

Charities would be permitted to issue information returns to donors

By Sally P. Schreiber, J.D.

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Charities will be allowed to file information returns instead of providing contemporaneous written acknowledgment of charitable donations under proposed regulations issued by the IRS on Wednesday that implement a statutory exception that donors until now had been unable to use ([REG-138344-13](#) (<https://s3.amazonaws.com/public-inspection.federalregister.gov/2015-23291.pdf>)). Under the new rules, charities will be allowed to file an information return with the IRS and the donor to substantiate donations of \$250 or more.

Under Sec. 170(f)(8), a donor must obtain from the charity a contemporaneous written acknowledgment—containing specific information—for any donation over \$250. The acknowledgment must be received no later than the time the taxpayer files his or her return for the year the contribution was made.

An exception under Sec. 170(f)(8)(D) allows donors to avoid the contemporaneous written acknowledgment requirement if the donee organization files a return in a form provided by IRS regulations that includes the information required under Sec. 170(f)(8)(B). For many years, the IRS has declined to issue regulations permitting information reporting by charitable organizations to substantiate donations.

Now, however, the IRS will develop a specific return to use to satisfy this reporting option, which charitable organizations are free to take advantage of or not at their discretion. If the charity does not issue an information return, the donor must still get a contemporaneous written acknowledgment.

Under the proposed regulations, a charity would be permitted to issue a return containing the information required under Sec. 170(f)(8)(B), as well as the donor's name, address, and taxpayer identification number (TIN). Although the TIN is needed so the IRS can match information from the charity with information from donors' returns, the IRS recognizes that this requirement poses an identity theft risk, especially because the charity must maintain this information for some time. It requests comments on ways to minimize this risk.

The information return must be filed with the IRS and the donor by Feb. 28 of the year following the donation to give donors timely information to file their tax returns. This due date is consistent with many other information return due dates.

The proposed rules will apply to contributions made on or after the date the regulations are published as final in the *Federal Register*.

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