

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. 2003-101, page 513.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for September 2003.

T.D. 9063, page 510.

REG-108676-03, page 523.

Temporary and proposed regulations under section 382 of the Code affect loss corporations and provide guidance on whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity.

T.D. 9064, page 508.

Substantiation of incidental expenses. Final and temporary regulations under section 274 of the Code authorize the Commissioner to establish a method under which a taxpayer may substantiate the amount of incidental expenses paid or incurred while traveling away from home by means of an allowance in lieu of substantiating the actual cost.

T.D. 9065, page 515.

Final regulations under section 6038 of the Code amend regulations sections 1.6038-3 to provide that a United States partner must follow the filing requirements that are specified in the instructions for Form 8865, *Return of U.S. Persons With Respect to Certain Foreign Partnerships*, when the United States partner must file Form 8865 and the foreign partnership completes and files Form 1065, *U.S. Return of Partnership Income*, or Form 1065-B, *U.S. Return of Income for Electing Large Partnerships*.

T.D. 9066, page 509.

Final regulations under section 367 of the Code amend the anti-abuse rule of regulations section 1.367(e)-2(d) by narrowing the scope of the rule to apply only to outbound transfers to a foreign corporation in a complete liquidation of a domestic corporation to which a principal purpose of the liquidation is the avoidance of U.S. tax.

REG-209377-89, page 521.

Proposed regulations, for purposes of the at-risk limitations under section 465 of the Code, relate to the treatment of amounts borrowed from a person who has an interest in an activity other than that of a creditor or from a person related to a person (other than the borrower) with such an interest. The proposed amendments provide that all activities are subject to the rule that these borrowed amounts do not increase the amount at risk in the activity.

ADMINISTRATIVE

Rev. Proc. 2003-71, page 517.

This procedure describes the process for submitting and resolving an offer in compromise with the Service. It describes the procedures for submitting an offer in compromise, including the form and content of an offer, when the offer becomes pending, when the offer is returned, when the offer is withdrawn, when the offer is accepted, and when the offer is rejected. Rev. Proc. 96-38 obsolete.

Finding Lists begin on page ii.



The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Introduction

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

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

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

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

court decisions, rulings, and 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 first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the first Bulletin of the succeeding semiannual period, respectively.

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

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

Section 274.—Disallowance of Certain Entertainment, etc., Expenses

26 CFR 1.274-5: Substantiation requirements.

T.D. 9064

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Substantiation of Incidental Expenses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains amendments to regulations relating to the requirement under section 274 of the Internal Revenue Code to substantiate business expenses for traveling while away from home. The regulations affect taxpayers who deduct expenditures for incidental expenses while traveling away from home. This document also contains amendments to regulations under section 62 to conform cross-references.

DATES: *Effective Date:* These regulations are effective July 1, 2003.

Applicability Date: For dates of applicability, see §1.274-5(m).

FOR FURTHER INFORMATION CONTACT: Sameera Hasan (202) 622-4930 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR Part 1. On November 12,

2002, the IRS and Treasury published in the **Federal Register** a temporary regulation (T.D. 9020, 2002-2 C.B. 907 [67 FR 68512]) relating to the substantiation under section 274(d) of the Internal Revenue Code of incidental expenses incurred while traveling away from home. On the same day, the IRS and Treasury published a notice of proposed rulemaking (REG-141832-02, 2002-2 C.B. 921 [67 FR 68539]) cross-referencing the temporary regulations.

Written comments from two commentators were received. A commentator initially requested a public hearing but subsequently withdrew the request. No public hearing was held. The comments generally related to implementation of these regulations in future guidance and will be further considered in connection with that guidance. After consideration of the comments, the proposed regulations are adopted by this Treasury decision.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that these regulations do not require a collection of information and do not impose any new or different requirements on small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

The principal author of these regulations is Sameera Hasan, Office of Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in the development.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.62-2 is amended by removing the last three sentences of paragraph (e)(2) and adding two sentences in their place to read as follows:

§1.62-2 *Reimbursements and other expense allowance arrangements.*

* * * * *

(e) * * *

(2) * * * See §1.274-5(g) and (j), which grant the Commissioner the authority to establish optional methods of substantiating certain expenses. Substantiation of the amount of a business expense in accordance with rules prescribed pursuant to the authority granted by §1.274-5(g) or (j) will be treated as substantiation of the amount of such expense for purposes of this section.

* * * * *

Par. 3. Section 1.274-5 is amended by:

1. Revising paragraph (j)(3).

2. Adding a new sentence at the end of paragraph (m).

The revision and addition read as follows:

§1.274-5 *Substantiation requirements.*

* * * * *

(j) * * *

(3) *Incidental expenses while traveling away from home.* The Commissioner may establish a method under which a taxpayer may use a specified amount or amounts for incidental expenses paid or incurred while traveling away from home in lieu of substantiating the actual cost of incidental expenses. The taxpayer will not be relieved of the requirement to substantiate the actual cost of other travel expenses as well as the time, place, and business purpose of the travel.

* * * * *

(m) * * * However, paragraph (j)(3) of this section applies to expenses paid or incurred after September 30, 2002.

* * * * *

Par. 4. Section 1.274-5T is amended by revising paragraph (j) to read as follows:

§1.274-5T Substantiation requirements.

* * * * *

(j) [Reserved]. For further guidance, see §1.274-5(j).

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Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved June 20, 2003.

Pamela F. Olson,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on June 20, 2003, 8:45 a.m., and published in the issue of the Federal Register for July 1, 2003, 68 F.R. 39011)

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

Section 367.—Foreign Corporations

26 CFR 1.367(e)-2: Distributions described in section 367(e)(2).

T.D. 9066

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Outbound Liquidations into Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance regarding the application of section 367(e)(2)

to certain outbound liquidations. The regulations amend the anti-abuse rule of §1.367(e)-2(d) by narrowing the scope of the rule to apply only to outbound transfers to a foreign corporation in a complete liquidation of a domestic corporation in which a principal purpose of the liquidation is the avoidance of U.S. tax. The regulations also clarify the application of the anti-abuse rule in §1.367(e)-2(b)(2)(iii)(C)(I).

DATES: Effective Date: July 2, 2003.

Applicability Date: These regulations apply to distributions occurring on or after September 7, 1999, or, if the taxpayer has elected to apply the final regulations issued pursuant to T.D. 8834 to such distributions, to distributions in taxable years ending after August 8, 1999.

FOR FURTHER INFORMATION CONTACT: Milton M. Cahn, (202) 622-3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 9, 1999, the IRS and Treasury published final regulations (T.D. 8834, 1999-2 C.B. 251 [64 FR 43072]) in the **Federal Register** under section 367(e)(2) regarding distributions of property in a complete liquidation under section 332 by a domestic corporation to a foreign parent corporation (outbound liquidation) and by a foreign corporation to a foreign parent corporation (foreign-to-foreign liquidations). On November 20, 2002, the IRS and Treasury published a notice of proposed rulemaking (REG-127380-02, 2002-2 C.B. 969 [67 FR 70031]) in the **Federal Register** that would amend an anti-abuse rule in the final regulations to limit its application only to outbound liquidations of domestic corporations, and to clarify what constitutes a principal purpose of tax avoidance for purposes of the anti-abuse rule.

Explanation of Provisions

The final regulations published in 1999 included an anti-abuse rule providing that the Commissioner may require a foreign or domestic liquidating corporation to recognize gain (or treat the liquidating corporation as if it had recognized a loss) on a

liquidating distribution if a principal purpose of the liquidation is the avoidance of U.S. tax. §1.367(e)-2(d). The notice of proposed rulemaking proposed amending the anti-abuse rule under §1.367(e)-2(d) to limit the application of this rule to outbound liquidations of domestic corporations. The notice of proposed rulemaking also proposed clarifying what constitutes a principal purpose for purposes of the anti-abuse rules in §1.367(e)-2(d) and §1.367(e)-2(b)(2)(iii)(C)(I). One written comment responding to the notice of proposed rulemaking was received, but this comment did not request any changes. The public hearing was canceled because no requests were received to speak at the hearing. Accordingly, the proposed regulations are adopted by this Treasury decision without change.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

Drafting Information

The principal author of these final regulations is Aaron A. Farmer of the Office of the Associate Chief Counsel (International), IRS. However, other personnel from the Treasury and the IRS participated in their development.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.367(e)-2, is amended as follows:

1. Paragraph (b)(2)(iii)(C)(I) is amended by removing the parenthetical “(taken together or separately)” and adding “when taken together” in its place.

2. Paragraph (d) is revised.

The revision reads as follows:

§1.367(e)-2 Distributions described in section 367(e)(2).

* * * * *

(d) *Anti-abuse rule.* The Commissioner may require a domestic liquidating corporation to recognize gain on a distribution in liquidation described in paragraph (b) of this section (or treat the liquidating corporation as if it had recognized loss on a distribution in liquidation), if a principal purpose of the liquidation is the avoidance of U.S. tax (including, but not limited to, the distribution of a liquidating corporation’s earnings and profits with a principal purpose of avoiding U.S. tax). A liquidation may have a principal purpose of tax avoidance even though the tax avoidance purpose is outweighed by other purposes when taken together.

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David A. Mader,
Assistant Deputy Commissioner
of Internal Revenue.

Approved June 23, 2003.

Pamela F. Olson,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on July 1, 2003, 8:45 a.m., and published in the issue of the Federal Register for July 2, 2003, 68 F.R. 39452)

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

The adjusted applicable federal long-term rate is set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

26 CFR 1.382-10T: Special rules for determining time and manner of acquisition of an interest in a loss corporation (temporary).

T.D. 9063

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Distributions of Interests in a Loss Corporation From Qualified Trusts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations under section 382 of the Internal Revenue Code of 1986. The temporary regulations affect loss corporations and provide guidance on whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking (REG-108676-03 on page 523) on this subject in this issue of the Bulletin.

DATES: *Effective Date:* These regulations are effective June 27, 2003.

Applicability Date: For dates of applicability, see §1.382-10T(a)(4).

FOR FURTHER INFORMATION CONTACT: Martin Huck (202) 622-7750 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 382 in General

Section 382 limits the amount of taxable income that may be offset by certain loss carryovers and recognized built-in losses following an ownership change of a loss corporation. Section 382(g) defines an ownership change as a change in the percentage of ownership of the loss corporation’s stock owned by the 5-percent shareholders of more than 50 percentage points

(by value) over a 3-year period. Congress intended the section 382 limitation to apply when new shareholders that did not bear the economic burden of the losses acquire a controlling interest in the loss corporation. See H.R. Rep. No. 99-426, 1986-3 C.B. (Vol. 2) 256; S. Rep. No. 99-313 1986-3 C.B. (Vol. 3) 232.

Constructive Ownership Rules

Section 382(l)(3) provides that in determining the ownership of stock of a loss corporation, the constructive ownership rules of section 318 apply, with certain exceptions. Section 382 (by reference to the rules of section 318) and the regulations thereunder generally attribute stock owned by an entity such as a corporation or a partnership to its shareholders or partners, respectively. Therefore, if a corporation makes a *pro rata* distribution of an interest in a loss corporation to its shareholders, the distribution does not result in an acquisition of that interest by the shareholders that must be taken into account in determining whether the loss corporation has an ownership change. On the other hand, section 382 and the regulations thereunder do not attribute stock owned by a qualified trust described in section 401(a) (qualified trust) to participants in the qualified plan under which the trust is established. In particular, although section 318(a)(2) provides for attribution of stock owned by a trust to its beneficiaries, it excepts qualified trusts from the application of this rule. Moreover, §1.382-2T(h)(2)(iii) provides that a qualified trust is treated as an individual unrelated to any other direct or indirect owner of the loss corporation. Accordingly, the participants under a qualified plan are not treated as owning any interest in a loss corporation owned by the trust. Therefore, if a qualified trust owns directly 5 percent or more of a loss corporation, a distribution of an interest in the loss corporation from the trust to plan participants (or their beneficiaries) results in an acquisition of that interest by the participants (or their beneficiaries) that must be taken into account in determining whether the loss corporation has an ownership change.

Explanation of Provisions

In General

Treasury and the IRS are concerned that, under the current rules, a distribution of an ownership interest in an entity from a qualified trust may cause an ownership change, even though that event may not change the ultimate beneficial ownership of the loss corporation. To prevent this result, these temporary regulations set forth new rules.

Distributions From Qualified Trusts

The temporary regulations provide that if a qualified trust distributes an ownership interest in an entity, then for testing dates on or after the date of the distribution, the distributed ownership interest will be treated as having been acquired by the distributee on the date and in the manner acquired by the trust. Furthermore, the distribution itself does not give rise to a testing date. Because the rule applies only for testing dates on or after the date of the distribution, a distribution does not retroactively cause (or undo) an owner shift that would (or would not) have occurred if the distributee had actually acquired the ownership interest on the date and in the manner acquired by the qualified trust.

To determine which ownership interests have been distributed, the loss corporation must account for all dispositions of ownership interests by the qualified trust either by specifically identifying the ownership interest disposed of, or by using a first-in, first-out (FIFO) method. The loss corporation, however, must apply the same method to all dispositions by the qualified trust.

Effective Dates

The temporary regulations apply to all distributions from qualified trusts after June 27, 2003. The loss corporation may choose to apply the rules retroactively in one of two ways: (1) to all distributions from qualified trusts on or before June 27, 2003, and within a testing period that includes June 27, 2003; or (2) to all distributions from qualified trusts after December 31, 1986. Retroactive application will affect a taxpayer's items of income, gain, deduction, or loss only in open years.

Request for Comments and Future Regulations

Treasury and the IRS request comments regarding whether there are other events that, under current rules, are taken into account in determining whether an ownership change occurs, but do not cause the ultimate beneficial ownership of the loss corporation to change. In this regard, Treasury and the IRS have been studying the constructive ownership rules as they apply to members of a family, and the effect of those rules on the determination of whether a loss corporation has an ownership change. Subject to certain exceptions, §1.382-2T(h)(6)(ii) treats an individual, his spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), his children, his grandchildren, and his parents as one individual, and aggregates shares owned by those persons for purposes of determining whether a loss corporation has an ownership change. Treasury and the IRS are concerned that, under the current rules, a change in the composition of a family may be interpreted to cause an ownership change. Treasury and the IRS believe that, as in the case of a distribution from a qualified trust, when a change in family composition does not change the ultimate beneficial ownership of the loss corporation, it should not be taken into account in determining whether a loss corporation has an ownership change. For example, a change in family composition that results from a marriage of two individuals does not change the ultimate beneficial ownership of the loss corporation and, therefore, should not cause an ownership change. Accordingly, Treasury and the IRS intend to promulgate regulations to address changes in family composition that result from marriage, birth, adoption, divorce, death, or other events in which an individual joins or leaves a family. It is anticipated that these regulations will be electively retroactive on terms similar to those applicable to the rules regarding distributions from a qualified trust.

Special Analyses

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

12866. Therefore, a regulatory assessment is not required. These temporary regulations provide relief to qualifying loss corporations that might be affected by an unintended consequence of the operation of the statute. The regulations relieve a restriction on the ability of qualified trusts that distribute interests in a loss corporation without causing an ownership change. In addition, it is necessary to provide immediate guidance to taxpayers. Accordingly, good cause is found for dispensing with prior notice and comment pursuant to 5 U.S.C. 553(b) and for dispensing with a delayed effective date pursuant to 5 U.S.C. 553(d). For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), see the notice of proposed rulemaking on this subject in this issue of the Bulletin. The IRS and Treasury request comments from small entities that believe they might be adversely affected by these regulations. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

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

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Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1 — INCOME TAXES

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

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

Section 1.382-10T is also issued under 26 U.S.C. 382(m). * * *

Par. 2. Section 1.382-1 is amended by adding an entry in numerical order to read as follows:

§1.382-1 *Table of contents.*

* * * * *

§1.382-10T Special rules for determining time and manner of acquisition of an interest in a loss corporation.

* * * * *

Par. 3. Section 1.382-10T is added to read as follows:

§1.382-10T Special rules for determining time and manner of acquisition of an interest in a loss corporation (temporary).

(a) *Distributions from qualified trusts—(1) In general.* For purposes of §1.382-2T, if a qualified trust described in section 401(a) (qualified trust) distributes an ownership interest in an entity (as defined in §1.382-3(a)(1)), then for testing dates on or after the date of the distribution, the distributed ownership interest is treated as having been acquired by the distributee on the date and in the manner acquired by the trust and not as having been acquired or disposed of by the trust. The distribution does not cause the day of the distribution to be a testing date.

(2) *Accounting for dispositions—(i) General rule.* For purposes of this paragraph (a), in order to determine which ownership interest in an entity is distributed from a qualified trust, a loss corporation must either specifically identify the ownership interests that are the subject of all dispositions by the qualified trust of ownership interests in an entity, or apply the first-in, first-out (FIFO) method to all such dispositions.

(ii) *Special rules.* For purposes of this paragraph (a)(2):

(A) The FIFO method must be applied on a class-by-class basis; and

(B) The term dispositions includes distributions, sales, and other transfers.

(3) *Examples.* The following examples illustrate the principles of this paragraph (a). For purposes of these examples, unless otherwise stated, the nomenclature and assumptions of the examples in §1.382-2T(b) apply, all corporations file separate income tax returns on a calendar year basis, the only 5-percent shareholder of a loss corporation is a public group, and the facts set forth the only acquisitions of stock by any participants in a qualified plan and the only owner shifts with respect to the loss corporation during the testing period. The examples are as follows:

Example 1—(i) Facts. In 1994, E, a qualified trust established under Plan F, acquires 10 percent of L

stock. A is a participant in Plan F. On January 1, 2002, A acquires 4 percent of L stock, and B, who is not a participant or a beneficiary of a participant in Plan F, acquires 5 percent of L stock. On January 1, 2004, E distributes 2 percent of L stock to A. On July 1, 2004, A acquires 1 percent of L stock.

(ii) *Analysis.* January 1, 2002, is a testing date because B's acquisition of 5 percent of L stock causes an increase in the percentage ownership of B, a 5-percent shareholder. As of the close of that testing date, A is treated as owning only 4 percent of L stock. Therefore, A is treated as a member of the public group of L. In addition, E is treated as owning 10 percent of L stock that it acquired in 1994.

(iii) As a result of the application of paragraph (a)(1) of this section to E's distribution of 2 percent of L stock to A on January 1, 2004, for testing dates on and after January 1, 2004, A is treated as having acquired that 2 percent interest in L in 1994, and E is treated as having acquired only 8 percent of L stock in 1994. Because there are no owner shifts on January 1, 2004, that date is not a testing date.

(iv) July 1, 2004, is a testing date because on that date A, a 5-percent shareholder, acquires 1 percent of L stock. As of the close of that testing date, A's percentage of ownership of L stock is 7 percent, and A's lowest percentage of ownership of L stock at any time within the testing period is 2 percent (deemed acquired in 1994), representing an increase of 5 percentage points. In addition, as of the close of July 1, 2004, B's percentage of ownership of L stock is 5 percent, and B's lowest percentage of ownership of L stock at any time within the testing period is 0 percent, representing an increase of 5 percentage points. Thus, on July 1, 2004, L must take into account an increase of 10 (5 + 5) percentage points in determining whether it has an ownership change.

Example 2—(i) Facts. E is a qualified trust established under Plan F. L, a publicly traded corporation, has 100x shares of stock outstanding. As of January 1, 2006, C owns 5x shares of L stock and is not a participant or beneficiary of a participant in Plan F. At all times prior to January 1, 2006, E owns no L stock. On January 1, 2006, E acquires 10x shares of L stock from members of the public group of L. On December 1, 2007, E distributes 5x shares of L stock to some of the participants in Plan F. No one participant acquires all 5x shares as a result of the distribution. On February 1, 2008, C purchases 1x shares of L stock from the public group of L.

(ii) *Analysis.* Because E's acquisition of 10x shares of L stock on January 1, 2006, is an owner shift, that date is a testing date. As of the close of that date, E's percentage of stock ownership in L has increased by 10 percentage points.

(iii) As a result of the application of paragraph (a)(1) of this section to E's distribution of 5x shares of L stock to some Plan F participants on December 1, 2007, for testing dates on and after December 1, 2007, those distributees are treated as having acquired those shares of stock on January 1, 2006, from members of the public group of L, and E is not treated as having acquired those shares on that date. E's distribution of the 5x shares is not an owner shift. Therefore, December 1, 2007, is not a testing date.

(iv) February 1, 2008, is a testing date because on that date an owner shift results from C's purchase of 1x shares of L stock. As of the close of that testing date, the distributees of 5x shares of L stock are

treated as members of the public group of L having acquired 5x shares of L stock from other members of the public group of L on January 1, 2006. Because those acquisitions are not by 5-percent shareholders, L does not take them into account. In addition, as of the close of February 1, 2008, E's percentage of stock ownership in L is 5 percent, and E's lowest percentage of stock ownership in L at any time within the testing period is 0 percent, representing an increase of 5 percentage points. In addition, as of the close of February 1, 2008, C's percentage of stock ownership in L is 6 percent, and C's lowest percentage of stock ownership in L at any time within the testing period is 5 percent, representing an increase of 1 percentage point. Therefore, on February 1, 2008, L must take into account an increase of 6 (5 + 1) percentage points in determining whether it has an ownership change.

(4) *Effective date—(i) General rule.* This section applies to all distributions after June 27, 2003.

(ii) *Retroactive application.* Notwithstanding paragraph (a)(4)(i) of this section, a loss corporation may apply the rules of this section retroactively to:

(A) All distributions on or before June 27, 2003, that are within a testing period that includes June 27, 2003; or

(B) All distributions after December 31, 1986.

(b) [Reserved]

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved June 18, 2003.

Pamela F. Olson,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on June 26, 2003, 8:45 a.m., and published in the issue of the Federal Register for July 27, 2003, 68 F.R. 38177)

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

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

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

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for September 2003.

Rev. Rul. 2003-101

This revenue ruling provides various prescribed rates for federal income tax purposes for September 2003 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(2) for buildings placed in service during the current month. Finally, Table 5 contains the federal rate for determining the present value of annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2003-101 TABLE 1

Applicable Federal Rates (AFR) for September 2003

| | <i>Period for Compounding</i> | | | |
|-------------------|-------------------------------|-------------------|------------------|----------------|
| | <i>Annual</i> | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
| <i>Short-Term</i> | | | | |
| AFR | 1.52% | 1.51% | 1.51% | 1.51% |
| 110% AFR | 1.67% | 1.66% | 1.66% | 1.65% |
| 120% AFR | 1.82% | 1.81% | 1.81% | 1.80% |
| 130% AFR | 1.97% | 1.96% | 1.96% | 1.95% |
| <i>Mid-Term</i> | | | | |
| AFR | 3.43% | 3.40% | 3.39% | 3.38% |
| 110% AFR | 3.77% | 3.74% | 3.72% | 3.71% |
| 120% AFR | 4.12% | 4.08% | 4.06% | 4.05% |
| 130% AFR | 4.47% | 4.42% | 4.40% | 4.38% |
| 150% AFR | 5.17% | 5.10% | 5.07% | 5.05% |
| 175% AFR | 6.04% | 5.95% | 5.91% | 5.88% |

| REV. RUL. 2003-101 TABLE 1 | | | | |
|---|-------------------------------|-------------------|------------------|----------------|
| Applicable Federal Rates (AFR) for September 2003 (Con't) | | | | |
| | <i>Period for Compounding</i> | | | |
| | <i>Annual</i> | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
| <i>Long-Term</i> | | | | |
| AFR | 5.08% | 5.02% | 4.99% | 4.97% |
| 110% AFR | 5.60% | 5.52% | 5.48% | 5.46% |
| 120% AFR | 6.11% | 6.02% | 5.98% | 5.95% |
| 130% AFR | 6.64% | 6.53% | 6.48% | 6.44% |

| REV. RUL. 2003-101 TABLE 2 | | | | |
|---------------------------------|-------------------------------|-------------------|------------------|----------------|
| Adjusted AFR for September 2003 | | | | |
| | <i>Period for Compounding</i> | | | |
| | <i>Annual</i> | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
| Short-term adjusted AFR | 1.25% | 1.25% | 1.25% | 1.25% |
| Mid-term adjusted AFR | 2.92% | 2.90% | 2.89% | 2.88% |
| Long-term adjusted AFR | 4.65% | 4.60% | 4.57% | 4.56% |

| REV. RUL. 2003-101 TABLE 3 | |
|--|-------|
| Rates Under Section 382 for September 2003 | |
| Adjusted federal long-term rate for the current month | 4.65% |
| Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.) | 4.65% |

| REV. RUL. 2003-101 TABLE 4 | |
|--|-------|
| Appropriate Percentages Under Section 42(b)(2) for September 2003 | |
| Appropriate percentage for the 70% present value low-income housing credit | 7.99% |
| Appropriate percentage for the 30% present value low-income housing credit | 3.42% |

| REV. RUL. 2003-101 TABLE 5 | |
|---|------|
| Rate Under Section 7520 for September 2003 | |
| Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest | 4.2% |

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

Section 6038.—Information Reporting With Respect to Certain Foreign Corporations and Partnerships

26 CFR 1.6038-3: Information returns required of certain United States persons with respect to controlled foreign partnerships (CFPs).

T.D. 9065

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

Section 6038—Returns Required With Respect To Controlled Foreign Partnerships

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation and removal of temporary regulation.

SUMMARY: This document contains a final regulation relating to controlled foreign partnerships. This document requires that the United States partner must follow the filing requirements that are specified in the instructions for Form 8865.

DATES: *Effective Date:* This regulation is effective July 1, 2003.

Applicability Date: For dates of applicability, see §1.6038-3(1).

FOR FURTHER INFORMATION CONTACT: Tasheaya L. Warren Ellison, (202) 622-3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this final regulation has been previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995

(44 U.S.C. 3507(d)) under control number 1545-1617.

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

The burden of complying with the collection of information required to be reported on Form 8865 is reflected in the burden for Form 8865. The estimated number of respondents is 5000. The estimated burden for the 2001 Form 8865 per respondent is 89 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:T:T:SP Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

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

Background

On December 23, 2002, final and temporary regulations (T.D. 9033, 2003-7 I.R.B. 483 [67 Fed. Reg. 78174]) relating to the information reporting requirements for U.S. persons with interests in controlled foreign partnerships were published in the **Federal Register**. The temporary regulation addressed the filing requirements that must be followed for Form 8865 (*Return of U.S. Persons With Respect To Certain Foreign Partnerships*) if a U.S. person is required to file Form 8865 with respect to a foreign partnership that files Form 1065, *U.S. Return of Partnership Income or Form 1065-B, U.S. Return for Electing Large Partnerships*. On December 23, 2002, a notice of proposed rulemaking and public hearing (REG-124069-02, 2003-7 I.R.B. 488 [67 Fed. Reg. 78202]) was also published in the **Federal Register** with respect to the provisions of the temporary regulation. No written or electronic comments were

received in response to the notice of proposed rulemaking. No requests to speak at the public hearing were received, and, accordingly, the hearing was canceled.

Explanation of Provisions

This Treasury decision adopts the language of the proposed regulation without change other than to clarify that Treas. Reg. §1.6038-3(j) as in effect prior to T.D. 9033 (see 26 CFR part 1 revised April 1, 2002) is applicable to tax years of a foreign partnership ending before December 23, 2002. The temporary regulation is removed.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation. It is hereby certified that the collection of information contained in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the number of small entities that will be required to file the form is not substantial. The number of small entities with interests in foreign partnerships is not substantial; therefore, this regulation will not have a significant economic impact on a substantial number of small entities. Additionally, this regulation does not increase the reporting burden for U.S. persons with interests in controlled foreign partnerships. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. Comments are requested regarding the impact on small businesses.

Drafting Information

The principal author of this regulation is Tasheaya Warren Ellison, Office of the Associate Chief Counsel (International).

However, other personnel from the IRS and Treasury Department participated in its development.

* * * * *

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.6038-3, paragraphs (j) and (l) are revised to read as follows:

§1.6038-3 Information returns required of certain United States persons with respect to controlled foreign partnerships (CFPs).

* * * * *

(j) *Overlap with section 6031.* A partner may be required to file Form 8865 under this section and the foreign partnership in which it is a partner may also be required to file a Form 1065 or Form 1065-B under section 6031(e) for the same partnership tax year. For cases where a United States person is a controlling fifty-percent partner or a controlling ten-percent partner with respect to a foreign partnership,

and that foreign partnership completes and files Form 1065 or Form 1065-B, the instructions for Form 8865 will specify the filing requirements that address this overlap in reporting obligations.

* * * * *

(l) *Effective date.* Except as otherwise provided, this section shall apply for tax years of a foreign partnership ending on or after December 31, 2000. For tax years of a foreign partnership ending before December 23, 2002, see §1.6038-3(j) in effect prior to the amendments made by T.D. 9033 (see 26 CFR part 1 revised April 1, 2002).

§1.6038-3T [Removed]

Par. 3. Section 1.6038-3T is removed.

PART 602—OMB CONTROL NUMBERS UNDER PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§602.101 [Amended]

Par. 5. In §602.101, paragraph (b) is amended by removing the entry “§1.6038-3T.....1545-1617” from the table.

David A. Mader,
Assistant Deputy Commissioner
of Internal Revenue.

Approved June 23, 2003.

Pamela F. Olson,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on June 30, 2003, 8:45 a.m., and published in the issue of the Federal Register for July 1, 2003, 68 F.R. 39012)

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2003. See Rev. Rul. 2003-101, page 513.

Part III. Administrative, Procedural, and Miscellaneous

26 CFR 601.203: Offers in Compromise.
(Also Part I, §§ 7122; 301.7122-1.)

Rev. Proc. 2003-71

SECTION 1. PURPOSE

The purpose of this revenue procedure is to explain the procedures applicable to the submission and processing of offers to compromise a tax liability under section 7122 of the Internal Revenue Code. These procedures reflect changes to the law made by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206 (112 Stat. 685, 764).

SECTION 2. BACKGROUND

.01 Section 7122 permits the Secretary of the Treasury or his delegate to compromise any civil or criminal liability arising under the internal revenue laws before the case is referred to the Department of Justice for prosecution or defense.

.02 The Secretary has developed guidelines and procedures for the submission and evaluation of offers to compromise under section 7122. These guidelines can be found in § 301.7122-1 of the Regulations on Procedure and Administration, the Internal Revenue Manual, and various forms and publications issued by the Internal Revenue Service (Service). This revenue procedure supplements and clarifies the procedures identified in § 301.7122-1.

.03 This revenue procedure includes provisions relating to the offer in compromise application fee, required under § 300.3 of the Regulations on User Fees and effective November 1, 2003.

SECTION 3. SCOPE

This revenue procedure applies to all offers to compromise a civil or criminal liability under section 7122 submitted to the Service, except for those offers submitted directly to the Office of Appeals. This revenue procedure does not apply to offers to compromise a tax liability after a case involving a civil or criminal liability has been referred to the Department of Justice for prosecution or defense.

SECTION 4. SUBMITTING AN OFFER TO COMPROMISE

.01 An offer to compromise a tax liability must be submitted in writing on the Service's Form 656, *Offer in Compromise*. None of the standard terms may be stricken or altered, and the form must be signed under penalty of perjury. The offer should include all liabilities to be covered by the compromise, the legal grounds for compromise, the amount the taxpayer proposes to pay, and the payment terms. Payment terms include the amounts and due dates of the payments. The offer should also contain any other information required by Form 656. The Service occasionally revises Form 656 and may require offers to be submitted on the most recent version of the form. The most recent version of the form and instructions are available on the Service's website at www.irs.gov.

.02 An offer to compromise a tax liability should set forth the legal grounds for compromise and should provide enough information for the Service to determine whether the offer fits within its acceptance policies.

(1) Doubt as to liability. Doubt as to liability exists where there is a genuine dispute as to the existence or amount of the correct tax liability under the law. Doubt as to liability does not exist where the liability has been established by a final court decision or judgment concerning the existence of the liability.

An offer to compromise based on doubt as to liability generally will be considered acceptable if it reasonably reflects the amount the Service would expect to collect through litigation. This analysis includes consideration of the hazards of litigation that would be involved if the liability were litigated. The evaluation of the hazards of litigation is not an exact science and is within the discretion of the Service.

(2) Doubt as to collectibility. Doubt as to collectibility exists in any case where the taxpayer's assets and income cannot satisfy the full amount of the liability.

An offer to compromise based on doubt as to collectibility generally will be considered acceptable if it is unlikely that the tax can be collected in full and the offer

reasonably reflects the amount the Service could collect through other means, including administrative and judicial collection remedies. See Policy Statement P-5-100. This amount is the reasonable collection potential of a case. In determining the reasonable collection potential of a case, the Service will take into account the taxpayer's reasonable basic living expenses. In some cases, the Service may accept an offer of less than the total reasonable collection potential of a case if there are special circumstances.

(3) Promotion of effective tax administration.

(a) The Service may compromise to promote effective tax administration where it determines that, although collection in full could be achieved, collection of the full liability would cause the taxpayer economic hardship. Economic hardship is defined as the inability to pay reasonable basic living expenses. See § 301.6343-1(d). No compromise may be entered into on this basis if compromise of the liability would undermine compliance by taxpayers with the tax laws.

An offer to compromise based on economic hardship generally will be considered acceptable when, even though the tax could be collected in full, the amount offered reflects the amount the Service can collect without causing the taxpayer economic hardship. The determination to accept a particular amount will be based on the taxpayer's individual facts and circumstances.

(b) If there are no other grounds for compromise, the Service may compromise to promote effective tax administration where compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for compromising the liability. Compromise will be justified only where, due to exceptional circumstances, collection of the full liability would undermine public confidence that the tax laws are being administered in a fair and equitable manner. The taxpayer will be expected to demonstrate circumstances that justify compromise even though a similarly situated taxpayer may have paid his liability in full. No compromise may be entered into on this

basis if compromise of the liability would undermine compliance by taxpayers with the tax laws.

An offer to compromise based on compelling public policy or equity considerations generally will be considered acceptable if it reflects what is fair and equitable under the particular facts and circumstances of the case.

.03 The offer should include all information necessary to verify the grounds for compromise. Except for offers to compromise based solely on doubt as to liability, this includes financial information provided in a manner approved by the Service. Individual or self-employed taxpayers must submit a Form 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*, together with any attachments or other documentation required by the Service. Corporate or other business taxpayers must submit a Form 433-B, *Collection Information Statement for Businesses*, together with any attachments or other documentation required by the Service. The Service may require the corporate officers or individual partners of a business taxpayer to complete a Form 433-A.

.04 An offer to compromise a tax liability should be mailed to the appropriate address listed on Form 656. The Service may, in its discretion, receive offers to compromise in other manners. Simply because the Service has received an offer does not mean that it has accepted the offer for processing such that the offer is considered pending within the meaning of section 6331(k)(1). Accepting an offer for processing is addressed in Section 5.01 of this revenue procedure.

.05 If a deposit is submitted with the offer to compromise and the taxpayer authorizes application of a deposit to tax liabilities, it will be credited to the taxpayer's account as of the day the deposit is first received.

SECTION 5. WHEN AN OFFER BECOMES PENDING AND RETURN OF OFFERS

.01 Section 6331(k)(1) generally prohibits the Service from making a levy on a taxpayer's property or rights to property while an offer to compromise a liability is pending with the Service, for 30 days after the rejection of an offer to compromise,

or while an appeal of a rejection is pending. The statute of limitations on collection is suspended while levy is prohibited.

An offer to compromise becomes pending when it is accepted for processing. The Service accepts an offer to compromise for processing when it determines that: the offer is submitted on the proper version of Form 656 and Form 433-A or B, as appropriate; the taxpayer is not in bankruptcy; the taxpayer has complied with all filing and payment requirements listed in the instructions to Form 656; the taxpayer has enclosed the application fee, if required; and the offer meets any other minimum requirements established by the Service. A determination that the offer meets these minimum requirements means that the offer is processable.

.02 A determination is made to accept an offer to compromise for processing when a Service official with delegated authority to accept an offer for processing signs the Form 656. The date the Service official signs the Form 656 is recorded on the Service's computers. As of this date, levy is prohibited unless the Service determines that collection of the liability is in jeopardy.

.03 If the Service determines that an offer to compromise a liability does not meet the minimum requirements the Service has established for a processable offer, the offer to compromise is not processable and may be returned to the taxpayer. Because the offer to compromise was never accepted for processing, it was never pending and levy was never prohibited.

.04 If an offer to compromise accepted for processing does not contain sufficient information to permit the Service to evaluate whether the offer should be accepted, the Service will request that the taxpayer provide the needed additional information. These requests for information are described in Section 6 below. If the taxpayer does not submit the additional information that the Service has requested within a reasonable time period after such a request, the Service may return the offer to the taxpayer. The Service also may return the offer after it has been accepted for processing if:

- (1) The Service determines that the offer was submitted solely to delay collection;
- (2) The taxpayer fails to file a return or pay a liability;

- (3) The taxpayer files for bankruptcy;
 - (4) The offer is no longer processable;
- or
- (5) The offer was accepted for processing in error.

When an offer is returned under this Section 5.04, the Service will not refund the application fee submitted with the offer unless the offer was accepted for processing in error.

.05 If a determination is made to return the offer to compromise as described in Sections 5.03 and 5.04, the return of the offer does not constitute a rejection. The taxpayer is not entitled to appeal the matter to Appeals under the provisions of § 301.7122-1(f)(5). If the Service initiates collection action following a return of an offer to compromise, the taxpayer may be able to appeal the collection action under section 6320, section 6330, or under the Collection Appeals Program.

.06 An offer to compromise is considered to be returned on the day the Service mails, or personally delivers, a written letter to the taxpayer informing the taxpayer of the decision to return the offer. An offer returned following acceptance for processing is deemed pending only for the period between the date the offer is accepted for processing and the date the offer is returned. The Service may levy to collect the liability that was the subject of the offer anytime after it returns the offer to the taxpayer.

SECTION 6. CASE BUILDING, INVESTIGATION, AND EVALUATION

.01 Once the Service accepts an offer to compromise for processing, it begins to gather the basic information necessary to begin evaluating the offer. During this initial processing, the Service may contact the taxpayer to secure information or documentation that was incorrect or omitted from the offer documents.

.02 After all of the basic information has been obtained from the taxpayer, the Service evaluates the information and determines whether the taxpayer's offer is acceptable. In the course of evaluating the offer to compromise, the Service may request additional information or documentation from the taxpayer.

.03 The decision whether and when to accept an offer to compromise a liability is within the discretion of the Service. In

keeping with Policy Statement P-5-100, an offer will only be accepted if it is determined to be in the best interest of both the taxpayer and the Service. In addition to the criteria discussed in Section 4.02, the Service may take into account public policy and tax administration concerns in determining whether an offer to compromise is acceptable.

.04 For all offers to compromise, except for those based solely on doubt as to liability, the Service verifies the taxpayer's income and assets according to the Service's policies and procedures. Verification allows the Service to determine whether or not the taxpayer can fully pay the liability and, if not, to determine the reasonable collection potential of the liability.

(1) The Service uses a variety of sources to verify the taxpayer's valuation of the taxpayer's property. The Service relies on internal sources, such as its computer databases or other records, public and electronic sources, such as state motor vehicle records and credit bureau reports, and taxpayer supplied documentation.

(2) Section 7122 requires the Service to prescribe and publish guidelines to ensure that taxpayers entering into a compromise have an adequate means to provide for basic living expenses. The amount of basic living expenses will be determined based on an evaluation of the individual facts and circumstances presented by the taxpayer's case. The Service maintains a schedule of national and local allowances to account for the basic living expenses of taxpayers seeking to compromise. To determine whether an offer is adequate, the Service uses these schedules to analyze the income and expenses of the taxpayer to determine the monthly income available to pay the liability. These schedules are available in the Financial Analysis Handbook, IRM 5.15, and on the Service's website at www.irs.gov. The schedules are not applied when doing so would leave the taxpayer without adequate means to provide for basic living expenses.

(3) For purposes of evaluating an offer to compromise, the Service allows expenses only to the extent it determines they are necessary for the health and welfare of

the taxpayer or the taxpayer's family or are necessary for the production of income.

SECTION 7. WITHDRAWING AN OFFER TO COMPROMISE

.01 The taxpayer may withdraw an offer to compromise a liability anytime prior to acceptance of the offer. An offer that has been withdrawn is no longer pending and the Service may levy to collect the liability that was the subject of the offer. When an offer is withdrawn the Service will not refund the application fee submitted with the offer.

.02 The taxpayer may withdraw an offer to compromise by delivery of written notification of the withdrawal in person, by mail, or by fax. An offer assigned to Centralized Offer in Compromise Units, however, may not be withdrawn by personal delivery, because documents cannot be personally delivered to these units. A taxpayer may also request withdrawal of an offer telephonically. A notice of intent to withdraw an offer should be directed to the Service office assigned to the case.

(1) If the taxpayer withdraws an offer to compromise by personal delivery, the offer will be considered withdrawn when written notification of the withdrawal is received by the Service.

(2) If the taxpayer withdraws an offer to compromise by mailing written notification of the withdrawal via U.S. certified mail, the offer will be considered withdrawn on the date the Service receives the certified mail.

(3) In all other cases, including withdrawal by non-certified mail, fax, or phone, the offer will be considered withdrawn on the date the Service mails, or personally delivers, a written letter to the taxpayer acknowledging the withdrawal.

SECTION 8. ACCEPTING AN OFFER TO COMPROMISE

.01 An offer to compromise has not been accepted until the Service issues written notification of acceptance to the taxpayer. Acceptance is effective as of the date on the acceptance letter.

.02 Acceptance of an offer to compromise will conclusively settle the liability of

the taxpayer specified in the offer. Compromise with one taxpayer does not extinguish the liability of any person not named in the offer who is also liable for the tax to which the offer relates. The Service may take action to collect from any person not named in the offer.

SECTION 9. REJECTING AN OFFER TO COMPROMISE

.01 An offer to compromise has not been rejected until the Service issues written notification of rejection to the taxpayer. Section 7122(d) requires the Service to conduct an independent administrative review before the rejection of an offer to compromise is communicated to the taxpayer. The Service reviews each case to determine if the proposed rejection is reasonable based on the facts and circumstances of the case. Rejection is effective as of the date on the rejection letter. When an offer is rejected the Service will not refund the application fee submitted with the offer.

.02 The taxpayer may appeal the rejection of an offer to compromise to Appeals. The taxpayer must timely file the appeal with the Service office that rejected the offer. An appeal is timely filed if it is delivered to the Service or postmarked within thirty days from the date of the letter of rejection.

.03 Pursuant to section 6331, the Service may not make a levy on the taxpayer's property or rights to property for thirty days following the rejection of an offer to compromise or while an appeal of a rejection is pending.

SECTION 10. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 96-38 is obsolete.

SECTION 11. EFFECTIVE DATE

This revenue procedure is effective August 21, 2003, the date this revenue procedure was announced by news release, except that the provisions relating to the offer in compromise application fee are not effective for offers submitted prior to November 1, 2003.

SECTION 12. DRAFTING INFORMATION

The principal author of this revenue procedure is Sheara L. Krvaric of the Office of the Associate Chief Counsel (Procedure and Administration), Collection, Bankruptcy & Summonses Division. For further information regarding this revenue procedure, contact Branch 2 of Collection, Bankruptcy & Summonses at (202) 622-3620 (not a toll-free call).

Part IV. Items of General Interest

Notice of Proposed Rulemaking

At-Risk Limitations; Interest Other Than That of a Creditor

REG-209377-89

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment, for purposes of the at-risk limitations, of amounts borrowed from a person who has an interest in an activity other than that of a creditor or from a person related to a person (other than the borrower) with such an interest. Proposed regulations published in 1979 provide that amounts borrowed from a person who has an interest in an activity other than that of a creditor do not increase the amount at risk in certain enumerated activities. These proposed regulations extend this rule to all activities subject to the at-risk limitations. In addition, the rule is conformed to the current statutory language providing for its application to amounts borrowed from persons related to a person (other than the borrower) with an interest other than that of a creditor. These proposed regulations affect taxpayers subject to the at-risk limitations and provide them with guidance necessary to comply with the law.

DATES: Written or electronic comments and requests for a public hearing must be received no later than October 6, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG-209377-89), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG-209377-89), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at: www.irs.gov/regs.

FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Tara P. Volungis or Christopher L. Trump, 202-622-3080; concerning submissions and requests for a public hearing, Sonya Cruse, 202-622-4693 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document proposes amendments to 26 CFR part 1 to provide additional rules under section 465 of the Internal Revenue Code of 1986 (Code), as amended. Section 465 was added to the Code by section 204 of the Tax Reform Act of 1976 (Public Law 94-455, 90 Stat. 1531). Section 465 limits the deductibility of losses to a taxpayer's economic investment (the amount at risk) in the activity at the close of a taxable year. A taxpayer is generally considered at risk in an activity to the extent of cash and the adjusted basis of property contributed by the taxpayer to the activity. In general, a taxpayer's amount at risk also includes any amounts borrowed for use in the activity if the taxpayer is personally liable for repayment or if property other than property used in the activity is pledged as security.

As originally enacted, section 465 applied to certain enumerated activities described in section 465(c)(1) (old activities). Subsequent amendments made by section 201 of the Revenue Act of 1978 (Public Law 95-600, 92 Stat. 2814) extended the at-risk rules to other activities described in section 465(c)(3)(A) (new activities).

On June 5, 1979, the IRS published in the **Federal Register** (44 FR 32235) proposed regulations (LR-166-76) relating to the treatment of investments in old activities under section 465 of the Code (the previously proposed regulations). Section 1.465-8 of the previously proposed regulations provides that amounts borrowed by a taxpayer for use in an old activity do not increase the taxpayer's amount at risk if the lender has an interest in the activity other than that of a creditor. Section 1.465-20 of the previously proposed regulations provides rules for the treatment of amounts borrowed from certain persons and amounts protected against loss. This document proposes to amend §§1.465-8

and 1.465-20 of the previously proposed regulations.

Explanation of Provisions

I. Application of Section 465(b)(3) to New Activities

Under section 465(b)(3), amounts borrowed for use in an activity will not increase the borrower's amount at risk in the activity if the lender has an interest other than that of a creditor in the activity (a disqualifying interest) or if the lender is related to a person (other than the borrower) who has a disqualifying interest in the activity. The rule applies even if the borrower is personally liable for the repayment of the loan or the loan is secured by property not used in the activity.

Section 465(c)(3)(D) provides that section 465(b)(3) will apply to new activities only to the extent provided in regulations prescribed by the Secretary. The Tax Court in *Alexander v. Commissioner*, 95 T.C. 467 (1990), held that, until regulations are issued, section 465(b)(3) cannot be applied to a new activity. These proposed regulations will apply section 465(b)(3) to the new activities described in section 465(c)(3)(A).

II. Related Persons

As originally enacted, section 465(b)(3) also applied to any borrowing from persons related to the taxpayer under section 267(b). Section 432(c) of the Deficit Reduction Act of 1984 (Public Law 98-369, 98 Stat. 814) eliminated this rule but provided, instead, that a taxpayer's amount at risk is not increased by amounts borrowed from a person related to a person (other than the taxpayer) who has a disqualifying interest in the activity. These proposed regulations change §1.465-20 of the previously proposed regulations to reflect the amendment made by the Deficit Reduction Act of 1984.

III. Scope of §1.465-8

These proposed regulations modify the previously proposed regulations to reflect section 465(b)(3)(B)(ii), which provides that, for purposes of determining a corporation's amount at risk, an interest as a

shareholder is not a disqualifying interest. Thus, amounts borrowed by a corporation from its shareholders may increase the corporation's amount at risk.

These proposed regulations also modify the previously proposed regulations to reflect section 465(b)(6)(A), which provides that "qualified nonrecourse financing," if borrowed for use in an activity of holding real property and secured by real property used in the activity, is not subject to the limitations of section 465(b)(3). In addition, these proposed regulations expand the exception to include financing that, if it were nonrecourse, would be financing described in section 465(b)(6)(B). This expansion of the exception ensures that recourse financing is treated no worse than qualified nonrecourse financing.

Proposed Effective Date

The new rules in these regulations are proposed to be applicable to amounts borrowed after the rules are published as final regulations 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 also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, 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 Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department 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 will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Tara P. Volungis and Christopher L. Trump of the Office of Associate Chief Counsel (Passthroughs and Special Industries). Other personnel from Treasury and the IRS participated in their development.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1, which was proposed at 44 FR 32235 (June 5, 1979), is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.465-8 also issued under 26 U.S.C. 465. * * *

Section 1.465-20 also issued under 26 U.S.C. 465. * * *

Par. 2. Section 1.465-8, as proposed at 44 FR 32238 (June 5, 1979), is amended as follows:

1. Paragraphs (a) and (b)(1) are revised.
2. The last sentence of paragraph (c)(1) is revised.
3. The second sentence of paragraph (d)(1) is revised.
4. Paragraph (e) is added.

The revisions and additions read as follows:

§1.465-8 General rules; interest other than that of a creditor.

(a) *In general*—(1) *Amounts borrowed.* This section applies to amounts borrowed for use in an activity described in section 465(c)(1) or (c)(3)(A). Amounts borrowed

with respect to an activity will not increase the borrower's amount at risk in the activity if the lender has an interest in the activity other than that of a creditor or is related to a person (other than the borrower) who has an interest in the activity other than that of a creditor. This rule applies even if the borrower is personally liable for the repayment of the loan or the loan is secured by property not used in the activity. For additional rules relating to the treatment of amounts borrowed from these persons, see §1.465-20.

(2) *Certain borrowed amounts excepted.* (i) For purposes of determining a corporation's amount at risk, an interest in the corporation as a shareholder is not an interest in any activity of the corporation. Thus, amounts borrowed by a corporation from a shareholder may increase the corporation's amount at risk.

(ii) For purposes of determining a taxpayer's amount at risk in an activity of holding real property, paragraph (a)(1) of this section does not apply to financing that is secured by real property used in the activity and is either—

(A) Qualified nonrecourse financing described in section 465(b)(6)(B); or

(B) Financing that, if it were nonrecourse, would be financing described in section 465(b)(6)(B).

(b) *Loans for which the borrower is personally liable for repayment*—(1) *General rule.* If a borrower is personally liable for the repayment of a loan for use in an activity, a person shall be considered a person with an interest in the activity other than that of a creditor only if the person has either a capital interest in the activity or an interest in the net profits of the activity.

* * * * *

(c) * * *

(1) * * * In the case of such a loan a person shall be considered a person with an interest in the activity other than that of a creditor only if the person has either a capital interest in the activity or an interest in the net profits of the activity.

* * * * *

(d) * * *

(1) * * * In the case of such a loan a person shall be considered a person with an interest in the activity other than that of a creditor if the person stands to receive financial gain (other than interest) from the

activity or from the sale of interests in the activity. * * *

* * * * *

(e) *Effective date.* This section applies to amounts borrowed after the date this section is published as a final regulation in the **Federal Register**.

Par. 3. Section 1.465-20, as proposed at 44 FR 32241 (June 5, 1979), is amended as follows:

1. Paragraphs (a) and (b) are revised.
2. Paragraph (d) is added.

The revisions and additions read as follows:

§1.465-20 Treatment of amounts borrowed from certain persons and amounts protected against loss.

(a) *General rule.* The following amounts are treated in the same manner as borrowed amounts for which the taxpayer has no personal liability and for which no security is pledged—

(1) Amounts that do not increase the taxpayer's amount at risk because they are borrowed from a person who has an interest in the activity other than that of a creditor or from a person who is related to a person (other than the taxpayer) who has an interest in the activity other than that of a creditor; and

(2) Amounts (whether or not borrowed) that are protected against loss.

(b) *Interest other than that of a creditor; cross reference.* See §1.465-8 for additional rules relating to amounts borrowed from a person who has an interest in the activity other than that of a creditor or is related to a person (other than the taxpayer) who has an interest in the activity other than that of a creditor.

* * * * *

(d) *Effective date.* This section applies to amounts borrowed after the date this section is published as a final regulation in the **Federal Register**.

Robert E. Wenzel,
Deputy Commissioner for Services and Enforcement.

(Filed by the Office of the Federal Register on July 7, 2003, 8:45 a.m., and published in the issue of the Federal Register for July 8, 2003, 68 F.R. 40583)

Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations and Notice of Public Hearing

Distributions of Interests in a Loss Corporation From Qualified Trusts

REG-108676-03

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: This document contains proposed regulations under section 382 of the Internal Revenue Code of 1986. The proposed regulations affect loss corporations and provide guidance on whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity. The text of the temporary regulations (T.D. 9063 on page 510.) published in this issue of the Bulletin serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by September 25, 2003.

ADDRESSES: Send submissions to: CC:ITA:RU (REG-108676-03), room 5207, Internal Revenue Service, POB 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:ITA:RU (REG-108676-03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at www.irs.gov/regs.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Martin Huck, (202) 622-7750; concerning submissions of comments and/or requests for a public hearing, Treena Garrett, (202) 622-3401 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in this issue of the Bulletin amend the Income Tax Regulations (26 CFR part 1) relating to section 382. The temporary regulations provide rules for determining whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments and these proposed regulations.

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 is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations provide relief to qualifying loss corporations that might be affected by an unintended consequence of the operation of the statute. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Nevertheless, the IRS and Treasury request comments from small entities that believe they might be adversely affected by these regulations. 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 their impact.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that

timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information

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

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.382–10 is also issued under 26 U.S.C. 382(m). * * *

Par. 2. Section 1.382–1 is amended by revising the entry for §1.382–10 to read as follows:

§1.382–10 Special rules for determining time and manner of acquisition of an interest in a loss corporation (temporary).

Par. 3. Section 1.382–10 is added to read as follows:

§1.382–10 Special rules for determining time and manner of acquisition of an interest in a loss corporation (temporary).

[The text of proposed §1.382–10 is the same as the text of §1.382–10T published elsewhere in this issue of the Bulletin].

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on June 26, 2003, 8:45 a.m., and published in the issue of the Federal Register for June 27, 2003, 68 F.R. 38247)

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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