

TaxNewsFlash

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Final regulations: Substantiation, reporting requirements for cash, non-cash charitable contribution deductions

The U.S. Treasury Department and IRS today released for publication in the Federal Register final regulations (T.D. 9836) concerning the substantiation and reporting requirements for cash and non-cash charitable contribution deductions.

Today's release finalizes regulations that were proposed in 2008, with certain changes. The final regulations provide:

- Substantiation requirements for noncash contributions of more than \$500 under section 170(f)(11)(B) through (D) (added to the Code by legislation enacted in 2004)
- Definitions of "qualified appraisal" and "qualified appraiser" for noncash contributions under section 170(f)(11)(E) (added to the Code by legislation enacted in 2006)
- Substantiation requirements for contributions of clothing and household items under section 170(f)(16) (also added in 2006)
- Recordkeeping requirements for all cash contributions under section 170(f)(17) (also added in 2006)

Read the 50-page [final regulations](#) [PDF 272 KB]

Background

The *American Jobs Creation Act of 2004* (Jobs Act) and the *Pension Protection Act of 2006* (PPA) made numerous changes to the substantiation requirements of charitable contribution deductions.

[Notice 2006-109](#) [PDF 46 KB] provided transitional guidance on the definitions of “qualified appraiser” and “qualified appraisal” as added by the PPA. [Notice 2006-110](#) [PDF 15 KB] provided transitional guidance for substantiating charitable contributions made by payroll deduction. Notice 2008-16 provided rules for substantiating a one-time, lump sum charitable contribution of a monetary gift made through the Combined Federal Campaign or a similar program. Taxpayers could rely on each of these Notices until the effective date of final regulations.

Final regulations

Generally effective for contributions made after July 30, 2018 (the date published in the Federal Register), the final regulations contain a number of new substantiation requirements.

- Treas. Reg. § 1.170A-15 pertains to substantiation requirements for charitable contribution of cash, check, or other monetary gift.
- Treas. Reg. § 1.170A-16 applies to the substantiation and reporting requirements for noncash charitable contributions.
- Treas. Reg. § 1.170A-17 defines qualified appraisals and qualified appraisers.
- Treas. Reg. § 1.170A-18 pertains to contributions of clothing and household items.

Selected provisions

As added by the PPA, section 170(f)(17) requires a donor to maintain as a record of any cash, check, or monetary gift either (1) a bank record, or (2) a written communication from the donee. The record must show the name of the donee organization, the date of the contribution, and the amount of the contribution. The final regulations clarify that a blank pledge card provided by the donee organization and completed by the donor does not constitute sufficient substantiation for a cash, check, or monetary gift.

The Jobs Act added section 170(f)(11), imposing additional recordkeeping requirements for contributions of property of more than \$500: (1) a Form 8283, and (2) a qualified appraisal for contributions in excess of \$5,000 (that must be attached to the tax return for contributions over \$500,000). The regulations require the appraisal to be attached to the returns for the carryover years if it is required to be attached to the return for the contribution year. The final regulations also clarify that an appraiser must include a taxpayer identification number on the appraisal by either including a social security number or an employer identification number.

To provide appraisers with a reasonable amount of time to meet the new education and experience requirements, the final regulations for these provisions apply to contributions made on or after January 1, 2019.

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