

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

T.D. 9328, page 1.

Final regulations under section 475 of the Code concern an elective safe harbor that permits dealers in securities and dealers in commodities to elect to use the values of positions reported on certain financial statements as the fair market values of those positions. This safe harbor is intended to reduce the compliance burden on taxpayers and to improve the administrability of the valuation requirement of section 475 for the IRS.

Notice 2007-54, page 12.

This notice provides guidance and transitional relief for the return preparer penalty provisions under section 6694 of the Code.

Notice 2007-55, page 13.

This notice alerts taxpayers and their representatives that the IRS intends to challenge claims under the relevant current statutory and regulatory provisions that certain distributions, described in the notice, from a real estate investment trust (REIT) or other qualified investment entity (QIE) to foreign governments are not subject to section 897(h)(1) of the Code or are exempt from taxation under section 892. The notice also announces that Treasury and the IRS intend to issue regulations that will clarify the correct interpretation of these provisions, and will apply to distributions occurring on or after June 13, 2007.

Notice 2007-56, page 15.

This notice changes the address to submit by mail applications for allocation of the available volume cap for clean renewable energy bonds (CREBs) under section 54 of the Code. Notice 2007-26 modified.

Rev. Proc. 2007-42, page 15.

Specifications are set forth for the private printing of paper and laser-printed substitutes for the January 2007 revision of Form 941, *Employer's QUARTERLY Federal Tax Return*, and January 2006 Schedule B (Form 941), *Report of Tax Liability for Semiweekly Schedule Depositors*. This procedure will be reproduced as the next revision of Publication 4436, *General Rules and Specifications for Substitute Form 941 and Schedule B (Form 941)*. Rev. Proc. 2006-25 superseded.

Rev. Proc. 2007-43, page 26.

Specifications are set forth for the private printing of paper and laser-printed substitutes for tax year 2007 Form W-2, *Wage and Tax Statement*, and Form W-3, *Transmittal of Wage and Tax Statements*. This procedure will be reproduced as the next revision of Publication 1141, *General Rules and Specifications for Substitute Forms W-2 and W-3*. Rev. Proc. 2006-55 superseded.

ESTATE TAX

Notice 2007-54, page 12.

This notice provides guidance and transitional relief for the return preparer penalty provisions under section 6694 of the Code.

GIFT TAX

Notice 2007-54, page 12.

This notice provides guidance and transitional relief for the return preparer penalty provisions under section 6694 of the Code.

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Finding Lists begin on page ii.



EMPLOYMENT TAX

Notice 2007-54, page 12.

This notice provides guidance and transitional relief for the return preparer penalty provisions under section 6694 of the Code.

Rev. Proc. 2007-42, page 15.

Specifications are set forth for the private printing of paper and laser-printed substitutes for the January 2007 revision of Form 941, *Employer's QUARTERLY Federal Tax Return*, and January 2006 Schedule B (Form 941), *Report of Tax Liability for Semiweekly Schedule Depositors*. This procedure will be reproduced as the next revision of Publication 4436, *General Rules and Specifications for Substitute Form 941 and Schedule B (Form 941)*. Rev. Proc. 2006-25 superseded.

Rev. Proc. 2007-43, page 26.

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EXCISE TAX

Notice 2007-54, page 12.

This notice provides guidance and transitional relief for the return preparer penalty provisions under section 6694 of the Code.

ADMINISTRATIVE

Notice 2007-54, page 12.

This notice provides guidance and transitional relief for the return preparer penalty provisions under section 6694 of the Code.

Notice 2007-56, page 15.

This notice changes the address to submit by mail applications for allocation of the available volume cap for clean renewable energy bonds (CREBs) under section 54 of the Code. Notice 2007-26 modified.

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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For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

Section 54.—Credit to Holders of Clean Renewable Energy Bonds

What is the new address to submit *by mail* applications for allocations of clean renewable energy bond volume cap to finance qualified clean renewable energy projects? See Notice 2007-56, page 15.

Section 475.—Mark to Market Accounting Method for Dealers in Securities

26 CFR 1.475(a)–4: Safe harbor for valuation under section 475.

T.D. 9328

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

Safe Harbor for Valuation Under Section 475

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document sets forth an elective safe harbor that permits dealers in securities and dealers in commodities to elect to use the values of positions reported on certain financial statements as the fair market values of those positions for purposes of section 475 of the Internal Revenue Code (Code). This safe harbor is intended to reduce the compliance burden on taxpayers and to improve the administrability of the valuation requirement of section 475 for the IRS.

DATES: *Effective Date:* These regulations are effective on June 12, 2007.

Applicability Dates: Section 1.475(a)–4, concerning a safe harbor to use applicable financial statement values for purposes of section 475, applies to taxable years ending on or after June 12, 2007.

FOR FURTHER INFORMATION CONTACT: Marsha A. Sabin or

John W. Rogers III (202) 622–3950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1945. Comments on the accuracy of the estimated burden and suggestions for reducing the burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, D.C. 20224.

The collection of information in these regulations is in §1.475(a)–4(f)(1) and §1.475(a)–4(k). This information is required by the IRS to avoid any uncertainty about whether a taxpayer has made an election and to verify compliance with section 475 and the safe harbor method of accounting described in §1.475(a)–4(d). This information will be used to facilitate examination of returns and to determine whether the amount of tax has been calculated correctly. The collection of the information is required to properly determine the amount of income or deduction to be taken into account. The taxpayers providing this information are sophisticated dealers in securities or commodities.

Estimated total annual recordkeeping burden: 49,232 hours.

Estimated average annual burden per recordkeeper: 4–6 hours.

Estimated number of recordkeepers: 12,308.

Estimated frequency of recordkeeping: Annually.

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

Books and records relating to the collection of information must be retained as long as their contents might become material in the administration of any internal revenue law. Generally, tax returns and tax

return information are confidential, as required by 26 U.S.C. § 6103.

Background

This document contains amendments to 26 CFR Part 1 under section 475 of the Internal Revenue Code (Code). Section 475 was added to the Code by section 13223(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66, 107 Stat. 312). Section 475(a) generally provides that the securities held by dealers in securities must be valued as of the last business day of the year at fair market value. Section 475(e) allows dealers in commodities to elect similar treatment for their commodities. Under section 475(f), if a person is engaged in a trade or business as a trader in securities or a trader in commodities, the person may elect for the section 475 mark-to-market regime to apply to their trade or business.

Section 475(g) directs the Secretary to prescribe regulations that may be necessary or appropriate to carry out the purposes of section 475. The legislative history of section 475 indicates that, under this authority, the Secretary may issue regulations to permit the use of valuation methodologies that reduce the administrative burden of compliance on the taxpayer but clearly reflect income for Federal income tax purposes. On May 5, 2003, the Treasury Department and the IRS published in the **Federal Register** an advance notice of proposed rulemaking (Safe Harbor for Satisfying Certain Statutory Requirements for Valuation under Section 475 for Certain Securities and Commodities) (REG–100420–03) [68 FR 23632] (the ANPRM); Announcement 2003–35, 2003–1 C.B. 956 (see §601.601(d)(2)). The ANPRM solicited comments on whether a safe harbor approach using values reported on an applicable financial statement for certain securities may be used for purposes of section 475. On May 24, 2005, the Treasury Department and the IRS published in the **Federal Register** a notice of proposed rulemaking (Safe Harbor for Valuation under Section 475) (REG–100420–03, 2005–1 C.B. 1236 [70 FR 29663]) (the

NPRM). The NPRM set forth a possible safe harbor for valuing these securities and asked for comments on various aspects of the safe harbor. A public hearing was held on September 15, 2005. The IRS received written and electronic comments responding to the NPRM. After consideration of all comments, the proposed regulations are adopted as amended by this Treasury decision. The amendments are discussed in this preamble.

Explanation of Provisions and Summary of Contents

Overview

Section 475(a) requires dealers in securities to mark their securities to market. Section 475(e) allows dealers in commodities to elect similar treatment for their commodities. If the security or commodity is inventory, it must be included in inventory at its fair market value. If it is not inventory and is held at the end of the taxable year, gain or loss is recognized as if the security or commodity had been sold for its fair market value on the last business day of the taxable year.

Although the term “fair market value” has a long-standing and well-established meaning within the tax law, it is sometimes difficult to determine the fair market value of certain securities and commodities. This has impeded the efficient administration of the mark-to-market system under section 475. Consequently, with a view to improving the administrability of the valuation requirements of section 475, the Treasury Department and the IRS issued the NPRM, which set forth a safe harbor for valuing securities and commodities under section 475.

These final regulations adopt the approach of the NPRM with the modifications discussed in this preamble.

Underlying Principles of the Safe Harbor

The safe harbor generally permits eligible taxpayers to elect to have the values that are reported for eligible positions on certain financial statements treated as the fair market values of those eligible positions for purposes of section 475, if certain conditions are met. The safe harbor is based upon the principle that if the mark-to-market method used for financial

reporting is sufficiently consistent with the mark-to-market method required by section 475, then the values used for financial reporting should be acceptable values for purposes of section 475. To ensure minimal divergence from fair market value under tax principles, these regulations impose certain restrictions on the financial accounting methods and financial statements that are eligible for the safe harbor and also require certain adjustments to the values of the eligible positions on those financial statements that may be used under the safe harbor.

The safe harbor and its various requirements and limitations are based upon the business model for derivatives dealers that was described in comments received in response to the ANPRM and the NPRM. According to these comments, dealers seek to capture and profit from bid-ask spreads in the marketplace by entering into balanced portfolios for their derivatives, that is, positions that offset each other, either individually or in the aggregate. Although dealers may have some open positions, they seek to have balanced portfolios with a majority of positions offsetting each other. Those offsetting positions generally remain on dealers’ books over the terms of the positions.

The spread between bid and ask values contains the dealer’s profit, which compensates the dealer for all risks and expenses. The creation of a balanced portfolio may be seen as giving rise to a synthetic annuity, with a value that is largely immune from market-related changes in the values of the component positions. At the time the dealer has entered into the offsetting positions and created the synthetic annuity, all steps required to earn the income from the synthetic annuity have been completed. Recognizing the present value of the income attributable to the bid-ask spread is appropriate in the taxable year the synthetic annuity is created. For a matched book of eligible positions, such as a dealer’s portfolio of interest rate swap contracts, use of bid or ask values approximates realization accounting and fails to recognize in income the present value of the synthetic annuity in the taxable year that the synthetic annuity is created. The final regulations are to be applied in a manner consistent with the premise that the present value of the synthetic annuity should be recognized in income not later

than the taxable year in which the synthetic annuity is created.

Commentators described a different business model for securities that are not derivatives, commonly known as physicals. Under this model, dealers plan on rapid turnover of the physicals that are traded on qualified boards or exchanges or on liquid over-the-counter markets. Except for those acquired at the end of the taxable year, the acquisition and disposition of a physical occurs within a single taxable year, so that the effect of capturing a bid-ask spread also occurs entirely within that year. Consequently, for securities traded on a qualified board or exchange, as defined under section 1256(g)(7), there is little difference between the results of realization and mark-to-market accounting, and little opportunity for manipulation.

Eligible Taxpayers

The NPRM provided that traders could elect to use the safe harbor. In both the ANPRM and the NPRM, the Treasury Department and IRS asked for comments addressing whether traders in securities and commodities should be able to elect the safe harbor and whether the business model for traders differs from the business model for dealers. The commentators that recommended that the safe harbor apply to traders did so without providing information about the business model for traders and without suggesting how the limitations set forth in the NPRM would apply to traders. Without a full understanding of the business model for traders, the Treasury Department and the IRS have determined that it would be unwise to include traders in the safe harbor at this time. Accordingly, the final regulations provide that the safe harbor is available only to taxpayers who are dealers in securities under section 475(a) or who are dealers in commodities and are subject to the election described in section 475(e)(1).

Eligible Positions

Because financial markets and products evolve rapidly, listing the securities and commodities in the regulations would make the regulations less flexible and dynamic in the future. To ensure that the safe harbor will be adaptable and administrable in a changing environment, the Commissioner will issue concurrently

with these final regulations a revenue procedure (Rev. Proc. 2007-41, 2007-26 I.R.B. 1492) that will list the types of securities and commodities that are subject to the safe harbor. This revenue procedure may be updated as necessary.

It is important to note, however, that the valuation methodology under the safe harbor applies only for positions that, taking into account any elections and identifications that are in effect, are required to be marked to market under section 475. That is, the safe harbor only addresses valuation and does not expand or contract the scope or application of section 475. For example, if a security is not marked to market under section 475 because it has been properly identified as held for investment, then it may not be marked to market for Federal income tax purposes even though the safe harbor election is in effect and the security is properly marked to market on the financial statement in accordance with U.S. Generally Accepted Accounting Principles (U.S. GAAP). Similarly, if a security is not marked to market on the applicable financial statement because, for example, it is a hedge for financial statement purposes but section 475(a) applies because the security is not a hedging transaction for tax purposes, then the security must nevertheless be marked to market under section 475.

Eligible Method

The NPRM set forth four core requirements that a financial accounting method must satisfy in order to be eligible for the safe harbor. First, the method must mark eligible positions to market through valuations made as of the last business day of each taxable year. Second, it must recognize into income on the income statement any gain or loss from marking eligible positions to market. Third, it must recognize into income on the income statement any gain or loss on disposition of an eligible position as if a year-end mark occurred immediately before the disposition. Fourth, it must arrive at fair value in accordance with U.S. GAAP.

In addition to these core requirements, the NPRM imposed certain limitations to ensure minimal divergence from fair market value. Under the first limitation, the financial accounting method must not result in values at or near the bid or ask val-

ues, even if the use of bid or ask values is permissible under U.S. GAAP. This limitation applies to all eligible positions except those that are traded on a qualified board or exchange, as defined in section 1256(g)(7). This limitation ensures that a sufficient portion of the synthetic annuity captured by a dealer is reported in the correct accounting period of that dealer.

Under the second limitation in the NPRM, if a method of valuation is based on the present value of projected cash flows from an eligible position or positions, that method must not take into account any income or expense attributable to a period or time on or before the valuation date. This limitation ensures that items of income or expense will not be accounted for twice, first through current recognition and then again in the mark.

Under the third limitation in the NPRM, no cost or risk may be accounted for more than once, either directly or indirectly. For example, a financial accounting method may allow a special adjustment for credit risk. If, however, a method computes the present value of projected cash flows using a discount rate that takes credit risk into account and the method employs a special adjustment that takes some or all of the credit risk into account, then the method does not satisfy this limitation. This limitation ensures that items of income or expense will not be accounted for twice.

Most of the comments received on the NPRM focused on the core requirements and limitations for eligible methods. As explained in this preamble, the final regulations address those comments, rejecting some suggestions and modifying the regulations in response to others. The majority of the comments focused on (1) requiring changes in value to be reported on the income statement, (2) limiting the use of bid and ask values, and (3) excepting certain types of physical securities from the bid-ask limitation.

Income Statement Requirement — §1.475(a)-4(d)(2)(ii)

Some commentators suggested that eligible taxpayers be allowed to report changes in value on either the balance sheet or the income statement, because both are rigorously reviewed. They also expressed concern that, because certain items of other comprehensive income gen-

erally appear on the balance sheet and not on the income statement, the methodology used by many taxpayers for financial reporting would fail to be an eligible method and, therefore, would not satisfy the safe harbor.

When changes in value appear on the income statement, they also appear in retained earnings and in earnings-per-share. This creates a tension between the benefits of higher earnings for financial reporting and the benefit of lower income for tax reporting. This tension helps to ensure the reliability of values for tax purposes, a fundamental concept underlying the safe harbor. Balance sheet items, such as other comprehensive income, do not have the same tension. Therefore, the final regulations retain the income statement requirement of the NPRM.

Bid-Ask Limitation

Some commentators suggested that the bid-ask limitation be eliminated to make it easier for taxpayers to qualify for the safe harbor. These commentators indicated that dealers generally do not retain records of individual positions' bid-ask spreads for any meaningful period of time, and it would be burdensome to monitor the spreads of those positions for which records do exist.

The safe harbor set forth in the NPRM does not add to taxpayers' existing record-keeping burden. Without the safe harbor, other sections of the Code would require taxpayers to keep records to prove the values of individual positions or to keep records of spreads if taxpayers account for their income and loss based on those spreads. The safe harbor simply allows taxpayers to use those same records to prepare both the applicable financial statement and their tax return. Accordingly, the bid-ask limitation has been retained in the final regulations.

Additionally, according to some commentators, the requirement in the NPRM that values should be nearer to the mid-market value than to the bid or ask value could be interpreted in two ways. First, it could be a requirement that, if not met for a particular position, would disqualify an entire financial accounting method as an eligible method. Second, it could be a safe harbor that, if not met for a particular position, would not disqualify the method

but would require the taxpayer to prove that the method consistently produces values nearer to mid-market than to bid or ask. The final regulations make it clear that this provision is a safe harbor and that a method that may occasionally produce a value that is not nearer to mid-market than to bid or ask will not preclude use of the safe harbor.

The Treasury Department and the IRS also received suggestions from commentators seeking expansion of the exceptions to the bid-ask limitations. Some commentators noted that the exception for exchange-traded positions in the NPRM was too narrow because it did not cover those equities and debt securities, such as Treasury obligations, that are traded in very liquid, over-the-counter markets and have easily determinable values. These commentators suggested that, rather than limit the exception to positions on qualified boards or exchanges as defined in section 1256(g)(7), the regulations should include within the exception all positions for which there is an established financial market within the meaning of §1.1092(d)-1(b).

The exception for positions that are traded on a qualified board or exchange described in section 1256(g)(7) was included in the NPRM to except those positions with spreads so small that applying the bid-ask limitation would have little effect on the determination of fair market value. Because section 1092 is an anti-abuse provision that Congress intended to be broad in scope, the definition of established financial market in §1.1092(d)-1(b) reflects a corresponding breadth. Thus, expansion of the exception for exchange-traded positions by reference to §1.1092(d)-1(b) might inappropriately except too many positions from the general bid-ask limitation. For example, many derivative contracts for which dealers lock in spreads are positions for which there is an established financial market. See §1.1092(d)-1(b), (c). Consequently, the reference to section 1256(g)(7) has been retained.

Some of the comments about the bid-ask exception were prompted by the view that debt instruments should be excepted from the bid-ask limitation for some of the same reasons as positions traded on a 1256(g)(7) board or exchange.

The Treasury Department and the IRS, however, decline at this time to adopt the suggestion that debt instruments be generally excepted from the bid-ask limitation.

The Treasury Department and the IRS recognize that dealers' business model for debt instruments generally is to turn over debt securities very rapidly and that dealers have a strong economic incentive to do so because holding debt securities consumes balance sheet resources and poses risk management issues. Nevertheless, based on comments received, the Treasury Department and the IRS do not possess sufficient information to conclude that spreads in the over-the-counter debt markets are *de minimis*. Additionally, debt instruments may be used to lock in spreads with respect to open positions in other instruments, such as derivatives. Therefore, excepting over-the-counter debt instruments from the bid-ask limitation may be contrary to the tenets of the dealer business model for derivatives. Moreover, excepting debt instruments from the bid-ask limitation might introduce a tax-motivated distortion into the marketplace, as taxpayers may decide to lock in spreads with tax-advantaged instruments rather than with instruments that are selected on the basis of their non-tax economic attributes. The Commissioner may, however, designate additional positions as being exempt from the bid-ask limitation.

Understanding the need for a limitation on the use of bid and ask values, one commentator suggested an open position exception to the bid-ask limitation. Under this alternative, offsetting positions in the balanced portion of a portfolio would not be valued at or near the bid or ask values. Open positions, however, would not be subject to this limitation. Instead, they could be valued at any value between and including the bid and ask values. According to this commentator, the bid-ask limitation ensures that the present value of the income attributable to the bid-ask spread is recognized in the taxable year the synthetic annuity is created. Open positions, it was noted, do not create a synthetic annuity so the bid-ask limitation need not apply to them.

The Treasury Department and the IRS decline to adopt the rule suggested by this commentator. Under a mark-to-market system, when a dealer enters into an open position with a customer, that dealer has captured the spread inherent in that customer position, even if the customer position is not offset by another position. Although it can be argued that a dealer

may be forced to pay a spread to obtain a position offsetting the open customer position, to assume a dealer would do so across the board would be to ascribe customer status (which is paying spreads) to the dealer, a result inconsistent with the dealer business model (which is charging spreads). Additionally, in the event a dealer actually pays a spread to offset the open customer position, the disadvantageous terms of the offsetting position will be reflected in the mark-to-market valuation of that position. Administrability is also a concern. Before accepting the suggestion that a dealer should recognize no mark-to-market income from any open position until the position is offset by one or more other positions, the Treasury Department and the IRS would need more information regarding the manner in which to verify the process for determining the proper amounts of adjustments taxpayers will use to achieve this result.

Eligible Methods, Eligible Positions and the Safe Harbor Election

The final regulations modify the NPRM by providing that the election to use the safe harbor is made by filing a statement with the taxpayer's return declaring that the taxpayer makes the safe harbor election for all eligible positions for which it has an eligible method. An example elaborating on this concept has been added to the final regulations.

Applicable Financial Statements

Not all financial statements qualify under the safe harbor. Consequently, these regulations set forth a system that enables a taxpayer to determine which one of its financial statements, if any, may be used when applying the safe harbor. The final regulations adopt the provisions of the NPRM on applicable financial statements.

Some commentators expressed concern that U.S. branches of foreign banks would not be eligible to use the safe harbor because they do not prepare financial statements in accordance with U.S. GAAP. The comments suggested that many of these branches prepare their financial statements in accordance with rules that are substantially similar to U.S. GAAP and, therefore, should be permitted to use those non-U.S. GAAP financial statements for purposes of the safe harbor. The commentators also

suggested that call reports submitted to U.S. bank regulators by foreign banks have sufficient *indicia* of reliability to merit use in the safe harbor, even though changes over time in the values in those reports may not be directly reflected in income statements prepared according to U.S. GAAP.

As noted in this preamble, the safe harbor is based on the concept that, with appropriate limitations, mark-to-market values used on certain financial statements can be sufficiently consistent with fair market values under section 475. The IRS and Treasury Department have concluded that the requirements and limitations of the safe harbor ensure sufficient consistency when applied to financial statements prepared according to U.S. GAAP. This conclusion is less clear when the requirements and limitations are applied to financial statements prepared under other accounting regimes. Consequently, the final regulations retain the requirement that applicable financial statements be prepared in accordance with U.S. GAAP. The final regulations retain the requirement in the NPRM that, to be an eligible method, a financial statement method of accounting must cause changes in value to be recognized into income on the income statement.

Nevertheless, making it practical for foreign banks to use the safe harbor for their U.S. branches could be valuable not only to the foreign banks but also to the IRS in its administration and application of section 475. Therefore, the IRS and Treasury Department are interested in expanding the scope of these regulations so that they may apply in the future to foreign banks. Answers to the following questions would facilitate efforts to achieve that expansion. First, should the safe harbor require that the values reported in the call report of the foreign bank be the same values that are reported in the income statement filed in the foreign bank's home country? If so, should the foreign bank, together with its certified independent registered public accountant, file with the U.S. tax return, subject to penalties of perjury, a statement to that effect?

Second, should the valuation standards used in the foreign bank's home country be identical to the valuation standards under U.S. GAAP, and if not identical, in what ways may they differ? If so, should the foreign bank, together with its certified

independent registered public accountant, file a statement with the U.S. tax return, subject to penalties of perjury, describing the differences, if any, between the foreign country valuation standards and those under U.S. GAAP? Further, should the foreign valuation standards be fully consistent with, and should the foreign country have formally adopted, International Financial Reporting Standards as published by the International Accounting Standards Board?

Third, should the income statement filed by the foreign bank be filed with the foreign bank's home country bank regulator (as distinct from a market regulator like the SEC)?

Fourth, for purposes of these questions, should the term "home country" mean the country in which the foreign bank is chartered or incorporated?

Record Retention and Production

The safe harbor will be administrable only if the IRS can readily verify that the financial statements at issue are taxpayers' applicable financial statements, that the accounting methods used are eligible methods, and that the values used on the applicable financial statements are also used on the Federal income tax return. Consequently, recordkeeping and record production are critical to the effective administration of the safe harbor.

These final regulations retain the provisions of the NPRM regarding record retention and production. They provide specific requirements for the types of records that must be maintained and provided, to enable ready verification. In general, electing taxpayers must clearly show: (1) that the same value used for financial reporting was used on the Federal income tax return; (2) that no eligible position subject to section 475 is excluded from the application of the safe harbor; and (3) that only eligible positions subject to section 475 are carried over to the Federal income tax return under the safe harbor.

Commentators expressed concern that the language of the NPRM requiring all schedules, exhibits, computer programs, and other information used to produce values was too broad, making it difficult to know what materials must be retained and produced. They also expressed concern that a requirement to keep computer pro-

grams and information used in producing values not only would require taxpayers to keep information about models that are changed frequently but also would encourage IRS employees to examine valuation models not just for compliance with the definition of "eligible method" but also for examining the accuracy of the underlying valuations.

The final regulations retain the record retention and production requirements set forth in the NPRM. Other sections of the Code already require taxpayers to maintain records sufficient to support the accuracy of items reported on their Federal tax returns. Except for a possible increase in the retention period in some instances, therefore, the final regulations create no additional burden. To avoid confusion or undue burden, the final regulations permit a taxpayer to enter into an agreement with the IRS specifying which records must be maintained, how they must be maintained, and for how long they must be maintained. These agreements may include terms covering the maintenance of computer programs and information used in producing values.

The maintenance and production requirements of the regulations preclude undue delay in producing records. One commentator suggested that the 30-day deadline provided too little time to produce records. During the development of these regulations, the IRS conducted a test program to determine not only whether values could be traced from financial statements to the tax return but also how long it would take for taxpayers to produce the necessary records. This test program demonstrated that 30 days was generally a sufficient period of time. For specific cases, the Commissioner may excuse failures to provide records within 30 days if the taxpayer shows reasonable cause for the failure and has made a good faith effort to comply. As noted above, the taxpayer may also enter into an agreement with the Commissioner that sets forth a different time period. Accordingly, the final regulations retain the general 30-day requirement.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order

12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the expectation that the safe harbor will be used primarily by dealers in securities that are financial institutions with a sophisticated understanding of the capital markets. Because section 475 is elective for dealers in commodities, some small businesses could qualify for the safe harbor if they make two voluntary elections: (1) an election to mark to market commodities under section 475 and (2) an election to apply the safe harbor. Because both elections are voluntary, it is unlikely any small business taxpayer who thinks the reporting and recordkeeping requirements are too burdensome will make these elections. Furthermore, the total average estimated burden per taxpayer is small, as reported earlier in the preamble. This is because most of the recordkeeping requirements do not require taxpayers to generate new records, but instead require records used for financial reporting purposes to be kept for tax reporting purposes. For all of these reasons, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Marsha A. Sabin and John W. Rogers III, Office of the Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.475(a)–4 also issued under 26 U.S.C. 475(g). * * *

Par. 2. Section 1.475–0 is amended by:

1. Revising the introductory text.
2. Adding entries to the table for §1.475(a)–4.
3. Redesignating the entry for §1.475(e)–1 as §1.475(g)–1.

The revision and addition reads as follows:

§1.475–0 Table of contents.

This section lists the major captions in §§1.475(a)–3, 1.475(a)–4, 1.475(b)–1, 1.475(b)–2, 1.475(b)–4, 1.475(c)–1, 1.475(c)–2, 1.475(d)–1 and 1.475(g)–1.

* * * * *

§1.475(a)–4 Safe harbor for valuation under section 475.

- (a) Overview.
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 - (j) Significant business use.
 - (1) In general.
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 - (1) In general.
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 - (A) In general.
 - (B) Values on books and records with supporting schedules.
 - (C) Consolidation schedules.
 - (ii) Instructions provided by the Commissioner.
 - (3) Time for producing records.
 - (4) Retention period for records.
 - (5) Agreements with the Commissioner.
 - (1) [Reserved.]
 - (m) Use of different values.

* * * * *

§1.475(g)–1 Effective dates.

Par. 3. Section 1.475(a)–4 is added to read as follows:

§1.475(a)–4 Valuation safe harbor.

(a) Overview—(1) Purpose. This section sets forth a safe harbor that, under certain circumstances, permits taxpayers to

elect to use the values of positions reported on certain financial statements as the fair market values of those positions for purposes of section 475. This safe harbor is based on the principle that, if a mark-to-market method used for financial reporting is sufficiently consistent with the requirements of section 475 and if the financial statement employing that method has certain *indicia* of reliability, then the values used on that financial statement may be used for purposes of section 475. If other provisions of the Internal Revenue Code or regulations require adjustments to fair market value, use of the safe harbor does not eliminate the need for those adjustments. See paragraph (e) of this section.

(2) *Dealer business model.* The safe harbor is based on the business model for a derivatives dealer. Under this model, the dealer seeks to capture and profit from bid-ask spreads in the marketplace by entering into substantially offsetting positions with customers that will remain on the derivatives dealer's books over their terms. Because the positions in the aggregate tend to offset each other, the dealer has achieved a predictable net cash flow (for example, a synthetic annuity) that reflects the captured bid-ask spread. This net cash flow is generally impervious to market fluctuations in the values on which the component derivatives are based. Section 475 requires current recognition of the present value of the net cash flow attributable to the capture of these spreads.

(3) *Summary of paragraphs.* Paragraph (b) of this section sets forth the safe harbor. To determine who may use the safe harbor, paragraph (c) of this section defines the term "eligible taxpayer." Paragraph (d) of this section sets forth the basic requirements for determining whether the method used for financial reporting is sufficiently consistent with the requirements of section 475. Paragraph (e) of this section describes adjustments to the financial statement values that may be required for purposes of applying this safe harbor. Paragraph (f) of this section describes the procedure for making the safe harbor election and the conditions under which the election may be revoked. Paragraph (g) of this section provides that the Commissioner will issue a revenue procedure that lists the types of securities and commodities that are eligible positions for purposes

of the safe harbor. Using rules for determining priorities among financial statements, paragraph (h) of this section defines the term "applicable financial statement" and so describes the financial statement, if any, whose values may be used in the safe harbor. In some cases, as required by paragraph (j) of this section, the safe harbor is available only if the taxpayer's operations make significant business use of financial statement values. Paragraph (k) of this section sets forth requirements for record retention and record production. Paragraph (m) of this section provides that the Commissioner may use fair market values that clearly reflect income, but which differ from values used on the applicable financial statement, if an electing taxpayer fails to comply with the recordkeeping and record production requirements of paragraph (k) of this section.

(b) *Safe harbor—(1) General rule.* Subject to any adjustment required by paragraph (e) of this section, if an eligible taxpayer uses an eligible method for the valuation of an eligible position on its applicable financial statement and the eligible taxpayer is subject to the election described in paragraph (f) of this section, the value that the eligible taxpayer assigns to that eligible position on its applicable financial statement is the fair market value of section 475 and must be used for purposes of section 475, even if that value is not the fair market value of the position for any other purpose of the internal revenue laws. Notwithstanding the rule set forth in this paragraph, the Commissioner may, in certain circumstances, use fair market values that clearly reflect income but differ from the values used on the applicable financial statement. See paragraph (m) of this section.

(2) *Example. Use of eligible and non-eligible methods.* X uses eligible methods on its applicable financial statement for some, but not all, securities and commodities that are eligible positions. When X elects into the safe harbor, the election applies to all eligible positions for which X has an eligible method. Therefore, once the election is in effect, the financial statement values for eligible positions for which X has an eligible method are the fair market values of those eligible positions for purposes of section 475. Since X, however, does not have an eligible method for all eligible positions, those eligible positions for which X does not have an eligible method remain subject to the fair market value requirements of section 475 as set out in case law and otherwise.

(3) *Scope of the safe harbor.* The safe harbor may be used only to determine values for eligible positions that are properly marked to market under section 475. It does not determine whether any positions may or may not be subject to mark-to-market accounting under section 475.

(c) *Eligible taxpayer.* An eligible taxpayer is —

(1) A dealer in securities, as defined in section 475(c)(1); or

(2) A dealer in commodities, as defined in section 475(e), that is subject to an election under section 475(e).

(d) *Eligible method—(1) Sufficient consistency.* An eligible method is a mark-to-market method that is sufficiently consistent with the requirements of a mark-to-market method under section 475. To be sufficiently consistent with the requirements of a mark-to-market method under section 475, the eligible method must satisfy all of the requirements of paragraph (d)(2) and paragraph (d)(3) of this section.

(2) *General requirements.* The method—

(i) *Frequency.* Must require a valuation of the eligible position no less frequently than annually, including a valuation as of the last business day of the taxable year;

(ii) *Recognition at the mark.* Must recognize into income on the income statement for each taxable year mark-to-market gain or loss based upon the valuation or valuations described in paragraph (d)(2)(i) of this section;

(iii) *Recognition on disposition.* Must require, on disposition of the eligible position, recognition into income (on the income statement for the taxable year of disposition) as if a year-end mark occurred immediately before such disposition; and

(iv) *Fair value standard.* Must require use of a valuation standard that arrives at fair value in accordance with U.S. Generally Accepted Accounting Principles (U.S. GAAP).

(3) *Limitations—(i) Bid-ask method—(A) General rule.* Except for eligible positions that are traded on a qualified board or exchange, as defined in section 1256(g)(7), or eligible positions that the Commissioner designates in a revenue procedure or other published guidance, the valuation standard used must not, other than on a *de minimis* portion of a taxpayer's positions, permit

values at or near the bid or ask value. Consequently, the valuation method described in §1.471-4(a)(1) fails to satisfy this paragraph (d)(3)(i)(A).

(B) *Safe harbor.* The restriction in paragraph (d)(3)(i)(A) of this section is satisfied if the method consistently produces values that are closer to the mid-market values than they are to the bid or ask values.

(ii) *Valuations based on present values of projected cash flows.* If the method of valuation consists of projecting cash flows from an eligible position or positions and determining the present value of those cash flows, the method must not take into account any cash flows attributable to a period or time on or before the valuation date. In addition, adjustment of the gain or loss recognized on the mark may be required with respect to payments that will be made after the valuation date to the extent that portions of the payments have been recognized for tax purposes before the valuation and appropriate adjustment has not been made for purposes of determining financial statement value.

(iii) *Accounting for costs and risks.* Valuations may account for appropriate costs and risks, but no cost or risk may be accounted for more than once, either directly or indirectly. Further, no valuation adjustment for any cost or risk may be made for purposes of this safe harbor if that valuation adjustment is not also permitted by, and taken for, U.S. GAAP purposes on the taxpayer's applicable financial statement. If appropriate, the costs and risks that may be accounted for include, but are not limited to, credit risk (appropriately adjusted for any credit enhancement), future administrative costs, and model risk. An adjustment for credit risk is implicit in computing the present value of cash flows using a discount rate greater than a risk-free rate. Accordingly, a determination of whether any further downward adjustment to value for credit risk is warranted, or whether an upward adjustment is required, must take that implicit adjustment into consideration.

(4) *Examples.* The following examples illustrate this paragraph (d):

Example 1. (i) X, a calendar year taxpayer, is a dealer in securities within the meaning of section 475(c)(1). X generally maintains a balanced portfolio of interest rate swaps and other interest rate derivatives, capturing bid-ask spreads and keeping its market exposure within desired limits (using, if necessary, additional derivatives for this purpose).

X uses a mark-to-market method on a statement that it is required to file with the United States Securities and Exchange Commission (SEC) and that satisfies paragraph (d)(2) of this section with respect to both the contracts with customers and the additional derivatives. When determining the amount of any gain or loss realized on a sale, exchange, or termination of a position, X makes a proper adjustment for amounts taken into account respecting payments or receipts. All of X's counterparties on the derivatives have credit ratings of AA/aa, according to standard credit ratings obtained from private credit rating agencies.

(ii) Under X's valuation method, as of each valuation date, X determines a mid-market probability distribution of future cash flows under the derivatives and computes the present values of these cash flows. In computing these present values, X uses an industry standard yield curve that is appropriate for obligations by persons with credit ratings of AA/aa. In addition, based on information that includes its own knowledge about the counterparties, X adjusts some of these present values either upward or downward to reflect X's reasonable judgment about the extent to which the true credit status of each counterparty's obligation, taking credit enhancements into account, differs from AA/aa.

(iii) X's methodology does not violate the requirement in paragraph (d)(3)(iii) of this section that the same cost or risk not be taken into account, directly or indirectly, more than once.

Example 2. (i) The facts are the same as in *Example 1*, except that X uses a AAA/aaa rate to discount the payments to be received under the derivatives. Based on information that includes its own knowledge about the counterparties, X adjusts these present values to reflect X's reasonable judgment about the extent to which the true credit status of each counterparty's obligation, taking credit enhancements into account, differs from a AAA/aaa obligation.

(ii) X's methodology does not violate the requirement in paragraph (d)(3)(iii) of this section that the same cost or risk not be taken into account, directly or indirectly, more than once.

Example 3. (i) The facts are the same as in *Example 1*, except that, after computing present values using the discount rates that are appropriate for obligors with credit ratings of AA/aa, and based on information that includes X's own knowledge about the counterparties, X adjusts some of these present values either upward or downward to reflect X's reasonable judgment about the extent to which the true credit status of each counterparty's obligation, taking credit enhancements into account, differs from AAA/aaa.

(ii) X's methodology violates the requirement in paragraph (d)(3)(iii) of this section that the same cost or risk not be taken into account, directly or indirectly, more than once. By using a AA/aa discount rate, X's method takes into account the difference between risk-free obligations and AA/aa obligations. This difference includes the difference between a rating of AAA/aaa and one of AA/aa. By adjusting values for the difference between a rating of AAA/aaa and one of AA/aa, X takes into account risks that it had already accounted for through the discount rates that it used. The same result would occur if X judged some of its counterparties' obligations to be of AAA/aaa quality but X failed to adjust the values of those obli-

gations to reflect the difference between a rating of AAA/aaa and one of AA/aa.

Example 4. (i) The facts are the same as in *Example 1*, except that X determines the mid-market value for each derivative and then subtracts the corresponding part of the bid-ask spread.

(ii) X's methodology violates the rule in paragraph (d)(3)(i) of this section that forbids valuing positions at or near the bid or ask value.

Example 5. (i) The facts are the same as in *Example 1*, and, in addition, X's adjustments for all risks and costs, including credit risk, future administrative costs and model risk, may occasionally cause the adjusted value of an eligible position to be at or near the bid value or ask value.

(ii) X's methodology does not violate the rule in paragraph (d)(3)(i)(A) of this section that forbids valuing eligible positions at or near the bid or ask value.

(e) *Compliance with other rules.* Notwithstanding any other provisions of this section, the fair market values for purposes of the safe harbor must be consistent with section 482, or rules that adopt section 482 principles, when applicable. For example, if a notional principal contract is subject to section 482 or section 482 principles, the values of future cash flows taken into account in determining the value of the contract for purposes of section 475 must be consistent with section 482.

(f) *Election—(1) Making the election.* Unless the Commissioner prescribes otherwise, an eligible taxpayer elects under this section by filing with the Commissioner a statement declaring that the taxpayer makes the safe harbor election in this section for all eligible positions for which it has an eligible method. In addition to any other information that the Commissioner may require, the statement must describe the taxpayer's applicable financial statement for the first taxable year for which the election is effective and must state that the taxpayer agrees to provide upon the request of the Commissioner all information, records, and schedules in the manner required by paragraph (k) of this section. The statement must be attached to a timely filed Federal income tax return (including extensions) for the taxable year for which the election is first effective.

(2) *Duration of the election.* Once made, the election continues in effect for all subsequent taxable years unless revoked.

(3) *Revocation—(i) By the taxpayer.* An eligible taxpayer that is subject to an election under this section may revoke

the election only with the consent of the Commissioner.

(ii) *By the Commissioner.* The Commissioner, after consideration of the relevant facts and circumstances, may revoke an election under this section, effective beginning with the first open year for which the election is effective or with any subsequent year, if—

(A) The taxpayer fails to comply with paragraph (k) of this section (concerning record retention and production) and the taxpayer does not show reasonable cause for this failure;

(B) The taxpayer ceases to have an applicable financial statement or ceases to use an eligible method; or

(C) For any other reason, no more than a *de minimis* number of eligible positions, or no more than a *de minimis* fraction of the taxpayer's eligible positions, are covered by the safe harbor in paragraph (b) of this section.

(4) *Re-election.* If an election is revoked, either by the Commissioner or by the taxpayer, the taxpayer (or any successor in interest of the taxpayer) may not make the election without the consent of the Commissioner for any taxable year that begins before the date that is six years after the first day of the earliest taxable year affected by the revocation.

(g) *Eligible positions.* For any taxpayer, an eligible position is any security or commodity that the Commissioner in a revenue procedure or other published guidance designates as an eligible position with respect to that taxpayer for purposes of this safe harbor.

(h) *Applicable financial statement—(1) Definition.* An eligible taxpayer's applicable financial statement for a taxable year is the taxpayer's primary financial statement for that year if that primary financial statement is described in paragraph (h)(2)(i) of this section (concerning statements required to be filed with the SEC) or if that primary financial statement both meets the requirements of paragraph (j) of this section (concerning significant business use) and is described in either paragraph (h)(2)(ii) or (iii) of this section. Otherwise, or if the taxpayer does not have a primary financial statement for the taxable year, the taxpayer does not have an applicable financial statement for the taxable year.

(2) *Primary financial statement.* For any taxable year, an eligible taxpayer's primary financial statement is the financial statement, if any, described in one or more of paragraphs (h)(2)(i), (ii), and (iii) of this section. If more than one financial statement of the taxpayer for the year is so described, the primary financial statement is the one first described in paragraphs (h)(2)(i), (ii), and (iii) of this section. A taxpayer has only one primary financial statement for any taxable year.

(i) *Statement required to be filed with the Securities and Exchange Commission (SEC).* A financial statement that is prepared in accordance with U.S. GAAP and that is required to be filed with the SEC, such as the 10-K or the Annual Statement to Shareholders.

(ii) *Statement filed with a Federal agency other than the Internal Revenue Service.* A financial statement that is prepared in accordance with U.S. GAAP and that is required to be provided to the Federal government or any of its agencies other than the Internal Revenue Service (IRS).

(iii) *Certified audited financial statement.* A certified audited financial statement that is prepared in accordance with U.S. GAAP; that is given to creditors for purposes of making lending decisions, given to equity holders for purposes of evaluating their investment in the eligible taxpayer, or provided for other substantial non-tax purposes; and that the taxpayer reasonably anticipates will be directly relied on for the purposes for which it was given or provided.

(3) *Example. Primary financial statement.* X prepares financial statement FS1, which is required to be filed with a Federal government agency other than the SEC or the IRS. FS1 is thus described in paragraph (h)(2)(ii) of this section. X also prepares financial statement FS2, which is a certified audited financial statement that is given to creditors and that X reasonably anticipates will be relied on for purposes of making lending decisions. FS2 is thus described in paragraph (h)(2)(iii) of this section. Because FS1, which is described in paragraph (h)(2)(ii) of this section, is described before FS2, which is described in paragraph (h)(2)(iii) of this section, FS1 is X's primary financial statement.

(4) *Financial statements of equal priority.* If the rules of paragraph (h)(2) of this section cause two or more financial statements to be of equal priority, then the statement that results in the highest aggregate valuation of eligible positions being

marked to market under section 475 is the primary financial statement.

(5) *Consolidated groups.* If the taxpayer is a member of an affiliated group that files a consolidated return, the primary financial statement of the taxpayer is the primary financial statement, if any, of the common parent (within the meaning of section 1504(a)(1)) of the consolidated group.

(6) *Supplement or amendment to a financial statement.* A financial statement includes any supplement or amendment to the financial statement.

(7) *Certified audited financial statement.* For purposes of this paragraph (h), a financial statement is a certified audited financial statement if it is certified by an independent certified public accountant from a Registered Public Accounting firm, as defined in section 2(a)(12) of the Sarbanes-Oxley Act of 2002, Public Law 107-204, 116 Stat. 746 (July 30, 2002), 15 U.S.C. §7201(a)(12), and rules promulgated under that Act, and is—

(i) Certified to be fairly presented (a "clean" opinion);

(ii) Certified to be fairly presented subject to a concern about a contingency, other than a contingency relating to the value of eligible positions (a qualified "subject to" opinion); or

(iii) Certified to be fairly presented except for a method of accounting with which the Certified Public Accountant disagrees and which is not a method used to determine the value of an eligible position held by the eligible taxpayer (a qualified "except for" opinion).

(i) [Reserved].

(j) *Significant business use—(1) In general.* A financial statement is described in this paragraph (j) if—

(i) The financial statement contains values for eligible positions;

(ii) The eligible taxpayer makes significant use of financial statement values in most of the significant management functions of its business; and

(iii) That use is related to the management of all or substantially all of the eligible taxpayer's business.

(2) *Financial statement value.* For purposes of this paragraph (j), the term *financial statement value* means—

(i) A value that is taken from the financial statement; or

(ii) A value that is produced by a process that is in all respects identical to the process that produces the values that appear on the financial statement but that is not taken from the statement because either—

(A) The value was determined as of a date for which the financial statement does not value eligible positions; or

(B) The value is used in the management of the business before the financial statement has been prepared.

(3) *Management functions of a business.* For purposes of this paragraph (j), the term *management functions of a business* refers to the financial and commercial oversight of the business. Oversight includes, but is not limited to, senior management review of business-unit profitability, market risk measurement or management, credit risk measurement or management, internal allocation of capital, and compensation of personnel. Management functions of a business do not include either tax accounting or reporting the results of operations to persons other than directors or employees.

(4) *Significant use.* If an eligible taxpayer uses financial statement values for some significant management functions and uses values that are not financial statement values for other significant management functions, then the determination of whether the taxpayer has made significant use of the financial statement values is made on the basis of all the facts and circumstances. This determination must particularly take into account whether the taxpayer's reliance on the financial statement values exposes the taxpayer to material adverse economic consequences if the values are incorrect.

(k) *Retention and production of records—(1) In general.* In addition to all records that section 6001 otherwise requires to be retained, an eligible taxpayer subject to the election provided by this section must keep, and timely provide to the Commissioner upon request, records and books of account that are sufficient to establish that the financial statement to which the income tax return conforms is the taxpayer's applicable financial statement, that the method used on that statement is an eligible method, and that the values used for eligible positions for purposes of section 475 are the values used in the applicable financial statement.

This obligation extends to all records and books that are required to be maintained for any period for financial or regulatory reporting purposes, even if these records or books may not otherwise be specifically covered by section 6001. All records and books described in this paragraph (k) must be maintained for the period described in paragraph (k)(4) of this section, even if a lesser period of retention applies for financial statement or regulatory purposes.

(2) *Specific requirements—(i) Verification and reconciliation.* Unless the Commissioner otherwise provides—

(A) *In general.* An eligible taxpayer must provide books and records to verify the appropriate use of the safe harbor and reconciliation schedules between the applicable financial statement for the taxable year and the Federal income tax return for that year. The required verification materials and reconciliation schedules include all supporting schedules, exhibits, computer programs, and any other information used in producing the values and schedules, including the documentation of rules and procedures governing determination of the values. The required reconciliation schedules must also include a detailed explanation of any adjustments necessitated by the imperfect overlap between the eligible positions that the taxpayer marks to market under section 475 and the eligible positions for which the applicable financial statement uses an eligible method. In the time and manner provided by the Commissioner, a corporate taxpayer subject to this paragraph (k) must reconcile the net income amount reported on its applicable financial statement to the amount reported on the applicable forms and schedules on its Federal income tax return (such as the Schedule M-1, "*Reconciliation of Income (Loss) per Books With Income per Return*"; Schedule M-3, "*Net Income (Loss) Reconciliation for Corporations With Total Assets of \$10 Million or More*"; and Form 1120F, "*U.S. Income Tax Return of a Foreign Corporation*"). Eligible taxpayers that are not otherwise required to file a Schedule M-1 or Schedule M-3 must reconcile net income using substitute schedules similar to Schedule M-1 and Schedule M-3, and these substitute schedules must be attached to the return.

(B) *Values on books and records with supporting schedules.* The books and records must state the value used for

each eligible position separately from the value used for any other eligible position. However, an eligible taxpayer may make adjustments to values on a pooled basis, if the taxpayer demonstrates that it can compute gain or loss attributable to the sale or other disposition of an individual eligible position.

(C) *Consolidation schedules.* An eligible taxpayer must provide a schedule showing the consolidation and de-consolidation that is used in preparing the applicable financial statement, along with exhibits and subordinate schedules. This schedule must provide information that addresses the differences for consolidation and de-consolidation between the applicable financial statement and the Federal income tax return.

(ii) *Instructions provided by the Commissioner.* The Commissioner may provide an alternative time or manner in which an eligible taxpayer subject to this paragraph (k) must establish that the same values used for eligible positions on the applicable financial statement are also the values used for purposes of section 475 on the Federal income tax return.

(3) *Time for producing records.* All documents described in this paragraph (k) must be produced within 30 days of a request by the Commissioner, unless the Commissioner grants a written extension. Generally, the Commissioner will exercise his discretion to excuse a minor or inadvertent failure to provide requested documents if the taxpayer shows reasonable cause for the failure, has made a good faith effort to comply with the requirement to produce records, and promptly remedies the failure. For failures to maintain, or timely produce, records, see paragraph (f)(3)(ii) of this section (allowing the Commissioner to revoke the election), and see paragraph (m) of this section (allowing the Commissioner, but not the taxpayer, to use for eligible positions that otherwise might be subject to the safe harbor fair market values that clearly reflect income but that are different from the values used on the applicable financial statement).

(4) *Retention period for records.* All materials required by this paragraph (k) and section 6001 must be retained as long as their contents may become material in the administration of any internal revenue law.

(5) *Agreements with the Commissioner.* The Commissioner and an eligible taxpayer may enter into a written agreement that establishes, for purposes of this paragraph (k), which records must be maintained, how they must be maintained, and for how long they must be maintained.

(l) [Reserved].

(m) *Use of different values.* If, with respect to the records that relate to certain eligible positions for a taxable year, the taxpayer fails to satisfy paragraph (k) of this section (concerning record retention and record production), then, for those eligible positions for that year, the Commissioner may use values that the Commissioner determines to be fair market values that are appropriate to clearly reflect income, even if the values so determined are different from the values reported for those positions on the applicable financial statement. See also paragraph (f)(3)(ii) of this section (concerning revocation of the election by

the Commissioner when a taxpayer does not produce required records and fails to demonstrate reasonable cause for the failure).

§1.475(e)–1 [Redesignated as §1.475(g)–1]

Par. 4. Section 1.475(e)–1 is redesignated as §1.475(g)–1.

Par. 5. Newly designated §1.475(g)–1 is amended by redesignating paragraphs (d) through (j) as paragraphs (e) through (k), respectively, and adding a new paragraph (d) to read as follows:

§1.475(g)–1 Effective dates.

(d) Section 1.475(a)–4 (concerning a safe harbor to use applicable financial statement values for purposes of section 475) applies to taxable years ending on or after June 12, 2007.

PART 602 – OMB CONTROL NUMBERS UNDER PAPERWORK REDUCTION ACT

Par. 6. The authority citation for part 602 continues to read as follows:

Authority: 26 USC 7805

Par. 7. In §602.101, paragraph (b) is amended by adding the entry for 1.475(a)–4 to the table to read as follows:

§602.101 OMB Control numbers.

(b) *****

| CFR part or section where identified and described | Current OMB control No. |
|--|-------------------------|
| ***** | |
| 1.475(a)–4 | 1545–1945 |
| ***** | |

Kevin M. Brown,
Deputy Commissioner for Services and Enforcement.

Approved May 30, 2007.

Eric Solomon,
Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on June 11, 2007, 8:45 a.m., and published in the issue of the Federal Register for June 12, 2007, 72 F.R. 32172)

Section 482.—Allocation of Income and Deductions Among Taxpayers

Must the fair market values for purposes of the safe harbor be consistent with section 482, if a taxpayer is subject to section 482. See T.D. 9328, page 1.

Section 892.—Income of Foreign Governments and of International Organizations

A notice alerts taxpayers and their representatives that the IRS intends to challenge claims under the relevant current statutory and regulatory provisions that certain distributions, described in the notice, from a real estate investment trust (REIT) or other qualified investment entity (QIE) to foreign governments are not subject to section 897(h)(1) of the Internal Revenue Code or are exempt from taxation under section 892 of the Code. The notice also announces that Treasury and the IRS intend to issue regulations that will clarify the correct interpretation of these provisions. See Notice 2007-55, page 13.

Section 897.—Disposition of Investment in United States Real Property

A notice alerts taxpayers and their representatives that the IRS intends to challenge claims under the rel-

evant current statutory and regulatory provisions that certain distributions, described in the notice, from a real estate investment trust (REIT) or other qualified investment entity (QIE) to foreign governments are not subject to section 897(h)(1) of the Internal Revenue Code or are exempt from taxation under section 892 of the Code. The notice also announces that Treasury and the IRS intend to issue regulations that will clarify the correct interpretation of these provisions. See Notice 2007-55, page 13.

Section 1256.—Section 1256 Contracts Marked to Market

If a dealer has eligible positions that trade on a qualified board or exchange, are they permitted to report those positions' values at or near the bid or ask value. See T.D. 9328, page 1.

Part III. Administrative, Procedural, and Miscellaneous

Preparer Penalty Provisions Under the Small Business and Work Opportunity Act of 2007

Notice 2007-54

This notice provides guidance and transitional relief for the return preparer penalty provisions under section 6694 of the Internal Revenue Code, as amended by the Small Business and Work Opportunity Act of 2007.

SCOPE

The transitional relief provided by this notice will apply to all returns, amended returns, and refund claims due on or before December 31, 2007 (determined with regard to any extension of time for filing); to 2007 estimated tax returns due on or before January 15, 2008; and to 2007 employment and excise tax returns due on or before January 31, 2008.

BACKGROUND

The Small Business and Work Opportunity Act of 2007, Pub. L. No. 110-28, 121 Stat. —, (the Act) was enacted into law on May 25, 2007. Section 8246 of the Act amends several provisions of the Code to extend the application of the income tax return preparer penalties to all tax return preparers, alter the standards of conduct that must be met to avoid imposition of the penalties for preparing a return which reflects an understatement of liability, and increase applicable penalties. The amendments are effective for tax returns prepared after the date of the enactment, May 25, 2007.

The amendments made by the Act raise questions regarding activities representing preparation of a tax return, who is a return preparer within the meaning of section 7701(a)(36) (as amended), and how the statute applies to signing and non-signing preparers. In order to address these questions, the Internal Revenue Service and the Treasury Department are considering whether regulations or other published guidance are needed, including but not limited to, amendments to Treas. Reg. sections 301.7701-15 and

1.6694-0 through 1.6694-4. Because the Act extends the types of returns subject to the new provisions, changes are also required to the relevant forms and publications. The Service must also alter existing procedures in order to process disclosures with certain forms and in electronic formats. Because the amendments to section 6694 are effective immediately for returns prepared after May 25, 2007, the Service and the Treasury Department believe that effective tax administration requires transitional relief with respect to the new standards of conduct under section 6694(a).

PENALTY UNDER SECTION 6694

Prior to amendment by the Act, the penalty under section 6694(a) applied if:

(1) any part of an understatement of liability with respect to any return or claim for refund is due to a position for which there was not a realistic possibility of being sustained on its merits,

(2) any person who is an income tax return preparer with respect to such return or claim knew (or reasonably should have known) of such position, and,

(3) such position was not disclosed as provided in section 6662(d)(2)(B)(ii) or was frivolous.

Prior to amendment by the Act, the penalty under section 6694(b) applied if any part of an understatement was due to:

(1) a willful attempt in any manner by an income tax return preparer to understate the liability for tax; or

(2) to any reckless or intentional disregard of rules or regulations by an income tax return preparer.

Section 8246 of the Act amended several provisions of the Code to extend the scope of the income tax return preparer penalties to preparers of all tax returns, amended returns and claims for refund, including estate and gift tax returns, generation-skipping transfer tax returns, employment tax returns, and excise tax returns. The Act amended section 6694(a) to provide that the penalty would apply if:

(A) the tax return preparer knew (or reasonably should have known) of the position,

(B) there was not a reasonable belief that the position would more likely than not be sustained on its merits, and

(C)(i) the position was not disclosed as provided in section 6662(d)(2)(B)(ii), or

(ii) there was no reasonable basis for the position.

Although the Act did not alter the standard of conduct under section 6694(b), it increased the amount of the penalty and made the penalty applicable to all tax return preparers.

Section 8246 of the Act amends the standards of conduct under section 6694(a) in two ways. First, for undisclosed positions, the Act replaces the realistic possibility standard with a requirement that there be a reasonable belief that the tax treatment of the position would more likely than not be sustained on its merits. Second, for disclosed positions, the Act replaces the not-frivolous standard with the requirement that there be a reasonable basis for the tax treatment of the position.

The Act also increased the first-tier section 6694(a) penalty for understatements from \$250 to the greater of \$1000 or 50% of the income derived (or to be derived) by the tax return preparer from the preparation of a return or claim with respect to which the penalty was imposed. The Act increased the second-tier section 6694(b) penalty for willful or reckless conduct from \$1000 to the greater of \$5,000 or 50% of the income derived (or to be derived) by the tax return preparer.

Under both the prior and current law, disclosure under section 6694(a) is adequate if made on a Form 8275, *Disclosure Statement*, or Form 8275-R, *Regulation Disclosure Statement*, attached to the return, amended return, or refund claim, or pursuant to the annual revenue procedure authorized in Treasury Regulation sections 1.6694-2(c)(3) and 1.6662-4(f)(2). In addition, under both the prior and current law, the penalty under section 6694(a) would not be imposed if it is shown that there is reasonable cause for the understatement and the tax return preparer acted in good faith.

TRANSITIONAL RELIEF

In order to provide sufficient time to address issues pertaining to the implementation of the Act, the Service is providing the following transitional relief: For income tax returns, amended returns, and refund claims, the standards set forth under the previous law and current regulations under section 6694 will be applied in determining whether the Service will impose a penalty under section 6694(a). Generally, in applying transitional relief for income tax returns, amended returns or refund claims, disclosure would be adequate if made on a Form 8275, *Disclosure Statement*, or Form 8275-R, *Regulation Disclosure Statement*, attached to the return, amended return, or refund claim, or pursuant to the annual revenue procedure authorized in Treasury Regulation sections 1.6694-2(c)(3) and 1.6662-4(f)(2).

For all other returns, amended returns, and claims for refund, including estate, gift, and generation-skipping transfer tax returns, employment tax returns, and excise tax returns, the reasonable basis standard set forth in the regulations issued under section 6662, without regard to the disclosure requirements contained therein, will be applied in determining whether the Service will impose a penalty under section 6694(a).

This transitional relief will apply to all returns, amended returns, and refund claims due on or before December 31, 2007 (determined with regard to any extension of time for filing); to 2007 estimated tax returns due on or before January 15, 2008; and to 2007 employment and excise tax returns due on or before January 31, 2008.

No transitional relief is available under section 6694(b) as transitional relief is not appropriate for return preparers who exhibit willful or reckless conduct, regardless of the type of return prepared.

EFFECTIVE DATE

This notice is effective as of May 25, 2007.

CONTACT INFORMATION

The principal author of this notice is Michael E. Hara of the Office of Associate Chief Counsel (Procedure and Administration). For further information regard-

ing this notice, contact Mr. Hara at (202) 622-4910 (not a toll-free call).

Guidance to Clarify the Treatment of Certain Distributions Under Internal Revenue Code Section 897(h)(1)

Notice 2007-55

PURPOSE

The Treasury Department (Treasury) and Internal Revenue Service (IRS) are aware of a type of transaction, described below, in which a foreign government inappropriately claims that certain distributions from a real estate investment trust (REIT) or other qualified investment entity to the foreign government are not subject to section 897(h)(1) of the Internal Revenue Code (Code) or are exempt from taxation under section 892 of the Code. This notice alerts taxpayers and their representatives that the IRS intends to challenge such claims under the relevant current statutory and regulatory provisions. In addition, Treasury and the IRS intend to issue regulations that will clarify the correct interpretation of these provisions. These regulations will apply to distributions occurring on or after June 13, 2007.

TRANSACTIONS AT ISSUE

In a typical transaction, a foreign government purchases a non-controlling interest in a privately held (and domestically controlled) REIT, with a view to receiving dividends from the REIT over the course of the remaining life of the REIT (for example, five to seven years). At the end of the REIT's life, the REIT typically sells all or a portion of its assets and distributes the sales proceeds (and any remaining assets) to its shareholders in complete liquidation. In some cases, the liquidation may take place over more than one year.

Notwithstanding section 897(h)(1), the foreign government (or withholding agent) asserts that distributions from the REIT (including distributions in liquidation) that are attributable to gain from the sale or exchange of a United States real property interest (USRPI) described in section

897(c)(1)(A)(i) are exempt from taxation (and withholding) under section 892. The foreign government (or withholding agent) may also assert that section 897(h)(1) does not apply to liquidating distributions from the REIT.

BACKGROUND

Section 892 addresses the taxation of income of foreign governments. Section 892(a)(1) excludes from gross income and exempts from U.S. federal income tax certain categories of income earned by foreign governments, including dividends from and capital gains with respect to investments in the United States in stocks, bonds, or other domestic securities. Section 892(a)(2)(A) provides that the exclusion under section 892(a)(1) does not apply to income derived from the conduct of any commercial activity (whether within or without the United States), income received by a controlled commercial entity or received (directly or indirectly) from a controlled commercial entity, or income derived from the disposition of any interest in a controlled commercial entity. In addition, income derived from sources other than described in section 892(a)(1) is not excluded from gross income and is not exempt from tax under section 892. See the flush language following Treas. Reg. § 1.892-3T(a)(1)(iii). Under section 892(a)(3), a foreign government is treated as a corporate resident of its country for purposes of the Code.

Section 897 provides special rules for the disposition of an investment in U.S. real property. Section 897(a)(1) provides, in part, that gain or loss of a nonresident alien individual or a foreign corporation from the disposition of a USRPI is taken into account under section 871(b)(1) or 882(a)(1) as if the nonresident alien individual or foreign corporation, respectively, were engaged in a trade or business in the United States during the taxable year and as if such gain or loss were effectively connected with such trade or business. Section 897(c)(1)(A) defines a USRPI to mean (i) an interest in real property located in the United States or the Virgin Islands and (ii) any interest (other than solely as a creditor) in a domestic corporation that is a United States real property holding corporation (USRPHC). As defined in section 897(c)(2), a USRPHC

means any corporation if the fair market value of its USRPIS equals or exceeds 50 percent of the total fair market value of its USRPIS, its interests in real property located outside the United States, and any other assets which are used or held for use in a trade or business.

Section 897(h)(1) provides that any distribution by a qualified investment entity to a nonresident alien individual, foreign corporation, or other qualified investment entity shall, to the extent attributable to gain from the sale or exchange by the qualified investment entity of a USRPI, be treated as gain recognized by such nonresident alien individual, foreign corporation, or other qualified investment entity from the sale or exchange of a USRPI. Thus, such distributions are taxable to such nonresident alien individual or foreign corporation under section 897(a)(1). For purposes of section 897(h)(1), a qualified investment entity means any REIT and any regulated investment company (RIC) described in section 897(h)(4)(A)(i)(II).

A foreign government is treated under Treas. Reg. § 1.897-9T(e) as a foreign person with respect to USRPIS. Further, Treas. Reg. §§ 1.897-9T(e) and 1.1445-10T(b) provide that a foreign government is subject to taxation under sections 897 and 1445 on the disposition of a USRPI “except to the extent specifically otherwise provided in the regulations issued under section 892.”

The regulations issued under section 892 do not specifically exempt foreign governments from taxation under sections 897 and 1445. The flush language following Treas. Reg. § 1.892-3T(a)(1)(iii) provides that:

Income derived from sources other than described in this paragraph [§ 1.892-3T(a)(1)] (such as income earned from a U.S. real property interest described in section 897(c)(1)(A)(i)) is not exempt from taxation under section 892. Furthermore, any gain derived from the disposition of a U.S. real property interest defined in section 897(c)(1)(A)(i) shall in no event qualify for exemption under section 892.

This language makes it clear that gain from the disposition of a USRPI described in section 897(c)(1)(A)(i) is not exempt from taxation under section 892. Gain derived by a foreign government from the disposition of a USRPI defined in

section 897(c)(1)(A)(ii) (*i.e.*, an interest in a USRPHC), however, is exempt from tax under Treas. Reg. § 1.892-3T if the USRPHC does not constitute a controlled commercial entity under section 892(a)(2)(B). *See Example (1)* of Treas. Reg. § 1.892-3T(b).

TREATMENT OF DISTRIBUTIONS UNDER SECTION 897(h)(1)

1. Distributions During the Life of the REIT

Section 897(h)(1) treats any distribution by a qualified investment entity to a foreign corporation as gain recognized by the foreign corporation from the disposition of a USRPI to the extent that the distribution is attributable to gains from sales or exchanges by the qualified investment entity of USRPIS. As a result, to the extent that such distributions are attributable to gain recognized from sales or exchanges of a USRPI, the distributions are subject to U.S. income taxation under sections 897(a)(1) and 882(a)(1) as effectively connected income and to withholding under section 1445(e). In addition, where applicable, such distributions are treated and taxed as gain attributable to the alienation of a USRPI under the capital gains articles of U.S. income tax treaties.

Accordingly, the IRS will challenge under current statutory and regulatory provisions an assertion that section 892 exempts from taxation (and withholding) distributions from a qualified investment entity that are treated under section 897(h)(1) as gain recognized by a foreign government shareholder from the sale or exchange of a USRPI described in section 897(c)(1)(A)(i). In addition, Treasury and the IRS will clarify in regulations that the language in Treas. Reg. § 1.892-3T(a)(1) denying exemption from taxation with respect to a disposition of a USRPI defined in section 897(c)(1)(A)(i) applies also to distributions attributable to gain from the sale or exchange of USRPIS to which section 897(h)(1) applies. Thus, the regulations will clarify that distributions received by a foreign government from a qualified investment entity that are attributable to gain from sales or exchanges by the qualified investment entity of USRPIS described in section 897(c)(1)(A)(i) are not exempt from taxation under section

892. Instead, the regulations will clarify that such distributions are subject to U.S. income taxation under section 882(a)(1) as effectively connected income pursuant to section 897(a)(1) and to withholding under section 1445(e). In addition, the regulations will clarify that, where applicable, such distributions are treated and taxed as gain attributable to the alienation of a USRPI under the capital gains articles of U.S. income tax treaties.

2. Liquidating Distributions

Sections 897(h)(1) and 1445(e)(6) by their terms apply to all distributions to the extent attributable to gain from sales or exchanges by the qualified investment entity of a USRPI. Accordingly, the IRS will challenge under current statutory and regulatory provisions an assertion by any foreign taxpayer that section 897(h)(1) does not apply to distributions in complete liquidation under sections 331 and 332. In addition, regulations will clarify that the application of section 897(h)(1) and withholding under section 1445(e) is not limited to distributions by qualified investment entities that are subject to section 316. The regulations will clarify that the term “distribution,” as used in sections 897(h)(1) and 1445(e)(6), includes any distribution included under sections 301, 302, 331, and 332, where the distribution is attributable, in whole or in part, to gain from the sale or exchange of a USRPI by a qualified investment entity or other pass-through entity.

EFFECTIVE DATE

Regulations incorporating the guidance in this notice will apply to distributions occurring on or after June 13, 2007.

DRAFTING INFORMATION

The principal authors of this notice are David A. Juster and Margaret A. Hogan of the Office of the Associate Chief Counsel (International). However, other personnel from Treasury and the IRS participated in its development. For further information regarding section 892 issues in this notice, contact Mr. Juster at (202) 622-3850 (not a toll-free call). For further information regarding section 897 issues in this notice,

contact Ms. Hogan at (202) 622-3860 (not a toll-free call).

Change of Address for Submission of CREBs Applications

Notice 2007-56

This notice changes the address for submission by mail of applications for allocations of the national clean renewable energy bond (“CREB”) volume limitation (“volume cap”) allocations under section 54 of the Internal Revenue Code (the “Code”) and Notice 2007-26, 2007-14 I.R.B. 870 (April 2, 2007). Applicants for CREB volume cap allocations submitting applications *by mail* must send their applications to Internal Revenue Service (IRS), Attention: Deb Beaulieu, 56 Inverness Drive East MS 7222, Englewood, CO 80112. This notice *modifies* Notice 2007-26, which provides guidance on CREBs in connection with the allocation process for the available volume cap authorization under section 54.

Section 1303 of the Energy Tax Incentives Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005) (the “2005 Act”),

added section 54 to the Code. Section 54 originally provided for a total national volume cap of \$800 million for CREBs to finance eligible clean renewable energy projects. Pursuant to the 2005 Act, during 2006 the Internal Revenue Service allocated the \$800 million volume cap to qualified clean renewable energy projects.

Section 202 of the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, 120 Stat. 2922 (2006) (the “2006 Act”), amended section 54, in part, by increasing the total national volume cap for CREBs from \$800 million to \$1.2 billion. Pursuant to the 2006 Act, Notice 2007-26 solicits applications of the available CREB volume cap as described in section 6 of Notice 2007-26.

Section 3.d. of Notice 2007-26 provides that CREB applications must be submitted in one of the following ways: (1) by hard copy in duplicate accompanied by a copy of the application in electronic format on compact disc (“CD”) by mail to the Internal Revenue Service (IRS), Attention SE:T:GE:TEB, 1111 Constitution Avenue, NW, PE – 5N3, Washington, D.C. 20224; (2) by hard copy in duplicate accompanied by a copy of the application in electronic format on compact disc (“CD”) by hand delivery Monday through Friday

between the hours of 8 a.m. and 4 p.m. to the Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, PE – 5N3, Washington, D.C., attention SE:T:GE:TEB; or (3) by electronic submission in PDF format of a copy of a signed original document to the IRS to *Tina.F.Hill@irs.gov*.

This notice changes the address to which applicants may send applications for CREB volume cap authority *by mail* only. Item (1) of section 3.d. of Notice 2007-26 is amended to read as follows: “(1) by hard copy in duplicate accompanied by a copy of the application in electronic format on compact disc (“CD”) by mail to the Internal Revenue Service (IRS), Attention: Deb Beaulieu, 56 Inverness Drive East MS 7222, Englewood, CO 80112;”

This notice *modifies* Notice 2007-26. This notice is effective immediately upon release.

The principal authors of this notice are Zoran Stojanovic and Timothy L. Jones of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this notice, contact Tina Hill at (202) 283-9774 (not a toll-free call).

Note. This revenue procedure will be reproduced as the next revision of IRS Publication 4436, General Rules and Specifications for Substitute Form 941 and Schedule B (Form 941).

Rev. Proc. 2007-42

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Section 1 – Purpose

.01 The purpose of this publication is to provide general rules and specifications from the Internal Revenue Service (IRS) for paper and computer-generated substitutes for the January 2007 revision of Form 941, Employer’s QUARTERLY Federal Tax Return, and for the January 2006 revision of Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors.

Note. Substitute territorial forms (941-PR, 941-SS, and Anexo B (Forma 941-PR)) should also conform to the specifications outlined in this revenue procedure.

.02 This publication provides measurements and printing specifications for substitute Form 941 and Schedule B (Form 941). If you need more in-depth information on who must complete the forms and how to complete them, see the Instructions for Form 941 and Publication 15 (Circular E), Employer’s Tax Guide, or visit the IRS website at www.irs.gov.

.03 Forms should not be submitted to the IRS for specific approval. If you are uncertain of any specification and want clarification, do the following.

- (1) Submit a letter citing the specification.
- (2) State your understanding of the specification.
- (3) Enclose an example (if appropriate) of how the form would appear if produced using your understanding.
- (4) Use the following address. Be sure to include your name, complete address, phone number, and, if applicable, your email address with your correspondence.

Internal Revenue Service
Attn: Substitute Forms Program
SE:W:CAR:MP:T:T:SP, IR-6406
1111 Constitution Avenue, NW
Washington, DC 20224

Note. Allow at least 30 days for the IRS to respond.

.04 However, software developers and form producers should send a blank copy of their substitute Form 941 and Schedule B (Form 941) in pdf format to Dorene.Beard@irs.gov. The purpose is not specifically for approval but to assist the IRS in preparing to scan these forms. Submitters will only receive comments if a significant problem is discovered through this process. Submitters are not expected to delay marketing their forms in order to receive feedback. In no case should submitters include “live” taxpayer data.

.05 The six-digit form ID (95xxxx) on Form 941 and Schedule B (Form 941) identifies the official substitute paper form. The six-digit form ID (97xxxx) identifies substitute 6x10 grid Form 941 and Schedule B (Form 941). The six-digit form ID (99xxxx) identifies the official IRS issued Form 941 and Schedule B (Form 941). The last two digits of the code identify the calendar year. For example, the last two digits of ID code 97107 identifies calendar year 2007.

Section 2 – What’s New

.01 There are new 6x10 grid layouts for the 2007 revisions of Form 941.

.02 There are no changes to the January 2006 revision of Schedule B (Form 941), and therefore, this revision remains useable.

.03 We added the year to the heading for the “Report for this Quarter” box in the upper right corner of page 1.

.04 We added space between line 13 and the instructions below it.

.05 We deleted the entry space for the third party designee’s telephone number in Part 4 on page 2. In addition, we moved the text “Personal Identification Number” and the fill-in boxes for the number to the left to line up under “Designee’s name.”

.06 To increase visibility, we reformatted the signature section in Part 5 on page 2 to conform to the signature areas of new Form 944.

.07 We made changes to the text of the instructions to the payment voucher, Form 941-V. We revised the first sentence of the third paragraph in the section “Making Payments With Form 941.”

.08 We changed the wording of the second line of text for line 12 from “Make checks payable to United States Treasury” to “Follow the Instructions for Form 941-V, Payment Voucher.”

Section 3 – General Requirements for Reproducing IRS Official Form 941 and Schedule B (Form 941)

.01 Do not submit substitute Form 941 and Schedule B (Form 941) to the IRS for approval. Substitute Form 941 and Schedule B (Form 941) that **completely conform** to the specifications contained in this revenue procedure do not require prior approval from the IRS.

.02 Print the form on paper that is 8.5 inches wide by 11 inches deep.

.03 Use white paper that meets generally-accepted weight, color, and quality standards (minimum 20 lb. white bond paper).

Note. Reclaimed fiber in any percentage is permitted provided that the requirements of this standard are met.

.04 The IRS prefers printing Form 941 on both sides of a single sheet of paper, but it is acceptable to print on one side of each of two separate sheets of paper.

.05 Make substitute paper forms as identical to the official IRS-printed forms as possible.

.06 Print using nonreflective black inks.

.07 Use typefaces that are substantially identical in size and shape to the official forms and use rules and shading that are substantially identical to those on the official forms.

.08 Print the six-digit form ID codes in the upper right-hand corner of each form using nonreflective black, carbon-based, 12-point (minimum 10-point required) OCR-A font. Use the official paper over-the-counter IRS forms to develop your substitute paper forms. Print “950107” on page 1 of Form 941, “950207” on page 2 of Form 941, and “950306” on Schedule B (Form 941) of substitute paper forms. See Section 4 for form ID codes for software-generated forms.

Note. Maintain as much white space as possible around the form ID code. Do not allow character strings to print adjacent to the code.

.09 Print the OMB number in the same location as on the official forms.

.10 Print all entry boxes and checkboxes exactly as shown on the official forms.

.11 Print your IRS-issued three-letter substitute form printer source code in the middle at the bottom of page 1 of Form 941.

Note. You can obtain a three-letter substitute form printer source code by requesting it by email at *taxforms@irs.gov. (The asterisk must be included in the address.) Please enter “Substitute Forms” on the subject line.

.12 Print “For Privacy Act and Paperwork Reduction Act Notice, see the back of the Payment Voucher” at the bottom of page 1 of Form 941.

.13 Print “For Paperwork Reduction Act Notice, see separate instructions” at the bottom of Schedule B (Form 941).

.14 Do not print the form catalog number (“Cat. No.”) at the bottom of the forms or instructions.

.15 Do not print the Government Printing Office (GPO) symbol at the bottom of the forms or instructions.

.16 See Exhibits A and B in Section 8.

Section 4 – Reproducing Form 941 and Schedule B (Form 941) for Software-Generated Paper Forms

.01 You may use the 6x10 grid exhibits (C and D) at the end of this document to develop a software version of Form 941 and Schedule B (Form 941). Please follow the specifications exactly to develop the fields.

.02 If you are developing software that is designed using the 6x10 grid in the exhibits, you may make the following modifications. See Exhibits C and D in Section 8.

- Use “970107” for page 1 of Form 941, “970207” for page 2 of Form 941, and “970306” for Schedule B (Form 941) as the form ID codes.

Note. Maintain as much white space as possible around the form ID code. Do not allow character strings to print adjacent to the code.

- Place all boxes and entry spaces in the same field locations as indicated in the 6x10 grid exhibits.
- Use single lines for “Employer Identification Number” (EIN) and other entry areas in the entity section of page 1 of Form 941.
- You do not need to use reverse type as shown on the IRS official form.
- You do not need to pre-print decimal points in the data boxes. However, where the amounts are required, the amounts should be printed with decimal points and place holders for cents.

- Use a single box for “state abbreviation” in line 14 of Form 941.
- Delete the pre-printed formatting in the “date” box for line 16 and in Parts 5 and 6 of Form 941.
- Delete the pre-printed formatting in the “Phone” box for Parts 5 and 6.
- Use a single box for “Personal Identification Number (PIN)” in Part 4 of Form 941.
- You may delete all shading when using the 6x10 grid format.
- .03 If producing both the form and the data or the form only, print your three-letter IRS-issued form printer source code in Row 63, Columns 49-51 on page 1 of Form 941. See Section 3.11.
- .04 If producing only the data on the form, print your four-digit software industry form code in Row 4, Columns 58-61 on page 1 of Form 941. See the National Association of Computerized Tax Processors (NACTP) website at www.nactp.org for information on these codes.
- .05 Print “For Privacy Act and Paperwork Reduction Act Notice, see the Payment Voucher” at the bottom of page 1 of Form 941.
- .06 Print “For Paperwork Reduction Act Notice, see separate instructions” at the bottom of Schedule B (Form 941).
- .07 Do not print the form catalog number (“Cat. No.”) at the bottom of the forms or instructions.
- .08 Do not print the Government Printing Office (GPO) symbol at the bottom of the forms or instructions.
- .09 To enable accurate scanning and processing, enter data on Form 941 and Schedule B (Form 941) as follows:

- Show name and EIN on all pages and attachments.
- Use 12-point (minimum 10-point) Courier font (if possible).
- Omit dollar signs, but use commas to show amounts.
- Except for lines 1, 2, and 10, leave blank any data field with a value of zero.
- Enter negative amounts with a minus sign. For example, report “-10.59” instead of “(10.59).”

Note. The IRS prefers that you use a minus sign for negative amounts instead of parentheses or some other means. However, if your software only allows for parentheses in reporting negative amounts, you may use them.

Section 5 – OMB Requirements for Substitute Forms

.01 The Paperwork Reduction Act (the Act) of 1995 (Public Law 104-13) requires the following.

- The Office of Management and Budget (OMB) approves all IRS tax forms that are subject to the Act.
- Each IRS form contains the OMB approval number, if assigned. (The official OMB numbers may be found on the official IRS forms and are also shown on the forms in the exhibits.)
- Each IRS form (or its instructions) states:
 - (1) Why the IRS needs the information,
 - (2) How it will be used, and
 - (3) Whether or not the information is required to be furnished to the IRS.

.02 This information must be provided to any users of official or substitute IRS forms or instructions.

.03 The OMB requirements for substitute IRS forms are the following.

- Any substitute form or substitute statement to a recipient must show the OMB number as it appears on the official IRS form.
- For Form 941 and Schedule B (Form 941), the OMB number (1545-0029) must appear exactly as shown on the official IRS form.
- For Form 941 and Schedule B (Form 941), the OMB number must use one of the following formats.
 - (1) OMB No. 1545-0029 (preferred) or
 - (2) OMB # 1545-0029 (acceptable).

.04 If no instructions are provided to users on your forms, you must furnish to them the exact text of the Privacy Act and Paperwork Reduction Act Notice.

Section 6 – Reproducible Copies of Forms

.01 You can order official IRS forms and information copies of federal tax materials at local IRS offices or by calling the IRS National Distribution Center at 1-800-829-3676. Other ways to get federal tax material include the following.

- The IRS website at www.irs.gov.
- The IRS' CD (Publication 1796).

.02 The IRS also offers an alternative to downloading electronic files and provides current and prior year access to tax forms and instructions through its Federal Tax Forms CD. Order Publication 1796, IRS Federal Tax Products CD, by using the IRS website at www.irs.gov/cdorders or by calling 1-877-CDFORMS (1-877-233-6767).

Section 7 – Effect on Other Documents

.01 Revenue Procedure 2006-25, 2006-21 I.R.B. 926 (reproduced as Publication 4436, Rev. 5-2006) is superseded.

Section 8 – Exhibits

.01 Please follow the specifications indicated in the following exhibits to produce substitute Form 941 and Schedule B (Form 941).

.02 These forms are subject to review and possible change as required. Therefore, employers are cautioned against overstocking supplies of privately-printed substitutes.

.03 **Do not** submit substitute Form 941 and Schedule B (Form 941) to the IRS for approval. Substitute Form 941 and Schedule B (Form 941) that **completely conform** to the specifications contained in this revenue procedure may be privately printed without prior approval from the IRS.

Exhibit A, Form 941 (Official Version)

Form **941 for 2007: Employer's QUARTERLY Federal Tax Return**
 (Rev. January 2007) Department of the Treasury — Internal Revenue Service

950107
OMB No. 1545-0029

Report for this Quarter of 2007
(Check one.)

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

(EIN) Employer identification number

Name (not your trade name)

Trade name (if any)

Address

City State ZIP code

Read the separate instructions before you fill out this form. Please type or print within the boxes.

Part 1: Answer these questions for this quarter.

1 Number of employees who received wages, tips, or other compensation for the pay period including: Mar. 12 (Quarter 1), June 12 (Quarter 2), Sept. 12 (Quarter 3), Dec. 12 (Quarter 4)

2 Wages, tips, and other compensation

3 Total income tax withheld from wages, tips, and other compensation

4 If no wages, tips, and other compensation are subject to social security or Medicare tax Check and go to line 6.

5 Taxable social security and Medicare wages and tips:

| | Column 1 | Column 2 |
|---|-------------------------------|----------------------|
| 5a Taxable social security wages | <input type="text"/> × .124 = | <input type="text"/> |
| 5b Taxable social security tips | <input type="text"/> × .124 = | <input type="text"/> |
| 5c Taxable Medicare wages & tips | <input type="text"/> × .029 = | <input type="text"/> |
| 5d Total social security and Medicare taxes (Column 2, lines 5a + 5b + 5c = line 5d) | <input type="text"/> | |

6 Total taxes before adjustments (lines 3 + 5d = line 6)

7 TAX ADJUSTMENTS (Read the instructions for line 7 before completing lines 7a through 7h.):

| | |
|---|----------------------|
| 7a Current quarter's fractions of cents | <input type="text"/> |
| 7b Current quarter's sick pay | <input type="text"/> |
| 7c Current quarter's adjustments for tips and group-term life insurance | <input type="text"/> |
| 7d Current year's income tax withholding (attach Form 941c) | <input type="text"/> |
| 7e Prior quarters' social security and Medicare taxes (attach Form 941c) | <input type="text"/> |
| 7f Special additions to federal income tax (attach Form 941c) | <input type="text"/> |
| 7g Special additions to social security and Medicare (attach Form 941c) | <input type="text"/> |
| 7h TOTAL ADJUSTMENTS (Combine all amounts: lines 7a through 7g.) | <input type="text"/> |

8 Total taxes after adjustments (Combine lines 6 and 7h.)

9 Advance earned income credit (EIC) payments made to employees

10 Total taxes after adjustment for advance EIC (line 8 - line 9 = line 10)

11 Total deposits for this quarter, including overpayment applied from a prior quarter

12 Balance due (If line 10 is more than line 11, write the difference here.)
Follow the Instructions for Form 941-V, Payment Voucher.

13 Overpayment (If line 11 is more than line 10, write the difference here.)

Apply to next return.
 Send a refund.

You MUST fill out both pages of this form and SIGN it.

Form **941** (Rev. 1-2007)

Exhibit A, Form 941 (Official Version) (continued)

950207

| | |
|---|--|
| Name (not your trade name) | Employer identification number (EIN) |
| Part 2: Tell us about your deposit schedule and tax liability for this quarter. | |
| If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see <i>Pub. 15 (Circular E)</i> , section 11. | |
| 14 <input type="checkbox"/> <input type="checkbox"/> Write the state abbreviation for the state where you made your deposits OR write "MU" if you made your deposits in <i>multiple</i> states. | |
| 15 Check one: <input type="checkbox"/> Line 10 is less than \$2,500. Go to Part 3. | |
| <input type="checkbox"/> You were a monthly schedule depositor for the entire quarter. Fill out your tax liability for each month. Then go to Part 3. | |
| Tax liability: Month 1 | .25" |
| Month 2 | 1.8" |
| Month 3 | |
| Total liability for quarter | Total must equal line 10. |
| <input type="checkbox"/> You were a semiweekly schedule depositor for any part of this quarter. Fill out <i>Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors</i> , and attach it to this form. | |
| Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank. | |
| 16 If your business has closed or you stopped paying wages | <input type="checkbox"/> Check here, and enter the final date you paid wages <input type="text"/> 1.1" |
| 17 If you are a seasonal employer and you do not have to file a return for every quarter of the year | <input type="checkbox"/> Check here. |
| Part 4: May we speak with your third-party designee? | |
| Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? (See the instructions for details.) | |
| <input type="checkbox"/> Yes. Designee's name | <input type="text"/> 5.5" |
| Select a 5-digit Personal Identification Number (PIN) to use when talking to IRS. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> | |
| <input type="checkbox"/> No. | <input type="text"/> 1.4" |
| Part 5: Sign here. You MUST fill out both pages of this form and SIGN it. | |
| Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. | |
| X Sign your name here | <input type="text"/> 3.0" |
| Date | <input type="text"/> 1.1" |
| Print your name here | <input type="text"/> 2.0" |
| Print your title here | <input type="text"/> |
| Best daytime phone | <input type="text"/> 1.6" |
| Part 6: For paid preparers only (optional) | |
| Paid Preparer's Signature | <input type="text"/> |
| Firm's name | <input type="text"/> |
| Address | <input type="text"/> 3.6" |
| Date | <input type="text"/> / / |
| Phone () - | <input type="text"/> 1.75" |
| EIN | <input type="text"/> |
| ZIP code | <input type="text"/> |
| SSN/PTIN | <input type="text"/> |
| <input type="checkbox"/> Check if you are self-employed. | |

Exhibit B, Schedule B (Form 941) (Official Version)

Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors

(Rev. January 2006) Department of the Treasury — Internal Revenue Service

(EIN) Employer identification number 32

Name (not your trade name) 3.45"

Calendar year 1.3" (Also check quarter)

1.0" 3.5" 950306
OMB No. 1545-0029

Report for this Quarter ...
(Check one.)

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

2.15"

Use this schedule to show your **TAX LIABILITY** for the quarter; **DO NOT** use it to show your deposits. You must fill out this form and attach it to Form 941 (or Form 941-SS) if you are a semiweekly schedule depositor or became one because your accumulated tax liability on any day was \$100,000 or more. Write your daily tax liability on the numbered space that corresponds to the date wages were paid. See Section 11 in *Pub. 15 (Circular E), Employer's Tax Guide*, for details.

| Month 1 | | | | | | | | |
|---------|------|----|------|----|------|----|--|---|
| 1 | | 9 | 1.3" | 17 | | 25 | | <div style="border: 1px solid black; padding: 5px; width: 150px;">Tax liability for Month 1</div> <div style="text-align: center; margin-top: 5px;">1.7"</div> <div style="text-align: center; margin-top: 20px;">1.55"</div> |
| 2 | | 10 | | 18 | | 26 | | |
| 3 | .25" | 11 | | 19 | | 27 | | |
| 4 | | 12 | | 20 | | 28 | | |
| 5 | | 13 | | 21 | | 29 | | |
| 6 | | 14 | | 22 | | 30 | | |
| 7 | | 15 | | 23 | | 31 | | |
| 8 | | 16 | | 24 | | | | |
| Month 2 | | | | | | | | |
| 1 | | 9 | | 17 | | 25 | | <div style="border: 1px solid black; padding: 5px; width: 150px;">Tax liability for Month 2</div> <div style="text-align: center; margin-top: 5px;">.6"</div> <div style="text-align: center; margin-top: 20px;">1.55"</div> |
| 2 | | 10 | | 18 | | 26 | | |
| 3 | | 11 | | 19 | 6.2" | 27 | | |
| 4 | | 12 | | 20 | | 28 | | |
| 5 | | 13 | | 21 | | 29 | | |
| 6 | | 14 | | 22 | | 30 | | |
| 7 | | 15 | | 23 | | 31 | | |
| 8 | | 16 | | 24 | | | | |
| Month 3 | | | | | | | | |
| 1 | | 9 | | 17 | | 25 | | <div style="border: 1px solid black; padding: 5px; width: 150px;">Tax liability for Month 3</div> <div style="text-align: center; margin-top: 20px;">1.4"</div> |
| 2 | | 10 | | 18 | | 26 | | |
| 3 | | 11 | | 19 | | 27 | | |
| 4 | | 12 | | 20 | | 28 | | |
| 5 | | 13 | | 21 | | 29 | | |
| 6 | | 14 | | 22 | | 30 | | |
| 7 | | 15 | | 23 | | 31 | | |
| 8 | | 16 | | 24 | | | | |

Fill in your total liability for the quarter (Month 1 + Month 2 + Month 3) = Total tax liability for the quarter
Total must equal line 10 on Form 941 (or line 8 on Form 941-SS).

1.15"

Total liability for the quarter
 .5"

Schedule B (Form 941) Rev. 1-2006

Exhibit C, Form 941 (6 x 10 Grid Version)

| 1 | | | | | | | | | | 2 | | | | | | | | | | 3 | | | | | | | | | | 4 | | | | | | | | | | 5 | | | | | | | | | | 6 | | | | | | | | | | 7 | | | | | | | | | | 8 | | | | | | | | | | | | | | | |
|----|---|--|--|--|--|--|--|--|--|---|--|--|--|--|--|--|--|--|--|---|--|--|--|--|--|--|--|--|--|---|--|--|--|--|--|--|--|--|--|---|--|--|--|--|--|--|--|--|--|---|--|--|--|--|--|--|--|--|--|---|---|--|--|--|--|--|--|--|--|---|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--------|
| 1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 1 |
| 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 2 |
| 3 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 3 |
| 4 | Form 941 for 2007: Employer's QUARTERLY Federal Tax Return | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | Department of the Treasury -- Internal Revenue Service | | | | | | | | | | | | | | | | | | | | OMB No. 1545-0029 | | | | | | | | | | | | | | | | | | | | | | | | 970107 |
| 5 | (Rev. January 2007) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | Report for this Quarter of 2007 (Check one.) | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | (EIN) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> 1: January, February, March | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | Employer identification number | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> 2: April, May, June | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> 3: July, August, September | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | Name (not your trade name) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> 4: October, November, December | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | Trade name (if any) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 | Address | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | Part 1: Answer these questions for this quarter. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | 1 Number of employees who received wages, tips, or other compensation for the pay period including: Mar. 12 (Quarter 1), June 12 (Quarter 2), Sept. 12 (Quarter 3), Dec. 12 (Quarter 4) 1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | 2 Wages, tips, and other compensation 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | 3 Total income tax withheld from wages, tips, and other compensation 3 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | 4 If no wages, tips, and other compensation are subject to social security or Medicare tax <input type="checkbox"/> Check and go to line 6. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 | 5 Taxable social security and Medicare wages and tips: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | Column 1 | | | | | | | | | | | | | | | | | | | | Column 2 | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | 5a Taxable social security wages | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | x .124 = | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | 5b Taxable social security tips | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | x .124 = | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | 5c Taxable Medicare wages & tips | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | x .029 = | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | 5d Total social security and Medicare taxes (Column 2, lines 5a + 5b + 5c = line 5d) 5d | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | 6 Total taxes before adjustments (lines 3 + 5d = line 6) 6 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | 7 TAX ADJUSTMENTS (Read instructions for line 7 before completing lines 7a through 7h): | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | 7a Current quarter's fractions of cents | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | 7b Current quarter's sick pay | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 | 7c Current quarter's adjustments for tips and group-term life insurance | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | 7d Current year's income tax withholding (attach Form 941c) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | 7e Prior quarters' social security and Medicare taxes (attach Form 941c) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | 7f Special additions to federal income tax (attach Form 941c) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | 7g Special additions to social security and Medicare (attach Form 941c) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | 7h TOTAL ADJUSTMENTS (Combine all amounts: lines 7a through 7g.) 7h | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | 8 Total taxes after adjustments (Combine lines 6 and 7h.) 8 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | 9 Advance earned income credit (EIC) payments made to employees. 9 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | 10 Total taxes after adjustment for advance EIC (line 8 - line 9 = line 10) 10 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | 11 Total deposits for this quarter, including overpayment applied from a prior quarter 11 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 | 12 Balance due (If line 10 is more than line 11, enter the difference here.) 12 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | Follow the Instructions for Form 941-V, Payment Voucher. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | 13 Overpayment (If line 11 is more than line 10, enter the difference here.) <input type="checkbox"/> Check one <input type="checkbox"/> Apply to next return. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | For Privacy Act and Paperwork Reduction Act Notice, see the Payment Voucher. Form 941 (Rev. 1-2007) <input type="checkbox"/> Send a refund. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Exhibit C, Form 941 (6 x 10 Grid Version) (continued)

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|--------------------------------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|--|--|--|--|--|--|--|--|--|--|---|--|--|--|--|--|--|--|--|--|--|---|--|--|--|--|--|--|--|--|--|--|---|--|--|--|--|--|--|--|--|--|--|
| 1 | | | | | | | | | | | 2 | | | | | | | | | | | 3 | | | | | | | | | | | 4 | | | | | | | | | | | 5 | | | | | | | | | | | 6 | | | | | | | | | | | 7 | | | | | | | | | | | 8 | | | | | | | | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 0 | 1 | 2 | 3 | 4 | 5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Form 941 (Rev. 1-2007) Page 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | 970207 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Name (not your trade name) | | | | | | | | | | | | | | | | | | | | | | | | | | | Employer identification number (EIN) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Part 2: Tell us about your deposit schedule and tax liability for this quarter.
If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see Pub. 15 (Circular E), section 11. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 14 <input type="checkbox"/> Enter the state abbreviation for the state where you made your deposits OR enter "MU" if you made your deposits in multiple states. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 15 Check one: <input type="checkbox"/> Line 10 is less than \$2,500. Go to Part 3. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> You were a monthly schedule depositor for the entire quarter. Fill out your tax liability for each month. Then go to Part 3. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tax liability: Month 1 <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Month 2 <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Month 3 <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total liability for quarter <input type="text"/> Total must equal line 10. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> You were a semiweekly schedule depositor for any part of this quarter. Fill out Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to this form. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 16 If your business has closed or you stopped paying wages. <input type="checkbox"/> Check here, and enter the final date you paid wages <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 17 If you are a seasonal employer and you do not have to file a return for every quarter of the year <input type="checkbox"/> Check here. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Part 4: May we speak with your third-party designee?
Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? (See instructions for details.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Yes. Designee's name <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Select a 5-digit Personal Identification Number (PIN) to use when talking to IRS. <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> No. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Part 5: Sign here. You MUST fill out both pages of this form and SIGN it.
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ▶ Sign your name here <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Print your name here <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Print your title here <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Best daytime phone <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Part 6: For paid preparers only (optional) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Paid Preparer's Signature <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Firm's name <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Address <input type="text"/> EIN <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ZIP code <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date <input type="text"/> Phone <input type="text"/> SSN/PTIN <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Check if you are self-employed. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Exhibit D, Schedule B (Form 941) (6 x 10 Grid Version)

| | | | | | | | | |
|---|--|---|----|--------------------------------|----|---------------------------|-----------------------------------|--|
| Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors | | | | OMB No. 1545-0029 | | 970306 | | |
| Department of the Treasury -- Internal Revenue Service | | | | Report for this Quarter | | | | |
| Employer identification number | | | | 1: January, February, March | | | | |
| Name (not your trade name) | | | | 2: April, May, June | | | | |
| Use this schedule to show your TAX LIABILITY for the quarter; DO NOT use it to show your deposits. | | | | 3: July, August, September | | | | |
| You must fill out this form & attach it to Form 941 (or Form 941-SS) if you are a semiweekly schedule | | | | 4: October, November, December | | | | |
| depositor or became one because your accumulated tax liability on any day was \$100,000 or more. | | | | | | | | |
| Enter your daily tax liability on the numbered space that corresponds to the date wages were paid. | | | | | | | | |
| Month 1 | | | | | | | | |
| 1 | | 9 | | 17 | | Tax liability for Month 1 | | |
| 2 | | | | | 25 | | | |
| 3 | | | | | | | | |
| 4 | 2 | | 10 | | 18 | 26 | | |
| 5 | | | | | | | | |
| 6 | 3 | | 11 | | 19 | 27 | | |
| 7 | | | | | | | | |
| 8 | 4 | | 12 | | 20 | 28 | | |
| 9 | | | | | | | | |
| 20 | 5 | | 13 | | 21 | 29 | | |
| 1 | | | | | | | | |
| 2 | 6 | | 14 | | 22 | 30 | | |
| 3 | | | | | | | | |
| 4 | 7 | | 15 | | 23 | 31 | | |
| 5 | | | | | | | | |
| 6 | 8 | | 16 | | 24 | | | |
| 7 | | | | | | | | |
| 8 | Month 2 | | | | | | Tax liability for Month 2 | |
| 9 | 1 | | 9 | | 17 | | | |
| 30 | | | | | | | | |
| 1 | 2 | | 10 | | 18 | 26 | | |
| 2 | | | | | | | | |
| 3 | 3 | | 11 | | 19 | 27 | | |
| 4 | | | | | | | | |
| 5 | 4 | | 12 | | 20 | 28 | | |
| 6 | | | | | | | | |
| 7 | 5 | | 13 | | 21 | 29 | | |
| 8 | | | | | | | | |
| 9 | 6 | | 14 | | 22 | 30 | | |
| 40 | | | | | | | | |
| 1 | 7 | | 15 | | 23 | 31 | | |
| 2 | | | | | | | | |
| 3 | 8 | | 16 | | 24 | | | |
| 4 | | | | | | | | |
| 5 | Month 3 | | | | | | Tax liability for Month 3 | |
| 6 | 1 | | 9 | | 17 | 25 | | |
| 7 | | | | | | | | |
| 8 | 2 | | 10 | | 18 | 26 | | |
| 9 | | | | | | | | |
| 50 | 3 | | 11 | | 19 | 27 | | |
| 1 | | | | | | | | |
| 2 | 4 | | 12 | | 20 | 28 | | |
| 3 | | | | | | | | |
| 4 | 5 | | 13 | | 21 | 29 | | |
| 5 | | | | | | | | |
| 6 | 6 | | 14 | | 22 | 30 | | |
| 7 | | | | | | | | |
| 8 | 7 | | 15 | | 23 | 31 | | |
| 9 | | | | | | | | |
| 60 | 8 | | 16 | | 24 | | | |
| 1 | Fill in your total liability for the quarter (Month 1 + Month 2 + Month 3) = Total tax liability for the quarter | | | | | | Total liability for the quarter | |
| 2 | Total must equal line 10 on Form 941 (or line 8 on Form 941-SS). | | | | | | | |
| 3 | For Paperwork Reduction Act Notice, see separate instructions. | | | | | | Schedule B (Form 941) Rev. 1-2006 | |

Note. This revenue procedure will be reproduced as the next revision of IRS Publication 1141, General Rules and Specifications for Substitute Forms W-2 and W-3.

26 CFR 601.602: Tax forms and instructions.

(Also Part I, Sections 6041, 6051, 6071, 6081, 6091; 1.6041-1, 1.6041-2, 31.6051-1, 31.6051-2, 31.6071(a)-1, 31.6081(a)-1, 31.6091-1.)

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Part A. General

Section 1. Purpose

.01 The purpose of this revenue procedure is to state the requirements of the Internal Revenue Service (IRS) and the Social Security Administration (SSA) regarding the preparation and use of substitute forms for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements, for wages paid during the 2007 calendar year.

.02 For purposes of this revenue procedure, substitute Form W-2 (Copy A) and substitute Form W-3 are forms that are not printed by the IRS. Copy A or any other copies of a substitute Form W-2 or a substitute Form W-3 must conform to the specifications in this revenue procedure to be acceptable to the IRS and the SSA. No IRS office is authorized to allow deviations from this revenue procedure. Preparers should also refer to the separate 2007 Instructions for Forms W-2 and W-3 for details on how to complete these forms. See Part C, Section 4, for information on obtaining the official IRS forms and instructions. See Part B, Section 2, for requirements for the copies of substitute forms furnished to employees.

.03 For purposes of this revenue procedure, the official, IRS-printed red dropout ink Forms W-2 (Copy A) and W-3 and their exact substitutes are referred to as "red-ink." The SSA-approved, laser-printed, black-and-white Forms W-2 (Copy A) and W-3 are referred to as "laser-printed."

Any questions about the red-ink Form W-2 (Copy A) and Form W-3 and the substitute employee statements should be emailed to *taxforms@irs.gov (the asterisk must be included in the address). Please enter "Substitute Forms" on the subject line. Or send your questions to:

Internal Revenue Service
Attn: Substitute Forms Program
SE:W:CAR:MP:T:T:SP, IR 6406
1111 Constitution Ave., NW
Washington DC 20224

Any questions about the black-and-white laser-printed Form W-2 (Copy A) and Form W-3 should be emailed to laser.forms@ssa.gov or sent to:

Social Security Administration
Data Operations Center
Attn: Laser Forms Approval, Room 235
1150 E. Mountain Drive
Wilkes-Barre PA 18702-7997

Also, see Sections 3.05 and 3.06 of Part A.

Note. You should receive a response within 30 days from either the IRS or the SSA.

.04 The IRS maintains a centralized call site at its Enterprise Computing Center — Martinsburg (ECC) to answer questions related to information returns (Forms W-2, W-3, 1099 series, 1096, etc.). You can reach the call site at 304-263-8700 (not a toll-free number) or 1-866-455-7438 (toll-free). The Telecommunication Device for the Deaf (TDD) number is 304-267-3367 (not a toll-free number). The hours of operation are Monday through Friday from 8:30 a.m. to 4:30 p.m. Eastern time. IRS/ECC does not process Forms W-2 (Copy A). Forms W-2 (Copy A) prepared on paper and/or electronically must be filed with the SSA. IRS/ECC does, however, process waiver requests (Form 8508, Request for Waiver From Filing Information Returns Electronically/Magnetically) and extension of time to file requests (Form 8809, Application for Extension of Time To File Information Returns) for Forms W-2 (Copy A) and requests for an extension of time to furnish the employee copies of Form W-2. See Publication 1220, Specifications for Filing Forms 1098, 1099, 5498, and W-2G Electronically or Magnetically, for information on waivers and extensions of time.

.05 The following form instructions and publications provide more detailed filing procedures for certain information returns:

- 2007 Instructions for Forms W-2 and W-3,
- Instructions for Forms W-2c and W-3c (Rev. January 2006), and
- Publication 1223, General Rules and Specifications for Substitute Forms W-2c and W-3c.

Section 2. What's New

.01 Relocation of employee's SSN on Form W-2. We moved the "Employee's social security number" box on Form W-2 from box d to box a. We moved the "Control number" box, optionally used by some employers to identify individual Forms W-2, from box a to box d. We also relocated the form ID number ("22222") and "Void" boxes to the top left corner of Form W-2. We made these changes to protect the employee's SSN from disclosure when employers furnish Forms W-2 to their employees using a window envelope and to enhance processing efficiency.

.02 Relocation of form ID on Form W-3. For consistency with the revisions to Form W-2, we relocated the form ID number ("33333") to the top left corner of Form W-3.

.03 Form W-3PR. Form W-3PR is 7.3 inches wide and should be printed on 8.5 by 11-inch paper using a **.5-inch top margin with .6-inch left and right margins.**

.04 Logos and advertising. The IRS has identified questionable Forms W-2 as a key indicator of potentially abusive and fraudulent returns. Some questionable Forms W-2 may be confused with legitimate Forms W-2 that carry logos and advertisements. The IRS has received questions concerning whether a logo or an identifying slogan for an employer or other preparer is acceptable on the substitute employee statements. We were also asked whether an advertisement for tax preparation software or other marketing materials are acceptable on, or attached to, the substitute employee statements. The IRS is continuing to solicit comments regarding these questions. The IRS anticipates responding to these questions by revising the regulations concerning this issue after the comments have been considered, and it will include requirements brought about by the regulations in a future update of this revenue procedure. Send your comments to:

Internal Revenue Service
Attn: Substitute Forms Program
SE:W:CAR:MP:T:T:SP, IR 6406
1111 Constitution Ave., NW
Washington DC 20224

.05 Title change. SSA publication MMREF-1, Magnetic Media Reporting and Electronic Filing, has been changed to SSA publication EFW2, Specifications for Filing Forms W-2 Electronically.

.06 Editorial changes. We made editorial changes. Redundancies were eliminated as much as possible.

Section 3. General Rules for Paper Forms W-2 and W-3

.01 Employers not filing electronically must file paper Forms W-2 (Copy A) along with Form W-3 with the SSA by using either the official IRS form or a substitute form that exactly meets the specifications shown in Parts B and C of this revenue procedure.

Note. Substitute territorial forms (W-2AS, W-2GU, W-2VI) should also conform to the specifications as outlined in this revenue procedure. These forms require the form designation (“W-2AS,” “W-2GU,” “W-2VI”) on Copy A to be in black ink. If you are an employer in the Commonwealth of the Northern Mariana Islands, you must contact the Division of Revenue and Taxation, Capitol Hill, Saipan, MP, 96950, to get Form W-2CM and instructions for completing and filing the form.

Employers who file with the SSA electronically or on paper may design their own statements to furnish to employees. These employee statements designed by employers must comply with the requirements shown in Parts B and C.

.02 Red-ink substitute forms that completely conform to the specifications contained in this revenue procedure may be privately printed without prior approval from the IRS or the SSA. Only the black-and-white laser-printed forms need to be submitted to the SSA for approval (see Section 1B of Part B).

.03 As in the past, Form W-2 (Copy A) and Form W-3 may be generated using a laser-printer by following all guidelines and specifications (also see Section 1B of Part B). In general, regardless of the method of entering data, using black ink on Forms W-2 and W-3 provides better readability for processing by scanning equipment. Colors other than black are not easily read by the scanner and may result in delays or errors in the processing of Forms W-2 (Copy A) and W-3. The printing of the data should be centered within the boxes. The size of the variable data must be printed in a font no smaller than 10-point.

Note. With the exception of the identifying number, the year, the form number for Form W-3, and the corner register marks, the preprinted form layout for the red-ink Forms W-2 (Copy A) and W-3, must be in Flint J-6983 red OCR dropout ink or an exact match. (See Section 1A.03 of Part B.)

.04 Substitute forms filed with the SSA and substitute copies furnished to employees that do not conform to these specifications are unacceptable. Forms W-2 (Copy A) and W-3 filed with the SSA that do not conform may be returned. In addition, penalties may be assessed for not complying with the form specifications.

.05 Substitute red-ink forms should not be submitted to either the IRS or the SSA for specific approval. If you are uncertain of any specification and want clarification, do the following.

- (1) Submit a letter or email citing the specification to the appropriate address in section 3.06.
- (2) State your understanding of the specification.
- (3) Enclose an example (if appropriate) of how the form would appear if produced using your understanding.
- (4) Be sure to include your name, complete address, phone number, and if applicable, your email address with your correspondence.

.06 Any questions about the specifications, especially those for the red-ink Form W-2 (Copy A) and Form W-3, should be emailed to *taxforms@irs.gov (the asterisk must be included in the address). Please enter “Substitute Forms” on the subject line. Or send your questions to:

Internal Revenue Service
Attn: Substitute Forms Program
SE:W:CAR:MP:T:T:SP, IR 6406
1111 Constitution Ave., NW
Washington DC 20224

Any questions about the black-and-white laser-printed Form W-2 (Copy A) and Form W-3 should be emailed to laserforms@ssa.gov or sent to:

Social Security Administration
Data Operations Center
Attn: Laser Forms Approval, Room 235
1150 E. Mountain Drive
Wilkes-Barre PA 18702-7997

Note. You should receive a response within 30 days from either the IRS or the SSA.

.07 Forms W-2 and W-3 are subject to annual review and possible change. Therefore, employers are cautioned against overstocking supplies of privately-printed substitutes.

.08 Separate instructions for Forms W-2 and W-3 are provided in the 2007 Instructions for Forms W-2 and W-3. Form W-3 should be used only to transmit paper Forms W-2 (Copy A). Form W-3 is a single sheet including only essential filing information. Be sure to make a copy of your completed Form W-3 for your records. Copies of the current year official IRS Forms W-2 and W-3, and the instructions for those forms, may be obtained from most IRS offices or by calling 1-800-829-3676. The IRS provides only cutsheet sets of Forms W-2 and cutsheets of Form W-3. The instructions and information copies of the forms may also be found on the IRS website at www.irs.gov.

.09 Because substitute Forms W-2 (Copy A) and W-3 are machine-imaged and scanned by the SSA, the forms must meet the same specifications as the official IRS Forms W-2 and W-3 (as shown in the exhibits).

Section 4. General Rules for Filing Forms W-2 (Copy A) Electronically

.01 Employers must file Forms W-2 (Copy A) with the SSA electronically if they file 250 or more calendar year 2007 Forms W-2 (Copy A) during a calendar year unless the IRS granted a waiver. For details, get the 2007 Instructions for Forms W-2 and W-3. The SSA publication EFW2, Specifications for Filing Forms W-2 Electronically, contains specifications and procedures for electronic filing of Form W-2 information with the SSA. Employers are cautioned to obtain the most recent revision of EFW2 (and supplements) due to any subsequent changes in specifications and procedures.

.02 You may obtain a copy of the EFW2 by:

- Accessing the SSA website at:
www.socialsecurity.gov/employer/pub.htm,
- Writing to:

Social Security Administration
OCO, DES; Attn: Employer Reporting Services Center
300 North Greene Street
Baltimore MD 21290-0300
- Calling your local SSA Employer Services Liaison Officer (ESLO) (the ESLOs' phone numbers are available at:
www.socialsecurity.gov/employer/empcontacts.htm), or
- Calling the SSA's Employer Reporting Services staff at 1-800-772-6270.

.03 Electronic filers do not file a paper Form W-3. See the SSA publication EFW2 for guidance on transmitting Form W-2 (Copy A) information to SSA electronically.

.04 Employers with fewer than 250 Forms W-2 are encouraged to electronically file Forms W-2 (Copy A) with the SSA. Doing so will enhance the timeliness and accuracy of forms processing.

.05 Employers who do not comply with the electronic filing requirements for Form W-2 (Copy A) and who are not granted a waiver by the IRS may be subject to penalties. Employers who file Form W-2 information with the SSA electronically must not send the same data to the SSA on paper Forms W-2 (Copy A). Any duplicate reporting may subject filers to unnecessary contacts by the SSA or the IRS.

Part B. Specifications for Substitute Forms W-2 and W-3

Section 1A. Specifications for Red-Ink Substitute Form W-2 (Copy A) and Form W-3 Filed with the SSA

.01 The official IRS-printed red dropout ink Form W-2 (Copy A) and W-3 and their exact substitutes are referred to as red-ink in this revenue procedure. Employers may file substitute Forms W-2 (Copy A) and W-3 with the SSA. The substitute forms must be exact replicas of the official IRS forms with respect to layout and content because they will be read by scanner equipment.

.02 Paper used for cutsheets and continuous-pinformed forms for substitute Form W-2 (Copy A) and Form W-3 that are to be filed with the SSA must be white 100% bleached chemical wood, 18-20 pound paper only, optical character recognition (OCR) bond produced in accordance with the following specifications:

| | |
|--|----------|
| • Acidity: Ph value, average, not less than..... | 4.5 |
| • Basis weight: 17 x 22 inch 500 cut sheets, pound | 18-20 |
| • Metric equivalent—gm./sq. meter
(a tolerance of +5 pct. is allowed) | 68-75 |
| • Stiffness: Average, each direction, not less than—milligrams | |
| Cross direction | 50 |
| Machine direction | 80 |
| • Tearing strength: Average, each direction, not less than—grams | 40 |
| • Opacity: Average, not less than—percent | 82 |
| • Reflectivity: Average, not less than—percent | 68 |
| • Thickness: Average—inch | 0.0038 |
| Metric equivalent—mm | 0.097 |
| (a tolerance of +0.0005 inch (0.0127 mm) is allowed) Paper cannot vary more than 0.0004 inch (0.0102 mm) from one edge to the other. | |
| • Porosity: Average, not less than—seconds | 10 |
| • Finish (smoothness): Average, each side—seconds | 20-55 |
| (for information only) the Sheffield equivalent—units | 170-d200 |
| • Dirt: Average, each side, not to exceed—parts per million | 8 |

Note. Reclaimed fiber in any percentage is permitted, provided the requirements of this standard are met.

.03 All printing of substitute Forms W-2 (Copy A) and W-3 must be in Flint red OCR dropout ink except as specified below. The following must be printed in nonreflective black ink:

- Identifying number “22222” or “33333” at the top of the forms.
- Tax year at the bottom of the forms.
- The four (4) corner register marks on the forms.
- The form identification number (“W-3”) at the bottom of Form W-3.
- All the instructions below Form W-3 beginning with “Send this entire page....” line to the bottom of Form W-3.

.04 The vertical and horizontal spacing for all federal payment and data boxes on Forms W-2 and W-3 must meet specifications. On Form W-3 and Form W-2 (Copy A), all the perimeter rules must be 1-point (0.014-inch), while all other rules must be one-half point (0.007-inch). Vertical rules must be parallel to the left edge of the form; horizontal rules parallel to the top edge.

.05 The official red-ink Form W-3 and Form W-2 (Copy A) are 7.5 inches wide. Employers filing Forms W-2 (Copy A) with the SSA on paper must also file a Form W-3. Form W-3 must be the same width (7.5 inches) as the Form W-2. One Form W-3 is printed

on a standard-size, 8.5 x 11-inch page. Two official Forms W-2 (Copy A) are contained on a single 8.5 x 11-inch page (exclusive of any snap-stubs).

.06 The top, left, and right margins for the Form W-2 (Copy A) and Form W-3 are .5 inches (1/2 inch). All margins must be free of printing except for the words “DO NOT STAPLE” on red-ink Form W-3. The space between the two Forms W-2 (Copy A) is 1.33 inches.

.07 The identifying numbers are “22222” for Form W-2 (Copies A (and 1)) and “33333” for Form W-3. No printing should appear anywhere near the identifying numbers.

Note. The identifying number must be printed in nonreflective black ink in OCR-A font of 10 characters per inch.

.08 The depth of the individual scannable image on a page must be the same as that on the official IRS forms. The depth from the top line to the bottom line of an individual Form W-2 (Copy A) must be 4.17 inches and the depth from the top line to the bottom line of Form W-3 must be 4.67 inches. (See Exhibits A and B.)

.09 Continuous-pinfed Forms W-2 (Copy A) must be separated into 11-inch deep pages. The pinfed strips must be removed when Forms W-2 (Copy A) are filed with the SSA. The two Forms W-2 (Copy A) on the 11-inch page must not be separated (only the pages are to be separated (burst)). The words “Do Not Cut, Fold, or Staple Forms on This Page” must be printed twice between the two Forms W-2 (Copy A) in Flint red OCR dropout ink. Perforations are required on all other copies (Copies 1, B, C, 2, and D) to enable the separation of individual forms.

.10 Box 12 of Form W-2 (Copy A) contains four entry boxes – 12a, 12b, 12c, and 12d. Do not make more than one entry per box. Enter your first code in box 12a (for example, enter Code D in box 12a, not 12d, if it is your first entry). If more than four items need to be reported in box 12, use a second Form W-2 to report the additional items (see “Multiple forms” in the 2007 Instructions for Forms W-2 and W-3). Do not report the same federal tax data to the SSA on more than one Form W-2 (Copy A). However, repeat the identifying information (employee’s name, address, and SSN; employer’s name, address, and EIN) on each additional form.

.11 The checkboxes in box 13 of Form W-2 (Copy A) must be .14 inches each; the space before the first checkbox is .20 inches; the spacing on each remaining side of the 3 checkboxes is .36 inches (see Exhibit A). The checkboxes in box b of Form W-3 must also be .14 inches (see Exhibit B for other dimensions in box b).

Note. More than 50% of an applicable checkbox must be covered by an “X.”

.12 All substitute Forms W-2 (Copy A) and W-3 in the red-ink format must have the tax year, form number, and form title printed on the bottom face of each form using type identical to that of the official IRS form. The red-ink substitute Form W-2 (Copy A) and Form W-3 must have the form producer’s EIN entered directly to the left of “Department of the Treasury,” in red.

.13 The words “For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.” must be printed in Flint red OCR dropout ink in the same location as on the official Form W-2 (Copy A). The words “For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D of Form W-2.” must be printed at the bottom of the page of Form W-3 in black ink.

.14 The Office of Management and Budget (OMB) Number must be printed on substitute Forms W-3 and W-2 (on each ply) in the same location as on the official IRS forms.

.15 All substitute Forms W-3 must include the instructions that are printed on the same sheet below the official IRS form.

.16 The back of substitute Form W-2 (Copy A) and Form W-3 must be free of all printing.

.17 All copies must be clearly legible. Hot wax and cold carbon spots are not permitted for Form W-2 (Copy A). Interleaved carbon should be black and must be of good quality to assure legibility on all copies and to avoid smudging. Fading must be minimized to assure legibility.

.18 Chemical transfer paper is permitted for Form W-2 (Copy A) only if the following standards are met:

- Only chemically-backed paper is acceptable for Form W-2 (Copy A). Front and back chemically-treated paper cannot be processed properly by scanning equipment.
- Chemically-transferred images must be black.
- Carbon-coated forms are not permitted.

.19 The Government Printing Office (GPO) symbol and the Catalog Number (Cat. No.) must be deleted from substitute Form W-2 (Copy A) and Form W-3.

Section 1B. Specifications for Laser-Printed Substitute Form W-2 (Copy A) and Form W-3 Filed with the SSA

.01 The SSA-approved, laser-printed, black-and-white Forms W-2 (Copy A) and W-3 are referred to as laser-printed. Specifications for the laser-printed (black-and-white) Forms W-2 (Copy A) and W-3 are similar to the red-ink forms (Part B, Section 1A) except for the items that follow (see Exhibits E and F). Exhibits are samples only and must not be downloaded to meet tax obligations.

(1) Forms must be printed on 8.5 x 11-inch single-sheet paper only, not on continuous-feed using a laser printer. There must be two Forms W-2 (Copy A) printed on a page. There must be no horizontal perforations between the two Forms W-2 (Copy A) on each page.

(2) All forms and data must be printed in nonreflective black ink only.

(3) The data and forms must be programmed to print simultaneously. Forms cannot be produced separately from wage data entries.

(4) The forms must not contain corner register marks.

(5) The forms must not contain any shaded areas including those boxes that are entirely shaded on the red-ink forms.

(6) Identifying numbers on both Form W-2 (“2222”) and Form W-3 (“3333”) must be preprinted in 14-point Arial bold font or a close approximation.

(7) The form numbers (“W-2” and “W-3”) must be in 18-point Arial font or a close approximation. The tax year (“2007”) on Forms W-2 (Copy A) and W-3 must be in 20-point Arial font or a close approximation.

(8) No part of the box titles or the data printed on the forms may touch any of the vertical or horizontal lines, nor should any of the data intermingle with the box titles. The data should be centered in the boxes.

(9) Do not print any information in the margins of the laser-printed forms (for example, do not print “DO NOT STAPLE” in the top margin of Form W-3).

(10) The word “Code” must not appear in box 12 on Form W-2 (Copy A).

(11) A 4-digit vendor code preceded by four zeros and a slash (for example, 0000/1234) must appear in 12-point Arial font, or a close approximation, under the tax year in place of the Cat. No. on Form W-2 (Copy A) and in the bottom right corner of the “For Official Use Only” box at the bottom of Form W-3. Do not display the form producer’s EIN to the left of “Department of the Treasury.” The vendor code will be used to identify the form producer.

(12) Do not print Catalog Numbers (Cat. No.) on either Form W-2 (Copy A) or Form W-3.

(13) Do not print the checkboxes in:

- Box (b) of Form W-3. The “X” should be programmed to be printed and centered directly below the applicable “Kind of Payer.”
- The “Void” box of Form W-2 (Copy A). The “X” should be programmed to be printed to the right of “Void” because of space limitations.
- Box 13 of Form W-2 (Copy A). The “X” should be programmed to be printed and centered directly below the applicable box title.

(14) Do not print dollar signs. If there are no money amounts being reported, the entire field should be left blank.

(15) The space between the two Forms W-2 (Copy A) is 1.33 inches.

.02 You must submit samples of your laser-printed substitute forms to the SSA. Only laser-printed, black-and-white substitute Forms W-2 (Copy A) and W-3 for tax year 2007 will be accepted for approval by the SSA. Questions regarding other forms (that is, red-ink Forms W-2c, W-3c, 1099 series, 1096, etc.) must be directed to the IRS.

.03 You will be required to send one set of blank and one set of dummy-data, laser-printed substitute Forms W-2 (Copy A) and W-3 for approval. Sample data entries should be filled in to the maximum length for each box entry, preferably using numeric data or alpha data, depending upon the type required to be entered. Include in your submission the name, telephone number, fax number, and email address of a contact person who can answer questions regarding your sample forms.

.04 To receive approval, you may first contact the SSA at laser.forms@ssa.gov to obtain a template and further instructions in PDF or Excel format. You may also send your 2007 sample, laser-printed substitute forms to:

Social Security Administration
Data Operations Center
Attn: Laser Forms Approval, Room 235
1150 E. Mountain Drive
Wilkes-Barre PA 18702-7997

Send your sample forms via private mail carrier or certified mail in order to verify their receipt. You can expect approval (or disapproval) by the SSA within 30 days of receipt of your sample forms.

.05 The 4-digit vendor code preceded by four zeros and a slash (0000/) must be preprinted on the sample, laser-printed substitute forms. Forms not containing a vendor code will be rejected and will not be submitted for testing or approval. If you do not have a vendor code, you may contact the National Association of Computerized Tax Processors via email at president@nactp.org.

.06 If you use forms produced by a vendor and have questions concerning approval, do not send the forms to the SSA for approval. Instead, you may contact the software vendor to obtain a copy of SSA's dated approval notice supplied to that vendor.

Section 2. Requirements for Substitute Forms Furnished to Employees (Copies B, C, and 2 of Form W-2)

Note. Printers are cautioned that the **rules in Part B, Section 2 (this section), apply only to employee copies of Form W-2 (Copies B, C, and 2)**. Paper filers who send Forms W-2 (Copy A) to the SSA must follow the requirements in Part B, Sections 1A and/or 1B above.

.01 All employers (including those who file electronically) must furnish employees with at least two copies of Form W-2 (three or more for employees required to file a state, city, or local income tax return). The following rules are guidelines for preparing employee copies.

The dimensions of these copies (Copies B, C, and 2), but not Copy A, may differ from the dimensions of the official IRS form to allow space for reporting additional information, including additional entries such as withholding for health insurance, union dues, bonds, or charity in box 14. The limitation of a maximum of four items in box 12 of Form W-2 applies only to Copy A, which is filed with the SSA.

Note. Payee statements (Copies B, C, and 2 of Form W-2) may be furnished electronically if employees give their consent (as described in Treasury Regulations Section 31.6051-1(j)). See also Publication 15-A, Employer's Supplemental Tax Guide.

.02 The minimum dimensions for employee copies only (not Copy A) of Form W-2 should be 2.67 inches deep by 4.25 inches wide. The maximum dimensions should be no more than 6.5 inches deep by no more than 8.5 inches wide.

Note. The maximum and minimum size specifications are for tax year 2007 only and may change in future years.

.03 Either horizontal or vertical format is permitted (see Exhibit D).

.04 The paper for all copies must be white and printed in black ink. The substitute Copy B, which employees are instructed to attach to their federal income tax returns, should be at least 9-pound paper (basis 17 x 22-500). Other copies furnished to employees should also be at least 9-pound paper (basis 17 x 22-500).

.05 Employee copies of Form W-2 (Copies B, C, and 2), including those that are printed on a single sheet of paper, must be easily separated. Providing perforations between the individual copies satisfies this requirement, but using scissors to separate Copies B, C, and 2 does not.

Note. The perforation requirement in this section does not apply to printouts of copies of Forms W-2 that are furnished electronically to employees (as described in Treasury Regulations Section 31.6051-1(j)). However, these employees should be cautioned to carefully separate the copies of Form W-2. See Publication 15-A, Employer's Supplemental Tax Guide, for information on electronically furnishing Forms W-2 to employees.

.06 Interleaved carbon and chemical transfer paper employee copies must be clearly legible. Hot wax and cold-carbon spots are not permitted for employee copies. All copies must be able to be photocopied. Interleaved carbon should be black and must be of good quality to assure legibility on all copies and to avoid smudging. Fading must be minimized to assure legibility.

.07 The electronic tax logo on the IRS official employee copies is not required on any of the substitute form copies. To avoid confusion and questions by employees, employers are encouraged to delete the identifying number ("22222") and the word "Void" and its associated checkbox from the employee copies of Form W-2.

.08 All substitute employee copies must contain boxes, box numbers, and box titles that match the official IRS Form W-2. Boxes that do not apply can be deleted. However, certain core boxes must be included. The placement, numbering, and size of this information is specified as follows:

- The items and box numbers that constitute the core data are:

Box 1 — Wages, tips, other compensation,

Box 2 — Federal income tax withheld,

Box 3 — Social security wages,

Box 4 — Social security tax withheld,

Box 5 — Medicare wages and tips, and

Box 6 — Medicare tax withheld.

The core boxes must be printed in the exact order shown on the official IRS form.

- The core data boxes (1 through 6) must be placed in the upper right of the form. Substitute vertical-format copies may have the core data across the top of the form (see Exhibit D). In no instance, will boxes or other information be permitted to the right of the core data.
- The form title, number, or copy designation (B, C, or 2) may be at the top of the form. Also, a reversed or blocked-out area to accommodate a postal permit number or other postal considerations is allowed in the upper-right.
- Boxes 1 through 6 must each be a minimum of 1¹/₈ inches wide x 1/4 inch deep.
- Other required boxes are:
 - a) Employee's social security number,
 - b) Employer identification number (EIN),
 - c) Employer's name, address, and ZIP code,
 - e) Employee's name, and
 - f) Employee's address and ZIP code.

Identifying items must be present on the form and be in boxes similar to those on the official IRS form. However, they may be placed in any location other than the top or upper right. You do not need to use the lettering system (a-c, e-f) used on the official IRS form. The employer identification number (EIN) may be included with the employer's name and address and not in a separate box.

Note. Box d ("Control number") is not required.

.09 All copies of Form W-2 furnished to employees must clearly show the form number, the form title, and the tax year prominently displayed together in one area of the form. The title of Form W-2 is "Wage and Tax Statement." It is recommended (but not required) that this be located on the bottom left of substitute Forms W-2. The reference to the "Department of the Treasury — Internal Revenue Service" must be on all copies of substitute Forms W-2 furnished to employees. It is recommended (but not required) that this be located on the bottom right of Form W-2.

.10 If the substitute employee copies are labeled, the forms must contain the applicable description:

- "Copy B, To Be Filed With Employee's FEDERAL Tax Return."
- "Copy C, For EMPLOYEE'S RECORDS."
- "Copy 2, To Be Filed With Employee's State, City, or Local Income Tax Return."

It is recommended (but not required) that these be located on the lower left of Form W-2. If the substitute employee copies are not labeled as to the disposition of the copies, then written notification using similar wording must be provided to each employee.

.11 The tax year (2007) must be clearly printed on all copies of substitute Form W-2. It is recommended (but not required) that this information be in the middle at the bottom of the Form W-2. The use of 24-pt. OCR-A font is recommended (but not required).

.12 Boxes 1, 2, and 9 (if applicable) on Copy B must be outlined in bold 2-point rule or highlighted in some manner to distinguish them. If "Allocated tips" are being reported, it is recommended (but not required) that box 8 also be outlined. If reported, "Social security tips" (box 7) must be shown separately from "Social security wages" (box 3).

Note. Boxes 8 and 9 may be omitted if not applicable.

.13 If employers are required to withhold and report state or local income tax, the applicable boxes are also considered core information and must be placed at the bottom of the form. State information is included in:

- Box 15 (State, Employer's state ID number)

- Box 16 (State wages, tips, etc.)
- Box 17 (State income tax)
Local information is included in:
- Box 18 (Local wages, tips, etc.)
- Box 19 (Local income tax)
- Box 20 (Locality name)

.14 Boxes 7 through 14 may be omitted from substitute employee copies unless the employer must report any of that information to the employee. For example, if an employee did not have “Social security tips” (box 7), the form could be printed without that box. But if an employer provided dependent care benefits, the amount must be reported separately, shown in box 10, and labeled “Dependent care benefits.”

.15 Employers may enter more than four codes in box 12 of substitute Copies B, C, and 2 (and 1 and D) of Form W-2, but each entry must use Codes A-BB (see the 2007 Instructions for Forms W-2 and W-3).

.16 If an employer has employees in any of the three categories in box 13, all checkbox headings must be shown and the proper checkmark made, when applicable.

.17 Employers may use box 14 for any other information that they wish to give to their employees. Each item must be labeled. (See the instructions for box 14 in the 2007 Instructions for Forms W-2 and W-3.)

.18 The front of Copy C of a substitute Form W-2 must contain the note “This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.”

.19 Instructions similar to those contained on the back of Copies B, C, and 2 of the official IRS Form W-2 must be provided to each employee. An employer may modify or delete instructions that do not apply to its employees. (For example, remove Railroad Retirement Tier 1 and Tier 2 compensation information for nonrailroad employees or information about dependent care benefits that the employer does not provide.)

.20 Employers must notify their employees who have no income tax withheld that they may be able to claim a tax refund because of the earned income credit (EIC). They will meet this notification requirement if they furnish a substitute Form W-2 with the EIC notice on the back of Copy B, IRS Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC), or on their own statement containing the same wording. They may also change the font on Copies B, C, and 2 so that the EIC notification and Form W-2 instructions fit differently. For more information about notification requirements, see Notice 1015, Have You Told Your Employees About the Earned Income Credit (EIC)?

Note. An employer does not have to notify any employee who claimed exemption from withholding on Form W-4, Employee’s Withholding Allowance Certificate, for the calendar year.

Part C. Additional Instructions

Section 1. Additional Instructions for Form Printers

.01 If electronic media is not used for filing with the SSA, the substitute copies of Forms W-2 (either red-ink or laser-printed) should be assembled in the same order as the official IRS Forms W-2. Copy A should be first, followed sequentially by perforated sets (Copies 1, B, C, 2, and D).

.02 The substitute form to be filed by the employer with the SSA must carry the designation “Copy A.”

Note. Electronic filers do not submit either red-ink or laser-printed paper Form W-2 (Copy A) or Form W-3 to the SSA.

.03 Substitute forms (red-ink or laser-printed) do not require a copy to be retained by employers (Copy D of Form W-2). However, employers must be prepared to verify or duplicate the information if it is requested by the IRS or the SSA. Paper filers who do not keep a Form W-2 (Copy D) should be able to generate a facsimile of Form W-2 (Copy A) in case of loss.

.04 Except for copies in the official assembly, no additional copies that may be prepared by employers should be placed ahead of Form W-2 (Copy C) “For EMPLOYEE’S RECORDS.”

.05 You must provide instructions similar to those contained on the back of Copies B, C, and 2 of the official IRS Form W-2 to each employee. You may print them on the back of the substitute Copies B, C, and 2 or provide them to employees on a separate statement. You do not need to use the back of Copy 2. If you do not use Copy 2, you may include all the information, which is on the back of the official Copies B, C, and 2, on the back of your substitute Copies B and C only. As an example, you may use the “Note” on the back of the official Copy C as the dividing point between the text for your substitute Copies B and C. Do not print these instructions on the back of Copy 1. Any Forms W-2 (Copy A) and W-3 that are filed with the SSA must have no printing on the reverse side.

Section 2. Instructions for Employers

.01 Only originals of Form W-2 (Copy A) and Form W-3 may be filed with the SSA. Carbon copies and photocopies are unacceptable.

.02 Employers should type or machine-print data entries on the non-laser-generated forms whenever possible. Ensure good quality by using a high-quality type face, inserting data in the middle of blocks that are well separated from other printing and guidelines, and taking any other measures that will guarantee clear, sharp images. Black ink must be used with no script type, inverted font, italics or dual-case alpha characters.

Note. 12-point Courier font is preferred by the SSA.

.03 Form W-2 (Copy A) requires decimal entries for wage data. Dollar signs should not be printed with money amounts on the Forms W-2 (Copy A) and W-3.

.04 The employer must provide a machine-scannable Form W-2 (Copy A). The employer must also provide employee copies (Copies B, C, and 2) that are legible and able to be photocopied (by the employee). Do not print any data in the top margin of the payee copies of the forms.

.05 Any printing in box d (Control number) on Form W-2 or box a on Form W-3 may not touch any vertical or horizontal lines and should be centered in the box.

.06 The filer's employer identification number (EIN) must be entered in box b of Form W-2 and box e of Form W-3. The EIN entered on Form(s) W-2 (box b) and Form W-3 (box e) must be the same as on Forms 941, 943, 944, CT-1, Schedule H (Form 1040), or any other corresponding forms filed with the IRS. Be sure to use EIN format (00-0000000) rather than SSN format (000-00-0000).

.07 The employer's name, address, and EIN may be preprinted.

.08 If available, employers should use the official IRS-preprinted Form W-3 that they received with Publication 393 or Publication 2184 when filing red-ink Forms W-2 (Copy A) with the SSA.

Section 3. OMB Requirements for Both Red-Ink and Laser-Printed Substitute Forms

.01 The Paperwork Reduction Act (the Act) of 1995 (Public Law 104-13) requires the following:

- The Office of Management and Budget (OMB) approves all IRS tax forms that are subject to the Act.
- Each IRS form contains (in or near the upper right corner) the OMB approval number, if assigned. (The official OMB numbers may be found on the official IRS printed forms and are also shown on the forms in Exhibits A, B, C, E, and F.)
- Each IRS form (or its instructions) states:
 - (1) Why the IRS needs the information,
 - (2) How it will be used, and
 - (3) Whether or not the information is required to be furnished to the IRS.

.02 This information must be provided to any users of official or substitute IRS forms or instructions.

.03 The OMB requirements for substitute IRS Form W-2 (Copy A) and Form W-3 are the following.

- Any substitute form or substitute statement to a recipient must show the OMB number as it appears on the official IRS form.
- The OMB number (1545-0008) must appear exactly as shown on the official IRS form.
- For any copy of Form W-2 other than Copy A, the OMB number must use one of the following formats:
 - (1) OMB No. 1545-0008 (preferred) or
 - (2) OMB # 1545-0008 (acceptable).

.04 Any substitute Form W-2 (Copy A only) must state "For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D." Any substitute Form W-3 must state "For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D of Form W-2." If no instructions are provided to users of your forms, you must furnish them with the exact text of the Privacy Act and Paperwork Reduction Act Notice.

Section 4. Reproducible Copies of Forms

.01 You can obtain official IRS forms and information copies of federal tax materials at local IRS offices or by calling the IRS Distribution Center at 1-800-829-3676. Other ways to get federal tax material include the following.

- The IRS website at www.irs.gov.
- The IRS' CD (Publication 1796).
Only contact the IRS, not the SSA, for IRS forms.

Note. Many IRS forms are provided on the IRS website and on the Federal Tax Forms CD. But copies of Form W-2 (Copy A) and Form W-3 cannot be used for filing with the IRS or SSA when obtained by these methods because the forms do not meet the specific printing specifications as described in this publication. Copies of Forms W-2 and W-3 obtained from these sources are for information purposes only.

.02 The IRS also offers an alternative to downloading electronic files and provides current and prior-year access to tax forms and instructions through its Federal Tax Forms CD. The CD will be available for the upcoming filing season. Order Publication 1796, IRS Federal Tax Products CD, by using the IRS website at www.irs.gov/cdorders or by calling 1-877-CDFORMS (1-877-233-6767).

Section 5. Effect on Other Documents

.01 Revenue Procedure 2006-55, 2006-52 I.R.B. 1151, dated December 26, 2006 (reprinted as Publication 1141, Revised 12-2006), is superseded.

List of Exhibits

- Exhibit A — Form W-2 (Copy A) (Red-Ink)
- Exhibit B — Form W-3 (Red-Ink)
- Exhibit C — Form W-2 (Copy B)
- Exhibit D — Form W-2 (Alternative Employee Copies) (Illustrating Horizontal and Vertical Formats)
- Exhibit E — Form W-2 (Copy A) (Laser-Printed)
- Exhibit F — Form W-3 (Laser-Printed)

Exhibit A
Form W-2
(Copy A)
(Red-Ink)

Form W-2 Wage and Tax Statement 2007
 Department of the Treasury—Internal Revenue Service
 Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are not acceptable.
 For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.
 Cat. No. 10134D

Do Not Cut, Fold, or Staple Forms on This Page — Do Not Cut, Fold, or Staple Forms on This Page

Form W-2 Wage and Tax Statement 2007
 Department of the Treasury—Internal Revenue Service
 Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are not acceptable.
 For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.
 Cat. No. 10134D

**Exhibit
B
Form
W-3**
(Red-Ink)

DO NOT STAPLE

| | | | |
|---|---------------------------------------|---|---|
| 33333 | a Control number
1.65" | For Official Use Only
OMB No. 1545-0048 5.0" | |
| b Kind of Payer
1.1" | <input type="checkbox"/> 941 Military | <input type="checkbox"/> 943 Hshid. emp. | <input type="checkbox"/> 14 944 Medicare gov't emp. |
| | <input type="checkbox"/> CT-1 | <input type="checkbox"/> Third-party sick pay | |
| c Total number of Forms W-2
1.6" | d Establishment number
1.6" | 1 Wages, tips, other compensation | 2 Federal income tax withheld |
| e Employer identification number (EIN)
3.2" | | 3 Social security wages | 4 Social security tax withheld |
| f Employer's name
7.5" | | 5 Medicare wages and tips | 6 Medicare tax withheld |
| | | 7 Social security tips
2.15" | 8 Allocated tips
2.15" |
| | | 9 Advance EIC payments | 10 Dependent care benefits |
| | | 11 Nonqualified plans
4.67" | 12 Deferred compensation |
| | | 13 For third-party sick pay use only
.333" | |
| | | 14 Income tax withheld by payer of third-party sick pay | |
| g Employer's address and ZIP code | | | |
| h Other EIN used this year | | | |
| 15 State Employer's state ID number
.6" 2.6" | | 16 State wages, tips, etc. | 17 State income tax |
| | | 18 Local wages, tips, etc. | 19 Local income tax |
| Contact person | Telephone number
() | For Official Use Only
.667" | |
| Email address | Fax number
() | | |

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature _____ Title _____ Date _____

Form **W-3 Transmittal of Wage and Tax Statements 2007**

Department of the Treasury
Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration. Photocopies are not acceptable.

Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

What's New

Relocation of form ID on Form W-3. For consistency with the revisions to Form W-2, we relocated the form ID number ("33333") to the top left corner of Form W-3.

Reminder

Separate instructions. See the 2007 Instructions for Forms W-2 and W-3 for information on completing this form.

Purpose of Form

Use Form W-3 to transmit Copy A of Form(s) W-2, Wage and Tax Statement. Make a copy of Form W-3 and keep it with Copy D (For Employer) of Form(s) W-2 for your records. Use Form W-3 for the correct year. **File Form W-3 even if only one Form W-2 is being filed.** If you are filing Form(s) W-2 electronically, **do not file** Form W-3.

When To File

File Form W-3 with Copy A of Form(s) W-2 by February 29, 2008.

Where To File


Send this entire page with the entire Copy A page of Form(s) W-2 to:

**Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001**

Note. If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS-approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Publication 15 (Circular E), Employer's Tax Guide, for a list of IRS-approved private delivery services.

5.03"
For Privacy Act and Paperwork Reduction Act Notice, see the back of Copy D of Form W-2.

**Exhibit
C
Form
W-2
(Copy B)**

| | | | | | |
|---|----------------------------|--|--------------------------------|--|---------------------|
| a Employee's social security number | | Safe, accurate,
FAST! Use  | | Visit the IRS website
at www.irs.gov/efile . | |
| b Employer identification number (EIN) | | 1 Wages, tips, other compensation | 2 Federal income tax withheld | | |
| c Employer's name, address, and ZIP code | | 3 Social security wages | 4 Social security tax withheld | | |
| | | 5 Medicare wages and tips | 6 Medicare tax withheld | | |
| | | 7 Social security tips | 8 Allocated tips | | |
| d Control number | | 9 Advance EIC payment | 10 Dependent care benefits | | |
| e Employee's first name and initial Last name Suff. | | 11 Nonqualified plans | | 12a See instructions for box 12 | |
| | | 13 Statutory employee Retirement plan Third-party sick pay | | 12b | |
| | | 14 Other | | 12c | |
| | | | | 12d | |
| f Employee's address and ZIP code | | | | | |
| 15 State | Employer's state ID number | 16 State wages, tips, etc. | 17 State income tax | 18 Local wages, tips, etc. | 19 Local income tax |
| | | | | 20 Locality name | |

Form **W-2** Wage and Tax Statement

2007

Department of the Treasury—Internal Revenue Service

Copy B—To Be Filed With Employee's FEDERAL Tax Return.
This information is being furnished to the Internal Revenue Service.

**Exhibit D
Form W-2
Alternative Employee Copies**

(Illustrating Horizontal and Vertical Formats)

Form W-2 Wage and Tax Statement

| | | | | | | |
|--|----------------------------|-----------------------------------|---------------------|--------------------------------|---------------------|------------------|
| a Employee's social security number | | 1 Wages, tips, other compensation | | 2 Federal income tax withheld | | |
| b Employer identification number (EIN) | | 3 Social security wages | | 4 Social security tax withheld | | |
| c Employer's name, address, and Zip code | | 5 Medicare wages and tips | | 6 Medicare tax withheld | | |
| e Employee's name | | | | | | |
| f Employee's address and ZIP code | | | | | | |
| 15 State | Employer's state ID number | 16 State wages, tips, etc. | 17 State income tax | 18 Local wages, tips, etc. | 19 Local income tax | 20 Locality name |

Copy C For EMPLOYEE'S RECORDS.

2007

Department of the Treasury—Internal Revenue Service

Horizontal Format

Note: Exhibit D provides examples of employee copies of Form W-2 only. For examples of Copy A, see Exhibit A or Exhibit E. For the specifications of Copy A, which must be filed with the SSA, see Part B, sections 1A and 1B.

The core data boxes are 1 through 6 and, if applicable, 15 through 20. The core data must be similarly positioned, exactly numbered, and exactly titled as shown for each format. Other data may be placed in unoccupied areas based upon the employer's needs. Form identification may be placed before or after the core data. However, the employer's non-core elements may be positioned only between the sections of core data.

| | | | |
|--|----------------------------|--------------------------------|--|
| 1 Wages, tips, other compensation | | 2 Federal income tax withheld | |
| 3 Social security wages | | 4 Social security tax withheld | |
| 5 Medicare wages and tips | | 6 Medicare tax withheld | |
| Employee's social security number | | | |
| Employer identification number (EIN) | | | |
| Employer's name, address and, ZIP code | | | |
| Employee's name | | | |
| Employee's address and ZIP code | | | |
| 15 state | Employer's state ID number | 18 Local wages, tips, etc. | |
| 16 State wages, tips, etc. | | 19 Local income tax | |
| 17 State income tax | | 20 Locality name | |

Copy B To Be Filed With Employee's FEDERAL Tax Return.

Form W-2
Wage and Tax
Statement

2007

Department of the Treasury—
Internal Revenue Service

Vertical Format

Exhibit E
Form W-2
(Copy A)

(Laser-Printed)

This form may be subject to change.

| | | | | | | |
|--|--|------|-------------------------------------|--|--|--|
| 22222 | | Void | a Employee's social security number | | For Official Use Only
OMB No. 1545-0008 | |
| b Employer identification number (EIN) | | | 1 Wages, tips, other compensation | | 2 Federal income tax withheld | |
| c Employer's name, address, and ZIP code | | | 3 Social security wages | | 4 Social security tax withheld | |
| d Control number | | | 5 Medicare wages and tips | | 6 Medicare tax withheld | |
| e Employee's first name and initial | | | Last name | | Suff. | |
| 11 Nonqualified plans | | | 12a See instructions for box 12 | | 12b | |
| 13 Statutory employee | | | Retirement plan | | Third-party sick pay | |
| 14 Other | | | 12c | | 12d | |
| f Employee's address and ZIP code | | | 15 State Employer's state ID number | | 16 State wages, tips, etc. | |
| 17 State income tax | | | 18 Local wages, tips, etc. | | 19 Local income tax | |
| 20 Locality name | | | | | | |

Form **W-2 Wage & Tax Statement** 2007
Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.
 Department of the Treasury—Internal Revenue Service
 For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.
 0000/0000
Do Not Cut, Fold, or Staple Forms on This Page

| | | | | | | |
|--|--|------|-------------------------------------|--|--|--|
| 22222 | | Void | a Employee's social security number | | For Official Use Only
OMB No. 1545-0008 | |
| b Employer identification number (EIN) | | | 1 Wages, tips, other compensation | | 2 Federal income tax withheld | |
| c Employer's name, address, and ZIP code | | | 3 Social security wages | | 4 Social security tax withheld | |
| d Control number | | | 5 Medicare wages and tips | | 6 Medicare tax withheld | |
| e Employee's first name and initial | | | Last name | | Suff. | |
| 11 Nonqualified plans | | | 12a See instructions for box 12 | | 12b | |
| 13 Statutory employee | | | Retirement plan | | Third-party sick pay | |
| 14 Other | | | 12c | | 12d | |
| f Employee's address and ZIP code | | | 15 State Employer's state ID number | | 16 State wages, tips, etc. | |
| 17 State income tax | | | 18 Local wages, tips, etc. | | 19 Local income tax | |
| 20 Locality name | | | | | | |

Form **W-2 Wage & Tax Statement** 2007
Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.
 Department of the Treasury—Internal Revenue Service
 For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.
 0000/0000

Exhibit F Form W-3

(Laser-Printed)

This form may be subject to change.

| | | | | | |
|--|--|----------------------------|--|---|--|
| 33333 | | a Control number | | For Official Use Only | |
| b Kind of Payer | | 941 Military 943 944 | | OMB No. 1545-0000 | |
| c Total number of Forms W-2 | | d Establishment number | | 1 Wages, tips, other compensation | |
| e Employer identification number (EIN) | | f Employer's name | | 2 Federal income tax withheld | |
| g Employer's address and ZIP code | | h Other EIN used this year | | 3 Social security wages | |
| 15 State | | Employee's state ID number | | 4 Social security tax withheld | |
| 16 State wages, tips, etc. | | 17 State income tax | | 5 Medicare wages and tips | |
| 18 Local wages, tips, etc. | | 19 Local income tax | | 6 Medicare tax withheld | |
| Contact person | | Telephone number | | 7 Social security tips | |
| Email address | | Fax number | | 8 Allocated tips | |
| | | | | 9 Advance EIC payments | |
| | | | | 10 Dependent care benefits | |
| | | | | 11 Nonqualified plans | |
| | | | | 12 Deferred compensation | |
| | | | | 13 For third-party sick pay use only | |
| | | | | 14 Income tax withheld by payer of third-party sick pay | |
| | | | | 0000/0000 | |

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature Title Date

Form W-3 Transmittal of Wage and Tax Statements 2007

Department of the Treasury
Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration. Photocopies are not acceptable.

Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

What's New 5.03"

Relocation of form ID on Form W-3. For consistency with the revisions to Form W-2, we relocated the form ID number ("33333") to the top left corner of Form W-3.

Reminder

Separate instructions. See the 2007 Instructions for Forms W-2 and W-3 for information on completing this form.

Purpose of Form

Use Form W-3 to transmit Copy A of Form(s) W-2, Wage and Tax Statement. Make a copy of Form W-3 and keep it with Copy D (For Employer) of Form(s) W-2 for your records. Use Form W-3 for the correct year. **File Form W-3 even if only one Form W-2 is being filed.** If you are filing Form(s) W-2 electronically, **do not** file Form W-3.

When To File

File Form W-3 with Copy A of Form(s) W-2 by February 29, 2008.

Where To File

Send this entire page with the entire Copy A page of Form(s) W-2 to:

**Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001**

Note. If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS-approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Publication 15 (Circular E), Employer's Tax Guide, for a list of IRS-approved private delivery services.

For Privacy Act and Paperwork Reduction Act Notice, see the back of Copy D of Form W-2.

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

Bulletin 2007–27

Notices:

2007-54, 2007-27 I.R.B. 12

2007-55, 2007-27 I.R.B. 13

2007-56, 2007-27 I.R.B. 15

Revenue Procedures:

2007-42, 2007-27 I.R.B. 15

2007-43, 2007-27 I.R.B. 26

Treasury Decisions:

9328, 2007-27 I.R.B. 1

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2007–1 through 2007–26 is in Internal Revenue Bulletin 2007–26, dated June 25, 2007.

Finding List of Current Actions on Previously Published Items¹

Bulletin 2007–27

Notices:

2007-26

Modified by

Notice 2007-56, 2007-27 I.R.B. 15

Revenue Procedures:

2006-25

Superseded by

Rev. Proc. 2007-42, 2007-27 I.R.B. 15

2006-55

Superseded by

Rev. Proc. 2007-43, 2007-27 I.R.B. 26

¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2007–1 through 2007–26 is in Internal Revenue Bulletin 2007–26, dated June 25, 2007.



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06/06

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(Please type or print)

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Street address

City, State, Zip Code

E-mail address

Daytime phone including area code

Purchase order number (optional)

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