

Brigham Young University - College of Life Sciences

Donation-Tax Deductibility Clarifications

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- A contribution is not “completed”, and so not qualified, if the contributor has control over how the money is spent after the contribution. The deductibility of charitable contributions is set forth by Section 170 of the Internal Revenue Code and its dozens of supporting Treasury Regulations. The issue of control of funds over contribution is set forth in several court cases, one of which is Jay William Boynton, Tax Court memorandum 1985-619. In this case the court ruled that the contributor had not made a valid contribution because he not only retained control over how the money was spent as a representative of the charity but also because he had signature authority on the charity’s account where the funds he had contributed were deposited. The University does not acknowledge contributions made by employees when the employee has signature authority or control over the contribution’s use. (Scott Howell-University Regulatory Accounting November 11, 2010, reaffirmed by Robert Schirmer-University Regulatory Accounting June 30, 2016)
- Occasionally a donor expresses a desire to make a donation to BYU to help a particular person. While such donations can be received by BYU, they may not be tax deductible, even if the student is not related to the donor. In order to preserve the tax-deductibility of a charitable contribution, it is necessary that the charitable organization have full control over the funds and the ability to apply them in furthering its charitable purposes. We should be careful not to give donors tax advice and they should be encouraged to consult their own tax advisor regarding tax-deductibility of their donations. (Rich Kotter-LDSP Representative November 30, 2010)
- It should be observed initially that in order to preserve the tax-deductibility of a charitable contribution, it is necessary that the charitable organization have full control over the funds and the ability to apply them in furthering its charitable purposes. (Rev. Rul. 62-113, 1962-2 C.B. 10). A charity cannot be used as a conduit for benefiting a particular person. (Ltr. Rul 9405003). Not only must the charity have full control over the funds, but the donor’s intent must be to benefit the charity itself and not an individual recipient. (Rev. Rul. 68-484, 1968-2 C.B. 105). In *Tripp v. Commissioner*, 337 F.2d 432 (7th Cir. 1964), a donor stated to the college to which he contributed: “I am aware that a donation to a Scholarship Fund is only deductible if it is unspecified, however, if in your opinion and that of the authorities, it could be applied to the advantage of Mr. Robert F. Roble, I think it would be constructive.” The college awarded the scholarship to Mr. Roble, and even though he was not related to the

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donor, the court held that the donor's intent to benefit a particular individual prevented the contribution from being tax-deductible. (See also Ltr. Rul. 9405003). (Jerry Reynolds-LDSP Representative November 16, 2010)