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MAY - 6 2011

CC:SB:2:GBO:2:RLEager
TL-28773-10


Christopher T. & Christine C. Landers
25 Legare Street
Charleston, SC 29401

Reference: Christopher T. & Christine C. Landers v. Commissioner
Docket No. 28773-10

Dear Mr. and Mrs. Landers:

Thank you for discussing your Tax Court case with me on April 26, 2011. As we discussed, the documents that you have provided are not sufficient to satisfy the Contemporaneous Written Acknowledgement (CWA) requirement of I.R.C. § 170(f)(8). (Enclosed). Specifically, the letter you provided dated December 4, 2003, does not provide a description of the façade easement that was purportedly contributed as required by I.R.C. § 170(f)(8)(B)(i). In addition, the letter you provided dated July 15, 2010, is not "contemporaneous" as required by I.R.C. § 170(f)(8)(C). In light of these facts, I ask that you please consider conceding this case by executing and returning to my attention the decision documents that were sent to you on April 18, 2011. In the event you decide you want to proceed with this case, our office will file a Motion for Summary Judgment with respect to the CWA issue in the near future. In this motion, we are required to inform the Court whether or not you object to the granting of the motion. Please respond to this letter by **May 20, 2011**, and indicate whether or not you object to the granting of this motion. If you have any questions or concerns, you can reach me at (336) 378-2196.

Sincerely,



Randall L. Eager
Attorney (Greensboro, Group 2)
(Small Business/Self-Employed)

Enclosure
I.R.C. § 170

(A) In general. In the case of a contribution (not made by a transfer in trust) of an interest in property which consists of less than the taxpayer's entire interest in such property, a deduction shall be allowed under this section only to the extent that the value of the interest contributed would be allowable as a deduction under this section if such interest had been transferred in trust. For purposes of this subparagraph, a contribution by a taxpayer of the right to use property shall be treated as a contribution of less than the taxpayer's entire interest in such property.

(B) Exceptions. Subparagraph (A) shall not apply to--

- (i) a contribution of a remainder interest in a personal residence or farm,
- (ii) a contribution of an undivided portion of the taxpayer's entire interest in property, and
- (iii) a qualified conservation contribution.

(4) Valuation of remainder interest in real property. For purposes of this section, in determining the value of a remainder interest in real property, depreciation (computed on the straight line method) and depletion of such property shall be taken into account, and such value shall be discounted at a rate of 6 percent per annum, except that the Secretary may prescribe a different rate.

(5) Reduction for certain interest. If, in connection with any charitable contribution, a liability is assumed by the recipient or by any other person, or if a charitable contribution is of property which is subject to a liability, then, to the extent necessary to avoid the duplication of amounts, the amount taken into account for purposes of this section as the amount of the charitable contribution--

- (A) shall be reduced for interest (i) which has been paid (or is to be paid) by the taxpayer,
- (ii) which is attributable to the liability, and
- (iii) which is attributable to any period after the making of the contribution, and

(B) in the case of a bond, shall be further reduced for interest (i) which has been paid (or is to be paid) by the taxpayer on indebtedness incurred or continued to purchase or carry such bond, and (ii) which is attributable to any period before the making of the contribution.

The reduction pursuant to subparagraph (B) shall not exceed the interest (including interest equivalent) on the bond which is attributable to any period before the making of the contribution and which is not (under the taxpayer's method of accounting) includible in the gross income of the taxpayer for any taxable year. For purposes of this paragraph, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness.

(6) Deductions for out-of-pocket expenditures. No deduction shall be allowed under this section for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) (other than an organization described in section 501(h)(5) [26 USCS § 501(h)(5)]) (relating to churches, etc.) if the expenditure is made for the purpose of influencing legislation (within the meaning of section 501(c)(3) [26 USCS § 501(c)(3)]).

(7) Reforms to comply with paragraph (2).

(A) In general. A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B) [26 USCS § 2055(e)(3)(B)]).

(B) Rules similar to section 2055(e)(3) [26 USCS § 2055(e)(3)] to apply. For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) [26 USCS § 2055(e)(3)] shall apply.

(8) Substantiation requirement for certain contributions.

(A) General rule. No deduction shall be allowed under subsection (a) for any contribution of \$ 250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

(B) Content of acknowledgement. An acknowledgement meets the requirements of this subparagraph if it includes the following information:

- (i) The amount of cash and a description (but not value) of any property other than cash contributed.
- (ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any property described in clause (i).
- (iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term "intangible religious benefit" means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.