

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. 2003-122, page 1179.

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 December 2003.

T.D. 9095, page 1175.

REG-136890-02, page 1191.

Final, temporary, and proposed regulations under section 461 of the Code clarify that the transfer of a taxpayer's note or promise to provide property or services in the future is not a transfer for the satisfaction of a contested liability under section 461(f). A transfer of a taxpayer's stock or the stock or note of a related party also is not a transfer for the satisfaction of a contested liability under section 461(f). The temporary regulations further provide that, in general, economic performance does not occur when a taxpayer transfers money or other property to a trust, escrow account, or court to provide for the satisfaction of a contested workers compensation, tort, or other payment liability. A public hearing on the proposed regulations is scheduled for March 23, 2004.

EMPLOYEE PLANS

Rev. Rul. 2003-124, page 1173.

Covered compensation tables; 2004. The covered compensation tables under section 401 of the Code for the year 2004 are provided for use in determining contributions to defined benefit plans and permitted disparity.

EXEMPT ORGANIZATIONS

Announcement 2003-77, page 1195.

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

ADMINISTRATIVE

Notice 2003-76, page 1181.

This notice sets out transactions that have been identified by the Treasury Department and the IRS as "listed transactions" for purposes of the regulations under sections 6011 and 6111 of the Code. Notice 2001-51 supplemented and superseded.

Notice 2003-77, page 1182.

Transfer to trusts to provide for the satisfaction of contested liabilities. This notice provides that certain transfers to trusts to provide for the satisfaction of contested liabilities under section 461(f) of the Code are listed transactions.

Rev. Proc. 2003-85, page 1184.

Cost-of-living adjustments for 2004. This procedure provides cost-of-living adjustments for the tax rate tables for individuals, estates, and trusts, the standard deduction amounts, the personal exemption, and several other items that use the adjustment method provided for the tax rate tables. The Service also provides the adjustment for eligible long-term care premiums and another item that uses the adjustment method provided for eligible long-term care premiums.

(Continued on the next page)

Actions Relating to Court Decisions is on the page following the Introduction.
Announcements of Disbarments and Suspensions begin on page 1192.
Finding Lists begin on page ii.



Announcement 2003-75, page 1195.

This document provides updated requirements relating to the composite substitute statement procedures, outlined in Publication 1179, *General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, W-2G and 1042-S*. These procedures have been revised to allow composite substitute statements to be furnished for Form 1099-DIV and Form 1099-MISC reporting substitute payments in lieu of dividends. All other rules and specifications for preparing substitute forms remain the same. Rev. Proc. 2003-28, 2003-16 I.R.B. 759, modified in part.

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

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* **Beginning with Internal Revenue Bulletin 2003-43**, we are publishing the index at the end of the month, rather than at the beginning.

Actions Relating to Decisions of the Tax Court

It is the policy of the Internal Revenue Service to announce at an early date whether it will follow the holdings in certain cases. An Action on Decision is the document making such an announcement. An Action on Decision will be issued at the discretion of the Service only on unappealed issues decided adverse to the government. Generally, an Action on Decision is issued where its guidance would be helpful to Service personnel working with the same or similar issues. Unlike a Treasury Regulation or a Revenue Ruling, an Action on Decision is not an affirmative statement of Service position. It is not intended to serve as public guidance and may not be cited as precedent.

Actions on Decisions shall be relied upon within the Service only as conclusions applying the law to the facts in the particular case at the time the Action on Decision was issued. Caution should be exercised in extending the recommendation of the Action on Decision to similar cases where the facts are different. Moreover, the recommendation in the Action on Decision may be superseded by new legislation, regulations, rulings, cases, or Actions on Decisions.

Prior to 1991, the Service published acquiescence or nonacquiescence only in

certain regular Tax Court opinions. The Service has expanded its acquiescence program to include other civil tax cases where guidance is determined to be helpful. Accordingly, the Service now may acquiesce or nonacquiesce in the holdings of memorandum Tax Court opinions, as well as those of the United States District Courts, Claims Court, and Circuit Courts of Appeal. Regardless of the court deciding the case, the recommendation of any Action on Decision will be published in the Internal Revenue Bulletin.

The recommendation in every Action on Decision will be summarized as acquiescence, acquiescence in result only, or nonacquiescence. Both “acquiescence” and “acquiescence in result only” mean that the Service accepts the holding of the court in a case and that the Service will follow it in disposing of cases with the same controlling facts. However, “acquiescence” indicates neither approval nor disapproval of the reasons assigned by the court for its conclusions; whereas, “acquiescence in result only” indicates disagreement or concern with some or all of those reasons. “Nonacquiescence” signifies that, although no further review was sought, the Service does not agree with the holding of the court and, generally,

will not follow the decision in disposing of cases involving other taxpayers. In reference to an opinion of a circuit court of appeals, a “nonacquiescence” indicates that the Service will not follow the holding on a nationwide basis. However, the Service will recognize the precedential impact of the opinion on cases arising within the venue of the deciding circuit.

The Actions on Decisions published in the weekly Internal Revenue Bulletin are consolidated semiannually and appear in the first Bulletin for July and the Cumulative Bulletin for the first half of the year. A semiannual consolidation also appears in the first Bulletin for the following January and in the Cumulative Bulletin for the last half of the year.

The Commissioner ACQUIESCES in result only in the following decision:

General Electric Co. & Subs. v. Commissioner,¹

T.C. Memo. 1995-306
rev'd in part, vacated
in part, and remanded
245 F.3d 149 (2d Cir. 2001)
T.C. Dkt. No. 14715-92

¹ Acquiescence in result only relating to whether aircraft engines and thrust reversers sold by the taxpayer through its wholly-owned domestic international sales corporation (“DISC”) to airframe manufacturers for incorporation in the United States into aircraft that are delivered for use outside the United States constitute “export property” within the meaning of section 993(c)(1)(B) of the Internal Revenue Code and Treas. Reg. section 1.993-3(d)(2)(iii).

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 December 2003. See Rev. Rul. 2003-122, page 1179.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of December 2003. See Rev. Rul. 2003-122, page 1179.

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 December 2003. See Rev. Rul. 2003-122, page 1179.

Section 401.—Qualified Pension, Profit-Sharing, and Stock Bonus Plans

26 CFR 1.401(l)-1: Permitted disparity in employer-provided contributions or benefits.

Covered compensation tables; 2004.

The covered compensation tables under section 401 of the Code for the year 2004 are provided for use in determining contributions to defined benefit plans and permitted disparity.

Rev. Rul. 2003-124

This revenue ruling provides tables of covered compensation under § 401(l)(5)(E) of the Internal Revenue Code (the “Code”) and the Income Tax Regulations, thereunder, for the 2004 plan year.

Section 401(l)(5)(E)(i) defines covered compensation with respect to an employee, as the average of the contribution and benefit bases in effect under section 230 of the Social Security Act (the “Act”) for each year in the 35-year period ending with the year in which the employee attains social security retirement age.

Section 401(l)(5)(E)(ii) of the Code states that the determination for any year preceding the year in which the employee attains social security retirement age shall be made by assuming that there is no increase in covered compensation after the determination year and before the employee attains social security retirement age.

Section 1.401(l)-1(c)(34) defines the taxable wage base as the contribution and benefit base under section 230 of the Act.

Section 1.401(l)-1(c)(7)(i) defines covered compensation for an employee as the average (without indexing) of the taxable wage bases in effect for each calendar year during the 35-year period ending with the last day of the calendar year in which the employee attains (or will attain) social security retirement age. A 35-year period is used for all individuals regardless of the

year of birth of the individual. In determining an employee’s covered compensation for a plan year, the taxable wage base for all calendar years beginning after the first day of the plan year is assumed to be the same as the taxable wage base in effect as of the beginning of the plan year. An employee’s covered compensation for a plan year beginning after the 35-year period applicable under § 1.401(l)-1(c)(7)(i) is the employee’s covered compensation for a plan year during which the 35-year period ends. An employee’s covered compensation for a plan year beginning before the 35-year period applicable under § 1.401(l)-1(c)(7)(i) is the taxable wage base in effect as of the beginning of the plan year.

Section 1.401(l)-1(c)(7)(ii) provides that, for purposes of determining the amount of an employee’s covered compensation under § 1.401(l)-1(c)(7)(i), a plan may use tables, provided by the Commissioner, that are developed by rounding the actual amounts of covered compensation for different years of birth.

For purposes of determining covered compensation for the 2004 year, the taxable wage base is \$87,900.

The following tables provide covered compensation for 2004:

2004 COVERED COMPENSATION TABLE

| CALENDAR YEAR OF BIRTH | CALENDAR YEAR OF SOCIAL SECURITY RETIREMENT AGE | 2004 COVERED COMPENSATION TABLE |
|------------------------|---|---------------------------------|
| 1907 | 1972 | \$4,488 |
| 1908 | 1973 | 4,704 |
| 1909 | 1974 | 5,004 |
| 1910 | 1975 | 5,316 |
| 1911 | 1976 | 5,664 |
| 1912 | 1977 | 6,060 |
| 1913 | 1978 | 6,480 |
| 1914 | 1979 | 7,044 |
| 1915 | 1980 | 7,692 |
| 1916 | 1981 | 8,460 |
| 1917 | 1982 | 9,300 |
| 1918 | 1983 | 10,236 |
| 1919 | 1984 | 11,232 |
| 1920 | 1985 | 12,276 |
| 1921 | 1986 | 13,368 |
| 1922 | 1987 | 14,520 |
| 1923 | 1988 | 15,708 |
| 1924 | 1989 | 16,968 |
| 1925 | 1990 | 18,312 |
| 1926 | 1991 | 19,728 |
| 1927 | 1992 | 21,192 |
| 1928 | 1993 | 22,716 |
| 1929 | 1994 | 24,312 |
| 1930 | 1995 | 25,920 |
| 1931 | 1996 | 27,576 |
| 1932 | 1997 | 29,304 |
| 1933 | 1998 | 31,128 |
| 1934 | 1999 | 33,060 |
| 1935 | 2000 | 35,100 |
| 1936 | 2001 | 37,212 |
| 1937 | 2002 | 39,444 |
| 1938 | 2004 | 43,992 |
| 1939 | 2005 | 46,284 |
| 1940 | 2006 | 48,576 |
| 1941 | 2007 | 50,832 |
| 1942 | 2008 | 53,028 |
| 1943 | 2009 | 55,164 |
| 1944 | 2010 | 57,276 |
| 1945 | 2011 | 59,352 |
| 1946 | 2012 | 61,392 |
| 1947 | 2013 | 63,396 |
| 1948 | 2014 | 65,256 |
| 1949 | 2015 | 67,020 |
| 1950 | 2016 | 68,688 |
| 1951 | 2017 | 70,272 |
| 1952 | 2018 | 71,760 |
| 1953 | 2019 | 73,200 |
| 1954 | 2020 | 74,580 |
| 1955 | 2022 | 77,148 |
| 1956 | 2023 | 78,372 |
| 1957 | 2024 | 79,512 |
| 1958 | 2025 | 80,556 |
| 1959 | 2026 | 81,540 |
| 1960 | 2027 | 82,464 |
| 1961 | 2028 | 83,340 |
| 1962 | 2029 | 84,120 |
| 1963 | 2030 | 84,876 |
| 1964 | 2031 | 85,596 |

2004 COVERED COMPENSATION TABLE

| CALENDAR YEAR OF BIRTH | CALENDAR YEAR OF SOCIAL SECURITY RETIREMENT AGE | 2004 COVERED COMPENSATION TABLE |
|------------------------|---|---------------------------------|
| 1965 | 2032 | 86,244 |
| 1966 | 2033 | 86,796 |
| 1967 | 2034 | 87,240 |
| 1968 | 2035 | 87,564 |
| 1969 | 2036 | 87,780 |
| 1970 | 2037 | 87,864 |
| 1971 and later | 2038 | 87,900 |

2004 Rounded Covered Compensation Table

| Year of Birth | Covered Compensation |
|----------------|----------------------|
| 1937 | 39,000 |
| 1938 – 1939 | 45,000 |
| 1940 | 48,000 |
| 1941 | 51,000 |
| 1942 – 1943 | 54,000 |
| 1944 | 57,000 |
| 1945 – 1946 | 60,000 |
| 1947 | 63,000 |
| 1948 – 1949 | 66,000 |
| 1950 – 1951 | 69,000 |
| 1952 – 1953 | 72,000 |
| 1954 | 75,000 |
| 1955 – 1956 | 78,000 |
| 1957 – 1960 | 81,000 |
| 1961 – 1963 | 84,000 |
| 1964 – 1967 | 87,000 |
| 1968 and later | 87,900 |

DRAFTING INFORMATION

The principal author of this revenue ruling is Lawrence Isaacs of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this revenue ruling, please contact the Employee Plans taxpayer assistance telephone service at 1-877-829-5500, between the hours of 8:00 a.m. and 6:30 p.m. Eastern time, Monday through Friday (a toll-free number). Mr. Isaac's number is (202) 283-9710 (not a toll-free number).

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2003. See Rev. Rul. 2003-122, page 1179.

Section 461.—General Rule for Taxable Year of Deduction

26 CFR 1.461-2T: *Contested liabilities (temporary)*.

T.D. 9095

**DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1**

Transfers to Provide for Satisfaction of Contested Liabilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations relating to transfers of money or

other property to provide for the satisfaction of contested liabilities. The regulations affect taxpayers that are contesting an asserted liability and that transfer their own stock or indebtedness, the stock or indebtedness of a related party, or a promise to provide services or property in the future, to provide for the satisfaction of the liability prior to the resolution of the contest. The regulations also affect taxpayers that transfer money or other property to a trust, an escrow account, or a court to provide for the satisfaction of a liability for which payment is economic performance. The text of these temporary regulations also serves as the text of the proposed regulations (REG-136890-02) set forth in the notice of proposed rulemaking on this subject in this issue of the Bulletin.

DATES: *Effective Date:* These regulations are effective November 19, 2003.

Applicability Dates: For dates of applicability, see §1.461-2T(g).

FOR FURTHER INFORMATION CONTACT: Norma Rotunno, (202) 622-7900 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under section 461(f) of the Internal Revenue Code (Code) relating to the transfer of money or other property to provide for the satisfaction of an asserted liability that a taxpayer is contesting. Section 461(f) provides an exception to the general rules of tax accounting by allowing a taxpayer to deduct a contested liability in a year prior to the resolution of the contest if the following conditions are met: (1) the taxpayer contests an asserted liability, (2) the taxpayer transfers money or other property to provide for the satisfaction of the asserted liability, (3) the contest with respect to the asserted liability exists after the time of transfer, and (4) but for the fact that the asserted liability is contested, a deduction would be allowed for the taxable year of the transfer (or for an earlier taxable year) determined after the application of the economic performance rules. If these requirements are satisfied, a taxpayer may deduct the liability in the taxable year of the transfer.

Section 461(f)(2) requires the taxpayer to transfer money or other property to provide for the satisfaction of the asserted liability. Neither the statute nor the regulations specifically define *money or other property*. The examples in the regulations and the legislative history involve only transfers of cash.

Under §1.461-2(c)(1) of the Income Tax Regulations, a transfer for the satisfaction of an asserted liability is a transfer of money or other property beyond the taxpayer's control to: (1) the person asserting the liability, (2) an escrowee or trustee pursuant to a written agreement (among the escrowee or trustee, the taxpayer, and the person who is asserting the liability) providing that the money or other property be delivered in accordance with the settlement of the contest, (3) an escrowee or trustee pursuant to an order of a court or government entity providing that the money or other property be delivered in accordance with the settlement of

the contest, or (4) a court with jurisdiction over the contest. The taxpayer must relinquish all authority over the money or other property transferred.

To qualify for a deduction, section 461(f)(4) provides that a deduction is allowed in the taxable year of the transfer only if, but for the fact that the asserted liability is contested, a deduction would be allowed for the taxable year of the transfer (or for an earlier taxable year) "determined after application of subsection (h)." Congress added the quoted language to section 461(f)(4) when Congress enacted section 461(h), which provides, for amounts with respect to which a deduction would be allowable after July 18, 1984, that the all events test is not met any earlier than when economic performance has occurred with respect to the liability. Section 461(h)(2)(C) provides that payment to another person is required to satisfy economic performance for liabilities arising out of any workers compensation act or any tort. The Conference Report accompanying enactment of section 461(h) explains the impact of the economic performance requirement on trusts established under section 461(f):

In the case of workers' compensation or tort liabilities of the taxpayer requiring payments to another person, economic performance occurs as payments are made to that person. Since payment to a section 461(f) trust is not a payment to the claimant and does not discharge the taxpayer's liability to the claimant, such payment does not satisfy the economic performance test.

H. R. Rep. No. 861, 98th Cong., 2d Sess. 871, 876 (1984).

For transfers in taxable years beginning after December 31, 1991, §1.461-4(g)(2)-(7) expands the list of liabilities for which payment "to the person to which the liability is owed" constitutes economic performance (payment liabilities). The additional payment liabilities listed in §1.461-4(g)(2)-(6) include liabilities for breach of contract (to the extent of incidental, consequential, and liquidated damages) or violation of law, rebates and refunds, awards, prizes, jackpots, insurance, warranty and service contracts, and taxes. In addition, §1.461-4(g)(7) characterizes as payment

liabilities other liabilities for which other specific rules are not provided.

Section 1.461-4(g)(1)(ii)(A) provides that payment does not include the furnishing of a note or other evidence of indebtedness of the taxpayer.

Section 1.461-4(g)(1)(i) provides that, for liabilities for which payment is economic performance, economic performance does not occur as a taxpayer makes payments in connection with a liability to any other person, including a trust, escrow account, court-administered fund, or any similar arrangement, unless the payments constitute payment to the person to which the liability is owed under paragraph (g)(1)(ii)(B). Section 1.461-4(g)(1)(ii)(B) states that payment is accomplished if a cash basis taxpayer in the position of the person to which the liability is owed would be treated as having actually or constructively received the amount of the payment as gross income under section 451.

Explanation of Provisions

Transfers of Property to Provide for the Satisfaction of an Asserted Liability

The regulations remove §1.461-2(c)(1) and add §1.461-2T(c)(1). The temporary regulations restructure the provisions of current §1.461-2(c)(1) for greater clarity but retain all of the rules in §1.461-2(c)(1), including the requirement that the taxpayer must transfer money or other property beyond the taxpayer's control and relinquish all authority over the money or other property transferred. The temporary regulations clarify that the transfer of the indebtedness of a taxpayer or of any promise by the taxpayer to provide services or property in the future is not a transfer to provide for the satisfaction of an asserted liability. See *Eckert v. Burnet*, 283 U.S. 140 (1931); *Willamette Industries, Inc., v. Commissioner*, 92 T.C. 1116 (1989), aff'd, 149 F.3d 1057 (9th Cir. 1998). In addition, the temporary regulations provide the express rule that a transfer (other than to the person asserting the liability) of a taxpayer's stock, or the indebtedness or stock of a person related to the taxpayer (as defined in section 267(b)), is not a transfer to provide for the satisfaction of an asserted liability. These rules are consistent with section 468B(d)(1)(B), which excludes as

a qualified payment to a designated settlement fund the transfer of any stock or indebtedness of the taxpayer (or any related person). See §1.461-4(g)(1)(ii)(A), which provides that payment does not include the furnishing of a note or other evidence of indebtedness of the taxpayer or a promise of the taxpayer to provide services or property in the future.

Economic Performance Rules for Payment Liabilities

Section 1.461-4(g) provides that economic performance occurs in the case of a liability requiring payment to another person arising out of a workers compensation act, tort, or other designated liability as payments are made to the person to which the liability is owed. Therefore, the temporary regulations provide in §1.461-2T(e)(2) that, except as provided in section 468B or the regulations thereunder, economic performance does not occur when a taxpayer transfers money or other property to a trust, escrow account, or court to provide for the satisfaction of a contested workers compensation, tort, or other liability designated in §1.461-4(g) unless the trust, escrow account, or court is the claimant or the taxpayer's payment to the trust, escrow account, or court discharges the taxpayer's liability to the claimant. See *Maxus Energy Corporation and Subsidiaries v. United States*, 31 F.3d 1135 (Fed. Cir. 1994). Rather, economic performance occurs in the taxable year in which the taxpayer transfers money or other property to the person asserting the liability that the taxpayer is contesting, or in the taxable year in which payment from the trust, escrow account, or court registry is made to the person to which the liability is owed.

Effective Date

In general, the temporary regulations apply to transfers made in taxable years beginning after December 31, 1953, and ending after August 16, 1954. However, the temporary regulations apply to transfers of any stock of the taxpayer or any stock or indebtedness of a related person on or after November 19, 2003. Section 1.461-2T(e)(2)(i) applies to transfers of money or other property after July 18,

1984, the effective date of section 461(h). Similarly, §1.461-2T(e)(2)(ii) applies to transfers of money or other property after July 18, 1984, to satisfy workers compensation or tort liabilities, and applies to transfers of money or other property in taxable years beginning after December 31, 1991, the effective date of §1.461-4(g), to satisfy payment liabilities designated under §1.461-4(g) (other than liabilities for workers compensation or tort).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Please refer to the cross-referenced notice of proposed rulemaking (REG-136890-02) published elsewhere in this issue of the Bulletin for applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6). 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 on small business.

Drafting Information

The principal author of these regulations is Norma Rotunno of the Office of the Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury 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 continues to read in part as follows:

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

Par. 2. Section 1.461-2 is amended by:

1. Removing paragraph (a)(5).
2. Revising paragraph (c)(1).
3. Redesignating paragraph (e)(2) as paragraph (e)(3) and revising it.

4. Adding new paragraph (e)(2).

The addition and revisions read as follows:

§1.461-2 Contested liabilities.

* * * * *

(c) * * *

(1) [Reserved]. For further guidance, see §1.461-2T(c)(1).

* * * * *

(e) * * *

(2) [Reserved]. For further guidance, see §1.461-2T(e)(2).

(3) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example 1. A, an individual, makes a gift of certain property to B, an individual. A pays the entire amount of gift tax assessed against him but contests his liability for the tax. Section 275(a)(3) provides that gift taxes are not deductible. A does not satisfy the requirement of paragraph (a)(1)(iv) of this section because a deduction would not be allowed for the taxable year of the transfer even if A did not contest his liability to the tax.

Example 2. [Reserved]. For further guidance, see §1.461-2T(e)(3), Example 2.

* * * * *

Par. 3. Section 1.461-2T is added to read as follows:

§1.461-2T Contested liabilities (temporary).

(a) and (b) [Reserved]. For further guidance, see §1.461-2(a) and (b).

(c) *Transfer to provide for the satisfaction of an asserted liability—(1) In general.* (i) A taxpayer may provide for the satisfaction of an asserted liability by transferring money or other property beyond his control to—

(A) The person who is asserting the liability;

(B) An escrowee or trustee pursuant to a written agreement (among the escrowee or trustee, the taxpayer, and the person who is asserting the liability) that the money or other property be delivered in accordance with the settlement of the contest;

(C) An escrowee or trustee pursuant to an order of the United States or of any State or political subdivision thereof or any agency or instrumentality of the foregoing, or of a court, that the money or other property be delivered in accordance with the settlement of the contest; or

(D) A court with jurisdiction over the contest.

(ii) In order for money or other property to be beyond the control of a taxpayer, the taxpayer must relinquish all authority over the money or other property.

(iii) The following are not transfers to provide for the satisfaction of an asserted liability—

(A) Purchasing a bond to guarantee payment of the asserted liability;

(B) An entry on the taxpayer's books of account;

(C) A transfer to an account that is within the control of the taxpayer;

(D) A transfer of any indebtedness of the taxpayer or of any promise by the taxpayer to provide services or property in the future; and

(E) A transfer to a person (other than the person asserting the liability) of any stock of the taxpayer or of any stock or indebtedness of a person related to the taxpayer (as defined in section 267(b)).

(c)(2) through (d) [Reserved]. For further guidance, see §1.461-2(c)(2) through (d).

(e) *Deduction otherwise allowed*—(1) [Reserved]. For further guidance, see §1.461-2(e)(1).

(2) *Application of economic performance rules to transfers under section 461(f)*. (i) A taxpayer using an accrual method of accounting is not allowed a deduction under section 461(f) in the taxable year of the transfer unless economic performance has occurred.

(ii) Economic performance occurs for liabilities requiring payment to another person arising out of any workers compensation act or any tort, or any other liability designated in §1.461-4(g), as payments are made to the person to which the liability is owed. Except as provided in section 468B or the regulations thereunder, economic performance does not occur when a taxpayer transfers money or other property to a trust, an escrow account, or a court to provide for the satisfaction of an asserted workers compensation, tort, or other liability designated under §1.461-4(g) that the taxpayer is contesting unless the trust, escrow account, or court is the person to which the liability is owed or the taxpayer's payment to the trust, escrow account, or court discharges the taxpayer's liability to the claimant. Rather, economic performance occurs in

the taxable year the taxpayer transfers money or other property to the person that is asserting the workers compensation, tort, or other liability designated under §1.461-4(g) that the taxpayer is contesting or in the taxable year that payment is made from a trust, an escrow account, or a court registry funded by the taxpayer to the person to which the liability is owed.

(3) *Examples*. The provisions of this paragraph (e) are illustrated by the following examples:

Example 1. [Reserved]. For further guidance, see §1.461-2(e)(3), *Example 1*.

Example 2. Corporation X is a defendant in a class action suit for tort liabilities. In 2002, X establishes a trust for the purpose of satisfying the asserted liability and transfers \$10,000,000 to the trust. The trust does not satisfy the requirements of section 468B or the regulations thereunder. In 2004, the trustee pays \$10,000,000 to the plaintiffs in settlement of the litigation. Under paragraph (e)(2) of this section, economic performance with respect to X's liability to the plaintiffs occurs in 2004. X may deduct the \$10,000,000 payment to the plaintiffs in 2004.

(f) [Reserved]. For further guidance, see §1.461-2(f).

(g) *Effective date*. (1) Except as otherwise provided, this section applies to transfers of money or other property in taxable years beginning after December 31, 1953, and ending after August 16, 1954.

(2) Paragraph (c)(1)(iii)(E) of this section applies to transfers of any stock of the taxpayer or any stock or indebtedness of a person related to the taxpayer on or after November 19, 2003.

(3) Paragraph (e)(2)(i) of this section applies to transfers of money or other property after July 18, 1984.

(4) Paragraphs (e)(2)(ii) and (e)(3) of this section apply to—

(i) Transfers after July 18, 1984, of money or other property to provide for the satisfaction of an asserted workers compensation or tort liability; and

(ii) Transfers in taxable years beginning after December 31, 1991, of money or other property to provide for the satisfaction of asserted liabilities designated in §1.461-4(g) (other than liabilities for workers compensation or tort).

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

Approved November 12, 2003.

Pamela F. Olson,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on November 19, 2003, 8:45 a.m., and published in the issue of the Federal Register for November 21, 2003, 68 F.R. 65634)

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 December 2003. See Rev. Rul. 2003-122, page 1179.

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 December 2003. See Rev. Rul. 2003-122, page 1179.

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 December 2003. See Rev. Rul. 2003-122, page 1179.

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 December 2003. See Rev. Rul. 2003-122, page 1179.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of December 2003. See Rev. Rul. 2003-122, page 1179.

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 December 2003. See Rev. Rul. 2003-122, page 1179.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month

Rev. Rul. 2003-122

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 December 2003.

This revenue ruling provides various prescribed rates for federal income tax purposes for December 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. 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. Finally, Table 6 contains the 2004 interest rate for sections 846 and 807.

| REV. RUL. 2003-122 TABLE 1 | | | | |
|--|-------------------------------|-------------------|------------------|----------------|
| Applicable Federal Rates (AFR) for December 2003 | | | | |
| | <i>Period for Compounding</i> | | | |
| | <i>Annual</i> | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
| <i>Short-Term</i> | | | | |
| AFR | 1.68% | 1.67% | 1.67% | 1.66% |
| 110% AFR | 1.85% | 1.84% | 1.84% | 1.83% |
| 120% AFR | 2.01% | 2.00% | 2.00% | 1.99% |
| 130% AFR | 2.18% | 2.17% | 2.16% | 2.16% |
| <i>Mid-Term</i> | | | | |
| AFR | 3.55% | 3.52% | 3.50% | 3.49% |
| 110% AFR | 3.91% | 3.87% | 3.85% | 3.84% |
| 120% AFR | 4.26% | 4.22% | 4.20% | 4.18% |
| 130% AFR | 4.63% | 4.58% | 4.55% | 4.54% |
| 150% AFR | 5.35% | 5.28% | 5.25% | 5.22% |
| 175% AFR | 6.25% | 6.16% | 6.11% | 6.08% |
| <i>Long-Term</i> | | | | |
| AFR | 5.12% | 5.06% | 5.03% | 5.01% |
| 110% AFR | 5.65% | 5.57% | 5.53% | 5.51% |
| 120% AFR | 6.16% | 6.07% | 6.02% | 5.99% |
| 130% AFR | 6.69% | 6.58% | 6.53% | 6.49% |

| REV. RUL. 2003-122 TABLE 2 | | | | |
|--------------------------------|-------------------------------|-------------------|------------------|----------------|
| Adjusted AFR for December 2003 | | | | |
| | <i>Period for Compounding</i> | | | |
| | <i>Annual</i> | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
| Short-term adjusted AFR | 1.37% | 1.37% | 1.37% | 1.37% |
| Mid-term adjusted AFR | 2.75% | 2.73% | 2.72% | 2.71% |
| Long-term adjusted AFR | 4.58% | 4.53% | 4.50% | 4.49% |

REV. RUL. 2003-122 TABLE 3

Rates Under Section 382 for December 2003

| | |
|--|-------|
| Adjusted federal long-term rate for the current month | 4.58% |
| 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.) | 4.74% |

REV. RUL. 2003-122 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for December 2003

| | |
|--|-------|
| Appropriate percentage for the 70% present value low-income housing credit | 8.01% |
| Appropriate percentage for the 30% present value low-income housing credit | 3.43% |

REV. RUL. 2003-122 TABLE 5

Rate Under Section 7520 for December 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% |
|---|------|

REV. RUL. 2003-122 TABLE 6

| | |
|--|-------|
| Applicable rate of interest for 2004 for purposes of section 846 and 807 | 4.82% |
|--|-------|

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 December 2003. See Rev. Rul. 2003-122, page 1179.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2003. See Rev. Rul. 2003-122, page 1179.

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 December 2003. See Rev. Rul. 2003-122, page 1179.

Part III. Administrative, Procedural, and Miscellaneous

Listed Transactions

Notice 2003-76

This notice updates the list of transactions that have been determined by the Internal Revenue Service to be “listed transactions” for purposes of § 1.6011-4(b)(2) of the Income Tax Regulations and § 301.6111-2(b)(2) of the Procedure and Administration Regulations. This notice restates the list of “listed transactions” in Notice 2001-51, 2001-2 C.B. 190, and updates the list by adding transactions identified as “listed transactions” in notices and other guidance released subsequent to August 2, 2001.

Transactions that are the same as or substantially similar to transactions described in the list below have been determined by the Service to be tax avoidance transactions and are “listed transactions” for purposes of § 1.6011-4(b)(2) and § 301.6111-2(b)(2). As a result, taxpayers may need to disclose their participation in these listed transactions as prescribed in § 1.6011-4, and promoters (or other persons responsible for registering tax shelter transactions) may need to register these transactions under § 301.6111-2. In addition, material advisors must maintain lists of investors and other information with respect to these listed transactions pursuant to § 301.6112-1.

(1) Rev. Rul. 90-105, 1990-2 C.B. 69 (transactions in which taxpayers claim deductions for contributions to a qualified cash or deferred arrangement or matching contributions to a defined contribution plan where the contributions are attributable to compensation earned by plan participants after the end of the taxable year (identified as “listed transactions” on February 28, 2000)). *See also* Rev. Rul. 2002-46, 2002-2 C.B. 117 (result is the same, and transactions are substantially similar, even though the contributions are designated as satisfying a liability established before the end of the taxable year), *modified by* Rev. Rul. 2002-73, 2002-2 C.B. 805;

(2) Notice 95-34, 1995-1 C.B. 309 (certain trust arrangements purported to qualify as multiple employer welfare benefit funds exempt from the limits of

§§ 419 and 419A of the Internal Revenue Code (identified as “listed transactions” on February 28, 2000)). *See also* § 1.419A(f)(6)-1 of the Income Tax Regulations (10 or more employer plans);

(3) Transactions described in Part II of Notice 98-5, 1998-1 C.B. 334 (transactions in which the reasonably expected economic profit is insubstantial in comparison to the value of the expected foreign tax credits (identified as “listed transactions” on February 28, 2000));

(4) Transactions substantially similar to those at issue in *ASA Investorings Partnership v. Commissioner*, 201 F.3d 505 (D.C. Cir. 2000), and *ACM Partnership v. Commissioner*, 157 F.3d 231 (3d Cir. 1998) (transactions involving contingent installment sales of securities by partnerships in order to accelerate and allocate income to a tax-indifferent partner, such as a tax-exempt entity or foreign person, and to allocate later losses to another partner (identified as “listed transactions” on February 28, 2000));

(5) Treas. Reg. § 1.643(a)-8 (transactions involving distributions described in § 1.643(a)-8 from charitable remainder trusts (identified as “listed transactions” on February 28, 2000));

(6) Notice 99-59, 1999-2 C.B. 761 (transactions involving the distribution of encumbered property in which taxpayers claim tax losses for capital outlays that they have in fact recovered (identified as “listed transactions” on February 28, 2000)). *See also* Treas. Reg. § 1.301-1(g);

(7) Treas. Reg. § 1.7701(l)-3 (transactions involving fast-pay arrangements as defined in § 1.7701(l)-3(b) (identified as “listed transactions” on February 28, 2000));

(8) Rev. Rul. 2000-12, 2000-1 C.B. 744 (certain transactions involving the acquisition of two debt instruments the values of which are expected to change significantly at about the same time in opposite directions (identified as “listed transactions” on February 28, 2000));

(9) Notice 2000-44, 2000-2 C.B. 255 (transactions generating losses resulting from artificially inflating the basis of partnership interests (identified as “listed transactions” on August 11, 2000)). *See also* § 1.752-6T of the temporary Income Tax Regulations and §§ 1.752-1(a) and

1.752-7 of the proposed Income Tax Regulations;

(10) Notice 2000-60, 2000-2 C.B. 568 (transactions involving the purchase of a parent corporation’s stock by a subsidiary, a subsequent transfer of the purchased parent stock from the subsidiary to the parent’s employees, and the eventual liquidation or sale of the subsidiary (identified as “listed transactions” on November 16, 2000));

(11) Notice 2000-61, 2000-2 C.B. 569 (transactions purporting to apply § 935 to Guamanian trusts (identified as “listed transactions” on November 21, 2000));

(12) Notice 2001-16, 2001-1 C.B. 730 (transactions involving the use of an intermediary to sell the assets of a corporation (identified as “listed transactions” on January 18, 2001));

(13) Notice 2001-17, 2001-1 C.B. 730 (transactions involving a loss on the sale of stock acquired in a purported § 351 transfer of a high basis asset to a corporation and the corporation’s assumption of a liability that the transferor has not yet taken into account for federal income tax purposes (identified as “listed transactions” on January 18, 2001));

(14) Notice 2001-45, 2001-2 C.B. 129 (certain redemptions of stock in transactions not subject to U.S. tax in which the basis of the redeemed stock is purported to shift to a U.S. taxpayer (identified as “listed transactions” on July 26, 2001));

(15) Notice 2002-21, 2002-1 C.B. 730 (transactions involving the use of a loan assumption agreement to inflate basis in assets acquired from another party to claim losses (identified as “listed transactions” on March 18, 2002));

(16) Notice 2002-35, 2002-1 C.B. 992 (transactions involving the use of a notional principal contract to claim current deductions for periodic payments made by a taxpayer while disregarding the accrual of a right to receive offsetting payments in the future (identified as “listed transactions” on May 6, 2002));

(17) Notice 2002-50, 2002-2 C.B. 98 (transactions involving the use of a straddle, a tiered partnership structure, a transitory partner, and the absence of a § 754 election to claim a permanent non-economic loss (identified as “listed transactions” on June 25, 2002)); Notice 2002-65,

2002-2 C.B. 690 (transactions involving the use of a straddle, an S corporation or a partnership, and one or more transitory shareholders or partners to claim a loss while deferring an offsetting gain are substantially similar to transactions described in Notice 2002-50); and Notice 2003-54, 2003-33 I.R.B. 363 (transactions involving the use of economically offsetting positions, one or more tax indifferent parties, and the common trust fund accounting rules of § 584 to allow a taxpayer to claim a noneconomic loss are substantially similar to transactions described in Notice 2002-50 and Notice 2002-65);

(18) Rev. Rul. 2002-69, 2002-2 C.B. 760, modifying and superseding Rev. Rul. 99-14, 1999-1 C.B. 835 (transactions in which a taxpayer purports to lease property and then purports to immediately sublease it back to the lessor (that is, lease-in/lease-out or LILO transactions) (identified as “listed transactions” on February 28, 2000));

(19) Notice 2002-70, 2002-2 C.B. 765 (transactions involving reinsurance arrangements between a taxpayer and the taxpayer’s own reinsurance company that is subject to little or no federal income tax (identified as “listed transactions” on October 15, 2002));

(20) Rev. Rul. 2003-6, 2003-3 I.R.B. 286 (certain arrangements involving the transfer of employee stock ownership plans (ESOPs) that hold stock in an S corporation for the purpose of claiming eligibility for the delayed effective date of § 409(p) (identified as “listed transactions” on December 17, 2002));

(21) Notice 2003-22, 2003-18 I.R.B. 851 (certain arrangements involving leasing companies that have been used to avoid or evade federal income and employment taxes (identified as “listed transactions” on April 4, 2003));

(22) Notice 2003-24, 2003-18 I.R.B. 853 (certain arrangements that purportedly qualify as collectively-bargained welfare benefit funds excepted from the account limits of §§ 419 and 419A (identified as “listed transactions” on April 11, 2003));

(23) Notice 2003-47, 2003-30 I.R.B. 132 (transactions involving compensatory stock options and related persons to avoid or evade federal income and employment taxes (identified as “listed transactions” on July 1, 2003)); and

(24) Notice 2003-55, 2003-34 I.R.B. 395 (transactions in which one participant claims to realize rental or other income from property or service contracts and another participant claims the deductions related to that income (often referred to as “lease strips”), modifying and superseding Notice 95-53, 1995-2 C.B. 334 (identified as “listed transactions” on February 28, 2000)).

Notice 2001-51 is supplemented and superseded. For updates to this list, go to the IRS web page at www.irs.gov/businesses/corporations and click on Abusive Tax Shelters and Transactions. Notices and other published guidance will still be used to identify transactions that have been determined by the Service to be “listed transactions.”

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

Transfers to Trusts to Provide for the Satisfaction of Contested Liabilities

Notice 2003-77

The Internal Revenue Service and Treasury Department are aware of certain transactions that use contested liability trusts improperly to attempt to accelerate deductions for contested liabilities under § 461(f) of the Internal Revenue Code. This notice alerts taxpayers and their representatives that these transactions are tax avoidance transactions and identifies these transactions, and substantially similar transactions, as listed transactions for purposes of § 1.6011-4(b)(2) of the Income Tax Regulations and §§ 301.6111-2(b)(2) and 301.6112-1(b)(2) of the Procedure and Administration Regulations. This notice also alerts parties involved with these transactions of certain responsibilities that may arise from their involvement with these transactions.

LAW

Section 461(f) provides an exception to the general rules of tax accounting by allowing a taxpayer to deduct a contested liability in a year prior to the resolution of the contest if the following conditions are satisfied: (1) the taxpayer contests an asserted liability; (2) the taxpayer transfers money or other property to provide for the satisfaction of the asserted liability; (3) the contest with respect to the asserted liability exists after the time of transfer; and (4) but for the fact that the asserted liability is contested, a deduction would be allowed for the taxable year of the transfer (or for an earlier taxable year) determined after the application of the economic performance rules. If these requirements are satisfied, a taxpayer may deduct the liability in the taxable year of the transfer.

On November 19, 2003, the Service and Treasury Department filed with the Federal Register proposed (REG-136890-02) and temporary (T.D. 9095) regulations under § 461(f). Section 1.461-2T(c)(1) of these temporary regulations, which replaces and restates § 1.461-2(c)(1), provides that a transfer for the satisfaction of an asserted liability is a transfer of money or property beyond the taxpayer’s control to: (1) the person asserting the liability; (2) an escrowee or trustee pursuant to a written agreement (among the escrowee or trustee, the taxpayer, and the person who is asserting the liability) providing that the money or other property be delivered in accordance with the settlement of the contest; (3) an escrowee or trustee pursuant to an order of a court or government entity providing that the money or other property be delivered in accordance with the settlement of the contest; or (4) a court with jurisdiction over the contest. An account is in the taxpayer’s control unless the taxpayer has relinquished all authority over the money or other property transferred.

Section 1.461-2T(c)(1)(iii) provides that the following actions are not transfers to provide for the satisfaction of an asserted liability: (1) the purchase of a bond to guarantee payment of the asserted liability; (2) an entry on the taxpayer’s books of account; and (3) a transfer to an account in the taxpayer’s control. The temporary regulations clarify that a transfer in taxable years beginning after December 31, 1953,

and ending after August 16, 1954, of any indebtedness of a taxpayer or any promise by the taxpayer to provide services or property in the future is not a transfer to provide for the satisfaction of an asserted liability. In addition, the temporary regulations provide the express rule that a transfer (other than to the person asserting the liability) of a taxpayer's stock, or the indebtedness or stock of a person related to the taxpayer (as defined in section 267(b)), is not a transfer to provide for the satisfaction of an asserted liability.

Section 461(h)(2)(C) provides that, if a workers compensation or tort liability requires a payment to another person, then economic performance occurs as payments to the person are made. The Conference Report accompanying enactment of § 461(h) states:

In the case of workers' compensation or tort liabilities of the taxpayer requiring payments to another person, economic performance occurs as payments are made to that person. Since payment to a section 461(f) trust is not a payment to the claimant and does not discharge the taxpayer's liability to the claimant, such payment does not satisfy the economic performance test.

H. R. Rep. No. 861, 98th Cong., 2d Sess. 871, 876 (1984).

Section 461(h)(2)(D) provides that in the case of other liabilities, economic performance occurs at the time determined under regulations prescribed by the Secretary. Section 1.461-4(g)(2) through (7) describes other liabilities for which payment is economic performance.

Section 1.461-4(g)(1)(ii)(A) provides that payment does not include the furnishing of a note or other evidence of indebtedness of the taxpayer.

Section 1.461-4(g)(1)(i) provides that, for certain liabilities for which payment is economic performance, economic performance does not occur as a taxpayer makes payments in connection with the liability to any other person, including a trust, escrow account, court-administered fund, or any similar arrangement, unless the payments constitute payment to the person to which the liability is owed. In *Maxus Energy Corporation and Subsidiaries v. United States*, 31 F.3d 1135, 1144, 1145 (Fed. Cir. 1994), the taxpayer's payment to a settlement fund effectively constituted

payment to the person to which the liability was owed because the claimants agreed to look solely to the fund to satisfy their claims and, therefore, the taxpayer's payment to the fund discharged its liability to the claimant.

Section 1.461-2T(e)(2) provides that, except as provided in § 468B or the regulations thereunder, economic performance does not occur when a taxpayer transfers money or other property to a trust, escrow account, or court to provide for the satisfaction of a contested workers compensation, tort, or other liability designated in § 1.461-4(g) unless the trust, escrow account, or court is the claimant or the taxpayer's payment to the trust, escrow account, or court discharges the taxpayer's liability to the claimant.

ANALYSIS

The Service and Treasury Department have become aware of transactions in which taxpayers have established trusts purported to qualify under § 461(f), but that fail to comply with the requirements of § 461(f) or the regulations by reason of: (1) retention of powers over the trust assets (such as the power to substitute assets, to pay the contested liabilities out of assets other than those in the trust, or to limit the trustee's ability to sell the taxpayer's assets that the taxpayer transferred to the trust), contrary to the requirement that the taxpayer relinquish control over the property transferred; (2) transfer to the trust of related party notes under circumstances indicating the liability is not genuine or that there is no intent between the parties to enforce the obligation, which is not a valid transfer to provide for the satisfaction of an asserted liability; or (3) establishment of trusts for contested tort, workers compensation, or other liabilities designated in § 1.461-4(g), for which economic performance requires payment to the claimant.

Transactions that are the same as, or substantially similar to, the following transactions are identified as "listed transactions" for purposes of §§ 1.6011-4(b)(2), 301.6111-2(b)(2) and 301.6112-1(b)(2):

(1) transactions in which a taxpayer transfers money or other property in taxable years beginning after December 31, 1953, and ending after August 16, 1954,

to a trust purported to be established under § 461(f) to provide for the satisfaction of an asserted liability and retains any one or more of the following powers over the money or other property transferred: to pay any liabilities ultimately due to the claimant out of assets other than those transferred to the trust; to substitute money or other property for property transferred to the trust; to prohibit payment to the claimant by the trustee until instructed by the taxpayer; to prohibit notification to the claimant of the trust's establishment; to limit the trustee's ability to sell the property after it is transferred to the trust; and to limit the trustee's ability to enforce notes or rights relating to other property transferred to the trust;

(2) transactions in which a taxpayer transfers any indebtedness of the taxpayer or any promise by the taxpayer to provide services or property in the future in taxable years beginning after December 31, 1953, and ending after August 16, 1954, to a trust purported to be established under § 461(f) to provide for the satisfaction of an asserted liability;

(3) transactions in which a taxpayer using an accrual method of accounting transfers money or other property after July 18, 1984, to a trust purported to be established under § 461(f) to provide for the satisfaction of a workers compensation or tort liability (unless the trust is the person to which the liability is owed, or payment to the trust discharges the taxpayer's liability to the claimant);

(4) transactions in which a taxpayer using an accrual method of accounting transfers money or other property in taxable years beginning after December 31, 1991, to a trust purported to be established under § 461(f) to provide for the satisfaction of a liability for which payment is economic performance under § 1.461-4(g) (unless the trust is the person to which the liability is owed, or payment to the trust discharges the taxpayer's liability to the claimant), other than a liability for workers compensation or tort; and

(5) transactions in which a taxpayer transfers stock issued by the taxpayer, or indebtedness or stock issued by a party related to the taxpayer (as defined in § 267(b)), on or after November 19, 2003, to a trust purported to be established under § 461(f) to provide for the satisfaction of any asserted liability.

Independent of their classification as “listed transactions,” transactions that are the same as, or substantially similar to, the transactions described in this notice may already be subject to the disclosure requirements of § 6011 (§ 1.6011-4), the tax shelter registration requirements of § 6111 (§§ 301.6111-1T, 301.6111-2), or the list maintenance requirements of § 6112 (§ 301.6112-1). Persons required to register these tax shelters under § 6111 who have failed to do so may be subject to the penalty under § 6707(a). Persons required to maintain lists of investors under § 6112 who have failed to do so (or who fail to provide such lists when requested by the Service) may be subject to the penalty under § 6708(a). In addition, the

Service may impose penalties on parties involved in these transactions or substantially similar transactions, including the accuracy-related penalty under § 6662.

Transactions that are the same as, or substantially similar to, the transactions described in this notice are identified as “listed transactions” for purposes of §§ 1.6011-4(b)(2), 301.6111-2(b)(2) and 301.6112-1(b)(2) effective November 19, 2003, the date this notice is released to the public. The references to specific taxable years and dates in the description of transactions covered by this notice are intended to provide consistency with the temporary and proposed regulations under § 461(f) filed with the Federal Register on November 19, 2003. Only those

transactions covered by the provisions (including the effective date provisions) of the disclosure, tax shelter registration, and list maintenance requirements under §§ 6011, 6111, and 6112 and the regulations thereunder will be subject to those requirements.

DRAFTING INFORMATION

The principal author of this notice is Norma Rotunno of the Office of the Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Ms. Rotunno at (202) 622-7900 (not a toll-free number).

26 CFR 601.602: Tax forms and instructions.

(Also, Part I, §§ 1, 23, 24, 25A, 32, 42, 59, 62, 63, 68, 132, 135, 137, 146, 151, 170, 179, 213, 220, 221, 512, 513, 685, 877, 2032A, 2503, 2523, 4261, 6033, 6039F, 6323, 6334, 6601, 7430, 7702B)

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SECTION 4. EFFECTIVE DATE

SECTION 5. DRAFTING INFORMATION

SECTION 1. PURPOSE

This revenue procedure sets forth inflation adjusted items for 2004.

SECTION 2. CHANGES

.01 The initial bracket amounts for the 10% tax rate for married individuals filing joint returns and surviving spouses under § 1(a) of the Internal Revenue Code, and heads of households under § 1(b) are adjusted for inflation under § 1(i)(1)(C)(ii). Under § 1(i)(1)(B)(iii) the initial bracket amounts for § 1(c) (unmarried individuals (other than surviving spouses and heads of

households)) and § 1(d) (married individuals filing separate returns) are equal to 1/2 the initial bracket amount of § 1(a) (married individuals filing joint returns and surviving spouses) after adjustment for inflation.

.02 The amounts deemed substantiated when paid by eligible employers in the transportation mainline pipeline construction industry under an accountable plan to employees in accordance with Rev. Proc. 2002-41, 2002-1 C.B. 1098, are adjusted for inflation. (Section 3.09).

.03 The dollar amount in § 179(b)(1) used to determine the dollar limitation

of the aggregate cost that may be taken into account under § 179(a) and the dollar amount in § 179(b)(2) used to calculate a reduction in the dollar limitation are adjusted for inflation. (Section 3.17).

.04 The generation-skipping transfer tax exemption under § 2631, which is allowed in determining the "inclusion ratio" defined in § 2642, is no longer adjusted for inflation and has been deleted.

SECTION 3. 2004 ADJUSTED ITEMS

.01 *Tax Rate Tables.* For taxable years beginning in 2004, the tax rate tables under § 1 are as follows:

TABLE 1 — Section 1(a). — Married Individuals Filing Joint Returns and Surviving Spouses

| | |
|-------------------------------------|--|
| <i>If Taxable Income Is:</i> | <i>The Tax Is:</i> |
| Not Over \$14,300 | 10% of the taxable income |
| Over \$14,300 but not over \$58,100 | \$1,430 plus 15% of excess over \$14,300 |

TABLE 1 — Section 1(a). — Married Individuals Filing Joint Returns and Surviving Spouses

| <i>If Taxable Income Is:</i> | <i>The Tax Is:</i> |
|---------------------------------------|---|
| Over \$58,100 but not over \$117,250 | \$8,000 plus 25% of excess over \$58,100 |
| Over \$117,250 but not over \$178,650 | \$22,787.50 plus 28% of excess over \$117,250 |
| Over \$178,650 but not over \$319,100 | \$39,979.50 plus 33% of excess over \$178,650 |
| Over \$319,100 | \$86,328 plus 35% of excess over \$319,100 |

TABLE 2 — Section 1(b). — Heads of Households

| <i>If Taxable Income Is:</i> | <i>The Tax Is:</i> |
|---------------------------------------|--|
| Not Over \$10,200 | 10% of the taxable income |
| Over \$10,200 but not over \$38,900 | \$1,020 plus 15% of excess over \$10,200 |
| Over \$38,900 but not over \$100,500 | \$5,325 plus 25% of the excess over \$38,900 |
| Over \$100,500 but not over \$162,700 | \$20,725 plus 28% of the excess over \$100,500 |
| Over \$162,700 but not over \$319,100 | \$38,141 plus 33% of the excess over \$162,700 |
| Over \$319,100 | \$89,753 plus 35% of the excess over \$319,100 |

TABLE 3 — Section 1(c). — Unmarried Individuals (other than Surviving Spouse and Heads of Households)

| <i>If Taxable Income Is:</i> | <i>The Tax Is:</i> |
|---------------------------------------|---|
| Not over \$7,150 | 10% of the taxable income |
| Over \$7,150 but not over \$29,050 | \$715 plus 15% of the excess over \$7,150 |
| Over \$29,050 but not over \$70,350 | \$4,000 plus 25% of the excess over \$29,050 |
| Over \$70,350 but not over \$146,750 | \$14,325 plus 28% of the excess over \$70,350 |
| Over \$146,750 but not over \$319,100 | \$35,717 plus 33% of the excess over \$146,750 |
| Over \$319,100 | \$92,592.50 plus 35% of the excess over \$319,100 |

TABLE 4 — Section 1(d). — Married Individuals Filing Separate Returns

| <i>If Taxable Income Is:</i> | <i>The Tax Is:</i> |
|--------------------------------------|--|
| Not Over \$7,150 | 10% of the taxable income |
| Over \$7,150 but not over \$29,050 | \$715 plus 15% of the excess over \$7,150 |
| Over \$29,050 but not over \$58,625 | \$4,000 plus 25% of the excess over \$29,050 |
| Over \$58,625 but not over \$89,325 | \$11,393.75 plus 28% of the excess over \$58,625 |
| Over \$89,325 but not over \$159,550 | \$19,989.75 plus 33% of the excess over \$89,325 |
| Over \$159,550 | \$43,164 plus 35% of the excess over \$159,550 |

TABLE 5 — Section 1(e). — Estates and Trusts

| | |
|-----------------------------------|--|
| <i>If Taxable Income Is:</i> | <i>The Tax Is:</i> |
| Not Over \$1,950 | 15% of the taxable income |
| Over \$1,950 but not over \$4,600 | \$292.50 plus 25% of the excess over \$1,950 |
| Over \$4,600 but not over \$7,000 | \$955 plus 28% of the excess over \$4,600 |
| Over \$7,000 but not over \$9,550 | \$1,627 plus 33% of the excess over \$7,000 |
| Over \$9,550 | \$2,468.50 plus 35% of the excess over \$9,550 |

.02 *Unearned Income of Minor Children Taxed as if Parent's Income (the "Kiddie Tax").* For taxable years beginning in 2004, the amount in § 1(g)(4)(A)(ii)(I), which is used to reduce the net unearned income reported on the child's return that is subject to the "kiddie tax," is \$800. (This amount is the same as the \$800 standard deduction amount provided in section 3.10(2) of this revenue procedure.) The same \$800 amount is used for purposes of § 1(g)(7) (that is, in determining whether a parent may elect to include a child's gross income in the parent's gross income and for calculating the "kiddie tax"). For example, one of the requirements for the parental election is that a child's gross income is more than the amount referenced in § 1(g)(4)(A)(ii)(I) but less than 10 times such amount; thus, a child's gross income for 2004 must be more than \$800 but less than \$8,000 to satisfy that requirement.

.03 *Adoption Credit.* For taxable years beginning in 2004, under § 23(a)(3) the maximum credit allowed for an adoption of a child with special needs is \$10,390.

For taxable years beginning in 2004, under § 23(b)(1) the maximum credit allowed with regard to other adoptions is the amount of qualified adoption expenses up to \$10,390. The available adoption credit begins to phase out under § 23(b)(2)(A) for taxpayers with modified adjusted gross income in excess of \$155,860 and is completely phased out for taxpayers with modified adjusted gross income of \$195,860. (See section 3.14 for the adjusted items relating to adoption assistance programs.)

.04 *Child Tax Credit.* For taxable years beginning in 2004, the value used in § 24(d)(1)(B)(i) in determining the amount of credit under § 24 that may be refundable is \$10,750.

.05 *Hope and Lifetime Learning Credits.*

(1) For taxable years beginning in 2004, 100 percent of qualified tuition and related expenses not in excess of \$1,000 and 50 percent of such expenses in excess of \$1,000 are taken into account in determining the amount of the Hope Scholarship Credit under § 25A(b)(1).

(2) For taxable years beginning in 2004, a taxpayer's modified adjusted gross income in excess of \$42,000 (\$85,000 for a joint return) is taken into account in determining the reduction under § 25A(d)(2)(A)(ii) in the amount of the Hope Scholarship and Lifetime Learning Credits otherwise allowable under § 25A(a).

.06 *Earned Income Credit.*

(1) *In general.* For taxable years beginning in 2004, the following amounts are used to determine the earned income credit under § 32(b). The "earned income amount" is the amount of earned income at or above which the maximum amount of the earned income credit is allowed. The "threshold phaseout amount" is the amount of adjusted gross income (or, if greater, earned income) above which the maximum amount of the credit begins to phase out. The "completed phaseout amount" is the amount of adjusted gross income (or if greater, earned income) at or above which no credit is allowed.

| <i>Item</i> | <i>Number of Qualifying Children</i> | | |
|--|--------------------------------------|--------------------|-------------|
| | <i>One</i> | <i>Two or More</i> | <i>None</i> |
| Earned Income Amount | \$ 7,660 | \$10,750 | \$ 5,100 |
| Maximum Amount of Credit | \$ 2,604 | \$ 4,300 | \$ 390 |
| Threshold Phaseout Amount | \$14,040 | \$14,040 | \$ 6,390 |
| Completed Phaseout Amount | \$30,338 | \$34,458 | \$11,490 |
| Threshold Phaseout Amount (Married Filing Jointly) | \$15,040 | \$15,040 | \$ 7,390 |
| Completed Phaseout Amount (Married Filing Jointly) | \$31,338 | \$35,458 | \$12,490 |

The instructions for the Form 1040 series provide tables showing the amount of the

earned income credit for each type of taxpayer.

(2) *Excessive investment income.* For taxable years beginning in 2004, the earned income tax credit is denied under

§ 32(i) if the aggregate amount of certain investment income exceeds \$2,650.

.07 *Low-Income Housing Credit.* For calendar years beginning in 2004, the amounts used under § 42(h)(3)(C)(ii) to calculate the State housing credit ceiling for the low-income housing credit is the greater of \$1.80 multiplied by the State population or \$2,075,000.

.08 *Alternative Minimum Tax Exemption for a Child Subject to the "Kiddie Tax."* For taxable years beginning in 2004, for a child to whom the § 1(g) "kiddie tax"

applies, the exemption amount under §§ 55 and 59(j) for purposes of the alternative minimum tax under § 55 may not exceed the sum of (A) such child's earned income for the taxable year, plus (B) \$5,750.

.09 *Transportation Mainline Pipeline Construction Industry Optional Expense Substantiation Rules for Payments to Employees under Accountable Plans.* For calendar years beginning in 2004, an eligible employer may pay certain welders and heavy equipment mechanics an amount of up to \$13 per hour for rig-related expenses

that is deemed substantiated under an accountable plan when paid in accordance with Rev. Proc. 2002-41. If the employer provides fuel or otherwise reimburses fuel expenses, up to \$8 per hour is deemed substantiated when paid under Rev. Proc. 2002-41.

.10 *Standard Deduction.*

(1) *In general.* For taxable years beginning in 2004, the standard deduction amounts under § 63(c)(2) are as follows:

Filing Status

Standard Deduction

| | |
|---|---------|
| Married Individuals Filing Joint Returns and Surviving Spouses (§ 1(a)) | \$9,700 |
| Heads of Households (§ 1(b)) | \$7,150 |
| Unmarried Individuals (other than Surviving Spouses and Heads of Households) (§ 1(c)) | \$4,850 |
| Married Individuals Filing Separate Returns (§ 1(d)) | \$4,850 |

(2) *Dependent.* For taxable years beginning in 2004, the standard deduction amount under § 63(c)(5) for an individual who may be claimed as a dependent by another taxpayer may not exceed the greater of \$800 or the sum of \$250 and the individual's earned income.

(3) *Aged and blind.* For taxable years beginning in 2004, the additional standard deduction amounts under § 63(f) for the aged and for the blind are \$950 for each. These amounts are increased to \$1,200 if the individual is also unmarried and not a surviving spouse.

.11 *Overall Limitation on Itemized Deductions.* For taxable years beginning in 2004, the "applicable amount" of adjusted gross income under § 68(b), above which the amount of otherwise allowable itemized deductions is reduced under § 68, is \$142,700 (or \$71,350 for a separate return filed by a married individual).

.12 *Qualified Transportation Fringe.* For taxable years beginning in 2004, the monthly limitation under § 132(f)(2)(A), regarding the aggregate fringe benefit exclusion amount for transportation in a commuter highway vehicle and any transit pass, is \$100. The monthly limitation

under § 132(f)(2)(B) regarding the fringe benefit exclusion amount for qualified parking is \$195.

.13 *Income from United States Savings Bonds for Taxpayers Who Pay Qualified Higher Education Expenses.* For taxable years beginning in 2004, the exclusion under § 135, regarding income from United States savings bonds for taxpayers who pay qualified higher education expenses, begins to phase out for modified adjusted gross income above \$89,750 for joint returns and \$59,850 for other returns. This exclusion completely phases out for modified adjusted gross income of \$119,750 or more for joint returns and \$74,850 or more for other returns.

.14 *Adoption Assistance Programs.* For taxable years beginning in 2004, under § 137(a)(2) the maximum amount that can be excluded from an employee's gross income in connection with the adoption by the employee of a child with special needs is \$10,390. For taxable years beginning in 2004, under § 137(b)(1) the maximum amount that can be excluded from an employee's gross income for the amounts paid or expenses incurred by the employer for qualified adoption

expenses furnished pursuant to an adoption assistance program in connection with other adoptions by the employee is \$10,390. The amount excludable from an employee's gross income begins to phase out under § 137(b)(2)(A) for taxpayers with modified adjusted gross income in excess of \$155,860 and is completely phased out for taxpayers with modified adjusted gross income of \$195,860. (See section 3.03 for the adjusted items relating to the adoption credit.)

.15 *Private Activity Bonds Volume Cap.* For calendar years beginning in 2004, the amounts used under § 146(d)(1) to calculate the State ceiling for the volume cap for private activity bonds is the greater of \$80 multiplied by the State population or \$233,795,000.

.16 *Personal Exemption.*

(1) *Exemption amount.* For taxable years beginning in 2004, the personal exemption amount under § 151(d) is \$3,100.

(2) *Phase out.* For taxable years beginning in 2004, the personal exemption amount begins to phase out at, and is completely phased out after, the following adjusted gross income amounts:

| <i>Filing Status</i> | <i>AGI – Beginning of Phaseout</i> | <i>AGI – Exemption Fully Phased Out</i> |
|---|------------------------------------|---|
| Married Individuals Filing Joint Returns and Surviving Spouse (§ 1(a)) | \$214,050 | \$336,550 |
| Heads of Households (§ 1(b)) | \$178,350 | \$300,850 |
| Unmarried Individuals (other than Surviving Spouses and Heads of Households) (§ 1(c)) | \$142,700 | \$265,200 |
| Married Individuals Filing Separate Returns (§ 1(d)) | \$107,025 | \$168,275 |

.17 Election to Expense Certain Depreciable Assets. For taxable years beginning in 2004, under § 179(b)(1), the aggregate cost of any § 179 property a taxpayer may elect to treat as an expense shall not exceed \$102,000. Under § 179(b)(2), the

\$102,000 limitation shall be reduced (but not below zero) by the amount by which the cost of § 179 property placed in service during the 2004 taxable year exceeds \$410,000.

.18 Eligible Long-Term Care Premiums. For taxable years beginning in 2004, the limitations under § 213(d)(10), regarding eligible long-term care premiums includible in the term “medical care,” are as follows:

| <i>Attained age before the close of the taxable year</i> | <i>Limitation on premiums</i> |
|--|-------------------------------|
| 40 or less | \$260 |
| More than 40 but not more than 50 | \$490 |
| More than 50 but not more than 60 | \$980 |
| More than 60 but not more than 70 | \$2,600 |
| More than 70 | \$3,250 |

.19 Medical Savings Accounts.

(1) *Self-only coverage.* For taxable years beginning in 2004, the term “high deductible health plan” as defined in § 220(c)(2)(A) means, for self-only coverage, a health plan that has an annual deductible that is not less than \$1,700 and not more than \$2,600, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits does not exceed \$3,450.

(2) *Family coverage.* For taxable years beginning in 2004, the term “high deductible health plan” means, for family coverage, a health plan that has an annual deductible that is not less than \$3,450 and not more than \$5,150, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits does not exceed \$6,300.

.20 Interest on Education Loans. For taxable years beginning in 2004, the \$2,500 maximum deduction for interest paid on qualified education loans under § 221 is reduced under § 221(b)(2)(B) when modified adjusted gross income exceeds \$50,000 (\$100,000 for joint returns), and is completely eliminated when

modified adjusted gross income is \$65,000 (\$130,000 for joint returns).

.21 Treatment of Dues Paid to Agricultural or Horticultural Organizations. For taxable years beginning in 2004, the limitation under § 512(d)(1), regarding the exemption of annual dues required to be paid by a member to an agricultural or horticultural organization, is \$124.

.22 Insubstantial Benefit Limitations for Contributions Associated with Charitable Fund-Raising Campaigns.

(1) *Low cost article.* For taxable years beginning in 2004, the unrelated business income of certain exempt organizations under § 513(h)(2) does not include a “low cost article” of \$8.20 or less.

(2) *Other insubstantial benefits.* For taxable years beginning in 2004, the \$5, \$25, and \$50 guidelines in section 3 of Rev. Proc. 90–12, 1990–1 C.B. 471 (as amplified and modified), for disregarding the value of insubstantial benefits received by a donor in return for a fully deductible charitable contribution under § 170, are \$8.20, \$41, and \$82, respectively.

.23 Funeral Trusts. For a contract entered into during calendar year 2004 for a “qualified funeral trust,” as defined in

§ 685, the trust may not accept aggregate contributions by or for the benefit of an individual in excess of \$8,000.

.24 Expatriation to Avoid Tax. For calendar year 2004, the amounts used under § 877(a)(2), regarding whether an individual’s loss of United States citizenship had the avoidance of United States taxes as one of its principal purposes, are more than \$124,000 for “average annual net income tax” and \$622,000 or more for “net worth.”

.25 Valuation of Qualified Real Property in Decedent’s Gross Estate. For an estate of a decedent dying in calendar year 2004, if the executor elects to use the special use valuation method under § 2032A for qualified real property, the aggregate decrease in the value of qualified real property resulting from electing to use § 2032A that is taken into account for purposes of the estate tax may not exceed \$850,000.

.26 Annual Exclusion for Gifts.

(1) For calendar year 2004, the first \$11,000 of gifts to any person (other than gifts of future interests in property) are not included in the total amount of taxable gifts under § 2503 made during that year.

(2) For calendar year 2004, the first \$114,000 of gifts to a spouse who is not

a citizen of the United States (other than gifts of future interests in property) are not included in the total amount of taxable gifts under §§ 2503 and 2523(i)(2) made during that year.

.27 *Passenger Air Transportation Excise Tax*. For calendar year 2004, the tax under § 4261(b) on the amount paid for each domestic segment of taxable transportation by air is \$3.10. For calendar year 2004, the tax under § 4261(c) on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States, generally is \$13.70. However, for a domestic segment beginning or ending in Alaska or Hawaii as described in § 4261(c)(3), the tax only applies to departures and is at the rate of \$6.90.

.28 *Reporting Exception for Certain Exempt Organizations with Nondeductible Lobbying Expenditures*. For taxable years beginning in 2004, the annual per person, family, or entity dues limitation to qualify for the reporting exception under § 6033(e)(3) (and section 5.05 of Rev. Proc. 98-19, 1998-1 C.B. 547), regarding certain exempt organizations with nondeductible lobbying expenditures, is \$86 or less.

.29 *Notice of Large Gifts Received from Foreign Persons*. For taxable years beginning in 2004, recipients of gifts from certain foreign persons may be required to report these gifts under § 6039F if the aggregate value of gifts received in a taxable year exceeds \$12,097.

.30 *Persons Against Which a Federal Tax Lien Is Not Valid*. For calendar year

2004, a federal tax lien is not valid against (1) certain purchasers under § 6323(b)(4) who purchased personal property in a casual sale for less than \$1,180, or (2) a mechanic's lienor under § 6323(b)(7) that repaired or improved certain residential property if the contract price with the owner is not more than \$5,890.

.31 *Property Exempt from Levy*. For calendar year 2004, the value of property exempt from levy under § 6334(a)(2) (fuel, provisions, furniture, and other household personal effects, as well as arms for personal use, livestock, and poultry) may not exceed \$7,040. The value of property exempt from levy under § 6334(a)(3) (books and tools necessary for the trade, business, or profession of the taxpayer) may not exceed \$3,520.

.32 *Interest on a Certain Portion of the Estate Tax Payable in Installments*. For an estate of a decedent dying in calendar year 2004, the dollar amount used to determine the "2-percent portion" (for purposes of calculating interest under § 6601(j)) of the estate tax extended as provided in § 6166 is \$1,140,000.

.33 *Attorney Fee Awards*. For fees incurred in calendar year 2004, the attorney fee award limitation under § 7430(c)(1)(B)(iii) is \$150 per hour.

.34 *Periodic Payments Received under Qualified Long-Term Care Insurance Contracts or under Certain Life Insurance Contracts*. For calendar year 2004, the stated dollar amount of the *per diem* limitation under § 7702B(d)(4), regarding periodic payments received under a qualified long-term care insurance contract or periodic payments received under a life

insurance contract that are treated as paid by reason of the death of a chronically ill individual, is \$230.

SECTION 4. EFFECTIVE DATE

.01 *General Rule*. Except as provided in section 4.02, this revenue procedure applies to taxable years beginning in 2004.

.02 *Calendar Year Rule*. This revenue procedure applies to transactions or events occurring in calendar year 2004 for purposes of sections 3.07 (low-income housing credit), 3.09 (pipeline construction industry optional expense substantiation rules), 3.15 (private activity bond volume cap), 3.23 (funeral trusts), 3.24 (expatriation to avoid tax), 3.25 (valuation of qualified real property in decedent's gross estate), 3.26 (annual exclusion for gifts), 3.27 (passenger air transportation excise tax), 3.30 (persons against which a federal tax lien is not valid), 3.31 (property exempt from levy), 3.32 (interest on a certain portion of the estate tax payable in installments), 3.33 (attorney fee awards), and 3.34 (periodic payments received under qualified long-term care insurance contracts or under certain life insurance contracts).

SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is Marnette M. Myers of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Ms. Myers at (202) 622-4920 (not a toll-free call).

Part IV. Items of General Interest

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

Transfers to Provide for Satisfaction of Contested Liabilities

REG-136890-02

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: In this issue of the Bulletin, the IRS is issuing temporary regulations (T.D. 9095) relating to the transfer of indebtedness or stock of a taxpayer or related persons or of a promise to provide services or property in the future to provide for the satisfaction of an asserted liability that the taxpayer is contesting. The temporary regulations also relate to transfers of money or other property to a trust, an escrow account, or a court to provide for the satisfaction of a liability for which payment is economic performance. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by February 19, 2004. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for March 23, 2004, must be received by March 2, 2004.

ADDRESSES: Send submissions to: CC:LPD:PR (REG-136890-02), room 5226, 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:LPD:PR (REG-136890-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically via the IRS Internet site at www.irs.gov/regs. The

public hearing will be held in the 7th floor auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the hearing, submission of comments, and/or to be placed on the building access list to attend the hearing, Guy Traynor, (202) 622-7180; concerning the proposed regulations, Norma Rotunno, (202) 622-7900 (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 461(f) of the Internal Revenue Code (Code). The temporary regulations provide the express rule that transfers of the indebtedness of a taxpayer or of any promise to provide services or property in the future, or transfers (other than to the person asserting the liability) of a taxpayer's stock, or the indebtedness or stock of a person related to the taxpayer (as defined in section 267(b)), are not transfers to provide for the satisfaction of an asserted liability. The temporary regulations also provide rules relating to the application of the economic performance rules to transfers of money or other property under section 461(f) to provide for the satisfaction of a contested workers compensation or tort liability, or other liability for which payment is economic performance under §1.461-4(g). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

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 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. 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 comments (a signed original and eight (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 has been scheduled for March 23, 2004, in the 7th floor auditorium of the Internal Revenue Building, 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 written comments 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 March 2, 2004. 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 regulations is Norma Rotunno, Office of the Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

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 1.461-2 is amended by revising paragraphs (c)(1), (e)(2), (e)(3), and (g) to read as follows:

§1.461-2 Contested liabilities.

[The text of proposed paragraphs (c)(1), (e)(2), (e)(3), and (g) is the same as the text of §1.461-2T(c)(1), (e)(2), (e)(3), and (g) published elsewhere in this issue of the Bulletin

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

(Filed by the Office of the Federal Register on November 19, 2003, 8:45 a.m., and published in the issue of the Federal Register for November 21, 2003, 68 FR. 65645)

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

Announcement 2003-71

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

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

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

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

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

Under Title 31, Code of Federal Regulations, Part 10, after notice and an oppor-

tunity for a proceeding before an administrative law judge, the following individuals

have been disbarred from practice before the Internal Revenue Service:

| Name | Address | Designation | Effective Date |
|-----------------|----------------|-------------|----------------|
| Loy, Michael F. | Pittsburgh, KS | CPA | July 23, 2003 |

Consent Suspensions From Practice Before the Internal Revenue Service

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

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

tuary in accordance with the consent offered.

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

| Name | Address | Designation | Date of Suspension |
|---------------------|--------------------|----------------|--|
| Gillis, Robert F. | Jacksonville, FL | Enrolled Agent | July 1, 2003 to January 31, 2004 |
| Ziedins, Aivars | Castle Rock, CO | Enrolled Agent | Indefinite from July 1, 2003 |
| A. N. Hebesha | Visalia, CA | Enrolled Agent | Indefinite from July 11, 2003 |
| Stafford, Robert M. | Allston, MA | CPA | Indefinite from July 14, 2003 |
| Carnahan, Larry K. | Ashland, KY | Attorney | Indefinite from July 18, 2003 |
| McAlarney, Nancy A. | Kissimmee, FL | Enrolled Agent | Indefinite from July 24, 2003 |
| Rahman, Ernest | Melville, NY | Enrolled Agent | Indefinite from July 31, 2003 |
| Oleksy, Dennis L. | Cary, IL | Enrolled Agent | Indefinite from August 12, 2003 |
| Witti, Mary E. | Boulder City, NV | Enrolled Agent | Indefinite from September 1, 2003 |
| Lau, Willie | Howell, NJ | Enrolled Agent | Indefinite from September 1, 2003 |
| Couch, Leslie L. | Kihei, HI | Enrolled Agent | Indefinite from September 5, 2003 |
| Khoudary, Nicholas | East Brunswick, NJ | Enrolled Agent | Indefinite from September 15, 2003 |

| Name | Address | Designation | Date of Suspension |
|------------------|-----------------|----------------|--|
| Solomon, Dorothy | Los Angeles, CA | Enrolled Agent | Indefinite from October 6, 2003 |
| McMahon, Angela | Toms River, NJ | Enrolled Agent | Indefinite from October 20, 2003 |
| Lee, Chun Hyong | Lakewood, WA | CPA | Indefinite from October 22, 2003 |

Expedited Suspensions From Practice Before the Internal Revenue Service

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

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

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

| Name | Address | Designation | Date of Suspension |
|--------------------|------------------|-------------|---|
| Daniels, Mario | Flint, MI | CPA | Indefinite from September 4, 2003 |
| Hertz, Kevin | McAllen, TX | CPA | Indefinite from October 1, 2003 |
| Roselli, Antonio | Topsfield, MA | CPA | Indefinite from October 17, 2003 |
| Moran, Maxine C. | San Clemente, CA | CPA | Indefinite from October 17, 2003 |
| Muscio, Richard J. | Solana Beach, CA | CPA | Indefinite from October 17, 2003 |
| Yates, James L. | LaPlata, MD | CPA | Indefinite from October 21, 2003 |

Censure Issued by Consent

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

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

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

| Name | Address | Designation | Date of Censure |
|---------------------|---------------|----------------|--------------------|
| Haynes, Gwenivar L. | Ellenwood, GA | Enrolled Agent | August 1, 2003 |
| Ritchie, Donald | Milton, MA | Enrolled Agent | September 3, 2003 |
| Bagley, Haywood | Vista, CA | Enrolled Agent | September 4, 2003 |
| Book, Robert L. | Plymouth, MN | Enrolled Agent | September 15, 2003 |

Pub. 1179 (Rev. Proc. 2003-28), *General Rules and Specifications For Substitute Forms 1096, 1098, 1099, 5498, W-2G and 1042-S*; Updated

Announcement 2003-75

In response to Notice 2003-67, 2003-40 I.R.B. 752, the IRS announces that Publication 1179 (Rev. Proc. 2003-28), *General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, W-2G, and 1042-S*, is revised.

The changes made by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), P. L. 108-27, for the tax treatment of individuals receiving substitute payments in lieu of dividends required that IRS revise the instructions for the 2003 Form 1099-MISC, *Miscellaneous Income*. The revised instructions require that substitute payments in lieu of dividends paid to individuals now be reported in Box 8 of Form 1099-MISC, and not on Form 1099-DIV, *Dividends and Distributions*.

The brokerage community has requested that the composite substitute statement procedures, outlined in Pub. 1179, be revised to allow composite substitute statements to be furnished for Form 1099-DIV and Form 1099-MISC reporting substitute payments in lieu of dividends. The IRS has decided to allow these composite statements beginning with statements required to be furnished for 2003. As a result, the following bullet

should be added to the bulleted list in Section 4.2.2 of Pub. 1179 under **Exceptions**:

- Substitute payments in lieu of dividends reported in Box 8 of Form 1099-MISC may be reported on a composite substitute statement with Form 1099-DIV.

This change will be reflected in the next version of Pub. 1179. In addition, the next version of Pub. 1179 may allow additional forms to be furnished on substitute composite statements.

The rules and specifications for preparing the other forms discussed in Publication 1179 remain the same. If you are uncertain of any specification and need clarification, please submit a letter citing the specification, state your understanding and interpretation of the specification, and enclose an example of the form (if appropriate) to:

Internal Revenue Service
Attn: Substitute Forms Program
SE:W:CAR:MP:T:T:SP
1111 Constitution Ave., NW
Room 6411
Washington, DC 20224

Note: Allow at least 45 days for the IRS to respond.

You may also contact the Substitute Forms Program Unit via email at *taxforms@irs.gov. Enter "Substitute Forms" on the subject line.

Foundations Status of Certain Organizations

Announcement 2003-77

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

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

100 Strong Men of Compton,
Compton, CA
210 Masonic Foundation, Lincoln, NE
A & P Counseling Services, Inc.,
Beltsville, MD
A Childs Zone, Inc., Charlotte, NC
Able Abilities Enterprises, Malvern, AR
Acts of Love, Inc., Fort Wayne, IN
Africa Solidarity Council,
Washington, DC
African Heritage Playhouse Theatre,
Buffalo, NY
Airport Neighbors United, Inc.,
Modesto, CA
Akido America, Incorporated,
Santa Cruz, CA

All Saints Academy, Hickory, NC
 Allegro Orchestral Association,
 Minnetonka, MN
 Aloha Noblehouse, Inc., Wahiawa, HI
 Alton United Soccer Club, Godfrey, IL
 American Grassroots Unlimited, Inc.,
 Cullowhee, NC
 American Samoa Humane Society, Inc.,
 Pago Pago, AS
 Ankylosing Spondylitis Research
 International, Portland, OR
 Ann Goulden Orphanage Benefit
 Corporation, Red Oak, TX
 Anne Arundel Council of Community
 Services, Annapolis, MD
 Arabic American National Hall of Fame,
 Detroit, MI
 Arc of Oklahoma, Inc.,
 Oklahoma City, OK
 Arkansas City Rotary Charitable Fund,
 Inc., Arkansas City, KS
 Arts in Paterson, Inc., Woodstock, NY
 Aspire Group, Inc., Jacksonville, FL
 Bales Intermediate PTO, Friendship, TX
 Barrington Youth Baseball, Inc.,
 Fox River Grove, IL
 Bath Community Center, Inc., Bath, NC
 Bedford Central Community Development
 Corporation, Inc., Brooklyn, NY
 Bell Social Services Enterprises, Inc.,
 Pomona, CA
 Belleville After School Program,
 Belleville, KS
 Bill Emerson Memorial Foundation,
 Washington, DC
 Birch Run — Taymouth Educational
 Foundation, Birch Run, MI
 BIRPS, Inc., Oklahoma City, OK
 BIRSCO International Ins. Small
 Business University, Charlotte, NC
 Bradley Physical Therapy and
 Rehabilitation, Boca Raton, FL
 Bread of Life Outreach Ministries,
 Chicago, IL
 Breakthrough-Education for Economic
 Action, Saint Louis, MO
 Breast Cancer Action, Inc., Lawrence, KS
 Broome Recipient Affairs Office, Inc.,
 Binghamton, NY
 Bullhead City Rotary Foundation, Inc.,
 Bullhead City, AZ
 Cal-State Community Services, Inc.,
 Altadena, CA
 Cannon Walters Foundation,
 West Valley City, UT
 Career Bridge Family Day Care Network,
 New York, NY
 Carver-Scott Educational Foundation,
 Chaska, MN
 Catalina Sea Bass Fund, Inc.,
 Homestead, IL
 Catoctin Foundation, Inc., Leesburg, VA
 CAW, Inc., Boise, ID
 Center for Chesapeake Communities,
 Ltd., Annapolis, MD
 Center for Psychological Medicine, Inc.,
 Santa Barbara, CA
 Center for Sports Leadership,
 Colorado Springs, CO
 Centro De Bienestar Para La Gente,
 Santa Maria, CA
 Chama Valley Search and Rescue,
 Chama, NM
 Charleston Regional Economic
 Development, Inc., Charleston, MO
 Cheboygan Hoops Boosters, Inc.,
 Cheboygan, MI
 Chevra Chai Charitable Foundation of
 California, Inc., Los Angeles, CA
 Children and Adolescent Addiction
 Services, Inc., Hagerstown, MD
 Christian Family Heritage, Encino, CA
 Christian Financial Network, Inc.,
 Rock Hill, SC
 Christian Golfers International, Inc.,
 New Port Richey, FL
 Christian Lon Foundation for MPS
 Children, Germantown, MD
 Christmas in April Franklin, Inc.,
 Franklin, VA
 Citizens Association for Police Support,
 Charlotte, NC
 City of Beeville Housing Authority
 Non-Profit Corporation, Beeville, TX
 Class of 1988 Scholarship Fund, Inc.,
 Washington, DC
 Clayton Recreation Sports and Wellness
 Commission, Inc., Clayton, MO
 Coalition for Responsible
 Econlockhatchee Development,
 Chuluota, FL
 Coast to Coast Referral Center,
 Monrovia, CA
 Columbus/Franklin County News Bureau,
 Columbus, OH
 Comfort Place Caring & Sharing,
 Grand Rapids, MI
 Communities in Schools of Pensacola
 Escambia County, Inc., Pensacola, FL
 Community Housing Development
 Corp. of Mooresville-South Iredell,
 Mooresville, NC
 Community Impact Resident Council
 for Leadership and Education,
 Ann Arbor, MI
 Community of Parma Renewal
 Corporation, Parma, MO
 Cooperative Community Services,
 Wichita, KS
 Cooperative Housing, Inc., Dayton, OH
 Crescent Community Services, Inc.,
 Tustin, CA
 Criminon Community Education Center
 of Silicon Valley, San Jose, CA
 Cued Speech and Language Association
 of Utah, Park City, UT
 Cullen Medical Foundation, Inc.,
 Lauderhill, FL
 Dads Making Christmas, Inc.,
 Richmond, VA
 Dakota Foundation, St. Paul, MN
 Deep Horizon Corporation,
 Friendswood, TX
 Delaware Civil War Society, Inc.,
 Newport, DE
 Delta County Genealogical Society,
 Escanaba, MI
 Deltas Center for Addictions,
 Des Moines, IA
 District Five Christian Learning Center,
 Duncan, SC
 District of Safety Advisory Board, Inc.,
 Keithburg, IL
 Dominique Moceanu Foundation,
 Spring, TX
 Downtown Collinsville Office,
 Collinsville, IL
 DRIVE For Youth 2020,
 Missouri City, TX
 East Kingsford Playground Association,
 Kingsford, MI
 Eclectic Religious Service Association,
 Spartanburg, SC
 EDR, Inc., Chicago, IL
 Emmet County Genealogical Society,
 Petoskey, MI
 Enviro 1st, Durham, NC
 Etrick Community Development &
 Housing Corporation, Petersburg, VA
 Evergreen Youth, San Diego, CA
 Exeter Senior Center, Incorporated,
 Exeter, CA
 Faith Cancer Foundation, Dallas, TX
 Fast Lane Track Club, Bluffton, SC
 Fathers and Mothers Who Care, Inc.,
 Long Beach, CA
 Feline Society, Inc., Birmingham, AL
 First Step Services, Inc., Kenosha, WI
 Florida Safety Network, Inc., Naples, FL
 Fort Worth Diamond Soccer Club,
 Fort Worth, TX
 Foundation 2000 for Children, Inc.,
 Mableton, GA

Franklin Lady Cougars Basketball Booster Club, El Paso, TX
Freedom Fellowship Outreach Center, Newport News, VA
Frenship Isd Athletic Booster Club, Wolfforth, TX
Friends of Pep Academy, Detroit, MI
Friends of the Aldridge, McAlester, OK
Friends of the Flat River Community Library, Greenville, MI
Friends of the Ice Show, Southfield, MI
Friends of Uvalde Memorial Hospital Hospice Services, Bedford, NY
Garden City Figure Skating Club, Livonia, MI
Gates County Partnership for Children, Sunbury, NC
Georgia Affordable Housing Corporation, Atlanta, GA
Geriatric Healthcare Association, Pittsburgh, PA
GHS Owl Football Club, Garland, TX
Gilead II, Inc., Oshkosh, WI
Givemore Org., Pasadena, CA
Global Art in Action, Inc., Paia, HI
Global Taekwon-Do-Alaska, Inc., Fairbanks, AK
Goal Identification for True Success, Inc. (GIFTS), Charleston, WV
Graduate and Professional Student Assembly, Minneapolis, MN
Grand South Brand Growth Association, St. Louis, MO
Gray Rock Community Center, Lavaca, AR
Great Rivers Alliance of Natural Resource Districts, Maryville, IL
Greater Fairplay Youth Council, Inc., Fairplay, CO
Gymnastics of San Antonio Parents Club, San Antonio, TX
Hampden Ministries, Inc., Denver, CO
Hands to Honduras-Outreach Ministries, Alma, MI
Hartley Daycare Association, Hartley, IA
Hawaii Association of Rural Private Schools, Kailua, HI
Helping Our Public Education Corporation, Bunnell, FL
Hidalgo Independent School District Scholarship Foundation, Hidalgo, TX
Hillcrest Ministries, Inc., Grand Rapids, MI
Hispanic Business Development Institute, San Jose, CA
Historic Jackson Ward Main St., Inc., Richmond, VA
Historic Meacham Hotel & Retreat Center, Inc., Meacham, OR
History Makers International, Granada Hills, CA
Hmong Culture Collection, Inc., Fresno, CA
Hollister Police Activities League, Hollister, CA
Home and School Association of Annunciation School, Green Bay, WI
Homebound, Coon Rapids, MI
Honeys Women Helping Women and Children, Jonesboro, GA
Housing and Supportive Alliance of Salisbury-Rowan, Inc., Salisbury, NC
Hunters for the Hungry, Inc., Augusta, ME
Illinois High School Athletic Hall of Fame, Princeton, IL
Illinois Life Underwriters Foundation, Springfield, IL
Illinois Principals Foundation, Springfield, IL
Inner Growth Youth Center, Thomasville, NC
Inspirational Community Development and Learning Center, Inc., Belle Glade, FL
Institute for the Advancement of Micro Finance, Inc., Deerfield Beach, FL
Integrated Architecture Learning Center, Inc., Grand Rapids, MI
International Accreditation Forum, Milwaukee, WI
International Connectivity and Capacitation in Education, Eugene, OR
International School of Prague Foundation, Inc., New York, NY
Ira B. Jones Primary Parent-Teacher Organization, Asheville, NC
Ironwoods Homeownership Program, Ironwood, MI
Isaac Suku Memorial Foundation of America for Liberia, Inc., Hyattsville, MD
Ishyirahamwe Ubumwe, Stockton, CA
Islamic Message Foundation of New Orleans, Inc., New Orleans, LA
Iuka Dixie Girls Softball, Inc., Iuka, MS
J. E. Ealy Foundation, Southfield, MI
James Madison Elementary School Parent Club, Madera, CA
James T. Murone Childrens Museum of Discovery, Warner Robins, GA
Jasper County Family Connection, Inc., Monticello, GA
John Philip Sousa Foundation, West Lafayette, IN
Johnson Memorial Foundation, Inc., New York, NY
Journey Foundation, Des Moines, IA
Just For Me Child Care Services, Charlotte, NC
Kansas City Alumia Foundation, Kansas City, MO
Kathleen High School Athletic Booster Club, Inc., Lakeland, FL
Kent County Enhancement Program, Jayton, TX
Kids With Crohns Foundation, Thousand Oaks, CA
Kidsplan, Ctr Barnstead, NH
Kingwood Pops Orchestra, Kingwood, TX
Klein Forest High School Publications Booster Club, Inc., Houston, TX
Krista Ford Foundation, Decatur, GA
Lacrosse Area Dyslexia Research Institute, Inc., Waumandee, WI
Ladera Land Conservancy, San Juan Capistrano, CA
Lakeshore PTO, Eau Claire, WI
Larry Emery Memorial Rotary Scholarship Foundation, Camarillo, CA
Las America Educational Foundation, Chicago, IL
Laurent Clerc Deaf Academy, Aurora, IL
Lazy Eight Foundation, Denver, CO
Leadership Big Bend, Alpine, TX
Life Building Communities, Florence, NJ
Lifespan Learning Network, Monterey, CA
Light of the World Economic Development Corporation, Columbia, SC
Lock Ness Learning Center, Minneapolis, MN
Long Shoals Community Center, Lincolnton, NC
Love of Life, Alameda, CA
Lowell Area Youth Development, Inc., Troy, MI
Lydia Foundation, Arlington, VA
M.I.S. Charities, Inc., Warrensville Heights, OH
Maranatha Foundation, Houma, LA
Martin County Agricultural Fair Association, Inc., Stuart, FL
Martin High School Oral Interpretation Booster Club, Arlington, TX
Masters Ministry, Inc., Charlotte, NC
Men for Social Change, Lake City, FL
Metaphysical Co-Op Love, Inc., Philadelphia, PA
Miami Dade Resident College, Inc., Miami, FL

Michigan Interscholastic Forensic Association, Ann Arbor, MI
 Mid-Peninsula Oroysom Senior Housing, Inc., Redwood City, CA
 Middle Atlantic Sports Academy, Inc., Allentown, PA
 Millennium Jazz Works Society, Inc., Annapolis, MD
 Minnesota Association of Black Lawyers Foundation, Minneapolis, MN
 Minnesota Revels, Inc., Minneapolis, MN
 Minority Development Association, Inc., Los Angeles, CA
 Missouri African American Culture Initiative, St. Louis, MO
 Missouri Alliance for Arts Education, St. Louis, MO
 Missouri Center on Addictive Disorders, Inc., Raytown, MO
 Missourians Promoting Safe & Sober Driving Foundation, Jefferson City, MO
 Moonlight Theatre Company, Clifton, VA
 Mt. Clemens Hockey Scholarship Fund, Inc., Clinton Township, MI
 National Mens History Month Project, Lacey, WA
 National Organization of Mens Outreach for Rape Education, Baltimore, MD
 NCAL-Acquisition II, Inc., Winston-Salem, NC
 New Birth Recovery Home, San Jose, CA
 New Direction Foundation, Inc., Norman, OK
 New Friends Adult Day Care-Day Health Incorporate, Charlotte, NC
 New Life Cultural Society, Northbrook, IL
 Nisei Week Foundation, Inc., Los Angeles, CA
 No Longer a Victim, Inc., Houston, TX
 Normas Academy of Dance Scholarship Fund, Inc., Atlanta, GA
 North American Konani Association, Inc., Brooklyn, NY
 North Carolina Association of Black Storyteller, Inc., Charlotte, NC
 North Carolina Crime Prevention Association, Southern Shore, NC
 North Harlingen Rotary Club Student Loan Foundation, Harlingen, TX
 Northern Ponca Housing Resident Association, Norfolk, NE
 Northwest Cabarrus Band Boosters, Inc., Kannapolis, NC
 NUJC, Inc., New Ulm, MN
 Oak Ridge High School Sports Booster Club, Conroe, TX
 Ocala Toros Soccer Club, Inc., Ocala, FL
 Olde Friends Concert Artists, Inc., Broomfield, CO
 Olympic Hearts Gymnastics Foundation, Brooklyn Park, MN
 Our Place Personal Care Home, Inc., Doraville, GA
 Oxnard Public Library Development Corporation, Oxnard, CA
 Parents in Control Educational Foundation, Olathe, KS
 Pedernales Valley Disaster Discovery, Inc., Austin, TX
 Petersburg High School Boosters Club, Petersburg, VA
 Phillips Kids, Inc., Eagan, MN
 Phoenix Academy for the Performing Arts, South Orange, NJ
 Phoenix Dance Theatre, Oswego, IL
 Pine Bluff Arkansas Black Nurses Association, Pine Bluff, AR
 Pray Train & Study, Inc., Wilmington, DE
 Project Change, Washington, DC
 Randolph County Community Alliance, Inc., Elkins, WV
 Read Corp., Rural Hall, NC
 Red Sea Missions, Charlotte, NC
 Region a Connect NC Commission, Inc., Bryson City, NC
 Regulatory Checkbook, Alexandria, VA
 Repairers of the Breach, Inc., Toledo, OH
 Rescue Me An Avian Sanctuary, Washington, DC
 Residential Service Corporation, St. Louis, MO
 Resource Directory, Inc., New York, NY
 River Valley Foundation, Mankato, MN
 Riverside County Library Foundation, Riverside, CA
 Rizpah Family Services, Boynton Beach, FL
 Rotary Charities Foundation of District 6490, Champaign, IL
 Rotary Club of Lakeway-Lake Travis Foundation, Inc., Austin, TX
 Ruth Camp Campbell Memorial Library, Franklin, VA
 RX Alms, Inc., Tulsa, OK
 Salt Mine Youth Center, Harrisonburg, VA
 Sankofa, Inc., Greensboro, NC
 Saugatuck Athletic Boosters, Saugatuck, MI
 School District 92 Foundation for Educational Excellence, Lockport, IL
 Scotland Home Health, Inc., Laurinburg, NC
 S.E. & L.C. Backhus Foundation, San Rafael, CA
 S E R V Ministries, Dana Point, CA
 Second Chance Project, Inc., Baltimore, MD
 Senior Society of Friends, San Mateo, FL
 Service Net, Walterboro, SC
 Seven Corners Childrens Center, Inc., Falls Church, VA
 Shenandoah Valley Blues Society, Fishersville, VA
 Shield of Chernobyl, Inc., Rochester, NY
 Shih Tzu Rescue, Inc., S.W. Ranches, FL
 Shiloh Spiritual Growth Ministries, Chino Valley, AZ
 Sickles High School Omnibus Booster Organization, Inc., Tampa, FL
 Sierra Leone-American Organization of Texoma, Inc., Garland, TX
 Simi Valley Broadcast Academy, Simi Valley, CA
 Simkus & Ventura Group Foundation for Financial Literacy, Lawrenceville, NJ
 Sisters Community Outreach Program, Philadelphia, PA
 Sky-High Exposure, Inc., Bronx, NY
 Smart Ride, Columbia, MO
 Society for Interdisciplinary Studies, North Bend, WA
 Societys Assets, Racine, WI
 Solutions Television Magazine, Inc., Huntington Beach, CA
 Sounds of the Spirit Center for Jazz, Chicago, IL
 South Amboy Irish-American Association, Inc., South Amboy, NJ
 South Carolina School for the Deaf Alumni Association, Spartanburg, SC
 South Charleston Public Library Foundation, Inc., S. Charleston, WV
 South San Jose Lions Charitable Foundation, San Jose, CA
 Southwest Atlanta Community Partnership, Inc., Atlanta, GA
 Southwest Leadership Team, Inc., Baltimore, MD
 Southwest Michigan Basketball, Portage, MI
 Space Port Rotary Foundation, Inc., Titusville, FL
 Spring Valley Athletic Boosters Association, Inc., Huntington, WV
 Starr Elementary PTO, Anderson, SC
 Stoughton Area Educational Foundation, Stoughton, WI
 Sundays at Three, Inc., Columbia, MD
 Sunridge Conservancy, Sacramento, CA
 Sunshine Care, Inc., Forestville, MD
 Support Your Own, Inc., Stockton, CA
 Tender Mercy Ministries, Lexington, KY

Texas Topps Booster Club, Inc.,
San Marcos, TX
Thunder Mountain Soccer Association,
Palisade, CO
Timothy's Charge Ministries, Inc.,
Columbus, OH
Touched by Love Ministries, Inc.,
Sierra, CA
Tough Town, Incorporated, Houston, TX
Tri-County Mental Health Consumers,
Inc., Conroe, TX
Tri-Valley Football Parents Association,
Inc., Hegins, PA
Truth for Living, Inc., Dade City, FL
Universal Health Care Education Fund,
Boston, MA
University of Hawaii Alumni-Associates
Capital Region Charter, Alexandria, VA
Victorious Life Outreach, Seattle, WA
Vine and Branch Connection, Inc.,
Virginia Beach, VA
Vintage Radio Museum, Fairhope, AL
Virginia Professionals Association, Inc.,
Charlottesville, VA

Virginia Rhythmic Sport of Gymnastics
Association, Virginia Beach, VA
W. M. Fountain Corporation, Lowell, MA
Wake Technology Academy, Raleigh, NC
Wake Up America of Lake Fairways, Inc.,
North Ft. Myers, FL
Washington Heights Arts Center, Inc.,
New York, NY
Waterwise-America, Inc., Milwaukee, WI
Way Ministries, Omaha, NE
We Can Make a Difference Development
Corporation, Bronx, NY
Welfare Reform Corporation of the United
States of America, Inc., Mobile, AL
West Coast Solutions, Inc., Tampa, FL
West Fresno Community Foundation,
Inc., Fresno, CA
White Feather Medicine Society,
Lakewood, WA
White Lick Literary Society, Avon, IN
Windhaven, Laurel, MD
Winds of Change Foundation,
Woodside, CA
Wings of Refuge, Inc., Tomball, TX

Witness for Jesus, Inc., Malden, MO
Womens Suffrage for Prostate Cancer
Awareness, Sunnyvale, CA
Work With Dignity, Minneapolis, MN
World Education Business Board,
Detroit, MI

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

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.
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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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