

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 2008-34, page 76.

Law school loan repayment assistance programs. This ruling clarifies that a law school loan made under a Loan Repayment Assistance Program (LRAP) generally satisfies the requirements of section 108(f)(1) of the Code, and is a “student loan” within the meaning of section 108(f)(2).

Rev. Rul. 2008-37, page 77.

Life insurance company, statutory reserves. This ruling provides that, if a life insurance company does business in several states with different minimum reserve requirements, the amount of the company’s statutory reserves is the highest aggregate reserve amount set forth on an annual statement pursuant to the minimum reserving requirements of any state in which the company does business.

REG-101258-08, page 111.

Proposed regulations under sections 642 and 643 of the Code contain amendments providing guidance with regard to the federal tax consequences of a provision in a trust or estate that attempts to determine the tax character of amounts paid to a charitable beneficiary. A public hearing is scheduled for October 8, 2008.

Notice 2008-56, page 79.

This notice provides for the suspension of certain requirements under section 42 of the Code for low-income housing credit projects in the United States in order to provide emergency housing relief needed as a result of the devastation caused by severe storms and flooding in Indiana beginning on June 6, 2008.

Notice 2008-57, page 80.

This notice designates the China earthquake occurring in May 2008 as a qualified disaster for purposes of section 139 of the Code. The notice enables employer-sponsored private foundations to assist certain victims in areas affected by the China earthquake.

Notice 2008-58, page 81.

This notice provides for the suspension of certain requirements under section 42 of the Code for low-income housing credit projects in the United States in order to provide emergency housing relief needed as a result of the devastation caused by severe storms, tornadoes, and flooding in Iowa beginning on May 25, 2008.

Rev. Proc. 2008-32, page 82.

Specifications are set forth for the private printing of paper and laser-printed substitutes for the January 2008 revision of Form 941, *Employer’s QUARTERLY Federal Tax Return*, and the January 2006 revision of Schedule B (Form 941), *Report of Tax Liability for Semiweekly Schedule Depositors*. This procedure will be reproduced as the next revision of Publication 4436, *General Rules and Specifications for Substitute Form 941 and Schedule B (Form 941)*. Rev. Proc. 2007-42 superseded.

Rev. Proc. 2008-33, page 93.

Specifications are set forth for the private printing of paper and laser-printed substitutes for tax year 2008 Form W-2, *Wage and Tax Statement*, and Form W-3, *Transmittal of Wage and Tax Statements*. This procedure will be reproduced as the next revision of Publication 1141, *General Rules and Specifications for Substitute Forms W-2 and W-3*. Rev. Proc. 2007-43 superseded.

(Continued on the next page)

Finding Lists begin on page ii.



Announcement 2008–63, page 114.

This announcement informs taxpayers that the Service is revising, effective July 1, 2008, the optional standard mileage rates for computing the deductible costs of operating an automobile for business, medical, or moving expense purposes and for determining the reimbursed amount of these expenses that is deemed substantiated. Rev. Proc. 2007–70 modified.

EMPLOYMENT TAX**Rev. Proc. 2008–32, page 82.**

Specifications are set forth for the private printing of paper and laser-printed substitutes for the January 2008 revision of Form 941, *Employer's QUARTERLY Federal Tax Return*, and the January 2006 revision of Schedule B (Form 941), *Report of Tax Liability for Semiweekly Schedule Depositors*. This procedure will be reproduced as the next revision of Publication 4436, *General Rules and Specifications for Substitute Form 941 and Schedule B (Form 941)*. Rev. Proc. 2007–42 superseded.

Rev. Proc. 2008–33, page 93.

Specifications are set forth for the private printing of paper and laser-printed substitutes for tax year 2008 Form W-2, *Wage and Tax Statement*, and Form W-3, *Transmittal of Wage and Tax Statements*. This procedure will be reproduced as the next revision of Publication 1141, *General Rules and Specifications for Substitute Forms W-2 and W-3*. Rev. Proc. 2007–43 superseded.

ADMINISTRATIVE**Announcement 2008–64, page 114.**

This document provides notice of a public hearing on proposed regulations (REG–151135–07, 2008–16 I.R.B. 815) providing additional rules for certain multiemployer defined benefit plans that are in effect on July 16, 2006. The regulations affect sponsors and administrators of, and participants in multiemployer plans that are in either endangered or critical status. The regulations are necessary to implement the new rules set forth in section 432 that are effective for plan years beginning after 2007. The regulations reflect changes made by the Pension Protection Act of 2006. A public hearing is scheduled for July 31, 2008.

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the tax law with integrity and fairness to all.

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

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

Section 108.—Income From Discharge of Indebtedness

Law school loan repayment assistance programs. This ruling clarifies that a law school loan made under a Loan Repayment Assistance Program (LRAP) generally satisfies the requirements of section 108(f)(1) of the Code, and is a “student loan” within the meaning of section 108(f)(2).

Rev. Rul. 2008–34

ISSUE

Do the terms of a loan made under the Loan Repayment Assistance Program (LRAP) described below satisfy the requirements of § 108(f)(1) of the Internal Revenue Code, and is the LRAP loan a “student loan” within the meaning of § 108(f)(2)?

FACTS

A, an individual, attended law school and has student loan debt. Neither the loans nor the underlying loan documents addressed whether any of the indebtedness would be forgiven if A worked in a particular profession for a specified period of time.

A’s law school offers a Loan Repayment Assistance Program (LRAP) to help reduce the student loan debt of graduates who engage in public service. The LRAP is designed to encourage graduates to enter into public service in occupations or areas with unmet needs. Under the LRAP, the law school makes loans that refinance the graduates’ original student loan(s). To qualify for an LRAP loan, a graduate must work in a law-related public service position for, or under the direction of, a tax-exempt charitable organization or a governmental unit, including a position in (1) a public interest or community service organization, (2) a legal aid office or clinic, (3) a prosecutor’s office, (4) a public defender’s office, or (5) a state, local, or federal government office. The amount of the

LRAP loan is based on the graduate’s outstanding student loan debt and annual income. After the graduate works for the required period in a qualifying position, the law school will forgive all or part of the graduate’s LRAP loan.

After A graduates from law school, A signs an LRAP promissory note and accepts the terms and conditions of the law school’s LRAP loan. The LRAP loan provides that the indebtedness will be forgiven if A works for a certain minimum period of time in a qualifying law-related public service position.

LAW

Section 61(a) provides that gross income means all income from whatever source derived. Section 61(a)(12) provides that gross income includes income from the discharge of indebtedness.

Section 108(f)(1) provides that in the case of an individual, gross income does not include any amount which (but for § 108(f)) would be includible in gross income by reason of the discharge (in whole or in part) of any student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers.

Section 108(f)(2) defines “student loan” for purposes of § 108(f) to include any loan to an individual to assist the individual in attending an educational organization described in § 170(b)(1)(A)(ii) made by (A) the United States, or an instrumentality or agency thereof, (B) a State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or (C) certain tax-exempt public benefit corporations. The Taxpayer Relief Act of 1997 (1997 Act), Pub. L. 105–34, added § 108(f)(2)(D), which amended and expanded the definition of “student loan” to include loans made by the educational organizations themselves if the loans were made either:

(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The 1997 Act further amended § 108(f)(2) to provide that the term “student loan” includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) “to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph (D)(ii).”¹ The legislative history to the 1997 Act explains that, in the case of loans made or refinanced by educational organizations (and loans refinanced by certain tax-exempt organizations), the student’s work must fulfill a “public service requirement.” See H.R. Conf. Rep. No. 105–220, at 375–76 (1997).

ANALYSIS

The terms of A’s LRAP loan provide for loan forgiveness only if A works for a certain minimum period of time in a qualifying law-related public service position. This requirement is consistent with the requirement in § 108(f)(1) to work in certain professions for a certain period of time.

Additionally, the law school’s LRAP is designed to encourage its students to engage in public service in occupations or areas with unmet needs. All of the positions listed in the LRAP are for, or under the direction of, a governmental unit or a tax-exempt charitable organization. Fur-

¹ A technical correction clarified that gross income does not include amounts from the forgiveness of loans made by educational organizations and certain tax-exempt organizations to refinance any existing student loan (and not just loans made by educational organizations). See Pub. L. 105–206, § 6004(f)(1), and H. R. Rep. No. 356, 105th Cong., 1st Sess. 10 (1997).

ther, the LRAP loan was made to refinance A's original student loans. Therefore, the LRAP loan meets the definition of a "student loan" in § 108(f)(2).

HOLDING

The terms of the loan made under the LRAP satisfy the requirements of § 108(f)(1), and the LRAP loan is a "student loan" within the meaning of § 108(f)(2).

DRAFTING INFORMATION

The principal author of this revenue ruling is Craig R. Wojay of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue ruling, contact Craig R. Wojay at (202) 622-4920 (not a toll-free call).

Section 807.—Rules for Certain Reserves

Life insurance company, statutory reserves. This ruling provides that, if a life insurance company does business in several states with different minimum reserve requirements, the amount of the company's statutory reserves is the highest aggregate reserve amount set forth on an annual statement pursuant to the minimum reserving requirements of any state in which the company does business.

Rev. Rul. 2008-37

ISSUE(S)

What is the amount of a life insurance company's statutory reserves within the meaning of § 807(d)(6) if the company does business in several States with different minimum reserve requirements?

FACTS

Situation 1

IC is a life insurance company as defined in § 816(a) of the Internal Revenue Code, and is the issuer of Contract A, which is a "life insurance contract" as defined in § 7702.

IC does business in forty-five States. IC is subject to regulation under the insurance

laws of each State in which it does business. Each State has express statutory provisions, or rules and regulations promulgated in the exercise of a power conferred by statute, for determining the minimum amount of the reserves that IC is required to set aside to mature or liquidate policyholder or beneficiary claims arising from its insurance and annuity contracts.

To avoid State-by-State variations, IC actually holds and reports to each State insurance regulatory authority on its annual statement approved by the National Association of Insurance Commissioners (NAIC) the highest aggregate minimum amount of reserves required for its insurance and annuity contracts under the statutes, regulations, or rules of any State in which IC transacts business. The State insurance regulatory authorities in each State accept the amount of reserves reported on the annual statement as the amount IC has set aside to mature or liquidate policyholder or beneficiary claims arising from its insurance and annuity contracts.

On its 2007 annual statement, IC reported end-of-year aggregate reserves of \$405,955,000 with regard to items described in § 807(c). The \$405,955,000 aggregate reserves included \$9,992 of life insurance reserves with respect to Contract A.

Had IC reported on its 2007 annual statement the minimum aggregate reserves required under the statutes, regulations or rules of either the State in which IC was chartered, or the State in which Contract A was issued or delivered, IC would have reported only \$402,540,000 of end-of-year aggregate reserves with regard to the items described in § 807(c). The \$402,540,000 aggregate reserves would have included \$9,942 of life insurance reserves with respect to Contract A. The \$402,540,000 aggregate reserve amount would not have satisfied the minimum legal reserve requirements of one or more States in which IC does business.

Situation 2

The facts are the same as in Situation 1, except that on its annual statement IC reported to each State insurance regulatory authority the minimum amount of reserves required for its insurance and annuity contracts under the statutes, regula-

tions, or rules of that particular State. As in Situation 1, however, IC actually holds the highest aggregate minimum amount of reserve required for its insurance contracts under the rules of any State in which IC does business.

On its 2007 annual statement filed with and accepted by the insurance regulatory authorities in State X, which is the State in which IC is chartered, IC reported \$402,540,000 of end-of-year aggregate reserves with regard to items described in § 807(c). This amount (\$402,540,000) was the lowest amount of reserves reported by IC on the annual statement filed with and accepted by any State, and would not have satisfied the minimum legal reserve requirements of one or more States in which IC does business. The \$402,540,000 aggregate reserves included \$9,942 of life insurance reserves with respect to Contract A.

On its 2007 annual statement filed with and accepted by the insurance regulatory authorities in State Y, IC reported \$405,955,000 of end-of-year aggregate reserves with regard to items described in § 807(c). This amount (\$405,955,000) was the lowest amount of reserves that satisfied minimum requirements of State Y, which has the highest minimum reserve requirements of any of the States in which IC does business. The \$405,955,000 aggregate reserves included \$9,992 of life insurance reserves with respect to Contract A.

LAW AND ANALYSIS

In general, a life insurance company must pay tax on its life insurance company taxable income, which is defined in § 801(b) to mean life insurance gross income less life insurance deductions. Life insurance gross income is defined in § 803(a) to mean the sum of (i) premiums, (ii) net decreases in certain reserves under § 807(a), and (iii) other amounts generally included by a taxpayer in gross income. Section 805(a)(2) authorizes a deduction for the net increase in certain reserves under § 807(b).

For purposes of determining a life insurance company's income or deduction from decreases or increases in life insurance reserves, § 807(d)(1) provides that the amount of the life insurance reserves for any contract is the greater of— (i) the

contract's net surrender value, or (ii) the contract's tax reserve determined under § 807(d)(2). However, the life insurance reserves for a contract cannot exceed the amount that would be taken into account with respect to the contract in determining "statutory reserves", as defined in § 807(d)(6). Accordingly, the statutory reserves with respect to a contract operate as a limit on the amount of the contract's life insurance reserves that might otherwise be taken into account in determining a life insurance company's taxable income. Section 807(d)(1) (flush language).

Section 807(d)(6) defines "statutory reserves" to mean "the aggregate amount set forth in the annual statement with respect to items described in § 807(c)." See § 807(c)(1) (relating to "life insurance reserves" as defined in § 816(b)). Statutory reserves do not include any reserve attributable to deferred and uncollected premium if the establishment of such reserve is not permitted under § 811(c).

In Situation 1, *IC* held and reported \$405,955,000 of reserves with regard to items described in § 807(c) on its 2007 annual statement filed in each State in which *IC* does business. This amount was the highest aggregate minimum amount of reserves required under the statutes, regulations, or rules of any State in which *IC* does business. That the minimum requirements of some States in which *IC* does business would have permitted *IC* to hold and report a lower aggregate minimum amount of reserves has no effect on the determination of *IC*'s statutory reserves under § 807(d)(6). The \$405,955,000 of reserves was required to be held, was actually held, and was set forth in *IC*'s annual statement, which was filed with and accepted by the insurance regulatory authority of each State in which *IC* does business. The amount of *IC*'s "statutory re-

serves" as defined in § 807(d)(6), therefore, is \$405,955,000.

IC's \$405,955,000 of statutory reserves under § 807(d)(6) includes \$9,992 of life insurance reserves with respect to Contract A. Accordingly, \$9,992 is the amount taken into account with respect to Contract A in applying the statutory reserves limitation contained in § 807(d)(1).

In Situation 2, *IC* held and reported \$405,955,000 of reserves with regard to items described in § 807(c) on its 2007 annual statement filed with and accepted by the insurance regulatory authority in State *Y*. This amount was the minimum amount of reserves required under the statutes, regulations, or rules of State *Y*. That \$405,955,000 was larger than the amount of reserves that would have been required under the rules of State *X* has no effect on the determination of *IC*'s statutory reserves under § 807(d)(6). The \$405,955,000 of reserves was required to be held, was actually held, and was set forth in *IC*'s annual statement, which was filed with and accepted by the insurance regulatory authority in State *Y*. The amount of *IC*'s "statutory reserves" as defined in § 807(d)(6), therefore, is \$405,955,000. Cf. § 1.801-5(a) (permitting an insurance company to determine "total reserves" (as defined in § 816(c)) using the highest aggregate reserve required by any State or Territory or the District of Columbia in which the company transacts business, provided the company actually holds the reserve).

IC's \$405,955,000 of statutory reserves under § 807(d)(6) includes \$9,992 of life insurance reserves with respect to Contract A. Accordingly, \$9,992 is the amount taken into account with respect to Contract A in applying the statutory reserves limitation contained in § 807(d)(1).

HOLDING(S)

In both Situation 1 and Situation 2, the amount of *IC*'s 2007 end-of-year statutory reserves under § 807(d)(6) is \$405,955,000 — the highest aggregate reserve amount for § 807(c) items actually held and set forth on the annual statement pursuant to the minimum reserve requirements of any State in which *IC* does business.

IC's \$405,955,000 of statutory reserves under § 807(d)(6) includes \$9,992 of life insurance reserves with respect to Contract A. Accordingly, \$9,992 is the amount taken into account with respect to Contract A in applying the statutory reserves limitation contained in the flush language of § 807(d)(1).

DRAFTING INFORMATION

The principal authors of this revenue ruling are Linda Boyd and Stephen Hooe of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Linda Boyd at (202) 622-3970 or Stephen Hooe at (202) 622-3900 (not a toll-free call).

Section 816.—Life Insurance Company Defined

This revenue ruling provides that, if a life insurance company does business in several States with different minimum reserve requirements, the amount of the company's statutory reserves is the highest aggregate reserve amount set forth on an annual statement pursuant to the minimum reserving requirements of any State in which the company does business. See Rev. Rul. 2008-37, page 77.

Part III. Administrative, Procedural, and Miscellaneous

Relief From Certain Low-Income Housing Credit Requirements Due to Severe Storms and Flooding in Indiana

Notice 2008-56

The Internal Revenue Service is suspending certain requirements under § 42 of the Internal Revenue Code for low-income housing credit projects in the United States to provide emergency housing relief needed as a result of the devastation caused by severe storms and flooding in Indiana beginning on June 6, 2008. This relief is being granted pursuant to the Service's authority under § 42(n) and § 1.42-13(a) of the Income Tax Regulations.

BACKGROUND

On June 8, 2008, the President declared a major disaster for the State of Indiana. This declaration was made under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (2000 and Supp. II 2002). Subsequently, the Federal Emergency Management Agency (FEMA) designated jurisdictions for Individual Assistance. The State of Indiana has requested that the Service allow owners of low-income housing credit projects to provide temporary housing in vacant units to individuals who resided in jurisdictions designated for Individual Assistance in Indiana and who have been displaced because their residences were destroyed or damaged as a result of the devastation caused by the severe storms and flooding. Based upon this request and because of the widespread damage to housing caused by the severe storms and flooding, the Service has determined that the Indiana Housing and Community Development Authority (Authority) may provide approval to project owners to provide temporary emergency housing for displaced individuals in accordance with this notice.

I. SUSPENSION OF INCOME LIMITATIONS

The Service has determined that it is appropriate to temporarily suspend certain

income limitation requirements under § 42 for certain qualified low-income projects. The suspension will apply to low-income housing projects approved by the Authority, in which vacant units are rented to displaced individuals. The Authority will determine the appropriate period of temporary housing for each project, not to extend beyond July 31, 2009 (temporary housing period).

II. STATUS OF UNITS

A. Units in the first year of the credit period

A displaced individual temporarily occupying a unit during the first year of the credit period under § 42(f)(1) will be deemed a qualified low-income tenant for purposes of determining the project's qualified basis under § 42(c)(1), and for meeting the project's 20-50 test or 40-60 test as elected by the project owner under § 42(g)(1). After the end of the temporary housing period established by the Authority (not to extend beyond July 31, 2009), a displaced individual will no longer be deemed a qualified low-income tenant.

B. Vacant units after the first year of the credit period

During the temporary housing period established by the Authority, the status of a vacant unit (that is, market-rate or low-income for purposes of § 42 or never previously occupied) after the first year of the credit period that becomes temporarily occupied by a displaced individual remains the same as the unit's status before the displaced individual moves in. Displaced individuals temporarily occupying vacant units will not be treated as low-income tenants under § 42(i)(3)(A)(ii). However, even if it houses a displaced individual, a low-income or market rate unit that was vacant before the effective date of this notice will continue to be treated as a vacant low-income or market rate unit. Similarly, a unit that was never previously occupied before the effective date of this notice will continue to be treated as a unit that has never been previously occupied even if it houses a displaced individual. Thus, the fact that a vacant unit becomes occupied by a displaced individual will not affect the building's applicable fraction under § 42(c)(1)(B) for purposes of

determining the building's qualified basis, nor will it affect the 20-50 test or 40-60 test of § 42(g)(1). If the income of occupants in low-income units exceeds 140 percent of the applicable income limitation, the temporary occupancy of a unit by a displaced individual will not cause application of the available unit rule under § 42(g)(2)(D)(ii). In addition, the project owner is not required during the temporary housing period to make attempts to rent to low-income individuals the low-income units that house displaced individuals.

III. SUSPENSION OF NON-TRANSIENT REQUIREMENTS

The non-transient use requirement of § 42(i)(3)(B)(i) shall not apply to any unit providing temporary housing to a displaced individual during the temporary housing period determined by the Authority in accordance with section I of this notice.

IV. OTHER REQUIREMENTS

All other rules and requirements of § 42 will continue to apply during the temporary housing period established by the Authority. After the end of the temporary housing period, the applicable income limitations contained in § 42(g)(1), the available unit rule under § 42(g)(2)(D)(ii), the nontransient requirement of § 42(i)(3)(B)(i), and the requirement to make reasonable attempts to rent vacant units to low-income individuals shall resume. If a project owner offers to rent a unit to a displaced individual after the end of the temporary housing period, the displaced individual must be certified under the requirements of § 42(i)(3)(A)(ii) and § 1.42-5(b) and (c) to be a qualified low-income tenant. To qualify for the relief in this notice, the project owner must additionally meet all of the following requirements:

(1) Major Disaster Area

The displaced individual must have resided in an Indiana jurisdiction designated for Individual Assistance by FEMA as a result of the severe storms and flooding in Indiana beginning on June 6, 2008.

(2) Approval of the Indiana Housing and Community Development Authority

The project owner must obtain approval from the Authority for the relief described in this notice. The Authority will determine the appropriate period of temporary housing for each project, not to extend beyond July 31, 2009.

(3) Certifications and Recordkeeping

To comply with the requirements of § 1.42–5, project owners are required to maintain and certify certain information concerning each displaced individual temporarily housed in the project, specifically: name, address of damaged residence, social security number, and a statement signed under penalties of perjury by the displaced individual that, because of damage to the individual's residence in an Indiana jurisdiction designated for Individual Assistance by FEMA as a result of the severe storms and flooding beginning on June 6, 2008, the individual requires temporary housing. The owner must list the project on <http://www.indianahousingnow.org>.

The owner must also certify the date the displaced individual began temporary occupancy and the date the project will discontinue providing temporary housing as established by the Authority. The certifications and recordkeeping for displaced individuals must be maintained as part of the annual compliance monitoring process with the Authority.

(4) Rent Restrictions

Rents for the low-income units that house displaced individuals must not exceed the existing rent-restricted rates for the low-income units established under § 42(g)(2).

(5) Protection of Existing Tenants

Existing tenants in occupied low-income units cannot be evicted or have their tenancy terminated as a result of efforts to provide temporary housing for displaced individuals.

EFFECTIVE DATE

This notice is effective June 8, 2008 (the date of the President's major disaster declarations as a result of the severe storms and flooding in Indiana beginning on June 6, 2008).

PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and

Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–2105.

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

The collection of information in this notice is in the section titled "OTHER REQUIREMENTS" under "(3) Certifications and Recordkeeping." This information is required to enable the Service to verify whether individuals are displaced as a result of the devastation caused by severe storms and flooding in Indiana beginning on June 6, 2008, and thus warrant temporary housing in vacant low-income housing credit units. The collection of information is required to obtain a benefit. The likely respondents are individuals and businesses.

The estimated total annual recordkeeping burden is 125 hours.

The estimated annual burden per recordkeeper is approximately 15 minutes. The estimated number of recordkeepers is 500.

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

DRAFTING INFORMATION

The principal author of this notice is David Selig of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact Mr. Selig at (202) 622–3040 (not a toll free call).

China Earthquake Occurring in May 2008 Designated as a Qualified Disaster Under § 139 of the Internal Revenue Code

Notice 2008–57

This notice designates the China earthquake occurring in May 2008 as a qualified disaster for purposes of § 139 of the Internal Revenue Code.

EARTHQUAKE DISASTER

On May 12, 2008, a magnitude 7.9 earthquake with hundreds of resulting aftershocks affected a large region of China ("China earthquake"). More than 67,000 people were killed, more than 292,000 were injured, and at least 5,470,000 were displaced from their homes as a result of this disaster. *USAID China-Earthquake Fact Sheet No. 4* (May 27, 2008); *USAID China-Earthquake Fact Sheet No. 2* (May 15, 2008).

This notice enables employer-sponsored private foundations to assist certain victims in areas affected by the China earthquake and enables recipients of this assistance to exclude the relief payments from gross income.

QUALIFIED DISASTER RELIEF PAYMENTS EXCLUDED FROM RECIPIENT'S GROSS INCOME

Section 139(a) provides that gross income shall not include any amount received by an individual as a qualified disaster relief payment.

Section 139(b) provides that a qualified disaster relief payment includes any amount paid to or for the benefit of an individual—

(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses (not otherwise compensated for by insurance or otherwise) incurred as a result of a qualified disaster, or

(2) to reimburse or pay reasonable and necessary expenses (not otherwise compensated for by insurance or otherwise) incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster.

Under § 139(c)(3) the term "qualified disaster" includes a disaster resulting from an event that is determined by the Secretary to be of a catastrophic nature.

DESIGNATION AS QUALIFIED DISASTER

The Commissioner of Internal Revenue, pursuant to delegation by the Secretary, has determined that the China earthquake occurring in May 2008 is an event

of a catastrophic nature under § 139(c)(3). Therefore, the China earthquake is designated as a qualified disaster under § 139.

SECTION 501(c)(3) ORGANIZATIONS

Employer-sponsored private foundations may choose to provide disaster relief to employee victims of the China earthquake. Like all organizations described in § 501(c)(3), private foundations should exercise due diligence when providing disaster relief as set forth in Publication 3833, *Disaster Relief: Providing Assistance Through Charitable Organizations*.

DRAFTING INFORMATION

The principal author of this notice is Sheldon Iskow of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Mr. Iskow at (202) 622-4920 (not a toll-free call).

Relief From Certain Low-Income Housing Credit Requirements Due to Severe Storms, Tornadoes, and Flooding in Iowa

Notice 2008-58

The Internal Revenue Service is suspending certain requirements under § 42 of the Internal Revenue Code for low-income housing credit projects in the United States to provide emergency housing relief needed as a result of the devastation caused by severe storms, tornadoes, and flooding in Iowa beginning on May 25, 2008. This relief is being granted pursuant to the Service's authority under § 42(n) and § 1.42-13(a) of the Income Tax Regulations.

BACKGROUND

On May 27, 2008, the President declared a major disaster for the State of Iowa. This declaration was made under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (2000 and Supp. II 2002). Subsequently, the Federal Emergency Management Agency (FEMA) designated jurisdictions for Individual Assistance. The State of Iowa has requested that the

Service allow owners of low-income housing credit projects to provide temporary housing in vacant units to individuals who resided in jurisdictions designated for Individual Assistance in Iowa and who have been displaced because their residences were destroyed or damaged as a result of the devastation caused by the severe storms, tornadoes, and flooding. Based upon this request and because of the widespread damage to housing caused by the severe storms, tornadoes, and flooding, the Service has determined that the Iowa Finance Authority (Authority) may provide approval to project owners to provide temporary emergency housing for displaced individuals in accordance with this notice.

I. SUSPENSION OF INCOME LIMITATIONS

The Service has determined that it is appropriate to temporarily suspend certain income limitation requirements under § 42 for certain qualified low-income projects. The suspension will apply to low-income housing projects approved by the Authority, in which vacant units are rented to displaced individuals. The Authority will determine the appropriate period of temporary housing for each project, not to extend beyond July 31, 2009 (temporary housing period).

II. STATUS OF UNITS

A. Units in the first year of the credit period

A displaced individual temporarily occupying a unit during the first year of the credit period under § 42(f)(1) will be deemed a qualified low-income tenant for purposes of determining the project's qualified basis under § 42(c)(1), and for meeting the project's 20-50 test or 40-60 test as elected by the project owner under § 42(g)(1). After the end of the temporary housing period established by the Authority (not to extend beyond July 31, 2009), a displaced individual will no longer be deemed a qualified low-income tenant.

B. Vacant units after the first year of the credit period

During the temporary housing period established by the Authority, the status of a vacant unit (that is, market-rate or low-income for purposes of § 42 or never previously occupied) after the first year of the

credit period that becomes temporarily occupied by a displaced individual remains the same as the unit's status before the displaced individual moves in. Displaced individuals temporarily occupying vacant units will not be treated as low-income tenants under § 42(i)(3)(A)(ii). However, even if it houses a displaced individual, a low-income or market rate unit that was vacant before the effective date of this notice will continue to be treated as a vacant low-income or market rate unit. Similarly, a unit that was never previously occupied before the effective date of this notice will continue to be treated as a unit that has never been previously occupied even if it houses a displaced individual. Thus, the fact that a vacant unit becomes occupied by a displaced individual will not affect the building's applicable fraction under § 42(c)(1)(B) for purposes of determining the building's qualified basis, nor will it affect the 20-50 test or 40-60 test of § 42(g)(1). If the income of occupants in low-income units exceeds 140 percent of the applicable income limitation, the temporary occupancy of a unit by a displaced individual will not cause application of the available unit rule under § 42(g)(2)(D)(ii). In addition, the project owner is not required during the temporary housing period to make attempts to rent to low-income individuals the low-income units that house displaced individuals.

III. SUSPENSION OF NON-TRANSIENT REQUIREMENTS

The non-transient use requirement of § 42(i)(3)(B)(i) shall not apply to any unit providing temporary housing to a displaced individual during the temporary housing period determined by the Authority in accordance with section I of this notice.

IV. OTHER REQUIREMENTS

All other rules and requirements of § 42 will continue to apply during the temporary housing period established by the Authority. After the end of the temporary housing period, the applicable income limitations contained in § 42(g)(1), the available unit rule under § 42(g)(2)(D)(ii), the nontransient requirement of § 42(i)(3)(B)(i), and the requirement to make reasonable attempts

to rent vacant units to low-income individuals shall resume. If a project owner offers to rent a unit to a displaced individual after the end of the temporary housing period, the displaced individual must be certified under the requirements of § 42(i)(3)(A)(ii) and § 1.42-5(b) and (c) to be a qualified low-income tenant. To qualify for the relief in this notice, the project owner must additionally meet all of the following requirements:

(1) Major Disaster Area

The displaced individual must have resided in an Iowa jurisdiction designated for Individual Assistance by FEMA as a result of the severe storms, tornadoes, and flooding in Iowa beginning on May 25, 2008.

(2) Approval of the Iowa Finance Authority

The project owner must obtain approval from the Authority for the relief described in this notice. The Authority will determine the appropriate period of temporary housing for each project, not to extend beyond July 31, 2009.

(3) Certifications and Recordkeeping

To comply with the requirements of § 1.42-5, project owners are required to maintain and certify certain information concerning each displaced individual temporarily housed in the project, specifically: name, address of damaged residence, social security number, and a statement signed under penalties of perjury by the displaced individual that, because of damage to the individual's residence in an Iowa jurisdiction designated for Individual Assistance by FEMA as a result of the severe storms, tornadoes, and flooding beginning on May 25, 2008, the individual requires temporary housing. The owner

must notify the Authority that vacant units are available for rent to displaced individuals.

The owner must also certify the date the displaced individual began temporary occupancy and the date the project will discontinue providing temporary housing as established by the Authority. The certifications and recordkeeping for displaced individuals must be maintained as part of the annual compliance monitoring process with the Authority.

(4) Rent Restrictions

Rents for the low-income units that house displaced individuals must not exceed the existing rent-restricted rates for the low-income units established under § 42(g)(2).

(5) Protection of Existing Tenants

Existing tenants in occupied low-income units cannot be evicted or have their tenancy terminated as a result of efforts to provide temporary housing for displaced individuals.

EFFECTIVE DATE

This notice is effective May 27, 2008 (the date of the President's major disaster declarations as a result of the severe storms, tornadoes, and flooding in Iowa beginning on May 25, 2008).

PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-2106.

An Agency may not conduct or sponsor, and a person is not required to respond

to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information in this notice is in the section titled "OTHER REQUIREMENTS" under "(3) Certifications and Recordkeeping." This information is required to enable the Service to verify whether individuals are displaced as a result of the devastation caused by severe storms, tornadoes, and flooding in Iowa beginning on May 25, 2008, and thus warrant temporary housing in vacant low-income housing credit units. The collection of information is required to obtain a benefit. The likely respondents are individuals and businesses.

The estimated total annual recordkeeping burden is 125 hours.

The estimated annual burden per recordkeeper is approximately 15 minutes. The estimated number of recordkeepers is 500.

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

DRAFTING INFORMATION

The principal author of this notice is David Selig of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact Mr. Selig at (202) 622-3040 (not a toll-free call).

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

Rev. Proc. 2008-32

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Section 1 – Purpose

.01 The purpose of this publication is to provide general rules and specifications from the Internal Revenue Service (IRS) for paper and computer-generated substitutes for the January 2008 revision of Form 941, Employer’s QUARTERLY Federal Tax Return, and for the January 2006 revision of Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors.

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

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

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

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

Internal Revenue Service
 Attn: Substitute Forms Program
 SE:W:CAR:MP:T:T:SP, IR-6526
 1111 Constitution Avenue, NW
 Washington, DC 20224

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

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

.05 The six-digit form ID code (beginning 95xxxx) on Form 941 and Schedule B (Form 941) identifies the official substitute **paper** form. The six-digit form ID code (beginning 97xxxx) identifies substitute **6x10 grid** Form 941 and Schedule B (Form 941). The six-digit form ID code (beginning 99xxxx) identifies the official **IRS issued** Form 941 and Schedule B (Form 941). The last two digits of the code identify the calendar year. For example, the last two digits of ID code 970108 identify calendar year 2008.

Section 2 – What’s New

.01 There are new 6x10 grid layouts for the 2008 revision of Form 941.

.02 The room number in the address of the Substitute Forms Unit has changed to Room 6526.

.03 The Substitute Forms Unit email address has changed to Substituteforms@irs.gov instead of *taxforms@irs.gov.

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

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

- .06 We added “(or yours if self-employed)” to the firm’s name space in part 6.
- .07 We changed the wording of the second line of text for line 12 from “Follow the Instructions for Form 941-V, Payment Voucher” to “For information on how to pay, see the instructions.”
- .08 We added “to avoid a penalty” at the beginning of the Form 941-V instructions section “Making Payments With Form 941.”
- .09 We changed the wording in the “Caution” of the 941-V instructions.

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

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

- .02 Print the form on paper that is 8.5 inches wide by 11 inches deep.
- .03 Use white paper that meets generally-accepted weight, color, and quality standards (minimum 20 lb. white bond paper).

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

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

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

.06 Print using nonreflective black inks.

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

.08 Print the six-digit form ID codes in the upper right-hand corner of each form using nonreflective black, carbon-based, 12-point (minimum 10-point required) OCR-A font. Use the official paper over-the-counter IRS forms to develop your substitute paper forms. Print “950108” on page 1 of Form 941, “950208” on page 2 of Form 941, and “950306” on Schedule B (Form 941) of substitute paper forms. See Section 4 for information on form ID codes for software-generated forms.

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

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

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

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

Note. You can obtain a three-letter substitute form printer source code by requesting it by email at Substituteforms@irs.gov. Please enter “Substitute Forms” on the subject line.

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

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

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

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

.16 See Exhibits A and B in Section 8.

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

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

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

- Use “970108” for page 1 of Form 941, “970208” for page 2 of Form 941, and “970306” for Schedule B (Form 941) as the form ID codes.

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

- Place all boxes and entry spaces in the same field locations as indicated in the 6x10 grid exhibits.
- Use single lines for “Employer Identification Number” (EIN) and other entry areas in the entity section of page 1 of Form 941.

- You do not need to use reverse type as shown on the IRS official form.
- You do not need to pre-print decimal points in the data boxes. However, where the amounts are required, the amounts should be printed with decimal points and place holders for cents.
- Use a single box for “state abbreviation” in line 14 of Form 941.
- Delete the pre-printed formatting in the “date” box for line 16 and in Parts 5 and 6 of Form 941.
- Delete the pre-printed formatting in the “Phone” box in Parts 4, 5, and 6.
- Use a single box for “Personal Identification Number (PIN)” in Part 4 of Form 941.
- You may delete all shading when using the 6x10 grid format.

.03 If producing both the form and the data or the form only, print your three-letter IRS-issued form printer source code in Row 63, Columns 49-51 on page 1 of Form 941. See Section 3.11.

.04 If producing only the data on the form, print your four-digit software industry form code in Row 4, Columns 58-61 on page 1 of Form 941. See the National Association of Computerized Tax Processors (NACTP) website at www.nactp.org for information on these codes.

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

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

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

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

.09 To enable accurate scanning and processing, enter data on Form 941 and Schedule B (Form 941) as follows:

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

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

Section 5 – OMB Requirements for Substitute Forms

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

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

.02 This information must be provided to every user of official or substitute IRS forms or instructions.

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

- Any substitute form or substitute statement to a recipient must show the OMB number as it appears on the official IRS form.
- For Form 941 and Schedule B (Form 941), the OMB number (1545-0029) must appear exactly as shown on the official IRS form.

- For Form 941 and Schedule B (Form 941), the OMB number must use one of the following formats.

(1) OMB No. 1545-0029 (preferred) or

(2) OMB # 1545-0029 (acceptable).

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

Section 6 – Reproducible Copies of Forms

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

- The IRS website at www.irs.gov.

- The IRS' CD (Publication 1796).

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

Section 7 – Effect on Other Documents

.01 Revenue Procedure 2007-42, 2007-27 I.R.B. 15 (reproduced as Publication 4436, Rev. 7-2007) is superseded.

Section 8 – Exhibits

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

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

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

Exhibit A, Form 941 (Official Version)

Form 941 for 2008: Employer's QUARTERLY Federal Tax Return
(Rev. January 2008) Department of the Treasury — Internal Revenue Service

950108
OMB No. 1545-0029

(EIN) Employer identification number
Name (not your trade name)
Trade name (if any)
Address

Report for this Quarter of 2008 (Check one.)
1: January, February, March
2: April, May, June
3: July, August, September
4: October, November, December

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

Part 1: Answer these questions for this quarter.

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

2 Wages, tips, and other compensation

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

4 If no wages, tips, and other compensation are subject to social security or Medicare tax

5 Taxable social security and Medicare wages and tips:

	Column 1		Column 2
5a Taxable social security wages	▪	× .124 =	▪
5b Taxable social security tips	▪	× .124 =	▪
5c Taxable Medicare wages & tips	▪	× .029 =	▪

5d Total social security and Medicare taxes (Column 2, lines 5a + 5b + 5c = line 5d)

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

7 TAX ADJUSTMENTS (read the instructions for line 7 before completing lines 7a through 7g):

7a Current quarter's fractions of cents

7b Current quarter's sick pay

7c Current quarter's adjustments for tips and group-term life insurance

7d Current year's income tax withholding (attach Form 941c)

7e Prior quarters' social security and Medicare taxes (attach Form 941c)

7f Special additions to federal income tax (attach Form 941c)

7g Special additions to social security and Medicare (attach Form 941c)

7h TOTAL ADJUSTMENTS (combine all amounts: lines 7a through 7g)

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

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

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

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

12 Balance due (if line 10 is more than line 11, write the difference here.)
For information on how to pay, see the instructions.

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

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

Form 941 (Rev. 1-2008)

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

950208

Name (not your trade name)	Employer identification number (EIN)
----------------------------	--------------------------------------

Part 2: Tell us about your deposit schedule and tax liability for this quarter.

If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see Pub. 15 (Circular E), section 11.

14 Write the state abbreviation for the state where you made your deposits OR write "MU" if you made your deposits in *multiple* states. 9.5"

15 Check one: Line 10 is less than \$2,500. Go to Part 3.
 You were a monthly schedule depositor for the entire quarter. Fill out your tax liability for each month. Then go to Part 3.

Tax liability: Month 1 25"

Month 2 1.8"

Month 3

Total liability for quarter Total must equal line 10.

You were a semiweekly schedule depositor for any part of this quarter. Fill out Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to this form.

Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.

16 If your business has closed or you stopped paying wages Check here, and enter the final date you paid wages. 1.1"

17 If you are a seasonal employer and you do not have to file a return for every quarter of the year . . . Check here.

Part 4: May we speak with your third-party designee?

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See the instructions for details.

Yes. Designee's name and phone number 2.45" 1.6"

Select a 5-digit Personal Identification Number (PIN) to use when talking to IRS. 1.4"

No.

Part 5: Sign here. You MUST fill out both pages of this form and SIGN it.

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

X Sign your name here 3.0" Print your name here 2.0"

Date 1.1" Print your title here

Best daytime phone 1.6"

Part 6: For paid preparers only (optional)

Paid Preparer's Signature

Firm's name (or yours if self-employed)

Address EIN 1.75"

Date / / Phone () - ZIP code

SSN/PTIN

Check if you are self-employed.

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

Schedule B (Form 941):
Report of Tax Liability for Semiweekly Schedule Depositors
(Rev. January 2006) Department of the Treasury — Internal Revenue Service

OMB No. 1545-0029

950306

(EIN) Employer identification number

Name (not your trade name)

Calendar year (Also check quarter)

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

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

2.15"

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

Month 1					Tax liability for Month 1 1.7"			
1	.	9	1.3"	17		.	25	.
2	.	10		18		.	26	.
3	.25"	11		19		.	27	.
4	.	12		20		.	28	.
5	.	13		21		.	29	.
6	.	14		22		.	30	.
7	.	15		23		.	31	.
8	.	16		24		.		.
Month 2					Tax liability for Month 2 .6"			
1	.	9		17		.	25	.
2	.	10		18		.	26	.
3	.	11		19		.	27	.
4	.	12		20		6.2"	28	.
5	.	13		21		.	29	.
6	.	14		22		.	30	.
7	.	15		23		.	31	.
8	.	16		24		.		.
Month 3					Tax liability for Month 3 .			
1	.	9		17		.	25	.
2	.	10		18		.	26	.
3	.	11		19		.	27	.
4	.	12		20		.	28	.
5	.	13		21		.	29	.
6	.	14		22		.	30	.
7	.	15		23		.	31	.
8	.	16		24		.		.

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

Total liability for the quarter
1.15"

5"

For Paperwork Reduction Act Notice, see separate instructions. Schedule B (Form 941) Rev. 1-2006

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

	1	2	3	4	5	6	7	8	
1	Form 941 for 2008: Employer's QUARTERLY Federal Tax Return								970108
2	(Rev. January 2008) Department of the Treasury -- Internal Revenue Service								OMB No. 1545-0029
3	(EIN)				Report for this Quarter of 2008 (Check one.)				
4	Employer identification number				<input type="checkbox"/> 1: January, February, March				
5	Name				<input type="checkbox"/> 2: April, May, June				
6	Trade name (if any)				<input type="checkbox"/> 3: July, August, September				
7	Address				<input type="checkbox"/> 4: October, November, December				
8	Part 1: Answer these questions for this quarter.								
9	1 Number of employees who received wages, tips, or other compensation for the pay period including: Mar. 12 (Quarter 1), June 12 (Quarter 2), Sept. 12 (Quarter 3), Dec. 12 (Quarter 4)				1				
10	2 Wages, tips, and other compensation				2				
11	3 Total income tax withheld from wages, tips, and other compensation				3				
12	4 If no wages, tips, and other compensation are subject to social security or Medicare tax				<input type="checkbox"/>	Check and go to line 6.			
13	5 Taxable social security and Medicare wages and tips:								
14		Column 1			Column 2				
15	5a	Taxable social security wages			x .124 =				
16	5b	Taxable social security tips			x .124 =				
17	5c	Taxable Medicare wages & tips			x .029 =				
18	5d	Total social security and Medicare taxes (Column 2, lines 5a + 5b + 5c = line 5d)				5d			
19	6	Total taxes before adjustments (lines 3 + 5d = line 6)				6			
20	7 TAX ADJUSTMENTS (read instructions for line 7 before completing lines 7a through 7g):								
21	7a	Current quarter's fractions of cents							
22	7b	Current quarter's sick pay							
23	7c	Current quarter's adjustments for tips and group-term life insurance							
24	7d	Current year's income tax withholding (attach Form 941c)							
25	7e	Prior quarters' social security and Medicare taxes (attach Form 941c)							
26	7f	Special additions to federal income tax (attach Form 941c)							
27	7g	Special additions to social security and Medicare (attach Form 941c)							
28	7h	TOTAL ADJUSTMENTS (combine all amounts: lines 7a through 7g)				7h			
29	8	Total taxes after adjustments (combine lines 6 and 7h)				8			
30	9	Advance earned income credit (EIC) payments made to employees				9			
31	10	Total taxes after adjustment for advance EIC (line 8 - line 9 = line 10)				10			
32	11	Total deposits for this quarter, including overpayment applied from a prior quarter				11			
33	12	Balance due (If line 10 is more than line 11, enter the difference here.)				12			
34	For information on how to pay, see the instructions.								
35	13	Overpayment (If line 11 is more than line 10, enter the difference here.)							
36	For Privacy Act and Paperwork Reduction Act Notice, see the Payment Voucher. CAA Form 941 (Rev. 1-2008)					<input type="checkbox"/> Check one	<input type="checkbox"/> Apply to next return.		
37							<input type="checkbox"/> Send a refund.		

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

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Form 941 (Rev. 1-2008) Page 2

Name (not your trade name) _____ Employer identification number (EIN) _____

Part 2: Tell us about your deposit schedule and tax liability for this quarter.
If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see Pub. 15 (Circular E), section 11.

14 Enter the state abbreviation for the state where you made your deposits OR enter "MU" if you made your deposits in multiple states.

15 Check one: Line 10 is less than \$2,500. Go to Part 3.
 You were a monthly schedule depositor for the entire quarter. Fill out your tax liability for each month. Then go to Part 3.

Tax liability: Month 1 _____
Month 2 _____
Month 3 _____
Total liability for quarter _____ Total must equal line 10.

You were a semiweekly schedule depositor for any part of this quarter. Fill out Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to this form.

Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.

16 If your business has closed or you stopped paying wages Check here, and enter the final date you paid wages _____.

17 If you are a seasonal employer and you do not have to file a return for every quarter of the year Check here.

Part 4: May we speak with your third-party designee?
Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? (See instructions for details.)

Yes. Designee's name and phone number _____
Select a 5-digit Personal Identification Number (PIN) to use when talking to IRS. _____

No.

Part 5: Sign here. You MUST fill out both pages of this form and SIGN it.
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Sign your name here _____
Date _____
Print your name here _____
Print your title here _____
Best daytime phone _____

Part 6: For paid preparers only (optional)

Paid Preparer's Signature _____
Firm's name (or yours, if self-employed) _____
Address _____ EIN _____
ZIP code _____
Date _____ Phone _____ SSN/PTIN _____
 Check if you are self-employed.

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

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

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

26 CFR 601.602: Tax forms and instructions.

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

Rev. Proc. 2008-33

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Part A. General

Section 1. Purpose

.01 The purpose of this revenue procedure is to state the requirements of the Internal Revenue Service (IRS) and the Social Security Administration (SSA) regarding the preparation and use of substitute forms for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements, for wages paid during the 2008 calendar year.

.02 For purposes of this revenue procedure, substitute Form W-2 (Copy A) and substitute Form W-3 are forms that are not printed by the IRS. Copy A or any other copies of a substitute Form W-2 or a substitute Form W-3 must conform to the specifications in this revenue procedure to be acceptable to the IRS and the SSA. No IRS office is authorized to allow deviations from this revenue procedure. Preparers should also refer to the separate 2008 Instructions for Forms W-2 and W-3 for details on how to complete these forms. See Part C, Section 4, for information on obtaining the official IRS forms and instructions. See Part B, Section 2, for requirements for the copies of substitute forms furnished to employees.

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

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

Internal Revenue Service
Attn: Substitute Forms Program
SE:W:CAR:MP:T:T:SP, IR 6526
1111 Constitution Ave., NW
Washington DC 20224

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

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

Also, see Sections 3.05 and 3.06 of Part A.

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

.04 The IRS received questions concerning whether substitute employee statements containing logos, slogans, or advertising were valid employee statements. The IRS originally anticipated responding to these questions by revising the regulations. However, it has been determined that it is not necessary to amend the regulations. Instead, guidance is being provided in this revenue procedure.

In Rev. Proc. 2007-43, 2007-27 I.R.B. 26 (reprinted as Publication 1141, revised 7-2007), and Rev. Proc. 2006-55, 2006-2 C.B. 1151 (reprinted as Publication 1141, revised 12-2006), the IRS solicited comments on the inclusion of logos, slogans, or advertising on substitute employee statements. The IRS did not receive any comments in response to these solicitations.

Some Forms W-2 that include logos, slogans, and advertisements (including advertisements for tax preparation software) may be confused with questionable Forms W-2. An employee may not recognize the importance of the employee statement for tax reporting purposes due to the use of logos, slogans, and advertisements. **Thus, with the exception of the electronic tax logo (i.e., the IRS e-file logo), the IRS has determined that slogans, advertising, and other logos will not be allowed on Forms W-3, Copy A of Forms W-2, or any employee statements reporting wages paid during the 2010 calendar year, and thereafter.** The IRS e-file logo on the IRS official employee copies may be included, but it is not required, on any of the substitute form copies.

As indicated in Section 3.07 of Part A, Forms W-2 and W-3 are subject to annual review and possible change. The prohibition against including slogans, advertising, and other logos on information returns and employee statements reporting wages paid during the **2010** calendar year and thereafter is being announced at this time to provide advance notice. This revenue procedure will be revised to state other requirements of the IRS and the SSA regarding the preparation and use of substitute forms for Form W-2 and Form W-3 for wages paid during the 2010 calendar year, at a future date. If you have comments about the prohibition against including slogans, advertising, and other logos on information returns and employee statements, send your comments to: Internal Revenue Service, Attn: Substitute Forms Program, SE:W:CAR:MP:T:T:SP, IR 6526, 1111 Constitution Ave., NW, Washington, DC 20224.

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

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

- 2008 Instructions for Forms W-2 and W-3,
- Instructions for Forms W-2c and W-3c (Rev. January 2006), and
- Publication 1223, General Rules and Specifications for Substitute Forms W-2c and W-3c.

Section 2. What's New

.01 New email address. The Substitute Forms Unit email address has changed to Substituteforms@irs.gov instead of *taxforms@irs.gov.

.02 Address change. The room number in the address of the Substitute Forms Unit has changed to Room 6526.

.03 Logos, slogans, and advertising. The IRS received questions concerning whether substitute employee statements containing logos, slogans, or advertising were valid employee statements. The IRS originally anticipated responding to these questions by revising the regulations. However, it has been determined that it is not necessary to amend the regulations. Instead, guidance is being provided in this revenue procedure. See Section 1.04 of Part A.

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

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

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

Note. Substitute territorial forms (W-2AS, W-2GU, W-2VI) should also conform to the specifications as outlined in this revenue procedure. These forms require the form designation (“W-2AS,” “W-2GU,” “W-2VI”) on Copy A to be in black ink. If you are an employer in the Commonwealth of the Northern Mariana Islands, you must contact the Division of Revenue and Taxation, Capitol Hill, Saipan, MP, 96959, to get Form W-2CM and instructions for completing and filing the form. For information on Forms 499R-2/W-2PR, use this email address: <http://www.hacienda.gobierno.pr>.

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

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

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

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

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

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

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

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

Internal Revenue Service
Attn: Substitute Forms Program
SE:W:CAR:MP:T:T:SP, IR 6526
1111 Constitution Ave., NW
Washington DC 20224

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

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

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

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

.08 Separate instructions for Forms W-2 and W-3 are provided in the 2008 Instructions for Forms W-2 and W-3. Form W-3 should be used only to transmit paper Forms W-2 (Copy A). Form W-3 is a single sheet including only essential filing information. Be sure to make a copy of your completed Form W-3 for your records. Copies of the current year official IRS Forms W-2 and W-3, and the instructions for those forms, may be obtained from most IRS offices or by calling 1-800-829-3676. The IRS provides only cutsheet sets of Forms W-2 and cutsheets of Form W-3. The instructions and information copies of the forms may also be found on the IRS website at www.irs.gov.

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

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

.01 Employers must file Forms W-2 (Copy A) with the SSA electronically if they file 250 or more calendar year 2008 Forms W-2 (Copy A) during a calendar year unless the IRS granted a waiver. For details, get the 2008 Instructions for Forms W-2 and W-3. The SSA publication EFW2, Specifications for Filing Forms W-2 Electronically, contains specifications and procedures for electronic filing of Form W-2 information with the SSA. Employers are cautioned to obtain the most recent revision of EFW2 (and supplements) due to any subsequent changes in specifications and procedures.

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

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

- Writing to:

Social Security Administration
OCO, DES; Attn: Employer Reporting Services Center
300 North Greene Street
Baltimore MD 21290-0300

- Calling your local SSA Employer Services Liaison Officer (ESLO) (the ESLOs' phone numbers are available at:
www.socialsecurity.gov/employer/empcontacts.htm), or

- Calling the SSA's Employer Reporting Services staff toll-free at 1-800-772-6270.

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

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

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

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

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

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

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

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

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

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

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

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

.05 The official red-ink Form W-3 and Form W-2 (Copy A) are 7.5 inches wide. Employers filing Forms W-2 (Copy A) with the SSA on paper must also file a Form W-3. Form W-3 must be the same width (7.5 inches) as the Form W-2. One Form W-3 is printed on a standard-size, 8.5 x 11-inch page. Two official Forms W-2 (Copy A) are contained on a single 8.5 x 11-inch page (exclusive of any snap-stubs).

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

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

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

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

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

.10 Box 12 of Form W-2 (Copy A) contains four entry boxes – 12a, 12b, 12c, and 12d. Do not make more than one entry per box. Enter your first code in box 12a (for example, enter Code D in box 12a, not 12d, if it is your first entry). If more than four items need to be reported in box 12, use a second Form W-2 to report the additional items (see "Multiple forms" in the 2008 Instructions for Forms W-2 and W-3). Do not report the same federal tax data to the SSA on more than one Form W-2 (Copy A). However, repeat the identifying information (employee's name, address, and SSN; employer's name, address, and EIN) on each additional form.

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

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

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

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

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

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

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

.17 All copies must be clearly legible. Fading must be minimized to assure legibility.

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

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

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

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

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

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

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

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

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

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

(6) Identifying numbers on both Form W-2 (“22222”) and Form W-3 (“33333”) must be preprinted in 14-point Arial bold font or a close approximation.

(7) The form numbers (“W-2” and “W-3”) must be in 18-point Arial font or a close approximation. The tax year (“2008”) on Forms W-2 (Copy A) and W-3 must be in 20-point Arial font or a close approximation.

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

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

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

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

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

(13) Do not print the checkboxes in:

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

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

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

.02 You must submit samples of your laser-printed substitute forms to the SSA. Only laser-printed, black-and-white substitute Forms W-2 (Copy A) and W-3 for tax year 2008 will be accepted for approval by the SSA. Questions regarding other forms (that is, red-ink Forms W-2c, W-3c, 1099 series, 1096, etc.) must be directed to the IRS.

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

.04 To receive approval, you may first contact the SSA at laser.forms@ssa.gov to obtain a template and further instructions in PDF or Excel format. You may also send your 2008 sample, laser-printed substitute forms to:

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

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

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

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

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

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

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

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

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

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

Note. The maximum and minimum size specifications are for tax year 2008 only and may change in future years.

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

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

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

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

.06 Interleaved carbon and chemical transfer paper employee copies must be clearly legible. Fading must be minimized to assure legibility.

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

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

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

Box 1 — Wages, tips, other compensation,

Box 2 — Federal income tax withheld,

Box 3 — Social security wages,

Box 4 — Social security tax withheld,

Box 5 — Medicare wages and tips, and

Box 6 — Medicare tax withheld.

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

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

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

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

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

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

- "Copy B, To Be Filed With Employee's FEDERAL Tax Return."
 - "Copy C, For EMPLOYEE'S RECORDS."
 - "Copy 2, To Be Filed With Employee's State, City, or Local Income Tax Return."
- It is recommended (but not required) that these be located on the lower left of Form W-2. If the substitute employee copies are not labeled as to the disposition of the copies, then written notification using similar wording must be provided to each employee.

.11 The tax year (2008) must be clearly printed on all copies of substitute Form W-2. It is recommended (but not required) that this information be in the middle at the bottom of the Form W-2. The use of 24-pt. OCR-A font is recommended (but not required).

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

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

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

- Box 15 (State, Employer's state ID number)
- Box 16 (State wages, tips, etc.)
- Box 17 (State income tax)
Local information is included in:
 - Box 18 (Local wages, tips, etc.)
 - Box 19 (Local income tax)
 - Box 20 (Locality name)

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

.15 Employers may enter more than four codes in box 12 of substitute Copies B, C, and 2 (and 1 and D) of Form W-2, but each entry must use Codes A-BB (see the 2008 Instructions for Forms W-2 and W-3).

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

.17 Employers may use box 14 for any other information that they wish to give to their employees. Each item must be labeled. (See the instructions for box 14 in the 2008 Instructions for Forms W-2 and W-3.)

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

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

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

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

Part C. Additional Instructions

Section 1. Additional Instructions for Form Printers

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

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

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

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

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

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

Section 2. Instructions for Employers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 4. Reproducible Copies of Forms

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

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

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

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

Section 5. Effect on Other Documents

.01 Revenue Procedure 2007-43, 2007-27 I.R.B. 26, dated July 2, 2007 (reprinted as Publication 1141, Revised 7-2007), is superseded.

List of Exhibits

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

Exhibit B — Form W-3 (Red-Ink)

Exhibit C — Form W-2 (Copy B)

Exhibit D — Form W-2 (Alternative Employee Copies) (Illustrating Horizontal and Vertical Formats)

Exhibit E — Form W-2 (Copy A) (Laser-Printed)

Exhibit F — Form W-3 (Laser-Printed)

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

22222		a Employee's social security number		For Official Use Only OMB No. 1545-0008	
b Employer identification number (EIN)		1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code		3 Social security wages		4 Social security tax withheld	
		5 Medicare wages and tips		6 Medicare tax withheld	
		7 Social security tips		8 Allocated tips	
d Control number		9 Advance EIC payment		10 Dependent care benefits	
e Employee's first name and initial		Last name		Suff.	
		11 Nonqualified plans		12a See instructions for box 12	
		13 Statutory employee Retirement plan Third-party sick pay		12b	
		14 Other		12c	
f Employee's address and ZIP code				12d	
15 State Employer's state ID number		16 State wages, tips, etc.		17 State income tax	
		18 Local wages, tips, etc.		19 Local income tax	
				20 Locality name	

Form W-2 Wage and Tax Statement 2008
 Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are not acceptable.
 Department of the Treasury—Internal Revenue Service
 For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.

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

22222		a Employee's social security number		For Official Use Only OMB No. 1545-0008	
b Employer identification number (EIN)		1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code		3 Social security wages		4 Social security tax withheld	
		5 Medicare wages and tips		6 Medicare tax withheld	
		7 Social security tips		8 Allocated tips	
d Control number		9 Advance EIC payment		10 Dependent care benefits	
e Employee's first name and initial		Last name		Suff.	
		11 Nonqualified plans		12a See instructions for box 12	
		13 Statutory employee Retirement plan Third-party sick pay		12b	
		14 Other		12c	
f Employee's address and ZIP code				12d	
15 State Employer's state ID number		16 State wages, tips, etc.		17 State income tax	
		18 Local wages, tips, etc.		19 Local income tax	
				20 Locality name	

Form W-2 Wage and Tax Statement 2008
 Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are not acceptable.
 Department of the Treasury—Internal Revenue Service
 For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.

Exhibit B
Form W-3
(Red-Ink)

DO NOT STAPLE

33333	a Control number 1.85"	For Official Use Only OMB No. 1545-0048 5.0"		
b Kind of Payer 1.1"	<input type="checkbox"/> 941 Military	<input type="checkbox"/> 943 Hshld emp.	<input type="checkbox"/> 944 Medicare gov. emp.	<input type="checkbox"/> 14 Third-party sick pay
	<input type="checkbox"/> CT-1	<input type="checkbox"/> 36	<input type="checkbox"/> 36	<input type="checkbox"/> 36
c Total number of Forms W-2 1.6"	d Establishment number 1.6"	1 Wages, tips, other compensation		2 Federal income tax withheld
e Employer identification number (EIN) 3.2"	7 Social security tips 2.15"		4 Social security tax withheld	
f Employer's name 7.5"	9 Advance EIG payments		8 Allocated tips 2.15"	
	11 Nonqualified plans 4.67"		6 Medicare tax withheld	
	13 For third-party sick pay use only .333"		10 Dependent care benefits	
	14 Income tax withheld by payer of third-party sick pay		12 Deferred compensation	
g Employer's address and ZIP code	15 State Employer's state ID number 2.6"		16 State wages, tips, etc.	
h Other EIN used this year			17 State income tax	
			18 Local wages, tips, etc.	
			19 Local income tax	
Contact person	Telephone number ()		For Official Use Only .667"	
Email address	Fax number ()			

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

5.83" .8" 11.0"

Signature _____ Title _____ Date _____

Form **W-3 Transmittal of Wage and Tax Statements** 2008 Department of the Treasury
Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration.
Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

Reminder
Separate instructions. See the 2008 Instructions for Forms W-2 and W-3 for information on completing this form.

Purpose of Form
A Form W-3 Transmittal is completed only when paper Copy A of Form(s) W-2, Wage and Tax Statement, are being filed. Do not file Form W-3 alone. Do not file Form W-3 for Form(s) W-2 that were submitted electronically to the Social Security Administration (see below). All paper forms **must** comply with IRS standards and be machine readable. Photocopies and hand-printed forms are **not** acceptable. Use a Form W-3 even if only one paper Form W-2 is being filed. Make sure both the Form W-3 and Form(s) W-2 show the correct tax year and Employer Identification Number (EIN). Make a copy of this form and keep it with Copy D (For Employer) of Form(s) W-2 for your records.

Electronic Filing
The Social Security Administration strongly suggests employers report Form W-3 and W-2 Copy A electronically instead of on paper. SSA provides two e-file options:
• Free fill-in Forms W-2 for employers who file 20 or fewer Form(s) W-2.


• Upload a file for employers who use payroll/tax software to print Form(s) W-2, if the vendor software creates a file that can be uploaded to SSA.
For more information, go to www.socialsecurity.gov/employer and select "First Time Filers" or "Returning Filers" under "BEFORE YOU FILE."

When To File
Mail any paper Forms W-2 under cover of this Form W-3 Transmittal by March 2, 2009. Electronic fill-in forms or uploads are filed through SSA's Business Services Online (BSO) Internet site and will be on time if submitted by March 31, 2009.

Where To File Paper Forms
Send this entire page with the entire Copy A page of Form(s) W-2 to:
**Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001**
Note. If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS-approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Publication 15 (Circular E), Employer's Tax Guide, for a list of IRS-approved private delivery services.

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

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

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

Form **W-2 Wage and Tax Statement**
Copy B—To Be Filed With Employee's FEDERAL Tax Return.
 This information is being furnished to the Internal Revenue Service.

2008

Department of the Treasury—Internal Revenue Service

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

(Illustrating
Horizontal and
Vertical Formats)

Form W-2 Wage and Tax Statement

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

Copy C For EMPLOYEE'S RECORDS.

2008

Department of the Treasury—Internal Revenue Service

Horizontal Format

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

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

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

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

Form W-2
Wage and Tax
Statement

2008

Department of the Treasury—
Internal Revenue Service

Vertical Format

Exhibit E
Form W-2
(Copy A)

(Laser-Printed)

This form may be subject to change.

22222 Void		a Employee's social security number		For Official Use Only OMB No. 1545-0008	
b Employer identification number (EIN)				1 Wages, tips, other compensation	2 Federal income tax withheld
c Employer's name, address, and ZIP code				3 Social security wages	4 Social security tax withheld
d Control number				5 Medicare wages and tips	6 Medicare tax withheld
e Employee's first name and initial		Last name	Suff.	7 Social security tips	8 Allocated tips
f Employee's address and ZIP code		15 State Employer's state ID number		9 Advance EIC payment	10 Dependent care benefits
16 State wages, tips, etc.		17 State income tax	18 Local wages, tips, etc.	11 Nonqualified plans	
19 Local income tax		20 Locality name		12a See instructions for box 12	
13 Statutory employee		Retirement plan	Third-party sick pay	12b	
14 Other				12c	
				12d	

Form **W-2 Wage & Tax Statement** **2008** Department of the Treasury—Internal Revenue Service
Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.
 0 0 0 0 / 0 0 0 0
Do Not Cut, Fold, or Staple Forms on This Page

22222 Void		a Employee's social security number		For Official Use Only OMB No. 1545-0008	
b Employer identification number (EIN)				1 Wages, tips, other compensation	2 Federal income tax withheld
c Employer's name, address, and ZIP code				3 Social security wages	4 Social security tax withheld
d Control number				5 Medicare wages and tips	6 Medicare tax withheld
e Employee's first name and initial		Last name	Suff.	7 Social security tips	8 Allocated tips
f Employee's address and ZIP code		15 State Employer's state ID number		9 Advance EIC payment	10 Dependent care benefits
16 State wages, tips, etc.		17 State income tax	18 Local wages, tips, etc.	11 Nonqualified plans	
19 Local income tax		20 Locality name		12a See instructions for box 12	
13 Statutory employee		Retirement plan	Third-party sick pay	12b	
14 Other				12c	
				12d	

Form **W-2 Wage & Tax Statement** **2008** Department of the Treasury—Internal Revenue Service
Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.
 0 0 0 0 / 0 0 0 0
Do Not Cut, Fold, or Staple Forms on This Page

Exhibit F Form W-3

(Laser-Printed)

This form may be subject to change.

a Control number 33333 .85"		b Kind of Payer 941 Military 943 944 CT-1 Hshld. emp. Medicare govt. emp. Third-party sick pay 3.2"		For Official Use Only OMB No. 1545-0000 5.0"	
c Total number of Forms W-2 1.6"		d Establishment number 1.6"		1 Wages, tips, other compensation 2 Federal income tax withheld	
e Employer identification number (EIN) 3.2"		7 Social security tips 2.15"		3 Social security wages 4 Social security tax withheld	
f Employer's name 7.5"		9 Advance EIC payments		5 Medicare wages and tips 6 Medicare tax withheld	
g Employer's address and ZIP code 4.67"		11 Nonqualified plans		8 Allocated tips 2.15"	
h Other EIN used this year		13 For third-party sick pay use only		10 Dependent care benefits	
15 State Employer's state ID number		16 State wages, tips, etc.		12 Deferred compensation	
Contact person		Telephone number ()		17 State income tax	
Email address		Fax number ()		18 Local wages, tips, etc.	
				19 Local income tax	
				For Official Use Only 0000/0000	

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

Signature _____ Title _____ Date _____

Form W-3 Transmittal of Wage and Tax Statements 2008

Department of the Treasury
Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration.

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

Reminder 5.03"

Separate instructions. See the 2008 Instructions for Forms W-2 and W-3 for information on completing this form.

Purpose of Form

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Electronic Filing

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- Upload a file for employers who use payroll/tax software to print Form(s) W-2, if the vendor software creates a file that can be uploaded to SSA.

For more information, go to www.socialsecurity.gov/employer and select "First Time Filers" or "Returning Filers" under "BEFORE YOU FILE."

When To File

Mail any paper Forms W-2 under cover of this Form W-3 Transmittal by March 2, 2009. Electronic fill-in forms or uploads are filed through SSA's Business Services Online (BSO) Internet site and will be on time if submitted by March 31, 2009.

Where To File Paper Forms

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

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

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

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

Guidance Under Sections 642 and 643 (Income Ordering Rules)

REG-101258-08

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments providing guidance under Internal Revenue Code (Code) section 642(c) with regard to the Federal tax consequences of an ordering provision in a trust, a will, or a provision of local law that attempts to determine the tax character of the amounts paid to a charitable beneficiary of the trust or estate. The proposed regulations also make conforming amendments to the regulations under section 643(a)(5). The proposed regulations affect estates, charitable lead trusts (CLTs) and other trusts making payments or permanently setting aside amounts for a charitable purpose. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by September 16, 2008. Outlines of topics to be discussed at the public hearing scheduled for October 8, 2008, at 10 a.m., must be received by September 18, 2008.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-101258-08), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-101258-08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC; or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS

REG-101258-08). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Vishal Amin, at (202) 622-3060; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard Hurst, at (202) 622-2949 (TDD telephone) (not toll-free numbers) or e-mail at Richard.A.Hurst@irs.counsel.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 under section 642 of the Code. Section 642 was added to the Code under the Internal Revenue Code of 1954 (68A Stat. 215). Section 642(c) of the Code provides that an estate or trust (other than a trust meeting the specifications of subpart B) shall be allowed a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(2)(A)).

The regulations under §1.642(c)-3 provide guidance concerning adjustments and other special rules for computing the charitable contributions deduction. The regulations under §1.643(a)-5 provide guidance concerning rules for computing the amount of tax-exempt income included in distributable net income. These proposed regulations clarify the existing regulations under §§1.642(c)-3(b) and 1.643(a)-5(b). Section 1.642(c)-3(b)(2) provides that, in determining whether an amount of income paid to a charitable beneficiary includes particular items of income not included in gross income (for example, tax exempt income), provisions in the governing instrument will control if they specifically provide as to the source out of which amounts are to be paid to the charitable beneficiary. In the absence of specific provisions in the governing instrument or in local law, the

amount of income distributed to each charitable beneficiary is deemed to consist of the same proportion of each class of the items of income of the estate or trust as the total of each class bears to the total of all classes.

Section 1.643(a)-5(b) provides rules for reducing the amount of tax-exempt interest includable in distributable net income when tax-exempt interest is deemed to be included in income paid, permanently set aside, or to be used for the purposes specified in section 642(c). As similarly provided in §1.642(c)-3(b), §1.643(a)-5(b) provides “[i]f the governing instrument specifically provides as to the source out of which amounts are paid, permanently set aside, or to be used for such charitable purposes, the specific provisions control. In the absence of specific provisions in the governing instrument, an amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the estate or trust as the total of each class bears to the total of all classes.”

The IRS and the Treasury Department believe that the current regulations under §§1.642(c)-3(b) and 1.643(a)-5(b) require that such a specific provision in a governing instrument or in local law that identifies the source(s) of the amounts to be paid, permanently set aside, or used for a purpose specified in section 642(c) must have economic effect independent of income tax consequences in order for the specific provision in the governing instrument or in local law to be respected for Federal tax purposes. This belief is based on the structure and provisions of Subchapter J as a whole, as well as on an analysis of the existing regulations with their interrelated cross-references. Section 1.642(c)-3(b) and §1.643(a)-5(b) refer to examples in §§1.662(b)-2 and 1.662(c)-4 to illustrate the rules of §§1.642(c)-3(b) and 1.643(a)-5(b). Section 1.662(b)-2 provides that, in determining the character of amounts distributed to a beneficiary when a charitable contribution is made, “...the principles contained in §§1.652(b)-1 and 1.662(b)-1 generally apply.” Section 1.652(b)-1 provides that “[i]n determining the gross income of a beneficiary, the amounts includable un-

der §1.652(a)-1 have the same character in the hands of the beneficiary as in the hands of the trust.” Section 1.652(b)-2(a) elaborates on the general principle in §1.652(b)-1 by providing that the amount distributed to a beneficiary and includible in gross income under §1.652(a)-1 generally consists of the same proportion of each class of items included in the trust’s distributable net income (DNI) as the total of each such class bears to the total DNI. These principles are repeated in §1.662(b)-1. In addition, §1.652(b)-2(b) defines the exception to this rule by providing that “[t]he terms of the trust are considered specifically to allocate different classes of income to different beneficiaries only to the extent that the allocation is required in the trust instrument, and only to the extent that it has economic effect independent of the income tax consequences of the allocation.”

Section 1.681(a)-2(b)(2) provides guidance on the method of allocating gross income to unrelated business income that is not deductible under section 642(c). This regulation provides that “[u]nless the facts clearly indicate to the contrary...” the payment to charity consists of the same ratio of unrelated business income as the ratio of unrelated business income to all of the trust’s taxable income. Examples given in this regulation confirm that a specific allocation of income items will be recognized when such specific allocation has economic effect independent of its tax consequences, such as when the amount of the charitable distribution will be dependent upon the amount of the class of income.

Explanation of Provisions

The IRS and the Treasury Department believe that the chain of references discussed above requires that a specific provision of the governing instrument or a provision under local law have economic effect independent of income tax consequences in order to be respected for Federal income tax purposes and that this principle applies throughout Subchapter J. To make this concept clearer and easier to understand, the proposed regulations amend the regulations under section 642(c) to add the principle of economic effect directly into the language of the regulation itself, rather than being

incorporated by reference to other regulation provisions. Thus, the proposed regulations will amend the regulations under section 642(c) to confirm that a provision in a governing instrument or in local law that specifically provides as to the source out of which amounts are to be paid, permanently set aside, or used for a purpose specified in section 642(c) must have economic effect independent of income tax consequences in order to be respected for Federal tax purposes. If such provision does not have economic effect independent of income tax consequences, income distributed for a purpose specified in section 642(c) will consist of the same proportion of each class of the items of income as the total of each class bears to the total of all classes. See §1.642(c)-3(b)(2).

As an example, CLTs pay an annuity or unitrust amount to a charity for a determinable period, measured by a term of years or by reference to the life of one or more individuals. See section 170(f)(2)(B). At the end of the term, the remainder passes to one or more non-charitable beneficiaries. CLTs may earn various types of income (such as ordinary income, capital gains, unrelated business taxable income and tax-exempt income) in any given taxable year. Some trust instruments attempt to source the payments to charity so as to maximize the tax benefits to the trust and beneficiaries. For example, the governing documents might include a provision directing that the charity’s annuity or unitrust payment be made first out of ordinary income and capital gains in order to minimize the trust’s tax liability. Thus, the trust attempts to retain the unrelated business taxable income and tax-exempt income (for which no section 642(c) deduction may be claimed or for which the deduction is limited by section 681). Such a provision in the governing instrument does not have economic effect independent of income tax consequences, because the amount paid to the charitable beneficiary is not dependent upon the type of income it is allocated. Rather, such amount is the same regardless of the source of the income. An annuity payment is a fixed amount from year to year, and a unitrust amount is based upon a predetermined percentage of the trust’s value. Thus, the amount of each type of income

the trust earns is irrelevant to the amount the charity is entitled to receive.

Accordingly, a provision under local law or in the governing instrument of a CLT that provides that the payment to charity (eligible for a deduction under section 642(c)) is deemed to consist of particular classes of income, determined on a non-*pro rata* basis, will not be respected because such a provision does not have economic effect independent of income tax consequences. Instead, such a payment to a charity will consist of the same proportion of each class of the items of income of the trust as the total of each class bears to the total of all classes. See §1.642(c)-3(b)(2). This proposed amendment to the regulation serves only to confirm the economic effect requirement of the current regulations.

The proposed regulations also similarly clarify the corresponding language in §1.643(a)-5(b).

Finally, the proposed regulations remove §1.642(c)-3(b)(4) because the provisions of section 116 were repealed by the Tax Reform Act of 1986 (Public Law 99-514).

Proposed Effective/Applicability Date

The regulations, as proposed, apply to trusts and estates for taxable years beginning after the date final regulations are published in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department also request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for October 8, 2008, at 10:00 a.m. in the auditorium of the Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments by September 16, 2008, and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by September 16, 2008. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Vishal R. Amin, Office of the Chief Counsel (Passthroughs and Special Industries).

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Par. 2. Section 1.642(c)–3 is amended by:

1. Revising the paragraph heading of paragraph (b) and adding a heading for (b)(1).
2. Revising paragraph (b)(2).
3. Adding a heading to paragraph (b)(3).
4. Removing paragraph (b)(4).

The revisions and additions read as follows:

§1.642(c)–3 Adjustments and other special rules for determining unlimited charitable contributions deduction.

* * * * *

(b) *Determination of amounts deductible under section 642(c) and the character of such amounts—(1) Reduction of charitable contributions deduction by amounts not included in gross income.*
* * *

(2) *Determination of the character of an amount deductible under section 642(c).* In determining whether the amounts of income so paid, permanently set aside, or used for a purpose specified in section 642(c)(1), (2), or (3) include particular items of income of an estate or trust, whether or not included in gross income, a provision in the governing instrument or in local law that specifically provides the source out of which amounts are to be paid, permanently set aside, or used for such a purpose controls for Federal tax purposes to the extent such provision has economic effect independent of income tax consequences. See §1.652(b)–2(b). In the absence of such specific provisions in the governing instrument or in local law, the amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the estate or trust as the total of each class bears to the total of all classes. See §1.643(a)–5(b) for the method of determining the allocable portion of exempt income and foreign income. This paragraph (b)(2) is illustrated by the following example:

Example. A charitable lead annuity trust has the calendar year as its taxable year, and is to pay an annuity of \$10,000 annually to an organization de-

scribed in section 170(c). A provision in the trust governing instrument provides that the \$10,000 annuity should be deemed to come first from ordinary income, second from short-term capital gain, third from fifty percent of the unrelated business taxable income, fourth from long-term capital gain, fifth from the balance of unrelated business taxable income, sixth from tax-exempt income, and seventh from principal. This provision in the governing instrument does not have economic effect independent of tax consequences because the amount to be paid to charity is not dependent upon the type of income from which it is to be paid. Accordingly, the amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the trust as the total of each class bears to the total of all classes.

(3) *Other examples.* * * *

* * * * *

Par. 3. Section 1.643(a)–5 is amended by revising the text of paragraph (b) to read as follows:

§1.643(a)–5 Tax-exempt interest.

* * * * *

(b) If the estate or trust is allowed a charitable contributions deduction under section 642(c), the amounts specified in paragraph (a) of this section and §1.643(a)–6 are reduced by the portion deemed to be included in income paid, permanently set aside, or to be used for the purposes specified in section 642(c). If the governing instrument or local law specifically provides as to the source out of which amounts are paid, permanently set aside, or to be used for such charitable purposes, the specific provision controls for Federal tax purposes to the extent such provision has economic effect independent of income tax consequences. See §1.652(b)–2(b). In the absence of specific provisions in the governing instrument, an amount to which section 642(c) applies is deemed to consist of the same proportion of each class of the items of income of the estate or trust as the total of each class bears to the total of all classes. For illustrations showing the determination of the character of an amount deductible under section 642(c), see *Examples 1* and *2* of §1.662(b)–2 and §1.662(c)–4(e).

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

(Filed by the Office of the Federal Register on June 17, 2008, 8:45 a.m., and published in the issue of the Federal Register for June 18, 2008, 73 F.R. 34670)

Optional Standard Mileage Rates

Announcement 2008-63

This announcement informs taxpayers that the Internal Revenue Service is

modifying Rev. Proc. 2007-70, 2007-50 I.R.B. 1162, by revising the optional standard mileage rates for computing the deductible costs of operating an automobile for business, medical, or moving expense purposes and for determining the reim-

bursed amount of these expenses that is deemed substantiated. This modification results from recent increases in the price of fuel.

The revised standard mileage rates are:

(1) Business	58.5 cents per mile
(2) Medical and moving	27 cents per mile

The mileage rate that applies to the deduction for charitable contributions is fixed under § 170(i) of the Internal Revenue Code at 14 cents per mile.

The revised standard mileage rates set forth in this announcement apply to deductible transportation expenses paid or incurred for business, medical, or moving expense purposes on or after July 1, 2008, and to mileage allowances that are paid both (1) to an employee on or after July 1, 2008, and (2) with respect to transportation expenses paid or incurred by the employee on or after July 1, 2008.

The standard mileage rates set forth in Rev. Proc. 2007-70 continue to apply to deductible transportation expenses paid or incurred for business, medical, or moving expense purposes before July 1, 2008, and to mileage allowances paid (1) to an employee before July 1, 2008, or (2) with respect to transportation expenses paid or incurred by the employee before July 1, 2008. All other provisions of Rev. Proc. 2007-70 remain in effect.

EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2007-70 is modified.

DRAFTING INFORMATION

The principal author of this announcement is Bernard P. Harvey of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this announcement, contact Mr. Harvey at (202) 622-4930 (not a toll-free call).

Multiemployer Plan Funding Guidance; Hearing

Announcement 2008-64

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on a notice of proposed rulemaking (REG-151135-07, 2008-16 I.R.B. 815) providing additional rules for certain multiemployer defined benefit plans that are in effect on July 16, 2006. These proposed regulations affect sponsors and administrators of, and participants in multiemployer plans that are in either endangered or critical status. These regulations are necessary to implement the new rules set forth in section 432 that are effective for plan years beginning after 2007. The proposed regulations reflect changes made by the Pension Protection Act of 2006.

DATES: The public hearing is being held on July 31, 2008, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by July 10, 2008.

ADDRESSES: The public hearing is being held in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Send submissions to: CC:PA:LPD:PR (REG-151135-07), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-151135-07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may

submit electronic outlines of oral comments via the Federal eRulemaking Portal at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Bruce Perlin, (202) 622-6090; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard A. Hurst at Richard.A.Hurst@irscounsel.treas.gov or (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG-151135-07) that was published in the **Federal Register** on Tuesday, March 8, 2008 (73 FR 14417).

Persons, who wish to present oral comments at the hearing that submitted written comments, must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by July 10, 2008.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue, NW, entrance, 1111 Constitution Avenue, NW, Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the FOR FURTHER INFORMATION CONTACT section of this document.

LaNita Van Dyke,
*Chief, Publications and
Regulations Branch,
Legal Processing Division,
Associate Chief Counsel
(Procedure and Administration).*

(Filed by the Office of the Federal Register on June 26, 2008,
8:45 a.m., and published in the issue of the Federal Register
for June 27, 2008, 73 F.R. 36476)

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.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2008–1 through 2008–26 is in Internal Revenue Bulletin 2008–26, dated June 30, 2008.

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¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2008–1 through 2008–26 is in Internal Revenue Bulletin 2008–26, dated June 30, 2008.

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