

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. 2005-14, page 749.

Fringe benefits aircraft valuation formula. The Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charges in effect for the first half of 2005 are set forth for purposes of determining the value of noncommercial flights on employer-provided aircraft under section 1.61-21(g) of the regulations.

T.D. 9183, page 754.

Final regulations under section 7701 of the Code clarify that a disregarded entity (an entity that is not treated as separate from its owner) is treated as a separate entity for purposes of any federal tax liability for which it is liable.

T.D. 9184, page 753.

Final regulations under section 860F of the Code relate to the application of the unified partnership audit procedures to disputes regarding the ownership of residual interests in a Real Estate Mortgage Investment Conduit (REMIC).

T.D. 9185, page 749.

Final regulations under section 817 of the Code remove provisions of the regulations that apply a look-through rule to assets of a nonregistered partnership for purposes of satisfying the diversification requirements of section 817(h).

Notice 2005-22, page 756.

This notice clarifies and modifies Notice 2004-80 to provide additional guidance for material advisors who are required to comply with sections 6111 and 6112 of the Code, as amended, and to grant an extension of time for material advisors to comply with the new filing requirements under section 6111 as previously provided in Notice 2004-80 and

Notice 2005-17. Notices 2004-80 and 2005-17 clarified and modified.

EMPLOYEE PLANS

Notice 2005-26, page 758.

Weighted average interest rate update; corporate bond indices; 30-year Treasury securities. The weighted average interest rate for March 2005 and the resulting permissible range of interest rates used to calculate current liability and to determine the required contribution are set forth.

EXEMPT ORGANIZATIONS

Announcement 2005-20, page 772.

A list is provided of organizations now classified as private foundations.

Announcement 2005-21, page 776.

Little League Baseball, Inc. 2321213 Schenectady LL of Schenectady, NY, and Jane Withers Wonderful World of Dolls and Teddy Bears of Studio City, CA, no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

(Continued on the next page)

Announcements of Disbarments and Suspensions begin on page 766.
Finding Lists begin on page ii.



EXCISE TAX

Notice 2005-24, page 757.

This notice modifies Notice 2005-4, 2005-2 I.R.B. 289, by extending the transitional rule related to sales of gasoline on oil company credit cards and by making several corrections to Notice 2005-4. Notice 2005-4 provides guidance on certain excise tax provisions in the Code that were added or affected by the American Jobs Creation Act of 2004, Pub. L. 108-357. Notice 2005-4 modified.

ADMINISTRATIVE

Rev. Proc. 2005-13, page 759.

Automobile owners and lessees. This procedure provides owners and lessees of passenger automobiles (including trucks, vans, and electric automobiles) with tables detailing the limitations on depreciation deductions for passenger automobiles first placed in service during calendar year 2005 and the amounts to be included in income for passenger automobiles first leased during calendar year 2005.

The IRS Mission

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

applying the tax law with integrity and fairness to all.

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

Section 61.—Gross Income Defined

26 CFR 1.61–21: Taxation of fringe benefits.

Fringe benefits aircraft valuation formula. The Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charges in effect for the first half of 2005 are set forth for purposes of determining the value of noncommercial flights on employer-provided aircraft under section 1.61–21(g) of the regulations.

Rev. Rul. 2005–14

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

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

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

<i>Period During Which the Flight Is Taken</i>	<i>Terminal Charge</i>	<i>SIFL Mileage Rates</i>
1/1/05 – 6/30/05	\$35.49	Up to 500 miles = \$.1942 per mile 501–1500 miles = \$.1480 per mile Over 1500 miles = \$.1423 per mile

DRAFTING INFORMATION

The principal author of this revenue ruling is Kathleen Edmondson of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue ruling, contact Ms. Edmondson at (202) 622–0047 (not a toll-free call).

Section 280F.—Limitation on Depreciation for Luxury Automobiles; Limitation Where Certain Property Used for Personal Purposes

26 CFR 1.280F–7: Property leased after December 31, 1986.

This procedure provides owners and lessees of passenger automobiles (including electric automobiles) with tables detailing the limitations on depreciation deductions for automobiles first placed in service during calendar year 2005 and the amounts to be included in income for automobiles first leased during calendar year 2005. See Rev. Proc. 2005–13, page 759.

Section 817.—Treatment of Variable Contracts

26 CFR 1.817–5: Diversification requirements for variable annuity, endowment, and life insurance contracts.

T.D. 9185

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Diversification Requirements for Variable Annuity, Endowment, and Life Insurance Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations removing provisions of the Income Tax Regulations that apply a look-through rule to assets of a nonregistered partnership for purposes of satisfying

the diversification requirements of section 817(h) of the Internal Revenue Code.

DATES: Effective Date: These regulations are effective as of March 1, 2005. However, arrangements in existence on March 1, 2005, will be considered to be adequately diversified if: (i) those arrangements were adequately diversified within the meaning of section 817(h) prior to March 1, 2005, and (ii) by December 31, 2005, the arrangements are brought into compliance with the final regulations.

Applicability Date: For dates of applicability, see §1.817–5(i).

FOR FURTHER INFORMATION CONTACT: James Polfer, (202) 622–3970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 817(h), a variable contract based on a segregated asset account is not treated as an annuity, endowment, or life insurance contract unless the segregated asset account is adequately diversified. For purposes of testing diversifica-

tion, section 817(h)(4) and §1.817-5(f) of the regulations provide a look-through rule for assets held through certain investment companies, partnerships, or trusts. Section 1.817-5(f)(2)(i) provides that look-through treatment is available with respect to any investment company, partnership, or trust only if all the beneficial interests in the investment company, partnership, or trust are held by one or more segregated asset accounts of one or more insurance companies, and public access to such investment company, partnership, or trust is available exclusively (except as otherwise permitted by section 1.817-5(f)(3)) through the purchase of a variable contract. Under §1.817-5(f)(2)(ii), the look-through rule applies to a partnership interest that is not registered under a Federal or state law regulating the offering or sale of securities. Unlike §1.817-5(f)(2)(i), satisfaction of the nonregistered partnership look-through rule of §1.817-5(f)(2)(ii) is not explicitly conditioned on limiting the ownership of interests in the partnership to certain specified holders.

On July 30, 2003, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-163974-02, 2003-2 C.B. 595) under section 817 in the **Federal Register** (68 FR 44689). The proposed regulations would remove the rule that applies specifically to nonregistered partnerships for purposes of testing diversification. The proposed regulations also would remove an example that illustrates that rule.

The application of §1.817-5(f)(2)(i) to interests in nonregistered partnerships will be unchanged by the removal of §1.817-5(f)(2)(ii). Thus, look-through treatment will be available for interests in a nonregistered partnership if all the beneficial interests in the partnership are held by one or more segregated asset accounts of one or more insurance companies and public access to the partnership is available exclusively (except as otherwise permitted by §1.817-5(f)(3)) through the purchase of a variable contract.

Written comments were received in response to the notice of proposed rulemaking. A public hearing on the notice of proposed rulemaking was held on April 1, 2004. After consideration of all the comments and the hearing testimony, the proposed regulations are adopted as amended by this Treasury decision.

Explanation and Summary of Comments and Public Hearing

In addition to requesting comments on the clarity of the proposed rule and how the rule could be made easier to understand, the Treasury Department and the IRS specifically requested comments on: (1) whether revocation of §1.817-5(f)(2)(ii) necessitates other changes to the look-through rules of §1.817-5(f), in particular whether the list of holders permitted by §1.817-5(f)(3) should be amended or expanded, and whether a non-*pro-rata* distribution of the investment returns of a segregated asset account should be permitted to take account of certain bonus payments to investment managers commonly referred to as incentive payments, (2) whether §1.817-5 should be updated to take account of changes to variable contracts since the final regulations were published in 1986, and (3) whether regulations are needed to address when a holder of a variable contract will be treated as the owner of assets held in a segregated asset account and, therefore, required to include earnings on those assets in income.

1. Comments on the Proposed Regulations

Two comments on the proposed regulation concerned the definition of “security” in §1.817-5(h)(6). Under §1.817-5(b)(1)(ii)(A), all securities of the same issuer are treated as one investment for the purposes of satisfying the diversification requirements. Section 1.817-5(h)(6) provides that the term security includes “a cash item and any partnership interest registered under a Federal or State law regulating the offering or sale of securities,” but does not include “any other partnership interest.” The commentators stated that the definition of “security” that applies to §1.817-5 should be amended to include an interest in a non-registered partnership. The Treasury Department and the IRS agree that, in light of the revocation of former §1.817-5(f)(2)(ii), the definition of security should be modified to remove the distinction between registered and non-registered partnership interests. The final regulations reflect this change.

A number of commentators also suggested that the regulation should be clarified by adding to or otherwise revising the

examples contained in §1.817-5(g). In response to these comments, the final regulations revise §1.817-5(g) *Example 1* to remove the reference to partnership P as a publicly registered partnership. The Treasury Department and the IRS believe that, with this change, the examples contained in §1.817-5(g) adequately explain the application of §1.817-5 to partnership interests. Any questions concerning the application of §1.817-5 to more specific factual scenarios may be addressed by the letter ruling process or by subsequent published guidance.

Two commentators urged that existing arrangements either should be grandfathered in some fashion or should be given additional time to be brought into compliance with the final regulations. The notice of proposed rulemaking provided that arrangements in existence on the effective date of the revocation of §1.817-5(f)(2)(ii) will be considered to be adequately diversified if: (i) those arrangements were adequately diversified within the meaning of section 817(h) prior to the revocation of §1.817-5(f)(2)(ii), and (ii) by the end of the last day of the second calendar quarter ending after the effective date of the regulation, the arrangements are brought into compliance with the final regulations. The Treasury Department and the IRS do not believe it is appropriate to grandfather existing arrangements indefinitely. In response to these comments, however, the transition period for existing arrangements to be brought into compliance with the regulations is two calendar quarters longer than the period provided in the proposed regulations.

Finally, one commentator questioned the authority of the Treasury Department and the IRS to enact this final regulation because “the only substantive impetus for the regulation is a general statement in the legislative history.” Congress enacted the diversification requirements of section 817(h) to “discourage the use of tax-preferred variable annuity and variable life insurance primarily as investment vehicles,” H.R. Conf. Rep. No. 98-861, at 1055 (1984), and granted the Secretary broad regulatory authority to develop rules to carry out this intent. The Treasury Department and the IRS have determined that this final regulation and the rest of the regulations contained in §1.817-5 were

prescribed within the delegation of authority provided by Congress.

2. Comments on §1.817-5 More Generally

Many comments concerned the list of permitted investors under §1.817-5(f)(3). Notwithstanding the limitations on public access to an investment company, partnership, or trust that is subject to look-through treatment under §1.817-5(f), §1.817-5(f)(3) permits look-through treatment if the beneficial interests of the investment company, partnership, or trust are held by certain other “permitted investors,” including the general account of a life insurance company (if certain requirements are met), the manager or a corporation related to the manager (if certain requirements are met), or the trustee of a qualified plan. Commentators suggested that the list of permitted investors be expanded to include, for example, qualified tuition programs described in section 529; segregated asset accounts of foreign insurance companies; foreign pension plans; persons or entities related to the manager of an investment company, partnership, or trust in a manner specified in section 707(b); certain investment professionals operating as service providers; or persons who receive interests in a partnership as a result of inadvertent transfers, such as by bankruptcy or death of the permitted investor. The sole speaker at the public hearing on the notice of proposed rule-making testified that the list of investors permitted by §1.817-5(f)(3) should be expanded to include “floor specialists” as that term is defined in section 1236(d)(2).

Other comments suggested guidance on non-*pro-rata* manager compensation. In order for the manager (or a corporation related in a manner specified in section 267(b) to the manager) of an investment company, partnership, or trust, to be a permitted investor under §1.817-5(f)(3)(ii), (1) its interest must be held in connection with the creation or management of the investment company, partnership, or trust; (2) the return on such interest must be computed in the same manner as the return on an interest held by a segregated asset account is computed (determined without regard to expenses attributable to variable contracts); and (3) there must be no intent to sell such interest to the public. A number of commentators stated that the re-

quirement that the return on a manager’s interest be computed in the same manner as the return on a segregated asset account’s interest — essentially a *pro-rata* distribution requirement — is inconsistent with prevailing market practices concerning manager bonuses, discourages the creation of insurance dedicated funds, and is not necessary to prevent abuse of the look-through rules contained in §1.817-5(f).

Some comments stated there is a need to clarify the consequences to a variable contract and variable contract holder when the contract’s segregated asset account contains an asset in which beneficial interests are held by investors (such as qualified plans) that qualified as permitted investors in §1.817-5(f)(2) or (3) at the time of initial investment, but subsequently lose their status. Similarly, one commentator urged that if an insurance company has a reasonable basis to believe that an investment company, partnership, or trust satisfies the requirements of §1.817-5(f)(2), a variable contract of that insurance company should be permitted to look-through that entity for purposes of testing a segregated asset account on which that contract is based, even if the investment company, partnership, or trust has investors not described in §1.817-5(f)(2) or (3). The commentator suggested that this standard would be consistent with the standard of determination often used in the Federal securities laws.

Other comments included a request for clarification of the treatment of fund-of-funds and master-feeder arrangements for purposes of testing diversification; the desirability of an updated correction procedure for failure to satisfy the diversification requirements of section 817(h) and §1.817-5; guidance concerning the use of independent investment advisors; and extension of the special diversification rules for United States Treasury securities under section 817(h)(3) and §1.817-5(b)(3) to variable annuity contracts. (The latter comment presumably would require a change to section 817(h)(3), as well as to the regulations.)

Although the comments on §1.817-5 generally are not adopted in this Treasury decision, the Treasury Department and IRS will consider these comments in the event of future published guidance. For example, Rev. Rul. 2005-7, 2005-6 I.R.B. 464 (see §601.601(d)(2)(ii)(b)

of this chapter) provides guidance on the application of the diversification look-through rule to tiered investment companies.

3. Comments on Investor Control

Finally, some comments concerned the need for additional guidance addressing circumstances under which the holder of a variable contract will be treated as the owner of assets held by a segregated asset account by virtue of the control the contract holder has over those assets. Under Rev. Rul. 81-225, 1981-2 C.B. 12 (see §601.601(d)(2)(ii)(b) of this chapter), the owner of a variable annuity contract funded by publicly available mutual fund shares is treated as the owner of those shares. Rev. Rul. 2003-92, 2003-2 C.B. 350 (see §601.601(d)(2)(ii)(b) of this chapter), clarified and amplified Rev. Rul. 81-225 by applying the same rule to variable life insurance contracts, and by treating as publicly available a non-registered partnership, interests in which are sold only to qualified purchasers that are accredited investors or to no more than one hundred accredited investors. *See also* Rev. Rul. 2003-91, 2003-2 C.B. 347; Rev. Rul. 82-54, 1982-1 C.B. 11; Rev. Rul. 80-274, 1980-2 C.B. 27; Rev. Rul. 77-85, 1977-1 C.B. 12.; *Christoffersen v. U.S.*, 749 F.2d 513 (8th Cir. 1984), *rev’g* 578 F. Supp. 398 (N.D. Iowa 1984). *See* §601.601(d)(2)(ii)(b) of this chapter.

One commentator urged that Rev. Rul. 2003-92 should not be applied retroactively to treat certain investors as the “general public” as that term is used in Rev. Rul. 81-225. Specifically, the commentator requested relief for investments in real estate partnerships, interests in which are held directly by (1) organizations described in section 501(c)(3), and (2) such partnerships’ investment managers, if those managers are not described in §1.817-5(f)(3)(ii) because of bonus payment arrangements. The commentator believed such relief is warranted because of uncertainty concerning the meaning of “general public” as that term is used in Rev. Rul. 81-225. Several other commentators suggested that regulations under section 817 should clarify that the permitted investors under §1.817-5(f)(3) do not constitute the “general” public as that term is used in Rev. Rul. 2003-92

and Rev. Rul. 81-225. According to these commentators, it would be anomalous for ownership by a permitted investor under §1.817-5(f)(3) to result in a variable contract holder being treated as the owner of an investment company, partnership, or trust, when the look-through rule itself appears to endorse ownership by that same investor for purposes of testing diversification. Still another commentator noted that when determining whether a contract holder is treated as the owner of segregated account assets, communications between investment advisors or officers and variable contract holders should be permitted if the communications are consistent with Federal securities and commodities laws.

One commentator suggested that the preamble to this Treasury decision should confirm the intended scope of Rev. Proc. 99-44, 1999-2 C.B. 598. Under Rev. Proc. 99-44, a contract is treated as an annuity contract described in sections 403(a), 403(b), or 408(b), notwithstanding that contract premiums are invested at the direction of the contract holder in publicly available securities, so long as certain requirements are met. Those requirements include a limitation that no additional Federal tax liability would have been incurred if the employer of the contract holder had instead paid amounts into a custodial account in an arrangement that satisfied the requirements of section 403(b)(7)(A) or no additional Federal tax liability would have been incurred if the consideration for the contract had instead been held as part of a trust that would satisfy the requirements of section 408(a), as applicable. The commentator urged that the preamble to this Treasury decision clarify that the "no additional Federal tax liability" limitation was intended to apply only to tax on unrelated business income. Finally, one commentator noted that, given the inherent factual nature of the determination whether a contract holder is treated as the owner of segregated account assets, the issue is better addressed by letter ruling or revenue ruling, rather than by regulations.

Although the comments on investor control are not adopted in this Treasury decision, they are responsive to the request for comments in the July 30, 2003, notice

of proposed rulemaking and will receive careful attention in the event of further guidance on investor control.

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 the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is James Polfer, Office of the Associate Chief Counsel (Financial Institutions and Products), Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Treasury Department and the IRS participated in their development.

* * * * *

Adoption of Amendment to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAX

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

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

Section 1.817-5 also issued under 26 U.S.C. 817(h). * * *

Par. 2. Section 1.817-5 is amended as follows:

1. Paragraphs (f)(2)(ii) and (g) *Example 3* are removed.

2. Paragraph (f)(2)(iii) is redesignated as paragraph (f)(2)(ii).

3. The first sentence of paragraph (g) *Example 1* is revised.

4. Paragraph (g) *Example 4* is redesignated as paragraph (g) *Example 3*.

5. Paragraph (h)(6) is revised.

6. New paragraph (i)(2)(v) is added.

The revisions read as follows:

§ 1.817-5 Diversification requirements for variable annuity, endowment, and life insurance contracts.

* * * * *

(g) * * *

Example 1. (i) The assets underlying variable contracts issued by a life insurance company consist of two groups of assets: (a) a diversified portfolio of debt securities and (b) interests in P, a partnership.

* * *

(h) * * *

(6) *Security.* The term *security* shall include a cash item and any partnership interest, whether or not registered under a Federal or State law regulating the offering or sale of securities. The term shall not include any interest in real property, or any interest in a commodity.

* * * * *

(i) * * *

(2) * * *

(v) A segregated asset account in existence before March 1, 2005, will be considered to be adequately diversified if—

(A) As of March 1, 2005, the account was adequately diversified within the meaning of section 817(h) and this regulation as in effect prior to that date; and

(B) By December 31, 2005, the account is adequately diversified within the meaning of section 817(h) and this regulation.

Mark E. Matthews,
*Deputy Commissioner for
Services and Enforcement.*

Approved February 15, 2005.

Eric Solomon,
*Acting Deputy Assistant Secretary
of the Treasury.*

(Filed by the Office of the Federal Register on February 28, 2005, 8:45 a.m., and published in the issue of the Federal Register for March 1, 2005, 70 F.R. 9869)

Section 860F.—Other Rules

26 CFR 1.860F-4: Remic reporting requirements and other administrative rules.

T.D. 9184

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Real Estate Mortgage Investment Conduits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final Regulation.

SUMMARY: This document contains final regulations relating to the application of the unified partnership audit procedures to disputes regarding the ownership of residual interests in a Real Estate Mortgage Investment Conduit (REMIC). These regulations will affect taxpayers that invest in REMIC residual interests.

DATES: These regulations apply after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Arturo Estrada, (202) 622-3900 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This regulation amends 26 CFR Part 1 under section 860F of the Internal Revenue Code (Code) relating to the application of the unified partnership audit procedures of subchapter C of chapter 63 of the Code to REMICs and the holders of residual interests. Section 860F(e) provides that a REMIC is treated as a partnership (and holders of residual interests in that REMIC shall be treated as partners) for purposes of subtitle F of the Code, which includes the unified partnership audit procedures. The taxable income of a holder of a REMIC residual interest is determined under the REMIC provisions of part IV of subchapter M, which require the holder to take into account its daily portion of the REMIC's

taxable income or net loss for each day during the taxable year on which the holder holds its interest. Section 860C(a)(1). The provisions of subchapter K relating to the determination of the taxable income of a partnership and its partners do not apply to REMICs or the holders of REMIC residual interests. Section 860A(a).

Questions have arisen regarding whether the identity of the holder of a REMIC residual interest is treated as a partnership item for purposes of the unified partnership audit procedures. Questions also have arisen regarding the applicability of the unified partnership audit procedures when a determination is made under the REMIC regulations to disregard certain transfers of REMIC residual interests and continue to treat the transferor as the holder of the transferred REMIC residual interests. See §§1.860E-1(c) and 1.860G-3.

The IRS and Treasury Department have determined that the identity of a holder of a REMIC residual interest is more appropriately determined at the residual interest holder level than at the REMIC entity level.

Explanation of Provisions

The regulations provide that the determination of the identity of a holder of a REMIC residual interest is not a partnership item for purposes of the unified partnership audit procedures as applied to REMICs, whether or not such determination involves the application of a disregarded transfer rule. Unlike the identity of a partner in a partnership subject to subchapter K, the identity of the holder of a REMIC residual interest does not affect the calculation of the REMIC's taxable income or net loss.

Effective Date

These regulations apply after December 31, 1986. See §1.860A-1(b)(1)(ii).

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 requirement 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 Code, this Treasury decision has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these regulations is Arturo Estrada, Office of the Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and Treasury Department participated in their development.

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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, in part, as follows:

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

Section 860F-4 issued under 26 U.S.C. 860G(e) and 26 U.S.C. 6230(k). * * *

Par. 2. In §1.860F-4, paragraph (a) is amended by adding a sentence at the end of the paragraph to read as follows:

§1.860F-4 REMIC reporting requirements and other administrative rules.

(a) * * * The identity of a holder of a residual interest in a REMIC is not treated as a partnership item with respect to the REMIC for purposes of subchapter C of chapter 63.

* * * * *

Mark E. Matthews,
Deputy Commissioner for
Services and Enforcement.

Approved February 15, 2005.

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

Section 7701.—Definitions

301.7701-2: *Business entities; definitions.*

T.D. 9183

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1 and 301

Modification of Check the Box

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations that clarify that qualified REIT subsidiaries, qualified subchapter S subsidiaries, and single owner eligible entities that are disregarded as entities separate from their owners are treated as separate entities for purposes of any Federal tax liability for which the entity is liable. These regulations affect disregarded entities that are liable for Federal taxes with respect to tax periods during which they were not disregarded or because they are successors or transferees of taxable entities.

DATES: *Effective Date:* These regulations are effective April 1, 2004.

Applicability Dates: For dates of applicability, see §§1.856-9(c), 1.1361-4(a)(6)(iii), and 301.7701-2(e).

FOR FURTHER INFORMATION CONTACT: Martin Schäffer, (202) 622-3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR parts 1 and 301. The amendments to 26 CFR part 1 are under sections 856 and 1361 of the Internal Revenue Code (Code). Section 856(i) was added by the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2085). Section 1361(b)(3) was added by the Small

Business Job Protection Act of 1996 (Public Law 104-188, 110 Stat. 1755). The amendments to 26 CFR part 301 are to §301.7701-2, first promulgated by T.D. 8697, 1997-1 C.B. 215 [61 FR 66584] (December 18, 1996). On April 1, 2004, a notice of proposed rulemaking (REG-106681-02, 2004-18 I.R.B. 852) relating to the taxation of disregarded entities was published in the **Federal Register** (69 FR 17117). A notice of correction was published in the **Federal Register** (69 FR 22463) on April 26, 2004. No comments were received from the public in response to the notice of proposed rulemaking. No public hearing was requested, and accordingly, no hearing was held. This Treasury decision adopts the language of the proposed regulations with only minor clarifying changes.

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 the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations 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 James M. Gergurich of the Office of the Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAX

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:
Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.856-9 is added to read as follows:

§1.856-9 Treatment of certain qualified REIT subsidiaries.

(a) *In general.* A qualified REIT subsidiary, even though it is otherwise not treated as a corporation separate from the REIT, is treated as a separate corporation for purposes of:

(1) Federal tax liabilities of the qualified REIT subsidiary with respect to any taxable period for which the qualified REIT subsidiary was treated as a separate corporation.

(2) Federal tax liabilities of any other entity for which the qualified REIT subsidiary is liable.

(3) Refunds or credits of Federal tax.

(b) *Examples.* The following examples illustrate the application of paragraph (a) of this section:

Example 1. X, a calendar year taxpayer, is a domestic corporation 100 percent of the stock of which is acquired by Y, a real estate investment trust, in 2002. X was not a member of a consolidated group at any time during its taxable year ending in December 2001. Consequently, X is treated as a qualified REIT subsidiary under the provisions of section 856(i) for 2002 and later periods. In 2004, the Internal Revenue Service (“IRS”) seeks to extend the period of limitations on assessment for X’s 2001 taxable year. Because X was treated as a separate corporation for its 2001 taxable year, X is the proper party to sign the consent to extend the period of limitations.

Example 2. The facts are the same as in *Example 1*, except that upon Y’s acquisition of X, Y and X jointly elect under section 856(l) to treat X as a taxable REIT subsidiary of Y. In 2003, Y and X jointly revoke that election. Consequently, X is treated as a qualified REIT subsidiary under the provisions of section 856(i) for 2003 and later periods. In 2004, the IRS determines that X miscalculated and underreported its income tax liability for 2001. Because X was treated as a separate corporation for its 2001 taxable year, the deficiency may be assessed against X and, in the event that X fails to pay the liability after notice and demand, a general tax lien will arise against all of X’s property and rights to property.

Example 3. X is a qualified REIT subsidiary of Y under the provisions of section 856(i). In 2001, Z, a domestic corporation that reports its taxes on a calendar year basis, merges into X in a state law merger. Z was not a member of a consolidated group at any time during its taxable year ending in December 2000. Under the applicable state law, X is the successor to Z and is liable for all of Z’s debts. In 2004, the IRS seeks to extend the period of limitations on assessment for Z’s 2000 taxable year. Because X is the

successor to Z and is liable for Z's 2000 taxes that remain unpaid, X is the proper party to sign the consent to extend the period of limitations.

(c) *Effective date.* This section applies on or after April 1, 2004.

Par. 3. Section 1.1361-4 is amended as follows:

1. In paragraph (a)(1) introductory text, the first sentence is amended by removing the language "paragraph (a)(3)" and adding "paragraphs (a)(3) and (a)(6)" in its place.

2. Paragraph (a)(6) is added.

The additions read as follows:

§1.1361-4 Effect of Qsub election.

(a) * * *

(6) *Treatment of certain QSubs—(i) In general.* A QSub, even though it is generally not treated as a corporation separate from the S corporation, is treated as a separate corporation for purposes of:

(A) Federal tax liabilities of the QSub with respect to any taxable period for which the QSub was treated as a separate corporation.

(B) Federal tax liabilities of any other entity for which the QSub is liable.

(C) Refunds or credits of Federal tax.

(ii) *Examples.* The following examples illustrate the application of paragraph (a)(6)(i) of this section:

Example 1. X has owned all of the outstanding stock of Y, a domestic corporation that reports its taxes on a calendar year basis, since 2001. X and Y do not report their taxes on a consolidated basis. For 2003, X makes a timely S election and simultaneously makes a QSub election for Y. In 2004, the Internal Revenue Service ("IRS") seeks to extend the period of limitations on assessment for Y's 2001 taxable year. Because Y was treated as a separate corporation for its 2001 taxable year, Y is the proper party to sign the consent to extend the period of limitations.

Example 2. The facts are the same as in *Example 1*, except that in 2004, the IRS determines that Y miscalculated and underreported its income tax liability for 2001. Because Y was treated as a separate corporation for its 2001 taxable year, the deficiency for Y's 2001 taxable year may be assessed against Y and, in the event that Y fails to pay the liability after notice and demand, a general tax lien will arise against all of Y's property and rights to property.

Example 3. X is a QSub of Y. In 2001, Z, a domestic corporation that reports its taxes on a calendar year basis, merges into X in a state law merger. Z was not a member of a consolidated group at any time during its taxable year ending in December 2000. Under the applicable state law, X is the successor to Z and

is liable for all of Z's debts. In 2003, the IRS seeks to extend the period of limitations on assessment for Z's 2000 taxable year. Because X is the successor to Z and is liable for Z's 2000 taxes that remain unpaid, X is the proper party to execute the consent to extend the period of limitations on assessment.

(iii) *Effective date.* This paragraph (a)(6) applies on or after April 1, 2004.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 4. The authority citation for part 301 continues to read, in part, as follows:

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

Par. 5. Section 301.7701-2 is amended as follows:

1. Paragraph (c)(2)(iii) is added.

2. Paragraph (e) is revised.

The addition and revision read as follows:

§301.7701-2 Business entities; definitions.

* * * * *

(c) * * *

(2) * * *

(iii) *Tax liabilities of certain disregarded entities—(A) In general.* An entity that is otherwise disregarded as separate from its owner is treated as an entity separate from its owner for purposes of:

(1) Federal tax liabilities of the entity with respect to any taxable period for which the entity was not disregarded.

(2) Federal tax liabilities of any other entity for which the entity is liable.

(3) Refunds or credits of Federal tax.

(B) *Examples.* The following examples illustrate the application of paragraph (c)(2)(iii)(A) of this section:

Example 1. In 2001, X, a domestic corporation that reports its taxes on a calendar year basis, merges into Z, a domestic LLC wholly owned by Y that is disregarded as an entity separate from Y, in a state law merger. X was not a member of a consolidated group at any time during its taxable year ending in December 2000. Under the applicable state law, Z is the successor to X and is liable for all of X's debts. In 2004, the Internal Revenue Service ("IRS") seeks to extend the period of limitations on assessment for X's 2000 taxable year. Because Z is the successor to X and is liable for X's 2000 taxes that remain unpaid, Z is the proper party to sign the consent to extend the period of limitations.

Example 2. The facts are the same as in *Example 1*, except that in 2002, the IRS determines that X mis-

calculated and underreported its income tax liability for 2000. Because Z is the successor to X and is liable for X's 2000 taxes that remain unpaid, the deficiency may be assessed against Z and, in the event that Z fails to pay the liability after notice and demand, a general tax lien will arise against all of Z's property and rights to property.

* * * * *

(e) *Effective date.* (1) Except as otherwise provided in this paragraph (e), the rules of this section apply as of January 1, 1997, except that paragraph (b)(6) of this section applies on or after January 14, 2002, to a business entity wholly owned by a foreign government regardless of any prior entity classification, and paragraph (c)(2)(ii) of this section applies to taxable years beginning after January 12, 2001. The reference to the Finnish, Maltese, and Norwegian entities in paragraph (b)(8)(i) of this section is applicable on November 29, 1999. The reference to the Trinidadian entity in paragraph (b)(8)(i) of this section applies to entities formed on or after November 29, 1999. Any Maltese or Norwegian entity that becomes an eligible entity as a result of paragraph (b)(8)(i) of this section in effect on November 29, 1999, may elect by February 14, 2000, to be classified for Federal tax purposes as an entity other than a corporation retroactive to any period from and including January 1, 1997. Any Finnish entity that becomes an eligible entity as a result of paragraph (b)(8)(i) of this section in effect on November 29, 1999, may elect by February 14, 2000, to be classified for Federal tax purposes as an entity other than a corporation retroactive to any period from and including September 1, 1997.

(2) Paragraph (c)(2)(iii) of this section applies on or after April 1, 2004.

Mark E. Matthews,
*Deputy Commissioner for
Services and Enforcement.*

Approved February 15, 2005.

Eric Solomon,
*Acting Deputy Assistant Secretary
of the Treasury.*

(Filed by the Office of the Federal Register on February 24, 2005, 8:45 a.m., and published in the issue of the Federal Register for February 25, 2005, 70 F.R. 9220)

Part III. Administrative, Procedural, and Miscellaneous

Temporary Rules Under Sections 6111 and 6112

Notice 2005-22

The purpose of this notice is to clarify and modify Notice 2004-80, 2004-50 I.R.B. 963, to provide additional guidance for material advisors who are required to comply with §§ 6111 and 6112 of the Internal Revenue Code, as amended, and to grant an extension of time for material advisors to comply with the new filing requirements under § 6111.

BACKGROUND

Section 6111, as amended by the American Jobs Creation Act of 2004, P.L. 108-357, 118 Stat. 1418 (the Act), requires that each material advisor with respect to any reportable transaction make a return setting forth information identifying and describing the transaction and any potential tax benefits expected to result from the transaction no later than the date specified by the Secretary. Notice 2004-80 announced that the Internal Revenue Service and the Treasury Department intend to issue regulations providing rules under § 6111.

Notice 2004-80 also provides interim rules implementing the requirements of § 6111 until the Secretary prescribes regulations. Under Notice 2004-80, each material advisor with respect to a reportable transaction must file a return on Form 8264, *Application for Registration of a Tax Shelter*, within 30 days after the date on which the person becomes a material advisor. Notice 2004-80 also provides transitional relief in the case of a person who becomes a material advisor after October 22, 2004, and on or before December 31, 2004, that allows the material advisor to file the return before February 1, 2005. Notice 2005-17, 2005-8 I.R.B. 606, released on January 28, 2005, grants additional transitional relief allowing a person who becomes a material advisor after October 22, 2004, and on or before January 29, 2005, to file the return before March 1, 2005.

Since the issuance of Notice 2004-80, questions have arisen regarding the application of the interim rules to material ad-

visors. In addition, Notice 2005-17 states that the Service and Treasury intend to provide further guidance on the issue of the date on which a person becomes a material advisor with respect to a reportable transaction (including whether the obligation of a material advisor arises only when a reportable transaction is entered into by a taxpayer). This notice provides additional interim rules that will apply until further guidance is issued and grants additional transitional relief.

ADDITIONAL INTERIM PROVISIONS

1. *Completion of Form 8264*

Notice 2004-80 provides that each material advisor required under § 6111, as amended, to file a return with respect to a reportable transaction must complete Parts I (except item 1(b)), IV, and V of Form 8264. In completing Form 8264, the form and instructions are to be read to apply, by substituting: (1) “reportable transaction” each place “tax shelter” or “confidential corporate tax shelter” appears; (2) “material advisor” each place “organizer” or “principal organizer” appears; and (3) “Date the material advisor became a material advisor with respect to the reportable transaction” in place of “Date an interest in the tax shelter was first offered for sale” in Part I, line 7, of the form.

Questions have arisen whether a material advisor is required to modify the Form 8264 by striking or replacing lines or fields. A material advisor may not make modifications to the Form 8264. A material advisor must simply complete the form as if it had been modified to read as described in Notice 2004-80.

2. *Material Advisors and Transitional Relief*

Notice 2004-80 provides that a material advisor who is required to file a return under § 6111 must file the return within 30 days after the date on which the person becomes a material advisor. Notice 2004-80 provides that a material advisor is defined in § 301.6112-1(c)(2). Notice 2004-80 also provides that a material advisor may file a single Form 8264 for substantially similar transactions. A material advisor is required to supplement informa-

tion disclosed on Form 8264 if the information provided is no longer accurate, or if additional information that was not disclosed on Form 8264 becomes available.

Questions have arisen regarding when a person becomes a material advisor. Section 301.6112-1(c)(2) defines a material advisor as a person who makes a tax statement and receives or expects to receive a minimum fee with respect to a reportable transaction. Section 301.6112-1(c)(2)(B) provides that a material advisor includes a person who makes a tax statement to or for the benefit of a taxpayer who the potential material advisor (at the time the transaction is entered into) knows is or reasonably expects to be required to disclose the transaction under § 1.6011-4.

Until further guidance is issued, a material advisor will be treated as becoming a material advisor under § 6111 when all of the following events have occurred: (1) the material advisor makes a tax statement, (2) the material advisor receives (or expects to receive) the minimum fees, and (3) the transaction is entered into by the taxpayer. Material advisors, including those who cease providing services prior to the time the transaction is entered into, must make reasonable and good faith efforts to determine whether the taxpayer entered into the transaction.

Moreover, the time for providing disclosure as provided in Notice 2004-80 is amended by this notice. Until further guidance is issued, a material advisor will meet its return filing obligation under § 6111 if the Form 8264 is filed by the last day of the month that follows the end of the calendar quarter in which the advisor became a material advisor. Also, the transitional relief provided in Notice 2004-80 and Notice 2005-17 for disclosure of a transaction under § 6111 is extended. Accordingly, if a person becomes a material advisor after October 22, 2004, and on or before March 31, 2005, that material advisor must file the return on or before April 30, 2005.

Once a material advisor has filed a Form 8264 with respect to a transaction, the material advisor is not required to file an additional Form 8264 for each additional taxpayer that subsequently enters into the same transaction or to file a Form 8264 for a separate transaction that is the

same as or substantially similar to the transaction for which the material advisor has filed a Form 8264.

Questions also have arisen regarding whether the tolling provisions of § 1.6011-4(f) would apply to requests from a potential material advisor for a letter ruling. Until further guidance is issued, if the advisor submits a request for a letter ruling on or before the date the return under § 6111 is due and fully discloses all relevant facts relating to the transaction, the obligation of the potential material advisor to disclose the transaction will be suspended as provided in § 1.6011-4(f). However, a request for a letter ruling by a potential material advisor will not toll the disclosure provisions of § 1.6011-4 for taxpayers who participate in the transaction. See § 1.6011-4(f) for tolling provisions applicable to material advisors and taxpayers.

Finally, questions have arisen regarding the nature of the statement relating to the financial accounting treatment of the item(s) giving rise to a significant book-tax difference described in § 1.6011-4(b)(6). In addition, some practitioners have erroneously concluded that Notice 2004-80 was intended to exclude persons who do not provide accounting advice. The financial accounting statement described in Notice 2004-80 includes statements made by any material advisor, including accountants, lawyers, or investment advisors.

3. *Effective Date of Notice 2004-80*

Notice 2004-80 is effective for transactions with respect to which material aid, assistance, or advice is provided after October 22, 2004. Questions have arisen regarding the definition of material aid, assistance, or advice provided after October 22, 2004. For purposes of the disclosure required by § 6111, disclosure is required for reportable transactions with respect to which a material advisor makes a tax statement (other than post-filing advice described in § 301.6112-1(c)(2)(iv)(A)) after October 22, 2004, regardless of whether any portion of the fee was received before October 22, 2004, or whether the transaction was entered into before October 22, 2004. (For the timing of the disclosure, see Section 2 of this notice, above.)

EFFECTIVE DATE

This notice is effective February 24, 2005, the date this notice was released to the public.

EFFECT ON OTHER DOCUMENTS

This document clarifies and modifies Notice 2004-80 and Notice 2005-17.

DRAFTING INFORMATION

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

Modification of Notice 2005-4 Notice 2005-24

Section 1. PURPOSE

This notice modifies Notice 2005-4, 2005-2 I.R.B. 289, by extending the transitional rule related to sales of gasoline on oil company credit cards and by making several corrections to Notice 2005-4. Notice 2005-4 provides guidance on certain excise tax provisions in the Internal Revenue Code that were added or affected by the American Jobs Creation Act of 2004 (Pub. L. 108-357) (Act).

Section 2. GASOLINE; SALES ON OIL COMPANY CREDIT CARDS

Section 7 of Notice 2005-4 provides guidance on § 6416(a)(4), as amended by the Act. Section 7(a)(1)(ii) provides that the pre-2005 rules relating to sales of gasoline to state and local governments and nonprofit educational organizations on oil company credit cards issued to those entities will generally apply to sales before March 1, 2005. The notice also states that Congress may wish to address this issue before March 1, 2005, and that Treasury and the Service would assist Congress in designing an administrable alternative.

In a February 25, 2005, letter to Treasury, the chairman and ranking member

of the Finance Committee and the chairman of the Ways and Means Committee noted that the conferees to the Act removed language from the bill that would have changed the administration of refund claims for gasoline sales charged on a credit card. They further noted that the intent of the conferees in removing this language was “to retain the pre-JOBS Act treatment of these claims and not to effect any changes with respect to sales on oil company credit cards.” The letter also notes that, if Treasury concludes that a technical correction is needed to preserve the rules in effect prior to 2005, the signatories “will facilitate the enactment of such technical legislation at the earliest opportunity.”

Treasury and the Service believe that it would be appropriate to continue to apply the oil company credit card rule until Congress has had an opportunity to address the issue. Accordingly, the oil company credit card rule will remain in effect until modified by a statutory change or by future guidance on this issue.

Section 3. CORRECTIONS TO NOTICE 2005-4

(a) *Aviation-grade kerosene; certificate for commercial aviation and exempt use.* In § 4(g)(2), which contains a model certificate for persons buying aviation-grade kerosene for commercial aviation or nontaxable use, “_____ for export;” is removed from the list in the certificate of possible uses of the aviation-grade kerosene to which the certificate relates.

(b) *Aviation-grade kerosene; claims by registered ultimate vendors (nontaxable uses)*—(i) In § 4(h)(6)(ii), which contains a model waiver for ultimate purchasers of aviation-grade kerosene used in nontaxable uses, “_____ for use on a farm for farming purposes;” and “_____ for the exclusive use of a state;” are removed from the list in the waiver of possible uses of the aviation-grade kerosene to which the waiver relates. For rules relating to claims by registered ultimate vendors of kerosene (including aviation-grade kerosene) for farming and state use, see § 48.6427-9 of the Manufacturers and Retailers Excise Tax Regulations.

(ii) In § 4(h)(6)(ii), “_____ other nontaxable use (Describe nontaxable use)

_____,” is added to the waiver immediately before the last item in the list of possible uses of the aviation-grade kerosene to which the waiver relates.

(c) *Gasoline; claims by registered ultimate vendors.* In § 7(a)(1)(ii), first sentence, the language “based on a price that excludes the tax” is removed and “based on a price that includes the tax” is added in its place.

Section 4. EFFECT ON OTHER DOCUMENTS

Notice 2005–4 is modified as described in §§ 2 and 3 of this notice.

Section 5. EFFECTIVE DATE

This notice is effective January 1, 2005, the effective date of Notice 2005–4.

Section 6. DRAFTING INFORMATION

The principal authors of this notice are Susan Athy and Deborah Karet of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, please contact Ms. Karet (concerning avi-

ation-grade kerosene) or Ms. Athy (concerning all other issues) at (202) 622–3130 (not a toll-free call).

Weighted Average Interest Rates Update

Notice 2005–26

This notice provides guidance as to the corporate bond weighted average interest rate and the permissible range of interest rates specified under § 412(b)(5)(B)(ii)(II) of the Internal Revenue Code. In addition, it provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II), and the weighted average interest rate and permissible ranges of interest rates based on the 30-year Treasury securities rate.

CORPORATE BOND WEIGHTED AVERAGE INTEREST RATE

Sections 412(b)(5)(B)(ii) and 412(l)(7)(C)(i), as amended by the Pension Funding Equity Act of 2004, provide that the interest rates used to calculate current

liability and to determine the required contribution under § 412(l) for plan years beginning in 2004 or 2005 must be within a permissible range based on the weighted average of the rates of interest on amounts invested conservatively in long term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year.

Notice 2004–34, 2004–18 I.R.B. 848, provides guidelines for determining the corporate bond weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability. That notice establishes that the corporate bond weighted average is based on the monthly composite corporate bond rate derived from designated corporate bond indices.

The composite corporate bond rate for February 2005 is 5.36 percent. Pursuant to Notice 2004–34, the Service has determined this rate as the average of the monthly yields for the included corporate bond indices for that month.

The following corporate bond weighted average interest rate was determined for plan years beginning in the month shown below.

Month	For Plan Years Beginning in:	Year	Corporate Bond Weighted Average	90% to 100% Permissible Range
March		2005	6.03	5.43 to 6.03

30-YEAR TREASURY SECURITIES WEIGHTED AVERAGE INTEREST RATE

Section 417(e)(3)(A)(ii)(II) defines the applicable interest rate, which must be used for purposes of determining the minimum present value of a participant’s benefit under § 417(e)(1) and (2), as the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe. Section 1.417(e)–1(d)(3) of the Income

Tax Regulations provides that the applicable interest rate for a month is the annual interest rate on 30-year Treasury securities as specified by the Commissioner for that month in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin.

Section 404(a)(1) of the Code, as amended by the Pension Funding Equity Act of 2004, permits an employer to elect to disregard subclause (II) of § 412(b)(5)(B)(ii) to determine the max-

imum amount of the deduction allowed under § 404(a)(1).

The rate of interest on 30-year Treasury securities for February 2005 is 4.55 percent. Pursuant to Notice 2002–26, 2002–1 C.B. 743, the Service has determined this rate as the monthly average of the daily determination of yield on the 30-year Treasury bond maturing in February 2031.

The following 30-year Treasury rates were determined for the plan years beginning in the month shown below.

For Plan Years Beginning in:		30-Year Treasury Weighted Average	90% to 105% Permissible Range	90% to 110% Permissible Range
Month	Year			
March	2005	5.06	4.55 to 5.31	4.55 to 5.57

Drafting Information

The principal authors of this notice are Paul Stern and Tony Montanaro of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500 (a toll-free number), between the hours of 8:00 a.m. and 6:30 p.m. Eastern time, Monday through Friday. Mr. Stern may be reached at 1-202-283-9703. Mr. Montanaro may be reached at 1-202-283-9714. The telephone numbers in the preceding sentences are not toll-free.

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.

(Also: Part I, §§ 280F; 1.280F-7.)

Rev. Proc. 2005-13

SECTION 1. PURPOSE

01. This revenue procedure provides: (1) limitations on depreciation deductions for owners of passenger automobiles first placed in service by the taxpayer during calendar year 2005, including special tables of limitations on depreciation deductions for trucks and vans, and for passenger automobiles designed to be propelled primarily by electricity and built by an original equipment manufacturer (electric automobiles); and (2) the amounts to be included in income by lessees of passenger automobiles first leased by the taxpayer during calendar year 2005, including a separate table of inclusion amounts for lessees of trucks and vans, and a separate table for lessees of electric automobiles.

02. The tables detailing these depreciation limitations and lessee inclusion amounts reflect the automobile price inflation adjustments required by § 280F(d)(7).

SECTION 2. BACKGROUND

01. For owners of passenger automobiles, § 280F(a) imposes dollar limitations on the depreciation deduction for the year that the passenger automobile is placed in service by the taxpayer and each succeeding year. In the case of electric automobiles placed in service after August 5, 1997, and before January 1, 2007, § 280F(a)(1)(C) requires tripling of these limitation amounts. Section 280F(d)(7) requires the amounts allowable as depreciation deductions to be increased by a price inflation adjustment amount for passenger automobiles placed in service after 1988. The method of calculating this price inflation amount for trucks and vans placed in service in or after calendar year 2003 uses a different CPI "automobile component" (the "new trucks" component) than that used in the price inflation amount calculation for other passenger automobiles (the "new cars" component), resulting in somewhat higher depreciation deductions for trucks and vans. This change reflects the higher rate of price inflation that trucks and vans have been subject to since 1988. For purposes of this revenue procedure, the term "trucks and vans" refers to passenger automobiles that are built on a truck chassis, including minivans and sport utility vehicles (SUVs) that are built on a truck chassis.

02. For leased passenger automobiles, § 280F(c) requires a reduction in the deduction allowed to the lessee of the passenger automobile. The reduction must be substantially equivalent to the limitations on the depreciation deductions imposed on owners of passenger automobiles. Under § 1.280F-7(a), this reduction requires the lessees to include in gross income an inclusion amount determined by applying a formula to the amount obtained from a table. There is a table for lessees of electric automobiles, a table for lessees of trucks and vans, and a table for all other passenger automobiles. Each table shows inclusion amounts for a range of fair market values

for each tax year after the passenger automobile is first leased.

SECTION 3. SCOPE

01. The limitations on depreciation deductions in section 4.02(2) of this revenue procedure apply to passenger automobiles (other than leased passenger automobiles) that are placed in service by the taxpayer in calendar year 2005, and continue to apply for each tax year that the passenger automobile remains in service.

02. The tables in section 4.03 of this revenue procedure apply to leased passenger automobiles for which the lease term begins during calendar year 2005. Lessees of such passenger automobiles must use these tables to determine the inclusion amount for each tax year during which the passenger automobile is leased. See Rev. Proc. 2002-14, 2002-1 C.B. 450, for passenger automobiles first leased before January 1, 2003, Rev. Proc. 2003-75, 2003-2 C.B. 1018, for passenger automobiles first leased during calendar year 2003, and Rev. Proc. 2004-20, 2004-1 C.B. 642, for passenger automobiles first leased during calendar year 2004.

SECTION 4. APPLICATION

01. In General.

(1) Limitations on Depreciation Deductions for Certain Automobiles. The limitations on depreciation deductions for passenger automobiles placed in service by the taxpayer for the first time during calendar year 2005 are found in Tables 1 through 3 in section 4.02(2) of this revenue procedure. Table 1 of this revenue procedure provides limitations on depreciation deductions for a passenger automobile. Table 2 of this revenue procedure provides limitations on depreciation deductions for a truck or van. Table 3 of this revenue procedure provides limitations on depreciation deductions for an electric automobile.

(2) Inclusions in Income of Lessees of Passenger Automobiles. A taxpayer first

leasing a passenger automobile during calendar year 2005 must determine the inclusion amount that is added to gross income using the tables in section 4.03 of this revenue procedure. The inclusion amount is determined using Table 4 in the case of a passenger automobile (other than a truck, van, or electric automobile), Table 5 in the case of a truck or van, and Table 6 in the case of an electric automobile. In addition, the procedures of § 1.280F-7(a) must be followed.

02. Limitations on Depreciation Deductions for Certain Automobiles.

(1) Amount of the Inflation Adjustment. Under § 280F(d)(7)(B)(i), the automobile price inflation adjustment for any calendar year is the percentage (if any) by which the CPI automobile component for October of the preceding calendar year exceeds the CPI automobile component for October 1987. The term "CPI automobile component" is defined in § 280F(d)(7)(B)(ii) as the "automobile component" of the Consumer Price Index for all Urban Consumers published by the Department of Labor (the CPI). The new car component of the CPI was 115.2 for October 1987 and 133.0 for October 2004. The October 2004 index exceeded the October 1987 index by 17.8. The Service has,

therefore, determined that the automobile price inflation adjustment for 2005 for passenger automobiles (other than trucks and vans) is 15.45 percent ($17.8/115.2 \times 100\%$). This adjustment is applicable to all passenger automobiles (other than trucks and vans) that are first placed in service in calendar year 2005. The dollar limitations in § 280F(a) must therefore be multiplied by a factor of 0.1545, and the resulting increases, after rounding to the nearest \$100, are added to the 1988 limitations to give the depreciation limitations applicable to passenger automobiles (other than trucks, vans, and electric automobiles) for calendar year 2005. To determine the dollar limitations applicable to an electric automobile first placed in service during calendar year 2005, the dollar limitations in § 280F(a) are tripled in accordance with § 280F(a)(1)(C) and are then multiplied by a factor of 0.1545; the resulting increases, after rounding to the nearest \$100, are added to the tripled 1988 limitations to give the depreciation limitations for calendar year 2005. To determine the dollar limitations applicable to trucks and vans first placed in service during calendar year 2005, the new truck component of the CPI is used instead of the new car component. The new truck component

of the CPI was 112.4 for October 1987 and 143.1 for October 2004. The October 2004 index exceeded the October 1987 index by 30.7. The Service has, therefore, determined that the automobile price inflation adjustment for 2005 for trucks and vans is 27.31 percent ($30.7/112.4 \times 100\%$). This adjustment is applicable to all trucks and vans that are first placed in service in calendar year 2005. The dollar limitations in § 280F(a) must therefore be multiplied by a factor of 0.2731, and the resulting increases, after rounding to the nearest \$100, are added to the 1988 limitations to give the depreciation limitations applicable to trucks and vans.

(2) Amount of the Limitation. For passenger automobiles placed in service by the taxpayer in calendar year 2005, Tables 1 through 3 contain the dollar amount of the depreciation limitation for each tax year. Use Table 1 for passenger automobiles placed in service by the taxpayer in calendar year 2005. Use Table 2 for trucks and vans placed in service by the taxpayer in calendar year 2005. Use Table 3 for electric automobiles placed in service by the taxpayer in calendar year 2005.

REV. PROC. 2005-13 TABLE 1

DEPRECIATION LIMITATIONS FOR PASSENGER AUTOMOBILES
PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2005

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$2,960
2nd Tax Year	\$4,700
3rd Tax Year	\$2,850
Each Succeeding Year	\$1,675

REV. PROC. 2005-13 TABLE 2

DEPRECIATION LIMITATIONS FOR TRUCKS AND VANS
PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2005

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$3,260
2nd Tax Year	\$5,200
3rd Tax Year	\$3,150
Each Succeeding Year	\$1,875

REV. PROC. 2005-13 TABLE 3

DEPRECIATION LIMITATIONS FOR ELECTRIC AUTOMOBILES
PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2005

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$8,880
2nd Tax Year	\$14,200
3rd Tax Year	\$8,450
Each Succeeding Year	\$5,125

03. Inclusions in Income of Lessees of Passenger Automobiles.

The inclusion amounts for passenger automobiles first leased in calendar year 2005 are calculated under the procedures

described in § 1.280F-7(a). Lessees of passenger automobiles other than trucks, vans, and electric automobiles should use Table 4 of this revenue procedure in applying these procedures, while lessees of

trucks and vans should use Table 5 of this revenue procedure and lessees of electric automobiles should use Table 6 of this revenue procedure.

REV. PROC. 2005-13 TABLE 4

DOLLAR AMOUNTS FOR PASSENGER AUTOMOBILES
(THAT ARE NOT TRUCKS, VANS, OR ELECTRIC AUTOMOBILES)
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2005

Fair Market Value of Passenger Automobile		Tax Year During Lease				
		1st	2nd	3rd	4th	5th & Later
Over	Not Over					
\$15,200	\$15,500	3	6	9	11	13
15,500	15,800	4	9	13	17	19
15,800	16,100	5	12	18	22	26
16,100	16,400	7	15	22	27	32
16,400	16,700	8	18	27	32	39
16,700	17,000	9	21	32	38	44
17,000	17,500	11	25	38	45	52
17,500	18,000	14	30	45	54	63
18,000	18,500	16	35	52	63	73
18,500	19,000	18	40	60	72	83
19,000	19,500	20	46	67	80	94
19,500	20,000	23	50	75	90	104
20,000	20,500	25	55	82	99	115
20,500	21,000	27	61	89	108	125
21,000	21,500	30	65	97	117	135
21,500	22,000	32	70	105	125	146
22,000	23,000	35	78	116	139	161
23,000	24,000	40	88	131	156	182
24,000	25,000	44	98	146	175	202
25,000	26,000	49	108	161	192	223
26,000	27,000	54	118	175	211	244
27,000	28,000	58	128	191	228	265
28,000	29,000	63	138	205	247	285
29,000	30,000	67	149	220	264	306
30,000	31,000	72	159	234	283	326
31,000	32,000	77	168	250	300	348
32,000	33,000	81	179	265	318	367
33,000	34,000	86	189	279	336	389
34,000	35,000	90	199	295	354	409
35,000	36,000	95	209	309	372	430
36,000	37,000	99	219	325	389	451
37,000	38,000	104	229	339	408	471

REV. PROC. 2005-13 TABLE 4

DOLLAR AMOUNTS FOR PASSENGER AUTOMOBILES
(THAT ARE NOT TRUCKS, VANS, OR ELECTRIC AUTOMOBILES)
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2005

Fair Market Value of Passenger Automobile		Tax Year During Lease				
		1st	2nd	3rd	4th	5th & Later
Over	Not Over					
38,000	39,000	109	239	354	426	491
39,000	40,000	113	249	370	443	512
40,000	41,000	118	259	384	462	533
41,000	42,000	122	269	400	479	554
42,000	43,000	127	279	414	497	575
43,000	44,000	132	289	429	515	595
44,000	45,000	136	299	444	533	616
45,000	46,000	141	309	459	551	636
46,000	47,000	145	320	473	569	657
47,000	48,000	150	329	489	587	678
48,000	49,000	154	340	504	604	699
49,000	50,000	159	350	518	623	719
50,000	51,000	164	360	533	640	740
51,000	52,000	168	370	548	659	760
52,000	53,000	173	380	563	676	781
53,000	54,000	177	390	578	694	802
54,000	55,000	182	400	593	712	823
55,000	56,000	186	410	609	729	844
56,000	57,000	191	420	623	748	864
57,000	58,000	196	430	638	766	884
58,000	59,000	200	440	653	784	905
59,000	60,000	205	450	668	802	925
60,000	62,000	212	465	691	828	957
62,000	64,000	221	485	721	864	998
64,000	66,000	230	506	750	900	1,039
66,000	68,000	239	526	780	935	1,081
68,000	70,000	248	546	810	971	1,123
70,000	72,000	258	566	839	1,008	1,163
72,000	74,000	267	586	869	1,044	1,204
74,000	76,000	276	606	899	1,079	1,247
76,000	78,000	285	626	930	1,114	1,288
78,000	80,000	294	646	960	1,150	1,329
80,000	85,000	310	682	1,011	1,213	1,402
85,000	90,000	333	732	1,086	1,303	1,504
90,000	95,000	356	782	1,161	1,392	1,608
95,000	100,000	379	832	1,236	1,481	1,712
100,000	110,000	413	908	1,347	1,616	1,867
110,000	120,000	459	1,009	1,496	1,795	2,073
120,000	130,000	505	1,109	1,646	1,974	2,280
130,000	140,000	551	1,210	1,795	2,153	2,486
140,000	150,000	597	1,310	1,945	2,332	2,693
150,000	160,000	642	1,411	2,094	2,511	2,900
160,000	170,000	688	1,512	2,243	2,690	3,106
170,000	180,000	734	1,612	2,392	2,870	3,313
180,000	190,000	780	1,713	2,541	3,048	3,520
190,000	200,000	826	1,813	2,691	3,227	3,727
200,000	210,000	871	1,914	2,840	3,407	3,933
210,000	220,000	917	2,015	2,989	3,585	4,141
220,000	230,000	963	2,115	3,139	3,764	4,347
230,000	240,000	1,009	2,216	3,288	3,943	4,554
240,000	and up	1,055	2,316	3,437	4,123	4,760

REV. PROC. 2005-13 TABLE 5

DOLLAR AMOUNTS FOR TRUCKS AND VANS
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2005

Fair Market Value of Truck or Van		Tax Year During Lease				
		1st	2nd	3rd	4th	5th and Later
Over	Not Over					
\$16,700	\$17,000	3	6	8	10	11
17,000	17,500	4	10	14	17	20
17,500	18,000	7	15	21	26	30
18,000	18,500	9	20	29	35	40
18,500	19,000	11	25	37	43	51
19,000	19,500	14	30	44	52	61
19,500	20,000	16	35	51	62	71
20,000	20,500	18	40	59	71	81
20,500	21,000	20	45	67	79	92
21,000	21,500	23	50	74	88	103
21,500	22,000	25	55	81	98	113
22,000	23,000	28	63	92	111	129
23,000	24,000	33	73	107	129	149
24,000	25,000	38	83	122	147	169
25,000	26,000	42	93	137	165	190
26,000	27,000	47	103	152	183	210
27,000	28,000	51	113	167	201	231
28,000	29,000	56	123	182	218	253
29,000	30,000	60	133	197	237	272
30,000	31,000	65	143	212	254	294
31,000	32,000	70	153	227	272	314
32,000	33,000	74	163	242	290	335
33,000	34,000	79	173	257	308	355
34,000	35,000	83	184	271	326	376
35,000	36,000	88	193	287	344	397
36,000	37,000	93	203	302	361	418
37,000	38,000	97	214	316	380	438
38,000	39,000	102	223	332	397	459
39,000	40,000	106	234	346	415	480
40,000	41,000	111	244	361	433	500
41,000	42,000	115	254	376	451	521
42,000	43,000	120	264	391	469	542
43,000	44,000	125	274	406	487	562
44,000	45,000	129	284	421	505	583
45,000	46,000	134	294	436	523	603
46,000	47,000	138	304	451	541	624
47,000	48,000	143	314	466	558	645
48,000	49,000	148	324	481	576	666
49,000	50,000	152	334	496	594	687
50,000	51,000	157	344	511	612	707
51,000	52,000	161	355	525	630	728
52,000	53,000	166	364	541	648	748
53,000	54,000	170	375	555	666	769
54,000	55,000	175	385	570	684	789
55,000	56,000	180	394	586	701	811
56,000	57,000	184	405	600	720	830
57,000	58,000	189	415	615	737	852
58,000	59,000	193	425	630	755	873
59,000	60,000	198	435	645	773	893
60,000	62,000	205	450	667	800	924
62,000	64,000	214	470	697	836	966
64,000	66,000	223	490	727	872	1,007
66,000	68,000	232	510	757	908	1,048
68,000	70,000	241	531	786	944	1,089
70,000	72,000	251	550	817	979	1,131

REV. PROC. 2005-13 TABLE 5

DOLLAR AMOUNTS FOR TRUCKS AND VANS
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2005

Fair Market Value of Truck or Van		Tax Year During Lease				
Over	Not Over	1st	2nd	3rd	4th	5th and Later
72,000	74,000	260	571	846	1,015	1,172
74,000	76,000	269	591	876	1,051	1,213
76,000	78,000	278	611	906	1,087	1,254
78,000	80,000	287	631	936	1,123	1,296
80,000	85,000	303	666	989	1,185	1,368
85,000	90,000	326	717	1,063	1,274	1,472
90,000	95,000	349	767	1,137	1,365	1,575
95,000	100,000	372	817	1,212	1,454	1,678
100,000	110,000	406	893	1,324	1,588	1,833
110,000	120,000	452	993	1,474	1,767	2,040
120,000	130,000	498	1,094	1,623	1,945	2,247
130,000	140,000	544	1,194	1,772	2,125	2,454
140,000	150,000	590	1,295	1,921	2,304	2,660
150,000	160,000	636	1,395	2,071	2,483	2,867
160,000	170,000	681	1,496	2,220	2,662	3,074
170,000	180,000	727	1,597	2,369	2,841	3,281
180,000	190,000	773	1,697	2,519	3,020	3,487
190,000	200,000	819	1,798	2,668	3,199	3,694
200,000	210,000	865	1,898	2,817	3,379	3,900
210,000	220,000	910	1,999	2,967	3,557	4,107
220,000	230,000	956	2,100	3,115	3,737	4,314
230,000	240,000	1,002	2,200	3,265	3,916	4,520
240,000	and up	1,048	2,301	3,414	4,094	4,728

REV. PROC. 2005-13 TABLE 6

DOLLAR AMOUNTS FOR ELECTRIC AUTOMOBILES
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2005

Fair Market Value of Electric Automobile		Tax Year During Lease				
Over	Not Over	1st	2nd	3rd	4th	5th and Later
\$45,000	\$46,000	5	11	18	21	25
46,000	47,000	10	21	33	39	45
47,000	48,000	14	31	48	57	66
48,000	49,000	19	41	63	75	86
49,000	50,000	23	52	77	93	107
50,000	51,000	28	61	93	111	127
51,000	52,000	33	71	108	129	148
52,000	53,000	37	82	122	147	169
53,000	54,000	42	92	137	164	190
54,000	55,000	46	102	152	183	210
55,000	56,000	51	112	167	200	231
56,000	57,000	55	122	182	218	252
57,000	58,000	60	132	197	236	272
58,000	59,000	65	142	212	254	293
59,000	60,000	69	152	227	272	314
60,000	62,000	76	167	250	298	345
62,000	64,000	85	187	280	334	386
64,000	66,000	94	208	309	370	427
66,000	68,000	104	227	339	406	469
68,000	70,000	113	247	369	442	510
70,000	72,000	122	268	398	478	551
72,000	74,000	131	288	428	514	593

REV. PROC. 2005-13 TABLE 6

DOLLAR AMOUNTS FOR ELECTRIC AUTOMOBILES
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2005

Fair Market Value of Electric Automobile		Tax Year During Lease				
		1st	2nd	3rd	4th	5th and Later
Over	Not Over					
74,000	76,000	140	308	458	550	634
76,000	78,000	149	328	489	585	675
78,000	80,000	159	348	518	621	717
80,000	85,000	175	383	571	683	789
85,000	90,000	197	434	645	773	892
90,000	95,000	220	484	720	863	995
95,000	100,000	243	534	795	952	1,099
100,000	110,000	278	610	906	1,086	1,254
110,000	120,000	323	711	1,055	1,266	1,460
120,000	130,000	369	811	1,205	1,444	1,668
130,000	140,000	415	912	1,354	1,623	1,874
140,000	150,000	461	1,012	1,504	1,802	2,081
150,000	160,000	507	1,113	1,652	1,982	2,287
160,000	170,000	553	1,213	1,802	2,161	2,494
170,000	180,000	598	1,314	1,951	2,340	2,701
180,000	190,000	644	1,415	2,100	2,519	2,908
190,000	200,000	690	1,515	2,250	2,698	3,114
200,000	210,000	736	1,616	2,399	2,877	3,321
210,000	220,000	782	1,716	2,549	3,055	3,528
220,000	230,000	827	1,817	2,698	3,235	3,734
230,000	240,000	873	1,918	2,847	3,413	3,942
240,000	and up	919	2,018	2,997	3,592	4,148

SECTION 5. EFFECTIVE DATE

This revenue procedure applies to passenger automobiles (other than leased passenger automobiles) that are first placed in service by the taxpayer during calendar year 2005, and to leased passenger automobiles that are first leased by the taxpayer during calendar year 2005.

SECTION 6. DRAFTING
INFORMATION

The principal author of this revenue procedure is Bernard P. Harvey of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding the depreciation limitations and lessee inclusion

amounts in this revenue procedure, contact Bernard P. Harvey at (202) 622-3110 (not a toll-free call).

Part IV. Items of General Interest

Announcement of Disciplinary Actions Involving Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries — Suspensions, Censures, Disbarments, and Resignations

Announcement 2005-15

Under Title 31, Code of Federal Regulations, Part 10, attorneys, certified public accountants, enrolled agents, and enrolled actuaries may not accept assistance from, or assist, any person who is under disbarment or suspension from practice before the Internal Revenue Service if the assistance relates to a matter constituting practice before the Internal Revenue Service and may not knowingly aid or abet another

person to practice before the Internal Revenue Service during a period of suspension, disbarment, or ineligibility of such other person.

To enable attorneys, certified public accountants, enrolled agents, and enrolled actuaries to identify persons to whom these restrictions apply, the Director, Office of Professional Responsibility, will announce in the Internal Revenue Bulletin

their names, their city and state, their professional designation, the effective date of disciplinary action, and the period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks.

Consent Disbarments From Practice Before the Internal Revenue Service

Under Title 31, Code of Federal Regulations, Part 10, an attorney, certified public accountant, enrolled agent, or enrolled actuary, in order to avoid institution or conclusion of a proceeding for his or her disbarment or suspension from practice be-

fore the Internal Revenue Service, may offer his or her consent to disbarment from such practice. The Director, Office of Professional Responsibility, in his discretion, may disbar an attorney, certified public ac-

countant, enrolled agent or enrolled actuary in accordance with the consent offered.

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

Name	Address	Designation	Date of Disbarment
O'Connell, Anthony G.	Revere, MA	CPA	Indefinite from January 5, 2005

Suspensions From Practice Before the Internal Revenue Service After Notice and an Opportunity for a Proceeding

Under Title 31, Code of Federal Regulations, Part 10, after notice and an opportunity for a proceeding before an ad-

ministrative law judge, the following individuals have been placed under suspension

from practice before the Internal Revenue Service:

Name	Address	Designation	Effective Date
McCarthy III, William P.	Sacramento, CA	Enrolled Agent	September 12, 2004 to March 10, 2006
Deen, Mae T.	Salinas, CA	Enrolled Agent	October 18, 2004 to April 16, 2006
Adams Jr., Joseph T.	Philadelphia, PA	Enrolled Agent	December 1, 2004 to May 29, 2006

Consent Suspensions From Practice Before the Internal Revenue Service

Under Title 31, Code of Federal Regulations, Part 10, an attorney, certified public accountant, enrolled agent, or enrolled actuary, in order to avoid institution or conclusion of a proceeding for his or her disbarment or suspension from practice be-

fore the Internal Revenue Service, may offer his or her consent to suspension from such practice. The Director, Office of Professional Responsibility, in his discretion, may suspend an attorney, certified public

accountant, enrolled agent or enrolled actuary in accordance with the consent offered.

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

Name	Address	Designation	Date of Suspension
Cornelius, Gerald K.	Ventura, CA	Enrolled Agent	Indefinite from September 15, 2004
Janus, Stephen E.	Michigan City, IN	CPA	Indefinite from October 25, 2004
Arotzky, Marvin A.	New Haven, CT	CPA	Indefinite from December 1, 2004
Penta, Richard	Hamilton, MA	CPA	Indefinite from January 1, 2005

Name	Address	Designation	Date of Suspension
Bedell, Michael F.	Ridge, NY	CPA	Indefinite from January 7, 2005
Nussbaum, Jerrold	Annapolis, MD	Attorney	Indefinite from April 15, 2005

Expedited Suspensions From Practice Before the Internal Revenue Service

Under Title 31, Code of Federal Regulations, Part 10, the Director, Office of Professional Responsibility, is authorized to immediately suspend from practice before the Internal Revenue Service any practitioner who, within five years from the date

the expedited proceeding is instituted (1) has had a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause or (2) has been convicted of certain crimes.

The following individuals have been placed under suspension from practice before the Internal Revenue Service by virtue of the expedited proceeding provisions:

Name	Address	Designation	Date of Suspension
Whitworth, Douglas D.	Houston, TX	CPA	Indefinite from October 28, 2004
Lindberg, William D.	Costa Mesa, CA	CPA	Indefinite from November 4, 2004
Tompkins, Thomas M.	Chickasaw, AL	Attorney	Indefinite from November 4, 2004
Peterson Jr., Theodore E	Charlotte, NC	CPA	Indefinite from November 4, 2004
Gassiott, William E.	Cypress, TX	CPA	Indefinite from November 4, 2004
Wagar Jr., John E.	Lafayette, LA	Attorney	Indefinite from November 9, 2004
Fiore, Owen G.	Kooskia, ID	Attorney	Indefinite from November 30, 2004
O'Keefe, Michael H.	Beaumont, TX	Attorney	Indefinite from November 30, 2004
Ivker, Richard N.	Waltham, MA	Attorney	Indefinite from November 30, 2004

Name	Address	Designation	Date of Suspension
Jones, Edwin A.	Robards, KY	Attorney	Indefinite from November 30, 2004
Landis, John C.	Drexel Hill, PA	Attorney	Indefinite from November 30, 2004
Cushman, Christopher A.	Kansas City, MO	Attorney	Indefinite from November 30, 2004
Weiner, Alan S.	Rockville, MD	Attorney	Indefinite from November 30, 2004
Virdone, Peter P.	Kailua, HI	CPA	Indefinite from November 30, 2004
Doherty, Paul M.	N. Billerica, MA	Attorney	Indefinite from December 3, 2004
Carney, Kevin F.	Woburn, MA	Attorney	Indefinite from December 3, 2004
Greiner, Thomas	Cleveland, OH	Attorney	Indefinite from December 8, 2004
Wertis, Richard L.	Garden City, NY	Attorney	Indefinite from December 10, 2004
Southerland, Harry L.	Raeford, NC	Attorney	Indefinite from December 10, 2004
Chestnutt, A. Johnson	Fayetteville, NC	CPA	Indefinite from December 13, 2004
Heald, Arthur A.	Saint Albans, VT	Attorney	Indefinite from December 10, 2004
Culliton, James M.	Santa Clarita, CA	Attorney	Indefinite from December 15, 2004
Juarez, Michael G.	Douglas, AZ	Attorney	Indefinite from December 15, 2004
Clark, Carroll A.	Mesa, AZ	Attorney	Indefinite from December 15, 2004

Name	Address	Designation	Date of Suspension
Creque, George A	Willow Springs, CA	Attorney	Indefinite from December 15, 2004
Younts, Roger W.	Lexington, NC	CPA	Indefinite from December 15, 2004
Kluge, David R.	Sheridan, OR	Attorney	Indefinite from December 15, 2004
Fanaras, Andrew R.	Haverhill, MA	Attorney	Indefinite from December 15, 2004
Murphy, Patrick B.	Alhambra, CA	Attorney	Indefinite from December 20, 2004
Mills, Stuart B.	Pender, NE	Attorney	Indefinite from December 20, 2004
North, Gerald D.W.	Chicago, IL	Attorney	Indefinite from December 20, 2004
Nickel, Warren J.	Tinley Park, IL	Attorney	Indefinite from December 20, 2004
Gray, Douglas C.	Dover, NH	Attorney	Indefinite from December 20, 2004
Emmons, Kyle D.	Columbia, MO	Attorney	Indefinite from December 20, 2004
Velella, Guy J.	Bronx, NY	Attorney	Indefinite from December 30, 2004
Ginn, Jeffrey S.	Lexington, KY	CPA	Indefinite from January 25, 2005
Grenrod Jr., Bernard	West Monroe, LA	Attorney	Indefinite from January 25, 2005
Tehin Jr., Nikolai	San Francisco, CA	Attorney	Indefinite from January 25, 2005
Kemper, Morris B.	Alameda, CA	Attorney	Indefinite from January 25, 2005
Harrison, John S.	Oakland, CA	Attorney	Indefinite from January 25, 2005

Name	Address	Designation	Date of Suspension
Mangurten, Irvin B.	Buffalo Grove, IL	CPA	Indefinite from January 27, 2005
Zivin, Mitchell W.	Long Grove, IL	Attorney	Indefinite from February 7, 2005
Zdon, John N.	Chicago, IL	Attorney	Indefinite from February 7, 2005
Lokietz, David S.	Mount Dora, FL	CPA	Indefinite from February 7, 2005
Heldrich Jr., Gerard C.	Lincolnshire, IL	Attorney	Indefinite from February 7, 2005
Whitaker, Paul M.	Albany, NY	Attorney	Indefinite from February 18, 2005
Blake, Linda D.	Bellvale, NY	Attorney	Indefinite from February 18, 2005
Smith, H. Paul	San Antonio, TX	Attorney	Indefinite from February 18, 2005
Atwood, Adina A.	Ardmore, OK	Attorney	Indefinite from February 18, 2005
Sablone Jr., Francis R.	Old Lyme, CT	Attorney	Indefinite from February 18, 2005
Phelps, S. Don	Olympia, WA	Attorney	Indefinite from February 18, 2005
Davidson, Frazier	Bronx, NY	Attorney	Indefinite from February 18, 2005

Censure Issued by Consent

Under Title 31, Code of Federal Regulations, Part 10, in lieu of a proceeding being instituted or continued, an attorney, certified public accountant, enrolled agent,

or enrolled actuary, may offer his or her consent to the issuance of a censure. Censure is a public reprimand.

The following individuals have consented to the issuance of a Censure:

Name	Address	Designation	Date of Censure
Dorris, Virginia A.	Bradenton, FL	Enrolled Agent	December 14, 2004
Mackey, Glen N.	Roanoke, VA	Attorney	December 21, 2004

Foundations Status of Certain Organizations

Announcement 2005–20

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

Former Public Charities. The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations:

11th Hour Dance Company, Napa, CA
 223 Freedom and Mutual Aid Center, Portland, OR
 5400 Justine Block Club, Chicago, IL
 14000 Environmental Management Foundation, Los Angeles, CA
 Academics Through Athletics Foundation, Westlake Village, CA
 Actors Theatre of Minneapolis Foundation, Fort Myers, FL
 Aesthetica Community Services, Inc., Honolulu, HI

African American Communiversal Project, Country Club Hills, IL
 African American Women Against Aids, Duncanville, TX
 Agape Care Foundation, Inc., Los Angeles, CA
 Agricultural Access, Ventura, CA
 All-For-One JHD Public Advocates of Florida, Inc., Cape Coral, FL
 Aloha Lokahi Association, Pahoa, HI
 American Armenian Cultural Foundation, Glendale, CA
 American Bobsled Club, Salt Lake City, UT
 American Budget and Credit Counseling, Inc., New Orleans, LA
 American Health Awareness Team, Inc., Santa Monica, CA
 American Health Ministries, Los Angeles, CA
 American Paddlesport Association, Inc., New York, NY
 Angels of Mercy, Las Vegas, NV
 Annete M. Cutter Aviation Scholarship Fund, La Verne, CA
 Anomalous Phenomena Research Center, Ltd., New York, NY
 Anthropology Channel, Inc., Los Angeles, CA
 Apple of His Eye, Los Angeles, CA
 Arbor Lakes Senior Housing, St. Paul, MN
 Arizona Family Assistance Fund, Scottsdale, AZ
 Arroyo Vista Resident Council, Inc., Dublin, CA
 Asialink Foundation, Oakland, CA
 Association of Latinos With Asthma and Allergy Symptoms, Los Angeles, CA
 AWAA-TE Productions, San Francisco, CA

Axios Institute, Mount Jackson, VA
 Basic Instructions in Building Living & Empowerment, Los Angeles, CA
 Bay Area Genesis Company, Fremont, CA
 Bay Area Youth Sports, Inc., Castro Valley, CA
 Bell Gardens Youth Football and Cheer Association, Bell Gardens, CA
 Benefits Management Corporation, Citrus Heights, CA
 Benevolent & Protective Order of Elks Scholarship Assn. 317, Port Townsend, WA
 Beulah Hubbard Community and Development Club, Inc., Union, MS
 Beverly Hills Pact, Los Angeles, CA
 Biblical Arts Masterworks, Torrance, CA
 Birch Community Service, Inc., Gardena, CA
 Bircher Community Service, Inc., Inglewood, CA
 Birthwright Foundation, Palmdale, CA
 Blessed Enterprises, Inc., Spring, TX
 Brian K. Shaw Foundation, Los Angeles, CA
 Bridge Street Development Corporation, Paterson, NJ
 Broken Angel Animal Rescue, Beverly Hills, CA
 Building A Better World Foundation, Inc., Warner Robins, GA
 California Association of Drug Court Professionals, Los Angeles, CA
 California Basketball Officials Association - South Bay Unit, Redondo Beach, CA
 California-Beijing International Cultural Study Society, Alhambra, CA
 California Co-Housing Corporation, Oakland, CA

California Conductive Education Foundation, Beverly Hills, CA
 California Overeaters Anonymous — How Intergroup, Los Angeles, CA
 Carrington Foundation for Public Art, Fairfield, CA
 Caspers Park Preservation Foundation, Irvine, CA
 Celebration of Texas Independence Day, Inc., Austin, TX
 Center for Academic Research and Programs for International Universities in Germany, Westerville, OH
 Center for Achievement Motivation and Physical Development, Inc., Woodland Hills, CA
 Center for Adolescent Stress On-Line, Inc., Santa Monica, CA
 Center for Caring Education, Portland, ME
 Center for Family Life at Spiritwind, Inc., Rochester, NY
 Children Center for Creative Development, Diamond Bar, CA
 Childrens Cancer Awareness Projects, Chino Hills, CA
 Childrens Cast a Line Foundation, Woodland Hills, CA
 Chinese American Bilingual Education Alliance, Incorporated, San Francisco, CA
 Chinese American Civil Rights Organization, Monterey, CA
 Christian Leadership Exchange, Inc., Arcadia, CA
 Christian Research Child Care Association, Lancaster, CA
 Come and Dine Ministries, Inc., Adelphi, MD
 Comite De Beneficencia Guatemalteco, Los Angeles, CA
 Community Education Resources for Handicapped MR MI, Dayton, OH
 Community Housing Assistance and Management Project, Houston, TX
 Community Housing Restoration, Los Angeles, CA
 Comnec, Incorporated, Inglewood, CA
 Consortium on Renewing Education, Inc., Sacramento, CA
 Cora L. Jacobs Hospice, Long Beach, CA
 Cornerstone Christian Counseling Ministries, Blaine, WA
 Creating Hopeful Opportunities Increases Children's Educational Success, Inc., Inglewood, CA
 Crest Ministries, Inc., Pensacola, FL
 Crimefight USA, Baldwin, Park, CA
 Cultural Learning Educational Organization, Los Angeles, CA
 Cumberland Housing Alliance, Inc., Cumberland, MD
 Cyber Kids Corp., Huntington Park, CA
 Daddy Loves His Girls, Inc., Memphis, TN
 Dade County Community Theater Co., Greenfield, MO
 Ddang-Keut Gospel Mission Center, Temple City, CA
 Delphic Games, Berlin, Germany
 Doin the Stuff, Yorba, CA
 Dollar Bay-Tamarack City Area Schools Foundation, Inc., Dollar Bay, MI
 Door of Hope Foundation, Whittier, CA
 Doris & Francis White Lyons Club Community Center, Woodlake, CA
 Earth Vision Foundation, Inc., Makawao, HI
 East Bay Cambodian Council, Oakland, CA
 Eastern Tradition Research Institute, Cotopaxi, CO
 Ebisoa Scholarship Fund, Inc., San Francisco, CA
 ECO Bolivia USA, Coral Gables, FL
 Edgewood Transitional Living Center, Los Angeles, CA
 Educational Center for the Prevention of Drug & Alcohol Abuse, Santa Clarita, CA
 E K T Community Development Corporation, Rocky Mount, NC
 El Shaddai Enterprises, Inc./Lamb of God Productions, Inc., Jonesboro, GA
 Eli Meleki Community Services, Inc., Houston, TX
 Elisabeth Leustig Memorial Fund, Inc., Los Angeles, CA
 Empowering, Inc., Spokane, WA
 Environmental Justice Resource Network, Los Angeles, CA
 Ephesus Outreach Ministries, Inc., Oklahoma City, OK
 Evans Community Service, Inc., Gardena, CA
 Excelsior Youth Club, Inc., San Francisco, CA
 Fair Housing Institute, Los Angeles, CA
 Faithworks of Newton County, Inc., Morocco, IN
 Families of National Tragedies, Issaquah, WA
 Father Francis Homeless Project, San Francisco, CA
 Fatow Ministries, Inc., Knoxville, TN
 Floyd County Child Abuse Prevention Council, Charles City, IA
 FM Families for Effective Autism Treatment, Fargo, ND
 Focus Institute of Film, Beverly Hills, CA
 Follow Your Heart Foundation, Malibu, CA
 Foundation for Disaster Relief, Los Angeles, CA
 Foundation for Underprivileged Youth, Oakland, CA
 Foundation for Urban Living, Altadena, CA
 Foundation of Creative Art, Culver City, CA
 Fresh Start Foundation, Inc., Hawthorne, CA
 Friends of Animal Care, Inc., Plantation, FL
 Friends of John Durkan Leukaemia Trust Fund, Inc., Boston, MA
 Friends of the Democratic Republic of Congo, Naperville, IL
 Friends of the Nature Center, Farmington, NM
 Fun Times of Lane County, Inc., Eugene, OR
 Future Opportunities, Inc., San Antonio, TX
 Gag Taggers, Inc., Los Angeles, CA
 Garland Appeal, Pittsburgh, PA
 Gift From Gabi Foundation, Inc., Hicksville, NY
 Glades Youth Panthers, Inc., Belle Glades, FL
 Global Environment Clean-up, Oakland, CA
 Global Outreach Ministries, Orange, CA
 Global Spectrum the Urban Group, La Puente, CA
 Godfrey B. Johnson Foundation, Granada Hills, CA
 Good News for You, Honolulu, HI
 Grace Christian College & Theological Seminary, Los Angeles, CA
 Grand Vision Foundation, San Pedro, CA
 Grandville's Care Home, Gainesville, FL
 Greater Austin International Coalition, Austin, TX
 Greater Los Angeles Valley Arts Council, Winnetka, CA
 H Drew Childrens Center, Inc., Oakland, CA
 H-M and E Residential Homes, Los Angeles, CA
 HA Mifgash Corporation, Los Angeles, CA
 Hanmi Christian Life, Arleta, CA

Hanmi Jonah Mission, Los Angeles, CA
 Harmony Matters Collective,
 Los Angeles, CA
 Hawaii Gymnastics Foundation, Inc.,
 Los Gatos, CA
 Hawaiian Reforestation Program,
 Kula, HI
 Help for Tomorrow, Studio City, CA
 Herstory Project, Los Angeles, CA
 Higher Calling Ministry, Inc., Dallas, TX
 Hilo Residency Training Program, Inc.,
 Hilo, HI
 Historic Core Community Development
 Corporation, Los Angeles, CA
 Hollywood Education & Literacy Project
 Boston, Inc., Dorchester, MA
 Hollywood Westside Film Commission,
 Los Angeles, CA
 Home International School, Fullerton, CA
 Hoomana Iowi, Honolulu, HI
 Hoover Seniors, Inglewood, CA
 Hope in Christ Ministries, Inc.,
 Jacksonville, FL
 Hunter Institute for the Preservation of
 Native Culture & Art, Honolulu, HI
 Imagine Tomorrow Education Foundation,
 Inc., Basking Ridge, NJ
 Imani House, Berkley, CA
 Immanuel Grace Mission Crusade,
 Garden Grove, CA
 Indian Nation Film Council,
 Los Angeles, CA
 Infrastructure Development for Education,
 Los Angeles, CA
 Inglewood Boys & Girls Club, Inc.,
 Inglewood, CA
 Insights to Success, Inc., Honolulu, HI
 Institute for Integrative and Energy
 Medicine, Cambridge, MA
 Intercontinental Transplant Center
 Foundation, Lake Forest, IL
 Interfaith Peace Fellowship,
 Los Angeles, CA
 International Consortium for Business
 and Education, Inc., Los Angeles, CA
 International Donations Foundation,
 Incorporated, Azusa, CA
 International Entrepreneur Network, Inc.,
 Lima, OH
 International Foundation of Education
 and Performing Arts, Los Angeles, CA
 International Law Foundation,
 Honolulu, HI
 International Life Saving, Sacramento, CA
 International Network for Cancer
 Treatment and Research USA, Inc.,
 New York, NY
 International Pain Research and Treatment
 Foundation, Inc., Brooklyn, NY
 Invictors W E D Corporation,
 Los Angeles, CA
 Ironworkers Local 25 Retirees Club
 Scholarship Fund, Novi, MI
 It's a Kids World, San Francisco, CA
 Jons Community Service, Inc.,
 Compton, CA
 Jubilee House, Riverside, CA
 Justice for Athletes, Los Angeles, CA
 Kahekili Terrace Resident Association,
 Wailuku, HI
 Kailua Senior Citizens Club, Kailua, HI
 Kalama Boards & Blades Association,
 Paia Maui, HI
 Kankakee Valley Park Foundation,
 Kankakee, IL
 Kapuna Laau Lapaau O Hawaii, Hilo, HI
 Kaw Valley Bluebird Association,
 Lawrence, KS
 Keauea Foundation, Kamuela, HI
 Kids International Communication
 Foundation, Valencia, CA
 Kin Awareness Foundation,
 Long Beach, CA
 King County EOC Support Team,
 Redmond, CA
 Korean American Education Foundation,
 Los Angeles, CA
 KTS Management Consultants, Inc.,
 Casselberry, FL
 Kun Shin Dancers, Saratoga, CA
 L A Youth Academy of Performing Arts,
 Culver City, CA
 La Canada Field Sports Coalition,
 La Canada, CA
 La Taillede-USA, Durham, NH
 Labor Defense Network, Los Angeles, CA
 Lake Oswego International Equestrian
 Center, Incorporated, Lake Oswego, OR
 Landfill Alternatives Save Environmental
 Resources, Newhall, CA
 Lao Senior Association, Inc.,
 Richmond, CA
 League of African American Voters,
 Oakland, CA
 Life Changes Development Corporation,
 Detroit, MI
 Life Enrichment Services, Beckley, WV
 Life Paradigms, Inc., Phoenix, AZ
 Liga Contra El Cancer USA,
 Los Angeles, CA
 Link Youth Alliance, Newport, RI
 Living Independently Through Education,
 La Crescenta, CA
 Living Ocean Foundation, Daly City, CA
 Logos Interactive, Fremont, CA
 Los Angeles Dental Society Foundation,
 Tustin, CA
 Love is for Everyone, Inc.,
 Los Angeles, CA
 Loyola State University Foundation,
 Itasca, IL
 LSE International, Inc.,
 South Pasadena, CA
 Lyre Association of North America, Inc.,
 Copake, NY
 Main Street Inglewood, Inglewood, CA
 Marcella L. Hamar Scholarship,
 Dollar Bay, MI
 Maui Music Festival, Wailuku, HI
 Maywood Lions Bob Smith Memorial
 Foundation, Anaheim, CA
 Medfly Brigade Basenji Rescue, Inc.,
 Los Angeles, CA
 Meherrin Development Corp., Inc.,
 Petersburg, VA
 Mennonite Disaster Services of Florida,
 Inc., Sarasota, FL
 Menorah Foundation, Los Angeles, CA
 Messiah Integrated Health Care, Inc.,
 Los Angeles, CA
 Metropolitan Community Charities,
 W. Hollywood, CA
 Mexican-American National
 Organization, El Macero, CA
 Mill Valley Music Festival, Inc.,
 Mill Valley, CA
 Millennium Foundation, Inc.,
 Baton Rouge, LA
 Mindmender, Inc., Douglasville, GA
 Mission Media Ministries,
 Willow Grove, PA
 Missionary Work to China Mission,
 Mar Vista, CA
 Mitchell Butler Foundation,
 Los Angeles, CA
 Moose Project, Chicago, IL
 Mountcliff Community Association,
 Los Angeles, CA
 Multicultural Education Network,
 Sherman Oaks, CA
 Multicultural Organization for
 Neighborhood Arts, Santa Monica, CA
 Na Pali Coast Ohana, Lihue Kauai, HI
 Namesail, Hilo, HI
 National Council for Taekwondo Masters
 Certification, Los Angeles, CA
 National Football League Retired Players
 Foundation, Laguna Hills, CA
 National Historic Aircraft Foundation,
 McLean, VA
 Native Hawaiian Fishermans Association,
 Honolulu, HI

Native Resources Developer, Inc.,
 Pago Pago, AS
 Nayong Pilipinas, Los Angeles, CA
 Neighborhood Foundation, Inc.,
 Inglewood, CA
 Never Forgotten, Incorporated,
 Fairfield, CA
 New Life Family & Community Service,
 Los Angeles, CA
 New Life Full Gospel Ministries,
 North Hollywood, CA
 Ngina Associates, Lynwood, CA
 Nippon Bunka Jyuku Shikibu,
 Honolulu, HI
 NOMA Foundation, Los Angeles, CA
 North Carolina State Museum of Exhibits,
 Durham, NC
 Northern California Cancer Pain Initiative,
 San Francisco, CA
 Novel Approach, Inc., Arlington, VA
 Oak Park Community Arts Groups,
 Sacramento, CA
 Oakland Point Historic Interpretive
 Center, Oakland, CA
 Omega M Corporation, Pelsor, AR
 Omega Psi Phi Fraternities Phi Beta Beta
 Charities, Inglewood, CA
 Opportunities, Inc., Milford, CT
 Organ Transplant Headquarter of
 California, Van Nuys, CA
 Papa's Ark of Safety, Inc., Atoka, OK
 Parents Union, San Dimas, CA
 Patterson Family Enrichment and
 Community Awareness Association,
 Patterson, CA
 Paul Armas Memorial, Duarte, CA
 Pedro Zamora Foundation,
 Los Angeles, CA
 Pekin Area Swim Team, Pekin, IL
 Penns Grove Historical Society,
 Penns Grove, NJ
 Peoples Legal Front, Inc., Springfield, MO
 Pomona Valley Soccer League,
 Pomona, CA
 Predators Hockey Booster Club,
 Bound Brook, NJ
 Proactive Patient, Inc., Beverly Hills, CA
 Project Renewal, Honolulu, HI
 Proverbs Housing Development, Inc.,
 New Orleans, LA
 Pulaski Enterprise Community Alliance,
 Inc., Little Rock, AR
 R W McQuarters N I T T Foundation,
 Inc., Tulsa, OK
 Ragin-Cajun Amateur Boxing Club,
 Lafayette, LA
 Reap Worldwide Ministries, Whitties, CA
 Renaissance Track Club,
 San Francisco, CA
 Resurrection of the Lord Group,
 Waipahu, HI
 Robert Gilchrist Foundation, Irvine, CA
 Robertson Boulevard Community
 Residence, Los Angeles, CA
 Rock & Roll Library, Inc., Allston, MA
 Roosevelt Park Parents Association,
 Los Angeles, CA
 Royal Hawaiian Institute for Land Mine
 Removal & Reform, Honolulu, HI
 S & S Payees, Wichita, KS
 Sacramento International Gay and Lesbian
 Film Festival, Sacramento, CA
 Samahang Silang, Los Angeles, CA
 Samaran Outreach Home for Families
 With Children, Los Angeles, CA
 San Francisco Wind Orchestras,
 Incorporated, San Francisco, CA
 Saroyan Social Services, Los Angeles, CA
 Scenic Hawaii, Inc., Honolulu, HI
 S C O P E Residential Treatment Facility
 for Abused Girls, Glendale, CA
 Second District Education & Policy
 Foundation, Burbank, CA
 Share-A-Chair, Inc., St. Cloud, MN
 Shepherds Flock, Inc., Austin, TX
 Silicon Valley Football Classic, Inc.,
 San Jose, CA
 Silicon Valley Soccer Association,
 Redwood City, CA
 Silver Creek Glider Club, Ltd.,
 New Douglas, IL
 Single Parent Family Resource Center,
 Renton, WA
 Sisters to Sisters Women's Prayer
 Ministry, Inc., St. Petersburg, FL
 Skippy Foundation,
 Lake View Terrace, CA
 S L I McLaughlin, House, Inc.,
 Woburn, MA
 South Gate Boys Basketball Association,
 Southgate, CA
 Southern Wake Community Outreach Ct,
 Raleigh, NC
 Sovereign Nations Cultural Preservation
 Center, Sawyer, MN
 St. Clair County Toys for Kids, Inc.,
 Pell City, AL
 Sunnyvale Alliance Youth Soccer League,
 Sunnyvale, CA
 Sustainable Communities, Honolulu, HI
 TCP-110, Honolulu, HI
 Technical Advancement and
 Development, Inc., El Ceritto, CA
 Themus Spencer Learning Center,
 Oakland, CA
 Three Rivers Wind Symphony,
 Incorporated, Fort Wayne, IN
 T J Striders Youth Track and Field Club,
 San Bernardino, CA
 T.J's Shelter Services & Beyond,
 Los Angeles, CA
 Troy Main Street, Maryville, IL
 T R U S T Teens Recognizing the Urgency
 of Structured Training, Desoto, TX
 Ultimate Lee Magazine, Inc.,
 Fort Myers, FL
 Unicentro Corporation, Los Angeles, CA
 United for Youth Corporation,
 Arkadelphia, AR
 United States Little League Volleyball
 Association, Santa Monica, CA
 Universal Education Center for the
 Visual and Performing Arts, Inc.,
 Sherman Oaks, CA
 Upward Mobility Association,
 Oakland, CA
 Urban Housing Program, Inc.,
 Los Angeles, CA
 Varian Fry Institute, Burbank, CA
 Vegan Aloha, Inc., Haiku, HI
 Venture West Theater Company,
 Los Angeles, CA
 Vietnamese Cultural House, Pomona, CA
 Villa Aurora Institute, Inc.,
 Pacific Palisades, CA
 Voluntary Committee of Lawyers, Inc.,
 New York, NY
 Volunteer Center of Alliance,
 Burlington, NC
 Waikoloa Recreation Association,
 Waikoloa, HI
 Waismann Foundation, Beverly Hills, CA
 Waldorf Institute of Los Angeles,
 N. Hollywood, CA
 War Prevention Institute, San Mateo, CA
 Wave Riders Against Drugs, Keaha, HI
 Waysata Boys Basketball Association,
 Plymouth, MN
 We Dream Too, Inc., Mt. Pleasant, SC
 Wellness Institute, Los Angeles, CA
 Wesley Comprehensive Health
 Specialists, Hermosa Beach, CA
 Westminster Services, Inc., Orlando, FL
 Westview Services, Anaheim, CA
 Willow Brook Institute of International
 Relations, Inc., Bethesda, MD
 Womens Community Development
 Coalition, Inc., San Francisco, CA
 Womens World Cup 1999 Organizing
 Committee, Inc., Sierra Madre, CA
 Word of Life Family Outreach Center,
 Inc., Baltimore, MD
 Working Together, Seattle, WA

World Without Litter Alliance,
Athens, OH
Worlds Light, Downey, CA
Worldwide Campus for Kids,
Brentwood, CA
Yang-Na Institute, Studio City, CA
Young Minds in Motion,
San Francisco, CA
Youth Re-Entry Program, Rodeo, CA
Youth to Youth, Freeport, ME
Yuma Orchestra Association, Yuma, AZ
Zealous Academic Computing
Organization, Pasadena, CA

If an organization listed above submits information that warrants the renewal of its classification as a public charity or as a private operating foundation, the Internal Revenue Service will issue a ruling or determination letter with the revised classification as to foundation status. Grantors and contributors may thereafter rely upon such ruling or determination letter as provided in section 1.509(a)-7 of the Income Tax Regulations. It is not the practice of the Service to announce such revised classification of foundation status in the Internal Revenue Bulletin.

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

Announcement 2005-21

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the

activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on January 24, 2005, 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.

Little League Baseball, Inc.
2321213 Schenectady LL
Schenectady, NY

Jane Withers Wonderful World
of Dolls and Teddy Bears
Studio City, CA

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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