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# Treasury Releases Final Substantiation Regulations

Last Friday, the Department of the Treasury released final regulations on the substantiation and reporting requirements for donors claiming charitable contribution deductions.  The new regulations finalize the proposed regulations issued in 2008, and interpret statutory changes dating back to the 2004 American Jobs Creation Act and the 2006 Pension Protection Act.

The final regulations, most of which have now taken effect, provide guidance on the records and documentation a donor must have to support their deduction. Despite taking ten years to finalize the regulations, Treasury made only minor changes from the proposed regulations, which many organizations were already following.  Among the now-final rules are:

- More detailed requirements for the education and experience needed to be a “qualified appraiser”;
- A requirement that if the donor contributes a partial interest in property (such as an undivided 35% interest in a residence), the appraisal must be of the partial interest (donors have in the past secured an appraisal of the entire property and then applied the partial interest percentage on their income tax return);
- Clarification that an appraisal is required to substantiate the gift of the income interest in a charitable remainder trust even if the trust only holds cash or marketable securities (despite the fact that the value of such an interest can be determined simply by reference to IRS tables);
- Clarification that an appraisal is required to substantiate the gift of a life insurance policy (for example, an IRS Form 712 won’t suffice);
- Confirmation that organizations can use email to send donor receipts;
- Confirmation that a pay stub plus a pledge card from the donee organization will suffice to substantiate a contribution made through payroll deduction;
- Clarification that, when a contribution is given to one 501(c)(3) organization but earmarked to be distributed to a second 501(c)(3) organization, the first organization must give the donor acknowledgement; and
- Confirmation that if the donor’s deduction for a gift of property exceeds $500,000, the donor must attach the appraisal to their tax return for the year of the gift and any subsequent year into which the deduction is carried over.

In addition to clarifying several issues and adding a few requirements, the regulations do organize these rules (which had been somewhat scattered over the section 170

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regulations) into sequential regulation sections.

The substantiation rules may seem overly complex or pedantic (for example, every appraisal must contain, word-for-word, a full paragraph declaration noting the penalties that could apply to an appraiser for overvaluing the donated property, and attesting that the appraiser has not been barred from practicing before the IRS) — but strict compliance is critical. The IRS has not hesitated to deny deductions for what may seem merely technical violations of the substantiation rules.  Don't jeopardize your deduction — or your donor's deduction — because someone didn't cross a "t" or dot an "i."

The new regulations became effective on July 30, 2018, except for the new rules regarding appraiser education and experience. Those will become effective January 1, 2019, giving appraisers time to satisfy the requirements.

If you're a tax nerd like us, click **here** for the full text of the final regulations.



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