

## 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

#### **REG-110896-98, page 1226.**

Proposed regulations under section 664(b) of the Code concern the characterization of distributions from charitable remainder trusts. The proposed regulations reflect changes made to income tax rates, including the rates applicable to capital gains and certain dividends, by the Taxpayer Relief Act of 1997, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Jobs and Growth Tax Relief Reconciliation Act of 2003. A public hearing is scheduled for March 9, 2004.

#### **REG-160330-02, page 1230.**

Proposed regulations under section 704(c) of the Code provide guidance with respect to the tax treatment of installment obligations and property acquired pursuant to a contract under sections 704(c) and 737.

#### **Notice 2003-81, page 1223.**

**Option; foreign currency.** This notice describes a transaction in which a taxpayer claims a loss upon the assignment of a section 1256 contract to a charity, but fails to report the recognition of gain when the taxpayer's obligation under an offsetting non-section 1256 contract terminates. The notice identifies the described transaction and those that are substantially similar to that transaction as listed transactions. The notice holds that the taxpayer must either recognize gain when the option is assumed by the charity or must recognize the premium at the time the taxpayer's obligations under the option contract terminate.

### EMPLOYEE PLANS

#### **Notice 2003-80, page 1223.**

**Weighted average interest rate update.** The weighted average interest rate for December 2003 and the resulting permissible range of interest rates used to calculate current liability for purposes of the full funding limitation of section 412(c)(7) of the Code are set forth.

### EXEMPT ORGANIZATIONS

#### **Announcement 2003-84, page 1232.**

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

### ESTATE TAX

#### **REG-110896-98, page 1226.**

Proposed regulations under section 664(b) of the Code concern the characterization of distributions from charitable remainder trusts. The proposed regulations reflect changes made to income tax rates, including the rates applicable to capital gains and certain dividends, by the Taxpayer Relief Act of 1997, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Jobs and Growth Tax Relief Reconciliation Act of 2003. A public hearing is scheduled for March 9, 2004.

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Announcement of Declaratory Judgment Proceedings Under Section 7428 begins on page 1238.  
Finding Lists begin on page ii.



## **GIFT TAX**

### **REG-110896-98, page 1226.**

Proposed regulations under section 664(b) of the Code concern the characterization of distributions from charitable remainder trusts. The proposed regulations reflect changes made to income tax rates, including the rates applicable to capital gains and certain dividends, by the Taxpayer Relief Act of 1997, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Jobs and Growth Tax Relief Reconciliation Act of 2003. A public hearing is scheduled for March 9, 2004.

## **ADMINISTRATIVE**

### **T.D. 9096, page 1222.**

This document removes final regulations sections 1.6152-1 and 301.6152-1 pertaining to section 6152 of the Code.

### **Announcement 2003-85, page 1237.**

This document contains corrections to proposed regulations (REG-128203-02, 2003-41 I.R.B. 828) under section 460 of the Code that provide guidance regarding the income tax consequences of certain partnership transactions involving contracts accounted for under a long term contract method of accounting.

### **Announcement 2003-86, page 1237.**

This document contains corrections to temporary regulations (T.D. 9090, 2003-43 I.R.B. 891) under section 448(d)(5) of the Code that provide guidance regarding the use of a nonaccrual-experience method by taxpayers using an accrual method of accounting and performing services.

### **Announcement 2003-87, page 1238.**

This document contains corrections to proposed regulations (REG-106486-98, 2003-42 I.R.B. 853) under section 1275 of the Code that provide for the treatment of contingent payment debt instruments for which one or more payments are denominated in, or determined by reference to, a currency other than the taxpayer's functional currency.

# The IRS Mission

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

## Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

### **Part I.—1986 Code.**

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

### **Part II.—Treaties and Tax Legislation.**

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

### **Part III.—Administrative, Procedural, and Miscellaneous.**

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

### **Part IV.—Items of General Interest.**

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

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

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For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

\* **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 6152.—Installment Payments

26 CFR 1.6152-1: *Installment payments.*

### T.D. 9096

## DEPARTMENT OF THE TREASURY Internal Revenue Service (IRS) 26 CFR Parts 1, 301, and 602

### Installment Payments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Removal of final regulations.

SUMMARY: This document removes regulation §§1.6152-1 and 301.6152-1 relating to installment payments made pursuant to section 6152 of the Internal Revenue Code. These regulations are obsolete because section 6152 was repealed for tax years beginning after December 31, 1986. The removal of these regulations will not affect taxpayers.

DATES: The removal of these regulations is effective December 3, 2003.

FOR FURTHER INFORMATION CONTACT: Janice R. Feldman, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

### Background and Explanation of Provisions

This document removes one section from the Income Tax Regulations (26 CFR part 1) and one section from the Procedure and Administration Regulations (26 CFR part 301) relating to installment payments made pursuant to section 6152 of the Internal Revenue Code. Section 6152, prior to its repeal in 1986, generally permitted a decedent's estate to pay income taxes in four equal installments, with the fourth installment due on or before 9 months after the date prescribed for the payment of the tax. Section 6152 was repealed by section 1404(c)(1) of the Tax Reform Act

of 1986, (Public Law 99-514, 100 Stat. 2714), applicable to taxable years beginning after December 31, 1986. The repeal of section 6152 has rendered §§1.6152-1 and 301.6152-1 obsolete.

Section 1.6152-1 was added by T.D. 6364, 1959-1 C.B. 546 [25 FR 12138], published in the **Federal Register** for November 26, 1960. Section 1.6152-1 was amended by T.D. 6914, 1967-1 C.B. 344 [32 FR 3819] and by T.D. 7953, 1984-1 C.B. 241 [49 FR 19643]. Section 1.6152-1, as amended, provides that corporations (relevant only with respect to provisions in section 6152 repealed in 1982) and estates of decedents may elect to pay income taxes in installments.

Section 301.6152-1 was added by T.D. 6498 (25 FR 10154) published in the **Federal Register** for October 25, 1960. Section 301.6152-1 provides that the regulations relating to the installment payments of income taxes are found at §1.6152-1.

### Effect on Other Documents

The final regulation §1.6152-1 published in the **Federal Register** for May 9, 1984 (49 FR 19643) and the final regulation §301.6152-1 published in the **Federal Register** for October 25, 1960 (25 FR 10154) are removed as of December 3, 2003.

### Special Analyses

It has been determined that the removal of these regulations is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Because this rule merely removes regulatory provisions made obsolete by statute, prior notice and comment and a delayed effective date are unnecessary and contrary to the public interest. 5 U.S.C. 553(b)(B) and (d). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

### Drafting Information

The principal author of the removals of these regulations is Janice R. Feldman

of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division).

\* \* \* \* \*

### Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301, and 602 are amended as follows:

#### PART 1—INCOME TAXES

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

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

#### §1.6152-1 [Removed]

Par. 2. Section 1.6152-1 is removed.

#### PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

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

#### §301.6152-1 [Removed]

Par. 4. Section 301.6152-1 is removed.

#### PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for part 602 continues to read as follows:

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

Par. 6. In §602.101, paragraph (b) is amended by removing the entry for 1.6152-1 from the table.

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

Approved November 19, 2003.

Pamela F. Olson,  
*Assistant Secretary of the  
Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on December 2, 2003, 8:45 a.m., and published in the issue of the Federal Register for December 3, 2003, 68 F.R. 67596)

# Part III. Administrative, Procedural, and Miscellaneous

## Weighted Average Interest Rate Update

### Notice 2003-80

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 for purposes of determining the full funding limitation under § 412(c)(7) and 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 for the purpose of the full funding limitation of § 412(c)(7) of the Code.

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 applicable interest rate for a month is the annual interest rate on 30-year Treasury securities as specified by the Commissioner

for that month in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin.

The rate of interest on 30-year Treasury Securities for November 2003 is 5.12 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.

Section 405 of the Job Creation and Worker Assistance Act of 2002 amended § 412(l)(7)(C) of the Code to provide that for plan years beginning in 2002 and 2003 the permissible range is extended to 120 percent.

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

Month	Year	Weighted Average	90% to 110% Permissible Range	90% to 120% Permissible Range
December	2003	5.26	4.74 to 5.79	4.74 to 6.32

### 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.

## Tax Avoidance Using Offsetting Foreign Currency Option Contracts

### Notice 2003-81

The Internal Revenue Service and the Treasury Department are aware of a type of transaction, described below, in which a taxpayer claims a loss upon the assignment of a section 1256 contract to a charity

but fails to report the recognition of gain when the taxpayer's obligation under an offsetting non-section 1256 contract terminates. This notice alerts taxpayers and their representatives that these transactions are tax avoidance transactions and identifies these transactions, and those that are substantially similar to these transactions, as listed transactions for purposes of § 1.6011-4(b)(2) of the Income Tax Regulations and §§ 301.6111-2(b)(2) and 301.6112-1(b)(2) of the Procedure and Administration Regulations. This notice also alerts parties involved with these transactions of certain responsibilities that may arise from their involvement with these transactions.

### FACTS

A taxpayer pays premiums to purchase a call option and a put option (the purchased options) on a foreign currency. The currency is one in which positions are traded through regulated futures contracts, and the purchased options, therefore, are foreign currency contracts within the meaning of section 1256(g)(2)(A) of the Internal Revenue Code and section 1256 contracts within the meaning of

section 1256(b). The purchased options are reasonably expected to move inversely in value to one another over a relevant range, thus ensuring that, as the value of the underlying foreign currency changes, the taxpayer will hold a loss position in one of the two section 1256 contracts. The taxpayer also receives premiums for writing a call option and a put option (the written options) on a different foreign currency in which positions are not traded through regulated futures contracts. Thus, the written options are not foreign currency contracts within the meaning of section 1256(g)(2)(A), nor are they section 1256 contracts within the meaning of section 1256(b). The written options are reasonably expected to move inversely in value to one another over a relevant range, thus ensuring that, as the value of the underlying foreign currency changes, the taxpayer will hold a gain position in one of the two non-section 1256 contracts.

The values of the two currencies underlying the purchased and written options (i) historically have demonstrated a very high positive correlation with one another, or (ii) officially have been linked to one another, such as through the European Exchange Rate Mechanism (ERM II). Thus,

as the currencies change in value, the taxpayer reasonably expects to have the following potential gains and losses in substantially offsetting positions: (1) a loss in a purchased option and a gain in a written option; and (2) a gain in a purchased option and a loss in a written option. At any time, the taxpayer's loss in the purchased option position that has declined in value may be more or less than the taxpayer's gain in the offsetting written option position that has appreciated in value. Similarly, the taxpayer's gain in the remaining purchased option position may be more or less than the taxpayer's loss in the remaining written option position. A material pre-tax profit or rate of return, or both, on the transaction is possible but unlikely.

The taxpayer assigns to a charity the purchased option that has a loss. The charity also assumes the taxpayer's obligation under the offsetting written option that has a gain. As with all written options, the amount of gain on the option is limited to the premium received for the option. In the same tax year, the taxpayer may dispose of the remaining purchased option and offsetting written option.

Because the purchased option assigned to the charity is a section 1256 contract, the taxpayer relies on section 1256(c) and *Greene v. United States*, 79 F.3d 1348 (2d Cir. 1996), to mark to market the purchased option when the option is assigned to the charity and to recognize a loss at that time. In contrast, because the assumed written option is not a section 1256 contract, the taxpayer claims not to recognize gain attributable to the option premium. Specifically, the taxpayer claims that the charity's assumption of the option obligation does not cause the taxpayer to recognize gain and that the taxpayer also does not recognize gain either at the time the option expires or terminates or at any other time.

## ANALYSIS

Rev. Rul. 58-234, 1958-1 C.B. 279, clarified by Rev. Rul. 68-151, 1968-1 C.B. 363, holds that an option writer does not recognize income or gain with respect to a premium received for writing an option until the option is terminated, without exercise, or otherwise. *Accord* Rev. Rul. 78-182, 1978-1 C.B. 265; *Koch v. Commissioner*, 67 T.C. 71 (1976), acq. 1980-2

C.B. 1. Rev. Rul. 58-234 explains that this is the treatment for the option writer because the option writer assumes a burdensome and continuing obligation, and the transaction therefore stays open without any ascertainable income or gain until the writer's obligation is finally terminated. When the option writer's obligation terminates, the transaction closes, and the option writer must recognize any income or gain attributable to the prior receipt of the option premium.

In some cases, the option writer's obligation under the option contract may terminate on the charity's assumption of the written option obligation. In other cases, the writer will have a continuing obligation because the writer may be called upon to perform if the charity fails to perform or to reimburse the charity for any losses or expenses it may incur if called upon to perform. If an assumption terminates the option writer's obligation under the option contract, the option writer must recognize gain when the option obligation is assumed. If the assumption does not terminate the option writer's obligation under the option contract, the option writer must recognize the premium when the option writer's obligation under the option contract terminates (other than through an exercise of the option against, and performance by, the option writer).

These general principles remain applicable even if the assumption of the option writer's obligation is part of what the taxpayer claims is a donative transaction. *Cf. Diedrich v. Commissioner*, 457 U.S. 191 (1982) (noting that if a donee pays a gift tax obligation arising from a donative transfer, the donative nature of the transaction does not preclude income recognition by the donor on the obligation assumed). Here, the taxpayer has made a transfer to the charity of the purchased option, and the charity has assumed the burden of the written option. No aspect of the taxpayer's transfer or the charity's assumption (or their combination) relieves the taxpayer from its duty under the Code to account for the gain attributable to the premium originally received by the taxpayer for assuming the burden of writing the option. *See Lucas v. Earl*, 281 U.S. 111 (1930) (holding that a taxpayer may not avoid inclusion of future earned income by making a gratuitous transfer of the right to receive the income).

Finally, if the taxpayer has any unrecognized gain on the written option at the end of the year in which the assumption occurs (e.g., the assumption did not terminate the option writer's obligation under the option contract), the mark-to-market loss on the offsetting contributed section 1256 contract will be deferred under section 1092.

Transactions that are the same as, or substantially similar to, the transactions described in this notice are identified as "listed transactions" for purposes of §§ 1.6011-4(b)(2), 301.6111-2(b)(2) and 301.6112-1(b)(2) effective December 4, 2003, the date this notice was released to the public. Variations on these transactions may include positions in other section 1256 and non-section 1256 contracts. Independent of their classification as "listed transactions" for purposes of §§ 1.6011-4(b)(2), 301.6111-2(b)(2), and 301.6112-1(b)(2), transactions that are the same as, or substantially similar to, the transaction described in this notice may already be subject to the disclosure requirements of section 6011 (§ 1.6011-4), the tax shelter registration requirements of section 6111 (§§ 301.6111-1T, 301.6111-2), or the list maintenance requirements of section 6112 (§ 301.6112-1). Persons who are required to register these tax shelters under section 6111 but have failed to do so may be subject to the penalty under section 6707(a). Persons who are required to maintain lists of investors under section 6112 but have failed to do so (or who fail to provide those lists when requested by the Service) may be subject to the penalty under section 6708(a). In addition, the Service may impose penalties on parties involved in these transactions or substantially similar transactions, including the accuracy-related penalty under § 6662.

The Service and the Treasury recognize that some taxpayers may have filed tax returns taking the position that they were entitled to the purported tax benefits of the type of transaction described in this notice. These taxpayers should consult with a tax advisor to ensure that their transactions are disclosed properly and to take appropriate corrective action.

The principal author of this notice is Clay Littlefield of the Office of Associate Chief Counsel (Financial Institutions and

Products). For further information regarding this notice, contact Mr. Littlefield at (202) 622-3920 (not a toll-free call).

## Part IV. Items of General Interest

### Notice of Proposed Rulemaking and Notice of Public Hearing

### Charitable Remainder Trusts; Application of Ordering Rule

#### REG-110896-98

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations on the ordering rules of section 664(b) of the Internal Revenue Code for characterizing distributions from charitable remainder trusts. The proposed regulations reflect changes made to income tax rates, including the rates applicable to capital gains and certain dividends, by the Taxpayer Relief Act of 1997, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Jobs and Growth Tax Relief Reconciliation Act of 2003. The proposed regulations affect charitable remainder trusts and their beneficiaries. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received Tuesday, February 17, 2004. Outlines of topics to be discussed at the public hearing scheduled for Tuesday, March 9, 2004, must be received by Tuesday, February 17, 2004.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-110896-98), 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-110896-98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically directly to the IRS internet site at [www.irs.gov/regs](http://www.irs.gov/regs). The public hearing will be held in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Theresa M. Melchiorre, (202) 622-7830; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Robin Jones, (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 664 contains the rules for charitable remainder annuity trusts and charitable remainder unitrusts. In general, a charitable remainder trust provides for a specified periodic distribution (CRT distribution) to one or more beneficiaries (at least one of which is a noncharitable beneficiary) for life or for a term of years, with an irrevocable remainder interest held for the benefit of charity.

Section 664(b) provides ordering rules for determining the character of CRT distributions in the hands of the recipient of those distributions. A CRT distribution is treated: first, as ordinary income to the extent of the trust's gross income other than gains from the sale of capital assets ("ordinary income") for the trust's taxable year and its undistributed ordinary income for prior years; second, as capital gain to the extent of the trust's capital gain for the trust's taxable year and its undistributed capital gain for prior years; third, as other income (that is, tax-exempt income) to the extent of the trust's other income for the trust's taxable year and its undistributed other income for prior years; and, finally, as a distribution of trust corpus. The general principle of section 664(b) is that income subject to the highest Federal income tax rate is deemed distributed prior to income subject to a lower (or no) Federal income tax rate. The existing regulations under §1.664-1(d)(1)(i)(b)(1) follow this general principle by providing that short-term capital gain is deemed distributed prior to any long-term capital gain.

Beginning with the Taxpayer Relief Act of 1997 (TRA), Public Law 105-34 (111 Stat. 788), different types of long-term capital gains are subject to different Federal income tax rates. The different classes

of long-term capital gains and losses properly taken into account by a charitable remainder trust after May 6, 1997, may, for example, consist of 28-percent rate gain as defined in section 1(h)(4), unre-captured section 1250 gain as defined in section 1(h)(6), and all other long-term capital gains and losses. For taxable years beginning after December 31, 2002, the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), Public Law 108-27 (117 Stat. 752), provides that qualified dividend income as defined in section 1(h)(11) is taxed at the rates applicable to all other long-term capital gains. Because dividends represent one type of ordinary income, different types of ordinary income are subject to different Federal income tax rates as a result of JGTRRA.

Notice 98-20, 1998-1 C.B. 776, as modified by Notice 99-17, 1999-1 C.B. 871, provides guidance on the treatment of capital gains under section 664(b)(2) following the changes made by the TRA and the technical corrections made by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206 (112 Stat. 685). The proposed regulations incorporate this guidance as well as provide additional guidance regarding the treatment of qualified dividend income under section 664(b)(1).

##### Explanation of Provisions

The proposed regulations will amend §1.664-1(d)(1) to revise the rules for characterizing a CRT distribution to take into account differences in the Federal income tax rates applicable to items of income that are assigned to the same category under section 664(b). The trust's income is assigned, in the year it is required to be taken into account by the trust, to one of three categories: the ordinary income category, the capital gains category, or the other income category. Further, within the ordinary income and capital gains categories, items are also assigned to different classes based on the Federal income tax rate applicable to each type of income in the category. In accordance with section 664(b), a CRT distribution is treated as being made from the categories in the following order: ordinary income, capital gain, other



income, and trust corpus. Within the ordinary income and capital gains categories, income is treated as distributed from the classes of income in that category beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest Federal income tax rate. The proposed regulations also provide rules for netting different classes of capital gains and losses based on the guidance in Notice 97-59, 1997-2 C.B. 309.

### Proposed Effective Date

The provisions in these regulations that were set forth in Notice 98-20, 1998-1 C.B. 776, and Notice 99-17, 1999-1 C.B. 871, are proposed to apply for taxable years ending on or after December 31, 1998, and taxpayers may rely on the provisions for taxable years beginning on or after January 1, 1998. The other provisions of these regulations are proposed to apply for taxable years ending after November 20, 2003.

### Special Analyses

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

### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how

they may be made easier to understand. In addition, comments are requested on the administrative difficulty and potential tax benefit or detriment of maintaining separate classes within a category when two classes are only temporarily subject to the same rate (for example, if the current rate applicable to one class sunsets in a future year). All comments will be available for public inspection and copying.

A public hearing has been scheduled for Tuesday, March 9, 2004, in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must use the main building entrance on Constitution Avenue. 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 more information about having your name placed on the list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written (signed original and eight (8) copies) or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by Tuesday, February 17, 2004. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### Drafting Information

The principal author of these regulations is Theresa M. Melchiorre, Office of Chief Counsel, IRS. Other personnel from the IRS and Treasury Department participated in their development.

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### 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 for part 1 continues to read in part as follows:

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

Par. 2. Section 1.664-1 is amended as follows:

1. Paragraph (d)(1) is revised.

2. Paragraph (d)(2) is amended by:

a. Removing the language "or to corpus (determined under subparagraph (1)(i) of this paragraph)" in the first sentence and adding "(determined under paragraph (d)(1)(i)(a) of this section) or to corpus" in its place.

b. Removing the language "subparagraph (1)(i)(c) of this paragraph" from the fifth sentence and adding "paragraph (d)(1)(i)(a)(3) of this section" in its place.

c. Removing the language "or corpus in the categories described in subparagraph (1) of this paragraph" from the last sentence and adding "described in paragraph (d)(1)(i)(a) of this section or to corpus" in its place.

3. Paragraph (e)(1) is amended by removing the language "paragraph (d)(1)" from the first sentence and adding "paragraph (d)(1)(i)(a)" in its place.

The revision reads as follows:

*§1.664-1 Charitable remainder trusts.*

\* \* \* \* \*

(d) *Treatment of annual distributions to recipients—(1) Character of distributions—(i) Assignment of income to categories and classes.* (a) A trust's income, including income includible in gross income and other income, is assigned to one of three categories in the year in which it is required to be taken into account by the trust. These categories are—

(1) Gross income, other than gains and amounts treated as gains from the sale or other disposition of capital assets (referred to as the ordinary income category);

(2) Gains and amounts treated as gains from the sale or other disposition of capital assets (referred to as the capital gains category); and

(3) Other income (including income excluded under part III, subchapter B, chapter 1, subtitle A of the Internal Revenue Code).

(b) Items within the ordinary income and capital gains categories are assigned to different classes based on the Federal

income tax rate applicable to each type of income in that category in the year the items are required to be taken into account by the trust. For example, the ordinary income category may include a class of qualified dividend income as defined in section 1(h)(11) and a class of all other ordinary income. In addition, the capital gains category may include separate classes for short-term capital gains and losses, for 28-percent rate gain as defined in section 1(h)(4), for unrecaptured section 1250 gain as defined in section 1(h)(6), and for all other long-term capital gains and losses. After items are assigned to a class, the tax rates may change so that items in two or more classes would be taxed at the same rate if distributed during a particular year. If the changes to the tax rates are permanent, the undistributed items in those classes are combined into one class. If, however, the changes to the tax rates are only temporary (for example, the new rate for one class will sunset in a future year), the classes are kept separate.

(ii) *Order of distributions.* (a) The categories and classes of income (determined under paragraph (d)(1)(i) of this section) are used to determine the character of an annuity or unitrust distribution from the trust in the hands of the recipient irrespective of whether the trust is exempt from taxation under section 664(c) for the year of the distribution. The determination of the character of amounts distributed shall be made as of the end of the taxable year of the trust. The recipient is taxed on the distribution based on the tax rates applicable in the year of the distribution to the classes of income that are deemed distributed from the trust. The character of the distribution in the hands of the annuity or unitrust recipient is determined by treating the distribution as being made from each category in the following order:

(1) First, from ordinary income to the extent of the sum of the trust's ordinary income for the taxable year and its undistributed ordinary income for prior years.

(2) Second, from capital gain to the extent of the trust's capital gains determined under paragraph (d)(1)(iv) of this section.

(3) Third, from other income to the extent of the sum of the trust's other income for the taxable year and its undistributed other income for prior years.

(4) Finally, from trust corpus (with corpus defined for this purpose as the net fair

market value of the trust assets less the total undistributed income (but not loss) in paragraphs (d)(1)(i)(a)(I) through (3) of this section)).

(b) If the trust has different classes of income in the ordinary income category, the distribution from that category is treated as being made from each class, in turn, until exhaustion of the class, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest Federal income tax rate. If the trust has different classes of net gain in the capital gains category, the distribution from that category is treated as being made first from the short-term capital gain class and then from each class of long-term capital gain, in turn, until exhaustion of the class, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. If two or more classes within the same category are subject to the same current tax rate, but at least one of those classes will be subject to a different tax rate in a future year (for example, if the current rate sunsets), the order of that class in relation to other classes in the category with the same current tax rate is determined based on the future rate or rates applicable to those classes. Within each category, if there is more than one type of income in a class, amounts treated as distributed from that class are to be treated as consisting of the same proportion of each type of income as the total of the current and undistributed income of that type bears to the total of the current and undistributed income of all types of income included in that class. For example, if rental income and interest income are subject to the same current and future Federal income tax rate and therefore are in the same class, a distribution from that class will be treated as consisting of a proportional amount of rental income and interest income.

(iii) *Treatment of losses*—(a) *Ordinary income category.* An ordinary loss for the current year is first used to reduce undistributed ordinary income for prior years that is assigned to the same class as the loss. Any excess loss is then used to reduce the current and undistributed ordinary income from other classes, in turn, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest Federal income tax rate. If any of the loss exists after all

the current and undistributed ordinary income from all classes has been offset, the excess is carried forward indefinitely to reduce ordinary income for future years. For purposes of this section, the amount of current income and prior years' undistributed income shall be computed without regard to the deduction for net operating losses provided by sections 172 or 642(d).

(b) *Other income category.* A loss in the other income category for the current year is used to reduce undistributed income in this category for prior years and any excess is carried forward indefinitely to reduce other income for future years.

(iv) *Netting of capital gains and losses.* Capital gains of the trust are determined on a cumulative net basis under the rules of this paragraph (d)(1) without regard to the provisions of section 1212. For each taxable year, current and undistributed gains and losses within each class are netted to determine the net gain or loss for that class, and the classes of capital gains and losses are then netted against each other in the following order. A net loss from the class of short-term capital gain and loss offsets the net gain from each class of long-term capital gain and loss, in turn, until exhaustion of the class, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest Federal income tax rate. A net loss from a class of long-term capital gain and loss (beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate) is used to offset net gain from each other class of long-term capital gain and loss, in turn, until exhaustion of the class, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. A net loss from all the classes of long-term capital gain and loss (beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate) offsets any net gain from the class of short-term capital gain and loss.

(v) *Carry forward of net capital gain or loss.* If, at the end of a taxable year, a trust has, after the application of paragraph (d)(1)(iv), any net loss or any net gain that is not treated as distributed under paragraph (d)(1)(ii)(a)(2) of this section,

the net gain or loss is carried over to succeeding taxable years and retains its character in succeeding taxable years as gain or loss from its particular class.

(vi) *Special transitional rules.* To be eligible to be included in the class of qualified dividend income, dividends must meet the definition of section 1(h)(11) and must be received by the trust after December 31, 2002. Long-term capital gain or loss properly taken into account by the trust before January 1, 1997, is included in the class of all other long-term capital gains and losses. Long-term capital gain or loss properly taken into account by the trust on or after January 1, 1997, and before May 7, 1997, if not treated as distributed in 1997, is included in the class of all other long-term capital gains and losses. Long-term capital gain or loss (other than 28-percent rate gain as defined in section 1(h)(4), unreaptured section 1250 gain as defined in section 1(h)(6), and qualified 5-year gain as defined in section 1(h)(9) prior to its amendment by the Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 (117 Stat. 752)), properly taken into account by the trust on or after January 1, 2003, and before May 6, 2003, if not treated as distributed during 2003, is included in the class of all other long-term capital gains and losses. Qualified 5-year gain properly taken into account by the trust after December 31, 2000, and before May 6, 2003, if not treated as distributed by the trust in 2003 or a prior year, must be maintained in a separate class within the capital gains category.

(vii) *Application of section 643(a)(7).* For application of the anti-abuse rule of section 643(a)(7) to distributions from charitable remainder trusts, see §1.643(a)-8.

(viii) *Examples.* The following examples illustrate the rules in this paragraph (d)(1):

*Example 1.* (i) X, a charitable remainder annuity trust described in section 664(d)(1), is created on January 1, 2003. The annual annuity amount is \$100. X's income for the 2003 tax year is as follows:

Interest income . . . . .	\$80
Qualified dividend income . . . . .	50
Capital gains and losses . . . . .	0
Tax-exempt income . . . . .	0

(ii) In 2003, the year this income is received by the trust, qualified dividend income is subject to a

different rate of Federal income tax than interest income and is, therefore, a separate class of income in the ordinary income category. The annuity amount is deemed to be distributed from the classes within the ordinary income category, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. Because during 2003 qualified dividend income is taxed at a lower rate than interest income, the interest income is deemed distributed prior to the qualified dividend income. Therefore, in the hands of the recipient, the 2003 annuity amount has the following characteristics:

Interest income . . . . .	\$80
Qualified dividend income . . . . .	20

(iii) The remaining \$30 of qualified dividend income that is not treated as distributed to the recipient in 2003 is carried forward to 2004 as undistributed qualified dividend income.

*Example 2.* (i) The facts are the same as in *Example 1*, and at the end of 2004, X has the following classes of income:

Interest income class . . . . .	\$ 5
Qualified dividend income class . . . . .	40
(\$10 from 2004 and \$30 carried forward from 2003)	
Net short-term capital gain class . . . . .	15
Net long-term capital loss in 28-percent rate class . . . . .	(325)
Net long-term capital gain unreaptured section 1250 gain class . . . . .	175
Net long-term capital gain in all other long-term capital gain class . . . . .	350

(ii) In 2004, gain in the unreaptured section 1250 gain class is subject to a 25-percent Federal income tax rate, and gain in the all other long-term capital gain class is subject to a lower rate. The net long-term capital loss in the 28-percent rate class is used to offset the net capital gains in the other classes of long-term capital gain and loss, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. The \$325 net loss in the 28-percent rate class reduces the \$175 net gain in the unreaptured section 1250 gain class to \$0. The remaining \$150 loss from the 28-percent rate class reduces the \$350 gain in the all other long-term capital gain class to \$200. As in *Example 1*, qualified dividend income is taxed at a lower rate than interest income during 2004. The annuity amount is deemed to be distributed from all the classes in the ordinary income category and then from the classes in the capital gains category, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. In the hands of the recipient, the 2004 annuity amount has the following characteristics:

Interest income . . . . .	\$ 5
Qualified dividend income . . . . .	40
Net short-term capital gain . . . . .	15
Net long-term capital gain in all other long-term capital gain class . . . . .	40

(iii) The remaining \$160 gain in the all other long-term capital gain class that is not treated as distributed

to the recipient in 2004 is carried forward to 2005 as gain in that same class.

*Example 3.* (i) The facts are the same as in *Examples 1 and 2*, and at the end of 2005, X has the following classes of income:

Interest income class . . . . .	\$ 5
Qualified dividend income class . . . . .	20
Net short-term capital loss class . . . . .	(50)
Net long-term capital gain in 28-percent rate class . . . . .	10
Net long-term capital gain unreaptured section 1250 gain class . . . . .	135
Net long-term capital gain in all other long-term capital gain class (carried forward from 2004) . . . . .	160

(ii) Net short-term capital loss is used to offset the net capital gains in the classes of long-term capital gain and loss, in turn, until exhaustion of the class, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. The \$50 net loss reduces the \$10 net gain in the 28-percent rate class to \$0. The remaining \$40 net loss reduces the \$135 net gain in the unreaptured section 1250 gain class to \$95. As in *Examples 1 and 2*, during 2005, qualified dividend income is taxed at a lower rate than interest income; gain in the unreaptured section 1250 gain class is taxed at 25-percent; and gain in the all other long-term capital gain class is taxed at a rate lower than 25-percent. The annuity amount is deemed to be distributed from all the classes in the ordinary income category and then from the classes in the capital gains category, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. In the hands of the recipient, the 2005 annuity amount has the following characteristics:

Interest income . . . . .	\$ 5
Qualified dividend income . . . . .	20
Unreaptured section 1250 gain . . . . .	75

(iii) The remaining \$20 gain in the unreaptured section 1250 gain class and the \$160 gain in the all other long-term capital gain class that are not treated as distributed to the recipient in 2005 are carried forward to 2006 as gains in their respective classes.

(ix) *Effective dates.* The rules in this paragraph (d)(1) that require long-term capital gains to be distributed in the following order: first, 28-percent rate gain as defined in section 1(h)(4); second, unreaptured section 1250 gain as described in section 1(h)(6); and then, all other long-term capital gains are applicable for taxable years ending on or after December 31, 1998. The rules in this paragraph (d)(1) that provide for the netting of capital gains and losses are applicable for taxable years ending on or after December 31, 1998. The rule in the second sentence of paragraph (d)(1)(vi) of this section is applicable for taxable years ending on or after December 31, 1998. The rule in the third sentence of paragraph (d)(1)(vi) of

this section is applicable for distributions made in taxable years ending on or after December 31, 1998. All other provisions of paragraph (d)(1) are applicable for taxable years ending after November 20, 2003.

\* \* \* \* \*

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

(Filed by the Office of the Federal Register on November 19, 2003, 8:45 a.m., and published in the issue of the Federal Register for November 20, 2003, 68 F.R. 65419)

## Notice of Proposed Rulemaking

### Section 704(c), Installment Obligations and Contributed Contracts

#### REG-160330-02

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the tax treatment of installment obligations and property acquired pursuant to a contract under sections 704(c) and 737. The proposed regulations affect partners and partnerships and provide guidance necessary to comply with the law.

DATES: Written and electronic comments and requests for a public hearing must be received no later than February 23, 2003.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-160330-02), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-160330-02), 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).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Christopher L. Trump, 202-622-3070;

concerning submissions and the hearing, Robin Jones, 202-622-3521 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 704(c)(1)(A) provides that income, gain, loss or deduction with respect to property contributed to a partnership by a partner shall be shared among the partners so as to take into account the variation between the basis of the property to the partnership and its fair market value at the time of the contribution.

Under section 704(c)(1)(B) and the regulations thereunder, any partner that contributes section 704(c) property to a partnership must recognize gain or loss on the distribution of such property to another partner within 7 years of its contribution. The amount of gain or loss recognized is the amount of gain or loss that would have been allocated to such partner under section 704(c)(1)(A) if the property had been sold by the partnership to the distributee partner for its fair market value at the time of the distribution.

Under section 737(a) and the regulations thereunder, any partner that contributes section 704(c) property to a partnership may recognize gain on a distribution of property (other than money) by the partnership to that partner. The amount of gain recognized is the lesser of: (1) the amount by which the fair market value of the distributed property exceeds the distributee partner's adjusted tax basis in the partner's partnership interest, or (2) the net precontribution gain of the partner. Section 737(b) defines the net precontribution gain of the partner as the net gain (if any) that would have been recognized by the distributee partner under section 704(c)(1)(B) if all property that (1) had been contributed to the partnership by the distributee partner within 7 years of the distribution and (2) is held by such partnership immediately before the distribution, had been distributed by such partnership to another partner.

For purposes of section 704(c)(1)(A) and (B) and section 737, if a partnership disposes of section 704(c) property in a nonrecognition transaction in which no gain or loss is recognized, the substituted basis property (within the meaning of

section 7701(a)(42)) is treated as section 704(c) property with the same amount of built-in gain or loss as the section 704(c) property disposed of by the partnership. See §§1.704-3(a)(8), 1.704-4(d)(1), and 1.737-2(d)(3).

If a partnership disposes of property in an installment sale, income is taken into account under the installment method unless the partnership elects otherwise. See section 453. Upon the satisfaction of an installment obligation at other than its face value or the distribution, transmission, sale, or other disposition of an installment obligation, a taxpayer is generally required, under section 453B, to recognize gain or loss. Section 453B does not apply, however, on the disposition of an installment obligation in certain situations where the Internal Revenue Code (Code) otherwise provides for nonrecognition of gain or loss. For example, §1.453-9(c)(2) provides that no gain or loss results under section 453(d) (now section 453B) in the case of a contribution to or distribution from a partnership under sections 721 or 731.

In addition, if a partnership acquires property pursuant to a contract such as an option, a forward contract, or a futures contract, the partnership may recognize no gain or loss on the acquisition of the property.

##### Explanation of Provisions

The proposed regulations amend §1.704-3(a)(8) to clarify that, if a partnership disposes of section 704(c) property in exchange for an installment obligation, the installment obligation is treated as the section 704(c) property. The proposed regulations also clarify that, if a partner contributes a contract that is section 704(c) property to a partnership, and the partnership subsequently acquires property pursuant to that contract in a transaction in which less than all of the gain or loss is recognized, the acquired property is treated as the section 704(c) property for purposes of sections 704(c) and 737. For this purpose the term contract includes, but is not limited to, options, forward contracts, and futures contracts.

The proposed regulations amend §1.704-4(d)(1) to provide that an installment obligation received by a partnership and property acquired pursuant

to a contributed contract are treated as section 704(c) property for purposes of section 704(c)(1)(B) to the extent that the installment obligation or the acquired property is section 704(c) property under §1.704-3(a)(8). As a result, if the installment obligation or property acquired pursuant to a contributed contract is distributed by a partnership to a partner other than the contributing partner within 7 years of the contribution, the contributing partner may recognize gain or loss under section 704(c)(1)(B). The proposed regulations include a similar rule under §1.737-2(d)(3).

No inference is intended as to the treatment of these transactions under prior law.

### Proposed Effective Date

These regulations are proposed to apply to installment obligations received by a partnership on or after November 24, 2003, in exchange for section 704(c) property and to property acquired on or after November 24, 2003, by a partnership pursuant to a contract that is section 704(c) property.

### 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 Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed

rules, how they can be made easier to understand and the administrability of the rules in the proposed regulations. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the public hearing will be published in the **Federal Register**.

### Drafting Information

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

\* \* \* \* \*

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 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 1.704-3 is amended as follows:

1. The paragraph heading for (a)(8) is revised.

2. The text of paragraph (a)(8) is redesignated as paragraph (a)(8)(i).

3. A paragraph heading for newly designated paragraph (a)(8)(i) is added.

4. The first sentence of newly designated paragraph (a)(8)(i) is amended by removing the language “in which no gain or loss is recognized”.

5. Paragraphs (a)(8)(ii) and (a)(8)(iii) are added.

6. Paragraph (f) is amended by:  
a. Amending the first sentence of paragraph (f) by removing the language “of paragraph (a)(11)” and adding “of paragraphs (a)(8)(ii), (a)(8)(iii) and (a)(11)” in its place.

b. Adding two sentences at the end of paragraph (f).

The revisions and additions read as follows:

#### §1.704-3 Contributed property.

(a) \* \* \*

(8) *Special rules*—(i) *Disposition in a nonrecognition transaction.* \* \* \*

(ii) *Disposition in an installment sale.* If a partnership disposes of section 704(c) property in an installment sale as defined in section 453(b), the installment obligation received by the partnership is treated as the section 704(c) property with the same amount of built-in gain as the section 704(c) property disposed of by the partnership (with appropriate adjustments for any gain recognized on the installment sale). The allocation method for the installment obligation must be consistent with the allocation method chosen for the original property.

(iii) *Contributed contracts.* If a partner contributes to a partnership a contract that is section 704(c) property, and the partnership subsequently acquires property pursuant to that contract in a transaction in which less than all of the gain or loss is recognized, then the acquired property is treated as the section 704(c) property with the same amount of built-in gain or loss as the contract (with appropriate adjustments for any gain or loss recognized on the acquisition). For this purpose, the term contract includes, but is not limited to, options, forward contracts, and futures contracts. The allocation method for the acquired property must be consistent with the allocation method chosen for the contributed contract.

\* \* \* \* \*

(f) *Effective date.* \* \* \* Paragraph (a)(8)(ii) applies to installment obligations received by a partnership in exchange for section 704(c) property on or after November 24, 2003. Paragraph (a)(8)(iii) is effective for property acquired on or after November 24, 2003, by a partnership pursuant to a contract that is section 704(c) property.

Par. 3. Section 1.704-4 is amended as follows:

1. The paragraph heading for (d)(1) is revised.

2. The text of paragraph (d)(1) is redesignated as paragraph (d)(1)(i).

3. A paragraph heading for newly designated paragraph (d)(1)(i) is added.

4. Paragraphs (d)(1)(ii) and (d)(1)(iii) are added.

5. Revising paragraph (g).

The revisions and additions read as follows:

*§1.704-4 Distribution of contributed property.*

\*\*\*\*\*

(d) *Special rules*—(1) *Nonrecognition transactions, installment obligations and contributed contracts*—(i) *Nonrecognition transactions.* \*\*\*

(ii) *Installment obligations.* An installment obligation received by the partnership in an installment sale (as defined in section 453(b)) of section 704(c) property is treated as the section 704(c) property for purposes of section 704(c)(1)(B) and this section to the extent that the installment obligation received is treated as section 704(c) property under §1.704-3(a)(8). See §1.737-2(d)(3) for a similar rule in the context of section 737.

(iii) *Contributed contracts.* Property acquired by the partnership pursuant to a contract that is section 704(c) property is treated as the section 704(c) property for purposes of section 704(c)(1)(B) and this section, to the extent that the acquired property is treated as section 704(c) property under §1.704-3(a)(8). See §1.737-2(d)(3) for a similar rule in the context of section 737.

\*\*\*\*\*

(g) *Effective date.* This section applies to distributions by a partnership to a partner on or after January 9, 1995, except that paragraphs (d)(1)(ii) and (iii) apply to distributions by a partnership to a partner on or after November 24, 2003.

Par. 4. Section 1.737-2 is amended as follows:

1. The paragraph heading for (d)(3) is revised.

2. The text of paragraph (d)(3) is redesignated (d)(3)(i).

3. A paragraph heading for newly designated (d)(3)(i) is added.

4. Paragraphs (d)(3)(ii) and (d)(3)(iii) are added.

*§1.737-2 Exceptions and special rules.*

\*\*\*\*\*

(d) \*\*\*

(3) *Nonrecognition transactions, installment sales and contributed contracts*—(i) *Nonrecognition transactions.* \*\*\*

(ii) *Installment sales.* An installment obligation received by the partnership in an installment sale (as defined in section 453(b)) of section 704(c) property is treated as the contributed property with regard to the contributing partner for purposes of section 737 to the extent that the installment obligation received is treated as section 704(c) property under §1.704-3(a)(8). See §1.704-4(d)(1) for a similar rule in the context of section 704(c)(1)(B).

(iii) *Contributed contracts.* Property acquired by a partnership pursuant to a contract that is section 704(c) property is treated as the contributed property with regard to the contributing partner for purposes of section 737 to the extent that the acquired property is treated as section 704(c) property under §1.704-3(a)(8). See §1.704-4(d)(1) for a similar rule in the context of section 704(c)(1)(B).

\*\*\*\*\*

Par. 5. Section 1.737-5 is revised to read as follows:

*§1.737-5 Effective dates.*

Sections 1.737-1, 1.737-2, 1.737-3, and 1.737-4 apply to distributions by a partnership to a partner on or after January 9, 1995, except that §1.737-2(d)(3)(ii) and (iii) apply to distributions by a partnership to a partner on or after November 24, 2003.

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

(Filed by the Office of the Federal Register on November 21, 2003, 8:45 a.m., and published in the issue of the Federal Register for November 24, 2003, 68 F.R. 65864)

## Foundations Status of Certain Organizations

### Announcement 2003-84

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:

- 49er United Soccer Club, Inc., Auburn, CA
- Ace Boxing Club, Inc., Milwaukee, WI
- Adams Acre, Fuquay Varina, NC
- African American Health Education & Resource Center, Avondale, AZ
- African-American Womens Program, Pomona, CA
- African & Caribbean Immigrant Resource Center, Inc., Plainfield, NJ
- Agua Luna Dance Company, E. Rancho Dominguez, CA
- Al Cox Ministries, Inc., Adairsville, GA
- Alaska Urban and Community Forest Council, Anchorage, AK
- All and All Ministries, San Diego, CA
- Alpha Programs, Inc., Las Vegas, NV
- America Asia Adoption Agency, San Marino, CA
- American Foundation for the Development of Science and Education, Glendale, CA
- American Friends of Mosdos Ramou of Hunyad, Inc., Brooklyn, NY
- American Friends of Universidad de San Andres, Inc., New York, NY
- Amy, Inc., Tulsa, OK
- Area-51 Dance Theatre, Reno, NV
- Arizona Wildlands Conservancy, Prescott, AZ
- Art for Peace Foundation, Inc., Miami, FL
- Artesia Coalition for Better Health, Inc., Artesia, NM
- Arts Consortium, Inc., Miami Beach, FL
- Asian-Pacific Islanders Vote 2000, San Francisco, CA
- Asthmanon Foundation, Sylvania, OH
- At Risk for Success, Austell, GA
- Atlantic Bridge, Inc., Charlotte, NC
- Avue Institute, Tacoma, WA
- Baker Jr., IGH PTSA, Tacoma, WA
- Barbara Bush Elementary Parent Teacher Organization, Mesa, AZ
- Bedford Central Community Development Corporation, Inc., Brooklyn, NY

Bellevue Youth Basketball Association, Bellevue, WA

Ben Rush Elementary School Foundation, Redmond, WA

Best Media, Inc., Holliswood, NY

Black Community Institution Network, Inglewood, CA

Blackhawk Baseball, Inc., Argyle, TX

Blossom House, Inc., Bullhead City, AZ

Booster Club Maclay Middle School, Inc., Pacoima, CA

Bradd Neal Feldbaum Foundation Memorial Scholarship Fund, East Brunswick, NJ

Bright Star Chapter of Texas Mental Health Consumers, Inc., Sulphur Springs, TX

Bunker Hill Historical Society, Bunker Hill, IL

Burlingame Lions Charities, Inc., Burlingame, CA

Cadari, Pittsburgh, PA

Caldacar Success Unlimited Training Institute, Los Angeles, CA

California Dispute Resolution Institute, San Francisco, CA

Calistoga Respite Center, Calistoga, CA

Captive Heart Prison Ministry, Inc., Sneads, FL

Caring Hands Extended, Inc., Altadena, CA

Carl H. Sundahl Elementary School Foundation, Folsom, CA

Carolina Border Collie Rescue, Cary, NC

Casas De Las Familias, Tucson, AZ

Center for Informed Choices, Inc., Williamsville, NY

Center for Latin American Arts of New York, Inc., New York, NY

Center for Mediation and Training, Inc., New City, NY

Center for Mental Health Research and Education, Inc., Roswell, GA

Center for Public Representation, Columbus, OH

Central Florida Triathletes, Inc., Clermont, FL

Central Linn School District 552C, Halsey, OR

Centro Comunal General Gregorio Luperon, Inc., New York, NY

Cheer Center Booster Club, Grove City, OH

Chernobyls Hope, Monroe, NC

Chesterfield Education and Training Institute, Seattle, WA

Children of Destiny International, Inc., Pasadena, CA

Children of the Nations International Adoptions, Inc., New Port Richey, FL

Childrens Coalition of Southern New Hampshire, Salem, NH

Chinook Middle School P A T S, Lacey, WA

Chosen Child, Van Nuys, CA

Christmas in April – Napa Valley, Napa, CA

Christmas in May Sheboygan County, Sheboygan, WI

Christopher Washingtons Youth Inspiration and Goals Foundation, Cupertino, CA

Church of Christ, Bakersfield, CA

Chuukese Catholic Community Council of Honolulu, Inc., Waipahu, HI

Cisprohr, Inc., Miami, FL

Citizens Empowerment, Miami, FL

Citizens for Police Accountability, Providence, RI

City Arts Project, Los Angeles, CA

Clearview Heights Child Care and Development Center, Inc., Gallatin, TN

Coalition of Arizonans to Abolish the Death Penalty, Inc., Tucson, AZ

Coalition to Protect America’s Elders, Inc., Tampa, FL

Coast Public Radio, Inc., Capitola, CA

Collaborations, Seattle, WA

Colorado Advanced Photonics Technology Center, Longmont, CO

Colorado Indian Education Association, Denver, CO

Communities in School of Walker County GA, Inc., Chickamauga, GA

Community Apartments Corporation of Metrolina 3, Raleigh, NC

Community Food Exchange Limited, Jamaica Plain, MA

Community Health International, Inc., Mendota Heights, MN

Company One, Inc., Brookline, MA

Complementary Care Foundation, Inc., Mt. Kisco, NY

Concerned Alumni of Catholic University, Arlington, VA

Conner Community Development Corporation, Connersville, IN

Constant Elevation Youth Foundation, Chicago, IL

Contextualized Urban Ministry Education of the Northwest, Inc., Portland, OR

Corazon Behavioral Health Services, Inc., Los Alamos, NM

Council for the Imaginative Arts, Richland, WA

Counting All Children, Mitchellville, MD

CPLC Tucson Foundation, Tucson, AZ

Crimebusters, Inc., Hendersonville, TN

Cultural Society of Mesilla Valley, Inc., Las Cruces, NM

Curry Ministries, Inc., Sanford, FL

D & M Community Development Corporation, Inc., Crosby, TX

Daisy Foundation, Inc., Greenwood, LA

Dancin Kidz Performance Co., Inc., Bullhead City, AZ

Daniel Foundation, Pasadena, CA

Day Star Arise Production Company, College Park, GA

Des Moines for Jesus, Des Moines, IA

Dewey Ladies Auxiliary, Dewey, OK

Dimmit 9-11-90 PTSA, Seattle, WA

Discovery Clubhouse Child Care Center, Grand Rapids, MI

Dr. Karl Wamsler Foundation, Inc., New York, NY

Dream of a Lifetime, Seattle, WA

DreamWorks of Kansas, Kansas City, KS

Eagle Corrections Corporation, Louisville, KY

Earth Generation San Diego, Lemon Grove, CA

Earth Kids Foundation, Carlsbad, CA

East Texas Parent and Children Services, Incorporated, Longview, TX

East Valley Native American Parents Group, Tempe, AZ

East West Academic Business & Cultural Council EWABC, City Industry, CA

Ecumenical Community Center, Inc., Columbia, SC

Edmond Jacques Eckels & Harvey Ellis Historical Foundation, St. Joseph, MO

Edon Summer Ball League, Edon, OH

El Beth El Development Center, Inc., Jacksonville, FL

Elite Lay Activities, Looneyville, WV

Elizabeth House, Mountain Lake, MN

Elmira Booster Club, Veneta, OR

Emprise Ministries, New Bern, NC

Endless Mountains Theatre Company, New Milford, PA

Esthers Way, Sherman Oaks, CA

Eurasian Origins Foundation, Beverly Hills, CA

Evergreen Community Festival of Clark County, Vancouver, WA

Evergreen High School Band & Color Guards Booster, Vancouver, WA

Families & Community Experiencing Success, Inc., Omaha, NE

Family Institute of Colorado, Denver, CO

Family Life Outreach Ministries, Glassboro, NJ

FASP Childrens Services Fund, Inc.,  
Merritt Island, FL

Fighting Irish Soccer Boosters,  
El Paso, TX

Firestone Theatre Foundation Enterprises,  
Inc., New York, NY

First Night Bradford, Bradford, PA

First Night of Syracuse, Inc.,  
Syracuse, NY

Flint Inner City Jr. Golf Association, Inc.,  
Flint, MI

Footsteps, Inc., Greeley, CO

Forum for Government Reform,  
Davis, CA

Foundation for Aggrandizement of Rural  
Areas (FARA), Inc., Baton Rouge, LA

Foundation for Excellence & Ethics in  
Medicine, Inc., Oyster Bay, NY

Foundation for Human Rabies Education  
and Eradication, Malibu, CA

Foundation for Interracial  
Couples Seeking Tolerance,  
Thousand Palms, CA

Foundation for Supporters of the Disabled,  
Saint James, NY

Freedom Memorial of Harrison County,  
Inc., Clarksburg, WV

Fresno Airport Rotary Foundation,  
Fresno, CA

Friends for Affordable Housing,  
Los Angeles, CA

Friends of China Heritage Fund Limited,  
New York, NY

Friends of Fiji, Danville, CA

Friends of Francois, Seattle, WA

Friends of Lynn Community Charter  
School, Inc., Lynn, MA

Friends of Mt. Davidson Conservancy,  
San Francisco, CA

Friends of the International School of  
Dusseldorf Foundation, England

Friends of Wayne County Bookmobile  
Library, Bicknell, UT

Full Circle Initiative, Inc.,  
Fort Collins, CO

Gaelquest, Berkley, MI

Gaining Access to Independent Living,  
Effingham, IL

Galveston County K-9 Search & Rescue,  
Texas City, TX

Garinagu Empowerment Movement,  
Los Angeles, CA

GEM Foundation, Detroit, MI

General Information-Financial Training,  
Woodinville, WA

Getting In Getting Through,  
Magnolia Square, CA

Gila Monster Watershed Council,  
Willcox, AZ

Gila Valley Boys and Girls Club, Inc.,  
Safford, AZ

Glendale Chamber Foundation,  
Glendale, CA

Global Alliance of Mental Illness  
Advocacy Network, Inc.,  
Staten Island, NY

Global Environmental and Energy in the  
21st Century, Honolulu, HI

Globalith, Inc., Winter Park, FL

Globalquest, Woolwich, ME

Glorybound, Minneapolis, MN

Gloryland World Ministries, Inc.,  
Baltimore, MD

God's Gift to Families, Inc.,  
South Orange, NJ

God's Work, Inc., Birmingham, AL

Good Life Center, Harborside, ME

Good Neighbor Outreach Foundation,  
Ltd., Scotch Plains, NJ

Good Shepherd Broadcasting,  
Enumclaw, WA

Grand Rapids Academy of  
Japanese Language and Culture,  
Grand Rapids, MI

Grand Valley Community Theatre,  
Grand Junction, CO

Great Bay Regional Volunteer  
Emergency Medical Services,  
Inc., Little Egg Harbor, NJ

Greater Central Valley Outreach, Inc.,  
Modesto, CA

Green Tree Foundation, Murray, UT

Greene Group, Philadelphia, PA

Greenlake Plaza Resident Council,  
Seattle, WA

Greywood, Incorporated, Towson, MD

Guang-Ping Yang Tai Chi Association,  
El Cerrito, CA

Guardian & Conservator Training  
Services, Inc., Caldwell, ID

Guatemalan Unity Information Agency,  
Los Angeles, CA

Gulshan Foundation, Inc.,  
Washington, DC

Guttenberg Affordable Housing  
Corporation, Guttenberg, NJ

Guyana Youth Watch, Inc.,  
Richmond Hill, NY

Haitian Connection for Development,  
Inc., West Palm Beach, FL

Hallowed House, Inc., Austin, TX

Hard Scramble Educational Center, Inc.,  
Camden, SC

Haslw599, Kansas City, MO

Healing Art of San Francisco,  
San Francisco, CA

Health Motivation and Healing Program,  
Seattle, WA

Healthy Ways, Inc., Carlsbad, CA

Heart of a Parent, Wells, ME

Helper Main Street Program, Helper, UT

Henry Hensche Foundation,  
Thibodaux, LA

High Sonoran Foundation, Scottsdale, AZ

Higher Educational Development and  
Upliftment Program, Braintree, MA

Hira Publications, Sterling, VA

Home of Comfort, Oakland, CA

Honolulu Sunset Foundation,  
Honolulu, HI

Hope for the Underprivileged Children,  
Diamond Bar, CA

Hopkinton Educational Assistance Trust,  
Inc., Milford, MA

Horace Mann Parents Association, Inc.,  
San Francisco, CA

Horizon Family Services, Inc.,  
Citrus Heights, CA

Hospice Memorial Foundation,  
Las Vegas, NV

Humanitarian Assistance Service  
Information & Referral Center, Inc.,  
Brooklyn, NY

Ilwaco Community Development  
Association, Ilwaco, WA

Indigenous Permaculture Center, Inc.,  
Denver, CO

Inner-City Games Los Angeles,  
Los Angeles, CA

Inspirational Family Life Center,  
Cincinnati, OH

Institute of Science and Theology,  
Beverly Hills, CA

Internet Weblinks Alliance, Inc.,  
Los Angeles, CA

Isle of Excellence, Chicago, IL

J. B. Counseling & Consulting, Inc.,  
Lennox, CA

Jack Milam Memorial Foundation, Inc.,  
Statesville, NC

Jeanne Dini Performing Arts Center, Inc.,  
Yerington, NV

Jim Elder Good Sport Fund, Dallas, TX

Job Club, Inc., Los Angeles, CA

Ka Ulu Lauhala O Kona, Kailua-Kona, HI

Kamp Kindness, Inc., Bowie, MD

Kathys Sunshine Outreach Center,  
Dallas, TX

Katie Scott Ministries, Inc., Tulsa, OK

Kenny Lofton Youth Foundation,  
Tucson, AZ

Kereng Ende Institute, Portland, OR



Kids Space Foundation, New York, NY  
 Kindness Overall Hawaii, Honolulu, HI  
 Kingdom Power & Glory Mission, Inc.,  
 Costa Mesa, CA  
 Klearview Center for Independent Living,  
 Inc., Moultrie, GA  
 Knights of the Road Foundation, Inc.,  
 Virginia Beach, VA  
 Knowledge Navigators International  
 Foundation, Inc., Clifton, NJ  
 Korean Schools Association of Northern  
 California, Davis, CA  
 Krafft A. Ehricke Institute for Space  
 Development, La Jolla, CA  
 Kurdish Community Center of Arizona,  
 Phoenix, AZ  
 La Familia Neighborhood, Inc.,  
 Winslow, AZ  
 Lake County Police Chaplains, Inc.,  
 Demotte, IN  
 Latin Motion-Picture Arts and Resources  
 Association, Inc., Los Angeles, CA  
 Latinos Unidos Del Valle De Napa,  
 Napa, CA  
 Lawrence Township Quick Response  
 Team, Lawrence, MI  
 Life Challenges, Ashland, OR  
 Light House Home of Lafayette, Inc.,  
 Lafayette, LA  
 Linda Vista Elementary School Parent  
 Teacher Organization, Fremont, CA  
 LISTO, W. Los Angeles, CA  
 Live Oak Artists Guild, Inc., Live Oak, FL  
 LOCK Foundation, Newton, NC  
 Locks of Love, Inc., A Delaware  
 Corporation, Hayward, CA  
 Long Beach Basketball Club, Inc.,  
 Long Beach, NY  
 Love in Action Ministry, Houston, TX  
 Lydia Whitney Foundation, Inc.,  
 Collinsville, CT  
 Magnolia State Housing, Inc.,  
 Mendenhall, MS  
 Mark Keppel High School Alumni and  
 Friends Association, Alhambra, CA  
 Marshall Diamond Club American Legion  
 Baseball, Portland, OR  
 Mary Alice Lamy Hope Charitable  
 Organization, Morrison, CO  
 Mass Ave Film Festival, Watertown, MA  
 Massachusetts Coalition For Oral Health,  
 Inc., Boston, MA  
 McDonald School Parent-Teacher  
 Organization, Moscow, ID  
 Medical Services Advocacy, Omaha, NE  
 Mentor and the Hip Hop Owls Foundation,  
 Newark, NJ  
 Mid-Atlantic Regional Service  
 Committee of Narcotics Annyms,  
 Inc., Wyomissing, PA  
 Middleton Center, Detroit, MI  
 Milwaukee Modern Chinese School,  
 Menomonee Falls, WI  
 Montrose Golden Hope Center of  
 Montrose, Colorado, Montrose, CO  
 Moose Boosters Wrestling Club,  
 Palmer, AK  
 Mother International, Pomona, CA  
 Mothers Aligned Saving Kids, Inc.,  
 Brooklyn, NY  
 Mountain Hoops Girls Basketball Club,  
 Fort Collins, CO  
 Moviemaker Alliance, Montrose, CA  
 Mt. Vernon Medical Rescue,  
 Mount Vernon, MO  
 My Sisters Keeper, Incorporated,  
 Ellenwood, GA  
 Nam Yong Foundation, Cerritos, CA  
 Nantucket Childrens Depot, Inc.,  
 Nantucket, MA  
 Naples Memorial, Inc., Naples, FL  
 National Free Flight Society,  
 Millcreek, WA  
 Native American Arts Alliance,  
 Santa Fe, NM  
 Neighbors Who Care and Assist,  
 San Mateo, CA  
 New American Educational Service  
 Center, Rosemead, CA  
 New Beginnings, Kalamazoo, MI  
 New Day Aero-Medical Foundation, Inc.,  
 Stockbridge, GA  
 New Jersey Gladiator Hockey Club, Inc.,  
 Pitman, NJ  
 New Lease on Life, Naperville, IL  
 New Life Institute, Lakeside, AZ  
 New Power Houston, Houston, TX  
 New Stone Project, San Francisco, CA  
 Nguoi Viet Foundation, Westminster, CA  
 NHEST, Inc., Bradford, ME  
 Nonprofit Ventures, Inc., Irvine, CA  
 Nonviolence Empowerment Organization,  
 Inc., Greenwich, CT  
 North American Affordable Housing  
 Initiative, Inc., San Antonio, TX  
 North Pole Rotary Club Foundation,  
 North Pole, AK  
 Northampton Youth Football League,  
 Inc., Northampton, MA  
 Northeast Wisconsin Masonic Library and  
 Museum, Inc., Green Bay, WI  
 Northern Michigan Computer Users  
 Group, Green Bush, MI  
 Northwest Arizona Watershed Council,  
 Kingman, AZ  
 Numedix, Inc., Auburn, CA  
 NYSEG Foundation, Inc., Ithaca, NY  
 Okanogan County Childrens Society,  
 Omak, WA  
 Old Concho Community Assistance  
 Center, Concho, AZ  
 Olive Branch Learning Center,  
 London, OH  
 Open Door Theatre, Chapel Hill, NC  
 Open Voice, East Palo Alto, CA  
 Oregon Craftsman Home Program, Inc.,  
 Salem, OR  
 Organizacion Coatepecana En Los  
 Angeles, Rowland Heights, CA  
 Otolaryngology-Head and Neck Surgery  
 Resident Education Foundation,  
 Denver, CO  
 Our Oregon, Portland, OR  
 Ozark Museum of Natural History,  
 Cedarcreek, MO  
 Pamela S. & Milton F. Watkins Family  
 Foundation, Inc., Canton, GA  
 Paraklesis Ministries, Inc., Lima, OH  
 Path Ahead, Olivette, MO  
 Pathfinders of Linn & Benton, Inc.,  
 Albany, OR  
 Pathways to Health, Inc., Napa, CA  
 Paul Robeson Music Guild of the  
 National Association of Negro Music,  
 East Orange, NJ  
 Peace and Emergency Action Coalition  
 for Earth, Kerville, TX  
 Pebble Creek Racing Foundation,  
 Pocatello, ID  
 Peli International Friendship Foundation,  
 San Luis Obispo, CA  
 Pencon Foundation, Milton, PA  
 People First of Larimer County, Inc.,  
 Ft. Collins, CO  
 People Make A Difference, Inc.,  
 Riverdale, NY  
 Performing Arts Reaching to Youth,  
 San Francisco, CA  
 Philadelphia Nonprofit Advertising  
 Agency, Philadelphia, PA  
 Phillips Foundation, Denver, CO  
 Phillipstown Performing Arts, Inc.,  
 Garrison, NY  
 Piney Grove Human Services Corporation,  
 Inc., Ft. Lauderdale, FL  
 Pinnacle One Foundation 03-20-98,  
 Scottsdale, AZ  
 Positive Partners, Inc., Los Angeles, CA  
 Powerful Word, Inc./Valerie Cameron  
 Ministries, New Orleans, LA  
 Preston Community Foundation,  
 Preston, WA

Primary Care Network, Inc.,  
 Springfield, MO  
 Prime Station, Incorporated, Polson, MT  
 Program for Us, Los Angeles, CA  
 Project Pears, Santa Monica, CA  
 Project Zero, Santa Ana, CA  
 Property Innovations, Inc., Fall River, MA  
 Psalm & Proverbs of the Potters House,  
 Los Angeles, CA  
 Puanani Foundation, Inc., Lahaina, HI  
 Public Housing Advocacy for Disability  
 and Diversity, Inc., Atlanta, GA  
 Quantum Institute, Morrison, CO  
 Quoddy Spill Prevention Group, Inc.,  
 Eastport, ME  
 Qutekcak, Inc., Seward, AK  
 Raider Athletic Booster Club,  
 Corvallis, OR  
 Rainbolt Hampton Arts, Mill Valley, CA  
 Rainbow Connection Ministry and Center  
 for Spiritual Health, Wellness and  
 Mind-Body, Northumberland, PA  
 Ransom Soulwork, Fresno, CA  
 Realization Productions, Inc.,  
 New York, NY  
 Redmond High School Choral Boosters,  
 Redmond, WA  
 Redwood City Library Foundation,  
 Redwood City, CA  
 Rehabilitation Help Center, Pacoima, CA  
 Renaissance Development Corporation,  
 East Chicago, IN  
 Resident Counsel of the South Scattered  
 Sites, Compton, CA  
 Resource Center for Community  
 Health and Environmental Justice,  
 San Antonio, TX  
 Resurrection and Restoration Ministry,  
 McGehee, AR  
 Revolution, Inc., Austin, TX  
 River View Gardens Housing  
 Development Found Company,  
 Inc., New York, NY  
 Riversong Music Society,  
 Berrien Springs, MI  
 R.O.S.E. Center, Fayetteville, NC  
 Rural Community Development Center,  
 Bakersfield, CA  
 Ruth Pearce Fund for Therapeutic  
 Companions, Studio City, CA  
 RWC Padre Foundation, Inc.,  
 Redwood City, CA  
 Sacramento Interfaith Hospitality  
 Network, Sacramento, CA  
 Safety Net Academy, Inc., Tucker, GA  
 Sagaponack Home Owners Association,  
 New York, NY  
 San Geronimo Valley Land Trust,  
 San Geronimo, CA  
 San Francisco Council on Poverty &  
 Homelessness, San Francisco, CA  
 Sandeborne Institute, Amherst, VA  
 Sara Kent Foundation, Cincinnati, OH  
 Sarah Allen Services, Philadelphia, PA  
 Scholastic Foundation, Tacoma, WA  
 Science Fiction Hall of Fame Foundation,  
 Inc., Long Beach, CA  
 Seattle Womens Hockey Club, Seattle, WA  
 Seed Collective, Winston-Salem, NC  
 Sgt. James S. Noves Memorial Ski Race  
 Fund, Glen, NH  
 Shalom Solutions, Inc., Chattanooga, TN  
 Shelters of Praise, Redwood City, CA  
 Sheryl A. Jones Ministries, Sanford, FL  
 Shining Stars Childrens Center,  
 Pomona, CA  
 Sitka Harvest Divers Association,  
 Sitka, AK  
 Sober Grad Nite, Inc., Grand Junction, CO  
 Sober Seas, San Diego, CA  
 Social Justice Network UP-TV,  
 Upperco, MD  
 Society for Ocean Acoustic Research,  
 Carmel Valley, CA  
 Sole Hope, Fort Worth, TX  
 Sopris Camp for Kids, Woody Creek, CO  
 SOS 4 Our Kids Mission, Inc., Corona, CA  
 Soul Saving Station, Inc.,  
 Winston Salem, NC  
 South Brunswick Foundation for  
 Excellence in Education, Inc.,  
 Monmouth Junction, NJ  
 South Los Angeles Multiservices, Inc.,  
 Los Angeles, CA  
 South Piegan Mission Outreach,  
 Browning, MT  
 Special Beginnings, Inc., Eureka, CA  
 S P I C E-Spanish-English Peer  
 Immersion Cult Educ Parent Assn.,  
 Vacaville, CA  
 Spirit in Motion, Inc., Cleveland, OH  
 Springhill High School Band,  
 Spring Hill, TN  
 St. Charles Hustlers Basketball Team,  
 Inc., Kenner, LA  
 St. Thomas More Center for Catholic  
 Family Life, Cranberry, PA  
 Standing on Our Own Richmond VA, Inc.,  
 Richmond, VA  
 Stanislaus County Citizens Against  
 Substance Abuse Red Ribbon Coalition,  
 Oakdale, CA  
 Stany Foundation, Inc., New York, NY  
 Stepping Stones Recovery Home, Inc.,  
 Winnsboro, LA  
 Stop Secondhand Smoke, Inc., Racine, WI  
 Stratfield Kids Club, Inc., Fairfield, CT  
 STV America, Inc., Los Angeles, CA  
 Suncoast Trailblazers, Inc.,  
 St. Petersburg, FL  
 Sunrise Preservation Group, Inc.,  
 Southern Pines, NC  
 Sustainable Communities Northwest,  
 Portland, OR  
 Swim Pasadena Booster Club,  
 Pasadena, CA  
 Syal Foundation, Inc., Minneapolis, MN  
 Sycamore Foundation, Griffin, GA  
 Taiga Group, Fairbanks, AK  
 Taos Community Foundation, Inc.,  
 Taos, NM  
 Team Chandler Community Policing  
 Advisory Board, Chandler, AZ  
 Teen Mercy, Scranton, PA  
 Tender Mercy Ministries, Lexington, KY  
 Terezin Publishing Project, Ltd.,  
 New York, NY  
 Testimonies, Houston, TX  
 Texas Aguilar Y. Aguilar Counseling  
 Services, Inc., Houston, TX  
 Texas Council for Education Excellence,  
 Houston, TX  
 Theatrical History, Inc., Atlanta, GA  
 This is For Life, Los Angeles, CA  
 Three Oaks Circle, Inc., Milwaukee, WI  
 Tiger Baseball Booster Club, Irving, TX  
 Timbre Harpers Ferry Teaching and  
 Learning Center, Harpers Ferry, WV  
 Tir Na Nog - An Irish Theatre, Denver, CO  
 Tombstone Office of Tourism,  
 Tombstone, AZ  
 Touched by Love Ministries, Inc.,  
 Sierra, CA  
 Track 29 Foundation, Inc.,  
 Ft. Ogelthorpe, GA  
 Treehill Park Foundation, Inc.,  
 Sherwood, AR  
 Tri-State Consumers Group, Inc.,  
 Sioux City, IA  
 Twin Harbors Community Development  
 Council, Aberdeen, WA  
 Unidos Por El Peru, Chevy Chase, MD  
 Union House and Engine Company, Inc.,  
 Union Springs, NY  
 Unique Minds Foundation, Inc.,  
 Sharon, CT  
 Unique Reflections For Today's Living,  
 Inc., Largo, FL  
 Unite Sports Fans Now, Fairfax, CA  
 United Affordable Housing, Inc.,  
 Manetta, GA  
 United Heritage Association,  
 Aumsville, OR

United People Helpers, Inc.,  
Los Angeles, CA  
Universal Foundation for Humanity,  
Edina, MN  
Urban-Angels-Welfare-League UAWL,  
Springfield, OH  
Urban Housing Management &  
Development Council, Kansas City, MO  
Urbanworld Foundation, Inc.,  
New York, NY  
US-Kosovo Foundation, Washington, DC  
USA Chinese Women Association Corp.,  
New York, NY  
Valley of the Sun Boys and Girls Club,  
Phoenix, AZ  
Venue, Kutztown, PA  
Veterans Flying Museum of Texas, Inc.,  
Colleyville, TX  
Victorias Quilts, Redondo, CA  
Viola Corporation, Port Allen, LA  
Violence Hotline Center, Inc.,  
Annapolis, MD  
Virginia Partnership for Animal Welfare  
and Support VA PAWS, Pilot, VA  
Vishva Bharti Parishad USA,  
Laguna Hills, CA  
Volunteer Thrift Store & Care Center,  
Gallatin, TN  
Wakina Sky Learning Circle Parent  
Education Advisory Committee,  
Helena, MT  
Warbirds of America Air Museum,  
Erie, PA  
Washington Science Olympiad,  
Vancouver, WA  
West Charleston Lions Club Foundation,  
Las Vegas, NV  
West Michigan Hockey Association,  
Ada, MI  
Western Institute for Nature Resources  
Education and Policy, Rickreall, WA  
Westminster Community Care Services,  
Inc., Orlando, FL  
Westside Hawaiian Lifeguard Ohana,  
Waianae, HI  
Whale Shark Research Group,  
Ivoryton, CT  
Wickenburg Foundation for the  
Performing Arts, Wickenburg, AZ  
Widows or Widowers, Inc., Lake Mary, FL  
Wildshare, Inc., Georgetown, CT  
William Hart/Hart's Battery  
Confederate States of America,  
Inc., Mountain Home, AR  
Willie and Gloria Spooner Foundation,  
Baton Rouge, LA

Winter Area Theatre Artists & Performers,  
Radisson, WI  
W I S H Foundation,  
Wrightsville Beach, NC  
Women's Project Community Outreach,  
Inc., Downey, CA  
Womens Club of Irvine, Irvine, CA  
Womens Enterprise Foundation, Inc.,  
Phoenix, AZ  
Womens World Christian Council, Inc.,  
Oldsmar, FL  
Words of Life Ministries, Greenville, SC  
World Mission of New York,  
Center Moriches, NY  
Wyoming Center on Deafness,  
Wright, WY  
Youth Excelling Through Sports,  
Bellingham, WA  
Youth With a Future, Englewood, CO

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

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## Partnership Transactions Involving Long Term Contracts; Correction

### Announcement 2003-85

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to a proposed regulation (REG-128203-02, 2003-41 I.R.B. 828 [68 FR 46516]) that was published in the Federal Register on August 6, 2003, relating to partnership transactions involving contracts accounted for under a long term contract method of accounting.

FOR FURTHER INFORMATION CONTACT: Richard Probst (202) 622-3060 (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### Background

The proposed regulations that are the subject of this correction are under section 460 of the Internal Revenue Code.

#### Need for Correction

As published, the proposed regulations (REG-128203-02), contain an error that may prove to be misleading and is in need of clarification.

#### Correction of Publication

Accordingly, the publication of the proposed regulations (REG-128203-02), which are the subject of FR Doc. 03-18484, is corrected as follows:

On page 46518, column 1, in the preamble under the paragraph heading "*1. Contribution of a Contract to a Partnership*", line 8 from the top of the column, the language "to the contract, and the contributes the" is corrected to read "to the contract, and then contributes the".

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 October 30, 2003, 8:45 a.m., and published in the issue of the Federal Register for October 31, 2003, 68 F.R. 62040)

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## Limitation on Use of the Nonaccrual-Experience Method of Accounting Under Section 448(d)(5); Correction

### Announcement 2003-86

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

**SUMMARY:** This document contains corrections to temporary regulations (T.D. 9090, 2003–43 I.R.B. 891 [68 FR 52496]) that were published in the **Federal Register** on September 4, 2003, that revises temporary income tax regulations providing guidance regarding the use of a nonaccrual-experience method of accounting by taxpayers using an accrual method of accounting and performing services.

**Dates:** This correction is effective September 4, 2003.

**FOR FURTHER INFORMATION CONTACT:** Terrance McWhorter (202) 622–4970 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### **Background**

These temporary regulations that are the subject of these corrections are under section 448 of the Internal Revenue Code.

### **Need for Correction**

As published, this temporary regulation (T.D. 9090) contain errors that may prove to be misleading and are in need of clarification.

### **Correction of Publication**

Accordingly, the publication of temporary regulations (T.D. 9090), which were the subject of FR Doc. 03–22458, is corrected as follows:

#### **§ 1.448–2T [Corrected]**

1. On page 52502, column 3, § 1.448–2T(e)(6)(iv), second to last line of the paragraph, the language “self-test), as applicable, of this section” is corrected to read “self test, as applicable.”

2. On page 52503, column 1, § 1.448–2T(e)(6)(vii), in the paragraph heading, the language “*Recapture—(1) In general.*” is corrected to read “*Recapture.*”

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 November 4, 2003, 8:45 a.m., and published in the issue of the Federal Register for November 5, 2003, 68 F.R. 62516)

## **Guidance Regarding the Treatment of Certain Contingent Payment Debt Instruments With One or More Payments That Are Denominated in, or Determined by Reference to, a Nonfunctional Currency; Correction**

### **Announcement 2003–87**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking; notice of public hearing; and withdrawal of previous proposed regulations section.

**SUMMARY:** This document contains corrections to proposed regulations (REG–106486–98; INTL–0015–91, 2003–42 I.R.B. 853 [68 FR 51944]) that were published in the **Federal Register** on August 29, 2003, regarding the treatment of contingent payment debt instruments for which one or more payments are denominated in, or determined by reference to, a currency other than the taxpayer’s functional currency.

**FOR FURTHER INFORMATION CONTACT:** Milton Cahn at (202) 622–3860 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### **Background**

The proposed regulations that are the subject of these corrections are under Section 1275 of the Internal Revenue Code.

### **Need for Correction**

As published, the notice of proposed rulemaking; notice of public hearing; and

withdrawal of previous proposed regulations (REG–106486–98; INTL–0015–91), contains errors that may prove to be misleading and are in need of clarification.

### **Correction of Publication**

Accordingly, the publication of the notice of proposed rulemaking, notice of public hearing; and withdrawal of previous proposed regulation (REG–106486–98; INTL–0015–91), which was the subject of FR Doc. 03–21827, is corrected as follows:

On page 51944, column 2, in the preamble under the subject heading “FOR FURTHER INFORMATION CONTACT”, line 2, the language “Milton Cahn at (202) 622–3870;” is corrected to read “Milton Cahn at (202) 622–3860;”.

Cynthia E. Grigsby,  
*Acting Chief, Publications  
and Regulations Branch,  
Legal Processing Division,  
Associate Chief Counsel  
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(Filed by the Office of the Federal Register on November 26, 2003, 8:45 a.m., and published in the issue of the Federal Register for November 28, 2003, 68 F.R. 66776)

## **Notice of Disposition of Declaratory Judgment Proceedings Under Section 7428**

### **Announcement 2003–88**

This announcement serves notice to donors that on August 13, 2003, the United States Court of Appeals for the Fourth Circuit granted the appellant’s motion to dismiss the appeal and the court dismissed the case. Thus, the organization listed below is not recognized as an organization described in section 501(c) and is not exempt from taxation under section 501(a), effective January 1, 1985.

Fountain of Life, Inc.  
Greensboro, NC

# 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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Corrected by  
Ann. 2003-85, 2003-51 I.R.B. 1237

#### REG-133791-02

Corrected by  
Ann. 2003-80, 2003-50 I.R.B. 1220

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#### 66-3

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#### 66-50

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Rev. Proc. 2003-62, 2003-32 I.R.B. 299

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Notice 2003-70, 2003-43 I.R.B. 916

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#### 80-4

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Notice 2003-70, 2003-43 I.R.B. 916

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Rev. Proc. 2003-74, 2003-43 I.R.B. 923

#### 85-56

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Rev. Proc. 2003-74, 2003-43 I.R.B. 923

#### 87-21

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Rev. Proc. 2003-74, 2003-43 I.R.B. 923

#### 89-12

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<sup>1</sup> A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2003-1 through 2003-26 is in Internal Revenue Bulletin 2003-27, dated July 7, 2003.



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**92-39**

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Rev. Proc. 2003-78, 2003-43 I.R.B. 1029

**92-66**

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REG-108524-00, 2003-42 I.R.B. 869

**92-88**

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Rev. Rul. 2003-99, 2003-34 I.R.B. 388

**93-17**

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**94-46**

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**95-39**

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**96-17**

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**2001-40**

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Rev. Proc. 2003-75, 2003-45 I.R.B. 1018

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Rev. Proc. 2003-86, 2003-50 I.R.B. 1211

**2002-29**

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