

MEMORANDUM OF LAW

DATE: March 16, 1989

TO: Kevin Munnely, Endowment Officer

FROM: City Attorney

SUBJECT: Tax Exempt Status of the City

In your memorandum dated February 27, 1989, you asked this office for an update on a Memorandum of Law written in 1980. In light of recent changes in the tax law, you want to know if charitable donations to the City are still tax deductible to the donor.

Federal law regarding the tax status of gifts to the City has remained unchanged since 1980. The applicable statute is 26 U.S.C.A. section 170, it reads in pertinent part as follows:

Section 170. Charitable, etc., contributions
and gifts

(a) Allowance of deduction.

(1) General rule. There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary.

....

(c) Charitable contribution defined.

For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use

of-(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or

the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

No similar state statute exists due to the addition in 1983 of California Revenue and Taxation Code section 17024.5 which essentially incorporates by reference all federal taxing provisions except those provisions which are specifically excluded. The pertinent part of California Revenue and Taxation Code section 17024.5 reads as follows:

(4) Unless otherwise specifically provided, the following shall apply:

(A) Any provision of the Internal Revenue Code which becomes operative on or after the specified date shall also become operative on the same date for purposes of this part.

(B) Any provision of the Internal Revenue Code which becomes inoperative on or after the specified date, shall also become inoperative on the same date for purposes of this part.

California Revenue and Taxation Code section 19270 explains the process to be used when changes in the federal tax law necessitates similar changes in California tax law. A copy of each statute is attached for your reference.

Based upon these two statutes, charitable contributions to the City are still tax deductible at both the State and Federal level.

JOHN W. WITT, City Attorney

By

Sharon A. Marshall

Deputy City Attorney

SAM:mrh:143(x043.2)

Attachment

ML-89-28