

Part III - Administrative, Procedural, and Miscellaneous

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).