

**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**

**T.D. 9112, page 523.**

Final regulations under section 42 of the Code remove an impediment to the electronic filing of Form 8609, "*Low-Income Housing Credit Allocation Certification*." Regulations section 1.42-1T(h) impeded electronic filing of the form by requiring a taxpayer to include a third-party signature from an authorized state or local housing credit agency official when filing the form. This regulation eliminates that requirement.

**T.D. 9113, page 524.**

**REG-167217-03, page 540.**

Final, temporary, and proposed regulations under section 6038A of the Code amend existing regulations to provide that a Form 5472 that is timely filed electronically is treated as satisfying the requirement timely to file a duplicate Form 5472 with the Internal Revenue Service Center in Philadelphia, Pennsylvania. The regulations affect corporations subject to the reporting requirements in sections 6038A and 6038C that file Form 5472 electronically. A public hearing on the proposed regulations is scheduled for May 27, 2004.

**Notice 2004-15, page 526.**

This notice concludes that taxpayers may use the methodology set forth in Rev. Rul. 2002-62, 2002-2 C.B. 710, to determine penalty tax implications and whether a distribution from an annuity contract is part of a series of substantially equal periodic payments under section 72(q)(2) of the Code.

**Notice 2004-16, page 527.**

This notice provides relief from the application of the information reporting rules set forth in Rev. Rul. 2003-43, 2003-1 C.B. 935, with respect to payments for medical care under health flexible spending arrangements and health reimbursement arrangement.

**Rev. Proc. 2004-12, page 528.**

This procedure provides guidance on how a state elects a health program to be qualified health insurance for purposes of the health coverage tax credit (HCTC) under section 35 of the Code.

**Rev. Proc. 2004-18, page 529.**

This procedure provides issuers of qualified mortgage bonds and qualified mortgage credit certificates with average area purchase price safe-harbors for statistical areas in the United States and with a nationwide average purchase price for residences in the United States for purposes of the mortgage revenue bond rules under section 143 of the Code (and the mortgage credit certificate rules under section 25). Rev. Procs. 87-19, 93-15, and 94-55 obsoleted in part.

**Announcement 2004-13, page 543.**

This document contains a notice of a public hearing on proposed regulations (REG-163974-02, 2003-38 I.R.B. 595), which propose removing provisions of the regulations that apply a look-through rule to assets of a nonregistered partnership for purposes of satisfying the diversification requirements of section 817(h).

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Finding Lists begin on page ii.



## **EMPLOYEE PLANS**

**Notice 2004-14, page 526.**

**Weighted average interest rate update.** The weighted average interest rate for February 2004 and the resulting permissible range of interest rates used to calculate current liability and to determine the required contribution are set forth.

## **EXEMPT ORGANIZATIONS**

**Announcement 2004-12, page 541.**

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

# 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.\*

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

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

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

## Section 42.—Low-Income Housing Credit

26 CFR 1.42-1: Limitation on low-income housing credit allowed with respect to qualified low-income buildings receiving housing credit allocations from a state or local housing credit

### T.D. 9112

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

#### Low-Income Housing Credit Allocation Certification; Electronic Filing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains regulations that facilitate the electronic filing of Form 8609, "Low-Income Housing Credit Allocation Certification." The regulations affect taxpayers who file Form 8609.

DATES: *Effective Date:* These regulations are effective January 27, 2004.

*Applicability Date:* For date of applicability, see §1.42-1(j).

FOR FURTHER INFORMATION CONTACT: Paul F. Handleman, (202) 622-3040 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

In 1998, Congress enacted the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 1998), Public Law 105-206 (112 Stat. 685) (1998). Section 2001(a) of RRA 1998 states that the policy of Congress is that paperless filing should be the preferred and most convenient means of filing Federal tax returns. Section 2001(a) of RRA 1998 also sets a long-range goal for the IRS to have at least 80 percent of all Federal tax returns filed

electronically by 2007. Section 2001(b) of RRA 1998 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing.

The IRS has identified §1.42-1T(e)(1) and (h)(2) as regulatory provisions that impede electronic filing of Form 8609, "Low-Income Housing Credit Allocation Certification," by requiring a taxpayer to include a third-party signature from an authorized State or local housing credit agency (Agency) official when filing the form. This Treasury decision eliminates that requirement.

##### Explanation of Provisions

Section 42 provides for a low-income housing credit that may be claimed as part of the general business credit under section 38. In general, the credit is allowable only if the owner of a qualified low-income building receives a housing credit allocation from an Agency of the jurisdiction where the building is located.

Section 1.42-1T(d)(8)(ii) provides that housing credit allocations are deemed made when Part I of Form 8609 is completed and signed by an authorized Agency official and mailed to the owner of the qualified low-income building. Under §1.42-1T(e)(1), an owner is required to complete the Form 8609 on which the Agency made the applicable housing credit allocation and submit a copy of it with the owner's Federal income tax return for each year in the compliance period. Under §1.42-1T(h)(2), the owner is required to file a completed Form 8609 (or copy thereof) with the owner's Federal income tax return for each of the 15 taxable years in the compliance period. Section 1.42-1T(h)(2) also provides other rules for completing Form 8609.

This Treasury decision facilitates the electronic filing of Federal tax returns by eliminating the requirements in §1.42-1T(e)(1) and (h)(2) that an owner file a copy of the completed Form 8609 that is signed by the authorized Agency official with the owner's Federal income tax return for each of the 15 taxable years in the compliance period. Notwithstanding that the owner need not file a copy

of the Form 8609 signed by the Agency official, the building owner must continue to retain that form for 3 years after the due date, including extensions, of the building owner's tax return for the tax year that includes the end of the 15-year compliance period. The other rules in §1.42-1T(h)(2) for completing Form 8609 are also deleted. The requirements for completing and filing Form 8609 are addressed in the instructions to the form.

##### Special Analysis

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) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations were 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 Paul F. Handleman, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

\* \* \* \* \*

##### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

##### PART 1—INCOME TAXES

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

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

Section 1.42-1 also issued under 26 U.S.C. 42(n); \* \* \*

Par. 2. Section 1.42-1 is added to read as follows:

*§1.42-1 Limitation on low-income housing credit allowed with respect to qualified low-income buildings receiving housing credit allocations from a State or local housing credit agency.*

(a) through (g) [Reserved]. For further guidance, see §1.42-1T(a) through (g).

(h) *Filing of forms.* A completed Form 8586, "Low-Income Housing Credit," must be filed with the owner's Federal income tax return for each taxable year the owner of a qualified low-income building is claiming the low-income housing credit under section 42(a). A completed Form 8609, "Low-Income Housing Credit Allocation Certification," must be filed with the owner's Federal income tax return for each of the 15 taxable years of the compliance period. Failure to comply with the requirement of the preceding sentence for any taxable year after the first taxable year in the credit period will be treated as a mathematical or clerical error for purposes of section 6213(b)(1) and (g)(2).

(i) [Reserved]. For further guidance, see §1.42-1T(i).

(j) *Effective date.* Section 1.42-1(h) applies to forms filed on or after January 27, 2004. The rule that applies for forms filed before January 27, 2004, is contained in §1.42-1T(h) in effect before January 27, 2004 (see 26 CFR part 1 revised as of April 1, 2003).

Par. 3. Section 1.42-1T is amended by:

1. Removing the last two sentences in paragraph (e)(1).

2. Revising paragraph (h).

The revision reads as follows:

*§1.42-1T Limitation on low-income housing credit allowed with respect to qualified low-income buildings receiving housing credit allocations from a State or local housing credit agency (temporary).*

\* \* \* \* \*

(h) *Filing of forms.* For further guidance, see §1.42-1(h).

\* \* \* \* \*

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

Approved January 19, 2004.

Pamela F. Olson,  
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on January 26, 2004, 8:45 a.m., and published in the issue of the Federal Register for January 27, 2004, 69 F.R. 3826)

## Section 72.—Annuities; Certain Proceeds of Endowment and Life Insurance Contracts

This notice concludes that taxpayers may use the methodology set forth in Rev. Rul. 2002-62 to determine whether a distribution from an annuity contract is part of a series of substantially equal periodic payments under section 72(q)(2). See Notice 2004-15, page 526.

## Section 6038A.—Infor- mation With Respect to Certain Foreign-Owned Corporations

26 CFR 1.6038A-2: Requirement of return.

### T.D. 9113

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

### Electronic Filing of Duplicate Forms 5472

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations providing that a Form 5472 that is timely filed electronically is treated as satisfying the requirement timely to file a duplicate Form 5472 with the Internal Revenue Service Center in Philadelphia, Pennsylvania. This action is necessary to clarify how the duplicate filing requirements for Form 5472 apply when a reporting corporation electronically files its income tax return (including any attachments such as Form 5472). This document affects corporations subject to the reporting requirements in sections 6038A and 6038C that file Form 5472 electronically. The text of the temporary regulations also serves as the text of the

proposed regulations (REG-167217-03) set forth in this issue of the Bulletin.

**DATES: Effective Date:** These regulations are effective February 9, 2004.

**Applicability Date:** For the dates of applicability, see §§1.6038A-2(h) and 1.6038A-2T(h).

FOR FURTHER INFORMATION CONTACT: Edward R. Barret, (202) 435-5265 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

### Background

Section 6038A of the Internal Revenue Code (Code) requires information reporting by 25-percent foreign-owned domestic corporations with respect to certain transactions between such domestic corporations and foreign or domestic related parties. Section 6038C of the Code requires foreign corporations engaged in a trade or business within the United States at any time during a taxable year to report the information described in section 6038A with respect to certain transactions between such foreign corporations and foreign related parties. On June 19, 1991, the Treasury Department and the IRS published in the **Federal Register** final regulations (T.D. 8353, 1991-2 C.B. 402 [56 FR 28056]) under section 6038A. A correction to T.D. 8353, 1991-2 C.B. 402, was published in the **Federal Register** on August 23, 1991, at 56 FR 41792.

The 1991 final regulations under section 6038A contain guidance at §§1.6038A-1 and 1.6038A-2 regarding the information reporting requirements under sections 6038A and 6038C. Section 1.6038A-2(a)(1) generally requires a reporting corporation to file a separate annual information return on Form 5472 with respect to each related party with which the reporting corporation has had a reportable transaction during the taxable year. Section 1.6038A-1(c)(1) defines a reporting corporation as either a domestic corporation that is 25-percent foreign-owned or a foreign corporation engaged in a trade or business within the United States at any time during a taxable year. Section 1.6038A-2(d) provides that Form 5472 shall be filed with the reporting corporation's income tax return for the taxable year by the due date of that return.

A duplicate Form 5472 shall be filed at the same time with the Internal Revenue Service Center in Philadelphia, Pennsylvania (the Philadelphia Service Center). Section 1.6038A-2(e) provides that even if the reporting corporation's income tax return is not timely filed, Form 5472 (with a duplicate to the Philadelphia Service Center) nonetheless is required to be timely filed at the service center where the return is due, with a copy of Form 5472 to be attached to the income tax return when ultimately filed. However, neither §1.6038A-2(d) nor §1.6038A-2(e) directly addresses the duplicate filing requirements for Form 5472 when a reporting corporation electronically files its income tax return (including any attachments such as Form 5472).

### Explanation of Provisions

To clarify how the duplicate filing requirements for Form 5472 apply when a reporting corporation electronically files its income tax return (including any attachments such as Form 5472), the temporary regulations amend §1.6038A-2(d) to provide that a Form 5472 that is timely filed electronically is treated as satisfying the requirement timely to file a duplicate Form 5472 with the Philadelphia Service Center. Accordingly, the filing of a copy of such timely filed electronic Form 5472 with the Philadelphia Service Center will not be required.

The temporary regulations do not amend the requirement of §1.6038A-2(e) that Form 5472 be timely filed (with a duplicate to the Philadelphia Service Center) even if the income tax return of the reporting corporation is not timely filed. As a transitional matter, for the filing season for taxable year 2003 returns it is anticipated that electronic filing of Form 5472 will be possible only as an attachment to an electronically filed income tax return; electronic filing of Form 5472 separately rather than as an attachment to an electronically filed income tax return will not be technically possible. Accordingly, if a reporting corporation's income tax return is filed after its due date (including extensions), regardless of whether that return is filed electronically, §1.6038A-2(e) requires the reporting corporation timely to file Form 5472 on paper (with a copy

to the Philadelphia Service Center) at the service center where the income tax return is due. In subsequent filing seasons, it is anticipated that electronic filing technology will allow separate electronic filing of Form 5472. The Treasury Department and the IRS intend that the guidance contained in the amendment to §1.6038A-2(d) in these temporary regulations would apply to any such separate electronic filing of Form 5472. Accordingly, a Form 5472 that is timely and separately filed electronically would be treated as satisfying the requirement timely to file a duplicate Form 5472 with the Philadelphia Service Center.

Similarly, an electronic attachment of a copy of Form 5472 to an income tax return that is not timely filed satisfies the requirement of the second sentence of §1.6038A-2(e).

### 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. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in this issue of the Bulletin. Pursuant to section 7805(f) of the Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

### Drafting Information

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

\* \* \* \* \*

### 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 1.6038A-2 is amended by revising paragraph (d) to read as follows:

#### *§1.6038A-2 Requirement of return.*

\* \* \* \* \*

(d) [Reserved]. For further guidance, see §1.6038A-2T(d).

\* \* \* \* \*

Par. 3. Section 1.6038A-2T is added to read as follows:

#### *§1.6038A-2T Requirement of return (temporary).*

(a) through (c) [Reserved]. For further guidance, see §1.6038A-2(a) through (c).

(d) *Time and place for filing returns.* A Form 5472 required under this section shall be filed with the reporting corporation's income tax return for the taxable year by the due date (including extensions) of that return. A duplicate Form 5472 (including any attachments and schedules) shall be filed at the same time with the Internal Revenue Service Center, Philadelphia, PA 19255. A Form 5472 that is timely filed electronically satisfies the duplicate filing requirement.

(e) through (g) [Reserved]. For further guidance, see §1.6038A-2(e) through (g).

(h) *Effective date.* (1) This section applies for taxable years ending on or after January 1, 2003. For taxable years ending prior to January 1, 2003, see §1.6038A-2(d) in effect prior to January 1, 2003 (see 26 CFR part 1 revised as of April 1, 2002).

(2) The applicability of this section expires on or before February 6, 2007.

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

Approved January 28, 2004.

Pamela F. Olson,  
*Assistant Secretary of the Treasury.*

(Filed by the Office of the Federal Register on February 6, 2004, 8:45 a.m., and published in the issue of the Federal Register for February 9, 2004, 69 F.R. 5931)

# Part III. Administrative, Procedural, and Miscellaneous

## Weighted Average Interest Rate Update

### Notice 2004-14

Sections 412(b)(5)(B) and 412(l)(7)(C)(i) of the Internal Revenue Code provide that the interest rates used to calculate current liability and to determine the required contribution under § 412(l) must be within a permissible range around the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year.

Notice 88-73, 1988-2 C.B. 383, provides guidelines for determining the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability.

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

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

The rate of interest on 30-year Treasury Securities for January 2004 is 4.98 percent. Pursuant to Notice 2002-26, 2002-1 C.B. 743, the Service has determined this rate as the monthly average of the daily determination of yield on the 30-year Treasury bond maturing in February 2031.

The following rates were determined for the plan years beginning in the month shown below.

Month	Year	Weighted Average	90% to 105% Permissible Range	90% to 110% Permissible Range
February	2004	5.23	4.70 to 5.49	4.70 to 5.75

### Drafting Information

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

## Section 72.—Annuities; Certain Proceeds of Endowment and Life Insurance Contracts

### Notice 2004-15

This notice provides guidance regarding when a distribution from a non-qualified annuity will satisfy § 72(q)(2)(D) and, therefore, be exempt from the penalty tax imposed by § 72(q)(1). Specifically, the

Internal Revenue Service (IRS) and Treasury will treat a distribution as satisfying § 72(q)(2)(D) if the taxpayer uses one of the methods described in Notice 89-25, 1989-1 C.B. 662, as modified by Rev. Rul. 2002-62, 2002-2 C.B. 710, to determine whether the payment is part of a series of substantially equal periodic payments.

### LAW

Section 72 sets forth rules for the taxation of amounts received under an annuity contract. Section 72(q)(1) imposes a penalty tax on certain premature or early distributions under annuity contracts equal to ten percent of the amount that is includible in gross income. The penalty tax under § 72(q)(1) will not be imposed, however, if the distribution satisfies one of the exceptions set forth in § 72(q)(2). Section 72(q)(2)(D) provides that a distribution will not be subject to the penalty tax if it is "part of a series of substantially equal periodic payments (not less frequent than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of such taxpayer and his designated beneficiary." If the payments are subsequently modified, § 72(q)(3) generally requires a taxpayer to take into account the penalty tax, plus interest, that would have been imposed if

§ 72(q)(2)(D) had not applied to the prior distributions.

Section 72(t)(1) imposes an additional tax on premature distributions from "qualified" annuity contracts (*e.g.*, a § 403(b) annuity contract or a § 408 individual retirement annuity) that is similar to the penalty tax imposed by § 72(q). Section 72(t)(2)(A)(iv) also provides that the additional tax does not apply to a series of substantially equal periodic payments and § 72(t)(4) sets forth a recapture rule similar to the rule of § 72(q)(3).

Notice 89-25 provides guidance regarding the imposition of the additional tax on distributions from qualified employee plans, § 403(b) annuity contracts, and individual retirement annuities (IRAs). Notice 89-25 sets forth three methods for determining whether payments to individuals from their IRAs or from their qualified retirement plans constitute a series of substantially equal periodic payments for purposes of § 72(t)(2)(A)(iv). The three methods are: (i) the required minimum distribution method; (ii) the fixed amortization method; and (iii) the fixed annuitization method.

Under the required minimum distribution method, the annual payment for each year is determined by dividing the account balance for that year by the number from

the chosen life expectancy table for that year. See Rev. Rul. 2002-62 § 2.02(a) (life expectancy tables). With this method, the account balance, the number from the chosen life expectancy table and the resulting annual payments are redetermined for each year. If this method is chosen, no modification in the series of substantially equal periodic payments will be deemed to occur, even if the amount of payments changes from year to year, provided there is not a change to another method of determining the payments.

Under the fixed amortization method, the annual payment for each year is determined by amortizing in level amounts the account balance over a specified number of years determined by using the chosen life expectancy table and the chosen interest rate. See Rev. Rul. 2002-62 § 2.02(a) (interest rates). With this method, the account balance, the number from the chosen life expectancy table and the resulting annual payment are determined once for the first distribution year and the annual payment is the same amount in each succeeding year.

Under the fixed annuitization method, the annual payment for each year is determined by dividing the account balance by an annuity factor that is the present value of an annuity of \$1 per year beginning at the taxpayer's age and continuing for the life of the taxpayer (or the joint lives of the taxpayer and beneficiary). The annuity factor is derived using the mortality table in Appendix B to Rev. Rul. 2002-62 and using the chosen interest rate. With this method, the account balance, the annuity factor, the chosen interest rate and the resulting annual payment are determined once for the first distribution year and the annual payment is the same amount in each succeeding year.

Prior to 2002, Notice 89-25 provided that the additional § 72(t)(1) tax would be imposed if (i) at any time before attaining age 59½ a taxpayer changed the distribution method to a method that does not qualify for the exception, or (ii) the taxpayer changed the distribution method within 5 years after the receipt of the first payment. Rev. Rul. 2002-62 modified Notice 89-25 by providing two exceptions to this rule. First, an individual is not subject to the § 72(t)(1) additional tax if (i) the payments are not substantially equal because the assets in the individuals account

plan or IRA are exhausted, and (ii) the individual followed one of the prescribed methods of determining whether payments are substantially equal periodic payments. See Rev. Rul. 2002-62 § 2.03(a). Second, an individual who begins receiving distributions in a year using either the fixed amortization or fixed annuitization method may switch to the minimum distribution method for the year of the switch, and all subsequent years, and the change will not be treated as a modification within the meaning of § 72(t)(4). Any subsequent change, however, will be a modification for purposes of § 72(t)(4). See Rev. Rul. 2002-62 § 2.03(b).

#### APPLICATION OF NOTICE 89-25, AS MODIFIED BY REV. RUL. 2002-62, TO SECTION 72(q)(2)(D).

The IRS and Treasury believe that, when the provisions of § 72 are intended to address different concerns with respect to the treatment of qualified and non-qualified annuities, it is appropriate to apply those provisions in a different manner. However, if the provisions of § 72 are designed to achieve the same purpose whether or not the annuity is qualified or non-qualified, it is appropriate to apply that provision in the same manner to both qualified and non-qualified annuities.

The current language of § 72(q)(2) derives from § 1123(b)(2) of the Tax Reform Act of 1986, Pub. L. No. 99-514, (the "1986 Act"). The legislative history relating to the 1986 Act's amendments to § 72 indicates that Congress intended that the additional income tax on early withdrawals should be the same for all tax-favored retirement savings arrangements and should be increased so that the additional tax serves, in most cases, to recapture a significant portion of the benefits of deferral of tax on income. See H. Rept. No. 99-426, 99th Cong. 1st Sess. 703-04 (1985), 1986-3 C.B. (vol. 2) 703-04; S. Rept. No. 99-313, 99th Cong. 2d Sess. 567 (1986), 1986-3 C.B. (vol. 3) 567.

The IRS and Treasury believe that because these provisions were enacted for the same purpose it is appropriate to apply the same methods to determine whether a distribution is part of a series of substantially equal periodic payments. Therefore, taxpayers may use one of the methods set forth in Notice 89-25, as modi-

fied by Rev. Rul. 2002-62, to determine whether a distribution from a non-qualified annuity contract is part of a series of substantially equal periodic payments under § 72(q)(2)(D).

#### DRAFTING INFORMATION

The principal author of this notice is Linda K. Boyd of the Office of Associate Chief Counsel (Financial Institutions and Products). For further information regarding this notice, please contact Ms. Boyd at (202) 622-3970 (not a toll-free number).

## Relief From Retroactive Application of Information Reporting Requirements for Health Flexible Spending Arrangements and Health Reimbursement Arrangements

### Notice 2004-16

This notice provides that certain information reporting requirements of Rev. Rul. 2003-43, 2003-1 C.B. 935, will not apply to payments made pursuant to flexible spending arrangements (FSAs) or health reimbursement arrangements (HRAs) prior to January 1, 2003.

Rev. Rul. 2003-43 generally addresses the issue of whether employer-provided expense reimbursements made through debit cards, credit cards, and other electronic media are excludable from gross income under section 105 of the Internal Revenue Code. Rev. Rul. 2003-43 states that payments made to medical care providers through the use of debit, credit, and stored-value cards are reportable to the Internal Revenue Service by the employer on Form 1099-MISC under section 6041 except to the extent that the exceptions provided in section 1.6041-3 apply.

On December 8, 2003, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173, 117 Stat. 2066, (the Medicare Act) was enacted. Section 1203 of the Medicare Act amends the Code by adding a new section 6041(f), which provides that section 6041 will not apply to any payment for medical care (as defined in section 213(d)) made under FSAs (as de-



fined in section 106(c)(2)), or under HRAs that are treated as employer-provided coverage under accident or health plans for purposes of section 106. This amendment is effective for payments made after December 31, 2002.

Pursuant to section 7805(b)(8), the Form 1099 requirement described in Rev. Rul. 2003-43 will be applied without retroactive effect for payments made under FSAs and HRAs prior to January 1, 2003. This action is taken to assure employers and third party administrators that FSA and HRA payments for medical care will not be subject to information reporting prior to the effective date of the amendment to section 6041 in the Medicare Act.

The principal author of this notice is Nancy Rose of the Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. For further information regarding this notice, contact Ms. Rose at (202) 622-4910 (not a toll-free call).

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## Section 35.—Health Insurance Costs of Eligible Individuals

### Rev. Proc. 2004-12

#### SECTION 1. PURPOSE

This revenue procedure provides guidance on how a state elects a health program to be qualified health insurance for purposes of the health coverage tax credit (HCTC) under section 35 of the Internal Revenue Code.

#### SECTION 2. BACKGROUND

.01 On August 6, 2002, President Bush signed into law the Trade Act of 2002 (“the Act”), Pub. L. 107-210, 116 Stat. 933 (2002). Title II of the Act contains provisions that make assistance available to certain individuals participating in the Trade Adjustment Assistance program (TAA) or receiving payments from the Pension Benefit Guaranty Corporation (PBGC), to enable them to purchase health insurance. The primary mechanism for such assistance is a federal tax credit that is equal to 65 percent of the amount paid by the eligi-

ble individual for coverage for the individual and qualifying family members under qualified health insurance. The health coverage tax credit became available on December 1, 2002, and is claimed on the eligible individual’s income tax return. Beginning August 1, 2003, the HCTC is also available on a monthly basis as the premium is paid. Under the advance HCTC program, the government’s share — 65 percent of the premium amount paid by the individual — is combined with the eligible individual’s payment of the other 35 percent and paid on a monthly basis, in general to the qualified health plan in which the individual has enrolled.

.02 There are two basic categories of individuals who may be eligible for the HCTC:

(1) TAA recipients (as described in section 2.03 of this revenue procedure), and

(2) PBGC pension recipients who have attained age 55 but who do not have Medicare coverage (as described in section 2.04 of this revenue procedure).

.03 A TAA recipient is any individual who is receiving a trade readjustment allowance under the Trade Act of 1974 for any day of a month, or any individual who would be eligible for such an allowance except that the individual has not exhausted the individual’s regular unemployment insurance benefits. In addition, for purposes of this revenue procedure, any individual receiving benefits under the alternative trade adjustment assistance program, established under § 246 of the Trade Act of 1974, 19 U.S.C. §§ 2271-2275 (2003), is also a TAA recipient. All TAA recipients remain eligible for the HCTC (and thus are still considered TAA recipients) for one month after the end of the month that their eligibility for TAA ceases.

.04 A PBGC pension recipient is a person who is receiving a benefit payment from the PBGC for a month and who has attained age 55 (but who is not entitled to Medicare) on the first day of the month.

.05 There are ten categories of health insurance that may be qualified coverage for purposes of the HCTC:

(1) COBRA coverage: Coverage under a COBRA continuation provision (under § 4980B of the Code; part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1161-1168 (2003); or title XXII

of the Public Health Service Act, 42 U.S.C. §§ 300bb-1-300bb-8 (2003));

(2) State-based continuation coverage: Coverage under a state law that requires continuation coverage;

(3) High risk pool: Coverage offered through a qualified state high risk pool (as defined in section 2744(c)(2) of the Public Health Service Act, 42 U.S.C. § 300gg-44(c)(2) (2003));

(4) State employees’ health plan: Coverage under a health insurance program offered for state employees;

(5) Comparable state employees’ health plan: Coverage under a state-based health insurance program that is comparable to the health insurance program offered for state employees;

(6) State arrangement: An arrangement to offer coverage to HCTC eligible individuals entered into by a state with —

(a) an issuer of health insurance coverage;

(b) an administrator;

(c) an employer; or

(d) a group health plan (including a multiemployer plan);

(7) Private purchasing pool: Coverage offered through a state arrangement with a private sector health care coverage purchasing pool;

(8) Other state plans: Coverage under a state-operated health plan that does not receive any federal financial assistance;

(9) Spousal coverage: Coverage under a group health plan that is available through the employment of the HCTC eligible individual’s spouse (but only if the spouse’s employer contributes less than 50 percent of the total cost of coverage for the spouse, the eligible individual, and any dependents); and

(10) Individual health insurance: Coverage under individual health insurance if the HCTC eligible individual was covered under the insurance during the entire 30-day period that ended on the date that the individual became separated from the employment that qualifies the individual as a TAA or PBGC recipient.

.06 Coverage described in paragraphs (1), (9), and (10) of section 2.05 of this revenue procedure — COBRA coverage, spousal coverage, and individual health in-

surance — satisfies the requirements for “qualified health insurance” for all HCTC eligible individuals without any action required by any state.

.07 Coverage described in paragraphs (2) through (8) of section 2.05 of this revenue procedure (state-based continuation coverage or other state-based plans) satisfies the requirements for qualified health insurance only if the state elects to have such coverage treated as qualified health insurance and the coverage satisfies the following requirements:

(1) Qualifying individuals (as defined in section 2.08 of this revenue procedure) must be guaranteed enrollment regardless of their medical status and must be permitted to remain enrolled so long as they pay the premium;

(2) No preexisting condition restriction may be imposed on qualifying individuals;

(3) The premium charged for a qualifying individual may not be greater than the premium for a similarly situated individual who is not a qualifying individual; and

(4) Benefits for qualifying individuals are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are not qualifying individuals.

.08 “Qualifying individuals” are HCTC eligible individuals who have at least 3 months of “creditable coverage” (within the meaning of § 9801 of the Code) prior to seeking enrollment in coverage described in paragraphs (2) through (8) of section 2.05 of this revenue procedure.

### SECTION 3. PROCEDURE FOR ELECTING TREATMENT AS QUALIFIED HEALTH INSURANCE

.01 This section sets forth the procedures that a state must follow in order to elect to have coverage described in paragraphs (2) through (8) of section 2.05 of this revenue procedure (state-based continuation coverage or coverage under other state-based plans) treated as qualified health insurance. As described in section 2.07 of this revenue procedure, such coverage is not qualified health insurance unless such an election is made.

.02 To make an election, a state must provide a letter that contains the following information:

(1) Identifies and is signed by the governor or other state official responsible for

implementing this decision, including address and telephone number;

(2) Specifies the category or categories of health coverage chosen by the state (from among the categories described in paragraphs (2) through (8) of section 2.05 of this revenue procedure (state-based continuation coverage or other state-based plans));

(3) Provides the name and policy form number or other unique identifier for each qualifying plan in each category, and provides a name and contact number for the plan administrator or insurance carrier official who can provide additional information, if necessary. This information is required only for coverage described in paragraphs (3) through (8) of section 2.05 of this revenue procedure; it need not be provided for state-based continuation coverage described in paragraph (2) of section 2.05 of this revenue procedure; and

(4) Certifies that the four requirements described in section 2.07 of this revenue procedure are met for each plan being elected under each category.

.03 The letter must be sent to:

Director, Health Coverage Tax Credit  
Internal Revenue Service  
1111 Constitution Ave., N.W.  
W:HCTC/CNN 750  
Washington, D.C. 20224

### SECTION 4. EFFECTIVE DATE

This revenue procedure is effective March 1, 2004. Elections made before the effective date of this revenue procedure continue to be effective, including those sent to a different address; they do not need to be renewed.

### SECTION 5. PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1875.

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

The collection of information in this revenue procedure is in section 3. This information will be used to determine if a state health plan is qualified health insurance for purposes of the HCTC. This information collection is voluntary. If a state makes an election, eligible residents of the state may be able to more easily find qualified health insurance for which they can claim the HCTC.

The likely respondents are states. The estimated total annual reporting burden is 26 hours. The estimated annual burden per respondent varies from 1/4 hour to 1 hour, depending on individual circumstances, with an estimated average of 1/2 hour. The estimated total number of respondents is 51. The estimated frequency of responses is one-time.

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

### DRAFTING INFORMATION

The principal author of this revenue procedure is Shoshanna Tanner of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue procedure, contact Mr. Stephen Finan at (202) 622-1446 or Ms. Tanner at (202) 622-6080 (not toll-free numbers).

26 CFR 601.201: Rulings and determination letters.  
(Also, Part I, §§ 25, 103, 143.)

## Rev. Proc. 2004-18

### SECTION 1. PURPOSE

This revenue procedure provides issuers of qualified mortgage bonds, as defined in section 143(a) of the Internal Revenue Code, and issuers of mortgage credit certificates, as defined in section 25(c), with (1) the nationwide average purchase price for residences located in the United States, and (2) average area purchase price safe harbors for residences located in statistical areas in each state, the District of Columbia, Puerto Rico,

the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam.

## SECTION 2. CHANGES

Average area purchase price safe harbors were last published in Rev. Proc. 94-55, 1994-2 C.B. 716, and were based on housing price estimates calculated by the Department of Housing and Urban Development from mortgage data collected by the Federal Housing Finance Board (FHFB). As more fully described in section 3 below, the average area purchase price safe harbors contained in this revenue procedure are based on the annual loan limits set by the Federal Housing Administration (FHA) on FHA-insured mortgages (FHA loan limits). Because FHA loan limits do not differentiate between new and existing residences, this revenue procedure sets forth a single average area purchase price that may be used as a safe harbor for both new and existing residences in each of the listed statistical areas. This revenue procedure also sets forth a single nationwide average purchase price.

This revenue procedure also reflects the Office of Management and Budget's (OMB) current definitions for the nation's metropolitan statistical areas (MSAs), as contained in OMB Bulletin No. 03-04, dated and effective June 6, 2003. The safe harbors provided in Rev. Proc. 94-55 were for MSAs defined in OMB Bulletin No. 93-17, dated and effective June 30, 1993.

## SECTION 3. BACKGROUND

.01 Section 103(a) provides that, except as provided in section 103(b), gross income does not include interest on any state or local bond. Section 103(b)(1) provides that section 103(a) shall not apply to any private activity bond that is not a "qualified bond" within the meaning of section 141. Section 141(e) provides, in part, that the term "qualified bond" means any private activity bond if such bond (1) is a qualified mortgage bond under section 143, (2) meets the volume cap requirements under section 146, and (3) meets the applicable requirements under section 147.

.02 Section 143(a)(1) provides that the term "qualified mortgage bond" means a bond that is issued as part of a qualified

mortgage issue. Section 143(a)(2)(A) provides that the term "qualified mortgage issue" means an issue of one or more bonds by a state or political subdivision thereof, but only if: (i) all proceeds of the issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences; (ii) the issue meets the requirements of subsections (c), (d), (e), (f), (g), (h), (i), and (m)(7) of section 143; (iii) the issue does not meet the private business tests of paragraphs (1) and (2) of section 141(b); and (iv) with respect to amounts received more than 10 years after the date of issuance, repayments of \$250,000 or more of principal on mortgage financing provided by the issue are used by the close of the first semiannual period beginning after the date the prepayment (or complete repayment) is received to redeem bonds that are part of the issue.

### *Average Area Purchase Price*

.03 Section 143(e)(1) provides that an issue of bonds meets the purchase price requirements of section 143(e) if the acquisition cost of each residence financed by the issue does not exceed 90 percent of the average area purchase price applicable to such residence. Section 143(e)(5) provides that, in the case of a targeted area residence (as defined in section 143(j)), section 143(e)(1) shall be applied by substituting 110 percent for 90 percent.

.04 Section 143(e)(2) provides that the term "average area purchase price" means, with respect to any residence, the average purchase price of single-family residences (in the statistical area in which the residence is located) that were purchased during the most recent 12-month period for which sufficient statistical information is available. Under sections 143(e)(3) and (4), respectively, separate determinations are to be made for new and existing residences, and for two-, three-, and four-family residences.

.05 Section 143(e)(2) provides that the determination of the average area purchase price for a statistical area shall be made as of the date on which the commitment to provide the financing is made or, if earlier, the date of the purchase of the residence.

.06 Section 143(k)(2)(A) provides that the term "statistical area" means (i) a metropolitan statistical area (MSA), and (ii) any county (or the portion thereof)

that is not within an MSA. Section 143(k)(2)(C) further provides that if sufficient recent statistical information with respect to a county (or portion thereof) is unavailable, the Secretary may substitute another area for which there is sufficient recent statistical information for such county (or portion thereof). In the case of any portion of a State which is not within a county, section 143(k)(2)(D) provides that the Secretary may designate as a county any area that is the equivalent of a county. Section 6a.103A-1(b)(4)(i) of the Temporary Income Tax Regulations (issued under section 103A of the Internal Revenue Code of 1954, the predecessor of section 143) provides that the term "State" includes a possession of the United States and the District of Columbia.

.07 Section 6a.103A-2(f)(5)(i) provides that an issuer may rely upon the average area purchase price safe harbors published by the Department of the Treasury for the statistical area in which a residence is located. Section 6a.103A-2(f)(5)(i) further provides that an issuer may use an average area purchase price limitation different from the published safe harbor if the issuer has more accurate and comprehensive data for the statistical area.

### *Qualified Mortgage Credit Certificate Program*

.08 Section 25(c) permits a state or political subdivision to establish a qualified mortgage credit certificate program. In general, a qualified mortgage credit certificate program is a program under which the issuing authority elects not to issue an amount of private activity bonds that it may otherwise issue during the calendar year under section 146, and in their place, issues mortgage credit certificates to taxpayers in connection with the acquisition of their principal residences. Section 25(a)(1) provides, in general, that the holder of a mortgage credit certificate may claim a federal income tax credit equal to the product of the credit rate specified in the certificate and the interest paid or accrued during the tax year on the remaining principal of the indebtedness incurred to acquire the residence. Section 25(c)(2)(A)(iii)(III) generally provides that residences acquired in connection with the issuance of mortgage credit cer-

tificates must meet the purchase price requirements of section 143(e).

#### *Income Limitations for Qualified Mortgage Bonds and Mortgage Credit Certificates*

.09 Section 143(f) imposes limitations on the income of mortgagors for whom financing may be provided by qualified mortgage bonds. In addition, section 25(c)(2)(A)(iii)(IV) provides that holders of mortgage credit certificates must meet the income requirement of section 143(f). Generally, under sections 143(f)(1) and 25(c)(2)(A)(iii)(IV), the income requirement is met only if all owner-financing under a qualified mortgage bond and all mortgage credit certificates issued under a qualified mortgage credit certificate program are provided to mortgagors whose family income is 115 percent or less of the applicable median family income. Section 143(f)(5), however, generally provides for an upward adjustment to the percentage limitation in high housing cost areas. High housing cost areas are defined in section 143(f)(5)(C) as any statistical area for which the housing cost/income ratio is greater than 1.2.

.10 Under section 143(f)(5)(D), the housing cost/income ratio with respect to any statistical area is determined by dividing (a) the applicable housing price ratio for such area by (b) the ratio that the area median gross income for such area bears to the median gross income for the United States. The applicable housing price ratio is the new housing price ratio (new housing average area purchase price divided by the new housing average purchase price for the United States) or the existing housing price ratio (existing housing average area purchase price divided by the existing housing average purchase price for the United States), whichever results in the housing cost/income ratio being closer to 1.

#### *Average Area and Nationwide Purchase Price Limitations*

.11 Average area purchase price safe harbors for each state and the District of Columbia were last published in Rev. Proc. 94-55, 1994-2 C.B. 716. Average area purchase price safe harbors for Puerto Rico, Guam, and the Virgin Islands

were last published in Rev. Proc. 93-15, 1993-1 C.B. 485. Average area purchase price safe harbors for the Northern Mariana Islands were last published in Rev. Proc. 87-19, 1987-1 C.B. 712. Average area purchase price safe harbors for American Samoa have not been published previously.

.12 Nationwide average purchase price limitations were last published in Rev. Proc. 94-55. Guidance with respect to the United States and area median gross income figures that are to be used in computing the housing cost/income ratio described in section 143(f)(5) was last published in Rev. Proc. 2003-29, 2003-1 C.B. 917.

.13 In Rev. Proc. 94-55, the average area purchase price safe harbors were based on housing price estimates derived from mortgage survey data collected by the FHFB. This revenue procedure uses FHA loan limits for a given statistical area to calculate the average area purchase price safe harbor for that area. FHA sets limits on the dollar value of loans it will insure based on median home prices and conforming loan limits established by the Federal Home Loan Mortgage Corporation. In particular, FHA sets an area's loan limit at 95 percent of the median home sales price for the area, subject to certain floors and caps measured against conforming loan limits.

.14 To calculate the average area purchase price safe harbors in this revenue procedure, the FHA loan limits are adjusted to take into account the differences between average and median purchase prices. Because FHA loan limits do not differentiate between new and existing residences, this revenue procedure contains a single average area purchase price safe harbor for both new and existing residences in a statistical area. The Treasury Department and the Internal Revenue Service have determined that FHA loan limits provide a reasonable basis for determining average area purchase price safe harbors. If the Treasury Department and the Internal Revenue Service become aware of other sources of average purchase price data, including data that differentiate between new and existing residences, consideration will be given as to whether such data provide a more accurate method for calculating average area purchase price safe harbors.

.15 The average area purchase price safe harbors listed in section 5.01 of this revenue procedure are based on FHA loan limits released December 31, 2003. FHA loan limits are available for statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam. See section 4.03 of this revenue procedure with respect to FHA loan limits revised after December 31, 2003.

.16 OMB Bulletin No. 03-04, dated and effective June 6, 2003, revised the definitions of the nation's metropolitan areas and recognized 49 new metropolitan statistical areas. As a result, this revenue procedure provides average area purchase price safe harbors for statistical areas that differ from those published in Rev. Proc. 94-55. For example, OMB Bulletin No. 03-04 does not include primary metropolitan statistical areas, a type of statistical area that was included in Rev. Proc. 94-55.

## SECTION 4. APPLICATION

### *Average Area Purchase Price Safe Harbors*

.01 Average area purchase price safe harbors for statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam are set forth in section 5.01 of this revenue procedure. Average area purchase price safe harbors are provided for single-family and two to four-family residences. For each type of residence, section 5.01 of this revenue procedure contains a single safe harbor that may be used for both new and existing residences. Issuers of qualified mortgage bonds and issuers of mortgage credit certificates may rely on these safe harbors to satisfy the requirements of sections 143(e) and (f). Section 5.01 of this revenue procedure provides safe harbors for MSAs, and for certain counties and county equivalents. If no purchase price safe harbor is available for a statistical area, the safe harbor for "ALL OTHER AREAS" may be used for that statistical area (except for Alaska, for which a separate safe harbor is provided for statistical areas not listed).

.02 If a residence is in an MSA, the safe harbor applicable to it is the limitation of that MSA. If an MSA falls in more than

one State, the MSA is listed in section 5.01 of this revenue procedure under each State.

.03 If the FHA revises the FHA loan limit for any statistical area after December 31, 2003, an issuer of qualified mortgage bonds or mortgage credit certificates may use the revised FHA loan limit for that statistical area to compute (as provided in the next sentence) a revised average area purchase price safe harbor for the statistical area provided that the issuer maintains records evidencing the revised FHA loan limit. The revised average area purchase price safe harbor for that statistical area is computed by dividing the revised FHA loan limit by .76.

.04 If, pursuant to section 6a.103A-2(f)(5)(i), an issuer uses more accurate and comprehensive data to determine the average area purchase price for a statistical area, the issuer must make separate average area purchase price determinations for new and existing residences. Moreover, when computing the average area purchase price for a statistical area that is an MSA, as defined in OMB Bulletin No. 03-04, the issuer must make the computation for the entire applicable MSA. When computing the average area purchase price for a statistical area that is not an MSA, the issuer must make the computation for the entire statistical area and may not combine statistical areas. Thus, for example, the is-

suer may not combine two or more counties.

.05 If an issuer receives a ruling permitting it to rely on an average area purchase price limitation that is higher than the applicable safe harbor in this revenue procedure, the issuer may rely on that higher limitation for the purpose of satisfying the requirements of section 143(e) and (f) for bonds sold, and mortgage credit certificates issued, not more than 30 months following the termination date of the 12-month period used by the issuer to compute the limitation.

#### *Nationwide Average Purchase Price*

.06 Section 5.02 of this revenue procedure sets forth a single nationwide average purchase price for purposes of computing the housing cost/income ratio under section 143(f)(5).

.07 Issuers must use the nationwide average purchase price set forth in section 5.02 of this revenue procedure when computing the housing cost/income ratio under section 143(f)(5) regardless of whether they are relying on the average area purchase price safe harbors contained in this revenue procedure or using more accurate and comprehensive data to determine average area purchase prices for new and existing residences for a statistical area that

are different from the published safe harbors in this revenue procedure.

.08 If, pursuant to section 7.02 of this revenue procedure, an issuer relies on the average area purchase price safe harbors contained in Rev. Proc. 94-55, the issuer must use the nationwide average purchase prices set forth in Rev. Proc. 94-55 in computing the housing cost/income ratio under section 143(f)(5). Likewise, if, pursuant to section 7.05 of this revenue procedure, an issuer relies on the nationwide average purchase prices published in Rev. Proc. 94-55, the issuer may not rely on the average area purchase price safe harbors published in this revenue procedure.

#### SECTION 5. AVERAGE AREA AND NATIONWIDE AVERAGE PURCHASE PRICES

.01 Average area purchase prices for single-family and two to four-family residences in MSAs, and for certain counties and county equivalents. The safe harbor for "ALL OTHER AREAS" (found at the end of the table below) may be used for a statistical area that is not listed below (except for Alaska, for which a separate safe harbor is provided for statistical areas not listed).

<b>Area Name</b>	<b>1 Family</b>	<b>2 Family</b>	<b>3 Family</b>	<b>4 Family</b>
<b>ALASKA</b>				
ANCHORAGE, AK (MSA)	\$277,500	\$312,553	\$379,737	\$438,158
All other areas in Alaska	\$250,000	\$281,579	\$342,105	\$405,253
<b>ARIZONA</b>				
FLAGSTAFF, AZ (MSA)	\$228,325	\$269,779	\$326,084	\$405,253
MOHAVE COUNTY, AZ	\$230,375	\$269,779	\$326,084	\$405,253
<b>CALIFORNIA</b>				
INYO COUNTY, CA	\$353,750	\$398,434	\$484,079	\$558,553
CHICO, CA (MSA)	\$231,875	\$269,779	\$326,084	\$405,253
HUMBOLDT COUNTY, CA	\$212,500	\$269,779	\$326,084	\$405,253
FRESNO, CA (MSA)	\$214,521	\$269,779	\$326,084	\$405,253
LOS ANGELES-LONG BEACH-SANTA ANA, CA (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
MADERA, CA (MSA)	\$214,521	\$269,779	\$326,084	\$405,253
MERCED, CA (MSA)	\$231,250	\$269,779	\$326,084	\$405,253
MODESTO, CA (MSA)	\$290,475	\$327,166	\$397,492	\$458,645
NAPA, CA (MSA)	\$381,999	\$488,975	\$591,028	\$710,526
OXNARD-THOUSAND OAKS-VENTURA, CA (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
TUOLUMNE COUNTY, CA	\$243,750	\$274,539	\$333,553	\$405,253
REDDING, CA (MSA)	\$228,092	\$269,779	\$326,084	\$405,253

<b>Area Name</b>	<b>1 Family</b>	<b>2 Family</b>	<b>3 Family</b>	<b>4 Family</b>
RIVERSIDE-SAN BERNARDINO-ONTARIO, CA (MSA)	\$321,250	\$361,829	\$439,605	\$507,237
SACRAMENTO-ARDEN-ARCADE-ROSEVILLE, CA (MSA)	\$369,407	\$464,605	\$564,474	\$651,316
SALINAS, CA (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
SAN DIEGO-CARLSBAD-SAN MARCOS, CA (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
SAN FRANCISCO-OAKLAND-FREMONT, CA (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
SAN JOSE-SUNNYDALE-SANTA CLARA, CA (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
SAN LUIS OBISPO-PASA ROBLES, CA (MSA)	\$381,999	\$488,975	\$591,028	\$710,329
SANTA BARBARA-SANTA MARIA-GOLETA, CA (MSA)	\$381,999	\$488,975	\$591,028	\$690,789
SANTA CRUZ-WATSONVILLE, CA (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
SANTA ROSA-PETALUMA, CA (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
STOCKTON, CA (MSA)	\$344,222	\$397,730	\$483,224	\$557,566
NEVADA COUNTY, CA	\$312,500	\$351,974	\$427,632	\$493,421
MENDOCINO COUNTY, CA	\$312,500	\$351,974	\$427,632	\$493,421
VALLEJO-FAIRFIELD, CA (MSA)	\$381,999	\$488,975	\$591,028	\$710,526
YUBA CITY-MARYSVILLE, CA (MSA)	\$275,000	\$309,737	\$376,316	\$434,211
AMADOR COUNTY, CA	\$218,750	\$269,779	\$326,084	\$405,253
MONO COUNTY, CA	\$344,222	\$399,079	\$484,934	\$559,539
<i>COLORADO</i>				
BOULDER, CO (MSA)	\$369,407	\$438,453	\$532,699	\$614,653
COLORADO SPRINGS, CO (MSA)	\$260,500	\$293,405	\$356,474	\$411,316
DENVER-AURORA, CO (MSA)	\$344,222	\$440,609	\$532,532	\$631,579
LA PLATA COUNTY, CO	\$211,250	\$269,779	\$326,084	\$405,253
EAGLE COUNTY, CO	\$344,222	\$440,609	\$532,532	\$661,829
LAKE COUNTY, CO	\$344,222	\$440,609	\$532,532	\$661,829
FORT COLLINS-LOVELAND, CO (MSA)	\$280,000	\$315,368	\$383,158	\$442,105
GREELEY, CO, (MSA)	\$286,875	\$323,112	\$392,566	\$452,961
SILVERTHRONE, CO (MSA)	\$344,222	\$401,250	\$487,500	\$562,500
GARFIELD COUNTY, CO	\$250,000	\$286,825	\$346,678	\$430,855
GRAND COUNTY, CO	\$242,500	\$273,132	\$331,842	\$405,253
GUNNISON COUNTY, CO	\$259,938	\$292,772	\$355,704	\$410,428
OURAY COUNTY, CO	\$262,500	\$295,658	\$359,211	\$414,474
PITKIN COUNTY, CO	\$224,161	\$286,825	\$346,678	\$430,855
ROUTT COUNTY, CO	\$270,000	\$304,105	\$369,474	\$426,316
SAN MIGUEL COUNTY, CO	\$344,222	\$401,250	\$487,500	\$562,500
<i>CONNECTICUT</i>				
BRIDGEPORT-STAMFORD-NORWALK, CT (MSA)	\$381,999	\$434,964	\$528,462	\$609,764
HARTFORD-EAST HARTFORD-WEST HARTFORD, CT (MSA)	\$309,375	\$348,454	\$423,355	\$488,487
NEW HAVEN-MILFORD, CT (MSA)	\$381,999	\$435,039	\$528,553	\$609,868
NEW LONDON-NORWICH, CT (MSA)	\$268,750	\$302,697	\$367,763	\$430,855
LITCHFIELD COUNTY, CT	\$255,000	\$287,211	\$348,947	\$405,253
WINDHAM COUNTY, CT	\$224,161	\$269,779	\$326,084	\$405,253
<i>DELAWARE</i>				
DOVER, DE (MSA)	\$224,375	\$269,779	\$326,084	\$405,253
PHILADELPHIA-CAMDEN-WILMINGTON, PA-NJ-DE-MD (MSA)	\$300,459	\$338,412	\$411,154	\$474,409
<i>DISTRICT OF COLUMBIA</i>				
WASHINGTON-ARLINGTON-ALEXANDRIA, DC-VA-MD-WV (MSA)	\$381,999	\$448,442	\$544,837	\$628,658

<b>Area Name</b>	<b>1 Family</b>	<b>2 Family</b>	<b>3 Family</b>	<b>4 Family</b>
<i>FLORIDA</i>				
JACKSONVILLE, FL (MSA)	\$275,000	\$309,737	\$376,316	\$434,211
MONROE COUNTY, FL	\$369,407	\$449,822	\$546,513	\$630,592
MIAMI-FORT LAUDERDALE-MIAMI BEACH, FL (MSA)				
NAPLES-MARCO ISLAND, FL (MSA)	\$311,625	\$350,988	\$426,434	\$492,039
SARASOTA-BRADENTON-VENICE, FL (MSA)	\$282,500	\$318,184	\$386,579	\$446,053
	\$251,500	\$283,268	\$344,158	\$405,253
<i>GEORGIA</i>				
ALBANY, GA (MSA)	\$213,125	\$269,779	\$326,084	\$405,253
ATHENS-CLARKE COUNTY, GA (MSA)	\$232,375	\$269,779	\$326,084	\$405,253
ATLANTA-SANDY SPRINGS-MARIETTA, GA (MSA)	\$232,375	\$269,779	\$326,084	\$405,253
<i>HAWAII</i>				
HONOLULU, HI (MSA)	\$490,625	\$552,599	\$671,382	\$774,671
HAWAII COUNTY, HI	\$278,750	\$313,961	\$381,447	\$440,132
MAUI COUNTY, HI	\$381,250	\$429,408	\$521,711	\$601,974
KAUAI COUNTY, HI	\$368,750	\$415,329	\$504,605	\$582,237
KALAWAO COUNTY, HI	\$239,400	\$306,379	\$370,326	\$460,232
<i>IDAHO</i>				
BLAINE COUNTY, ID	\$336,250	\$378,724	\$460,132	\$530,921
<i>ILLINOIS</i>				
CHICAGO-NAPERVILLE-JOILET, IL-IN-WI (MSA)	\$312,500	\$351,974	\$427,632	\$493,421
ST. LOUIS, MO-IL (MSA)	\$243,974	\$274,792	\$333,859	\$405,253
<i>INDIANA</i>				
ANDERSON, IN (MSA)	\$217,500	\$269,779	\$326,084	\$405,253
CHICAGO-NAPERVILLE-JOILETTE, IL-IN-WI (MSA)	\$312,500	\$351,974	\$427,632	\$493,421
CINCINNATI-MIDDLETOWN, OH-KY-IN (MSA)	\$235,646	\$269,779	\$326,084	\$405,253
INDIANAPOLIS, IN (MSA)	\$217,500	\$269,779	\$326,084	\$405,253
LOUISVILLE, KY-IN (MSA)	\$237,375	\$269,779	\$326,084	\$405,253
SCOTT COUNTY, IN	\$237,375	\$269,779	\$326,084	\$405,253
<i>KANSAS</i>				
KANSAS CITY, MO-KS (MSA)	\$256,250	\$288,618	\$350,658	\$405,253
LAWRENCE, KS (MSA)	\$221,813	\$269,779	\$326,084	\$405,253
<i>KENTUCKY</i>				
CINCINNATI-MIDDLETOWN, OH-KY-IN (MSA)	\$235,646	\$269,779	\$326,084	\$405,253
LOUISVILLE, KY-IN (MSA)	\$237,375	\$269,779	\$326,084	\$405,253
<i>MAINE</i>				
PORTLAND-SOUTH PORTLAND, ME (MSA)	\$296,250	\$333,671	\$405,395	\$467,763
<i>MARYLAND</i>				
BALTIMORE-TOWSON, MD (MSA)	\$344,222	\$389,557	\$473,292	\$546,107
HAGERSTOWN-MARTINSBURG, MD (MSA)	\$355,000	\$399,842	\$485,789	\$560,526
ST. MARY'S COUNTY, MD	\$241,250	\$271,724	\$330,132	\$405,253
PHILADELPHIA-CAMDEN-WILMINGTON, PA-NJ-DE-MD, (MSA)	\$300,459	\$338,412	\$411,154	\$474,409

<b>Area Name</b>	<b>1 Family</b>	<b>2 Family</b>	<b>3 Family</b>	<b>4 Family</b>
WASHINGTON-ARLINGTON-ALEXANDRIA, DC-MD-VA-WV (MSA)	\$381,999	\$448,442	\$544,837	\$628,658
<i>MASSACHUSETTS</i>				
BARNSTABLE TOWN, MA (MSA)	\$374,875	\$422,228	\$512,987	\$591,908
BOSTON-CAMBRIDGE-QUINCY, MA-NH (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
PITTSFIELD, MA (MSA)	\$237,500	\$269,779	\$326,084	\$405,253
PROVIDENCE-NEW BEDFORD-FALL RIVER, RI-MA (MSA)	\$369,407	\$472,891	\$571,567	\$710,309
SPRINGFIELD, MA (MSA)	\$237,500	\$269,779	\$326,084	\$405,253
WORCESTER, MA (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
DUKES COUNTY, MA	\$344,222	\$440,609	\$532,532	\$661,829
NANTUCKET COUNTY, MA	\$344,222	\$440,609	\$532,532	\$661,829
<i>MICHIGAN</i>				
LENAWEE COUNTY	\$297,500	\$335,079	\$407,105	\$469,737
ANN ARBOR, MI (MSA)	\$297,500	\$335,079	\$407,105	\$469,737
DETROIT-WARREN-LIVONIA, MI (MSA)	\$297,500	\$335,079	\$407,105	\$469,737
LANSING-EAST LANSING, MI (MSA)	\$250,000	\$281,579	\$342,105	\$405,253
MONROE, MI (MSA)	\$231,250	\$269,779	\$326,084	\$405,253
BENZIE COUNTY, MI	\$224,161	\$270,937	\$327,483	\$407,022
GRAND TRAVERSE COUNTY, MI	\$224,161	\$270,937	\$327,483	\$407,022
KALKASKA COUNTY, MI	\$224,161	\$270,937	\$327,483	\$407,022
LEELANAU COUNTY, MI	\$224,161	\$270,937	\$327,483	\$407,022
<i>MINNESOTA</i>				
MINNEAPOLIS-ST. PAUL-BLOOMINGTON, MN-WI (MSA)	\$291,000	\$327,758	\$398,211	\$459,474
GOODHUE COUNTY, MN	\$224,875	\$269,779	\$326,084	\$405,253
ROCHESTER, MN (MSA)	\$230,962	\$269,779	\$326,084	\$405,253
<i>MISSISSIPPI</i>				
JACKSON, MS (MSA)	\$220,000	\$269,779	\$326,084	\$405,253
<i>MISSOURI</i>				
KANSAS CITY, MO-KS (MSA)	\$256,250	\$288,618	\$350,658	\$405,253
ST. LOUIS, MO-IL (MSA)	\$243,974	\$274,791	\$333,858	\$405,253
<i>MONTANA</i>				
MISSOULA, MT (MSA)	\$241,250	\$271,724	\$330,132	\$405,253
<i>NEVADA</i>				
CARSON CITY, NV (MSA)	\$256,250	\$288,618	\$350,658	\$405,253
DOUGLAS COUNTY, NV	\$350,000	\$394,211	\$478,947	\$552,632
LAS VEGAS-PARADISE, NV (MSA)	\$230,375	\$269,779	\$326,084	\$405,253
NYE COUNTY, NV	\$230,375	\$269,779	\$326,084	\$405,253
RENO-SPARKS, NV (MSA)	\$255,625	\$287,914	\$349,803	\$405,253
<i>NEW HAMPSHIRE</i>				
BOSTON-CAMBRIDGE-QUINCY, MA-NH (MSA)	\$381,999	\$488,975	\$591,028	\$734,521
MERRIMACK COUNTY, NH	\$218,166	\$269,779	\$326,084	\$405,253
MANCHESTER-NASHUA, NH (MSA)	\$369,407	\$472,891	\$571,567	\$710,309
<i>NEW JERSEY</i>				
ALLENTOWN-BETHLEHEM-EASTON, PA-NJ (MSA)	\$369,407	\$459,255	\$557,974	\$643,816
ATLANTIC CITY, NJ (MSA)	\$293,750	\$330,855	\$401,974	\$463,816



<b>Area Name</b>	<b>1 Family</b>	<b>2 Family</b>	<b>3 Family</b>	<b>4 Family</b>
<b>NEW YORK-NEWARK-EDISON, NY-NJ-PA (MSA)</b>	\$381,999	\$488,975	\$591,028	\$734,521
<b>OCEAN CITY, NJ (MSA)</b>	\$293,750	\$330,855	\$401,974	\$463,816
<b>PHILADELPHIA-CAMDEN-WILMINGTON, PA-NJ-DE-MD (MSA)</b>	\$300,459	\$338,412	\$411,154	\$474,409
<b>TRENTON-EWING, NJ (MSA)</b>	\$381,250	\$429,408	\$521,711	\$601,974
<i>NEW MEXICO</i>				
<b>LOS ALAMOS COUNTY, NM</b>	\$318,750	\$359,013	\$436,184	\$503,289
<b>SANTA FE, NM (MSA)</b>	\$343,125	\$386,467	\$469,539	\$541,776
<i>NEW YORK</i>				
<b>CAYUGA COUNTY, NY</b>	\$211,250	\$269,779	\$326,084	\$405,253
<b>BUFFALO-CHEEKTOWAGA-TONAWANDA, NY (MSA)</b>	\$228,750	\$269,779	\$326,084	\$405,253
<b>NEW YORK-NEWARK-EDISON, NY-NJ-PA (MSA)</b>	\$381,999	\$488,975	\$591,028	\$734,521
<b>POUGHKEEPSIE-NEWBURGH-MIDDLETOWN, NY (MSA)</b>	\$337,500	\$380,132	\$461,842	\$532,895
<b>ROCHESTER, NY (MSA)</b>	\$218,750	\$269,779	\$326,084	\$405,253
<b>SYRACUSE, NY (MSA)</b>	\$211,250	\$269,779	\$326,084	\$405,253
<i>NORTH CAROLINA</i>				
<b>CHARLOTTE-GASTONIA-CONCORD, NC-SC (MSA)</b>	\$221,582	\$269,779	\$326,084	\$405,253
<b>DURHAM, NC (MSA)</b>	\$230,000	\$269,779	\$326,084	\$405,253
<b>JACKSONVILLE, NC (MSA)</b>	\$306,250	\$344,934	\$419,079	\$483,553
<b>LINCOLN COUNTY, NC</b>	\$221,582	\$269,779	\$326,084	\$405,253
<b>RALEIGH-CARY, NC (MSA)</b>	\$230,000	\$269,779	\$326,084	\$405,253
<b>ROWAN COUNTY, NC</b>	\$221,582	\$269,779	\$326,084	\$405,253
<b>VIRGINIA BEACH-NORFOLK-NEWPORT NEWS, VA-NC (MSA)</b>	\$286,250	\$322,408	\$391,711	\$451,974
<i>OHIO</i>				
<b>AKRON, OH (MSA)</b>	\$223,625	\$269,779	\$326,084	\$405,253
<b>ASHTABULA COUNTY, OH</b>	\$290,797	\$327,530	\$397,933	\$459,154
<b>CINCINNATI-MIDDLETOWN, OH-KY-IN (MSA)</b>	\$235,646	\$269,779	\$326,084	\$405,253
<b>CLEVELAND-ELYRIA-MENTOR, OH (MSA)</b>	\$290,797	\$327,530	\$397,933	\$459,154
<b>COLUMBUS, OH (MSA)</b>	\$274,738	\$309,441	\$375,957	\$433,796
<b>DAYTON, OH (MSA)</b>	\$225,000	\$269,779	\$326,084	\$405,253
<b>SPRINGFIELD, OH (MSA)</b>	\$225,000	\$269,779	\$326,084	\$405,253
<i>OREGON</i>				
<b>CORVALIS, OREGON (MSA)</b>	\$217,375	\$269,779	\$326,084	\$405,253
<b>MEDFORD, OR (MSA)</b>	\$241,875	\$272,428	\$330,987	\$405,253
<b>PORTLAND-VANCOUVER-BEAVERTON, OR-WA (MSA)</b>	\$249,875	\$286,825	\$346,678	\$430,855
<i>PENNSYLVANIA</i>				
<b>ALLENTOWN-BETHLEHEM-EASTON, PA-NJ (MSA)</b>	\$369,407	\$459,255	\$557,974	\$643,816
<b>NEW YORK-NEWARK-EDISON, NY-NJ-PA (MSA)</b>	\$381,999	\$488,975	\$591,028	\$734,521
<b>PHILADELPHIA-CAMDEN-WILMINGTON, PA-NJ-DE (MSA)</b>	\$300,459	\$338,412	\$411,154	\$474,409
<b>PITTSBURGH, PA (MSA)</b>	\$228,188	\$269,779	\$326,084	\$405,253
<b>READING, PA (MSA)</b>	\$217,382	\$269,779	\$326,084	\$405,253
<b>YORK - HANOVER, PA (MSA)</b>	\$224,875	\$269,779	\$326,084	\$405,253

<b>Area Name</b>	<b>1 Family</b>	<b>2 Family</b>	<b>3 Family</b>	<b>4 Family</b>
<i>RHODE ISLAND</i>				
PROVIDENCE-NEW BEDFORD-FALL RIVER, RI-MA (MSA)	\$369,407	\$472,891	\$571,567	\$710,309
<i>SOUTH CAROLINA</i>				
CHARLESTON-NORTH CHARLESTON, SC (MSA)	\$261,250	\$294,250	\$357,500	\$412,500
CHARLOTTE-GASTONIA-CONCORD, NC-SC (MSA)	\$221,582	\$269,779	\$326,084	\$405,253
GEORGETOWN COUNTY, SC	\$228,750	\$269,779	\$326,084	\$405,253
BEAUFORT COUNTY, SC	\$262,500	\$295,658	\$359,211	\$414,474
JASPER COUNTY, SC	\$262,500	\$295,658	\$359,211	\$414,474
<i>TENNESSEE</i>				
NASHVILLE-DAVIDSON-MURFREESBORO, TN (MSA)	\$297,500	\$335,079	\$407,105	\$469,737
<i>TEXAS</i>				
HENDERSON COUNTY, TX	\$224,875	\$269,779	\$326,084	\$405,253
AUSTIN - ROUND ROCK, TX (MSA)	\$233,750	\$269,779	\$326,084	\$405,253
HUTCHINSON COUNTY, TX	\$224,875	\$269,779	\$326,084	\$405,253
DALLAS-FORT WORTH-ARLINGTON, TX (MSA)	\$224,875	\$269,779	\$326,084	\$405,253
SAN ANGELO, TX (MSA)	\$224,875	\$269,779	\$326,084	\$405,253
<i>UTAH</i>				
OGDEN-CLEARFIELD, UT (MSA)	\$225,000	\$269,779	\$326,084	\$405,253
PROVO-OREM, UT (MSA)	\$231,250	\$269,779	\$326,084	\$405,253
SALT LAKE CITY, UT (MSA)	\$306,250	\$344,934	\$419,079	\$483,553
KANE COUNTY, UT	\$228,325	\$269,779	\$326,084	\$405,253
WASATCH COUNTY, UT	\$231,250	\$269,779	\$326,084	\$405,253
<i>VERMONT</i>				
BURLINGTON-SOUTH BURLINGTON, VT (MSA)	\$281,125	\$316,636	\$384,697	\$443,882
<i>VIRGINIA</i>				
CHARLOTTESVILLE, VA (MSA)	\$255,416	\$287,678	\$349,516	\$405,253
RICHMOND, VA (MSA)	\$249,938	\$281,509	\$342,020	\$405,253
VIRGINIA BEACH-NORFOLK-NEWPORT NEWS, VA-NC (MSA)	\$286,250	\$322,408	\$391,711	\$451,974
WASHINGTON-ARLINGTON-ALEXANDRIA, DC-MD-VA-WV, (MSA)	\$381,999	\$448,442	\$544,837	\$628,658
<i>WASHINGTON</i>				
BELLINGHAM, WA (MSA)	\$236,250	\$269,779	\$326,084	\$405,253
BREMERTON-SILVERDALE, WA (MSA)	\$262,500	\$295,658	\$359,211	\$414,474
MOUNT VERNON-ANACORLES, WA (MSA)	\$214,934	\$269,779	\$326,084	\$405,253
ISLAND COUNTY, WA	\$326,868	\$368,157	\$447,293	\$516,108
OLYMPIA, WA (MSA)	\$225,000	\$269,779	\$326,084	\$405,253
PORTLAND-VANCOUVER-BEAVERTON, OR-WA (MSA)	\$249,875	\$286,825	\$346,678	\$430,855
SEATTLE-TACOMA-BELLVUE, WA (MSA)	\$345,125	\$388,720	\$472,276	\$544,934
JEFFERSON COUNTY, WA	\$212,500	\$269,779	\$326,084	\$405,253
SAN JUAN COUNTY, WA	\$260,028	\$292,874	\$355,828	\$430,855
<i>WEST VIRGINIA</i>				
HAGERSTOWN-MARTINSBURG, MD-WV (MSA)	\$355,000	\$399,842	\$485,789	\$560,526

<b>Area Name</b>	<b>1 Family</b>	<b>2 Family</b>	<b>3 Family</b>	<b>4 Family</b>
WASHINGTON-ARLINGTON-ALEXANDRIA, DC-VA-MD-WV (MSA)	\$381,999	\$448,442	\$544,837	\$628,658
<i>WISCONSIN</i>				
CHICAGO-NAPERVILLE-JOILETT, IL-IN-WI (MSA)	\$312,500	\$351,974	\$427,632	\$493,421
MADISON, WI (MSA)	\$242,625	\$273,272	\$332,013	\$405,253
MILWAUKEE-WAUKESHA-WEST ALLIS, WI (MSA)	\$233,125	\$269,779	\$326,084	\$405,253
MINNEAPOLIS-ST. PAUL-BLOOMINGTON, MN-WI (MSA)	\$291,000	\$327,758	\$398,211	\$459,474
RACINE, WI (MSA)	\$233,125	\$269,779	\$326,084	\$405,253
<i>WYOMING</i>				
TETON COUNTY, WY	\$369,407	\$438,453	\$532,699	\$614,653
SUBLETTE COUNTY, WY	\$224,375	\$269,779	\$326,084	\$405,253
<i>GUAM</i>				
	\$237,500	\$269,779	\$326,084	\$405,253
<i>PUERTO RICO</i>				
FAJARDO, PR (MSA)	\$325,000	\$366,053	\$444,737	\$513,158
SAN JUAN-CAGUAS-GUAYNABO, PR (MSA)	\$325,000	\$366,053	\$444,737	\$513,158
<i>VIRGIN ISLANDS</i>				
ST. CROIX	\$287,500	\$323,816	\$393,421	\$453,947
ST. JOHN	\$246,447	\$277,578	\$337,243	\$405,253
ST. THOMAS	\$318,750	\$359,013	\$436,184	\$503,289
<i>ALL OTHER AREAS</i>	\$210,758	\$269,779	\$326,084	\$405,253

.02 Nationwide average purchase price (for use in the housing cost/income ratio for new and existing residences):

\$218,100

#### SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 94–55, Rev. Proc. 93–15, and Rev. Proc. 87–19 are obsolete except as provided in section 7 of this revenue procedure.

#### SECTION 7. EFFECTIVE DATES

.01 Issuers may rely on this revenue procedure to determine average area purchase price safe harbors for commitments to provide financing or issue mortgage credit certificates that are made, or (if the purchase precedes the commitment) for residences that are purchased, in the period that begins on February 10, 2004, and ends on the date as of which the safe harbors contained in section 5.01 of this revenue procedure are rendered obsolete by a new revenue procedure.

.02 Notwithstanding section 6 of this revenue procedure, issuers may continue to rely on the average area purchase price safe harbors contained in Rev. Proc. 87–19, Rev. Proc. 93–15, and Rev. Proc. 94–55 with respect to bonds sold, or for mortgage credit certificates issued with respect to bond authority exchanged, before March 11, 2004, if the commitments to provide financing or issue mortgage credit certificates on or before April 10, 2004.

.03 Except as provided in section 7.04, issuers must use the nationwide average purchase price limitation contained in this revenue procedure for commitments to provide financing or issue mortgage credit certificates that are made, or (if the purchase precedes the commitment) for residences that are purchased, in the period that begins on February 10, 2004, and ends on the date when the nationwide average purchase price limitation is rendered obsolete by a new revenue procedure.

.04 Notwithstanding sections 6 and 7.03 of this revenue procedure, issuers may continue to rely on the nationwide average purchase prices set forth in Rev. Proc. 94–55 with respect to bonds sold, or

for mortgage credit certificates issued with respect to bond authority exchanged, before March 11, 2004, if the commitments to provide financing or issue mortgage credit certificates are made on or before April 10, 2004.

#### SECTION 8. PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1877.

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

This revenue procedure contains a collection of information requirement in section 4.03. The purpose of the collection of information is to verify the applicable FHA loan limit that issuers of qualified mortgage bonds and qualified mortgage

certificates have used to calculate the average area purchase price for a given statistical area for purposes of section 143(e) and 25(c). The collection of information is required to obtain the benefit of using revisions to FHA loan limits to determine average area purchase prices. The likely respondents are state and local governments.

The estimated total annual recordkeeping burden is: 15 hours.

The estimated annual burden per recordkeeper: 15 minutes.

The estimated number of recordkeepers: 60.

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

## SECTION 9. DRAFTING INFORMATION

The principal authors of this revenue procedure are Gary W. Bornholdt and Timothy L. Jones of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this revenue procedure, contact Gary W. Bornholdt at (202) 622-3980 (not a toll-free call).

## Part IV. Items of General Interest

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

#### Electronic Filing of Duplicate Forms 5472

#### REG-167217-03

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking, 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. 9113) providing that a Form 5472 that is timely filed electronically is treated as satisfying the requirement timely to file a duplicate Form 5472 with the Internal Revenue Service Center in Philadelphia, Pennsylvania. This action is necessary to clarify how the duplicate filing requirements for Form 5472 apply when a reporting corporation electronically files its income tax return (including any attachments such as Form 5472). This document affects corporations subject to the reporting requirements in sections 6038A and 6038C that file Form 5472 electronically. 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 May 10, 2004. Outlines of topics to be discussed at the public hearing scheduled for May 27, 2004, must be received by May 6, 2004.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-167217-03), room 5203, 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:PA:LPD:PR (REG-167217-03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Edward Barret, (202) 435-5265; concerning submissions and the hearing, Robin Jones, (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background and Explanation of Provisions

The temporary regulations in this issue of the Bulletin amend 26 CFR part 1. To clarify how the duplicate filing requirements for Form 5472 apply when a reporting corporation electronically files its income tax return (including any attachments such as Form 5472), the temporary regulations amend §1.6038A-2(d) to provide that a Form 5472 that is timely filed electronically is treated as satisfying the requirement timely to file a duplicate Form 5472 with the Internal Revenue Service Center in Philadelphia, Pennsylvania. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

##### Special Analyses

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

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 businesses.

##### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and 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 May 27, 2004, in the IRS Auditorium, 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 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 must submit written or electronic comments by May 10, 2004, and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by May 6, 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 proposed regulations is Edward Barret, Office of the Associate Chief Counsel (International). 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 1.6038A-1 is amended by revising paragraph (n)(2) to read as follows:

*§1.6038A-1 General requirements and definitions.*

\* \* \* \* \*

(n) \* \* \* (1) \* \* \*

(2) *Section 1.6038A-2.* Section 1.6038A-2 (relating to the requirement to file Form 5472) generally applies for taxable years beginning after July 10, 1989. However, §1.6038A-2 as it applies to reporting corporations whose sole trade or business in the United States is a banking, financing, or similar business as defined in §1.864-4(c)(5)(i) applies for taxable years beginning after December 10, 1990. The final sentence of §1.6038A-2(d) applies for taxable years ending on or after January 1, 2003. For taxable years ending prior to January 1, 2003, see §1.6038A-2(d) in effect prior to January 1, 2003 (see 26 CFR part 1 revised as of April 1, 2002).

\* \* \* \* \*

Par. 3. Section 1.6038A-2 is amended by revising paragraph (d) to read as follows:

*§1.6038A-2 Requirement of return.*

\* \* \* \* \*

(d) [The text of the proposed amendment to §1.6038A-2(d) is the same as the text for §1.6038A-2T(d) 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 February 6, 2004, 8:45 a.m., and published in the issue of the Federal Register for February 9, 2004, 69 F.R. 5940)

## Foundations Status of Certain Organizations

### Announcement 2004-12

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:

120 Gerry Street Housing Development Fund Corporation, Brooklyn, NY  
Abhinaya, Maryland Heights, MO  
Ada A Grant, Inc., Chicago, IL  
Agape Respite Care Providers, Inc., Baker, LA  
Agricultural Law Center of California, Santa Maria, CA  
Aircraft Enterprises, Inc., Lafayette, GA  
Alliance Charitable Fund, Inc., Boston, MA  
Americans in Motion, Atkinson, NE  
Angel of Mercy, Inc., Hacienda Heights, CA  
Angels Gate, Inc., Fort Salonga, NY  
Arizona Branch of the International Dyslexia Association, Scottsdale, AZ  
Association for Supplementing Seniors Income and Support Structure, West Jefferson, OH  
Association of African American Museums, Wilburforce, OH  
Association of Christian Home Educators of Ventura County, Inc., Ventura, CA  
Asylum & Immigration Defense, Garden Grove, CA

Awakening Home for Women and Children, Chicago, IL  
Back Home Again, Inc., Red Wing, MN  
Barangay Community Services, Tacoma, WA  
Borock, Inc., Jessup, GA  
Broken Chains Prison Ministry, Las Vegas, NJ  
Bywater Community Development, New Orleans, LA  
C Bar C Ranch, Inc., Farmington, NM  
Calhoun County Bank Boosters, Port Lavaca, TX  
California Cadet Corps of the Morongo Basin, Joshua Tree, CA  
Cannon Speedskating Fund of Utah, Salt Lake City, UT  
Capital Quilters, Bismarck, ND  
Carib News Charities, Inc., New York, NY  
Cause for Celebration, Inc., Arlington, VA  
Center for Community Justice, Inc., Los Angeles, CA  
Central Child Development Center, Hollywood, FL  
Central New Jersey Library of Judaica, Inc., New Brunswick, NJ  
Changing the World, Inc., Houston, TX  
Charitable Society of Greenwood, Inc., Greenwood, SC  
Charleston Housing Trust and Development Corporation, Charleston, SC  
Cheer Express, Villas, NJ  
Childrens Web Surfing Alliance, Severna Park, MD  
Citytrack, Incorporated, New York, NY  
Clinch Independent Living Services, Incorporated, Grundy, VA  
Colorado House of Ruth, Incorporated, Aurora, CO  
Colorful Threads Weaving Together Strands of Wholeness, Minneapolis, MN  
Community Husk Corporation, Fontana, CA  
Constitutional Liberties Defense League, Eugene, OR  
Cure Group 1, Inc., Conshohocken, PA  
D. T. & Associates, Farmington, MI  
Deutsche Gesellschaft, Metairie, LA  
Dialysis Patients Association-Warwick, Warwick, RI  
Dick Marx Foundation, Sherman Oaks, CA  
Divine Truth Ministry, Garland, TX  
Don't Be a Sap...It's a Booby Trap, Carisbad, CA

Echo Repertory Theatre, Inc.,  
New York, NY

Educators for Life, Inc., Manchester, NH

Emmanuel Haitian Christian Community  
Center, Inc., Miami, FL

Encouraging Word Ministries,  
Slippery Rock, PA

Entertainers Together for a Cause,  
Phoenix, AZ

Fairfield Family Resource Center,  
Fairfield, MT

Faith Community Development  
Corporation, Capitol Heights, MD

Faith Works Milwaukee, Milwaukee, WI

Family & Community Outreach Network,  
Inglewood, CA

Fig Garden Youth Soccer League of  
Fresno, Inc., Fresno, CA

Flathead Resource Organization,  
Dixon, MT

Florida Transit Feasibility Organization  
East, Inc., Ft. Lauderdale, FL

Foundation for Science, Technology,  
Education, and Research, Inc.,  
New York, NY

Foundation Stone for Family Preservation,  
Sacramento, CA

Friends Against Corruption Theft,  
Incorporated, Odessa, TX

Friends of Natick Drama Workshop, Inc.,  
Natick, MA

Friends of SMCP, Inc., Nevada, MO

Friends of USM Football, Portland, ME

GCMS Community Youth Center,  
Gibson City, IL

God's Grace Adoption Ministry, Inc.,  
Modesto, CA

Greater Lakeland Area Gardening Club,  
Lakeland, FL

Green Gardens Community Housing  
Corporation, Bakersfield, CA

Green-Quincy Housing Development  
Fund, New York, NY

Hall of China Political Discourse, Inc.,  
Kensington, MD

Healthy Care Solutions, Inc.,  
Ft. Lauderdale, FL

Holistic Counseling Services, Inc.,  
North Miami Beach, FL

Hunger First-Tri-Cities  
Tennessee/Virginia, Inc., Kingsport, TN

Ice for Kids, Inc., N. Tonawanda, NY

Illinois Valley Education-to Careers  
Partnership, Inc., La Salle, IL

Indiana Percussion Association, Inc.,  
Chesterton, IN

Institute for the Education of Foster  
Children, Mount Vernon, VA

International Bulgarian Assn. for Support  
of Persons With Mental Disabilities,  
Elmhurst, NY

J. D. Bud and Vonda Webb Foundation,  
Coronado, CA

James Madison High School  
Band-Flag Parents Booster Club,  
Inc., San Antonio, TX

Jazz and Blues Hall of Fame Museum,  
Inc., Duncanville, TX

Jesus' Disciples International,  
Rolling Hills Estates, CA

Joint Heirs Ministry, Mercer Island, WA

Journal of Legal Advocacy & Practice,  
Inc., Woodland Hills, CA

Kylies Project, Bellingham, WA

Laughing Place Therapeutic Riding  
Center, Inc., Lowndesboro, AL

Leadership Training Institute,  
Capitol Heights, MD

Lees Summit High School AFJ ROTC  
Booster Club, Lees Summit, MO

Liberty Truth and Love Proclamations,  
Fort Collins, CO

Los Amigos Gate Booster Club,  
Rancho Cucamonga, CA

Louisiana Community Outreach Center,  
Incorporated, Marion, LA

Lyons Gymnastics Academy Boosters,  
Van Nuys, CA

Macedonia Community & Youth  
Development Foundation,  
Minneapolis, MN

Marc Anthony Foundation, Inc.,  
New York, NY

Marching Green Pride Band Boosters,  
Azle, TX

Mardi Gras Krowe De Colorado,  
Denver, CO

Medicine and Science Discovery Center  
of Central Texas, Temple, TX

Mellis Scholarship Fund, Inc.,  
Modesto, CA

Metro Christian Youth Services,  
Milwaukee, OR

Millbrook Baptist Kindergarten,  
Raleigh, NC

Missouri Cultural Trust Foundation,  
St. Louis, MO

Montgomery Housing, Inc.,  
Gaithersburg, MD

Moon Water Theater Company, Inc.,  
Fort Worth, TX

National Rod & Custom Car Hall of Fame  
Foundation, Afton, OK

NEO Allstars, Akron, OH

New Future Education Fund,  
San Marino, CA

New Image Humanitarian Society, Inc.,  
Hauppauge, NY

New Park N Play, Inc., Ramsey, NJ

New Union Education Project, Inc.,  
Cambridge, MA

Nicodemus Buffalo Soldier Foundation,  
Bogue, KS

North Hill Recreation Committee, Inc.,  
Boston, MA

Northview Band Boosters, Brazil, IN

Ontario Youth Sports, Crestline, OH

Open Arms Residential Care Facility,  
Pasadena, CA

Personal Watercraft Safety Foundation,  
Ocean City, NJ

Piedra Vista Baseball Booster Club,  
Farmington, NM

Pinellas Housing Agency, Inc.,  
Clearwater, FL

Prince Boxing Gym, Inc., Houston, TX

Prince of Peace Foundation,  
Escondido, CA

Princeton Gospel Music Performers  
Organization, Princeton, KY

Project Appleseed, Inc., Union, NJ

Project Network, San Bernardino, CA

Prosper Arts, Incorporated, New York, NY

PS Theatre Works, Inc., Marlborough, MA

Puerto Rican Committee of Lancaster,  
Lancaster, PA

Renascent Productions, Jax Beach, FL

Restoring the Dream, Inc., New York, NY

Rogue Valley Youth Hockey Association,  
Medford, OR

San Francisco Friends of Chamber Music,  
San Francisco, CA

Schnepf Farms Foundation,  
Queen Creek, AZ

Sense of Direction, Chicago, IL

Share the Dream Foundation,  
Santa Rosa, CA

Shepherd's Fold, Sterling, CO

Skye Wallace Scholarship Foundation,  
Columbus, OH

Southeast Regional Year 2000 Crisis  
Center, Inc., Atlanta, GA

Southern California Psychoanalytic  
Society, Los Angeles, CA

Southland Community Development  
Corporation, Eunice, LA

Sparkle Industrial Services, Dolton, IL

St. Clair Band Boosters, St. Clair, MO

St. James Economic Development, Inc.,  
Miami, FL

St. Paul Health Initiative, Inc.,  
Raleigh, NC

St. Paul Outreach Ministries, Inc.,  
Raleigh, NC

Stephen M. Price Foundation, Inc.,  
Jacksonville, FL  
Strong Movement, Dallas, TX  
Summer Computer Camp for  
Disadvantaged Youth, Houston, TX  
Sun Crumbs, Inc., Pittsburgh, PA  
Surgtrain, Galveston, TX  
T. Stuart Payne Foundation, Inc.,  
Cornelius, NC  
Team Sierra, Reno, NV  
Techbangla, Norcross, GA  
Total Theater Company, Pittsfield, MA  
Tristan Avery Braverman Foundation for  
Autistic Children, Wantagh, NY  
Union Temple Community Development  
Corporation, Washington, DC  
Vail Valley Wine Auction, Incorporated,  
Edwards, CO  
Vibroplex Foundation, Inc., Mobile, AL  
Victims Assistance Center of Amherst,  
Incorporated, Amherst, NY  
Vincent Palladino Memorial Foundation,  
Inc., Moorestown, NJ  
Vision Corporation, South Bend, IN  
Weave, Inc., Ogden, UT  
West Central Illinois Education-to-Careers  
Partnership, Quincy, IL  
Western Connecticut Youth Hockey, Inc.,  
New Fairfield, CT  
Westwood Preservation Society, Inc.,  
Westwood, MA  
Winneconne Civic Center Foundation,  
Inc., Waukesha, WI  
Womens Outreach, Inc., Fayetteville, NY  
World Council of Peoples for the United  
Nations, New York, NY  
Worldwide Community,  
Grand Junction, CO  
Zonta Club of the Santa Clarita Valley  
Foundation, Valencia, CA

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

sification of foundation status in the Internal Revenue Bulletin.

## **Diversification Requirements for Variable Annuity, Endowment, and Life Insurance Contracts; Hearing**

### **Announcement 2004-13**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document contains a notice of public hearing on proposed regulations (REG-163974-02, 2003-38 I.R.B. 595) to diversification requirements for variable annuity, endowment, and life insurance contracts.

DATES: The public hearing is being held on Thursday, April 1, 2004, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by March 18, 2004.

ADDRESSES: The public hearing is being held in the auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the main entrance on Constitution Avenue. In addition, all visitors must present photo identification to enter the building.

Mail submissions to: CC:PA:LPD:PR (REG-163974-02), Room 5203, 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:PA:LPD:PR (REG-163974-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. Alternatively, taxpayers may submit comments electronically via the Internet by submitting comments directly to the IRS Internet site at: <http://www.irs.gov/reg>.

FOR FURTHER INFORMATION CONTACT: Concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Guy R. Traynor of the Publications and Regulations Branch, Associate Chief Counsel, (Procedure and Administration) at (202) 622-3693 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed regulations (REG-163974-02) that was published in the **Federal Register** on Wednesday, July 30, 2003 (68 FR 44689).

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by March 18, 2004.

A period of 10 minutes is allotted to each person for presenting oral comments.

After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

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

Cynthia E. Grigsby,  
*Acting Chief, Publications  
and Regulations Branch,  
Legal Processing Division,  
Associate Chief Counsel  
(Procedure and Administration).*

(Filed by the Office of the Federal Register on February 13, 2004, 8:45 a.m., and published in the issue of the Federal Register for February 17, 2004, 69 F.R. 7389)



# Definition of Terms

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

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

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

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

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

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

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

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

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

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

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

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

# Abbreviations

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

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

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

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

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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2003–27 through 2003–52 is in Internal Revenue Bulletin 2003–52, dated December 29, 2003.

## Findings List of Current Actions on Previously Published Items<sup>1</sup>

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Corrected by  
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### Revenue Procedures:

#### 87-19

Obsoleted in part by  
Rev. Proc. 2004-18, 2004-9 I.R.B. 529

#### 93-15

Obsoleted in part by  
Rev. Proc. 2004-18, 2004-9 I.R.B. 529

#### 94-41

Superseded by  
Rev. Proc. 2004-15, 2004-7 I.R.B. 490

#### 94-55

Obsoleted in part by  
Rev. Proc. 2004-18, 2004-9 I.R.B. 529

#### 2000-38

Modified by  
Rev. Proc. 2004-11, 2004-3 I.R.B. 311

#### 2000-50

Modified by  
Rev. Proc. 2004-11, 2004-3 I.R.B. 311

#### 2002-9

Modified and amplified by  
Rev. Rul. 2004-18, 2004-8 I.R.B. 509  
Modified by  
Rev. Proc. 2004-11, 2004-3 I.R.B. 311

#### 2002-71

Superseded by  
Rev. Proc. 2004-13, 2004-4 I.R.B. 335

#### 2003-1

Superseded by  
Rev. Proc. 2004-1, 2004-1 I.R.B. 1

#### 2003-2

Superseded by  
Rev. Proc. 2004-2, 2004-1 I.R.B. 83

### Revenue Procedures— Continued:

#### 2003-3

As amplified by Rev. Proc. 2003-14, and as modified by Rev. Proc. 2003-48 superseded by Rev. Proc. 2004-3, 2004-1 I.R.B. 114

#### 2003-4

Superseded by  
Rev. Proc. 2004-4, 2004-1 I.R.B. 125

#### 2003-5

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Rev. Proc. 2004-5, 2004-1 I.R.B. 167

#### 2003-6

Superseded by  
Rev. Proc. 2004-6, 2004-1 I.R.B. 197

#### 2003-7

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Rev. Proc. 2004-7, 2004-1 I.R.B. 237

#### 2003-8

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Rev. Proc. 2004-8, 2004-1 I.R.B. 240

#### 2003-23

Modified and superseded by  
Rev. Proc. 2004-14, 2004-7 I.R.B. 489

#### 2004-1

Corrected by  
Ann. 2004-8, 2004-6 I.R.B. 441

#### 2004-4

Modified by  
Rev. Proc. 2004-15, 2004-7 I.R.B. 490

#### 2004-5

Modified by  
Rev. Proc. 2004-15, 2004-7 I.R.B. 490

#### 2004-6

Modified by  
Rev. Proc. 2004-15, 2004-7 I.R.B. 490

### Revenue Rulings:

#### 92-19

Supplemented in part by  
Rev. Rul. 2004-14, 2004-8 I.R.B. 511

#### 94-38

Clarified by  
Rev. Rul. 2004-18, 2004-8 I.R.B. 509

#### 98-25

Clarified by  
Rev. Rul. 2004-18, 2004-8 I.R.B. 509

<sup>1</sup> A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2003–27 through 2003–52 is in Internal Revenue Bulletin 2003–52, dated December 29, 2003.