

**Donor Control Issues**  
**Excerpts from**  
**IRS Letter Ruling 9405003, November 12, 1993**

Pursuant to I.R.C. section 170(a), (b) and (c), an individual taxpayer is entitled to a deduction for charitable contributions or gifts to or for the use of qualified charitable organizations, payment of which is made during the taxable year.

A contribution for purposes of section 170 of the Code is [\*11] a voluntary transfer of money or property that is made with no expectation of procuring a financial benefit commensurate with the amount of the transfer. See H.R. Rep. No. 1337, 83rd Cong., 2d Sess. A44 (1954); S. Rep. No. 1622, 83rd Cong., 2nd Sess. 196 (1954).

In addition, a gift is not considered a contribution "to" a charity if the facts show that the charity is merely a conduit to a particular person. A relevant Service position on the conduit issue is Revenue Ruling 62-113, 1962-2 C.B. 10, which concerns the deductibility of contributions made to a missionary fund which are earmarked by the donor for a particular individual (in the ruling, the son of the donor). The revenue ruling states that if contributions to the missionary fund are earmarked by the donor for a particular individual, they are treated, in effect, as being gifts to the designated individual and are not deductible. [\*12] However, the revenue ruling allows a deduction where it is established that a gift is intended by the donor for the use of the organization and not as a gift to an individual.

Rev. Rul. 62-113 states that the test in each case is whether the organization has full control of the donated funds, and discretion as to their use, so as to ensure that they will be used to carry out its functions and purposes.

In addition, Revenue Ruling 68-484, 1968-2 C.B. 105, states that for purposes of determining that a contribution is made to or for the use of an organization described in section 170 of the Code rather than to a particular individual who ultimately benefits from the contribution, the organization must have full control of the use of the donated funds; and the contributor's intent in making the payment must have been to benefit the organization itself and not the individual recipient.