value of the contribution under section 170 in the case of a charitable contribution of a perpetual conservation restriction is the fair market value of the perpetual conservation restriction at the time of the contribution. See § 1.170A-7(c). If there is a substantial record of sales of easements comparable to the donated easement (such as purchases pursuant to a governmental program), the fair market value of the donated easement is based on the sales prices of such comparable easements. If no substantial record of market-place sales is available to use as a meaningful or valid comparison, as a general rule (but not necessarily in all cases) the fair market value of a perpetual conservation restriction is equal to the difference between the fair market value of the property it encumbers before the granting of the restriction and the fair market value of the encumbered property after the granting of the restriction. The amount of the deduction in the case of a charitable contribution of a perpetual conservation restriction covering a portion of the contiguous property owned by a donor and the donor's family (as defined in section 267(c)(4)) is the difference between the fair market value of the entire contiguous parcel of property before and after the granting of the restriction. If the granting of a perpetual conservation restriction after January 14, 1986, has the effect of increasing the value of any other property owned by the donor or a related person, the amount of the deduction for the conservation contribution shall be reduced by the amount of the increase in the value of the other property, whether or not such property is contiguous. If, as a result of the donation of a perpetual conservation restriction, the donor or a related person receives, or can reasonably expect to receive, financial or economic benefits that are greater than those that will inure to the general public from the transfer, no deduction is allowable under this section. However, if the donor or a related person receives, or can reasonably expect to receive, a financial or economic benefit that is substantial, but it is clearly shown that the benefit is less than the amount of the transfer, then a deduction under this section is allowable for the excess of the amount transferred over the amount of the financial or economic benefit received or reasonably expected to be received by the donor or the related person. For purposes of this paragraph (h)(3)(i), related person shall have the same meaning as in either section 267(b) or section 707(b). (See example (10) of paragraph (h)(4) of this section.)

(ii) *Fair market value of property before and after restriction.* If before and after valuation is used, the fair market value of the property before contribution of the conservation restriction must take into account not only the current use of the property but

also an objective assessment of how immediate or remote the likelihood is that the property, absent the restriction, would in fact be developed, as well as any effect from zoning, conservation, or historic preservation laws that already restrict the property's potential highest and best use. Further, there may be instances where the grant of a conservation restriction may have no material effect on the value of the property or may in fact serve to enhance, rather than reduce, the value of property. In such instances no deduction would be allowable. In the case of a conservation restriction that allows for any development, however limited, on the property to be protected, the fair maket value of the property after contribution of the restriction must take into account the effect of the development. In the case of a conservation easement such as an easement on a certified historic structure, the fair market value of the property after contribution of the restriction must take into account the amount of access permitted by the terms of the easement. Additionally, if before and after valuation is used, an appraisal of the property after contribution of the restriction must take into account the effect of restrictions that will result in a reduction of the potential fair market value represented by highest and best use but will, nevertheless, permit uses of the property that will increase its fair market value above that represented by the property's current use. The value of a perpetual conservation restriction shall not be reduced by reason of the existence of restrictions on transfer designed solely to ensure that the conservation restriction will be dedicated to conservation purposes. See § 1.170A-14 (c)(3).

(iii) *Allocation of basis.* In the case of the donation of a qualified real property interest for conservation purposes, the basis of the property retained by the donor must be adjusted by the elimination of that part of the total basis of the property that is properly allocable to the qualified real property interest granted. The amount of the basis that is allocable to the qualified real property interest shall bear the same ratio to the total basis of the property as the fair market value of the qualified real property interest bears to the fair market value of the property before the granting of the qualified real property interest. When a taxpayer donates to a qualifying conservation organization an easement on a structure with respect to which deductions are taken for depreciation, the reduction required by this paragraph (h)(3)(ii) in the basis of the property retained by the taxpayer must be allocated between the structure and the underlying land.

(4) *Examples.* The provisions of this section may be illustrated by the following examples. In examples illustrating the value or deductibility of donations, the applicable restrictions and limitations of § 1.170A-4, with respect to reduction in amount of charitable contributions of certain appreciated property, and § 1.170A-8, with respect to limitations on charitable deductions by individuals, must also be taken into account.

Example (1). A owns Goldacre, a property adjacent to a state park. A wants to donate Goldacre to the state to be used as part of the park, but A wants to reserve a qualified mineral interest in the property, to exploit currently and to devise at death. The fair market value of the surface rights in Goldacre is $200,000 and the fair market value of the mineral rights is $100,000. In order to ensure that the quality of the park will not be degraded, restrictions must be imposed on the right to extract the minerals that reduce the fair market value of the mineral rights to $80,000. Under this section, the value of the contribution is $200,000 (the value of the surface rights).

Example (2). In 1984 B, who is 62, donates a remainder interest in Greenacre to a qualifying organization for conservation purposes. Greenacre is a tract of 200 acres of undeveloped woodland that is valued at $200,000 at its highest and best use. Under § 1.170A-12(b), the value of a remainder interest in real property following one life is determined under § 25.2512-5 of the Gift Tax Regulations. (See § 25.2512-9 with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1970 and before December 1, 1983. With respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred before January 1, 1971, see T.D. 6334, 23 FR 8904, November 15, 1958, as amended by T.D. 7077, 35 FR 18464, December 4, 1970). Accordingly, the value of the remainder interest, and thus the amount eligible for an income tax deduction under sections 170(f), is $55,996 ($200,000 × .27998).

Example (3). Assume the same facts as in example (2), except that Greenacre is B's 200-acre estate with a home built during the colonial period. Some of the acreage around the home is cleared; the balance of Greenacre, except for access roads, is wooded and undeveloped. See section 170(f)(3)(B)(i). However, B would like Greenacre to be maintained in its current state after his death, so he donates a remainder interest in Greenacre to a qualifying organization for conservation purposes pursuant to section 170 (f)(3)(B)(iii) and (h)(2)(B). At the time of the gift the land has a value of $200,000 and the house has a value of $100,000. The value of the remainder interest, and thus the amount eligible for an income tax deduction under section 170(f), is computed pursuant to § 1.170A-12. See § 1.170A-12(b)(3).

Example (4). Assume the same facts as in example (2), except that at age 62 instead of donating a remainder interest B donates an easement in Greenacre to a qualifying organization for conservation purposes. The fair market value of Greenacre after the donation is reduced to $110,000. Accordingly, the value of the easement, and thus the amount eligible for a deduction under section 170(f), is $90,000 ($200,000 less $110,000).

Example (5). Assume the same facts as in example (4), and assume that three years later, at age 65, B decides to donate a remainder interest in Greenacre to a qualifying organization for conservation purposes. Increasing real estate values in the area have raised the fair market value of Greenacre (subject to the easement) to $130,000. Accordingly, the value of the remainder interest, and thus the amount eligible for a deduction under section 170(f), is $41,639 ($130,000 × .32030).

Example (6). Assume the same facts as in example (2), except that at the time of the donation of a remainder interest in Greenacre, B also donates an easement to a different qualifying organization for conservation purposes. Based on all the facts and circumstances, the value of the easement is determined to be $100,000. Therefore, the value of the property after the easement is $100,000 and the value of the remainder interest, and thus the amount eligible for deduction under section 170(f), is $27,998 ($100,000 × .27998).

Example (7). C owns Greenacre, a 200-acre estate containing a house built during the colonial period. At its highest and best use, for home development, the fair market value of Greenacre is $300,000. C donates an easement (to maintain the house and Green acre in their current state) to a qualifying organization for conservation purposes. The fair market value of Greenacre after the donation is reduced to $125,000. Accordingly, the value of the easement and the amount eligible for a deduction under section 170(f) is $175,000 ($300,000 less $125,000).

Example (8). Assume the same facts as in example (7) and assume that three years later, C decides to donate a remainder interest in Greenacre to a qualifying organization for conservation purposes. Increasing real estate values in the area have raised the fair market value of Greenacre to $160,000. Assume that because of the perpetual easement prohibiting any development of the land, the value of the house is $120,000 and the value of the land is $80,000. The value of the remainder interest, and thus the amount eligible for an income tax deduction under section 170(f), is computed pursuant to § 1.170A-12. See § 1.170A-12(b)(3).

Example (9). D owns property with a basis of $20,000 and a fair market value of $80,000. D donates to a qualifying organization an easement for conservation purposes that is determined under this section to have a fair market value of $60,000. The amount of basis allocable to the easement is $15,000 ($60,000/$80,000 = $15,000/$20,000). Accordingly, the basis of the property is reduced to $5,000 ($20,000 minus $15,000).

Example (10). E owns 10 one-acre lots that are currently woods and parkland. The fair market value of each of E's lots is $15,000 and the basis of each lot is $3,000. E grants to the county a perpetual easement for conservation purposes to use and maintain eight of the acres as a public park and to restrict any future development on those eight acres. As a result of the restrictions, the value of the eight acres is reduced to $1,000 an acre. However, by perpetually restricting development on this portion of the land, E has ensured that the two remaining acres will always be bordered by parkland, thus increasing their fair market value to $22,500 each. If the eight acres represented all of E's land, the fair market value of the easement would be $112,000, an amount equal to the fair market value of the land before the granting of the easement ($8 \times $15,000 = $120,000) minus the fair market value of the encumbered land after the granting of the easement ($8 \times $1,000 = $8,000). However, because the easement only covered a portion of the deduction under section 170 is reduced to $97,000 ($150,000–$53,000), that is, the difference between the fair market value of the entire tract of land before ($150,000) and after (($8 \times $1,000) + ($2 \times $22,500)) the granting of the easement.

Example (11). Assume the same facts as in *example (10).* Since the easement covers a portion of E's land, only the basis of that portion is adjusted. Therefore, the amount of basis allocable to the easement is $22,400 (($8 \times $3,000) \times ($112,000/$120,000)). Accordingly, the basis of the eight acres encumbered by the easement is reduced to $1,600 ($24,000–$22,400), or $200 for each acre. The basis of the two remaining acres is not affected by the donation.

Example (12). F owns and uses as professional offices a two-building that lies within a registered historic district. F's building is an outstanding example of period architecture with a fair market value of $125,000. Restricted to its current use, which is the highest and best use of the property without making changes to the facade, the building and lot would have a fair market value of $100,000, of which $80,000 would be allocable to the building and $20,000 would be allocable to the lot. F's basis in the property is $30,000, of which $40,000 is allocable to the building and $10,000 is allocable to the lot. F's neighborhood is a mix of residential and commercial uses, and it is possible that F (or another owner) could enlarge the building for more extensive commercial use, which is its highest and best use. However, this would require changes to the facade. F would like to donate to a qualifying preservation organization and easement restricting any changes to the facade and promissing to maintain the facade in perpetuity. The donation would qualify for a deduction under this section. The fair market value of the easement is $25,000 (the fair market value of the property before the easement, $125,000, minus the fair market value of the property after the easement, $100,000). Pursuant to § 1.170A-14(h)(3)(iii), the basis allocable to the easement is $10,000 and the basis of the underlying property (building and lot) is reduced to $40,000.

(l) *Substantiation requirement.* If a taxpayer makes a qualified conservation contribution and claims a deduction, the taxpayer must maintain written records of the fair market value of the underlying property before and after the donation and the conservation purpose furthered by the donation and such information shall be stated in the taxpayer's income tax return if required by the return or its instructions. See also § 1.170A-13T(c) (relating to substantiation requirements for deductions in excess of $5,000 for charitable contributions made after 1984), and section 6659 (relating to additions to tax in the case of valuation overstatements).

(j) *Effective date.* Except as otherwise provided in § 1.170A-14(g)(4)(ii), this section applies only to contributions made on or after December 18, 1980.

PART 20—[AMENDED]

Par. 5. The authority for Part 20 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 6. Paragraph (e)(2) of § 20.2055-2 is amended as follows:

a. The sixth sentence of paragraph (e)(2)(i) is revised to read: "However, except as provided in paragraphs (e)(2)(ii), (iii), and (iv) of this section, for purposes of this subdivision a charitable contribution of an interest in property not in trust where the decedent transfers some specific rights to one party and transfers other substantial rights to another party will not be considered a contribution of an undivided portion of the decedent's entire interest in property.".

b. The eight sentence of paragraph (e)(2)(i) is revised to read: "A bequest to charity made on or before December 17, 1980, of an open space easement in gross in perpetuity shall be considered the transfer to charity of an undivided portion of the decedent's entire interest in the property.".

c. Paragraphs (e)(2)(iv), (e)(2)(v), and (e)(2)(vi) and redesignated (e)(2)(v), (e)(2)(vi), and (e)(2)(vii), respectively.

d. A new paragraph (e)(2)(iv) is inserted after paragraph (e)(2)(iii) to read as set forth below.

§ 20.2055-2 Transfers not exclusively for charitable purposes.

* * * * *

(e) *Limitations applicable to decedents dying after December 31, 1969.* * * *

(2) *Deductible interests.* * * *

(iv) *Qualified conservation contribution.* The charitable interest is a qualified conservation contribution. For the definition of a qualified conservation contribution, see § 1.170A-14

PART 25—[AMENDED]

Par. 7. The authority for Part 25 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 8. Paragraph (c)(2) of § 25.2522(c)—3 is amended as follows:

a. The sixth sentence of paragraph (c)(2)(i) is revised to read: "However, except as provided in paragraphs (e)(2)(ii), (iii), and (iv) of this section, for purposes of this subdivision of charitable contribution of an interest in property not in trust where the decedent transfers some specific rights to one party and transfers other substantial rights to another party will not be considered a contribution of a undivided portion of the decedent's entire interest in property.".

b. The eight sentence of paragraph (c)(2)(i) is revised to read: "A bequest to charity made on or before December 17, 1980, of open space easement in gross in perpetuity shall be considered the transfer to charity of an undivided portion of the decedent's entire interest in property.".

c. Paragraphs (c)(2)(iv), (c)(2)(v), and (c)(2)(vi) are redesignated (c)(2)(v), (c)(2)(vi), and (c)(2)(viii), respectively.

d. A new paragraph (c)(2)(iv) is inserted after paragraph (c)(2)(iii), to read as set forth below.

§ 25.2522(c)-3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

* * * * *

(c) *Transfers of partial interest in property.*

(2) *Deductible interest.* * * *

(iv) *Qualified Conservation Contribution.* The charitable interest is a qualified conservation contribution. For the definition of a qualified conservation contribution, see § 1.170A-14.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 9. The authority for Part 602 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 10. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.170A-14 . . . 1545-0763".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 20, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 86-727 Filed 1-13-86; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1, 20, 25 and 602

[T.D. 8069]

Income Taxes; Qualified Conservation Contributions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains corrections to Treasury Decision 8069, which was published in the Federal Register on January 14, 1986 (51 FR 1496). T.D. 8069 issued final regulations relating to contributions not in trust of partial interests in property for conservation purposes.

EFFECTIVE DATE: The regulations that are the subject of these corrections are effective on December 18, 1980. These corrections are also effective on December 18, 1980.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 111 Constitution Avenue, NW., Washington DC 20224. Telephone 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1986, the Federal Register published final regulations relating to contributions not in trust of partial interests in property for conservation purposes. The provisions set forth in those regulations reflected changes made by the Tax Reform Act 1984 and the Temporary Tax Provisions Extension.

Need for Correction

As published, Treasury Decision 80 contains an incorrect internal citation § 1.170A-14(b)(2); omits the word "of" § 1.170A-14(f), *Example (5)*; contains incorrect location reference in the amendatory language of subparagrap of Par. 8; and uses the words "beques and "decedent's" instead of "gift" an "donor's", respectively, in the revised language for paragraph (c)(2)(i) of § 25.2522(c)-3.

Correction of Publication

Accordingly, the publication of Treasury Decision 8069, which was th subject of FR Doc. 86-727 (51 FR 1496 corrected as follows:

§ 1.170A-14 [Corrected]

Paragraph 1. On page 1499, second column, in § 1.170A-14, paragraph (l line 17, the language "this paragraph (b)(3)" is removed and the language "this paragraph (b)(2)" is added in i place.

Par. 2. On page 1503, third column § 1.170A-14, paragraph (f), *Example* the conclusion of the fifth sentence, which now reads "worthy protectio is revised to read "worthy of protection.".

Par. 3. On page 1507, second colu in the amendatory paragraph that i designated Par. 6, subparagraph b. 1, thereof, the language "The eight sentence" is removed and the lang "The seventh sentence" is added i place.

Par. 6. On page 1507, third column, the amendatory paragraph that is designated Par. 8, subparagraph b thereof, in the revised language, the words "bequest" and "decedent's" are removed and the words "gift" and "donor's" are added in their respective places.

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86-3106 Filed 2-12-86, 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8068]

Income Taxes; Qualified Conservation Contributions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to Treasury Decision 8068, which was published in the Federal Register on January 14, 1986 (51 FR 1496). Treasury Decision 8068 issued final regulations relating to contributions not in trust of partial interests in property for conservation purposes.

EFFECTIVE DATE: The regulations that are the subject of this correction are effective December 18, 1980. This correction is also effective December 18, 1980.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attn: CC:LR:T). Telephone 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1986, the Federal Register published final regulations relating to contributions not in trust of partial interests in property for conservation purposes. The provisions

set forth in those regulations reflected changes made by the Tax Reform Act of 1984 and the Temporary Tax Provisions Extension.

Need for Correction

As published, Treasury Decision 8069 contains a typographical error in the text of § 1.170A-14(g)(2) where the subject of conservation contributions made prior to February 12, 1986, is discussed. The correct, and intended, date is February 14, 1986.

Correction of Publication

Accordingly, the publication of Treasury Decision 8069, which was the subject of FR Doc. 86-727 (51 FR 1496), is corrected as follows:

Para. 1. In § 1.170A-14(g)(2) on page 1504, first column, paragraph numbered (2), line 13, the language "February 12," is removed and the language "February 14," is added in its place.

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86-3881 Filed 2-20-86; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1, 20 and 25

[T.D. 8068]

Income Taxes; Qualified Conservation Contributions

Correction

In FR Doc. 86-727 beginning on page 1496 in the issue of Tuesday, January 14, 1986, make the following corrections:

1. On page 1500, second column, in § 1.170A-14(d)(4)(ii)(A) introductory text, fifth line from the bottom, remove the word "in". In § 1.170A-14(d)(4)(ii)(A)(*3*), second line, insert the word "in" between "factor" and "an".

2. On page 1504, second column, in § 1.170A-14(g)(4)(ii)(A)(*2*), fifth line, "of" should read "or".

3. On page 1507, first column, in § 1.170A-14(h)(4), Example (10), sixth line from the bottom, insert the following between "the" and "deduction": "taxpayer's contiguous land, the amount of the". In Example (12), second line, "two-building" should read "two-story building". In the fifteenth line, "or" should read "of". In the twenty-second line, "and" should read "an".

4. On the same page, second column, in Par. 6(c), second line, "and" should read "are". In the third column, in Par. 8(a), fifth line, "of" should read "a". In (b), fourth line, insert the word "an" between "of" and "open".

BILLING CODE 1505-01-M

which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof); and

"(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain,

the construction, reconstruction, or erection of which was completed after December 31, 1952, and on or before December 31, 1956. If any structure described in clause (1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodeling, into a structure so described, and if such alteration or remodeling was completed after December 31, 1952, and on or before December 31, 1956, such alteration or remodeling shall be treated as the construction of a grain-storage facility. The term 'grain-storage facility' shall include only property of a character which is subject to the allowance for depreciation provided in section 167. The term 'grain-storage facility' shall not include any facility any part of which is an emergency facility within the meaning of section 168 of this title.

"(e) Determination of Adjusted Basis.—

"(1) Original owners.—For purposes of subsection (a)(2)—

"(A) in determining the adjusted basis of any grain-storage facility, the construction, reconstruction, or erection of which was begun before January 1, 1953, there shall be included only so much of the amount of the adjusted basis (computed without regard to this subsection) as is properly attributable to such construction, reconstruction, or erection after December 31, 1952; and

"(B) in determining the adjusted basis of any facility which is a grain-storage facility within the meaning of the second sentence of subsection (d), there shall be included only so much of the amount otherwise included in such basis as is properly attributable to the alteration or remodeling.

If any existing grain-storage facility as defined in the first sentence of subsection (d) is altered or remodeled as provided in the second sentence of subsection (d), the expenditures for such remodeling or alteration shall not be applied to reduce the basis of such existing facility but a separate basis shall be computed in respect of such facility as if the property altered or remodeled were a new and separate grain-storage facility.

"(2) Subsequent owners.—For purposes of subsection (a)(2), the adjusted basis of any grain-storage facility shall be whichever of the following amounts is the smaller:

"(A) the basis (unadjusted) of such facility for purposes of this section in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer were a substituted basis within the meaning of section 1016(b), or

"(B) so much of the adjusted basis (for determining gain on sale of the facility in the hands of the taxpayer (as computed without regard to this subsection)) as is properly attributable to construction, reconstruction, or erection after December 31, 1952.

"(f) Depreciation Deduction.—If the adjusted basis of the grain-storage facility (computed without regard to subsection (e)) exceeds the adjusted basis computed under subsection (e), the depreciation deduction provided by section 167 shall, despite the provisions of [illegible] section, be allowed with respect to such grain-storage facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

"(g) Life Tenant and Remainderman.—In the case of property held by one person for life with remainder to another person, the amortization deduction provided by this section (a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the tenant."

[Sec. 170]

SEC. 170. CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.

[Sec. 170(a)]

(a) ALLOWANCE OF DEDUCTION.—

(1) GENERAL RULE.—There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary.

(2) CORPORATIONS ON ACCRUAL BASIS.—In the case of a corporation reporting its taxable income on the accrual basis, if—

(A) the board of directors authorizes a charitable contribution during any taxable year, and

(B) payment of such contribution is made after the close of such taxable year and on or before the 15th day of the third month following the close of such taxable year,

then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the Secretary shall by regulations prescribe.

(3) FUTURE INTERESTS IN TANGIBLE PERSONAL PROPERTY.—For purposes of this section, payment of a charitable contribution which consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in section 267(b) or 707(b). For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

Amendments

P.L. 98-369, § 174(b)(5)(A):

Act Sec. 174(b)(5)(A) amended Code Sec. 170(a)(3) by striking out "section 267(b)" and inserting in lieu thereof "section 267(b) or 707(b)".

The above amendment applies to transactions after December 31, 1983, in tax years ending after such date.

P.L. 98-369, § 155 provides:

SEC. 155. SUBSTANTIATION OF CHARITABLE CONTRIBUTIONS; MODIFICATIONS OF INCORRECT VALUATION PENALTY.

(a) Substantiation of Contributions of Property.—

(1) In General.—Not later than December 31, 1984, the Secretary shall prescribe regulations under section 170(a)(1) of the Internal Revenue Code of 1954, which require any individual, closely held corporation, or personal service corporation claiming a deduction under section 170 of such Code for a contribution described in paragraph (2)—

(A) to obtain a qualified appraisal for the property contributed,

(B) to attach an appraisal summary to the return on which such deduction is first claimed for such contribution, and

(C) to include on such return such additional information (including the cost basis and acquisition date of the contributed property) as the Secretary may prescribe in such regulations.

Such regulations shall require the taxpayer to retain any qualified appraisal.

(2) Contributions to Which Paragraph (1) Applies.—For purposes of paragraph (1), a contribution is described in this paragraph if—

(A) it is a contribution of property (other than publicly traded securities) and

(B) the claimed value of such property (plus the claimed value of all similar items of property donated to 1 or more donees) exceeds $5,000.

In the case of any property which is nonpublicly traded stock, subparagraph (B) shall be applied by substituting "$10,000" for "$5,000".

(3) Appraisal Summary.—For purposes of this subsection, the appraisal summary shall be in such form and include such information as the Secretary prescribes by regulations. Such summary shall be signed by the qualified appraiser preparing the qualified appraisal and shall contain the TIN of such appraiser. Such summary shall be acknowledged by the donee of the property appraised in such manner as the Secretary prescribes in such regulations.

(4) Qualified Appraisal.—The term "qualified appraisal" means an appraisal prepared by a qualified appraiser which includes—

(A) a description of the property appraised,

(B) the fair market value of such property on the date of contribution and the specific basis for the valuation,

(C) a statement that such appraisal was prepared for income tax purposes,

(D) the qualifications of the qualified appraiser,

(E) the signature and TIN of such appraiser, and

(F) such additional information as the Secretary prescribes in such regulations.

(5) Qualified Appraiser —

(A) In General.—For purposes of this subsection, the term "qualified appraiser" means an appraiser qualified to make appraisals of the type of property donated, who is not—

(i) the taxpayer,

(ii) a party to the transaction in which the taxpayer acquired the property,

(iii) the donee,

(iv) any person employed by any of the foregoing persons or related to any of the foregoing persons under section 267(b) of the Internal Revenue Code of 1954, or

(v) to the extent provided in such regulations, any person whose relationship to the taxpayer would cause a reasonable person to question the independence of such appraiser.

(B) Appraisal Fees.—For purposes of this subsection, an appraisal shall not be treated as a qualified appraisal if all or part of the fee paid for such appraisal is based on a percentage of the appraised value of the property. The preceding sentence shall not apply to fees based on a sliding scale that

P. L. 91-172, § 201(a)(1):

Amended Sec. 170(a) by adding paragraph (a)(3). Said paragraph was former Code Sec. 170(f).

P. L. 88-272, § 209(e):

Added Code Sec. 170(f) [now Code Sec. 170(a)(3), above]. applicable to transfers of future interests made after December 31, 1963, in taxable years ending after such date, except that such section does not apply to any transfer of a future interest made before July 1, 1964, where—

(A) the sole intervening interest or right is a nontransferable life interest reserved by the donor, or,

(B) in the case of a joint gift by husband and wife, the sole intervening interest or right is a nontransferable life interest reserved by the donors which expires not later than the death of whichever of such donors dies later.

For purposes of the exception contained in the preceding sentence, a right to make a transfer of the reserved life interest to the donee of the future interest is not to be treated as making a life interest transferable.

ec. 170(b)]

ividual, the deduction provided in subsection (a) shall be
ragraphs.

ble contribution to—

or association of churches,

ation which normally maintains a regular faculty and
egularly enrolled body of pupils or students in attendance
l activities are regularly carried on,

ncipal purpose or functions of which are the providing of
cal education or medical research, if the organization is
s a medical research organization directly engaged in the
edical research in conjunction with a hospital, and if the
contribution is made such organization is committed
research before January 1 of the fifth calendar year after
ibution is made,

h normally receives a substantial part of its support
n the exercise or performance by such organization of
purpose or function constituting the basis for its exemption
United States or any State or political subdivision thereof
utions from the general public, and which is organized and
e, hold, invest, and administer property and to make
t of a college or university which is an organization referred
raph and which is an agency or instrumentality of a State or
or which is owned or operated by a State or political
gency or instrumentality of one or more States or political

eferred to in subsection (c)(1),

e...ed to in subsection (c)(2) which normally receives
(exclusive of income received in the exercise or performance
ritable, educational, or other purpose or function constituting
der section 501(a)) from a governmental unit referred to in
t or indirect contributions from the general public.

described in subparagraph (E), or

cribed in section 509(a)(2) or (3),

shall be 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.

(B) OTHER CONTRIBUTIONS.—Any charitable contribution other than a charitable contribution to which subparagraph (A) applies shall be allowed to the extent that the aggregate of such contributions does not exceed the lesser of—

(i) 30 percent of the taxpayer's contribution base for the taxable year, or

(ii) the excess of 50 percent of the taxpayer's contribution base for the taxable year over the amount of charitable contributions allowable under subparagraph (A) (determined without regard to subparagraph (C)).

If the aggregate of such contributions exceeds the limitation of the preceding sentence, such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution (to which subparagraph (A) does not apply) in each of the 5 succeeding taxable years in order of time.

(C) SPECIAL LIMITATION WITH RESPECT TO CONTRIBUTIONS DESCRIBED IN SUBPARAGRAPH (A) OF CERTAIN CAPITAL GAIN PROPERTY.—

(i) In the case of charitable contributions described in subparagraph (A) of capital gain property to which subsection (e)(1)(B) does not apply, the total amount of contributions of such property which may be taken into account under subsection (a) for any taxable year shall not exceed 30 percent of the taxpayer's contribution base for such year. For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions (other than charitable contributions to which subparagraph (D) applies).

(ii) If charitable contributions described in subparagraph (A) of capital gain property to which clause (i) applies exceeds 30 percent of the taxpayer's contribution base for any taxable year, such excess shall be treated, in a manner consistent with the rules of subsection (d)(1), as a charitable contribution of capital gain property to which clause (i) applies in each of the 5 succeeding taxable years in order of time.

(iii) At the election of the taxpayer (made at such time and in such manner as the Secretary prescribes by regulations), subsection (e)(1) shall apply to all contributions of capital gain property (to which subsection (e)(1)(B) does not otherwise apply) made by the taxpayer during the taxable year. If such an election is made, clauses (i) and (ii) shall not apply to contributions of capital gain property made during the taxable year, and, in applying subsection (d)(1) for such taxable year with respect to contributions of capital gain property made in any prior contribution year for which an election was not made under this clause, such contributions shall be reduced as if subsection (e)(1) had applied to such contributions in the year in which made.

(iv) For purposes of this paragraph, the term "capital gain property" means, with respect to any contribution, any capital asset the sale of which at its fair market value at the time of the contribution would have resulted in gain which would have been long-term capital gain. For purposes of the preceding sentence, any property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

(D) SPECIAL LIMITATION WITH RESPECT TO CONTRIBUTIONS OF CAPITAL GAIN PROPERTY TO ORGANIZATIONS NOT DESCRIBED IN SUBPARAGRAPH (A).—

(i) IN GENERAL.—In the case of charitable contributions (other than charitable contributions to which subparagraph (A) applies) of capital gain property, the total amount of such contributions of such property taken into account under subsection (a) for any taxable year shall not exceed the lesser of—

(I) 20 percent of the taxpayer's contribution base for the taxable year, or

(II) the excess of 30 percent of the taxpayer's contribution base for the taxable year over the amount of the contributions of capital gain property to which subparagraph (C) applies.

For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions.

(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with

able contribution of capital gain property to which
ding taxable years in order of time.

he private foundations referred to in subparagraph

(as defined in section 4942(j)(3)),

(as defined in section 509(a)) which, not later than
the close of the foundation's taxable year in which
lifying distributions (as defined in section 4942(g)
f), which are treated, after the application of section
us (in accordance with section 4942(h)) in an amount
ions, and with respect to which the taxpayer obtains
evidence from the foundation showing that the
ibutions, and

e contributions to which are pooled in a common fund
tion 509(a)(3) but for the right of any substantial
alled "donor") or his spouse to designate annually the
described in paragraph (1) of section 509(a), of the
tribution to the fund and to direct (by deed or by will
scribed in such paragraph (1), of the corpus in the
or's contribution; but this clause shall apply only if a
is required to be (and is) distributed to one or more
agraph (1) not later than the 15th day of the third
year in which the income is realized by the fund and
o any donor's contribution to the fund is required to be
f such organizations not later than one year after his
rviving spouse if she has the right to designate the

For purposes of this section, the term "contribution
computed without regard to any net operating loss
ion 172).

poration, the total deductions under subsection (a) for
al of the taxpayer's taxable income computed with-

ck to the taxable year under section 172, and

he taxable year under section 1212(a)(1).

Act Sec. 301(c)(2)(B) amended the heading of Code Sec. 170(b)(1)(C) and clause (i) to read as above. Prior to amendment, they read as follows:

(C) Special Limitation With Respect to Contributions of Certain Capital Gain Property.—

(i) In the case of charitable contributions of capital gain property to which subsection (e)(1)(B) does not apply, the total amount of contributions of such property which may be taken into account under subsection (a) for any taxable year shall not exceed 30 percent of the taxpayer's contribution base for such year. For purposes of this subsection, contributions of capital gain property to which this paragraph applies shall be taken into account after all other charitable contributions.

The above amendments apply to contributions made in tax years ending after July 18, 1984.

P.L. 97-34, § 263(a):

Amended Code Sec. 170(b)(2) by striking out "5 percent" and inserting in lieu thereof "10 percent". Applicable to taxable years beginning after December 31, 1981.

P.L. 94-455, §§ 1052(c), 1901(a)(28), 1906(b)(13)(A):

Amended Code Sec. 170(b) as follows:

§ 1052(c) amended Code Sec. 170(b)(2) by adding "and" at the end of subparagraph (c), repealing subparagraph (D), and redesignating subparagraph (E) to be subparagraph (D), effective for taxable years beginning after December 31, 1969. Prior to repeal, Code Sec. 170(b)(2)(D) read as follows:

(D) section 922 (special deduction for Western Hemisphere trade corporations), and

§ 1901(a)(28) amended Code Sec. 170(b)(1)(A)(vii) to substitute "subparagraph (D)" for "subparagraph (E)", amended Code Sec. 170(b)(1)(B)(ii) to substitute "subparagraph (C)" for "subparagraph (D)", repealed Code Sec. 170(b)(1)(C), and redesignated Code Secs. 170(b)(1)(D), (E), and (F) to be Code Secs. 170(b)(1)(C), (D), and (E), effective for taxable years beginning after December 31, 1976. Prior to repeal, Code Sec. 170(b)(1)(C) read as follows:

(C) UNLIMITED DEDUCTION FOR CERTAIN INDIVIDUALS.—Subject to the provisions of subsections (f)(6) and (g), the limitations in subparagraphs (A), (B), and (D), and the provisions of subsection (e)(1)(B), shall not apply, in the case of an individual for a taxable year beginning before January 1, 1975, if in such taxable year and in 8 of the 10 preceding taxable years, the amount of the charitable contributions, plus the amount of income tax (determined without regard to chapter 2, relating to tax on self-employment income) paid during such year in respect of such year or preceding taxable years, exceeds the transitional deduction percentage (determined under subsection (f)(6)) of the taxpayer's taxable income for such year, computed without regard to—

(i) this section,

(ii) section 151 (allowance of deductions for personal exemptions), and

(iii) any net operating loss carryback to the taxable year under section 172.

In lieu of the amount of income tax paid during any such year, there may be substituted for that year the amount of income tax paid in respect of such year, provided that any amount so included in the year in respect of which payment was made shall not be included in any other year. In the case of a separate return for the taxable year by a married individual who previously filed a joint return with a former deceased spouse for any of the 10 preceding taxable years, the amount of charitable contributions and taxes paid for any such preceding taxable year, for which a joint return was filed with the former deceased spouse, shall be determined in the same manner as if the taxpayer had not remarried after the death of such former spouse.

§ 1906(b)(13)(A) amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective February 1, 1977.

P.L. 91-172, § 201(a)(1):

Amended Sec. 170(b) to read as above, effective for taxable years beginning after December 31, 1969. Prior to amendment, Code Sec. 170(b) read as follows:

"The Limitations.—

"(1) Individuals.—In the case of an individual the deduction provided in subsection (a) shall be limited as provided in subparagraphs (A), (B), (C), and (D).

"(A) Special rule.—Any charitable contributions to—

"(i) a church or a convention or association of churches,

"(ii) an educational organization referred to in section 151(e)(4),

"(iii) a hospital referred to in section 503(b)(5) or to a medical research organization (referred to in section 151(e)) directly engaged in the continuous active conduct of medical research in conjunction with a hospital, if during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made,

"(iv) an organization referred to in section 503(b)(3) organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in clause (ii) of this subparagraph and which is an agency or instrumentality of a State or political subdivision thereof, or which is owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions,

"(v) a governmental unit referred to in subsection (c)(1), or

"(vi) an organization referred to in subsection (c)(2) which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from a governmental unit referred to in subsection (c)(1) or from direct or indirect contributions from the general public,

shall be allowed to the extent that the aggregate of such contributions does not exceed 10 percent of the taxpayer's adjusted gross income computed without regard to any net operating loss carryback to the taxable year under section 172.

"(B) General limitation.—The total deductions under subsection (a) for any taxable year shall not exceed 20 percent of the taxpayer's adjusted gross income computed without regard to any net operating loss carryback to the taxable year under section 172. For purposes of this subparagraph, the deduction under subsection (a) shall be computed without regard to any deduction allowed under subparagraph (A) but shall take into account any charitable contributions described in subparagraph (A) which are in excess of the amount allowable as a deduction under subparagraph (A).

"(C) Unlimited deduction for certain individuals.—The limitation in subparagraph (B) shall not apply in the case of an individual if, in the taxable year and in 8 of the 10 preceding taxable years, the amount of the charitable contributions, plus the amount of income tax (determined without regard to chapter 2, relating to tax on self-employment income) paid during such year in respect of such year or preceding taxable years, exceeds 90 percent of the taxpayer's taxable income for such year, computed without regard to—

"(i) this section,

"(ii) section 151 (allowance of deductions for personal exemptions), and

"(iii) any net operating loss carryback to the taxable year under section 172.

In lieu of the amount of income tax paid during any such year, there may be substituted for that year the amount of income tax paid in respect of such year, provided that any amount so included in the year in respect of which payment was made shall not be included in any other year.

"(D) Denial of deduction in case of certain transfers in trust.—No deduction shall be allowed under this section for the value of any interest in property transferred after March 9, 1954, to a trust if—

"(i) the grantor has a reversionary interest in the corpus or income of that portion of the trust with respect to which a deduction would (but for this subparagraph) be allowable under this section; and

"(ii) at the time of the transfer the value of such reversionary interest exceeds 5 percent of the value of the property constituting such portion of the trust.

For purposes of this subparagraph, a power exercisable by the grantor or a nonadverse party (within the meaning of section 672(b)), or both, to revest in the grantor property or income therefrom shall be treated as a reversionary interest.

"(2) Corporations.—In the case of a corporation, the total deductions under subsection (a) for any taxable year shall not exceed 5 percent of the taxpayer's taxable income computed without regard to—

"(A) this section,

"(B) part VIII (except section 248),

"(C) any net operating loss carryback to the taxable year under section 172, and

"(D) section 922 (special deduction for Western Hemisphere trade corporations).

Any contribution made by a corporation in a taxable year (hereinafter in this sentence referred to as the 'contribution year') in excess of the amount deductible for such year under the preceding sentence shall be deductible for each of the 5 succeeding taxable years in order of time, but only to the extent of the lesser of the two following amounts: (i) the excess of the maximum amount deductible for such succeeding taxable year under the preceding sentence over the sum of the contributions made in such year plus the aggregate of the excess contributions which were made in taxable years before the contribution year and which are deductible under this sentence for such succeeding taxable year; or (ii) in the case of the first succeeding taxable year, the amount of such excess contribution, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess contribution not deductible under this sentence for any taxable year intervening between the contribution year and such succeeding taxable year.

"(3) Special rule for corporations having net operating loss carryovers.—In applying the second sentence of paragraph (2) of this subsection, the excess of—

"(A) the contributions made by a corporation in a taxable year to which this section applies, over

"(B) the amount deductible in such year under the limitation in the first sentence of such paragraph (2),

shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases a net operating loss carryover under section 172 to a succeeding taxable year.

"(4) Reduction for certain interest.—If, in connection with any charitable contribution, a liability is assumed by the recipient or by any other person, or if a charitable contribution is of property which is subject to a liability, then, to the extent necessary to avoid the duplication of amounts, the amount taken into account for purposes of this section as the amount of the charitable contribution—

"(A) shall be reduced for interest (i) which has been paid (or is to be paid) by the taxpayer, (ii) which is attributable to the liability, and (iii) which is attributable to any period after the making of the contribution, and

"(B) in the case of a bond, shall be further reduced for interest (i) which has been paid (or is to be paid) by the taxpayer on indebtedness incurred or continued to purchase or carry such bond, and (ii) which is attributable to any period before the making of the contribution.

The reduction pursuant to subparagraph (B) shall not exceed the interest (including interest equivalent) on the bond which is attributable to any period before the making of the contribution and which is not (under the taxpayer's method of accounting) includible in the gross income of the taxpayer for any taxable year. For purposes of this paragraph, the term 'bond' means any bond, debenture, note, or certificate or other evidence of indebtedness.

"(5) Carryover of certain excess contributions by individuals.—

"(A) In the case of an individual, if the amount of charitable contributions described in paragraph (1)(A) payment of which is made within a taxable year (hereinafter in this paragraph referred to as the 'contribution year') beginning after December 31, 1963, exceeds 30 percent of the taxpayer's adjusted gross income for such year (computed without regard to any net operating loss carryback to such year under section 172), such excess shall be treated as a charitable contribution described in paragraph (1)(A) paid in each of the 5 succeeding taxable years in order of time, but, with respect to any such succeeding taxable year, only to the extent of the lesser of the two following amounts:

"(i) the amount by which 30 percent of the taxpayer's adjusted gross income for such succeeding taxable year (computed without regard to any net operating loss carryback to such succeeding taxable year under section 172) exceeds the sum of the charitable contributions described in paragraph (1)(A) payment of which is made by the taxpayer within such succeeding taxable year (determined without regard to this subparagraph) and the charitable contributions described in paragraph (1)(A) payment of which was made in taxable years (beginning after December 31, 1963) before the contribution year which are treated under this subparagraph as having been paid in such succeeding taxable year; or

"(ii) in the case of the first succeeding taxable year, the amount of such excess, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess not treated under this subparagraph as a charitable contribution described in paragraph (1)(A) paid in any taxable year intervening between the contribution year and such succeeding taxable year.

"(B) In applying subparagraph (A), the excess determined under subparagraph (A) for the contribution year shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases the net operating loss deduction for a taxable year succeeding the contribution year."

P. L. 91-172, § 201(b):

Further amended Sec. 170(b) by adding the last sentence to Sec. 170(b)(1)(C), which last sentence begins: "In the case of a separate return * * *", effective for taxable years beginning after December 31, 1968.

P. L. 88-272, § 209(a):

Amended subparagraph (A) of subsection (b)(1) by striking clauses (v) and (vi). Amendment applies with respect to contributions which are paid in taxable years beginning after December 31, 1963.

P. L. 88-272, § 209(c)(1):

Amended subsection (b) by adding paragraph (5) thereto. Amendment applies with respect to contributions which are paid in taxable years beginning after December 31, 1963.

P. L. 88-272, § 209(d)(1):

Amended section 170(b)(2) by inserting a new sentence to follow subparagraph (D). The amendment applies to taxable years beginning after December 31, 1963, with respect to contributions which are paid (or treated as paid under section 170(a)(2)) in taxable years beginning after December 31, 1961. Prior to amendment, the sentence following subparagraph (D) read:

"Any contribution made by a corporation in a taxable year to which this section applies in excess of the amount deductible in such year under the foregoing limitation shall be deductible in each of the two succeeding taxable years in order of time, but only to the extent of the lesser of the two following amounts: (i) the excess of the maximum amount deductible for such succeeding taxable year under the foregoing limitation over the contributions made in such year, and (ii) in the case of the first succeeding taxable year the amount of such excess contribution, and in the case of the second succeeding taxable year the portion of such excess contribution not deductible in the first succeeding taxable year."

P. L. 87-858, § 2(a), (b):

Amended Code Sec. 170(b)(1)(A) by deleting "or" at the end of clause (ii), by inserting "or" at the end of clause (iii), and by inserting new clause (iv) to read as above. Amended Code Sec. 170(b)(1)(B) by substituting "any charitable contributions described in subparagraph (A)" for "any charitable contributions to the organizations described in clauses (i), (ii), and (iii)." Effective 1-1-61.

...th respect to any such succeeding taxable year, only to the ...tent of the lesser of the two following amounts:

"(i) the amount by which 30 percent of the taxpayer's ...djusted gross income for such succeeding taxable year ...omputed without regard to any net operating loss car...back to such succeeding taxable year under section 172 ...xceeds the sum of the charitable contributions described in ...aragraph (1)(A) payment of which is made by the taxpayer ...within such succeeding taxable year (determined without ...regard to this subparagraph) and the charitable contribu...tions described in paragraph (1)(A) payment of which was ...made in taxable years (beginning after December 31, 1963) ...before the contribution year which are treated under this ...subparagraph as having been paid in such succeeding taxable ...year; or

"(ii) in the case of the first succeeding taxable year, the ...amount of such excess, and in the case of the second, third, ...fourth, or fifth succeeding taxable year, the portion of such ...excess not treated under this subparagraph as a charitable ...contribution described in paragraph (1)(A) paid in any ...taxable year intervening between the contribution year and ...such succeeding taxable year.

"(B) In applying subparagraph (A), the excess determined ...under subparagraph (A) for the contribution year shall be ...reduced to the extent that such excess reduces taxable ...income (as computed for purposes of the second sentence of ...section 172(b)(2)) and increases the net operating loss deduc...tion for a taxable year succeeding the contribution year."

P. L. 91-172, § 201(b):

Further amended Sec. 170(b) by adding the last sentence to Sec. 170(b)(1)(C), which last sentence begins, "In the case of a separate return * * *", effective for taxable years beginning after December 31, 1968.

P. L. 88-272, § 209(a):

Amended subparagraph (A) of subsection (b)(1) by adding clauses (v) and (vi). Amendments apply with respect to contributions which are paid in taxable years beginning after December 31, 1963.

P. L. 88-272, § 209(c)(1):

Amended subsection (b) by adding paragraph (5) thereto. Amendment applies with respect to contributions which are paid in taxable years beginning after December 31, 1963.

P. L. 88-272, § 209(d)(1):

Amended section 170(b)(2) by inserting a new sentence to follow subparagraph (D). The amendment applies to taxable years beginning after December 31, 1963, with respect to contributions ...such are paid (or treated as paid under section 170(a)(2)) in taxable years beginning after December 31, 1963. Prior to amendment, the sentence followed subparagraph (D) read:

"Any contribution made by a corporation in a taxable year to which this section applies in excess of the amount deductible in such year under the foregoing limitations shall be deductible in each of the two succeeding taxable years in order of time, but only to the extent of the lesser of the following amounts: (i) the excess of the maximum amount deductible for such succeeding taxable year under the foregoing limitations over the contributions made in such year, or (ii) in the case of the first succeeding taxable year the amount of such excess contribution, and in the case of the second succeeding taxable year the portion of such excess contribution not deductible in the first succeeding taxable year."

P. L. 87-858, § 2(a), (b):

Amended Code Sec. 170(b)(1)(A) by deleting "or" at the end of clause (iii), by inserting "or" at the end of clause (iv) and by inserting new clause (v) to read as above. Amended Code Sec. 170(b)(1)(B) by substituting "...tributions described in subparagraph (A)" for "...ble contributions to the organizations described in clauses (ii), and (iii)." Effective 1-1-61.

P. L. 85-866, § 10(a):

Added the last sentence in Sec. 170(b)(1)(C) to read as above. Effective 1-1-58.

P. L. 85-866, § 11:

Added paragraph (3) to Sec. 170(b) to read as above. Effective 1-1-54.

P. L. 85-866, § 12:

Added paragraph (4) to Sec. 170(b) to read as above. Paragraph (4) applies to taxable years ending after December 31, 1957, but only with respect to charitable contributions made after that date.

P. L. 1822, 84th Cong., 2d Sess., § [1]:

Amended Code Sec. 170(b)(1)(A)(iii) by adding after the phrase "section 503(b)(5)" the words "or to medical research organization (referred to in section 503(b)(5)) directly engaged in the continuous active conduct of medical research in conjunction with a hospital, if during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made." Applicable under Sec. 2 only to taxable years beginning after 1955.

[Sec. 170(c)]

(c) CHARITABLE CONTRIBUTION DEFINED.—For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of—

(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(2) A corporation, trust, or community chest, fund, or foundation—

(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals;

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(D) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B). Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.

(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

(A) organized in the United States or any of its possessions, and

(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term "charitable contribution" also means an amount treated under subsection (g) as paid for the use of an organization described in paragraph (2), (3), or (4).

Amendments

P. L. 93-625, § 107(a)(1):

Amended Code Sec. 170(c)(2)(D) by striking out "on behalf of any candidate" and inserting in lieu thereof "on behalf of (or in opposition to) any candidate".

The above amendment applies with respect to activities after the date of the enactment of this act.

P.L. 97-248, § 286(b):

Amended Code Sec. 170(c) by adding at the end of paragraph (2) the following sentence. "Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph."

The above amendment applies retroactively, effective on October 5, 1976.

P.L. 94-455, § § 1307(d), 1313(b), 1901(a)(28):

Amended Code Sec. 170(c) as follows:

§ 1307(d) substituted "which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation," for "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation" in Code Sec. 170(c)(2)(D). Effective for taxable years beginning after December 31, 1976.

§ 1313(b) added ", or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment)," after "or educational purposes" in Code Sec. 170(c)(2)(B). Effective October 5, 1976.

§ 1901(a)(28) substituted "subsection (g)" for "subsection (h)" in the last sentence of Code Sec. 170(c). Effective for taxable years beginning after December 31, 1976.

P. L. 91-172, § 201(d)(1):

Amended Sec. 170(c)(1), 170(c)(2)(A) and 170(c)(2)(D) to read as above, effective for taxable years beginning after December 31, 1969. Prior to amendment, these read as follows.

(c) Charitable Contribution Defined.—For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of—

(1) A State, a Territory, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(2) A corporation, trust, or community chest, fund, or foundation—

(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State or Territory, the District of Columbia, or any possession of the United States,

* * *

(D) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

* * *

P. L. 86-779, § 7(a)(1):

Added the last sentence to Code Sec. 170(c). Effective for taxable years beginning after 1959

[Sec. 170(d)]

(d) CARRYOVERS OF EXCESS CONTRIBUTIONS.—

(1) INDIVIDUALS.—

(A) IN GENERAL.—In the case of an individual, if the amount of charitable contributions described in subsection (b)(1)(A) payment of which is made within a taxable year (hereinafter in this paragraph referred to as the "contribution year") exceeds 50 percent of the taxpayer's contribution base for such year, such excess shall be treated as a charitable contribution described in subsection (b)(1)(A) paid in each of the 5 succeeding taxable years in order of time but, with respect to any such succeeding taxable year, only to the extent of the lesser of the two following amounts:

(i) the amount by which 50 percent of the taxpayer's contribution base for such succeeding taxable year exceeds the sum of the charitable contributions described in subsection (b)(1)(A) payment of which is made by the taxpayer within such succeeding taxable year (determined without regard to this subparagraph) and the charitable contributions described in subsection (b)(1)(A) payment of which was made in taxable years before the contribution year which are treated under this subparagraph as having been paid in such succeeding taxable year; or

(ii) in the case of the first succeeding taxable year, the amount of such excess, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess not treated under this subparagraph as a charitable contribution described in subsection (b)(1)(A) paid in any taxable year intervening between the contribution year and such succeeding taxable year.

(B) SPECIAL RULE FOR NET OPERATING LOSS CARRYOVERS.—In applying subparagraph (A), the excess determined under subparagraph (A) for the contribution year shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases the net operating loss deduction for a taxable year succeeding the contribution year.

(2) CORPORATIONS.—

(A) IN GENERAL.—Any contribution made by a corporation in a taxable year (hereinafter in this paragraph referred to as the "contribution year") in excess of the amount deductible for such year under subsection (b)(2) shall be deductible for each of the 5 succeeding taxable years in order of time, but only to the extent of the lesser of the two following amounts: (i) the excess of the maximum amount deductible for such succeeding taxable year under subsection (b)(2) over the sum of the contributions made in such year plus the aggregate of the excess contributions which were made in taxable years before the contribution year and which are deductible under this subparagraph for such succeeding taxable year; or (ii) in the case of the first succeeding taxable year, the amount of such excess contribution, and in the case of the second, third, fourth

(c) Charitable Contribution Defined.—For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of—

(1) A State, a Territory, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(2) A corporation, trust, or community chest, fund, or foundation—

(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State or Territory, the District of Columbia, or any possession of the United States;

* * *

(D) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

* * *

P. L. 86-779, § 7(a)(1):

Added the last sentence to Code Sec. 170(c). Effective for taxable years beginning after 1959.

.170(d)]

n individual, if the amount of charitable contribution
nt of which is made within a taxable year (hereinafter
ntribution year") exceeds 50 percent of the taxpayer's
excess shall be treated as a charitable contribution
n each of the 5 succeeding taxable years in order of time
g taxable year, only to the extent of the lesser of the two

) percent of the taxpayer's contribution base for such
the sum of the charitable contributions described in
which is made by the taxpayer within such succeeding
out regard to this subparagraph) and the charitable
ction (b)(1)(A) payment of which was made in taxable
ar which are treated under this subparagraph as having
able year; or

succeeding taxable year, the amount of such excess and
urth, or fifth succeeding taxable year, the portion of such
subparagraph as a charitable contribution described in
y taxable year intervening between the contribution year
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TING LOSS CARRYOVERS.—In applying subparagraph (A)
raph (A) for the contribution year shall be reduced to the
ble income (as computed for purposes of the second sentence
be net operating loss deduction for a taxable year succeeding

ution made by a corporation in a taxable year (hereinafter
"contribution year") in excess of the amount deductible
shall be deductible for each of the 5 succeeding taxable years
ent of the lesser of the two following amounts (i) the excess
for such succeeding taxable year under subsection (b)(2)
e in such year plus the aggregate of the excess contributions
before the contribution year and which are deductible under
eding taxable year; or (ii) in the case of the first succeeding
excess contribution, and in the case of the second, third, fourth

or fifth succeeding taxable year, the portion of such excess contribution not deductible under this subparagraph for any taxable year intervening between the contribution year and such succeeding taxable year.

(B) SPECIAL RULE FOR NET OPERATING LOSS CARRYOVERS.—For purposes of subparagraph (A), the excess of—

(i) the contributions made by a corporation in a taxable year to which this section applies, over

(ii) the amount deductible in such year under the limitation in subsection (b)(2),

shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases a net operating loss carryover under section 172 to a succeeding taxable year.

Amendments

P.L. 94-455, § 1901(a)(28):

Amended Code Sec. 170(d)(1)(A) by striking out "(30 percent, in the case of a contribution year beginning before January 1, 1970)" after "50 percent". Effective for taxable years beginning after December 31, 1976.

P.L. 91-172, § 301(a)(1):

Redesignated old Sec. 170(d) as Sec. 170(h) and added new Sec. 170(d) to read as above. For purposes of applying section 170(d) (as amended by subsection (a)) with respect to contributions paid in a taxable year beginning before January 1, 1970, subsection (b)(1)(D), subsection (e), and paragraphs (1), (2), (3), and (4) of subsection (f) of section 170 of such Code shall not apply.

[Sec. 170(e)]

(e) CERTAIN CONTRIBUTIONS OF ORDINARY INCOME AND CAPITAL GAIN PROPERTY.—

(1) GENERAL RULE.—The amount of any charitable contribution of property otherwise taken into account under this section shall be reduced by the sum of—

(A) the amount of gain which would not have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), and

(B) in the case of a charitable contribution—

(i) of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

(ii) to or for the use of a private foundation (as defined in section 509(a)), other than a private foundation described in subsection (b)(1)(E),

the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution).

For purposes of applying this paragraph (other than in the case of gain to which section 617(d)(1), [illegible], 1250(a), 1252(a), or 1254(a) applies), property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

(2) ALLOCATION OF BASIS.—For purposes of paragraph (1), in the case of a charitable contribution of less than the taxpayer's entire interest in the property contributed, the taxpayer's adjusted basis in such property shall be allocated between the interest contributed and any interest not contributed in accordance with regulations prescribed by the Secretary.

(3) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.—

(A) QUALIFIED CONTRIBUTIONS.—For purposes of this paragraph, a qualified contribution shall mean a charitable contribution of property described in paragraph (1) or (2) of section 1221, by a corporation (other than a corporation which is an S corporation) to an organization which is described in section 501(c)(3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), but only if—

(i) the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501 and the property is to be used by the donee solely for the care of the ill, the needy, or infants;

(ii) the property is not transferred by the donee in exchange for money, other property, or services;

a written statement representing that its use
ordance with the provisions of clauses (i) and

subject to regulation under the Federal Food,
property must fully satisfy the applicable
promulgated thereunder on the date of transfer
hereto.

n under paragraph (1)(A) for any qualified
shall be no greater than the sum of—

under paragraph (1)(A) (computed without

e charitable contribution deduction under this
computed by taking into account the amount
rd to this clause) exceeds twice the basis of such

o much of the amount of the gain described in
apital gain but for the application of sections 617,

IFIC PROPERTY USED FOR RESEARCH.—

of a qualified research contribution, the reduction
r than the amount determined under paragraph

NS.—For purposes of this paragraph, the term
haritable contribution by a corporation of tangible
.) of section 1221, but only if—

organization described in subparagraph (A) or

the taxpayer,

later than 2 years after the date the construction of
ed,

ty is by the donee,

uipment or apparatus substantially all of the use of
experimentation (within the meaning of section 174)
d States in physical or biological sciences,

ed by the donee in exchange for money, other property

the donee a written statement representing that its use
be in accordance with the provisions of clauses (i) and

TAXPAYER.—For purposes of this paragraph, property
: taxpayer only if the cost of the parts used in the
han parts manufactured by the taxpayer or a related
taxpayer's basis in such property.

of this paragraph, the term "corporation" shall not

y (as defined in section 542), and

defined in section 414(m)(3)).

OF STOCK FOR WHICH MARKET QUOTATIONS ARE READILY

ir (B)(ii) of paragraph (1) shall not apply to any
stock.

.—Except as provided in subparagraph (C), for purposes
appreciated stock" means any stock of a corporation

(i) for which (as of the date of the contribution) market quotations are readily available on an established securities market, and

(ii) which is capital gain property (as defined in subsection (b)(1)(C)(iv)).

(C) DONOR MAY NOT CONTRIBUTE MORE THAN 10 PERCENT OF STOCK OF CORPORATION.—

(i) IN GENERAL.—In the case of any donor, the term "qualified appreciated stock" shall not include any stock of a corporation contributed by the donor in a contribution to which paragraph (1)(B)(ii) applies (determined without regard to this paragraph) to the extent that the amount of the stock so contributed (when increased by the aggregate amount of all prior such contributions by the donor of stock in such corporation) exceeds 10 percent (in value) of all of the outstanding stock of such corporation.

(ii) SPECIAL RULE.—For purposes of clause (i), an individual shall be treated as making all contributions made by any member of his family (as defined in section 267(c)(4))

(D) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 1994.

Amendments

P.L. 98-514, § 231(f):

Act Sec. 231(f) amended Code Sec. 170(e)(4)(B)(i) to read as above. Prior to amendment, Code Sec. 170(e)(4)(B)(i) read as follows:

(i) the contribution is to an educational organization which is described in subsection (b)(1)(A)(ii) of this section and which is an institution of higher education (as defined in section 3304(f)),

P.L. 98-514, § 301(b)(2):

Act Sec. 301(b)(2) amended Code Sec. 170(e)(1) by striking out "40 percent (28/46 in the case of a corporation) of". Prior to amendment, Code Sec. 170(e)(1) read as follows:

(1) GENERAL RULE.—The amount of any charitable contribution of property otherwise taken into account under this section shall be reduced by the sum of—

(A) the amount of gain which would not have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), and

(B) in the case of a charitable contribution—

(i) of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

(ii) to or for the use of a private foundation (as defined in section 509(a)), other than a private foundation described in subsection (b)(1)(E),

40 percent (28/46 in the case of a corporation) of the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value determined at the time of such contribution).

For purposes of applying this paragraph (other than in the case of gain to which section 617(d)(1), 1245(a), 1250(a), 1252(a), or 1254(a) applies), property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

The above amendment applies to tax years beginning after December 31, 1986.

P.L. 98-369, § 301(b):

Act Sec. 301(b) amended Code Sec. 170(e) by adding new paragraph (3), to read as above.

The above amendment applies to contributions made after July 18, 1984, in tax years ending after such date.

P.L. 98-369, § 2014(c)(3)(C):

Act Sec. 2014(c)(3)(C) amended Code sec. 170(e)(1)(B)(ii) by striking out "subsection (b)(1)(D)" and inserting in lieu thereof "subsection (b)(1)(E)".

The above amendments apply to contributions made in taxable years ending after July 18, 1984.

P.L. 98-369, § 492(b)(1)(A), (B):

Act Sec. 492(b)(1)(A) amended the second sentence of Code Sec. 170(e)(1) by striking out "1251(c)."

Act Sec. 492(b)(1)(B) amended Code Sec. 170(e)(3)(C) by striking out "1251."

The above amendments apply to tax years beginning after December 31, 1983.

P.L. 97-354, § 5(a)(21)(A):

Amended Code Sec. 170(e)(3)(A) by striking out "an electing small business corporation within the meaning of section 1371(b))" and inserting in lieu thereof "an S corporation)".

Applicable to tax years beginning after December 31, 1982.

P.L. 97-354, § 5(a)(21)(B):

Amended Code Sec. 170(e)(4)(D)(i) to read as above, applicable to tax years beginning after December 31, 1982. Prior to amendment, it read as follows:

"(i) an electing small business corporation (as defined in section 1371(b)),"

P.L. 97-34, § 222(a):

Added Code Sec. 170(e)(4) to read as above, applicable to charitable contributions made after August 13, 1981, in taxable years ending after such date.

P.L. 95-600, § 402(b)(2):

Amended Code Sec. 170(e)(1)(B) by striking out "50 percent" and inserting in lieu thereof "40 percent", applicable to contributions made after October 31, 1978.

P.L. 95-600, § 603(c)(1):

Amended Code Sec. 170(e)(1)(B) by striking out "62½ percent" and inserting in lieu thereof "28/46", applicable to gifts made after December 31, 1978.

P.L. 94-455, § § 2035(c), 1901(a)(28), 1906(b)(13)(A), 2135(a):

Amended Code Sec. 170(e) as follows:

§ 2035(c) substituted "1252(a), or 1254(a)" for "or 1252(a)" in Code Sec. 170(e)(1). Effective for taxable years ending after December 31, 1975.

§ 1901(a)(28) substituted "subsection (b)(1)(D)" for "subsection (b)(1)(E)" in Code Sec. 170(e)(1)(B)(ii). Effective for taxable years ending after December 31, 1976.

§ 1906(b)(13)(A) amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective February 1, 1977.

§ 2135(a) added Code Sec. 170(e)(3) to read as above. Applicable to charitable contributions made after October 4, 1976, in taxable years ending after October 4, 1976.

P. L. 91-172, § 201(a)(1):

Amended Code Sec. 170(e). The amendments shall apply to contributions paid after December 31, 1969, except that,

with respect to a letter or memorandum or similar property described in section 1221(3) of such Code (as amended by section 514 of P. L. 91-172), such subsection (e) shall apply to contributions paid after July 25, 1969. Prior to amendment, Code Sec. 170(e) read as follows:

"(e) Special Rule for Charitable Contributions of Certain Property.—The amount of any charitable contribution taken into account under this section shall be reduced by the amount which would have been treated as gain to which section 617(d)(1), 1245(a), or 1250(a) applies if the property contributed had been sold at its fair market value (determined at the time of such contribution)."

P. L. 89-570, § 1(b):

Amended Code Sec. 170(e) by substituting "section 617(d)(1), 1245(a)," for "section 1245(a)" effective for taxable years ending after September 12, 1966, the date of enactment, but only in respect of expenditures paid or incurred after that date.

P. L. 88-272, § 231(b)(1):

Amended Code Sec. 170(e) to substitute in the heading "Certain Property" for "Section 1245 Property", and substituted "section 1245(a) or 1250(a)" for "section 1245(a)". Effective as to dispositions after December 31, 1963, in taxable years ending after such date.

P. L. 87-834, § 13(d):

Redesignated Code Sec. 170(e) and (f) as Code Sec. 170(f) and (g) and added new Code Sec. 170(e). Effective for taxable years beginning after December 31, 1962.

[Sec. 170(f)]

(f) DISALLOWANCE OF DEDUCTION IN CERTAIN CASES AND SPECIAL RULES.—

(1) IN GENERAL.—No deduction shall be allowed under this section for a 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.

(2) CONTRIBUTIONS OF PROPERTY PLACED IN TRUST.—

(A) REMAINDER INTEREST.—In the case of property transferred in trust, no deduction shall be allowed under this section for the value of a contribution of a remainder interest unless the trust is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664), or a pooled income fund (described in section 642(c)(5)).

(B) INCOME INTERESTS, ETC.—No deduction shall be allowed under this section for the value of any interest in property (other than a remainder interest) transferred in trust unless the interest is in the form of a guaranteed annuity or the trust instrument specifies that the interest is a fixed percentage distributed yearly of the fair market value of the trust property (to be determined yearly) and the grantor is treated as the owner of such interest for purposes of applying section 671. If the donor ceases to be treated as the owner of such an interest for purposes of applying section 671, at the time the donor ceases to be so treated, the donor shall for purposes of this chapter be considered as having received an amount of income equal to the amount of any deduction he received under this section for the contribution reduced by the discounted value of all amounts of income earned by the trust and taxable to him before the time at which he ceases to be treated as the owner of the interest. Such amounts of income shall be discounted to the date of the contribution. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph.

(C) DENIAL OF DEDUCTION IN CASE OF PAYMENTS BY CERTAIN TRUSTS.—In any case in which a deduction is allowed under this section for the value of an interest in property described in subparagraph (B), transferred in trust, no deduction shall be allowed under this section to the grantor or any other person for the amount of any contribution made by the trust with respect to such interest.

(D) EXCEPTION.—This paragraph shall not apply in a case in which the value of all interests in property transferred in trust are deductible under subsection (a).

(3) DENIAL OF DEDUCTION IN CASE OF CERTAIN CONTRIBUTIONS OF PARTIAL INTERESTS IN PROPERTY.—

(A) IN GENERAL.—In the case of a contribution (not made by a transfer in trust) of an interest in property which consists of less than the taxpayer's entire interest in such property, a deduction shall be allowed under this section only to the extent that the value of the interest contributed would be allowable as a deduction under this section if such interest had been transferred in trust. For purposes of this subparagraph, a contribution by a taxpayer of the right to use property shall be treated as a contribution of less than the taxpayer's entire interest in such property.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

(i) a contribution of a remainder interest in a personal residence or farm,

(ii) a contribution of an undivided portion of the taxpayer's entire interest in property and

...ble years ending after September 12, 1966, the date of ...enactment, but only in respect of expenditures paid or ...incurred after that date.

P. L. 98-272, § 231(b)(1):

Amended Code Sec. 170(e) to substitute in the heading "Certain Property" for "Section 1245 Property", and substituted "section 1245(a) or 1250(a)" for "section 1245(a)". Effective as to dispositions after December 31, 1963, in taxable years ending after such date.

P. L. 87-834, § 13(d):

Redesignated Code Sec. 170(e) and (f) as Code Sec. 170(f) and (g) and added new Code Sec. 170(e). Effective for taxable years beginning after December 31, 1962.

70(f)]

...SES AND SPECIAL RULES.—

...wed under this section for a contribution to or for the ...ction 508(d) or 4948(c)(4) subject to the conditions

...TRUST.—

...e of property transferred in trust, no deduction shall ... of a contribution of a remainder interest unless the ...ust or a charitable remainder unitrust (described ... ...ribed in section 642(c)(5)).

...ction shall be allowed under this section for the value ... remainder interest) transferred in trust unless the ...nty or the trust instrument specifies that the interest ...f the fair market value of the trust property (to be ...ated as the owner of such interest for purposes of ...s to be treated as the owner of such an interest for ...me the donor ceases to be so treated, the donor shall be ...s having received an amount of income equal to the ...der this section for the contribution reduced by the ...earned by the trust and taxable to him before the time ...wner of the interest. Such amounts of income shall be ... The Secretary shall prescribe such regulations as may ... this subparagraph.

...PAYMENTS BY CERTAIN TRUSTS.—In any case in which a ...for the value of an interest in property described in ...no deduction shall be allowed under this section to the ...t of any contribution made by the trust with respect to

...shall not apply in a case in which the value of all interests ...ctible under subsection (a).

...F CERTAIN CONTRIBUTIONS OF PARTIAL INTERESTS IN

... contribution (not made by a transfer in trust) of an ...s than the taxpayer's entire interest in such property ... section only to the extent that the value of the interest ...eduction under this section if such interest had been ... subparagraph, a contribution by a taxpayer of the right ...ntribution of less than the taxpayer's entire interest ...

...A) shall not apply to—

...ber interest in a personal residence or farm,

...ided portion of the taxpayer's entire interest in property

(iii) a qualified conservation contribution.

(4) VALUATION OF REMAINDER INTEREST IN REAL PROPERTY.—For purposes of this section, in determining the value of a remainder interest in real property, depreciation (computed on the straight line method) and depletion of such property shall be taken into account, and such value shall be discounted at a rate of 6 percent per annum, except that the Secretary may prescribe a different rate.

(5) REDUCTION FOR CERTAIN INTEREST.—If, in connection with any charitable contribution, a liability is assumed by the recipient or by any other person, or if a charitable contribution is of property which is subject to a liability, then, to the extent necessary to avoid the duplication of amounts, the amount taken into account for purposes of this section as the amount of the charitable contribution—

(A) shall be reduced for interest (i) which has been paid (or is to be paid) by the taxpayer, (ii) which is attributable to the liability, and (iii) which is attributable to any period after the making of the contribution, and

(B) in the case of a bond, shall be further reduced for interest (i) which has been paid (or is to be paid) by the taxpayer on indebtedness incurred or continued to purchase or carry such bond, and (ii) which is attributable to any period before the making of the contribution.

The reduction pursuant to subparagraph (B) shall not exceed the interest (including interest equivalent) on the bond which is attributable to any period before the making of the contribution and which is not (under the taxpayer's method of accounting) includible in the gross income of the taxpayer for any taxable year. For purposes of this paragraph, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness.

(6) DEDUCTIONS FOR OUT-OF-POCKET EXPENDITURES.—No deduction shall be allowed under this section for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) (other than an organization described in section 501(h)(5) (relating to churches, etc.)) if the expenditure is made for the purpose of influencing legislation (within the meaning of section 501(c)(3)).

(7) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B)).

(B) RULES SIMILAR TO SECTION 2055 (e)(3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply.

Amendments

P.L. 98-369, § 1022(b):

Act Sec. 1022(b) amended Code Sec. 170(f) by adding at the end thereof new paragraph (7) to read as above.

The above amendment applies to reformations after December 31, 1978, except that such amendment shall not apply to any reformation to which Code Sec. [illegible](3) (as in effect on July 17, 1984) applies. For purposes of applying Code Sec. 2055(e)(C)(iii) (as amended), the 90th day described in such clause shall be treated as the 90th day after July 18, 1984.

P.L. 98-[illegible], § 301(b)(2):

Amended Act Sec. 514 of P.L. 95-600 as follows:

"(b) EFFECTIVE DATE.—

"(2) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF INCOME AND GIFT TAXES.—Section [illegible] and section 514(c) insofar as it relates to section [illegible] of the Revenue Act of 1978 shall be applied as if the amendments made by subsection (a) had been included in the amendments made by section 514(a) of such Act. [This provision extends until December 31, 1981, the time to amend or commence judicial proceedings to amend, instruments of such charitable lead trusts or charitable remainder trusts that were executed before December 31, 1978, in order to conform such instruments to the requirements of P.L. 94-455 for estate and gift tax purposes. See amendment note under Code Sec. 2055(e).]"

P.L. 98-[illegible], § 1001(a)(1)(B):

Amended Act Sec. 514 of P.L. 95-600 by adding paragraph [illegible] to read as follows:

(c) EFFECTIVE DATES.—

• • •

(2) FOR SUBSECTION (b).—Subsection (b)—

(A) insofar as it relates to section 170 of the Internal Revenue Code of 1954 shall apply to transfers in trust and contributions made after July 31, 1969, and

(B) insofar as it relates to section 2522 of the Internal Revenue Code of 1954 shall apply to transfers made after December 31, 1969.

P.L. 95-600, § 514(b), provides as follows:

"(b) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF INCOME AND GIFT TAXES.—Under regulations prescribed by the Secretary of the Treasury or his delegate, in the case of trusts created before December 31, 1977, provisions comparable to section 2055(e)(3) of the Internal Revenue Code of 1954 (as amended by subsection (a) [P.L. 95-600, § 514(a)] shall be deemed to be included in sections 170 and 2522 of the Internal Revenue Code of 1954."

P.L. 98-541, § 6(a):

Amended Code Sec. 170(f)(3) by striking out subparagraphs (B) and (C) and inserting in lieu thereof a new subparagraph (B), effective for transfers made after December 1980, in taxable years ending after that date. Prior to amendment, subparagraphs (B) and (C) provided:

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a contribution of—

(i) a remainder interest in a personal residence or farm,

(ii) an undivided portion of the taxpayer's entire interest in property,

(iii) a lease on, option to purchase, or easement with respect to real property granted in perpetuity to an organization described in subsection (b)(1)(A) exclusively for conservation purposes, or

(iv) a remainder interest in real property which is granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes.

(C) CONSERVATION PURPOSES DEFINED.—For purposes of subparagraph (B), the term "conservation purposes" means—

(i) the preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

(ii) the preservation of historically important land areas or structures; or

(iii) the protection of natural environmental systems."

P.L. 95-30, § 309(a):

Amended clause (iii) of Code Sec. 170(f)(3)(B) to read as above, effective for contributions or transfers made after June 13, 1977, and before June 14, 1981. Prior to amendment, clause (iii) read as follows:

"(iii) a lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes, or".

P.L. 94-455, § § 1307(c), 1901(a)(28), 1906(b)(13)(A), 2124(e) (as amended by P.L. 95-30, § 309(b)(2)):

Amended Code Sec. 170(f) as follows:

§ 1901(a) repealed Code Sec. 170(f)(6) and § 1307(c) added a new paragraph (6) to read as above, effective for taxable years beginning after December 31, 1976. Prior to repeal, former Code Sec. 170(f)(6) read as follows:

(6) PARTIAL REDUCTION OF UNLIMITED DEDUCTION.—

(A) IN GENERAL.—If the limitations in subsections (b)(1)(A) and (B) do not apply because of the application of subsection (b)(1)(C), the amount otherwise allowable as a deduction under subsection (a) shall be reduced by the amount by which the taxpayer's taxable income computed without regard to this subparagraph is less than the transitional income percentage (determined under subparagraph (C)) of the taxpayer's adjusted gross income. However, in no case shall a taxpayer's deduction under this section be reduced below the amount allowable as a deduction under this section without the applicability of subsection (b)(1)(C).

(B) TRANSITIONAL DEDUCTION PERCENTAGE.—For purposes of applying subsection (b)(1)(C), the term "transitional deduction percentage" means—

(i) in the case of a taxable year beginning before 1970, 90 percent, and

(ii) in the case of a taxable year beginning in—

1970	80 percent
1971	74 percent
1972	68 percent
1973	62 percent
1974	56 percent.

(C) TRANSITIONAL INCOME PERCENTAGE.—For purposes of applying subparagraph (A), the term "transitional income percentage" means, in the case of a taxable year beginning in—

1970	20 percent
1971	26 percent
1972	32 percent
1973	38 percent
1974	44 percent.

§ 1906(b)(13)(A) amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective February 1, 1977.

§ 2124(e) (as amended by P.L. 95-30, § 309(b)(2)) struck out "or" at the end of Code Sec. 170(f)(3)(B)(i), substituted a comma for the period at the end of clause (ii), and added clauses (iii) and (iv) and subparagraph (C) to read as above. Applicable to contributions or transfers made after June 13, 1976, and before June 14, 1977. However, P.L. 95-30, § 309(b)(2), changed this latter date to June 14, 1981.

P.L. 91-172, § 201(a)(1):

Amended Code Sec. 170(f) to read as above. [Former Code Sec. 170(f) is now Code Sec. 170(a)(3).] Code Sec. 170(f)(1) applies to contributions paid after December 31, 1969. Paragraphs (2), (3) and (4) of Code Sec. 170(f) apply to transfers in trust and contributions made after July 31, 1969.

P.L. 88-272, § 209(e):

See amendment notes under Code Sec. 170(a).

[Sec. 170(g)]

(g) AMOUNTS PAID TO MAINTAIN CERTAIN STUDENTS AS MEMBERS OF TAXPAYER'S HOUSEHOLD.—

(1) IN GENERAL.—Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 152, or a relative of the taxpayer) as a member of his household during the period that such individual is—

(A) a member of the taxpayer's household under a written agreement between the taxpayer and an organization described in paragraph (2), (3), or (4) of subsection (c) to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

(B) a full-time pupil or student in the twelfth or any lower grade at an educational organization described in section 170(b)(1)(A)(ii) located in the United States,

shall be treated as amounts paid for the use of the organization.

(2) LIMITATIONS.—

(A) AMOUNT.—Paragraph (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed $50 multiplied by the number of full calendar months during the taxable year which fall within the period described in paragraph (1). For purposes of the preceding sentence, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

(B) COMPENSATION OR REIMBURSEMENT.—Paragraph (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as

reduced below the amount allowable as a deduction under this section without the applicability of subsection (b)(1)(C).

(B) TRANSITIONAL DEDUCTION PERCENTAGE.—For purposes of applying subsection (b)(1)(C), the term "transitional deduction percentage" means—

(i) in the case of a taxable year beginning before 1970, 90 percent, and

(ii) in the case of a taxable year beginning in—

1970	80 percent
1971	74 percent
1972	68 percent
1973	62 percent
1974	56 percent.

(C) TRANSITIONAL INCOME PERCENTAGE.—For purposes of applying subparagraph (A), the term "transitional income percentage" means, in the case of a taxable year beginning in—

1970	20 percent
1971	26 percent
1972	32 percent
1973	38 percent
1974	44 percent.

§ 1906(b)(13)(A) amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective February 1, 1977.

§ 2124(e) (as amended by P.L. 95-30, § 309(b)(2)) struck out "or" at the end of Code Sec. 170(f)(3)(B)(i), substituted a comma for the period at the end of clause (ii), and added clauses (iii) and (iv) and subparagraph (C) to read as above. Applicable to contributions or transfers made after June 12, 1976, and before June 14, 1977. However, P.L. 95-30, § 309(b)(2), changed this latter date to June 14, 1981.

P.L. 91-172, § 201(a)(1):

Amended Code Sec. 170(f) to read as above. [Former Code Sec. 170(f) is now Code Sec. 170(a)(3).] Code Sec. 170(f) applies to contributions paid after December 31, 1969. Paragraphs (2), (3) and (4) of Code Sec. 170(f) apply to transfers in trust and contributions made after July 31, 19[illegible].

P. L. 88-272, § 209(e):

See amendment notes under Code Sec. 170(a)

[illegible] 170(g)]

DENTS AS MEMBERS OF TAXPAYER'S HOUSEHOLD.—

tions provided by paragraph (2), amounts paid by the an a dependent, as defined in section 152, or a relative during the period that such individual is—

sehold under a written agreement between the taxpayer graph (2), (3), or (4) of subsection (c) to implement le educational opportunities for pupils or students

in the twelfth or any lower grade at an educational (1)(A)(ii) located in the United States,

of the organization.

l apply to amounts paid within the taxable year such exceed $50 multiplied by the number of full calendar fall within the period described in paragraph (1). A 15 or more days of a calendar month fall within such as a full calendar month.

ENT.—Paragraph (1) shall not apply to any amount pa[illegible] if the taxpayer receives any money or other property

compensation or reimbursement for maintaining the individual in his household during the period described in paragraph (1).

(3) RELATIVE DEFINED.—For purposes of paragraph (1), the term "relative of the taxpayer" means an individual who, with respect to the taxpayer, bears any of the relationships described in paragraphs (1) through (8) of section 152(a).

(4) NO OTHER AMOUNT ALLOWED AS DEDUCTION.—No deduction shall be allowed under subsection (a) for any amount paid by a taxpayer to maintain an individual as a member of his household under a program described in paragraph (1)(A) except as provided in this subsection.

Amendments

P.L. 94-455, § 1901(a)(28):

Repealed Code Sec. 170(g) (see below) and redesignated former Code Sec. 170(h) to be Code Sec. 170(g), effective for taxable years beginning after December 31, 1976.

P.L. 94-455, § 1901(b)(8)(A):

Amended Code Sec. 170(g)(1)(B) by substituting "educational organization described in section 170(b)(1)(A)(ii)" for "educational institution (as defined in section 151(e)(4))". Effective for taxable years ending after December 31, 1976.

P.L. 91-172, § 201(a)(1):

Redesignated former subsection (d) to be (b).

P.L. 86-779, § 7(a)(2):

Redesignated subsections (d) and (e) of Code Sec. 170 as (e) and (f), respectively, and added a new subsection (d) to read as above. Effective for taxable years beginning after 1950.

P.L. 94-455, § 1901(a)(28):

Repealed former Code Sec. 170(g), effective for taxable years beginning after December 31, 1976. Prior to repeal, Sec. 170(g) read as follows:

"(g) APPLICATION OF UNLIMITED CHARITABLE CONTRIBUTION DEDUCTION.—

"(1) ALLOWANCE OF DEDUCTION FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1963.—If the taxable year begins after December 31, 1963—

"(A) subsection (b)(1)(C) shall apply only if the taxpayer so elects at such time and in such manner as the Secretary or his delegate by regulations prescribes; and

"(B) for purposes of subsection (b)(1)(C), the amount of the charitable contributions for the taxable year (and for all prior taxable years beginning after December 31, 1963) shall be determined without the application of subsection (d)(1) and only by reference to charitable contributions described in paragraph (2).

"(2) The taxpayer elects to have subsection (b)(1)(C) apply for the taxable year, then for such taxable year subsection (a) shall apply only with respect to charitable contributions [illegible] in paragraph (2), and no amount of charitable contributions made in the taxable year or any prior taxable year may be treated under subsection (d)(1) as having been made in the taxable year or in any succeeding taxable year.

"(3) QUALIFIED CONTRIBUTIONS.—The charitable contributions referred to in paragraph (1) are—

"(A) the charitable contributions described in subsection (b)(1)(A)

[illegible] (b)(1)(A)]

"(B) any charitable contribution, not described in subparagraph (A), to an organization described in subsection (c)(4), which meets the requirements of paragraph (3) with respect to such charitable contributions; and

"(C) any charitable contribution payment of which is made within the period beginning on the date of the enactment of the Revenue Act of 1964 and ending on the 15th day of the third month following the close of such taxable year.

"(4) ORGANIZATIONS EXPENDING AT LEAST 50 PERCENT OF CONTRIBUTIONS.—An organization shall be an organization referred to in paragraph (2)(C), with respect to any contribution, only if—

"(A) not later than the close of the third year after the organization's taxable year in which the contribution is received (or before such later time as the Secretary or his delegate may allow upon good cause shown by such organization), such organization expends an amount equal to at least 50 percent of such contribution for—

"(i) the active conduct of the activities constituting the purpose or function for which it is organized and operated,

"(ii) assets which are directly devoted to such active conduct,

"(iii) contributions to organizations which are described in subsection (b)(1)(A) or in paragraph (2)(B) of this subsection, or

"(iv) any combination of the foregoing; and

"(B) for the period beginning with the taxable year in which such contribution is received and ending with the taxable year in which subparagraph (A) is satisfied with respect to such contribution, such organization expends all of its net income (determined without regard to capital gains and losses) for the purposes described in clauses (i), (ii), (iii), and (iv) of subparagraph (A).

If the taxpayer so elects (at such time and in such manner as the Secretary or his delegate by regulations prescribes) with respect to contributions made by him to any organization, then, in applying subparagraph (B) with respect to contributions made by him to such organization during his taxable year for which such election is made and during all his subsequent taxable years, amounts expended by the organization after the close of any of its taxable years and on or before the 15th day of the third month following the close of such taxable year shall be treated as expended during such taxable year.

"(5) DISQUALIFYING TRANSACTIONS.—An organization shall be an organization referred to in subparagraph (B) or (C) of paragraph (2) only if at no time during the period consisting of the organization's taxable year in which the contribution is received, its 3 preceding taxable years, and its 3 succeeding taxable years, such organization—

"(A) lends any part of its income or corpus to,

"(B) pays compensation (other than reasonable compensation for personal services actually rendered) to,

"(C) makes any of its services available on a preferential basis to,

"(D) purchases more than a minimal amount of securities or other property from, or

"(E) sells more than a minimal amount of securities or other property to, the donor of such contribution, any member of his family (as defined in section 267(c)(4)), any employee of the donor, any officer or employee of a corporation in which he owns (directly or indirectly) 50 percent or more in value of the outstanding stock, or any partner or employer of a partnership in which he owns (directly or indirectly) 50 percent or more of the capital interest or profits interest. This paragraph shall not apply to transactions occurring on or before the date of the enactment of the Revenue Act of 1964.

P.L. 91-172, § 201(a)(2)(A):

Substituted "subsection (d)(1)" for "subsection (b)(5)" wherever it appeared in Code Sec. 170(g)(1), and deleted paragraph (B) of Code Sec. 170(g)(2). The amendments are effective for taxable years beginning after December 31,

1969. Former paragraph (B) of Code Sec. 170(g)(2) read as follows:

"(B) any charitable contribution, not described in subsection (b)(1)(A), to an organization described in subsection (c)(2) substantially more than half of the assets of which is devoted directly to, and substantially all of the income of which is expended directly for, the active conduct of the activities constituting the purpose or function for which it is organized and operated,"

P.L. 88-272, § 209(b):

Added subsection (g) above to apply with respect to contributions which are paid in taxable years beginning after December 31, 1963.

[Sec. 170(h)]

(h) QUALIFIED CONSERVATION CONTRIBUTION.—

(1) IN GENERAL.—For purposes of subsection (f)(3)(B)(iii), the term "qualified conservation contribution" means a contribution—

(A) of a qualified real property interest,

(B) to a qualified organization,

(C) exclusively for conservation purposes.

(2) QUALIFIED REAL PROPERTY INTEREST.—For purposes of this subsection, the term "qualified real property interest" means any of the following interests in real property:

(A) the entire interest of the donor other than a qualified mineral interest,

(B) a remainder interest, and

(C) a restriction (granted in perpetuity) on the use which may be made of the real property.

(3) QUALIFIED ORGANIZATION.—For purposes of paragraph (1), the term "qualified organization" means an organization which—

(A) is described in clause (v) or (vi) of subsection (b)(1)(A), or

(B) is described in section 501(c)(3) and—

(i) meets the requirements of section 509(a)(2), or

(ii) meets the requirements of section 509(a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

(4) CONSERVATION PURPOSE DEFINED.—

(A) IN GENERAL.—For purposes of this subsection, the term "conservation purpose" means—

(i) the preservation of land areas for outdoor recreation by, or the education of, the general public,

(ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,

(iii) the preservation of open space (including farmland and forest land) where such preservation is—

(I) for the scenic enjoyment of the general public, or

(II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy,

and will yield a significant public benefit, or

(iv) the preservation of an historically important land area or a certified historic structure.

(B) CERTIFIED HISTORIC STRUCTURE.—For purposes of subparagraph (A)(iv), the term "certified historic structure" means any building, structure, or land area which—

(i) is listed in the National Register, or

(ii) is located in a registered historic district (as defined in section 47(c)(3)(B)) and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on the due date (including extensions) for filing the transferor's return under this chapter for the taxable year in which the transfer is made.

(5) EXCLUSIVELY FOR CONSERVATION PURPOSES.—For purposes of this subsection—

activities constituting the purpose or function for which it is organized and operated;"

P.L. 98-272, § 309(b):

Added subsection (g) above to apply with respect to contributions which are paid in taxable years beginning after December 31, 1963.

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which the transfer is made.

PURPOSES.—For purposes of this subsection—

(A) CONSERVATION PURPOSE MUST BE PROTECTED.—A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

(B) NO SURFACE MINING PERMITTED.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

(ii) SPECIAL RULE.—With respect to any contribution of property in which the ownership of the surface estate and mineral interests were separated before June 13, 1976, and remain so separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible.

(6) QUALIFIED MINERAL INTEREST.—For purposes of this subsection, the term "qualified mineral interest" means—

(A) subsurface oil, gas or other minerals, and

(B) the right to access to such minerals.

Amendments

P.L. 101-508, § 11813(b)(10):

Act Sec. 11813(b)(10) amended Code Sec. 170(h)(4)(B) by striking "section 48(g)(3)(B)" and inserting "section 48(g)(3)(B)".

The above amendment is generally applicable to property placed in service after December 31, 1990. However, for exceptions see Act Sec. 11813(c)(2) below.

Act Sec. 11813(c)(2) provides:

(2) EXCEPTIONS.—The amendments made by this section shall not apply to—

(A) any transition property (as defined in section 49(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)),

(B) any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of such Code (as so in effect), and

(C) any property described in section 46(b)(2)(C) of such Code (as so in effect).

P.L. 99-369, § 1035(a):

Act Sec. 1035(a) amended Code Sec. 170(h)(5)(B) to read as above. Prior to amendment, it read as follows:

(B) No Surface Mining Permitted.—In the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

The above amendment applies to contributions made after July 18, 1984.

P.L. 97-448, § 103(f)(7):

Amended Code Sec. 170(h)(4)(B)(ii) by striking out "section 191(d)(2)" and inserting in lieu thereof "section 48(g)(3)(B)", effective as if such amendment had been included in the provision of P.L. 97-34 to which it relates.

P.L. 96-541, § 6(b):

Amended Code Sec. 170 by redesignating Code Sec. 170(h) as 170(i) and Code Sec. 170(i) as 170(j), and added a new Code Sec. 170(h), effective for transfers made after December 17, 1980, in taxable years ending after that date.

[Sec. 170(i)—Repealed]

Amendments

P.L. 100-203, § 11801(a)(11):

Act Sec. 11801(a)(11) repealed Code Sec. 170(i). Prior to repeal, Code Sec. 170(i) read as follows:

(i) RULE FOR NONITEMIZATION OF DEDUCTIONS.—

(1) IN GENERAL.—In the case of an individual who does not itemize his deductions for the taxable year, the applicable percentage of the amount allowable under subsection (a) for the taxable year shall be taken into account as a direct charitable deduction under section 63.

(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined under the following table:

In the taxable years beginning in—	The applicable percentage is—
1982 or 1983	25
1984	50
1985 or thereafter	100

(3) LIMITATION FOR TAXABLE YEARS BEGINNING BEFORE 1985.—In the case of a taxable year beginning before 1985, the portion of the amount allowable under subsection (a) to which the applicable percentage shall be applied—

(A) shall not exceed $100 for taxable years beginning in 1982 or 1983, and

(B) shall not exceed $300 for taxable years beginning in 1984.

In the case of a married individual filing a separate return, the limit under subparagraph (A) shall be $50, and the limit under subparagraph (B) shall be $150.

(4) TERMINATION.—The provisions of this subsection shall not apply to contributions made after December 31, 1986.

Amendments

P.L. 97-34, § 121(a):

Added Code Sec. 170(i) to read as above, effective with respect to contributions made after December 31, 1981, in taxable years beginning after 1981 and before 1987.

[Sec. 170(j)]

(j) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—For purposes of computing the deduction under this section for use of a passenger automobile the standard mileage rate shall be 12 cents per mile.

P.L. 101-508, § 11801(c)(5):

Amendments

Act Sec. 11801(c)(5) amended Code Sec. 170 by redesignating subsection (j) as subsection (i).

The above amendments are effective on the date of enactment of this Act.

Act Sec. 11821(b) provides:

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 98-369, § 1031(a):

Act Sec. 1031(a) amended Code Sec. 170 by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and inserting after subsection (i) new subsection (j), above.

The above amendment applies to tax years beginning after December 31, 1984.

[Sec. 170(j)]

(j) DENIAL OF DEDUCTION FOR CERTAIN TRAVEL EXPENSES.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.

Amendments

P.L. 101-508, § 11801(c)(5):

Act Sec. 11801(c)(5) amended Code Sec. 170 by redesignating subsection (k) as subsection (j).

The above amendment is effective upon the date of enactment of this Act.

Act Sec. 11821(b) provides:

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 99-514, § 142(d):

Act Sec. 142(d) amended Code Sec. 170 by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) new subsection (k) to read as above.

The above amendment applies to tax years beginning after December 31, 1986.

[Sec. 170(k)]

(k) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.—

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 (50 U.S.C. 790).

Amendments

P.L. 101-508, § 11801(c)(5):

Act Sec. 11801(c)(5) amended Code Sec. 170 by redesignating subsection (l) as subsection (k).

The above amendment is effective upon the date of enactment of this Act.

Act Sec. 11821(b) provides:

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 99-514, § 142(d):

Act Sec. 142(d) amended Code Sec. 170 by redesignating subsections (k) and (l) as subsections (l) and (m), respectively.

The above amendment applies to tax years beginning after December 31, 1986.

P.L. 98-369, § 1031(a):

Act Sec. 1031(a) amended Code Sec. 170 by redesignating subsection (j) as (k).

The above amendment applies to tax years beginning after December 31, 1984.

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(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 98-369, § 1031(a):

Act Sec. 1031(a) amended Code Sec. 170 by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and inserting after subsection (i) new subsection (j), above.

The above amendment applies to tax years beginning after December 31, 1984.

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PENSES.—No deduction shall be allowed under this ided for meals and lodging) while away from home, ere is no significant element of personal pleasure.

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 99-514, § 142(d):

Act Sec. 142(d) amended Code Sec. 170 by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) new subsection (k) to read as above.

The above amendment applies to tax years beginning after December 31, 1986.

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ASES.—

butions to or for the use of communist controlled ecurity Act of 1950 (50 U.S.C. 790).

ments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 99-514, § 142(d):

Act Sec. 142(d) amended Code Sec. 170 by redesignating subsections (k) and (l) as subsections (l) and (m), respectively.

The above amendment applies to tax years beginning after December 31, 1986.

P.L. 98-369, § 1031(a):

Act Sec. 1031(a) amended Code Sec. 170 by redesignating subsection (j) as (k).

The above amendment applies to tax years after December 31, 1984.

P.L. 97-34, § 121(a):

Redesignated Code Sec. 170(i) contributions made after December year beginning after such date.

P.L. 96-541, § 6(b):

Redesignated Code Sec. 171(b) transfers made after December 1 ending after that date.

P.L. 94-455, § 1901(a)(28):

Redesignated former Code Sec. 170(b) and substituted "50 U.S.C. 50 U.S.C. 790)". Effective for tax December 31, 1976.

P.L. 91-172, § § 101(J)(2), 201(a)(

Redesignated and amended Code 1-1-70. Prior to amendment, the "(k) Disallowance of Deductions

(l) TREATMENT OF CER EDUCATION.—

(1) IN GENERAL.—

(2) shall be treated as a

(2) AMOUNT DESCR paragraph if—

(A) the amo organization—

(i) which

(ii) which

(B) such amo the taxpayer rec purchase tickets f

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Amendm

P.L. 104-188, § 1101(c)(5):

Act Sec. 1101(c)(5) amended ...ating subsection (m) as subsec...

The above amendment is ...ments of this Act.

Act Sec. 1182 provides:

(b) SAVINGS PROVISION.—If

(1) any provision amended ... by—

(A) any transactions occur... provisions of this Act,

(B) any property acquired ...

(C) any item of income, ... this section before such date —

(2) the treatment of such ... under such provision would (... terms made by this part) aff... taxable after such date of ena...

nothing in the amendments ... required to affect the treatm...

(m) OTHER CROSS R...

(1) For treatm...

P.L. 97-34, § 121(a):

Redesignated Code Sec. 170(i) as 170(j), applicable to contributions made after December 31, 1981, in taxable years beginning after such date.

P.L. 96-541, § 6(b):

Redesignated Code Sec. 171(h) as 171(i), effective for transfers made after December 17, 1980, in taxable years ending after that date.

P.L. 94-455, § 1901(a)(28):

Redesignated former Code Sec. 170(i) to be Code Sec. 170(k) and substituted "50 U.S.C. 790)" for "(64 Stat. 996; 50 U.S.C. 790)". Effective for taxable years beginning after December 31, 1976.

P.L. 91-172, § § 101(J)(2), 201(a)(1)(A):

Redesignated and amended Code Sec. 170(i). Effective 1-1-70. Prior to amendment, the section read as follows:

"(h) Disallowance of Deductions in Certain Cases.—

"(1) For disallowance of deductions in case of contributions or gifts to charitable organizations engaging in prohibited transactions, see section 503(e).

"(2) 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 (64 Stat. 996, 50 U.S.C. 790)."

P.L. 89-272, § 209(e):

Redesignated Code Sec. 170(f) as Sec. 170(h).

P.L. 87-834, § 13(d):

Redesignated Code Sec. 170(e) as Sec. 170(f). Effective for taxable years beginning after December 31, 1962.

P.L. 86-779, § 7(a)(2):

Redesignated subsection (d) of Code Sec. 170 as subsection (e), above. Effective 1-1-60.

[Sec. 170(l)]

(l) TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF INSTITUTIONS OF HIGHER EDUCATION.—

(1) IN GENERAL.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), an amount is described in this paragraph if—

(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

(i) which is described in subsection (b)(1)(A)(ii), and

(ii) which is an institution of higher education (as defined in section 3304(f)), and

(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection.

Amendments

P.L. 101-508, § 11801(c)(5):

Sec. 11801(c)(5) amended Code Sec. 170 by redesignating subsection (m) as subsection (l).

The above amendment is effective upon the date of enactment of this Act.

Act Sec. 11821 provides:

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 100-647, § 6001(a):

Act Sec. 6001(a) amended Code Sec. 170 by redesignating subsection (m) as subsection (n) and adding after subsection (l) new subsection (m) to read as above.

The above amendment generally applies to tax years beginning after December 31, 1963. See Act Sec. 6001(b)(2), below, for a special rule.

Act Sec. 6001(b)(2) provides:

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of section 170(m) of the 1986 Code (as added by subsection (a)) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

[Sec. 170(m)]

(m) OTHER CROSS REFERENCES.—

(1) For treatment of certain organizations providing child care, see section 501(k).

(2) For charitable contributions of estates and trusts, see section 642(c).

(3) For nondeductibility of contributions by common trust funds, see section 584.

(4) For charitable contributions of partners, see section 702.

(5) For charitable contributions of nonresident aliens, see section 873.

(6) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 6973 of title 10, United States Code.

(7) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.

(8) For treatment of gifts of money accepted by the Attorney General for credit to the "Commissary Funds, Federal Prisons" as gifts to or for the use of the United States, see section 4043 of title 18, United States Code.

(9) For charitable contributions to or for the use of Indian tribal governments (or their subdivisions), see section 7871.

Amendments

P.L. 101-508, § 11801(c)(5):

Act Sec. 11801(c)(5) amended Code Sec. 170 by redesignating subsection (n) as subsection (m).

The above amendment is effective upon the date of enactment of this Act.

Act Sec. 11821(b) provides:

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 100-647, § 6001(a):

Act Sec. 6001(a) amended Code Sec. 170 by redesignating subsection (m) as subsection (n) and adding after subsection (l) new subsection (m) to read as above.

The above amendment generally applies to tax years beginning after December 31, 1987. See Act Sec. 6001(b)(2), below, for a special rule.

Act Sec. 6001(b)(2) provides:

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of section 170(m) of the 1986 Code (as added by subsection (a)) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

P.L. 99-514, § 142(d):

Act Sec. 142(d) amended Code Sec. 170 by redesignating subsections (k) and (l) as subsections (l) and (m), respectively.

The above amendment applies to tax years beginning after December 31, 1986.

P.L. 98-369, § 1031(a):

Act Sec. 1031(a) redesignated Code Sec. 170(k) as 170(l).

The above amendment applies to tax years beginning after 1984.

P.L. 98-369, § 1032(b)(1):

Act Sec. 1032(b)(1) amended Code Sec. 170(k), redesignated as (l) by Act Sec. 1031, by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively, and by inserting before paragraph (2) (as so redesignated) new paragraph (1) to read as above.

The above amendment applies to tax years beginning after July 18, 1984.

P.L. 97-473, § 202(b)(4):

Added Code Sec. 170(k)(8) to read as above.

For the effective date of the amendment above, see the amendment note for P.L. 97-473, Act Sec. 204 following Code Sec. 7871.

P.L. 97-258, § 3(f)(1):

Amended Code Sec. 170(k)(7) by striking out "section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)" and substituting "section 4043 of title 18, United States Code". Effective 9-13-82.

P.L. 97-34, § 121(a):

Redesignated Code Sec. 170(j) as 170(k), applicable to contributions made after December 31, 1981, in taxable years beginning after such date.

P.L. 96-541, § 6(b):

Redesignated Code Sec. 170(i) as 170(j), effective for transfers made after December 17, 1980, in taxable years ending after that date.

P.L. 96-465, § 2206(a)(2):

Amended Code Sec. 170(i)(6) to read as above. Effective 2-15-81. Prior to amendment, paragraph (6) read as follows: "(6) For treatment of gifts accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e))."

P.L. 94-455, § 1901(a)(28):

Redesignated former Code Sec. 170(j) to be Code Sec. 170(i) and amended it to read as above, effective for taxable years beginning after December 31, 1976. Prior to amendment, redesignated Code Sec. 170(i) read as follows:

(i) OTHER CROSS REFERENCES —

(1) For charitable contributions of estates and trusts, see section 642(c).

(2) For nondeductibility of contributions by common trust funds, see section 584.

(3) For charitable contributions of partners, see section 702.

(4) For charitable contributions of nonresident aliens, see section 873.

Subtitle F.—Procedure and Administration

Chapter
61. Information and returns
62. Time and place for paying tax.
63. Assessment.
64. Collection.
65. Abatements, credits, and refunds.
66. Limitations.
67. Interest.
68. Additions to the tax, additional amounts, and assessable penalties.
69. General provisions relating to stamps.
70. Jeopardy, receiverships, etc.
71. Transferees and fiduciaries.
72. Licensing and registration.
73. Bonds.
74. Closing agreements and compromises.
75. Crimes, other offenses, and forfeitures.
76. Judicial proceedings.
77. Miscellaneous provisions.
78. Discovery of liability and enforcement of title.
79. Definitions.
80. General Rules.

In '88, P.L. 96-589, Sec. 6(g)(1)(E), amended items for chapter 70. Prior to amendment, item 70 read as follows: "70. Jeopardy, receiverships, and reorganizations."

CHAPTER 61.—INFORMATION AND RETURNS

Subchapter
A. Returns and records.
B. Miscellaneous provisions.

Subchapter A.—Returns and Records

Part
I. Records, statements, and special returns.
II. Tax returns or statements.
III. Information returns.
IV. Signing and verifying of returns and other documents.
V. Time for filing returns and other documents.
VI. Extension of time for filing returns.
VII. Place for filing returns or other documents.

PART I.—RECORDS, STATEMENTS, AND SPECIAL RETURNS

Sec.
6001. Notice or regulations requiring records, statements, and special returns.

● *Caution:* Code Sec. 6001, following, is effective for calendar yrs. begin. before 1/1/83. For Code Sec. 6001, effective for calendar yrs. begin. after 12/31/82, see below.

Sec. 6001. Notice or regulations requiring records, statements, and special returns.

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts and copies of statements furnished by employees under section 6053(a).

● *Caution:* Code Sec. 6001, following, is effective for calendar yrs. begin. after 12/31/82. For Code Sec. 6001 effective for calendar years begin. before 1/1/83, see above.

Sec. 6001. Notice or regulations requiring records, statements, and special returns.

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

In '82, P.L. 97-248, Sec. 314(d), added ", records sufficient to comply with section 6053(c)," following "charge receipts" in Code Sec. 6001, effective for calendar yrs. begin. after 12/31/82.

In '78, P.L. 95-600, Sec. 501(a) added a new sentence to the end of Code Sec. 6001, for payments made after 12/31/78.

In '76, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 6001, effective 2/1/77.

PART II.—TAX RETURNS OR STATEMENTS

Subpart
A. General requirement.
B. Income tax returns.
C. Estate and gift tax returns.
D. Miscellaneous provisions.

SUBPART A.—GENERAL REQUIREMENT

Sec.
6011. General requirement of return, statement, or list.

Sec. 6011. General requirement of return, statement, or list.

(a) General rule.

When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.