

## Organization Treated as a Donee

### Notice 2008-16

#### SECTION 1. PURPOSE

This notice provides rules under § 170(f)(17) of the Internal Revenue Code (Code) for substantiating lump-sum charitable contributions made through the Combined Federal Campaign (CFC) or a similar program (e.g., a United Way Campaign).

Taxpayers claiming charitable contribution deductions for cash, check, or other monetary gifts made in taxable years beginning after August 17, 2006, are subject to the recordkeeping requirements of § 170(f)(17), as added by section 1217 of the Pension Protection Act of 2006, P.L. 109-280, 120 Stat. 780 (2006) (PPA). To substantiate a deduction, § 170(f)(17) requires a taxpayer to maintain a bank record or a written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.

The Internal Revenue Service and the Treasury Department expect to issue regulations under § 170 incorporating the recordkeeping requirements of § 170(f)(17). Taxpayers making lump-sum charitable contributions through the CFC or a similar program may rely on this notice to comply with § 170(f)(17) until those regulations are effective.

#### SECTION 2. BACKGROUND

Section 170 generally allows a deduction, subject to certain limitations, for any charitable contribution (as defined in § 170(c)) payment of which is made during the taxable year. For any contribution of \$250 or more, § 170(f)(8) provides that no deduction is allowed unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization. The contemporaneous written acknowledgment must contain the following information: the amount of cash and a description of any property other than cash contributed; a statement whether the donee organization provided any goods or services in consideration for the contribution; and a description and good faith

estimate of the value of any goods or services provided in consideration for the contribution, or, if the goods or services consist solely of intangible religious benefits, a statement to that effect.

Section 1.170A-13(f)(12) of the Income Tax Regulations provides, in relevant part, that an organization described in § 170(c), or an organization described in 5 CFR 950.105 (a Principal Combined Fund Organization (PCFO) for purposes of the CFC) and acting in that capacity, that receives a payment made as a contribution is treated as a donee organization solely for purposes of § 170(f)(8), even if the organization (pursuant to the donor's instructions or otherwise) distributes the amount received to one or more organizations described in § 170(c).

Section 1217 of the PPA adds § 170(f)(17), effective for contributions made in taxable years beginning after August 17, 2006. Section 170(f)(17) provides that no deduction is allowed under § 170(a) for any contribution of a cash, check, or other monetary gift, unless the taxpayer maintains as a record of the contribution a bank record or a written communication from the donee showing the name of the donee organization and the date and the amount of the contribution. Unlike § 170(f)(8), which applies only to contributions of \$250 or more, § 170(f)(17) applies to all contributions of a cash, check, or other monetary gift, regardless of amount. Notice 2006-110, 2006-51 I.R.B. 1127, provides rules under § 170(f)(17) for substantiating charitable contributions made by payroll deduction.

Any contribution of \$250 or more made by cash, check, or other monetary gift is subject to §§ 170(f)(8) and (f)(17). No deduction for a lump-sum contribution of \$250 or more is allowed unless the taxpayer satisfies the substantiation requirements of each section. However, both §§ 170(f)(8) and (f)(17) may be satisfied by a single document if the document contains all information required by both sections within the time period as may be required.

#### SECTION 3. APPLICATION OF § 170(f)(17) TO LUMP-SUM CONTRIBUTIONS MADE THROUGH THE CFC OR A SIMILAR PROGRAM

A deduction for a lump-sum contribution made in taxable years beginning after August 17, 2006, will not be allowed unless the recordkeeping requirements of § 170(f)(17) are met. In the case of a lump-sum contribution made through the CFC or a similar program, an organization described in § 170(c), or an organization described in 5 CFR 950.105 (a PCFO for purposes of the CFC) and acting in that capacity, that receives a payment made as a contribution may be treated as a donee described in § 170(c) for purposes of § 170(f)(17) (and not solely for purposes of § 170(f)(8)) even if the organization (pursuant to the donor's instructions or otherwise) distributes the amount received to one or more organizations described in § 170(c). For purposes of § 170(f)(17), a written communication from the PCFO for purposes of the CFC (and acting in that capacity) or a similar organization, must include the name of the donee organization that is the ultimate recipient of the charitable contribution (i.e., the one or more organizations described in § 170(c) to which the PCFO for purposes of the CFC (or the similar organization) distributes the amount received).

The Internal Revenue Service and the Treasury Department expect to issue regulations under § 170 that will incorporate the recordkeeping requirements of § 170(f)(17). In light of the purpose of section 1217 of the PPA, the nexus between the PCFOs (or similar organizations) and actual donees will be reviewed. The anticipated regulations may require disclosure to each donor of the actual amount distributed to the ultimate recipient organizations through the CFC or the similar program and the date of that distribution. Taxpayers may rely on this notice to substantiate lump-sum contributions made through the CFC or a similar program in taxable years beginning after August 17, 2006, until those regulations are effective.

**SECTION 4. PAPERWORK REDUCTION ACT**

The collections of information referenced in this notice have been previously reviewed and approved by the Office of Management and Budget (OMB) as part of the promulgation of § 1.170A-13 in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-0754. This notice merely clarifies the substantiation required for a contribution of a cash, check, or other monetary gift subject to § 170(f)(17).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by § 6103.

**SECTION 5. DRAFTING INFORMATION**

The principal author of this notice is Nancy J. Lee of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding

this notice, contact Nancy J. Lee at (202) 622-5020 (not a toll-free call).

**Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates**

**Notice 2008-17**

This notice provides guidance as to the corporate bond weighted average interest rate and the permissible range of interest rates specified under § 412(b)(5)(B)(ii)(II) of the Internal Revenue Code. It also provides guidance on the corporate bond monthly yield curve (and the corresponding spot segment rates), the 24-month average segment rates, and the funding transitional segment rates under § 430(h)(2). In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008, and the minimum present value segment rates under § 417(e)(3)(D) as in effect for plan years beginning after 2007.

**CORPORATE BOND WEIGHTED AVERAGE INTEREST RATE**

Sections 412(b)(5)(B)(ii) and 412(l)(7)(C)(i), as amended by the Pension Funding Equity Act of 2004 and by the Pension Protection Act of 2006 (PPA),

provide that the interest rates used to calculate current liability and to determine the required contribution under § 412(l) for plan years beginning in 2004 through 2007 must be within a permissible range based on the weighted average of the rates of interest on amounts invested conservatively in long term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year.

Notice 2004-34, 2004-1 C.B. 848, provides guidelines for determining the corporate bond weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability. That notice establishes that the corporate bond weighted average is based on the monthly composite corporate bond rate derived from designated corporate bond indices. The methodology for determining the monthly composite corporate bond rate as set forth in Notice 2004-34 continues to apply in determining that rate. See Notice 2006-75, 2006-42 I.R.B. 366.

The composite corporate bond rate for December 2007 is 6.28 percent. Pursuant to Notice 2004-34, the Service has determined this rate as the average of the monthly yields for the included corporate bond indices for that month.

The following corporate bond weighted average interest rate was determined for plan years beginning in the month shown below.

| For Plan Years Beginning in |      | Corporate Bond Weighted Average | Permissible Range |    |      |
|-----------------------------|------|---------------------------------|-------------------|----|------|
| Month                       | Year |                                 | 90%               | to | 100% |
| January                     | 2008 | 5.92                            | 5.33              |    | 5.92 |

**YIELD CURVE AND SEGMENT RATES**

Generally for plan years beginning after 2007 (except for delayed effective dates for certain plans under sections 104, 105, and 106 of PPA), § 430 of the Code specifies the minimum funding requirements that apply to single employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates

("segment rates"), each of which applies to cash flows during specified periods. However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates. For plan years beginning in 2008 and 2009, a transitional rule under § 430(h)(2)(G) provides that the segment rates are blended with the corporate bond weighted average as specified above. An election may be made under § 430(h)(2)(G)(iv) to use the segment rates without applying the transitional rule.

Notice 2007-81, 2007-44 I.R.B. 899, provides guidelines for determining the

monthly corporate bond yield curve, the 24-month average corporate bond segment rates, and the funding transitional segment rates used to compute the target normal cost and the funding target. Pursuant to Notice 2007-81, the monthly corporate bond yield curve derived from December 2007 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of December 2007 are, respectively, 4.93, 6.13 and 6.69. The three 24-month average corporate bond segment rates applicable for January 2008 under the election of § 430(h)(2)(G)(iv) are as follows: