

Section 7. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–2050. 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.

The requirements to collect information are in Sections 3 and 5 of this notice. Collecting the required information provides private foundations and sponsoring organizations of donor advised funds with relief from excise taxes imposed by sections 4942, 4945 and 4966 of the Code.

The estimated total annual reporting and/or recordkeeping burden is 612,294 hours.

The estimated annual burden per respondent/recordkeeper varies from 7 hours, 53 minutes to 9 hours, 48 minutes, depending on individual circumstances, with an estimated average of 8½ hours. The estimated total number of respondents and/or recordkeepers is 65,000.

The estimated frequency of collection of such information is occasional.

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 tax return information are confidential, as required by 26 U.S.C. section 6103.

Section 8. DRAFTING INFORMATION

The principal authors of this notice are Mary Jo Salins and Robert Fontenrose of the Exempt Organizations, Tax Exempt and Government Entities Division. For further information regarding this notice, contact Ms. Salins at (202) 283–9453, or Mr. Fontenrose at (202) 283–9484 (not a toll-free call).

Recordkeeping Requirements for Charitable Contributions Made by Payroll Deduction

Notice 2006–110

SECTION 1. PURPOSE

This notice provides guidance on how charitable contributions made by payroll deduction may meet the requirements of § 170(f)(17) of the Internal Revenue Code.

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 new 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. For a charitable contribution made by payroll deduction, a pay stub, Form W–2, or other employer-furnished document that sets forth the amount withheld for payment to a donee organization, along with a pledge card prepared by or at the direction of the donee organization, will be deemed to be a “written communication from the donee organization” that satisfies the requirements of § 170(f)(17).

The Internal Revenue Service and the Treasury Department expect to issue regulations under § 170 incorporating the recordkeeping requirements of § 170(f)(17). Taxpayers making charitable contributions by payroll deduction may rely on this notice to comply with the new requirements 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 organ-

ization. The contemporaneous written acknowledgment must contain 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)(11)(i) of the Income Tax Regulations provides that a contribution made by means of withholding from a taxpayer’s wages and payment by the taxpayer’s employer to a donee organization (*i.e.*, a contribution made by payroll deduction) may be substantiated, for purposes of § 170(f)(8), by both: (1) a pay stub, Form W–2, or other document furnished by the employer that sets forth the amount withheld by the employer for the purpose of payment to a donee organization; and (2) a pledge card or other document prepared by or at the direction of the donee organization that includes a statement to the effect that the organization does not provide goods or services in whole or partial consideration for any contribution made to the organization by payroll deduction. Section 1.170A–13(f)(11)(ii) provides that the contribution amount withheld from each payment of wages to a taxpayer is treated as a separate contribution for purposes of applying the \$250 threshold in § 170(f)(8) to charitable contributions made by payroll deduction.

Section 1.170A–13(f)(12) 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 for purposes of the Combined Federal Campaign) 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 only applies to contributions of \$250 or more, § 170(f)(17) applies to any contribution of a cash, check, or other monetary gift.

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 contribution of \$250 or more made by payroll deduction is allowed unless the taxpayer satisfies the substantiation requirements of each section.

SECTION 3. APPLICATION OF § 170(f)(17) TO CONTRIBUTIONS MADE BY PAYROLL DEDUCTION

A deduction for a contribution made by payroll deduction 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 contribution made by payroll deduction, a “written communication from the donee organization” within the meaning of § 170(f)(17) will be deemed to include (1) a pay stub, Form W-2, or other document furnished by the employer that sets forth the amount withheld during a taxable year by the employer for the purpose of payment to a donee organization, to-

gether with (2) a pledge card or other document prepared by or at the direction of the donee organization that shows the name of the donee organization. An organization described in § 170(c), or an organization described in 5 CFR 950.105 (a Principal Combined Fund Organization for purposes of the Combined Federal Campaign) and acting in that capacity, that receives a payment made as a contribution will be treated as a donee organization for purposes of § 170(f)(17).

To substantiate a contribution of \$250 or more made by payroll deduction, the pledge card or other document prepared by the donee organization also must include a statement to the effect that the organization does not provide goods or services in whole or partial consideration for any contributions made to the organization by payroll deduction.

The Service and the Treasury Department expect to issue revised regulations under § 170 that will incorporate the recordkeeping requirements of § 170(f)(17). Taxpayers may rely on this notice to substantiate contributions made by payroll deduction 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 Section 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 authors of this notice are Nancy J. Lee and Patricia M. Zweibel 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).