

Receipting Charitable Donations

In late January of this year the IRS announced that it was withdrawing proposed regulations released in September of 2015 that would have allowed charities to file information returns with the IRS and donors instead of providing contemporaneous written acknowledgments of charitable donations ([REG-138344-13](#)). Charities that elected to use the new procedure would have been required to obtain donors' Social Security or other tax identification numbers (TINs) to complete the information return.

The IRS says it received a “substantial number of public comments” in response to the proposed regulations, and the government’s portal for comment submissions shows it received almost 38,000 comments, the vast majority of which strongly oppose the rules.

Many commenters objected to the requirement to obtain and maintain donors’ TINs, due the potential threat of identity theft. They also expressed concern that requiring donors to provide their social security number to the charity would discourage many potential donors. Many who objected said the requirement would be the “death knell of charitable giving as we know it today.” Commenters also expressed the belief that, although donor reporting was proposed as voluntary, it would lead to mandatory reporting requirements.

Currently under Internal Revenue Code Section 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 IRC 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 declined to issue regulations permitting information reporting by charitable organizations to substantiate donations under this statutory exception, and the withdrawn regulations were an attempt to implement this provision. With the withdrawal of the proposed regulations, the donee reporting requirements under IRS Sec. 170(f)(8) remain in effect and the exception noted under IRS Sec 1740(f)(8)(D) will remain unavailable.

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This material is presented with the understanding that the author is providing basic information only, and assumes no liability whatsoever in connection with its use. Tax laws are constantly changing, are subject to differing interpretations, and the facts and circumstances in any particular situation may not be the same as those presented here. Therefore, we urge you to do additional research and make sure that you are fully informed and knowledgeable before using the information contained herein.