

October 8, 1997

Bill Wyatt
Chief of Staff
Office of the Governor
State Capitol
Salem, OR 97310-0370

Re: Opinion Request OP-1997-5

Dear Mr. Wyatt:

You ask whether contributions to the Executive Residence Account are deductible for purposes of federal and Oregon income tax. The answer is yes.

Discussion

1. Introduction

The Capitol Planning Commission, a permanent agency of the State of Oregon, is granted jurisdiction over the development of certain state buildings and grounds. ORS 276.028, ORS 276.030 and ORS 276.034. ORS 276.102 authorizes the Capitol Planning Commission, on behalf of the State of Oregon, to accept contributions "for the purpose of the acquisition, construction, remodeling, decoration, landscaping, furnishing, equipping and maintenance of a state executive residence." ORS 276.102 requires that all such contributions of funds be deposited in the Executive Residence Account, to be used "only for the purposes for which the moneys were given."

The Capitol Planning Commission formally adopted the Governor's Residence Policy on May 2, 1989. The policy includes the following background information concerning the Governor's Residence:

The Governor's Residence, acquired in 1987, was purchased through the generosity of many Oregon individuals and businesses as a home befitting the position of the Governor, the Governor's family, and as a state asset to facilitate state business carried out more effectively in a residential environment.

Although acquired and furnished by private donations, it is now owned by the State of Oregon. The Department of General Services is responsible for its maintenance and upkeep. Security is supplied by Oregon State Police. As a state property within Marion County, it falls under the jurisdiction of the Capitol Planning Commission.

2. Tax Deductions for Contributions to a State

The Internal Revenue Code provides that contributions or gifts are deductible as charitable contributions in determining federal taxable income if they are made to or for the use of:

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*.

26 USC § 170(c)(1) (emphasis added).

Thus, contributions to a state are deductible if made for "exclusively public purposes." The term "public

purposes" is broadly defined. For example, a charitable contribution deduction was allowed for contributions made to an industrial commission established by a state legislature to study the problems of industrial life in a particular geographic area.

The commission, by promoting the general economic health of a region and by maintaining and attracting industry, benefits the residents of the region either directly by increased payments by industries for services and materials or indirectly through the general influx of money into the area. Therefore, the commission serves an exclusively public purpose.

Rev. Rul. 79-323, 1979-2 CB 106.

In Rev. Rul. 57-511, 1957-2 CB 158, the Internal Revenue Service concluded that a gift to a state of property to be used as a Governor's Mansion is considered to be a gift for an exclusively public purposes, and thus qualifies for the charitable contribution deduction. It is reasonable to conclude that the Governor's Residence can continue to serve its public purpose only if it is properly maintained. Thus, we conclude that contributions to the Executive Residence Account, used for the "acquisition, construction, remodeling, decoration, landscaping, furnishing, equipping and maintenance" of the Governor's Residence, qualify for the charitable contribution deduction for purposes of federal income tax.

Oregon has generally adopted the provisions of the Internal Revenue Code that relate to the determination of taxable income. *See* ORS 316.048 and 317.013. Because Oregon tax law adopts 26 USC § 170(c)(1), contributions to the Executive Residence Account qualify as charitable contribution deductions for purposes of Oregon income taxation.

This opinion provides legal advice only to the Office of the Governor, and may be relied upon only by the Office of the Governor and the Capitol Planning Commission. It is not intended as, and should not be considered, advice to anyone other than state officers acting in their official capacity. All other persons should consult with their own tax advisors regarding the deductibility of contributions to the Executive Residence Account.

Sincerely,

Donald C. Arnold
Chief Counsel
General Counsel Division

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