

Are Charitable Contributions Involving Foreign Charities Deductible?

By Robert Verzi, Partner

We receive many questions regarding whether a U.S. taxpayer can deduct contributions made to an overseas charity.

The charitable deduction is allowed only for a contribution made to or for the use of an organization formed in the United States or one of its possessions. Therefore, a contribution made to a charitable organization created or organized under the laws of a foreign country is not deductible.

However, a deduction for a contribution made to an organization created in a foreign country may be allowed by a tax treaty between the U.S. and the foreign country. For example, the income tax treaties with Israel, Mexico and Germany have such provisions. Moreover, there is no requirement that a U.S. organization use a contribution by an individual within the U.S.--it may use the contribution in a foreign country without affecting the deductibility of the contribution. However, a contribution by a corporation must be used within the U.S. or its possessions in order to be deductible.

Because a contribution to a domestic charity is deductible even if the funds are used for charitable purposes overseas, it is possible to make contributions to a U.S. charity that does, in fact, benefit the foreign charity you wish to support. The catch is that your contribution cannot be "earmarked" for the use of the foreign charity, or it will not be deductible. The IRS sees this as a case where the domestic charity is only nominally the donee and the ultimate recipient is the foreign organization.

A contribution to a domestic charity that makes grants from its general funds to foreign charitable groups is deductible if the grants are made for purposes that the domestic organization has reviewed and approved and that further its own charitable purposes. Similarly, a contribution made to a domestic organization that has solicited the contribution for a specific project of a foreign organization is deductible when the domestic organization has approved the project as furthering its own purposes and controls the use of the contribution. Likewise, a contribution made to a domestic charity is deductible even though the funds are transmitted to its foreign subsidiary if the foreign organization is merely an administrative arm of the domestic organization that controls the subsidiary's operations.

As you can see, it is possible to make a deductible charitable contribution which will have the effect of benefiting the overseas charity you wish to aid. Careful investigation should first be undertaken to make sure that you receive a benefit as well as a legitimate deduction.