

Internal Revenue bulletin

Bulletin No. 2004-25
June 21, 2004

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 2004-61, page 1073.

LIFO; price indexes; department stores. The April 2004 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, April 30, 2004.

Rev. Rul. 2004-62, page 1072.

Business expenses; timber fertilization. The costs incurred by a timber grower for the post-establishment fertilization of an established timber stand are ordinary and necessary business expenses deductible under section 162 of the Code. This ruling also provides procedures for a taxpayer to automatically change its method of accounting for post-establishment fertilization costs to the method provided in this ruling. Rev. Proc. 2002-9 modified and amplified.

EMPLOYEE PLANS

Notice 2004-42, page 1075.

Weighted average interest rate update; corporate bond indexes; 30-year Treasury securities. The weighted average interest rate for June 2004 and the resulting permissible range of interest rates used to calculate current liability and to determine the required contribution are set forth.

Announcements of Disbarments and Suspensions begin on page 1076.
Finding Lists begin on page ii.



Department of the Treasury
Internal Revenue Service

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 compiled semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

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

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

Section 162.—Trade or Business Expenses

26 CFR 1.162-1: Business expenses.
(Also §§ 263, 263A; 1.263(a)-1.)

Business expenses; timber fertilization. The costs incurred by a timber grower for the post-establishment fertilization of an established timber stand are ordinary and necessary business expenses deductible under section 162 of the Code. This ruling also provides procedures for a taxpayer to automatically change its method of accounting for post-establishment fertilization costs to the method provided in this ruling. Rev. Proc. 2002-9 modified and amplified.

Rev. Rul. 2004-62

ISSUE

Whether costs incurred by a timber grower for the post-establishment fertilization of an established timber stand are ordinary and necessary business expenses deductible under § 162 of the Internal Revenue Code or capital expenditures under § 263.

FACTS

X owns and manages timberlands in the United States on which it grows trees for use in its lumber and wood products business. After the target species of timber establishes dominance in an area and becomes an established timber stand, X incurs costs to perform various silvicultural practices for the purposes of managing, maintaining, and protecting the stand. These post-establishment silvicultural costs include labor and materials for fire, disease, insect, and brush control. X performs these silvicultural practices to maintain optimal growing conditions that will promote healthy development and maximize timber volume.

In 2004, X incurs costs to apply fertilizer to a portion of its timberlands underlying an established stand of trees. This application, commonly referred to as “post-establishment fertilization,” is performed after the target species of timber has established dominance in the stand. X gen-

erally performs post-establishment fertilization once during the long-term growth cycle of a timber stand. X performs the fertilization to supplement nutrients in the soil to maintain optimal growing conditions that will promote healthy development and maximize timber volume.

LAW AND ANALYSIS

Section 162 and § 1.162-1(a) of the Income Tax Regulations allow a deduction for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

Section 263(a)(1) provides that no deduction is allowed for any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property. *See also* § 1.263(a)-1(a).

Section 1.263(a)-1(b) provides that capital expenditures include amounts paid or incurred to (1) add to the value, or substantially prolong the useful life, of property owned by the taxpayer, or (2) adapt property to a new or different use. However, amounts paid or incurred for incidental repairs and maintenance of property for purposes of § 162 and § 1.162-4 are not capital expenditures under § 1.263(a)-1.

Section 263A generally provides that the direct and indirect costs properly allocable to real or tangible personal property produced by the taxpayer must be capitalized. Section 263A(c)(5)(A) provides that § 263A shall not apply to trees raised, harvested, or grown by the taxpayer other than trees bearing fruit, nuts, or other crops, or ornamental trees (other than evergreen trees more than 6 years old at the time severed from their roots).

Certain costs incurred by timber growers for silvicultural practices performed in established timber stands are ordinary and necessary business expenses deductible under § 162. These costs include amounts incurred for labor and materials for fire, disease, insect, and brush control. *See Barham v. United States*, 301 F. Supp. 43 (M.D. Ga. 1969), *aff'd on other grounds*, 429 F.2d 40 (5th Cir. 1970); H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II-117

(1986); H.R. Rep. No. 426, 99th Cong., 1st Sess. 624 (1985). These costs are incurred for the management, maintenance, and protection of the timber stand. These costs are not incurred to materially add value to the timber stand, substantially prolong its useful life, or adapt the timber stand to a new or different use. Accordingly, these costs are not required to be capitalized under § 263.

Like fire, disease, insect, and brush control, post-establishment fertilization promotes healthy development and maximizes timber volume and is performed for the management, maintenance, and protection of the timber stand. There are no significant differences between post-establishment fertilization and the types of post-establishment silvicultural practices, such as brush control, that have previously been held to be ordinary and necessary business expenses deductible under § 162. Therefore, X's costs for post-establishment fertilization are deductible as ordinary and necessary business expenses under § 162. Furthermore, because X is growing trees for timber production, X is not required to capitalize the direct and indirect costs allocable to producing such trees under § 263A. *See* § 263A(c)(5).

HOLDING

Costs incurred by a timber grower for the post-establishment fertilization of an established timber stand are ordinary and necessary business expenses deductible under § 162.

CHANGE IN METHOD OF ACCOUNTING

Any change in a taxpayer's treatment of post-establishment fertilization costs to conform to this revenue ruling is a change in method of accounting to which the provisions of §§ 446 and 481 and the regulations thereunder apply. A taxpayer changing its method of accounting to comply with this revenue ruling must file a Form 3115 in accordance with the automatic change in method of accounting provisions of Rev. Proc. 2002-9, 2002-1 C.B. 327, as modified and clarified by Announcement 2002-17, 2002-1

C.B. 561, modified and amplified by Rev. Proc. 2002-19, 2002-1 C.B. 696, and amplified, clarified, and modified by Rev. Proc. 2002-54, 2002-2 C.B. 432, except that the scope limitations in section 4.02 of Rev. Proc. 2002-9 are not applicable. For purposes of line 1a of Form 3115, the designated number for the automatic accounting method change authorized by this revenue ruling is "86."

EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2002-9 is modified and amplified to include in the APPENDIX the automatic change provided in this revenue ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Amy Pfalzgraf of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Ms. Pfalzgraf at (202) 622-4950 (not a toll-free call).

Section 263.—Capital Expenditures

26 CFR 1.263(a)-1: Capital expenditures; in general.

Whether the costs incurred for the post-establishment fertilization of an established timber stand are deductible business expenses or capital expenditures. See Rev. Rul. 2004-62, page 1072.

Section 472.—Last-in, First-out Inventories

26 CFR 1.472-1: Last-in, first-out inventories.

LIFO; price indexes; department stores. The April 2004 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, April 30, 2004.

Rev. Rul. 2004-61

The following Department Store Inventory Price Indexes for April 2004 were

issued by the Bureau of Labor Statistics. The indexes are accepted by the Internal Revenue Service, under § 1.472-1(k) of the Income Tax Regulations and Rev. Proc. 86-46, 1986-2 C.B. 739, for appropriate application to inventories of department stores employing the retail inventory and last-in, first-out inventory methods for tax years ended on, or with reference to, April 30, 2004.

The Department Store Inventory Price Indexes are prepared on a national basis and include (a) 23 major groups of departments, (b) three special combinations of the major groups — soft goods, durable goods, and miscellaneous goods, and (c) a store total, which covers all departments, including some not listed separately, except for the following: candy, food, liquor, tobacco, and contract departments.

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS (January 1941 = 100, unless otherwise noted)

Groups	April 2003	April 2004	Percent Change from April 2003 to April 2004 ¹
1. Piece Goods	457.9	491.0	7.2
2. Domestic and Draperies	568.1	539.7	-5.0
3. Women's and Children's Shoes	646.4	654.5	1.3
4. Men's Shoes	844.7	856.4	1.4
5. Infants' Wear	597.8	586.1	-2.0
6. Women's Underwear	517.2	493.2	-4.6
7. Women's Hosiery	347.1	336.2	-3.1
8. Women's and Girls' Accessories	552.1	564.2	2.2
9. Women's Outerwear and Girls' Wear	385.7	389.2	0.9
10. Men's Clothing	569.0	545.9	-4.1
11. Men's Furnishings	589.8	592.7	0.5
12. Boys' Clothing and Furnishings	465.5	459.4	-1.3
13. Jewelry	876.5	893.0	1.9
14. Notions	794.1	799.3	0.7
15. Toilet Articles and Drugs	982.5	987.5	0.5
16. Furniture and Bedding	627.7	618.0	-1.5
17. Floor Coverings	584.4	598.8	2.5
18. Housewares	730.3	715.3	-2.1
19. Major Appliances	215.3	201.8	-6.3
20. Radio and Television	46.4	42.7	-8.0
21. Recreation and Education ²	83.7	81.2	-3.0
22. Home Improvements ²	125.1	128.0	2.3
23. Automotive Accessories ²	111.5	112.1	0.5

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE
 INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS
 (January 1941 = 100, unless otherwise noted)

Groups	April 2003	April 2004	Percent Change from April 2003 to April 2004 ¹
Groups 1–15: Soft Goods	573.8	572.0	-0.3
Groups 16–20: Durable Goods	399.0	385.6	-3.4
Groups 21–23: Misc. Goods ²	94.8	93.6	-1.3
Store Total ³	510.0	504.8	-1.0

¹Absence of a minus sign before the percentage change in this column signifies a price increase.

²Indexes on a January 1986 = 100 base.

³The store total index covers all departments, including some not listed separately, except for the following: candy, food, liquor, tobacco and contract departments.

DRAFTING INFORMATION

The principal author of this revenue ruling is Michael Burkom of the Office

of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact

Mr. Burkom at (202) 622–7924 (not a toll-free call).

Part III. Administrative, Procedural, and Miscellaneous

Weighted Average Interest Rates Update

Notice 2004-42

This notice provides guidance as to the corporate bond weighted average interest rate and the permissible range of interest rates specified under § 412(b)(5)(B)(ii)(II) of the Internal Revenue Code. In addition, it provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II), and the weighted average interest rate and permissible ranges of interest rates based on the 30-year Treasury securities rate.

CORPORATE BOND WEIGHTED AVERAGE INTEREST RATE

Sections 412(b)(5)(B)(ii) and 412(l)(7)(C)(i), as amended by the Pension Funding Equity Act of 2004, provide that the interest rates used to calculate current liability and to determine the required contribution under § 412(l) for plan years beginning in 2004 or 2005 must be within a permissible range based on the weighted average of the rates of interest on amounts invested conservatively in long term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year.

Notice 2004-34, 2004-18 I.R.B. 848, provides guidelines for determining the

corporate bond weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability. That notice establishes that the corporate bond weighted average is based on the monthly composite corporate bond rate derived from designated corporate bond indices.

The composite corporate bond rate for May 2004 is 6.19 percent. Pursuant to Notice 2004-34, the Service has determined this rate as the average of the monthly yields for the included corporate bond indices for that month.

The following corporate bond weighted average interest rate was determined for plan years beginning in the month shown below.

Month	For Plan Years Beginning in: Year	Corporate Bond Weighted Average	90% to 100% Permissible Range
June	2004	6.34	5.70 to 6.34

30-YEAR TREASURY SECURITIES WEIGHTED AVERAGE INTEREST RATE

Section 417(e)(3)(A)(ii)(II) 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.

Section 404(a)(1) of the Code, as amended by the Pension Funding Equity Act of 2004, permits an employer to elect to disregard subclause (II) of § 412(b)(5)(B)(ii) to determine the max-

imum amount of the deduction allowed under § 404(a)(1).

The rate of interest on 30-year Treasury securities for May 2004 is 5.42 percent. Pursuant to Notice 2002-26, 2002-1 C.B. 743, the Service has determined this rate as the monthly average of the daily determination of yield on the 30-year Treasury bond maturing in February 2031.

The following 30-year Treasury rates were determined for the plan years beginning in the month shown below.

Month	For Plan Years Beginning in: Year	30-Year Treasury Weighted Average	90% to 105% Permissible Range	90% to 110% Permissible Range
June	2004	5.17	4.65 to 5.43	4.65 to 5.68

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 fur-

ther 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.

Part IV. Items of General Interest

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

Announcement 2004-49

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

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

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

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

Consent Disbarments From Practice Before the Internal Revenue Service

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

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

countant, enrolled agent, or enrolled actuary in accordance with the consent offered.

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

Name	Address	Designation	Date of Disbarment
Ranes III, Wesse C.	Annapolis, MD	CPA	Indefinite from May 1, 2004

Consent Suspensions From Practice Before the Internal Revenue Service

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

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

tuary in accordance with the consent offered.

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

Name	Address	Designation	Date of Suspension
Montgomery, Goldie L.	Lancaster, CA	Enrolled Agent	Indefinite from February 1, 2004
Frost, Charles L.	San Antonio, TX	Enrolled Agent	Indefinite from February 1, 2004
Briggs, John W.	Sayville, NY	Enrolled Agent	February 10, 2004 from August 8, 2004
Lahman, Gary M.	Ft. Collins, CO	Enrolled Agent	Indefinite from February 12, 2004
Stanny, Gertrude M.	South Lyon, MI	Enrolled Agent	Indefinite from March 1, 2004
Millar, Mark	Tall Timbers, MD	Enrolled Agent	Indefinite from March 1, 2004
Murray, Maureen E.	Naugatuck, CT	Enrolled Agent	Indefinite from March 1, 2004
Keith, James S.	Imperial Beach, CA	Enrolled Agent	March 2, 2004 from June 30, 2004
Zelek, Linda S.	Moultonboro, NH	CPA	Indefinite from March 4, 2004
Gilpin, Charles H.	San Leandro, CA	Enrolled Agent	Indefinite from March 5, 2004
Smith, Sean M.	Silver Spring, MD	Enrolled Agent	Indefinite from March 15, 2004
Morelini, Wayne C.	Modesto, CA	Enrolled Agent	Indefinite from March 15, 2004
Bower, Jay	Redmond, OR	Enrolled Agent	Indefinite from March 16, 2004
Lynn, Celia M.	Locust Grove, VA	Enrolled Agent	Indefinite from April 1, 2004
Swantz Jr., H. E.	San Diego, CA	Enrolled Agent	Indefinite from April 6, 2004

Name	Address	Designation	Date of Suspension
Hart, David A.	Lake Zurich, IL	Enrolled Agent	Indefinite from April 8, 2004
Lau, Dennis K.M.	Honolulu, HI	Enrolled Agent	Indefinite from April 20, 2004
Lentz, Carole	Mastic, NY	Enrolled Agent	Indefinite from April 23, 2004
Goble, Dennis R.	Valparaiso, IN	CPA	Indefinite from April 26, 2004
Rivera, Eduardo M.	Torrence, CA	Attorney	May 1, 2004 to October 29, 2006
Grant, Elaine C.	Woodway, WA	Enrolled Agent	May 1, 2004 to October 31, 2004
Bell, Don	Grand Junction, CO	Enrolled Agent	Indefinite from May 1, 2004
Cohick, Jeffrey S.	Newville, PA	Enrolled Agent	May 1, 2004 from October 30, 2004

Expedited Suspensions From Practice Before the Internal Revenue Service

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

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

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

Name	Address	Designation	Date of Suspension
Candelario, Alexander	Cabins, WV	CPA	Indefinite from February 1, 2004
Riener, Richard	St. Paul, MN	Attorney	Indefinite from March 1, 2004
Dunkle, Clark	Carlisle, PA	CPA	Indefinite from March 15, 2004

Name	Address	Designation	Date of Suspension
Bailey, Donald D.	Tucson, AZ	CPA	Indefinite from March 18, 2004
Hill, Donald R.	Clinchco, VA	CPA	Indefinite from April 1, 2004
Bergeson, Nancy	Inver Grove Hghts, MN	CPA	Indefinite from April 14, 2004
Reese, Kenneth J.	Nebraska City, NE	CPA	Indefinite from April 15, 2004
Coates, Marsden S.	Baltimore, MD	Attorney	Indefinite from April 15, 2004
Schaefer, Robert J.	Moorhead, MN	Attorney	Indefinite from April 20, 2004
Mills, Stuart B.	Pender, NE	Attorney	Indefinite from May 1, 2004
Harris-Smith, Bridgette	Silver Spring, MD	Attorney	Indefinite from May 3, 2004
Janousek, Donald R.	Omaha, NE	Attorney	Indefinite from May 3, 2004
Williams, Gary W.	Diamond Bar, CA	CPA	Indefinite from May 3, 2004
Demaio, Louis J.	Bel Air, MD	Attorney	Indefinite from May 3, 2004
Miller, Frederick C.	Cedar Hill, TX	CPA	Indefinite from May 15, 2004

Censure Issued by Consent

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

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

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

Name	Address	Designation	Date of Censure
Friedman, Milton G.	Ft. Lauderdale, FL	CPA	December 30, 2003
Stevens, William E.	Omaha, NE	CPA	February 13, 2004
Turner, Mark A.	Cincinnati, OH	CPA	February 25, 2004
Rath, Dorris A.	Bradenton, FL	Enrolled Agent	March 9, 2004
Damiano, Lisa	South Windsor, CT	Enrolled Agent	March 9, 2004
Silbiger, Arnold R.	Baltimore, MD	Attorney	March 11, 2004
Farwell, Nancy K.	Citrus Heights, CA	Enrolled Agent	April 5, 2004
Dembrowski, Karen E.	Encino, CA	CPA	April 13, 2004

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.

Numerical Finding List¹

Bulletins 2004–1 through 2004–25

Announcements:

2004-1, 2004-1 I.R.B. 254
2004-2, 2004-3 I.R.B. 322
2004-3, 2004-2 I.R.B. 294
2004-4, 2004-4 I.R.B. 357
2004-5, 2004-4 I.R.B. 362
2004-6, 2004-3 I.R.B. 322
2004-7, 2004-4 I.R.B. 365
2004-8, 2004-6 I.R.B. 441
2004-9, 2004-6 I.R.B. 441
2004-10, 2004-7 I.R.B. 501
2004-11, 2004-10 I.R.B. 581
2004-12, 2004-9 I.R.B. 541
2004-13, 2004-9 I.R.B. 543
2004-14, 2004-10 I.R.B. 582
2004-15, 2004-11 I.R.B. 612
2004-16, 2004-13 I.R.B. 668
2004-17, 2004-12 I.R.B. 635
2004-18, 2004-12 I.R.B. 639
2004-19, 2004-13 I.R.B. 668
2004-20, 2004-13 I.R.B. 673
2004-21, 2004-13 I.R.B. 673
2004-22, 2004-14 I.R.B. 709
2004-23, 2004-13 I.R.B. 673
2004-24, 2004-14 I.R.B. 714
2004-25, 2004-15 I.R.B. 737
2004-26, 2004-15 I.R.B. 743
2004-27, 2004-14 I.R.B. 714
2004-28, 2004-16 I.R.B. 818
2004-29, 2004-15 I.R.B. 772
2004-30, 2004-17 I.R.B. 833
2004-31, 2004-18 I.R.B. 854
2004-32, 2004-18 I.R.B. 860
2004-33, 2004-18 I.R.B. 862
2004-34, 2004-19 I.R.B. 895
2004-35, 2004-17 I.R.B. 839
2004-36, 2004-20 I.R.B. 932
2004-37, 2004-17 I.R.B. 839
2004-38, 2004-18 I.R.B. 878
2004-39, 2004-17 I.R.B. 840
2004-40, 2004-17 I.R.B. 840
2004-41, 2004-18 I.R.B. 879
2004-42, 2004-17 I.R.B. 840
2004-43, 2004-21 I.R.B. 955
2004-44, 2004-21 I.R.B. 957
2004-45, 2004-21 I.R.B. 958
2004-46, 2004-21 I.R.B. 964
2004-47, 2004-21 I.R.B. 966
2004-48, 2004-22 I.R.B. 998
2004-49, 2004-21 I.R.B. 966
2004-50, 2004-22 I.R.B. 1005
2004-51, 2004-23 I.R.B. 1041
2004-52, 2004-24 I.R.B. 1071

Announcements— Continued:

2004-54, 2004-24 I.R.B. 1061

Court Decisions:

2078, 2004-16 I.R.B. 773
2079, 2004-22 I.R.B. 978

Notices:

2004-1, 2004-2 I.R.B. 268
2004-2, 2004-2 I.R.B. 269
2004-3, 2004-5 I.R.B. 391
2004-4, 2004-2 I.R.B. 273
2004-5, 2004-7 I.R.B. 489
2004-6, 2004-3 I.R.B. 308
2004-7, 2004-3 I.R.B. 310
2004-8, 2004-4 I.R.B. 333
2004-9, 2004-4 I.R.B. 334
2004-10, 2004-6 I.R.B. 433
2004-11, 2004-6 I.R.B. 434
2004-12, 2004-10 I.R.B. 556
2004-13, 2004-12 I.R.B. 631
2004-14, 2004-9 I.R.B. 526
2004-15, 2004-9 I.R.B. 526
2004-16, 2004-9 I.R.B. 527
2004-17, 2004-11 I.R.B. 605
2004-18, 2004-11 I.R.B. 605
2004-19, 2004-11 I.R.B. 606
2004-20, 2004-11 I.R.B. 608
2004-21, 2004-11 I.R.B. 609
2004-22, 2004-12 I.R.B. 632
2004-23, 2004-15 I.R.B. 725
2004-24, 2004-13 I.R.B. 642
2004-25, 2004-15 I.R.B. 727
2004-26, 2004-16 I.R.B. 782
2004-27, 2004-16 I.R.B. 782
2004-28, 2004-16 I.R.B. 783
2004-29, 2004-17 I.R.B. 828
2004-30, 2004-17 I.R.B. 828
2004-31, 2004-17 I.R.B. 830
2004-32, 2004-18 I.R.B. 847
2004-33, 2004-18 I.R.B. 847
2004-34, 2004-18 I.R.B. 848
2004-35, 2004-19 I.R.B. 889
2004-36, 2004-19 I.R.B. 889
2004-37, 2004-21 I.R.B. 947
2004-38, 2004-21 I.R.B. 949
2004-39, 2004-22 I.R.B. 982
2004-40, 2004-23 I.R.B. 1028
2004-42, 2004-25 I.R.B. 1075

Proposed Regulations:

REG-106590-00, 2004-14 I.R.B. 704
REG-116664-01, 2004-3 I.R.B. 319
REG-129447-01, 2004-19 I.R.B. 894
REG-106681-02, 2004-18 I.R.B. 852
REG-122379-02, 2004-5 I.R.B. 392

Proposed Regulations— Continued:

REG-139792-02, 2004-20 I.R.B. 926
REG-139845-02, 2004-5 I.R.B. 397
REG-140492-02, 2004-23 I.R.B. 1031
REG-148399-02, 2004-24 I.R.B. 1066
REG-165579-02, 2004-13 I.R.B. 651
REG-166012-02, 2004-13 I.R.B. 655
REG-115471-03, 2004-14 I.R.B. 706
REG-116564-03, 2004-20 I.R.B. 927
REG-121475-03, 2004-16 I.R.B. 793
REG-126459-03, 2004-6 I.R.B. 437
REG-126967-03, 2004-10 I.R.B. 566
REG-128309-03, 2004-16 I.R.B. 800
REG-128590-03, 2004-21 I.R.B. 952
REG-149752-03, 2004-14 I.R.B. 707
REG-153172-03, 2004-15 I.R.B. 729
REG-156232-03, 2004-5 I.R.B. 399
REG-156421-03, 2004-10 I.R.B. 571
REG-167217-03, 2004-9 I.R.B. 540
REG-167265-03, 2004-15 I.R.B. 730

Revenue Procedures:

2004-1, 2004-1 I.R.B. 1
2004-2, 2004-1 I.R.B. 83
2004-3, 2004-1 I.R.B. 114
2004-4, 2004-1 I.R.B. 125
2004-5, 2004-1 I.R.B. 167
2004-6, 2004-1 I.R.B. 197
2004-7, 2004-1 I.R.B. 237
2004-8, 2004-1 I.R.B. 240
2004-9, 2004-2 I.R.B. 275
2004-10, 2004-2 I.R.B. 288
2004-11, 2004-3 I.R.B. 311
2004-12, 2004-9 I.R.B. 528
2004-13, 2004-4 I.R.B. 335
2004-14, 2004-7 I.R.B. 489
2004-15, 2004-7 I.R.B. 490
2004-16, 2004-10 I.R.B. 559
2004-17, 2004-10 I.R.B. 562
2004-18, 2004-9 I.R.B. 529
2004-19, 2004-10 I.R.B. 563
2004-20, 2004-13 I.R.B. 642
2004-21, 2004-14 I.R.B. 702
2004-22, 2004-15 I.R.B. 727
2004-23, 2004-16 I.R.B. 785
2004-24, 2004-16 I.R.B. 790
2004-25, 2004-16 I.R.B. 791
2004-26, 2004-19 I.R.B. 890
2004-27, 2004-17 I.R.B. 831
2004-28, 2004-22 I.R.B. 984
2004-29, 2004-20 I.R.B. 918
2004-30, 2004-21 I.R.B. 950
2004-31, 2004-22 I.R.B. 986
2004-32, 2004-22 I.R.B. 988
2004-33, 2004-22 I.R.B. 989
2004-34, 2004-22 I.R.B. 991

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

Revenue Procedures— Continued:

2004-35, 2004-23 I.R.B. 1029

2004-36, 2004-24 I.R.B. 1063

Revenue Rulings:

2004-1, 2004-4 I.R.B. 325

2004-2, 2004-2 I.R.B. 265

2004-3, 2004-7 I.R.B. 486

2004-4, 2004-6 I.R.B. 414

2004-5, 2004-3 I.R.B. 295

2004-6, 2004-4 I.R.B. 328

2004-7, 2004-4 I.R.B. 327

2004-8, 2004-10 I.R.B. 544

2004-9, 2004-6 I.R.B. 428

2004-10, 2004-7 I.R.B. 484

2004-11, 2004-7 I.R.B. 480

2004-12, 2004-7 I.R.B. 478

2004-13, 2004-7 I.R.B. 485

2004-14, 2004-8 I.R.B. 511

2004-15, 2004-8 I.R.B. 515

2004-16, 2004-8 I.R.B. 503

2004-17, 2004-8 I.R.B. 516

2004-18, 2004-8 I.R.B. 509

2004-19, 2004-8 I.R.B. 510

2004-20, 2004-10 I.R.B. 546

2004-21, 2004-10 I.R.B. 544

2004-22, 2004-10 I.R.B. 553

2004-23, 2004-11 I.R.B. 585

2004-24, 2004-10 I.R.B. 550

2004-25, 2004-11 I.R.B. 587

2004-26, 2004-11 I.R.B. 598

2004-27, 2004-12 I.R.B. 625

2004-28, 2004-12 I.R.B. 624

2004-29, 2004-12 I.R.B. 627

2004-30, 2004-12 I.R.B. 622

2004-31, 2004-12 I.R.B. 617

2004-32, 2004-12 I.R.B. 621

2004-33, 2004-12 I.R.B. 628

2004-34, 2004-12 I.R.B. 619

2004-35, 2004-13 I.R.B. 640

2004-36, 2004-12 I.R.B. 620

2004-37, 2004-11 I.R.B. 583

2004-38, 2004-15 I.R.B. 717

2004-39, 2004-14 I.R.B. 700

2004-40, 2004-15 I.R.B. 716

2004-41, 2004-18 I.R.B. 845

2004-42, 2004-17 I.R.B. 824

2004-43, 2004-18 I.R.B. 842

2004-44, 2004-19 I.R.B. 885

2004-45, 2004-22 I.R.B. 971

2004-46, 2004-20 I.R.B. 915

2004-47, 2004-21 I.R.B. 941

2004-48, 2004-21 I.R.B. 945

2004-49, 2004-21 I.R.B. 939

2004-50, 2004-22 I.R.B. 977

2004-51, 2004-22 I.R.B. 974

2004-52, 2004-22 I.R.B. 973

2004-53, 2004-23 I.R.B. 1026

Revenue Rulings— Continued:

2004-54, 2004-23 I.R.B. 1024

2004-56, 2004-24 I.R.B. 1055

2004-57, 2004-24 I.R.B. 1048

2004-58, 2004-24 I.R.B. 1043

2004-59, 2004-24 I.R.B. 1050

2004-60, 2004-24 I.R.B. 1051

2004-61, 2004-25 I.R.B. 1073

2004-62, 2004-25 I.R.B. 1072

Tax Conventions:

2004-3, 2004-7 I.R.B. 486

2004-52, 2004-24 I.R.B. 1071

Treasury Decisions:

9099, 2004-2 I.R.B. 255

9100, 2004-3 I.R.B. 297

9101, 2004-5 I.R.B. 376

9102, 2004-5 I.R.B. 366

9103, 2004-3 I.R.B. 306

9104, 2004-6 I.R.B. 406

9105, 2004-6 I.R.B. 419

9106, 2004-5 I.R.B. 384

9107, 2004-7 I.R.B. 447

9108, 2004-6 I.R.B. 429

9109, 2004-8 I.R.B. 519

9110, 2004-8 I.R.B. 504

9111, 2004-8 I.R.B. 518

9112, 2004-9 I.R.B. 523

9113, 2004-9 I.R.B. 524

9114, 2004-11 I.R.B. 589

9115, 2004-14 I.R.B. 680

9116, 2004-14 I.R.B. 674

9117, 2004-15 I.R.B. 721

9118, 2004-15 I.R.B. 718

9119, 2004-17 I.R.B. 825

9120, 2004-19 I.R.B. 881

9121, 2004-20 I.R.B. 903

9122, 2004-19 I.R.B. 886

9123, 2004-20 I.R.B. 907

9124, 2004-20 I.R.B. 901

9125, 2004-23 I.R.B. 1012

9126, 2004-23 I.R.B. 1023

9127, 2004-24 I.R.B. 1042

9128, 2004-21 I.R.B. 943

9129, 2004-24 I.R.B. 1046

Findings List of Current Actions on Previously Published Items¹

Bulletins 2004–1 through 2004–25

Announcements:

93-60

Obsoleted by

Rev. Proc. 2004-23, 2004-16 I.R.B. 785

2003-56

Modified by

Ann. 2004-11, 2004-10 I.R.B. 581

2004-38

Modified by

Ann. 2004-43, 2004-21 I.R.B. 955

2004-43

Corrected by

Ann. 2004-51, 2004-23 I.R.B. 1041

Notices:

98-5

Withdrawn by

Notice 2004-19, 2004-11 I.R.B. 606

2000-4

Obsoleted by

T.D. 9115, 2004-14 I.R.B. 680

2002-31

Modified by

Rev. Rul. 2004-60, 2004-24 I.R.B. 1051

2003-76

Modified by

Notice 2004-19, 2004-11 I.R.B. 606

2004-2

Modified by

Notice 2004–25, 2004–15 I.R.B. 727

Proposed Regulations:

REG-110896-98

Corrected by

Ann. 2004-14, 2004-10 I.R.B. 582

REG-115037-00

Corrected by

Ann. 2004-7, 2004-4 I.R.B. 365

REG-138499-02

Partially withdrawn by

REG-106590-00, 2004-14 I.R.B. 704

REG-143321-02

Withdrawn by

REG-156232-03, 2004-5 I.R.B. 399

REG-146893-02

Corrected by

Ann. 2004-7, 2004-4 I.R.B. 365

Proposed Regulations— Continued:

REG-163974-02

Corrected by

Ann. 2004-13, 2004-9 I.R.B. 543

REG-166012-02

Corrected by

Ann. 2004-40, 2004-17 I.R.B. 840

Revenue Procedures:

71-21

Modified and superseded by

Rev. Proc. 2004-34, 2004-22 I.R.B. 991

85-35

Obsoleted by

Rev. Proc. 2004-26, 2004-19 I.R.B. 890

87-19

Obsoleted in part by

Rev. Proc. 2004-18, 2004-9 I.R.B. 529

93-15

Obsoleted in part by

Rev. Proc. 2004-18, 2004-9 I.R.B. 529

94-41

Superseded by

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

94-55

Obsoleted in part by

Rev. Proc. 2004-18, 2004-9 I.R.B. 529

98-16

Suspended by

Notice 2004-12, 2004-10 I.R.B. 556

2000-38

Modified by

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

2000-50

Modified by

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

2001-10

Modified by

Ann. 2004-16, 2004-13 I.R.B. 668

2001-23

Modified by

Ann. 2004-16, 2004-13 I.R.B. 668

2002-9

Modified and amplified by

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

Rev. Rul. 2004-62, 2004-25 I.R.B. 1072

Rev. Proc. 2004-23, 2004-16 I.R.B. 785

Rev. Proc. 2004-30, 2004-21 I.R.B. 950

Rev. Proc. 2004-32, 2004-22 I.R.B. 988

Rev. Proc. 2004-33, 2004-22 I.R.B. 989

Rev. Proc. 2004-34, 2004-22 I.R.B. 991

Rev. Proc. 2004-36, 2004-24 I.R.B. 1063

Revenue Procedures— Continued:

Modified by

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

Ann. 2004-16, 2004-13 I.R.B. 668

2002-28

Modified by

Ann. 2004-16, 2004-13 I.R.B. 668

2002-71

Superseded by

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

2003-1

Superseded by

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

2003-2

Superseded by

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

2003-3

As amplified by Rev. Proc. 2003-14, and as

modified by Rev. Proc. 2003-48 superseded by

Rev. Proc. 2004-3, 2004-1 I.R.B. 114

2003-4

Superseded by

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

2003-5

Superseded by

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

2003-6

Superseded by

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

2003-7

Superseded by

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

2003-8

Superseded by

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

2003-23

Modified and superseded by

Rev. Proc. 2004-14, 2004-7 I.R.B. 489

2003-26

Supplemented by

Rev. Proc. 2004-17, 2004-10 I.R.B. 562

2003-29

Obsoleted, except as provided in section 5.02, by

Rev. Proc. 2004-24, 2004-16 I.R.B. 790

2003-64

Modified by

Rev. Proc. 2004-21, 2004-14 I.R.B. 702

2004-1

Corrected by

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

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

Revenue Procedures— Continued:

2004-4

Modified by

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

2004-5

Modified by

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

2004-6

Modified by

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

Revenue Rulings:

55-748

Modified and superseded by

Rev. Rul. 2004-20, 2004-10 I.R.B. 546

92-19

Supplemented in part by

Rev. Rul. 2004-14, 2004-8 I.R.B. 511

94-38

Clarified by

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

98-25

Clarified by

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

2004-38

Modified by

Rev. Proc. 2004-22, 2004-15 I.R.B. 727

Treasury Decisions:

9088

Corrected by

Ann. 2004-39, 2004-17 I.R.B. 840