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XIX. School Tuition vs. Donation

Payments made to a parish by parents of children enrolled in a Catholic school may qualify as deductible contributions if they are gifts, *i.e.*, if they are voluntary transfers of funds made with no expectation of obtaining commensurate benefit. Specifically, enrollment in the school must in no manner be contingent on making the payment; the payment must not be made pursuant to a plan (whether express or implied) to convert nondeductible tuition into charitable contributions; and the receipt of the benefit (schooling or reduced tuition payments) must not otherwise be dependent upon making the payment. Rev. Rul. 83-104, 1983-2 C.B. 46, cites the following factors as creating a presumption that a payment is NOT a charitable contribution:

1. The existence of a contract (express or implied) whereby a taxpayer (*i.e.*, parents, etc.) agrees to make a “contribution” and which insures school admission for the taxpayer’s child;
 2. A plan allowing taxpayers either to pay tuition or make “contributions” in exchange for schooling;
 3. The earmarking of contributions for the direct benefit of a particular individual;
- or
4. The otherwise unexplained denial of admission/readmission of children of taxpayers who are financially able but who do not contribute.

Additional adverse factors include:

5. the absence of a significant tuition charge;
6. Substantial or unusual (different from that applied to non-parents) pressure applied to parents of children attending school;
7. Contribution appeals made as part of the admissions or enrollment process;
8. The absence of significant school revenue sources other than parent contributions; and
9. Other factors suggesting a contribution policy created as a means of avoiding characterization of payments as tuition.

Situation 6 of Rev. Rul. 83-104 sanctions differential tuition for parishioners and non-parishioners in certain limited circumstances. The parish received contributions from all its members. These contributions are available to support all parish activities, a substantial portion of which are unrelated to the school. The parish has full control over the use of the contributions it receives. Most parish members do not have children in the school. The methods of soliciting contributions from parishioners with children in the

school are the same as the methods of soliciting members without children in the school. No tuition is charged to parishioners, but non-parishioners are charged tuition. In this situation, IRS concluded that the contributions made by parishioners with children in the school are ordinarily deductible, unless there is a showing that contributions by parishioners with children in the school are significantly larger than those of other parishioners. [IRS has indicated in other rulings that it will compare parental giving levels to non-parental giving levels in evaluating deductibility of payments. See PLR9004030, (October 31, 1989 – released January 26, 1990).]

Any attempt to link school enrollment or tuition reductions/benefits to parish contribution or level of parish contribution jeopardizes the deductibility of contributions by parishioners who benefit from such practices. Various labels given to parish contributions, *e.g.*, sacrificial giving, tithing, negotiated tuition, stewardship, minimum giving, etc., are not determinative of deductibility. Further, parishes cannot qualify under Situation 6 by defining parish “membership”(or otherwise qualifying for reduced or no tuition) according to level of contribution. All such practices undercut parish claims that parish contributions are “gifts”, the *sine qua non* of charitable deductibility.