

No Charitable Contribution Deductions For Education

DECEMBER 23, 2008

BE IN A POSITION OF STRENGTH

The Ninth Circuit, affirming the Tax Court, has held that a husband and wife couldn't claim a charitable contribution for tuition and fees paid to the childrens' Orthodox Jewish Day Schools or for separate payments made for their childrens' after-school religious education classes.

Facts. On their '95 tax return, the Sklars claimed \$15,000 in deductions for purported charitable contributions that comprised a portion of their five children's tuition at Orthodox Jewish Day Schools. The deduction was based on their estimate that 55% of the tuition payments were for purely religious education, an estimate supported by letters submitted in '97 that were drafted by the schools at the Sklars' request.

IRS disallowed the \$15,000 deduction. It also determined the Sklars failed to meet the substantiation requirements of Code Sec. 170(f)(8) with respect to the disallowed \$15,000 of claimed charitable contributions. The Sklars petitioned the Tax Court for a redetermination of deficiency, asserting that (1) the tuition and fee payments to exclusively religious schools were deductible under a dual payment analysis to the extent the payments exceeded the value of the secular education their children received; (2) Code Sec. 170(f)(8), as enacted in '93, authorized the deduction of tuition payments for religious education made to exclusively religious schools; and (3) that the '93 Closing Agreement between the Commissioner and the Church of Scientology constitutionally and administratively requires IRS to allow other taxpayers to take the same charitable deductions for tuition payments to their religious schools.

The Tax Court rejected the Sklars' arguments, holding that the tuition and fee payments to the Jewish Day Schools were not deductible under any of their theories.

Sklar, (CA 9 12/12/2008) 102 AFTR 2d ¶ 2008 5639

If you have any questions, please contact the WS+B tax department.

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**NO DEDUCTION FOR
TUITION AND FEES PAID TO
CHILDRENS' RELIGIOUS
DAY SCHOOLS OR
PAYMENTS FOR AFTER-
SCHOOL RELIGIOUS
EDUCATION**

Questions or comments?

E-mail us at taxbriefs@withum.com



WithumSmith+Brown, PC
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New Jersey, New York, Pennsylvania, Maryland, Florida, Colorado