Internal Revenue Service

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Person To Contact:
, ID No.

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Refer Reply To:
CC:ITA:B01
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Date:
January 21, 2016

Attn:

EIN:

LEGEND

Taxpayer	=
PAC	=
Amount1	=
Amount2	=
Date1	=
Dates	=

Dear :

This letter responds to the Date1 letter submitted by Taxpayer requesting a ruling that contributions made by Taxpayer pursuant to a political action committee charity match program are deductible under section 162 of the Internal Revenue Code (Code) as ordinary and necessary business expenses. The Date1 letter was supplemented by additional letters dated Dates.

FACTS

Taxpayer, a corporation, is prohibited by the Federal Election Campaign Act (FECA) from contributing to federal election campaigns. 52 U.S.C. § 30118(a); 11 CFR § 114.2(b). Consistent with the FECA, Taxpayer established PAC, which is funded by employees of Taxpayer and its subsidiaries. PAC is a political organization exempt from taxation under section 527 of the Code. PAC's purpose, as stated in its charter, is to "disburse funds to candidates" for public office. The candidates are chosen by PAC's

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To incentivize employee contributions of at least Amount1 but not more than Amount2 to PAC, Taxpayer matches each of these contributions with a contribution in the name of the employee to one or more charities selected by the employee. Taxpayer requests a ruling that it may deduct its matching contributions as ordinary and necessary business expenses under section 162 of the Code.

LAW AND APPLICATION

Section 162 of the Code allows a taxpayer to deduct all of the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. "Ordinary" has been defined to mean "frequent" or "common" in the context of the particular business. See Welch v. Helvering, 290 U.S. 111 (1933). "Necessary" has been defined to mean "appropriate and helpful." Id.

Regardless of whether such expenses are "ordinary" and "necessary," deductions for expenses made to political campaigns have long been prohibited. See, e.g., § 162(e)(2) (1962) (prohibiting deductions for expenses "for participation in, or intervention in, any political campaign on behalf of any candidate for public office"). Congress expanded this prohibition to disallow a deduction of amounts paid or incurred *in connection with* a political campaign. See § 162(e)(1)(B), as amended by the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, § 13222(a).

Under current section 162(e)(1)(B), amounts paid or incurred in connection with participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office are not deductible under section 162. Treasury Regulation section 1.162-20(c) further states that, while certain types of expenses with respect to legislative matters may be deductible, other expenditures, including those "for political campaign purposes," are not deductible from gross income. Treas. Reg. § 1.162-20(c).

Courts generally have read the phrase "in connection with" as it appears in the Code broadly. See, e.g., Snow v. Commissioner, 416 U.S. 500 (1974) ("In connection with" under section 174); Conopco v. United States, 572 F.3d 162 (3d Cir. 2009) ("In connection with" under section 162(k)(1)); General Mills v. United States, 554 F.3d 727 (8th Cir. 2009) ("In connection with" under section 162(k)(1)); but see, Boise Cascade v. United States, 329 F.3d 751 (9th Cir. 2003) (stating that the phrase "in connection with" should be read narrowly; requiring one action to be a prerequisite of the other).

Here, the contributions to PAC and Taxpayer's matching contributions are inextricably linked. The contributions to PAC are a prerequisite for Taxpayer's matching contributions. Moreover, Taxpayer's matching contributions are intended to incentivize contributions of Amount1 or more to PAC. Applying section 162(e)(1)(B), the regulations, and case law, we conclude that Taxpayer's matching contributions are "in

connection with" a political campaign on behalf of a candidate for public office, and are not deductible under section 162.

This ruling is directed only to Taxpayer. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

This ruling is based upon information submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the ruling request, and the material is subject to verification on examination.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

John P. Moriarty
Acting Associate Chief Counsel
(Income Tax and Accounting)

By: Karin G. Gross
Senior Technical Reviewer, Branch 1
(Income Tax & Accounting)

cc: