AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Section 1.263A–4 also issued under 26 U.S.C. 263A.
Section 1.263A–4T also issued under 26 U.S.C. 263A.
Section 1.263A–5 also issued under 26 U.S.C. 263A.
Section 1.263A–6 also issued under 26 U.S.C. 263A.
Section 1.263A–7 also issued under 26 U.S.C. 263A.
Section 1.263A–7T also issued under 26 U.S.C. 263A.
Sections 1.263A–8 through 1.263A–15 also issued under 26 U.S.C. 263A(i).
Section 1.267(a)–3 also issued under 26 U.S.C. 267(a)(3).
Section 1.267(f)–1 also issued under 26 U.S.C. 267 and 1502.
Section 1.269–3(d) also issued under 26 U.S.C. 382(m).
Section 1.274–5 also issued under 26 U.S.C. 274(d).
Section 1.274–5T also issued under 26 U.S.C. 274(d).
Section 1.274(d)–1 also issued under 26 U.S.C. 274(d).
Section 1.274(d)–1T also issued under 26 U.S.C. 274(d).
Section 1.280C–4 also issued under 26 U.S.C. 280C(c) and 103 Stat. 2413.
Section 1.280F–1T also issued under 26 U.S.C. 280F.
Section 1.280F–6 also issued under 26 U.S.C. 280F.
Section 1.280F–7 also issued under 26 U.S.C. 280F(c).
Section 1.280G–1 also issued under 26 U.S.C. 280G(b) and (e).

SOURCE: T.D. 6500, 25 FR 11402, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, T.D. 9381, 73 FR 8604, Feb. 15, 2008 unless otherwise noted.

COMPUTATION OF TAXABLE INCOME (CONTINUED)

ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS (CONTINUED)

§ 1.170–0 Effective dates.

Except as otherwise provided in this section, the provisions of section 170 and §§ 1.170–1 through 1.170–3 are applicable to contributions paid in taxable years beginning before January 1, 1970, and all references therein to sections of the Code are to sections of the Internal Revenue Code of 1954 prior to the amendments made by section 201(a) of the Tax Reform Act of 1969 (83 Stat. 549). Except as otherwise provided therein, §§ 1.170A through 1.170A–11 are applicable to contributions paid in taxable years beginning after December 31, 1969. In a case where a provision in §§ 1.170A through 1.170A–11 is applicable to a contribution paid in a taxable year beginning before January 1, 1970, such provision shall apply to the contribution and §§ 1.170–1 through 1.170–3 shall not apply to the contribution.

[T.D. 7207, 37 FR 20767, Oct. 5, 1972]

§ 1.170–1 Charitable, etc., contributions and gifts; allowance of deduction (before amendment by Tax Reform Act of 1969).

(a) *In general*—(1) *General rule.* Any charitable contribution (as defined in section 170(c)) actually paid during the taxable year is allowable as a deduction in computing taxable income, regardless of the method of accounting employed or when pledged. In addition, contributions by corporations may under certain circumstances be deductible even though not paid during the taxable year (see § 1.170–3), and subject to the provisions of section 170(b)(5) and paragraph (g) of § 1.170–2, certain excess charitable contributions made by individuals in taxable years beginning after December 31, 1963, shall be treated as paid in certain succeeding taxable years. The deduction is subject to the limitations of section 170(b) (see §§ 1.170–2 and 1.170–3) and is subject to verification by the district director. For rules relating to the determination of, and the deduction for, amounts paid to maintain certain students as members of the taxpayer's household and treated under section 170(d) as paid for the use of an organization described in section 170(c) (2), (3), or (4), see paragraph (f) of § 1.170–2. For a special rule relating to the computation of the amount of the deduction with respect to a contribution of section 1245 or section 1250 property, see section 170(e).

(2) *Information required in support of deductions for taxable years beginning before January 1, 1964.* In connection with claims for deductions for charitable contributions paid in taxable years beginning before January 1, 1964, taxpayers shall state in their income tax returns the name and address of each organization to which a contribution was made and the amount and approximate date of the actual payment of each contribution. Any deduction for

charitable contribution must be substantiated, when required by the district director, by a statement from the organization to which the contribution was made indicating whether the organization is a domestic organization, the name and address of the contributor, the amount of the contribution, and the date of its actual payment, and by such other information as the district director may deem necessary.

(3) *Information required in support of deductions for taxable years beginning after December 31, 1963*—(i) *In general.* In connection with claims for deductions for charitable contributions paid in taxable years beginning after December 31, 1963, taxpayers shall state in their income tax returns the name of each organization to which a contribution was made and the amount and date of the actual payment of each contribution. If a contribution is made in property other than money, the taxpayer shall state the kind of property contributed (for example, used clothing, paintings, securities) and shall state the method utilized in determining the fair market value of the property at the time the contribution was made. In any case in which a taxpayer makes numerous cash contributions to an organization during the taxable year, the taxpayer may state the total cash payments made to such organization during the taxable year in lieu of listing each cash contribution and the date of payment.

(ii) *Contribution by individual of property other than money.* If an individual taxpayer makes a charitable contribution of an item of property other than money and claims a deduction in excess of $200 in respect of his contribution of such item, he shall attach to his income tax return a statement setting forth the following information with respect to such item:

(*a*) The name and address of the organization to which the contribution was made.

(*b*) The date of the actual contribution.

(*c*) A description of the property in sufficient detail to identify the particular property contributed including, in the case of tangible property, the physical condition of the property at the time of contribution. In the case of securities, the name of the issuer, the type of security, and whether or not such security is regularly traded on a stock exchange or in an over-the-counter market.

(*d*) The manner (for example, by purchase, gift, bequest, inheritance, exchange, etc.) and the approximate date of acquisition of the property by the taxpayer. If the property was created, produced, or manufactured by the taxpayer, the approximate date the property was substantially completed.

(*e*) The fair market value of the property at the time the contribution was made, showing the method utilized in determining the fair market value. (If the valuation was determined by appraisal, a copy of the signed report of the appraiser should be submitted.)

(*f*) In the case of property (not including securities) held by the taxpayer for a period less than five years immediately preceding the date on which the contribution was made, the cost or other basis, adjusted as provided by section 1016. If available, the cost or other basis, adjusted as provided by section 1016, of property (not including securities) held for a period of five years or more prior to the time of contribution should be submitted.

(*g*) In the case of section 1245 or section 1250 property, the reduction by reason of section 170(e) in the amount of the charitable contribution taken into account under section 170.

(*h*) The terms of any agreement or understanding entered into by or on behalf of the taxpayer relating to the use, sale, or disposition of the property contributed. For example, there must be attached to the income tax return of an individual taxpayer the terms of any agreement or understanding which restricts the donee's right to dispose of the donated property (either temporarily or permanently) or which reserves to, or confers upon, anyone other than the donee organization (or an organization participating with such organization in cooperative fund raising) any right to the income from such property, to the possession of the property (including the right to vote securities), to acquire such property by purchase or otherwise, or to designate

who shall have such income, possession, or right to acquire. Notwithstanding the above, it will not be necessary to set forth the terms of any agreement or understanding which merely earmarks contributed property for a particular charitable use, such as the use of donated furniture in the reading room of the donee organization's library.

(*i*) The total amount claimed as a deduction for the taxable year due to the contribution of the property. If less than the entire interest in the property is contributed during the taxable year, the amount claimed as a deduction in any prior year or years for contributions of other interests in such property, the name and address of each organization to which any such contribution was made, the place where the property (if tangible property) is located or kept and the name of the person having actual possession of the property, if other than the organization to which the property giving rise to the deduction was contributed.

(iii) *Statement from donee organization.* Any deduction for a charitable contribution must be substantiated, when required by the district director, by a statement from the organization to which the contribution was made indicating whether the organization is a domestic organization, the name and address of the contributor, the amount of the contribution, the date of actual receipt of the contribution, and such other information as the district director may deem necessary. If the contribution includes an item of property (other than money or securities which are regularly traded on a stock exchange or in an over-the-counter market) which the donee deems to have a fair market value in excess of $200 at the time of receipt, such statement shall also indicate for each such item its location if retained by the organization, the amount received by the organization on any sale of the property and the date of sale, or in case of other disposition of the property, the method of disposition.

(b) *Time of making contribution.* Ordinarly a contribution is made at the time delivery is effected. In the case of a check, the unconditional delivery (or mailing) of a check which subsequently clears in due course will constitute an effective contribution on the date of delivery (or mailing). If a taxpayer unconditionally delivers (or mails) a properly endorsed stock certificate to a charitable donee or the donee's agent, the gift is completed on the date of delivery (or mailing, provided that such certificate is received in the ordinary course of the mails). If the donor delivers the certificate to his bank or broker as the donor's agent, or to the issuing corporation or its agent, for transfer into the name of the donee, the gift is completed on the date the stock is transferred on the books of the corporation. For rules relating to a contribution consisting of a future interest in tangible personal property, see paragraph (d)(2) of this section.

(c) *Contribution in property*—(1) *General rules.* If a contribution is made in property other than money, the amount of the deduction is determined by the fair market value of the property at the time of the contribution. The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. If the contribution is made in property of a type which the taxpayer sells in the course of his business, the fair market value is the price which the taxpayer would have received if he had sold the contributed property in the lowest usual market in which he customarily sells, at the time and place of the contribution (and in the case of a contribution of goods in quantity, in the quantity contributed). The usual market of a manufacturer or other producer consists of the wholesalers or other distributors to or through whom he customarily sells, unless he sells only at retail in which event it is his retail customers. If a donor makes a charitable contribution of, for example, stock in trade at a time when he could not reasonably have been expected to realize its usual selling price, the value of the gift is not the usual selling price but is the amount for which the quantity of merchandise contributed would have been sold by the donor at the time of the contribution. Costs and expenses incurred in

the year of contribution in producing or acquiring the contributed property are not deductible and are not a part of the cost of goods sold. Similarly, to the extent that costs and expenses incurred in a prior taxable year in producing or acquiring the contributed property are reflected in the cost of goods sold in the year of contribution, cost of goods sold must be reduced by such costs and expenses. Transfers of property to an organization described in section 170(c) which bear a direct relationship to the taxpayer's business and which are made with a reasonable expectation of financial return commensurate with the amount of the transfer may constitute allowable deductions as trade or business expenses rather than as charitable contributions. See section 162 and the regulations thereunder.

(2) *Reduction for certain interest.* (i) With respect to charitable contributions made after December 31, 1957, section 170(b)(4) requires that the amount of the charitable deduction be reduced for certain interest to the extent necessary to avoid the reduction of the same amount both as an interest deduction under section 163 and as a deduction for charitable contributions under section 170. The reduction is to be determined in accordance with subdivisions (ii) and (iii) of this subparagraph.

(ii) With respect to charitable contributions made after December 31, 1957, in determining the amount to be taken into account as a charitable contribution for purposes of section 170, the amount determined without regard to section 170(b)(4) or this subparagraph shall be reduced by the amount of interest which has been paid (or is to be paid) by the taxpayer, which is attributable to any liability connected with the contribution, and which is attributable to any period of time after the making of the contribution. The deduction otherwise allowable for charitable contributions under section 170 is required to be reduced pursuant to section 170(b)(4) only if, in connection with a charitable contribution, a liability is assumed by the recipient of the contribution or by any other person, or if the charitable contribution is of property which is subject to a liability. Thus, if the contribution is made in property and the transfer is conditioned upon the assumption of a liability by the donee or by some other person, any interest paid (or to be paid) by the taxpayer, attributable to the liability, and with respect to a period after the making of the contribution, will serve to reduce the amount that may be taken into account as a charitable contribution for purposes of section 170. The adjustment referred to in this subdivision must also be made where the contributed property is subject to a liability and the value of the property reflects the payment by the donor of interest with respect to a period of time after the making of the contribution.

(iii) If, in connection with the charitable contribution, after December 31, 1957, of a bond, a liability is assumed by the recipient or by any other person, or if the bond is subject to a liability, then, in determining the amount to be taken into account as a charitable contribution under section 170, the amount determined without regard to section 170(b)(4) or this subparagraph shall, without regard to whether any reduction may be required by subdivision (ii) of this subparagraph, also be reduced for interest which has been paid (or is to be paid) by the taxpayer on indebtedness incurred or continued to purchase or carry such bond, and which is attributable to any period before the making of the contribution. However, the reduction referred to in this subdivision shall be made only to the extent that such reduction does not exceed the interest (including bond discount and other interest equivalent) receivable on the bond, and attributable to any period before the making of the contribution which is not, by reason of the taxpayer's method of accounting, includible in the taxpayer's gross income for any taxable year. For purposes of section 170(b)(4) and this subdivision the term *bond* means any bond, debenture, note, or certificate or other evidence of indebtedness.

(iv) The provisions of this subparagraph may be illustrated by the following examples:

Example 1. A, an individual using the cash receipts and disbursements method of accounting, on January 1, 1960, contributed to a charitable organization real estate having

a fair market value of $10,000. In connection with the contribution the charitable organization assumed an indebtedness of $8,000 which A had incurred. A has prepaid two years' interest on that indebtedness (for 1960 and 1961) amounting to $960, and has taken an interest deduction of $960 for such amount. The amount of the gift, determined without regard to this subparagraph, is $2,960 ($10,000 less $8,000, the outstanding indebtedness, plus $960, the amount of prepaid interest). In determining the amount of the deduction for charitable contributions, the value of the gift ($2,960) must be reduced by $960 to eliminate from the computation of such deduction that portion thereof for which A has been allowed an interest deduction.

Example 2. On January 1, 1960, B, an individual using the cash receipts and disbursements method of accounting, purchased for $9,600 a 5 1/2 percent $10,000, 20-year M Corporation bond, the interest on which was payable semiannually on June 30 and December 31. The M Corporation had issued the bond on January 1, 1950, at a discount of $720 from the principal amount. On December 1, 1960, B donated the bond to a charitable organization, and, in connection with the contribution, the charitable organization assumed an indebtedness of $7,000 which B had incurred to purchase and carry the bond. During the calendar year 1960 B paid accrued interest of $330 on the indebtedness for the period from January 1 to December 1, 1960, and has taken an interest deduction of $330 for such amount. No portion of the bond discount of $36 a year ($720 divided by 20 years) has been included in B's income, and of the $550 of annual interest receivable on the bond, he included in income only the June 30 payment of $275. The market value of the bond on the date of the contribution was $9,902. Such value reflects a proportionate part of the original bond discount ($9,280 plus $393, or $9,673) and of interest receivable of $229 which had accrued from July 1 to December 1, 1960. The amount of the charitable contribution determined without regard to this subparagraph is $2,902 ($9,902, the value of the property on the date of gift, less $7,000, the amount of the liability assumed by the charitable organization). In determining the amount of the allowable deduction for charitable contributions, the value of the gift ($2,902) must be reduced to eliminate from the deduction that portion thereof for which B has been allowed an interest deduction. Although the amount of such interest deduction was $330, the reduction required by this subparagraph is limited to $262, since the reduction is not in excess of the amount of interest income on the bond ($229 of accrued interest plus $33, the amount of bond discount attributable to the eleven-month period B held the bond).

(3) *Reduction for depreciable property.* (i) With respect to a charitable contribution of section 1245 property (as defined in section 1245(a)(3)), or section 1250 property (as defined in section 1250(c)), section 170(e) requires that the amount of the charitable contribution taken into account under section 170 shall be reduced by the amount which would have been treated (but was not actually treated) as gain to which section 1245(a)(1) or 1250(a) (relating to gain from dispositions of depreciable property) applies if the property contributed had been sold at its fair market value (determined at the time of such contribution).

(ii) Section 170(e) applies to charitable contributions of section 1245 property in taxable years beginning after December 31, 1962, except that in respect of section 1245 property which is an elevator or escalator section 170(e) applies to charitable contributions after December 31, 1963. Section 170(e) applies to charitable contributions of section 1250 property after December 31, 1963.

(iii) The provisions of this subparagraph may be illustrated by the following example:

Example. Jones contributes to a charitable organization section 1245 property which has an adjusted basis of $10,000, a recomputed basis (as defined in section 1245 (a)(2)) of $14,000, and a fair market value of $17,000. If Jones had instead sold the property at its fair market value, he would have recognized gain under section 1245(a)(1) of $4,000. See paragraph (b) of §1.1245–1. Under section 170(e), the amount of the charitable contribution taken into account under section 170 is reduced by $4,000. Accordingly, the amount of the charitable contribution is $13,000 ($17,000 minus $4,000).

(d) *Transfers of income and future interests*—(1) *In general.* A deduction may be allowed for a contribution of an interest in the income from property or an interest in the remainder (but see subparagraph (2) of this paragraph for rules relating to transfers, after December 31, 1963, of future interests in tangible personal property). The income or remainder interest shall be valued according to the tables referred to in paragraph (d) of §1.170–2. For rules with respect to certain transfers to a trust, see paragraph (d) of §1.170–2.

(2) *Future interests in tangible personal property*. (i) Except as otherwise provided in subdivision (iii) of this subparagraph, a contribution consisting of a transfer, after December 31, 1963, in a taxable year ending after such date, of a future interest in tangible personal property shall be treated as made only when:

(*a*) All intervening interests in, and rights to the actual possession or enjoyment of, the property have expired, or

(*b*) Are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in section 267(b) and the regulations thereunder (relating to losses, expenses, and interest with respect to transactions between related taxpayers).

Section 170(f) and this subparagraph have no application in respect of a transfer of an undivided present interest in property. For example, a contribution of an undivided one-quarter interest in a painting with respect to which the donee is entitled to possession during three months of each year shall be treated as made upon the receipt by the donee of a formally executed and acknowledged deed of gift. Section 170(f) and this subparagraph have no application in respect of a transfer of a future interest in intangible personal property or in real property. However, a fixture which is intended to be severed from real property shall be treated as tangible personal property. For example, a contribution of a future interest in a chandelier which is attached to a building is considered a contribution which consists of a future interest in tangible personal property if the transferor intends that it be detached from the building at or prior to the time when the charitable organization's right to possession or enjoyment of the chandelier is to commence. For purposes of section 170(f) and this subparagraph, the term *future interest* has generally the same meaning as it has when used in section 2503, relating to taxable gifts, see § 25.2503–3 of Part 25 of this chapter (Gift Tax Regulations), and such term includes reversions, remainders, and other interests or estates, whether vested or contingent, and whether or not supported by a particular interest or estate, which are limited to commence in use, possession or enjoyment at some future date or time. The term *future interest* includes situations in which a donor purports to give tangible personal property to a charitable organization, but has an understanding, arrangement, agreement, etc. (whether written or oral) with the charitable organization which has the effect of reserving to, or retaining in, such donor a right to the use, possession, or enjoyment of the property.

(ii) The provisions of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example 1. On December 31, 1964, A, an individual who reports his income on the calendar year basis, conveys by deed of gift to a museum title to a painting, but reserves to himself the right to the use, possession, and enjoyment of the painting during his lifetime. At the time of the gift the value of the painting is $90,000. Since the contribution consists of a future interest in tangible personal property in which the donor has retained an intervening interest, no contribution is considered as having been made in 1964.

Example 2. Assume the same facts as in *Example 1* except that on December 31, 1965, A relinquishes all of his right to the use, possession, and enjoyment of the painting and delivers the painting to the museum. Assuming that the value of the painting has increased to $95,000, A is treated as having made a charitable contribution of $95,000 in 1965.

Example 3. Assume the same facts as *Example 1* except A dies without relinquishing his right to the use, possession, and enjoyment of the painting. Since A did not relinquish his right to the use, possession, and enjoyment of the property during his life, A is treated as not having made a charitable contribution of the painting for income tax purposes.

Example 4. Assume the same facts as in *Example 1* except A, on December 31, 1965, transfers his interest in the painting to his son, B. Since the relationship between A and B is one described in section 267(b), no contribution of the remainder interest in the painting is considered as having been made in 1965.

Example 5. Assume the same facts as in *Example 4*. Also assume that on December 31, 1966, B conveys the interest measured by A's life to the museum. B has made a charitable contribution of the present interest in the painting conveyed to the museum (i.e., the life interest measured by A's life expectancy in 1966 valued according to paragraph (f),

Table 1, of § 20.2031–7 of Part 20 of this chapter (Estate Tax Regulations)). In addition, since all intervening interests in, and rights to the actual possession or enjoyment of the property, have expired, a charitable contribution of the remainder interest is treated as having been made by A in 1966. Such remainder interest shall also be valued according to paragraph (f), Table 1, of § 20.2031–7 of Part 20 of this chapter (Estate Tax Regulations)).

(iii) Section 209(f)(3) of the Revenue Act of 1964 (78 Stat. 47) provides an exception to the rule set forth in section 170(f). Pursuant to the exception, section 170(f) and subdivision (i) of this subparagraph shall not apply in the case of a transfer of a future interest in tangible personal property made after December 31, 1963, and 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 preceding sentence, the right to make a transfer of the reserved life interest to the donee of the future interest shall not be treated as making a life interest transferable.

(e) *Transfers subject to a condition or a power*. If as of the date of a gift a transfer for charitable purposes is dependent upon the performance of some act or the happening of a precedent event in order that it might become effective, no deduction is allowable unless the possibility that the charitable transfer will not become effective is so remote as to be negligible. If an interest passes to or is vested in charity on the date of the gift and the interest would be defeated by the performance of some act or the happening of some event, the occurrence of which appeared to have been highly improbable on the date of the gift, the deduction is allowable. The deduction is not allowed in the case of a transfer in trust conveying a present interest in income if by reason of all the conditions and circumstances surrounding the transfer it appears that the charity may not receive the beneficial enjoyment of the interest. For example, assume that assets placed in trust consist of stock in a corporation the fiscal policies of which are controlled by the donor and his family, that the trustees and remaindermen are likewise members of the donor's family, and that the governing instrument contains no adequate guarantee of the requisite income to the charitable organization. Under such circumstances, no deduction will be allowed. Similarly, if the trustees were not members of the donor's family but had no power to sell or otherwise dispose of closely held stock, or otherwise insure the requisite enjoyment of income to the charitable organization, no deduction would be allowed.

(f) *Exceptions*. (1) This section does not apply to contributions by estates and trusts (see section 642(c)). For disallowance of certain charitable deductions otherwise allowable under section 170, see sections 503(e) and 681(b)(5) (relating to organizations engaged in prohibited transactions). 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, as amended (50 U.S.C. 790). For denial of deduction for charitable contributions as trade or business expenses and rules with respect to treatment of payments to organizations other than those described in section 170(c), see section 162 and the regulations thereunder.

(2) No deduction shall be allowed under section 170 for amounts paid to an organization:

(i) A substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, or

(ii) Which participates in or intervenes in any political campaign on behalf of any candidate for public office.

For purposes of determining whether an organization is attempting to influence legislation or is engaging in political activities, see section 501(c)(3) and the regulations thereunder. Moreover, no deduction shall be allowed under section 170 for expenditures for lobbying purposes, promotion or defeat of legislation, etc. See also the regulations under section 162.

(3) No deduction for charitable contributions is allowed in computing the taxable income of a common trust fund

or of a partnership. See sections 584(d) and 703(a)(2)(D). However, a partner's distributive share of charitable contributions actually paid by a partnership during its taxable year may be allowed as a deduction in the partner's separate return for his taxable year with or within which the taxable year of the partnership ends, to the extent that the aggregate of his share of the partnership contributions and his own contributions does not exceed the limitations in section 170 (b). In the case of a nonresident alien individual, or a citizen of the United States entitled to the benefits of section 931, see sections 873(c), 876, and 931.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6605, 27 FR 8094, Aug. 15, 1962; T.D. 6785, 29 FR 18499, Dec. 29, 1964; T.D. 6832, 30 FR 8574, July 7, 1965; T.D. 6900, 31 FR 14633, Nov. 17, 1966; T.D. 7084, 36 FR 266, Jan. 8, 1971; T.D. 7207, 37 FR 20768, Oct. 4, 1972]

§ 1.170–2 Charitable deductions by individuals; limitations (before amendment by Tax Reform Act of 1969).

(a) *In general.* (1) A deduction is allowable to an individual under section 170 only for charitable contributions actually paid during the taxable year, regardless of when pledged and regardless of the method of accounting employed by the taxpayer in keeping his books and records. A contribution to an organization described in section 170(c) is deductible even though some portion of the funds of the organization may be used in foreign countries for charitable or educational purposes. The deduction by an individual for charitable contributions under section 170 is limited generally to 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). If a husband and wife make a joint return, the deduction for contributions is the aggregate of the contributions made by the spouses, and the limitation in section 170(b) is based on the aggregate adjusted gross income of the spouses. The 20-percent limitation applies to amounts contributed during the taxable year ''to or for the use of'' those recipients described in section 170(c), including amounts treated under section 170(d) as paid for the use of an organization described in section 170(c)(2), (3), or (4). See paragraph (f) of this section. The limitation is computed without regard to contributions qualifying for the additional 10-percent deduction. For examples of the application of the 10- and 20-percent limitation, see paragraph (b)(5) of this section. For special rules reducing amount of certain charitable deductions, see paragraph (c)(2) of § 1.170–1.

(2) No deduction is allowable for contribution of services. However, unreimbursed expenditures made incident to the rendition of services to an organization contributions to which are deductible may constitute a deductible contribution. For example, the cost of a uniform without general utility which is required to be worn in performing donated services is deductible. Similarly, out-of-pocket transportation expenses necessarily incurred in rendering donated services are deductible. Reasonable expenditures for meals and lodging necessarily incurred while away from home in the course of rendering donated services also are deductible. For the purposes of this section, the phrase *while away from home* has the same meaning as that phrase is used for purposes of section 162.

(3)(i) In the case of an annuity or portion thereof purchased from an organization described in section 170(c), there shall be allowed as a deduction the excess of the amount paid over the value at the time of purchase of the annuity or portion purchased.

(ii) The value of the annuity or portion is the value of the annuity determined in accordance with section 101(b) and the regulations thereunder.

(b) *Additional 10-percent deduction*—(1) *In general.* In addition to the deduction which may be allowed for contributions subject to the general 20-percent limitation, an individual may deduct charitable contributions made during the taxable year to the organizations specified in section 170(b)(1)(A) to the extent that such contributions in the aggregate do not exceed 10 percent of his adjusted gross income (computed without regard to any net operating loss carryback to the taxable year under section 172). The additional 10-percent deduction may be allowed with respect to contributions to: