

Exhibit 2: Sample excerpts from recent projects****Indecent Proposal: Excerpt on charitable contribution****By Sadie DeRouen, Sara Girouard, and Michael Smith*

In order for the taxpayer to include the deduction for the charitable contribution, several requirements must be met.

- The itemized deduction of a charitable contribution is allowable under Sec. 170(a)(1). In the movie, the payment was described as a contribution for the preservation of endangered species. Under Sec. 170(b)(1)(E)(i), the deduction of a qualified conservation contribution is allowed. According to Sec. 170(h)(1)(C), the term “qualified conservation contribution” is a contribution exclusively for conservation purposes. The itemized deduction for such a contribution is limited to 50% of the taxpayer’s contribution base under Sec. 170(b)(1)(E)(i). “Contribution base” is defined as adjusted gross income computed ignoring any net operating loss carryback to the tax year under Regs. Sec. 1.170A-8(e).
- Any amount that is not deducted in the year of contribution due to limitation is allowed to be carried over the next 15 years under Sec. 170(b)(1)(E)(ii).
- In order for the taxpayer to deduct a contribution greater than \$250, it must meet the requirements under Sec. 170(f)(8). In general, the taxpayer must have written acknowledgment of the contribution by the donor organization.

Baby Boom: Adoption expenses*By Kasey Castille and Jared Doucet*

J.C. adopts Elizabeth after she decides that the couple the adoption agency had chosen was not right for Elizabeth.

- Adoption expenses are an allowable credit according to Sec. 23. Under Sec. 23(a), a credit is allowed for the year before, after, or during which the adoption becomes final. According to Sec. 23(b)(1), the amount of the credit shall not exceed \$5,000 (or \$6,000 in the case of a child with special needs).
- The Taxpayer Refund and Relief Act of 1999 would have allowed an increase in the maximum credit for adoptions with special needs individuals from \$6,000 to \$10,000. The \$10,000 would have been all inclusive. Unfortunately that act was vetoed, allowing no increased credits.
- Under Sec. 23(d)(1), the expenses that are considered qualified would be adoption fees, court costs, attorney fees, traveling expenses, and other reasonable expenses. In order to take the adoption expense credit, the taxpayer must adopt an eligible child. According to Sec. 23(d)(2), an eligible child is one who is under 18 years old or is physically or mentally incapable of caring for himself or herself. Because Elizabeth was only a baby, she would qualify as an eligible child.
- J.C.’s credit would be phased out if her AGI exceeded \$75,000 and would be completely phased out at \$115,000, according to Sec. 23(b)(2). However, Sec. 23(b)(3)(c) provides that any unused adoption expense credit can be carried over for up to five years.
- The adoption credit is first filled out on Form 8839, Qualified Adoption Expenses, and then flows to page 2 of Form 1040, line 45.

Baby Boom: Is the farm a trade or a business?*By Megan Burleigh, Debbie Byrom, and William George*

- Although how expenses are deductible is dependent on whether a taxpayer is conducting a trade or business or engaging in a hobby, no definition of “trade or business” exists in the Code or the regulations.
- A taxpayer must be involved in the activity with the primary purpose of making a profit. Regs. Sec. 1.183-2(b) lists nine relevant factors as a guideline in determining whether an activity is engaged in for profit. J.C.’s activity follows most of the nine factors, including (1) carries on the activity in a businesslike manner, (2) expertise based on her research of the activity, (3) time and effort expended in carrying on the activity, and (4) the financial status of the taxpayer (J.C. had no other income except for that produced by Country Baby).

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This exhibit accompanies Cook and Hazelwood, “Reel Life in the Tax Classroom: Learning Through Movies,” Campus to Clients (February 2010), p. 144.