

Internal Revenue Service

Department of the Treasury

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4942.03-05

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Refer Reply To:

Date: CC:IT&A:3 TR-31-03735-89

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State X= Connecticut
Y= Monroe Board of Education

Dear Mr. Casey:

This is in response to your ruling request of September 19, 1989, submitted on behalf of Y. You have requested a ruling as to the tax treatment of contributions under various sections of the Internal Revenue Code.

Y, a school board, was created in accordance with the statutes of State X. Y operates the public schools within Y's school district. Y has broad power to carry on any educational activity that in Y's judgment will best serve the interests of the school district. One such activity that Y has undertaken is the operation of two public radio stations.

State X's statutes grant Y the power to "take, by eminent domain, land which has been fixed upon as a site ... of a public school building", to "make ... regulations for the establishing and conducting of schools", and to lay taxes.

In 1973 and 1987 the Federal Communication Commission granted licenses to Y to operate the radio stations as noncommercial public FM radio stations. Y has represented that it owns the station equipment and property and that the operation of the station is carried on by its employees. Contributions may be received in the name of the station call letters, but they are deposited in a special account maintained by Y.

Funding for the operation of the radio stations is provided for solely through contributions from individual taxpayers, private non-profit foundations, and various businesses. While the radio stations do not broadcast advertisements, the stations do solicit contributions during special fundraising events. Contributions are requested to be in the form of a check payable to the stations.

Section 170(a)(1) of the Code provides, subject to certain limitations, a deduction for contributions and gifts to or for the use of organizations described in section 170(c), payment of which is made within the taxable year.

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Section 170(c)(1) of the Code states, in part, that the term "charitable contribution" means a contribution or gift to "any political subdivision ... but only if the contribution or gift is made for exclusively public purposes."

The term political subdivision is not defined in the Code. However, section 1.103-1(b) of the Income Tax Regulations provides that "'political subdivision' denotes any division of any state or local government unit that is a municipal corporation or that has been delegated the right to exercise part of the sovereign power of the unit."

Rev. Rul. 77-164, 1977-1 C.B. 20, 21, provides that for purposes of section 1.103-1(b) of the Regulations, three generally recognized sovereign powers of the state are the power to tax, the power of eminent domain and police power. While it is not necessary that all three of these powers be delegated to qualify as a political subdivision, possession of only an insubstantial amount of any or all of the sovereign powers is not sufficient.

The statutes of state X grant Y the power to "take, by eminent domain, land which has been fixed upon as a site ... of a public school building", to "make ... regulations for the establishing and conducting of schools", and to lay taxes. Y has the power to lay taxes, take land through eminent domain proceedings, and exercise police powers, therefore Y is a political subdivision within the meaning of section 170(c)(1) of the Code.

Section 170(c)(1) also requires that the gift must be made exclusively for public purposes. In Rev. Rul. 66-220, 1966-2 C.B. 209, the Service determined that a nonprofit corporation organized to operate a noncommercial FM radio station that broadcasted music, literary productions, news reports, lectures and discussions on subjects of community interest was exempt from federal income tax, as it was operated exclusively for educational purposes under section 501(c)(3) of the Code. The activities of Y's radio stations are parallel to those in Rev. Rul. 66-220, and therefore educational. The laws of State X authorize Y to conduct educational activities. Contributions to or for the use of Y for the support of the stations, are made for exclusively public purposes, thereby satisfying the requirements of section 170(c)(1) of the Code.

Section 170(b)(1)(A)(v) of the Code provides that a contribution made by an individual "to" a governmental unit referred to in section 170(c)(1) shall be allowed a deduction to the extent that the aggregate of the contribution does not exceed 50 percent of the taxpayers contribution base for the taxable

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year. Section 170(b)(2) of the Code provides that the total deduction afforded a corporation shall not exceed 10 percent of the taxpayer's taxable income computed without regard to certain deductions. Rev. Rul. 79-323, 1979-2 C.B. 106, provides that a contribution is made "to" a governmental entity if it is made directly to the governmental entity. Contributions made by individuals and corporations for the radio stations are made directly to Y. Even though the funds are made payable to the radio station and go into segregated accounts that are dedicated solely to the radio stations, gifts payable to the stations are gifts to Y, as the stations are activities of Y, rather than separate entities. Therefore, contributions made to Y are subject to the percentage limitations set forth in sections 170(b)(1)(A)(v) and 170(b)(2).

Section 4942(g)(1) of the Code provides that a qualifying distribution constitutes any amount paid to accomplish one or more of the purposes described in section 170(c)(2)(B) of the Code, other than any contribution to an organization controlled by the contributing private foundation or one or more disqualified persons with respect to the private foundation or a private foundation which is not an operating foundation.

Based upon the facts presented, the operation of the public radio stations by Y serve an educational purpose as described in section 170(c)(2)(B) of the Code. Therefore a distribution by a private foundation for the operation of the radio stations would constitute a qualifying distribution.


In summary, the radio stations are an activity of Y, therefore, contributions to support the operation of the stations qualify as charitable contributions to Y. Contributions made by individuals and corporations are made "to" Y and qualify for the 50 percent and 10 percent limitations described in sections 170(b)(1)(A) and 170(b)(2) of the Code, respectively. Contributions made to Y by private foundations are qualifying distributions within the meaning of section 4942(g)(1) of the Code.

This letter ruling is directed only to the taxpayer who requests it. Section 6110(j)(3) of the Code provides that this letter ruling may not be cited or used as precedent.

Michael J. Casey
Pullman, Comley, Bradley & Reeves

No opinion is expressed as to the federal tax consequences of the transaction described above under any other provision of the Code.

Sincerely yours,
Assistant Chief Counsel
(Income Tax & Accounting)

By 
Paul L. Kane
Senior Technician Reviewer
Branch 3

Enclosure:
copy for section 6110 purposes



**UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

(FOR CHIEF, AUDIO DIVISION, MEDIA BUREAU)

DATE: 03/20/2009

<input checked="" type="checkbox"/> CONSENT TO ASSIGNMENT: <input type="checkbox"/> CONSENT TO TRANSFER:	FROM: MONROE BOARD OF EDUCATION
	TO: TOWN OF MONROE, CONNECTICUT

Licensee/Permittee:
(for transfer only)

CLASS	CALL SIGN	FACILITY ID	FILE#	STATION LOCATION	AUXILIARY STATIONS
FM	WMNR	43531	BALED-20090305AEN	MONROE, CT	ALL CURRENTLY AUTHORIZED AUXILIARY STATIONS
FM	WGRS	43527	BALED-20090305AEO	GUILFORD, CT	
FM	WGSK	61119	BALED-20090305AEP	SOUTH KENT, CT	
FM	WRXC	43530	BALED-20090305AEQ	SHELTON, CT	
FM	DWBKW	90518	BAPED-20090305AER	BEEKMAN, NY	
FM	DWXRN	176155	BAPED-20090305AES	WARREN, CT	
FX	W218AV	77590	BALFT-20090305AET	WARREN, CT	
FX	W220AC	43526	BALFT-20090305AEU	FAIRFIELD, CT	
FX	W220CE	90254	BALFT-20090305AEV	MIDDLEFIELD, CT	
FX	W220CF	90445	BALFT-20090305AEW	HUNTINGTON, CT	
FX	W220CH	90480	BALFT-20090305AEX	WEST HARTFORD, CT	
FX	W233AG	79107	BALFT-20090305AEY	NEW LONDON, CT	
FX	W233AJ	83375	BALFT-20090305AEZ	OLD SAYBROOK, CT	
FX	W252AS	43528	BALFT-20090305AFA	NEW HAVEN, CT	
FX	W233AI	83374	BALFT-20090305AFB	SAG HARBOR, NY	
FX	W264AJ	78762	BALFT-20090305AFC	SOUTHAMPTON, NY	
FX	W209CJ	90511	BALFT-20090305AFD	MOUNT KISCO, NY	
FX	W262AS	156152	BALFT-20090305AFE	BRIDGEHAMPTON, NY	
FX	W287AZ	156169	BALFT-20090305AFF	SOUTHPORT, CT	
FX	W289AX	156159	BALFT-20090305AFG	EAST HAMPTON, NY	
FX	NEW	123255	BAPFT-20090305AFH	WATERTOWN, CT	
FX	NEW	123256	BAPFT-20090305AFI	WATERTOWN, CT	
FX	W286CL	156042	BAPFT-20090305AFJ	SHELTON, CT	
FX	NEW	156132	BAPFT-20090305AFK	SHELTON, CT	
FX	NEW	156136	BAPFT-20090305AFL	EASTHAMPTON, NY	
FX	NEW	156210	BAPFT-20090305AFM	CORNWALL, CT	
FX	NEW	156165	BAPFT-20090305AFN	EASTHAMPTON, NY	