

Partial Relief From the Substantiation Requirements of Section 170(f)(8) of the Internal Revenue Code for Charitable Contributions Made After September 10, 2001, and Before January 1, 2002

Notice 2002-25

PURPOSE

Due to the unique circumstances of the September 11th tragedy, the Internal Revenue Service is providing taxpayers who made certain charitable contributions of \$250 or more with partial relief from the “contemporaneous written acknowledgment” requirement of § 170(f)(8) of the Internal Revenue Code with respect to those contributions. Taxpayers will be treated as satisfying the contemporaneous written acknowledgment requirement with respect to contributions made after September 10, 2001, and before January 1, 2002, if, on or before October 15, 2002, they either obtain the required acknowledgment from the donee organization, or have evidence of a good faith effort to obtain it.

BACKGROUND

Section 170 generally allows a deduction for charitable contributions made during the taxable year. With respect to contributions of \$250 or more, the deduction is allowable only if the donor obtains a written acknowledgment from the donee organization on or before the date the donor files the return reporting the contribution or on or before the due date (including extensions) of the return, whichever comes first. Section 170(f)(8).

A contemporaneous written acknowledgment is a timely written statement from the donee organization that contains the following information: (1) the amount of cash and a description (but not value) of any property other than cash contributed; (2) whether the donee organization provided any goods or services in consideration for the property contributed; and (3) a description and good faith estimate of the value of any goods or services provided by the donee organization in con-

sideration for the property contributed. The donee organization may provide a paper copy of the acknowledgment to the donor, or the donee organization may provide the acknowledgment electronically, such as in an e-mail addressed to the donor. See Publication 1771, “Charitable Contributions—Substantiation and Disclosure Requirements.”

The Service has become aware that, due to the overwhelming number of charitable contributions made in the wake of September 11th, many donee organizations are unable to supply donors with the required acknowledgments in a timely manner.

RELIEF

Under these unique circumstances, the following partial relief is provided: A donor that contributed \$250 or more of cash or other property after September 10, 2001, and before January 1, 2002, and has not obtained a written acknowledgment by the date specified in § 170(f)(8), will be treated as having satisfied the requirements of that section if, on or before October 15, 2002, the donor either obtains the required acknowledgment, or has evidence of a good faith effort to obtain it. An example of a good faith effort is sending the donee organization a letter or e-mail requesting a written acknowledgment that meets the requirements of § 170(f)(8). A copy of that letter or e-mail is evidence of a good faith effort.

Donors are reminded that they must comply with all of the other requirements of § 170 in order to be allowed charitable contribution deductions. For example, donors must comply with the requirement that they maintain records to substantiate the fact and amount of a transfer to a qualified charity within the taxable year.

DRAFTING INFORMATION

The principal authors of this notice are Patricia Zweibel and Susan Kassell of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Ms. Zweibel or Ms. Kassell at (202) 622-5020 (not a toll-free call).

Weighted Average Interest Rate Update

Notice 2002-26

Sections 412(b)(5)(B) and 412(l)(7)(C)(i) of the Internal Revenue Code provide that the interest rates used to calculate current liability for purposes of determining the full funding limitation under § 412(c)(7) and the required contribution under § 412(l) must be within a permissible range around the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year.

Notice 88-73 (1988-2 C.B. 383) provides guidelines for determining the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of § 412(c)(7) of the Code.

Section 417(e)(3)(A)(ii)(II) of the Code defines the applicable interest rate, which must be used for purposes of determining the minimum present value of a participant's benefit under §§ 417(e)(1) and (2), as the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe. Section 1.417(e)-1(d)(3) of the Income Tax Regulations provides that the applicable interest rate for a month is the annual interest rate on 30-year Treasury securities as specified by the Commissioner for that month in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin.

The rate of interest on 30-year Treasury Securities for February 2002 is 5.40 percent. The Service has determined this rate as the average of the 30-year Treasury Constant Maturity interest rate determined each day through February 18, 2002 (as reported in § H.15 on the Federal Reserve website (www.federalreserve.gov/releases)), and the yield on the 30-year Treasury bond maturing in February 2031, determined each day for the balance of the month.

Effective for March 2002, the Service will determine and publish the rate of