



# TaxNewsFlash

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## Proposed regulations, payments made to charitable entities; OIRA review completed

OMB's Office of Information and Regulatory Affairs (OIRA) reported it has completed review of proposed regulations concerning the treatment of payments made to charitable entities in return for consideration, pursuant to provisions enacted by the 2017 U.S. tax law (Pub. L. No. 115-97) (the law that is commonly referred to as the "Tax Cuts and Jobs Act" (TCJA)).

According to OIRA, review of the following proposed regulations was completed on December 4, 2019.

- **[RIN: 1545-BP40](#)**: *Treatment of payments to charitable entities in return for consideration [TCJA]*

The regulations are described by OIRA as follows:

*The [proposed regulations provide] proposed amendments to the regulations under sections 162, 164, and 170. First, the proposed amendments provide safe harbors under section 162 for certain payments made by business entities to or for the use of an entity described in section 170(c) if the business entity receives, or expects to receive, a state or local tax credit in return. Second, the proposed amendments provide a safe harbor under section 164 for payments made to an entity described in section 170(c) by individuals who itemize deductions and receive or expect to receive a state or local tax credit in return. Third, the proposed amendments clarify the application of the quid pro quo principle under section 170 to benefits received or expected to be received by a donor from a third party.*

Treasury regulations that are identified as "major" regulations are subject to review by OMB's OIRA before being issued, pursuant to Executive Order 13771. Now that OIRA review has been completed, Treasury and the IRS can be expected to release these proposed regulations for publication in the Federal Register—the exact date of publication not being known.

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