

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 2000-40, page 208.

Fringe benefits, aircraft valuation formula. For purposes of section 1.61-21(g) of the Income Tax Regulations, relating to the rule for valuing noncommercial flights on employer-provided aircraft, the Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charges in effect for the second half of 2000 are set forth.

EMPLOYEE PLANS

Announcement 2000-74, page 230.

This document contains corrections to final regulations (T.D. 8873, 2000-9 I.R.B. 713) relating to the transmission of certain notices and consents through electronic media.

EXEMPT ORGANIZATIONS

Announcement 2000-72, page 226.

This announcement requests comments on a proposed revenue ruling regarding the notice and reporting requirements for political organizations described in section 527 of the Code.

ADMINISTRATIVE

Notice 2000-43, page 209.

LMSB Comprehensive Case Resolution Program.

This notice announces a pilot program under which large business taxpayers may request accelerated and combined resolution of all years they have open in Appeals, before the Tax Court, and in Examination.

Rev. Proc. 2000-35, page 211.

This document provides the procedures to be followed to obtain a withholding certificate under section 1445 of the Code to reduce the tax withheld on the disposition of U.S. real property interests by foreign persons. Rev. Proc. 88-23 superseded.

Announcement 2000-73, page 230.

This document contains corrections to final regulations (T.D. 8884, 2000-24 I.R.B. 1250) relating to certain credits of corporations that become members of a consolidated group.

Finding Lists begin on page ii.

Announcement of Disbarments and Suspensions begins on page 232.

Announcement of Declaratory Judgment Proceedings Under Section 7428 is on page 233.



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 consolidated 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 proce-

dures 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 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 first 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 first Bulletin of the succeeding semiannual period, respectively.

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

Section 61.—Gross Income Defined

26 CFR 1.61-21: Taxation of fringe benefits.

Fringe benefits, aircraft valuation formula. For purposes of section 1.61-21(g) of the Income Tax Regulations, relating to the rules for valuing non-commercial flights on employer-provided aircraft, the Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charges in effect for the second half of 2000 are set forth.

Period During Which the Flight Is Taken

7/1/00 - 12/31/00

Rev. Rul. 2000-40

For purposes of the taxation of fringe benefits under section 61 of the Internal Revenue Code, section 1.61-21(g) of the Income Tax Regulations provides a rule for valuing noncommercial flights on employer-provided aircraft. Section 1.61-21(g)(5) provides an aircraft valuation formula to determine the value of such flights. The value of a flight is determined under the base aircraft valuation formula (also known as the Standard Industry Fare Level formula or SIFL) by

Terminal Charge

\$34.57

multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple provided in section 1.61-21(g)(7) and then adding the applicable terminal charge. The SIFL cents-per-mile rates in the formula and the terminal charge are calculated by the Department of Transportation and are reviewed semi-annually.

The following chart sets forth the terminal charges and SIFL mileage rates:

SIFL Mileage Rates

Up to 500 miles
= \$.1891 per mile

501-1500 miles
= \$.1442 per mile

Over 1500 miles
= \$.1386 per mile

DRAFTING INFORMATION

The principle author of this revenue ruling is Kathleen Edmondson of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue ruling, contact Ms. Edmondson on (202) 622-6040 (not a toll-free call).

What are the procedures to be followed to obtain a withholding certificate under section 1445 for the reduction of withholding tax under section 1445 on the disposition of U.S. real property interests by foreign persons? See Rev. Proc. 2000-35, page 211.

Section 882.—Tax on Income of Foreign Corporations Connected With United States Business

26CFR 1.882-2: Income of foreign corporation treated as effectively connected with U.S. business.

What are the procedures to be followed to obtain a withholding certificate under section 1445 for the reduction of withholding tax under section 1445 on the disposition of U.S. real property interests by foreign persons? See Rev. Proc. 2000-35, page 211.

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

26 CFR 1.897-1: Taxation of foreign investment in United States real property interests, definition of terms.

What are the procedures to be followed to obtain a withholding certificate under section 1445 for the reduction of withholding tax under section 1445 on the disposition of U.S. real property interests by foreign persons? See Rev. Proc. 2000-35, page 211.

Section 871.—Tax on Nonresident Alien Individuals

26 CFR 1.871-8: Taxation of nonresident alien individuals engaged in U.S. business or treated as having effectively connected income.

Part III. Administrative, Procedural, and Miscellaneous

Comprehensive Case Resolution Pilot Program

Notice 2000-43

1. INTRODUCTION OF COMPREHENSIVE CASE RESOLUTION PILOT PROGRAM

This Notice announces a program under which large business taxpayers may request resolution of all years they have open under examination by the Large and Mid-Size Business Division (LMSB), in Appeals, and in docketed status before the United States Tax Court (Tax Court), through an Internal Revenue Service (IRS) team process. The purpose of the program is to enable taxpayers and the IRS to work together to resolve all open issues on all open years currently or previously under examination. The program is intended to reduce costs, burden and delays by expediting completion of these cases through a cooperative effort.

The program is jointly administered by LMSB, Appeals, and, if a taxpayer has a docketed case for any year, the Office of Chief Counsel (Chief Counsel). In the pilot phase, the program is available to large businesses that currently have at least one open year under examination in a Coordinated Examination and at least one prior year in Appeals (including docketed cases currently under Appeals' jurisdiction). Taxpayers interested in participating in the pilot program or with questions about the program should contact their Team Manager or the Comprehensive Case Resolution Pilot Coordinator to discuss their suitability for the program.

During the pilot phase of the program, LMSB, Appeals and, if there is a docketed case, Chief Counsel, plan to select eight to ten taxpayers from among those requesting participation in the program. Applications will be solicited through September 29, 2000, and the IRS will select participants by October 31, 2000. Taxpayers participating in the pilot program will be asked to assist in monitoring and evaluating the process. After evaluating the pilot cases, the IRS may then offer the program, with or without modification, on a permanent basis.

The IRS believes that the Comprehensive Case Resolution program offers signifi-

cant potential benefits for taxpayers as well as the IRS, and invites large business taxpayers to participate.

2. DESCRIPTION OF THE COMPREHENSIVE CASE RESOLUTION PROGRAM

The goal of the program is to help taxpayers that have tax years under examination by LMSB and in Appeals (including docketed cases under Appeals jurisdiction) resolve all open issues in all such years through an IRS Comprehensive Case Resolution (CCR) process. In some situations it may also be appropriate to include tax years which are docketed before the Tax Court and not under Appeals' jurisdiction. The effect of this program will be to expedite the taxpayer's LMSB years, where the audit is substantially complete, into a resolution process. This process will be the taxpayer's formal administrative appeal for the LMSB years. The program's goal is to resolve all tax controversies, without litigation, on a basis that is fair and impartial to both the government and the taxpayer. The CCR process will plan aggressive timelines for completion, with a target of closing all years within six to twelve months. If agreement cannot be reached using this process, Appeals will not again consider the unagreed issues from the years under examination by LMSB.

Taxpayers with an LMSB Coordinated Examination that is substantially complete may request to participate in this program. "Substantially complete" means: (1) audit work on all significant issues is complete and the taxpayer has indicated agreement or disagreement with each proposed adjustment; and (2) all claims and affirmative issues have been raised by the taxpayer and audited. Interested taxpayers with questions as to whether audit work is sufficiently complete should consult with their Team Manager.

Each affected IRS function (LMSB, Appeals, and Chief Counsel) will independently recommend whether the taxpayer should be accepted into the program. When a taxpayer is accepted for the pilot program, the IRS will form a team representing LMSB, Appeals, and, if appropriate, Chief Counsel to work with the

taxpayer to resolve outstanding unagreed issues.

For taxpayers accepted into the CCR pilot program, the IRS will not issue a notice of proposed deficiency, commonly called a "30-day letter," for the years currently under examination by LMSB upon commencement of the program. Accordingly, for those years, the accrual of increased interest on large corporate underpayments under § 6621(c) of the Internal Revenue Code will not begin at that time. However, if those years are not resolved within 12 months after the initial issue discussion conference is held under the CCR program, the IRS will issue a letter of proposed deficiency to begin the accrual of interest at the increased rate.

Taxpayers not accepted for the pilot program will continue to follow existing LMSB, Appeals, and, where relevant, Tax Court, procedures for resolution of their cases.

3. SUBJECT MATTER FOR THE COMPREHENSIVE CASE RESOLUTION PROGRAM

The CCR program is intended to expedite resolution of all disputed issues on all open tax years that have been or are being examined. Generally, all issues that could appropriately be considered by Appeals will be suitable for the program. To ensure fair treatment of the taxpayer, issues already agreed between the taxpayer and IRS in LMSB or Appeals generally will not be re-opened.

Certain issues may not be appropriate for this process. The IRS and the taxpayer may agree to exclude these issues but proceed with the program on the remaining issues. If the Office of Chief Counsel determines that it would be inappropriate to include some or all docketed years in the process, the IRS may proceed under the program with the remaining years with the taxpayer's concurrence. Further, the IRS may determine that certain issues will not be part of the process. Specific issues excluded from the program include:

- (1) Issues that (for the taxpayer) involve a partnership item as defined in § 6231 of the Internal Revenue Code, or are subject to the procedures set forth in § 6221 through § 6233; and

- (2) Issues that have been designated for litigation by Chief Counsel.

This list is not all-inclusive as situations may arise where other issues are determined inappropriate for the process.

4. PROCEDURES FOR REQUESTING COMPREHENSIVE CASE RESOLUTION PROCESS

Before initiating a formal request. Taxpayers interested in participating in the pilot program, or with questions about the program and its suitability for their cases, may contact the LMSB Team Manager for the year currently under examination. Taxpayers also may contact Cary Russ, the CCR Coordinator, at (202) 283-8330 (not a toll-free number), for further information about this pilot program.

Initiating the request for the CCR pilot. The taxpayer must submit its request to participate in the CCR pilot program in writing to the Team Manager on or before September 29, 2000. The CCR Coordinator and the Team Manager are available to assist the taxpayer in preparing its pilot request.

Contents of the request. A concise written statement requesting the CCR process should include:

- (1) The taxpayer's name, EIN, and address and the name, title, address and telephone number of a person to contact.
- (2) The tax years for which Comprehensive Case Resolution is sought, the IRS office considering each year, and the name of the IRS Appeals Officer and counsel of record handling any matter not under the jurisdiction of LMSB.
- (3) For the years currently under LMSB examination, a list of all unagreed issue(s). The taxpayer should include copies of unagreed Forms 5701, Notice of Proposed Adjustment, or a short description of the unagreed issues if no Form 5701 has been issued. Although a formal protest is not required, the request must contain a brief explanation of the taxpayer's position regarding each issue. (If accepted into the program, a taxpayer will have an opportunity to present a more complete statement of its position at a later stage.)
- (4) For the years in Appeals, the current status of each issue, including

whether agreement (oral or written) has been reached.

- (5) If docketed year(s) under Chief Counsel's jurisdiction are included, the current status of all unresolved issues, including whether agreement (oral or written) has been reached, the date calendared for trial, if any, and any other deadlines established by the Court.
- (6) An acknowledgment that the taxpayer consents to *ex parte* communications between IRS Appeals Officers and any other IRS personnel in the context of the CCR process.
- (7) An acknowledgment that participation in the CCR process constitutes the administrative appeal for all years under LMSB examination included in this application.
- (8) A statement that the taxpayer will not file new claims or raise new affirmative issues for any year, regardless of jurisdiction, during the CCR process. Claims and affirmative issues must be raised and audit work completed before the CCR process begins.
- (9) An acknowledgment that this is an expedited program in which the taxpayer will work with the IRS CCR team to establish accelerated timelines for completion of the process.
- (10) A statement of the taxpayer's willingness to participate in a pilot program and to assist in monitoring and evaluating the process.

Perjury statement. A request for the CCR process must include a declaration, signed by a person currently authorized to sign the taxpayer's federal income tax return, in the following form:

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the facts presented in support of the request for Comprehensive Case Resolution are true, correct and complete.

If the request is signed by an authorized representative, a copy of Form 2848, Power of Attorney and Declaration of Representative, must accompany the request.

5. SELECTION OF TAXPAYERS FOR THE PILOT PROGRAM

Team Manager's Role: The Team Manager will immediately forward a copy of

the taxpayer's application to the CCR Coordinator, Appeals and, if appropriate, Chief Counsel. The Team Manager will assess the readiness of the LMSB years for the CCR process. This assessment will include whether the years are, or will be, substantially complete by October 31, 2000.

Appeals Management Role: Appeals management will assess the status of each issue and the anticipated completion date(s) of the years before Appeals (including docketed years in Appeals settlement jurisdiction).

Chief Counsel's Role: If years are docketed before the Tax Court, Chief Counsel will provide an assessment similar to Appeals of the status of those years. Chief Counsel may direct the CCR Pilot Coordinator not to include a docketed year or years in the CCR process.

CCR Pilot Coordinator Role: The CCR Pilot Coordinator will provide guidance to taxpayers and to IRS personnel on the program, will ensure that LMSB, Appeals and Chief Counsel timely provide information listed above, and will keep the CCR Pilot Executive informed of all program activity.

CCR Pilot Executive Role: The CCR Pilot Executive will provide general oversight for the program, interface with Appeals and Chief Counsel, lead in the training effort, and meet with taxpayers as appropriate. The CCR Pilot Executive will convene an evaluation team to include LMSB, Appeals and, if appropriate, Chief Counsel. The team will be responsible for determining whether the applicant meets the selection criteria.

Selection Criteria: In general, the team will evaluate the request using criteria that include the following:

General criteria:

- (1) Application by September 29, 2000;
- (2) Taxpayer under Coordinated Examination by LMSB and also in Appeals;
- (3) LMSB examination years are substantially complete; and
- (4) The Appeals years will not be settled before the first issue resolution conference is held.

Additional Pilot criteria:

- (1) Having a cross-section of taxpayers of varying sizes, representing different industry lines, a geo-

graphical dispersion of cases, and a variety of issues;

- (2) IRS resource availability in LMSB, Appeals and Chief Counsel;
- (3) The likelihood of the case being resolved through this process; and
- (4) In the case of a docketed year, the ability to comply with the Tax Court's procedures and deadlines.

Communication with taxpayer. The CCR Pilot Executive will advise taxpayers in writing on or about October 31, 2000, whether they will be included in the pilot program. A taxpayer may not appeal the decision that it not be included in the pilot program.

6. CONDUCTING THE COMPREHENSIVE CASE RESOLUTION PROCESS

Initial 60 days. Once a case is accepted into the pilot program, the IRS will form a resolution team composed of members from LMSB and Appeals (and Chief Counsel, if there is a docketed case). Within the first 30 days, the CCR team will contact the taxpayer to schedule an initial planning meeting. At the planning meeting, the parties will confirm the issues to be resolved, identify who will be involved in the process and their respective authorities, answer any questions about the process, and establish a timeline for resolution of all issues. Additionally, the team and the taxpayer will schedule the first issue resolution conference no later than 60 days after the case is accepted into the pilot.

Resolution process. Comprehensive Case Resolution constitutes the taxpayer's formal exercise of its appeal rights for the years under examination by LMSB. Therefore, conferences between the taxpayer and the IRS CCR team will follow existing Appeals procedures. If the IRS and taxpayer reach agreement, years will be closed using Appeals processes and closing documents. If the parties are unable to reach agreement on any issue(s), Appeals will issue a statutory notice of deficiency on the unagreed issue(s). Should any case be subject to review by U. S. Competent Authority or the Joint Committee on Taxation, the case will be closed after those approvals are obtained.

7. WITHDRAWAL FROM THE COMPREHENSIVE CASE RESOLUTION PROCESS

Taxpayers may withdraw from the CCR pilot by submitting a written request, but only within 30 days after acceptance into the program or 20 days after the initial planning meeting, whichever is later. Thereafter, with respect to the years under LMSB jurisdiction at the time of application for CCR, the process will be completed with a total or partial agreement or issuance of a statutory notice of deficiency.

A taxpayer's withdrawal from the CCR pilot returns each open year to the jurisdiction of the IRS function it was under prior acceptance into the program. Taxpayers will be afforded administrative appeal on the years under LMSB jurisdiction as if the taxpayer had not applied for CCR.

8. MISCELLANEOUS

Record keeping requirements. No aspect of the CCR process will affect the record keeping requirements imposed by any section of the Internal Revenue Code.
No user fee. There is no user fee for participating in the CCR program.

9. COMMENTS

The IRS invites interested persons to comment on this program. Send submissions to:

Internal Revenue Service
Att'n Cary Russ
Large and Mid-Size Business Division
LM:PFTG
Mint Building, 3rd Floor, M-3-312
1111 Constitution Avenue, NW
Washington, DC 20224

Submissions also may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to the Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Such submissions should be marked: Att'n Cary Russ, Large and Mid-Size Business Division LM:PFTG, Mint Building, 3rd Floor, M-3-312.

Alternatively, interested persons may submit comments via e-mail to:

PFTG1@irs.gov

These addresses are for comments on the pilot program. Requests by eligible tax-

payers to participate in the pilot program should be submitted as describe in section 4 above.

10. FURTHER INFORMATION

For further information regarding this Notice, contact Cary Russ, the CCR Pilot Coordinator, at (202) 283-8330 (not a toll-free number), or the Team Manager for your current examination.

26 CFR 601.602: Tax forms and instructions.

Rev. Proc. 2000-35

SECTION 1. PURPOSE

This revenue procedure supersedes Rev. Proc. 88-23, 1988-1 C.B. 787, which provided the procedures to be followed to obtain a withholding certificate under sections 1.1445-3 and 1.1445-6 of the Income Tax Regulations.

SEC. 2. BACKGROUND

The Tax Reform Act of 1984, section 129, 1984-3 (Vol. 1) C.B. 163, added section 1445 to the Internal Revenue Code as a means of enforcing the tax imposed pursuant to section 897 on dispositions by foreign persons of investments in U.S. real property. Section 1445(a) provides that a transferee of a U.S. real property interest from a foreign person must deduct and withhold a tax equal to 10 percent of the amount realized by the foreign person on the disposition.

Section 1445(b) and the regulations thereunder provide several exceptions to this requirement, including an exemption from withholding for persons who purchase property for use as a residence for \$300,000 or less. Other exemptions include cases where the transferor furnishes an affidavit of nonforeign status, where the property transferred is stock that is regularly traded on an established securities market, where the transferor is not required to recognize any gain or loss with respect to the transfer and the requirements of section 1.1445-2(d)(2) are met, and where a statement is obtained from the Internal Revenue Service that excuses withholding. Similarly, section 1445(c) provides that the amount required to be withheld can be reduced pursuant to a determination by the Service of the transferor's maximum tax liability upon the

disposition. Sections 1.1445-3 and 1.1445-6 of the regulations provide rules concerning the issuance by the Service of a withholding certificate that reduces or eliminates withholding.

Rev. Proc. 88-23 provided additional guidance concerning applications for withholding certificates. This revenue procedure supersedes Rev. Proc. 88-23, and provides additional guidance by way of modifications and clarifications to the provisions of former Rev. Proc. 88-23 concerning applications for withholding certificates.

SEC. 3. WITHHOLDING CERTIFICATES—IN GENERAL

.01 Purpose of Withholding Certificate. Withholding under section 1445 of the Code may be reduced or eliminated pursuant to a withholding certificate issued by the Service in accordance with the rules set forth in this revenue procedure. A withholding certificate may be issued by the Service in cases where reduced withholding is appropriate, where the transferor is exempt from U.S. tax, or where an agreement for the payment of tax is entered into with the Service. A withholding certificate that is obtained prior to a transfer notifies the transferee that no withholding is required or that reduced withholding is required. A withholding certificate that is obtained after a transfer has been made may authorize a normal refund or an early refund. See section 1.1445-3(g) of the regulations. A withholding certificate issued pursuant to the provisions of this revenue procedure serves to fulfill the requirements, as applicable, of section 1445(b)(4) concerning qualifying statements, section 1445(c)(1) concerning the transferor's maximum tax liability, or section 1445(c)(2) concerning the Secretary's authority to prescribe reduced withholding.

.02 Limited Effect of a Withholding Certificate. A withholding certificate serves only to adjust withholding obligations to correspond as closely as possible to the probable tax liability arising out of a transfer. Therefore, all determinations that are made by the Service in connection with the issuance of a withholding certificate apply solely for the limited purpose of determining withholding obligations under section 1445 of the Code, and do not necessarily represent the

Service's final view with respect to any substantive issue that may arise in connection with a transfer. Similarly, the Service's acceptance in connection with the issuance of a withholding certificate of any evidence provided or any representation made by a taxpayer is made only for that purpose, is not binding for any other purpose, and does not constitute a final determination of the truth or accuracy of any such evidence or representation.

.03 Types of Withholding Certificates Available. Pursuant to section 1.1445-3 of the regulations, a withholding certificate may be issued on the basis of any of the following:

1. A determination by the Service that reduced withholding is appropriate because either:

- (a) The amount otherwise required to be withheld would exceed the transferor's maximum tax liability; or
- (b) Withholding of a reduced amount would not jeopardize collection of the tax.

2. The exemption from U.S. tax of all gain realized by the transferor; or

3. An agreement entered into by the transferee or transferor for the payment of tax providing security for the tax liability.

SEC. 4. APPLICATIONS FOR WITHHOLDING CERTIFICATES

.01 General rules. An application for a withholding certificate must be submitted to the Internal Revenue Service Center, P.O. Box 21086, Drop Point 8731 FIRPTA Unit, Philadelphia, PA 19114-0586. Either a transferee or a transferor may apply for a withholding certificate, but only a transferor may apply for a blanket withholding certificate. The Service ordinarily will act upon an application not later than the 90th day after all information necessary for the Service to make a determination is received. However, in the case of an application for a certificate described in section 4.03(6) below, or in unusually complicated cases, the Service may be unable to provide a withholding certificate by the 90th day. In such a case, the Service will notify the applicant by the 45th day after all information necessary for the Service to make a determination is received that additional processing time will be necessary. The Service's notice may request additional information or

explanation concerning particular aspects of the application and will provide a target date for final action (contingent upon the applicant's timely submission of any requested information).

If an application for a withholding certificate is submitted before or on the date of a transfer and on the date of the transfer the application remains pending with the Service, the amount required to be withheld by the transferee is not required to be reported and paid over immediately. Similarly, if an application for a blanket withholding certificate is submitted before or on the date of the first transfer covered by the application, and on the date of the first transfer the application remains pending with the Service, the amount required to be withheld by the transferee is not required to be reported and paid over immediately. Instead, that amount (or such other amount as is appropriate) must be reported and paid over by the 20th day following the day upon which a copy of the withholding certificate or notice of denial is mailed by the Service. If the application is not submitted before or on the date of the transfer, or in the case of a blanket withholding certificate application, before or on the date of the first transfer, the transferee must report and pay over any tax withheld by the 20th day after the date of the transfer. Treas. Reg. § 1.1445-1(c)(1).

.02 Required signatures. An application for a withholding certificate must be signed by a responsible officer in the case of a corporation, by a general partner in the case of a partnership, by a trustee, executor, or equivalent fiduciary in the case of a trust or estate, and, in the case of an individual, by that individual. In addition, an application may be signed by an agent authorized to do so by a power of attorney. Form 2848 may be used for this purpose. The person signing the application must verify under penalties of perjury that all representations made in connection with the application are true, correct, and complete to the best of that person's knowledge and belief. To the extent that an application is premised in whole or in part on information provided by another party to the transaction, this information is to be supported by a written verification attached to that application signed under penalties of perjury by the party to whom it pertains. The application must follow the format set forth in section 4.04 below.

.03 *Categorizing of applications.* To facilitate the processing of applications for withholding certificates, this revenue procedure divides all applications into six basic categories as follows:

1. Applications for withholding certificates based on a claim that the transferor is entitled to nonrecognition treatment or is exempt from tax;

2. Applications for withholding certificates based solely on a calculation of the transferor's maximum tax liability;

3. Applications for withholding certificates under the special installment sales rules of section 7 of this revenue procedure;

4. Applications for withholding certificates based on an agreement for the payment of tax with conforming security;

5. Applications for blanket withholding certificates under section 9 of this revenue procedure; and

6. Applications for withholding certificates on any other basis.

.04 *Format for application.* All applications for withholding certificates must provide the following information in paragraphs labeled to correspond with the numbers and letters set forth below. Place "N/A" in the relevant space if the information requested is not applicable to the application being submitted.

1. (a) State which category of section 4.03, above, describes the application;
- (b) In the case of category 4 applications (agreement for the payment of tax with conforming security):
 - (1) State whether the proposed agreement secures (A) the transferor's maximum tax liability, or (B) the amount that would otherwise be required to be withheld; and
 - (2) State whether the proposed agreement and security instrument conform to the standard formats set forth in this revenue procedure.
2. (a) Provide the name, taxpayer identification number (to the extent required in regulations), and home address (for an individual) or office address (for an entity) of the person applying for the withholding certificate. A mailing address should

also be included if different.

(b) State whether the applicant is the transferee or transferor.

(c) Provide the name, address, and taxpayer identification number (to the extent required in regulations) of all other transferees and transferors (specifying whether such party is a transferee or transferor) of the U.S. real property interest with respect to which the withholding certificate is sought. The applicant must determine if a taxpayer identification number exists for each party concerned and if none exists for a particular party the application must so state. Any application that is combined with the transferor's request for an early refund must include the transferor's taxpayer identification number.

3. Provide the following information concerning the U.S. real property interest with respect to which the withholding certificate is sought:

- (a) Type of interest (that is, interest in real property, in associated personal property, or in a domestic U.S. real property holding corporation);
- (b) The contract price;
- (c) Date of transfer;
- (d) In the case of an interest in real property, its location and a general description of the property (for example, "10-story, 100 unit luxury apartment building"); and
- (e) In the case of an interest in a U.S. real property holding corporation, the class or type and amount of the interest.
- (f) Whether in the three preceding taxable years: (1) U.S. income tax returns were filed relating to the U.S. real property interest, and if so, when and where those returns were filed, and if not, why returns were not filed; and (2) whether U.S. income taxes were paid relating to the U.S. real property interest, and if so, the amount of the tax paid.

4. Provide full information concerning the basis for the issuance of the withholding certificate, in accordance with the

rules of sections 4.05 through 4.11 below. Although the information to be included in this section of the application will necessarily vary from case to case, the rules set forth below provide general guidelines for the inclusion of appropriate information with respect to each category of application.

5. The use of Form 8288-B to apply for a withholding certificate under categories 1 through 3 will expedite the application process. An application that is not substantially complete when submitted will be rejected. For example, an application without a specific or estimated date of transfer will not be considered to be substantially complete.

.05 *Information concerning category 1 applications (nonrecognition or exempt transfer).* If a withholding certificate is sought on the basis of a claim that the transaction is entitled to nonrecognition treatment or is exempt from U.S. taxation, provide the following:

1. A brief description of the transfer;
2. A brief summary of the law and facts supporting the claim of nonrecognition or exemption;
3. Evidence that the transferor has no unsatisfied withholding liability, as described in section 4.06(3); and
4. The contract price (if any), or if no contract price is available, the most recent assessed value, for state or local property tax purposes, of the U.S. real property interest to be transferred, or, if such assessed value is not available, then the good faith estimate of its fair market value (no supporting evidence concerning the value of the property need be supplied).

.06 *Information concerning category 2 applications (determination of maximum tax liability).*

1. *In general.* If a withholding certificate is sought on the basis of a determination of the transferor's maximum tax liability, information must be provided to establish the two elements of that liability: (a) the maximum tax that may be imposed on the disposition, and (b) the transferor's unsatisfied withholding liability. Paragraphs 4.06(2) and .06(3), below, provide guidelines for the furnishing of such information. For further information concerning the determination of the transferor's maximum tax liability, see section 1.1445-3(c) of the regulations.

2. *Maximum tax on disposition.* (a)

The applicant must provide a calculation of the maximum tax that may be imposed on the disposition, including the following information:

- (1) The amount to be realized by the transferor plus evidence confirming this amount, such as a copy of the signed contract relating to the transfer;
- (2) Adjusted basis of the property plus evidence confirming the basis claimed, such as schedules of depreciation for tax purposes (if no depreciation schedules are provided, the application must state the nature of the use of the property and why depreciation was not allowed);
- (3) Amounts to be recaptured with respect to depreciation, investment tax credit, or other items subject to recapture;
- (4) Maximum capital gain and/or ordinary income tax rates applicable to the transfer;
- (5) Tentative tax owed;
- (6) Amount of any increase or reduction of tax to which the transferor is subject, including any reduction to which the transferor is entitled under a provision of a U.S. income tax treaty as well as evidence supporting the adjustment claimed. *See* section 1.1445-3(c)(2) of the regulations.

(b) For purposes of calculating the maximum tax that may be imposed upon a disposition, unused credit carryovers shall not be taken into account, and net operating loss carry-overs (NOLs) (see section 172 of the Code) may be taken into account only if:

- (1) The transferor claiming the NOL has been engaged in a trade or business in the U.S. during the three preceding tax years and has timely filed an income tax return for each of those years (copies of which should be attached);

- (2) The claimed NOL has been reflected on previously-filed returns (no anticipated loss with respect to current year operations may be considered);
- (3) The claimed NOL is not currently the subject of an examination by or a dispute with the Service;
- (4) The transferor agrees that, if the amount of gain that the transferor claimed would be offset by the NOL exceeds the amount of the gain actually recognized and offset by the claimed NOL when the transferor files its tax return for the current tax year, the transferor will pay interest upon the excess of the amount that should have been subject to withholding over the amount, if any, actually withheld, which interest will be computed:
 - (A) At the rates and in the manner prescribed by sections 6621 and 6622 of the Code; and
 - (B) With respect to the period between the date on which withholding would otherwise have been required and the date on which payment is made (for purposes of determining whether gain recognized on the disposition was in fact offset by the claimed NOL, the NOL is deemed first to offset income from sources other than the disposition of U.S. real property interests, and then to offset gain from such dispositions with respect to which a withholding certificate was issued in the order to which such dispositions occurred);
- (5) The claimed NOL has not previously been used to

reduce withholding upon other dispositions of U.S. real property interests or to reduce the amount of any other obligation or liability under U.S. internal revenue laws; and

- (6) As part of the application, the transferor represents that:
 - (A) At least 80 percent of its gross income subject to U.S. taxation in the taxable year of disposition will be derived from U.S. real property interests; and
 - (B) In calculating the maximum tax that may be imposed on the disposition, the application calculates the NOL in the manner prescribed by the provisions of this section 4.06(2)(b), and the NOL is taken into account only to the extent permitted by such provisions.

3. *Transferor's unsatisfied withholding liability.* The applicant must provide a calculation of the transferor's unsatisfied withholding liability or evidence that it does not exist. That liability is the amount of any tax that the transferor was required to but did not withhold and pay over under section 1445 of the Code upon the acquisition of the subject U.S. real property interest or a predecessor interest. The transferor's unsatisfied withholding liability is included in the calculation of maximum tax liability so that such prior withholding liability may be satisfied by the transferee's withholding upon the current transfer. For purposes of this paragraph 3, a predecessor interest is one that was exchanged for the subject U.S. real property interest in a transaction in which the transferor was not required to recognize the full amount of the gain or loss realized upon the transfer. For further information, see section 1.1445-3(c)(3) of the regulations. Evidence that the transferor has no unsatisfied withholding liability includes any one of the following items:

- (a) Evidence that the transferor acquired the subject or predecessor

U.S. real property interest before January 1, 1985;

- (b) A copy of the Form 8288 that was filed by the transferor, and proof of payment of the amount shown due thereon, with respect to the transferor's acquisition of the subject or predecessor U.S. real property interest;
- (c) A copy of a withholding certificate issued with respect to the transferor's acquisition of the subject or predecessor U.S. real property interest, plus a copy of Form 8288 and proof of payment with respect to any withholding required under that certificate;
- (d) A copy of the nonforeign certificate (see Treas. Reg. §1.1445-2(b)(2)) furnished by the person from whom the subject U.S. real property interest was acquired, executed at the time of that acquisition;
- (e) Evidence that the transferor purchased the subject or predecessor U.S. real property interest for \$300,000 or less and a statement, signed by the transferor under penalties of perjury, that the transferor purchased the property for use as a residence within the meaning of section 1.1445-2(d)(1);
- (f) Evidence that the person from whom the transferor acquired the subject or predecessor U.S. real property interest fully paid any tax imposed on that transaction pursuant to section 897;
- (g) A copy of a notice of nonrecognition treatment provided to the transferor pursuant to section 1.1445-2(d)(2) by the person from whom the transferor acquired the subject or predecessor U.S. real property interest; and
- (h) A statement, signed by the transferor under penalties of perjury, setting forth the facts and circumstances that support the transferor's conclusion that no withholding was required under section 1445(a) with respect to the transferor's acquisition of the subject or predecessor U.S. real property interest.

.07 *Information concerning category 3 applications (installment sales)*. See sec-

tion 7 of this revenue procedure.

.08 *Information concerning category 4 applications (agreement for the payment of tax with conforming security)*. If a withholding certificate is sought on the basis of an agreement for the payment of tax, the application must include:

- 1. Information establishing:
 - (a) The transferor's maximum tax liability, in accordance with section 4.06; or
 - (b) The amount otherwise required to be withheld pursuant to section 1445(a) of the Code;
- 2. A signed copy of the agreement proposed by the applicant; and
- 3. A copy of the security instrument proposed by the applicant. For further information concerning agreements for the payment of tax and security instruments, see sections 5 and 6 of this revenue procedure and section 1.1445-3 of the regulations.

.09 *Information concerning category 5 applications (blanket withholding certificate)*. See section 9 of this revenue procedure.

.10 *Information concerning Category 6 applications (non-standard applications)*.

1. *Agreement for payment of tax with nonconforming security*. If the applicant seeks to enter into an agreement for the payment of tax, but wishes to provide a nonconforming type of security, the application must include:

- (a) The information required by section 4.08 concerning category 4 applications;
- (b) A description of the nonconforming security proposed by the applicant; and
- (c) A memorandum of law and facts establishing that the proposed security is valid and enforceable and that it adequately protects the government's interest.

2. *Other non-standard applications*. An application for a withholding certificate not otherwise described in this revenue procedure must explain in detail the proposed basis for the issuance of the certificate and set forth the reasons justifying the issuance of a certificate on that basis.

.11 *Information submitted by foreign governments*. In addition to the information required in Sec. 4.04 and Sec. 4.05, a foreign government submitting an appli-

cation on the basis that the subject U.S. real property is used by the foreign government for a diplomatic mission should submit the following information:

1. Information identifying the diplomatic property;

2. Information establishing that the property is used by the foreign government for a diplomatic mission; and

3. Information describing whether the property has been recognized by the State Department as being diplomatic property subject to the Foreign Missions Act, § 202, 22 U.S.C. § 4305 (1982).

.12 *Availability of records*. The applicant shall make available to the Commissioner, within the time prescribed by the Commissioner, all information that may be required by the Commissioner in order to verify that representations relied upon by the Commissioner in accepting the agreement are accurate, and that the obligations assumed by the applicant will be performed pursuant to the agreement. Failure to provide requested information promptly will usually result in rejection of the application. Instead of such rejection, the Commissioner, in his discretion, may also consider extension of an established target date for issuing a withholding certificate. The parties shall agree that the review of books and records pursuant to the agreement shall not constitute an examination for purposes of section 7605(b) of the Code.

SEC. 5. AGREEMENT FOR THE PAYMENT OF TAX

.01 *In general*. The Service will issue a withholding certificate that excuses withholding or that permits a transferee to withhold a reduced amount if either the transferor or the transferee enters into an agreement for the payment of tax. An agreement for the payment of tax is a contract between the Service and any other person that consists of two necessary elements. Those elements are:

1. A detailed description of the rights and obligations of each; and

2. A security instrument or other form of security acceptable to the Commissioner.

.02 *Contents of agreement—In general*. An agreement for the payment of tax must either provide adequate security for the payment of the tax in accordance with section 6 of this revenue procedure or provide

for the payment of the tax through a combination of security and withholding of tax by the transferee. The agreement must cover an amount described in subdivision (a) or (b) of this paragraph.

(a) *Tax that would otherwise be withheld.* An agreement for the payment of tax may cover the tax that would otherwise be required to be withheld pursuant to section 1445(a) of the Code. In addition to securing the amount computed pursuant to section 1445(a), the agreement must provide that the applicant will pay interest upon that amount, at the rates and in the manner prescribed by section 6621 and 6622, with respect to the period between the date on which the tax imposed by section 1445(a) would otherwise be due (i.e., the 20th day after the date of transfer) and the date on which the transferor's payment of tax with respect to the disposition will be due. Interest and additions with respect to the tax also must be secured. In most instances, payments of interest and additions to tax may be secured by the same agreement that secures payment of taxes. At the discretion of the Commissioner, however, separate security agreements may be required.

(b) *Maximum tax liability.* An agreement for the payment of tax may provide for the payment of the transferor's maximum tax liability, determined in accordance with section 4.06(2) of this revenue procedure. The agreement must also provide for the payment of an additional amount equal to 25 percent of the amount determined under section 4.06(2). This additional amount secures the interest and additions to tax that would accrue between the date of a failure to file a return and pay tax with respect to the disposition and the date on which the Service collects the tax pursuant to the agreement.

.03 *Parties to the agreement.* All agreements for the payment of tax will be between the Commissioner and the applicant furnishing the security or personally guaranteeing payment of any tax later determined to be due. In addition, the Commissioner may require as a signatory any other party deemed to be appropriate. The Commissioner may require such other terms and conditions, or vary the format as appropriate in the particular case, to provide adequate security.

.04 *Contents of agreement—Stated purpose and warranties.* The agreement for

the payment of tax should state the purpose and basis of the agreement. It should also recite any warranties or representations upon which the Commissioner will be required to place material reliance in accepting the agreement.

.05 *Contents of agreement—Identification of security.* The agreement for the payment of tax must set forth in detail the obligations to be assumed and identify the nature of the security that is being offered. To the extent that the security is embodied in an instrument or document collateral to the agreement, such instrument or document must be incorporated by reference in the agreement.

.06 *Sample agreement.* The following example sets forth the language of an agreement for the payment of tax that in most circumstances will be acceptable to the Service:

1. This agreement is entered into pursuant to the provisions of section 1445 of the Internal Revenue Code (the "Code") and the regulations thereunder.

The signatories warrant that they are authorized under applicable law to enter into the agreement and undertake the actions and obligations specified herein.

2. _____ (name) warrants that (s)he/it will make timely payment of any liability (including tax, penalties, interest, and additions to tax) that may become lawfully due and owing under the Code as a result of the disposition or distribution by _____ of the interest, or any part thereof, described in Exhibit(s) _____ [the "subject interest(s)"] giving rise to tax liability by reason of the operation of sections 871(b), 882, and/or 897 of the Code. The related security secures payment of such amounts. Security for the payment of such liability is provided in the amount of _____, in accordance with the requirements of section 1.1445-3(e)(2) of the Income Tax Regulations. The computation of the proper amount of security to be provided is set forth in Exhibit _____ and such computation is hereby incorporated by reference.

3. The provisions of this agreement shall be construed as binding upon all signatories to this agreement, unless the intent to exclude any one or more signatories is clearly set forth in the provisions or is clearly implicit in the terms hereof.

4. The amount of each deposit of estimated tax that will be required with respect to the amount recognized on the subject disposition may be collected by levy upon or recourse to the security as of the date following the date on which each such deposit is due (unless such deposit is timely made).

5. The entire amount of the liability may be collected by levy upon or recourse to the security at any time during the nine months following the date on which the payment of tax with respect to the subject disposition is due, subject to release of the security upon the full payment of the tax and any interest and penalties due. If the transferor requests an extension of time to file a return with respect to the disposition, the Commissioner may require that the term of the security instrument be extended until the date that is nine months after the filing deadline as extended.

6. The applicant shall make available to the Commissioner within 30 days of a request from the Commissioner all information that may be required by the Commissioner in order to verify that representations relied upon by the Commissioner in accepting the agreement are accurate, and that the obligations assumed by the applicant are performed pursuant to this agreement.

7. The parties agree that the review of books and records pursuant to this agreement shall not constitute an examination for purposes of section 7605(b) of the Code.

8. Nothing in this agreement shall limit the Commissioner from performing the obligations imposed upon or delegated to him under the law.

9. Upon the occurrence of any default by the applicant under the applicable provisions of this agreement, in addition to any and all other rights and remedies which the Commissioner may have hereunder, or under any other applicable law, or otherwise, the Commissioner may reduce the claim to judgment, otherwise enforce the security interests by any available judicial procedure, and exercise any other rights and remedies the Commissioner may have at law, or in equity, or otherwise, including, but not limited to the right to apply toward payment of the obligations hereunder, without notice to the applicant, any sums which may then be held by the Commissioner for said applicant.

10. For purposes of this agreement, the term "default" means a material misrepresentation of material fact or a failure to honor an obligation or warranty agreed to herein.

11. Except as otherwise provided in this agreement, no provision of this agreement shall be deemed to constitute a waiver of any right that any party may have to recover any amount in accordance with the laws, statutes, and regulations of the United States, nor shall any provision of the agreement be deemed to be an admission by any person, whether or not a party hereto, that such person is liable for any federal income tax, or, if a foreign corporation or nonresident alien, that such person is subject to the taxing jurisdiction of the United States, or if the Commissioner, that the facts upon which this agreement is based are true and accurate.

12. This agreement and all of its terms and conditions shall inure to the benefit of, and be binding upon, the Commissioner and the applicant, and their respective successors.

13. All notices, instructions and other communications ("Notices") required or permitted to be given, forwarded, or transmitted hereunder or necessary or convenient in connection herewith shall be in writing and addressed to:

Internal Revenue Service Center
P.O. Box 21086
DP 8731 FIRPTA Unit
Philadelphia, PA 19144-0586

or

To [the applicant: the applicant's address etc]. and shall be deemed to have been given only when delivered personally or by private delivery service as designated by the Internal Revenue Service under I.R.C. §7502(f) (see Notice 99-41, 1999-35 I.R.B. 325, or its successor for a listing of private delivery services); or sent by first class U.S. mail

(postage pre-paid, by registered or certified mail, return receipt requested); or sent by cable, telex, telegram or facsimile transmission (for example, telecopier) and confirmed by letter mailed the same day to the party receiving the notice. Any notice sent by mail to or from a place outside the continental United States shall be sent by air mail. Any notice sent by cable, telegram, or telex may be addressed to any published cable, telegram, or telex address that the addressee may have specified by notice to all the signatories. Any signatory may change the address or addresses to which communications are to be directed to it by giving written notice of such change to the persons above specified in the manner provided above, provided, however, that [the applicant] may establish or change an address to which notices are to be directed only if the new address is the address of [the applicant] itself or the address of a person with power of attorney to act for [the applicant] with respect to the disposition or distribution described in paragraph 2.

14. This agreement may not be amended, modified, superseded, or canceled and none of the terms hereof may be waived, except by a written instrument executed by the Commissioner and the other party or parties hereto sought to be charged thereby. In the case of a waiver of the breach of any term contained in this agreement in any one or more instances, the waiver shall be neither deemed to be nor construed as a further or continuing waiver of any such breach or term or any other term contained in this agreement.

15. This agreement may be in any number of counterparts with all the counterparts together constituting one and the same agreement.

16. The term "Commissioner" as used herein also shall include any successors in office, and any and all agents or

employees thereof duly authorized for the purpose.

17. This agreement shall not be binding upon any signatory hereto until it has been signed by the Commissioner and the Commissioner has received counterparts thereof duly executed by each of the signatories whose names appear at the end of this agreement.

18. No provision of this agreement shall relieve any party or person of any obligation or liability under the internal revenue laws of the United States, except as specifically provided in this agreement.

19. This agreement is made without prejudice to the assertion and/or collection of tax liabilities other than for any tax imposed by section 871(b)(1) or 882(a)(1) of the Code on any gain realized by the transferor on the disposition of the subject United States real property interest.

20. This agreement shall be governed, construed, and enforced in accordance with the laws of the United States of America and, where applicable, the laws of the State of [insert applicable local jurisdiction.]

21. It is agreed that nothing herein shall be construed to increase, decrease, or otherwise affect in any way the substantive tax liability of the taxpayer under any other provision of the Code.

22. The Commissioner will not, in part or in full, release, subordinate, or return the security held with respect to this agreement except upon the payment of any liability determined to be due or upon the deposit of an acceptable amount of estimated tax or upon a showing to the satisfaction of the Commissioner that the liability is zero.

I accept this Agreement

Under penalties of perjury, I declare that I have examined this Agreement, related exhibits, schedules and statements and to the best of my knowledge and belief it is true, correct and complete.

Signature

Signature of Signatory/Power of Attorney

Title

[Commissioner or person acting on behalf of the Commissioner]

SEC. 6. SECURITY

.01 *Major types of security.* There are four major types of security acceptable to the Service. These are:

1. *Bond with surety or guarantor.*

The Service may accept as security with respect to a transferor's tax liability a bond that is executed with a satisfactory surety or guarantor. Only the following persons may act as surety or guarantor for this purpose:

- (a) A surety company holding a certificate of authority from the Secretary as an acceptable surety on Federal bonds, as listed in Treasury Department Circular No. 570, published annually in the Federal Register on the first working day in July and as supplemented from time to time thereafter;
- (b) A person who is engaged within or without the United States in the conduct of a banking, financing, or similar business under the principles of section 1.864-4(c)(5) of the regulations, and who is subject to U.S. or foreign (local or national) regulation of such business, if that person is otherwise acceptable to the Service; and
- (c) A person who is engaged within or without the United States in the conduct of an insurance business that is subject to U.S. or

foreign (local or national) regulation, if that person is otherwise acceptable to the Service.

2. *Bond with collateral.* The Service may accept as security with respect to a transferor's tax liability a bond that is secured by acceptable collateral. All collateral must be deposited with a responsible financial institution acting as escrow agent, or in the Service's discretion, with the Service. Only the following types of collateral are acceptable:

- (a) Bonds, notes, or other public debt obligations of the United States, in accordance with the rules of 31 CFR Part 225; and
- (b) A certified, cashier's, or treasurer's check, drawn on an entity acceptable to the Service that is engaged within or without the United States in the conduct of a banking, financing, or similar business under the principles of section 1.864-4(c)(5) of the regulations and that is subject to U.S. or foreign (local or national) regulation of such business.

3. *Letter of credit.* The Service may accept as security with respect to a transferor's tax liability an irrevocable letter or credit issued by an entity acceptable to the Service that is engaged within or without the United States in the conduct of a banking, financing, or similar business under the principles of section 1.864-4(c)(5) of the regulations and that is sub-

ject to U.S. or foreign (local or national) regulation of such business. The Service will accept a letter of credit from an entity that is not engaged in a trade or business in the United States only if such letter may be drawn on an advising bank within the United States.

4. *Guarantee.* The Service may accept as security with respect to a corporate transferor's tax liability a guarantee of the payment of such liability. The Service will accept such a guarantee only if (a) the corporation providing the guarantee is a corporation, foreign or domestic, any class of the stock of which is regularly traded on an established securities market on the date of the transfer; (b) the corporation providing the guarantee (1) is the transferor or holds, directly or indirectly, more than 80 percent of the voting stock of the transferor and (2) is engaged in a trade or business within the United States; and (c) the corporation providing the guarantee has net assets in the United States at least \$25 million in excess of the value of the U.S. real property interest which is being disposed of.

5. *Other forms of security.* The Service, at its discretion, may in unusual circumstances accept any additional form of security that it finds to be adequate.

.02 *Sample Forms.* Listed below are sample forms of security instruments that in most circumstances are acceptable to the Service, to be used when requesting a withholding certificate pursuant to section 1.1445-3 of the regulations.

1. BOND WITH SURETY/GUARANTOR

OBLIGATION. The undersigned, _____, the Guarantor(s), is (or if more than one, jointly and severally are) irrevocably held and firmly bound to pay the Internal Revenue Service the following portion of any tax (including any penalties, interest, and additions to tax) lawfully due and owing by any person listed below as a specified taxpayer as a result of the disposition or distribution of all or part of the subject interest in U.S. real property listed below as the subject interest(s):

* * *

CONDITIONS OF THIS OBLIGATION. The Internal Revenue Service may demand payment of the secured liability or any portion thereof at any time and for any reason. If the secured liability or requested portion is paid when requested by the Internal Revenue Service, this Guarantee shall be released to the extent so paid; otherwise, it shall remain in full force and effect until released in writing by the Internal Revenue Service.

SUBJECT INTEREST(S):

SPECIFIED TAXPAYER(S):

SIGNED, SEALED, AND DATED THIS _____ day of _____, 20____,

Guarantor [Seal]

Guarantor [Seal]

Corporate Guarantor

(Corporate Seal)

Attest:

By: _____ [Corporate Seal]

Surety/Guarantor

By: _____ [Corporate Seal]

Title

Secretary

2. BOND WITH COLLATERAL

OBLIGATION: The undersigned, _____ the Guarantor(s) (or if more than one, jointly and severally are) irrevocably held and firmly bound to pay the Internal Revenue Service the following portion of any tax (including any penalties, interest, and additions to tax) lawfully due and owing by any person listed below as a specified taxpayer as a result of the disposition or distribution of all or part of the subject interest in U.S. real property listed below as the subject interest(s):

SECURITY: The above-bound Guarantor(s), in order to more fully secure the Internal Revenue Service in the payment of this obligation, hereby pledge(s) as security therefor the following collateral:

* * *

CONDITIONS OF THE OBLIGATION. The Internal Revenue Service may demand payment of the secured liability or any portion thereof at any time and for any reason. If the Guarantor(s) fail(s) to pay the amount requested by the Internal Revenue Service. The Commissioner and his designates are authorized and empowered, in their sole discretion, in whole or in part, to exercise the power of attorney, contemporaneously executed and delivered to collect, sell, transfer, or assign the above described security and apply the funds so received in full or partial satisfaction of any liability for taxes, interest, penalties, or additions to tax secured hereby. If the secured liability or portion requested is paid by the Guarantor(s) when requested by the Internal Revenue Service, this security shall be released to the extent so paid; otherwise, this obligation shall remain in full force and effect until released in writing by the Internal Revenue Service.

SUBJECT INTEREST(S):

SPECIFIED TAXPAYER(S):

SIGNED, SEALED, AND DATED THIS _____ day of _____ 20____,

Guarantor [Seal]

Guarantor [Seal]

Corporate Guarantor

By: _____

Title [Corporate Seal]

(Corporate Seal)

Attest:

Secretary

Individual's power of attorney

3. POWER OF ATTORNEY

I (we)... do hereby constitute and appoint the Commissioner (and his/her designate) as attorney for me (us) and in my (our) name to collect, sell, assign, and transfer the following:

* * *

which has been deposited by me (us) as security for the faithful performance of my (our) bond, which is attached and incorporated by reference, and I (we) agree that, in case of any default in the performance of any of the conditions and stipulations of the bond, my (our) said attorney shall have full power to collect said security or any part thereof, or to sell, assign to another for the purposes

of effecting either public or private sale, free from any equity of redemption and without appraisal or valuation notice and right to redeem being waived, and the proceeds of such sale for collection, in whole or in part, to be applied to the satisfaction of the liability secured by the bond in such manner as may be deemed in the best interest of the United States. I (We) further agree that the authority herein granted is irrevocable.

And for myself (ourselves), my (our several) administrators, executors, and assigns, I (we) hereby ratify and confirm whatever my (our) said attorney shall do by virtue of this power of attorney.

In witness whereof, I (we), herein above named, have executed this instrument and affixed my (our) seal this _____ day of _____, 20__.

_____[SEAL]

State of _____)
 ss
 County of _____)

Before me, the undersigned, a notary public within and for the said county and State, personally appeared... [name(s) of Guarantor(s)], and acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this _____ day of _____, 20__.

 Notary Public

My Commission expires _____
 Corporation's power of attorney

4. POWER OF ATTORNEY

_____, a corporation duly incorporated under the laws of the State of _____ and having its principal office in the city of _____, State of _____ in pursuance of a resolution of the Board of Directors, of said corporation passed on the day of _____, 20 __, a duly certified copy of which resolution is attached hereto, does hereby constitute and appoint the Commissioner (and his designates) as attorney for said corporation, for and in the name of said corporation, to collect or to sell, assign, and transfer the following:

* * *

which has been deposited by it as security for the faithful performance of the bond, a copy of which is attached, and which is incorporated by reference, and the undersigned agrees that, in case of any default in the performance of any of the conditions and stipulations of the bond, its said attorney shall have full power to collect said security or any part thereof, or to sell, assign, and transfer said security or any part thereof without notice, at public or private sale, or to transfer or assign to another for the purpose of effecting either public or private sale, free from any equity of redemption and without appraisal or valuation, notice and right to redeem being waived, and the proceeds of such sale for collection, in whole or in part, to be applied to the satisfaction of the liability secured by the bond, in such manner as may be deemed in the best interests of the United States. The undersigned further agrees that the authority granted is irrevocable.

And said corporation, hereby for itself, its successors and assigns, ratifies and confirms whatever its said attorney shall do by virtue of this power of attorney.

In witness whereof, _____, the corporation above named, by _____ (Name and title of officer), duly authorized to execute this instrument has caused the seal of the corporation to be affixed hereto this day of _____ 20 __.

Attest:

 (Corporate seal) Secretary

By: _____
 Title

State of _____)
 ss
 County of _____)

Before me, the undersigned, a notary public within and for the said county and State, personally appeared _____ (name and title of officer), and for and in behalf of said _____ corporation, acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this _____ day of _____, 20__.

[Notarial seal]

Notary Public

My Commission expires _____

5. LETTER OF CREDIT

Place:

Cable Address:

Date:

IRREVOCABLE
STANDBY
LETTER OF
CREDIT

All drafts must be marked:
Drawn under credit no.

Advising bank
reference to

Advising bank

For account of

To beneficiary
Internal Revenue Service
950 L'Enfant Plaza South, S.W.
Washington, DC 20224
Attention: Collection

Expiration
date

This refers to
preliminary
cable advice
of this credit

Gentlemen:

We hereby establish our irrevocable letter of credit in your favor available by your drafts drawn at SIGHT and accompanied by documents specified below: NONE

We hereby engage with you that all drafts drawn under and in compliance with the terms of this credit will be duly honored if drawn and presented for payment at this office on or before the expiration date of this credit. The advising bank is requested to notify the beneficiary without adding their confirmation.

Advising bank's notification

Place, date, name, and
signature of the
advising bank

Sincerely yours,
Authorized counter signature
Authorized signature

6. GUARANTEE

OBLIGATION: The undersigned, _____, the Guarantor(s), is (or if more than one, jointly and severally are) irrevocably held and firmly bound to pay the Internal Revenue Service the following portion of any tax (including any penalties, interest, and additions to tax) lawfully due and owing by any person listed below as a specified taxpayer as a result of any disposition or distribution taxable by reason of sections 871(b)(1), 882(a)(1), and/or 897 of the Code as to all or part of the subject interest in U.S. real property listed below as the subject interest:

CONDITIONS OF THIS OBLIGATION: The Internal Revenue Service may demand payment of the secured liability or any portion thereof at any time and for any reason. If the secured liability or requested portion is paid when requested by the Internal Revenue Service, this Guarantee shall be released to the extent so paid; otherwise, it shall remain in full force and effect until released in writing by the Internal Revenue Service.

SUBJECT INTEREST(S):
2000-35 I.R.B.

SPECIFIED TAXPAYER(S):

SIGNED, SEALED, AND DATED THIS _____ day of _____ 20____,

Guarantor [Seal]

Corporate Guarantor

By: _____
[Corporate Seal]

Attest:

Secretary

SEC. 7. INSTALLMENT SALES

01. *In general.* A transferee as a result of a disposition of a U.S. real property interest occurring after December 31, 1984, is required to satisfy its withholding obligation based on the amount realized regardless of the amount of the payment by the transferee. If the transferor is a person other than a dealer and will report gain from the disposition under section 453 of the Code, a withholding certificate that permits the transferee to withhold at a reduced rate may be obtained under the rules of this section. Any withholding certificate must provide for payment of the interest on the deferred tax liability under section 453A(c) of the Code when applicable. No refund of the amount withheld will be made unless such a withholding certificate is obtained.

.02 *Withholding certificate requests.* With respect to installment sales subject to withholding under section 1445(a) of the Code, the Service will entertain requests for certificates based on the transferee's agreement to do the following:

1. Withhold and pay over 10 percent, or such lesser amount as determined by the Commissioner, of any down payment, including any liabilities of the transferor assumed by the transferee or liabilities to which the subject U.S. real property interest was subject immediately before and after the transfer;

2. Withhold 10 percent, or such lesser amount as may be determined by the Commissioner, of each subsequent payment and the interest on the deferred tax liability under section 453A(c) of the Code (these amount are in addition to any other amount required to be withheld under section 1441 or 1442);

3. Pay over all amounts withheld

using Forms 8288 and 8288-A, including thereon the taxpayer identification number of the transferor; and

4. Notify the Commissioner prior to the disposition or encumbrance of the subject U.S. real property interest, and upon such disposition or encumbrance pay over to the Service the amount remaining to be withheld pursuant to section 1445(a).

5. If the transferor pledges the installment obligation in exchange for all or a portion of the proceeds due on the installment obligation and includes in gross income under section 453A(d) of the Code the net proceeds of the secured indebtedness, the transferee's obligation to withhold under a reduced withholding certificate nevertheless continues until an amended withholding certificate is issued even though the transferor includes the proceeds in gross income.

SEC. 8. APPLICATION FOR WITHHOLDING CERTIFICATES FOR AMOUNTS REQUIRED TO BE WITHHELD UNDER SECTION 1445(e)

.01 *In general.* Pursuant to the provisions of sections 1.1445-5(c), (d), and (e) of the regulations, withholding under section 1445(e) of the Code may be reduced or eliminated pursuant to a withholding certificate issued by the Service in accordance with the rules of section 1.1445-6. A withholding certificate may be issued in cases where adjusted withholding is appropriate, where the relevant taxpayers are exempt from U.S. tax, or where an agreement for the payment of tax is entered into with the Service. If a domestic partnership's transfer of a U.S. real property interest is subject to both section 1445(e)(1) and section 1446, a withhold-

ing certificate will not be issued. *See* Rev. Proc. 89-31, 1989-1 C.B. 899. The term "relevant taxpayer" shall mean any foreign person that will bear substantive income tax liability by reason of a transaction upon which withholding is required under section 1445(e).

.02 *Applications.* An application for a withholding certificate pursuant to section 1.1445-6 of the regulations must follow the format set forth in section 4.04 of this revenue procedure and provide the information described in sections 4.05 through 4.10, with the following adjustments:

1. The application must include a preliminary item stating that it relates to withholding under section 1445(e) of the Code and specifying the applicable provisions of that section;

2. Item 2(b) of section 4.04 must state whether the applicant is a relevant taxpayer or a person required to withhold (and in what capacity that person is required to withhold; for example, as trustee);

3. Item 2(c) of section 4.04 must provide the required information with respect to each relevant taxpayer with respect to which adjusted withholding is sought; and

4. Information concerning the basis for the issuance of the certificate must be provided with respect to each relevant taxpayer.

.03 *Installment sales.* With respect to installment sales subject to withholding under section 1445(e) of the Code, the Service will entertain requests for withholding certificates based on the entity's or the fiduciary's agreement to do the following:

1. Withhold and pay over a portion, in an amount determined appropriate under section 1445(e) by the Commissioner, of any down payment received, in-

cluding any liabilities of the entity assumed by the transferee or liabilities to which the subject U.S. real property interest was subject immediately before and after the transfer;

2. Withhold a portion, in an amount determined appropriate under section 1445(e) by the Commissioner, of each subsequent payment received (this amount is in addition to any other amount required to be withheld under sections 1441 or 1442);

3. Pay over all amounts withheld using Forms 8288 and 8288-A, including thereon the taxpayer identification number of the interest holder subject to withholding; and

4. Notify the Commissioner, prior to the disposition or encumbrance of the subject installment obligation, and upon such disposition or encumbrance pay over to the Service the amount remaining to be withheld under section 1445(e).

SEC. 9. BLANKET WITHHOLDING CERTIFICATE

.01 *In general.* The Commissioner may issue a withholding certificate (blanket withholding certificate) that excuses withholding with respect to multiple dispositions of U.S. real property interests by the transferor or the transferor's legal representative during a period of no more than 12 months. A blanket withholding certificate may be issued if the transferor holding the U.S. real property interests provides a letter of credit as specified in paragraph 1 of this subsection .01 or a guarantee as specified in paragraph 2 of this subsection .01 and enters into an agreement with the Service that meets the requirements of paragraphs 3 and 4 of this subsection .01.

1. For dispositions not subject to section 1445(e) of the Code, the transferor must provide an irrevocable letter of credit in an amount equal to the greater of (i) \$100,000 or (ii) 10 percent of the amount to be realized on the projected dispositions covered by the certificate. For dispositions subject to section 1445(e), the transferor must provide an irrevocable letter of credit in an amount equal to the greater of (i) \$100,000 or (ii) the tax that section 1445(e) would require to be withheld. The letter of credit must meet the requirements of paragraph 3 of subsection 6.01 of this revenue procedure

and otherwise must be acceptable to the Commissioner. In addition, the letter of credit by its terms must be valid until at least the last day of the ninth month following the date (including extensions of time) on which a return will be required to be filed with respect to the tax year in which the 12th month covered by the withholding certificate falls. A letter of credit in the form specified in subsection 6.02(5) in most circumstances will be acceptable to the Service when requesting a blanket withholding certificate.

2. Alternatively, the Service may accept as security for a blanket withholding certificate with respect to a corporate transferor's tax liability a guarantee of the payment of such liability. The Service will accept such a guarantee only if (a) the corporation providing the guarantee is a corporation, foreign or domestic, any class of the stock of which is regularly traded on an established securities market on the date of the transfer; (b) the corporation providing the guarantee (1) is the transferor or holds, directly or indirectly, more than 80 percent of the voting stock of the transferor and (2) is engaged in a trade or business within the United States; and (c) has gross assets in the United States at least \$25 million in excess of the U.S. real property interest being disposed of.

Additionally, the transferor corporation must have filed United States corporate income tax returns for the prior consecutive three years and the guarantee otherwise must be acceptable to the Commissioner. The guarantee by its terms must be valid until at least the last day of the ninth month following the date (including extensions of time) on which a return will be required to be filed with respect to the tax year in which the 12th month covered by the withholding certificate falls. A guarantee in the form specified in subsection 6.02(6) will be acceptable to the Service in most circumstances when requesting a blanket withholding certificate.

3. The transferor must provide with the letter of credit described in paragraph 1 of this subsection or the guarantee described in paragraph 2 of this subsection an executed tax payment and security agreement securing the payment of tax with respect to the projected dispositions covered by the blanket withholding certificate. The agreement must generally meet the requirements of subsections 5.02

through 5.05 of this revenue procedure as modified to take account of this subsection 9.01 and otherwise must be acceptable to the Commissioner. The agreement must also list all the U.S. real property interests covered by the agreement and give a brief description of each interest. In addition, the agreement must contain the terms as to notification of specific dispositions required by paragraph 4 of this subsection 9.01 and must provide that, in the event of a failure by the transferor to provide such notification or to file a return in a timely manner, deposit estimated tax in a timely manner, or to pay tax in a timely manner, with respect to the gain on one or more of the dispositions covered by the certificate, the Commissioner may draw upon the letter of credit or demand payment under the guarantee to satisfy the transferor's liability for any tax imposed by 871(b)(1) or 882(a)(1) of the Code, plus interest and penalties, if any, on any one or more dispositions covered by the certificate.

4. The agreement required by paragraph 3 of this subsection must state that the transferor agrees to notify the Commissioner before or on the date of any disposition of a U.S. real property interest covered by the blanket certificate. The notice shall include the following information:

- (a) The name, legal address, and taxpayer identification number (to the extent required in regulations) of the transferor or the name and legal address of a legal representative of the transferor with the power to bind the transferor with respect to the disposition;
- (b) The name, legal address, and taxpayer identification number (to the extent required in regulations) of the transferee or the name and legal address of a legal representative of the transferee with the power to bind the transferee with respect to the disposition;
- (c) A description of the U.S. real property interest to be transferred and the anticipated date of the transfer;
- (d) The amount that would otherwise have been required to be withheld on the transfer (10

percent of the amount realized unreduced by the maximum tax calculation or for any other reason);

- (e) The cumulative total of amounts that would otherwise have been required to be withheld with respect to dispositions (i) which have already taken place or are scheduled to take place prior to the disposition with respect to which notice is being given and (ii) with respect to which the Commissioner has not sent the notice described in subsection .02(1) below;
- (f) The amount of the original letter of credit provided or the amount the guarantor is bound to pay the Service under the guarantee; and
- (g) A copy of the transferor's withholding certificate, or if the application is pending, a copy of the withholding certificate application.

An agreement in the form prescribed by subsection 5.06 of this revenue procedure in most cases will be acceptable to the Service for purposes of paragraphs 3 and 4 of this subsection 9.01, with the following modifications: (i) The form should reflect and describe, as the "subject interests," the projected dispositions to be covered by the blanket withholding certificate to which the agreement will relate, (ii) paragraph 2 of the form should be modified to state that the agreement is entered into in connection with an application for a blanket withholding certificate and will extend to all dispositions covered by the blanket withholding certificate, (iii) the third sentence of paragraph 2 should be revised to read "Security for the payment of such liability is provided by an irrevocable letter of credit in the amount of ___ in accordance with the requirements of subsection 9.01(1) of Rev. Proc. 2000-35 or by a guarantee in accordance with the requirements of subsection 9.01(2) of Rev. Proc. 2000-35," (iv) a new paragraph should be added to the form (designated as paragraph 3, with the other paragraphs being renumbered accordingly), containing the terms of paragraph 4 of this subsection 9.01, and (v) paragraph 5 of the

form (paragraph 6 as renumbered) should be revised to read:

"6. In the event of any failure by the transferor or the transferor's legal representative (i) to notify the Commissioner properly, in accordance with paragraph 4, of a disposition of a U.S. real property interest covered by this agreement and the blanket withholding certificate to which it relates, or (ii) to file a return in a timely manner, to deposit estimated tax in a timely manner, or to pay tax in a timely manner, with respect to the gain on one or more dispositions covered by this agreement and such certificate, the Commissioner may draw upon the letter of credit provided or the guarantee as related security under this agreement in full to the extent of the tax imposed by section 871(b)(1) or section 882(a)(1) of the Code on any one or more dispositions covered by this agreement and such certificate, plus interest and additions to tax, if any. This amount shall be in addition to any other civil or criminal penalties that may apply with respect to the applicant's use of the withholding certificate in violation of the terms thereof."

.02 Withholding certificates—Provisions. A withholding certificate issued by the Commissioner under this section will state that no withholding is required with respect to any disposition of a U.S. real property interest by the applicant provided that (1) before the date of the transfer, the Commissioner does not provide notice to the person who would otherwise be required to withhold (discussed in paragraph 1 below) that such withholding is required, and (2) the person who would otherwise be required to withhold timely provides the information and material described in paragraph 2 below and the disposition as consummated does not materially fail to correspond to the information so provided.

1. If one of the following conditions occurs, the Commissioner will provide notice to the applicant, and to the person required to withhold, that withholding is required despite the prior issuance of a withholding certificate:

- (a) The applicant's letter of credit or amount under the guarantee, in light of prior dispositions, is not sufficient to cover the amount otherwise required to be withheld on the transfer, or

- (b) The applicant has otherwise violated the provisions of this section.

2. To be exempt from withholding tax liability, the person that would otherwise be required to withhold must, before or on the day of the closing of a transaction, provide a statement to the Commissioner containing the following information and material:

- (a) The name, legal address, and taxpayer identification number (to the extent required in regulations) of the transferee or the name and legal address of a legal representative of the transferee with the power to bind the transferee with respect to the acquisition;
- (b) The name, legal address, and taxpayer identification number (to the extent required in regulations) of the transferor or the name and legal address of a legal representative of the transferor with the power to bind the transferor with respect to the acquisition;
- (c) A description of the acquired U.S. real property interest and the anticipated date of the acquisition;
- (d) The total contract price of the acquired U.S. real property interest; the amount of liabilities, if any, to be assumed by the transferee; and the amount of liabilities, if any, to which the property is to be acquired is subject; and
- (e) A copy of the transferor's withholding certificate.

.03 Copy of security agreement. The Commissioner will, upon request, provide the transferor with a copy of a security agreement submitted pursuant to paragraph 9.01(2) executed by the Commissioner, but such an executed copy is not needed to establish the validity of the blanket withholding certificate for purposes of the subject disposition. Provided that notice is not given by the Commissioner under section 9.02(1), and provided that the transferee timely provides the required information and materials, the withholding certificate remains valid.

.04 Consequences of failure to notify. In the event of any failure by the trans-

feror or the transferor's legal representative to notify the Commissioner properly, in accordance with section 9.01(3), of a disposition of a U.S. real property interest, or to file a return in a timely manner, to deposit estimated tax in a timely manner, or to pay tax in a timely manner, with respect to the gain on one or more dispositions covered by the blanket withholding certificate, the letter of credit provided under section 9.01(1) or the guarantee provided under section 9.01(2) may be drawn upon in full to the extent of the tax imposed by section 871(b)(1) or section 882(a)(1) of the Code, plus interest and additions to tax, if any, on any one or more dispositions covered by the blanket withholding certificate. This amount shall be in addition to any other civil or criminal penalties that may apply with respect to the applicant's use of the withholding certificate in violation of the terms thereof.

SEC. 10. AUTHORIZED REPRESENTATIVE

In any situation covered by this revenue procedure in which a person acts for or is designated as a legal representative of either a transferor or a transferee, such person must be authorized to so act by a power of attorney on file with the Commissioner. Form 2848 may be used for this purpose.

SEC. 11. INQUIRIES

Address all inquiries to:

Internal Revenue Service Center
P.O. Box 21086
Drop Point 8731 FIRPTA Unit
Philadelphia, PA 19114-0586

SEC. 12. EFFECTIVE DATE

This revenue procedure is effective for all applications for withholding certificates submitted after September 27, 2000.

SEC. 13. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 88-23, 1988-1 C.B. 787, is superseded as of the date Rev. Proc. 2000-35 is effective.

SEC. 14. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1697.

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

The collections of information are contained in sections 4 through 9 of this revenue procedure. This information will be used to enable the Commissioner to determine whether to issue a withholding certificate to an applicant which reduces or eliminates withholding under section

1445 of the Code. The likely respondents are individuals, corporations, partnerships, and foreign governments.

The estimated total annual reporting and/or recordkeeping burden is 60,000 hours.

The estimated average annual burden per applicant is 10 hours. The estimated number of applicants is 6,000.

The estimated number of responses is on occasion.

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

DRAFTING INFORMATION

The principal authors of this revenue procedure are Sharon J. Bomgardner, formerly of the Office of Associate Chief Counsel (International), and Robert W. Lorence, of the Office of Associate Chief Counsel (International). For further information, contact Tom Logan of Foreign Payments, Pre-filing and Technical Guidance at (202) 283-8410 (not a toll-free number).

Part IV. Items of General Interest

Reporting Requirements for Section 527 Organizations

Announcement 2000-72

The Internal Revenue Service is considering the issuance of a revenue ruling addressing questions concerning the reporting requirements for political organizations described in § 527 of the Internal Revenue Code.

BACKGROUND

On July 1, 2000, Pub. L. 106-230 was enacted, amending § 527 of the Code. The new law imposes three reporting and disclosure requirements on political organizations described in § 527: (1) an initial notice of status, (2) periodic reports of contributions and expenditures, and (3) annual returns.

The following proposed revenue ruling provides questions and answers relating to the reporting and disclosure requirements for political organizations described in § 527. Because the new law was effective upon enactment, § 527 organizations may rely upon this proposed revenue ruling until the revenue ruling is finalized and issued.

The Service is soliciting public comment on the proposed revenue ruling. The Service asks for comments not only on the questions and answers posed in the proposed revenue ruling, but also on other questions concerning the reporting requirements for § 527 organizations.

Public comments should be submitted in writing on or before September 8, 2000. The Service plans to finalize the revenue ruling as soon as possible after this date. Comments should be sent to the following address:

Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224
Attn: Judith E. Kindell
T:EO:RA:T:P, Room 6033

Comments may also be sent electronically via the Internet to *TE/GE-Exempt-1@irs.gov.

DRAFTING INFORMATION

The principal author of this announcement is Judith E. Kindell of the Exempt Organizations Technical Division. For

further information regarding this announcement contact Judith E. Kindell on (202) 622-6494 (not a toll-free call).

PROPOSED REVENUE RULING ISSUES

On July 1, 2000, Pub. L. 106-230 was enacted, amending § 527 of the Code. The new law imposes three reporting and disclosure requirements on political organizations described in § 527: (1) an initial notice of status, (2) periodic reports of contributions and expenditures, and (3) annual returns. This revenue ruling provides questions and answers relating to the reporting and disclosure requirements for political organizations described in § 527.

QUESTIONS AND ANSWERS

I. Notice of Status

1. Q. What is the notice of status requirement for an organization described in § 527?

A. Under § 527(i)(1)(A), a political organization is required to give notice both electronically and in writing to the Service that it is a political organization described in § 527.

2. Q. What is the required notice form?

A. The required notice form is Form 8871, Political Organization Notice of Section 527 Status.

3. Q. Are all political organizations required to file the Form 8871 notice?

A. No. Under § 527(i)(5) and § 527(i)(6), three types of organizations are not required to file the Form 8871 notice:

(a) Persons required to report under the Federal Election Campaign Act of 1971 (FECA) as a political committee (see 2 U.S.C. § 431(4));

(b) Organizations that reasonably anticipate that their annual gross receipts will always be less than \$25,000; and

(c) Organizations described in § 501(c) that are subject to § 527(f)(1) because they have made an “exempt function” expenditure.

All other political organizations, including state and local candidate committees, are required to file the notice.

4. Q. Is an organization that finances both federal and non-federal election activity required to file the Form 8871 notice?

A. As a general rule, any political organization (whether or not separately incorporated) that is organized and operated for an exempt function under § 527(e)(2) (see Q&A-15) must file Form 8871 unless it meets one of the exceptions discussed above (see Q&A-3), one of which is being required to report under FECA as a political committee. An organization that finances election activity (within the meaning of FECA) for both federal and non-federal elections may establish a political committee to receive contributions and make expenditures for both federal and non-federal election activity. In that case, the organization must register as a political committee and comply with the FECA contribution limitations and reporting requirements. 11 C.F.R. 102.5(a)(1)(ii). Such an organization is, therefore, not required to file Form 8871.

If, however, the organization sets up separate accounts to conduct its federal election activity and its non-federal election activity, the federal account is treated as a separate political committee that is required to register and report under FECA. 11 C.F.R. 102.5(a)(1)(i). The treatment of the federal account as a separate committee is consistent with the organizational requirements for political organizations under § 527, as discussed below in Q&A-10. Accordingly, the separate federal account is not required to file Form 8871. However, a separate non-federal account is not required to register and report under FECA as a political committee. Therefore, a separate non-federal account that is described in § 527(e)(1) is required to file Form 8871.

5. Q. Are political organizations that are required to report to state or local election agencies excepted from the notice requirement?

A. Section 527(i) does not except political organizations that file reports with state or local election agencies from the notice of status requirement. Therefore, unless the political organization meets one of the exceptions discussed above in Q&A-3, it must file Form 8871 with the Service.

6. Q. When must the organization file Form 8871?

A. Form 8871 must be filed within 24 hours after the date on which the organization was established. See Notice 2000-36, 2000-33 I.R.B. 173, for information about filing requirements for organizations in existence before July 30, 2000.

7. Q. What are the methods of filing Form 8871?

A. Section 527(i)(1)(A) requires that the organization file Form 8871 both electronically and in writing. Therefore, the methods for filing Form 8871 are as follows:

- (a) Electronically via the Internal Revenue Service Internet Web Site (IRS Web Site) at www.irs.gov/bus_info/eo/pol-file.html, and
- (b) In writing by sending a signed copy of Form 8871 to the Internal Revenue Service Center, Ogden, UT 84201. An organization can fill in and print out the form from the IRS Web Site.

8. Q. Must an organization take any additional steps before filing Form 8871?

A. Before filing Form 8871, the political organization must have its own employer identification number (EIN) even if it has no employees. To obtain an EIN, an organization must file Form SS-4, Application for Employer Identification Number, with the Service. The organization may obtain the EIN either by telephone or by mail. If the organization applies by telephone, it can obtain the EIN immediately.

9. Q. What information must be provided in the Form 8871 notice?

A. Under § 527(i)(3), an organization must provide in its Form 8871 notice its name and address (including any business address, if different) and electronic mailing address; its purpose; the names and addresses of its officers, highly compensated employees, contact person, custodian of records, and members of its Board of Directors; and the name and address of, and relationship to, any related entities (within the meaning of § 168(h)(4)).

10. Q. Does § 527(i) change the organizational requirements for § 527 organizations?

A. No. Section 527 does not require an organization to have formal organizational documents, such as articles of incorporation. Under § 1.527-2(a)(2) of the Income

Tax Regulations, a political organization meets the organizational test if it is organized for the primary purpose of carrying on exempt function activities as defined in § 527. The regulation specifically states that the organization need not be formally chartered or established as a corporation, trust, or association. For example, a separate bank account in which political campaign funds are deposited and disbursed only for political campaign expenses can qualify as a political organization. See Rev. Rul. 79-11, 1979-1 C.B. 207.

The requirement that a § 527 organization include the names and addresses of its officers, highly compensated employees, and members of its Board of Directors does not change the organizational test for § 527. Section 527(i) does not require political organizations to be organized with Boards of Directors, officers and highly compensated employees. It merely requires the organization to provide their names and addresses if it is so organized.

11. Q. What is a “related entity” for this purpose?

A. An entity is a “related entity” within the meaning of § 168(h)(4), which provides that an organization is related to another entity as follows:

- (a) The two entities have (i) significant common purposes and substantial common membership or (ii) directly or indirectly substantial common direction or control; or
- (b) Either entity owns (directly or through one or more entities) a 50 percent or greater interest in the capital or profits of the other. For this purpose, entities treated as related entities under (a) above shall be treated as one entity.

12. Q. What are “highly compensated employees” for this purpose?

A. Highly compensated employees for this purpose are the five employees (other than officers and directors) who are expected to have the highest annual compensation over \$50,000. Compensation includes both cash and noncash amounts, whether paid currently or deferred, for the 12-month period that began with the date the organization was formed (if the organization was formed after June 30, 2000). If the organization was already in existence on June 30, 2000, it must use the accounting period that includes July 1,

2000.

13. Q. What if an organization described in § 527(e)(1) does not file the Form 8871 notice?

A. An organization described in § 527(e)(1) must file Form 8871 unless it is an organization described in § 527(i)(5) or § 527(i)(6) (see Q&A-3). If the organization fails to file Form 8871 on a timely basis, § 527(i)(4) provides that, for any period during which the organization fails to satisfy the notice requirement, the taxable income of the organization includes its exempt function income (including contributions received, membership dues, and political fundraising receipts), minus any deductions directly connected with the production of that income. For purposes of computing its taxable income, the organization may not deduct its exempt function expenditures because § 162(e) denies a deduction for political campaign expenditures.

Under § 527(b), the tax is computed by multiplying the organization’s taxable income (including its net investment income) by the highest corporate tax rate, currently 35 percent. The organization must file a Form 1120-POL to report the income and pay the tax.

14. Q. When is an organization described in § 527(e)(1)?

A. An organization is described in § 527(e)(1) if it meets both the organizational and operational tests, that is, it must be organized and operated primarily for the purpose of accepting contributions or making expenditures for an exempt function under § 527(e)(2). See § 1.527-2(a).

15. Q. What is an “exempt function” under § 527(e)(2)?

A. “Exempt function” means, under § 527(e)(2), influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

16. Q. Is the Form 8871 notice publicly available?

A. Yes. Under § 6104(d), Form 8871 (including any supporting papers), and any letter or other document the Service issues with regard to Form 8871, will be open to public inspection. Copies of

Form 8871 that have been filed are currently available at the IRS Web Site. In addition, the organization is required to make a copy of these materials available for public inspection during regular business hours at the organization's principal office and at each of its regional or district offices having at least three paid employees in the same manner as applications for exemption of § 501(c) organizations are made available.

17. Q. What is the penalty on the organization for failure to comply with the public inspection requirement?

A. Under § 6652(c)(1)(D), a penalty of \$20 per day will be imposed on any person with a duty to comply with the public inspection requirement for each day a failure to comply continues.

II. Periodic Reporting Requirements

18. Q. What are the periodic reporting requirements imposed upon political organizations?

A. Under § 527(j), a political organization is required to periodically report contributions to the organization and expenditures made by the organization.

19. Q. What is the required periodic reporting form?

A. The required periodic reporting form is Form 8872, Political Organization Report of Contributions and Expenditures.

20. Q. When are political organizations required to file periodic reports on Form 8872?

A. Under § 527(j)(2), political organizations that accept contributions or make expenditures for an exempt function under § 527 (see Q&A-15) during a calendar year are required to file periodic reports on Form 8872, beginning with the first month or quarter in which they accept contributions or make expenditures. In addition, organizations that make contributions or expenditures with respect to an election for federal office (as defined in § 527(j)(6)) may be required to file pre-election reports for that election.

21. Q. Are all political organizations required to file periodic reports on Form 8872?

A. No, § 527(j)(5) provides that some organizations are not subject to this requirement. The organizations excepted from the filing requirements are as follows:

- a) Organizations excepted from the requirement to file a Form 8871 (see Q&A-3);
- b) Political committees of a state or local candidate; and
- c) State and local committees of political parties.

All other political organizations, including other state and local political organizations, are subject to the reporting requirements of § 527(j), even if they file reports with state or local election agencies.

22. Q. How often must the Form 8872 be filed?

A. Political organizations subject to the periodic reporting requirement may choose to file Form 8872 on a monthly basis or on a quarterly/semi-annual basis, but it must file on the same basis for the entire calendar year.

23. Q. When is Form 8872 due in a non-election year when organizations elect to file on a monthly basis?

A. Pursuant to § 527(j)(2)(B), political organizations that choose to file monthly must file Form 8872 reports not later than the 20th day after the end of the month, which must be complete as of the last day of the month. The monthly report for the December activity is included in the year-end report due not later than January 31 of the following year. If any due date falls on a Saturday, Sunday or legal holiday, the organization may file the report on the next business day.

24. Q. When is Form 8872 due during an election year when organizations elect to file on a monthly basis?

A. Pursuant to § 527(j)(2)(B), in any year in which a regularly scheduled general election is held, the organization shall not file the reports regularly due in November and December (i.e., the monthly reports for activity in October and November). Instead, the organization must file a Form 8872 report not later than 12 days before the general election (or 15 days before the general election if posted by registered or certified mail) that contains information through the 20th day before the general election. The organization must also file a report no more than 30 days after the general election which shall contain information through the 20th day after the election. The monthly report for the December activity is included in the year-end report due not later than Jan-

uary 31 of the following year. If any due date falls on a Saturday, Sunday or legal holiday, the organization may file the report on the next business day.

25. Q. When is Form 8872 due in a non-election year when organizations elect to file on a quarterly/semi-annual basis?

A. Pursuant to § 527(j)(2)(A), political organizations that choose not to file monthly must file semi-annual reports in non-election years. These reports are due not later than July 31 for the first half of the year and, for the second half of the year, not later than January 31 of the following year. If any due date falls on a Saturday, Sunday or legal holiday, the organization may file the report on the next business day.

26. Q. When is Form 8872 due during an election year when organizations elect to file on a quarterly/semi-annual basis?

A. Pursuant to § 527(j)(2)(A), in an election year, these organizations must file quarterly reports due not later than the 15th day after the last day of the quarter, except that the return for the final quarter shall be due not later than January 31 of the following year. In addition, the organization must file pre-election reports for any election for federal office with respect to which the organization makes a contribution or expenditure. These reports shall be filed not later than 12 days before the election (15 days before if posted by registered or certified mail) and must contain information through the 20th day before the election. The organizations must also file a post-general election report due not later than 30 days after the general election and containing information through the 20th day after the election. If any due date falls on a Saturday, Sunday or legal holiday, the organization may file the report on the next business day.

27. Q. What is an election for purposes of the reporting deadlines under § 527(j)?

A. For purposes of determining what is an election year and what elections trigger the pre-election and post-general election reports, § 527(j)(6) provides that an "election" is a general, special, primary, or runoff election for a federal office; a convention or caucus of a political party with authority to nominate a candidate for

federal office; a primary election to select delegates to a national nominating convention of a political party; or a primary election to express a preference for the nomination of individuals for election to the office of President. Thus, an election for purpose of these reporting deadlines does not include elections that are purely state or local elections. When an election involves both candidates for federal office and candidates for state or local offices, it is an election for purposes of the reporting deadlines, but only those organizations that make contributions or expenditures with respect to the candidates for federal office are required to file the pre-election reports for those elections under § 527(j)(2)(A)(i)(II). However, all reports filed under § 527(j) must contain information about the contributions and expenditures within the reporting period, regardless of whether they were accepted or made with respect to candidates for federal, state or local office.

28. Q. What is a general election?

A. A general election is either one of the following:

- a) an election for federal office held in even numbered years on the Tuesday following the first Monday in November or
- b) an election held to fill a vacancy in a federal office (i.e., a special election) that is intended to result in the final selection of a single individual to the office at stake. See 11 C.F.R. 100.2(b).

29. Q. How will “election” under § 527(j)(6) be interpreted?

A. The definition of “election” under § 527(j)(6) is virtually identical to the definition of “election” under FECA (2 U.S.C. § 431(1)). Organizations may rely on FEC interpretation of the FECA definition in the absence of further guidance from the Service. The FEC publishes reporting dates for pre-election reports on its Web Site at <http://www.fec.gov/pages/refer.htm>.

30. Q. What must the Form 8872 reports contain?

A. The reports must include the name, address, and (if an individual) the occupation and employer, of any person to whom expenditures are made that aggregate \$500 or more in a calendar year and the amount of such expenditure. The reports must also include the name, address, and (if an individual) the occupation and em-

ployer, of any person that contributes in the aggregate \$200 or more in a calendar year and the amount of such contribution. However, organizations are not required to report independent expenditures as defined in § 301 of FECA. Only expenditures made or contributions received after July 1, 2000, that are not made or received pursuant to binding contracts entered into before July 2, 2000, must be reported.

31. Q. What is an independent expenditure under § 301 of FECA?

A. An independent expenditure is an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate for federal office which is made without cooperation or consultation with any candidate for federal office, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate for federal office, or authorized committee or agent of such candidate. See 2 U.S.C. § 431(17).

32. Q. Where is the Form 8872 filed?

A. The report is filed by sending a signed copy of Form 8872 to the Internal Revenue Service Center, Ogden, UT 84201. The form must be signed by an official authorized by the organization to sign the report.

33. Q. What if a political organization does not file the required Form 8872?

A. Under § 527(j)(1), a political organization that does not file the required Form 8872 or which fails to include the information required on the Form 8872 is subject to a tax equal to the amount not disclosed multiplied by the highest corporate tax rate, currently 35 percent.

34. A. Is the Form 8872 filed by political organizations publicly available?

A. Yes. Under § 6104(b) and § 6104(d)(6), Form 8872 will be made available for public inspection by the Service. In addition, under § 6104(d)(1)(A), the organization is required to make a copy of these reports available for public inspection during regular business hours at the organization’s principal office and at each of its regional or district offices having at least three paid employees in the same manner as applications for exemption of § 501(c) organizations are made available. Pursuant to § 6104(b) and § 6104(d)(3)(A), contributor informa-

tion must be disclosed to the public.

35. Q. What if the political organization does not make its Form 8872 publicly available?

A. Under § 6652(c)(1)(C), a penalty of \$20 per day will be imposed on any person with a duty to comply with the public inspection requirement for each day a failure to comply continues. The maximum penalty that may be incurred for any failure to disclose any one report is \$10,000.

III. Annual Return Requirements

36. Q. What political organizations are required to file annual income tax returns?

A. Political organizations that have taxable income in excess of the \$100 specific deduction allowed under § 527 are required to file an annual income tax return, the Form 1120-POL. In addition, for taxable years beginning after June 30, 2000, political organizations that have \$25,000 or more in gross receipts for the taxable year are also required to file the Form 1120-POL, without regard to whether they have taxable income.

37. Q. When is the Form 1120-POL due?

A. The Form 1120-POL is due on or before the 15th day of the third month after the close of the organization’s taxable year. § 6072(b). Thus, for a calendar year taxpayer, Form 1120-POL is due on March 15 of the following year. If any due date falls on a Saturday, Sunday or legal holiday, the organization may file the return on the next business day.

38. Q. What political organizations are required to file an annual information return?

A. Political organizations that are required under § 6012(a)(6) to file an income tax return are also required to file Form 990 for taxable years beginning after June 30, 2000. § 6033(g). Organizations with gross receipts less than \$100,000 and assets of less than \$250,000 may file Form 990-EZ. Organizations with gross receipts of less than \$25,000 are not required to file Form 990 or Form 990-EZ.

39. Q. When is the Form 990 due?

A. The Form 990 (or Form 990-EZ) is due on or before the 15th day of the fifth month after the close of the organization’s taxable year. Thus, for a calendar year

taxpayer, Form 990 is due on May 15 of the following year. If any due date falls on a Saturday, Sunday or legal holiday, the organization may file the return on the next business day.

40. Q. What if the political organization fails to file Form 1120-POL or Form 990?

A. A political organization that fails to file a required Form 1120-POL or Form 990 or fails to include required information on those returns is subject to a penalty of \$20 per day for every day such failure continues. The maximum penalty imposed regarding any one return is the lesser of \$10,000 or 5 percent of the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding \$1,000,000 for any year, the penalty is increased to \$100 per day with a maximum penalty of \$50,000. § 6652(c)(1)(A).

41. Q. Are the Form 1120-POL and Form 990 filed by political organizations publicly available?

A. Yes, the Form 1120-POL and the Form 990 filed for taxable years beginning after June 30, 2000 will be made available for public inspection by the Service. § 6104(b). The political organization must make a copy of its returns available for public inspection during regular business hours at its principal office and any regional or district offices having three employees or more in the same manner as annual information returns of § 501(c) organizations are made available. It must also provide a copy of the returns to any person requesting a copy in person or in writing without charge other than a reasonable charge for reproduction and postage in the same manner that § 501(c) organizations provide copies of their annual returns. § 6104(d)(1). If an organization's returns are widely available under § 301.6104(d)-3 of the Procedure and Administration Regulations (such as on the Internet), the organization need not respond to requests for copies. Returns only need to be made available for three years after filing. § 6104(d)(2). Contributor information must be disclosed to the public. § 6104(d)(3)(A).

42. Q. What if the political organization does not make its Form 1120-POL and Form 990 publicly available?

A. A penalty of \$20 per day will be imposed on any person with a duty to

comply with the public inspection requirement for each day a failure to comply continues. The maximum penalty that may be incurred for any failure to disclose any one report is \$10,000. § 6652(c)-(1)(C).

IV. General

43. Q. Where can organizations get copies of the various forms?

A. The various forms (Form 8871, Form 8872, Form 1120-POL, and Form 990) and their instructions are available by calling 1-800-TAX-FORM (1-800-829-3676) or via the Internet at the IRS Web Site at www.irs.gov in the "Forms and Publications" section. For more information, organizations may call the Customer Service Center at 1-877-829-5500.

Consolidated Returns— Limitations on the Use of Certain Credits; Correction

Announcement 2000-73

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations (T.D. 8884, 2000-24 I.R.B. 1250) that were published in the Federal Register on Thursday, May 25, 2000 (65 F.R. 33753) relating to consolidated returns-limitations on the use of certain credits.

DATES: This correction is effective May 25, 2000.

FOR FURTHER INFORMATION CONTACT: Marie C. Milnes-Vasquez (202) 622-7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 1502 of the Internal Revenue Code.

Need for Correction

As published, the final regulations contain an error that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8884), that were the subject of F.R. Doc. 00-11901, is corrected as follows:

§1.1502-3 [Corrected]

On page 33758, column 1, §1.1502-3(d)(5), paragraph (iv) of the *Example*, line 6 from the bottom of the paragraph, the language "contributions to the consolidated section" is corrected to read "contribution to the consolidated section".

LaNita Van Dyke,
*Acting Chief, Regulations Unit
Office of Special Counsel
(Modernization and Strategic Planning).*

(Filed by the Office of the Federal Register on August 7, 2000, 8:45 a.m., and published in the issue of the Federal Register for August 8, 2000, 65 F.R. 48379)

New Technologies in Retirement Plans; Correction

Announcement 2000-74

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations, (T.D. 8873, 2000-9 I.R.B. 713) which were published in the Federal Register Tuesday, February 8, 2000 (65 F.R. 6001), relating to amendments to the regulations governing certain notices and consents required in connection with distributions from retirement plans.

DATES: This correction is effective February 8, 2000.

FOR FURTHER INFORMATION CONTACT: Catherine Livingston Fernandez at (202) 622-6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under sections 402(f), 411(a)(11) and 3405(e)(10)(B) of the Internal Revenue Code.

Need for Correction

As published, the final regulations (T.D. 8873) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8873), which were the subject of F.R. Doc. 00-1897, is corrected as follows:

1. On page 6004, column 2, line 24 from the top of the column, the language “I.R.B.) provides that, pending” is corrected to read “I.R.B. 413) provides that, pending”.

Sec. 35.3405–1 [Corrected]

2. On page 6008, column 1, Sec. 35.3405–1 d-35, lines 4 and 5 of A, the language, “and the annual notice de-

scribed in d-31) to a payee either on a written paper” is corrected to read “of Sec. 35.3405–1T and the annual notice described in d-31 of Sec. 35.3405–1T) to a payee either on a written paper”.

3. On page 6008, column 2, Sec. 35.3405–1 d-36A., the first line of Example 5, the language, “Example 5. (I) Same facts as Example 1,” is corrected to read “Example 5. (i) Same facts as Example 1,”.

4. On page 6008, column 2, Sec. 35.3405–1 d-36A., the first line of Example 5 (ii), the language, “(ii) In this Example 5, Plan A does not” is corrected to read “(ii) In this Example 5, the plan administrator does not”.

Sec. 602.101 [Corrected]

5. On page 6008, column 3, instructional Par. 7. and the table in Sec. 602.101(b) are corrected to read as fol-

lows:

Par. 7. In Sec. 602.101, paragraph (b) is amended by revising the entries for 1.402(f)–1 and 1.411(a)–11 in the table to read as follows:

Sec. 602.101 OMB Control numbers.

* * * * *
(b) * * *

Dale D. Goode,
Federal Register Liaison,
Assistant Chief Counsel (Corporate).

(Filed by the Office of the Federal Register on March 30, 2000, 8:45 a.m., and published in the issue of the Federal Register for March 31, 2000, 65 F.R. 17148)

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.402(f)–1	1545-1341
.....	1545-1632
* * * * *	
1.411(a)–11	1545-1471
.....	1545-1632
* * * * *	

Announcement of the Consent Voluntary Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under 31 Code of Federal Regulations, Part 10, an attorney, certified public accountant, enrolled agent or enrolled actuary, in order to avoid the institution or conclusion of a proceeding for his disbarment or suspension from practice before the Internal Revenue Service, may offer his consent to suspension from such practice. The Director of Practice, in his discretion, may suspend an attorney, certified public accountant, enrolled agent or enrolled actuary in accordance with the consent offered.

Attorneys, certified public accountants, enrolled agents and enrolled actuaries are prohibited in any Internal Revenue Ser-

vice matter from directly or indirectly employing, accepting assistance from, being employed by or sharing fees with, any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents and enrolled actuaries to identify practitioners under consent suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public ac-

countant, enrolled agent or enrolled actuary, and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individuals have been placed under consent suspension from practice before the Internal Revenue Service:

Name	Address	Designation	Date of Suspension
Stoppenhagen, Larry	Ft. Wayne, IN	CPA	April 14, 2000 to April 13, 2001
Chon, James	N. Hollywood, CA	CPA	May 22, 2000 to May 21, 2003
Bleyer, Stephen A.	Bala Cynwyd, PA	CPA	June 26, 2000 to December 25, 2000
Knutson, Owen	Ouray, CO	CPA	July 3, 2000 to January 2, 2003
Silverman, Richard E.	Fayetteville, NY	CPA	August 1, 2000 to March 31, 2004
Holt, Jeffrey	Little Rock, AR	Enrolled Agent	October 1, 2000 to March 31, 2003
Barbagallo, Joseph	Newton, PA	CPA	October 15, 2000 to October 14, 2004

Announcement of the Disbarment and Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under Section 330, Title 31 of the United States Code, the Secretary of the Treasury, after due notice and opportunity for hearing, is authorized to suspend or disbar from practice before the Internal Revenue Service any person who has violated the rules and regulations governing the recognition of attorneys, certified public accountants, enrolled agents or enrolled actuaries to practice before the Internal Revenue Service.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are prohibited in any Internal Revenue Service matter from directly or indirectly em-

ploying, accepting assistance from, being employed by or sharing fees with, any practitioner disbarred or under suspension from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents and enrolled actuaries to identify such disbarred or suspended practitioners, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public accountant, enrolled agent or enrolled actuary, and the date of

disbarment or period of suspension. This announcement will appear in the weekly Bulletin for five successive weeks or as long as it is practicable for each attorney, certified public accountant, enrolled agent or enrolled actuary so suspended or disbarred and will be consolidated and published in the Cumulative Bulletin.

After due notice and opportunity for hearing before an administrative law judge, the following individuals has been disbarred from further practice before the Internal Revenue Service:

Name	Address	Designation	Effective Date
Luebben, William	Hot Springs, AR	CPA	February 11, 2000

Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

This announcement serves notice to potential donors that the organization listed below has recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of

revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section 170(c)(2), as more particularly set forth in section 7428(c)(1). In the case of individual contributors, the maximum amount of contributions protected during this period is limited to \$1,000.00, with a husband and wife being treated as one contributor. This protection is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for the re-

vocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

Living Truth Ministries
Austin, TX

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it ap-

plies 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 law 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 the 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 Contribution 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.—Statements 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

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2000–1 through 2000–26 is in Internal Revenue Bulletin 2000–27, dated July 3, 2000.

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Rev. Proc. 2000–29, 2000–28 I.R.B. 113

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Superseded by
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Treasury Decisions:

8883

Corrected by
Announcement 2000–57, 2000–28 I.R.B. 115

¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2000–1 through 2000–26 is in Internal Revenue Bulletin 2000–27, dated July 3, 2000.



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