

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. 2008–28, page 1029.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for June 2008.

T.D. 9396, page 1026.

Final regulations under section 368 of the Code amend regulations section 1.368–2(k) to clarify that, where the post-reorganization transfer(s) consists of one or more transfers to the former shareholders of the acquired corporation (other than a former shareholder that is also the acquiring corporation) and the transfer constitutes the receipt by such shareholders of additional consideration for their proprietary interests in the acquired corporation, the transaction as a whole is not afforded protection from application of the step transaction doctrine under section 1.368–2(k). In addition, the regulations clarify that the safe harbor of section 1.368–2(k) shall not apply to a transfer by the former shareholders of the acquired corporation (other than a former shareholder that is also the acquiring corporation) or the surviving corporation, as the case may be, of consideration initially received in the potential reorganization to the issuing corporation or a person related to the issuing corporation.

T.D. 9397, page 1025.

Final regulations under section 358 of the Code prevent abuse by removing the exception for transfers in which substantially all of the assets associated with a liability are transferred to the person assuming the liability as part of the exchange.

Rev. Proc. 2008–29, page 1039.

2009 inflation adjusted amounts for Health Savings Accounts (HSAs). This procedure provides the 2009 inflation adjusted amounts for HSAs under section 223 of the Code.

EXEMPT ORGANIZATIONS

Announcement 2008–51, page 1040.

The IRS has revoked its determination that America's Faith Centered Education Foundation, Inc., of Sandy, UT; Financial Policy Forum, Inc., of Washington, DC; United Community Central Los Angeles of Las Vegas, NV; Hooved Animal Humane of Surprise, AZ; and Prayer Works of Branson, MO, qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Code.

ADMINISTRATIVE

T.D. 9395, page 1031.

Final regulations under sections 7603 and 7609 of the Code reflect amendments made by the Internal Revenue Service Restructuring and Reform Act of 1998, the Omnibus Budget Reconciliation Act of 1990, the Technical and Miscellaneous Revenue Act of 1988, and the Tax Reform Act of 1986.

Announcements of Disbarments and Suspensions begin on page 1040.
Finding Lists begin on page ii.



The IRS Mission

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

the tax law with integrity and fairness to all.

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

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

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 358.—Basis to Distributees

26 CFR 1.358-5: *Special rules for assumption of liabilities.*

T.D. 9397

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Assumption of Liabilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the assumption of liabilities under section 358(h) of the Internal Revenue Code (Code). Section 358(h) provides that, after application of section 358(d), the basis in stock received in a nonrecognition transaction shall be reduced to the fair market value of the stock by the amount of any liability assumed in the exchange. The Treasury Department and the IRS have determined that removing an exception to section 358(h) is necessary to prevent abuse. These regulations affect corporations and their shareholders.

DATES: *Effective Date:* These regulations are effective on May 9, 2008.

Applicability Date: For dates of applicability, see §§1.358-5(a) and (b).

FOR FURTHER INFORMATION CONTACT: Robert M. Rhyne (202) 622-7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1 under section 358(h) of the Code. As part of the Consolidated Appropriations Act of 2001 (Public Law 106-554, 114 Stat. 2763), Congress enacted, on December 21, 2000, section 358(h), applicable to assumptions of liability after October 18, 1999, to address certain transactions in which property is transferred to a corporation in exchange for both stock and the corporation's assumption of certain obligations of the transferor. In these transactions, transferors took the position that the obligations were not liabilities within the meaning of section 357(c) or that they were described in section 357(c)(3), and, therefore, the obligations did not reduce the basis of the stock received by transferor. These assumed obligations, however, did reduce the value of the stock. The transferors then sold the stock and claimed a loss. In this way, taxpayers attempted to duplicate a loss in corporate stock and to accelerate deductions that typically are allowed only on the economic performance of these types of obligations.

Section 358(h)(1) addresses these transactions by requiring that, after application of section 358(d), the basis in stock received in an exchange to which section 351, 354, 355, 356, or 361 applies be reduced (but not below the fair market value of the stock) by the amount of any liability assumed in the exchange. Section 358(h)(2) provides exceptions to section 358(h)(1) where: (A) the trade or business with which the liability is associated is transferred to the person assuming the liability as part of the exchange; or (B) substantially all of the assets with which the liability is associated are transferred to the person assuming the liability as part of the exchange (the "Asset Exception"). The Secretary, however, has the authority to limit these exceptions. Section 358(h)(3) provides that the term "liability" for pur-

poses of section 358(h) includes any fixed or contingent obligation to make payment without regard to whether the obligation is otherwise taken into account for purposes of the Code.

On May 26, 2005, temporary regulations (T.D. 9207, 2005-1 C.B. 1344) were published in the **Federal Register** (70 FR 30334) making unavailable the exception of section 358(h)(2)(B), the Asset Exception. A notice of proposed rule-making (REG-106736-00, 2005-1 C.B. 1376) cross-referencing those temporary regulations was published in the **Federal Register** (71 FR 30380) on the same day.

The IRS and the Treasury Department received no comments responding to the proposed and temporary regulations. No public hearing was requested or held. The IRS and the Treasury Department have determined that making the exception of section 358(h)(2)(B) unavailable is necessary to prevent abuse; therefore, this document contains final regulations adopting the provisions of the proposed regulations with no change and the corresponding temporary regulations are removed.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to 5 U.S.C. 553(d)(3) it has been determined that a delayed effective date is unnecessary because this rule finalizes, without change, currently effective temporary rules regarding the assumption of liabilities. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the only impact of the regulations is to require taxpayers to calculate the basis of stock received in certain transactions more accurately. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rule-making preceding these regulations was submitted to the Chief Counsel for Advo-

cacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Robert M. Rhyne of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and the Treasury Department participated in their development.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

§1.358-5 also issued under 26 U.S.C. 358(h)(2). * * *

Par. 2. Section 1.358-5 is added to read as follows:

§1.358-5 Special rules for assumption of liabilities.

(a) *In general.* Section 358(h)(2)(B) does not apply to an exchange occurring on or after May 9, 2008.

(b) *Effective/Applicability date.* For exchanges occurring on or after June 24, 2003, and before May 9, 2008, see §1.358-5T as contained in 26 CFR part 1 in effect on April 1, 2007.

§1.358-5T [Removed]

Par. 3. Section 1.358-5T is removed.

Linda E. Stiff,
*Deputy Commissioner for
Services and Enforcement.*

Approved April 28, 2008.

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

(Filed by the Office of the Federal Register on May 8, 2008, 8:45 a.m., and published in the issue of the Federal Register for May 9, 2008, 73 F.R. 26321)

Section 368.—Definitions Relating to Corporate Reorganizations

26 CFR 1.368-2: Definition of terms.

T.D. 9396

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Corporate Reorganizations; Amendment to Transfers of Assets or Stock Following a Reorganization

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations that amend T.D. 9361, titled Transfers of Assets or Stock Following a Reorganization. These final regulations make certain clarifying amendments to the rules regarding the effect of certain transfers of assets or stock on the continuing qualification of transactions as reorganizations under section 368(a). These regulations affect corporations and their shareholders.

DATES: *Effective Date:* These regulations are effective on May 9, 2008.

Applicability Date: For dates of applicability, see §1.368-2(k)(3).

FOR FURTHER INFORMATION CONTACT: Mary W. Lyons, at (202) 622-7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

As noted in the preamble to T.D. 9361, 2007-47 I.R.B. 1026 (72 FR 60556), §1.368-1(a) provides that a transaction must be evaluated under all relevant provisions of law, including the step transaction doctrine, in determining whether it qualifies as a reorganization under section 368(a). Section 1.368-2 provides guidance regarding whether a transaction satisfies the explicit statutory requirements

of a particular reorganization. Specifically, section 1.368-2(k) provides that a transaction otherwise qualifying as a reorganization will not be disqualified or recharacterized as a result of certain subsequent transfers of assets or stock described therein. The fact that a subsequent transfer of assets or stock is not described in §1.368-2(k) does not necessarily preclude reorganization qualification, but the overall transaction would then be subject to analysis under the step transaction doctrine.

Section 1.368-2(k), as in effect prior to these final regulations, generally permits one or more post-reorganization transfers (or successive transfers) of assets or stock, provided that the Continuity of Business Enterprise (COBE) requirement is satisfied and the transfer(s) qualify as “distributions” (as described in §1.368-2(k)(1)(i)) or “other transfers” (as described in §1.368-2(k)(1)(ii)). These final regulations amend those rules to clarify that a transfer to the former shareholders of the acquired corporation (other than a former shareholder that is also the acquiring corporation) or the surviving corporation, as the case may be, is not described in paragraph (k)(1) to the extent it constitutes the receipt by such shareholders of consideration for their proprietary interests in the acquired corporation or the surviving corporation, as the case may be. Any such transfer to the former shareholders following a transaction otherwise qualifying as a reorganization under section 368(a) calls into question whether the underlying transaction satisfies the continuity of interest requirement in Treas. Reg. §1.368-1(e) as well as certain statutory limitations on permissible consideration (such as the “solely for voting stock” requirement in section 368(a)(1)(B) or (C)). Therefore, such transfers are outside the scope of the safe harbor protection afforded by these final regulations. Nevertheless, the safe harbor of Treas. Reg. §1.368-2(k) continues to apply to transfers to the former shareholders that do not constitute consideration for their proprietary interests in the acquired corporation or the surviving corporation, as the case may be, such as certain *pro-rata* dividend distributions by the acquiring corporation following a reorganization. Moreover, the amendment provides that the limitation on the scope of Treas. Reg. 1.368-2(k) does not apply

to transfers to a shareholder that also is the acquiring corporation in the reorganization. Thus, the regulations continue to provide safe harbor protection to certain “upstream” reorganizations followed by a transfer of acquired assets. See, for example, Rev. Rul. 69–617, 1969–2 C.B. 57.

In addition, these final regulations amend §1.368–2(k) to clarify that the safe harbor shall not apply to a transfer by the former shareholders of the acquired corporation (other than a former shareholder that is also the acquiring corporation) or the surviving corporation, as the case may be, of consideration initially received in the potential reorganization to the issuing corporation or a person related to the issuing corporation (see definition of “related person” in §1.368–1(e)).

Further, these final regulations revise the title of paragraph (k)(1)(ii) and the requirement in paragraph (k)(1)(ii)(A). These amendments are intended to clarify that a distribution to shareholders is not a transfer described in paragraph (k)(1)(ii) regardless of whether or not it is described in paragraph (k)(1)(i). Additionally, these final regulations amend paragraph (k)(1)(ii)(C) to clarify that a transfer is not described in paragraph (k)(1)(ii) if the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be, terminates its corporate existence for Federal income tax purposes in connection with the transfer.

Finally, conforming changes are made to the analysis in *Examples 1, 6, 7, 8 and 9*, and one clarifying change is made to the facts in *Example 3*.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for

Advocacy of the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal author of these final regulations is Mary W. Lyons of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

Availability of IRS Documents

IRS revenue rulings, procedures, and notices cited in this preamble are made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

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

Par. 2. Section 1.368–2(k) is revised to read as follows:

§1.368–2 Definition of terms.

* * * * *

(k) *Certain transfers of assets or stock in reorganizations*—(1) *General rule.* A transaction otherwise qualifying as a reorganization under section 368(a) shall not be disqualified or recharacterized as a result of one or more subsequent transfers (or successive transfers) of assets or stock, provided that the requirements of §1.368–1(d) are satisfied and the transfer(s) are described in either paragraph (k)(1)(i) or (k)(1)(ii) of this section. However, this paragraph (k) shall not apply to a transfer to the former shareholders of the acquired corporation (other than a former shareholder that is also the acquiring corporation) or the surviving corporation, as the case may be, to the extent it constitutes the receipt of consideration for a proprietary interest in the acquired corporation or the surviving corporation, as the case may be. Similarly, this paragraph (k) shall

not apply to a transfer by the former shareholders of the acquired corporation (other than a former shareholder that is also the acquiring corporation) or the surviving corporation, as the case may be, of consideration initially received in the potential reorganization to the issuing corporation or a person related to the issuing corporation (see definition of “related person” in §1.368–1(e)).

(i) *Distributions.* One or more distributions to shareholders (including distribution(s) that involve the assumption of liabilities) are described in this paragraph (k)(1)(i) if—

(A) The property distributed consists of—

(I) Assets of the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be, or an interest in an entity received in exchange for such assets in a transfer described in paragraph (k)(1)(ii) of this section;

(2) Stock of the acquired corporation provided that such distribution(s) of stock do not cause the acquired corporation to cease to be a member of the qualified group (as defined in §1.368–1(d)(4)(ii)); or

(3) A combination thereof; and

(B) The aggregate of such distributions does not consist of—

(I) An amount of assets of the acquired corporation, the acquiring corporation (disregarding assets held prior to the potential reorganization), or the surviving corporation (disregarding assets of the merged corporation), as the case may be, that would result in a liquidation of such corporation for Federal income tax purposes; or

(2) All of the stock of the acquired corporation that was acquired in the transaction.

(ii) *Transfers Other Than Distributions.* One or more other transfers are described in this paragraph (k)(1)(ii) if—

(A) The transfer(s) do not consist of one or more distributions to shareholders;

(B) The property transferred consists of—

(I) Part or all of the assets of the acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be;

(2) Part or all of the stock of the acquired corporation, the acquiring corporation, or the surviving corporation, as the

case may be, provided that such transfer(s) of stock do not cause such corporation to cease to be a member of the qualified group (as defined in §1.368-1(d)(4)(ii)); or

(3) A combination thereof; and

(C) The acquired corporation, the acquiring corporation, or the surviving corporation, as the case may be, does not terminate its corporate existence for Federal income tax purposes in connection with the transfer(s).

(2) *Examples.* The following examples illustrate the application of this paragraph (k). Except as otherwise noted, P is the issuing corporation, and T is an unrelated target corporation. All corporations have only one class of stock outstanding. T operates a bakery that supplies delectable pastries and cookies to local retail stores. The acquiring corporate group produces a variety of baked goods for nationwide distribution. Except as otherwise noted, P owns all of the stock of S-1 and 80 percent of the stock of S-4, S-1 owns 80 percent of the stock of S-2 and 50 percent of the stock of S-5, S-2 owns 80 percent of the stock of S-3, and S-4 owns the remaining 50 percent of the stock of S-5. The examples are as follows:

Example 1. Transfers of acquired assets to members of the qualified group after a reorganization under section 368(a)(1)(C). (i) *Facts.* Pursuant to a plan of reorganization, T transfers all of its assets to S-1 solely in exchange for P stock, which T distributes to its shareholders, and S-1's assumption of T's liabilities. In addition, pursuant to the plan, S-1 transfers all of the T assets to S-2, and S-2 transfers all of the T assets to S-3.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(C), is not disqualified by the successive transfers of all of the T assets to S-2 and from S-2 to S-3 because the transfers are not one or more distributions to shareholders, the transfers consist of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence for Federal income tax purposes in connection with the transfers, and the transaction satisfies the requirements of §1.368-1(d).

Example 2. Distribution of acquired assets to a member of the qualified group after a reorganization under section 368(a)(1)(C). (i) *Facts.* Pursuant to a plan of reorganization, T transfers all of its assets to S-1 solely in exchange for P stock, which T distributes to its shareholders, and S-1's assumption of T's liabilities. In addition, pursuant to the plan, S-1 distributes half of the T assets to P, and P assumes half of the T liabilities.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(C), is not disqualified by the distribution of half of the T assets from S-1 to P, or

P's assumption of half of the T liabilities from S-1, because the distribution consists of assets of the acquiring corporation, the distribution does not consist of an amount of S-1's assets that would result in a liquidation of S-1 for Federal income tax purposes (disregarding S-1's assets held prior to the acquisition of T), and the transaction satisfies the requirements of §1.368-1(d).

Example 3. Indirect distribution of acquired assets to a member of the qualified group after a reorganization under section 368(a)(1)(C). (i) *Facts.* The facts are the same as *Example 2*, except that, instead of S-1 distributing half of the T assets to P and having P assume half of the T liabilities, S-1 contributes half of the T assets to newly formed S-6, S-6 assumes half of the T liabilities, and S-1 distributes all of the S-6 stock to P.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(C), is not disqualified by the transfer of half of the T assets to S-6 and the distribution of the S-6 stock to P because the transfer of half of the T assets to S-6 is described in paragraph (k)(1)(ii) of this section, the distribution of the S-6 stock to P is an indirect distribution of assets of the acquiring corporation, the distribution does not consist of an amount of S-1's assets that would result in a liquidation of S-1 for Federal income tax purposes (disregarding S-1's assets held prior to the acquisition of T), and the transaction satisfies the requirements of §1.368-1(d).

Example 4. Distribution of acquired stock to a controlled partnership after a reorganization under section 368(a)(1)(B). (i) *Facts.* P owns 80 percent of the stock of S-1, and an 80-percent interest in PRS, a partnership. S-4 owns the remaining 20-percent interest in PRS. PRS owns the remaining 20 percent of the stock of S-1. Pursuant to a plan of reorganization, the T shareholders transfer all of their T stock to S-1 solely in exchange for P stock. In addition, pursuant to the plan, S-1 distributes 90 percent of the T stock to PRS in redemption of 5 percent of the stock of S-1 owned by PRS.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(B), is not disqualified by the distribution of 90 percent of the T stock from S-1 to PRS because the distribution consists of less than all of the stock of the acquired corporation that was acquired in the transaction, the distribution does not cause T to cease to be a member of the qualified group (as defined in §1.368-1(d)(4)(ii)), and the transaction satisfies the requirements of §1.368-1(d).

Example 5. Transfer of acquired stock to a non-controlled partnership. (i) *Facts.* Pursuant to a plan, the T shareholders transfer all of their T stock to S-1 solely in exchange for P stock. In addition, as part of the plan, T distributes half of its assets to S-1, S-1 assumes half of the T liabilities, and S-1 transfers the T stock to S-2. S-2 and U, an unrelated corporation, form a new partnership, PRS. Immediately thereafter, S-2 transfers all of the T stock to PRS in exchange for a 50 percent interest in PRS, and U transfers cash to PRS in exchange for a 50 percent interest in PRS.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(B), is not disqualified by the distribution of half of the T assets from T to S-1, or S-1's assumption of half of the T liabilities from T,

because the distribution consists of assets of the acquired corporation, the distribution does not consist of an amount of T's assets that would result in a liquidation of T for Federal income tax purposes, and the transaction satisfies the requirements of §1.368-1(d). Further, this paragraph (k) describes the transfer of the acquired stock from S-1 to S-2, but does not describe the transfer of the acquired stock from S-2 to PRS because such transfer causes T to cease to be a member of the qualified group (as defined in §1.368-1(d)(4)(ii)). Therefore, the characterization of this transaction must be determined under the relevant provisions of law, including the step transaction doctrine. See §1.368-1(a). The transaction fails to meet the control requirement of a reorganization described in section 368(a)(1)(B) because immediately after the acquisition of the T stock, the acquiring corporation does not have control of T.

Example 6. Transfers of acquired assets to members of the qualified group after a reorganization under section 368(a)(1)(D). (i) *Facts.* P owns all of the stock of T. Pursuant to a plan of reorganization, T transfers all of its assets to S-1 solely in exchange for S-1 stock, which T distributes to P, and S-1's assumption of T's liabilities. In addition, pursuant to the plan, S-1 transfers all of the T assets to S-2, and S-2 transfers all of the T assets to S-3.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(D), is not disqualified by the successive transfers of all the T assets from S-1 to S-2 and from S-2 to S-3 because the transfers are not one or more distributions to shareholders, the transfers consist of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence for Federal income tax purposes in connection with the transfers, and the transaction satisfies the requirements of §1.368-1(d).

Example 7. Transfer of stock of the acquiring corporation to a member of the qualified group after a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(D). (i) *Facts.* Pursuant to a plan of reorganization, S-1 acquires all of the T assets in the merger of T into S-1. In the merger, the T shareholders receive solely P stock. Also, pursuant to the plan, P transfers all of the S-1 stock to S-4.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(D), is not disqualified by the transfer of all of the S-1 stock to S-4 because the transfer is not a distribution to shareholders, the transfer consists of part or all of the stock of the acquiring corporation, the transfer does not cause S-1 to cease to be a member of the qualified group (as defined in §1.368-1(d)(4)(ii)), the acquiring corporation does not terminate its corporate existence for Federal income tax purposes in connection with the transfer, and the transaction satisfies the requirements of §1.368-1(d).

Example 8. Transfer of acquired assets to a partnership after a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(D). (i) *Facts.* Pursuant to a plan of reorganization, S-1 acquires all of the T assets in the merger of T into S-1. In the merger, the T shareholders receive solely P stock. In addition, pursuant to the plan, S-1 transfers all of the T assets to PRS, a partnership in which S-1 owns a 33 $\frac{1}{3}$ -percent interest. PRS continues T's

historic business. S-1 does not perform active and substantial management functions as a partner with respect to PRS' business.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(A) by reason of section 368(a)(2)(D), is not disqualified by the transfer of T assets from S-1 to PRS because the transfer is not a distribution to shareholders, the transfer consists of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence for Federal income tax purposes in connection with the transfers, and the transaction satisfies the requirements of §1.368-1(d).

Example 9. Sale of acquired assets to a member of the qualified group after a reorganization under section 368(a)(1)(C). (i) *Facts.* Pursuant to a plan of reorganization, T transfers all of its assets to S-1 in exchange for P stock, which T distributes to its shareholders, and S-1's assumption of T's liabilities. In addition, pursuant to the plan, S-1 sells all of the T assets to S-5 for cash equal to the fair market value of those assets.

(ii) *Analysis.* Under this paragraph (k), the transaction, which otherwise qualifies as a reorganization under section 368(a)(1)(C), is not disqualified by the sale of all of the T assets from S-1 to S-5 because the transfer is not a distribution to shareholders, the transfer consists of part or all of the assets of the acquiring corporation, the acquiring corporation does not terminate its corporate existence for Federal income tax purposes in connection with the transfer, and the transaction satisfies the requirements of §1.368-1(d).

(3) *Effective/applicability dates.* This paragraph (k) applies to transactions occurring on or after May 9, 2008, except that it does not apply to any transaction occurring pursuant to a written agreement which is binding before May 9, 2008, and at all times after that.

* * * * *

Linda E. Stiff,
*Deputy Commissioner for
Services and Enforcement.*

Approved May 2, 2008.

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

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Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted applicable federal long-term rate is set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 467.—Certain Payments for the Use of Property or Services

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also Sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.)

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for June 2008.

Rev. Rul. 2008-28

This revenue ruling provides various prescribed rates for federal income tax purposes for June 2008 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(2) for buildings placed in service during the current month. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2008-28 TABLE 1
Applicable Federal Rates (AFR) for June 2008

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	2.08%	2.07%	2.06%	2.06%
110% AFR	2.29%	2.28%	2.27%	2.27%
120% AFR	2.50%	2.48%	2.47%	2.47%
130% AFR	2.71%	2.69%	2.68%	2.68%
<i>Mid-term</i>				
AFR	3.20%	3.17%	3.16%	3.15%
110% AFR	3.52%	3.49%	3.47%	3.46%
120% AFR	3.84%	3.80%	3.78%	3.77%
130% AFR	4.16%	4.12%	4.10%	4.09%
150% AFR	4.82%	4.76%	4.73%	4.71%
175% AFR	5.63%	5.55%	5.51%	5.49%
<i>Long-term</i>				
AFR	4.46%	4.41%	4.39%	4.37%
110% AFR	4.91%	4.85%	4.82%	4.80%
120% AFR	5.36%	5.29%	5.26%	5.23%
130% AFR	5.81%	5.73%	5.69%	5.66%

REV. RUL. 2008-28 TABLE 2
Adjusted AFR for June 2008

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	1.95%	1.94%	1.94%	1.93%
Mid-term adjusted AFR	3.07%	3.05%	3.04%	3.03%
Long-term adjusted AFR	4.57%	4.52%	4.49%	4.48%

REV. RUL. 2008-28 TABLE 3
Rates Under Section 382 for June 2008

Adjusted federal long-term rate for the current month	4.57%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	4.71%

REV. RUL. 2008-28 TABLE 4
Appropriate Percentages Under Section 42(b)(2) for June 2008

Appropriate percentage for the 70% present value low-income housing credit	7.89%
Appropriate percentage for the 30% present value low-income housing credit	3.38%

REV. RUL. 2008-28 TABLE 5

Rate Under Section 7520 for June 2008

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest

3.8%

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Section 7603.—Service of Summons

26 CFR 301.7603-2: *Third-party recordkeepers.*

T.D. 9395

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 301

Suspension of Statutes of Limitations in Third-Party and John Doe Summons Disputes and Expansion of Taxpayers' Rights to Receive Notice and Seek Judicial Review of Third-Party Summonses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final Regulations.

SUMMARY: This document contains final regulations relating to third-party and John Doe summonses. These final regulations reflect amendments to sections 7603 and 7609 of the Internal Revenue Code of 1986 made by the Internal Revenue Service Restructuring and Reform Act of 1998, the Omnibus Budget Reconciliation

Act of 1990, the Technical and Miscellaneous Revenue Act of 1988, and the Tax Reform Act of 1986. These final regulations provide guidance relating to the manner by which summonses may be served on third-party recordkeepers, the expanded class of third-party summonses subject to notice requirements and other procedures, and the suspension of periods of limitations if a court proceeding is brought involving a challenge to a third-party summons, or if a third party's response to a summons is not finally resolved within six months after service. These final regulations affect third parties who are served with a summons, taxpayers identified in a third-party summons, and other persons entitled to notice of a third-party summons.

DATES: *Effective Date:* These regulations are effective April 30, 2008.

Applicability Date: For the date of applicability, see §§301.7603-1(f); 301.7603-2(c); 301.7609-1(d); 301.7609-2(c); 301.7609-3(e); 301.7609-4(d); and 301.7609-5(f).

FOR FURTHER INFORMATION CONTACT: Elizabeth Rawlins at (202) 622-3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending the Procedure and Administration Regulations (26 CFR part 301) under sections 7603 and 7609 of the Internal Revenue Code of 1986 (Code). The final regulations reflect amendments to sections 7603 and 7609 made by the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206, 112 Stat. 685) (RRA 1998), the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647, 102 Stat. 3343) (TAMRA 1988), and the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2085) (TRA 1986). The final regulations also reflect changes made to

section 6503(j) in the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, 104 Stat. 1388) (OBRA 1990).

On July 21, 2006, the IRS published in the **Federal Register** a notice of proposed rulemaking (REG-153037-01, 2007-15 I.R.B. 942 [71 FR 41377]) that interprets the amendments to sections 7603 and 7609. Written comments from one commentator on several of the proposed sections were received. No request for a public hearing was received, nor was one held. The proposed regulations, as revised by this Treasury decision, are substantially adopted as final regulations.

As described more fully in the preamble to the proposed regulations, these regulations provide guidance relating to the manner in which summonses may be served on third-party recordkeepers, the expanded class of third-party summonses to which the notice requirements and other procedures apply, the suspension of a taxpayer's periods of limitations if that taxpayer petitions to quash a third-party summons or intervenes in a proceeding to enforce such a summons, and the suspension of a taxpayer's periods of limitations if a summoned third party does not finally resolve its response to a summons within six months after service of a summons.

Comments on the Proposed Regulations and Explanation of Changes

§301.7609-1(a)(2)—*In general*

Proposed §301.7609-1(a)(2) provides that neither section 7609 nor the regulations "limit the IRS's ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602." The commentator suggested that this provision be prefaced with the phrase "[e]xcept as provided in Section 7609 or Treasury Regulations" and further explained that section 7609 does contain provisions, such as section 7609(d), that limit the IRS's ability to obtain information when a summons has been served.

This suggestion has not been adopted in the final regulations. Proposed §301.7609-1(a)(2) is consistent with the language of section 7609(j), which provides: “Nothing in this section shall be construed to limit the [IRS’s] ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602.” Section 7609(j) and proposed §301.7609-1(a)(2) are directed to situations in which the IRS has not issued a summons, but is instead seeking information through informal procedures authorized by sections 7601 and 7602. In these situations, section 7609 and the regulations do not apply.

§301.7609-2(a)(1)—Persons entitled to notice

Section 7609(a)(1) provides that notice of a third party summons shall be given to “any person (other than the person summoned) who is identified in the summons.” Proposed §301.7609-2(a)(1) provides: “The only persons so identified are the person with respect to whose liability the summons is issued and any other person identified in the description of summoned records or testimony. For example, if the IRS issues a summons to a bank with respect to the liability of C that requires the production of account records of A and B, both of whom are named in the summons, the IRS must notify A, B, and C of the summons.”

The commentator suggested that the statutory phrase “any person ... identified in the summons” should be interpreted more broadly to encompass persons to whom the summoned records relate who belong to a specifically identifiable class, but who are not identified by name in the summons. The commentator offered examples of persons described generically by phrases, such as “children” or “closely-held corporations in which the taxpayer is a shareholder.”

This suggestion has not been adopted in the final regulations. The requirement that an identified person be named in the summons is consistent with longstanding regulations under section 7609. Nothing in the statutory amendments to section 7609 since these regulations were promulgated suggests that Congress intended to change the meaning of this concept.

The commentator also suggested that the example in the proposed regulations could be read to mean that a person named in a summons is only entitled to notice if that person’s records are sought from the third party. This reading is incorrect. The regulations do not condition the right to notice on a finding that the identified person’s records are sought. Instead, “any ... person identified in the description of summoned records or testimony” is entitled to notice, as is the taxpayer with respect to whose liability the summons is issued.

§301.7609-3(a)—Duty of the summoned party

Proposed §301.7609-3(a) provides: “Upon receipt of a summons, the summoned party must begin to assemble the summoned records. The summoned party must be prepared to produce the summoned records on the date on which the summons states that they are to be examined, regardless of the institution or anticipated institution of a proceeding to quash or the summoned party’s intervention in a proceeding to quash, as allowed under section 7609(b)(2)(C).”

The commentator suggested that proposed §301.7609-3(a) is overbroad because the statutory provision on which it is based, section 7609(i)(1), is preceded by the heading: “Recordkeeper Must Assemble Records and Be Prepared To Produce Records.” The commentator concluded that section 7609(i)(1) can apply only to third-party recordkeepers. This conclusion is not supported by the statutory amendment to section 7609(i)(1) under RRA 98, which replaced the prior reference to “third-party recordkeeper” with the term *summoned party*. Thus, section 7609(i)(1) applies to all recipients of third-party summonses (other than certain excepted summonses under section 7609(c)(2)).

The commentator also suggested that proposed §301.7609-3(a) is overbroad because the requirements of section 7609(i)(1) do not apply if a proceeding to quash is brought. Section 7609(i)(1), however, does not require the summoned party to produce the documents when a petition to quash has been filed but merely requires the summoned party to “assemble” and “be prepared to produce” them.

The commentator suggested that proposed §301.7609-3(a) would infringe on the rights of those summoned persons who receive a vague or overbroad summons. This provision, however, does not preclude a summoned person from raising such a defense in a summons enforcement proceeding. Accordingly, the IRS and Treasury have concluded that these suggestions provide no basis for adopting changes in the final regulations.

§301.7609-4(c)—Presumption no notice of proceeding to quash has been mailed

Section 7609(b) provides that any person entitled to notice of a summons may bring a proceeding to quash by filing a petition in district court and mailing notice of the petition to both the IRS and the summoned person within 20 days of the day the notice was given. Proposed §301.7609-4(b)(3) provides that if a person fails to give proper and timely notice of the petition to quash, then that person has failed to institute a proceeding to quash and the district court lacks jurisdiction to hear the proceeding. Proposed §301.7609-4(c) provides that “it is presumed that the notification [of the petition to quash] was not timely mailed if the copy of the petition was not delivered to the summoned person or to the person and office designated to receive the notice on behalf of the IRS within three days after the close of the 20-day period allowed for instituting a proceeding to quash.”

The commentator suggested that proposed §301.7609-4(c) should be clarified to provide that the presumption of untimeliness would no longer apply “if a copy of the petition is subsequently received and it is determined that it was mailed prior to the close of the 20-day period.” Proposed §301.7609-4(c) is identical, however, in all salient respects to a provision in the prior regulations that the IRS has administered since 1986 without controversy. In cases where the IRS has not received a copy of a petition to quash within three days after the close of the 20-day period, but it is later determined that a copy of the petition was timely mailed within the 20-day period, the IRS has halted the examination of summoned witnesses and records upon receiving a timely filed petition to quash, consistent with IRM provisions providing that, if a proceeding to

quash is begun, no examination of summoned records is allowed until the court so orders.

§301.7609-5(e)(2)(i)—Intervention in an enforcement proceeding

Section 7609(e)(1) provides for the suspension of the statute of limitations with respect to a third-party summons “for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.” Proposed §301.7609(e)(2)(i) provides: “If, following issuance of an order to enforce a third-party summons, a collateral proceeding is brought challenging whether production made by the summoned party fully satisfied the court order and whether sanctions should be imposed against the summoned party for a failure to satisfy that order, the periods of limitations remain suspended until all appeals of the collateral proceeding are disposed of, or until the expiration of the period during which an appeal may be taken or a request for further review of the collateral proceeding may be made. Any collateral proceeding to the original proceeding shall be considered to be a continuation of the original proceeding.”

The commentator suggested that including collateral proceedings and related appeals periods within the suspension period under section 7609(e)(1) goes beyond the statutory language and the IRS’s authority to promulgate regulations. The statutory phrase “a proceeding, and appeals therein, with respect to the enforcement of such summons” connotes a category of court actions that are related to, but not limited to, a summons enforcement suit. Thus, section 7609(e)(1) is properly interpreted to encompass collateral proceedings and related appeals.

§301.7609-5(e)(3)—Final resolution of the summoned third party’s response to a summons

Section 7609(e)(2)(B) suspends a taxpayer’s periods of limitations on assessment and criminal prosecution “in the absence of the resolution of the summoned party’s response to the summons” for a period beginning six months after service of the summons and ending on

the date of “final resolution.” Proposed §301.7609-5(e)(3) provides that “final resolution” occurs when the summons or any summons enforcement order is fully complied with and all appeals are disposed of or the period for appeal or further review has expired. The proposed regulation further provides that the determination of whether there has been full compliance will be made within a reasonable time, given the volume and complexity of the records produced, after the later of the giving of all testimony or the production of all records requested by the summons. The proposed regulation additionally provides that the suspension shall continue if, following an enforcement order, collateral proceedings are brought challenging whether the summoned party fully satisfied the court order. The suspension will continue until the summons or the enforcement order is fully complied with and the decision in the collateral proceeding becomes final, which occurs when all appeals are disposed of or when the period for appeal or further review has expired.

The commentator suggested that proposed §301.7609-5(e)(3) be revised to reflect that the suspension under section 7609(e)(2) does not apply to a taxpayer who brings a proceeding to quash or who intervenes in an enforcement suit. This suggestion has not been adopted as the statutory structure already provides for the applicability of alternative suspension periods. This suggestion has also not been adopted as nothing prevents the suspension under section 7609(e)(2) from applying after the expiration of the suspension under section 7609(e)(1).

The commentator also suggested that the provisions concerning collateral proceedings be removed. This recommendation has not been adopted. The suspension will only terminate upon final resolution of the summoned person’s response to the summons, and collateral proceedings, such as contempt proceedings, may be necessary to obtain a summoned third party’s compliance with an enforcement order.

The commentator further suggested that the “operative fact” in determining whether final resolution has occurred should be the date of the summoned person’s “actual compliance” with the summons, not “the Service’s determination as to whether and when this has occurred.”

This suggestion has not been adopted because compliance can only be determined after the records are examined. The regulations provide that the determination of whether there has been full compliance will be made within a reasonable time, given the volume and complexity of the records produced, after the later of the giving of all testimony or the production of all records requested by the summons or required by any order enforcing any part of the summons. In addition, as stated in the preamble to the proposed regulations, the IRS intends to publish additional administrative procedures regarding the compliance determination in the Internal Revenue Manual. An aspect of these procedures will involve the creation of procedures by which taxpayers can inquire about the suspension of their periods of limitations under section 7609(e)(2).

§§301.7603-1(f); 301.7603-2(c); 301.7609-1(d); 301.7609-2(c); 301.7609-3(e); 301.7609-4(d); and 301.7609-5(f)—Effective/applicability date

The commentator suggested making these regulations applicable only to summonses issued after the date on which they are published. This suggestion was not adopted because these regulations are interpretative of statutory provisions that have existed as law for several years.

Special Analyses

It has been determined that this final regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose a collection of information under the Paperwork Reduction Act (44 U.S.C. section 3501), the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to these regulations. Pursuant to section 7805(f) of the Code, the regulations, when published previously in the Notice of Proposed Rulemaking, were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Elizabeth Rawlins of the Office of the Associate Chief Counsel, Procedure and Administration, Internal Revenue Service.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read, in part, as follows:

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

Par. 2. Section 301.7603-1 is revised to read as follows:

§301.7603-1 Service of summons.

(a) *In general*—(1) *Hand delivery or delivery to place of abode*. Except as otherwise provided in paragraph (a)(2) of this section, a summons issued under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be served by an attested copy delivered in hand to the person to whom it is directed, or left at such person's last and usual place of abode.

(2) *Summonses issued to third-party recordkeepers*. A summons issued under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 for the production of records (or testimony about such records) by a third-party recordkeeper, as described in section 7603(b)(2) and §301.7603-2, may also be served by certified or registered mail to the third-party recordkeeper's last known address, as defined in §301.6212-2. If service to a third-party recordkeeper is made by certified or registered mail, the date of service is the date on which the summons is mailed.

(b) *Persons who may serve a summons*. The officers and employees of the Internal Revenue Service whom the Commissioner has designated to carry out the authority described in §301.7602-1(b) to issue a summons are authorized to serve a summons issued under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602.

(c) *Effect of certificate of service*. The certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons.

(d) *Sufficiency of description of summoned records*. When a summons requires the production of records, it shall be sufficient if such records are described with reasonable certainty.

(e) *Records*. For purposes of this section and §301.7603-2, the term *records* includes books, papers, or other data.

(f) *Effective/applicability date*. This section is applicable on April 30, 2008.

Par. 3. Section 301.7603-2 is added to read as follows:

§301.7603-2 Third-party recordkeepers.

(a) *Definitions*—(1) *Accountant*. A person is an accountant under section 7603(b)(2)(F) for purposes of determining whether that person is a third-party recordkeeper if, on the date the records described in the summons were created, the person was registered, licensed, or certified as an accountant under the authority of any state, commonwealth, territory, or possession of the United States, or of the District of Columbia.

(2) *Attorney*. A person is an attorney under section 7603(b)(2)(E) for purposes of determining whether that person is a third-party recordkeeper if, on the date the records described in the summons were created, the person was registered, licensed, or certified as an attorney under the authority of any state, commonwealth, territory, or possession of the United States, or of the District of Columbia.

(3) *Credit cards*—(i) *Person extending credit through credit cards*. The term *person extending credit through the use of credit cards or similar devices* under section 7603(b)(2)(C) generally includes any person who issues a credit card. The term does not include a seller of goods or services who honors credit cards issued by other parties but who does not extend credit through the use of credit cards or similar devices.

(ii) *Devices similar to credit cards*. An object is a device similar to a credit card under section 7603(b)(2)(C) only if it is physical in nature, such as a charge plate or similar device that may be tendered to ob-

tain an extension of credit. Thus, a person who extends credit by requiring customers to sign sales slips without requiring the use of, or reference to, a physical object issued by that person is not a third-party recordkeeper under section 7603(b)(2)(C).

(iii) *Debit cards*. A debit card is not a credit card or similar device because a debit card is not tendered to obtain an extension of credit.

(4) *Enrolled agent*. A person is an enrolled agent under section 7603(b)(2)(I) for purposes of determining whether that person is a third-party recordkeeper if the person is enrolled as an agent authorized to practice before the Internal Revenue Service pursuant to Circular 230, 31 CFR Part 10.

(5) *Owner or developer of certain computer code and data*. An owner or developer of computer software source code under section 7603(b)(2)(J) is a third-party recordkeeper when summoned to produce a computer software source code (as defined in section 7612(d)(2)), or an executable code and associated data described in section 7612(b)(1)(A)(ii), even if that person did not make or keep records of another person's business transactions or affairs.

(b) *When third-party recordkeeper status arises*—(1) *In general*. Except as provided in paragraph (a)(5) of this section, a person listed in section 7603(b)(2) is a third-party recordkeeper for purposes of section 7609(c)(2)(E) and §301.7603-1 only if the summons served on that person seeks records (or testimony regarding such records) of a third party's business transactions or affairs and such recordkeeper made or kept the records in the capacity of a third-party recordkeeper. For instance, an accountant is not a third-party recordkeeper (by reason of being an accountant) with respect to the accountant's records of a sale of property by the accountant to another person. Similarly, a credit card issuer is not a third-party recordkeeper (by reason of being a person extending credit through the use of credit cards or similar devices) with respect to—

(i) Records relating to non-credit card transactions, such as a cash sale by the issuer to a holder of the issuer's credit card; or

(ii) Records relating to transactions involving the use of another issuer's credit card.

(2) *Examples.* The rules of paragraph (b)(1) of this section are illustrated by the following examples:

Example 1. V issues a credit card (the V card) that is honored by R, a retailer. When using the V card, C, a customer, signs a sales slip in triplicate. C, R, and V each retain one copy. Only the copy held by V is held by a third-party recordkeeper under section 7603(b)(2), even though R may issue its own credit card.

Example 2. R, a retailer, issues its own credit card (the R card) to C, a customer. When C makes a credit purchase from R using the R card, C signs a sales slip in duplicate. C and R each retain one copy. Because R keeps the copy in its capacity as credit card issuer, as well as in its capacity as a retailer, it is a third-party recordkeeper under section 7603(b)(2) with respect to its copy of the sales slip.

(c) *Effective/applicability date.* This section is applicable on April 30, 2008.

Par. 4. Sections 301.7609–1 through 301.7609–5 are revised to read as follows:

§301.7609–1 Special procedures for third-party summonses.

(a) *In general—*(1) Section 7609 requires the Internal Revenue Service (IRS) to follow special procedures when summoning a third party's testimony, records, or computer software source code. Except as provided in §301.7609–2(b), the IRS must provide notice of a third-party summons to any person identified in the summons, other than the person summoned. A person entitled to notice of a third-party summons may intervene in any proceeding brought to enforce the summons or may bring a proceeding to quash the summons, regardless of whether they receive notice of the summons from the IRS pursuant to section 7609(a) and §301.7609–2.

(2) Neither section 7609 nor the regulations hereunder limit the IRS's ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602.

(b) *Cross references.* See §301.7609–2 for rules relating to persons who must be notified of a third-party summons and exceptions to the notification requirements. See §301.7609–3 for rules relating to the rights and duties of summoned parties. See §301.7609–4 for rules relating to actions to quash a summons or to intervene in a summons enforcement proceeding. See §301.7609–5 for rules relating to the suspension of periods of limitations.

(c) *Records.* For purposes of §§301.7609–1 through 301.7609–5, the

term *records* includes books, papers, or other data.

(d) *Effective/applicability date.* This section is applicable on April 30, 2008.

§301.7609–2 Notification of persons identified in third-party summonses.

(a) *In general—*(1) *Persons entitled to notice.* Except as provided in §301.7609–2(b), the Internal Revenue Service (IRS) shall give notice of a third-party summons to any person, other than the person summoned, who is identified in the summons. The only persons so identified are the person with respect to whose liability the summons is issued and any other person identified in the description of summoned records or testimony. For example, if the IRS issues a summons to a bank with respect to the liability of C that requires the production of account records of A and B, both of whom are named in the summons, the IRS must notify A, B and C of the summons.

(2) *Time for providing notice.* If notice is required by this paragraph, such notice must be given within three days of the date on which the summons is served on the third party, but no later than 23 days prior to the date fixed in the summons as the date on which the examination of the summoned person or records is scheduled.

(3) *Methods for serving notice.* Notice may be served by hand delivery to any person entitled to notice or by leaving notice at such person's last and usual place of abode. Notice also may be served by certified or registered mail to the person's last known address, as defined in §301.6212–2. If service to a person entitled to notice is made by certified or registered mail, the date of service is the date on which the notice is mailed.

(4) *Content of the notice.* Notice required to be given to any person entitled to notice must be accompanied by a copy of the summons that has been served and must include an explanation of the right to bring a proceeding to quash the summons. The copy of the summons accompanying the notice is not required to contain the attestation that appears pursuant to section 7603 on the copy of the summons served on the summoned person.

(b) *Exceptions.* The IRS is not required to provide notice to persons identified in the following third-party summonses:

(1) *Summons served on the taxpayer.* The IRS is not required to provide notice of a summons served on the person with respect to whose liability the summons was issued, or any officer or employee of such person.

(2) *Existence of records.* The IRS is not required to provide notice in the case of a summons issued to determine whether or not records of the business transactions or affairs of a person identified in the summons have been made or kept.

(3) *Numbered account or similar arrangement.* The IRS is not required to provide notice in the case of a summons issued solely to determine the identity of a person having a numbered account or similar arrangement with a bank or other institution. An account is a numbered account or similar arrangement within the meaning of this paragraph if it is an account through which a person may authorize transactions solely through the use of a number, symbol, code name, or other device not involving the disclosure of the person's identity. The term *person having a numbered account or similar arrangement* includes the person who opened the account and any person authorized to access the account or to receive records or statements concerning it.

(4) *Summonses in aid of the collection of liabilities—*(i) *In general.* The IRS is not required to provide notice in the case of a summons issued in aid of the collection of liabilities. A summons is in aid of the collection of liabilities within the meaning of this paragraph if it is issued in connection with the collection of—

(A) An assessment or judgment against the person with respect to whose liability the summons is issued; or

(B) The liability determined at law or in equity of any transferee or fiduciary of a person described in subparagraph (b)(4)(i)(A) of this section.

(ii) *Examples.* The rules of paragraph (b)(4) of this section are illustrated by the following examples:

Example 1. A third-party summons is issued to a bank to determine the amount held in an account in the name of A, against whom unpaid income taxes have been assessed. Notice of the summons is not required to be given to A or any other persons identified in the summons because the summons is issued in connection with the collection of taxes that have been assessed.

Example 2. A third-party summons is issued to determine whether assessments should be made

against A, who is potentially liable for a trust fund recovery penalty under section 6672 with respect to the assessed but unpaid withholding tax liability of employer E. The summons is captioned: In the matter of A. Notice of the summons must be provided to A and to any other persons identified in the summons because the summons was issued with respect to A's potential, unassessed liability under section 6672.

(5) *Summonses issued by a criminal investigator.* The IRS is not required to provide notice in the case of a summons issued by a criminal investigator to a person other than a third-party recordkeeper, as defined in section 7603(b). For purposes of section 7609(c)(2)(E), a summons issued by a criminal investigator is any summons issued as part of a criminal investigation by an IRS officer or employee having authority to conduct a criminal investigation and to issue a summons.

(6) *John Doe summons.* The IRS is not required to provide notice in the case of a John Doe summons issued under section 7609(f).

(7) *Summons issued pursuant to a court order to prevent spoliation of evidence.* The IRS is not required to provide notice in the case of a summons for which a court determines there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(c) *Effective/applicability date.* This section is applicable on April 30, 2008.

§301.7609-3 Duty of and protection for the summoned party.

(a) *Duty of the summoned party.* Upon receipt of a summons, the summoned party must begin to assemble the summoned records. The summoned party must be prepared to produce the summoned records on the date on which the summons states that they are to be examined, regardless of the institution or anticipated institution of a proceeding to quash or the summoned party's intervention in a proceeding to quash, as allowed under section 7609(b)(2)(C).

(b) *Disclosing summoned party not liable—(1) In general.* A summoned party, or an agent or employee thereof, who makes a disclosure of records or gives testimony as required by a summons in

good faith reliance on the certificate of the Secretary (as defined in paragraph (b)(2) of this section) or an order of a court requiring production of records or giving of testimony, will not be liable for any claim arising from such disclosure brought by any customer, any party with respect to whose tax liability the summons was issued, or any other person.

(2) *Certificate of the Secretary.* The Secretary may issue to the summoned party a certificate if the person with respect to whose liability the summons was issued expressly consents to the examination of the records summoned and the taking of testimony. The Secretary also may issue to the summoned party a certificate stating that—

(i) The 20-day period within which a person entitled to notice of the summons may institute a proceeding to quash the summons has expired; and

(ii) No proceeding has been instituted within that period.

(c) *Reimbursement of costs.* Summoned third parties may be entitled to reimbursement of their costs of assembling and preparing to produce summoned records, to the extent allowed by section 7610 and §301.7610-1.

(d) *Notification of suspension of periods of limitations in connection with a John Doe summons—(1) Requirement of notification.* If any periods of limitations are suspended under section 7609(e)(2) and §301.7609-5(d) with respect to a John Doe summons described in section 7609(f), the summoned party is required under section 7609(i)(4) to provide notice of such suspension to all persons with respect to whose liability the summons was issued.

(2) *Content of notification.* A summoned party required to notify a person of the suspension of the periods of limitations shall provide the following information to such person—

(i) A John Doe summons was served on the summoned party seeking records that may be relevant to the person's tax liability;

(ii) The date on which the summons was served;

(iii) The tax period(s) to which the summons relates;

(iv) Six months has passed since service of the summons and the summoned party's

response to the summons has not been finally resolved;

(v) The periods of limitations under section 6501 (relating to assessment and collection) and section 6531 (relating to criminal prosecution), have been suspended; and

(vi) The date on which suspension of the periods of limitations under sections 6501 and 6531 began.

(3) *Time and manner of notification.* The notification must be made in writing and may be delivered in person, by mail sent to the address last known by the summoned party, or by use of any electronic means of transmission. Notification should be made as soon as possible after the suspension of the periods of limitations begins. Failure by a summoned party to give notice of the suspension of periods of limitations as required by section 7609(i)(4) does not prevent the suspension of the periods of limitations under section 7609(e)(2).

(e) *Effective/applicability date.* This section is applicable on April 30, 2008.

§301.7609-4 Right to intervene; right to institute a proceeding to quash.

(a) *Intervention in proceeding with respect to enforcement of a summons.* Under section 7609(b)(1), a person entitled to notice of a summons under section 7609(a) and §301.7609-2 is entitled to intervene in any proceeding brought under section 7604 with respect to the enforcement of that summons.

(b) *Right to institute a proceeding to quash—(1) In general.* Under section 7609(b), a person entitled to notice of a summons under section 7609(a) and §301.7609-2 may institute a proceeding to quash the summons in the United States district court for the district in which the summoned person resides or is found.

(2) *Requirements for a proceeding to quash.* To institute a proceeding to quash a summons, a person entitled to notice of the summons must, not later than the 20th day following the day the notice of the summons was served on or mailed to such person—

(i) File a petition to quash a summons in the name of the person entitled to notice of the summons in the proper district court;

(ii) Notify the Internal Revenue Service (IRS) by sending a copy of that petition to

quash by registered or certified mail to the IRS employee and office designated in the notice of summons to receive the copy; and

(iii) Notify the summoned person by sending by registered or certified mail a copy of the petition to quash to the summoned person.

(3) *Failure to give timely notice.* If a person entitled to notice of the summons fails to give proper and timely notice to either the summoned person or the IRS in the manner described in this paragraph, that person has failed to institute a proceeding to quash and the district court lacks jurisdiction to hear the proceeding. For example, if the person entitled to notice mails a copy of the petition to the summoned person, but fails to mail a copy of the petition to the designated IRS employee and office, the person entitled to notice has failed to institute a proceeding to quash. Similarly, if the person entitled to notice mails a copy of such petition to the summoned person but, instead of sending a copy of the petition by registered or certified mail to the designated IRS employee and office, the person entitled to notice provides the designated IRS employee and office the petition by some other means, the person entitled to notice has failed to institute a proceeding to quash.

(4) *Failure to institute a proceeding to quash.* If a person entitled to notice fails to institute a proceeding to quash within 20 days following the day the notice of the summons was served on or mailed to such person, the IRS may examine the summoned records and take summoned testimony following the 23rd day after notice of the summons was served on or mailed to the person entitled to notice.

(c) *Presumption no notice has been mailed.* Section 7609(b)(2)(B) permits a person entitled to notice to institute a proceeding to quash by filing a petition in district court and notifying both the IRS and the summoned person. Unless the person entitled to notice has notified both the IRS and the summoned person in the appropriate manner, the person entitled to notice has failed to institute a proceeding to quash. For the purpose of permitting the IRS to examine the summoned witnesses and records, it is presumed that the notification was not timely mailed if the copy of the petition was not delivered to the summoned person or to the person and office designated to receive the notice on

behalf of the IRS within three days after the close of the 20-day period allowed for instituting a proceeding to quash.

(d) *Effective/applicability date.* This section is applicable on April 30, 2008.

§301.7609-5 Suspension of periods of limitations.

(a) *In general.* Except in the case of a summons that is a designated or related summons described in section 6503(j), the following rules relating to the suspension of certain periods of limitations apply to all third-party summonses subject to the notice requirements of section 7609(a) and to all John Doe summonses subject to the requirements of section 7609(f).

(b) *Intervention in an action to enforce the summons—(1) In general.* If a person entitled to notice of a summons under section 7609(a) and §301.7609-2 with respect to whose liability the summons was issued, or such person's agent, nominee, or other person acting under the direction or control of the person entitled to notice, takes any action to intervene in a proceeding with respect to enforcement of such summons brought pursuant to section 7604, that person's periods of limitations under sections 6501 (relating to assessment and collection) and 6531 (relating to criminal prosecutions) for the tax period or periods that are the subject of the summons are suspended for the period during which such proceeding is pending.

(2) *Action to intervene.* A person entitled to notice takes any action to intervene in a proceeding to enforce a summons within the meaning of §301.7609-4(a) on the date when a motion to intervene is filed with the court.

(c) *Institution of a proceeding to quash a summons—(1) In general.* If a person entitled to notice of a summons under section 7609(a) and §301.7609-2 with respect to whose liability the summons was issued, or such person's agent, nominee, or other person acting under the direction or control of the such person, takes any action described in §301.7609-4(b) to institute a proceeding to quash such summons, that person's periods of limitations under sections 6501 and 6531 for the tax period or periods that are the subject of the summons are suspended for the period during which such proceeding is pending.

(2) *Action to institute a proceeding to quash a summons.* A person entitled to notice takes any action to institute a proceeding to quash if he or she files a petition to quash the summons in any district court, regardless of whether the timely filing requirements of section 7609(b)(2)(A) or the notice requirements of section 7609(b)(2)(B) are satisfied. For example, a person entitled to notice takes an action to institute a proceeding to quash a summons for purposes of this section if that person files a petition to quash the summons in district court and notifies the summoned person by sending a copy of the petition by registered or certified mail, but fails to mail a copy of that notice to the appropriate Internal Revenue Service (IRS) person and office.

(d) *Summoned party's failure to finally resolve the response to a summons after six months from service—(1) In general.* If a third party's response to a summons for which the IRS was required to provide notice to persons identified in the summons, or to a John Doe summons described in section 7609(f), is not finally resolved within six months after the date of service of the summons, the periods of limitations are suspended under sections 6501 and 6531, for the person with respect to whose liability the summons was issued and for any person whose identity is sought to be obtained by a John Doe summons, for the tax period or periods that are the subject of the summons. The suspension shall begin on the date which is six months after the service of the summons and shall end on the date on which there is a final resolution of the summoned party's response to the summons.

(2) *Example.* The rules of paragraph (d)(1) of this section are illustrated by the following example:

A John Doe summons is issued on April 1, 2004, to the promoter of a tax shelter and seeks the names of all participants in the shelter in order to investigate the participants' income tax liabilities for 2001 and 2002. The district court approves service of the summons on April 30, 2004, and the summons is served on the promoter on May 3, 2004. The promoter does not provide the names of the participants. The periods of limitations for the participants' income tax liabilities and criminal prosecution for 2001 and 2002 are suspended under section 7609(e)(2) beginning on November 3, 2004, the date which is six months after the date the John Doe summons was served until the date on which the promoter's response to the summons is finally resolved.

(e) *Definitions*—(1) *Agent, nominee, etc.* A person is the agent, nominee, or other person of a person entitled to notice under section 7609(a) and §301.7609-2, and is acting under the direction or control of the person entitled to notice for purposes of section 7609(e)(1), if the person entitled to notice has the ability in fact or at law to cause the agent, nominee or other person, to take the actions permitted under section 7609(b).

(2) *Period during which a proceeding is pending*—(i) *Intervention in an enforcement proceeding.* The period during which the periods of limitations under sections 6501 and 6531 are suspended under section 7609(e)(1) begins on the date any person described in paragraph (b) of this section intervenes in an action to enforce the summons. The periods of limitations remain suspended until all appeals are disposed of, or until the expiration of the period during which an appeal may be taken or a request for further review may be made. The periods of limitations remain suspended for the period during which a proceeding is pending, regardless of compliance (or partial compliance) with the summons during that period. If, following issuance of an order to enforce a third-party summons, a collateral proceeding is brought challenging whether production made by the summoned party fully satisfied the court order and whether sanctions should be imposed against the summoned party for a failure to satisfy that order, the periods of limitations remain suspended until all appeals of the collateral proceeding are disposed of, or until the expiration of the period during which an appeal may be taken or a request for further review of the collateral proceeding may be made. Any collateral proceeding to the original proceeding shall be considered to be a continuation of the original proceeding.

(ii) *Proceeding to quash a summons.* The period during which the periods of limitations under sections 6501 and 6531 are suspended under section 7609(e)(1) begins on the date any person described in

paragraph (c) of this section files a petition to quash the summons in district court. The periods of limitations remain suspended until all appeals are disposed of, or until expiration of the period in which an appeal may be taken or a request for further review may be made. The periods of limitations remain suspended for the period during which a proceeding is pending, regardless of compliance (or partial compliance) with the summons during that period.

(iii) *Examples.* The rules of paragraph (e)(2) are illustrated by the following examples:

Example 1. A revenue agent issues a summons to A, an accountant for B, requiring production of records relating to B's income tax liabilities for 2002. The summons is served on A on March 1, 2004. B files a petition to quash the summons in district court on March 15, 2004. The district court dismisses B's petition on July 1, 2004. B fails to appeal this decision by filing a notice of appeal within 60 days from the date of the district court's order of dismissal. The revenue agent notifies A that B did not appeal the district court's order. A turns over all of the records requested in the summons. The periods of limitations applicable to B for 2002 under sections 6501 and 6531 are suspended under section 7609(e)(1) from March 15, 2004, the date B filed a petition to quash, until August 30, 2004, the last day on which B could have filed a notice of appeal.

Example 2. A revenue agent issues a summons to A, an accountant for B, requiring production of records relating to B's income tax liabilities for 2003. The summons is served on A on June 1, 2005. B files an untimely petition to quash the summons in district court on June 29, 2005. The district court dismisses B's petition on July 29, 2005. B does not file an appeal of the district court's order. The periods of limitations applicable to B for 2003 under sections 6501 and 6531 are suspended under section 7609(e)(1) from June 29, 2005, the date B filed an untimely petition to quash, until September 27, 2005, the last day on which B could have filed a notice of appeal.

(3) *Final resolution of the summoned third party's response to a summons.* For purposes of section 7609(e)(2)(B), final resolution with respect to a summoned party's response to a third-party summons occurs when the summons or any order enforcing any part of the summons is fully complied with and all appeals or requests for further review are disposed of, the period in which an appeal may be taken

has expired or the period in which a request for further review may be made has expired. The determination of whether there has been full compliance will be made within a reasonable time, given the volume and complexity of the records produced, after the later of the giving of all testimony or the production of all records requested by the summons or required by any order enforcing any part of the summons. If, following an enforcement order, collateral proceedings are brought challenging whether the production made by the summoned party fully satisfied the court order and whether sanctions should be imposed against the summoned party for a failing to do so, the suspension of the periods of limitations shall continue until the summons or any order enforcing any part of the summons is fully complied with and the decision in the collateral proceeding becomes final. A decision in a collateral proceeding becomes final when all appeals are disposed of, the period in which an appeal may be taken has expired or the period in which a request for further review may be made has expired.

(f) *Effective/applicability date.* This section is applicable on April 30, 2008.

Linda E. Stiff,
*Deputy Commissioner for
Services and Enforcement.*

Approved April 17, 2008.

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

(Filed by the Office of the Federal Register on April 29, 2008, 8:45 a.m., and published in the issue of the Federal Register for April 30, 2008, 73 F.R. 23342)

Section 7872.—Treatment of Loans With Below-Market Interest Rates

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2008. See Rev. Rul. 2008-28, page 1029.

Part III. Administrative, Procedural, and Miscellaneous

26 CFR 601.602: Tax forms and instructions.
(Also: Part 1, §§ 1, 223.)

Rev. Proc. 2008-29

SECTION 1. PURPOSE

This revenue procedure provides the 2009 inflation adjusted amounts determined under § 223(g) of the Internal Revenue Code for Health Savings Accounts (HSAs).

SECTION 2. 2009 INFLATION ADJUSTED ITEMS

Annual contribution limitation. For calendar year 2009, the annual limitation on deductions under § 223(b)(2)(A) for an individual with self-only coverage under a

high deductible health plan is \$3,000. For calendar year 2009, the annual limitation on deductions under § 223(b)(2)(B) for an individual with family coverage under a high deductible health plan is \$5,950.

High deductible health plan. For calendar year 2009, a “high deductible health plan” is defined under § 223(c)(2)(A) as a health plan with an annual deductible that is not less than \$1,150 for self-only coverage or \$2,300 for family coverage, and the annual out-of-pocket expenses (deductibles, co-payments, and other amounts, but not premiums) do not exceed \$5,800 for self-only coverage or \$11,600 for family coverage.

SECTION 3. EFFECTIVE DATE

This revenue procedure is effective for calendar year 2009.

SECTION 4. DRAFTING INFORMATION

The principal author of this revenue procedure is Marnette M. Myers of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding § 223 and HSAs, contact Elizabeth Purcell at (202) 622-6080 (not a toll-free call). For further information regarding the calculation of the inflation adjustments in this revenue procedure, contact Ms. Myers at (202) 622-4920 (not a toll-free call).

Part IV. Items of General Interest

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2008-51

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction

for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on June 2, 2008, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly

set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

America's Faith Centered Education Foundation, Inc.
Sandy, UT
Financial Policy Forum, Incorporated
Washington, DC
United Community Central Los Angeles
Las Vegas, NV
Hooved Animal Humane
Surprise, AZ
Prayer Works
Branson, MO

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2008-52

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and appraisers. These individuals are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Part 10, and which are published in pamphlet form as Treasury Department Circular No. 230. The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations.

The disciplinary sanctions to be imposed for violation of the regulations are:

Disbarred from practice before the IRS—An individual who is disbarred is not eligible to represent taxpayers before the IRS.

Suspended from practice before the IRS—An individual who is suspended is not eligible to represent taxpayers before the IRS during the term of the suspension.

Censured in practice before the IRS—Censure is a public reprimand. Unlike disbarment or suspension, censure does not affect an individual's eligibility to represent taxpayers before the IRS, but OPR may subject the individual's future representations to conditions designed to promote high standards of conduct.

Monetary penalty—A monetary penalty be imposed on an individual who engages in conduct subject to sanction or on an employer, firm, or entity if the individual was acting on its behalf and if it knew, or reasonably should have known, of the individual's conduct.

Disqualification of appraiser—An appraiser who is disqualified is barred from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or the IRS.

Under the regulations, attorneys, certified public accountants, enrolled agents, enrolled actuaries, and enrolled retirement plan agents may not assist, or accept assistance from, individuals who are suspended or disbarred with respect to matters consti-

tuting practice (*i.e.*, representation) before the IRS, and they may not aid or abet suspended or disbarred individuals to practice before the IRS.

Disciplinary sanctions are described in these terms:

Disbarred by decision after hearing, Suspended by decision after hearing, Censured by decision after hearing, Monetary penalty imposed after hearing, and Disqualified after hearing—An administrative law judge (ALJ) conducted an evidentiary hearing upon OPR's complaint alleging violation of the regulations and issued a decision imposing one of these sanctions. After 30 days from the issuance of the decision, in the absence of an appeal, the ALJ's decision became the final agency decision.

Disbarred by default decision, Suspended by default decision, Censured by default decision, Monetary penalty imposed by default decision, and Disqualified by default decision—An ALJ, after finding that no answer to OPR's complaint had been filed, granted OPR's motion for a

default judgment and issued a decision imposing one of these sanctions.

Disbarment by decision on appeal, Suspended by decision on appeal, Censured by decision on appeal, Monetary penalty imposed by decision on appeal, and Disqualified by decision on appeal—The decision of the ALJ was appealed to the agency appeal authority, acting as the delegate of the Secretary of the Treasury, and the appeal authority issued a decision imposing one of these sanctions.

Disbarred by consent, Suspended by consent, Censured by consent, Monetary penalty imposed by consent, and Disqualified by consent—In lieu of a disciplinary proceeding being instituted or continued, an individual offered a consent to one of these sanctions and OPR accepted the offer. Typically, an offer of consent will provide for: suspension for an indefinite term; conditions that the

individual must observe during the suspension; and the individual's opportunity, after a stated number of months, to file with OPR a petition for reinstatement affirming compliance with the terms of the consent and affirming current eligibility to practice (*i.e.*, an active professional license or active enrolled agent status). An enrolled agent or an enrolled retirement plan agent may also offer to resign in order to avoid a disciplinary proceeding.

Suspended by decision in expedited proceeding, Suspended by default decision in expedited proceeding, Suspended by consent in expedited proceeding—OPR instituted an expedited proceeding for suspension (based on certain limited grounds, including loss of a professional license and criminal convictions).

OPR has authority to disclose the grounds for disciplinary sanctions in these situations: (1) an ALJ or the Secretary's

delegate on appeal has issued a decision on or after September 26, 2007, which was the effective date of amendments to the regulations that permit making such decisions publicly available; (2) the individual has settled a disciplinary case by signing OPR's "consent to sanction" form, which requires consenting individuals to admit to one or more violations of the regulations and to consent to the disclosure of the individual's own return information related to the admitted violations (for example, failure to file Federal income tax returns); or (3) OPR has issued a decision in an expedited proceeding for suspension.

Announcements of disciplinary sanctions appear in the Internal Revenue Bulletin at the earliest practicable date. The sanctions announced below are alphabetized first by the names of states and second by the last names of individuals. Unless otherwise indicated, section numbers (*e.g.*, § 10.51) refer to the regulations.

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
California				
Garden Grove	Francis, Kevin	Enrolled Agent	Suspended by decision on appeal for violation of § 10.20 (failure to promptly submit information requested by IRS), § 10.22 (failure to exercise due diligence in connection with client's corporate tax return), § 10.23 (failure to promptly dispose of matters pending before IRS), and § 10.51 (giving false information to IRS, attempting to influence official action of IRS by false accusations, and contemptuous conduct consisting of false accusations)	February 4, 2008 through August 4, 2009
Sacramento	Himmelmann, William E.	CPA	Suspended by decision in expedited proceeding under § 10.82 (conviction under 31 U.S.C. § 333, misuse of Treasury names and symbols)	Indefinite from March 4, 2008

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Colorado				
Breckenridge	Daniel, III, Royal	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 25, 2008
Florida				
Seminole	Bedford, Robert N.	Enrolled Agent	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 371, conspiracy to defraud United States)	Indefinite from February 21, 2008
Malabar	Lagano, Albert S.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from March 6, 2008
Davie	Luyendyk, Charles W.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (revocation of attorney license in Michigan)	Indefinite from January 28, 2008
Key West	McCartney, R. Allen	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license in Kentucky)	Indefinite from March 7, 2008
Georgia				
Roswell	Bailey, Charles E.	CPA	Censured by consent	January 16, 2008
Macon	Gonser, Fred L.	CPA	Suspended by decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from February 8, 2008
Danielsville	Shoemaker, Curtis G.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from February 18, 2008
Atlanta	Turner, Terrill A.	Attorney	Suspended by consent in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from January 29, 2008

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Illinois				
Chicago	Della Rose, Stephen J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1341, mail fraud)	Indefinite from January 7, 2008
	Marcus, Alan R.	Attorney	Disbarred by default decision for violation of § 10.51 (failure to file Federal income tax returns)	Indefinite from November 26, 2007
	Zmigrocki, James J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (stricken from attorney license roll)	Indefinite from February 1, 2008
Tinley Park	Dominick, Warren J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 7, 2008
Springfield	Giganti, Francis J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (stricken from attorney license roll)	Indefinite from January 18, 2008
Northbrook	Vietinghoff, Kurt	CPA	Censured by consent	October 16, 2007
Kansas				
Leawood	Schlotzhauer, David E.	CPA	Suspended by decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 2314, interstate transportation of stolen property)	Indefinite from February 20, 2008
Bonner Springs	Vendetti, Murray K.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (suspension and later surrender of CPA license)	Indefinite from January 7, 2008
Kentucky				
	McCartney, R. Allen, See Florida			

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Louisiana				
Shreveport	Jones, Jr., Hersy	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from February 5, 2008
Baton Rouge	Peters, Stephen K.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 4, 2008
Bossier City	Spradling, II, James W.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment in Massachusetts)	Indefinite from January 14, 2008
Maryland				
Timonium	Brandes, Frederic M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment in New York)	Indefinite from January 3, 2008
Freeland	Quillen, Jr., James P.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from January 14, 2008
Laytonsville	Schneider, Fritz H.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from January 14, 2008
Blue Springs	Steelman, Sr., Thomas W.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license in Missouri)	Indefinite from January 14, 2008
Massachusetts				
Pittsfield	Alexander, Kathleen	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 14, 2008
Norwell	Hilson, Robert P.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 14, 2008

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Massachusetts (Continued)				
Wellesley	Kleinfeld, Burton H.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 14, 2008
	Nadolny, John R., See New Hampshire			
Dorchester	Ragan, Kathryn S.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 14, 2008
	Sprading, II, James W., See Louisiana			
Michigan				
	Luyendyk, Charles W., See Florida			
Minnesota				
Maple Grove	Holker, Kenneth M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 4, 2008
	Roxbury, Linda S.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from January 3, 2008
Eden Prairie	Nelson, Dewey M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 14, 2008
	Sundby, Elizabeth J., See North Dakota			
Missouri				
Eureka	Fingal-Griffin, Christi S.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from February 8, 2008
St. Louis	LaTourette, III, Brainerd W.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from January 4, 2008

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Missouri (Continued)				
	Steelman, Sr., Thomas W., See Maryland			
Aurora	Welch, Lance D.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from January 14, 2008
Nevada				
Las Vegas	Jones, Robert A.	Attorney	Suspended by decision on appeal for violation of § 10.22 (failure to exercise due diligence in preparing, approving, and filing documents), § 10.30 (public communication containing false statements and claim), and § 10.51 (giving false or misleading information to IRS and aiding and abetting others to practice before IRS during period of ineligibility)	February 12, 2008 through February 11, 2010
	Sexton, Jr., James C.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1341, mail fraud, aiding and abetting, causing an act to be done; 18 U.S.C. § 1956(h), conspiracy to money launder)	Indefinite from January 28, 2008
New Hampshire				
Rye	Nadolny, John R.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1001(a)(1), false statement; attorney disbarment in Massachusetts)	Indefinite from March 7, 2008

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
New Jersey				
Edison	Bothe, Robert W.	CPA	Suspended by decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7203, failure to make an income tax return to IRS)	Indefinite from January 14, 2008
	Katz, Alex, See Pennsylvania			
Cherry Hill	Zander, Ben	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 3, accessory after the fact to mail fraud)	Indefinite from January 14, 2008
New Mexico				
Albuquerque	Chan, Sean, a/k/a Hinman, Sean	CPA	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7206(2), fraud and false statements)	Indefinite from March 7, 2008
Gallup	Griego, Robert P.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from March 7, 2008
New York				
Franklin Square	Blum, Harold	CPA	Disbarred by decision on appeal for violation of § 10.51 (failure to file Federal income tax returns)	Indefinite from February 21, 2008
	Brandes, Frederic M., See Maryland			
New York	Chasky, Barry L.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from January 14, 2008
Valley College	Gould, Warren M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 14, 2008
	Joyce, William M., See Oregon			

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
New York (Continued)				
Long Beach	Kuschner, Herbert M.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from January 3, 2008
Ossining	Medina, Luis A.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from February 20, 2008
Bronxville	Tavon, Robert	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 4, 2008
North Carolina				
Leicester	King, Thomas P.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from February 5, 2008
Winston Salem	Myers, William C.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from March 7, 2008
North Dakota				
Fargo	Sundby, Elizabeth J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license in Minnesota)	Indefinite from January 3, 2008
Ohio				
Sunbury	Dye, Lewis W.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (conviction under 31 U.S.C. § 5331, failure to file Form 8300 with the IRS)	Indefinite from January 28, 2008
Oregon				
Portland	Joyce, William M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license in New York)	Indefinite from January 14, 2008

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Pennsylvania				
Moscow	Cobb, Paul J.	CPA	Suspended by decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from January 25, 2008
Plumsteadville	Hauke, Thomas	CPA	Suspended by decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 371, conspiracy to commit securities fraud)	Indefinite from January 25, 2008
Aliquippa	Havey, John A.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7201, income tax evasion)	Indefinite from January 24, 2008
Tyrone	Hiller, Deborah D.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from March 4, 2008
Rydal	Katz, Alex	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license in New Jersey)	Indefinite from January 14, 2008
Pittsburgh	Musher, Robin Grassel	Attorney	Suspended by decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 153(a), embezzlement from bankruptcy estate)	Indefinite from January 28, 2008
South Carolina				
Pendleton	Cureton, Steven R.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from March 4, 2008
Pauline	Hanna, Sr., David H.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from March 4, 2008

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
South Carolina (Continued)				
Mt. Pleasant	Prendergast, Sean J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from March 4, 2008
Hartville	Wilmeth, Harriet E.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from March 4, 2008
Tennessee				
Monteagle	Settles, Thomas E.	CPA	Disbarred by decision on appeal for violation of § 10.22 (failure to exercise due diligence in preparing, or assisting in preparing, approving, and filing his Federal income tax returns; in preparing, or assisting in preparing, tax returns relating to family living trusts and family limited partnerships; in determining correctness of representations to Treasury or clients), § 10.34 (advising clients on frivolous tax strategy), and § 10.51 (providing false or misleading information on his Federal income tax returns, failure to timely file Federal income tax return, and giving a false opinion)	Indefinite from February 7, 2008
Texas				
Midland	Schulte, Jr., Eddie	CPA	Censured by consent	February 13, 2008
Vermont				
Rutland	Barsanti, Gregory U.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from March 4, 2008

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Vermont (Continued)				
	Campbell, Elizabeth C.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from March 7, 2008
Virgin Islands				
St. Thomas	Brusch, Stephen A.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from March 7, 2008
Virginia				
Woodbridge	Steinberg, Andrew M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (revocation of attorney license)	Indefinite from January 24, 2008
Wisconsin				
Waukesha	Acker, Amy S.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from March 4, 2008
Madison	Chvala, Charles J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under Wisconsin Statutes § 946.12(3), misconduct in public office and § 11.26(2)(b), limitations on contributions)	Indefinite from January 24, 2008
Iron River	Schuh, Arthur L.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 21 U.S.C. §§ 841(a)(1) and (b)(1)(A) and 846, conspiracy to distribute a controlled substance; and 18 U.S.C. § 924(c)(1)(A)(I), possession of a firearm in furtherance of a drug trafficking crime)	Indefinite from February 5, 2008

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Wisconsin (Continued)				
Mazomanie	Winch, James T.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from January 24, 2008

Definition of Terms

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

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

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

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

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

and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance

of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.

ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.

PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List¹

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2007–27 through 2007–52 is in Internal Revenue Bulletin 2007–52, dated December 26, 2007.

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