

Tax News & Views Health Care Edition

Proposed regulations address charitable contribution substantiation for donors

The Internal Revenue Service (IRS) and Department of Treasury recently released proposed regulations (REG-138344-13) addressing charitable contribution substantiation for donors. The proposed regulations implement an exception to the contemporaneous written acknowledgement requirement for substantiating charitable contribution deductions of \$250 or more. The proposed regulations explain how and when donee organizations may file information returns that report the required information regarding contributions.

Under current law, a taxpayer who claims a deduction for any charitable contribution of \$250 or more must obtain substantiation in the form of a contemporaneous written acknowledgment from the donee organization. Although the substantiation need not be in any particular form, current law requires that it include the following information: (1) the amount of cash and a description of any property other than cash contributed; (2) whether any goods and services were provided by the donee organization in consideration for the contribution; and (3) a description and good faith estimate of the value of any goods and services provided by the donee organization or a statement that such goods and services consist solely of intangible religious benefits.

The proposed regulations establish an alternative framework for donee reporting that is intended to provide for timely reporting while also minimizing reporting burdens on donees and protecting donor privacy. Under the proposed regulations, the IRS will develop an optional information return specifically for donee reporting. Donee organizations who choose to report may file the return in lieu of providing the contemporaneous written acknowledgement. Donees who choose to report will be required to provide a copy of the information return to the donor. The return must include all the information described above, as well as the donor's name, address, and tax identification number. The information return would be filed with the IRS by February 28 of the year following the year in which the contribution is made. The donee organization would be required to provide a copy to the donor at the same time. If the donor receives a copy, the donor would be relieved of the obligation to obtain any other form of contemporaneous written acknowledgement.

Taxpayers may provide comments on the proposed regulations to the IRS by December 17, 2015.

Guidance issued regarding mission-related investments by private foundations

The IRS released [Notice 2015-62](#), "Investments Made for Charitable Purposes," on September 28, 2015. The notice provides guidance to private foundations on the application of the "jeopardizing investment" rules under Internal Revenue Code (IRC) Section 4944 to investments that are made for charitable purposes, but are not program-related investments (PRIs) as defined in IRC Section 4944(c) and the regulations thereunder. In general, Section 4944 imposes an excise tax on a private foundation that invests "any amount in such a manner as to jeopardize the carrying out of any of its exempt purposes." The regulations require that a private foundation's managers exercise ordinary business care and follow prudent investment standards when making investment decisions. Section 4944(c) provides a specific exception for PRIs, which are defined as investments, that have a primary charitable purpose and that have no significant purpose for the production of income or the appreciation of property.

Prior to Notice 2015-62, questions have arisen about whether an investment made by a private foundation that furthers its charitable purposes, but is not a PRI because a significant purpose of the investment is the production of income or the appreciation of property, is subject to tax under Section 4944. These types of investments are often called mission-related investments, because they not only serve the private foundation's charitable mission, but also may generate investment income or appreciation. Therefore, they do not rise to the level of a PRI.

The notice provides that when exercising ordinary business care and prudence in deciding whether to make an investment, foundation managers may consider all relevant facts and circumstances, including the relationship between a particular investment and the foundation's charitable purposes. Foundation managers are not required to select only investments that offer the highest rates of return, the lowest risks, or the greatest liquidity so long as the foundation managers exercise the requisite ordinary business care and prudence under the facts and circumstances prevailing at the time of the investment in making investment decisions that support, and do not



Find it Fast

[Proposed regulations address charitable contribution substantiation for donors](#)

[Guidance issued regarding mission-related investments by private foundations](#)

[Updated procedures for exemption application processing](#)

[Did you know?](#)

jeopardize, the furtherance of the private foundation's charitable purposes. The notice states that a private foundation will not be subject to the excise tax if foundation managers who have exercised ordinary business care and prudence make an investment (such as a mission-related investment) that furthers the foundation's charitable purposes at an expected rate of return that is less than what the foundation might obtain from an investment that is unrelated to its charitable purposes.

Updated procedures for exemption application processing

The Director of the IRS Exempt Organizations Rulings & Agreements unit recently released a memorandum updating the procedures that the Exempt Organizations (EO) Determinations Unit uses to make determinations of exemptions. EO Determinations is responsible for processing exemption applications and making determinations of exempt status. If additional information is needed before making a determination, the EO specialist will contact the taxpayer. Prior to the new memorandum, EO Determinations gave a 21-day response time frame for an organization to respond to an initial additional information request. An organization also could receive a standard 14-day extension to provide its response. If a response did not arrive, EO Determinations placed the case in a suspense status and sent a letter to the organization stating it had 90 days to supply the requested information or EO Determinations would officially close the case without making a determination. If a response did not arrive within that 90-day period, EO Determinations closed the case and did not refund the user fee to the taxpayer.

Under the updated procedures, there will no longer be a suspense period. Organizations will now have 28 calendar days to respond to a request for additional information. EO Determinations will request the additional information via a written letter to the taxpayer and will also contact the organization via phone on the date the letter is mailed. If the organization requests an extension prior to the response due date, an extension of 14 days may be allowed. If the organization does not respond by the due date, EO Determinations will close the case and will not refund the user fee. If the organization later wants to pursue its exemption, it will need to submit a new application package and user fee payment.

Organizations filing exemption applications should be mindful of the new IRS due dates for responding to requests for additional information. For additional guidance, refer to IRS memorandum TEGE-07-0915-0022.

Did you know?

New IRS resource helps employers understand the health care law

The new ["ACA Information Center for Applicable Large Employers"](#) page on IRS.gov features information and resources for employers of all sizes on how the health care law may affect them if they fit the definition of an applicable large employer. The new web page provides information regarding detailed information about tax provisions, including information reporting requirements for employers; questions and answers; and forms, instructions, publications, health care tax tips, flyers, and videos.

Final forms and instructions released for Employer ACA forms

As a result of the Patient Protection and Affordable Care Act of 2010 (ACA), employers and health insurers will be required to provide information to the IRS and covered individuals regarding health insurance coverage. The IRS recently released final forms and instructions for the 2015 Form 1095-C and Form 1094-C, which are used by applicable large employers, generally employers with at least 50 full-time employees, to report to the IRS information about the health care coverage, if any, they offered to full-time employees. Final forms and instructions were also released for the 2015 Form 1095-B and Form 1094-B that must be filed by anyone that provides minimum essential health insurance coverage. The 2015 forms will be due in early 2016.

Deloitte Thoughtware

[Deloitte Center for Health Solutions](#). The source for health care insights: The Deloitte Center for Health Solutions (DCHS) is the research division of Deloitte's Life Sciences and Health Care practice. The goal of DCHS is to inform stakeholders across the health care system about emerging trends, challenges, and opportunities.

[Health Care Current](#). Weekly insights to keep you informed and ahead. This weekly series explores breaking news and developments in the US health care industry; examines key issues facing life sciences and health care companies; and provides updates and insights on policy, regulatory, and legislative changes.

Deloitte Dbriefs

Deloitte Dbriefs are live webcasts that give you valuable insights on important developments affecting your business. Register for the following webcasts or view archived recordings by clicking on the respective hyperlinked button below.



Global Mobility, Talent & Rewards

Health reform tax reporting: Are you prepared for the looming deadline? October 7 2:00 PM ET

January 2016 marks a significant new era of tax reporting for companies with more than 50 employees. How prepared is your organization to comply with Affordable Care Act (ACA) requirements?

[Register or View archive](#) ▶



Insurance

Tax transformation for insurers: Increasing efficiency, vision, and impact on the bottom line October 13 2:00 PM ET

As the insurance industry faces sweeping changes, finance transformations have become commonplace. How can these initiatives become a catalyst for a tax department transformation that helps the tax function become a forward-thinking partner to the rest of the business?

[Register or View archive](#) ▶



HR Executives

High impact HR: Taking the HR organization the last mile October 14 2:00 PM ET

Many global organizations still see a gap in the readiness of their HR functions to help the overall business execute against its future strategy. What path are leading organizations taking to close this gap?

[Register or View archive](#) ▶



Health Sciences

2016 health care preview: Major regulatory activity set to continue October 20 1:00 PM ET

In the final year of the Obama Administration, work will continue on finalizing regulations for key provisions of the Affordable Care Act, and the regulatory process will begin on important provisions of the new Medicare physician payments law.

[Register or View archive](#) ▶



Investment Management

Investment valuation and oversight: Adapting to the 2015 landscape changes October 20 2:00 PM ET

The valuation of investments is gaining attention from fund managers, fund directors, and regulators. What procedures are needed for proper oversight of the valuation process?

[Register or View archive](#) ▶



Private Companies

Technology disruption in the mid-market: The evolution underway and its impact on businesses October 28 2:00 PM ET

Technology investment is expanding in growth-oriented companies, and this expansion is changing the mid-market landscape. What are recent notable technology trends, and how are they blurring the roles of CFOs and CIOs?

[Register or View archive](#) ▶



Governance, Risk & Compliance

Gift-giving and corruption risk: Stress-testing your compliance program for the holidays October 29 2:00 PM ET

Gift-giving during the upcoming holiday season is a common way to thank clients for their business. But this customary practice of spreading good cheer could also result in bribery and corruption risk if an organization and its employees do not proactively manage their gift-giving practices. What can your organization do now to prepare for the gift-giving season?

[Register or View archive](#) ▶



Investment Management

Investment management tax developments in 2015: Key highlights for year-end November 2 2:00 PM ET

Given marketplace uncertainties, the investment management industry can benefit from having a keen focus on responding to the evolving regulatory landscape and meeting the expectations and demands of regulators, investors, shareholders, and other stakeholders. What are key tax developments and trends from 2015 that should be top of mind?

[Register or View archive](#) ▶



Technology Executives

Global CIOs speak out: What's important now and in the future? November 5 2:00 PM ET

In an era of relentless business disruption, CIOs must work to develop and sustain competitive advantage through technology. What attributes, relationships, competencies, and technologies are enabling CIOs be successful?

[Register or View archive](#) ▶



HR Executives

Simplification of work: The coming revolution? November 12 2:00 PM ET

Many workforces today are overwhelmed by always-on technology, global 24/7 demands, and social technology proliferation. How can HR executives help business leaders simplify?

[Register or View archive](#) ▶



Transactions & Business Events

Crisis management vs. reality: Are you as prepared as you think? November 16 2:00 PM ET

Many companies today have business continuity programs to anticipate serious, unexpected events. How can you know if you have invested in the right areas and whether the program will yield expected benefits when faced with a novel crisis?

[Register or View archive](#) ▶



Health Sciences

Anytime, anywhere care: Accelerating the adoption of connected health November 16 1:00 PM ET

The demand for value is prompting health care organizations to find more efficient and effective ways to improve care. This includes making services more accessible through facilitating patient-provider connectivity anytime and anywhere through connected health — a system that enables integrated care delivery through leveraging existing technology.

[Register or View archive](#) 



Financial Reporting

EITF roundup: Highlights from the November meeting November 17 2:00 PM ET

The FASB's Emerging Issues Task Force (EITF) will meet in November to review emerging issues. We'll discuss the results of this meeting.

[Register or View archive](#) 



Driving Enterprise Value

M&A finance: More than finance function integration or separation November 18 3:00 PM ET

In today's hot M&A environment, integrating or separating an acquired or divested company's ledgers, people, and sites is not enough. What are CFOs now expected to do, and how can they deliver?

[Register or View archive](#) 



Business Strategy & Tax

Onshore, offshore, or nearshore: Where will shared services go next? December 7 2:00 PM ET

As businesses have evolved in recent years to enable process efficiencies and stay competitive, the location of talent has become a vital part of their strategies. What recent developments should CFOs know about shared service centers and how can tax planning take these talent strategies to the next level?

[Register or View archive](#) 



Transactions & Business Events

2016 economic outlook and M&A environment forecast: A global economy in flux December 9 2:00 PM ET

As 2015 comes to a close, many companies remain challenged as they assess the impact of European economic growth in contrast to a weakened Chinese economy and an uncertain oil and gas market. What is the outlook for this increasingly complex global deal environment in 2016?

[Register or View archive](#) 



Insurance

Insurance regulation outlook: What is new, what has changed, and who could be impacted? December 14 12:00 PM ET

The regulatory environment remains a hot issue for insurers. What are recent developments, and what could the future hold?

[Register or View archive](#) 



Financial Reporting

Quarterly accounting roundup: An update on important developments December 15 2:00 PM ET

Do you know what issues the standard-setters and regulators have been addressing lately?

[Register or View archive](#)



Health Sciences

2016 outlook: What's ahead for life sciences and health care? December 15 1:00 PM ET

Rapid change is dominating the health care landscape. As life sciences and health care organizations look ahead to 2016, what strategic priorities and trends should they be mindful of?

[Register or View archive](#)



Contacts

Please contact your local Deloitte Tax LLP provider for more information on our services.

Fran Bedard — Nashville

fbedard@deloitte.com

+1 615 259 1811

Lori Boyce — Detroit

lboyce@deloitte.com

+1 313 396 3324

Jeff Frank — Indianapolis

jdfrank@deloitte.com

+1 317 656 6921

William Homer — Philadelphia

whomer@deloitte.com

+1 215 299 4642

Christine Kawecki — Jericho

ckawecki@deloitte.com

+1 516 918 7138

Frank Neczypor — Boston

fneczypor@deloitte.com

+1 617 437 2728

Diana McCutchen — Costa Mesa

djmccutchen@deloitte.com

+1 714 436 7702

Mary Rauschenberg — Chicago

and Washington National Tax

mrauschenberg@deloitte.com

+1 312 486 9544

Steve Rovner — Tampa

srovner@deloitte.com

+1 813 273 8355

John W. Sadoff, Jr. — Atlanta

jsadoff@deloitte.com

+1 704 887 1810

Jim Sowar — Cincinnati

jsowar@deloitte.com

+1 513 784 7242

Yvette Woods — McLean

ywoods@deloitte.com

+1 703 251 1420

Kristina Rasmussen —

Minneapolis

krasmussen@deloitte.com

+1 612 397 4178

Joan McMahan — San Francisco

jmcmahan@deloitte.com

+1 415 783 5568

The information contained in Tax News & Views: Health Care Edition is for general purposes only and Deloitte is not, by means of this newsletter, rendering accounting, business, financial investment, legal, tax, or other professional advice or services. This material is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this newsletter. If you have questions about the content of Tax News & Views: Health Care Edition, contact Mary Rauschenberg at +1 312 486 9544 or at mrauschenberg@deloitte.com.

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see www.deloitte.com/us/about for a detailed description of the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.