

Maine

Kevin W. Concannon, Commissioner,
Department of Human Services, # 11 State
House Station, Augusta, ME 04333-0011
Contact Person: Sophie Glidden, Director,
Office of Primary Health Care, Department of
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Massachusetts

Ms. Sally Fogarty, Department of Public
Health, 150 Tremont Street, Boston, MA
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Applications must be signed by: Mr. David
H. Mulligan, Commissioner of Public Health
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Michigan

Ms. Vernice Davis Anthony, Director,
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Missouri

Coleen Kivlahan, M.D., M.S.P.H., Director,
Missouri Department of Health, P.O. Box
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Mr. Robert J. Robinson, Director, Department
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New Mexico

J. Alex Valdez, Secretary, State of New
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New York

Ms. Karen Schimke, Executive Deputy
Commissioner, New York State Department
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Contact person: Edward Salsberg, Director
of the Bureau of Health Resources
Development.

North Carolina

Mr. James D. Bernstein, Director, North
Carolina Office of Rural Health and

Resource Development, 311 Ashe Avenue,
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North Dakota

Jon R. Rice, M.D., State Health Officer, State
Department of Health and Consolidated
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Oklahoma

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Commissioner, Health Promotion and
Policy Analysis, 1000 NE 10th Street,
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Patricia Nolan, M.D., M.P.H., Director, Rhode
Island Department of Health, Cannon
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02908-5097

South Carolina

Mr. Mark Jordan, Director, Office of Primary
Care, Department of Health and
Environmental Control, 2600 Bull Street,
Columbia, SC 29201

South Dakota

Ms. Barbara A. Smith, Secretary, South
Dakota Department of Health, 445 East
Capitol Avenue, Pierre, SD 57501-3185

Tennessee

Dr. Fredia Wadley, Commissioner, Tennessee
Department of Health, 9th Floor, Tennessee
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TN 37247-0101

Texas

Dr. David Smith, Commissioner of Health,
Texas Department of Health, 1100 West
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Vermont

Jan K. Carney, M.D., M.P.H., Commissioner,
Vermont Department of Health, 108 Cherry
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Washington

Mr. Verne A. Gibbs, Director, Washington
State Department of Health, Community
and Rural Health, P.O. Box 47834,
Olympia, WA 98504-7834

West Virginia

Ms. Gretchen O. Lewis, Secretary (Signator),
Department of Health and Human
Resources, Building 3, Room 206, State
Capitol Complex, Charleston, WV 25305

Applications to go to following for review:
Linda Atkins, Director, Health Professions
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Wisconsin

John D. Chapin, Interim Administrator,
Wisconsin Division of Health, P.O. Box 309,
Madison, WI 53701-0309

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BILLING CODE 8230-01-M

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Parts 1 and 602**

[TD 8623]

RIN 1545-AS27

Substantiation Requirement for Certain Contributions

AGENCY: Internal Revenue Service (IRS),
Treasury.

ACTION: Final and temporary
regulations.

SUMMARY: This document contains final
regulations that provide guidance
regarding the substantiation
requirements for charitable
contributions of \$250 or more contained
in section 170(f)(8) of the Internal
Revenue Code. The guidance contained
in these final regulations will affect
organizations described in section
170(c) and individuals and entities that
make payments to those organizations.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT:
Jefferson K. Fox, 202-622-4930 (not a
toll-free call).

SUPPLEMENTARY INFORMATION:**Paperwork Reduction Act**

The collection of information
contained in these final regulations has
been reviewed and approved by the
Office of Management and Budget in
accordance with the Paperwork
Reduction Act (44 U.S.C. 3504(h)) under
control number 1545-1431. Responses
to this collection of information are
required to substantiate deductions
under section 170 of the Internal
Revenue Code for certain charitable
contributions. An agency may not
conduct or sponsor, and a person is not
required to respond to, a collection of
information unless the collection
displays a valid control number.

The estimated burden per
recordkeeper varies from 15 minutes to
30 minutes, depending on individual
circumstances, with an estimated
average of 25 minutes.

Comments concerning the accuracy of
this burden estimate and suggestions for
reducing this burden should be sent to
the Internal Revenue Service, Attention:
IRS Reports Clearance Officer, PC:FP,
Washington, DC 20224, and to the
Office of Management and Budget, Attn:
Desk Officer for the Department of the
Treasury, Office of Information and
Regulatory Affairs, Washington DC
20503.

Books or records relating to this
collection of information must be

retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) relating to the substantiation requirements under section 170(f)(8) of the Internal Revenue Code of 1986.

Section 170(f)(8) was added by section 13172 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66 (107 Stat. 455, 1993-3 C.B. 43).

Temporary regulations (TD 8544) and a notice of proposed rulemaking by cross-reference to temporary regulations under section 170(f)(8) were published in the Federal Register for May 27, 1994 (59 FR 27458, 27515). The regulations primarily address the substantiation of contributions made by payroll deduction and the substantiation of a payment to a donee organization in exchange for goods or services with insubstantial value.

A public hearing was held on November 10, 1994. On March 22, 1995, the IRS released Notice 95-15, which was published in 1995-15 I.R.B. 22, dated April 10, 1995. Notice 95-15 provides transitional relief (for 1994) from the substantiation requirement of section 170(f)(8).

After consideration of the public comments regarding the proposed regulations, the regulations are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed.

Explanation of Statutory Provisions

Section 170 allows a deduction for certain charitable contributions to or for the use of an organization described in section 170(c). Under section 170(f)(8), taxpayers who claim a deduction for a charitable contribution of \$250 or more must obtain substantiation of that contribution from the donee organization and maintain the substantiation in their records. See H.R. Conf. Rep. 213, 103d Cong., 1st Sess. 565 (1993). Specifically, section 170(f)(8)(A) provides that no charitable contribution deduction will be allowed under section 170(a) for a contribution of \$250 or more unless the taxpayer substantiates the contribution with a contemporaneous written acknowledgment from the donee organization.

Section 170(f)(8)(B) provides that an acknowledgment meets the requirements of section 170(f)(8)(A) if it includes the following information: (a)

The amount of cash and a description (but not necessarily the value) of any property other than cash contributed; (b) whether or not the donee organization provided any goods or services in consideration for the cash or other property contributed; and (c) a description and good faith estimate of the value of any goods or services provided by the donee organization in consideration for the cash or other property contributed, or if the goods or services consist solely of intangible religious benefits, a statement to that effect.

Under section 170(f)(8)(C), a written acknowledgment is contemporaneous, for purposes of section 170(f)(8)(A), if it is obtained on or before the earlier of: (a) The date the taxpayer files its original return for the taxable year in which the contribution was made, or (b) the due date, including extensions, for filing the taxpayer's original return for that year.

Section 170(f)(8)(E) directs the Secretary to prescribe such regulations as are necessary or appropriate to carry out the purposes of section 170(f)(8), including regulations that may provide that some or all of the requirements of section 170(f)(8) do not apply in appropriate cases.

Public Comments

Contributions Made by Payroll Deduction

The proposed regulations permit a taxpayer to substantiate contributions made by payroll deduction by a combination of two documents: (a) A pay stub, Form W-2, or other document furnished by the taxpayer's employer that evidences the amount withheld from the taxpayer's wages, and (b) a pledge card or other document prepared by the donee organization that states that the donee organization did not provide any goods or services as whole or partial consideration for any contributions made by payroll deduction.

Commentators reported that pledge cards are frequently prepared by employers at the direction of the donee organization. They suggested that the IRS accept pledge cards with the required language if the pledge cards are prepared either by the employer or by the donee organization. In response to this suggestion, these final regulations provide that pledge cards prepared by the donee organization or by another party at the donee organization's direction can be used as part of the substantiation for a contribution made by payroll deduction.

Commentators asked whether a Form W-2 that reflects the total amount contributed by payroll deduction, but does not separately list each contribution of \$250 or more, can be used as evidence of the amount withheld from the employee's wages to be paid to the donee organization. Section 170(f)(8)(B) provides that an acknowledgment must reflect the amount of cash and a description of property other than cash contributed to the charitable organization. When a taxpayer makes multiple contributions to a charitable organization, the statute does not require the acknowledgment to list each contribution separately. Consequently, an acknowledgment provided for purposes of section 170(f)(8) may substantiate multiple contributions with a statement of the total amount contributed by a taxpayer during the year, rather than an itemized list of separate contributions. Therefore, a Form W-2 reflecting an employee's total annual contribution, without separately listing the amount of each contribution, can be used as evidence of the amount withheld from the employee's wages. Because the statute does not require an itemized acknowledgment, it was unnecessary to clarify the proposed regulations to address this concern.

Commentators also asked whether the donee organization must use any particular wording on the pledge card or other document prepared for purposes of substantiating a charitable contribution made by payroll deduction. Because the IRS and the Treasury Department do not believe that any particular wording is required, these final regulations clarify that the pledge card or other document is only required to include a statement to the effect that no goods or services were provided in consideration for the contribution made by the payroll deduction.

Commentators asked for guidance regarding the proper method of substantiating lump-sum contributions made by employees through their employers other than by payroll withholding. Commentators stated that employees occasionally make contributions in the form of checks payable to their employer, who then deposits the checks in an employer account and sends the donee organization a single check drawn on the employer account. When employees' payments are transferred to a donee organization in this manner, it is difficult for the organization to identify the persons who made contributions, and thus the employees may be unable to obtain the requisite substantiation. These difficulties can be eliminated if

the employees' contribution checks are made payable to the donee organization and the employer simply forwards the employees' checks to the donee organization. The donee organization can then provide substantiation as it would for any individual contribution made by check. Therefore, the final regulations have not been modified to address this point.

Goods or Services With Insubstantial Value

The proposed regulations provide that goods or services that have insubstantial value under the guidelines provided in Rev. Proc. 90-12 (1990-1 C.B. 471), and Rev. Proc. 92-49 (1992-1 C.B. 987), and any successor documents, are not required to be taken into account for purposes of section 170(f)(8). The IRS re-proposed this provision in proposed regulations under section 170(f)(8) that were published in the Federal Register for August 4, 1995 (60 FR 39896), and it has therefore been deleted from these final regulations. Taxpayers may rely on those proposed regulations for payments made on or after January 1, 1994.

Additional Comments Addressed in Proposed Regulations Published in the Federal Register for August 4, 1995

Commentators raised a number of other questions about the substantiation regulations, including the following: (a) whether, in calculating a charitable contribution deduction, a donor can rely on a donee organization's estimate of the fair market value of any quid pro quo provided to the donor, (b) how certain types of benefits provided to a donor are to be valued, (c) how the fair market value of goods or services sold at a charity auction can be established, (d) how goods or services are to be treated when provided to a donor who has no expectation of receiving a quid pro quo, (e) how unreimbursed out-of-pocket expenses incurred by a taxpayer incident to the rendition of services to a donee organization can be substantiated, and (f) how certain transfers to a charitable remainder trust can be substantiated. The proposed regulations published August 4, 1995, address these questions, as explained in the preamble to those proposed regulations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of

the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information: The principal authors of these regulations are Jefferson K. Fox, Office of the Assistant Chief Counsel (Income Tax & Accounting), IRS, and Joel S. Rutstein and Rosemary DeLeone, who are formerly of that office. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for 1.170A-13T and the general authority continues to read as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 2. In § 1.170A-13, paragraph (e) is added and reserved and paragraph (f) is added to read as follows:

§ 1.170A-13 Recordkeeping and return requirements for deductions for charitable contributions.

* * * * *

(e) [Reserved]

(f) *Substantiation of charitable contributions of \$250 or more.*

(1) through (10) [Reserved]

(11) *Contributions made by payroll deduction—(i) Form of substantiation.*

A contribution made by means of withholding from a taxpayer's wages and payment by the taxpayer's employer to a donee organization may be substantiated, for purposes of section 170(f)(8), by both—

(A) A pay stub, Form W-2, or other document furnished by the employer that sets forth the amount withheld by the employer for the purpose of payment to a donee organization; and

(B) A pledge card or other document prepared by or at the direction of the donee organization that includes a statement to the effect that the organization does not provide goods or services in whole or partial consideration for any contributions made to the organization by payroll deduction.

(ii) *Application of \$250 threshold.* For the purpose of applying the \$250 threshold provided in section 170(f)(8)(A) to contributions made by the means described in paragraph (f)(11)(i) of this section, the amount withheld from each payment of wages to a taxpayer is treated as a separate contribution.

(12) *Distributing organizations as donees.* An organization described in section 170(c), or an organization described in 5 CFR 950.105 (a Principal Combined Fund Organization for purposes of the Combined Federal Campaign) and acting in that capacity, that receives a payment made as a contribution is treated as a donee organization solely for purposes of section 170(f)(8), even if the organization (pursuant to the donor's instructions or otherwise) distributes the amount received to one or more organizations described in section 170(c). This paragraph (f)(12) does not apply, however, to a case in which the distributee organization provides goods or services as part of a transaction structured with a view to avoid taking the goods or services into account in determining the amount of the deduction to which the donor is entitled under section 170.

(13) through (15) [Reserved]

(16) *Effective date.* Paragraphs (f) (11) and (12) of this section apply to contributions made on or after January 1, 1994.

§ 1.170A-13T [Removed]

Par. 3. Section 1.170A-13T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 5. In § 602.101, paragraph (c) is amended by removing the entry for 1.170A-13T from the table and revising the entry for 1.170A-13 to read as follows:

CFR part or section where identified and described	Current OMB control No.
* * * * *	* * * * *
1.170A-13	1545-0074 1545-0754 1545-0908 1545-1431
* * * * *	* * * * *

Dated: September 22, 1995.
Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved:
Leslie Samuels,
Assistant Secretary of the Treasury.
[FR Doc. 95-25058 Filed 10-11-95; 8:45 am]
BILLING CODE 4830-01-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05-94-092]

Drawbridge Operation Regulations; Beach Thorofare, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing operation of the National Railroad Corporation (AMTRAK)/New Jersey Transit Rail Operation (NJTRO) drawbridge across the Beach Thorofare, New Jersey Intracoastal Waterway, mile 68.9, at Atlantic City, New Jersey. This change to the regulations will allow the bridge to be operated remotely from AMTRAK's Philadelphia office. This change is being made in an effort to combine bridgetender and dispatcher positions, enhance rail safety operations and reduce operating costs. This action will relieve AMTRAK of the burden of having a person constantly at the bridge to open the draw, and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: November 13, 1995.

FOR FURTHER INFORMATION CONTACT: Gary Kassof, Bridge Administrator, NY, Fifth Coast Guard District (212) 668-7069.

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are Mr. J. Arca, Fifth Coast Guard District, Bridge Branch, NY, Project Manager, and CAPT R. A. Knee, Fifth Coast Guard District Legal Office, Project Counsel.

Regulatory History

On March 6, 1995, the Coast Guard published a Notice of Proposed

Rulemaking entitled "Drawbridge Operation Regulations; New Jersey Intracoastal Waterway, New Jersey" in the Federal Register (60 FR 12178). The Coast Guard received four comments on the Notice of Proposed Rulemaking. One offered no objection and three opposed the proposal. Objections cited the need for visual observation to safely operate the bridge from a remote location; concern over the ability of the bridge to open in an emergency; and concern for the safety of navigation and nearby children.

The Coast Guard believes the drawbridge is adequately equipped to meet these concerns. The bridge is equipped with eight cameras which provide visual coverage of the entire bridge and waterway. One of the eight cameras has zoom and pan action capability covering a 360 degree arc. Whenever the remote control system equipment is partially disabled, or fails for any reason, the bridge will be physically tended and operated from a local control site as soon as possible, but in no case later than an hour after the malfunction. The bridge is equipped with a radiotelephone capable of communicating in both local and remote control locations. The bridge is also equipped with directional microphones and horns with the ability to receive and deliver signals. A public hearing was not requested, and one was not held.

Background and Purpose

A permit was issued by the Coast Guard on December 20, 1988, to replace and slightly raise the superstructure of the Beach Thorofare Bridge. The new drawbridge provides a vertical clearance of 4 feet at mean high water and 9 feet at mean low water when in the closed position. Prior to its rehabilitation in 1988, the old bridge was left in the open position and unused for 5 to 10 years. However, the regulations governing operation of this bridge require that the bridge open on signal from 11 p.m. to 6 a.m. From 6 a.m. to 11 p.m., the draw is required to open on signal from 20 minutes to 30 minutes after each hour and remain open for all waiting vessels. As a result of the rehabilitation and replacement work, the bridge now operates according to the published regulations. AMTRAK seeks to operate the bridge remotely from its Philadelphia office.

The Beach Thorofare section of the New Jersey Intracoastal Waterway is used primarily by recreational power boats ranging in length from eighteen (18) to thirty-eight (38) feet. The bridge is required to open for vessel traffic infrequently during the winter months.

The number of openings increase during the normal boating season.

However, the number of openings is not excessive. During the period from February 1994 through June 1994, drawlogs for the Beach Thorofare Bridge showed the bridge averaged 1 opening per day in February, 1 to 2 openings per day in March, 2 openings per day in April, 6 openings per day in May, and 7 openings per day in June. During the same 5 month period, data provided by AMTRAK showed the number of trains per month crossing the bridge in both directions remained fairly constant, averaging between 900 and 1,000 trains per month. The vast majority of these trains are passenger/shuttle type trains transporting persons wishing to visit Atlantic City, New Jersey. Train traffic across the bridge is proportionately much heavier than waterway traffic requiring openings of the bridge. Because of the relatively few requests for bridge openings, AMTRAK would like to combine the bridgetender and train dispatcher positions in its Philadelphia office. By controlling openings of the bridge and movement of trains across the bridge remotely from one location, AMTRAK can reduce operating costs and still closely monitor operations at the bridge.

The Coast Guard has no record of any vessel allisions with this bridge. The vessels that do use this waterway are relatively small, and it is unlikely that they could create major damage to the bridge even if a vessel/bridge allision did occur. Therefore, safety does not appear to be a significant concern in the evaluation of this request.

This change establishes procedures and criteria for remote operation of the drawbridge, while still providing for the needs of navigation.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that this rule will not prevent mariners from passing through the Beach Thorofare Bridge nor will it change the present opening schedule.