

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 2004-85, page 189.

Effect of mergers on qualified subchapter S subsidiary (QSub) elections. This ruling discusses the effect certain interst transfers have on QSub and entity classification elections.

Rev. Rul. 2004-86, page 191.

Classification of Delaware statutory trust. This ruling explains how a Delaware statutory trust described in the ruling will be classified for federal tax purposes and whether a taxpayer may acquire an interest in the Delaware statutory trust without recognition of gain or loss under section 1031 of the Code. Rev. Ruls. 78-371 and 92-105 distinguished.

Notice 2004-50, page 196.

This notice consists of 88 questions and answers on Health Savings Accounts (HSAs) that have not been previously addressed. This notice also provides transition relief for months before January 1, 2005, for health plans, which would otherwise qualify as high deductible health plans (HDHPs) except for the absence of an express limit on out-of-pocket expenses. It also provides transition relief for months before January 1, 2006, for health plans which allow deductibles to be satisfied over a period of more than 12 months. Notice 2004-2 modified.

Notice 2004-53, page 209.

Requests for comments concerning the application of section 761. This notice requests comments regarding the application of section 761 of the Code and whether section 1.761-2(a)(2) of the regulations should be revised, modified, or clarified.

Notice 2004-54, page 209.

This notice provides that paid preparers will be permitted to sign original returns, amended returns, or requests for filing extensions by rubber stamp, mechanical device (such as signature pen), or computer software program.

Rev. Proc. 2004-49, page 210.

This procedure grants relief to S corporations that had a QSub election of a subsidiary terminate as a result of a transfer described in Situation 2 of Rev. Rul. 2004-85.

Rev. Proc. 2004-51, page 294.

Like-kind exchanges using qualified exchange accommodation arrangements. This procedure modifies Rev. Proc. 2000-37, 2000-2 C.B. 308, to provide that the safe harbor of Rev. Proc. 2000-37 does not apply to replacement property held in a qualified exchange accommodation arrangement if the property is owned by a taxpayer within the 180-day period ending on the date of transfer of qualified indicia of ownership of the property to an exchange accommodation titleholder. Rev. Proc. 2000-37 modified.

EXEMPT ORGANIZATIONS

Announcement 2004-65, page 300.

Heritage Resources II, Inc., of Mercer, PA and Total Impact Center for Youth, of Houston, TX, no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

(Continued on the next page)

Announcements of Disbarments and Suspensions begin on page 296.
Finding Lists begin on page ii.



ADMINISTRATIVE

Notice 2004-54, page 209.

This notice provides that paid preparers will be permitted to sign original returns, amended returns, or requests for filing extensions by rubber stamp, mechanical device (such as signature pen), or computer software program.

Rev. Proc. 2004-50, page 211.

Electronic filing; magnetic media; 2004 form specifications. Specifications are set forth for the electronic or magnetic filing of 2004 Forms 1098, 1099, 5498, and W-2G. Rev. Proc. 2003-52 superseded.

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by

applying the tax law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are compiled semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations,

court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 368.—Definitions Relating to Corporate Reorganizations

Does an election to treat a wholly owned subsidiary of an S corporation as a qualified subchapter S subsidiary (QSub) or an entity classification election of a subsidiary terminate when the subsidiary's interest is transferred pursuant to certain section 368(a)(1) reorganizations or otherwise? See Rev. Rul. 2004-85, page 189.

How does an S corporation taxpayer obtain late QSub election relief for a subsidiary whose QSub election terminated as a result of a transfer of the QSub's interest from one S corporation to another S corporation? See Rev. Proc. 2004-49, page 210.

Section 671.—Trust Income, Deductions, and Credits Attributable to Grantors and Others as Substantial Owners

How will certain Delaware statutory trusts be classified for federal tax purposes and may a taxpayer acquire an interest in certain Delaware statutory trusts without recognition of gain or loss under section 1031 of the Internal Revenue Code. See Rev. Rul. 2004-86, page 191.

Section 677.—Income for Benefit of Grantor

How will certain Delaware statutory trusts be classified for federal tax purposes and may a taxpayer acquire an interest in certain Delaware statutory trusts without recognition of gain or loss under section 1031 of the Internal Revenue Code. See Rev. Rul. 2004-86, page 191.

Section 761.—Terms Defined

How will certain Delaware statutory trusts be classified for federal tax purposes and may a taxpayer acquire an interest in certain Delaware statutory trusts without recognition of gain or loss under section 1031 of the Internal Revenue Code. See Rev. Rul. 2004-86, page 191.

Section 1031.—Exchange of Property Held for Productive Use or Investment

How will certain Delaware statutory trusts be classified for federal tax purposes and may a taxpayer acquire an interest in certain Delaware statutory trusts without recognition of gain or loss under section 1031 of the Internal Revenue Code. See Rev. Rul. 2004-86, page 191.

Section 1361.—S Corporation Defined

26 CFR 1.1361-5: Termination of QSub election. (Also §§ 368, 1361, 7701, 1.1361-3, 1.1361-4, 1.1361-5, 301.7701-3.)

Effect of mergers on qualified subchapter S subsidiary (QSub) elections. This ruling discusses the effect certain interest transfers have on QSub and entity classification elections.

Rev. Rul. 2004-85

ISSUES

(1) Does an election to treat a wholly owned subsidiary of an S corporation as a qualified subchapter S subsidiary (QSub), as described in § 1361(b)(3)(B) of the Internal Revenue Code, terminate solely because the S corporation engages in a transaction that qualifies as a reorganization under § 368(a)(1)(F)?

(2) Does an election to treat a subsidiary as a QSub terminate if the S corporation (whether by sale or reorganization under § 368(a)(1)(A), (C), or (D)) transfers 100 percent of the QSub stock to another S corporation in a transaction that does not qualify as a reorganization under § 368(a)(1)(F)?

(3) Does an entity classification election of an eligible entity, as described in § 301.7701-3(b) of the Procedure and Administration Regulations, terminate solely because the owner transfers (whether by sale, reorganization under § 368(a)(1)(A), (C), (D), or (F), or otherwise) all of the membership interest in the eligible entity to another person?

FACTS

Situation 1. X is a State A S corporation that owns 100 percent of the stock of *Sub 1*, a corporation that X has elected to treat as a QSub. The shareholders of X form U, a State B corporation. X merges with and into U in a transaction qualifying as a reorganization under § 368(a)(1)(F). The shareholders of X own 100 percent of the stock of U and U is eligible to be an S corporation under § 1361(b)(1).

Situation 2. Y is an S corporation that owns 100 percent of the stock of *Sub 2*, a corporation that Y has elected to treat as a QSub. Y (whether by sale or reorganization under § 368(a)(1)(A), (C), or (D)) transfers Y's assets, including 100 percent of *Sub 2* stock, to M, an S corporation, in a transaction that is not a reorganization under § 368(a)(1)(F).

Situation 3. Z is a corporation that owns 100 percent of the membership interests in *LLC1*, an eligible entity that elected to be classified for federal tax purposes as an association, contrary to its default classification. Z (whether by sale, reorganization under § 368(a)(1)(A), (C), (D), or (F), or otherwise) transfers all of the membership interests in *LLC1* to N, another person.

LAW AND ANALYSIS

Situations 1 and 2

Section 1361(a)(1) provides that the term "S corporation" means, with respect to a taxable year, a small business corporation (as defined in § 1361(b)(1)) for which an election under § 1362(a) is in effect for the year.

Section 1361(b)(3)(B) allows an S corporation to elect to treat any domestic corporation that is not an ineligible corporation (as defined in § 1361(b)(2)) as a QSub if 100 percent of the stock of the corporation is held by the S corporation. Section 1.1361-3(a) of the Income Tax Regulations provides the time and manner of making a QSub election.

Under § 1361(b)(3)(A), a corporation that is a QSub is not treated as a separate corporation. Instead, all assets, liabilities, and items of income, deduction and credit

of a QSub are treated as assets, liabilities, and such items (as the case may be) of the S corporation.

Section 1.1361-4(a)(2) provides that, if an S corporation makes a valid QSub election with respect to a subsidiary, the subsidiary is deemed to have liquidated into the S corporation. Under § 1.1361-4(b), this liquidation is generally deemed to occur at the close of the day before the QSub election is effective.

Under § 1.1361-5(a)(1)(ii), if a QSub election terminates as a result of the termination of its parent's S corporation election, then the termination of the QSub election is effective at the close of the last day of the parent's last taxable year as an S corporation. Under § 1.1361-5(a)(1)(iii), if a QSub election terminates as the result of any other event, then the termination of a QSub election is effective at the close of the day on which the event causing the termination occurs.

Sections 1361(b)(3)(C) and 1.1361-5(b)(1) provide that if a QSub election terminates, the former QSub is treated as a new corporation that, immediately before the termination, acquires all of its assets (and assumes all of its liabilities) from the S corporation in exchange for stock of the new corporation. The tax treatment of this transaction or of a larger transaction that includes this transaction is determined under the Internal Revenue Code and general principles of tax law, including the step transaction doctrine.

Section 1.1361-5(b)(3), *Example 9*, describes the tax consequences of a transfer by an S corporation (*X*) of 100 percent of the stock of a QSub (*Y*) to a C corporation (*Z*). The example provides that the deemed formation of *Y* by *X* (as a consequence of the termination of *Y*'s QSub election) is disregarded for federal income tax purposes. The transaction is treated as a transfer of the assets of *Y* to *Z*, followed by *Z*'s transfer of those assets to the capital of *Y* in exchange for *Y* stock. If, instead, *Z* is an S corporation, and *Z* makes a QSub election for *Y* effective as of the date of *Z*'s acquisition of *Y*, then *Z*'s transfer of the assets of *Y* in exchange for *Y* stock, followed by the immediate liquidation of *Y* as a consequence of the QSub election are disregarded for federal income tax purposes.

Sections 1361(b)(3)(D) and 1.1361-5(c)(1) provide that, absent the consent of the Commissioner, a corporation whose

QSub status terminates (and any successor corporation as defined in § 1.1362-5(b)) may not make an S election or have a QSub election made with respect to it before its fifth taxable year which begins after the first taxable year for which the termination was effective.

Section 1.1361-5(c)(2) provides that in the case of S and QSub elections effective after December 31, 1996, if a corporation's QSub election terminates, the corporation may make an S election or have a QSub election made with respect to it before the expiration of the five-year period described in § 1361(b)(3)(D) provided that (i) immediately following the termination, the corporation (or its successor corporation) is otherwise eligible to make an S election or have a QSub election made for it; and (ii) the relevant election is made effective immediately following the termination of the QSub election.

Section 368(a)(1)(F) provides that the term "reorganization" means, among other things, a mere change in identity, form, or place of organization of one corporation, however effected.

Section 1.381(b)-1(a)(2) provides that, in the case of a reorganization qualifying under § 368(a)(1)(F) (whether or not such reorganization also qualifies under any other provision of § 368(a)(1)), the acquiring corporation shall be treated (for purposes of § 381) just as the transferor corporation would have been treated if there had been no reorganization.

Rev. Rul. 64-250, 1964-2 C.B. 333, concludes that when an S corporation merges into a newly formed corporation in a transaction qualifying as a reorganization under § 368(a)(1)(F), and the newly formed surviving corporation also meets the requirements of an S corporation, the reorganization does not terminate the S election. Thus, the S election remains in effect for the new corporation.

In *Situation 1*, *X* (an S corporation) merges into *U* (a corporation that meets the requirements to be a small business corporation under § 1361(b)(1)) in a transaction qualifying as a reorganization under § 368(a)(1)(F). Under Rev. Rul. 64-250, *U* will be treated as a continuation of *X*. *U*, therefore, will be an S corporation immediately after the merger. Because *U* is treated as a continuation of *X*, the reorganization does not terminate *X*'s election to treat *Sub 1* as a QSub.

In *Situation 2*, *Y* (an S corporation) transfers its assets, including 100 percent of the stock of *Sub 2* (a QSub), to *M* (an S corporation). Because the transaction does not qualify as a reorganization under § 368(a)(1)(F), *M* will not be treated just as *Y* would have been treated if there had been no reorganization. After the transaction, *Y* no longer owns *Sub 2*, and *Y*'s QSub election for *Sub 2* does not carry over to *M*. Therefore, the QSub election of *Sub 2* terminates at the close of the day on which *Y* transfers its assets, including 100 percent of the *Sub 2* stock to *M*, unless *M* makes a QSub election for *Sub 2*, effective immediately following the termination. See § 1.1361-5(a)(1)(iii) and 1.1361-5(c)(2).

If *M* makes a QSub election for *Sub 2*, effective immediately following the termination of *Sub 2*'s QSub election, then *M*'s deemed transfer of the assets of *Sub 2* in exchange for the stock of *Sub 2* and the immediate liquidation of *Sub 2* as a consequence of the QSub election are disregarded for federal income tax purposes. See §§ 1.1361-4(b)(3)(ii) and 1.1361-5(b)(3), *Example 9*. There will be no period between the termination of *Sub 2*'s QSub election and the deemed liquidation of *Sub 2* during which *Sub 2* is a C corporation.

If *M* does not make a QSub election for *Sub 2*, effective immediately following the termination, then the transaction will be treated as a transfer of the assets of *Sub 2* to *M*, followed by *M*'s contribution of *Sub 2*'s assets to *Sub 2* in exchange for *Sub 2* stock. See § 1.1361-5(b)(3), *Example 9*. *Sub 2* will not be eligible to be treated as a QSub or an S corporation before the expiration of the period described in § 1361(b)(3)(D).

Situation 3

Section 301.7701-3(a) of the Procedure and Administration Regulations provides that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes.

Section 301.7701-3(b) provides default classifications for eligible entities. Under § 301.7701-3(b)(1), unless a domestic eligible entity elects otherwise, it is disregarded as an entity separate from its owner if it has a single owner and is a partner-

ship if it has more than one owner. Under § 301.7701-3(b)(2)(i), unless a foreign eligible entity elects otherwise, it is: (A) a partnership if it has two or more owners and at least one owner does not have limited liability, (B) an association if all owners have limited liability, or (C) disregarded as an entity separate from its owner if it has a single owner that does not have limited liability.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing Form 8832, *Entity Classification Election*, with the applicable service center.

In *Situation 3*, Z transfers to N 100 percent of the membership interests in LLC1, an eligible entity that has elected to be classified as an association. Under § 301.7701-3(c)(1), LLC1 elects its own classification. LLC1's classification continues until LLC1 elects otherwise or no longer remains eligible for that classification. Therefore, the sale or transfer of the LLC1 membership interests to N does not affect LLC1's election to be classified as an association.

HOLDINGS

(1) An election to treat a wholly owned subsidiary of an S corporation as a QSub, as described in § 1361(b)(3)(B), does not terminate solely because the S corporation engages in a transaction that qualifies as a reorganization under § 368(a)(1)(F).

(2) An election to treat a subsidiary as a QSub terminates if the S corporation transfers 100 percent of the QSub stock (whether by sale or reorganization under § 368(a)(1)(A), (C), or (D)), to another S corporation in a transaction that does not qualify as a reorganization under § 368(a)(1)(F).

(3) An entity classification election of an eligible entity, as described in § 301.7701-3(b), does not terminate solely because the owner (whether by sale, reorganization under § 368(a)(1)(A), (C), (D), or (F), or otherwise) transfers all of the membership interest in the eligible entity to another person.

DRAFTING INFORMATION

The principal author of this revenue ruling is Charles J. Langley, Jr. of the Office of Associate Chief Counsel (Passthroughs

& Special Industries). For further information regarding this revenue ruling, contact Mr. Langley at 202-622-3060 (not a toll-free call).

Section 7701.—Definitions

26 CFR 301.7701-3: *Classification of certain business entities.*

Does an election to treat a wholly owned subsidiary of an S corporation as a qualified subchapter S subsidiary (QSub) or an entity classification election of a subsidiary terminate when the subsidiary's interest is transferred pursuant to certain section 368(a)(1) reorganizations or otherwise? See Rev. Rul. 2004-85, page 189.

26 CFR 301.7701-1: *Classification of organizations for federal tax purposes.* (Also: §§ 671, 677, 761, 1031, 1.761-2, 301.7701-1, 301.7701-3, 301.7701-4.)

Classification of Delaware statutory trust. This ruling explains how a Delaware statutory trust described in the ruling will be classified for federal tax purposes and whether a taxpayer may acquire an interest in the Delaware statutory trust without recognition of gain or loss under section 1031 of the Code. Rev. Ruls. 78-371 and 92-105 distinguished.

Rev. Rul. 2004-86

ISSUE(S)

(1) In the situation described below, how is a Delaware statutory trust, described in Del. Code Ann. title 12, §§ 3801 - 3824, classified for federal tax purposes?

(2) In the situation described below, may a taxpayer exchange real property for an interest in a Delaware statutory trust without recognition of gain or loss under § 1031 of the Internal Revenue Code?

FACTS

On January 1, 2005, A, an individual, borrows money from BK, a bank, and signs a 10-year note bearing adequate stated interest, within the meaning of § 483. On January 1, 2005, A uses the proceeds of the loan to purchase Blackacre, rental real property. The note is secured by Blackacre and is nonrecourse to A.

Immediately following A's purchase of Blackacre, A enters into a net lease with Z

for a term of 10 years. Under the terms of the lease, Z is to pay all taxes, assessments, fees, or other charges imposed on Blackacre by federal, state, or local authorities. In addition, Z is to pay all insurance, maintenance, ordinary repairs, and utilities relating to Blackacre. Z may sublease Blackacre. Z's rent is a fixed amount that may be adjusted by a formula described in the lease agreement that is based upon a fixed rate or an objective index, such as an escalator clause based upon the Consumer Price Index, but adjustments to the rate or index are not within the control of any of the parties to the lease. Z's rent is not contingent on Z's ability to lease the property or on Z's gross sales or net profits derived from the property.

Also on January 1, 2005, A forms DST, a Delaware statutory trust described in the Delaware Statutory Trust Act, Del. Code Ann. title 12, §§ 3801 - 3824, to hold property for investment. A contributes Blackacre to DST. Upon contribution, DST assumes A's rights and obligations under the note with BK and the lease with Z. In accordance with the terms of the note, neither DST nor any of its beneficial owners are personally liable to BK on the note, which continues to be secured by Blackacre.

The trust agreement provides that interests in DST are freely transferable. However, DST interests are not publicly traded on an established securities market. DST will terminate on the earlier of 10 years from the date of its creation or the disposition of Blackacre, but will not terminate on the bankruptcy, death, or incapacity of any owner or on the transfer of any right, title, or interest of the owners. The trust agreement further provides that interests in DST will be of a single class, representing undivided beneficial interests in the assets of DST.

Under the trust agreement, the trustee is authorized to establish a reasonable reserve for expenses associated with holding Blackacre that may be payable out of trust funds. The trustee is required to distribute all available cash less reserves quarterly to each beneficial owner in proportion to their respective interests in DST. The trustee is required to invest cash received from Blackacre between each quarterly distribution and all cash held in reserve in short-term obligations of (or guaranteed by) the United States, or any agency

or instrumentality thereof, and in certificates of deposit of any bank or trust company having a minimum stated surplus and capital. The trustee is permitted to invest only in obligations maturing prior to the next distribution date and is required to hold such obligations until maturity. In addition to the right to a quarterly distribution of cash, each beneficial owner has the right to an in-kind distribution of its proportionate share of trust property.

The trust agreement provides that the trustee's activities are limited to the collection and distribution of income. The trustee may not exchange Blackacre for other property, purchase assets other than the short-term investments described above, or accept additional contributions of assets (including money) to *DST*. The trustee may not renegotiate the terms of the debt used to acquire Blackacre and may not renegotiate the lease with *Z* or enter into leases with tenants other than *Z*, except in the case of *Z*'s bankruptcy or insolvency. In addition, the trustee may make only minor non-structural modifications to Blackacre, unless otherwise required by law. The trust agreement further provides that the trustee may engage in ministerial activities to the extent required to maintain and operate *DST* under local law.

On January 3, 2005, *B* and *C* exchange Whiteacre and Greenacre, respectively, for all of *A*'s interests in *DST* through a qualified intermediary, within the meaning of § 1.1031(k)-1(g). *A* does not engage in a § 1031 exchange. Whiteacre and Greenacre were held for investment and are of like kind to Blackacre, within the meaning of § 1031.

Neither *DST* nor its trustee enters into a written agreement with *A*, *B*, or *C*, creating an agency relationship. In dealings with third parties, neither *DST* nor its trustee is represented as an agent of *A*, *B*, or *C*.

BK is not related to *A*, *B*, *C*, *DST*'s trustee or *Z* within the meaning of § 267(b) or § 707(b). *Z* is not related to *B*, *C*, or *DST*'s trustee within the meaning of § 267(b) or § 707(b).

LAW

Delaware law provides that a Delaware statutory trust is an unincorporated association recognized as an entity separate from its owners. A Delaware statutory trust is

created by executing a governing instrument and filing an executed certificate of trust. Creditors of the beneficial owners of a Delaware statutory trust may not assert claims directly against the property in the trust. A Delaware statutory trust may sue or be sued, and property held in a Delaware statutory trust is subject to attachment or execution as if the trust were a corporation. Beneficial owners of a Delaware statutory trust are entitled to the same limitation on personal liability because of actions of the Delaware statutory trust that is extended to stockholders of Delaware corporations. A Delaware statutory trust may merge or consolidate with or into one or more statutory entities or other business entities.

Section 671 provides that, where the grantor or another person is treated as the owner of any portion of a trust (commonly referred to as a "grantor trust"), there shall be included in computing the taxable income and credits of the grantor or the other person those items of income, deductions, and credits against tax of the trust which are attributable to that portion of the trust to the extent that the items would be taken into account under chapter 1 in computing taxable income or credits against the tax of an individual.

Section 1.671-2(e)(1) of the Income Tax Regulations provides that, for purposes of subchapter J, a grantor includes any person to the extent such person either creates a trust or directly or indirectly makes a gratuitous transfer of property to a trust.

Under § 1.671-2(e)(3), the term "grantor" includes any person who acquires an interest in a trust from a grantor of the trust if the interest acquired is an interest in certain investment trusts described in § 301.7701-4(c).

Under § 677(a), the grantor is treated as the owner of any portion of a trust whose income without the approval or consent of any adverse party is, or, in the discretion of the grantor or a nonadverse party, or both, may be distributed, or held or accumulated for future distribution, to the grantor or the grantor's spouse.

A person that is treated as the owner of an undivided fractional interest of a trust under subpart E of part I, subchapter J of the Code (§§ 671 and following), is considered to own the trust assets attributable to that undivided fractional interest of the trust for federal income tax purposes. *See*

Rev. Rul. 88-103, 1988-2 C.B. 304; Rev. Rul. 85-45, 1985-1 C.B. 183; and Rev. Rul. 85-13, 1985-1 C.B. 184. *See also* § 1.1001-2(c), *Example 5*.

Section 761(a) provides that the term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and that is not a corporation or a trust or estate. Under regulations the Secretary may, at the election of all the members of the unincorporated organization, exclude such organization from the application of all or part of subchapter K, if the income of the members of the organization may be adequately determined without the computation of partnership taxable income and the organization is availed of (1) for investment purposes only and not for the active conduct of a business, (2) for the joint production, extraction, or use of property, but not for the purpose of selling services or property produced or extracted, or (3) by dealers in securities for a short period for the purpose of underwriting, selling, or distributing a particular issue of securities.

Section 1.761-2(a)(2) provides the requirements that must be satisfied for participants in the joint purchase, retention, sale, or exchange of investment property to elect to be excluded from the application of the provisions of subchapter K. One of these requirements is that the participants own the property as coowners.

Section 1031(a)(1) provides that no gain or loss is recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind that is to be held either for productive use in a trade or business or for investment.

Section 1031(a)(2) provides that § 1031(a) does not apply to any exchange of stocks, bonds or notes, other securities or evidences of indebtedness or interest, interests in a partnership, or certificates of trust or beneficial interests. It further provides that an interest in a partnership that has in effect a valid election under § 761(a) to be excluded from the application of all of subchapter K shall be treated as an interest in each of the assets of the partnership and not as an interest in a partnership.

Under § 301.7701-1(a)(1) of the Procedure and Administration Regulations, whether an organization is an entity separate from its owners for federal tax purposes is a matter of federal tax law and does not depend on whether the organization is recognized as an entity under local law.

Generally, when participants in a venture form a state law entity and avail themselves of the benefits of that entity for a valid business purpose, such as investment or profit, and not for tax avoidance, the entity will be recognized for federal tax purposes. See *Moline Properties, Inc. v. Comm'r*, 319 U.S. 436 (1943); *Zmuda v. Comm'r*, 731 F.2d 1417 (9th Cir. 1984); *Boca Investering P'ship v. United States*, 314 F.3d 625 (D.C. Cir. 2003); *Saba P'ship v. Comm'r*, 273 F.3d 1135 (D.C. Cir. 2001); *ASA Investering P'ship v. Comm'r*, 201 F.3d 505 (D.C. Cir. 2000); *Markosian v. Comm'r*, 73 T.C. 1235 (1980).

Section 301.7701-2(a) defines the term "business entity" as any entity recognized for federal tax purposes (including an entity with a single owner that may be disregarded as an entity separate from its owner under § 301.7701-3) that is not properly classified as a trust under § 301.7701-4 or otherwise subject to special treatment under the Code. A business entity with two or more owners is classified for federal tax purposes as either a corporation or a partnership. A business entity with only one owner is classified as a corporation or is disregarded.

Section 301.7701-3(a) provides that an eligible entity can elect its classification for federal tax purposes. Under § 301.7701-3(b)(1), unless the entity elects otherwise, a domestic eligible entity is a partnership if it has two or more owners or is disregarded as an entity separate from its owner if it has a single owner.

Section 301.7701-4(a) provides that the term "trust" refers to an arrangement created either by will or by an inter vivos declaration whereby trustees take title to property for the purpose of protecting and conserving it for the beneficiaries. Usually the beneficiaries of a trust do no more than accept the benefits thereof and are not voluntary planners or creators of the trust arrangement. However, the beneficiaries of a trust may be the persons who create it, and it will be recognized as a trust if it

was created for the purpose of protecting and conserving the trust property for beneficiaries who stand in the same relation to the trust as they would if the trust had been created by others for them.

Section 301.7701-4(b) provides that there are other arrangements known as trusts because the legal title to property is conveyed to trustees for the benefit of beneficiaries, but that are not classified as trusts for federal tax purposes because they are not simply arrangements to protect or conserve the property for the beneficiaries. These trusts, which are often known as business or commercial trusts, generally are created by the beneficiaries simply as a device to carry on a profit-making business that normally would have been carried on through business organizations that are classified as corporations or partnerships.

Section 301.7701-4(c)(1) provides that an "investment" trust will not be classified as a trust if there is a power under the trust agreement to vary the investment of the certificate holders. See *Comm'r v. North American Bond Trust*, 122 F.2d 545 (2d Cir. 1941), cert. denied, 314 U.S. 701 (1942). An investment trust with a single class of ownership interests, representing undivided beneficial interests in the assets of the trust, will be classified as a trust if there is no power to vary the investment of the certificate holders.

A power to vary the investment of the certificate holders exists where there is a managerial power, under the trust instrument, that enables a trust to take advantage of variations in the market to improve the investment of the investors. See *Comm'r v. North American Bond Trust*, 122 F.2d at 546.

Rev. Rul. 75-192, 1975-1 C.B. 384, discusses the situation where a provision in the trust agreement requires the trustee to invest cash on hand between the quarterly distribution dates. The trustee is required to invest the money in short-term obligations of (or guaranteed by) the United States, or any agency or instrumentality thereof, and in certificates of deposit of any bank or trust company having a minimum stated surplus and capital. The trustee is permitted to invest only in obligations maturing prior to the next distribution date and is required to hold such obligations until maturity. Rev. Rul. 75-192 concludes that, because the restrictions on the types of permitted investments limit the trustee

to a fixed return similar to that earned on a bank account and eliminate any opportunity to profit from market fluctuations, the power to invest in the specified kinds of short-term investments is not a power to vary the trust's investment.

Rev. Rul. 78-371, 1978-2 C.B. 344, concludes that a trust established by the heirs of a number of contiguous parcels of real estate is an association taxable as a corporation for federal tax purposes where the trustees have the power to purchase and sell contiguous or adjacent real estate, accept or retain contributions of contiguous or adjacent real estate, raze or erect any building or structure, make any improvements to the land originally contributed, borrow money, and mortgage or lease the property. Compare Rev. Rul. 79-77, 1979-1 C.B. 448 (concluding that a trust formed by three parties to hold a single parcel of real estate is classified as a trust for federal income tax purposes when the trustee has limited powers that do not evidence an intent to carry on a profit making business).

Rev. Rul. 92-105, 1992-2 C.B. 204, addresses the transfer of a taxpayer's interest in an Illinois land trust under § 1031. Under the facts of the ruling, a single taxpayer created an Illinois land trust and named a domestic corporation as trustee. Under the deed of trust, the taxpayer transferred legal and equitable title to real property to the trust, subject to the provisions of an accompanying land trust agreement. The land trust agreement provided that the taxpayer retained exclusive control of the management, operation, renting, and selling of the real property, together with an exclusive right to the earnings and proceeds from the real property. Under the agreement, the taxpayer was required to file all tax returns, pay all taxes, and satisfy any other liabilities with respect to the real property. Rev. Rul. 92-105 concludes that, because the trustee's only responsibility was to hold and transfer title at the direction of the taxpayer, a trust, as defined in § 301.7701-4(a), was not established. Moreover, there were no other arrangements between the taxpayer and the trustee (or between the taxpayer and any other person) that would cause the overall arrangement to be classified as a partnership (or any other type of entity). Instead, the trustee was a mere agent for the holding and transfer of title to real property, and the

taxpayer retained direct ownership of the real property for federal income tax purposes.

ANALYSIS

Under Delaware law, *DST* is an entity that is recognized as separate from its owners. Creditors of the beneficial owners of *DST* may not assert claims directly against Blackacre. *DST* may sue or be sued, and the property of *DST* is subject to attachment and execution as if it were a corporation. The beneficial owners of *DST* are entitled to the same limitation on personal liability because of actions of *DST* that is extended to stockholders of Delaware corporations. *DST* may merge or consolidate with or into one or more statutory entities or other business entities. *DST* is formed for investment purposes. Thus, *DST* is an entity for federal tax purposes.

Whether *DST* or its trustee is an agent of *DST*'s beneficial owners depends upon the arrangement between the parties. The beneficiaries of *DST* do not enter into an agency agreement with *DST* or its trustee. Further, neither *DST* nor its trustee acts as an agent for *A*, *B*, or *C* in dealings with third parties. Thus, neither *DST* nor its trustee is the agent of *DST*'s beneficial owners. Cf. *Comm'r v. Bollinger*, 485 U.S. 340 (1988).

This situation is distinguishable from Rev. Rul. 92-105. First, in Rev. Rul. 92-105, the beneficiary retained the direct obligation to pay liabilities and taxes relating to the property. *DST*, in contrast, assumed *A*'s obligations on the lease with *Z* and on the loan with *BK*, and Delaware law provides the beneficial owners of *DST* with the same limitation on personal liability extended to shareholders of Delaware corporations. Second, unlike *A*, the beneficiary in Rev. Rul. 92-105 retained the right to manage and control the trust property.

Issue 1. Classification of Delaware Statutory Trust

Because *DST* is an entity separate from its owner, *DST* is either a trust or a business entity for federal tax purposes. To determine whether *DST* is a trust or a business entity for federal tax purposes, it is necessary, under § 301.7701-4(c)(1), to determine whether there is a power under the

trust agreement to vary the investment of the certificate holders.

Prior to, but on the same date as, the transfer of Blackacre to *DST*, *A* entered into a 10-year nonrecourse loan secured by Blackacre. *A* also entered into the 10-year net lease agreement with *Z*. *A*'s rights and obligations under the loan and lease were assumed by *DST*. Because the duration of *DST* is 10 years (unless Blackacre is disposed of prior to that time), the financing and leasing arrangements related to Blackacre that were made prior to the inception of *DST* are fixed for the entire life of *DST*. Further, the trustee may only invest in short-term obligations that mature prior to the next distribution date and is required to hold these obligations until maturity. Because the trust agreement requires that any cash from Blackacre, and any cash earned on short-term obligations held by *DST* between distribution dates, be distributed quarterly, and because the disposition of Blackacre results in the termination of *DST*, no reinvestment of such monies is possible.

The trust agreement provides that the trustee's activities are limited to the collection and distribution of income. The trustee may not exchange Blackacre for other property, purchase assets other than the short-term investments described above, or accept additional contributions of assets (including money) to *DST*. The trustee may not renegotiate the terms of the debt used to acquire Blackacre and may not renegotiate the lease with *Z* or enter into leases with tenants other than *Z*, except in the case of *Z*'s bankruptcy or insolvency. In addition, the trustee may make only minor non-structural modifications to Blackacre, unless otherwise required by law.

This situation is distinguishable from Rev. Rul. 78-371, because *DST*'s trustee has none of the powers described in Rev. Rul. 78-371, which evidence an intent to carry on a profit making business. Because all of the interests in *DST* are of a single class representing undivided beneficial interests in the assets of *DST* and *DST*'s trustee has no power to vary the investment of the certificate holders to benefit from variations in the market, *DST* is an investment trust that will be classified as a trust under § 301.7701-4(c)(1).

Issue 2. Exchange of Real Property for Interests under § 1031

B and *C* are treated as grantors of the trust under § 1.671-2(e)(3) when they acquire their interests in the trust from *A*. Because they have the right to distributions of all trust income attributable to their undivided fractional interests in the trust, *B* and *C* are each treated, by reason of § 677, as the owner of an *aliquot* portion of the trust and all income, deductions, and credits attributable to that portion are includible by *B* and *C* under § 671 in computing their taxable income. Because the owner of an undivided fractional interest of a trust is considered to own the trust assets attributable to that interest for federal income tax purposes, *B* and *C* are each considered to own an undivided fractional interest in Blackacre for federal income tax purposes. See Rev. Rul. 85-13.

Accordingly, the exchange of real property by *B* and *C* for an interest in *DST* through a qualified intermediary is the exchange of real property for an interest in Blackacre, and not the exchange of real property for a certificate of trust or beneficial interest under § 1031(a)(2)(E). Because Whiteacre and Greenacre are of like kind to Blackacre, and provided the other requirements of § 1031 are satisfied, the exchange of real property for an interest in *DST* by *B* and *C* will qualify for non-recognition of gain or loss under § 1031. Moreover, because *DST* is a grantor trust, the outcome to the parties will remain the same, even if *A* transfers interests in Blackacre directly to *B* and *C*, and *B* and *C* immediately form *DST* by contributing their interests in Blackacre.

Under the facts of this case, if *DST*'s trustee has additional powers under the trust agreement such as the power to do one or more of the following: (i) dispose of Blackacre and acquire new property; (ii) renegotiate the lease with *Z* or enter into leases with tenants other than *Z*; (iii) renegotiate or refinance the obligation used to purchase Blackacre; (iv) invest cash received to profit from market fluctuations; or (v) make more than minor non-structural modifications to Blackacre not required by law, *DST* will be a business entity which, if it has two or more owners, will be classified as a partnership for federal tax purposes, unless it is treated as a corporation under § 7704 or

elects to be classified as a corporation under § 301.7701-3. In addition, because the assets of *DST* will not be owned by the beneficiaries as coowners under state law, *DST* will not be able to elect to be excluded from the application of subchapter K. *See* § 1.761-2(a)(2)(i).

HOLDINGS

(1) The Delaware statutory trust described above is an investment trust, under § 301.7701-4(c), that will be classified as a trust for federal tax purposes.

(2) A taxpayer may exchange real property for an interest in the Delaware statutory trust described above without recognition of gain or loss under § 1031, if the other requirements of § 1031 are satisfied.

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 78-371 and Rev. Rul. 92-105 are distinguished.

DRAFTING INFORMATION

The principal author of this revenue ruling is Christopher L. Trump of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Christopher L. Trump at (202) 622-3070 (not a toll-free call).

Part III. Administrative, Procedural, and Miscellaneous

Health Savings Accounts—Additional Qs&As

Notice 2004-50

PURPOSE

This notice provides guidance on Health Savings Accounts.

BACKGROUND

Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173, added section 223 to the Internal Revenue Code to permit eligible individuals to establish Health Savings Accounts (HSAs) for taxable years beginning after December 31, 2003. Notice 2004-2, 2004-2

I.R.B. 269, provides certain basic information on HSAs in question and answer format. This notice addresses additional questions relating to HSAs.¹

OUTLINE TABLE OF CONTENTS

The following is an outline of the questions and answers covered in this notice:

I. Eligible Individuals

- Q&A 1. Choice between low-deductible health plan and HDHP
- Q&A 2. Eligible for Medicare and contributions to HSA
- Q&A 3. Eligible for Medicare and catch-up contributions
- Q&A 4. Government retiree and enrollment in Medicare Part B
- Q&A 5. Eligible for medical benefits from VA
- Q&A 6. Coverage under TRICARE
- Q&A 7. HDHP and coverage for one or more specific diseases or illnesses
- Q&A 8. Permitted insurance and insurance contracts
- Q&A 9. HDHP and discount cards
- Q&A 10. Employee Assistance Programs (EAPs), disease management programs and wellness programs
- Q&A 11. Payroll period other than a calendar month

II. High Deductible Health Plans (HDHPs)

- Q&A 12. Family HDHP coverage defined
- Q&A 13. State high-risk pools and HDHPs
- Q&A 14. Lifetime limit on benefits under HDHPs
- Q&A 15. Annual and lifetime limit on specific benefits under HDHPs
- Q&A 16. Payments in excess of usual, customary and reasonable (UCR) amounts
- Q&A 17. HDHPs without express limit on out-of-pocket expenses
- Q&A 18. HDHPs and pre-certification requirements
- Q&A 19. HDHPs and increased coinsurance payments
- Q&A 20. Cumulative embedded deductibles and out-of-pocket maximum
- Q&A 21. Amounts incurred before satisfying deductible and out-of-pocket maximum
- Q&A 22. Deductible credit for short year
- Q&A 23. Deductible credit after changes in category of coverage
- Q&A 24. HDHP deductible and coverage period longer than 12 months
- Q&A 25. HDHPs and discounted prices

III. Preventive Care

- Q&A 26. Preventive care and treatment of related conditions
- Q&A 27. Drugs or medications as preventive care

IV. Contributions

- Q&A 28. Contributions on behalf of eligible individuals
- Q&A 29. State government contributions and high-risk pools
- Q&A 30. Calculating maximum HSA contributions for family coverage
- Q&A 31. Contribution rules for family HDHP coverage and ineligible individuals
- Q&A 32. Dividing HSA contributions between spouses
- Q&A 33. Contribution limit if covered by both HDHP and post-deductible HRA
- Q&A 34. Computation of net income on HSA excess contributions
- Q&A 35. Withdrawal of nonexcess HSA contributions

V. Distributions

- Q&A 36. Distributions for spouse or dependents covered under non-HDHP
- Q&A 37. Mistaken HSA distributions
- Q&A 38. Use of distributions where both spouses have HSAs
- Q&A 39. Deferred distributions for expenses incurred in prior years

¹ Specific issues on HSAs are also discussed in Rev. Rul. 2004-45, 2004-22 I.R.B. 971; Rev. Rul. 2004-38, 2004-15 I.R.B. 717; Rev. Proc. 2004-22, 2004-15 I.R.B. 727; Notice 2004-43, 2004-27 I.R.B. 10; Notice 2004-25, 2004-15 I.R.B. 727; Notice 2004-23, 2004-15 I.R.B. 725.

- Q&A 40. Distributions for qualified long-term care insurance premiums
- Q&A 41. Deduction limits under section 213(d)(10)
- Q&A 42. Distributions for long-term care services
- Q&A 43. Distributions for retiree's self-insured retiree coverage
- Q&A 44. Distributions to pay health insurance premiums by individuals with end stage renal disease (ESRD) or disability
- Q&A 45. Distributions to pay Medicare premiums

VI. Comparability

- Q&A 46. Matching employees' HSA contributions
- Q&A 47. Matching contributions under cafeteria plans
- Q&A 48. Comparability and health assessments, disease management or wellness programs
- Q&A 49. Comparability and health assessments, disease management or wellness programs under a cafeteria plan
- Q&A 50. Comparability and catch-up contributions
- Q&A 51. Comparability and full-time employees working less than 12 months
- Q&A 52. Testing period for making comparable contributions
- Q&A 53. Comparability and eligible individuals' coverage under employer's HDHP
- Q&A 54. Comparability and after-tax employee contributions

VII. Rollovers

- Q&A 55. Frequency of rollovers
- Q&A 56. Trustee-to-trustee transfers

VIII. Cafeteria Plans and HSAs

- Q&A 57. FSA requirements and HSAs
- Q&A 58. Section 125 change in status rules
- Q&A 59. HSA offered as new benefit under cafeteria plan
- Q&A 60. Accelerated HSA contributions by employer
- Q&A 61. Negative elections for HSAs

IX. Account Administration

- Q&A 62. Model forms for HSAs
- Q&A 63. No joint HSA for husband and wife
- Q&A 64. Multiple HSAs
- Q&A 65. Permissible investments for HSAs
- Q&A 66. Commingling HSA funds
- Q&A 67. Prohibited transactions and account beneficiaries
- Q&A 68. Prohibited transactions and trustees or custodians
- Q&A 69. Administration fees withdrawn from an HSA
- Q&A 70. Administration fees and contribution limits
- Q&A 71. Administration fees paid directly

X. Trustees and Custodians

- Q&A 72. Insurance company qualifying as HSA trustee or custodian
- Q&A 73. Limit on annual HSA contributions acceptable by trustee or custodian
- Q&A 74. Tracking maximum annual contribution limit for a particular account beneficiary
- Q&A 75. Tracking account beneficiary's age
- Q&A 76. Return of mistaken distributions
- Q&A 77. No restrictions on rollovers from HSA
- Q&A 78. Acceptance of rollover contributions
- Q&A 79. No restrictions on HSA distributions for qualified medical expenses
- Q&A 80. Restrictions on frequency or amount of distributions

XI. Other Issues

- Q&A 81. Determining eligibility and contribution limits by employer
- Q&A 82. Recoupment of HSA contributions by employer
- Q&A 83. HSAs and section 105(h)
- Q&A 84. HSA contributions and SECA tax
- Q&A 85. HSA contributions and the EIC
- Q&A 86. HDHP and cost-of-living adjustments
- Q&A 87. HSAs and *bona-fide* residents of Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands
- Q&A 88. C corporation contributions to HSAs of shareholders

QUESTIONS AND ANSWERS

I. Eligible individuals

Q-1. If an employer offers an employee a choice between a low-deductible health plan and a high-deductible health plan (HDHP), and the employee selects coverage only under the HDHP, is the employee an eligible individual under section 223(c)(1)?

A-1. Yes, if the employee is otherwise an eligible individual. To determine if an individual is an eligible individual, the actual health coverage selected by the individual is controlling. Thus, it does not matter that the individual could have chosen, but did not choose, a low-deductible health plan or other coverage that would have disqualified the individual from contributing to an HSA.

Q-2. May an otherwise eligible individual who is eligible for Medicare, but not enrolled in Medicare Part A or Part B, contribute to an HSA?

A-2. Yes. Section 223(b)(7) states that an individual ceases to be an eligible individual starting with the month he or she is entitled to benefits under Medicare. Under this provision, mere eligibility for Medicare does not make an individual ineligible to contribute to an HSA. Rather, the term “entitled to benefits under” Medicare means both eligibility and enrollment in Medicare. Thus, an otherwise eligible individual under section 223(c)(1) who is not actually enrolled in Medicare Part A or Part B may contribute to an HSA until the month that individual is enrolled in Medicare.

Example (1). Y, age 66, is covered under her employer’s HDHP. Although Y is eligible for Medicare, Y is not actually entitled to Medicare because she did not apply for benefits under Medicare (i.e., enroll in Medicare Part A or Part B). If Y is otherwise an eligible individual under section 223(c)(1), she may contribute to an HSA.

Example (2). In August 2004, X attains age 65 and applies for and begins receiving Social Security benefits. X is automatically enrolled in Medicare. As of August 1, 2004, X is no longer an eligible individual and may not contribute to an HSA.

Q-3. May an otherwise eligible individual under section 223(c)(1) who is age 65 or older and thus eligible for Medicare, but is not enrolled in Medicare Part A or Part B, make the additional catch-up contribution under section 223(b)(3) for persons age 55 or older?

A-3. Yes. See Notice 2004-2, Q&A 14, on catch-up contributions.

Q-4. Is a government retiree who is enrolled in Medicare Part B (but not Part A) an eligible individual under section 223(c)(1)?

A-4. No. Under section 223(b)(7), an individual who is enrolled in Medicare may not contribute to an HSA.

Q-5. If an otherwise eligible individual under section 223(c)(1) is eligible for medical benefits through the Department of Veterans Affairs (VA), may he or she contribute to an HSA?

A-5. An otherwise eligible individual who is eligible to receive VA medical benefits, but who has not actually received such benefits during the preceding three months, is an eligible individual under section 223(c)(1). An individual is not eligible to make HSA contributions for any month, however, if the individual has received medical benefits from the VA at any time during the previous three months.

Q-6. May an otherwise eligible individual who is covered by an HDHP and also receives health benefits under TRICARE (the health care program for active duty and retired members of the uniformed services, their families and survivors) contribute to an HSA?

A-6. No. Coverage options under TRICARE do not meet the minimum annual deductible requirements for an HDHP under section 223(c)(2). Thus, an individual covered under TRICARE is not an eligible individual and may not contribute to an HSA.

Q-7. May an otherwise eligible individual who is covered by both an HDHP and also by insurance contracts for one or more specific diseases or illnesses, such as cancer, diabetes, asthma or congestive heart failure, contribute to an HSA if the insurance provides benefits before the deductible of the HDHP is satisfied?

A-7. Yes. Section 223(c)(1)(B)(i) provides that an eligible individual covered under an HDHP may also be covered “for any benefit provided by permitted insurance.” Section 223(c)(3)(B) provides that the term “permitted insurance” includes “insurance for a specified disease or illness.” Therefore, an eligible individual may be covered by an HDHP and also by permitted insurance for one or more specific diseases, such as cancer, diabetes, asthma or congestive heart failure, as long

as the principal health coverage is provided by the HDHP.

Q-8. Must coverage for “permitted insurance” described in section 223(c)(3) (liabilities incurred under workers’ compensation laws, tort liabilities, liabilities relating to ownership or use of property, insurance for a specified disease or illness, and insurance paying a fixed amount per day (or other period) of hospitalization), be provided under insurance contracts?

A-8. Yes. Benefits for “permitted insurance” under section 223(c)(3) must generally be provided through insurance contracts and not on a self-insured basis. However, where benefits (such as workers’ compensation benefits) are provided in satisfaction of a statutory requirement and any resulting benefits for medical care are secondary or incidental to other benefits, the benefits will qualify as “permitted insurance” even if self-insured.

Q-9. May an individual who is covered by an HDHP and also has a discount card that enables the user to obtain discounts for health care services or products, contribute to an HSA?

A-9. Yes. Discount cards that entitle holders to obtain discounts for health care services or products at managed care market rates will not disqualify an individual from being an eligible individual for HSA purposes if the individual is required to pay the costs of the health care (taking into account the discount) until the deductible of the HDHP is satisfied.

Example. An employer provides its employees with a pharmacy discount card. For a fixed annual fee (paid by the employer), each employee receives a card that entitles the holder to choose any participating pharmacy. During the one-year life of the card, the card holder receives discounts of 15 percent to 50 percent off the usual and customary fees charged by the providers, with no dollar cap on the amount of discounts received during the year. The cardholder is responsible for paying the costs of any drugs (taking into account the discount) until the deductible of any other health plan covering the individual is satisfied. An employee who is otherwise eligible for an HSA will not become ineligible solely as a result of having this benefit.

Q-10. Does coverage under an Employee Assistance Program (EAP), disease management program, or wellness program make an individual ineligible to contribute to an HSA?

A-10. An individual will not fail to be an eligible individual under section 223(c)(1)(A) solely because the individual is covered under an EAP, disease man-

agement program or wellness program if the program does not provide significant benefits in the nature of medical care or treatment, and therefore, is not considered a "health plan" for purposes of section 223(c)(1). To determine whether a program provides significant benefits in the nature of medical care or treatment, screening and other preventive care services as described in Notice 2004-23 will be disregarded. See also Q&A 48 on incentives for employees who participate in these programs.

Example (1). An employer offers a program that provides employees with benefits under an EAP, regardless of enrollment in a health plan. The EAP is specifically designed to assist the employer in improving productivity by helping employees identify and resolve personal and work concerns that affect job performance and the work environment. The benefits consist primarily of free or low-cost confidential short-term counseling to identify an employee's problem that may affect job performance and, when appropriate, referrals to an outside organization, facility or program to assist the employee in resolving the problem. The issues addressed during the short-term counseling include, but are not limited to, substance abuse, alcoholism, mental health or emotional disorders, financial or legal difficulties, and dependent care needs. This EAP is not a "health plan" under section 223(c)(1) because it does not provide significant benefits in the nature of medical care or treatment.

Example (2). An employer maintains a disease management program that identifies employees and their family members who have, or are at risk for, certain chronic conditions. The disease management program provides evidence-based information, disease specific support, case monitoring and coordination of the care and treatment provided by a health plan. Typical interventions include monitoring laboratory or other test results, telephone contacts or web-based reminders of health care schedules, and providing information to minimize health risks. This disease management program is not a "health plan" under section 223(c)(1) because it does not provide significant benefits in the nature of medical care or treatment.

Example (3). An employer offers a wellness program for all employees regardless of participation in a health plan. The wellness program provides a wide-range of education and fitness services designed to improve the overall health of the employees and prevent illness. Typical services include education, fitness, sports, and recreation activities, stress management and health screenings. Any costs charged to the individual for participating in the services are separate from the individual's coverage under the health plan. This wellness program is not a "health plan" under section 223(c)(1) because it does not provide significant benefits in the nature of medical care or treatment.

Q-11. If an employee begins HDHP coverage mid-month, when does the employee become an eligible individual? (For example, coverage under the HDHP

begins on the first day of a biweekly payroll period.)

A-11. Under section 223(b)(2), an eligible individual must have HDHP coverage as of the first day of the month. An individual with employer-provided HDHP coverage on a payroll-by-payroll basis becomes an eligible individual on the first day of the month on or following the first day of the pay period when HDHP coverage begins.

Example. An employee begins HDHP coverage on the first day of a pay period, which is August 16, 2004, and continues to be covered by the HDHP throughout 2004. For purposes of contributing to an HSA, the employee becomes an eligible individual on September 1, 2004.

II. High Deductible Health Plans (HDHPs)

Q-12. What is family HDHP coverage under section 223?

A-12. Under section 223(c)(4), the term "family coverage" means any coverage other than self-only coverage. Self-only coverage is a health plan covering only one individual; self-only HDHP coverage is an HDHP covering only one individual if that individual is an eligible individual. Family HDHP coverage is a health plan covering one eligible individual and at least one other individual (whether or not the other individual is an eligible individual).

Example. An individual, who is an eligible individual, and his dependent child are covered under an "employee plus one" HDHP offered by the individual's employer. The coverage is family HDHP coverage under section 223(c)(4).

Q-13. Can a state high-risk health insurance plan (high-risk pool) qualify as an HDHP?

A-13. Yes. If the state's high-risk pool does not pay benefits below the minimum annual deductible of an HDHP as set forth in section 223(c)(2)(A), the plan can qualify as an HDHP.

Q-14. May an HDHP impose a lifetime limit on benefits?

A-14. Yes. An HDHP may impose a reasonable lifetime limit on benefits provided under the plan. In such cases, amounts paid by the covered individual above the lifetime limit will not be treated as out-of-pocket expenses in determining the annual out-of-pocket maximum. However, a lifetime limit on benefits designed to circumvent the max-

imum annual out-of-pocket amount in section 223(c)(2)(A) is not reasonable.

Example. A health plan has an annual deductible that satisfies the minimum annual deductible under section 223(c)(2)(A)(i) for self-only coverage and for family coverage. After satisfying the deductible, the plan pays 100 percent of covered expenses, up to a lifetime limit of \$1 million. The lifetime limit of \$1 million is reasonable and the health plan is not disqualified from being an HDHP because of the lifetime limit on benefits.

Q-15. If a plan imposes an annual or lifetime limit on specific benefits, are amounts paid by covered individuals after satisfying the deductible treated as out-of-pocket expenses under section 223?

A-15. The out-of-pocket maximum in section 223(c)(2)(A) applies only to covered benefits. Plans may be designed with reasonable benefit restrictions limiting the plan's covered benefits. A restriction or exclusion on benefits is reasonable only if significant other benefits remain available under the plan in addition to the benefits subject to the restriction or exclusion.

Example (1). In 2004, a self-only health plan with a \$1,000 deductible includes a \$1 million lifetime limit on covered benefits. The plan provides no benefits for experimental treatments, mental health, or chiropractic care visits. Although the plan provides benefits for substance abuse treatment, it limits payments to 26 treatments per year, after the deductible is satisfied. Although the plan provides benefits for fertility treatments, it limits lifetime reimbursements to \$10,000, after the deductible is satisfied. Other than these limits on covered benefits, the plan pays 80 percent of major medical expenses incurred after satisfying the deductible. When the 20 percent coinsurance paid by the covered individuals reaches \$4,000, the plan pays 100 percent. Under these facts, the plan is an HDHP and no expenses incurred by a covered individual other than the deductible and the 20 percent coinsurance are treated as out-of-pocket expenses under section 223(c)(2)(A).

Example (2). In 2004, a self-only health plan with a \$1,000 deductible imposes a lifetime limit on reimbursements for covered benefits of \$1 million. While the plan pays 100 percent of expenses incurred for covered benefits after satisfying the deductible, the plan imposes a \$10,000 annual limit on benefits for any single condition. The \$10,000 annual limit under these facts is not reasonable because significant other benefits do not remain available under the plan. Under these facts, any expenses incurred by a covered individual after satisfying the deductible are treated as out-of-pocket expenses under section 223(c)(2)(A).

Q-16. If a plan limits benefits to usual, customary and reasonable (UCR) amounts, are amounts paid by covered individuals in excess of UCR included in determining the maximum out-of-pocket expenses paid?

A-16. Restricting benefits to UCR is a reasonable restriction on benefits. Thus, amounts paid by covered individuals in excess of UCR that are not paid by an HDHP are not included in determining maximum out-of-pocket expenses.

Q-17. Can a plan with no express limit on out-of-pocket expenses qualify as an HDHP?

A-17. A health plan without an express limit on out-of-pocket expenses is generally not an HDHP unless such limit is not necessary to prevent exceeding the out-of-pocket maximum.

Example (1). A plan provides self-only coverage with a \$2,000 deductible and pays 100 percent of covered benefits above the deductible. Because the plan pays 100 percent of covered benefits after the deductible is satisfied, the maximum out-of-pocket expenses paid by a covered individual would never exceed the deductible. Thus, the plan does not require a specific limit on out-of-pocket expenses to insure that the covered individual will not be subject to out-of-pocket expenses in excess of the maximum set forth in section 223(c)(2)(A).

Example (2). A plan provides self-only coverage with a \$2,000 deductible. The plan imposes a lifetime limit on reimbursements for covered benefits of \$1 million. For expenses for covered benefits incurred above the deductible, the plan reimburses 80 percent of the UCR costs. The plan includes no express limit on out-of-pocket expenses. This plan does not qualify as a HDHP because it does not have a limit on out-of-pocket expenses.

Example (3). The same facts as Example 2, except that after the 20 percent coinsurance paid by the covered individual reaches \$3,000, the plan pays 100 percent of the UCR costs until the \$1 million limit is reached. For the purpose of determining the individual's out-of-pocket expenses, the plan only takes into account the 20 percent of UCR paid by the individual. This plan satisfies the out-of-pocket limit.

Q-18. A health plan which otherwise qualifies as an HDHP imposes a flat dollar penalty on a participant who fails to obtain pre-certification for a specific provider or for certain medical procedures. Is the penalty paid by the covered individual included in determining the maximum out-of-pocket expenses paid?

A-18. No. The penalty is not an out-of-pocket expense and, therefore, does not count toward the expense limits in section 223(c)(2)(A).

Q-19. A health plan which otherwise qualifies as an HDHP generally requires a 10 percent coinsurance payment after a covered individual satisfies the deductible. However, if an individual fails to get pre-certification for a specific provider, the plan requires a 20 percent coinsurance payment. Is the increased

coinsurance amount included in determining the maximum out-of-pocket expenses paid?

A-19. No. Under the facts set forth, only the generally applicable 10 percent coinsurance payment is included in computing the maximum out-of-pocket expenses paid. The result is the same if the plan imposes a higher coinsurance amount for an out-of-network provider. See also Notice 2004-2, Q&A 4.

Q-20. Are cumulative embedded deductibles under family coverage subject to the out-of-pocket maximum?

A-20. Yes. An HDHP generally must limit the out-of-pocket expenses paid by the covered individuals, either by design or by its express terms.

Example (1). In 2004, a plan which otherwise qualifies as an HDHP provides family coverage with a \$2,000 deductible for each family member. The plan pays 100 percent of covered benefits for each family member after that family member satisfies the \$2,000 deductible. The plan contains no express limit on out-of-pocket expenses. Section 223(c)(2)(A)(ii)(II) limits the maximum out-of-pocket expenses to \$10,000 for family coverage. The plan is an HDHP for any family with two to five covered individuals ($\$2,000 \times 5 = \$10,000$). However, the plan is not an HDHP for a family with six or more covered individuals.

Example (2). The same facts as Example 1, except that the plan includes an umbrella deductible of \$10,000. The plan reimburses 100 percent of covered benefits if the family satisfies the \$10,000 in the aggregate, even if no single family member satisfies the \$2,000 embedded deductible. This plan qualifies as an HDHP for the family, regardless of the number of covered individuals.

Q-21. Are amounts incurred by an individual for medical care before a health plan's deductible is satisfied included in computing the plan's out-of-pocket expenses under section 223(c)(2)(A)?

A-21. A health plan's out-of-pocket limit includes the deductible, co-payments, and other amounts, but not premiums. Notice 2004-2, Q&A 3. Amounts incurred for noncovered benefits (including amounts in excess of UCR and financial penalties) also are not counted toward the deductible or the out-of-pocket limit. If a plan does not take copayments into account in determining if the deductible is satisfied, the copayments must still be taken into account in determining if the out-of-pocket maximum is exceeded.

Example. In 2004, a health plan has a \$1,000 deductible for self-only coverage. After the deductible is satisfied, the plan pays 100 percent of UCR for covered benefits. In addition, the plan pays 100 percent for preventive care, minus a \$20 copayment per

screening. The plan does not take into account copayments in determining if the \$1,000 deductible has been satisfied. The copayments must be included in determining if the plan meets the out-of-pocket maximum. Unless the plan includes an express limit on out-of-pocket expenses taking into account the copayments, or limits the copayments to \$4,000, the plan is not an HDHP.

Q-22. If an employer changes health plans mid-year, does the new health plan fail to satisfy section 223(c)(2)(A) merely because it provides a credit towards the deductible for expenses incurred during the previous health plan's short plan year and not reimbursed?

A-22. No. If the period during which expenses are incurred for purposes of satisfying the deductible is 12 months or less and the plan satisfies the requirements for an HDHP, the new plan's taking into account expenses incurred during the prior plan's short plan year (whether or not the prior plan is an HDHP) and not reimbursed, does not violate the requirements of section 223(c)(2)(A).

Example. An employer with a calendar year health plan switches from a non-HDHP plan to a new plan with the first day of coverage under the new plan of July 1. The annual deductible under the new plan satisfies the minimum annual deductible for an HDHP under section 223(c)(2)(A)(i) and counts expenses incurred under the prior plan during the first six months of the year in determining if the new plan's annual deductible is satisfied. The new plan satisfies the HDHP deductible limit under section 223(c)(2)(A).

Q-23. If an eligible individual changes coverage during the plan year from self-only HDHP coverage to family HDHP coverage, does the individual (or any other person covered under the family coverage) fail to be covered by an HDHP merely because the family HDHP coverage takes into account expenses incurred while the individual had self-only coverage?

A-23. No.

Example. An eligible individual has self-only coverage from January 1 through March 31, marries in March and from April 1 through December 31, has family coverage under a plan otherwise qualifying as an HDHP. The family coverage plan applies expenses incurred by the individual from January through March toward satisfying the family deductible. The individual does not fail to be covered by an HDHP. The family coverage satisfies the deductible limit in section 223(c)(2)(A)(i)(II). The individual's contribution to an HSA is based on three months of the self-only coverage (*i.e.*, 3/12 of the deductible for the self-only coverage) and nine months of family coverage (9/12 of the deductible for family coverage).

Q-24. How are the minimum deductible in section 223(c)(2)(A) for an

HDHP and the maximum contribution to an HSA in section 223(b) calculated when the period for satisfying a health plan's deductible is longer than 12 months?

A-24. The deductible limits in section 223(c)(2)(A) are based on 12 months. If a plan's deductible may be satisfied over a period longer than 12 months, the minimum annual deductible under section 223(c)(2)(A) must be increased to take into account the longer period in determining if the plan satisfies the HDHP deductible requirements. The adjustment will be done as follows:

(1) Multiply the minimum annual deductible in section 223(c)(2)(A)(i) (as adjusted under section 223(g)) by the number of months allowed to satisfy the deductible.

(2) Divide the amount in (1) above by 12. This is the adjusted deductible for the longer period that is used to test for compliance with section 223(c)(2)(A).

(3) Compare the amount in (2) to the plan's deductible. If the plan's deductible equals or exceeds the amount in (2), the plan satisfies the requirements for the minimum deductible in section 223(c)(2)(A). (Note that the deductible for an HDHP may not exceed the out-of-pocket maximum under section 223(c)(2)(A)(ii).)

If the plan qualifies as an HDHP, an eligible individual's maximum annual HSA contribution will be the lesser of the amounts in (1) or (2) below:

(1) Divide the plan's deductible by the number of months allowed to satisfy the deductible, and multiply this amount by 12;

(2) The statutory amount in section 223(b)(2)(A)(ii) for self-only coverage (\$2,600 in 2004) or section 223(b)(2)(B)(ii) for family coverage (\$5,150 in 2004), as applicable.

Example. For 2004, a health plan takes into account medical expenses incurred in the last three months of 2003 to satisfy its deductible for calendar year 2004. The plan's deductible for self-only coverage is \$1,500 and covers 15 months (the last three months of 2003 and 12 months of 2004). To determine if the plan's deductible satisfies section 223(c)(2)(A) the following calculations are performed: (1) multiply \$1,000, the minimum annual deductible in section 223(c)(2)(A)(i), by 15, the number of months in which expenses incurred are taken into account to satisfy the deductible, = \$15,000; (2) divide \$15,000 by 12 = \$1,250; (3) The HDHP minimum deductible for self-only coverage for 15 months must be at least \$1,250. Because the plan's deductible, \$1,500, exceeds \$1,250, the

plan's self-only coverage satisfies the deductible rule in section 223(c)(2)(A). The maximum annual HSA contribution in 2004 for an eligible individual with self-only coverage under these facts is \$1,200, the lesser of (1) $(\$1,500/15) \times 12 = \$1,200$; or (2) \$2,600.

Q-25. A health plan which otherwise meets the definition of an HDHP negotiates discounted prices for health care services from providers. Covered individuals receive benefits at the discounted prices, regardless of whether they have satisfied the plan's deductible. Do the discounted prices prevent the health plan from being an HDHP as defined in section 223(c)(2)?

A-25. No.

III. Preventive care

Q-26. Does a preventive care service or screening that also includes the treatment of a related condition during that procedure come within the safe harbor for preventive care in Notice 2004-23?

A-26. Yes. Although Notice 2004-23 states that preventive care generally does not include any service or benefit intended to treat an existing illness, injury, or condition, in situations where it would be unreasonable or impracticable to perform another procedure to treat the condition, any treatment that is incidental or ancillary to a preventive care service or screening as described in Notice 2004-23 also falls within the safe-harbor for preventive care. For example, removal of polyps during a diagnostic colonoscopy is preventive care that can be provided before the deductible in an HDHP has been satisfied.

Q-27. To what extent do drugs or medications come within the safe-harbor for preventive care services under section 223(c)(2)(C)?

A-27. Notice 2004-23 sets out a preventive care deductible safe harbor for HDHPs under section 223(c)(2)(C). Solely for this purpose, drugs or medications are preventive care when taken by a person who has developed risk factors for a disease that has not yet manifested itself or not yet become clinically apparent (*i.e.*, asymptomatic), or to prevent the reoccurrence of a disease from which a person has recovered. For example, the treatment of high cholesterol with cholesterol-lowering medications (*e.g.*, statins) to prevent heart disease or the treatment of recovered heart attack or stroke victims with Angiotensin-converting Enzyme (ACE)

inhibitors to prevent a reoccurrence, constitute preventive care. In addition, drugs or medications used as part of procedures providing preventive care services specified in Notice 2004-23, including obesity weight-loss and tobacco cessation programs, are also preventive care. However, the preventive care safe harbor under section 223(c)(2)(C) does not include any service or benefit intended to treat an existing illness, injury, or condition, including drugs or medications used to treat an existing illness, injury or condition.

IV. Contributions

Q-28. Who may make contributions on behalf of an eligible individual?

A-28. Although Q&A 11 of Notice 2004-2 only refers to contributions by employers or family members, any person (an employer, a family member or any other person) may make contributions to an HSA on behalf of an eligible individual.

Q-29. May a state government make an HSA contribution on behalf of eligible individuals insured under the state's comprehensive health insurance programs for high-risk individuals (state high-risk pool)?

A-29. Yes. See also Q&A 13.

Q-30. How is the maximum annual HSA contribution limit in section 223(b)(2) determined for an eligible individual with family coverage under an HDHP that includes embedded individual deductibles and an umbrella deductible?

A-30. Generally, under section 223(b)(2)(B), the maximum annual HSA contribution limit for an eligible individual with family coverage under an HDHP (without regard to catch-up contributions) is the lesser of: (1) the annual deductible under the HDHP, or (2) the statutory limit on family coverage contributions as indexed by section 223(g). An HDHP often has a stated maximum amount of expenses the family could incur before receiving benefits (*i.e.*, the umbrella deductible), but also provides payments for covered medical expenses if any individual member of the family incurs medical expenses in excess of the minimum annual deductible in section 223(c)(2)(A)(i)(II) (the embedded individual deductible). The maximum annual HSA contribution limit for an eligible individual who has family coverage

under an HDHP with embedded individual deductibles and an umbrella deductible as described above, is the least of the following amounts:

1. the maximum annual contribution limit for family coverage specified in section 223(b)(2)(B)(ii) (\$5,150 for calendar year 2004);
2. the umbrella deductible; or
3. the embedded individual deductible multiplied by the number of family members covered by the plan.

See Notice 2004-2, Q&A 3, which requires that the embedded individual deductible satisfy the minimum annual deductible for an HDHP.

Example (1). In 2004, H and W, a married couple, have HDHP coverage for themselves and their two dependent children. The HDHP will pay benefits for any family member whose covered expenses exceed \$2,000 (the embedded individual deductible), and will pay benefits for all family members after their covered expenses exceed \$5,000 (the umbrella deductible). The maximum annual contribution limit under section 223(b)(2)(B)(ii) is \$5,150. The embedded deductible multiplied by the number of family members covered is \$8,000 (4 X \$2,000). The maximum annual contribution which H and W can make to their HSAs is \$5,000 (the least of \$5,000, \$5,150 or \$8,000). The \$5,000 limit is divided equally between H and W, unless they agree to a different division. See Q&A 32 and Notice 2004-2, Q&A 15.

Example (2). The same facts as Example 1, except the HDHP provides coverage only for H and W. The maximum annual contribution limit under section 223(b)(2)(B)(ii) is \$5,150. The umbrella deductible is \$5,000. The embedded individual deductible multiplied by the number of family members covered is \$4,000 (2 X \$2,000). The maximum annual contribution which H and W can make to their HSAs for 2004 is \$4,000 (the least of \$5,000, \$5,150 or \$4,000).

Q-31. How do the maximum annual HSA contribution limits apply to family HDHP coverage that may include an ineligible individual?

A-31. The maximum annual HSA contribution for a married couple with family HDHP coverage is the lesser of: (1) the lowest HDHP family deductible applicable to the family (minimum \$2,000) or (2) the section 223(b)(2)(B) statutory maximum (\$5,150 in 2004). Although the special rule for married individuals in section 223(b)(5) generally allows a married couple to divide the maximum HSA contribution between spouses, if only one spouse is an eligible individual, only that spouse may contribute to an HSA (not-

withstanding the treatment under section 223(b)(5)(A) of both spouses as having only family coverage). For an HDHP with embedded individual deductibles see Q&A 30.

Example (1). In 2004, H and W are a married couple and neither qualifies for catch-up contributions under section 223(b)(3). H and W have family HDHP coverage with a \$5,000 deductible. H is an eligible individual and has no other coverage. W also has self-only coverage with a \$200 deductible. W, who has coverage under a low-deductible plan, is not an eligible individual. H may contribute \$5,000 (the lesser of \$5,000 or \$5,150) to an HSA while W may not contribute to an HSA.

Example (2). The same facts as Example 1, except that, in addition to the family HDHP with a \$5,000 deductible, W has self-only HDHP coverage with a \$2,000 deductible rather than self-only coverage with a \$200 deductible. Both H and W are eligible individuals. H and W are treated as having only family coverage under section 223(b)(5). The maximum combined HSA contribution by H and W is \$5,000, to be divided between them by agreement.

Example (3). The same facts as Example 1, except that, in addition to the family HDHP with a \$5,000 deductible, W has family HDHP coverage with a \$3,000 deductible rather than self-only coverage with a \$200 deductible. Both H and W are eligible individuals. H and W are treated as having family HDHP coverage with the lowest annual deductible under section 223(b)(5)(A). The maximum combined HSA contribution by H and W is \$3,000, to be divided between them by agreement.

Example (4). The same facts as Example 1, except that, in addition to family coverage under the HDHP with a \$5,000 deductible, W has family coverage with a \$500 deductible rather than self-only coverage with a \$200 deductible. H and W are treated as having family coverage with the lowest annual deductible under section 223(b)(5)(A). Neither H nor W is an eligible individual and neither may contribute to an HSA.

Example (5). The same facts as Example 1, except that, in addition to the family HDHP with a \$5,000 deductible, W is enrolled in Medicare rather than having self-only coverage with a \$200 deductible. W is not an eligible individual. H may contribute \$5,000 to an HSA while W may not contribute to an HSA.

Example (6). Individual X is a single individual who does not qualify for catch-up contributions. X is an eligible individual and has a dependent. X and his dependent have family HDHP coverage with a \$5,000 deductible. The dependent also has self-only coverage with a \$200 deductible. X may contribute \$5,000 to an HSA while the dependent may not contribute to an HSA.

Q-32. How may spouses agree to divide the annual HSA contribution limit between themselves?

A-32. Section 223(b)(5) provides special rules for married individuals and states that HSA contributions (without regard to the catch-up contribution) “shall be divided equally between them unless

they agree on a different division.” Thus, spouses can divide the annual HSA contribution in any way they want, including allocating nothing to one spouse. See also Notice 2004-2, Q&A 15.

Example. In 2004, X, an eligible individual, has self-only HDHP coverage with a \$1,200 deductible from January 1 through March 31. In March, X and Y marry. Neither X nor Y qualifies for the catch-up contribution. From April 1 through December 31, 2004, X and Y have HDHP family coverage with a \$2,400 deductible. Y is an eligible individual from April 1 through December 31, 2004. X and Y’s contribution limit for the nine months of family coverage is \$1,800 (nine months of the deductible for family coverage. $9/12 \times \$2,400$). X and Y divide the \$1,800 between them. X’s contribution limit to his HSA for the three months of single coverage is \$300 (three months of the deductible for self-only coverage. $3/12 \times \$1,200$). The \$300 limit is not divided between X and Y. See also Q&A 23.

Q-33. What is the contribution limit for an eligible individual covered by an HDHP and also by a post-deductible health reimbursement arrangement (HRA)?

A-33. Rev. Rul. 2004-45, Situation 4, describes a post-deductible HRA that does not pay or reimburse any medical expense incurred before the minimum annual deductible under section 223(c)(2)(A)(i) is satisfied. The ruling states that the deductible for the HRA need not be the same as the deductible for the HDHP, but in no event may the HDHP or other coverage provide benefits before the minimum annual deductible under section 223(c)(2)(A)(i) is satisfied. Where the HDHP and the other coverage do not have identical deductibles, contributions to the HSA are limited to the lower of the deductibles. In addition, although the deductibles of the HDHP and the other coverage may be satisfied independently by separate expenses, no benefits may be paid by the HDHP or the other coverage before the minimum annual deductible under section 223(c)(2)(A)(i) has been satisfied.

Example. In 2004, an individual has self-only coverage under an HDHP with a deductible of \$2,500. The individual is also covered under a post-deductible HRA (as described in Rev. Rul. 2004-45) which pays or reimburses qualified medical expenses only after \$2,000 of the HDHP’s deductible has been satisfied (*i.e.*, if the individual incurs covered medical expenses of \$2,250, the HRA will pay \$250). Because the HRA’s deductible of \$2,000 is less than the HDHP’s deductible of \$2,500, the individual’s HSA contribution limit is \$2,000.

Q-34. An account beneficiary wants to withdraw an excess contribution from an HSA before the due date of his or her

federal income tax return (including extensions), to avoid the 6 percent excise tax under section 4973(a)(5). How is the net income attributable to the excess contribution computed?

A-34. Section 223(f)(3)(A)(ii) provides that any distribution of excess contribution to an HSA must be “accompanied by the amount of net income attributable to such excess contribution.” Any net income is included in the individual’s gross income. The rules for computing attributable net income for excess IRA contributions apply to HSAs. See Treas. Reg. § 1.408-11 and Notice 2004-2, Q&A 22.

Q-35. May an individual who has not made excess HSA contributions treat a distribution from an HSA other than for qualified medical expenses as the withdrawal of excess HSA contributions?

A-35. No. This withdrawal is deemed a withdrawal for non-qualified medical expenses and includable in the individual’s gross income under section 223(f)(2). (The additional tax under section 223(f)(4) also applies, unless otherwise excepted).

V. Distributions

Q-36. If an account beneficiary’s spouse or dependents are covered under a non-HDHP, are distributions from an HSA to pay their qualified medical expenses excluded from the account beneficiary’s gross income?

A-36. Yes. Distributions from an HSA are excluded from income if made for any qualified medical expense of the account beneficiary, the account beneficiary’s spouse and dependents (without regard to their status as eligible individuals). However, distributions made for expenses reimbursed by another health plan are not excludable from gross income, whether or not the other health plan is an HDHP. See Notice 2004-2, Q&A 26.

Q-37. An account beneficiary receives an HSA distribution as the result of a mistake of fact due to reasonable cause (e.g., the account beneficiary reasonably, but mistakenly, believed that an expense was a qualified medical expense and was reimbursed for that expense from the HSA). The account beneficiary then repays the mistaken distribution to the HSA. Is the mistaken distribution included in gross income under section 223(f)(2) and subject to the 10 percent additional tax under

section 223(f)(4) or subject to the excise tax on excess contributions under section 4973(a)(5)?

A-37. If there is clear and convincing evidence that amounts were distributed from an HSA because of a mistake of fact due to reasonable cause, the account beneficiary may repay the mistaken distribution no later than April 15 following the first year the account beneficiary knew or should have known the distribution was a mistake. Under these circumstances, the distribution is not included in gross income under section 223(f)(2), or subject to the 10 percent additional tax under section 223(f)(4), and the repayment is not subject to the excise tax on excess contributions under section 4973(a)(5). But see Q&A 76 on the trustee’s or custodian’s obligation to accept a return of mistaken distributions.

Q-38. If both spouses have HSAs and one spouse uses distributions from his or her HSA to pay or reimburse the section 213(d) qualified medical expenses of the other spouse, are the distributions excluded from the account beneficiary’s gross income under section 223(f)?

A-38. Yes. However, both HSAs may not reimburse the same expense amounts.

Q-39. When must a distribution from an HSA be taken to pay or reimburse, on a tax-free basis, qualified medical expenses incurred in the current year?

A-39. An account beneficiary may defer to later taxable years distributions from HSAs to pay or reimburse qualified medical expenses incurred in the current year as long as the expenses were incurred after the HSA was established. Similarly, a distribution from an HSA in the current year can be used to pay or reimburse expenses incurred in any prior year as long as the expenses were incurred after the HSA was established. Thus, there is no time limit on when the distribution must occur. However, to be excludable from the account beneficiary’s gross income, he or she must keep records sufficient to later show that the distributions were exclusively to pay or reimburse qualified medical expenses, that the qualified medical expenses have not been previously paid or reimbursed from another source and that the medical expenses have not been taken as an itemized deduction in any prior taxable year. See Notice 2004-2, Q&A 31 and also Notice 2004-25, for transition relief in calendar

year 2004 for reimbursement of medical expenses incurred before opening an HSA.

Example. An eligible individual contributes \$1,000 to an HSA in 2004. On December 1, 2004, the individual incurs a \$1,500 qualified medical expense and has a balance in his HSA of \$1,025. On January 3, 2005, the individual contributes another \$1,000 to the HSA, bringing the balance in the HSA to \$2,025. In June, 2005, the individual receives a distribution of \$1,500 to reimburse him for the \$1,500 medical expense incurred in 2004. The individual can show that the \$1,500 HSA distribution in 2005 is a reimbursement for a qualified medical expense that has not been previously paid or otherwise reimbursed and has not been taken as an itemized deduction. The distribution is excludable from the account beneficiary’s gross income.

Q-40. May an account beneficiary pay qualified long-term care insurance premiums with distributions from an HSA if contributions to the HSA are made by salary-reduction though a section 125 cafeteria plan?

A-40. Yes. Section 125(f) provides that the term “qualified benefit” under a section 125 cafeteria plan shall not include any product which is advertised, marketed, or offered as long-term care insurance. However, for HSA purposes, section 223(d)(2)(C)(ii) provides that the payment of any expense for coverage under a qualified long-term care insurance contract (as defined in section 7702B(b)) is a qualified medical expense. Where an HSA that is offered under a cafeteria plan pays or reimburses individuals for qualified long-term care insurance premiums, section 125(f) is not applicable because it is the HSA and not the long-term care insurance that is offered under the cafeteria plan.

Q-41. Do the section 213(d)(10) limits on the deduction for “eligible long-term care premiums” restrict the amount of distributions for qualified medical expenses that may be excluded from income under an HSA?

A-41. Yes. “Eligible long-term care premiums” are deductible medical expenses under section 213, but the deduction is limited to the annually adjusted amounts in section 213(d)(10) (based on age). See Rev. Proc. 2003-85 § 3.18, 2003-49 I.R.B. 1184 for the 2004 limits. Thus, although HSA distributions to pay or reimburse qualified long-term care insurance premiums are qualified medical expenses, the exclusion from gross income is limited to the adjusted amounts under section 213(d)(10). Any excess premium

reimbursements are includable in gross income and may also be subject to the 10 percent penalty under section 223(f)(4).

Example. In 2004, X, age 41, pays premiums of \$1,290 for a qualified long term care insurance contract. The section 213(d)(10) limit in calendar year 2004 for deductions for persons age 40, but not more than 50, is \$490. X's HSA can reimburse X up to \$490 on a tax-free basis for the long-term care premiums. The remaining \$800 (\$1,290-\$490), if reimbursed from the HSA, is not for qualified medical expenses and is includable in gross income.

Q-42. Are distributions from an HSA for long-term care services qualified medical expenses which are excluded from income?

A-42. Yes. Section 106(c) provides that employer-provided coverage for long-term care services provided through a flexible spending or similar arrangement are included in an employee's gross income. Section 213(d)(1)(C) provides that amounts paid for qualified long-term care services are medical care and section 223(f)(1) provides that amounts paid or distributed out of an HSA used to pay for qualified medical expenses are not includable in gross income. Qualified medical expenses are amounts paid for medical care (as defined in section 213(d)) for the account beneficiary, his or her spouse and dependents. Although section 106(c) applies to benefits provided by a flexible spending or similar arrangement, it does not apply to distributions from an HSA, which is a personal health care savings vehicle used to pay for qualified medical expenses through a trust or custodial account, whether or not the HSA is funded by salary-reduction contributions through a section 125 cafeteria plan.

Q-43. May a retiree who is age 65 or older receive tax-free distributions from an HSA to pay the retiree's contribution to an employer's self-insured retiree health coverage?

A-43. Yes. Pursuant to section 223(d)(2)(B), the purchase of health insurance is generally not a qualified medical expense that can be paid or reimbursed by an HSA. See Notice 2004-2, Q&A 27. However, section 223(d)(2)(C)(iv) provides an exception for coverage for health insurance once an account beneficiary has attained age 65. The exception applies to both insured and self-insured plans.

Q-44. May an individual who is under age 65 and has end stage renal disease (ESRD) or is disabled receive tax-free dis-

tributions from an HSA to pay for health insurance premiums?

A-44. No. Section 223(d)(2)(B) provides that health insurance may not be paid by an HSA. However, section 223(d)(2)(C)(iv) provides that payment of health insurance premiums are qualified medical expenses, but only in the case of an account beneficiary who has attained the age specified in section 1811 of the Social Security Act (*i.e.*, age 65).

Q-45. If a retiree who is enrolled in Medicare receives a distribution from an HSA to reimburse the retiree's Medicare premiums, is the reimbursement a qualified medical expense under section 223(d)(2)?

A-45. Yes. Where premiums for Medicare are deducted from Social Security benefit payments, an HSA distribution to reimburse the Medicare beneficiary equal to the Medicare premium deduction is a qualified medical expense.

VI. Comparability

Q-46. Does an employer who offers to make available a contribution to the HSA of each employee who is an eligible individual in an amount equal to the employee's HSA contribution or a percentage of the employee's HSA contribution (*i.e.*, "matching contributions") satisfy the requirement under section 4980G that all comparable participating employees receive comparable contributions?

A-46. If all employees who are eligible individuals do not contribute the same amount to their HSAs and, consequently, do not receive comparable contributions to their HSAs, the section 4980G comparability rules are not satisfied, notwithstanding that the employer offers to make available the same contribution amount to each employee who is an eligible individual. But see Q&A 47 on comparable contributions made through a cafeteria plan.

Q-47. If an employer makes contributions through a cafeteria plan to the HSA of each employee who is an eligible individual in an amount equal to the amount of the employee's HSA contribution or a percentage of the amount of the employee's HSA contribution (*i.e.*, "matching contributions"), are the contributions subject to the section 4980G comparability rules?

A-47. No. The conference report for the Medicare Prescription Drug, Improve-

ment, and Modernization Act of 2003 states that the comparability rules do not apply to contributions made through a cafeteria plan. Conf. Rep. No. 391, 108th Cong., 1st Sess. 840 (2003). Notice 2004-2, Q&A 32 similarly provides that the comparability rules do not apply to HSA contributions made through a cafeteria plan. Thus, where matching contributions are made by an employer through a cafeteria plan, the contributions are not subject to the comparability rules of section 4980G. However, contributions, including "matching contributions", to an HSA made under a cafeteria plan are subject to the section 125 nondiscrimination rules (eligibility rules, contributions and benefits tests and key employee concentration tests). See section 125(b), (c) and (g) and Prop. Treas. Reg. § 1.125-1, Q&A 19.

Q-48. If an employer conditions contributions by the employer to an employee's HSA on an employee's participation in health assessments, disease management programs or wellness programs and makes the same contributions available to all employees who participate in the programs, do the contributions satisfy the section 4980G comparability rules?

A-48. If all eligible employees do not elect to participate in all the programs and consequently, all employees who are eligible individuals do not receive comparable contributions to their HSAs, the employer contributions fail to satisfy the section 4980G comparability rules. But see Q&A 49 on comparable contributions made through a cafeteria plan.

Q-49. If under the employer's cafeteria plan, employees who are eligible individuals and who participate in health assessments, disease management programs or wellness programs receive an employer contribution to an HSA, unless the employee elects cash, are the contributions subject to the section 4980G comparability rules?

A-49. No. The comparability rules under section 4980G do not apply to employer contributions to an HSA through a cafeteria plan.

Q-50. If an employer offers to make available additional HSA contributions to all employees who are eligible individuals and who have attained a specified age or who qualify for the additional contri-

butions under section 223(b)(3) (catch-up contributions), do the contributions satisfy the section 4980G comparability rules?

A-50. No. If all employees who are eligible individuals do not meet the age requirement or do not qualify for the additional contributions under section 223(b)(3), all employees who are eligible individuals do not receive comparable contributions to their HSAs and the employer contributions fail to satisfy the section 4980G comparability rules.

Q-51. How do the comparability rules in section 4980G apply to employer contributions to employees' HSAs if some employees work full-time during the entire calendar year, and other employees work full-time for less than the entire calendar year?

A-51. An employer contributing to HSAs of employees who work full-time for less than twelve months, satisfies the comparability rules if the contribution amount is comparable when determined on a month-to-month basis. For example, if the employer contributes \$240 to the HSAs of each full-time employee who works the entire calendar year, the employer must contribute \$60 to the HSA of a full-time employee who works three months of the year. See section 4980G(b) and section 4980E(d)(2)(B). See also Notice 2004-2, Q&A 32 on comparability rules for part-time employees (*i.e.*, employees who are customarily employed for fewer than 30 hours per week).

Q-52. What is the testing period for making comparable contributions to employees' HSAs?

A-52. To satisfy the comparability rule in section 4980G, an employer must make comparable contributions for the calendar year to HSAs of employees who are eligible individuals. See section 4980G and section 4980E(d).

Q-53. Under section 4980G, must an employer make comparable contributions to all employees who are eligible individuals or only to those employees who are eligible individuals and are also covered by an HDHP provided by the employer?

A-53. If during a calendar year, an employer contributes to the HSA of any employee covered under an HDHP provided by the employer, the employer is required to make comparable contributions to all eligible individuals with coverage under any

HDHP provided by the employer. An employer that contributes to the HSAs of employees with coverage under the HDHP provided by the employer is not required to make comparable contributions to HSAs of employees who are not covered under the HDHP provided by the employer. However, an employer that contributes to the HSA of any eligible individual with coverage under any HDHP, even if that coverage is not an HDHP of the employer, must make comparable contributions to all eligible individuals whether or not covered under an HDHP of the employer. See also Notice 2004-2, Q&A 32.

Example (1). An employer offers an HDHP to its full-time employees. Most full-time employees are covered under the employer's HDHP and the employer makes comparable contributions only to these employees' HSAs. Employee D, a full-time employee and an eligible individual (as defined in section 223(c)(1)), is covered under his spouse's HDHP and not under his employer's HDHP. The employer is not required to make comparable contributions to D's HSA.

Example (2). An employer does not offer an HDHP. Several full-time employees, who are eligible individuals (as defined in section 223(c)(1)), have HSAs. The employer contributes to these employees' HSAs. The employer must make comparable contributions to the HSAs of all full-time employees who are eligible individuals.

Example (3). An employer offers an HDHP to its full-time employees. Most full-time employees are covered under the employer's HDHP and the employer makes comparable contributions to these employees' HSAs and also to HSAs of full-time employees not covered under the employer's HDHP. Employee E, a full-time employee and an eligible individual (as defined in section 223(c)(1)), is covered under his spouse's HDHP and not under his employer's HDHP. The employer must make comparable contributions to E's HSA.

Q-54. If an employee requests that his or her employer deduct after-tax amounts from the employee's compensation and forward these amounts as employee contributions to the employee's HSA, do the section 4980G comparability rules apply to these amounts?

A-54. No. Section 106(d) provides that amounts contributed by an employer to an eligible employee's HSA shall be treated as employer-provided coverage for medical expenses and excludable from the employee's gross income up to the limit in section 223(b). After-tax employee contributions to the HSA are not subject to section 4980G because they are not employer contributions under section 106(d). See Notice 2004-2, Q&A 12 on aggregation of HSA contributions.

VII. Rollovers

Q-55. How frequently may an account beneficiary make rollover contributions to an HSA under section 223(f)(5)?

A-55. An account beneficiary may make only one rollover contribution to an HSA during a 1-year period. In addition, to qualify as a rollover, any amount paid or distributed from an HSA to an account beneficiary must be paid over to an HSA within 60 days after the date of receipt of the payment or distribution. But see Q&A 78 regarding trustee's or custodian's obligation to accept rollovers. See also Notice 2004-2, Q&A 23 for additional rules on rollovers.

Q-56. Are transfers of HSA amounts from one HSA trustee directly to another HSA trustee (trustee-to-trustee transfers), subject to the rollover restrictions?

A-56. No. The rules under section 223(f)(5) limiting the number of rollover contributions to one a year do not apply to trustee-to-trustee transfers. Thus, there is no limit on the number of trustee-to-trustee transfers allowed during a year.

VIII. Cafeteria Plans and HSAs

Q-57. Which requirements that apply to health flexible spending arrangements (FSAs) under a section 125 cafeteria plan do not apply to HSAs?

A-57. The following requirements for health FSAs under a section 125 cafeteria plan (which are generally imposed so that health FSAs operate in a manner similar to "insurance-type" accident or health plans under section 105) are not applicable to HSAs: (1) the prohibition against a benefit that defers compensation by permitting employees to carry over unused elective contributions or plan benefits from one plan year to another plan year (See section 125(d)(2)(D)); (2) the requirement that the maximum amount of reimbursement must be available at all times during the coverage period; and (3) the mandatory twelve-month period of coverage.

Q-58. Do the section 125 change in status rules apply to elections of HSA contributions through a cafeteria plan?

A-58. A cafeteria plan may permit an employee to revoke an election during a period of coverage with respect to a qualified benefit and make a new election for the remaining portion of the period only as

provided in Treas. Reg. § 1.125-4. Because the eligibility requirements and contribution limits for HSAs are determined on a month-by-month basis, rather than on an annual basis, an employee who elects to make HSA contributions under a cafeteria plan may start or stop the election or increase or decrease the election at any time as long as the change is effective prospectively (*i.e.*, after the request for the change is received). If an employer places additional restrictions on the election of HSA contributions under a cafeteria plan, the same restrictions must apply to all employees.

Q-59. Can an employer permit employees to elect an HSA mid-year if offered as a new benefit under the employer's cafeteria plan?

A-59. Yes, if the election for the HSA is made on a prospective basis. However, the HSA election does not permit a change or revocation of any other coverage under the cafeteria plan unless the change is permitted by Treas. Reg. § 1.125-4. Thus, while an HSA may be offered to and elected by an employee mid-year, the employee may have other coverage under the cafeteria plan that cannot be changed, (*e.g.*, coverage under a health FSA), which may prevent the employee from being an eligible individual. See Rev. Rul. 2004-45.

Q-60. If an employee elects to make contributions to an HSA through the employer's cafeteria plan, may the employer contribute amounts to an employee's HSA to cover qualified medical expenses incurred by an employee that exceed the employee's current HSA balance?

A-60. Yes. Where an employee elects to make contributions to an HSA through a cafeteria plan, the employer may, but is not required to, contribute amounts to an employee's HSA up to the maximum amount elected by the employee. While any accelerated contribution made by the employer must be equally available to all participating employees throughout the plan year and must be provided to all participating employees on the same terms, the employee must repay the amount of the accelerated contribution by the end of the plan year. But see Q&A 82 on recoupment of HSA contributions by an employer.

Q-61. Can employers provide negative elections for HSAs if offered through a cafeteria plan?

A-61. Yes. See Rev. Rul. 2002-27, 2002-1 C.B. 925.

IX. Account Administration

Q-62. Are there model IRS forms for establishing HSAs?

A-62. Yes. See Form 5305-B "*Health Savings Trust Account*" and Form 5305-C "*Health Savings Custodial Account*."

Q-63. May a husband and wife have a joint HSA?

A-63. No. Each spouse who is an "eligible individual" as described in section 223(c)(1) and wants to make contributions to an HSA must open a separate HSA. Thus, only one person may be the account beneficiary of an HSA. But see Q&A 32 concerning allocating contributions between spouses. See also Q&A 38 concerning reimbursements from spousal HSAs.

Q-64. May an eligible individual have more than one HSA?

A-64. Yes. An eligible individual may establish more than one HSA, and may contribute to more than one HSA. The same rules governing HSAs apply (*e.g.*, maximum contribution limit), regardless of the number of HSAs established by an eligible individual. See also Notice 2004-2, Q&A 12.

Example. For 2004, eligible individual A's maximum contribution to an HSA is \$2,400. For 2004, A's employer contributes \$1,000 to an HSA on behalf of A. A opens a second HSA and contributes \$1,400. If additional contributions are made for 2004 to either of the HSAs, then there are excess contributions to A's HSAs.

Q-65. What are permissible investments for HSAs?

A-65. HSA funds may be invested in investments approved for IRAs (*e.g.*, bank accounts, annuities, certificates of deposit, stocks, mutual funds, or bonds). HSAs may not invest in life insurance contracts, or in collectibles (*e.g.*, any work of art, antique, metal, gem, stamp, coin, alcoholic beverage, or other tangible personal property specified in IRS guidance under section 408(m)). HSAs may, however, invest in certain types of bullion or coins, as described in section 408(m)(3). The HSA trust or custodial agreement may restrict investments to certain types of permissible investments (*e.g.*, particular investment funds).

Q-66. May HSA funds be commingled in a common trust fund or common investment fund?

A-66. Section 223(d)(1)(D) states that the HSA trust assets may not be commingled except in a common trust fund or common investment fund. Thus, individual accounts maintained on behalf of individual HSA account beneficiaries may be held in a common trust fund or common investment fund. A "common trust fund" is defined in Treas. Reg. § 1.408-2(b)(5)(ii). A "common investment fund" is defined in section 584(a)(1).

Q-67. Are there any transactions which account beneficiaries are prohibited from entering into with an HSA?

A-67. Yes. Section 223(e)(2) provides that rules similar to the rules of section 408(e)(2) and (4) shall apply to HSAs. Therefore, account beneficiaries may not enter into "prohibited transactions" with an HSA (*e.g.*, the account beneficiary may not sell, exchange, or lease property, borrow or lend money, furnish goods, services or facilities, transfer to or use by or for the benefit of himself/herself any assets, pledge the HSA, etc.). Any amount treated as distributed as the result of a prohibited transaction will not be treated as used to pay for qualified medical expenses. The account beneficiary must, therefore, include the distribution in gross income and generally will be subject to the additional 10 percent tax on distributions not made for qualified medical expenses. See Notice 2004-2, Q&A 25.

Q-68. Are HSA trustees and custodians also subject to the rules against prohibited transactions?

A-68. Yes. The same rules that apply to account beneficiaries apply to trustees and custodians.

Q-69. If administration and account maintenance fees (*e.g.*, flat administrative fees) are withdrawn from the HSA, are the withdrawn amounts treated as taxable distributions to the account beneficiary?

A-69. No. Amounts withdrawn from an HSA for administration and account maintenance fees will not be treated as a taxable distribution and will not be included in the account beneficiary's gross income.

Q-70. If administration and account maintenance fees are withdrawn from the HSA, does the withdrawn amount increase

the maximum annual HSA contribution limit?

A-70. No. For example, if the maximum annual contribution limit is \$2,000, and a \$25 administration fee is withdrawn from the HSA, the annual contribution limit is still \$2,000, not \$2,025.

Q-71. If administration and account maintenance fees are paid by the account beneficiary or employer directly to the trustee or custodian, do these payments count toward the annual maximum contribution limit for the HSA?

A-71. No. Administration and account maintenance fees paid directly by the account beneficiary or employer will not be considered contributions to the HSA. For example, an individual contributes the maximum annual amount to his HSA of \$2,000. The account beneficiary pays an annual administration fee of \$25 directly to the trustee. The individual's maximum annual contribution limit is not affected by the payment of the administration fee.

X. Trustees and Custodians

Q-72. Is any insurance company a qualified HSA trustee or custodian?

A-72. Yes. Any insurance company or any bank (including a similar financial institution as defined in section 408(n)) can be an HSA trustee or custodian. In addition, any other person already approved by the IRS to be a trustee or custodian of IRAs or Archer MSAs is automatically approved to be an HSA trustee or custodian. Other persons may request approval to be a trustee or custodian in accordance with the procedures set forth in Treas. Reg. § 1.408-2(e) (relating to IRA nonbank trustees).

Q-73. Is there a limit on the annual HSA contribution which the trustee or custodian may accept?

A-73. Yes. Except in the case of rollover contributions described in section 223(f)(5) or trustee-to-trustee transfers, the trustee or custodian may not accept annual contributions to any HSA that exceed the sum of: (1) the dollar amount in effect under section 223(b)(2)(B)(ii) (*i.e.*, the maximum family coverage deductible) plus (2) the dollar amount in effect under section 223(b)(3)(B) (*i.e.*, the catch-up contribution amount). All contributions must be in cash, other than rollover contributions

or trustee-to-trustee transfers. See section 223(d)(1)(A).

Q-74. Is the HSA trustee or custodian responsible for determining whether contributions to an HSA exceed the maximum annual contribution for a particular account beneficiary?

A-74. No. This is the responsibility of the account beneficiary, who is also responsible for notifying the trustee or custodian of any excess contribution and requesting a withdrawal of the excess contribution together with any net income attributable to the excess contribution. The HSA trustee or custodian is, however, responsible for accepting cash contributions within the limits in Q&A 73 and for filing required information returns with the IRS (Form 5498-SA and Form 1099-SA).

Q-75. Is the trustee or custodian responsible for tracking the account beneficiary's age?

A-75. Yes. However, the trustee or custodian may rely on the account beneficiary's representation as to his or her date of birth.

Q-76. Must the trustee or custodian allow account beneficiaries to return mistaken distributions to the HSA?

A-76. No, this is optional. If the HSA trust or custodial agreement allows the return of mistaken distributions as described in Q&A 37, the trustee or custodian may rely on the account beneficiary's representation that the distribution was, in fact, a mistake.

Q-77. May an HSA trust or custodial agreement restrict the account beneficiary's ability to rollover amounts from that HSA?

A-77. No. Section 223(f)(5) permits the rollover of amounts in an HSA to another HSA, and transfers from one trustee to another trustee.

Q-78. Are HSA trustees or custodians required to accept rollover contributions or trustee-to-trustee transfers?

A-78. No. Rollover contributions or trustee-to-trustee transfers from other HSAs or from Archer MSAs are allowed, but trustees or custodians are not required to accept them. See Notice 2004-2, Q&A 23.

Q-79. May an HSA trust or custodial agreement restrict HSA distributions to pay or reimburse only the account beneficiary's qualified medical expenses?

A-79. No. The HSA trust or custodial agreement may not contain a provision that restricts HSA distributions to pay or reimburse only the account beneficiary's qualified medical expenses. Thus, the account beneficiary is entitled to distributions for any purpose and distributions may be used to pay or reimburse qualified medical expenses or for other nonmedical expenditures. Only the account beneficiary may determine how the HSA distributions will be used. But see Notice 2004-2, Q&A 25 on the taxation of HSA distributions not used exclusively for qualified medical expenses. See also Q&A 80 on restrictions on the frequency or minimum amount of HSA distributions.

Q-80. May a trustee or custodian restrict the frequency or minimum amount of distributions from an HSA?

A-80. Yes. Trustees or custodians may place reasonable restrictions on both the frequency and the minimum amount of distributions from an HSA. For example, the trustee may prohibit distributions for amounts of less than \$50 or only allow a certain number of distributions per month. Generally, the terms regarding the frequency or minimum amount of distributions from an HSA are matters of contract between the trustee and the account beneficiary.

XI. Other Issues

Q-81. Are employers who contribute to an employee's HSA responsible for determining whether the employee is an eligible individual and the employee's maximum annual contribution limit?

A-81. Employers are only responsible for determining the following with respect to an employee's eligibility and maximum annual contribution limit on HSA contributions: (1) whether the employee is covered under an HDHP (and the deductible) or low deductible health plan or plans (including health FSAs and HRAs) sponsored by that employer; and (2) the employee's age (for catch-up contributions). The employer may rely on the employee's representation as to his or her date of birth.

Q-82. May the employer recoup from an employee's HSA any portion of the employer's contribution to the employee's HSA?

A-82. No. Under section 223(d)(1)(E), an account beneficiary's interest in an

HSA is nonforfeitable. For example, on January 2, 2005, the employer makes the maximum annual contribution to employees' HSAs, in the expectation that the employees would work for the entire calendar year 2005. On February 1, 2005, one employee terminates employment. The employer may not recoup from that employee's HSA any portion of the contribution previously made to the employee's HSA.

Q-83. Is an HSA distribution subject to the nondiscrimination rules of section 105(h)?

A-83. No. For amounts reimbursed to a highly compensated individual by a self-insured medical reimbursement plan to be fully excludable from the individual's gross income under section 105(b), the self-insured medical reimbursement plan must satisfy the requirements of section 105(h). Section 105(h) is not satisfied if the plan discriminates in favor of highly compensated individuals as to eligibility to participate or benefits. Because the exclusion from gross income for amounts distributed from an HSA is not determined by section 105(b), but by section 223(b), section 105(h) does not apply to HSAs.

Q-84. Is a deduction under section 223(a) for contributions to a self-employed individual's own HSA taken into account in determining net earnings from self-employment under section 1402(a)?

A-84. No. The deduction is an adjustment to gross income under section 62(a)(19), and is reportable on the self-employed individual's Form 1040 as an adjustment to gross income. It is not a deduction attributable to the self-employed individual's trade or business so it is not taken as a deduction on Schedule C, Form 1040, nor is it taken into account in determining net earnings from self-employment on Schedule SE, Form 1040.

Q-85. Does an employer's contribution to an employee's HSA affect the computation of the earned income credit (EIC) under section 32?

A-85. No. An employer's contributions to an employee's HSAs are not treated as earned income for EIC purposes.

Q-86. May an HDHP apply any required cost-of-living adjustments under section 223(g) to the minimum annual deductible amounts or maximum annual out-of-pocket expense limits on the re-

newal date of the HDHP if that date is after January 1st?

A-86. Yes. Generally, an HDHP is a health plan that satisfies certain requirements with respect to minimum annual deductibles and maximum annual out-of-pocket expense. These annual amounts are indexed for inflation using annual cost-of-living adjustments. Any required change to the deductibles and out-of-pocket expense limits may be applied as of the renewal date of the HDHP in cases where the renewal date is after the beginning of the calendar year, but in no event longer than a 12-month period ending on the renewal date. Thus, a fiscal year plan that satisfies the minimum annual deductible on the first day of the first month of its fiscal year may apply that deductible for the entire fiscal year, even if the minimum annual deductible increases on January 1 of the next calendar year.

Example. An individual obtains self-only coverage under an HDHP on June 1, 2004, the first day of the plan year, with an annual deductible of \$1,000. Assume that the cost-of-living adjustments require the minimum deductible amount to be increased for 2005. The plan's deductible is not increased to comply with the increased minimum deductible amount until the plan's renewal date of June 1, 2005. The plan satisfies the requirements for an HDHP with respect to deductibles through May 30, 2005.

Q-87. Are HSAs available to *bona fide* residents of the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands?

A-87. *Bona fide* residents of the U.S. Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands may establish HSAs. However, *bona fide* residents of Puerto Rico and American Samoa may establish HSAs only after statutory provisions similar to sections 223 and 106(d) are enacted.

Q-88. If a C corporation makes a contribution to the HSA of a shareholder who is not an employee of the C corporation, what are the tax consequences to the shareholder and to the C corporation?

A-88. If a C corporation makes a contribution to the HSA of a shareholder who is not an employee of the C corporation, the contribution will be treated as a distribution under section 301. The distribution is treated as a dividend to the extent the C corporation has earnings and profits. The portion of the distribution which is not a

dividend is applied against and reduces the adjusted basis of the stock. To the extent the amount of the distribution exceeds the adjusted basis of the stock, the balance is treated as gain from a sale or exchange of property.

EFFECT ON OTHER DOCUMENTS

Notice 2004-2, 2004-2 I.R.B. 269, is changed as follows:

The second sentence of A-2 is changed to read: An "eligible individual" means ... (3) is not enrolled in Medicare"

The last sentence in the first paragraph of A-12 is changed to read: "In addition to the maximum contribution amount, catch-up contributions, as described in [Notice 2004-2] A-14, may be made by or on behalf of individuals age 55 and older, who are not enrolled in Medicare."

The first sentence of A-14 is changed to read: "For individuals (and their spouses covered under the HDHP) who have attained 55 and are also not enrolled in Medicare"

The first sentence of the Example in A-14 is changed to read: "An individual attains age 65 and becomes enrolled in Medicare"

TRANSITION RELIEF

For months before January 1, 2005, a health plan that would otherwise qualify as an HDHP but for the lack of an express maximum on payments above the deductible that complies with the out-of-pocket requirement, as set forth in Q&A 17 and 20 will be treated as an HDHP. Individuals covered under these health plans will continue to be eligible to contribute to HSAs before January 1, 2005.

For months before January 1, 2006, a health plan that would otherwise qualify as an HDHP but for an annual deductible that does not satisfy the rule in Q&A 24 (concerning deductibles for periods of more than 12 months) will be treated as an HDHP if the plan was in effect or submitted to approval to state insurance regulators as of the date of publication of this notice in the Internal Revenue Bulletin. Individuals covered under these health plans will continue to be eligible to contribute to HSAs before January 1, 2006.

DRAFTING INFORMATION

The principal author of this notice is Shoshanna Tanner of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Ms. Tanner at (202) 622-6080 (not a toll-free call).

Request for Comments Concerning the Application of Section 761

Notice 2004-53

SECTION 1. PURPOSE

This notice requests comments from the public regarding the application of § 1.761-2(a)(2) of the Income Tax Regulations.

SECTION 2. BACKGROUND

Section 761(a) of the Internal Revenue Code provides that, under regulations, the Secretary may, at the election of all of the members of an unincorporated organization, exclude such organization from the application of all or part of subchapter K of chapter 1, subtitle A of the Code, if the income of the members of the organization may be adequately determined without the computation of partnership taxable income and the organization is availed of (1) for investment purposes only and not for the active conduct of a business, (2) for the joint production, extraction, or use of property, but not for the purpose of selling services or property produced or extracted, or (3) by dealers in securities for a short period for the purpose of underwriting, selling, or distributing a particular issue of securities.

Section 1.761-2(a)(2) provides that, where the participants in the joint purchase, retention, sale, or exchange of investment property: (i) own the property as coowners, (ii) reserve the right separately to take or dispose of their shares of any property acquired or retained, and (iii) do not actively conduct business or irrevocably authorize some person or persons acting in a representative capacity to purchase, sell, or exchange such investment

property, although each separate participant may delegate authority to purchase, sell, or exchange the participant's share of any such investment property for the time being for the participant's account, but not for a period of more than one year, then the group may be excluded from the application of the provisions of subchapter K under the rules set forth in § 1.761-2(b).

SECTION 3. REQUEST FOR PUBLIC COMMENT

The Internal Revenue Service and the Treasury Department request comments regarding the application of the conditions set forth in § 1.761-2(a)(2) and whether those conditions should be revised, modified, or clarified. Among other things, comments are requested on the circumstances under which participants in the joint purchase, retention, sale, or exchange of investment property should be treated as owning the property as coowners for purposes of electing out of subchapter K under section 761.

Comments are also requested on the facts that should be considered in determining whether participants in the joint purchase, retention, sale, or exchange of investment property have reserved the right separately to take or dispose of their underlying shares in the property. For example, comments are requested as to whether an agreement with a third party, such as a lender, that limits the rights of the coowners to take or dispose of their underlying shares in the investment property would prohibit the group from electing to be excluded from the provisions of all or part of subchapter K.

In addition, comments are requested on the meaning of investment property for purposes of § 1.761-2(a)(2). For example, comments are requested on whether rental real estate is (or can be) properly treated as investment property for these purposes.

Taxpayers may submit comments in writing to:

Internal Revenue Service
Attn: CC:PSI:RU (Notice 2004-53)
P.O. Box 7604
Room 5226
Ben Franklin Station
Washington, DC 20044

Or have them hand delivered between the hours of 8:00 a.m. and 5:00 p.m. to:

Courier's Desk
Internal Revenue Service
Attn: CC:PSI:RU (Notice 2004-53,
Room 5226)
1111 Constitution Ave., NW
Washington, DC 20224

Alternatively, taxpayers may submit comments electronically to the following address: *Notice.Comments@irs.counsel.treas.gov*. Please include Notice 2004-53 in the subject line. Comments should be received by November 15, 2004. All comments submitted will be available for public inspection and copying.

The principal author of this notice is Christopher L. Trump of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Christopher L. Trump at (202) 622-3080 (not a toll-free call).

Alternative Methods of Signing for Income Tax Return Preparers

Notice 2004-54

I. PURPOSE

This notice provides that the Internal Revenue Service will permit income tax return preparers to sign original returns, amended returns, or requests for filing extensions by rubber stamp, mechanical device, or computer software program.

II. BACKGROUND

Section 6061 of the Internal Revenue Code generally provides that any tax return, statement, or other document shall be signed in accordance with forms or regulations prescribed by the Secretary. Section 6695(b) imposes a monetary penalty on income tax return preparers who fail to sign a return. Treas. Reg. § 1.6695-1T(b) requires an income tax return preparer to sign a return after it is completed and before the return is presented to the taxpayer for signature.

III. REQUIREMENTS FOR USE OF ALTERNATIVE METHODS OF SIGNING

This notice authorizes income tax return preparers to sign original returns, amended returns, and requests for filing extensions by means of a rubber stamp, mechanical device, or computer software program. These alternative methods of signing must include either a facsimile of the individual preparer's signature or the individual preparer's printed name. Income tax return preparers utilizing one of these alternative means are personally responsible for affixing their signatures to returns or requests for extension.

Income tax return preparers who use alternative methods of signing must provide all of the other preparer information that is required on returns and extensions, such as the name, address, relevant employer identification number, the preparer's individual identification number (social security number or preparer tax identification number), and phone number.

This notice applies only to income tax return preparers as defined by Treas. Reg. § 301.7701-15(a) and does not alter the signature requirements for any other type of document currently required to be manually signed, such as elections, applications for changes in accounting method, powers of attorney, or consent forms. In addition, this notice does not alter the requirement that tax returns or requests for filing extensions be signed by the person (*i.e.*, the taxpayer) making the return or the request by handwritten signature or other authorized means.

IV. EFFECTIVE DATE

This notice applies to any original return, amended return, or request for filing extension filed on or after January 1, 2004.

DRAFTING INFORMATION

The principal author of this notice is Richard Charles Grosenick of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, contact Richard Charles Grosenick at (202) 622-7950 (not a toll-free call).

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
(Also Part 1, §§ 368, 1361; 1.1361-3, 1.1362-5.)

Rev. Proc. 2004-49

SECTION 1. PURPOSE

This revenue procedure provides a simplified procedure for a Qualified S Corporation, described in section 3.03 of this revenue procedure, to request relief for a late qualified subchapter S subsidiary (QSub) election for a Qualified Subsidiary, described in section 3.02 of this revenue procedure.

SECTION 2. BACKGROUND

Section 1361(b)(3)(B) of the Internal Revenue Code allows an S corporation to elect to treat a domestic corporation that is not an ineligible corporation (as defined in § 1361(b)(2)) as a QSub if 100 percent of the stock of the corporation is held by the S corporation. Under § 1361(b)(3)(A), a QSub is not treated as a separate corporation and all assets, liabilities, and items of income, deduction, and credit of a QSub are treated as assets, liabilities, and such items (as the case may be) of the S corporation.

Section 1.1361-3(a) of the Income Tax Regulations generally provides the time and manner of making a QSub election. An S corporation makes a QSub election for an eligible subsidiary by filing a Form 8869, *Qualified Subchapter S Subsidiary Election*, with the applicable service center. Under § 1.1361-3(a)(4), a QSub election cannot be effective more than 2 months and 15 days prior to the date of filing, and cannot be effective more than 12 months after the date of filing.

Situation 2 of Rev. Rul. 2004-85, published in this Internal Revenue Bulletin, concludes that an election to treat a subsidiary as a QSub terminates if the S corporation transfers 100 percent of the QSub stock (whether by sale or reorganization under § 368(a)(1)(A), (C), or (D)), to another S corporation in a transaction that does not qualify as a reorganization under § 368(a)(1)(F). In the interest of sound tax administration, the Treasury Department

and the Internal Revenue Service believe that a simplified procedure for requesting relief for a late QSub election following a QSub termination as a result of transaction described in Situation 2 of Rev. Rul. 2004-85 is appropriate.

SECTION 3. SCOPE

.01 *In General.* This revenue procedure provides a simplified procedure for a Qualified S Corporation, described in section 3.03 of this revenue procedure, to obtain relief for a late QSub election for a Qualified Subsidiary, described in section 3.02 of this revenue procedure.

.02 *Qualified Subsidiary.* A corporation is a Qualified Subsidiary if:

(1) 100 percent of its stock was transferred by one S corporation to another S corporation in a sale or as part of a reorganization under § 368(a)(1)(A), (C), or (D), but not as part of a reorganization under § 368(a)(1)(F); and

(2) A QSub election was in effect for such corporation immediately prior to such transfer.

.03 *Qualified S Corporation.* An S corporation is a Qualified S Corporation with respect to a Qualified Subsidiary if the S corporation owns 100 percent of the stock of the Qualified Subsidiary immediately after the transaction described in section 3.02 of this revenue procedure.

SECTION 4. APPLICATION

.01 *Prospective relief.* A Qualified S Corporation may obtain relief for a late QSub election for a Qualified Subsidiary by attaching a completed Form 8869 to its timely filed return (including extensions) for the taxable year during which the transaction described in section 3.02(1) of this revenue procedure occurred. The Form 8869 must state at the top "FILED PURSUANT TO REV. PROC. 2004-49" and must specify as the effective date for the QSub election the date on which the transaction described in section 3.02(1) of this revenue procedure occurred.

.02 *Alternative Relief.* Revenue Procedure 2003-43, 2003-1 C.B. 998, provides alternative relief for late QSub elections that are not made within the period described in section 4.01 of this revenue procedure.

.03 Relief for Previous Transactions. Prior to August 16, 2004, a corporation may have participated in a transaction described in section 3.02(1) of this revenue procedure without knowing that the transaction required the making of a new QSub election. An S corporation may obtain relief for a late QSub election with respect to such a transaction if it meets the following conditions:

(1) The late QSub election is made by a Qualified S Corporation for a Qualified Subsidiary that, prior to August 16, 2004, participated in a transaction described in section 3.02(1) of this revenue procedure;

(2) The Qualified Subsidiary failed to qualify as a QSub solely because the Qualified S Corporation did not file a Form 8869 for the Qualified Subsidiary that was effective as of the date of the transaction described in section 3.02(1) of this revenue procedure;

(3) The Qualified S Corporation reported its items on its return for the taxable year in which the transaction described in section 3.02(1) of this revenue procedure occurred, filed within 6 months of the

due date for the return (excluding extensions) and on all other affected returns (if any), consistent with a timely QSub election having been made for the Qualified Subsidiary effective as of the date of the transaction described in section 3.02(1) of this revenue procedure;

(4) The Qualified S Corporation shareholders treated the Qualified Subsidiary as a QSub on their original returns for the taxable year during which the transaction described in section 3.02(1) of this revenue procedure occurred and on all other affected returns (if any);

(5) The Qualified S Corporation files a completed Form 8869 with the appropriate service center by August 16, 2005. The Form 8869 must state at the top "FILED PURSUANT TO REV. PROC. 2004-49" and must specify as the effective date for the QSub election the date on which the transaction described in section 3.02(1) of this revenue procedure occurred.

.04 Relief by letter ruling. These procedures are in lieu of the letter ruling procedure that is used to obtain relief for a late election under § 301.9100-1 through

301.9100-3 of the Procedure and Administration Regulations. Accordingly, user fees do not apply to corrective action taken under this revenue procedure. An entity that is not eligible for relief under this revenue procedure, or is denied relief by the service center, may request relief by applying for a letter ruling. The procedural requirements for requesting a letter ruling are described in Rev. Proc. 2004-1, 2004-1 I.R.B. 1 (or its successor).

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective on August 16, 2004.

DRAFTING INFORMATION

The principal author of this revenue procedure is Charles J. Langley, Jr. of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure, contact Mr. Langley at (202) 622-3060 (not a toll-free call).

NOTE: This revenue procedure will be reprinted as the next revision of IRS Publication 1220, *Specifications for Filing Forms 1098, 5498, and W-2G Electronically or Magnetically*:

Use this Revenue Procedure to prepare Tax Year 2004 and prior year information returns for submission to Internal Revenue Service (IRS) using any of the following:

- Electronic Filing
- Tape Cartridge
- 3 1/2-Inch Diskette

Caution to filers:

Please read this publication carefully. Persons or businesses required to file information returns electronically or magnetically may be subject to penalties for failure to file or include correct information if they do not follow the instructions in this Revenue Procedure.

IMPORTANT NOTES:

IRS/MCC now offers an Internet connection at <http://fire.irs.gov> for electronic filing. The FIRE System will be down from Dec. 23, 2004, through Jan. 4, 2005, for upgrading. It is not operational during this time for submissions.

Beginning in Tax Year 2006 processing year 2007, IRS/MCC will no longer accept 3 1/2-inch diskettes for filing information returns.

Rev. Proc. 2004-50

TABLE OF CONTENTS

PART A. GENERAL

SEC. 1. PURPOSE	214
SEC. 2. NATURE OF CHANGES—CURRENT YEAR (TAX YEAR 2004)	215
SEC. 3. WHERE TO FILE AND HOW TO CONTACT THE IRS, MARTINSBURG COMPUTING CENTER	216
SEC. 4. FILING REQUIREMENTS	217
SEC. 5. VENDOR LIST	218
SEC. 6. FORM 4419, APPLICATION FOR FILING INFORMATION RETURNS ELECTRONICALLY/MAGNETICALLY	218
SEC. 7. TEST FILES	219
SEC. 8. FILING OF INFORMATION RETURNS MAGNETICALLY AND RETENTION REQUIREMENTS	220
SEC. 9. DUE DATES	221
SEC. 10. REPLACEMENT MAGNETIC MEDIA	221
SEC. 11. CORRECTED RETURNS	222
SEC. 12. EFFECT ON PAPER RETURNS AND STATEMENTS TO RECIPIENTS	226
SEC. 13. COMBINED FEDERAL/STATE FILING PROGRAM	226
SEC. 14. PENALTIES ASSOCIATED WITH INFORMATION RETURNS	228
SEC. 15. STATE ABBREVIATIONS	229
SEC. 16. MAJOR PROBLEMS ENCOUNTERED	229

PART B. ELECTRONIC FILING SPECIFICATIONS

SEC. 1. GENERAL	231
SEC. 2. ADVANTAGES OF FILING ELECTRONICALLY	231
SEC. 3. ELECTRONIC FILING APPROVAL PROCEDURE	231
SEC. 4. TEST FILES	232
SEC. 5. ELECTRONIC SUBMISSIONS	232
SEC. 6. PIN REQUIREMENTS	233
SEC. 7. ELECTRONIC FILING SPECIFICATIONS	233

SEC. 8. CONNECTING TO THE FIRE SYSTEM.....	233
SEC. 9. COMMON PROBLEMS AND QUESTIONS ASSOCIATED WITH ELECTRONIC FILING.....	235
PART C. MAGNETIC MEDIA FILING SPECIFICATIONS	
SEC. 1. TAPE CARTRIDGE SPECIFICATIONS.....	236
SEC. 2. 3½-INCH DISKETTE SPECIFICATIONS.....	236
PART D. RECORD FORMAT SPECIFICATIONS AND RECORD LAYOUTS	
SEC. 1. GENERAL.....	237
SEC. 2. TRANSMITTER “T” RECORD — GENERAL FIELD DESCRIPTIONS.....	237
SEC. 3. TRANSMITTER “T” RECORD — RECORD LAYOUT.....	240
SEC. 4. PAYER “A” RECORD — GENERAL FIELD DESCRIPTIONS.....	241
SEC. 5. PAYER “A” RECORD — RECORD LAYOUT.....	250
SEC. 6. PAYEE “B” RECORD — GENERAL FIELD DESCRIPTIONS AND RECORD LAYOUTS.....	251
(1) Payee “B” Record — Record Layout Positions 544–750 for Form 1098.....	258
(2) Payee “B” Record — Record Layout Positions 544–750 for Form 1098–E.....	259
(3) Payee “B” Record — Record Layout Positions 544–750 for Form 1098–T.....	259
(4) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–A.....	260
(5) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–B.....	261
(6) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–C.....	263
(7) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–CAP.....	264
(8) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–DIV.....	265
(9) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–G.....	266
(10) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–H.....	267
(11) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–INT.....	268
(12) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–LTC.....	269
(13) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–MISC.....	271
(14) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–OID.....	272
(15) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–PATR.....	273
(16) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–Q.....	274
(17) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–R.....	275
(18) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–S.....	279
(19) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–SA.....	280
(20) Payee “B” Record — Record Layout Positions 544–750 for Form 5498.....	281
(21) Payee “B” Record — Record Layout Positions 544–750 for Form 5498–ESA.....	282
(22) Payee “B” Record — Record Layout Positions 544–750 for Form 5498–SA.....	282
(23) Payee “B” Record — Record Layout Positions 544–750 for Form W–2G.....	283
SEC. 7. END OF PAYER “C” RECORD — GENERAL FIELD DESCRIPTIONS AND RECORD LAYOUT.....	285
SEC. 8. STATE TOTALS “K” RECORD — GENERAL FIELD DESCRIPTIONS AND RECORD LAYOUT.....	286
SEC. 9. END OF TRANSMISSION “F” RECORD — GENERAL FIELD DESCRIPTIONS AND RECORD LAYOUT.....	288
SEC. 10. FILE LAYOUT DIAGRAM.....	290
PART E. EXTENSIONS OF TIME AND WAIVERS	
SEC. 1. GENERAL — EXTENSIONS.....	290
SEC. 2. SPECIFICATIONS FOR ELECTRONIC FILING OR MAGNETIC MEDIA EXTENSIONS OF TIME.....	291
SEC. 3. RECORD LAYOUT — EXTENSION OF TIME.....	292

SEC. 4. EXTENSION OF TIME FOR RECIPIENT COPIES OF INFORMATION RETURNS.....	293
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SEC. 5. FORM 8508, REQUEST FOR WAIVER FROM FILING INFORMATION RETURNS ON MAGNETIC MEDIA.....	294
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PART A. GENERAL

Revenue Procedures are generally revised annually to reflect legislative and form changes. Comments concerning this Revenue Procedure, or suggestions for making it more helpful, can be addressed to:

Internal Revenue Service
Martinsburg Computing Center
Attn: Information Reporting Program
230 Murall Drive
Kearneysville, WV 25430

Sec. 1. Purpose

.01 The purpose of this Revenue Procedure is to provide the specifications for filing Forms 1098, 1099, 5498, and W-2G with IRS electronically through the IRS FIRE System or magnetically, using IBM 3480, 3490, 3490E, 3590, 3590E, tape cartridges or 3 1/2-inch diskettes. This Revenue Procedure must be used for the preparation of Tax Year 2004 information returns and information returns for tax years prior to 2004 *filed beginning January 1, 2005, and postmarked by December 1, 2005*. Specifications for filing the following forms are contained in this Revenue Procedure.

- (a) Form 1098, Mortgage Interest Statement
- (b) Form 1098-E, Student Loan Interest Statement
- (c) Form 1098-T, Tuition Statement
- (d) Form 1099-A, Acquisition or Abandonment of Secured Property
- (e) Form 1099-B, Proceeds From Broker and Barter Exchange Transactions
- (f) Form 1099-C, Cancellation of Debt
- (g) Form 1099-CAP, Changes in Corporate Control and Capital Structure
- (h) Form 1099-DIV, Dividends and Distributions
- (i) Form 1099-G, Certain Government Payments
- (j) Form 1099-H, Health Insurance Advance Payments
- (k) Form 1099-INT, Interest Income
- (l) Form 1099-LTC, Long-Term Care and Accelerated Death Benefits
- (m) Form 1099-MISC, Miscellaneous Income
- (n) Form 1099-OID, Original Issue Discount
- (o) Form 1099-PATR, Taxable Distributions Received From Cooperatives
- (p) Form 1099-Q, Payments From Qualified Education Programs (Under Section 529 and 530)
- (q) Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
- (r) Form 1099-S, Proceeds From Real Estate Transactions
- (s) *Form 1099-SA, Distributions From a HSA, Archer MSA, or Medicare+Choice MSA*
- (t) Form 5498, IRA Contribution Information
- (u) Form 5498-ESA, Coverdell ESA Contribution Information
- (v) *Form 5498-SA, HSA, Archer MSA, or Medicare+Choice MSA Information*
- (w) Form W-2G, Certain Gambling Winnings

.02 All data received at IRS/MCC for processing will be given the same protection as individual income tax returns (Form 1040). IRS/MCC will process the data and determine if the records are formatted and coded according to this Revenue Procedure.

.03 Specifications for filing Forms W-2, Wage and Tax Statements, magnetically/electronically are **only** available from the Social Security Administration (SSA). Filers can call 1-800-SSA-6270 to obtain the telephone number of the SSA Employer Service Liaison Officer for their area.

.04 IRS/MCC does **not** process Forms W-2. Paper **and/or** magnetic media for Forms W-2 must be sent to SSA. IRS/MCC does, however, process waiver requests (Form 8508) and extension of time to file requests (Form 8809) for Forms W-2 and requests for an extension of time to provide the employee copies of Forms W-2.

.05 Generally, the box numbers on the paper forms correspond with the amount codes used to file electronically/magnetically; however, if discrepancies occur, the instructions in this Revenue Procedure govern.

.06 This Revenue Procedure also provides the requirements and specifications for electronic or magnetic media filing under the Combined Federal/State Filing Program.

.07 The following Revenue Procedures and publications provide more detailed filing procedures for certain information returns:

- (a) *2004 General Instructions for Forms 1099, 1098, 5498, and W-2G.*
- (b) Publication 1179, General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, W-2G and 1042-S.
- (c) Publication 1239, Specifications for Filing Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, Magnetically or Electronically.
- (d) Publication 1187, Specifications for Filing Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Electronically or Magnetically.
- (e) Publication 1245, Specifications for Filing Form W-4, Employee's Withholding Allowance Certificate, Magnetically or Electronically.

.08 This Revenue Procedure supersedes Rev. Proc. 2003-52 published as Publication 1220 (Rev. 9-2003), Specifications for Filing Forms 1098, 1099, 5498, and W-2G Electronically or Magnetically.

Sec. 2. Nature of Changes—Current Year (Tax Year 2004)

.01 In this publication, all pertinent changes for Tax Year 2004 are emphasized by the use of *italics*. Portions of text that require special attention are in boldface text. Filers are always encouraged to read the publication in its entirety.

.02 Programming Changes

a. General

- (1) Part B, Electronic Filing Specifications, was completely revised. Please read carefully. We now offer an internet connection at <http://fire.irs.gov>.
- (2) Clarifying information is included in the Payee 'B' Record, the Payer's Account Number for Payee, positions 21-40.
- (3) Several forms have been revised including Form 1099-B, 1099-CAP and 1099-DIV. Because several fields on each of these forms were deleted, the prior year correction process will be impacted. If you are required to make corrections electronically or magnetically to any of these forms for tax year 2003 or earlier, contact the Information Reporting Program Customer Service Section for instructions toll-free at 866-455-7438.

b. Programming Changes — Transmitter "T" Record

- (1) For all forms, Payment Year, Field Positions 2-5, must be incremented to update the four-digit report year (*2003 to 2004*), unless reporting prior year data.

c. Programming Changes — Payer "A" Record

- (1) For all forms, Payment Year, Field Positions 2-5, must be incremented to update the four-digit report year (*2003 to 2004*), unless reporting prior year data.
- (2) For Form 1099-B, Amount Code A, Proceeds From Broker and Barter Exchange Transactions Post - 05/05/2003 Profit or (loss) realized and Amount Code B, Post - 05/05/2003 Aggregate profit or (loss) were deleted.
- (3) Form 1099-CAP, Amount Code 4, Federal Income Tax Withheld, Amount Code 8, Fair Market Value of Stock Received and Amount Code 9, Fair Market Value of Other Property Received were deleted. Amount Code 3 was changed to Amount Code 2 and the title was changed to Aggregate Amount Received.
- (4) For Form 1099-DIV, Dividends and Distributions, Amount Code 4, Post - May 5 capital gain distribution and Amount Code 5, Qualified 5-year gain, were deleted.
- (5) Form 1099-MSA is changed to 1099-SA, Distributions From a HSA, Archer MSA, or Medicare+Choice MSA. All references in the publication to 1099-MSA have changed to 1099-SA.
- (6) Form 5498-MSA is changed to 5498-SA, HSA, Archer MSA, or Medicare+Choice MSA Information. The titles of Amount Codes 1, 3 and 5 have changed to include HSA. All references in the publication to 5498-MSA have changed to 5498-SA.

d. Programming Changes — Payee "B" Record

- (1) For all forms, Payment Year, Field Positions 2-5, must be incremented to update the four-digit report year (*2003 to 2004*), unless reporting prior year data.
- (2) For Form 1099-B, positions 608-626, provide specific formatting for the following information: Number of Shares Exchanged, Classes of Stock Exchanged, and Recipient Indicator. The Corporation's Name, Street Address, City, State and ZIP can be entered in the Special Data Entry Fields, positions 663-722.
- (3) For Form 1099-CAP, the following fields were deleted: Second TIN Notice, position 544, Gross Proceeds Indicator, position 547, CUSIP Number, positions 556-568, Description, positions 569-607, and Filed by Broker Indicator, position 626.
- (4) For Form 1099-Q, field position 547, the title of the field has changed to 'Trustee to Trustee Transfer Indicator'.
- (5) For Form 1099-R, distribution codes 5, Q and T can not be used with any other distribution code. Code J can be used with codes 8 or P.
- (6) For Form 5498, use the Special Data Entry field, to report military service codes. Refer to 2004 Instructions for Forms 1099-R and 5498 for specific code information.

- (7) For Form 1099-SA, two new indicator fields, position 548, HSA Indicator and position 549, Archer MSA Indicator were added.
- (8) For Form 5498-SA, two new indicator fields, position 548, HSA Indicator and position 549, Archer MSA Indicator were added.

Sec. 3. Where To File and How to Contact the IRS, Martinsburg Computing Center

.01 All information returns filed electronically or magnetically are processed at IRS/MCC. Files containing information returns and requests for IRS electronic and magnetic media filing information should be sent to the following address:

IRS-Martinsburg Computing Center
Information Reporting Program
230 Murall Drive
Kearneysville, WV 25430

.02 All requests for an extension of time to file information returns with IRS/MCC or to the recipients and requests for undue hardship waivers filed on Form 8508 should be sent to the following address:

IRS-Martinsburg Computing Center
Information Reporting Program
Attn: Extension of Time Coordinator
240 Murall Drive
Kearneysville, WV 25430

.03 The telephone numbers for magnetic media inquiries or electronic submissions are:

Information Reporting Program Customer Service Section
TOLL-FREE 1-866-455-7438 or outside the U.S. 1-304-263-8700

email at mccirp@irs.gov
304-267-3367 — TDD
(Telecommunication Device for the Deaf)
304-264-5602 — Fax Machine
Electronic Filing — FIRE system

<http://fire.irs.gov>

TO OBTAIN FORMS:

1-800-TAX-FORM (1-800-829-3676)

www.irs.gov — IRS website access to forms (See Note.)

Note: Because paper forms are scanned during processing, you cannot file with the IRS Form 1096, and Copy A of Forms 1098, 1099, 5498 or W-2-G that you download and print from the IRS website.

.04 The *2004 General Instructions for Forms 1099, 1098, 5498, and W-2G* has been included in the Publication 1220 for your convenience. Form 1096 is used only to transmit Copy A of **paper** Forms 1099, 1098, 5498, and W-2G. If filing paper returns, follow the mailing instructions on Form 1096 and submit the paper returns to the appropriate IRS Service Center.

.05 Make requests for paper Forms 1096, 1098, 1099, 5498, and W-2G, and publications related to electronic/magnetic filing by calling the IRS toll-free number **1-800-TAX-FORM (1-800-829-3676)** or on the IRS website at www.irs.gov.

.06 Questions pertaining to magnetic media or internet filing of Forms W-2 **must** be directed to the Social Security Administration (SSA). Filers can call 1-800-772-6270 to obtain the phone number of the SSA Employer Service Liaison Officer for their area.

.07 Payers **should not** contact IRS/MCC if they have received a penalty notice and need additional information or are requesting an abatement of the penalty. A penalty notice contains an IRS representative's name and/or telephone number for contact purposes; or, the payer may be instructed to respond in writing to the address provided. IRS/MCC does **not** issue penalty notices and does **not** have the authority to abate penalties. For penalty information, refer to the Penalties section of the *2004 General Instructions for Forms 1099, 1098, 5498, and W-2G*.

.08 A taxpayer or authorized representative may request a copy of a tax return, including Form W-2 filed with a return, by submitting Form 4506, Request for Copy of Tax Form, to IRS. This form may be obtained by calling **1-800-TAX-FORM (1-800-829-3676)**. For any questions regarding this form, call 1-800-829-1040.

.09 The Information Reporting Program Customer Service Section (IRP/CSS), located at IRS/MCC, answers electronic/magnetic media, paper filing, and tax law questions from the payer community relating to the correct preparation and filing of business information returns (Forms 1096, 1098, 1099, 5498, 8027, W-2G, and W-4). IRP/CSS also answers questions relating to the electronic/magnetic media filing of Forms 1042-S and to the tax law criteria and paper filing instructions for Forms W-2 and W-3. Inquiries dealing with backup withholding and reasonable cause requirements due to missing and incorrect taxpayer identification numbers are also addressed by IRP/CSS. Assistance is available year-round to payers, transmitters, and employers nationwide, Monday through Friday, 8:30 a.m. to 4:30 p.m. Eastern time, by calling toll-free **1-866-455-7438** or via email at mccirp@irs.gov. **Do not include SSNs or EINs on emails since this is not a secure line.** The Telecommunications Device for the Deaf (TDD) toll number is **304-267-3367**. Call as soon as questions arise to avoid the busy filing seasons at the end of January and February. Recipients of information returns (payees) should continue to contact 1-800-829-1040 with any questions on how to report the information returns data on their tax returns.

.10 Form 4419, Application for Filing Information Returns Electronically/Magnetically, Form 8809, Application for Extension of Time to File Information Returns, and Form 8508, Request for Waiver From Filing Information Returns on Magnetic Media, may be faxed to IRS/MCC at 304-264-5602. Form 4804, Transmittal of Information Returns Filed Magnetically, **must** always be included with media shipments.

Sec. 4. Filing Requirements

.01 The regulations under section 6011(e)(2)(A) of the Internal Revenue Code provide that any person, including a corporation, partnership, individual, estate, and trust, who is required to file 250 or more information returns must file such returns electronically/magnetically. **The 250* or more requirement applies separately for each type of return and separately to each type of corrected return.**

***Even though filers may submit up to 249 information returns on paper, IRS encourages filers to transmit those information returns electronically or magnetically.**

.02 All filing requirements that follow apply individually to each reporting entity as defined by its separate Taxpayer Identification Number (TIN), Social Security Number (SSN), Employer Identification Number (EIN), or Individual Taxpayer Identification Number (ITIN). For example, if a corporation with several branches or locations uses the same EIN, the corporation must aggregate the total volume of returns to be filed for that EIN and apply the filing requirements to each type of return accordingly.

.03 Payers who are required to submit their information returns on magnetic media may choose to submit their documents by electronic filing. Payers, who submit their information returns electronically by March 31, 2005, are considered to have satisfied the magnetic media filing requirements.

.04 IRS/MCC has one method for filing information returns electronically; see Part B.

.05 The following requirements apply separately to both originals and corrections filed electronically/magnetically:

1098	250 or more of any of these forms require magnetic media filing with IRS. Filing electronically will also meet this requirement. These are stand-alone documents and are not to be aggregated for purposes of determining the 250 threshold. For example, if you must file 100 Forms 1099-B and 300 Forms 1099-INT, Forms 1099-B need not be filed electronically or magnetically since they do not meet the threshold of 250. However, Forms 1099-INT must be filed electronically or magnetically since they meet the threshold of 250.
1098-E	
1098-T	
1099-A	
1099-B	
1099-C	
1099-CAP	
1099-DIV	
1099-G	
1099-H	
1099-INT	
1099-LTC	
1099-MISC	
1099-OID	
1099-PATR	
1099-Q	
1099-R	
1099-S	
1099-SA	
5498	
5498-ESA	
5498-SA	
W-2G	

.06 The above requirements do not apply if the payer establishes undue hardship (See Part E, Sec. 5).

Sec. 5. Vendor List

.01 IRS/MCC prepares a list of vendors who support electronic or magnetic media filing. The Vendor List (Pub. 1582) contains the names of service bureaus that will produce or submit files for electronic filing or on the prescribed types of magnetic media. It also contains the names of vendors who provide software packages for payers who wish to produce electronic files or magnetic media on their own computer systems. This list is compiled as a courtesy and in no way implies IRS/MCC approval or endorsement.

.02 If filers meeting the filing requirements engage a service bureau to prepare media on their behalf, the filers should be careful not to report duplicate data, which may cause penalty notices to be generated.

.03 The Vendor List, Publication 1582, is updated periodically. The most recent revision will be available on the IRS website at www.irs.gov.

.04 A vendor, who offers a software package, or has the capability to electronically file information returns, or has the ability to produce magnetic media for customers, and who would like to be included on the list, must submit a letter or email to IRS/MCC. The request should include:

- (a) Company name
- (b) Address (include city, state, and ZIP code)
- (c) Telephone and FAX number (include area code)
- (d) Email address
- (e) Contact person
- (f) Type(s) of service provided (e.g., service bureau and/or software)
- (g) Type(s) of media offered (e.g., tape cartridge, 3 1/2-inch diskette, or electronic filing)
- (h) Type(s) of return(s)

Sec. 6. Form 4419, Application for Filing Information Returns Electronically/Magnetically

.01 Transmitters are required to submit Form 4419, Application for Filing Information Returns Electronically/Magnetically, to request authorization to file information returns with IRS/MCC. A single Form 4419 should be filed no matter how many types of returns the transmitter will be submitting electronically/magnetically. For example, if a transmitter plans to file Forms 1099-INT, one Form 4419 should be submitted. If, at a later date, another type of form (Forms 1098, 1099, 5498 and W-2G) is to be filed, the transmitter does not need to submit a new Form 4419.

Note: EXCEPTIONS — An additional Form 4419 is required for filing each of the following types of returns: Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, and Form W-4, Employee's Withholding Allowance Certificate. See the back of Form 4419 for detailed instructions.

.02 Tape cartridge, diskette, and electronically filed returns may not be submitted to IRS/MCC until the application has been approved. Please read the instructions on the back of Form 4419 carefully. Form 4419 is included in the Publication 1220 for the filer's use. This form may be photocopied. Additional forms may be obtained by calling **1-800-TAX-FORM (1-800-829-3676)**. The form is also available on the IRS Website at **www.irs.gov**.

.03 Upon approval, a five-character alpha/numeric Transmitter Control Code (TCC) will be assigned and included in an approval letter. The TCC **must** be coded in the Transmitter "T" Record. IRS/MCC uses the TCC to identify payer/transmitters and to track their files through the processing system. The same TCC can be used regardless of the method of filing. For example, a payer may send their production data on a tape cartridge and then later file a correction file electronically. The same TCC can be used for each filing.

.04 IRS/MCC encourages transmitters who file for multiple payers to submit one application and to use the assigned TCC for all payers. While not encouraged, multiple TCCs can be issued to payers with multiple TINs. If a transmitter uses more than one TCC to file, each TCC must be reported in separate transmissions if filing electronically or on separate media if filing magnetically.

.05 If a payer's files are prepared by a service bureau, the payer may not need to submit an application to obtain a TCC. Some service bureaus will produce files, code their own TCC in the file, and send it to IRS/MCC for the payer. Other service bureaus will prepare the file and return the file to the payer for submission to IRS/MCC. These service bureaus may require the payer to obtain a TCC, which is coded in the Transmitter "T" Record. Payers should contact their service bureaus for further information.

.06 Form 4419 may be submitted anytime during the year; however, it **must** be submitted to IRS/MCC at least 30 days before the due date of the return(s) for current year processing. This will allow IRS/MCC the minimum amount of time necessary to process and respond to applications. In the event that computer equipment or software is not compatible with IRS/MCC, a waiver may be requested to file returns on paper documents (See Part E, Sec. 5).

.07 Once a transmitter is approved to file electronically/magnetically, it is not necessary to reapply **unless**:

- (a) The payer has discontinued filing electronically or magnetically for two consecutive years. The payer's TCC may have been reassigned by IRS/MCC. Payers who are aware the TCC assigned will no longer be used are requested to notify IRS/MCC so these numbers may be reassigned.
- (b) The payer's files were transmitted in the past by a service bureau using the service bureau's TCC, but now the payer has computer equipment compatible with that of IRS/MCC and wishes to prepare his or her own files. The payer must request a TCC by filing Form 4419.

.08 In accordance with Regulations Section 1.6041-7(b), payments by separate departments of a health care carrier to providers of medical and health care services may be reported on separate returns filed electronically or magnetically. In this case, the headquarters will be considered the transmitter, and the individual departments of the company filing reports will be considered payers. A single Form 4419 covering all departments filing electronically/magnetically should be submitted. One TCC may be used for all departments.

.09 Annually, a Publication 1220 containing the current Revenue Procedure, forms, and instructions will be sent to the attention of the contact person indicated on Form 4419. Additional copies can be obtained by downloading from the IRS Website at **www.irs.gov** or by calling 1-800-829-3676.

.10 If **any** of the information (name, TIN or address) on Form 4419 changes, please notify IRS/MCC in writing so the IRS/MCC database can be updated. You may use our email address, mccirp@irs.gov, for basic name and address changes. IRS/MCC can not accept TIN information via email. A change in the method by which information returns are submitted is not information that needs to be updated (e.g., diskette to electronic). The transmitter should include the TCC in all correspondence.

.11 Approval to file does not imply endorsement by IRS/MCC of any computer software or of the quality of tax preparation services provided by a service bureau or software vendor.

Sec. 7. Test Files

.01 IRS/MCC encourages first time electronic or magnetic media filers to submit a test. Test files are **required** for filers wishing to participate in the Combined Federal/State Filing Program. See Part A, Sec. 13, for further information on the Combined Federal/State Filing Program.

.02 The test file **must** consist of a sample of each type of record:

- (a) Transmitter "T" Record (all fields marked required must include transmitter information)
- (b) Payer "A" Record (must not be fictitious data)
- (c) Multiple Payee "B" Records (**at least 11 "B" Records per each "A" Record**)
- (d) End of Payer "C" Record
- (e) State Totals "K" Record, if participating in the Combined Federal/State Filing Program
- (f) End of Transmission "F" Record (See Part D for record formats.)

.03 Use the Test Indicator "T" in Field Position 28 of the "T" Record to show this is a test file.

.04 IRS/MCC will check the file to ensure it meets the specifications of this Revenue Procedure. For current filers, sending a test file will provide the opportunity to ensure their software reflects any programming changes.

.05 Electronic tests may be submitted *November 1, 2004, through February 15, 2005*. See Part B, Sec. 4.03, for information on electronic test results.

.06 Tests submitted on magnetic media should be **postmarked** no earlier than *October 1, 2004*, and no later than *December 1, 2004*. Tests must be **received** at MCC by December 15 in order to be processed. Test processing will not begin until November 1. For tests filed on tape cartridge, and 3½-inch diskette, the transmitter must include the signed Form 4804 in the same package with the corresponding magnetic media. The “TEST” box in Block 1 on Form 4804 must be marked and the external media label must denote “TEST”.

.07 IRS/MCC will send a letter of acknowledgment to indicate the magnetic media test results. Unacceptable magnetic media test filers will receive a letter and/or documentation identifying the errors. Resubmission of magnetic media test files must be **received** by IRS/MCC no later than *December 15, 2004*.

TESTING PERIODS	
MAGNETIC MEDIA	ELECTRONIC FILES
November 1, 2004, through December 15, 2004* * Postmark media by Dec. 1 in order for media to be received at MCC by December 15	November 1, 2004, through February 15, 2005

Sec. 8. Filing of Information Returns Magnetically and Retention Requirements

.01 Form 4804, Transmittal of Information Returns Reported Magnetically, or a computer-generated substitute, must accompany **all** magnetic media shipments except for replacements, when Form 4804 is not always necessary (See Part A, Sec. 10).

.02 IRS/MCC allows for the use of computer-generated substitutes for Form 4804. The substitutes must contain all information requested on the original forms including the affidavit and signature line. Photocopies are acceptable, however, an original signature is required. When using computer-generated forms, be sure to clearly mark the tax year being reported. This will eliminate a telephone communication from IRS/MCC to question the tax year.

.03 Form 4804 may be signed by the payer or the transmitter, service bureau, paying agent, or disbursing agent (all hereafter referred to as agent) on behalf of the payer. Failure to sign the affidavit on Form 4804 may delay processing or could result in the files being unprocessed. An agent may sign Form 4804 if the agent has the authority to sign the affidavit under an agency agreement (either oral, written, or implied) that is valid under state law and adds the caption “FOR: (name of payer).”

.04 Although an authorized agent may sign the affidavit, the payer is responsible for the accuracy of Form 4804 and the returns filed. The payer will be liable for penalties for failure to comply with filing requirements.

.05 Multiple types of media may be submitted in a shipment. However, a separate Form 4804 must be submitted for each type of media.

.06 Current and prior year data may be submitted in the same shipment; however, each tax year must be on separate media, and a separate Form 4804 must be prepared to clearly indicate each tax year.

.07 Filers who have prepared their information returns in advance of the due date are encouraged to submit this information to IRS/MCC no earlier than January 1 of the year the returns are due.

.08 Do not report duplicate information. If a filer submits returns electronically/magnetically, identical paper documents must not be filed. This may result in erroneous penalty notices.

.09 A self-adhesive external media label, created by the filer, must be affixed to each piece of magnetic media. For instructions on how to prepare an external media label, refer to Notice 210 in the forms section of this publication. If diskettes are used, be certain that only MS-DOS compatible operating systems were used to prepare the diskettes. **Non MS-DOS diskettes are no longer acceptable at IRS/MCC.**

.10 When submitting files include the following:

- (a) A **signed** Form 4804
- (b) External media label (created by filer) affixed to magnetic media
- (c) IRB Box ___ of ___ labeled on outside of each package

.11 IRS/MCC will not return media after successful processing. Therefore, if the transmitter wants proof that IRS/MCC received a shipment, the transmitter should select a service with tracking capabilities or one that will provide proof of delivery. Do not use special shipping containers for mailing media to IRS/MCC. Shipping containers will not be returned.

.12 IRS/MCC will not pay for or accept “Cash-on-Delivery” or “Charge to IRS” shipments of tax information that an individual or organization is legally required to submit.

.13 Payers should retain a copy of the information returns filed with IRS or have the ability to reconstruct the data for at least 3 years from the reporting due date, with the exception of:

- (a) A 4-year retention period is required for all information returns when backup withholding is imposed.
- (b) A financial entity must retain a copy of Form 1099-C, Cancellation of Debt, or have the ability to reconstruct the data required to be included on the return, for at least 4 years from the date such return is required to be filed.

Sec. 9. Due Dates

.01 The due dates for filing paper returns with IRS also apply to magnetic media. Filing of information returns is on a calendar year basis, except for Forms 5498 and 5498-SA, which are used to report amounts contributed during or after the calendar year (but not later than April 15). The following due dates will apply to Tax Year 2004:

Due Dates	
Electronic Filing Forms 1098, 1099, and W-2G Recipient Copy — January 31, 2005 IRS Copy — March 31, 2005	Magnetic Filing (See Note.) Forms 1098, 1099, and W-2G Recipient Copy — January 31, 2005 IRS Copy — February 28, 2005
Electronic/Magnetic Filing Forms 5498*, 5498-SA* and 5498-ESA** IRS Copy — May 31, 2005 Participant Copy — May 31, 2005* Participant Copy — May 2, 2005** * Participants' copies of Forms 5498 and 5498-SA to furnish fair market value information — January 31, 2005	

.02 If any due date falls on a Saturday, Sunday, or legal holiday, the return or statement is considered timely if filed or furnished on the next day that is not a Saturday, Sunday, or legal holiday.

.03 Magnetic media returns postmarked by the United States Postal Service (USPS) on or before March 1, 2005, and delivered by United States mail to the IRS/MCC after the due date, are treated as timely under the "timely mailing as timely filing" rule. Refer to the 2004 *General Instructions for Forms 1099, 1098, 5498, and W-2G, When to File*, located in the back of this publication for more detailed information. Notice 97-26, 1997-1 C.B. 413, provides rules for determining the date that is treated as the postmark date. For items delivered by a non-designated Private Delivery Service (PDS), the actual date of receipt by IRS/MCC will be used as the filing date. For items delivered by a designated PDS, but through a type of service not designated in Notice 99-41, the actual date of receipt by IRS/MCC will be used as the filing date. The timely mailing rule also applies to furnishing statements to recipients and participants.

Note: Due to security regulations at MCC, the Internal Revenue police officers will only accept media from PDSs or couriers from 7:00 a.m. to 5:00 p.m., Monday through Friday.

.04 Use this Revenue Procedure to prepare information returns filed electronically or magnetically beginning *January 1, 2005*, and postmarked no later than *December 1, 2005*.

.05 Media postmarked December 2, 2005, or later **must** have the Prior Year Data Indicator coded with a "P" in position 6 of the Transmitter "T" Record.

Sec. 10. Replacement Magnetic Media

Note: Replacement Electronic files is detailed in Part B, Sec. 5.

.01 A replacement is an information return file sent by the filer **at the request of IRS/MCC** because of errors encountered while processing the filer's original file or correction file. After the necessary changes have been made, the entire file must be returned for processing along with the Media Tracking Slip (Form 9267) which was included in the correspondence from IRS/MCC. (See Note.)

Note: Filers should never send anything to IRS/MCC marked "Replacement" unless IRS/MCC has requested a replacement file in writing or via the FIRE System.

.02 Magnetic Media filers will receive a Media Tracking Slip (Form 9267), listing, and letter detailing the reason(s) their media could not be processed. It is imperative that filers maintain backup copies and/or recreate capabilities for their information return files. Open all correspondence from IRS/MCC immediately.

.03 When possible, sample records identifying errors encountered will be provided with the returned information. It is the responsibility of the transmitter to check the entire file for similar errors.

.04 Before sending replacement media, make certain the following items are in place:

- (a) Make the required changes noted in the enclosed correspondence and check entire file for other errors.
- (b) Code Transmitter "T" record, in positions 21-22 for replacement. See Part D, Sec. 3.
- (c) Code Payer "A" record in position 49 with "1" for replacement file. See Part D, Sec. 4.

- (d) Enclose Form 9267, Media Tracking Slip, with your replacement media.
- (e) Label your Media **“Replacement Data”** and indicate the appropriate Tax Year.
- (f) Complete a new Form 4804 **if any of your information has changed.**

.05 Replacement files must be corrected and returned to IRS/MCC within 45 days from the date of the letter. Refer to Part B, Sec. 5 .05, for procedures for files submitted electronically. A penalty for failure to return a replacement file will be assessed if the files are not corrected and returned within the 45 days **or if filers are notified by IRS/MCC of the need for a replacement file more than two times.** A penalty for intentional disregard of filing requirements will be assessed if a replacement file is not received. (For penalty information, refer to the Penalty section of the *2004 General Instructions for Forms 1099, 1098, 5498, and W-2G.*)

Sec. 11. Corrected Returns

- A **correction** is an information return submitted by the transmitter to correct an information return that was previously submitted to and processed by IRS/MCC, but contained erroneous information.
- While we encourage you to file your corrections electronically/magnetically, you may file up to 249 paper corrections even though your originals were filed electronically or magnetically.
- **DO NOT SEND YOUR ENTIRE FILE AGAIN.** Only send the information returns in need of correction.
- Information returns omitted from the original file **must not** be coded as corrections. Submit them under a separate Payer “A” Record as original returns.
- Be sure to use the same payee account number that was used on the original submission. The account number is used to match a correction record to the original information return.
- Before creating your correction file, review the following guidelines chart carefully.

.01 The magnetic media filing requirement of information returns of 250 or more applies separately to both original and corrected returns.

E	If a payer has 100 Forms 1099–A to be corrected, they can be filed on paper because they
X	fall under the 250 threshold. However, if the payer has 300 Forms 1099–B to be corrected, they
A	must be filed electronically or magnetically because they meet the 250 threshold. If for some
M	reason a payer cannot file the 300 corrections electronically or magnetically, to avoid penalties, a
P	request for a waiver must be submitted before filing on paper. If a waiver is approved for original
L	documents, any corrections for the same type of return will be covered under this waiver.
E	

.02 Corrections should be filed **as soon as possible.** Corrections filed after August 1 may be subject to the maximum penalty of \$50 per return. Corrections filed by August 1 may be subject to a lesser penalty. (For information on penalties, refer to the Penalties section of the *2004 General Instructions for Forms 1099, 1098, 5498, and W-2G.*) However, if payers discover errors after August 1, they should file corrections, as prompt correction is a factor considered in determining whether the intentional disregard penalty should be assessed or whether a waiver of the penalty for reasonable cause may be granted. All fields must be completed with the correct information, not just the data fields needing correction. Submit corrections only for the returns filed in error, not the entire file. Furnish corrected statements to recipients as soon as possible.

Note: Do NOT resubmit your entire file as corrections. This will result in duplicate filing and erroneous notices may be sent to payees. Submit only those returns which need to be corrected.

.03 There are numerous types of errors, and in some cases, more than one transaction may be required to correct the initial error. If the original return was filed as an aggregate, the filers must consider this in filing corrected returns.

.04 The payee’s account number must be included on **all** correction records. This is especially important when more than one information return of the same type is reported for a payee. The account number is used to determine which information return is being corrected. It is vital that each information return reported for a payee have a unique account number. See Part D, Sec. 6, Payer’s Account Number For Payee.

.05 Corrected returns may be included on the same media as original returns; however, separate “A” Records are required. Corrected returns must be identified on Form 4804 and the external media label by indicating “Correction.” If filers discover that certain information returns were omitted on their original file, they must not code these documents as corrections. The file must be coded and submitted as originals.

.06 If a payer realizes duplicate reporting has occurred, IRS/MCC should be contacted **immediately** for instructions on how to avoid notices. The standard correction process will not resolve duplicate reporting.

.07 If a payer discovers errors that affect a large number of payees, in addition to sending IRS the corrected returns and notifying the payees, IRS/MCC underreporter section should be contacted toll-free at 1-866-455-7438 for additional requirements. Corrections must be submitted on actual information return documents or filed electronically/magnetically. Form 4804 must be submitted with corrected files submitted magnetically. If filing magnetically, provide the correct tax year in Block 2 of Form 4804 and on the external media label. All references to Form 4804 in the guidelines apply only to files submitted magnetically. Form 4804 is not required for electronic filing.

.08 Prior year data, original and corrected, **must** be filed according to the requirements of this Revenue Procedure. If submitting prior year corrections, use the record format for the current year and submit on separate media. However, use the actual year designation of the correction in Field Positions 2-5 of the "T", "A", and "B" Records. If filing electronically, a separate transmission must be made for each tax year.

.09 In general, filers should submit corrections for returns filed within the last 3 calendar years (4 years if the payment is a reportable payment subject to backup withholding under section 3406 of the Code and also for Form 1099-C, Cancellation of Debt).

.10 All paper returns, whether original or corrected, must be filed with the appropriate service center.

.11 If a payer discovers an error(s) in reporting the payer name and/or TIN, write a letter to IRS/MCC (See Part A, Sec. 3) containing the following information:

- (a) Name and address of payer
- (b) Type of error (please include the incorrect payer name/TIN that was reported)
- (c) Tax year
- (d) Payer TIN
- (e) TCC
- (f) Type of Return
- (g) Number of Payees
- (h) Filing method, paper, electronic, or magnetic media

.12 The "B" Record provides a 20-position field for a unique Payer's Account Number for Payee. If a payee has more than one reporting of the same document type, it is vital that each reporting have a unique account number. This number will help identify the appropriate incorrect return if more than one return is filed for a particular payee. **Do not enter a TIN in this field.** A payer's account number for the payee may be a checking account number, savings account number, serial number, or any other number assigned to the payee by the payer that will distinguish the specific account. This number should appear on the initial return and on the corrected return in order to identify and process the correction properly.

.13 The record sequence for filing corrections is the same as for original returns.

.14 Review the chart that follows. Errors normally fall under one of the two categories listed. Next to each type of error is a list of instructions on how to file the corrected return.

Guidelines for Filing Corrected Returns Electronically/Magnetically

Error Made on the Original Return

How To File the Corrected Return

Note: References to Form 4804 apply to magnetically filed media only. Form 4804 is not required for files submitted electronically through the FIRE System.

One transaction is required to make the following corrections properly. (See Note 3.)

Guidelines for Filing Corrected Returns Electronically/Magnetically (Continued)

ERROR TYPE 1

- 1.** Original return was filed with one or more of the following errors:
- (a)** Incorrect payment amount codes in the Payer "A" Record
 - (b)** Incorrect payment amounts in the Payee "B" Record
 - (c)** Incorrect code in the distribution code field in the Payee "B" Record
 - (d)** Incorrect payee address
 - (e)** Incorrect *payee indicator*

Note: For information on correcting errors to the payer's name and TIN, see Sec. 11, .11.

CORRECTION

- A.** Prepare a new Form 4804 that includes information relating to this new file.
- B.** Mark "Correction" in Block 1 of Form 4804.
- C.** Prepare a new file. The first record on the file will be the Transmitter "T" Record.
- D.** Make a separate "A" Record for each type of return and each payer being reported. Information in the "A" Record may be the same as it was in the original submission. However, remove the "1" (one) in Field Position 48 and set the Correction File Indicator (Field Position 50), to "1" (one).
- E.** The Payee "B" Records must show the correct record information as well as a Corrected Return Indicator Code of "G" in Field Position 6.
- F.** Corrected returns submitted to IRS/MCC using "G" coded "B" Records may be on the same file as those returns submitted without the "G" coded "B" Records; however, **separate "A" Records are required.**
- G.** Prepare a separate "C" Record for each type of return and each payer being reported.
- H.** The last record on the file will be the End of Transmission "F" Record.
- I.** Indicate "Correction" on the external media label.

File layout **one** step corrections

Transmitter "T" Record	Payer "A" Record	"G" coded Payee "B" Record	"G" coded Payee "B" Record	End of Payer "C" Record	End of Transmission "F" Record
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Guidelines for Filing Corrected Returns Electronically/Magnetically

Error Made on the Original Return

How To File the Corrected Return

Two (2) separate transactions are required to make the following corrections properly. Follow the directions for both Transactions 1 and 2. (See Note 2.) DO NOT use the two step correction process to correct money amounts.

Guidelines for Filing Corrected Returns Electronically/Magnetically (Continued)

Error Made on the Original Return

How To File the Corrected Return

ERROR TYPE 2

CORRECTION

1. Original return was filed with one or more of the following errors:

- (a) No payee TIN (SSN, EIN, ITIN or QI-EIN)
- (b) Incorrect payee TIN
- (c) Incorrect payee name *and address*
- (d) Wrong type of return indicator

Transaction 1: Identify incorrect returns.

- A.** Prepare a new Form 4804 that includes information related to this new file.
- B.** Mark "Correction" in Block 1 of Form 4804.
- C.** Prepare a new file. The first record on the file will be the Transmitter "T" Record.
- D.** Make a separate "A" Record for each type of return and each payer being reported. The information in the "A" Record will be **exactly** the same as it was in the original submission with one exception; remove the "1" from Field Position 48, and set the Correction File Indicator (Field Position 50) to "1" (one). (*See Note 1.*)
- E.** The Payee "B" Records must contain **exactly the same** information as submitted previously, **except**, insert a Corrected Return Indicator Code of "G" in Field Position 6 of the "B" Records, and enter "0" (zeros) in all payment amounts. (*See Note 1.*)
- F.** Corrected returns submitted to IRS/MCC using "G" coded "B" Records may be on the same file as those returns submitted with a "C" code; **however, separate "A" Records are required.**
- G.** Prepare a separate "C" Record for each type of return and each payer being reported.
- H.** Continue with Transaction 2 to complete the correction.

Transaction 2: Report the correct information.

- A.** Make a separate "A" Record for each type of return and each payer being reported. Remove the "1" in Field Position 48 and set the Correction File Indicator (Field Position 50), to "1" (one).
 - B.** The Payee "B" Records must show the correct information as well as a Corrected Return Indicator Code of "C" in Field Position 6.
 - C.** Corrected returns submitted to IRS/MCC using "C" coded "B" Records may be on the same file as those returns submitted with "G" codes; **however, separate "A" Records are required.**
 - D.** Prepare a separate "C" Record for each type of return and each payer being reported.
 - E.** The last record on the file will be the End of Transmission "F" Record.
 - F.** Indicate "Correction" on the external media label.
-

Guidelines for Filing Corrected Returns Electronically/Magnetically (Continued)

Error Made on the Original Return

How To File the Corrected Return

Note 1: The Record Sequence Number will be different since this is a counter number and is unique to each file. For 1099-R corrections, if the corrected amounts are zeros, certain indicators will not be used.

Note 2: See the 2004 General Instructions for Forms 1099, 1098, 5498, and W-2G for additional information on regulations affecting corrections and related penalties.

File layout **two** step corrections

Transmitter "T" Record	Payer "A" Record	"G" coded Payee "B" Record	"G" coded Payee "B" Record	End of Payer "C" Record	Payer "A" Record
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"C" coded Payee "B" Record	"C" coded Payee "B" Record	End of Payer "C" Record	End of Transmission "F" Record
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Note 3: If a filer is correcting the name and/or TIN in addition to any errors listed in item 2 of the chart, two transactions will be required. If a filer is reporting "G" coded, "C" coded, and/or "Non-coded" (original) returns on the same media, each category must be reported under separate "A" Records.

Sec. 12. Effect on Paper Returns and Statements to Recipients

.01 Electronic/Magnetic reporting of information returns eliminates the need to submit paper documents to the IRS. **CAUTION: Do not send Copy A of the paper forms to IRS/MCC for any forms filed electronically or magnetically.** This will result in duplicate filing; therefore, erroneous notices could be generated.

.02 Payers are responsible for providing statements to the payees as outlined in the 2004 General Instructions for Forms 1099, 1098, 5498, and W-2G. Refer to those instructions for filing information returns on paper with the IRS and furnishing statements to recipients.

.03 Statements to recipients should be clear and legible. If the official IRS form is not used, the filer must adhere to the specifications and guidelines in Publication 1179, Rules and Specifications for Private Printing of Substitute Forms 1096, 1098, 1099, 5498, and W-2G.

Sec. 13. Combined Federal/State Filing Program

- Through the Combined Federal/State Filing (CF/SF) Program, IRS/MCC will forward original and corrected information returns filed electronically or magnetically to participating states for approved filers.
- For approval, the filer must submit a test file coded for this program. See Part A, Sec. 7, Test Files.
- For magnetic media test files, attach a letter to Form 4804 requesting approval to participate in the CF/SF Program. Form 4804 or letter is not required for tests sent electronically.
- Approved filers are sent Form 6847, Consent for Internal Revenue Service to Release Tax Information, which must be completed and returned to IRS/MCC. A separate form is required for each payer.

.01 The Combined Federal/State Filing (CF/SF) Program was established to simplify information returns filing for the taxpayer. IRS/MCC will forward this information to participating states free of charge for approved filers. Separate reporting to those states is not necessary. The following information returns may be filed under the Combined Federal/State Filing Program:

Form 1099-DIV—Dividends and Distributions
Form 1099-G—Certain Government Payments
Form 1099-INT—Interest Income
Form 1099-MISC—Miscellaneous Income
Form 1099-OID—Original Issue Discount
Form 1099-PATR—Taxable Distributions Received From Cooperatives
Form 1099-R—Distributions From Pensions, Annuities, Retirement or
Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
Form 5498—IRA Contribution Information

.02 To request approval to participate, a magnetic media test file coded for this program **must** be submitted to IRS/MCC between *November 1, 2004, and December 15, 2004. Media must be **postmarked** no later than December 1, 2004 in order to be received at MCC by December 15 for processing.* Electronic test files coded for this program must be submitted between *November 1, 2004, and February 15, 2005.*

.03 Attach a letter to Form 4804 submitted with the test file to indicate a desire to participate in the Combined Federal/State Filing Program. Test files sent electronically do not require Form 4804 or letter. If the test file is coded for the Combined Federal/State Filing Program and is acceptable, an approval letter and Form 6847, Consent For Internal Revenue Service to Release Tax Information, will be sent to the filer.

.04 A test file is only required for the **first** year when you apply to participate in the Program. Each record, both in the test and the actual data file, must conform to this Revenue Procedure.

.05 If the test file is acceptable, IRS/MCC will send the filer an approval letter, and Form 6847, Consent for Internal Revenue Service to Release Tax Information, which the payer **must** complete, sign, and return to IRS/MCC before any tax information can be released to the state. Filers must write their TCC on Form 6847.

.06 If the test file is not acceptable, IRS/MCC will send magnetic media filers information indicating the problems. Electronic filers must log on to the FIRE System within two business days to check the acceptability of their test file. The new test file must be postmarked no later than December 1, 2004, for magnetic media, or February 15, 2005, for an electronically filed test.

.07 A separate Form 6847 is **required** for each payer. A transmitter may not combine payers on one Form 6847 even if acting as Attorney-in-Fact for several payers. Form 6847 may be computer-generated as long as it includes all information that is on the original form or it may be photocopied. If Form 6847 is signed by an Attorney-in-Fact, the written consent from the payer must clearly indicate that the Attorney-in-Fact is empowered to authorize release of the information.

.08 Only code the records for participating states and for those payers who have submitted Form 6847.

.09 *If a payee has a reporting requirement for more than one state, separate “B” records must be created for each state. Pro-rate the reporting, allocating what should be reported to each state. Do **not** report the total amount to each state. This will cause duplicate reporting.*

.10 Some participating states require separate notification that the payer is filing in this manner. Since IRS/MCC acts as a forwarding agent only, it is the payer’s responsibility to contact the appropriate states for further information.

.11 All corrections properly coded for the Combined Federal/State Filing Program will be forwarded to the participating states. *Only send corrections which affect the Federal reporting. Errors which apply only to the state filing requirement should be sent directly to the state.*

.12 Participating states and corresponding valid state codes are listed in **Table 1** of this section. The appropriate state code **must** be entered for those documents that meet the state filing requirements; **do not use state abbreviations.**

.13 Each state’s filing requirements are subject to change by the state. It is the payer’s responsibility to contact the participating states to verify their criteria.

.14 Upon submission of the actual files, the transmitter **must** be sure of the following:

- (a) All records are coded exactly as required by this Revenue Procedure.
- (b) A State Total “K” Record(s) for each state(s) being reported follows the “C” Record.
- (c) Payment amount totals and the valid participating state code are included in the State Totals “K” Record(s).
- (d) The last “K” Record is followed by an “A” Record or an End of Transmission “F” Record (if this is the last record of the entire file).

Table 1. Participating States and Their Codes*

State	Code	State	Code	State	Code
Alabama	01	Indiana	18	Nebraska	31
Arizona	04	Iowa	19	New Jersey	34
Arkansas	05	Kansas	20	New Mexico	35
California	06	Louisiana	22	North Carolina	37
Colorado	07	Maine	23	North Dakota	38
Connecticut	08	Maryland	24	Ohio	39
Delaware	10	Massachusetts	25	South Carolina	45
District of Columbia	11	Minnesota	27	Virginia	51
Georgia	13	Mississippi	28	Wisconsin	55
Hawaii	15	Missouri	29		
Idaho	16	Montana	30		

** The codes listed above are correct for the IRS Combined Federal/State Filing Program and may not correspond to the state codes of other Agencies or programs.*

Sample File Layout for Combined Federal/State Filer

Transmitter "T" Record	Payer "A" Record coded with 1 in position 26	Payee "B" Record with state code 15 in position 747-748	Payee "B" Record with state code 06 in position 747-748	Payee "B" Record no state code	End of Payer "C" Record
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State Total "K" Record for "B" records coded 15. "K" record coded 15 in positions 747-748.	State Total "K" Record for "B" records coded 06. "K" record coded 06 in positions 747-748.	End of Transmission "F" Record
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Sec. 14. Penalties Associated With Information Returns

.01 The following penalties generally apply to the person required to file information returns. The penalties apply to electronic/magnetic media filers as well as to paper filers.

.02 Failure To File Correct Information Returns by the Due Date (Section 6721). If you fail to file a correct information return by the due date and you cannot show reasonable cause, you may be subject to a penalty. The penalty applies if you fail to file timely, you fail to include all information required to be shown on a return, or you include incorrect information on a return. The penalty also applies if you file on paper when you were required to file on magnetic media, you report an incorrect TIN or fail to report a TIN, or you fail to file paper forms that are machine readable.

The amount of the penalty is based on when you file the correct information return. The penalty is:

- **\$15** per information return if you correctly file within 30 days of the due date of the return (See Part A, Sec. 9 .01); maximum penalty \$75,000 per year (\$25,000 for small businesses).
- **\$30** per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$150,000 per year (\$50,000 for small businesses).
- **\$50** per information return if you file after August 1 or you do not file required information returns; maximum penalty \$250,000 per year (\$100,000 for small businesses).

.03 A late filing penalty may be assessed for a replacement file which is not returned by the required date. Files which require replacement more than two times will also be subject to penalty. See Part A, Sec. 10, for more information on replacement files.

.04 Intentional disregard of filing requirements. If any failure to file a correct information return is due to intentional disregard of the filing or correct information requirements, the penalty is at least \$100 per information return with no maximum penalty.

.05 Failure To Furnish Correct Payee Statements (Section 6722). For information regarding penalties which may apply to failure to furnish correct payee statements, see *2004 General Instructions for Forms 1099, 1098, 5498, and W-2G*.

Sec. 15. State Abbreviations

.01 The following state and U.S. territory abbreviations are to be used when developing the state code portion of address fields. This table provides state and territory abbreviations only, and does not represent those states participating in the Combined Federal/State Filing Program.

State	Code	State	Code	State	Code
Alabama	AL	Kentucky	KY	No. Mariana Islands	MP
Alaska	AK	Louisiana	LA	Ohio	OH
American Samoa	AS	Maine	ME	Oklahoma	OK
Arizona	AZ	Marshall Islands	MH	Oregon	OR
Arkansas	AR	Maryland	MD	Pennsylvania	PA
California	CA	Massachusetts	MA	Puerto Rico	PR
Colorado	CO	Michigan	MI	Rhode Island	RI
Connecticut	CT	Minnesota	MN	South Carolina	SC
Delaware	DE	Mississippi	MS	South Dakota	SD
District of Columbia	DC	Missouri	MO	Tennessee	TN
Federated States of Micronesia	FM	Montana	MT	Texas	TX
Florida	FL	Nebraska	NE	Utah	UT
Georgia	GA	Nevada	NV	Vermont	VT
Guam	GU	New Hampshire	NH	Virginia	VA
Hawaii	HI	New Jersey	NJ	(U.S.) Virgin Islands	VI
Idaho	ID	New Mexico	NM	Washington	WA
Illinois	IL	New York	NY	West Virginia	WV
Indiana	IN	North Carolina	NC	Wisconsin	WI
Iowa	IA	North Dakota	ND	Wyoming	WY
Kansas	KS				

.02 Filers must adhere to the city, state, and ZIP Code format for U.S. addresses in the “B” Record. This also includes American Samoa, Federated States of Micronesia, Guam, Marshall Islands, Northern Mariana Islands, Puerto Rico, and the U. S. Virgin Islands.

.03 For foreign country addresses, filers may use a 51 position free format which should include city, province or state, postal code, and name of country in this order. This is allowable only if a “1” (one) appears in the Foreign Country Indicator, Field Position 247, of the “B” Record.

.04 When reporting APO/FPO addresses, use the following format:

EXAMPLE:

Payee Name	PVT Willard J. Doe
Mailing Address	Company F, PSC Box 100 167 Infantry REGT
Payee City	APO (or FPO)
Payee State	AE, AA, or AP*
Payee ZIP Code	098010100

*AE is the designation for ZIPs beginning with 090–098, AA for ZIP 340, and AP for ZIPs 962–966.

Sec. 16. Major Problems Encountered

IRS/MCC encourages filers to verify the format and content of each type of record to ensure the accuracy of the data. This may eliminate the need for IRS/MCC to request replacement files. This may be important for those payers who have either had their files prepared by a service bureau or who have purchased preprogrammed software packages.

Filers who engage a service bureau to prepare media on their behalf should be careful not to report duplicate data, which may generate penalty notices.

The Major Problems Encountered lists some of the most frequently encountered problems with electronic/magnetic files submitted to IRS/MCC. These problems may result in IRS/MCC requesting replacement files. Some of the problems resulted from not referring to this publication for instructions.

1. Incorrect Format

- Multiple Files on diskettes — Each diskette must contain only **ONE** file, named **IRSTAX**. A file consists of one Transmitter “T” Record followed by a Payer “A” Record, Payee “B” Records, End of Payer “C” Record, State Totals “K” Record (if applicable for CF/SF Program), and the End of Transmission “F” Record. A file can contain multiple Payer “A” Records, but, only one Transmitter “T” Record. See Part D, Sec. 10, for file layout diagram.
 - Invalid record length — **ALL** Records must be 750 Positions in length.
 - Prior tax year data **must** be formatted in the **current** tax year format. Be sure to use the **current Revenue Procedure (Publication 1220)** for formatting prior tax year data.
-

2. Unable to read tape cartridge.

Please review all tape cartridge specifications carefully (See Part C, Sections 1 and 2.)

3. No Form 4804, Transmittal of Information Returns Reported Magnetically

Each shipment of media sent to IRS/MCC must include a signed Form 4804. More than one type of media may be sent in the same shipment, (i.e., diskette, and tape cartridge) but must have a separate Form 4804 to accompany **each type of media**.

4. Discrepancy Between IRS/MCC Totals and Totals in Payer “C” Records

The “C” Record is a summary record for a type of return for a given payer. IRS compares the total number of payees and payment amounts in the “B” records with totals in the “C” Records. The two totals **must** agree. Do **NOT** enter negative amounts except when reporting Forms 1099-B or 1099-Q. Money amounts must be all numeric, right-justified and zero (0) filled. **Do Not Use Blanks**.

5. The Payment Amount Fields in the “B” Record Do Not Correspond to the Amount Codes in the “A” Record

The Amount Codes used in the “A” record **MUST** correspond with the payment amount fields used in the “B” records. The amount codes must be left-justified, in ascending order with the unused positions blank. For Example: If the “B” records show payment amounts in payment amount fields 2, 4, and 7, then the “A” record must correspond with 2, 4, and 7 in the amount codes field.

6. Incorrect TIN in Payer “A” Record

The Payer’s TIN reported in positions 12–20 of the “A” record must be nine numeric characters only. **(Do Not Enter Hyphen.)** The TIN and the First Payer Name Line provided in the “A” record must correspond.

7. Incorrect Tax Year in the Transmitter “T” Record, Payer “A” Record and the Payee “B” Records

The tax year in the transmitter, payer and payee records should reflect the tax year of the information return being reported. For prior tax year data, there must be a “P” in position 6 of the Transmitter “T” record. Media postmarked December 1, 2004, or later **must** have the Prior Year Data Indicator coded with a “P” in position 6 of the Transmitter “T” Record. This position must be blank for current tax year data.

8. Incorrect Reporting of Form W-2 Information to IRS

Form W-2 information is submitted to SSA and **not** to IRS/MCC. **Any media received at IRS/MCC that contains W-2 information will be forwarded to SSA. The filer will be notified of this action by letter.** To inquire about filing Form W-2 information magnetically/electronically, call 1-800-SSA-6270.

9. Incorrect use of Test Indicator

When sending a test file, position 28 of the Transmitter “T” record must contain a “T”, otherwise blank fill.

10. Incorrect Format for TINs in the Payee “B” Record

TINs entered in position 12–20 of the Payee “B” record must consist of nine numerics only. **(Do Not Enter Hyphens.)** Incorrect formatting of TINs may result in a penalty.

Payers/Transmitters who submit data with missing TINs, and have taken the required steps to obtain this information are encouraged to attach a letter of explanation to the required Form 4804. This letter, however, will not prevent backup withholding notices (CP2100 and CP2100A Notices) or proposed penalties (Notice 972CG) for missing or incorrect TINs. For penalty information, refer to the Penalties section of the *2004 General Instructions for Forms 1099, 1098, 5498, and W-2G*.

11. Distribution Codes for Form 1099–R Reported Incorrectly

For Forms 1099–R, there must be valid Distribution Code(s) in position 545–546 of the Payee “B” record. For valid codes (and combinations), see Guide to Distribution Codes in Part D. If only one distribution code is required, it must be entered in position 545 and position 546 must be blank. A blank in position 545 is not acceptable.

12. Incorrect Record Totals Listed on Form 4804

The Combined Total Payee Records listed on Form 4804 (Block 6) are used in the verification process of information returns. The figure in this block **must** be the total number of payee “B” records contained on each individual piece of media submitted. A separate Form 4804 should be sent for each piece of media that contains a file.

13. Missing Correction Indicator in Payee “B” Record

When a file is submitted as a correction file, there must be a correction indicator, “G” or “C” in position 6 of the Payee “B” record. See Part A, Sec. 11.

PART B. ELECTRONIC FILING SPECIFICATIONS

☛ **Note:** The FIRE System is now on the Internet at <http://fire.irs.gov>. It is no longer a dial-up connection.

Sec. 1. General

.01 Electronic filing of Forms 1098, 1099, 5498, and W–2G information returns, originals, corrections, and replacements is offered as an alternative to magnetic media (tape cartridge or diskette) or paper filing. Filing electronically will fulfill the magnetic media requirements for those payers who are required to file magnetically. Payers who are under the filing threshold requirement, are encouraged to file electronically. If the original file was sent magnetically, but IRS/MCC has requested a replacement file, the replacement may be transmitted electronically. Also, if the original file was submitted via magnetic media, any corrections may be transmitted electronically.

.02 All electronic filing of information returns are received at IRS/MCC via the FIRE (Filing Information Returns Electronically) System. To connect to the FIRE System, point your browser to <http://fire.irs.gov>. The system is designed to support the electronic filing of information returns only.

.03 The electronic filing of information returns is not affiliated with any other IRS electronic filing programs. Filers must obtain separate approval to participate in each of them. Only inquiries concerning electronic filing of information returns should be directed to IRS/MCC.

.04 Files submitted to IRS/MCC electronically must be in standard ASCII code. Do not send magnetic media or paper forms with the same information as electronically submitted files. This would create duplicate reporting resulting in penalty notices.

.05 The record formats of the “T”, “A”, “B”, “C”, “K”, and “F” records are the same for both electronically or magnetically filed records. See Part D, Record Format Specifications and Record Layouts.

Sec. 2. Advantages of Filing Electronically

Some of the advantages of filing electronically are:

- (1) Paperless, no Form 4804 requirements.
- (2) Security – Secure Socket Layer (SSL) 128-bit encryption.
- (3) Results available within 1–2 workdays regarding the acceptability of the data transmitted. It is the filer’s responsibility to log into the system and check results.
- (4) Later due date than magnetic media or paper for electronically filed Forms 1098, 1099, and W–2G (refer to Part A, Sec. 9.01).
- (5) Allows more attempts than magnetic media filing to replace bad files within a specific time frame before imposing penalties (refer to Part B, Sec. 5.05).
- (6) Better customer service due to on-line availability of transmitter’s files for research purposes.
- (7) Extended period to test electronic files: November 1, 2004 to February 15, 2005.

Sec. 3. Electronic Filing Approval Procedure

.01 Filers must obtain a Transmitter Control Code (TCC) prior to submitting files electronically. Filers who currently have a TCC for magnetic media filing may use their assigned TCC for electronic filing. Refer to Part A, Sec. 6, for information on how to obtain a TCC.

.02 Once a TCC is obtained, electronic filers assign their own user ID, password and PIN (Personal Identification Number) and do not need prior or special approval. See Part B, Sec. 6, for more information on the PIN.

.03 If a filer is submitting files for more than one TCC, it is not necessary to create a separate logon and password for each TCC.

.04 For all passwords, it is the user's responsibility to remember the password and not allow the password to be compromised. Passwords are user assigned at first logon and must be 8 alpha/numerics containing at least 1 uppercase, 1 lowercase, and 1 numeric. However, filers who forget their password or PIN, can call **toll-free 1-866-455-7438** for assistance. The FIRE System may require users to change their passwords on a yearly basis.

Sec. 4. Test Files

.01 Filers are not required to submit a test file; however, the submission of a test file is encouraged for all new electronic filers to test hardware and software. If filers wish to submit an electronic test file for Tax Year 2004 (returns to be filed in 2005), it **must** be submitted to IRS/MCC **no earlier than** November 1, 2004, and **no later than** February 15, 2005.

.02 Filers who encounter problems while transmitting the electronic test file can contact IRS/MCC **toll-free at 1-866-455-7438** for assistance.

.03 Filers must verify the status of the transmitted test data by going to <http://fire.irs.gov> and verifying the status of their file by clicking on CHECK FILE STATUS. This information will be available within 1-2 workdays after the transmission is received by IRS/MCC.

.04 Form 4804 is not required for test files submitted electronically. See Part B, Sec. 6.

.05 **A test file is required from filers who want approval for the Combined Federal/State Filing Program. See Part A, Sec. 13, for further details.**

Sec. 5. Electronic Submissions

.01 Electronically filed information may be submitted to IRS/MCC 24 hours a day, 7 days a week. Technical assistance will be available Monday through Friday between 8:30 a.m. and 4:30 p.m. Eastern time by calling **toll-free at 1-866-455-7438**.

.02 **The FIRE System will be down from December 23, 2004, through January 4, 2005.** This allows IRS/MCC to update its system to reflect current year changes.

☛ **Note: If you are sending a TY2003 file electronically, do not enter a 'P' in position 6 of the 'T' record (for prior year) unless you are sending the file after 12/22/2004. After 12/22/2004, any file submitted electronically for TY2003 or earlier will need to be coded with a 'P' in position 6 of the 'T' record.**

.03 If you are sending files larger than 10,000 records electronically, data compression is encouraged. If you are considering sending files larger than 5 million records, please contact IRS/MCC for specifics. WinZip and PKZip are the only acceptable compression packages. IRS/MCC cannot accept self-extracting zip files or compressed files containing multiple files. The time required to transmit information returns electronically will vary depending upon the type of connection to the internet and if data compression is used. **The time required to transmit a file can be reduced by as much as 95 percent by using compression.**

.04 Transmitters may create files using self assigned files name(s). Files submitted electronically will be assigned a new unique file name by the FIRE System. The filename assigned by the FIRE System will consist of submission type (TEST, ORIG [original], CORR [correction], and REPL [replacement]), the filer's TCC and a four-digit number sequence. The sequence number will be incremented for every file sent. For example, if it is your first original file for the calendar year and your TCC is 44444, the IRS assigned filename would be ORIG.44444.0001. **Record the filename.** This information will be needed by MCC to identify the file, if assistance is required.

.05 If a file was submitted timely and is bad, the filer will have up to 60 days from the day the file was transmitted or 4 replacement attempts within that 60 day period, whichever comes first, to transmit an acceptable file. If an acceptable file is not received within 60 days, or within 4 replacement attempts, then the payer could be subject to late filing penalties. This only applies to files originally submitted electronically.

.06 The following definitions have been provided to help distinguish between a correction and a replacement:

- A **correction** is an information return submitted by the transmitter to correct an information return that was previously submitted to and processed by IRS/MCC, but contained erroneous information. (See Note.)

☛ **Note: Corrections should only be made to records that have been submitted incorrectly, not the entire file.**

- A **replacement** is an information return file sent by the filer because the CHECK FILE STATUS option on the FIRE System indicated the original file was bad. After the necessary changes have been made, the file must be transmitted through the FIRE System. (See Note.)

☛ **Note: Filers should never transmit anything to IRS/MCC as a "Replacement" file unless the CHECK FILE STATUS option on the FIRE System indicates the file is bad.**

.07 The TCC in the Transmitter “T” Record must be the TCC used to transmit the file; otherwise, the file will be considered an error.

Sec. 6. PIN Requirements

.01 Form 4804 is not required for electronic files. Instead, the user will be prompted to create a PIN consisting of 10 numerics when establishing their initial logon name and password.

.02 The PIN is required each time an ORIGINAL, CORRECTION, OR REPLACEMENT file is sent electronically and is permission to release the file. It is not needed for a TEST file. An authorized agent may enter their PIN, however, the payer is responsible for the accuracy of the returns. The payer will be liable for penalties for failure to comply with filing requirements. If you forget your PIN, please call **toll-free 1-866-455-7438** for assistance.

.03 If the file is good, it is released for mainline processing after 10 calendar days from receipt. Contact us **toll-free 1-866-455-7438** within this 10-day period if there is a reason the file should not be released for further processing. If the file is bad, follow normal replacement procedures.

Sec. 7. Electronic Filing Specifications

.01 The FIRE System is designed exclusively for the filing of Forms 1042-S, 1098, 1099, 5498, 8027, W-2G and Questionable W-4.

.02 A transmitter must have a TCC (see Part A, Sec. 6) before a file can be transmitted. A TCC assigned for magnetic media filing should also be used for electronic filing.

.03 The results of the electronic transmission will be available in the CHECK FILE STATUS area of the FIRE System within 1-2 business days. It is the filer’s responsibility to verify the acceptability of files submitted by selecting the CHECK FILE STATUS option. Forms 1042-S, 8027 and Questionable W-4 require a longer processing time.

Sec. 8. Connecting to the FIRE System

.01 Point your browser to <http://fire.irs.gov> to connect to the FIRE System.

.02 When running Norton Internet Security or similar software, you may need to disable this feature if your file transfer does not complete properly.

.03 Before connecting, have your TCC and EIN available.

.04 Your browser must support SSL 128-bit encryption.

.05 Your browser must be set to receive “cookies”. Cookies are used to preserve your User ID status.

First time connection to The FIRE System (If you have logged on previously, skip to Subsequent Connections to the FIRE System.)

Click “**Create New Account**”.

Fill out the registration form and click “**Submit**”.

Enter your **User ID** (most users logon with their first and last name).

Enter and verify your **password** (the password is user assigned and must be 8 alpha/numerics, containing at least 1 uppercase, 1 lowercase and 1 numeric). FIRE may require you to change the password once a year.

Click “**Create**”.

If you receive the message “**Account Created**”, click “**OK**”.

Enter and verify your 10 digit self-assigned PIN (Personal Identification Number).

Click “**Submit**”.

If you receive the message “**Your PIN has been successfully created!**”, click “**OK**”.

Read the bulletin(s) and/or click “**Start the FIRE application**”.

Subsequent connections to The FIRE System

Click “**Log On**”.

Enter your **User ID** (most users logon with their first and last name).

Enter your **password** (the password is user assigned and is case sensitive).

Uploading your file to the FIRE System

At Menu Options:

Click "**Send Information Returns**"

Enter your **TCC**:

Enter your **EIN**:

Click "**Submit**".

The system will then display the company name, address, city, state, ZIP code, phone number, contact, and email address. This information will be used to contact or send correspondence (if necessary) regarding this transmission. Update as appropriate and/or Click "**Accept**".

Click one of the following:

Original File

Correction File

Test File

Replacement File (if you select this option, select one of the following):

NEW FIRE Replacement (file was originally transmitted on this system)

Click file to be replaced.

Magnetic Media Replacement

Enter the alpha character from Form 9267, Media Tracking Slip, that was sent with the request for replacement file. Click "**Submit**".

Enter your 10 digit PIN.

Click "**Submit**".

Click "**Browse**" to locate the file and open it.

Click "**Upload**".

When the upload is complete, the screen will display the total bytes received and tell you the name of the file you just uploaded.

If you have more files to upload for that TCC:

Click "**File Another?**"; otherwise,

Click "**Main Menu**".

It is your responsibility to check the acceptability of your file; therefore, be sure to check back into the system in 1–2 business days using the CHECK FILE STATUS option.

Checking your FILE STATUS

At the Main Menu:

Click "**Check File Status**".

Enter your **TCC**:

Enter your **EIN**:

Click "**Search**".

If "Results" indicate:

"Good, Not Released" and you agree with the "Count of Payees", you are finished with this file. The file will automatically be released after 10 calendar days unless you contact us within this timeframe.

"Good, Released" — File has been released to our mainline processing.

"Bad" — Correct the errors and timely resubmit the file as a "replacement".

Checking your FILE STATUS

“Not yet processed” — File has been received, but we do not have results available yet. Please check back in a few days.

Click on the desired file for a detailed report of your transmission.

When you are finished, click on **Main Menu**.

Click **“Log Out”**.

Close your Web Browser.

Sec. 9. Common Problems and Questions Associated with Electronic Filing

.01 Refer to Part A, Sec. 16, for common format errors associated with electronic/magnetic files.

.02 The following are the major errors associated with electronic filing:

NON-FORMAT ERRORS

1. Transmitter does not check the FIRE System to determine file acceptability.

The results of your file transfer are posted to the FIRE System within two business days. It is your responsibility to verify file acceptability and, if the file contains errors, you can get an online listing of the errors. Date received and number of payee records are also displayed. If the file is good, but you do not want the file processed, you must contact IRS/MCC within 10 calendar days from the transmission of your file.

2. Incorrect file is not replaced timely.

If your file is bad, correct the file and timely resubmit as a replacement.

3. Transmitter compresses several files into one.

Only compress one file at a time. For example, if you have 10 uncompressed files to send, compress each file separately and send 10 separate compressed files.

4. Transmitter sends a file and CHECK FILE STATUS indicates that the file is good, but the transmitter wants to send a replacement or correction file to replace the original/correction/replacement file.

Once a file has been transmitted, you cannot send a replacement file unless CHECK FILE STATUS indicates the file is bad (1–2 business days after file was transmitted). If you do not want us to process the file, you must first contact us **toll-free at 1-866-455-7438** to see if this is a possibility.

5. Transmitter sends an original file that is good, then sends a correction file for the entire file even though there are only a few changes.

The correction file, containing the proper coding, should only contain the records needing correction, not the entire file.

6. File is formatted as EBCDIC.

All files submitted electronically must be in standard ASCII code.

7. Transmitter has one TCC number, but is filing for multiple companies, which EIN should be used when logging into the system to send the file?

When sending the file electronically, you will need to enter the EIN of the company assigned to the TCC. When you upload the file, it will contain the EINs for the other companies that you are filing for. This is the information that will be passed forward.

8. Transmitter sent the wrong file, what should be done?

Call us as soon as possible **toll-free at 1-866-455-7438**. We may be able to stop the file before it has been processed. **Please do not send a replacement for a file that is marked as a good file.**

PART C. MAGNETIC MEDIA FILING SPECIFICATIONS

.01 Transmitters should be consistent in the use of recording codes and density on files. If the media does not meet these specifications, IRS/MCC will request a replacement file. Filers are encouraged to submit a test prior to submitting the actual file. Contact IRS/MCC toll-free at 1-866-455-7438 extension 5 for further information. Transmitters should also check media for viruses before submitting it to IRS/MCC.

Sec. 1. Tape Cartridge Specifications

.01 In most instances, IRS/MCC can process tape cartridges that meet the following specifications:

- (a) Must be IBM 3480, 3490, 3490E, 3590, or 3590E.
- (b) Must meet American National Standard Institute (ANSI) standards, and have the following characteristics:
 - (1) Tape cartridges will be 1/2-inch tape contained in plastic cartridges that are approximately 4-inches by 5-inches by 1-inch in dimension.
 - (2) Magnetic tape will be chromium dioxide particle based 1/2-inch tape.
 - (3) Cartridges must be 18-track, 36-track, 128-track or 256-track parallel (**See Note**).
 - (4) Cartridges will contain 37,871 CPI, 75,742 CPI, or 3590 CPI (characters per inch).
 - (5) Mode will be full function.
 - (6) The data may be compressed using EDRC (Memorex) or IDRC (IBM) compression.
 - (7) Either EBCDIC (Extended Binary Coded Decimal Interchange Code) or ASCII (American Standard Coded Information Interchange) may be used.

.02 The tape cartridge records defined in this Revenue Procedure may be blocked subject to the following:

- (a) A block **must not** exceed 32,250 tape positions.
- (b) If the use of blocked records would result in a short block, all remaining positions of the block must be filled with 9s; however, the last block of the file may be filled with 9s or truncated. **Do not pad a block with blanks.**
- (c) All records, except the header and trailer labels, may be blocked or unblocked. A record may not contain any control fields or block descriptor fields, which describe the length of the block or the logical records within the block. The number of logical records within a block (the blocking factor) must be constant in every block with the exception of the last block, which may be shorter (see item (b) above). The block length must be evenly divisible by 750.
- (d) Records may not span blocks.

.03 Tape cartridges may be labeled or unlabeled.

.04 For the purposes of this Revenue Procedure, the following must be used:

Tape Mark:

- (a) Signifies the physical end of the recording on tape.
- (b) For even parity, use BCD configuration 001111 (8421).
- (c) May follow the header label and precede and/or follow the trailer label.

Note: Filers should indicate on the external media label whether the cartridge is 18-track, 36-track, 128-track or 256-track.

Sec. 2. 3 1/2-Inch Diskette Specifications

.01 To be compatible, a diskette file must meet the following specifications:

- (a) 3 1/2-inches in diameter.
- (b) Data **must** be recorded in standard ASCII code.
- (c) Records must be a fixed length of 750 bytes per record.
- (d) Delimiter character commas (,) must not be used.
- (e) Positions 749 and 750 of each record have been reserved for use as carriage return/line feed (cr/lf) characters, if applicable.
- (f) Filename of IRSTAX must be used. Do not enter any other data in this field. If a file will consist of more than one diskette, the filename IRSTAX will contain a three-digit extension. This extension will indicate the sequence of the diskettes within the file. For example, if the file consists of three diskettes, the first diskette will be named IRSTAX.001, the second will be IRSTAX.002, and the third will be IRSTAX.003. The first diskette, IRSTAX.001 will begin with a "T" Record and the third diskette, IRSTAX.003 will have an "F" Record at the end of the file.
- (g) A diskette can not contain multiple files. A file can have only **ONE** Transmitter "T" Record.
- (h) Failure to comply with instructions will result in IRS/MCC requesting a replacement file.

- (i) Diskettes must meet one of the following specifications:

Capacity	Tracks	Sides/Density	Sector Size
1.44 mb	96tpi	hd	512
1.44 mb	135tpi	hd	512

.02 IRS/MCC encourages transmitters to use blank or currently formatted diskettes when preparing files. If extraneous data follows the End of Transmission "F" Record, IRS/MCC will request a replacement file.

.03 IRS/MCC will **only** accept 3½-inch diskettes created using MS-DOS.

.04 3½-inch diskettes created on a System 36 or iSeries(AS400) are **not acceptable**.

PART D. RECORD FORMAT SPECIFICATIONS AND RECORD LAYOUTS

Sec. 1. General

.01 The specifications contained in this part of the Revenue Procedure define the required formation and contents of the records to be included in the electronic or magnetic media files.

.02 A provision is made in the "B" Records for entries which are optional. If the field is not used, enter blanks to maintain a fixed record length of 750 positions. Each field description explains the intended use of specific field positions.

Sec. 2. Transmitter "T" Record — General Field Descriptions

.01 The Transmitter "T" Record identifies the entity transmitting the electronic/magnetic media file and contains information which is critical if it is necessary for IRS/MCC to contact the filer.

.02 The Transmitter "T" Record is the first record on each file and is followed by a Payer "A" Record. A file format diagram is located at the end of Part D. A replacement file will be requested by IRS/MCC if the "T" Record is not present. For transmitters with multiple diskettes, refer to Part C, Sec. 2, 3½-Inch Diskette Specifications.

.03 For all fields marked "**Required**", the transmitter must provide the information described under Description and Remarks. For those fields not marked "**Required**", a transmitter must allow for the field, but may be instructed to enter blanks or zeros in the indicated field positions and for the indicated length.

.04 All records must be a fixed length of 750 positions.

.05 All alpha characters entered in the "T" Record must be upper-case, except email addresses which may be case sensitive. **Do not** use punctuation in the name and address fields.

Record Name: Transmitter "T" Record

Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter "T."
2-5	Payment Year	4	Required. Enter "2004" (unless reporting prior year data; report the year which applies [2002, 2003 etc.] and set the Prior Year Data Indicator in field position 6).
6	Prior Year Data Indicator	1	Required. Enter "P" only if reporting prior year data; otherwise, enter blank. Do not enter a "P" if tax year is 2004. (See Note.)
Note: Current year data MAILED December 2 or later or electronic files SENT December 23 or later must be coded with a "P". Current year processing ends in December and programs are converted for the next processing year.			
7-15	Transmitter's TIN	9	Required. Enter the transmitter's nine-digit Taxpayer Identification Number (TIN). May be an EIN or SSN.
16-20	Transmitter Control Code	5	Required. Enter the five-character alpha/numeric Transmitter Control Code (TCC) assigned by IRS/MCC. A TCC must be obtained to file data with this program.

Record Name: Transmitter "T" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
21–22	Replacement Alpha Character	2	Required for magnetic media replacement files only. Enter the alpha/numeric character which appears immediately following the TCC number on the Media Tracking Slip (Form 9267). Form 9267 accompanies correspondence sent by IRS/MCC when files can not be processed. This field must be blank unless a replacement file has been requested. If the file is being replaced magnetically, information is required in this field. If the file was originally sent magnetically, but the replacement is being sent electronically, the information is required in this field. Otherwise, leave blank for electronic files. Left-justify information and fill unused positions with blanks. If this is not a replacement file, enter blanks.
23–27	Blank	5	Enter blanks.
28	Test File Indicator	1	Required for test files only. Enter a "T" if this is a test file; otherwise, enter a blank.
29	Foreign Entity Indicator	1	Enter a "1" (one) if the transmitter is a foreign entity. If the transmitter is not a foreign entity, enter a blank.
30–69	Transmitter Name	40	Required. Enter the name of the transmitter in the manner in which it is used in normal business. Left-justify and fill unused positions with blanks.
70–109	Transmitter Name (Continuation)	40	Required. Enter any additional information that may be part of the name. Left-justify information and fill unused positions with blanks.
110–149	Company Name	40	Required. Enter the name of the company to be associated with the address where correspondence should be sent.
150–189	Company Name (Continuation)	40	Enter any additional information that may be part of the name of the company where correspondence should be sent.
190–229	Company Mailing Address	40	Required. Enter the mailing address where correspondence should be sent.
<p>Note: Any correspondence relating to problem media or electronic files will be sent to this address. This should be the same address as in box 5 of Form 4804.</p> <p>For U.S. addresses, the payer city, state, and ZIP Code must be reported as a 40, 2, and 9-position field, respectively. Filers must adhere to the correct format for the payer city, state, and ZIP Code.</p> <p>For foreign addresses, filers may use the payer city, state, and ZIP Code as a continuous 51-position field. Enter information in the following order: city, province or state, postal code, and the name of the country. When reporting a foreign address, the Foreign Entity Indicator in position 29 must contain a "1" (one).</p>			
230–269	Company City	40	Required. Enter the city, town, or post office where correspondence should be sent.
270–271	Company State	2	Required. Enter the valid U.S. Postal Service state abbreviation. Refer to the chart for valid state codes in Part A, Sec. 15.
272–280	Company ZIP Code	9	Required. Enter the valid nine-digit ZIP assigned by the U. S. Postal Service. If only the first five digits are known, left-justify information and fill unused positions with blanks.
281–295	Blank	15	Enter blanks.
296–303	Total Number of Payees	8	Enter the total number of Payee "B" Records reported in the file. Right-justify information and fill unused positions with zeros.
304–343	Contact Name	40	Required. Enter the name of the person to be contacted if IRS/MCC encounters problems with the file or transmission.

Record Name: Transmitter "T" Record (Continued)

Field Position	Field Title	Length	Description and Remarks						
344-358	Contact Phone Number & Extension	15	Required. Enter the telephone number of the person to contact regarding electronic or magnetic files. Omit hyphens. If no extension is available, left-justify information and fill unused positions with blanks. For example, the IRS/MCC Customer Service Section phone number of 866-455-7438 with an extension of 52345 would be 866455743852345 .						
359-393	Contact Email Address	35	Required if available. Enter the email address of the person to contact regarding electronic or magnetic files. Left-justify information. If no email address is available, enter blanks.						
394-395	Cartridge Tape File Indicator	2	Required for tape cartridge filers only. Enter the letters "LS" (in uppercase only). Use of this field by filers using other types of media will be acceptable but is not required.						
396-410	Electronic File Name For a Replacement File	15	Required. Use for an electronic file which "FILE STATUS" has indicated was rejected. Enter the ORIGINAL or CORRECTION electronic file name assigned by the IRS electronic FIRE System. If you are sending an original, correction, or test file, enter blanks.						
EXAMPLE: If you have sent an original file, the TCC is 44444 and it is your first original file, then the filename would be ORIG.44444.0001.									
411-416	Transmitter's Media Number	6	For magnetic media filers only. If your organization uses an in-house numbering system to identify media, enter that number; otherwise, enter blanks.						
417-499	Blank	83	Enter blanks.						
500-507	Record Sequence Number	8	Required. Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can have only one "T" record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, <i>i.e.</i> , 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the first "A" record would be "00000002", the first "B" record, "00000003", the second "B" record, "00000004" and so on until you reach the final record of the file, the "F" record.						
508-517	Blank	10	Enter blanks.						
518	Vendor Indicator	1	Required. Enter the appropriate code from the table below to indicate if your software was provided by a vendor or produced in-house.						
			<table border="0"> <thead> <tr> <th><u>Indicator</u></th> <th><u>Usage</u></th> </tr> </thead> <tbody> <tr> <td>V</td> <td>Your software was purchased from a vendor or other source.</td> </tr> <tr> <td>I</td> <td>Your software was produced by in-house programmers.</td> </tr> </tbody> </table>	<u>Indicator</u>	<u>Usage</u>	V	Your software was purchased from a vendor or other source.	I	Your software was produced by in-house programmers.
<u>Indicator</u>	<u>Usage</u>								
V	Your software was purchased from a vendor or other source.								
I	Your software was produced by in-house programmers.								
Note: In-house programmer is defined as an employee or a hired contract programmer. If your software is produced in-house, the following Vendor information fields are not required.									
519-558	Vendor Name	40	Required. Enter the name of the company from whom you purchased your software.						

Record Name: Transmitter "T" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
559-598	Vendor Mailing Address	40	Required. Enter the mailing address.
<p>For U.S. addresses, the vendor city, state, and ZIP Code must be reported as a 40, 2, and 9-position field, respectively. Filers must adhere to the correct format for the payer city, state, and ZIP Code.</p> <p>For foreign addresses, filers may use the payer city, state, and ZIP Code as a continuous 51-position field. Enter information in the following order: city, province or state, postal code, and the name of the country.</p>			
599-638	Vendor City	40	Required. Enter the city, town, or post office.
639-640	Vendor State	2	Required. Enter the valid U.S. Postal Service state abbreviation. Refer to the chart of valid state codes in Part A, Sec. 15.
641-649	Vendor ZIP Code	9	Required. Enter the valid nine-digit ZIP Code assigned by the U.S. Postal Service. If only the first five digits are known, left-justify information and fill unused positions with blanks.
650-689	Vendor Contact Name	40	Required. Enter the name of the person who can be contacted concerning any software questions.
690-704	Vendor Contact Phone Number & Extension	15	Required. Enter the telephone number of the person to contact concerning software questions. Omit hyphens. If no extension is available, left-justify information and fill unused positions with blanks.
705-739	Vendor Contact Email Address	35	Required. Enter the email address of the person to contact concerning software questions. Left-justify information and fill unused positions with blanks.
740	Vendor Foreign Entity Indicator	1	Enter a "1" (one) if the vendor is a foreign entity. Otherwise, enter a blank.
741-748	Blank	8	Enter blanks.
749-750	Blank	2	Enter blanks, or carriage return/line feed characters (CR/LF).

Sec. 3. Transmitter "T" Record — Record Layout

Record Type	Payment Year	Prior Year Data Indicator	Transmitter's TIN	Transmitter Control Code	Replacement Alpha Character	Blank
1	2-5	6	7-15	16-20	21-22	23-27

Test File Indicator	Foreign Entity Indicator	Transmitter Name	Transmitter Name (Continuation)	Company Name	Company Name (Continuation)
28	29	30-69	70-109	110-149	150-189

Company Mailing Address	Company City	Company State	Company ZIP Code	Blank	Total Number of Payees	Contact Name
190-229	230-269	270-271	272-280	281-295	296-303	304-343

Contact Phone Number & Extension	Contact Email Address	Cartridge Tape File Indicator	Electronic File Name For a Replacement File	Transmitter's Media Number	Blank	Record Sequence Number
344-358	359-393	394-395	396-410	411-416	417-499	500-507

Blank	Vendor Indicator	Vendor Name	Vendor Mailing Address	Vendor City	Vendor State
508-517	518	519-558	559-598	599-638	639-640

Vendor ZIP Code	Vendor Contact Name	Vendor Contact Phone Number & Extension	Vendor Contact Email Address	Vendor Foreign Entity Indicator	Blank	Blank or CR/LF
641-649	650-689	690-704	705-739	740	741-748	749-750

Sec. 4. Payer "A" Record — General Field Descriptions

.01 The Payer "A" Record identifies the person making payments, a recipient of mortgage or student loan interest payments, an educational institution, a broker, a person reporting a real estate transaction, a barter exchange, a creditor, a trustee or issuer of any IRA or MSA plan, and a lender who acquires an interest in secured property or who has a reason to know that the property has been abandoned. The payer will be held responsible for the completeness, accuracy, and timely submission of electronic/magnetic files.

.02 The second record on the file must be an "A" Record. A transmitter may include Payee "B" records for more than one payer in a file. However, **each group** of "B" records must be preceded by an "A" Record and followed by an End of Payer "C" Record. A single file may contain different types of returns but the types of returns **must not** be intermingled. A separate "A" Record is required for each payer and each type of return being reported.

.03 The number of "A" Records depends on the number of payers and the different types of returns being reported. Do not submit separate "A" Records for each payment amount being reported. For example, if a payer is filing Form 1099-DIV to report Amount Codes 1, 2, and 3, all three amount codes should be reported under one "A" Record, not three separate "A" Records.

.04 The maximum number of "A" Records allowed on a file is 90,000.

.05 All records must be a fixed length of 750 positions.

.06 All alpha characters entered in the "A" Record must be upper case.

.07 For all fields marked "**Required**", the transmitter must provide the information described under Description and Remarks. For those fields not marked "**Required**", a transmitter must allow for the field, but may be instructed to enter blanks or zeros in the indicated media position(s) and for the indicated length.

Record Name: Payer "A" Record			
Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter an "A."
2-5	Payment Year	4	Required. Enter "2004" (unless reporting prior year data; report the year which applies [2002, 2003, etc.]).
6-11	Blank	6	Enter blanks.

Record Name: Payer "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
12-20	Payer's Taxpayer Identification Number (TIN)	9	Required. Must be the valid nine-digit Taxpayer Identification Number assigned to the payer. Do not enter blanks, hyphens, or alpha characters. All zeros, ones, twos, etc., will have the effect of an incorrect TIN.

Note: For foreign entities that are not required to have a TIN, this field must be blank. However, the Foreign Entity Indicator, position 52 of the "A" Record, must be set to "1"(one).

21-24	Payer Name Control	4	The Payer Name Control can be obtained only from the mail label on the Package 1099 that is mailed to most payers each December. Package 1099 contains Form 7018-C, Order Blank for Forms, and the mail label on the package contains a four (4) character name control. If a Package 1099 has not been received, you can determine your name control using the following simple rules or you can leave the field blank. For a business, use the first four significant characters of the business name. Disregard the word "the" when it is the first word of the name, unless there are only two words in the name. A dash (-) and an ampersand (&) are the only acceptable special characters. Names of less than four (4) characters should be left-justified, filling the unused positions with blanks.
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25	Last Filing Indicator	1	Enter a "1" (one) if this is the last year this payer name and TIN will file information returns electronically, magnetically or on paper; otherwise, enter blank.
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26	Combined Federal/State Filer	1	Required for the Combined Federal/State Filing Program. Enter "1" (one) if approved or submitting a test to participate in the Combined Federal/State Filing Program; otherwise, enter blank.
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Note: If you entered one in this field position, be sure to code the Payee "B" Records with the appropriate state code. Refer to Part A, Sec. 13, for further information.

27	Type of Return	1	Required. Enter the appropriate code from the table below:
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<u>Type of Return</u>	<u>Code</u>
1098	3
1098-E	2
1098-T	8
1099-A	4
1099-B	B
1099-C	5
1099-CAP	P
1099-DIV	1
1099-G	F
1099-H	J
1099-INT	6
1099-LTC	T
1099-MISC	A
1099-OID	D
1099-PATR	7
1099-Q	Q
1099-R	9
1099-S	S
1099-SA	M
5498	L
5498-ESA	V
5498-SA	K
W-2G	W

Record Name: Payer "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
28-41	Amount Codes (See Note.)	14	Required. Enter the appropriate amount codes for the type of return being reported. In most cases, the box numbers on paper information returns correspond with the amount codes used to file electronically or magnetically. However, if discrepancies occur, this Revenue Procedure governs for filing electronically/magnetically. Enter the amount codes in ascending sequence numerics followed by alphas, left-justify, and fill unused positions with blanks.

Note: A type of return and an amount code must be present in every Payer "A" Record even if no money amounts are being reported. For a detailed explanation of the information to be reported in each amount code, refer to the appropriate paper instructions for each form.

Amount Codes **Form 1098** — Mortgage Interest Statement For Reporting Mortgage Interest Received From Payers/Borrowers (Payer of Record) on Form 1098:

<u>Amount Code</u>	<u>Amount Type</u>
1	Mortgage interest received from payer(s)/borrower(s)
2	Points paid on purchase of principal residence
3	Refund (or credit) of overpaid interest
4	Blank (Filer's use)

Amount Codes **Form 1098-E** — Student Loan Interest For Reporting Interest on Student Loans on Form 1098-E:

<u>Amount Code</u>	<u>Amount Type</u>
1	Student loan interest received by lender

Amount Codes **Form 1098-T** — Tuition Statement For Reporting Tuition Statements on Form 1098-T:

Note: Amount codes 3 and 5 are assumed to be negative. It is not necessary to code with an over punch or dash to indicate a negative reporting.
See the 2004 Instructions for Form 1098-E and T for further information

<u>Amount Code</u>	<u>Amount Type</u>
1	Payments received for qualified tuition and related expenses
2	Amounts billed for qualified tuition and related expenses
3	Adjustments made for prior year
4	Scholarships or grants
5	Adjustments to scholarships or grants for a prior year
7	Reimbursements or refunds of qualified tuition and related expenses from an insurance contract

Note: For Amount Codes 1 and 2 enter either payments received OR amounts billed. DO NOT report both.

Amount Codes **Form 1099-A** — Acquisition or Abandonment of Secured Property For Reporting the Acquisition or Abandonment of Secured Property on Form 1099-A:

See the 2004 Instructions for Forms 1099-A and 1099-C for further information on coordination with Form 1099-C

<u>Amount Code</u>	<u>Amount Type</u>
2	Balance of principal outstanding
4	Fair market value of property

Record Name: Payer "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
Amount Codes	Form 1099-B — Proceeds From Broker and Barter Exchange Transactions		For Reporting Payments on Form 1099-B:
		Amount Code	Amount Type
		2	Stocks, bonds, etc. (For forward contracts, See Note 1.)
		3	Bartering (Do not report negative amounts.)
		4	Federal income tax withheld (backup withholding) (Do not report negative amounts.)
		6	Profit (or loss) realized in 2004
		7	Unrealized profit (or loss) on open contracts — 12/31/2003 (See Note 2.)
		8	Unrealized profit (or loss) on open contracts — 12/31/2004 (See Note 2.)
		9	Aggregate profit (or loss) (See Note 2.)
<p>➤ Note 1: The payment amount field associated with Amount Code 2 may be used to report a loss from a closing transaction on a forward contract. Refer to the "B" Record — General Field Descriptions and Record Layouts, Payment Amount Fields, for instructions on reporting negative amounts.</p> <p>➤ Note 2: Payment Amount Fields 6, 7, 8, and 9 are to be used for the reporting of regulated futures or foreign currency contracts.</p>			
Amount Codes	Form 1099-C — Cancellation of Debt		For Reporting Payments on Form 1099-C:
		Amount Code	Amount Type
		2	Amount of debt canceled
		3	Interest, if included in Amount Code 2
		7	Fair market value of property (See Note.)
<p>➤ Note: Use Amount Code 7 only if a combined Form 1099-A and 1099-C is being filed.</p>			
Amount Code	Form 1099-CAP — Changes in Corporate Control and Capital Structure		For Reporting Payments on Form 1099-CAP:
		Amount Code	Amount Type
		2	Aggregate amount received.
Amount Codes	Form 1099-DIV — Dividends and Distributions		For Reporting Payments on Form 1099-DIV:
See the 2004 Instructions for Form 1099-DIV for further information		Amount Code	Amount Type
		1	Total ordinary dividends
		2	Qualified dividends
		3	Total capital gain distributions
		6	Unrecaptured Section 1250 gain
		7	Section 1202 gain
		8	Collectibles (28%) rate gain
		9	Nontaxable distributions

Record Name: Payer "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
		A	Federal income tax withheld
		B	Investment expenses
		C	Foreign tax paid
		D	Cash liquidation distribution
		E	Non-cash liquidation distribution
Amount Codes	Form 1099-G — Certain Government Payments		For Reporting Payments on Form 1099-G:
		Amount Code	Amount Type
		1	Unemployment compensation
		2	State or local income tax refunds, credits, or offsets
		4	Federal income tax withheld (backup withholding or voluntary withholding on unemployment compensation or Commodity Credit Corporation Loans, or certain crop disaster payments)
		6	Taxable grants
		7	Agriculture payments
Amount Codes	Form 1099-H — Health Insurance Advance Payments		For Reporting Payments on Form 1099-H:
		Amount Code	Amount Type
		1	Gross amount of health insurance advance payments
		2	Amount of advance payment for January
		3	Amount of advance payment for February
		4	Amount of advance payment for March
		5	Amount of advance payment for April
		6	Amount of advance payment for May
		7	Amount of advance payment for June
		8	Amount of advance payment for July
		9	Amount of advance payment for August
		A	Amount of advance payment for September
		B	Amount of advance payment for October
		C	Amount of advance payment for November
		D	Amount of advance payment for December
Amount Codes	Form 1099-INT — Interest Income		For Reporting Payments on Form 1099-INT:
		Amount Code	Amount Type
		1	Interest income not included in Amount Code 3
		2	Early withdrawal penalty
		3	Interest on U.S. Savings Bonds and Treasury obligations
		4	Federal income tax withheld (backup withholding)
		5	Investment expenses
		6	Foreign tax paid
Amount Codes	Form 1099-LTC — Long-Term Care and Accelerated Death Benefits		For Reporting Payments on Form 1099-LTC:
		Amount Code	Amount Type
		1	Gross long-term care benefits paid
		2	Accelerated death benefits paid

Record Name: Payer "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
Amount Codes	Form 1099-MISC —		For Reporting Payments on Form 1099-MISC:
	Miscellaneous Income (See Note 1.)		
		Amount Code	Amount Type
		1	Rents
		2	Royalties (See Note 2.)
		3	Other income
		4	Federal income tax withheld (backup withholding or withholding on Indian gaming profits)
		5	Fishing boat proceeds
		6	Medical and health care payments
		7	Nonemployee compensation
		8	Substitute payments in lieu of dividends or interest
		A	Crop insurance proceeds
		B	Excess golden parachute payments
		C	Gross proceeds paid to an attorney in connection with legal services

➤ **Note 1: When using the Direct Sales Indicator in position 547 of the Payee "B" Record, use Type of Return Code A and Amount Code 1 in the Payer "A" Record. All payment amount fields in the Payee "B" Record will contain zeros.**

➤ **Note 2: Do not report timber royalties under a "pay-as-cut" contract; these must be reported on Form 1099-S.**

Amount Codes	Form 1099-OID —		For Reporting Payments on Form 1099-OID:
	Original Issue Discount		
	See the <i>2004 Instructions for Forms 1099-INT and 1099-OID</i> for further reporting information	Amount Code	Amount Type
		1	Original issue discount for 2004
		2	Other periodic interest
		3	Early withdrawal penalty
		4	Federal income tax withheld (backup withholding)
		6	Original issue discount on U.S. Treasury Obligations
		7	Investment expenses
Amount Codes	Form 1099-PATR —		For Reporting Payments on Form 1099-PATR:
	Taxable Distributions Received From Cooperatives		
		Amount Code	Amount Type
		1	Patronage dividends
		2	Nonpatronage distributions
		3	Per-unit retain allocations
		4	Federal income tax withheld (backup withholding)
		5	Redemption of nonqualified notices and retain allocations
			Pass-Through Credits
		6	For filer's use for pass-through credits
		7	Investment credit
		8	Work opportunity credit
		9	Patron's alternative minimum tax (AMT) adjustment

Record Name: Payer "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
	Amount Codes Form 1099-Q — Payments From Qualified Education Programs (Under Sections 529 and 530)		For Reporting Payments From Qualified Education Programs on a Form 1099-Q:
		Amount Code	Amount Type
		1	Gross distribution
		2	Earnings
		3	Basis
	Amount Codes Form 1099-R — Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.		For Reporting Payments on Form 1099-R:
		Amount Code	Amount Type
		1	Gross distribution
		2	Taxable amount (See Note 1.)
		3	Capital gain (included in Amount Code 2)
		4	Federal income tax withheld
		5	Employee contributions or insurance premiums
		6	Net unrealized appreciation in employer's securities
		8	Other
		9	Total employee contributions
		A	Traditional IRA/SEP/SIMPLE distribution or Roth conversion (See Note 2.)

Note 1: If the taxable amount cannot be determined, enter a "1" (one) in position 547 of the "B" Record. Payment Amount 2 must contain zeroes.

Note 2: For Form 1099-R, report the Roth conversion or total amount distributed from an IRA, SEP, or SIMPLE in Payment Amount Field A (IRA/SEP/SIMPLE distribution or Roth conversion) of the Payee "B" Record, and generally, the same amount in Payment Amount Field 1 (Gross Distribution). The IRA/SEP/SIMPLE indicator should be set to "1" (one) in Field Position 548 of the Payee "B" Record.

Amount Codes **Form 1099-S** — Proceeds From Real Estate Transactions

Amount Code	Amount Type
2	Gross proceeds (See Note.)
5	Buyer's part of real estate tax

Note: Include payments of timber royalties made under a "pay-as-cut" contract, reportable under IRC section 6050N. If timber royalties are being reported, enter "TIMBER" in the description field of the "B" Record.

Amount Codes **Form 1099-SA** —
Distributions From a HSA, Archer MSA or Medicare+Choice MSA

Amount Code	Amount Type
1	Gross distribution
2	Earnings on excess contributions
4	Fair market value of the account on date of death

Record Name: Payer "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
Amount Codes	Form 5498 — IRA Contribution Information		For Reporting Information on Form 5498:

<u>Amount Code</u>	<u>Amount Type</u>
1	IRA contributions (other than amounts in Amount Codes 2, 3, 4, 8, 9, and A) (See Notes 1 and 2.)
2	Rollover contributions
3	Roth conversion amount
4	Recharacterized contributions
5	Fair market value of account
6	Life insurance cost included in Amount Code 1
8	SEP contributions
9	SIMPLE contributions
A	Roth IRA contributions

Note 1: If reporting IRA contributions for a participant in a military operation, see *2004 Instructions for Forms 1099-R and 5498*.

Note 2: Also include employee contributions to an IRA under a SEP plan but not salary reduction contributions. **DO NOT include EMPLOYER contributions; these are included in Amount Code 8.**

Amount Codes	Form 5498-ESA — Coverdell ESA Contribution Information		For Reporting Information on Form 5498-ESA:
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<u>Amount Code</u>	<u>Amount Type</u>
1	Coverdell ESA contributions
2	Rollover contributions

Amount Codes	Form 5498-SA — HSA, Archer MSA or Medicare+Choice MSA Information		For Reporting Information on 5498-SA:
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<u>Amount Code</u>	<u>Amount Type</u>
1	Employee or self-employed person's HSA/Archer MSA contributions made in 2004 and 2005 for 2004
2	Total contributions made in 2004 (<i>See current 2004 Instructions.</i>)
3	Total HSA/MSA contributions made in 2005 for 2004
4	Rollover contributions (See Note.)
5	Fair market value of HSA, Archer MSA or M+C MSA account on December 31, 2004

Note: For detailed information on reporting, see the *2004 Instructions for Forms 1099-SA and 5498-SA*.

Amount Codes	Form W-2G — Certain Gambling Winnings		For Reporting Payments on Form W-2G:
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<u>Amount Code</u>	<u>Amount Type</u>
1	Gross winnings
2	Federal income tax withheld
7	Winnings from identical wagers

Record Name: Payer "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
42–47	Blank	6	Enter blanks.
48	Original File Indicator	1	Required for original files only. Enter "1" (one) if the information is original data. Otherwise, enter a blank.
49	Replacement File Indicator	1	Required for replacement files only. Enter "1" (one) if this file is to replace a file that IRS/MCC has informed you in writing can not be processed or the FIRE System indicated a FILE STATUS of bad. Otherwise, enter a blank.
Note: If selecting the Replacement File Indicator in Position 49, Field Positions 48 and 50 must be blank. Only one indicator may be selected in positions 48, 49, and 50 for each Payer "A" Record.			
50	Correction File Indicator	1	Required for correction files only Enter "1" (one) if this file is to correct information which was previously submitted to IRS/MCC, was processed, but contained erroneous information. Any information return which was inadvertently omitted from a file must be submitted as original. Otherwise, enter a blank.
51	Blank	1	Enter a blank.
52	Foreign Entity Indicator	1	Enter a "1" (one) if the payer is a foreign entity and income is paid by the foreign entity to a U. S. resident. Otherwise, enter a blank.
53–92	First Payer Name Line	40	Required. Enter the name of the payer whose TIN appears in positions 12–20 of the "A" Record. Any extraneous information must be deleted. Left-justify information, and fill unused positions with blanks. (Filers should not enter a transfer agent's name in this field. Any transfer agent's name should appear in the Second Payer Name Line Field.)
93–132	Second Payer Name Line	40	If the Transfer (or Paying) Agent Indicator (position 133) contains a "1" (one), this field must contain the name of the transfer (or paying) agent. If the indicator contains a "0" (zero), this field may contain either a continuation of the First Payer Name Line or blanks. Left-justify information and fill unused positions with blanks.
133	Transfer Agent Indicator	1	Required. Identifies the entity in the Second Payer Name Line Field.
		Code	Meaning
		1	The entity in the Second Payer Name Line Field is the transfer (or paying) agent.
		0 (zero)	The entity shown is not the transfer (or paying) agent (<i>i.e.</i> , the Second Payer Name Line Field contains either a continuation of the First Payer Name Line Field or blanks).
134–173	Payer Shipping Address	40	Required. If the Transfer Agent Indicator in position 133 is a "1" (one), enter the shipping address of the transfer (or paying) agent. Otherwise, enter the actual shipping address of the payer. The street address should include number, street, apartment or suite number, or PO Box if mail is not delivered to street address. Left-justify information, and fill unused positions with blanks.
For U.S. addresses, the payer city, state, and ZIP Code must be reported as a 40, 2, and 9-position field, respectively. Filers must adhere to the correct format for the payer city, state, and ZIP Code.			
For foreign addresses, filers may use the payer city, state, and ZIP Code as a continuous 51-position field. Enter information in the following order: city, province or state, postal code, and the name of the country. When reporting a foreign address, the Foreign Entity Indicator in position 52 must contain a "1" (one).			
174–213	Payer City	40	Required. If the Transfer Agent Indicator in position 133 is a "1" (one), enter the city, town, or post office of the transfer agent. Otherwise, enter the city, town, or post office of the payer. Left-justify information, and fill unused positions with blanks. Do not enter state and ZIP Code information in this field.

Record Name: Payer "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
214-215	Payer State	2	Required. Enter the valid U.S. Postal Service state abbreviations. Refer to the chart of valid state abbreviations in Part A, Sec. 15.
216-224	Payer ZIP Code	9	Required. Enter the valid nine-digit ZIP Code assigned by the U.S. Postal Service. If only the first five-digits are known, left-justify information and fill the unused positions with blanks. For foreign countries, alpha characters are acceptable as long as the filer has entered a "1" (one) in the Foreign Entity Indicator, located in Field Position 52 of the "A" Record.
225-239	Payer Phone Number & Extension	15	Enter the payer's phone number and extension. Omit hyphens. Left-justify information and fill unused positions with blanks.
240-499	Blank	260	Enter blanks.
500-507	Record Sequence Number	8	Required. Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can have only one "T" record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, i.e., 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "0000001" in the field, the first "A" record would be "0000002", the first "B" record, "0000003", the second "B" record, "0000004" and so on until you reach the final record of the file, the "F" record.
508-748	Blank	241	Enter blanks.
749-750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

Sec. 5. Payer "A" Record — Record Layout

Record Type	Payment Year	Blank	Payer TIN	Payer Name Control	Last Filing Indicator
1	2-5	6-11	12-20	21-24	25

Combined Federal/State Filer	Type of Return	Amount Codes	Blank	Original File Indicator	Replacement File Indicator	Correction File Indicator
26	27	28-41	42-47	48	49	50

Blank	Foreign Entity Indicator	First Payer Name Line	Second Payer Name Line	Transfer Agent Indicator	Payer Shipping Address
51	52	53-92	93-132	133	134-173

Payer City	Payer State	Payer ZIP Code	Payer Phone Number and Extension	Blank	Record Sequence Number	Blank	Blank or CR/LF
174-213	214-215	216-224	225-239	240-499	500-507	508-748	749-750

Sec. 6. Payee “B” Record — General Field Descriptions and Record Layouts

.01 The “B” Record contains the payment information from the information returns. The record layout for field positions 1 through 543 is the same for all types of returns. Field positions 544 through 750 vary for each type of return to accommodate special fields for individual forms. In the “B” Record, the filer **must** allow for all **fourteen** Payment Amount Fields. **For those fields not used, enter “0s” (zeros).**

.02 The following specifications include a field in the payee records called “Name Control” in which the first four characters of the payee’s surname are to be entered by the filer;

(a) If filers are unable to determine the first four characters of the surname, the Name Control Field may be left blank. Compliance with the following will facilitate IRS computer programs in identifying the correct name control:

1. The surname of the payee whose TIN is shown in the “B” Record should always appear first. If, however, the records have been developed using the first name first, the filer must leave a blank space between the first and last names.

2. In the case of multiple payees, only the surname of the payee whose TIN (SSN, EIN, ITIN, or ATIN) is shown in the “B” Record must be present in the First Payee Name Line. Surnames of any other payees may be entered in the Second Payee Name Line.

.03 For all fields marked “**Required**”, the transmitter must provide the information described under “Description and Remarks”. For those fields not marked “**Required**”, the transmitter must allow for the field, but may be instructed to enter blanks or zeros in the indicated field position(s) and for the indicated length.

.04 All records must be a fixed length of 750 positions.

.05 A field is also provided in these specifications for Special Data Entries. This field may be used to record information required by state or local governments, or for the personal use of the filer. IRS does not use the data provided in the Special Data Entries Field; therefore, the IRS program does not check the content or format of the data entered in this field. It is the filer’s option to use the Special Data Entry Field.

.06 Following the Special Data Entries Field in the “B” Record, payment fields have been allocated for State Income Tax Withheld and Local Income Tax Withheld. These fields are for the convenience of the filers. The information will not be used by IRS/MCC.

.07 Those payers participating in the Combined Federal/State Filing Program must adhere to all of the specifications in Part A, Sec. 13, to participate in this program.

.08 All alpha characters in the “B” Record must be uppercase.

.09 **Do not** use decimal points (.) to indicate dollars and cents. Payment Amount Fields must be all numerics.

Record Name: Payee “B” Record

Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter “B”.
2–5	Payment Year	4	Required. Enter “2004” (unless reporting prior year data; report the year which applies [2002, 2003, etc.]).
6	Corrected Return Indicator (See Note.)	1	Required for corrections only. Indicates a corrected return
		<u>Code</u>	<u>Definition</u>
		G	If this is a one-transaction correction or the first of a two-transaction correction
		C	If this is the second transaction of a two transaction correction
		Blank	If this is not a return being submitted to correct information already processed by IRS.

Note: C, G, and non-coded records must be reported using separate Payer “A” Records. Refer to Part A, Sec. 11, for specific instructions on how to file corrected returns.

Record Name: Payee “B” Record (Continued)

Field Position	Field Title	Length	Description and Remarks
7–10	Name Control	4	If determinable, enter the first four characters of the surname of the person whose TIN is being reported in positions 12–20 of the “B” Record; otherwise, enter blanks . This usually is the payee. If the name that corresponds to the TIN is not included in the first or second payee name line and the correct name control is not provided, a backup withholding notice may be generated for the record. Surnames of less than four characters should be left-justified, filling the unused positions with blanks. Special characters and imbedded blanks should be removed. In the case of a business, other than a sole proprietorship, use the first four significant characters of the business name. Disregard the word “the” when it is the first word of the name, unless there are only two words in the name. A dash (-) and an ampersand (&) are the only acceptable special characters. Surname prefixes are considered, e.g., for Van Elm, the name control would be VANE. For a sole proprietorship, use the name of the owner to create the name control and report the owner’s name in positions 248–287, First Payer Name Line.

Note: Imbedded blanks, extraneous words, titles, and special characters (i.e., Mr., Mrs., Dr., period [.] , apostrophe [’]) should be removed from the Payee Name Lines. This information may be dropped during subsequent processing at IRS/MCC. A dash (-) and an ampersand (&) are the only acceptable special characters.

The following examples may be helpful to filers in developing the Name Control:

<u>Name:</u>	<u>Name Control</u>
Individuals:	
Jane Brown	BROW
John A. Lee	LEE*
James P. En , Sr.	EN*
John O’Neil	ONEI
Mary Van Buren	VANB
Juan De Jesus	DEJE
Gloria A. El-Roy	EL-R
Mr. John Smith	SMIT
Joe McCarthy	MCCA
Pedro Torres-Lopes **	TORR
Maria Lopez Moreno**	LOPE
Binh To La	LA*
Nhat Thi Pham	PHAM

Record Name: Payee "B" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
Corporations:			
	The F irst National Bank	FIRS	
	The H ideaway	THEH	
	A&B Cafe	A&BC	
	11TH Street Inc.	11TH	
Sole Proprietor:			
	Mark H emlock	HEML	
	DBA The Sunshine Club		
	Mark D'Al lesandro	DALL	
Partnership:			
	Robert A spen and Bess Willow	ASPE	
	Harold F ir, Bruce Elm, and Joyce Spruce et al Ptr	FIR*	
Estate:			
	Frank W hite Estate	WHIT	
	Estate of Sheila B lue	BLUE	
Trusts and Fiduciaries:			
	D aisy Corporation Employee Benefit Trust	DAIS	
	Trust FBO The C herry-blossom Society	CHER	
Exempt Organizations:			
	L aborer's Union, AFL-CIO	LABO	
	S t. Bernard's Methodist Church Bldg. Fund	STBE	

*Name Controls of less than four significant characters must be left-justified and blank-filled.

**For Hispanic names, when two last names are shown for an individual, derive the name control from the first last name.

11	Type of TIN	1	This field is used to identify the Taxpayer Identification Number (TIN) in positions 12–20 as either an Employer Identification Number (EIN), a Social Security Number (SSN), an Individual Taxpayer Identification Number (ITIN) or an Adoption Taxpayer Identification Number (ATIN). Enter the appropriate code from the following table:
		Code	Type of TIN
		Type of Account	
		1	EIN
			A business, organization, some sole proprietors, or other entity
		2	SSN
			An individual, including some sole proprietors
		2	ITIN
			An individual required to have a taxpayer identification number, but who is not eligible to obtain an SSN

Record Name: Payee "B" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
		2	ATIN An adopted individual prior to the assignment of a social security number
		Blank	N/A If the type of TIN is not determinable, enter a blank.
12-20	Payee's Taxpayer Identification Number (TIN)	9	Required. Enter the nine-digit Taxpayer Identification Number of the payee (SSN, ITIN, ATIN, or EIN). If an identification number has been applied for but not received, enter blanks. Do not enter hyphens or alpha characters. All zeros, ones, twos, etc., will have the effect of an incorrect TIN. If the TIN is not available, enter blanks.
Note: If you are required to report payments made through Foreign Intermediaries and Foreign Flow-Through Entities on Form 1099, see the 2004 General Instructions for Forms 1099, 1098, 5498 and W-2G for reporting requirements.			
21-40	Payer's Account Number For Payee	20	Required if submitting more than one information return of the same type for the same payee. Enter any number assigned by the payer to the payee that can be used by the IRS to distinguish between information returns. <i>This number must be unique for each information return of the same type for the same payee.</i> If a payee has more than one reporting of the same document type, it is vital that each reporting have a unique account number. For example, if a payer has 3 separate pension distributions for the same payee and 3 separate Forms 1099-R are filed, 3 separate unique account numbers are required. A payee's account number may be given a unique sequencing number, such as, 01, 02 or A, B, etc., to differentiate each reported information return. Do not use the payee's TIN since this will not make each record unique. This information is critical when corrections are filed. This number will be provided with the backup withholding notification and may be helpful in identifying the branch or subsidiary reporting the transaction. Do not define data in this field in packed decimal format. If fewer than twenty characters are used, filers may either left or right-justify, filling the remaining positions with blanks.
41-44	Payer's Office Code	4	Enter office code of payer; otherwise, enter blanks. For payers with multiple locations, this field may be used to identify the location of the office submitting the information return. This code will also appear on backup withholding notices.
45-54	Blank	10	Enter blanks
	Payment Amount Fields (Must be numeric)		Required. Filers should allow for all payment amounts. For those not used, enter zeros. Each payment field must contain 12 numeric characters. Each payment amount must contain U.S. dollars and cents. The right-most two positions represent cents in the payment amount fields. Do not enter dollar signs, commas, decimal points, or negative payments, except those items that reflect a loss on Form 1099-B or 1099-Q. Positive and negative amounts are indicated by placing a "+" (plus) or "-" (minus) sign in the left-most position of the payment amount field. A negative over punch in the unit's position may be used, instead of a minus sign, to indicate a negative amount. If a plus sign, minus sign, or negative over punch is not used, the number is assumed to be positive. Negative over punch cannot be used in PC created files. Payment amounts must be right-justified and unused positions must be zero-filled.

Record Name: Payee "B" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
55-66	Payment Amount 1*	12	The amount reported in this field represents payments for Amount Code 1 in the "A" Record.
67-78	Payment Amount 2*	12	The amount reported in this field represents payments for Amount Code 2 in the "A" Record.
79-90	Payment Amount 3*	12	The amount reported in this field represents payments for Amount Code 3 in the "A" Record.
91-102	Payment Amount 4*	12	The amount reported in this field represents payments for Amount Code 4 in the "A" Record.
103-114	Payment Amount 5*	12	The amount reported in this field represents payments for Amount Code 5 in the "A" Record.
115-126	Payment Amount 6*	12	The amount reported in this field represents payments for Amount Code 6 in the "A" Record.
127-138	Payment Amount 7*	12	The amount reported in this field represents payments for Amount Code 7 in the "A" Record.
139-150	Payment Amount 8*	12	The amount reported in this field represents payments for Amount Code 8 in the "A" Record.
151-162	Payment Amount 9*	12	The amount reported in this field represents payments for Amount Code 9 in the "A" Record.
163-174	Payment Amount A*	12	The amount reported in this field represents payments for Amount Code A in the "A" Record.
175-186	Payment Amount B*	12	The amount reported in this field represents payments for Amount Code B in the "A" Record.
187-198	Payment Amount C*	12	The amount reported in this field represents payments for Amount Code C in the "A" Record.
199-210	Payment Amount D*	12	The amount reported in this field represents payments for Amount Code D in the "A" Record.
211-222	Payment Amount E*	12	The amount reported in this field represents payments for Amount Code E in the "A" Record.

*** If there are discrepancies between the payment amount fields and the boxes on the paper forms, the instructions in this Revenue Procedure must be followed for electronic/magnetic filing.**

223-246	Reserved	24	Enter blanks.
247	Foreign Country Indicator	1	If the address of the payee is in a foreign country, enter a "1" (one) in this field; otherwise, enter blank. When filers use this indicator, they may use a free format for the payee city, state, and ZIP Code. Enter information in the following order: city, province or state, postal code, and the name of the country. Address information must not appear in the First or Second Payee Name Line.

Record Name: Payee "B" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
248–287	First Payee Name Line	40	Required. Enter the name of the payee (preferably surname first) whose Taxpayer Identification Number (TIN) was provided in positions 12–20 of the "B" Record. Left-justify and fill unused positions with blanks. If more space is required for the name, use the Second Payee Name Line Field. The names of any other payees may be entered in the Second Payee Name Line Field. If reporting information for a sole proprietor, the individual's name must always be present on the First Payee Name Line. The use of the business name is optional in the Second Payee Name Line Field. End the First Payee Name Line with a full word. Use appropriate spacing. Extraneous words, titles, and special characters (i.e., Mr., Mrs., Dr., period, apostrophe) should be removed from the Payee Name Lines. This information may be dropped during subsequent processing at IRS/MCC. A dash (-) and an ampersand (&) are the only acceptable special characters for First and Second Payee Name Lines.
Note: If you are required to report payments made through Foreign Intermediaries and Foreign Flow-Through Entities on Form 1099, see the 2004 General Instructions for Forms 1099, 1098, 5498 and W-2G for reporting requirements.			
288–327	Second Payee Name Line	40	If there are multiple payees (e.g., partners, joint owners, or spouses), use this field for those names not associated with the TIN provided in positions 12–20 of the "B" Record, or if not enough space was provided in the First Payee Name Line, continue the name in this field. Do not enter address information. It is important that filers provide as much payee information to IRS/MCC as possible to identify the payee associated with the TIN. Left-justify and fill unused positions with blanks. See Note above in First Payee Name Line.
328–367	Blank	40	Enter blanks.
368–407	Payee Mailing Address	40	Required. Enter mailing address of payee. Street address should include number, street, apartment or suite number, or PO Box if mail is not delivered to street address. Left-justify information and fill unused positions with blanks. This field must not contain any data other than the payee's mailing address.
408–447	Blank	40	Enter blanks.
448–487	Payee City	40	Required. Enter the city, town or post office. Left-justify information and fill the unused positions with blanks. Enter APO or FPO if applicable. Do not enter state and ZIP Code information in this field.
488–489	Payee State	2	Required. Enter the valid U.S. Postal Service state abbreviations for states or the appropriate postal identifier (AA, AE, or AP) described in Part A, Sec. 15.
490–498	Payee ZIP Code	9	Required. Enter the valid ZIP Code (nine or five-digit) assigned by the U.S. Postal Service. If only the first five-digits are known, left-justify information and fill the unused positions with blanks. For foreign countries, alpha characters are acceptable as long as the filer has entered a "1" (one) in the Foreign Country Indicator, located in position 247 of the "B" Record.
499	Blank	1	Enter blank.

Record Name: Payee "B" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
500-507	Record Sequence Number	8	Required. Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can have only one "T" record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, i.e., 2, 3, 4 etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the first "A" record would be "00000002", the first "B" record, "00000003", the second "B" record, "00000004" and so on until you reach the final record of the file, the "F" record.
508-543	Blank	36	Enter blanks.

**Standard Payee "B" Record Format For
All Types of Returns, Positions 1-543**

Record Type	Payment Year	Corrected Return Indicator	Name Control	Type of TIN	Payee's TIN	Payer's Account Number For Payee
1	2-5	6	7-10	11	12-20	21-40

Payer's Office Code	Blank	Payment Amount 1	Payment Amount 2	Payment Amount 3	Payment Amount 4	Payment Amount 5
41-44	45-54	55-66	67-78	79-90	91-102	103-114

Payment Amount 6	Payment Amount 7	Payment Amount 8	Payment Amount 9	Payment Amount A	Payment Amount B
115-126	127-138	139-150	151-162	163-174	175-186

Payment Amount C	Payment Amount D	Payment Amount E	Reserved	Foreign Country Indicator	First Payee Name Line	Second Payee Name Line	Blank
187-198	199-210	211-222	223-246	247	248-287	288-327	328-367

Payee Mailing Address	Blank	Payee City	Payee State	Payee ZIP Code	Blank	Record Sequence Number	Blank
368-407	408-447	448-487	488-489	490-498	499	500-507	508-543

The following sections define the field positions for the different types of returns in the Payee “B” Record (positions 544–750):

- (1) Form 1098
- (2) Form 1098–E
- (3) Form 1098–T
- (4) Form 1099–A
- (5) Form 1099–B
- (6) Form 1099–C
- (7) Form 1099–CAP
- (8) Form 1099–DIV*
- (9) Form 1099–G*
- (10) Form 1099–H
- (11) Form 1099–INT*
- (12) Form 1099–LTC
- (13) Form 1099–MISC*
- (14) Form 1099–OID*
- (15) Form 1099–PATR*
- (16) Form 1099–Q
- (17) Form 1099–R*
- (18) Form 1099–S
- (19) Form 1099–SA
- (20) Form 5498*
- (21) Form 5498–ESA
- (22) Form 5498–SA
- (23) Form W–2G

* These forms may be filed through the Combined Federal/State Filing Program. IRS/MCC will forward these records to participating states for filers who have been approved for the program. See Part A, Sec. 13, for information about the program, including specific codes for the record layouts.

(1) Payee “B” Record — Record Layout Positions 544–750 for Form 1098

Field Position	Field Title	Length	Description and Remarks
544–662	Blank	119	Enter blanks.
663–722	Special Data Entries	60	This portion of the “B” Record may be used to record information for state or local government reporting or for the filer’s own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–748	Blank	26	Enter blanks.
749–750	Blank	2	Enter blanks, or carriage return/line feed (CR/LF) characters.

**Payee "B" Record — Record Layout Positions 544–750
for Forms 1098**

Blank	Special Data Entries	Blank	Blank or CR/LF
544–662	663–722	723–748	749–750

(2) Payee "B" Record — Record Layout Positions 544–750 for Form 1098–E

Field Position	Field Title	Length	Description and Remarks
544–546	Blank	3	Enter blanks.
547	Origination Fees/Capitalized Interest Indicator	1	Enter "1" (one) if the amount reported in Payment Amount Field 1 includes loan origination fees and/or capitalized interest. Otherwise, enter a blank.
548–662	Blank	115	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for the filing requirements. If this field is not utilized, enter blanks.
723–748	Blank	26	Enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

**Payee "B" Record — Record Layout Positions 544–750
for Forms 1098–E**

Blank	Origination Fees/ Capitalized Interest Indicator	Blank	Special Data Entries	Blank	Blank or CR/LF
544–546	547	548–662	663–722	723–748	749–750

(3) Payee "B" Record — Record Layout Positions 544–750 for Form 1098–T

Field Position	Field Title	Length	Description and Remarks
544–546	Blank	3	Enter blanks.
547	Half-time Student Indicator	1	Enter "1" (one) if the student was at least a half-time student during any academic period that began in 2004. Otherwise, enter a blank.
548	Graduate Student Indicator	1	Enter "1" (one) if the student is enrolled exclusively in a graduate level program. Otherwise, enter a blank.

(3) Payee “B” Record — Record Layout Positions 544–750 for Form 1098–T (Continued)

Field Position	Field Title	Length	Description and Remarks
549	Academic Period Indicator	1	Enter “1” (one) if the amount in Payment Amount Field 1 or Payment Amount Field 2 includes amounts for an academic period beginning January through March 2005. Otherwise, enter a blank.
550–662	Blank	113	Enter blanks.
663–722	Special Data Entries	60	This portion of the “B” Record may be used to record information for state or local government reporting or for the filer’s own purposes. Payers should contact the state or local revenue departments for the filing requirements. If this field is not utilized, enter blanks.
723–748	Blank	26	Enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

Payee “B” Record — Record Layout Positions 544–750 for Form 1098–T

Blank	Half-time Student Indicator	Graduate Student Indicator	Academic Period Indicator	Blank	Special Data Entries	Blank	Blank or CR/LF
544–546	547	548	549	550–662	663–722	723–748	749–750

(4) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–A

Field Position	Field Title	Length	Description and Remarks	
544–546	Blank	3	Enter blanks.	
547	Personal Liability Indicator	1	Enter the appropriate indicator from the table below:	
			<u>Indicator</u>	<u>Usage</u>
			1	Borrower was personally liable for repayment of the debt.
			Blank	Borrower was not personally liable for repayment of the debt.
548–555	Date of Lender’s Acquisition or Knowledge of Abandonment	8	Enter the acquisition date of the secured property or the date the lender first knew or had reason to know the property was abandoned, in the format YYYYMMDD (e.g., January 5, 2004, would be 20040105). Do not enter hyphens or slashes.	

(4) Payee "B" Record — Record Layout Positions 544–750 for Form 1099-A (Continued)

Field Position	Field Title	Length	Description and Remarks
556–594	Description of Property	39	Enter a brief description of the property. For real property, enter the address, or, if the address does not sufficiently identify the property, enter the section, lot and block. For personal property, enter the type, make and model (<i>e.g.</i> , Car-1999 Buick Regal or Office Equipment). Enter "CCC" for crops forfeited on Commodity Credit Corporation loans. If fewer than 39 positions are required, left-justify information and fill unused positions with blanks.
595–662	Blank	68	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for the filing requirements. If this field is not utilized, enter blanks.
723–748	Blank	26	Enter blanks.
749–750	Blank	2	Enter blanks, or carriage return/line feed (CR/LF) characters.

Payee "B" Record — Record Layout Positions 544–750 for Form 1099-A

Blank	Personal Liability Indicator	Date of Lender's Acquisition or Knowledge of Abandonment	Description of Property	Blank
544–546	547	548–555	556–594	595–662

Special Data Entries	Blank	Blank or CR/LF
663–722	723–748	749–750

(5) Payee "B" Record — Record Layout Positions 544–750 for Form 1099-B

Field Position	Field Title	Length	Description and Remarks
544	Second TIN Notice (Optional)	1	Enter "2" (two) to indicate notification by IRS twice within three calendar years that the payee provided an incorrect name and/or TIN combination; otherwise, enter a blank.
545–546	Blank	2	Enter blanks.

(5) Payee “B” Record — Record Layout Positions 544–750 for Form 1099-B (Continued)

Field Position	Field Title	Length	Description and Remarks						
547	Gross Proceeds Indicator	1	Enter the appropriate indicator from the following table, to identify the amount reported in Amount Code 2; otherwise, enter a blank. <table><thead><tr><th><u>Indicator</u></th><th><u>Usage</u></th></tr></thead><tbody><tr><td>1</td><td>Gross proceeds</td></tr><tr><td>2</td><td>Gross proceeds less commissions and options premiums</td></tr></tbody></table>	<u>Indicator</u>	<u>Usage</u>	1	Gross proceeds	2	Gross proceeds less commissions and options premiums
<u>Indicator</u>	<u>Usage</u>								
1	Gross proceeds								
2	Gross proceeds less commissions and options premiums								
548–555	Date of Sale or Exchange	8	For broker transactions, enter the trade date of the transaction. For barter exchanges, enter the date when cash, property, a credit, or scrip is actually or constructively received in the format YYYYMMDD (e.g., January 5, 2004, would be 20040105). Enter blanks if this is an aggregate transaction. Do not enter hyphens or slashes.						
556–568	CUSIP Number	13	For broker transactions only, enter the CUSIP (Committee on Uniform Security Identification Procedures) number of the item reported for Amount Code 2 (stocks, bonds, etc.). Enter blanks if this is an aggregate transaction. Enter “0s” (zeros) if the number is not available. Right-justify information and fill unused positions with blanks.						
569–607	Description	39	If fewer than 39 characters are required, left-justify information and fill unused positions with blanks. For broker transactions, enter a brief description of the disposition item (e.g., 100 shares of XYZ Corp). For regulated futures and forward contracts, enter “RFC” or other appropriate description. For bartering transactions, show the services or property provided.						
608–615	<i>Number of Shares Exchanged</i>	8	<i>Enter the number of shares of the corporation’s stock which were exchanged in the transaction. Report whole number only. Right-justify information and fill unused positions with zeros.</i>						
616–625	<i>Class of Stock Exchanged</i>	10	<i>Enter the class of stock that was exchanged. Left-justify the information and fill unused positions with blanks.</i>						
626	<i>Recipient Indicator</i>	1	<i>Enter a “1” (one) if the recipient is unable to claim a loss on their tax return. Otherwise, enter a blank.</i>						
627–662	Blank	36	Enter blanks.						
663–722	Special Data Entries	60	This portion of the “B” Record may be used to record information for state or local government reporting or for the filer’s own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.						
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.						

(5) Payee "B" Record — Record Layout Positions 544–750 for Form 1099-B (Continued)

Field Position	Field Title	Length	Description and Remarks
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.
747–748	Blank	2	Enter blanks.
749–750	Blank	2	Enter blanks, or carriage return/line feed (CR/LF) characters.

Note: Report the Corporation's Name, Address, City, State, and ZIP in the Special Data Entry field.

**Payee "B" Record — Record Layout Positions 544–750
for Form 1099-B**

Second TIN Notice (Optional)	Blank	Gross Proceeds Indicator	Date of Sale	CUSIP Number	Description	Number of Shares Exchanged
544	545–546	547	548–555	556–568	569–607	608–615

Classes of Stock Exchanged	Recipient Indicator	Blank	Special Data Entries	State Income Tax Withheld	Local Income Tax Withheld	Blank	Blank or CR/LF
616–625	626	627–662	663–722	723–734	735–746	747–748	749–750

(6) Payee "B" Record — Record Layout Positions 544–750 for Form 1099-C

Field Position	Field Title	Length	Description and Remarks
544–546	Blank	3	Enter blanks.
547	Bankruptcy Indicator	1	Enter "1" (one) to indicate the debt was discharged in bankruptcy, if known. Otherwise, enter a blank.
548–555	Date Canceled	8	Enter the date the debt was canceled in the format of YYYYMMDD (e.g., January 5, 2004, would be 20040105). Do not enter hyphens or slashes.
556–594	Debt Description	39	Enter a description of the origin of the debt, such as student loan, mortgage or credit card expenditure. If a combined Form 1099-C and 1099-A is being filed, also enter a description of the property.
595–662	Blank	68	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.

(6) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–C (Continued)

723–748	Blank	26	Enter blanks.
749–750	Blank	2	Enter blanks, or carriage return/line feed (CR/LF) characters.

**Payee "B" Record — Record Layout Positions 544–750
for Forms 1099–C**

Blank	Bankruptcy Indicator	Date Canceled	Debt Description	Blank	Special Data Entries
544–546	547	548–555	556–594	595–662	663–722

Blank	Blank or CR/LF
723–748	749–750

(7) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–CAP

Field Position	Field Title	Length	Description and Remarks
544–547	<i>Blank</i>	4	<i>Enter blanks.</i>
548–555	Date of Sale or Exchange	8	Enter the date the stock was exchanged for cash, stock in the successor corporation, or other property received in the format YYYYMMDD (e.g., January 5, 2004, would be 20040105). Do not enter hyphens or slashes.
556–607	<i>Blank</i>	52	<i>Enter blanks.</i>
608–615	Number of Shares Exchanged	8	Enter the number of shares of the corporation's stock which were exchanged in the transaction. Report whole number only. Right-justify information and fill unused positions with zeros.
616–625	Classes of Stock Exchanged	10	Enter the class of stock that was exchanged. Left-justify the information and fill unused positions with blanks.
626	<i>Blank</i>	1	<i>Enter a blank.</i>
627	Shareholder Indicator	1	Enter a "1" (one) if the shareholder cannot take a loss on their tax return. Otherwise, enter a blank.
628–662	Blank	35	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–748	Blank	26	Enter blanks.
749–750	Blank	2	Enter blanks, or carriage return/line feed (CR/LF) characters.

**Payee "B" Record — Record Layout Positions 544–750
for Form 1099–CAP**

<i>Blank</i>	Date of Sale or Exchange	<i>Blank</i>	Number of Shares Exchanged	Classes of Stock Exchanged
544–547	548–555	556–607	608–615	616–625

<i>Blank</i>	Shareholder Indicator	Blank	Special Data Entries	Blank	Blank or CR/LF
626	627	628–662	663–722	723–748	749–750

(8) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–DIV

Field Position	Field Title	Length	Description and Remarks
544	Second TIN Notice (Optional)	1	Enter "2" (two) to indicate notification by IRS twice within three calendar years that the payee provided an incorrect name and/or TIN combination; otherwise, enter a blank.
545–546	Blank	2	Enter blanks.
547–586	Foreign Country or U.S. Possession	40	Enter the name of the foreign country or U.S. possession to which the withheld foreign tax (Amount Code C) applies. Otherwise, enter blanks.
587–662	Blank	76	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.
747–748	Combined Federal/State Code	2	If this payee record is to be forwarded to a state agency as part of the Combined Federal/State Filing Program, enter the valid state code from Part A, Sec. 13, Table 1. For those payers or states not participating in this program, enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

**Payee "B" Record — Record Layout Positions 544–750
for Form 1099–DIV**

Second TIN Notice (Optional)	Blank	Foreign Country or U.S. Possession	Blank	Special Data Entries
544	545–546	547–586	587–662	663–722

State Income Tax Withheld	Local Income Tax Withheld	Combined Federal/ State Code	Blank or CR/LF
723–734	735–746	747–748	749–750

(9) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–G

Field Position	Field Title	Length	Description and Remarks
544–546	Blank	3	Enter blanks.
547	Trade or Business Indicator	1	Enter "1" (one) to indicate the state or local income tax refund, credit, or offset (Amount Code 2) is attributable to income tax that applies exclusively to income from a trade or business. Indicator Usage 1 Income tax refund applies exclusively to a trade or business. Blank Income tax refund is a general tax refund.
548–551	Tax Year of Refund	4	Enter the tax year for which the refund, credit, or offset (Amount Code 2) was issued. The tax year must reflect the tax year for which the payment was made, not the tax year of the Form 1099–G. The tax year must be in the four-position format of YYYY (e.g., 2001). The valid range of years for the refund is 1994 through 2003.
Note: This data is not considered prior year data since it is required to be reported in the current tax year. Do NOT enter "P" in field position 6 of the Transmitter "T" Record.			
552–662	Blank	111	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. You may enter your routing and transit number (RTN) here. If this field is not utilized, enter blanks.
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.

(9) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–G (Continued)

Field Position	Field Title	Length	Description and Remarks
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.
747–748	Combined Federal/State Code	2	If this payee record is to be forwarded to a state agency as part of the Combined Federal/State Filing Program, enter the valid state code from Part A, Sec. 13, Table 1. For those payers or states not participating in this program, enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

Payee "B" Record — Record Layout Positions 544–750 for Form 1099–G

Blank	Trade or Business Indicator	Tax Year of Refund	Blank	Special Data Entries	State Income Tax Withheld
544–546	547	548–551	552–662	663–722	723–734

Local Income Tax Withheld	Combined Federal/State Code	Blank or CR/LF
735–746	747–748	749–750

(10) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–H

Field Position	Field Title	Length	Description and Remarks
544–546	Blank	3	Enter blanks.
547–548	Number of Months Eligible	2	Required. Enter the total number of months recipient is eligible for health insurance advance payments. Right-justify and blank fill any remaining positions.
549–662	Blank	114	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–748	Blank	26	Enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

**Payee "B" Record — Record Layout Positions 544–750
for Form 1099–H**

Blank	Number of Months Eligible	Blank	Special Data Entries	Blank	Blank or CR/LF
544–546	547–548	549–662	663–722	723–748	749–750

(11) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–INT

Field Position	Field Title	Length	Description and Remarks
544	Second TIN Notice (Optional)	1	Enter "2" (two) to indicate notification by IRS twice within three calendar years that the payee provided an incorrect name and/or TIN combination; otherwise, enter a blank.
545–546	Blank	2	Enter blanks.
547–586	Foreign Country or U.S. Possession	40	Enter the name of the foreign country or U.S. possession to which the withheld foreign tax (Amount Code 6) applies. Otherwise, enter blanks.
587–662	Blank	76	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. You may enter your routing and transit number (RTN) here. If this field is not utilized, enter blanks.
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.
747–748	Combined Federal/State Code	2	If this payee record is to be forwarded to a state agency as part of the Combined Federal/State Filing Program, enter the valid state code from Part A, Sec. 13, Table 1. For those payers or states not participating in this program, enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

**Payee "B" Record — Record Layout Positions 544–750
for Form 1099–INT**

Second TIN Notice (Optional)	Blank	Foreign Country or U.S. Possession	Blank	Special Data Entries	State Income Tax Withheld
544	545–546	547–586	587–662	663–722	723–734

Local Income Tax Withheld	Combined Federal/State Code	Blank or CR/LF
735–746	747–748	749–750

(12) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–LTC

Field Position	Field Title	Length	Description and Remarks						
544–546	Blank	3	Enter blanks.						
547	Type of Payment Indicator	1	Enter the appropriate indicator from the following table; otherwise, enter blanks. <table border="0"> <tr> <td align="center"><u>Indicator</u></td> <td align="center"><u>Usage</u></td> </tr> <tr> <td align="center">1</td> <td align="center">Per diem</td> </tr> <tr> <td align="center">2</td> <td align="center">Reimbursed amount</td> </tr> </table>	<u>Indicator</u>	<u>Usage</u>	1	Per diem	2	Reimbursed amount
<u>Indicator</u>	<u>Usage</u>								
1	Per diem								
2	Reimbursed amount								
548–556	Social Security Number of Insured	9	Required. Enter the Social Security Number of the insured.						
557–596	Name of Insured	40	Required. Enter the name of the insured.						
597–636	Address of Insured	40	Required. Enter the address of the insured. Street address should include number, street, apartment or suite number (or PO Box if mail is not delivered to street address). Left-justify information and fill unused positions with blanks. This field must not contain any data other than payee's address.						
For U.S. addresses, the payee city, state, and ZIP Code must be reported as a 40, 2, and 9-position field, respectively. Filers must adhere to the correct format for the insured's city, state, and ZIP Code.									
For foreign addresses, filers may use the insured's city, state, and ZIP Code as a continuous 51-position field. Enter information in the following order: city, province or state, postal code, and the name of the country. When reporting a foreign address, the Foreign Country Indicator in position 247 must contain a "1" (one).									
637–676	City of Insured	40	Required. Enter the city, town, or post office. Left-justify information and fill the unused positions with blanks. Enter APO or FPO, if applicable. Do not enter state and ZIP Code information in this field.						
677–678	State of Insured	2	Required. Enter the valid U.S. Postal Service state abbreviations for states or the appropriate postal identifier (AA, AE, or AP) described in Part A, Sec. 15.						

(12) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–LTC (Continued)

Field Position	Field Title	Length	Description and Remarks						
679–687	ZIP Code of Insured	9	Required. Enter the valid nine-digit ZIP Code assigned by the U.S. Postal Service. If only the first five-digits are known, left-justify information and fill the unused positions with blanks. For foreign countries, alpha characters are acceptable as long as the filer has entered a "1" (one) in the Foreign Country Indicator, located in position 247 of the "B" Record.						
688	Status of Illness Indicator (Optional)	1	Enter the appropriate code from the table below to indicate the status of the illness of the insured; otherwise, enter blank: <table><thead><tr><th><u>Indicator</u></th><th><u>Usage</u></th></tr></thead><tbody><tr><td>1</td><td>Chronically ill</td></tr><tr><td>2</td><td>Terminally ill</td></tr></tbody></table>	<u>Indicator</u>	<u>Usage</u>	1	Chronically ill	2	Terminally ill
<u>Indicator</u>	<u>Usage</u>								
1	Chronically ill								
2	Terminally ill								
689–696	Date Certified (Optional)	8	Enter the latest date of a doctor's certification of the status of the insured's illness. The format of the date is YYYYMMDD (e.g., January 5, 2004, would be 20040105). Do not enter hyphens or slashes.						
697	Qualified Contract Indicator (Optional)	1	Enter a "1" (one) if benefits were from a qualified long-term care insurance contract; otherwise, enter blank.						
698–722	Blank	25	Enter blanks.						
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled.						
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled.						
747–748	Blank	2	Enter blanks.						
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.						

**Payee "B" Record — Record Layout Positions 544–750
for Form 1099–LTC**

Blank	Type of Payment Indicator	SSN of Insured	Name of Insured	Address of Insured	City of Insured	State of Insured	ZIP Code of Insured
544–546	547	548–556	557–596	597–636	637–676	677–678	679–687

Status of Illness Indicator (Optional)	Date Certified (Optional)	Qualified Contract Indicator (Optional)	Blank	State Income Tax Withheld	Local Income Tax Withheld
688	689–696	697	698–722	723–734	735–746

Blank	Blank or CR/LF
747-748	749-750

(13) Payee “B” Record — Record Layout Positions 544-750 for Form 1099-MISC

Field Position	Field Title	Length	Description and Remarks
544	Second TIN Notice (Optional)	1	Enter “2” (two) to indicate notification by IRS twice within three calendar years that the payee provided an incorrect name and/or TIN combination; otherwise, enter a blank.
545-546	Blank	2	Enter blanks.
547	Direct Sales Indicator (See Note.)	1	Enter a “1” (one) to indicate sales of \$5,000 or more of consumer products to a person on a buy-sell, deposit-commission, or any other commission basis for resale anywhere other than in a permanent retail establishment. Otherwise, enter a blank.
Note: If reporting a direct sales indicator only, use Type of Return “A” in Field Position 27, and Amount Code 1 in Field Position 28 of the Payer “A” Record. All payment amount fields in the Payee “B” Record will contain zeros.			
548-662	Blank	115	Enter blanks.
663-722	Special Data Entries	60	This portion of the “B” Record may be used to record information for state or local government reporting or for the filer’s own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not used, enter blanks.
723-734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.
735-746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.
747-748	Combined Federal/State Code	2	If this payee record is to be forwarded to a state agency as part of the Combined Federal/State Filing Program, enter the valid state code from Part A, Sec. 13, Table 1. For those payers or states not participating in this program, enter blanks.
749-750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

**Payee "B" Record — Record Layout Positions 544–750
for Form 1099–MISC**

Second TIN Notice (Optional)	Blank	Direct Sales Indicator	Blank	Special Data Entries	State Income Tax Withheld	Local Income Tax Withheld
544	545–546	547	548–662	663–722	723–734	735–746

Combined Federal/State Code	Blank or CR/LF
747–748	749–750

(14) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–OID

Field Position	Field Title	Length	Description and Remarks
544	Second TIN Notice (Optional)	1	Enter "2" (two) to indicate notification by IRS twice within three calendar years that the payee provided an incorrect name and/or TIN combination; otherwise, enter a blank.
545–546	Blank	2	Enter blanks.
547–585	Description	39	Required. Enter the CUSIP number, if any. If there is no CUSIP number, enter the abbreviation for the stock exchange and issuer, the coupon rate, and year (must be 4-digit year) of maturity (<i>e.g.</i> , NYSE XYZ 12/2004). Show the name of the issuer if other than the payer. If fewer than 39 characters are required, left-justify information and fill unused positions with blanks.
586–662	Blank	77	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.

(14) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–OID (Continued)

Field Position	Field Title	Length	Description and Remarks
747–748	Combined Federal/State Code	2	If this payee record is to be forwarded to a state agency as part of the Combined Federal/State Filing Program, enter the valid state code from Part A, Sec. 13, Table I. For those payers or states not participating in this program, enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

Payee "B" Record — Record Layout Positions 544–750 for Form 1099–OID

Second TIN Notice (Optional)	Blank	Description	Blank	Special Data Entries	State Income Tax Withheld
544	545–546	547–585	586–662	663–722	723–734

Local Income Tax Withheld	Combined Federal/State Code	Blank or CR/LF
735–746	747–748	749–750

(15) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–PATR

Field Position	Field Title	Length	Description and Remarks
544	Second TIN Notice (Optional)	1	Enter "2" (two) to indicate notification by IRS twice within three calendar years that the payee provided an incorrect name and/or TIN combination; otherwise, enter a blank.
545–662	Blank	118	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.

(15) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–PATR (Continued)

Field Position	Field Title	Length	Description and Remarks
747–748	Combined Federal/State Code	2	If this payee record is to be forwarded to a state agency as part of the Combined Federal/State Filing Program, enter the valid state code from Part A, Sec. 13, Table 1. For those payers or states not participating in this program, enter blanks.
749–750	Blank	2	Enter blanks, or carriage return/line feed (CR/LF) characters.

Payee "B" Record — Record Layout Positions 544–750 for Form 1099–PATR

Second TIN Notice (Optional)	Blank	Special Data Entries	State Income Tax Withheld	Local Income Tax Withheld	Combined Federal/State Code	Blank or CR/LF
544	545–662	663–722	723–734	735–746	747–748	749–750

(16) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–Q

Field Position	Field Title	Length	Description and Remarks								
544–546	Blank	3	Enter blanks.								
547	Trustee to Trustee Transfer Indicator	1	Required. Enter a "1" (one) if reporting a trustee to trustee transfer, otherwise, enter blank.								
548	Type of Tuition Payment	1	<p>Required. Enter the appropriate code from the table below to indicate the type of tuition payment, otherwise; leave blank.</p> <table border="1"> <thead> <tr> <th>Indicator</th> <th>Usage</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Private Payment</td> </tr> <tr> <td>2</td> <td>State Payment</td> </tr> <tr> <td>3</td> <td>Coverdell ESA contribution</td> </tr> </tbody> </table>	Indicator	Usage	1	Private Payment	2	State Payment	3	Coverdell ESA contribution
Indicator	Usage										
1	Private Payment										
2	State Payment										
3	Coverdell ESA contribution										
549	Designated Beneficiary	1	Required. Enter a "1" (one) if the recipient is not the designated beneficiary otherwise; enter a blank.								
550–662	Blank	113	Enter blanks.								
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.								
723–748	Blank	26	Enter blanks.								
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.								

**Payee "B" Record — Record Layout Positions 544–750
for Form 1099–Q**

Blank	Trustee to Trustee Transfer Indicator	Type of Tuition Payment	Designated Beneficiary	Blank	Special Data Entries	Blank	Blank or CR/LF
544–546	547	548	549	550–662	663–722	723–748	749–750

(17) Payee "B" Record — Record Layout Positions 544–750 for Form 1099–R

Field Position	Field Title	Length	Description and Remarks																						
544	Blank	1	Enter blank.																						
545–546	Distribution Code (For a detailed explanation of distribution codes, see the <i>2004 Instructions for Forms 1099–R and 5498</i> .) See chart at the end of this record layout for a diagram of valid combinations of Distribution Codes. Note: Codes 1, 2, J, Q and T have been revised for 2004. See the Guide to Distribution Codes in the 2004 Instructions for Forms 1099-R and 5498 for more information.	2	Required. Enter at least one distribution code from the table below. More than one code may apply. If only one code is necessary, it must be entered in position 545 and position 546 will be blank. When using Code P for an IRA distribution under section 408(d)(4) of the Internal Revenue Code, the filer may also enter Code 1, 2, 4, or J if applicable. Only three numeric combinations are acceptable: Codes 8 and 1, 8 and 2, and 8 and 4, on one return. These three combinations can be used only if both codes apply to the distribution being reported. If more than one numeric code is applicable to different parts of a distribution, report two separate "B" Records. Distribution Codes 3, 5, 6, 9, E, F, N, Q, R, S and T cannot be used with any other codes. Distribution Code G may be used with Distribution Code 4 only if applicable. <table border="1"> <thead> <tr> <th><u>Code</u></th> <th><u>Category</u></th> </tr> </thead> <tbody> <tr> <td>1</td> <td>*Early distribution, no known exception (in most cases, under age 59½)</td> </tr> <tr> <td>2</td> <td>*Early distribution, exception applies (under age 59½)</td> </tr> <tr> <td>3</td> <td>*Disability</td> </tr> <tr> <td>4</td> <td>*Death</td> </tr> <tr> <td>5</td> <td>*Prohibited transaction Section 1035 exchange (a tax-free exchange of life insurance, annuity, or endowment contracts)</td> </tr> <tr> <td>6</td> <td>Section 1035 exchange (a tax-free exchange of life insurance, annuity, or endowment contracts)</td> </tr> <tr> <td>7</td> <td>*Normal distribution</td> </tr> <tr> <td>8</td> <td>*Excess contributions plus earnings/excess deferrals (and/or earnings) taxable in 2004</td> </tr> <tr> <td>9</td> <td>Cost of current life insurance protection (premiums paid by a trustee or custodian for current insurance protection)</td> </tr> <tr> <td>A</td> <td>May be eligible for 10-year tax option</td> </tr> </tbody> </table>	<u>Code</u>	<u>Category</u>	1	*Early distribution, no known exception (in most cases, under age 59½)	2	*Early distribution, exception applies (under age 59½)	3	*Disability	4	*Death	5	*Prohibited transaction Section 1035 exchange (a tax-free exchange of life insurance, annuity, or endowment contracts)	6	Section 1035 exchange (a tax-free exchange of life insurance, annuity, or endowment contracts)	7	*Normal distribution	8	*Excess contributions plus earnings/excess deferrals (and/or earnings) taxable in 2004	9	Cost of current life insurance protection (premiums paid by a trustee or custodian for current insurance protection)	A	May be eligible for 10-year tax option
<u>Code</u>	<u>Category</u>																								
1	*Early distribution, no known exception (in most cases, under age 59½)																								
2	*Early distribution, exception applies (under age 59½)																								
3	*Disability																								
4	*Death																								
5	*Prohibited transaction Section 1035 exchange (a tax-free exchange of life insurance, annuity, or endowment contracts)																								
6	Section 1035 exchange (a tax-free exchange of life insurance, annuity, or endowment contracts)																								
7	*Normal distribution																								
8	*Excess contributions plus earnings/excess deferrals (and/or earnings) taxable in 2004																								
9	Cost of current life insurance protection (premiums paid by a trustee or custodian for current insurance protection)																								
A	May be eligible for 10-year tax option																								

(17) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–R (Continued)

Field Position	Field Title	Length	Description and Remarks
		D	*Excess contributions plus earnings/excess deferrals taxable in 2002
		E	Excess annual additions under section 415/certain excess amounts under section 403(b) plans
		F	Charitable gift annuity
		G	Direct rollover and rollover contribution
		J	Early distribution from a Roth IRA. (This code may be used with Code 8 or P.)
		L	Loans treated as deemed distributions under section 72(p)
		N	Recharacterized IRA contribution made for 2004
		P	*Excess contributions plus earnings/excess deferrals taxable in 2003
		Q	Qualified distribution from a Roth IRA. (Distribution from a Roth IRA when the 5-year holding period has been met, and the recipient has reached 59½, has died, or is disabled.)
		R	Recharacterized IRA contribution made for 2003 (See Note.)
		S	*Early distribution from a SIMPLE IRA in first 2 years, no known exception
		T	Roth IRA distribution, exception applies if participant dies or is disabled.

***If reporting a traditional IRA, SEP, or SIMPLE distribution or a Roth conversion, use the IRA/SEP/SIMPLE Indicator of “1” (one) in position 548 of the Payee “B” Record.**

Note: The trustee of the first IRA must report the recharacterization as a distribution on Form 1099-R (and the original contribution and its character on Form 5498).

547	Taxable Amount Not Determined Indicator	1	Enter “1” (one) only if the taxable amount of the payment entered for Payment Amount Field 1 (Gross distribution) of the “B” Record cannot be computed; otherwise, enter blank. (If Taxable Amount Not Determined Indicator is used, enter “0’s” [zeros] in Payment Amount Field 2 of the Payee “B” Record.) Please make every effort to compute the taxable amount.
548	IRA/SEP/SIMPLE Indicator	1	Enter “1” (one) for a traditional IRA, SEP, or SIMPLE distribution or Roth conversion; otherwise, enter a blank. (See Note.) If the IRA/SEP/SIMPLE Indicator is used, enter the amount of the Roth conversion or distribution in Payment Amount Field A of the Payee “B” Record. Do not use the indicator for a distribution from a Roth or for an IRA recharacterization.

Note: For Form 1099-R, generally, report the Roth conversion or total amount distributed from a traditional IRA, SEP, or SIMPLE in Payment Amount Field A (traditional IRA/SEP/SIMPLE distribution or Roth conversion), as well as Payment Amount Field 1 (Gross Distribution) of the “B” Record. Refer to the 2004 Instructions for Forms 1099–R and 5498 for exceptions (Box 2a instructions).

(17) Payee “B” Record — Record Layout Positions 544–750 for Form 1099–R (Continued)

Field Position	Field Title	Length	Description and Remarks
549	Total Distribution Indicator (See Note.)	1	Enter a “1” (one) only if the payment shown for Distribution Amount Code 1 is a total distribution that closed out the account; otherwise, enter a blank.
Note: A total distribution is one or more distributions within one tax year in which the entire balance of the account is distributed. Any distribution that does not meet this definition is not a total distribution.			
550–551	Percentage of Total Distribution	2	Use this field when reporting a total distribution to more than one person, such as when a participant is deceased and a payer distributes to two or more beneficiaries. Therefore, if the percentage is 100, leave this field blank. If the percentage is a fraction, round off to the nearest whole number (for example, 10.4 percent will be 10 percent; 10.5 percent will be 11 percent). Enter the percentage received by the person whose TIN is included in positions 12–20 of the “B” Record. This field must be right-justified, and unused positions must be zero-filled. If not applicable, enter blanks. Filers are not required to enter this information for any IRA distribution or for direct rollovers.
552–662	Blank	111	Enter blanks.
663–722	Special Data Entries	60	This portion of the “B” Record may be used to record information for state or local government reporting or for the filer’s own purposes. The state/payer’s state number, state distribution, name of locality, and/or local distribution can be entered in this field. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.
747–748	Combined Federal/State Code	2	If this payee record is to be forwarded to a state agency as part of the Combined Federal/State Filing Program, enter the valid state code from Part A, Sec. 13, Table 1. For those payers or states not participating in this program, enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

FORM 1099-R DISTRIBUTION CODE CHART 2004

POSITION 546

	blank	1	2	3	4	5	6	7	8	9	A	D	E	F	G	J	L	N	P	Q	R	S	T	
P O S I T I O N	1	X							X			X					X		X					
	2	X							X			X							X					
	3	X																						
	4	X							X		X	X			X		X		X					
	5	X																						
	6	X																						
	7	X										X												
	8	X	X	X		X											X							
	9	X																						
5 4 5	A				X			X																
	D	X	X	X	X																			
	E	X																						
	F	X																						
	G	X				X																		
	J	X							X											X				
	L	X	X			X																		
	N	X																						
	P	X	X	X		X											X							
	Q	X																						
	R	X																						
	S	X																						
	T	X																						

X – Denotes valid combinations

**Payee "B" Record — Record Layout Positions 544–750
for Form 1099-R**

Blank	Distribution Code	Taxable Amount Not Determined Indicator	IRA/SEP/SIMPLE Indicator	Total Distribution Indicator	Percentage of Total Distribution
544	545–546	547	548	549	550–551

Blank	Special Data Entries	State Income Tax Withheld	Local Income Tax Withheld	Combined Federal/State Code	Blank or CR/LF
552–662	663–722	723–734	735–746	747–748	749–750

(18) Payee "B" Record — Record Layout Positions 544–750 for Form 1099-S

Field Position	Field Title	Length	Description and Remarks
544–546	Blank	3	Enter blanks.
547	Property or Services Indicator	1	Required. Enter "1" (one) if the transferor received or will receive property (other than cash and consideration treated as cash in computing gross proceeds) or services as part of the consideration for the property transferred. Otherwise, enter a blank.
548–555	Date of Closing	8	Required. Enter the closing date in the format YYYYMMDD (<i>e.g.</i> , January 5, 2004, would be 20040105). Do not enter hyphens or slashes.
556–594	Address or Legal Description	39	Required. Enter the address of the property transferred (including city, state, and ZIP Code). If the address does not sufficiently identify the property, also enter a legal description, such as section, lot, and block. For timber royalties, enter "TIMBER." If fewer than 39 positions are required, left-justify information and fill unused positions with blanks.
595–662	Blank	68	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.
747–748	Blank	2	Enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

Payee "B" Record — Record Layout Positions 544–750 for Form 1099-S

Blank	Property or Services Indicator	Date of Closing	Address or Legal Description	Blank	Special Data Entries
544–546	547	548–555	556–594	595–662	663–722

State Income Tax Withheld	Local Income Tax Withheld	Blank	Blank or CR/LF
723–734	735–746	747–748	749–750

(19) Payee “B” Record — Record Layout Positions 544–750 for Form 1099-SA

Field Position	Field Title	Length	Description and Remarks														
544	Blank	1	Enter blank.														
545	Distribution Code	1	Required. Enter the applicable code to indicate the type of payment: <table><thead><tr><th><u>Code</u></th><th><u>Category</u></th></tr></thead><tbody><tr><td>1</td><td>Normal distribution</td></tr><tr><td>2</td><td>Excess contribution</td></tr><tr><td>3</td><td>Disability</td></tr><tr><td>4</td><td>Death distribution other than Code 6 (This includes distributions to a spouse, nonspouse, or estate beneficiary in the year of death and to an estate after the year of death.)</td></tr><tr><td>5</td><td>Prohibited transaction</td></tr><tr><td>6</td><td>Death distribution after year of death to a nonspouse beneficiary (Do not use for distribution to an estate.)</td></tr></tbody></table>	<u>Code</u>	<u>Category</u>	1	Normal distribution	2	Excess contribution	3	Disability	4	Death distribution other than Code 6 (This includes distributions to a spouse, nonspouse, or estate beneficiary in the year of death and to an estate after the year of death.)	5	Prohibited transaction	6	Death distribution after year of death to a nonspouse beneficiary (Do not use for distribution to an estate.)
<u>Code</u>	<u>Category</u>																
1	Normal distribution																
2	Excess contribution																
3	Disability																
4	Death distribution other than Code 6 (This includes distributions to a spouse, nonspouse, or estate beneficiary in the year of death and to an estate after the year of death.)																
5	Prohibited transaction																
6	Death distribution after year of death to a nonspouse beneficiary (Do not use for distribution to an estate.)																
546	Blank	1	Enter a blank.														
547	Medicare+Choice MSA Indicator	1	Enter “1” (one) if distributions are from a Medicare+Choice MSA. Otherwise, enter a blank.														
548	<i>HSA Indicator</i>	<i>1</i>	<i>Enter “1” (one) if distributions are from a HSA. Otherwise, enter a blank.</i>														
549	<i>Archer MSA Indicator</i>	<i>1</i>	<i>Enter “1” (one) if distributions are from an Archer MSA. Otherwise, enter a blank.</i>														
550–662	Blank	113	Enter blanks.														
663–722	Special Data Entries	60	This portion of the “B” Record may be used to record information for state or local government reporting or for the filer’s own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.														
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.														
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.														
747–748	Blank	2	Enter blanks.														
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.														

**Payee “B” Record — Record Layout Positions 544–750
for Form 1099-SA**

Blank	Distribution Code	Blank	Medicare+ Choice MSA Indicator	HSA Indicator	Archer MSA Indicator	Blank	Special Data Entries
544	545	546	547	548	549	550–662	663–722

State Income Tax Withheld	Local Income Tax Withheld	Blank	Blank or CR/LF
723–734	735–746	747–748	749–750

(20) Payee “B” Record — Record Layout Positions 544–750 for Form 5498

Field Position	Field Title	Length	Description and Remarks
544–546	Blank	3	Enter blanks.
547	IRA Indicator (Individual Retirement Account)	1	Required, if applicable. Enter “1” (one) if reporting a rollover (Amount Code 2) or Fair Market Value (Amount Code 5) for an IRA. Otherwise, enter a blank.
548	SEP Indicator (Simplified Employee Pension)	1	Required, if applicable. Enter “1” (one) if reporting rollover (Amount Code 2) or Fair Market Value (Amount Code 5) for a SEP. Otherwise, enter a blank.
549	SIMPLE Indicator (Savings Incentive Match Plan for Employees)	1	Required, if applicable. Enter “1” (one) if reporting a rollover (Amount Code 2) or Fair Market Value (Amount Code 5) for a SIMPLE. Otherwise, enter a blank.
550	Roth IRA Indicator	1	Required, if applicable. Enter “1” (one) if reporting a rollover (Amount Code 2) or Fair Market Value (Amount Code 5) for a Roth IRA. Otherwise, enter a blank.
551	RMD Indicator	1	Required. Enter “1” (one) if reporting RMD for 2005. Otherwise, enter a blank.
552–662	Blank	111	Enter blanks.
663–722	Special Data Entries	60	This portion of the “B” Record may be used to record information for state or local government reporting or for the filer’s own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–746	Blank	24	Enter blanks.
747–748	Combined Federal/State Code	2	If this payee record is to be forwarded to a state agency as part of the Combined Federal/State Filing Program, enter the valid state code from Part A, Sec. 13, Table 1. For those payers or states not participating in this program, enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

Note: For special reporting for U.S. Armed Forces use the Special Data Entry field. Refer to *2004 Instructions for Forms 1099-R and 5498* for specific code information.

**Payee "B" Record — Record Layout Positions 544–750
for Form 5498**

Blank	IRA Indicator	SEP Indicator	SIMPLE Indicator	Roth IRA Indicator	RMD Indicator
544–546	547	548	549	550	551

Blank	Special Data Entries	Blank	Combined Federal/ State Code	Blank or CR/LF
552–662	663–722	723–746	747–748	749–750

(21) Payee "B" Record — Record Layout Positions 544–750 for Form 5498–ESA

Field Position	Field Title	Length	Description and Remarks
544–662	Blank	119	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–748	Blank	26	Enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

**Payee "B" Record — Record Layout Positions 544–750
for Form 5498–ESA**

Blank	Special Data Entries	Blank	Blank or CR/LF
544–662	663–722	723–748	749–750

(22) Payee "B" Record — Record Layout Positions 544–750 for Form 5498–SA

Field Position	Field Title	Length	Description and Remarks
544–546	Blank	3	Enter blanks.
547	Medicare+ Choice MSA Indicator	1	Enter "1" (one) for Medicare+Choice MSA. Otherwise, enter a blank.
548	HSA Indicator	1	Enter "1" (one) for HSA. Otherwise, enter a blank.
549	Archer MSA	1	Enter "1" (one) for Archer MSA. Otherwise, enter a blank.
550–662	Blank	113	Enter blanks.

(22) Payee “B” Record — Record Layout Positions 544–750 for Form 5498–SA (Continued)

Field Position	Field Title	Length	Description and Remarks
663–722	Special Data Entries	60	This portion of the “B” Record may be used to record information for state or local government reporting or for the filer’s own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–748	Blank	26	Enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

**Payee “B” Record — Record Layout Positions 544–750
for Form 5498–SA**

Blank	Medicare+ Choice MSA Indicator	<i>HSA Indicator</i>	<i>Archer MSA Indicator</i>	Blank	Special Data Entries	Blank	Blank or CR/LF
544–546	547	548	549	550–662	663–722	723–748	749–750

(23) Payee “B” Record — Record Layout Positions 544–750 for Form W–2G

Field Position	Field Title	Length	Description and Remarks																		
544–546	Blank	3	Enter blanks.																		
547	Type of Wager Code	1	Required. Enter the applicable type of wager code from the table below: <table border="0" style="margin-left: 20px;"><thead><tr><th><u>Code</u></th><th><u>Category</u></th></tr></thead><tbody><tr><td>1</td><td>Horse race track (or off-track betting of a horse track nature)</td></tr><tr><td>2</td><td>Dog race track (or off-track betting of a dog track nature)</td></tr><tr><td>3</td><td>Jai-alai</td></tr><tr><td>4</td><td>State-conducted lottery</td></tr><tr><td>5</td><td>Keno</td></tr><tr><td>6</td><td>Bingo</td></tr><tr><td>7</td><td>Slot machines</td></tr><tr><td>8</td><td>Any other type of gambling winnings</td></tr></tbody></table>	<u>Code</u>	<u>Category</u>	1	Horse race track (or off-track betting of a horse track nature)	2	Dog race track (or off-track betting of a dog track nature)	3	Jai-alai	4	State-conducted lottery	5	Keno	6	Bingo	7	Slot machines	8	Any other type of gambling winnings
<u>Code</u>	<u>Category</u>																				
1	Horse race track (or off-track betting of a horse track nature)																				
2	Dog race track (or off-track betting of a dog track nature)																				
3	Jai-alai																				
4	State-conducted lottery																				
5	Keno																				
6	Bingo																				
7	Slot machines																				
8	Any other type of gambling winnings																				
548–555	Date Won	8	Required. Enter the date of the winning transaction in the format YYYYMMDD (<i>e.g.</i> , January 5, 2004 would be 20040105). Do not enter hyphens or slashes. This is not the date the money was paid, if paid after the date of the race (or game).																		
556–570	Transaction	15	Required. For state-conducted lotteries, enter the ticket or other identifying number. For keno, bingo, and slot machines, enter the ticket or card number (and color, if applicable), machine serial number, or any other information that will help identify the winning transaction. For all others, enter blanks.																		

(23) Payee "B" Record — Record Layout Positions 544–750 for Form W-2G (Continued)

Field Position	Field Title	Length	Description and Remarks
571–575	Race	5	If applicable, enter the race (or game) relating to the winning ticket; otherwise, enter blanks.
576–580	Cashier	5	If applicable, enter the initials or number of the cashier making the winning payment; otherwise, enter blanks.
581–585	Window	5	If applicable, enter the window number or location of the person paying the winning payment; otherwise, enter blanks.
586–600	First ID	15	For other than state lotteries, enter the first identification number of the person receiving the winning payment; otherwise, enter blanks.
601–615	Second ID	15	For other than state lotteries, enter the second identification number of the person receiving the winnings; otherwise, enter blanks.
616–662	Blank	47	Enter blanks.
663–722	Special Data Entries	60	This portion of the "B" Record may be used to record information for state or local government reporting or for the filer's own purposes. Payers should contact the state or local revenue departments for filing requirements. If this field is not utilized, enter blanks.
723–734	State Income Tax Withheld	12	State income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting state tax withheld, this field may be used as a continuation of the Special Data Entries Field.
735–746	Local Income Tax Withheld	12	Local income tax withheld is for the convenience of the filers. This information does not need to be reported to IRS. The payment amount must be right-justified and unused positions must be zero-filled. If not reporting local tax withheld, this field may be used as a continuation of the Special Data Entries Field.
747–748	Blank	2	Enter blanks.
749–750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

Payee "B" Record — Record Layout Positions 544–750 for Form W-2G

Blank	Type of Wager Code	Date Won	Transaction	Race	Cashier	Window	First ID
544–546	547	548–555	556–570	571–575	576–580	581–585	586–600

Second ID	Blank	Special Data Entries	State Income Tax Withheld	Local Income Tax Withheld	Blank	Blank or CR/LF
601–615	616–662	663–722	723–734	735–746	747–748	749–750

Sec. 7. End of Payer “C” Record — General Field Descriptions and Record Layout

.01 The “C” Record consists of the total number of payees and the totals of the payment amount fields filed for each payer and/or particular type of return. The “C” Record must follow the last “B” Record for each type of return for each payer.

.02 For each “A” Record and group of “B” Records on the file, there must be a corresponding “C” Record.

.03 The End of Payer “C” Record is a fixed length of 750 positions. The control fields are each 18 positions in length.

Record Name: End of Payer “C” Record			
Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter “C”
2–9	Number of Payees	8	Required. Enter the total number of “B” Records covered by the preceding “A” Record. Right-justify information and fill unused positions with zeros.
10–15	Blank	6	Enter blanks.
16–33	Control Total 1	18	Required. Accumulate totals of any payment amount fields in the “B” Records into the appropriate control total fields of the “C” Record. Control totals must be right-justified and unused control total fields zero-filled. All control total fields are 18 positions in length. Each payment amount must contain U.S. dollars and cents. The right-most two positions represent cents in the payment amount fields.
34–51	Control Total 2	18	
52–69	Control Total 3	18	
70–87	Control Total 4	18	
88–105	Control Total 5	18	
106–123	Control Total 6	18	
124–141	Control Total 7	18	
142–159	Control Total 8	18	
160–177	Control Total 9	18	
178–195	Control Total A	18	
196–213	Control Total B	18	
214–231	Control Total C	18	
232–249	Control Total D	18	
250–267	Control Total E	18	
268–499	Blank	232	Enter blanks.
500–507	Record Sequence Number	8	Required. Enter the number of the record as it appears within your file. The record sequence number for the “T” record will always be “1” (one), since it is the first record on your file and you can have only one “T” record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, i.e., 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the “T” record sequence number would appear as “00000001” in the field, the first “A” record would be “00000002”, the first “B” record, “00000003”, the second “B” record, “00000004” and so on until you reach the final record of the file, the “F” record.

Record Name: End of Payer "C" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
508-748	Blank	241	Enter blanks.
749-750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

End of Payer "C" Record — Record Layout

Record Type	Number of Payees	Blank	Control Total 1	Control Total 2	Control Total 3	Control Total 4	Control Total 5	Control Total 6
1	2-9	10-15	16-33	34-51	52-69	70-87	88-105	106-123

Control Total 7	Control Total 8	Control Total 9	Control Total A	Control Total B	Control Total C	Control Total D	Control Total E	Blank
124-141	142-159	160-177	178-195	196-213	214-231	232-249	250-267	268-499

Record Sequence Number	Blank	Blank or CR/LF
500-507	508-748	749-750

Sec. 8. State Totals "K" Record — General Field Descriptions and Record Layout

.01 The State Totals "K" Record is a summary for a given payer and a given state in the Combined Federal/State Filing Program, used **only** when state reporting approval has been granted.

.02 The "K" Record will contain the total number of payees and the total of the payment amount fields filed by a given payer for a given state. The "K" Record(s) must be written after the "C" Record for the related "A" Record. A file format diagram is located at the end of Part D.

.03 The "K" Record is a fixed length of 750 positions. The control total fields are each 18 positions in length.

.04 In developing the "K" Record, for example, if a payer used Amount Codes 1, 3, and 6 in the "A" Record, the totals from the "B" Records coded for this state would appear in Control Totals 1, 3, and 6 of the "K" Record.

.05 There must be a separate "K" Record for **each state** being reported.

.06 Refer to Part A, Sec. 13, for the requirements and conditions that **must** be met to file via this program.

Record Name: State Totals "K" Record

Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter "K".
2-9	Number of Payees	8	Required. Enter the total number of "B" Records being coded for this state. Right-justify information and fill unused positions with zeros.
10-15	Blank	6	Enter blanks.

Record Name: State Totals "K" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
16-33	Control Total 1	18	Required. Accumulate totals of any payment amount fields in the "B" Records for each state being reported into the appropriate control total fields of the appropriate "K" Record. Each payment amount must contain U.S. dollars and cents. The right-most two positions represent cents in the payment amount fields. Control totals must be right-justified and unused control total fields zero-filled. All control total fields are 18 positions in length.
34-51	Control Total 2	18	
52-69	Control Total 3	18	
70-87	Control Total 4	18	
88-105	Control Total 5	18	
106-123	Control Total 6	18	
124-141	Control Total 7	18	
142-159	Control Total 8	18	
160-177	Control Total 9	18	
178-195	Control Total A	18	
196-213	Control Total B	18	
214-231	Control Total C	18	
232-249	Control Total D	18	
250-267	Control Total E	18	
268-499	Blank	232	Enter blanks.
500-507	Record Sequence Number	8	Required. Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can have only one "T" record in the file. Each record, thereafter, must be incremented by one in ascending numerical sequence, i.e., 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the first "A" record would be "00000002", the first "B" record, "00000003", the second "B" record, "00000004" and so on until you reach the final record of the file, the "F" record.
508-706	Blank	199	Enter blanks.
707-724	State Income Tax Withheld Total	18	State income tax withheld total is for the convenience of the filers. Aggregate totals of the state income tax withheld field in the Payee "B" Records; otherwise, enter blanks.
725-742	Local Income Tax Withheld Total	18	Local income tax withheld total is for the convenience of the filers. Aggregate totals of the local income tax withheld field in the Payee "B" Records; otherwise, enter blanks.
743-746	Blank	4	Enter blanks.
747-748	Combined Federal/State Code	2	Required. Enter the code assigned to the state which is to receive the information. (Refer to Part A, Sec. 13, Table 1.)
749-750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

**State Totals “K” Record — Record Layout Forms 1099-DIV, 1099-G, 1099-INT, 1099-MISC,
1099-OID, 1099-PATR, 1099-R, and 5498**

Record Type	Number of Payees	Blank	Control Total 1	Control Total 2	Control Total 3	Control Total 4	Control Total 5	Control Total 6
1	2-9	10-15	16-33	34-51	52-69	70-87	88-105	106-123

Control Total 7	Control Total 8	Control Total 9	Control Total A	Control Total B	Control Total C	Control Total D	Control Total E	Blank
124-141	142-159	160-177	178-195	196-213	214-231	232-249	250-267	268-499

Record Sequence Number	Blank	State Income Tax Withheld Total	Local Income Tax Withheld Total	Blank	Combined Federal/State Code	Blank or CR/LF
500-507	508-706	707-724	725-742	743-746	747-748	749-750

Sec. 9. End of Transmission “F” Record — General Field Descriptions and Record Layout

- .01 The End of Transmission “F” Record is a summary of the number of payers in the entire file.
- .02 The “F” Record is a fixed length of 750 positions.
- .03 This record must be written after the last “C” Record (or last “K” Record, when applicable) of the entire file.

Record Name: End of Transmission “F” Record

Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter “F”.
2-9	Number of “A” Records	8	Enter the total number of Payer “A” Records in the entire file (right-justify and zero-fill) or enter all zeros.
10-30	Zero	21	Enter zeros.
31-49	Blank	19	Enter blanks.
50-57	Total Number of payees	8	Enter the total number of Payee “B” Records reported in the file. Right-justify information and fill unused positions with zeros. If you have entered this total in the “T” Record, you may leave this field blank.
58-499	Blank	442	Enter blanks.

Record Name: End of Transmission "F" Record

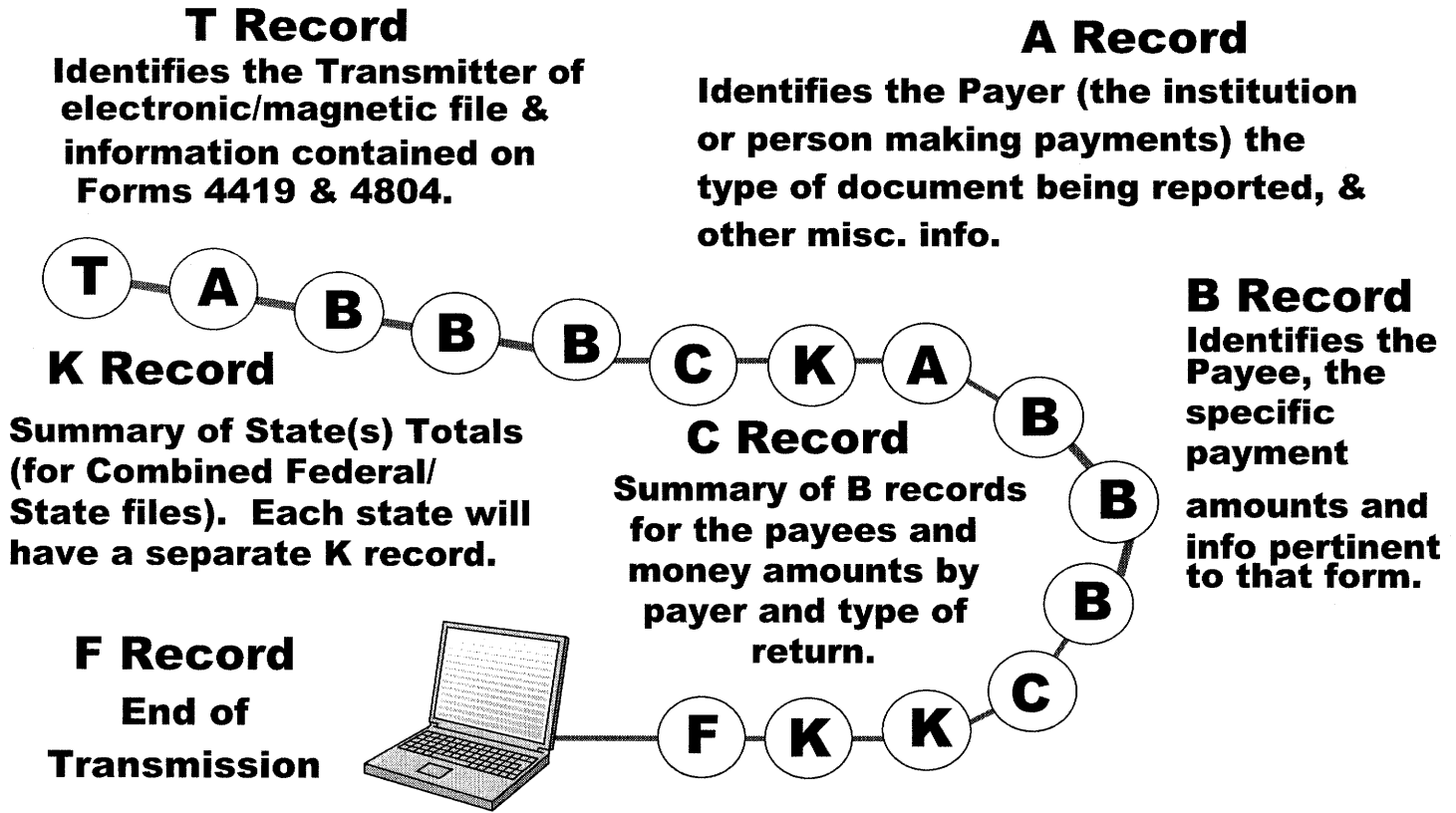
Field Position	Field Title	Length	Description and Remarks
500-507	Record Sequence Number	8	Required. Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can only have one "T" record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, i.e., 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the first "A" record would be "00000002", the first "B" record, "00000003", the second "B" record, "00000004" and so on until you reach the final record of the file, the "F" record.
508-748	Blank	241	Enter blanks.
749-750	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

End of Transmission "F" Record — Record Layout

Record Type	Number of "A" Records	Zero	Blank	Total Number of Payees	Blank	Record Sequence Number	Blank	Blank or CR/LF
1	2-9	10-30	31-49	50-57	58-499	500-507	508-748	749-750

File Format

Each record must be 750 positions.



PART E. EXTENSIONS OF TIME AND WAIVERS

Sec. 1. General — Extensions

.01 An extension of time to file may be requested for Forms 1098, 1099, 5498, 5498-SA, 5498-ESA, W-2G, W-2 series, 8027 and 1042-S.

.02 Form 8809, Application for Extension of Time To File Information Returns, should be submitted to IRS/MCC at the address listed in .08 of this section. This form may be used to request an extension of time to file information returns submitted on paper, electronically or magnetically to the IRS. Use a separate Form 8809 for each method of filing information returns you intend to use, *i.e.*, electronically and/or magnetically.

.03 To be considered, an extension request must be postmarked or transmitted by the due date of the returns; otherwise, the request will be denied. (See Part A, Sec. 9, for due dates.) If requesting an extension of time to file several types of forms, use one Form 8809; however, Form 8809 or file must be postmarked no later than the earliest due date. For example, if requesting an extension of time to file both Forms 1099-INT and 5498, submit Form 8809 on or before February 28, 2005.

.04 As soon as it is apparent that a 30-day extension of time to file is needed, an extension request should be submitted. It will take a minimum of 30 days for IRS/MCC to respond to an extension request. Generally, IRS/MCC does not begin processing extension requests until January. Extension requests received prior to January are input on a first come, first serve basis.

.05 Under certain circumstances, a request for an extension of time may be denied. When a denial letter is received, any additional or necessary information may be resubmitted within 20 days.

.06 Requesting an extension of time for multiple payers (50 or less) may be done by submitting Form 8809 and attaching a list of the payer names and associated TINs (EIN or SSN). **The listing must be attached to ensure an extension is recorded for all payers.** Form 8809 may be computer-generated or photocopied. Be sure to use the most recently updated version and include all the pertinent information.

.07 Requests for an extension of time to file for more than 50 payers are **required** to be submitted electronically or magnetically. IRS encourages requests for 10 to 50 payers to be filed electronically or magnetically. (See Sec. 3, for the record layout.) The request may be filed electronically, on tape cartridges, and 3¹/₂-inch diskettes.

.08 All requests for an extension of time filed on Form 8809 or magnetic media should be sent using the following address:

IRS—Martinsburg Computing Center
Information Reporting Program
Attn: Extension of Time Coordinator
240 Murall Drive
Kearneysville, WV 25430

Note: Due to the large volume of mail received by IRS/MCC and the time factor involved in processing Extension of Time (EOT) requests, it is imperative that the attention line be present on all envelopes or packages containing Form 8809.

.09 Requests for extensions of time to file postmarked by the United States Postal Service on or before the due date of the returns, and delivered by United States mail to IRS/MCC after the due date, are treated as timely under the “timely mailing as timely filing” rule. A similar rule applies to designated private delivery services (PDSs). See Part A, Sec. 9, for more information on PDSs. For requests delivered by a designated PDS, but through a non-designated service, the actual date of receipt by IRS/MCC will be used as the filing date.

.10 Transmitters requesting an extension of time for multiple payers will receive one approval letter, accompanied by a list of payers covered under that approval.

.11 If an additional extension of time is needed, a second Form 8809 or file must be filed by the initial extended due date. Check line 7 on the form to indicate that an additional extension is being requested. A second 30-day extension will be approved only in cases of extreme hardship or catastrophic event. **If requesting a second 30-day extension of time, submit the information return files as soon as prepared. Do not wait for MCC’s response to your second extension request.**

.12 If an extension request is approved, the approval letter should be kept on file. **DO NOT** send the approval letter or copy of the approval letter to IRS/MCC with the magnetic media file or to the service center where the paper returns are filed.

.13 Request an extension for only one tax year.

.14 A signature is not required when requesting a 30 day extension. If a second 30 day extension is requested, the Form 8809 **MUST** be signed.

.15 Failure to properly complete and sign Form 8809 may cause delays in processing the request or result in a denial. Carefully read and follow the instructions on the back of Form 8809.

.16 Form 8809 may be obtained by calling **1-800-TAX-FORM (1-800-829-3676)**. The form is also available on the **IRS website at www.irs.gov**. A copy of Form 8809 is also provided in the back of Publication 1220.

Sec. 2. Specifications for Electronic Filing or Magnetic Media Extensions of Time

.01 The specifications in Sec. 3 include the required 200-byte record layout for extensions of time to file requests submitted electronically or magnetically. Also included are the instructions for the information that is to be entered in the record. **Filers are advised to read this section in its entirety to ensure proper filing.**

.02 If a filer does not have an IRS/MCC assigned Transmitter Control Code (TCC), Form 4419, Application for Filing Information Returns Electronically/Magnetically, **must** be submitted to obtain a TCC. This number **must** be used to submit an extension request electronically/magnetically. (See Part A, Sec. 6.)

.03 For extension requests filed on magnetic media, the transmitter must mail the completed Form 8809, Application for Extension of Time To File Information Returns, in the same package as the corresponding media or fax it to 304-264-5602. For extension requests filed electronically, the transmitter must fax Form 8809 the same day the transmission is made.

.04 **Transmitters submitting an extension of time electronically or magnetically should not submit a list of payer names and TINs with Form 8809 since this information is included on the electronic or magnetic file. However, Line 6 of Form 8809 must be completed with the total number of records included on the electronic file or magnetic media.**

.05 Do not submit tax year 2004 extension requests filed on magnetic media before *January 1, 2005*, or electronically before *January 5, 2005*.

.06 Each piece of magnetic media **must** have an external media label containing the following information:

- (a) Transmitter name
- (b) Transmitter Control Code (TCC)
- (c) Tax year
- (d) The words “Extension of Time”
- (e) Record count

.07 Electronic Filing, Tape Cartridge, and 3 1/2-inch Diskette specifications for extensions are the same as the specifications for filing of information returns. (See Part B, or C for specific technical information.)

Sec. 3. Record Layout — Extension of Time

.01 Positions 6 through 188 of the following record should contain information about the **payer** for whom the extension of time to file is being requested. Do not enter transmitter information in these fields. **Only one TCC may be present in a file.**

Record Layout for Extension of Time

Field Position	Field Title	Length	Description and Remarks
1–5	Transmitter Control Code	5	Required. Enter the five-digit Transmitter Control Code (TCC) issued by IRS. Only one TCC per file is acceptable.
6–14	Payer TIN	9	Required. Must be the valid nine-digit EIN/SSN assigned to the payer. Do not enter blanks, hyphens or alpha characters. All zeros, ones, twos, etc., will have the effect of an incorrect TIN. For foreign entities that are not required to have a TIN, this field may be blank; however, the Foreign Entity Indicator, position 187, must be set to “X.”
15–54	Payer Name	40	Required. Enter the name of the payer whose TIN appears in positions 6–14. Left-justify information and fill unused positions with blanks.
55–94	Second Payer Name	40	If additional space is needed, this field may be used to continue name line information (<i>e.g.</i> , c/o First National Bank); otherwise, enter blanks.
95–134	Payer Address	40	Required. Enter the payer’s address. Street address should include number, street, apartment or suite number (or PO Box if mail is not delivered to a street address).
135–174	Payer City	40	Required. Enter payer city, town, or post office.
175–176	Payer State	2	Required. Enter the payer valid U.S. Postal Service state abbreviation. (Refer to Part A, Sec. 15.)
177–185	Payer ZIP Code	9	Required. Enter payer ZIP Code. If using a five-digit ZIP Code, left-justify information and fill unused positions with blanks.
186	Document Indicator (See Note.)	1	Required. Enter the appropriate document code that indicates the form for which you are requesting an extension of time.

Code	Document
1	W-2
2	1098, 1098-E, 1098-T, 1099-A, 1099-B, 1099-C, 1099-CAP, 1099-DIV, 1099-G, 1099-H, 1099-INT, 1099-LTC, 1099-MISC, 1099-OID, 1099-PATR, 1099-Q, 1099-R, 1099-S, 1099-SA, or W-2G
3	5498
4	1042-S

Record Layout for Extension of Time (Continued)

Field Position	Field Title	Length	Description and Remarks
			<u>Code</u>
			<u>Document</u>
			5 REMIC Documents (1099-INT or 1099-OID)
			6 5498-SA
			7 5498-ESA
<p>Note: Do not enter any other values in this field. Submit a separate record for each document. For example, if you are requesting an extension for Form 1099-INT and Form 5498 for the same payee, submit one record with "2" coded in this field and another record with "3" coded in this field. If you are requesting an extension for Form 1099-DIV and Form 1099-MISC for the same payer, submit one record with "2" coded in this field.</p>			
187	Foreign Entity Indicator	1	Enter "X" if the payer is a foreign entity.
188	Recipient Request Indicator	1	Enter "X" if the extension request is to furnish statements to the recipients of the information return. (See Note.)
<p>Note: A separate file is required for this type of extension request. A file must either contain all blanks or all X's in this field.</p>			
189-198	Blank	10	Enter blanks.
199-200	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.

Extension of Time Record Layout

Transmitter Control Code	Payer TIN	Payer Name	Second Payer Name	Payer Address	Payer City	Payer State
1-5	6-14	15-54	55-94	95-134	135-174	175-176

Payer ZIP Code	Document Indicator	Foreign Entity Indicator	Recipient Request Indicator	Blank	Blank or CR/LF
177-185	186	187	188	189-198	199-200

Sec. 4. Extension of Time for Recipient Copies of Information Returns

.01 Request an **extension of time to furnish the statements to recipients** of Forms 1098, 1099 series, 5498 series, W-2G, W-2 series, and 1042-S by submitting a letter to IRS/MCC at the address listed in Part E, Sec. 1.08. The letter should contain the following information:

- (a) Payer name
- (b) TIN
- (c) Address
- (d) Type of Return
- (e) Specify that the extension request is to provide statements to recipients
- (f) Reason for delay
- (g) Signature of payer or duly authorized person

.02 Requests for an extension of time to furnish statements to recipients of Forms 1098, 1099 series, 5498 series, W-2G, W-2 series, and 1042-S are not automatically approved; however, if approved, generally an extension will allow a **MAXIMUM** of 30 additional days from the due date. The request must be postmarked by the date on which the statements are due to the recipients.

.03 Generally, only the payer may sign the letter requesting the extension for recipient copies. A transmitter must have a contractual agreement with the filers to submit extension requests on their behalf. This should be stated in your letter of request for recipient copy extensions. If you are requesting an extension for multiple payers electronically or magnetically, you must use the format specifications in Sec. 3.

.04 Requests for a **recipient** extension of time to file for more than 50 payers are **required** to be submitted electronically or magnetically. IRS encourages requests for 10 to 50 payers to be filed electronically or magnetically. (See Sec. 3, for the record layout.) The request may be filed electronically, on tape cartridges, or 3½-inch diskettes.

Sec. 5. Form 8508, Request for Waiver From Filing Information Returns on Magnetic Media

.01 If a payer is required to file on magnetic media but fails to do so (or fails to file electronically in lieu of magnetic media filing) and does not have an approved waiver on record, the payer will be subject to a penalty of \$50 per return in excess of 250. (For penalty information, refer to the Penalty Section of the 2004 General Instructions for Forms 1099, 1098, 5498, and W-2G.)

.02 If payers are required to file original or corrected returns on magnetic media, but such filing would create an undue hardship, they may request a waiver from these filing requirements by submitting Form 8508, Request for Waiver From Filing Information Returns on Magnetic Media, to IRS/MCC. Form 8508 can be obtained on the IRS website at www.irs.gov or by calling toll-free 1-800-829-3676.

.03 Even though a payer may submit as many as 249 corrections on paper, IRS encourages electronic or magnetic filing of corrections. Once the 250 threshold has been met, filers are required to submit any returns of 250 or more electronically or magnetically. However, if a waiver for original documents is approved, any corrections for the same type of returns will be covered under this waiver.

.04 Generally, only the payer may sign Form 8508. A transmitter may sign if given power of attorney; however, a letter signed by the payer stating this fact must be attached to Form 8508.

.05 A transmitter must submit a separate Form 8508 for each payer. Do not submit a list of payers.

.06 All information requested on Form 8508 must be provided to IRS for the request to be processed.

.07 The waiver, if approved, will provide exemption from the magnetic media filing requirement for the current tax year only. Payers may not apply for a waiver for more than one tax year at a time; application must be made each year a waiver is necessary.

.08 Form 8508 may be photocopied or computer-generated as long as it contains all the information requested on the original form.

.09 Filers are encouraged to submit Form 8508 to IRS/MCC at least 45 days before the due date of the returns. Generally, IRS/MCC does not process waiver requests until January. Waiver requests received prior to January are processed on a first come, first serve basis.

.10 All requests for a waiver should be sent using the following address:

IRS—Martinsburg Computing Center
Information Reporting Program
240 Murall Drive
Kearneysville, WV 25430

.11 File Form 8508 for the W-2 series of forms with IRS/MCC, not SSA.

.12 Waivers are evaluated on a case-by-case basis and are approved or denied based on criteria set forth in the regulations under section 6011(e) of the Internal Revenue Code. The transmitter must allow a minimum of 30 days for IRS/MCC to respond to a waiver request.

.13 If a waiver request is approved, keep the approval letter on file. **DO NOT** send a copy of the approved waiver to the service center where the paper returns are filed.

.14 An approved waiver only applies to the requirement for filing information returns electronically/magnetically. The payer must still timely file information returns on the official IRS paper forms or an acceptable substitute form with the appropriate service center.

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also Part 1, §§ 1031; 1.1031(a)-1; 1.1031(k)-1.)

Rev. Proc. 2004-51

SECTION 1. PURPOSE

This revenue procedure modifies sections 1 and 4 of Rev. Proc. 2000-37,

2000-2 C.B. 308, to provide that Rev. Proc. 2000-37 does not apply if the taxpayer owns the property intended to qualify as replacement property before initiating a qualified exchange accommodation arrangement (QEAA).

SECTION 2. BACKGROUND

.01 Section 1031(a) provides that no gain or loss is recognized on the exchange

of property held for productive use in a trade or business or for investment if the property is exchanged solely for property of like kind that is to be held either for productive use in a trade or business or for investment.

.02 Section 1031(a)(3) allows taxpayers to structure deferred like-kind exchanges. Under § 1031(a)(3), property may be treated as like-kind property if it is (A) identified as property to be received in

the exchange (replacement property) on or before the day that is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange (relinquished property), and (B) received before the earlier of the date that is 180 days after the date on which the taxpayer transfers the relinquished property, or the due date (determined with regard to extensions) for the transferor's federal income tax return for the taxable year in which the transfer of the relinquished property occurs.

.03 Rev. Proc. 2000-37 addresses "parking" transactions. See sections 2.05 and 2.06 of Rev. Proc. 2000-37. Parking transactions typically are designed to "park" the desired replacement property with an accommodation party until such time as the taxpayer arranges for the transfer of the relinquished property to the ultimate transferee in a simultaneous or deferred exchange. Once such a transfer is arranged, the taxpayer transfers the relinquished property to the accommodation party in exchange for the replacement property, and the accommodation party transfers the relinquished property to the ultimate transferee. In other situations, an accommodation party may acquire the desired replacement property on behalf of the taxpayer and immediately exchange that property with the taxpayer for the relinquished property, thereafter holding the relinquished property until the taxpayer arranges for a transfer of the property to the ultimate transferee. Rev. Proc. 2000-37 provides procedures for qualifying parking transactions as like-kind exchanges in situations in which the taxpayer has a genuine intent to accomplish a like-kind exchange at the time that the taxpayer arranges for the acquisition of the replacement property and actually accomplishes the exchange within a short time thereafter.

.04 Section 4.01 of Rev. Proc. 2000-37 provides that the Internal Revenue Service will not challenge the qualification of property held in a QEAA "as either 'replacement property' or 'relinquished property' (as defined in § 1.1031(k)-1(a)) for purposes of § 1031 and the regulations thereunder, or the treatment of the exchange accommodation titleholder as the beneficial owner of such property..." Thus, taxpayers are not required to es-

tablish that the exchange accommodation titleholder bears the economic benefits and burdens of ownership and is the "owner" of the property. The Service and Treasury Department are aware that some taxpayers have interpreted this language to permit a taxpayer to treat as a like-kind exchange a transaction in which the taxpayer transfers property to an exchange accommodation titleholder and receives that same property as replacement property in a purported exchange for other property of the taxpayer.

.05 An exchange of real estate owned by a taxpayer for improvements on land owned by the same taxpayer does not meet the requirements of § 1031. See *DeCleene v. Commissioner*, 115 T.C. 457 (2000); *Bloomington Coca-Cola Bottling Co. v. Commissioner*, 189 F.2d 14 (7th Cir. 1951). Moreover, Rev. Rul. 67-255, 1967-2 C.B. 270, holds that a building constructed on land owned by a taxpayer is not of a like kind to involuntarily converted land of the same taxpayer. Rev. Proc. 2000-37 does not abrogate the statutory requirement of § 1031 that the transaction be an exchange of like-kind properties.

.06 The Service and Treasury Department are continuing to study parking transactions, including transactions in which a person related to the taxpayer transfers a leasehold in land to an accommodation party and the accommodation party makes improvements to the land and transfers the leasehold with the improvements to the taxpayer in exchange for other real estate.

SECTION 3. SCOPE

This revenue procedure applies to taxpayers applying the safe harbor rules set forth in Rev. Proc. 2000-37 in structuring like-kind exchanges.

SECTION 4. APPLICATION

.01 Section 1 of Rev. Proc. 2000-37 is modified to read as follows:

SECTION 1. PURPOSE

This revenue procedure provides a safe harbor under which the Internal Revenue Service will treat an exchange accommodation titleholder as the beneficial owner of property for federal income tax purposes if the property is held in a "qualified

exchange accommodation arrangement" (QEAA), as defined in section 4.02 of this revenue procedure.

.02 Section 4.01 of Rev. Proc. 2000-37 is modified to read as follows:

SECTION 4. QUALIFIED EXCHANGE ACCOMMODATION ARRANGEMENTS

.01 *In general.* The Service will treat an exchange accommodation titleholder as the beneficial owner of property for federal income tax purposes if the property is held in a QEAA. Property held in a QEAA may, therefore, qualify as either "replacement property" or "relinquished property" (as defined in § 1.1031(k)-1(a)) in a tax-deferred like-kind exchange if the exchange otherwise meets the requirements for deferral of gain or loss under § 1031 and the regulations thereunder.

.03 Section 4.05 is added to Rev. Proc. 2000-37 to read as follows:

.05 *Limitation.* This revenue procedure does not apply to replacement property held in a QEAA if the property is owned by the taxpayer within the 180-day period ending on the date of transfer of qualified *indicia* of ownership of the property to an exchange accommodation titleholder.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2000-37 is modified.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective for transfers on or after July 20, 2004, of qualified *indicia* of ownership to exchange accommodation titleholders (as described in section 4.02(1) of Rev. Proc. 2000-37).

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is J. Peter Baumgarten of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Mr. Baumgarten at (202) 622-4920 (not a toll-free call).

Part IV. Items of General Interest

Announcement of Disciplinary Actions Involving Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries — Suspensions, Censures, Disbarments, and Resignations

Announcement 2004-63

Under Title 31, Code of Federal Regulations, Part 10, attorneys, certified public accountants, enrolled agents, and enrolled actuaries may not accept assistance from, or assist, any person who is under disbarment or suspension from practice before the Internal Revenue Service if the assistance relates to a matter constituting practice before the Internal Revenue Service and may not knowingly aid or abet another

person to practice before the Internal Revenue Service during a period of suspension, disbarment, or ineligibility of such other person.

To enable attorneys, certified public accountants, enrolled agents, and enrolled actuaries to identify persons to whom these restrictions apply, the Director, Office of Professional Responsibility, will announce in the Internal Revenue Bulletin

their names, their city and state, their professional designation, the effective date of disciplinary action, and the period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks.

Disbarments From Practice Before the Internal Revenue Service After Notice and an Opportunity for a Proceeding

Under Title 31, Code of Federal Regulations, Part 10, after notice and an opportunity for a proceeding before an adminis-

trative law judge, the following individuals have been disbarred from practice before the Internal Revenue Service:

Name	Address	Designation	Effective Date
Banister, Joseph R.	San Jose, CA	CPA	June 25, 2004

Suspensions From Practice Before the Internal Revenue Service After Notice and an Opportunity for a Proceeding

Under Title 31, Code of Federal Regulations, Part 10, after notice and an opportunity for a proceeding before an ad-

ministrative law judge, the following individuals have been placed under suspension

from practice before the Internal Revenue Service:

Name	Address	Designation	Effective Date
Stukes, Donald A.	Pound Ridge, NY	CPA	May 13, 2004 to May 11, 2005
Moore, Earl	Riverview, FL	CPA	March 26, 2004 to March 24, 2006

Consent Suspensions From Practice Before the Internal Revenue Service

Under Title 31, Code of Federal Regulations, Part 10, an attorney, certified public accountant, enrolled agent, or enrolled actuary, in order to avoid institution or conclusion of a proceeding for his or her disbarment or suspension from practice before the Internal Revenue Service, may offer his or her consent to suspension from

such practice. The Director, Office of Professional Responsibility, in his discretion, may suspend an attorney, certified public accountant, enrolled agent, or enrolled actuary in accordance with the consent offered.

The following individuals have been placed under consent suspension from

practice before the Internal Revenue Service:

Name	Address	Designation	Date of Suspension
Bell, Don W.	Grand Junction, CO	Enrolled Agent	Indefinite from April 1, 2004
Lentz, Carole A.	Mastic, NY	Enrolled Agent	Indefinite from April 23, 2004
Cummiskey Jr., Edward R.	Warwick, NY	Enrolled Agent	Indefinite from April 23, 2004
Goble, Dennis R.	Valparaiso, IN	CPA	Indefinite from April 26, 2004
Grant, Elaine C.	Woodway, WA	Enrolled Agent	May 1, 2004 to October 31, 2004
Rivera, Eduardo M.	Torrence, CA	Attorney	May 1, 2004 to October 29, 2006
Masengale, Thomas J.	Indianapolis, IN	Enrolled Agent	Indefinite from May 1, 2004
Cohick, Jeffrey S.	Newville, PA	Enrolled Agent	May 1, 2004 to October 30, 2004
Bach, Royce E.	Deer Park, TX	Enrolled Agent	Indefinite from May 27, 2004
McMillin, Juanell	Austin, TX	Enrolled Agent	Indefinite from May 28, 2004
Silva, Hesmeregildo V.	Livermore, CA	Enrolled Agent	Indefinite from May 28, 2004
Grossman, Richard	Durham, NC	Attorney	Indefinite from June 1, 2004

Name	Address	Designation	Date of Suspension
Schnieders, Joseph A.	St. Louis, MO	Enrolled Agent	Indefinite from June 1, 2004
Rahn, Miriam C.	Hutchinson, MN	Enrolled Agent	Indefinite from June 8, 2004
Tarantur, Dale B.	Glenview, IL	CPA	Indefinite from June 15, 2004
Derby, Mark	West Newton, MA	CPA	Indefinite from June 15, 2004
Miller, Winfred J.	Harrisonburg, VA	CPA	Indefinite from June 30, 2004
Croom, John A.	Austin, TX	CPA	Indefinite from July 1, 2004
Dion, Paul	Middletown, RI	CPA	Indefinite from July 8, 2004
Todd, Debra R.	Leander, TX	Enrolled Agent	Indefinite from August 30, 2004

Expedited Suspensions From Practice Before the Internal Revenue Service

Under Title 31, Code of Federal Regulations, Part 10, the Director, Office of Professional Responsibility, is authorized to immediately suspend from practice before the Internal Revenue Service any practitioner who, within five years from the date

the expedited proceeding is instituted (1) has had a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause or (2) has been convicted of certain crimes.

The following individuals have been placed under suspension from practice before the Internal Revenue Service by virtue of the expedited proceeding provisions:

Name	Address	Designation	Date of Suspension
Somerville, Sally L.	Havre de Grace, MD	Attorney	Indefinite from May 3, 2004
Simon, Laurence M.	Englishtown, NJ	CPA	Indefinite from May 10, 2004
Taylor, Joelle T.	Carolina Beach, NC	CPA	Indefinite from May 10, 2004

Name	Address	Designation	Date of Suspension
Becker, Joseph C.	Austin, TX	CPA	Indefinite from May 10, 2004
Maffongelli Jr., Joseph	Montclair, NJ	Attorney	Indefinite from May 10, 2004
Lence, John A.	Kalispell, MT	CPA	Indefinite from May 21, 2004
McWade, Kenneth W.	Kaliua, HI	Attorney	Indefinite from June 9, 2004
Sims, William A.	Sausalito, CA	Attorney	Indefinite from June 9, 2004
Sommer, Peter J.	Baltimore, MD	Attorney	Indefinite from June 21, 2004
Eisenberg, Alan D.	Whitefish Bay, WI	Attorney	Indefinite from June 21, 2004
Litwin, Martin E.	Highland Park, IL	Attorney	Indefinite from June 21, 2004
Kiernat, Bruce E.	St. Paul, MN	Attorney	Indefinite from July 1, 2004

Resignations of Enrolled Agents

Under Title 31, Code of Federal Regulations, Part 10, an enrolled agent, in order to avoid the institution or conclusion of a proceeding for his or her disbarment or suspension from practice before the In-

ternal Revenue Service, may offer his or her resignation as an enrolled agent. The Director, Office of Professional Responsibility, in his discretion, may accept the offered resignation.

The Director, Office of Professional Responsibility, has accepted offers of resignation as an enrolled agent from the following individuals:

Name	Address	Date of Resignation
Murphy, Claire A.	Viera, FL	May 10, 2004
Murphy, John W.	Viera, FL	May 10, 2004

Censure Issued by Consent

Under Title 31, Code of Federal Regulations, Part 10, in lieu of a proceeding being instituted or continued, an attorney, certified public accountant, enrolled agent,

or enrolled actuary, may offer his or her consent to the issuance of a censure. Censure is a public reprimand.

The following individuals have consented to the issuance of a Censure:

Name	Address	Designation	Date of Censure
Clifton, Michael J.	Augusta, KS	CPA	May 12, 2004
Flaherty, Patrick J.	Traverse City, MI	CPA	May 19, 2004
Monroy, Frances	Petaluma, CA	Enrolled Agent	May 27, 2004
Pearson, Michael N.	Houston, TX	Enrolled Agent	June 7, 2004

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2004–65

The names of organizations that no longer qualifies as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date

of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that

are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on November 5, 2001, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Heritage Resources II, Inc.
Mercer, PA
Total Impact Center for Youth
Houston, TX

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A

and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance

of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.

ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.

PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List¹

Bulletins 2004–27 through 2004–33

Announcements:

2004-55, 2004-27 I.R.B. 15
2004-56, 2004-28 I.R.B. 41
2004-57, 2004-27 I.R.B. 15
2004-58, 2004-29 I.R.B. 66
2004-59, 2004-30 I.R.B. 94
2004-60, 2004-29 I.R.B. 43
2004-61, 2004-29 I.R.B. 67
2004-62, 2004-30 I.R.B. 103
2004-63, 2004-31 I.R.B. 149
2004-65, 2004-33 I.R.B. 300

Notices:

2004-41, 2004-28 I.R.B. 31
2004-43, 2004-27 I.R.B. 10
2004-44, 2004-28 I.R.B. 32
2004-45, 2004-28 I.R.B. 33
2004-46, 2004-29 I.R.B. 46
2004-47, 2004-29 I.R.B. 48
2004-48, 2004-30 I.R.B. 88
2004-49, 2004-30 I.R.B. 88
2004-50, 2004-33 I.R.B. 196
2004-51, 2004-30 I.R.B. 89
2004-52, 2004-32 I.R.B. 168
2004-53, 2004-33 I.R.B. 209
2004-54, 2004-33 I.R.B. 209

Proposed Regulations:

REG-153841-02, 2004-31 I.R.B. 145
REG-131486-03, 2004-28 I.R.B. 36
REG-150562-03, 2004-32 I.R.B. 175
REG-117307-04, 2004-28 I.R.B. 39

Revenue Procedures:

2004-38, 2004-27 I.R.B. 10
2004-39, 2004-29 I.R.B. 49
2004-40, 2004-29 I.R.B. 50
2004-41, 2004-30 I.R.B. 90
2004-42, 2004-31 I.R.B. 121
2004-43, 2004-31 I.R.B. 124
2004-44, 2004-31 I.R.B. 134
2004-45, 2004-31 I.R.B. 140
2004-46, 2004-31 I.R.B. 142
2004-47, 2004-32 I.R.B. 169
2004-48, 2004-32 I.R.B. 172
2004-49, 2004-33 I.R.B. 210
2004-50, 2004-33 I.R.B. 211
2004-51, 2004-33 I.R.B. 294

Revenue Rulings:

2004-63, 2004-27 I.R.B. 6
2004-64, 2004-27 I.R.B. 7

Revenue Rulings— Continued:

2004-65, 2004-27 I.R.B. 1
2004-66, 2004-27 I.R.B. 4
2004-67, 2004-28 I.R.B. 28
2004-68, 2004-31 I.R.B. 118
2004-71, 2004-30 I.R.B. 74
2004-72, 2004-30 I.R.B. 77
2004-73, 2004-30 I.R.B. 80
2004-74, 2004-30 I.R.B. 84
2004-75, 2004-31 I.R.B. 109
2004-76, 2004-31 I.R.B. 111
2004-77, 2004-31 I.R.B. 119
2004-78, 2004-31 I.R.B. 108
2004-79, 2004-31 I.R.B. 106
2004-80, 2004-32 I.R.B. 164
2004-81, 2004-32 I.R.B. 161
2004-83, 2004-32 I.R.B. 157
2004-84, 2004-32 I.R.B. 163
2004-85, 2004-33 I.R.B. 189
2004-86, 2004-33 I.R.B. 191
2004-87, 2004-32 I.R.B. 154
2004-88, 2004-32 I.R.B. 165

Tax Conventions:

2004-60, 2004-29 I.R.B. 43

Treasury Decisions:

9131, 2004-27 I.R.B. 2
9132, 2004-28 I.R.B. 16
9133, 2004-28 I.R.B. 25
9134, 2004-30 I.R.B. 70
9135, 2004-30 I.R.B. 69
9136, 2004-31 I.R.B. 112
9138, 2004-32 I.R.B. 160
9140, 2004-32 I.R.B. 159

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2004–1 through 2004–26 is in Internal Revenue Bulletin 2004–26, dated June 28, 2004.

Findings List of Current Actions on Previously Published Items¹

Bulletins 2004–27 through 2004–33

Notices:

98-65

Superseded by
Rev. Proc. 2004-40, 2004-29 I.R.B. 50

2001-50

Modified by
Rev. Proc. 2004-46, 2004-31 I.R.B. 142

2004-2

Modified by
Notice 2004-50, 2004-33 I.R.B. 196

Revenue Procedures:

79-61

Superseded by
Rev. Proc. 2004-44, 2004-31 I.R.B. 134

94-64

Superseded by
Rev. Proc. 2004-38, 2004-27 I.R.B. 10

96-53

Superseded by
Rev. Proc. 2004-40, 2004-29 I.R.B. 50

2000-37

Modified by
Rev. Proc. 2004-51, 2004-33 I.R.B. 294

2002-9

Modified and amplified by
Rev. Proc. 2004-41, 2004-30 I.R.B. 90

2003-52

Superseded by
Rev. Proc. 2004-50, 2004-33 I.R.B. 211

2004-4

Modified by
Rev. Proc. 2004-44, 2004-31 I.R.B. 134

Revenue Rulings:

54-379

Superseded by
Rev. Rul. 2004-68, 2004-31 I.R.B. 118

73-354

Obsoleted by
Rev. Rul. 2004-76, 2004-31 I.R.B. 111

78-371

Distinguished by
Rev. Rul. 2004-86, 2004-33 I.R.B. 191

Revenue Rulings— Continued:

80-7

Amplified and clarified by
Rev. Rul. 2004-71, 2004-30 I.R.B. 74
Rev. Rul. 2004-72, 2004-30 I.R.B. 77
Rev. Rul. 2004-73, 2004-30 I.R.B. 80
Rev. Rul. 2004-74, 2004-30 I.R.B. 84

81-100

Clarified and modified by
Rev. Rul. 2004-67, 2004-28 I.R.B. 28

85-70

Amplified and clarified by
Rev. Rul. 2004-71, 2004-30 I.R.B. 74
Rev. Rul. 2004-72, 2004-30 I.R.B. 77
Rev. Rul. 2004-73, 2004-30 I.R.B. 80
Rev. Rul. 2004-74, 2004-30 I.R.B. 84

92-105

Distinguished by
Rev. Rul. 2004-86, 2004-33 I.R.B. 191

¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2004–1 through 2004–26 is in Internal Revenue Bulletin 2004–26, dated June 28, 2004.