

## Part III - Administrative, Procedural, and Miscellaneous

### Charitable Contributions of Certain Motor Vehicles, Boats, and Airplanes

Notice 2005-44

#### SECTION 1. PURPOSE

This notice provides interim guidance regarding section 884 of the American Jobs Creation Act of 2004, Pub. L. No. 108-357, 118 Stat. 1418 (2004), which adds §§ 170(f)(12) and 6720 to the Internal Revenue Code. Section 170(f)(12) contains rules for determining the amount that a donor may deduct for a charitable contribution of a qualified vehicle the claimed value of which is more than \$500, and related substantiation and information reporting requirements. Section 6720 imposes penalties on a donee organization that receives a contribution of a qualified vehicle subject to § 170(f)(12) and knowingly furnishes a false or fraudulent acknowledgment of the contribution to the donor, or knowingly fails to furnish the acknowledgment. Sections 170(f)(12) and 6720 apply to contributions made after December 31, 2004. This notice also invites comments from the public regarding this notice and suggestions for future guidance under §§ 170(f)(12) and 6720. The rules provided in this notice apply until regulations are effective.

#### SECTION 2. BACKGROUND

Section 170(a) allows as a deduction, subject to certain limitations, any charitable contribution (as defined in § 170(c)), payment of which is made within the taxable year.

Section 1.170A-1(c)(1) of the Income Tax Regulations provides that if a charitable contribution is made in property other than money, the amount of the contribution is the fair market value of the property at the time of the contribution, reduced as provided in § 170(e) and §§ 1.170A-4 and 1.170A-4A.

In general, § 1.170A-1(h) provides that if a taxpayer transfers to a charitable organization cash or property that is partly a charitable contribution and partly in consideration for goods or services, the taxpayer is allowed a charitable contribution deduction for the excess, if any, of the cash or fair market value of the property transferred over the fair market value of the goods or services the organization provides in return. See also *United States v. American Bar Endowment*, 477 U.S. 105, 117-118 (1986); Rev. Rul. 67-246, 1967-2 C.B. 104.

Section 170(f)(12)(A)(i) provides that no deduction is allowed under § 170(a) for a contribution of a qualified vehicle the claimed value of which is more than \$500 unless the donor substantiates the contribution by a contemporaneous written acknowledgment that meets the requirements of § 170(f)(12)(B). Section 170(f)(12)(A)(i) also provides that the substantiation rules of § 170(f)(8) do not apply to a contribution of a qualified vehicle the claimed value of which is more than \$500.

In general, to meet the requirements of § 170(f)(12)(B), the acknowledgment must include: the name and taxpayer identification number of the donor; the vehicle identification number; and certain certifications, depending on the use or disposition of the vehicle by the donee organization. See section 3.03 of this notice for all of the requirements applicable to acknowledgments. To be considered contemporaneous, the

acknowledgment must be obtained within 30 days of the contribution or the disposition of the vehicle by the donee organization, as applicable. See § 170(f)(12)(C) and section 3.03 of this notice. A copy of the acknowledgment must be included with the donor's tax return on which the deduction is claimed. Section 170(f)(12)(E) defines a qualified vehicle as any (i) motor vehicle manufactured primarily for use on public streets, roads, and highways, (ii) boat, or (iii) airplane, but the term does not include any property described in § 1221(a)(1) (e.g., property held primarily for sale to customers).

If a donee organization sells a qualified vehicle without any significant intervening use or material improvement by the donee organization, the deduction allowed under § 170(a) may not exceed the gross proceeds received from the sale, which must be reported on the acknowledgment. See § 170(f)(12)(A)(ii). Section 170(f)(12)(F) provides that the Secretary may prescribe regulations or other guidance that exempts from the gross proceeds limitation and certain certification requirements sales by the donee organization that are in direct furtherance of the organization's charitable purpose. Section 170(f)(12)(F) also provides that the Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of § 170(f)(12).

## SECTION 3. DEDUCTIONS IN EXCESS OF \$500

### 3.01 *General rule*

If the claimed value of a donated qualified vehicle exceeds \$500, the amount of the deduction may be limited under § 170(f)(12), depending on the use of the qualified vehicle by the donee organization (as described in section 3.02 of this notice). In

addition, under § 170(f)(12) the donor must obtain from the donee organization an acknowledgment that meets the requirements of section 3.03 of this notice, and include the acknowledgment with the tax return on which the deduction is claimed.

*3.02 Disposition or use by donee organization*

*(1) Qualified vehicle sold by donee organization*

If the qualified vehicle is sold by the donee organization without a significant intervening use or material improvement by the donee organization, then (except as provided in section 3.02(3) of this notice) the deduction claimed by the donor may not exceed the gross proceeds received from the sale of the qualified vehicle. In no event may the deduction for a donated vehicle exceed the amount that is otherwise allowable under § 170(a) (fair market value). The donor must obtain from the donee organization an acknowledgment that meets the requirements of section 3.03 of this notice.

*(2) Significant intervening use of or material improvement to a qualified vehicle*

If the donee organization makes a significant intervening use of (within the meaning of section 7.01(1) of this notice) or material improvement to (within the meaning of section 7.01(2) of this notice) a qualified vehicle, the donor is not subject to the gross proceeds limitation in section 3.02(1) of this notice. However, the deduction claimed by the donor may not exceed the fair market value of the qualified vehicle. The donor must obtain from the donee organization an acknowledgment that meets the requirements of section 3.03 of this notice. In addition, the donor must substantiate the fair market value as described in section 5 of this notice.

*(3) Qualified vehicle sold at a price significantly below fair market value (or*

*gratuitously transferred) to needy individual in direct furtherance of donee organization's charitable purpose*

Pursuant to § 170(f)(12)(F), the Internal Revenue Service and the Treasury Department hereby provide that the gross proceeds limitation in section 3.02(1) does not apply to a sale on or after January 1, 2005, of a qualified vehicle to a needy individual at a price significantly below fair market value, or a gratuitous transfer to a needy individual, in direct furtherance of a charitable purpose of the donee organization of relieving the poor and distressed or the underprivileged who are in need of a means of transportation. See H.R. Conf. Rep. No. 755, 108<sup>th</sup> Cong., 2d Sess. 750 (2004). Mere application of the proceeds from the sale of a qualified vehicle to a needy individual to any charitable purpose does not directly further a donee organization's charitable purpose within the meaning of this section. The donor must obtain from the donee organization an acknowledgment that meets the requirements of section 3.03 of this notice. In addition, the donor must substantiate the fair market value as described in section 5 of this notice.

### *3.03 Contemporaneous written acknowledgment under § 170(f)(12)*

#### *(1) General rule*

Under § 170(f)(12), a donor must obtain a contemporaneous written acknowledgment from the donee organization, and include the acknowledgment with the tax return on which the deduction is claimed. All acknowledgments under § 170(f)(12) must include the name and taxpayer identification number of the donor, the vehicle identification number, and the date of the contribution. Additional information is

required depending on the use of the qualified vehicle by the donee organization, as described in sections 3.03(2) through 3.03(4) of this notice.

*(2) Qualified vehicle sold by donee organization*

For a contribution of a qualified vehicle that is sold by the donee organization without any significant intervening use or material improvement by the donee organization in a sale that is not described in section 3.02(3) of this notice, the acknowledgment also must contain the date the qualified vehicle was sold, a certification that the qualified vehicle was sold in an arm's length transaction between unrelated parties, a statement of the gross proceeds from the sale, and a statement that the deductible amount may not exceed the amount of the gross proceeds. The acknowledgment is considered contemporaneous if the donee organization furnishes the acknowledgment to the donor no later than 30 days after the date of the sale.

*Example 1.* On October 1, 2005, A contributes a qualified vehicle with a fair market value of \$1,300 to Q, an organization that is described in § 170(c). On December 1, 2005, the qualified vehicle is sold without any significant intervening use or material improvement in a sale not described in section 3.02(3) of this notice. Gross proceeds from the sale are \$1,000. On or before December 31, 2005, Q provides an acknowledgment to A containing A's name and taxpayer identification number, the vehicle identification number, a statement that the date of the contribution was October 1, 2005, a statement that the date of the sale was December 1, 2005, a certification that the qualified vehicle was sold in an arm's length transaction between unrelated parties, a statement that the gross proceeds of the sale are \$1,000, and a statement that the

amount of A's deduction may not exceed the amount of the gross proceeds. The acknowledgment meets the requirements of § 170(f)(12).

(3) *Significant intervening use of or material improvement to a qualified vehicle*

For a contribution of a qualified vehicle for which the donee organization intends a significant intervening use or material improvement within the meaning of section 7.01 of this notice, the acknowledgment also must contain: 1) a certification and detailed description of a) the intended significant intervening use by the donee organization and the intended duration of the use, or b) the intended material improvement by the donee organization; and 2) a certification that the qualified vehicle will not be sold before completion of the use or improvement. The acknowledgment is considered contemporaneous if the donee organization furnishes the acknowledgment to the donor within 30 days of the date of the contribution.

*Example 2.* On October 1, 2005, B contributes a qualified vehicle to Q, an organization that is described in § 170(c). Q intends to use the vehicle in its charitable activities, and the intended use is a significant intervening use within the meaning of section 7.01(1) of this notice. On or before October 31, 2005, Q provides an acknowledgment to B containing B's name and taxpayer identification number, the vehicle identification number, a statement that the date of the contribution was October 1, 2005, a certification stating that Q intends to make a significant intervening use of the qualified vehicle and stating the duration of this use, a detailed description of the significant intervening use, and a certification that the qualified vehicle will not be transferred in exchange for money, other property, or services before completion of the

use by Q. The acknowledgment meets the requirements of § 170(f)(12).

*(4) Qualified vehicle sold at a price significantly below fair market value (or gratuitously transferred) to needy individual in direct furtherance of donee organization's charitable purpose*

For a contribution of a qualified vehicle that meets the requirements of section 3.02(3) of this notice, the acknowledgment also must contain a certification that the donee organization will sell the qualified vehicle to a needy individual at a price significantly below fair market value (or, if applicable, that the donee organization gratuitously will transfer the qualified vehicle to a needy individual) and that the sale (or transfer) will be in direct furtherance of the donee organization's charitable purpose of relieving the poor and distressed or the underprivileged who are in need of a means of transportation. The acknowledgment is considered contemporaneous if the donee organization furnishes the acknowledgment to the donor no later than 30 days after the date of the contribution.

*Example 3.* On October 1, 2005, C contributes a qualified vehicle to Q, an organization that is described in § 170(c). Q's charitable purposes include helping needy individuals who are unemployed develop new job skills, finding job placements for these individuals, and providing transportation for these individuals who need a means of transportation to jobs in areas not served by public transportation. Q determines that, in direct furtherance of its charitable purpose, Q will sell the qualified vehicle at a price significantly below fair market value to a trainee who needs a means of transportation to a new workplace. On or before October 31, 2005, Q provides an acknowledgment to C containing C's name and taxpayer identification number, the



vehicle identification number, a statement that the date of the contribution was October 1, 2005, a certification that Q will sell the qualified vehicle to a needy individual at a price significantly below fair market value, and a certification that the sale is in direct furtherance of Q's charitable purpose as described above. The acknowledgment meets the requirements of § 170(f)(12).

#### SECTION 4. DEDUCTIONS OF \$500 OR LESS

##### *4.01 Contemporaneous written acknowledgment required to substantiate a qualified vehicle contribution of \$250 but not more than \$500*

A contribution of a qualified vehicle with a claimed value of at least \$250 (as determined in accordance with section 5 of this notice) must be substantiated by a contemporaneous written acknowledgment of the contribution by the donee organization. For a qualified vehicle with a claimed value of at least \$250 but not more than \$500, the acknowledgment must contain the following information as required by § 170(f)(8): the amount of cash and a description (but not value) of any property other than cash contributed; whether the donee organization provided any goods or services in consideration, in whole or in part, for the cash or property contributed; and a description and good faith estimate of the value of any goods or services provided by the donee organization in consideration for the contribution, or, if such goods or services consist solely of intangible religious benefits, a statement to that effect. To meet the contemporaneous requirement of § 170(f)(8)(C), the acknowledgment must be obtained by the donor on or before the earlier of the date on which the donor files a return for the taxable year in which the contribution was made, or the due date

(including extensions) of that return.

*4.02 Sale of qualified vehicle yields gross proceeds of \$500 or less*

If a donor contributes a qualified vehicle that is subsequently sold, in a sale not described in section 3.02(3) of this notice, without any significant intervening use or material improvement by the donee organization, and the sale yields gross proceeds of \$500 or less, the donor may be allowed a deduction equal to the lesser of the fair market value of the qualified vehicle on the date of the contribution or \$500, subject to the terms and limitations of § 170. Under these circumstances, the donor must substantiate the fair market value (see section 5 of this notice), and, if the fair market value is \$250 or more, must substantiate the contribution with an acknowledgment that meets the requirements of § 170(f)(8).

*Example 4.* D, an individual who itemizes tax deductions, contributes a qualified vehicle to Q, an organization that is described in § 170(c). The qualified vehicle is sold without any significant intervening use or material improvement by Q, and gross proceeds of \$400 are received. In accordance with section 5 of this notice, D determined that the fair market value of the qualified vehicle at the time of the contribution was \$800. Provided that D timely obtains a written acknowledgment that meets the requirements of § 170(f)(8) (see section 4.01 of this notice), and subject to the terms and limitations of § 170, D may be allowed a deduction not to exceed \$500.

*Example 5.* The facts are the same as in *Example 4*, except that in accordance with section 5 of this notice D determined that the fair market value of the qualified vehicle at the time of the contribution was \$450. Provided that D timely obtains a

written acknowledgment that meets the requirements of § 170(f)(8) (see section 4.01 of this notice), and subject to the terms and limitations of § 170, D may be allowed a deduction not to exceed \$450.

## SECTION 5. FAIR MARKET VALUE

A donor claiming a deduction for the fair market value of a qualified vehicle must be able to substantiate the fair market value. Section 1.170A-1(c)(2) provides that fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each having reasonable knowledge of relevant facts.

A reasonable method of determining the fair market value of a qualified vehicle is by reference to an established used vehicle pricing guide. Many factors must be taken into account when using a used vehicle pricing guide to determine fair market value. A used vehicle pricing guide establishes the fair market value of a particular vehicle only if the guide lists a sales price for a vehicle that is the same make, model, and year, sold in the same area, in the same condition, with the same or substantially similar options or accessories, and with the same or substantially similar warranties or guarantees, as the vehicle in question. See, e.g., Rev. Rul. 2002-67, 2002-1 C.B. 873.

The Service and the Treasury Department intend to issue regulations under § 170 clarifying that for purposes of § 170, the dealer retail value listed in a used vehicle pricing guide for a particular vehicle is not an acceptable measure of fair market value of a similar vehicle. The regulations will clarify that, for purposes of § 170, an acceptable measure of the fair market value of a vehicle, for contributions made after June 3, 2005,

and before the date regulations become effective, is an amount not in excess of the price listed in a used vehicle pricing guide for a private party sale of a similar vehicle.

The regulations limiting the fair market value of a vehicle to an amount not in excess of the private party sale price will apply to contributions of vehicles made after June 3, 2005. In addition, the Service and the Treasury Department will consider whether other values, such as the dealer trade-in value, are appropriate measures of the fair market value of a vehicle for purposes of § 170. Any regulations limiting the fair market value of a vehicle to an amount less than the private party sale value will not apply to contributions made prior to the date that regulations to that effect become effective.

#### SECTION 6. QUALIFIED APPRAISAL

A qualified appraisal is required for a deduction in excess of \$5,000 for a qualified vehicle if the deduction is not limited to gross proceeds from the sale of the vehicle.

See § 170(f)(11)(A)(ii)(I). For the definition of qualified appraisal, see § 1.170A-13.

#### SECTION 7. ACKNOWLEDGMENTS BY DONEE ORGANIZATIONS

*7.01 Requirements of significant intervening use; material improvement; sale or gratuitous transfer to needy individual in direct furtherance of donee organization's charitable purpose*

As described in section 3.03 of this notice, the contents of the acknowledgment required under § 170(f)(12) depend upon whether the donee organization sells a qualified vehicle without any significant intervening use or material improvement, intends to make a significant intervening use of or material improvement to a qualified vehicle prior to sale, or, in direct furtherance of a charitable purpose of the organization of relieving the poor and distressed or the underprivileged who are in need of a means

of transportation, intends to sell a qualified vehicle to a needy individual at a price significantly below fair market value, or gratuitously transfer a qualified vehicle to a needy individual. This section provides rules for donee organizations to use in determining the contents of the acknowledgments required under § 170(f)(12).

(1) *Significant intervening use*

To constitute a significant intervening use, a donee organization must actually use the qualified vehicle to substantially further the organization's regularly conducted activities, and the use must be significant. Incidental use by an organization is not a significant intervening use. Whether a use is a significant intervening use depends on its nature, extent, frequency, and duration. See H.R. Conf. Rep. No. 755, 108<sup>th</sup> Cong., 2d Sess. 750-751 (2004). For this purpose, use by the donee organization includes use of the qualified vehicle to provide transportation on a regular basis for a significant period of time or significant use directly related to instruction in vehicle repair. However, use by the donee organization does not include use of the qualified vehicle to provide training in general business skills, such as marketing and sales.

*Example 6.* E contributes a qualified vehicle to Q, an organization that is described in § 170(c). As part of its regularly conducted activities, Q delivers meals to needy individuals. Q uses the qualified vehicle only a few times to deliver meals and then sells the qualified vehicle. Because Q's use is infrequent and incidental, there is no significant intervening use.

*Example 7.* The facts are the same as in *Example 6*, except that Q uses the qualified vehicle to deliver meals every day for one year. Because Q's use is significant

and substantially furthers a regularly conducted activity of Q, there is a significant intervening use.

*Example 8.* The facts are the same as in *Example 6*, except that Q does not use the qualified vehicle to deliver meals every day. However, Q drives the qualified vehicle a total of 10,000 miles over a 1-year period while delivering meals. Because Q's use is significant and substantially furthers a regularly conducted activity of Q, there is a significant intervening use.

(2) *Material improvement*

Material improvement includes a major repair or improvement that improves the condition of the qualified vehicle in a manner that significantly increases the value. Cleaning, minor repairs, and routine maintenance are not considered material improvements. See H.R. Conf. Rep. No. 755, 108<sup>th</sup> Cong., 2d Sess. 751 (2004). To be a material improvement of a qualified vehicle, the improvement may not be funded by an additional payment to the donee organization from the donor of the qualified vehicle.

For purposes of § 170(f)(12), services that are not considered material improvements include: 1) application of paint or other types of finishes (such as rustproofing or wax); 2) removal of dents and scratches; 3) cleaning or repair of upholstery; and 4) installation of theft deterrent devices.

(3) *Sale or gratuitous transfer to needy individual in direct furtherance of donee organization's charitable purpose*

As provided in section 3.02(3) of this notice, the gross proceeds limitation does not apply to a sale of a qualified vehicle at a price significantly below fair market value

(as described in section 5 of this notice), or a gratuitous transfer of a qualified vehicle, to a needy individual if supplying a vehicle to a needy individual is in direct furtherance of a charitable purpose of the donee organization of relieving the poor and distressed or the underprivileged who are in need of a means of transportation.

#### *7.02 Information reporting by donee organizations*

Section 170(f)(12)(D) requires a donee organization to provide to the Secretary the information given to the donor in the acknowledgment required under § 170(f)(12). The time and manner rules for information reporting required under § 170(f)(12)(D) will be addressed in separate guidance. See section 3.03 of this notice for guidance on the content of the acknowledgment.

#### *7.03 Penalties for false or fraudulent acknowledgments and for knowing failure to furnish proper acknowledgment*

Section 6720 imposes penalties on any donee organization required under § 170(f)(12)(A) to furnish an acknowledgment to a donor that knowingly furnishes a false or fraudulent acknowledgment, or knowingly fails to furnish an acknowledgment in the manner, at the time, and showing the information required under § 170(f)(12) or regulations thereunder. An acknowledgment containing a certification described in section 3.03(3) or (4) of this notice shall be presumed to be false or fraudulent, and therefore subject to a penalty under § 6720, if the qualified vehicle is sold to a buyer, other than a needy individual as described in section 7.01(3) of this notice, without a significant intervening use or material improvement within six months of the date of the contribution. The penalty applicable to an acknowledgment relating to a qualified

vehicle described in section 3.02(1) of this notice is the greater of (1) the product of the highest rate of tax specified in § 1 (currently 35%) and the sales price stated on the acknowledgment, or (2) the gross proceeds from the sale of the qualified vehicle. The penalty applicable to an acknowledgment relating to any other qualified vehicle the claimed value of which is more than \$500 is the greater of (1) the product of the highest rate of tax specified in § 1 and the claimed value of the qualified vehicle, or (2) \$5,000.

*Example 9.* Q, an organization that is described in § 170(c), receives a contribution of a qualified vehicle that is a subcompact car that has been driven more than 100,000 miles. The substance of Q's charitable activities involves regularly delivering food and other needed goods to the rural poor at remote locations. For this purpose, Q needs three large vehicles suitable for delivering heavy loads across rugged terrain. Among many contributed qualified vehicles, Q has identified three suitable vehicles that Q intends to use for this purpose. The subcompact car is not suitable for Q's use. Q provides an acknowledgment to the donor of the subcompact car in which Q knowingly makes a false certification of the intended use of the qualified vehicle and the duration of such intended use. The donor of the qualified vehicle claims a deduction of \$2,300. Q is subject to a penalty under § 6720 for knowingly furnishing a false or fraudulent acknowledgment to the donor. The amount of the penalty is \$5,000, because that amount is greater than \$805, the product of the claimed value (\$2,300) and 35%.

*Example 10.* Q, an organization that is described in § 170(c), receives a contribution of a qualified vehicle. The qualified vehicle is sold without any significant intervening use or material improvement by Q. Gross proceeds from the sale are \$300.



Q provides an acknowledgment to the donor in which Q knowingly includes a false or fraudulent statement that the gross proceeds from the sale of the vehicle were \$1,000. Q is subject to a penalty under § 6720 for knowingly furnishing a false or fraudulent acknowledgment to the donor. The amount of the penalty is \$350, the product of the sales price stated in the acknowledgment (\$1,000) and 35%, because that amount is greater than the gross proceeds from the sale of the vehicle (\$300).

*7.04 Sections 170(f)(12)(D) and 6720 inapplicable if donor claims deduction of \$500 or less*

For contributions within the scope of the rules described in section 4 of this notice (regarding deductions of \$500 or less), §§ 170(f)(12)(D) and 6720 do not apply.

## SECTION 8. EFFECTIVE DATE AND INTERIM GUIDANCE FOR DONORS AND DONEE ORGANIZATIONS

### *8.01 Effective date and transition rules.*

This notice generally is effective for contributions made on or after January 1, 2005. However, the following transition rules are provided. A contemporaneous written acknowledgment that is obtained on or before July 3, 2005, will be treated as satisfying the requirements of § 170(f)(12)(A) if the acknowledgment contains all of the information specified in § 170(f)(12)(B), even if the acknowledgment does not include the date the qualified vehicle is sold (as required by section 3.03(2) of this notice), or a detailed description of the intended significant intervening use or material improvement by the donee organization (as required by section 3.03(3) of this notice). In the case of contributions described in section 3.02(3) of this notice regarding qualified vehicles sold at a price significantly below fair market value (or gratuitously transferred) to needy

individuals, the requirement of section 3.03(4) of this notice that an acknowledgment contain the information described in that section is effective for contributions made on or after January 1, 2005. For such contributions made on or before September 1, 2005, the acknowledgment must be obtained by the donor on or before October 1, 2005.

*8.02 Extension of time to obtain acknowledgments under § 170(f)(12) for contributions made on or before September 1, 2005*

Pursuant to § 170(f)(12)(F), the Service and the Treasury Department have determined that it is appropriate to provide donors an extension of time to obtain the contemporaneous written acknowledgment required by § 170(f)(12)(A). Therefore, for contributions made on or before September 1, 2005, a written acknowledgment will be considered contemporaneous for purposes of § 170(f)(12)(C) if it is obtained within the time specified in § 170(f)(12)(C) or, if later, on or before October 1, 2005.

*8.03 Form of acknowledgment*

A donee organization may provide an acknowledgment to a donor containing the information required under § 170(f)(12) in any reasonable manner. The Service and the Treasury Department will be providing Form 1098-C for reporting to the Service the information required to be reported under § 170(f)(12)(D). A copy of Form 1098-C may be used by a donee organization to provide a contemporaneous written acknowledgment to a donor pursuant to § 170(f)(12).

*8.04 Satisfaction of contemporaneous requirement for purposes of § 6720*

Section 6720 imposes penalties on any donee organization that knowingly fails to furnish an acknowledgment within the time required under § 170(f)(12) or the

regulations thereunder. See section 7.03 of this notice. A donee organization that provides a contemporaneous written acknowledgment that is treated as contemporaneous under sections 8.01 and 8.02 of this notice will be treated as having furnished the acknowledgment within the time required under § 170(f)(12) for purposes of § 6720.

#### SECTION 9. REQUEST FOR COMMENTS

The Service and the Treasury Department invite comments regarding this notice and suggestions for future guidance under §§ 170(f)(12) and 6720. In particular, comments are requested on which markets are appropriate for measuring the fair market value of vehicles for purposes of § 170, and for determining whether a sale was at a price significantly below fair market value for purposes of sections 3.02(3) and 7.01(3) of this notice. Commentators already have suggested that the most appropriate market for measuring the fair market value of vehicles is the market either for private party sales or for dealer trade-in transactions. Comments should address the factors that distinguish private party sales and dealer trade-in transactions, and which type of transaction is most similar to a charitable contribution. As discussed in section 5 of this notice, any regulations limiting the fair market value of a qualified vehicle for purposes of § 170 will not require use of a value less than the private party sale value for contributions made before the date the regulations become effective, but may require use of a value less than the private party sale value after that date. Comments should refer to Notice 2005-44 and be submitted by September 1, 2005, to:

Internal Revenue Service

P.O. Box 7604  
Ben Franklin Station  
Washington, D.C. 20044  
Attn: CC:PA:LPD:PR  
Room 5203

Alternatively, comments may be submitted electronically via e-mail to the following address: [Notice.Comments@irsounsel.treas.gov](mailto:Notice.Comments@irsounsel.treas.gov). All comments will be available for public inspection and copying.

#### SECTION 10. PAPERWORK REDUCTION ACT

The collections of information in this notice have been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1942.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in sections 3, 4, 7, and 8. The collections of information in sections 3, 4, and 8 are required from donors to satisfy the substantiation requirements of § 170(f)(12). The collections of information are required from donors to obtain a benefit. The likely respondents are individual donors.

The collections of information in sections 3, 4, 7, and 8 are required from donee organizations to satisfy the donee reporting requirements of § 170(f)(12) and avoid the penalties in § 6720. The collections of information are mandatory. The likely respondents are tax-exempt charitable organizations.

The estimated total annual reporting burden is 3,041 hours for donors and

21,500 hours for donee organizations.

The estimated annual burden per donor varies from 1 minute to 5 minutes. The estimated annual burden per donee organization varies from 30 minutes to 16 hours, depending on individual circumstances. The estimated average annual burdens are 1 minute for donors and 5 hours for donee organizations. The estimated number of donors is 182,500 and the estimated number of donee organizations is 4,300.

The estimated annual frequency of responses (used for reporting requirements only) is annually.

Books or records relating to a 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 return information are confidential, as required by § 6103.

#### SECTION 11. DRAFTING INFORMATION

The principal author of this notice is Patricia M. Zweibel of the Office of Associate Chief Counsel (Income Tax & Accounting). For information regarding whether a transfer is in direct furtherance of a donee organization's charitable purpose, contact Sean Barnett of the Tax Exempt and Government Entities Division at (202) 283-8913. For information regarding penalties under § 6720, contact Donnell Rini-Swyers of the Office of Associate Chief Counsel (Procedure and Administration) at (202) 622-4910. For information regarding information reporting by a donee organization, contact Mr. Barnett or Ms. Rini-Swyers. For further information regarding the remainder of this notice, contact Ms. Zweibel at (202) 622-5020 (not a toll-free call).

