TAX ASPECTS OF CHARITABLE GIVING
Professors Manny and Dale
Spring 2013

Assignment for January 22 and 29, 2013

Purchase a copy of the Cases and Materials, Spring 2013, from the Bookstore. You will need a current version of the Internal Revenue Code and the Treasury Regulations issued under the Code.

1. In the Cases and Materials, read items 1 – 7.

2. Read the four articles posted on Blackboard:

   David Fitzpatrick & Drew Griffin, *Charities Accused of Overvaluing Donations*, CNN, July 28, 2012, http://edition.cnn.com/2012/07/27/us/charities-overvalued-donations/index.html.

   Ginia Bellafante, *Bulk of Charitable Giving Not Earmarked for the Poor*, N.Y. TIMES, September 9, 2012, at MB1.

   Robert B. Reich, *Is Harvard a Charity?*, L.A. TIMES, Oct. 2007, at A 13.

   Cornelia Dean, *Wealthy Stake $25 Million in a War With the Sea,* N.Y. TIMES, July 8, 2007.

3. In the Internal Revenue Code of 1986, as amended, read §§ 62(a), 67(a), 67(b)(4), 68, 170(a)(1) and (2), 170(b), 170(c), 170(d), 170(f)(8), 501(c)(3), 509(a), 642(c)(1), 642(c)(6), 702(a)(4), 703(a)(2)(C), 1366(a)(1), 6115, and 6714.

4. In the Treasury Regulations, read §§ 1.61-3(a), 1.170-0, 1.170A-1, 1.170A-8, 1.170A-9 [very lightly — just to become acquainted with its coverage and organization], 1.170A-10 (except 1.170A-10(d)), 1.170A-13, and 1.501(c)(3)-1.

5. Prepare Problem 1 (Introduction), parts A and B.

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Assignment for February 5, 12, and 26, 2013

1. In the materials, read Items 8 – 14.

2. **Review** the Items, Code sections, and Treasury Regulations assigned previously, including your answer to Problem 1, part B.

3. In the Internal Revenue Code of 1986, as amended, read §§ 170(e), 170(f), 170(g), 170(j), 170(l), 170(m), 170(o), 509(a), 1015(a), 1221, 1222(3), 2055(a) and (d), 2522(a), 6050L, 6662 (except subsections (c), (d), and (f)), and 6664(c).

4. In the Treasury Regulations, read Treas. Reg. §§ 1.170A-4, 1.170A-11, and 1.1015-4.

5. Prepare a written outline of your answer to Problem 1 (Introduction), parts C through F, for your own use during class discussions. For the February 5 class, be prepared to discuss Part C of Problem 1.

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Assignments for March 12[1] and 26[2]—Substantiation and Valuation

1. Review the Items, Code sections, and Treasury Regulations assigned previously.

2. In the materials, read and review:

   a. Item 1: Excerpt from John Simon, Harvey Dale & Laura Chisolm, *The Federal Tax Treatment of Charitable Organizations*, previously published by Yale University Press in THE NONPROFIT SECTOR: A RESEARCH HANDBOOK 267.

   b. Item 2: Hernandez v. Commissioner, 490 U.S. 680 (1989).

   c. Item 3: Sklar v. Commissioner, 282 F.3d 610 (9th Cir. 2002).

   d. Item 4: Sklar v. Commissioner, 549 F.3d 1252 (9th Cir. 2008).

   e. Item 9: Rev. Rul. 67-246, 1967-2 C.B. 104.

   f. Item 14: Rev. Proc. 90-12, 1990-1 C.B. 471.

   g. Item 15: Daniel Gomez et ux. v. Commissioner, T.C. Summ. Op. 2008-93 (July 30, 2008).

   h. Item 16: Van Zelst v. Commissioner, 100 F.3d 1259 (7th Cir. 1996).

   i. Item 17: Mohamed vs. Commissioner, 103 T.C.M. (CCH) 1814 (2012).

   j. Item 18: Hewitt v. Commissioner, 82 A.F.T.R. 2d 98-7164 (4th Cir. 1998).

3. In the Internal Revenue Code of 1986, as amended, read §§ 170(a)(1), 170(f), 170(l), 170(m), 507(d)(2), 509, and 4946, 6115, and 6714.

4. In the Treasury Regulations, read Treas. Reg. §§ 1.170A-1, 1.170A-13 [first skim through this lengthy regulation quickly to understand how it is structured; then focus

1 We will spend most of the March 12 class on quid pro quo transfers, but may begin our discussion of substantiation and valuation in the last half hour of class.
2 March 19 is Spring Break—no class.

more carefully on §§ 1.170A-13(c) and 1.170A-13(f)], 20.2031-1(b), 1.6115-1, 53.4946-1(a), 1.170A-9(a), (b), (c)(1), (d), (e)(1) - (4), (6), (7), (8), (9), and 1.509(a)-3(a).

5. Prepare Problem 1, Parts A, D, E, and F, concentrating on substantiation and valuation issues.

<u>**Tax Aspects of Charitable Giving**</u>
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<u>**Assignment for April 2, 23, 30 and May 7**</u>

1. In the Materials, read:
   a. Item 35: Excerpt from III SCOTT ON TRUSTS §§ 232-33.2 (3d ed. 1967).
   b. Item 36 Excerpt from New York Estates, Powers & Trusts Law § 11-A-1.3.
   c. Item 37: Excerpt from New York Estates, Powers & Trusts Law § 11-2.3.
   d. Item 38: Excerpt from New York Estates, Powers & Trusts Law § 11-2.4.
   e. Item 39: Excerpt from Leo L. Schmolka, <u>Income Taxation of Decedents' Estates and Charitable Remainder Trusts</u>, 40 TAX L. REV. 1 (1984).
   f. Item 40: Rev. Proc. 2005-24, 2005-1 C.B. 909
   g. Item 41: Notice 2006-15, 2006-1 C.B. 501.
   h. Item 42: Rev. Rul. 72-395, 1972-2 C.B. 340.
   i. Item 43: Rev. Rul. 80-123, 1980-1 C.B. 205.
   j. Item 44: Rev. Rul. 60-370, 1960-2 C.B. 203.
   k. Item 45: Notice 94-78, 1994-2 C.B. 555.
   l. Item 46: Technical Advice Memorandum 9825001 (October 29, 1997).
   m. Item 48: Notice 2000-37, 2000-2 C.B. 118.
   n. Item 49: Notice 2008-99, 2008-2 C.B. 1194.
   o. Item 56: NY CLS N-PCL § 552 (2010).

2. In the Internal Revenue Code of 1986, as amended, carefully read §§ 170(e)(1); 170(f)(1), (2), and (3); 501(a); 501(c)(3); 508(d)(2); 508(e)(1); 512(a)(1); 512(b)(1) through (5); 643(b); 664; 671; 674; 677(a); 683; 1001(e); 1411; 2036(a)(1); 2055(e)(2) and (3); 2056(a), (b)(1), and (b)(8); 2511(c); 2522(c)(2) and (4); 2523(a), (b)(1), and (g); 4947; and 7520. In addition, read for understanding (but without the need to dominate the details) §§ 170(f)(7) and 2518 on reformations; and, with respect to private foundations, §§ 4941; 4942(a) through (e); 4943; 4944(a) through (c); 4945(a), (b), and (d); and 4946(a) and (b).

3. In the Treasury Regulations, read Treas. Reg. §§ 1.170A-4(c); 1.170A-4(d) example (9); 1.170A-8(a)(2); 1.643(a)-8; 1.643(b)-1; 1.664-1(a) through (e)[3] and -1(f)(4); 1.664-2; 1.664-3; 1.664-4(a) through (d); 1.1014-5; 1.1015-1(b); 20.2031-7; and 20.2036-1. Also read Treas. Reg. §§ 1.7520-1, 1.7520-2, 20.7520-1, 20.7520-2, 25.7520-1, and 25.7520-2. Because the three versions of the 7520–1 and –2 regulations are so similar, you should concentrate on the income tax regulations, but note any material differences among the three versions. Treas. Reg. § 1.643(b)-1 was amended Jan. 2, 2004 by T.D. 9102, 69 Fed. Reg. 12-22 (Jan. 2, 2004).

4. Prepare the Charitable Remainder Trusts Problem. Answer Question 1(a) first, Question 4(a) second, and Question 1(b) third. Then proceed to the rest of the Problem in proper numbered order.

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3 Read the entire T.D. 9190, including the "Background" and "Explanation of Provisions" text for Final Regulations under 1.664-1(d).