



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

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Dear [REDACTED]:

Thank you for your letter dated January 30, 2006, in which you ask if the "dual character" doctrine is limited in application to specific types of property, for purposes of determining deductibility as a charitable contribution under § 170 of the Internal Revenue Code. I hope the following general information is helpful.

Generally, to be deductible as a charitable contribution under § 170, a transfer to charity must be a voluntary payment of money or property without receipt or expectation of receipt of adequate consideration, made with charitable intent. *U.S. v. American Bar Endowment*, 477 U.S. 105, 117-118 (1986). If a taxpayer receives a benefit in return for a transfer to a charitable organization, the transfer may be deductible as a charitable contribution, but only to the extent the amount transferred exceeds the fair market value of the benefit received, and only if the excess amount was transferred with the intent of making a gift (a "dual character" transfer). *Id.*; see also Rev. Rul. 67-246, 1967-2 C.B. 104. In a dual character transfer, in order to show charitable intent the donor must establish that it knew at the time of the transfer that the value it gave to the charity was greater than the value of what it received. *American Bar Endowment* at 118; see also §§ 1.170A-1(h)(1) and 1.170A-14(h)(3)(i) of the Income Tax Regulations.

The same rules for determining charitable intent apply to transfers to charity regardless of the type of property transferred. Specifically, the dual character analysis applies to all property, both real and personal.

If you have any questions, please contact me at [REDACTED], or [REDACTED],  
I.D. No. [REDACTED], at [REDACTED].

Sincerely,

Karin G. Gross  
Senior Technical Reviewer, Branch 1  
(Income Tax & Accounting)