Private Letter Ruling
Number: **200012061**
Internal Revenue Service
December 21, 1999

Internal Revenue Service
Department of the Treasury
Washington, DC 20224
December 21, 1999

Number: **200012061**
Release Date: 3/24/2000
Index Number: 170.00-00
Refer Reply To:
CC:DOM:IT&A:3 PLR-110217-99

Dear

This responds to a letter dated June 2, 1999, and supplemental material dated December 10, 1999, requesting a ruling that contributions made to University concurrently with a fundraising program in which sweepstakes tickets are distributed free of charge to all participants are deductible under § 170 of the Internal Revenue Code.

CONCLUSION

Relying on the representations made by University, we conclude that contributions made to University concurrently with its fundraising program in which sweepstakes tickets are distributed free of charge to all participants are deductible under § 170 of the Internal Revenue Code.

FACTS

University represents that it is a public educational university established by the constitution and statutes of the State of A and an organization described in § 170(c)(1) of the Code.

University intends to solicit funds from the public by means of a semi-annual sweepstakes program. University will promote the program to a broad group of persons, as well as to past contributors to University. The sweepstakes program will be publicized through announcements on University's public radio and/or television stations.

Tickets to participate in the sweepstakes program will be made available free of charge to the public by means of a direct mailing campaign. Prospective participants will be mailed a package containing: (1) sweepstakes entry certificates; (2) a letter or brochure describing the program, the prizes to be awarded, and the date, time, and place for the drawing to determine winners; and (3) a pre-addressed return envelope. The letter or brochure will ask prospective participants in the sweepstakes to consider making a voluntary contribution to University and might suggest various amounts that participants may wish to contribute (perhaps suggesting various amounts for each certificate or combination of certificates). The radio and/or television announcements will provide a telephone number for anyone who wishes to obtain the sweepstakes package.

The letter or brochure will make clear that prospective participants are not required to make a contribution to University to participate in the sweepstakes program and to be eligible to win a prize. The letter or brochure will also make clear that making a voluntary contribution will not increase or change in any respect the participant's chances of winning a prize. Both of these statements will be displayed in bold typeface or in larger character size than the rest of the letter or brochure.

Participants will be asked to return the entry certificates for processing, along with any voluntary contributions, to University in the pre-addressed return envelope. The return envelopes will not be marked to indicate whether a participant has enclosed a contribution. Upon receipt of the envelope, University will remove the contents and, in those cases where a contribution is included, add the participant's name to University's donor base records.

All sweepstakes certificates returned–regardless of whether accompanied by a contribution–will be placed in the same secure box to be held for the date the drawing is to be conducted. There will not be separate drawings for participants who make contributions and those who do not. No participant will have a better or worse chance of winning based on having included a voluntary contribution to university along with the sweepstakes entry form.

LAW AND ANALYSIS

Section 170(a) of the Internal Revenue Code provides for allowance of a deduction for charitable contribution payment of which is made within the taxable year, subject to certain requirements and limitations. Section 170(c) defines a charitable contribution as a contribution or gift to or for the use of qualified organizations. University, as an organization described in § 170(c)(1), is a qualified organization.

It is long established that, to be deductible as a charitable contribution for Federal income tax purposes under § 170, a payment to or for the use of a qualified charitable organization must be a gift. To be a gift for such purposes, there must be, among other requirements, a payment of money or transfer of property without adequate consideration. Rev. Rul. 67-246, 1967-2 C.B. 104.

Rev. Rul. 67-246 sets out the general rule that, where a purported charitable contribution is in the form of the purchase of an item of value, the taxpayer must establish that the excess of the amount paid to the charity over the benefit received is intended to be a gift. Where the payment to a qualified charitable organization is for participation in events with established admission charges, the portion of the payment that exceeds the established charge for admission or participation may be designated as a charitable contribution.

In Example 5 of Rev. Rul. 67-246, the Service states that this standard is not satisfied in the case of the purchase of a raffle ticket, which consistently has been viewed as the purchase of an item for value, particularly in connection with charitable contributions:

> Amounts paid for chances to participate in raffles, lotteries, or similar drawings or to participate in puzzle or other contests for valuable prizes are not gifts in such circumstances, and therefore, do not qualify as deductible charitable contributions.

In so concluding, the Service in effect stated a rule–which has been subsequently followed–that the purchase price of a raffle ticket always is equal to the value of the chance to win the prize. See Goldman v. Commissioner , 388 F.2d 476 (6 th Cir. 1967) (taxpayer who purchased a raffle tickets from a charity merely purchased "chances for a valuable prize"); Rev. Rul. 83-130, 1983-2 C.B. 148 (taxpayers who purchased raffle tickets from a charity "received a chance to win a valuable prize and, therefore, received full consideration for their payments").

The proposal presented by University, however, does not fall within the circumstances described in Example 5 of Rev. Rul. 67-246, Rev. Rul. 83-130, and Goldman. As represented by University, the sweepstakes program will not involve any purchase by the participants. Instead, it will be clearly stated in the promotional materials that no payment is required to enter the sweepstakes. Any payment made by participants will be in excess of the charge (i.e., none) for entering the sweepstakes and therefore will constitute a charitable contribution.

We therefore conclude that contributions made to University concurrently with its fundraising program in which sweepstakes tickets are distributed free of charge to all participants are deductible under § 170 of the Internal Revenue Code.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter should be attached to the next income tax return filed for the University.

Sincerely,

Acting Assistant Chief Counsel (Income Tax & Accounting)

By:
Michael D. Finley Chief, Branch 3

Enclosure
Copy for 6110 purposes