(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:

(i) A church or a convention or association of churches,

(ii) An educational organization referred to in section 503(b)(2) and defined in subparagraph (3)(i) of this paragraph,

(iii) A hospital referred to in section 503(b)(5) and defined in subparagraph (4)(i) of this paragraph,

(iv) Subject to certain conditions and limitations set forth in subparagraph (4)(ii) of this paragraph, and for taxable years beginning after December 31, 1955, a medical research organization referred to in section 503(b)(5),

(v) Subject to certain limitations and conditions set forth in subparagraph (3)(ii) of this paragraph, and for taxable years beginning after December 31, 1960, an organization referred to in section 503(b)(3) which is organized and operated for the benefit of certain State and municipal colleges and universities,

(vi) For taxable years beginning after December 31, 1963, a governmental unit referred to in section 170(c)(1), and

(vii) Subject to certain limitations and conditions set forth in subparagraph (5) of this paragraph, and for taxable years beginning after December 31, 1963, an organization referred to in section 170(c)(2).

To qualify for the additional 10-percent deduction the contributions must be made ''to'', and not merely ''for the use of'', one of the specified organizations. A contribution to an organization referred to in section 170(c)(2) (other than an organization specified in subdivisions (i) through (vi) of this subparagraph) which, for taxable years beginning after December 31, 1963, is not ''publicly supported'' under the rules of subparagraph (5) of this paragraph will not qualify for the additional 10-percent deduction even though such organization makes the contribution available to an organization which is specified in section 170(b)(1)(A). The computation of this additional deduction is not necessary unless the total contributions paid during the taxable year are in excess of the general 20-percent limitation. Where the total contributions exceed the 20-percent limitation, the taxpayer should first ascertain the amount of charitable contributions subject to the 10-percent limitation, and any excess over the 10-percent limitation should then be added to all other contributions and limited by the 20-percent limitation. For provisions relating to a carryover of certain charitable contributions made by individuals, see paragraph (g) of this section.

(2) *Church.* For definition of *church*, see the regulations under section 511.

(3) *Educational organization and organizations for the benefit of certain State and municipal colleges and universities*—(i) *Educational organization.* An *educational organization* within the meaning of section 170(b)(1)(A) is one whose primary function is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term, therefore, includes institutions such as primary, secondary, preparatory, or high schools, and colleges and universities. It includes Federal, State, and other public-supported schools which otherwise come within the definition. It does not include organizations engaged in both educational and noneducational activities unless the latter are merely incidental to and growing out of the educational activities. A recognized university which incidentally operates a

museum or sponsors concerts is an educational organization. However, the operation of a school by a museum does not necessarily qualify the museum as an educational organization. A gift to an educational institution through an alumni association or a class organization, which acts simply as a fund-raising or collection agency through which gifts may be made currently to the institution, is a gift to the educational organization if the entire gift inures to its benefit, but not if any part of it inures to the general or operating fund of the agency. Similarly, a gift to one or more educational institutions through an association of educational institutions will be considered a gift to the institutions if it inures entirely to their benefit.

(ii) *Organizations for the benefit of certain State and municipal colleges and universities.* (a) For taxable years beginning after December 31, 1960, gifts made to an organization referred to in section 503(b)(3) organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of certain colleges and universities, may be taken into account in computing the additional 10-percent limitation. The phrase *expenditures to or for the benefit of certain colleges and universities* includes expenditures made for any one or more of the normally accepted functions of colleges and universities, for example, for the acquisition and maintenance of real property comprising part of the campus area, the erection of or participation in the erection of college or university buildings, scholarships, libraries, student loans, and the acquisition and maintenance of equipment and furnishings used for or in conjunction with normally accepted functions of colleges and universities.

(*b*) The recipient organization must be one which normally receives a substantial portion of its support from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public, or from a combination of two or more of such sources. An example of an indirect contribution from the public would be the receipt by the organization of its share of the proceeds of an annual collection campaign of a community chest, community fund, or united fund.

(*c*) The college or university (including land grant colleges and universities) to be benefited must be an educational organization referred to in section 170(b)(1)(A)(ii) and subdivision (i) of this subparagraph; and must be an agency or instrumentality of a State or political subdivision thereof, or must be owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions.

(4) *Hospital and medical research organization*—(i) *Hospital.* The term *hospital,* as used in section 170(b)(1)(A), means an organization the principal purposes or functions of which are the providing of hospital or medical care. The term includes Federal and State hospitals otherwise coming within the definition but does not include medical education organizations, or medical research organizations. See, however, subdivision (ii) of this subparagraph, relating to contributions to certain medical research organizations for taxable years beginning after December 31, 1955. A rehabilitation institution or an outpatient clinic may qualify as a hospital if its principal purposes or functions are the providing of hospital or medical care. The term *hospital* does not include convalescent homes or homes for children or the aged, nor does the term include institutions whose principal purposes or functions are to train handicapped individuals to pursue some vocation.

(ii) *Certain medical research organizations.* (*a*) For taxable years beginning after December 31, 1955, certain charitable contributions made to certain medical research organizations may be taken into account in computing the additional 10-percent limitation. To be so taken into account the charitable contribution must be made to a medical research organization that is directly engaged in the continuous active conduct of medical research in conjunction with a hospital (as defined in subdivision (i) of this subparagraph), and, during the calendar year in which the contribution is made, the organization must be committed to spend the contribution for such active conduct of

medical research before January 1 of the fifth calendar year beginning after the date the contribution is made.

(*b*) As used in section 170(b)(1)(A) and this subparagraph, the term *medical research organization* means an organization the principal purpose or function of which is to engage in medical research. Medical research may be defined as the conduct of investigations, experiments, and studies to discover, develop, or verify knowledge relating to the causes, diagnosis, treatment, prevention, or control of physical or mental diseases and impairments of man. To qualify as a medical research organization, the organization must have the appropriate equipment and professional personnel necessary to carry out its principal function.

(*c*) The organization must, at the time of the contribution, be directly engaged in the continuous active conduct of medical research in conjunction with a hospital described in subdivision (i) of this subparagraph. The organization need not be formally affiliated with a hospital to be considered engaged in the active conduct of medical research in conjunction with a hospital, but it must be physically connected, or closely associated, with a hospital. In any case, there must be a joint effort on the part of the research organization and the hospital pursuant to an understanding that the two organizations shall maintain continuing close cooperation in the active conduct of medical research. For example, the necessary joint effort will normally be found to exist if the activities of the medical research organization are carried on in space located within or adjacent to a hospital provided that the organization is permitted to utilize the facilities (including equipment, case studies, etc.) of the hospital on a continuing basis in the active conduct of medical research. A medical research organization which is closely associated, in the manner described above, with a particular hospital or particular hospitals, may be considered to be pursuing research in conjunction with a hospital if the necessary joint effort is supported by substantial evidence of the close cooperation of the members of the research organization and the staff of the particular hospital or hospitals. The active participation in medical research by the staff of the particular hospital or hospitals will be considered as evidence of the requisite joint effort. If the organization's primary purpose is to disburse funds to other organizations for the conduct of research by them, or, if the organization's primary purpose is to extend research grants or scholarships to others, it is not directly engaged in the active conduct of medical research, and contributions to such an organization may not be taken into account for purposes of the additional 10-percent limitation.

(*d*) A charitable contribution to a medical research organization may be taken into account in computing the additional 10-percent limitation only if the organization is committed to spend such contribution for medical research in conjunction with a hospital on or before the first day of the fifth calendar year which begins after the date the contribution is made. The organization's commitment that the contribution will be spent within the prescribed time only for the prescribed purposes must be legally enforceable. A promise in writing to the donor in consideration of his making a contribution that such contribution will be so spent within the prescribed time will constitute a commitment. The expenditure of contributions received for plant, facilities, or equipment, used solely for medical research purposes shall ordinarily be considered to be an expenditure for medical research for purposes of section 170(b) and this section. If a contribution is made in other than money, it shall be considered spent for medical research if the funds from the proceeds of a disposition thereof are spent by the organization within the five-year period for medical research; or, if such property is of such a kind that it is used on a continuing basis directly in connection with such research, it shall be considered spent for medical research in the year in which it is first so used.

(5) *Corporation, trust, or community chest, fund, or foundation*—(i) *In general.* (*a*) For taxable years beginning after December 31, 1963, gifts made to a corporation, trust, or community chest,

fund, or foundation, referred to in section 170(c)(2) (other than an organization specified in subparagraph (1) (i) through (vi) of this paragraph), may be taken into account in computing the additional 10-percent limitation, provided the organization is a ''publicly supported'' organization. For purposes of this subparagraph, an organization is ''publicly supported'' if it normally receives a substantial part of its support from a governmental unit referred to in section 170(c)(1) or from direct or indirect contributions from the general public.

(*b*) An important factor in determining whether an organization normally receives a substantial part of its support from ''direct or indirect contributions from the general public'' is the extent to which the organization derives its support from or through voluntary contributions made by persons representing the general public. Except in unusual situations (particularly in the case of newly created organizations), an organization is not ''publicly supported'' if it receives contributions only from the members of a single family or from a few individuals.

(ii) *Special rules and meaning of terms.* (*a*) For purposes of this subparagraph, the term *support,* except as otherwise provided in (*b*) of this subdivision (ii), means all forms of support including (but not limited to) contributions received by the organization, investment income (such as, interest, rents, royalties, and dividends), and net income from unrelated business activities whether or not such activities are carried on regularly as a trade or business.

(*b*) The term *support* does not include:

(*1*) Any amounts received from the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a). In general, such amounts include amounts received from any activity the conduct of which is substantially related to the furtherance of such purpose or function (other than through the production of income).

(*2*) Any gain upon the sale or exchange of property which would be considered under any section of the Code as gain from the sale or exchange of a capital asset.

(*3*) Contributions of services for which a deduction is not allowable.

(*c*) The term *support from a governmental unit* includes:

(*1*) Any amounts received from a governmental unit including donations or contributions and amounts received in connection with a contract entered into with a governmental unit for the performance of services or in connection with a government research grant, provided such amounts are not excluded from the term *support* under (*b*) of this subdivision (ii). For purposes of (*b*)(*1*) of this subdivision (ii), an amount paid by a governmental unit to an organization is not received from the exercise or performance of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a) if the purpose of the payment is to enable the organization to provide a service to, or maintain a facility for, the direct benefit of the public, as, for example, the maintenance of library facilities which are open to the public.

(*2*) Tax revenues levied for the benefit of the organization and either paid to or expended on behalf of the organization.

(*3*) The value of services or facilities (exclusive of services or facilities generally furnished, without charge, to the public) furnished by a governmental unit to the organization without charge, as, for example, where a city pays the salaries of personnel used to guard a museum, art gallery, etc., or provides, rent free, the use of a building. However, the term does not include the value of any exemption from Federal, State, or local tax or any similar benefit.

(*d*) The term *indirect contributions from the general public* includes contributions received by the organization from organizations which normally receive a substantial part of their support from direct contributions from the general public.

(iii) *Determination of whether organization is ''publicly supported''—(a) In general.* No single test which would be appropriate in every case may be prescribed for determining whether a corporation, trust, or community chest, fund, or foundation, referred to in section 170(c)(2), is ''publicly supported''.

For example, since the statutory test is whether the organization normally receives a substantial part of its support from the prescribed sources, a test which would be appropriate in the case of an organization which has been in operation for a number of years would not necessarily be appropriate in the case of a newly established organization. The determination of whether an organization is ''publicly supported'' depends on the facts and circumstances in each case. Thus, although a ''mechanical test'' is set forth in (*b*) of this subdivision (iii), such test is not an exclusive test. Accordingly, an organization which does not qualify as a ''publicly supported'' organization by application of the ''mechanical test'' may qualify as a ''publicly supported'' organization on the basis of the facts and circumstances in its case. For provisions relating to the facts and circumstances test, see (*c*) of this subdivision (iii).

(*b*) *Mechanical test.* An organization will be considered to be a ''publicly supported'' organization for its current taxable year and the taxable year immediately succeeding its current year, if, for the four taxable years immediately preceding the current taxable year, the total amount of the support which the organization receives from governmental units, from donations made directly or indirectly by the general public, or from a combination of these sources equals 33⅓ percent or more of the total support of the organization for such four taxable years. The rule in the preceding sentence does not apply if there are substantial changes in the organization's character, purposes, or methods of operation in the current year, and does not apply in respect of the immediately succeeding taxable year if such changes occur in such year. In determining whether the 33⅓-percent-of-support test is met, contributions by an individual, trust, or corporation shall be taken into account only to the extent that the total amount of the contributions by any such individual, trust, or corporation during the four-taxable-year period does not exceed 1 percent of the organization's total support for such four taxable years. In applying the 1-percent limitation, all contributions made by a donor and by any person or persons standing in a relationship to the donor which is described in section 267(b) and the regulations thereunder shall be treated as made by one person. The 1-percent limitation shall not apply to support from governmental units referred to in section 170(c)(1) or to contributions from ''publicly supported'' organizations. A national organization which carries out its purposes through local chapters with which it has an identity of aims and purposes may, for purposes of determining whether the organization and the local chapters meet the mechanical test, make the computation on an aggregate basis.

Example. For the years 1964 through 1967, X, an organization referred to in section 170(c)(2), received support (as defined in subdivision (ii) of this subparagraph) of $600,000 from the following sources:

Investment income	$300,000
City Y (a governmental unit referred to in section 170(c)(1))	40,000
United Fund (an organization referred to in section 170(c)(2) which is ''publicly supported'')	40,000
Contributions	220,000
Total support	600,000

For the years 1964 through 1967, X received in excess of 33⅓ percent of its support from a governmental unit referred to in section 170(c)(1) and from direct and indirect contributions from the general public computed as follows:

33⅓ percent of total support	$200,000
Support from a governmental unit referred to in section 170(c)(1)	40,000
Indirect contributions from the general public (United Fund)	40,000
Contributions by various donors (no one donor having made contributions which total in excess of $6,000—1 percent of total support)	50,000
12 contributions (each in excess of $6,000—1 percent of total support) 12×$6,000	72,000
	202,000

Since the amount of X's support from governmental units referred to in section 170(c)(1) and from direct and indirect contributions from the general public in the years 1964 through 1967 is in excess of 33⅓ percent of X's total support for such four taxable years, X is considered a ''publicly supported'' organization with respect to contributions made to it during 1968 and 1969 without regard to whether X receives 33⅓ percent of its support during 1968 or 1969 from such sources (assuming that there are no substantial changes in X's character, purposes, or methods of operation).

(*c*) Facts and circumstances test. (*1*) A corporation, trust, or community chest, fund or foundation referred to in section 170(c)(2) which does not qualify as a ''publicly supported'' organization under the mechanical test described in (b) of this subdivision (iii) (including an organization which has not been in existence for a sufficient length of time to make such test applicable) may be a ''publicly supported'' organization on the basis of the facts and circumstances in its case.

(*2*) The facts and circumstances which are relevant and the weight to be accorded such facts and circumstances may differ in certain cases depending, for example, on the nature of the organization and the period of time it has been in existence. However, under no circumstances will an organization which normally receives substantially all of its contributions (directly or indirectly) from the members of a single family or from a few individuals qualify as a ''publicly supported'' organization.

(*3*) For purposes of the facts and circumstances test the most important consideration is the organization's source of support. An organization will be considered a ''publicly supported'' organization if it is constituted so as to attract substantial support from contributions, directly or indirectly, from a representative number of persons in the community or area in which it operates. In determining what is a ''representative number of persons,'' consideration must be given to the type of organization and whether or not the organization limits its activities to a special field which can be expected to appeal to a limited number of persons. An organization is so constituted if, for example, it establishes that it does in fact receive substantial support from contributions from a representative number of persons; that pursuant to its organizational structure and method of operation it makes bona fide solicitations for broad based public support, or, in the case of a newly created organization, that its organizational structure and method of operation are such as to require bona fide solicitations for broad based public support; that it receives substantial support from a community chest or similar public federated fund raising organization, such as a United Fund or United Appeal; or that it has a substantial number of members (in relation to the community it serves, the nature of its activities, and its total support) who pay annual membership dues.

(*4*) Although primary consideration will be given to the source of an organization's support, other relevant factors may be taken into account in determining whether or not the organization is of a public nature, such as:

(*i*) Whether the organization has a governing body (whether designated in the organization's bylaws, certificate of incorporation, deed of trust, etc., as a Board of Directors, Board of Trustees, etc.) which is comprised of public officials, of individuals chosen by public officials acting in their capacity as such, or of citizens broadly representative of the interests and views of the public. This characteristic does not exist if the membership of an organization's governing body is such as to indicate that it represents the personal or private interests of a limited number of donors to the organization (or persons standing in a relationship to such donors which is described in section 267(b) and the regulations thereunder), rather than the interests of the community or the general public.

(*ii*) Whether the organization annually or more frequently makes available to the public financial reports or, in the case of a newly created organization, is constituted so as to require such reporting. For this purpose an information or other return made pursuant to a requirement of a governmental unit shall not be considered a financial report. An organization shall be considered as making financial reports of its operations available to the public if it publishes a financial report in a newspaper which is widely circulated in the community in which the organization operates or if it makes a bona fide dissemination of a brochure containing a financial report.

(*iii*) If the organization is of a type which generally holds open to the public its buildings (as in the case of a museum) or performances conducted by it (as in the case of a symphonic orchestra), whether the organization actually follows such practice, or, in the case of

a newly created organization, is so organized as to require that its facilities be open to the public.

(*5*) The application of this subdivision (*c*) may be illustrated by the following examples:

Example 1. M, a community trust, is an organization referred to in section 170(c)(2). In 1950, M was organized in the X Community by several leading trusts and financial institutions with the purpose of serving permanently the educational and charitable needs of the X Community by providing a means by which the public may establish funds or make gifts of various amounts to established funds which are administered as an aggregate fund with provision for distribution of income and, in certain cases, principal for educational or charitable purposes by a single impartial committee. The M Organization, by distribution of pamphlets to the public through participating trustee banks, actively solicits members of the X Community and other concerned parties to establish funds within the trust or to contribute to established funds within the trust. Under the declaration of trust, a contributor to a fund may suggest or request (but not require) that his contribution be used in respect of his preferred charitable, educational, or other benevolent purpose, and distributions of the income from the fund, and in certain cases the principal, will be made by the Distribution Committee with regard to such request unless changing conditions make such purpose unnecessary, undesirable, impractical, or impossible in which case income and (where the contributor has so specified) principal will be distributed by the Distribution Committee in order to promote the public welfare more effectively. Where a contributor has not expressed a desire as to a charitable, educational, or other benevolent purpose, the Distribution Committee will distribute the entire annual income from the fund to such a purpose agreed upon by such committee. The Distribution Committee is composed of representatives of the community chosen one each by the X Bar Association, the X Medical Society, the mayor of X Community, the judge of the highest X Court, and the president of the X College, and two representatives chosen by the participating trustee banks. There are a number of separate funds within the trust administered by several participating banks. M has consistently distributed or used its entire annual income for projects with purposes described in section 170(c)(2)(B) from which members of the public may benefit or to other organizations described in section 170(b)(1)(A) which so distribute or use such income. Through its participating trustee banks, M annually makes available to the public a brochure containing a financial statement of its operations including a list of all receipts and disbursements. Under the facts and circumstances, M is a ''publicly supported'' organization.

Example 2. Assume the same facts as in *Example 1* except that M has been in existence for only one year and only two contributors have established funds within the trust. The Distribution Committee has been chosen and is required by the governing declaration of trust to make annual distribution of the entire income of the trust to projects with purposes described in section 170(c)(2)(B) from which members of the public may benefit or to other organizations described in section 170(b)(1)(A) which so distribute or use such income. The declaration of trust and other governing instruments require (1) that the M Community Trust actively solicit contributions from members of the X Community through dissemination of literature and other public appeals, and (2) that it make available to the members of the X Community, annual financial reports of its operations. Under the facts and circumstances, M is a ''publicly supported'' organization.

Example 3. N, an art museum, is an organization referred to in section 170(c)(2). In 1930, N was founded in Y City by the members of a single family to collect, preserve, interpret, and display to the public important works of art. N is governed by a self-perpetuating Board of Trustees limited by the governing instruments to a maximum membership of 20 individuals. The original board consisted almost entirely of members of the founding family. Since 1945, members of the founding family or persons standing in a relationship to the members of such family described in section 267(b) have annually constituted less than one-fifth of the Board of Trustees. The remaining board members are citizens of Y City from a variety of professions and occupations who represent the interests and views of the people of Y City in the activities carried on by the organization rather than the personal or private interests of the founding family. N solicits contributions from the general public and for each of its four most recent taxable years has received total contributions in small sums (less than $100) in excess of $10,000. For N's four most recent taxable years, investment income from several large endowment funds has constituted 75 percent of its total support. N normally expends a substantial part of its annual income for purposes described in section 170(c)(2)(B). N has, for the entire period of its existence, been open to the public and more than 300,000 people (from the Y City and elsewhere) have visited the museum in each of its four most recent taxable years. N annually publishes a financial report of its operation in the Y City newspaper. Under the facts and circumstances, N museum is a ''publicly supported'' organization.

Example 4. In 1960, the O Philharmonic Orchestra was organized in Z City through the combined efforts of a local music society and a local women's club to present to the public a wide variety of musical programs intended to foster music appreciation in the community. O is an organization referred to in section 170(c)(2). The orchestra is composed of professional musicians who are paid by the association. Twelve performances, open to the public, are scheduled each year. The admission charge for each of these performances is $3. In addition, several performances are staged annually without charge. In each of its four most recent taxable years, O has received separate contributions of $10,000 from A, B, C, and D (not members of a single family) and support of $5,000 from the Z Community Chest, a public federated fund raising organization operating in Z City. O is governed by a Board of Directors comprised of five individuals. A faculty member of a local college, the president of a local music society, the head of a local banking institution, a prominent doctor, and a member of the governing body of the local Chamber of Commerce currently serve on the Board and represent the interests and views of the community in the activities carried on by O. O annually files a financial report with Z City which makes such report available for public inspection. Under the facts and circumstances, O is a ''publicly supported'' organization.

Example 5. P is a newly created organization of a type referred to in section 170 (c)(2). P's charter requires that its governing body be selected by public officials and by public organizations representing the community in which it operates. Pursuant to P's charter, a continuing fund raising campaign which will encompass the entire community has been planned. P's charter requires that its entire annual income be distributed to or used for projects with purposes described in section 170(c)(2)(B) and that it make available to the public annual financial reports of its operations. By reason of the express provisions of P's charter relating to its organizational structure and prescribed methods of operation, P is a ''publicly supported'' organization.

(*6*) *Examples.* The application of the special 10-percent limitation and the general 20-percent limitation on contributions by individuals may be illustrated by the following examples:

Example 1. A, an individual, reports his income on the calendar year basis and for the year 1957 has an adjusted gross income of $10,000. During 1957 he made the following charitable contributions:

1. Contributions qualifying for the additional 10-percent deduction under section 170(b)(1)(A)	$2,400	
2. Other charitable contributions	700	
3. Total contributions paid	3,100	
		Deductible contributions
4. Contributions qualifying for the additional 10-percent deduction under section 170(b)(1)(A)	2,400	
5. Special limitation under section 170(b)(1)(A): 10 percent of adjusted gross income	1,000	
6. Deductible amount: line 4 or line 5, whichever is the lesser		$1,000
7. Excess of line 4 over line 5	1,400	
8. Add: Other charitable contributions	700	
9. Contributions subject to the general 20-percent limitation under section 170(b)(1)(B)	2,100	
10. Limitation under section 170(b)(1)(B): 20 percent of the adjusted gross income	2,000	
11. Deductible amount: line 9 or line 10, whichever is the lesser		2,000
12. Contributions not deductible	100	
13. Total deduction for contributions		3,000

Example 2. B, an individual, reports his income on the calendar year basis and for the year 1957 has an adjusted gross income of $10,000. During 1957 he made the following charitable contributions:

1. Contributions qualifying for the additional 10-percent deduction under section 170(b)(1)(A)	$700
2. Other charitable contributions	2,400
3. Total contributions paid	3,100
4. Contributions qualifying for the additional 10-percent deduction under section 170(b)(1)(A)	700
5. Limitation described in section 170(b)(1)(A): 10 percent of the adjusted gross income	1,000

6. Deductible amount: line 4 or line 5, whichever is the lesser		$700
7. Excess of line 4 over line 5	0	
8. Add: Other charitable contributions	2,400	
9. Contributions subject to the general 20-percent limitation under section 170(b)(1)(B)	2,400	
10. Limitation under section 170(b)(1)(B): 20 percent of the adjusted gross income	2,000	
11. Deductible amount: line 9 or line 10, whichever is the lesser		2,000
12. Contributions not deductible	400	
13. Total deduction for contributions		2,700

(c) *Unlimited deduction for individuals*—(1) *In general.* (i) The deduction for charitable contributions made by an individual is not subject to the 10- and 20-percent limitations of section 170(b) if in the taxable year and each of 8 of the 10 preceding taxable years the sum of his charitable contributions paid during the year, plus his payments during the year on account of Federal income taxes, is more than 90 percent of his taxable income for the year (or net income, in years governed by the Internal Revenue Code of 1939). In determining the applicability of the 10- and 20-percent limitations of section 170(b) for taxable years beginning after December 31, 1957, there may be substituted, in lieu of the amount of income tax paid during any year, the amount of income tax paid in respect of such year, provided that any amount so included for the year in respect of which payment was made shall not be included for any other year. For the purpose of the first sentence of this paragraph, taxable income under the 1954 Code is determined without regard to the deductions for charitable contributions under section 170, for personal exemptions under section 151, or for a net operating loss carryback under section 172. On the other hand, for this purpose net income under the 1939 Code is computed without the benefit only of the deduction for charitable contributions. See section 120 of the Internal Revenue Code of 1939. The term *income tax* as used in section 170(b)(1)(C) means only Federal income taxes, and does not include the taxes imposed on self-employment income, on employees under the Federal Insurance Contributions Act, and on railroad employees and their representatives under the Railroad Retirement Tax Act by Chapters 2, 21, and 22, respectively, or corresponding provisions of the Internal Revenue Code of 1939. For purposes of section 170(b)(1)(C) and this paragraph, the amount of income tax paid during a taxable year shall be determined (except as provided in subdivision (ii) of this subparagraph) by including all payments made by the taxpayer during such taxable year on account of his Federal income taxes (whether for the taxable year or for preceding taxable years). Such payments would include any amount paid during the taxable year as estimated tax (exclusive of any portion of such amount for taxable years beginning after December 31, 1966, which is attributable to the self-employment tax imposed by chapter (2) for that year, payment of the final installment of estimated tax (exclusive of any portion of such installment, for taxable years beginning after December 31, 1966, which is attributable to the self-employment tax imposed by chapter 2) for the preceding taxable year, final payment for the preceding taxable year, and any payment of a deficiency for an earlier taxable year, to the extent that such payments do not exceed the tax for the taxable year for which payment is made. Any payment of income tax with respect to which the taxpayer receives a refund or credit shall be reduced by the amount of such refund or credit. Any such refund or credit shall be applied against the most recent payments for the taxable year in respect of which the refund or credit arose.

(ii) For any taxable year beginning after December 31, 1957, the applicability of the 10- and 20-percent limitations of section 170(b) may be determined either with reference to the income tax paid during the year or any prior year, or with reference to the income tax paid in respect of any such

year or prior years. The 90-percent test of section 170(b)(1)(C) may be applied for the taxable year, or for any one or more of the preceding 10 taxable years, by taking into account the income taxes paid in respect of that year or years, and for the balance of the 10 years by taking into account the income tax payments made during those years. Thus, a taxable year which qualifies under either of the two permissible methods shall be considered as a qualifying year irrespective of whether the taxable year begins before or after December 31, 1957. However, a particular income tax payment may only be taken into account once, either with respect to the year of liability or for the year of payment.

(2) *Joint returns*—(i) *Joint return for current taxable year.* If a husband and wife make a joint return for any taxable year, their deduction for charitable contributions is not subject to the 10- and 20-percent limitations of section 170(b), if, under the rules of subparagraph (1) of this paragraph, in the taxable year and in each of 8 of the 10 preceding taxable years (regardless of whether separate or joint returns were filed), the aggregate charitable contributions of both spouses paid during the year, plus their aggregate payments during the year on account of Federal income taxes (or, if the taxable year begins after December 31, 1957, the aggregate tax paid in respect of such taxable year or any preceding taxable year) exceed 90 percent of their aggregate taxable incomes for the year.

(ii) *Separate return by spouse or by unremarried widow or widower.* If a spouse, or the unremarried widow or widower of a deceased spouse, makes a separate return for any taxable year, his deduction for charitable contributions is not subject to the 10- and 20-percent limitations of section 170(b), if, under the rules of subparagraph (1) of this paragraph, in the taxable year and each of 8 of the 10 preceding taxable years:

(*a*) For which the taxpayer filed a joint return with his spouse, either their aggregate charitable contributions and payments of Federal income taxes made during the taxable year (or if the taxable year begins after December 31, 1957, made in respect of such taxable year or any preceding taxable year) exceed 90 percent of their aggregate taxable income for that year, or the taxpayer's separate charitable contributions and payments of Federal income taxes allocable to his separate income and made during the taxable year (or if the taxable year begins after December 31, 1957, made in respect of such taxable year or any preceding taxable year) exceed 90 percent of his separate taxable income for that year, and (*b*) For which the taxpayer did not file a joint return with his spouse, the aggregate of his charitable contributions and payments of Federal income taxes made during the taxable year (or, if the taxable year begins after December 31, 1957, the payments of income taxes made in respect of such taxable year or any preceding taxable year) exceeds 90 percent of his taxable income for that year.

For the purpose of the preceding sentence, the word *spouse* does not include a spouse from whom the taxpayer has been divorced.

(iii) *Joint return with former spouse for prior taxable year.* A divorced or remarried taxpayer who filed a joint return for a prior taxable year with a former spouse shall, for purposes of applying this paragraph, be treated in the same manner as if he had filed a separate return for such prior taxable year, and as if his Federal income tax liability and taxable income for such prior taxable year were his allocable portions of the joint tax liability and combined taxable income, respectively, for such year.

(iv) *Allocation.* Whenever it is necessary to allocate the joint tax liability or the combined taxable income, or both, for a taxable year for which a joint return was filed, a computation shall be made for the taxpayer and for his spouse or former spouse showing for each of them the Federal income taxes and taxable income which would be determined if separate returns had been filed by them for such taxable year. The joint tax liability and conbined taxable income for such taxable year shall then be allocated proportionately to the income taxes and taxable income, respectively, so computed. Whenever it is necessary to determine

the separate payments made by a taxpayer in respect of a joint tax liability, the amount paid by him during the taxable year as estimated tax (exclusive of any portion of such amount for taxable years beginning after December 31, 1966, which is attributable to the self-employment tax imposed by Chapter 2) for that year shall be included to the extent it does not exceed his allocable portion of the joint tax under Chapter 1 (exclusive of tax under section 56) for the taxable year, and any amount paid by him for a prior year (whether as the final installment of estimated tax—exclusive of any portion of such installment, for taxable years beginning after December 31, 1966, which is attributable to the self-employment tax imposed by Chapter 2—for the preceding taxable year, or a final payment for the preceding year, or the payment of a deficiency for an earlier year) shall be included to the extent such amount, when added to amounts previously paid by him for such prior year, does not exceed his allocable portion of the joint tax liability for the prior year.

(d) *Denial of deduction in case of certain transfers in trust*—(1) *Reversionary interest in grantor.* No charitable deduction will be allowed for the value of any interest in property transferred to a trust after March 9, 1954, if the grantor at the time of the transfer has a reversionary interest in the corpus or income and the value of such reversionary interest exceeds 5 percent of the total value on which the charitable deduction would, but for section 170(b)(1)(D), be determined. For purposes of this paragraph, the term *reversionary interest* means a possibility that after the possession or enjoyment of property or its income has been obtained by a charitable donee, the property or its income may revest in the grantor or his estate, or may be subject to a power exercisable by the grantor or a nonadverse party (within the meaning of section 672 (b)), or both, to revest in, or return to or for the benefit of, the grantor or his estate the property or income therefrom. An interest of the grantor which, in any event, will terminate before the ripening of the assured charitable gift for which a deduction is claimed is not considered a reversionary interest for purposes of this section. For example, assume that a taxpayer conveyed property to a trust under the terms of which the income is payable to the taxpayer's wife for her life, and, if she predeceases him, to him for his life, and after the death of both the property is to be transferred to a charitable organization.

(2) *Valuation of interests.* The present value of the remainder interest in the property, taking into account the value of the life estates reserved to the taxpayer and his wife, may be allowed as a charitable deduction. Where the corpus of the trust is to return to the grantor after a number of years certain, the value of the reversionary interest at the time of the transfer may be computed by the use of tables showing the present value at 3½ percent a year, compuounded annually, of $1 payable at the end of a number of years certain. See paragraph (f), Table II, of § 20.2031–7 of this chapter (Estate Tax Regulations). Where the value of a reversionary interest is dependent upon the continuation or termination of the life of one or more persons, it must be determined on the basis of Table 38 of United States Life Tables and Actuarial Tables 1939–1941, published by the United States Department of Commerce, Bureau of the Census, and interest at the rate of 3½ percent a year, compounded annually. See paragraph (f), Table I, of § 20.2031–7 of this chapter (Estate Tax Regulations) for valuations based on one life, and ''Actuarial Values for Estate and Gift Tax'' (Internal Revenue Service Publication No. 11, Rev. 5–59) for values based on more than one life. In an actual case (not merely hypothetical), the grantor or his legal representative may, upon request, obtain the information necessary to determine such a value from the district director with whom the grantor files his return. The request must be accompanied by a statement showing the date of birth of each person the duration of whose life may affect the value of the reversionary interest and by copies of the instruments relevant to the transfer.

(e) *Fiscal years and short taxable years ending after March 9, 1954, subject to the Internal Revenue Code of 1939.* Pursuant to section 7851(a)(1)(C) of the Internal

Revenue Code of 1954, the regulations prescribed in paragraph (d) of this section, to the extent that they relate to transfers in trust occurring after March 9, 1954, shall apply to all taxable years ending after March 9, 1954, even though those years may be subject to the Internal Revenue Code of 1939.

(f) *Amounts paid to maintain certain students as members of the taxpayer's household*—(1) *In General.* (i) For taxable years beginning after December 31, 1959, the term *charitable contribution* includes amounts paid by the taxpayer during the taxable year to maintain certain students as members of his household which, under the provisions of section 170(d) and this paragraph, are treated as amounts paid for the use of an organization described in section 170(c) (2), (3), or (4), and such amounts, to the extent they do not exceed the limitations under section 170(d)(2) and paragraph (f)(2) of this section, are deductible contributions under section 170. In order for such amounts to be so treated, the student must be an individual who is neither a dependent (as defined in section 152) of the taxpayer nor related to the taxpayer in a manner described in any of the paragraphs (1) through (8) of section 152(a), and such individual must be a member of the taxpayer's household pursuant to a written agreement between the taxpayer and an organization described in section 170(c) (2), (3), or (4) to implement a program of the organization to provide educational opportunities for pupils or students placed in private homes by such organization. Furthermore, such amounts must be paid to maintain such individual during the period in the taxable year he is a member of the taxpayer's household and is a full-time pupil or student in the twelfth or any lower grade at an educational institution (as defined in section 151(e)(4)) located in the United States. Amounts paid outside of the period (but within the taxable year) for expenses necessary for the maintenance of the student during the period will qualify for the charitable deduction if the other limitation requirements of the section are met.

(ii) For purposes of paragraph (i) of this section, amounts treated as charitable contributions include only those amounts actually paid by the taxpayer during the taxable year which are directly attributable to the maintenance of the student while he is a member of the taxpayer's household and is attending school on a full-time basis. This would include amounts paid to ensure the well-being of the individual and to carry out the purpose for which the individual was placed in the taxpayer's home. For example, a deduction would be allowed for amounts paid for books, tuition, food, clothing, transportation, medical and dental care, and recreation for the individual. Amounts treated as charitable contributions under this paragraph do not include amounts which the taxpayer would have expended had the student not been in the household. They would not include, for example, amounts paid in connection with the taxpayer's home for taxes, insurance, interest on a mortgage, repairs, etc. Moreover, such amounts do not include any depreciation sustained by the taxpayer in maintaining such student or students in his household, nor do they include the value of any services rendered on behalf of such student or students by the taxpayer or any member of the taxpayer's household.

(iii) For purposes of section 170(d) and this paragraph, an individual will be considered to be a full-time pupil or student at an educational institution only if he is enrolled for a course of study (prescribed for a full-time student) at such institution and is attending classes on a full-time basis. Nevertheless, such individual may be absent from school due to special circumstances and still be considered to be in full-time attendance. Periods during the regular school term when the school is closed for holidays, such as Christmas and Easter, and for periods between semesters are treated as periods during which the pupil or student is in full-time attendance at the school. Also, absences during the regular school term due to illness of such individual shall not prevent him from being considered as a full-time pupil or student. Similarly, absences from the taxpayer's household due to special circumstances will not disqualify the student as a member of the household. Summer vacations between regular

school terms are not considered periods of school attendance.

(iv) As in the case of other charitable deductions, any deduction claimed for amounts described in section 170(d) and this paragraph which are treated as charitable contributions under section 170(c) is subject to verification by the district director. When claiming a deduction for such amounts, the taxpayer should submit a copy of his agreement with the organization sponsoring the individual placed in the taxpayer's household together with a summary of the various items for which amounts were paid to maintain such individual, and a statement as to the date the individual became a member of the household and the period of his attendance at school and the name and location of such school. Substantiation of amounts claimed must be supported by adequate records of the amounts actually paid. Due to the nature of certain items, such as food, a record of amounts spent for all members of the household, with an equal portion thereof allocated to each member, will be acceptable.

(2) *Limitations.* Section 170(d) and this paragraph shall apply to amounts paid during the taxable year only to the extent that the amounts paid in maintaining each pupil or student do not exceed $50 multiplied by the number of full calendar months in the taxable year that the pupil or student is maintained in accordance with the provisions of this paragraph. For purposes of such limitation, if 15 or more days of a calendar month fall within the period to which the maintenance of such pupil or student relates, such month is considered as a full calendar month. To the extent that such amounts qualify as charitable contributions under section 170(c), the aggregate of such amounts plus other contributions made during the taxable year is deductible under section 170, subject to the 20-percent limitation provided in section 170(b)(1)(B). Also, see §1.170–2(a)(1).

(3) *Compensation or reimbursement.* Amounts paid during the taxable year to maintain a pupil or student as a member of the taxpayer's household, as provided in paragraph (f)(1) of this section, shall not be taken into account under section 170(d) of this paragraph, if the taxpayer receives any money or other property as compensation or reimbursement for any portion of such amounts. The taxpayer will not be denied the benefits of section 170(d) if he prepays an extraordinary or nonrecurring expense, such as a hospital bill or vacation trip, at the request of the individual's parents or the sponsoring organization and is reimbursed for such prepayment. The value of services performed by the pupil or student in attending to ordinary chores of the household will not generally be considered to constitute compensation or reimbursement. However, if the pupil or student is taken into the taxpayer's household to replace a former employee of the taxpayer or gratuitously to perform substantial services for the taxpayer, the facts and circumstances may warrant a conclusion that the taxpayer received reimbursement for maintaining the pupil or student.

(4) *No other amount allowed as deduction.* Except to the extent that amounts described in section 170(d) and this paragraph are treated as charitable contributions under section 170(c) and, therefore, deductible under section 170(a), no deduction is allowed for any amount paid to maintain an individual, as a member of the taxpayer's household, in accordance with the provisions of section 170(d) and this paragraph.

(5) *Examples.* Application of the provisions of this paragraph may be illustrated by the following examples:

Example 1. The X organization is an organization described in section 170(c)(2) and is engaged in a program under which a number of European children are placed in the homes of United States residents in order to further the children's high school education. In accordance with the provisions of subparagraph (1) of this paragraph, the taxpayer, A, who reports his income on the calendar year basis, agreed with X to take two of the children, and they were placed in the taxpayer's home on January 2, 1960, where they remained until January 21, 1961, during which time they were fully maintained by the taxpayer. The children enrolled at the local high school for the full course of study prescribed for tenth grade students and attended the school on a full-time basis for the spring semester starting January 18, 1960, and ending June 3, 1960, and for the fall semester starting September 1, 1960, and ending January 13, 1961. The total cost of food

paid by A in 1960 for himself, his wife, and the two children amounted to $1,920, or $40 per month for each member of the household. Since the children were actually full-time students for only 8½ months during 1960, the amount paid for food for each child during that period amounted to $340. Other amounts paid during the 8½ month period for each child for laundry, lights, water, recreation, and school supplies amounted to $160. Thus, the amounts treated under section 170(d) and this paragraph as paid for the use of X would, with respect to each child, total $500 ($340+$160), or a total for both children of $1,000, subject to the limitations of subparagraph (2) of this paragraph. Since, for purposes of such limitations, the children were full-time students for only 8 full calendar months during 1960 (less than 15 days in January 1960), the taxpayer may treat only $800 as a charitable contribution made in 1960, that is, $50 multiplied by the 8 full calendar months, or $400 paid for the maintenance of each child. Neither the excess payments nor amounts paid to maintain the children during the period before school opened and for the period in summer between regular school terms is taken into account by reason of section 170(d). Also, because the children were full-time students for less than 15 days in January 1961 (although maintained in the taxpayer's household for 21 days), amounts paid to maintain the children during 1961 would not qualify as a charitable contribution.

Example 2. A religious organization described in section 170(c)(2) has a program for providing educational opportunities for children it places in private homes. In order to implement the program, the taxpayer, H, who resides with his wife, son, and daughter of high school age in a town in the United States, signs an agreement with the organization to maintain a girl sponsored by the organization as a member of his household while the child attends the local high school for the regular 1960–61 school year. The child is a full-time student at the school during the school year starting September 6, 1960, and ending June 6, 1961, and is a member of the taxpayer's household during that period. Although the taxpayer pays $200 during the school period falling in 1960, and $240 during the school period falling in 1961, to maintain the child, he cannot claim either amount as a charitable contribution because the child's parents, from time to time during the school year, send butter, eggs, meat, and vegetables to H to help defray the expenses of maintaining the child. This is considered property received as reimbursement under subparagraph (3) of this paragraph. Had her parents not contributed the food, the fact that the child, in addition to the normal chores she shared with the taxpayer's daughter, such as cleaning their own rooms and helping with the shopping and cooking, was responsible for the family laundry and for the heavy cleaning of the entire house while the taxpayer's daughter had no comparable responsibilities would also preclude a claim for a charitable deduction. These substantial gratuitous services are considered property received as reimbursement under subparagraph (3) of this paragraph.

Example 3. A taxpayer resides with his wife in a city in the eastern United States. He agrees, in writing, with a fraternal society described in section 170(c)(4) to accept a child selected by the society for maintenance by him as a member of his household during 1961 in order that the child may attend the local grammar school as a part of the society's program to provide elementary education for certain children selected by it. The taxpayer maintains the child, who has as his principal place of abode the home of the taxpayer, and is a member of the taxpayer's household, during the entire year 1961. The child is a full-time student at the local grammar school for 9 full calendar months during the year. Under the agreement, the society pays the taxpayer $30 per month to help maintain the child. Since the $30 per month is considered as compensation or reimbursement to the taxpayer for some portion of the maintenance paid on behalf of the child, no amounts paid with respect to such maintenance can be treated as amounts paid in accordance with section 170(d). In the absence of the $30 per month payments, if the child qualifies as a dependent of the taxpayer under section 152(a)(9), that fact would also prevent the maintenance payments from being treated as charitable contributions paid for the use of the fraternal society.

(g) *Charitable contributions carryover of individuals*—(1) *Computation of excess charitable contributions made in contribution year.* Subject to certain conditions and limitations, the excess of:

(i) The amount of the charitable contributions made by an individual in a taxable year beginning after December 31, 1963 (hereinafter in this paragraph referred to as the ''contribution year''), to organizations specified in section 170(b)(1)(A) (see paragraph (b) of this section), over

(ii) Thirty percent of his adjusted gross income (computed without regard to any net operating loss carryback to such year under section 172) for such contribution year, shall be treated as a charitable contribution paid by him to an organization specified in section 170(b)(1)(A) and paragraph (b) of this section, relating to the additional 10-percent deduction, in each of the 5 taxable years immediately succeeding the

contribution year in order of time. (For provisions requiring a reduction of such excess, see subparagraph (5) of this paragraph.) The provisions of this subparagraph apply even though the taxpayer elects under section 144 to take the standard deduction in the contribution year instead of itemizing the deductions (other than those specified in sections 62 and 151) allowable in computing taxable income for the contribution year. No excess charitable contribution carryover shall be allowed with respect to contributions ''for the use of'' rather than ''to'' organizations described in section 170(b)(1)(A) and paragraph (b) of this section or with respect to contributions made ''to'' or ''for the use of'' organizations which are not described in such sections. The provisions of section 170(b)(5) and this paragraph are not applicable in the case of estates or trusts, see section 642(c), relating to deductions for amounts paid or permanently set aside for a charitable purpose, and the regulations thereunder. The provisions of this subparagraph may be illustrated by the following examples:

Example 1. Assume that H and W (husband and wife) have adjusted gross income for 1964 of $50,000 and for 1965 of $40,000 and file a joint return for each year. Assume further that in 1964 they contribute $16,500 to a church and $1,000 to X (an organization not referred to in section 170(b)(1)(A)) and in 1965 contribute $11,000 to the church and $400 to X. They may claim a charitable contribution deduction of $15,000 in 1964, and the excess of $16,500 (contribution to the church) over $15,000 (30 percent of adjusted gross income) or $1,500 constitutes a charitable contribution carryover which shall be treated as a charitable contribution paid by them to an organization referred to in section 170(b)(1)(A) in each of the 5 succeeding taxable years in order of time. No carryover is allowed with respect to the $1,000 contribution made to X in 1964. Since 30 percent of their adjusted gross income for 1965 ($12,000) exceeds the charitable contributions of $11,000 made by them in 1965 to organizations referred to in section 170(b)(1)(A) (computed without regard to section 170(b)(5) and this paragraph) the portion of the 1964 carryover equal to such excess of $1,000 ($12,000 minus $11,000) is treated, pursuant to the provisions of subparagraph (2) of this paragraph, as paid to a section 170(b)(1)(A) organization in 1965; the remaining $500 constitutes an unused charitable contribution carryover. No carryover is allowed with respect to the $400 contribution made to X in 1965.

Example 2. Assume the same facts as in *Example 1* except that H and W have adjusted gross income for 1965 of $42,000. Since 30 percent of their adjusted gross income for 1965 ($12,600) exceeds by $1,600 the charitable contribution of $11,000 made by them in 1965 to organizations referred to in section 170(b)(1)(A) (computed without regard to section 170(b)(5) and this paragraph), the full amount of the 1964 carryover of $1,500 is treated, pursuant to the provisions of subparagraph (2) of this paragraph, as paid to a section 170(b)(1)(A) organization in 1965. They may also claim a charitable contribution of $100 ($12,600 − $12,500 ($11,000+$1,500)) with respect to the gift to X in 1965. No carryover is allowed with respect to the $300 ($400 − $100) of the contribution to X which is not deductible in 1965.

(2) *Determination of amount treated as paid in taxable years succeeding contribution year.* Notwithstanding the provisions of subparagraph (1) of this paragraph, the amount of the excess computed in accordance with the provisions of subparagraphs (1) and (5) of this paragraph which is to be treated as paid in any one of the 5 taxable years immediately succeeding the contribution year to an organization specified in section 170(b)(1)(A) shall not exceed the lesser of the amount computed under subdivision (i) or (ii) of this subparagraph:

(i) The amount by which (*a*) 30 percent of the taxpayer's adjusted gross income for such succeeding taxable year (computed without regard to any net operating loss carryback to such succeeding taxable year under section 172) exceeds (*b*) the sum of (*1*) the charitable contributions actually made (computed without regard to the provisions of section 170(b)(5) and this paragraph) by the taxpayer in such succeeding taxable year to organizations referred to in section 170(b)(1)(A), and (2) the charitable contributions made to organizations referred to in section 170(b)(1)(A) in taxable years (excluding any taxable year beginning before January 1, 1964) preceding the contribution year which, pursuant to the provisions of section 170(b)(5) and this paragraph, are treated as having been paid to an organization referred to in section 170(b)(1)(A) in such succeeding year.

(ii) In the case of the first taxable year succeeding the contribution year,

the amount of the excess charitable contribution in the contribution year, computed under subparagraphs (1) and (5) of this paragraph. In the case of the second, third, fourth, and fifth succeeding taxable years, the portion of the excess charitable contribution in the contribution year (computed under subparagraphs (1) and (5) of this paragraph) which has not been treated as paid to a section 170(b)(1)(A) organization in a year intervening between the contribution year and such succeeding taxable year.

If a taxpayer, in any one of the four taxable years succeeding a contribution year, elects under section 144 to take the standard deduction in the amount provided for in section 141 instead of itemizing the deductions (other than those specified in sections 62 and 151) allowable in computing taxable income, there shall be treated as paid (but not allowable as a deduction) in the standard deduction year the amount determined under subdivision (i) or (ii) of this subparagraph, whichever is the lesser. The provisions of this subparagraph may be illustrated by the following examples:

Example 1. Assume that B has adjusted gross income for 1966 of $20,000 and for 1967 of $30,000. Assume further that in 1966 B contributed $8,000 to a church and in 1967 he contributes $7,500 to the church. B may claim a charitable contribution deduction of $6,000 in 1966, and the excess of $8,000 (contribution to the church) over $6,000 (30 percent of B's adjusted gross income) or $2,000 constitutes a charitable contribution carryover which shall be treated as a charitable contribution paid by B to an organization referred to in section 170(b)(1)(A) in the 5 taxable years succeeding 1966 in order of time. (B made no excess contributions in 1964 or 1965 which should be treated as paid in years succeeding 1964 or 1965.) B may claim a charitable contribution deduction of $9,000 in 1967. Such $9,000 consists of the $7,500 contribution to the church in 1967 and $1,500 carried over from 1966 and treated as a charitable contribution paid to a section 170(b)(1)(A) organization in 1967. The $1,500 contribution treated as paid in 1967 is computed as follows:

1966 excess contributions		$2,000
30 percent of B's adjusted gross income for 1967		9,000
Less:		
Contributions actually made in 1967 to section 170(b)(1)(A) organizations	$7,500	
Contributions made to section 170(b)(1)(A) organizations in taxable years prior to 1966 treated as having been paid in 1967	0	7,500
		1,500
Amount of 1966 excess treated as paid in 1967—the lesser of $2,000 (1966 excess contributions) or $1,500 (30 percent of adjusted gross income for 1967 ($9,000) over the section 170(b)(1)(A) contributions actually made in 1967 ($7,500) and the section 170(b)(1)(A) contributions made in years prior to 1966 treated as having been paid in 1967 (0))		1,500

If the excess contributions made by B in 1966 had been $1,000 instead of $2,000, then, for purposes of this example, the amount of the 1966 excess treated as paid in 1967 would be $1,000 rather than $1,500.

Example 2. Assume the same facts as in *Example 1,* and, in addition, that B has adjusted gross income for 1968 of $10,000 and for 1969 of $20,000. Assume further with respect to 1968 that B elects under section 144 to take the standard deduction in computing taxable income and that his actual contributions to organizations specified in section 170(b)(1)(A) are $300. Assume further with respect to 1969, that B itemizes his deductions which include a $5,000 contribution to a church. B's deductions for 1968 are not increased by reason of the $500 available as a charitable contribution carryover from 1966 (excess contributions made in 1966 ($2,000) less the amount of such excess treated as paid in 1967 ($1,500)) since B elected to take the standard deduction in 1968. However, for purposes of determining the amount of the excess charitable contributions made in 1966 which is available as a carryover to 1969, B is required to treat such $500 as a charitable contribution paid in 1968—the lesser of $500 or $2,700 (30 percent of adjusted gross income ($3,000) over contributions actually made in 1968 to section 170(b)(1)(A) organizations ($300)). Therefore, even though the $5,000 contribution made by B in 1969 to a church does not amount to 30 percent of B's adjusted gross income for 1969 (30 percent of $20,000=$6,000), B may claim a charitable contribution deduction of only the $5,000 actually paid in 1969 since the entire excess charitable contribution made in 1966 ($2,000) has been treated as paid in 1967 ($1,500) and 1968 ($500).

Example 3. Assume the following factual situation for C who itemizes his deductions in computing taxable income for each of the years set forth in the example:

	1964	1965	1966	1967	1968
Adjusted gross income	$10,000	$7,000	$15,000	$10,000	$9,000
Contributions to section 170(b)(1)(A) organizations (no other contributions)	4,000	3,000	5,000	1,000	1,500
Allowable charitable contributions deductions computed without regard to carryover of contributions	3,000	2,100	4,500	1,000	1,500
Excess contributions for taxable year to be treated as paid in 5 succeeding taxable years	1,000	900	500	0	0

Since C's contributions in 1967 and 1968 to section 170(b)(1)(A) organizations are less than 30 percent of his adjusted gross income for such years, the excess contributions for 1964, 1965, and 1966 are treated as having been paid to section 170(b)(1)(A) organizations in 1967 and 1968 as follows:

1967

Contribution year	*Total excess*	*Less: Amount treated as paid in year prior to 1967*	*Available charitable contribution carryovers*
1964	$1,000	0	$1,000
1965	900	0	900
1966	500	0	500
			2,400
30 percent of B's adjusted gross income for 1967			3,000
Less: Charitable contributions made in 1967 to section 170(b)(1)(A) organizations			1,000
			2,000
Amount of excess contributions treated as paid in 1967—the lesser of $2,400 (available carryovers to 1967) or $2,000 (excess of 30 percent of adjusted gross income ($3,000) over contributions actually made in 1967 to section 170(b)(1)(A) organizations ($1,000))			2,000

1968

Contribution year	*Total excess*	*Less: Amount treated as paid in year prior to 1968*	*Available charitable contribution carryovers*
1964	$1,000	$1,000	0
1965	900	900	0
1966	500	100	$400
1967	0	0	0
			400
30 percent of B's adjusted gross income for 1968			2,700
Less: Charitable contributions made in 1968 to section 170(b)(1)(A) organizations			1,500
			1,200
Amount of excess contributions treated as paid in 1968—the lesser of $400 (available carryovers to 1968) or $1,200 (30 percent of adjusted gross income $2,700) over contributions actually made in 1968 to section 170(b)(1)(A) organizations ($1,500)			400

(3) *Effect of net operating loss carryback to contribution year.* The amount of the excess contribution for a contribution year (computed as provided in subparagraphs (1) and (5) of this paragraph) shall not be increased because a net operating loss carryback is available as a deduction in the contribution year. In addition, in determining (under the provisions of section 172(b)(2)) the amount of the net operating loss for any year subsequent to the contribution year which is a carryback or carryover to taxable years succeeding the contribution year, the amount of contributions made to organizations referred to in section 170(b)(1)(A) shall be limited to the amount of such contributions which did not exceed 30 percent of the donor's adjusted gross income (computed without regard to any net operating loss carryback or any of the modifications referred to in section 172(d)) for the contribution year.

(4) *Effect of net operating loss carryback to taxable years succeeding the contribution year.* The amount of the charitable contribution from a preceding taxable year which is treated as paid (as provided in subparagraph (2) of

this paragraph) in a current taxable year (hereinafter referred to in this subparagraph as the ''deduction year'') shall not be reduced because a net operating loss carryback is available as a deduction in the deduction year. In addition, in determining (under the provisions of section 172(b)(2)) the amount of the net operating loss for any year subsequent to the deduction year which is a carryback or carryover to taxable years succeeding the deduction year, the amount of contributions made to organizations referred to in section 170(b)(1)(A) in the deduction year shall be limited to the amount of such contributions which were actually made in such year and those which were treated as paid in such year which did not exceed 30 percent of the donor's adjusted gross income (computed without regard to any net operating loss carryback or any of the modifications referred to in section 172(d)) for the deduction year.

(5) *Reduction of excess contributions.* An individual having a net operating loss carryover from a prior taxable year which is available as a deduction in a contribution year must apply the special rule of section 170(b)(5)(B) and this subparagraph in computing the excess described in subparagraph (1) of this paragraph for such contribution year. In determining the amount of excess charitable contributions that shall be treated as paid in each of the 5 taxable years succeeding the contribution year, the excess charitable contributions described in such subparagraph (1) must be reduced by the amount by which such excess reduces taxable income (for purposes of determining the portion of a net operating loss which shall be carried to taxable years succeeding the contribution year under the second sentence of section 172(b)(2)) and increases the net operating loss which is carried to a succeeding taxable year. In reducing taxable income under the second sentence of section 172(b)(2), an individual who has made charitable contributions in the contribution year to both organizations specified in section 170(b)(1)(A) (see paragraph (b) of this section) and to organizations not so specified must first deduct contributions made to the section 170(b)(1)(A) organizations from his adjusted gross income computed without regard to his net operating loss deduction before any of the contributions made to organizations not specified in section 170(b)(1)(A) may be deducted from such adjusted gross income. Thus, if the excess of the contributions made in the contribution year to organizations specified in section 170(b)(1)(A) over the amount deductible in such contribution year is utilized to reduce taxable income (under the provisions of section 172 (b)(2)) for such year, thereby serving to increase the amount of the net operating loss carryover to a succeeding year or years, no part of the excess charitable contributions made in such contribution year shall be treated as paid in any of the 5 immediately succeeding taxable years. If only a portion of the excess charitable contributions is so used, the excess charitable contributions will be reduced only to that extent. The provisions of this subparagraph may be illustrated by the following examples:

Example 1. B, an individual, reports his income on the calendar year basis and for the year 1964 has adjusted gross income (computed without regard to any net operating loss deduction) of $50,000. During 1964 he made charitable contributions in the amount of $20,000 all of which were to organizations specified in section 170(b)(1)(A). B has a net operating loss carryover from 1963 of $50,000. In the absence of the net operating loss deduction B would have been allowed a deduction for charitable contributions of $15,000. After the application of the net operating loss deduction, B is allowed no deduction for charitable contributions, and there is (before applying the special rule of section 170(b)(5)(B) and this subparagraph) a tentative excess charitable contribution of $20,000. For purposes of determining the net operating loss which remains to be carried over to 1965, B computes his taxable income for his prior taxable year, 1964, under section 172(b)(2) by deducting the $15,000 charitable contribution. After the $50,000 net operating loss carryover is applied against the $35,000 of taxable income for 1964 (computed in accordance with section 172(b)(2), assuming no deductions other than the charitable contribution deduction are applicable in making such computation), there remains a $15,000 net operating loss carryover to 1965. Since the application of the net operating loss carryover of $50,000 from 1963 reduces the 1964 adjusted gross income (for purposes of determining 1964 tax liability) to zero, no part of the $20,000 of charitable contributions in that year is deductible under section 170(b)(1). However, in determining the

amount of the excess charitable contributions which shall be treated as paid in taxable years 1965, 1966, 1967, 1968, 1969, the $20,000 must be reduced by the portion thereof ($15,000) which was used to reduce taxable income for 1964 (as computed for purposes of the second sentence of section 172(b)(2)) and which thereby served to increase the net operating loss carryover to 1965 from zero to $15,000.

Example 2. Assume the same facts as in *Example 1*, except that B's total contributions of $20,000 made during 1964 consisted of $15,000 to organizations specified in section 170(b)(1)(A) and $5,000 to organizations not so specified. Under these facts there is a tentative excess charitable contribution of $15,000, rather than $20,000 as in *Example 1*. For purposes of determining the net operating loss which remains to be carried over to 1965, B computes his taxable income for his prior taxable year, 1964, under section 172(b)(2) by deducting the $15,000 of charitable contributions made to organizations specified in section 170(b)(1)(A). Since the excess charitable contribution of $15,000 determined in accordance with subparagraph (1) of this paragraph was used to reduce taxable income for 1964 (as computed for purposes of the second sentence of section 172(b)(2)) and thereby served to increase the net operating loss carryover to 1965 from zero to $15,000, no part of such excess charitable contributions made in the contribution year shall be treated as paid in any of the five immediately succeeding taxable years. No carryover is allowed with respect to the $5,000 of charitable contributions made in 1964 to organizations not specified in section 170(b)(1)(A).

(6) *Change in type of return filed*—(i) *From joint return to separate returns.* If a husband and wife—

(*a*) Make a joint return for a contribution year and compute an excess charitable contribution for such year in accordance with the provisions of subparagraphs (1) and (5) of this paragraph, and

(*b*) Make separate returns for one or more of the 5 taxable years immediately succeeding such contribution year, any excess charitable contribution for the contribution year which is unused at the beginning of the first such taxable year for which separate returns are filed shall be allocated between the husband and wife. For purposes of the allocation, a computation shall be made of the amount of any excess charitable contribution which each spouse would have computed in accordance with subparagraphs (1) and (5) of this paragraph if separate returns (rather than a joint return) had been filed for the contribution year. The portion of the total unused excess charitable contribution for the contribution year allocated to each spouse shall be an amount which bears the same ratio to such unused excess charitable contribution as such spouse's excess contribution (based on the separate return computation) bears to the total excess contributions of both spouses (based on the separate return computation). To the extent that a portion of the amount allocated to either spouse in accordance with the foregoing provisions of this subdivision is not treated in accordance with the provisions of subparagraph (2) of this paragraph as a charitable contribution paid to an organization specified in section 170(b)(1)(A) in the taxable year in which a separate return or separate returns are filed, each spouse shall for purposes of subparagraph (2) of this paragraph treat his respective unused portion as the available charitable contributions carryover to the next succeeding taxable year in which the joint excess charitable contribution may be treated as paid in accordance with subparagraph (1) of this paragraph. If such husband and wife make a joint return in one of the five taxable years immediately succeeding the contribution year with respect to which a joint excess charitable contribution is computed and following the first succeeding year in which such husband and wife filed a separate return or separate returns, the amounts allocated to each spouse in accordance with this subdivision for such first year reduced by the portion of such amounts treated as paid to an organization specified in section 170(b)(1)(A) in such first year and in any taxable year intervening between such first year and the succeeding taxable year in which the joint return is filed shall be aggregated for purposes of determining the amount of the available charitable contributions carryover to such succeeding taxable year. The provisions of this subdivision (i) may be illustrated by the following example:

Example. H and W file joint returns for 1964, 1965, and 1966, and in 1967 they file separate returns. In each such year H and W itemize

their deductions in computing taxable income. Assume the following factual situation with respect to H and W for 1964:

1964

	H	W	Joint return
Adjusted gross income	$50,000	$40,000	$90,000
Contributions to section 170(b)(1)(A) organization (no other contributions)	27,000	20,000	47,000
Allowable charitable contribution deductions	15,000	12,000	27,000
Excess contributions for taxable year to be treated as paid in 5 succeeding taxable years	12,000	8,000	20,000

The joint excess charitable contribution of $20,000 is to be treated as having been paid to a section 170(b)(1)(A) organization in the five succeeding taxable years. Assume that in 1965, the portion of such excess treated as paid by H and W is $3,000 and that in 1966, the portion of such excess treated as paid is $7,000. Thus, the unused portion of the excess charitable contribution made in the contribution year is $10,000 ($20,000 less $3,000 (amount treated as paid in 1965) and $7,000 (amount treated as paid in 1966)). Since H and W file separate returns in 1967, $6,000 of such $10,000 is allocable to H and $4,000 is allocable to W. Such allocation is computed as follows:

$12,000 (excess charitable contributions made by H (based on separate return computation) in 1964)/$20,000 (total excess charitable contributions made by H and W (based on separate return computation) in 1964)×$10,000=$6,000

$8,000 (excess charitable contributions made by W (based on separate return computation) in 1964)/$20,000 (total excess charitable contributions made by H and W (based on separate return computation) in 1964)×$10,000=$4,000

In 1967 H has adjusted gross income of $70,000 and he contributes $14,000 to an organization specified in section 170(b)(1)(A). In 1967 W has adjusted gross income of $50,000, and she contributes $10,000 to an organization specified in section 170(b)(1)(A). H may claim a charitable contribution deduction of $20,000 in 1967, and W may claim a charitable contribution deduction of $14,000 in 1967. H's $20,000 deduction consists of the $14,000 contribution to the section 170(b)(1)(A) organization in 1967 and $6,000 carried over from 1964 and treated as a charitable contribution paid to a section 170(b)(1)(A) organization in 1967. W's $14,000 deduction consists of the $10,000 contribution made to a section 170(b)(1)(A) organization in 1967 and $4,000 carried over from 1964 and treated as a charitable contribution paid to a section 170(b)(1)(A) organization in 1967. The $6,000 contribution treated as paid in 1967 by H, and the $4,000 contribution treated as paid in 1967 by W are computed as follows:

	H	W
Available charitable contribution carryover (see computations above)	$6,000	$4,000
30-percent of adjusted gross income	21,000	15,000
Contributions made in 1967 to section 170(b)(1)(A) organization (no other contributions)	14,000	10,000
Amount of allowable deduction unused	7,000	5,000
Amount of excess contributions treated as paid in 1967—the lesser of $6,000 (available carryover of H to 1967) or $7,000 (excess of 30 percent of adjusted gross income ($21,000) over contributions actually made in 1967 to section 170(b)(1)(A) organizations ($14,000))	6,000	
The lesser of $4,000 (available carryover of W to 1967) or $5,000 (excess of 30 percent of adjusted gross income ($15,000) over contributions actually made in 1967 to section 170(b)(1)(A) organizations ($10,000))		4,000

(ii) *From separate returns to joint return and remarried taxpayers.* If in the case of a husband and wife:

(*a*) Either or both of the spouses make a separate return for a contribution year and compute an excess charitable contribution for such year in accordance with the provisions of subparagraphs (1) and (5) of this paragraph, and

(*b*) Such husband and wife make a joint return for one or more of the taxable years immediately succeeding such contribution year, the excess charitable contribution of the husband and wife for the contribution year which is unused at the beginning of the first taxable year for which a joint return is filed shall be aggregated for purposes of determining the portion of such unused charitable contribution which shall be treated in accordance with subparagraph (2) of this paragraph as a charitable contribution paid to an organization specified in section 170(b)(1)(A). The provisions of this subdivision are also applicable in the case of two single individuals who are subsequently married and file a joint return. A remarried taxpayer who filed a joint return with a former spouse in a contribution year with respect to which an

excess charitable contribution was computed and who in any one of the five taxable years immediately succeeding such contribution year files a joint return with his (or her) present spouse shall treat the unused portion of such excess charitable contribution allocated to him (or her) in accordance with subdivision (i) of this subparagraph in the same manner as the unused portion of an excess charitable contribution computed in a contribution year in which he filed a separate return for purposes of determining the amount which in accordance with subparagraph (2) of this paragraph shall be treated as paid to an organization specified in section 170(b)(1)(A) in such succeeding year.

(iii) *Unused excess charitable contribution of deceased spouse.* In case of the death of one spouse, any unused portion of an excess charitable contribution which is allocable (in accordance with subdivision (i) of this subparagraph) to such spouse shall not be treated as paid in the taxable year in which such death occurs or in any subsequent taxable year except on a separate return made for the deceased spouse by a fiduciary for the taxable year which ends with the date of death or on a joint return for the taxable year in which such death occurs. The application of this subdivision may be illustrated by the following example:

Example. Assume the same facts as in the example in subdivision (i) of this subparagraph except that H dies in 1966 and W files a separate return for 1967. W made a joint return for herself and H for 1966. In that example, the unused excess charitable contribution as of January 1, 1967, was $10,000, $6,000 of which was allocable to H and $4,000 to W. No portion of the $6,000 allocable to H may be treated as paid by W or any other person in 1967 or any subsequent year.

(7) *Information required in support of a deduction of an amount treated as paid.* If, in a taxable year, a deduction is claimed in respect of an excess charitable contribution which, in accordance with the provisions of subparagraph (2) of this paragraph, is treated (in whole or in part) as paid in such taxable year, the taxpayer shall attach to his return a statement showing:

(i) The year (or years) in which the excess charitable contributions were made (the contribution year or years),

(ii) The excess charitable contributions made in each contribution year,

(iii) The portion of such excess (or each such excess) treated as paid in accordance with subparagraph (2) of this paragraph in any taxable year intervening between the contribution year and the taxable year for which the return is made, and

(iv) Such other information as the return or the instructions relating thereto may require.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6605, 27 FR 8096, Aug. 15, 1962; T.D. 6639, 28 FR 1762, Feb. 26, 1963; T.D. 6732, 29 FR 6280, May 13, 1964; T.D. 6900, 31 FR 14634, Nov. 17, 1966; T.D. 7207, 37 FR 20768, Oct. 4, 1972; T.D. 7427, 41 FR 34026, Aug. 12, 1976]

§ 1.170–3 Contributions or gifts by corporations (before amendment by Tax Reform Act of 1969).

(a) *In general.* The deduction by a corporation in any taxable year for charitable contributions, as defined in section 170(c), is limited to 5 percent of its taxable income for the year computed without regard to:

(1) The deduction for charitable contributions,

(2) The special deductions for corporations allowed under part VIII (except section 248), subchapter B, chapter 1 of the Code,

(3) Any net operating loss carryback to the taxable year under section 172,

(4) The special deduction for Western Hemisphere trade corporations under section 922, and

(5) Any capital loss carryback to the taxable year under section 1212(a)(1).

A contribution by a corporation to a trust, chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals is deductible only if the contribution is to be used in the United States or its possessions for those purposes. See section 170(c)(2). For the purposes of section 170, amounts excluded from the gross income of a corporation under section 114 (relating to sports programs conducted for the American