

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-136491-09, page 321.

Proposed regulations under section 42 of the Code update the utility allowance regulations to clarify that utility costs paid by a tenant based on actual consumption in a submetered rent-restricted unit are treated as paid by the tenant directly to the utility company. A public hearing is scheduled for November 27, 2012.

EMPLOYEE PLANS

Notice 2012-53, page 317.

Weighted average interest rate update; corporate bond indices; 30-year Treasury securities; segment rates.

This notice contains updates for the corporate bond weighted average interest rate for plan years beginning in August 2012; the 24-month average segment rates; the funding transitional segment rates applicable for August 2012; and the minimum present value transitional rates for July 2012. However, the notice does not reflect changes to segment rates required under the Moving Ahead for Progress in the 21st Century Act (MAP-21).

EXEMPT ORGANIZATIONS

Announcement 2012-32, page 325.

The IRS has revoked its determination that Christian Credit Outreach, Inc., of Carlsbad, CA; ECM-1, Inc., of Sulphur, LA; Friends of Fiji of Danville, CA; Headwaters Ministries, Inc., of Fort Mill, SC; Kids Educational Development Scholarship, Inc., of Los Gatos, CA; South Plains Volunteer Services, Inc., of Lubbock, TX; United States Navy Veteran Association Minnesota

Chapter of St. Paul, MN; United States Navy Veteran Association Georgia Chapter of Tampa, FL; United States Navy Veteran Association Kansas Chapter of Washington, DC; United States Navy Veteran Association New Hampshire Chapter of Washington, DC; United States Navy Veteran Association New Mexico Chapter of Washington, DC; United States Navy Veteran Association Rhode Island Chapter of Washington, DC; United States Navy Veteran Association of Washington, DC; United States Navy Veteran Association Arkansas Chapter of Washington, DC; W.E.B. Dubois Community Development Corporation of Wake Forest, NC; and Women of Distinction of Dallas, TX, qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Code.

ADMINISTRATIVE

Notice 2012-52, page 317.

This notice advises taxpayers that, if all other requirements of section 170 of the Code are met, the Service will treat a contribution to a U.S. disregarded single member limited liability company that is wholly owned and controlled by a U.S. charity as a charitable contribution to a branch or division of the U.S. charity.

Announcements of Disbarments and Suspensions begin on page 325.

Finding Lists begin on page ii.

Index for July through August begins on page iv.



The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and en-

force the 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 III. Administrative, Procedural, and Miscellaneous

Charitable Contributions to Domestic Disregarded Entities

Notice 2012-52

PURPOSE

This notice provides guidance on the deductibility of contributions to domestic single-member limited liability companies that are wholly owned and controlled by organizations described in § 170(c)(2) of the Internal Revenue Code (U.S. charities) and for federal tax purposes are disregarded as entities separate from their owners under § 301.7701-2(c)(2)(i) of the Procedure and Administration Regulations (SMLLCs).

BACKGROUND

Section 170(a) allows as a deduction any charitable contribution, as defined in § 170(c). Section 170(c)(2) in part defines the term “charitable contribution” as a contribution or gift to or for the use of a corporation, trust, or community chest, fund, or foundation—

(A) Created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

(B) Organized and operated exclusively for specified purposes, including religious, charitable, scientific, literary or educational purposes;

(C) No part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(D) Which is not disqualified for tax exemption under § 501(c)(3) by reason of attempting to influence legislation or participating in a political campaign.

Section 170(b) prescribes limitations on the maximum amount deductible as a charitable contribution.

Generally, a business entity that has a single owner and is not a corporation under § 301.7701-2(b) is disregarded for federal tax purposes as an entity separate from its owner (disregarded entity). See § 301.7701-2(c)(2)(i). Section 301.7701-2(a) provides that “if the entity is disregarded, its activities are treated

in the same manner as a sole proprietorship, branch, or division of the owner.” A business entity (including a disregarded entity) is domestic if it is created or organized within the United States, or under the law of the United States or of any state. See § 301.7701-5(a). A U.S. charity that wholly owns a disregarded entity must treat the operations and finances of the disregarded entity as its own for tax and information reporting purposes. See Ann. 99-102, 1999-2 C.B. 545. However, for employment and certain excise tax purposes, an entity that is disregarded as separate from its owner for any purpose under § 301.7701-2 is treated as an entity separate from its owner. See § 301.7701-2(c)(2)(iv) and (v).

CONTRIBUTIONS TO DOMESTIC SMLLCs

If all other requirements of § 170 are met, the Internal Revenue Service will treat a contribution to a disregarded SMLLC that was created or organized in or under the law of the United States, a United States possession, a state, or the District of Columbia, and is wholly owned and controlled by a U.S. charity, as a charitable contribution to a branch or division of the U.S. charity. The U.S. charity is the donee organization for purposes of the substantiation and disclosure required by §§ 170(f) and 6115. To avoid unnecessary inquiries by the Service, the charity is encouraged to disclose, in the acknowledgment or another statement, that the SMLLC is wholly owned by the U.S. charity and treated by the U.S. charity as a disregarded entity. The limitations of § 170(b) apply as though the gift were made to the U.S. charity.

EFFECTIVE DATE

This notice is effective for charitable contributions made on or after July 31, 2012. However, taxpayers may rely on this notice prior to its effective date for taxable years for which the period of limitation on refund or credit under § 6511 has not expired.

DRAFTING INFORMATION

The principal author of this notice is Susan J. Kassell of the Office of the Associate Chief Counsel (Income Tax & Accounting). For further information concerning this notice, contact Ms. Kassell at (202) 622-5020 (not a toll-free call).

Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates

Notice 2012-53

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 as in effect for plan years beginning before 2008. It also provides guidance on the corporate bond monthly yield curve (and the corresponding spot segment rates), and the 24-month average segment rates under § 430(h)(2). In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008, the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I), and the minimum present value segment rates under § 417(e)(3)(D) as in effect for plan years beginning after 2007. These rates do not reflect any changes implemented by the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141 (MAP-21). MAP-21 provides that for purposes of section 430(h)(2), the segment rates are limited by the applicable maximum percentage or the applicable minimum percentage based on the average of segment rates over a 25 year period. Guidance related to the new legislation will be issued in the future.

CORPORATE BOND WEIGHTED AVERAGE INTEREST RATE

Sections 412(b)(5)(B)(ii) and 412(l)(7)(C)(i) 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 through 2007 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, 2004-1 C.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 methodology for determining the monthly composite corporate bond rate as set forth in Notice 2004-34 continues to apply in determining that rate. See Notice 2006-75, 2006-2 C.B. 366.

The composite corporate bond rate for July 2012 is 3.97 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.

For Plan Years Beginning in		Corporate Bond Weighted Average	Permissible Range	
<i>Month</i>	<i>Year</i>		90%	100%
August	2012	5.31	4.78	5.31

YIELD CURVE AND SEGMENT RATES

Generally, except for certain plans under sections 104 and 105 of the Pension Protection Act of 2006 (PPA), § 430 of the Code specifies the minimum funding requirements that apply to single employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under

this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Notice 2007-81, 2007-2 C.B. 899, provides guidelines for determining the monthly corporate bond yield curve, and the 24-month average corporate bond

segment rates used to compute the target normal cost and the funding target. Pursuant to Notice 2007-81, the monthly corporate bond yield curve derived from July 2012 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of July 2012 are, respectively, 1.22, 3.66, and 4.50. The three 24-month average corporate bond segment rates applicable for August 2012 are as follows:

First Segment	Second Segment	Third Segment
1.77	4.67	5.78

30-YEAR TREASURY SECURITIES INTEREST RATES

Section 417(e)(3)(A)(ii)(II) (prior to amendment by PPA) 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

rate of interest 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 July 2012 is 2.59 percent. The Service has determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in May 2042.

Generally for plan years beginning after 2007, § 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum

amount for the full-funding limitation described in section 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below 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. The following rates were determined for plan years beginning in the month shown below.

For Plan Years Beginning in		30-Year Treasury Weighted Average	Permissible Range	
<i>Month</i>	<i>Year</i>		90%	to 105%
August	2012	3.77	3.39	3.96

**MINIMUM PRESENT VALUE
SEGMENT RATES**

In general, the applicable interest rates under § 417(e)(3)(D) are segment rates computed without regard to a 24-month average. For plan years beginning in

2008 through 2011, the applicable interest rates are the monthly spot segment rates blended with the applicable rate under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning in 2007. Notice 2007-81 provides guidelines for determining the minimum present value segment rates.

Pursuant to that notice, the minimum present value transitional segment rates determined for July 2012, taking into account the July 2012 30-year Treasury rate of 2.59 stated above, are as follows:

For Plan Years Beginning in	First Segment	Second Segment	Third Segment
2011	1.49	3.45	4.12
2012	1.22	3.66	4.50

DRAFTING INFORMATION

The principal author of this notice is Tony Montanaro of the Employee Plans,

Tax Exempt and Government Entities Division. Mr. Montanaro may be e-mailed at RetirementPlanQuestions@irs.gov.

Table I
 Monthly Yield Curve for July 2012
 Derived from July 2012 Data

<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>
0.5	0.39	20.5	4.37	40.5	4.51	60.5	4.57	80.5	4.60
1.0	0.67	21.0	4.38	41.0	4.51	61.0	4.57	81.0	4.60
1.5	0.91	21.5	4.38	41.5	4.52	61.5	4.57	81.5	4.60
2.0	1.10	22.0	4.39	42.0	4.52	62.0	4.58	82.0	4.60
2.5	1.24	22.5	4.39	42.5	4.52	62.5	4.58	82.5	4.60
3.0	1.36	23.0	4.39	43.0	4.52	63.0	4.58	83.0	4.61
3.5	1.46	23.5	4.40	43.5	4.53	63.5	4.58	83.5	4.61
4.0	1.57	24.0	4.40	44.0	4.53	64.0	4.58	84.0	4.61
4.5	1.70	24.5	4.40	44.5	4.53	64.5	4.58	84.5	4.61
5.0	1.83	25.0	4.41	45.0	4.53	65.0	4.58	85.0	4.61
5.5	1.98	25.5	4.41	45.5	4.53	65.5	4.58	85.5	4.61
6.0	2.15	26.0	4.42	46.0	4.53	66.0	4.58	86.0	4.61
6.5	2.32	26.5	4.42	46.5	4.54	66.5	4.58	86.5	4.61
7.0	2.49	27.0	4.42	47.0	4.54	67.0	4.58	87.0	4.61
7.5	2.67	27.5	4.43	47.5	4.54	67.5	4.59	87.5	4.61
8.0	2.84	28.0	4.43	48.0	4.54	68.0	4.59	88.0	4.61
8.5	3.01	28.5	4.44	48.5	4.54	68.5	4.59	88.5	4.61
9.0	3.16	29.0	4.44	49.0	4.54	69.0	4.59	89.0	4.61
9.5	3.31	29.5	4.45	49.5	4.55	69.5	4.59	89.5	4.61
10.0	3.44	30.0	4.45	50.0	4.55	70.0	4.59	90.0	4.61
10.5	3.56	30.5	4.45	50.5	4.55	70.5	4.59	90.5	4.61
11.0	3.67	31.0	4.46	51.0	4.55	71.0	4.59	91.0	4.61
11.5	3.77	31.5	4.46	51.5	4.55	71.5	4.59	91.5	4.61
12.0	3.86	32.0	4.46	52.0	4.55	72.0	4.59	92.0	4.61
12.5	3.94	32.5	4.47	52.5	4.55	72.5	4.59	92.5	4.61
13.0	4.01	33.0	4.47	53.0	4.56	73.0	4.59	93.0	4.62
13.5	4.07	33.5	4.47	53.5	4.56	73.5	4.59	93.5	4.62
14.0	4.12	34.0	4.48	54.0	4.56	74.0	4.59	94.0	4.62
14.5	4.17	34.5	4.48	54.5	4.56	74.5	4.60	94.5	4.62
15.0	4.21	35.0	4.48	55.0	4.56	75.0	4.60	95.0	4.62
15.5	4.24	35.5	4.49	55.5	4.56	75.5	4.60	95.5	4.62
16.0	4.26	36.0	4.49	56.0	4.56	76.0	4.60	96.0	4.62
16.5	4.28	36.5	4.49	56.5	4.56	76.5	4.60	96.5	4.62
17.0	4.30	37.0	4.50	57.0	4.57	77.0	4.60	97.0	4.62
17.5	4.32	37.5	4.50	57.5	4.57	77.5	4.60	97.5	4.62
18.0	4.33	38.0	4.50	58.0	4.57	78.0	4.60	98.0	4.62
18.5	4.34	38.5	4.50	58.5	4.57	78.5	4.60	98.5	4.62
19.0	4.35	39.0	4.51	59.0	4.57	79.0	4.60	99.0	4.62
19.5	4.36	39.5	4.51	59.5	4.57	79.5	4.60	99.5	4.62
20.0	4.37	40.0	4.51	60.0	4.57	80.0	4.60	100.0	4.62

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

Utility Allowances Submetering

REG-136491-09

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations that amend the utility allowance regulations concerning the low-income housing tax credit. The proposed regulations update the utility allowance regulations to clarify that utility costs paid by a tenant based on actual consumption in a submetered rent-restricted unit are treated as paid by the tenant directly to the utility company. The proposed regulations affect owners of low-income housing projects that claim the credit, the tenants in those low-income housing projects, and the State and local housing credit agencies that administer the credit. This document also contains a notice of a public hearing on these proposed regulations.

DATES: Comments must be received by October 9, 2012. Outlines of topics to be discussed at the public hearing scheduled for Tuesday, November 27, 2012, must be received by October 9, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-136491-09), room 5205, Internal Revenue Service, PO Box 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-136491-09), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically, via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-136491-09). The public hearing will be held in the Auditorium of the Internal Revenue Building, 1111

Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, David Selig, at (202) 622-3040; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, Oluwafunmilayo Taylor, at (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) relating to the low-income housing credit under section 42 of the Internal Revenue Code. Section 42(a) provides that, for purposes of section 38, the amount of the low-income housing credit determined under section 42 for any taxable year in the credit period is an amount equal to the applicable percentage of the qualified basis of each qualified low-income building. A qualified low-income building is defined in section 42(c)(2) as any building that is part of a qualified low-income housing project at all times during a statutorily prescribed period.

A qualified low-income housing project is defined in section 42(g)(1) as any project for residential rental housing if the project meets one of the following tests elected by the taxpayer: (1) At least 20 percent of the residential units in the project are rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income; or (2) at least 40 percent of the residential units in the project are rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income. If a taxpayer does not meet the elected test, the project is not eligible for the section 42 credit.

To qualify as a rent-restricted unit within the meaning of section 42(g), the gross rent for the unit must not exceed 30 percent of the applicable income limitation. If any utilities are paid directly by the tenant, section 42(g)(2)(B)(ii) requires the inclusion in gross rent of a utility allowance determined by the Secretary, after

taking into account the procedures under section 8 of the United States Housing Act of 1937.

On March 3, 1994, the Treasury Department and the IRS published in the **Federal Register** a Treasury Decision containing final regulations under section 42 (59 FR 10067). Among these regulations was §1.42-10, which provided guidance regarding the proper role of utility allowances in determining gross rent under section 42(g)(2)(B)(i) for rent-restricted units. On July 29, 2008, the Treasury Department and the IRS published in the **Federal Register** amendments to §1.42-10 (73 FR 43863).

If gross rent includes a utility allowance, §1.42-10(b), as amended, provides rules for determining the applicable utility allowance depending upon whether (1) the building receives rental assistance from the Rural Housing Service (RHS) ("RHS-assisted building"), (2) the building has any tenant that receives RHS rental assistance payments ("RHS tenant assistance"), (3) the rents and utility allowances of the building are reviewed by the Department of Housing and Urban Development (HUD) ("HUD-regulated building"), or (4) the building is not described in (1), (2), or (3) ("other building"). For an RHS-assisted building and a building with RHS tenant assistance, §1.42-10(b)(1) and (b)(2) provides that the applicable utility allowance is the applicable RHS utility allowance. For a HUD-regulated building, §1.42-10(b)(3) provides that the applicable utility allowance is the applicable HUD utility allowance. In other buildings, for all rent-restricted units occupied by tenants receiving HUD tenant assistance, §1.42-10(b)(4)(i) provides that the applicable utility allowance is the applicable Public Housing Authority (PHA) utility allowance established for the Section 8 Existing Housing Program. For all other tenants in rent-restricted units in other buildings, §1.42-10(b)(4)(ii) provides that the applicable utility allowance is the applicable PHA utility allowance under §1.42-10(b)(4)(ii)(A), a local utility company estimate under §1.42-10(b)(4)(ii)(B), an estimate from the State or local housing credit agency that has jurisdiction over the

building under §1.42-10(b)(4)(ii)(C), the HUD Utility Schedule Model under §1.42-10(b)(4)(ii)(D), or an energy consumption model under §1.42-10(b)(4)(ii)(E).

After the 2008 amendment of the 1994 final regulations, commentators requested clarification about how the regulations apply to submetering arrangements. Some buildings in qualified low-income housing projects are submetered. Submetering measures tenants' actual utility consumption, and tenants pay for the utilities they use. A submetering system typically includes a master meter, which is owned or controlled by the utility company, with overall utility consumption billed to the building owner. In a submetered system, building owners (or their agents) use unit-based meters to measure utility consumption and prepare a bill for each residential unit based on actual consumption. The building owners (or their agents) retain records of utility consumption in each unit, and tenants receive documentation of utility costs as specified in the lease.

Notice 2009-44, 2009-21 I.R.B. 1037 (see §601.601(d)(2)(ii)(b)) was issued to clarify that, for purposes of §1.42-10(a), utility costs paid by a tenant based on actual consumption in a submetered rent-restricted unit are treated as paid by the tenant directly to the utility company, and not by or through the owner of the building. Notice 2009-44 provides that, for RHS-assisted buildings under §1.42-10(b)(1), buildings with RHS tenant assistance under §1.42-10(b)(2), HUD-regulated buildings under §1.42-10(b)(3), and rent-restricted units in other buildings occupied by tenants receiving HUD rental assistance under §1.42-10(b)(4)(i), the applicable RHS or HUD rules apply.

For all other tenants in rent-restricted units in other buildings under §1.42-10(b)(4)(ii), Notice 2009-44 provides that the utility rates charged to tenants in each submetered rent-restricted unit must be limited to the utility company rates incurred by the building owners (or their agents). Notice 2009-44 also provides that, if building owners (or their agents) charge tenants a reasonable fee for the administrative costs of submetering, then the fee is not considered gross rent under section 42(g)(2). The fee must not exceed an aggregate amount per unit of 5 dollars per month unless State law pro-

vides otherwise. If the costs for sewerage are based on the tenants' actual water consumption determined with a submetering system and the sewerage costs are on a combined water and sewerage bill, then the tenants' sewerage costs are treated as paid directly by the tenants for purposes of the utility allowances regulations.

Even though Notice 2009-44 provides that the fee for the administrative costs of submetering is not considered gross rent under section 42(g)(2), the fee must be included in the gross income of the building owner under section 61.

Notice 2009-44 states that the utility allowance regulations would be amended to incorporate the guidance set forth in the notice and requested comments on the provisions of the notice and issues resulting from the notice. Comments were received in response to Notice 2009-44, and the comments were taken into consideration in developing these proposed regulations. The proposed regulations generally incorporate the guidance in Notice 2009-44 with additional modifications as explained in more detail below. Additional comments are invited on the issues discussed in this preamble or on other issues related to utility submetering. See §601.601(d)(2)(ii)(b).

Summary of Comments on Notice 2009-44 and Explanation of Provisions

A commentator requested that ratio utility billing systems (commonly known as RUBS) be treated like submetering. Unlike submetering, RUBS use a formula that allocates a property's utility bill among its units based on the units' relative floor space, number of occupants, or some other quantitative measure, but not actual use by the unit. The IRS and the Treasury Department believe it is appropriate to treat a tenant's payment of a utility through a building owner (or its agent) as a direct payment to the utility only to the extent the tenant's utility cost is based on the unit's actual consumption. Therefore, the proposed regulations do not permit utility allowances for RUBS.

A commentator recommended that the regulations exclude or restrict "quasi-usage" allocation systems in buildings with a master chiller or boiler where the tenant's use of utilities is partly determined on an assumption not relating to actual use (such

as the number of times a tenant turns on the system). Under Notice 2009-44 and these proposed regulations, if a submetering arrangement is not based on a unit's actual consumption of a utility, then the gross rent for that unit cannot include a utility allowance for that particular utility.

A commentator inquired as to the format and length of time records of resident utility consumption should be maintained. Existing rules address record retention. Section 1.42-10(d) provides that the building owner must retain any utility consumption estimates and supporting data as part of the taxpayer's records for purposes of §1.6001-1(a).

A commentator suggested that the regulations should limit use of a PHA utility allowance for non-Section 8 units that are submetered. The commentator reasoned that the PHA utility allowance does not reflect actual utility consumption in the building, resulting in a low allowance in some cases. In the past, other commentators have stated that PHA utility allowances generally are too high because they are based on older buildings with higher utility costs compared to newly constructed or renovated low-income housing projects. The IRS and the Treasury Department have determined that, if building owners do not wish to expend resources to obtain utility allowances under one of the methods in §1.42-10(b)(4)(ii)(B), (b)(4)(ii)(C), (b)(4)(ii)(D), or (b)(4)(ii)(E), it is reasonable that they be permitted to use PHA utility allowances for units not subject to §1.42-10(b)(1), (b)(2), (b)(3), or (b)(4)(i).

Commentators also requested clarification on other rules contained in the §1.42-10 final regulations. A commentator asked whether State housing agencies are allowed to disapprove of certain methods for determining utility allowances listed in §1.42-10(b)(4)(ii). Existing rules address the role of State housing agencies in determining utility allowances. Thus, depending on the particular method under §1.42-10(b)(4)(ii), State housing agencies may require certain information before a method can be used, or they may disapprove use of a method. For example, §1.42-10(b)(4)(ii)(C) provides that a building owner may obtain a utility estimate for each unit in the building from the agency that has jurisdiction over the building "provided the Agency agrees to pro-

vide the estimate.” That is, State housing agencies are not required to provide a utility estimate under §1.42–10(b)(4)(ii)(C). Also, §1.42–10(b)(4)(ii)(E) provides that, under the energy consumption model, utility consumption estimates must be calculated by “either a properly licensed engineer or a qualified professional approved by the Agency that has jurisdiction over the building.” Thus, State housing agencies are not required to provide the approval described in §1.42–10(b)(4)(ii)(E). Comments are requested on whether approval by the agency with jurisdiction over the building should be necessary for both properly licensed engineers and qualified professionals or only for qualified professionals that are not properly licensed engineers.

A commentator asserted that there is confusion concerning mixed-financed properties, which may be subject to multiple Federal programs using different utility allowances. The commentator requested clarification on which methods may be used in buildings with multiple programs. If a building receives assistance from RHS or if any tenant in a building receives RHS rental assistance payments, then the applicable utility allowance for all rent-restricted units in the building is the utility allowance determined under the method prescribed by the RHS for the building (whether or not the building or its tenants receive other state or federal assistance). If neither a building nor any tenant in the building receives RHS housing assistance and the building is a HUD-regulated building, then the applicable utility allowance for all rent-restricted units in the building is the applicable HUD utility allowance. If a building is neither an RHS-assisted nor a HUD-regulated building, no tenant in the building receives RHS tenant assistance, and tenants in a rent-restricted unit in the building receive HUD rental assistance payments, then the applicable utility allowance for that unit is the applicable PHA utility allowance. For all other rent-restricted units not subject to any of the methods in §1.42–10(b)(1), (b)(2), (b)(3), or (b)(4)(i), the building owner may use the applicable PHA utility allowance or one of the building methods in §1.42–10(b)(4)(ii)(B), (b)(4)(ii)(C), (b)(4)(ii)(D), or (b)(4)(ii)(E) for calculating utility allowances for all rent-restricted units in the building.

The proposed regulations modify the requirements in Notice 2009–44 in the following manner: First, if two or more utilities such as electricity and water are treated as submetered under the proposed regulations, then the building owner (or its agent or other party acting on behalf of the building owner) must separately state the amount billed to the tenants for each submetered utility.

Second, if a building owner imposes an administrative fee on a unit’s tenants for the costs of administering a submetering arrangement, then the fee generally is not included in gross rent for purposes of section 42(g)(2). The exclusion from gross rent does not apply to any amount by which the aggregate monthly fee for all of a unit’s utilities under one or more submetering arrangements exceeds the lesser of the following: (A) Five dollars per month or (B) The owner’s actual monthly costs paid or incurred for administering the arrangement (whether internal costs or amounts paid to third parties).

For this purpose, the owner’s actual costs include internal costs (such as amounts paid to employees) and external costs (such as amounts paid to third-party service providers) for administering the submetering arrangement, as well as that month’s portion of costs that relate to the submetering equipment and that are not included in the building’s eligible basis under section 42(d). The goal of these restrictions is to disallow any exclusion from gross rent beyond the extent to which a fee represents a reasonable reimbursement to the owner for the owner’s otherwise unreimbursed actual costs for administering the submetering arrangement. The IRS and the Treasury Department request comments on whether or not rules are needed to address the building owner’s determination of actual costs when a utility company administers a submetering arrangement on behalf of the building owner and includes in the utility rate an amount for its services that is not separately stated.

Third, the proposed regulations remove the requirement in Notice 2009–44 that the administrative fee must not exceed an aggregate amount per unit of 5 dollars per month (unless State law provides otherwise). Instead of that prohibition, the proposed regulations merely require inclusion in gross rent for any amounts charged in

excess of the lesser of five dollars or actual administrative costs.

The proposed regulations also amend §1.42–10(b)(4)(ii)(A). Section 1.42–10(b)(4)(i) provides rules for determining the utility allowance of rent-restricted units occupied by tenants receiving HUD rental assistance. Section 1.42–10(b)(4)(ii)(A) provides that, if none of the rules of §1.42–10(b)(1), (b)(2), (b)(3), and (b)(4)(i) apply to any rent-restricted units in a building, then the utility allowance for the units may be determined under §1.42–10(b)(4)(ii)(B), (b)(4)(ii)(C), (b)(4)(ii)(D), or (b)(4)(ii)(E). Some commentators have interpreted §1.42–10(b)(4)(ii)(A) to mean that, if a tenant receiving HUD rental assistance occupies a rent-restricted unit in a building, then the methods described in §1.42–10(b)(4)(ii)(B), (b)(4)(ii)(C), (b)(4)(ii)(D), and (b)(4)(ii)(E) are not available for determining utility allowances for any other rent-restricted units in the same building. This result was not intended. The proposed regulations amend §1.42–10(b)(4)(ii)(A) to clarify that for all rent-restricted units not subject to the rules of §1.42–10(b)(1), (b)(2), (b)(3), and (b)(4)(i) for determining the appropriate utility allowance for a rent-restricted unit, the owner may choose one of the options under §1.42–10(b)(4)(ii)(B), (b)(4)(ii)(C), (b)(4)(ii)(D), and (b)(4)(ii)(E) or the applicable PHA utility allowance for determining the utility allowance for those rent-restricted units.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. 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 this regulation, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been 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 comments that are submitted timely to the IRS prescribed in this preamble under the "Addresses" heading. The IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request.

A public hearing has been scheduled for Tuesday, November 27, 2012, at 10 a.m. in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by October 9, 2012. 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 David Selig, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and the Treasury Department participated in their development.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.42–10 is amended by:

1. Adding a sentence after the first sentence of paragraph (a).
2. Revising the first sentence of paragraph (b)(4)(ii)(A).
3. Adding paragraph (e).

The additions and revisions read as follows:

§1.42–10 Utility allowances.

(a) * * * For purposes of the preceding sentence, if the cost of a particular utility for a residential unit is paid pursuant to an actual-consumption submetering arrangement within the meaning of paragraph (e)(1) of this section, then that cost is treated as being paid directly by the tenant(s) and not by or through the owner of the building. * * *

* * * * *

(b) * * *

(4) * * *

(ii) * * *

(A) * * * If none of the rules of paragraphs (b)(1), (b)(2), (b)(3), and (b)(4)(i) of this section apply to determine the appropriate utility allowance for a rent-restricted unit, then the appropriate utility allowance for the unit is the applicable PHA utility allowance. * * *

* * * * *

(e) *Actual-consumption submetering arrangements*—(1) *Definition*. For purposes of this section, an actual-consumption submetering arrangement for a utility in a residential unit possesses all of the following attributes:

(i) The building owner (or its agent or other party acting on behalf of the building owner) pays the utility provider for the particular utility consumed by the tenants in the unit;

(ii) The tenants in the unit are billed for, and pay the building owner (or its agent or other party acting on behalf of the building

owner) for, the unit's consumption of the particular utility;

(iii) The billed amount reflects the unit's actual consumption of the particular utility. In the case of sewerage charges, however, if the unit's sewerage charges are combined on the bill with water charges and the sewerage charges are determined based on the actual water consumption of the unit, then the bill is treated as reflecting the actual sewerage consumption of the unit; and

(iv) The utility rate charged to the tenants of the unit does not exceed the utility company rate incurred by the building owner for that particular utility.

(2) *Special rules*—(i) *Fees*. If the owner charges a unit's tenants an administrative fee for the owner's actual monthly costs of administering an actual-consumption submetering arrangement, then the fee is not considered gross rent for purposes of section 42(g)(2). The preceding sentence, however, does not apply unless the fee is computed in the same manner for every unit receiving the same submetered utility service, nor does it apply to any amount by which the aggregate monthly fee or fees for all of the unit's utilities under one or more actual-consumption submetering arrangements exceed the lesser of—

(A) Five dollars per month; or

(B) The owner's actual monthly costs paid or incurred for administering the arrangement.

(ii) *Actual costs*. For purposes of paragraph (e)(2)(i)(B) of this section, the owner's actual costs of administering an actual-consumption submetering arrangement include amounts paid to employees, independent contractors, and service providers for administering the submetering arrangement and allocable costs that relate to submetering equipment and that are not included in the building's eligible basis under section 42(d).

Par. 3. Section 1.42–12 is amended by adding paragraph (a)(5) to read as follows:

§1.42–12 Effective dates and transitional rules.

(a) * * *

(5) *Submetered buildings*. The second sentence in §1.42–10(a), the first sentence in §1.42–10(b)(4)(ii)(A), and §1.42–10(e) apply to utility allowances determined on or after the date the final

regulations are published in the **Federal Register**. Until the date the final regulations are published in the **Federal Register**, taxpayers may rely on Notice 2009-44, 2009-21 I.R.B. 1037; May 26, 2009 (see §601.601(d)(2)(ii)(b) of this chapter) for taxable years beginning on or after July 29, 2008.

* * * * *

Steven T. Miller,
*Deputy Commissioner for
Services and Enforcement.*

(Filed by the Office of the Federal Register on August 6, 2012, 8:45 a.m., and published in the issue of the Federal Register for August 7, 2012, 77 F.R. 46987)

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2012-32

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer

qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on August 27, 2012, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Christian Credit Outreach, Inc.
Carlsbad, CA
ECM-1, Inc.
Sulphur, LA
Friends of Fiji
Danville, CA

Headwaters Ministries, Inc.
Fort Mill, SC
Kids Educational Development
Scholarship, Inc.
Los Gatos, CA
South Plains Volunteer Services, Inc.
Lubbock, TX
United States Navy Veteran Association
Minnesota Chapter
St. Paul, MN
United States Navy Veteran Association
Georgia Chapter
Tampa, FL
United States Navy Veteran Association
Kansas Chapter
Washington, DC
United States Navy Veteran Association
New Hampshire Chapter
Washington, DC
United States Navy Veteran Association
New Mexico Chapter
Washington, DC
United States Navy Veteran Association
Rhode Island Chapter
Washington, DC
United States Navy Veteran Association
Washington, DC
United States Navy Veteran Association
Arkansas Chapter
Washington, DC
W.E.B. Dubois Community Development
Corporation
Wake Forest, NC
Women of Distinction
Dallas, TX

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2012-33

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and appraisers. These individuals are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Part 10, and which are published in pamphlet form as Treasury Department Circular No. 230.

The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations.

The disciplinary sanctions to be imposed for violation of the regulations are:

Disbarred from practice before the IRS—An individual who is disbarred is not eligible to represent taxpayers before the IRS.

Suspended from practice before the IRS—An individual who is suspended is

not eligible to represent taxpayers before the IRS during the term of the suspension.

Censured in practice before the IRS—Censure is a public reprimand. Unlike disbarment or suspension, censure does not affect an individual's eligibility to represent taxpayers before the IRS, but OPR may subject the individual's future representations to conditions designed to promote high standards of conduct.

Monetary penalty—A monetary penalty may be imposed on an individual

who engages in conduct subject to sanction or on an employer, firm, or entity if the individual was acting on its behalf and if it knew, or reasonably should have known, of the individual's conduct.

Disqualification of appraiser—An appraiser who is disqualified is barred from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or the IRS.

Under the regulations, attorneys, certified public accountants, enrolled agents, enrolled actuaries, and enrolled retirement plan agents may not assist, or accept assistance from, individuals who are suspended or disbarred with respect to matters constituting practice (*i.e.*, representation) before the IRS, and they may not aid or abet suspended or disbarred individuals to practice before the IRS.

Disciplinary sanctions are described in these terms:

Disbarred by decision after hearing, Suspended by decision after hearing, Censured by decision after hearing, Monetary penalty imposed after hearing, and Disqualified after hearing—An administrative law judge (ALJ) conducted an evidentiary hearing upon OPR's complaint alleging violation of the regulations and issued a decision imposing one of these sanctions. After 30 days from the issuance of the decision, in the absence of an appeal, the ALJ's decision became the final agency decision.

Disbarred by default decision, Suspended by default decision, Censured by

default decision, Monetary penalty imposed by default decision, and Disqualified by default decision—An ALJ, after finding that no answer to OPR's complaint had been filed, granted OPR's motion for a default judgment and issued a decision imposing one of these sanctions.

Disbarment by decision on appeal, Suspended by decision on appeal, Censured by decision on appeal, Monetary penalty imposed by decision on appeal, and Disqualified by decision on appeal—The decision of the ALJ was appealed to the agency appeal authority, acting as the delegate of the Secretary of the Treasury, and the appeal authority issued a decision imposing one of these sanctions.

Disbarred by consent, Suspended by consent, Censured by consent, Monetary penalty imposed by consent, and Disqualified by consent—In lieu of a disciplinary proceeding being instituted or continued, an individual offered a consent to one of these sanctions and OPR accepted the offer. Typically, an offer of consent will provide for: suspension for an indefinite term; conditions that the individual must observe during the suspension; and the individual's opportunity, after a stated number of months, to file with OPR a petition for reinstatement affirming compliance with the terms of the consent and affirming current eligibility to practice (*i.e.*, an active professional license or active enrollment status). An enrolled agent or an enrolled retirement

plan agent may also offer to resign in order to avoid a disciplinary proceeding.

Suspended by decision in expedited proceeding, Suspended by default decision in expedited proceeding, Suspended by consent in expedited proceeding—OPR instituted an expedited proceeding for suspension (based on certain limited grounds, including loss of a professional license and criminal convictions).

OPR has authority to disclose the grounds for disciplinary sanctions in these situations: (1) an ALJ or the Secretary's delegate on appeal has issued a decision on or after September 26, 2007, which was the effective date of amendments to the regulations that permit making such decisions publicly available; (2) the individual has settled a disciplinary case by signing OPR's "consent to sanction" form, which requires consenting individuals to admit to one or more violations of the regulations and to consent to the disclosure of the individual's own return information related to the admitted violations (for example, failure to file Federal income tax returns); or (3) OPR has issued a decision in an expedited proceeding for suspension.

Announcements of disciplinary sanctions appear in the Internal Revenue Bulletin at the earliest practicable date. The sanctions announced below are alphabetized first by the names of states and second by the last names of individuals. Unless otherwise indicated, section numbers (*e.g.*, § 10.51) refer to the regulations.

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
California				
La Mesa	Lewis, Charles D.	Enrolled Agent	Suspended by decision in expedited proceeding under § 10.82 (convicted under CA law of theft or embezzlement from elderly person)	Indefinite from May 15, 2012

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Connecticut				
Wallingford	Ganias, Stavros M.	Enrolled Agent	Suspended by decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7201, attempt to evade or defeat tax and tax evasion)	Indefinite from June 1, 2012
Florida				
Odessa	Osimen, Christopher E.	CPA	Suspended by decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1341, mail fraud and 26 U.S.C. § 7201, tax evasion)	Indefinite from May 29, 2012
Kentucky				
Lexington	Rogers, Mary C.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1349, conspiracy to commit bank and mail fraud and 26 U.S.C. § 7206(1), filing a false income tax return)	Indefinite from May 30, 2012
Louisiana				
Metairie	Miller, Bruce A.	Attorney	Censured by consent for admitted violation of § 10.29 (conflict of interest)	June 4, 2012
Slidell	Ohle III., John B.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 371, conspiracy to defraud the United States and to commit wire fraud and 26 U.S.C. § 7201, tax evasion)	Indefinite from May 15, 2012
Baton Rouge	Zinna, Randy P.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1341, mail fraud, and permanent resignation of attorney license)	Indefinite from May 15, 2012

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Montana				
Kalispell	Benavides, Al	CPA	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7206(2), aid or assist false or fraudulent document)	Indefinite from June 13, 2012
New York				
Brooklyn	O'Brien, John J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7203, willful failure to file U.S. individual income tax returns and willful failure to pay tax)	Indefinite from May 31, 2012
	Ohle III., John B., See Louisiana			
Ohio				
	Rogers, Mary C. See Kentucky			
Oregon				
	Christensen, David O., See Washington			
Washington				
Vancouver	Christensen, David O.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from May 18, 2012
Port Orchard	Vazquez, Sonya M.	CPA		Reinstated to practice before the IRS, May 10, 2012
Spokane	Wasson, Curtis G.	Enrolled Agent	Suspended by default decision in expedited proceeding under § 10.82 (convicted under Washington law state of first degree theft)	Indefinite from May 18, 2012

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 2012–27 through 2012–35

Announcements:

2012-26, 2012-27 I.R.B. 8
2012-27, 2012-27 I.R.B. 10
2012-28, 2012-27 I.R.B. 10
2012-30, 2012-34 I.R.B. 314
2012-31, 2012-34 I.R.B. 315
2012-32, 2012-35 I.R.B. 325
2012-33, 2012-35 I.R.B. 325

Notices:

2012-39, 2012-31 I.R.B. 95
2012-44, 2012-28 I.R.B. 45
2012-45, 2012-29 I.R.B. 59
2012-46, 2012-30 I.R.B. 86
2012-47, 2012-31 I.R.B. 98
2012-48, 2012-31 I.R.B. 102
2012-49, 2012-31 I.R.B. 119
2012-50, 2012-31 I.R.B. 121
2012-51, 2012-33 I.R.B. 150
2012-52, 2012-35 I.R.B. 317
2012-53, 2012-35 I.R.B. 317

Proposed Regulations:

REG-101812-07, 2012-34 I.R.B. 311
REG-134042-07, 2012-27 I.R.B. 5
REG-153627-08, 2012-29 I.R.B. 60
REG-136491-09, 2012-35 I.R.B. 321
REG-125570-11, 2012-30 I.R.B. 93
REG-130266-11, 2012-32 I.R.B. 126
REG-134935-11, 2012-29 I.R.B. 64
REG-141832-11, 2012-28 I.R.B. 54
REG-107889-12, 2012-28 I.R.B. 53
REG-113738-12, 2012-29 I.R.B. 66

Revenue Procedures:

2012-28, 2012-27 I.R.B. 4
2012-29, 2012-28 I.R.B. 49
2012-30, 2012-33 I.R.B. 165
2012-31, 2012-33 I.R.B. 256
2012-32, 2012-34 I.R.B. 267
2012-33, 2012-34 I.R.B. 272
2012-34, 2012-34 I.R.B. 280

Revenue Rulings:

2012-19, 2012-28 I.R.B. 16
2012-20, 2012-27 I.R.B. 1
2012-21, 2012-32 I.R.B. 123

Treasury Decisions:

9591, 2012-28 I.R.B. 32
9592, 2012-28 I.R.B. 41
9593, 2012-28 I.R.B. 17

Treasury Decisions— Continued:

9594, 2012-29 I.R.B. 57
9595, 2012-30 I.R.B. 71
9596, 2012-30 I.R.B. 84
9597, 2012-34 I.R.B. 258

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2012–1 through 2012–26 is in Internal Revenue Bulletin 2012–26, dated June 25, 2012.

Finding List of Current Actions on Previously Published Items¹

Bulletins 2012–27 through 2012–35

Announcements:

83-196

Superseded by

Rev. Proc. 2012-31, 2012-33 I.R.B. 256

85-141

Superseded by

Rev. Proc. 2012-31, 2012-33 I.R.B. 256

Notices:

2009-24

Amplified by

Notice 2012-51, 2012-33 I.R.B. 150

2012-51

Amplified by

Notice 2012-51, 2012-33 I.R.B. 150

Proposed Regulations:

REG-100276-97

Withdrawn by

Ann. 2012-27, 2012-27 I.R.B. 10

Revenue Procedures:

95-15

Superseded by

Rev. Proc. 2012-31, 2012-33 I.R.B. 256

98-32

Modified and superseded by

Rev. Proc. 2012-33, 2012-34 I.R.B. 272

2007-38

Modified and superseded by

Rev. Proc. 2012-32, 2012-34 I.R.B. 267

2011-40

Superseded by

Rev. Proc. 2012-30, 2012-33 I.R.B. 165

¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2012–1 through 2012–26 is in Internal Revenue Bulletin 2012–26, dated June 25, 2012.

INDEX

Internal Revenue Bulletins 2012–27 through 2012–35

The abbreviation and number in parenthesis following the index entry refer to the specific item; numbers in roman and italic type following the parentheses refer to the Internal Revenue Bulletin in which the item may be found and the page number on which it appears.

Key to Abbreviations:

Ann	Announcement
CD	Court Decision
DO	Delegation Order
EO	Executive Order
PL	Public Law
PTE	Prohibited Transaction Exemption
RP	Revenue Procedure
RR	Revenue Ruling
SPR	Statement of Procedural Rules
TC	Tax Convention
TD	Treasury Decision
TDO	Treasury Department Order

EMPLOYEE PLANS

Amendment of prohibited payment option under defined single-employer defined benefit plan of plan sponsor in bankruptcy (REG-113738-12) 29, 66

Application of section 162(m)(4)(C) to dividends and dividend equivalents (RR 19) 28, 16

Election to include in gross income in year of transfer (RP 29) 28, 49

Full funding limitations, weighted average interest rates, segment rates for:

July 1, 2012 (Notice 47) 31, 98

August 1, 2012 (Notice 53) 35, 317

Proposed Regulations:

26 CFR 1.411(d)-4, amended; amendment of prohibited payment option under defined single-employer defined benefit plan of plan sponsor in bankruptcy (REG-113738-12) 29, 66

26 CFR 1.6081-11, amended; 301.6057-1, amended; reporting and notice requirements for deferred vested benefits under section 6057 (REG-153627-08) 29, 60

Reporting and notice requirements for deferred vested benefits under section 6057 (REG-153627-08) 29, 60

Underfunded plans, notice requirements (Notice 46) 30, 86

EMPLOYMENT TAX

Background file document requests, processing fees, update to Rev. Proc. 95-15 (RP 31) 33, 256

Revisions to Rev. Proc. 98-32 (RP 33) 34, 272

Third party payer issues and reporting agents, revisions to Rev. Proc. 2007-38 (RP 32) 34, 267

ESTATE TAX

Background file document requests, processing fees, update to Rev. Proc. 95-15 (RP 31) 33, 256

Portability of a deceased spousal unused exclusion amount (TD 9593) 28, 17; (REG-141832-11) 28, 54

Proposed Regulations:

26 CFR 20.2001-2, added; 20.2010-0, thru -3, added; 25 CFR 25.2505-0, thru -2, added; portability of a deceased spousal unused exclusion amount (REG-141832-11) 28, 54

Regulations:

26 CFR 20.2001-2T, added; 20.2010-0T, thru -2T, added; 25.2505-0T, thru -3T, added; 602.101, amended; portability of a deceased spousal unused exclusion amount (TD 9593) 28, 17

EXCISE TAX

Background file document requests, processing fees, update to Rev. Proc. 95-15 (RP 31) 33, 256

Disregarded entities and the indoor tanning services excise tax (TD 9596) 30, 84; (REG-125570-11) 30, 93

Proposed Regulations:

26 CFR 1.1361-4, amended; 301.7701-2, amended; disregarded entities and the indoor tanning services excise tax (REG-125570-11) 30, 93

Regulations:

26 CFR 1.1361-4, amended; 1.1361-4T, added; 301.7701-2T, added; disregarded entities and the indoor tanning services excise tax (TD 9596) 30, 84

EXEMPT ORGANIZATIONS

Additional requirements for charitable hospitals (REG-130266-11) 32, 126

Background file document requests, processing fees, update to Rev. Proc. 95-15 (RP 31) 33, 256

Proposed Regulations:

26 CFR 1.501(r)-0 thru -7, added; additional requirements for charitable hospitals (REG-130266-11) 32, 126

Revocations (Ann 32) 35, 325

GIFT TAX

Background file document requests, processing fees, update to Rev. Proc. 95-15 (RP 31) 33, 256

Portability of a deceased spousal unused exclusion amount (TD 9593) 28, 17; (REG-141832-11) 28, 54

Proposed Regulations:

26 CFR 20.2001-2, added; 20.2010-0, thru -3, added; 25 CFR 25.2505-0, thru -2, added; portability of a deceased spousal unused exclusion amount (REG-141832-11) 28, 54

GIFT TAX—Cont.

Regulations:

- 26 CFR 20.2001–2T, added; 20.2010–0T, thru –2T, added; 25.2505–0T, thru –3T, added; 602.101, amended; portability of a deceased spousal unused exclusion amount (TD 9593) 28, 17

INCOME TAX

Application of section 162(m)(4)(C) to dividends and dividend equivalents (RR 19) 28, 16

Background file document requests, processing fees, update to Rev. Proc. 95–15 (RP 31) 33, 256

Basis of indebtedness of S corporations to their shareholders (REG–134042–07) 27, 5

Bonds:

- Qualified energy conversation bonds (Notice 44) 28, 45
- Tribal economic development bonds (Notice 48) 31, 102

Charitable contribution deduction (Notice 52) 35, 317

Corporations, regulations under section 367(d) applicable to certain outbound asset reorganizations (Notice 39) 31, 95

Credits:

Low-income housing credit:

- Utility allowances submetering (REG–136491–09) 35, 321

Qualifying advance coal project section 48A credit (Notice 51) 33, 150

Deductions for entertainment use of business aircraft (TD 9597) 34, 258

Disciplinary actions involving attorneys, certified public accounts, enrolled agents, and enrolled actuaries (Ann 28) 27, 10; (Ann 33) 35, 325

Election to include in gross income in year of transfer (RP 29) 28, 49

Financial asset securitization investment trusts (Ann 27) 27, 10

Forms 1097, 1098, 3921, 3922, 5498, 8935, and W-2G, requirements for filing electronically (RP 30) 33, 165

Interest:

Investment:

- Federal short-term, mid-term, and long-term rates for:
 - July (RR 20) 27, 1
 - August 2012 (RR 21) 32, 123

Marginal production rates, 2012 (Notice 50) 31, 121

Modification to consolidated return regulation permitting an election to treat a liquidation of a target, followed by a recontribution to a new target, as a cross-chain reorganization (TD 9594) 29, 57

Overall foreign loss recapture on property dispositions (REG–134935–11) 29, 64

Proposed Regulations:

- 26 CFR 1.42–10, –12, amended; utility allowances submetering (REG–136491–09) 35, 321
- 26 CFR 1.108–7, amended; 1.366–0, amended; 1.1366–2, –5, amended; 1.1367–1(h), amended; 1.1367–3, amended; basis of indebtedness of S corporations to their shareholders (REG–134042–07) 27, 5

INCOME TAX—Cont.

26 CFR 1.274–2, amended; 1.274–8, revised; reimbursed entertainment expenses (REG-101812–07) 34, 311

26 CFR 1.904–4, amended; 1.904(g)–3, amended; overall foreign loss recapture on property dispositions (REG–134935–11) 29, 64

26 CFR 1.7874–3, added; substantial business activities (REG–107889–12) 28, 53

Publications:

1120, Specifications for filing Forms 1097, 1098, 3921, 3922, 5498, 8935, and W-2G, electronically, 2012 revision (RP 30) 33, 165

4810, Specifications for filing Forms 8955–SSA, Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits, Electronically (RP 34) 34, 280

Qualifying income under section 7704(d) (RP 28) 27, 4

Regulations:

26 CFR 1.61–21, amended; 1.274–9, –10, added; deductions for entertainment use of business aircraft (TD 9597) 34, 258

26 CFR 1.904–0, –1, –2, –7, –8, amended; 1.904(f)–0T, –1T, –2T, –7T, –8T, removed; 1.904(g)–0, –1, –2, –3, amended; 1.904(g)–0T, –1T, –2T, –3T, removed; 1.502–9, amended, 1.1502–9T, removed; treatment of overall foreign and domestic losses (TD 9595) 30, 71

26 CFR 1.1502–13, amended; 1.1502–13T, removed; 602.101, amended; modification to consolidated return regulation permitting an election to treat a liquidation of a target, followed by a recontribution to a new target, as a cross-chain reorganization (TD 9594) 29, 57

26 CFR 1.7874–1, amended; 1.7874–1T, removed; 1.7874–2, added; surrogate foreign corporations (TD 9591) 28, 32

26 CFR 1.7874–3T, added; substantial business activities (TD 9592) 28, 41

Reimbursed entertainment expenses (REG-101812–07) 34, 311

Revisions to Rev. Proc. 98–32 (RP 33) 34, 272

Revocations, exempt organizations (Ann 32) 35, 325

Section 43 inflation adjustment, 2012 (Notice 49) 31, 119

Substantial business activities (TD 9592) 28, 41; (REG–107889–12) 28, 53

Surrogate foreign corporations (TD 9591) 28, 32

Tax Conventions:

U.S.-Belgium agreement regarding taxes imposed by Belgium municipalities (Ann 30) 34, 314

U.S.-Canada agreement regarding OECD report on the attribution of profits to permanent establishments (Ann 31) 34, 315

U.S.-Netherlands agreement of limited funds for mutual account (LFMA) (Ann 26) 27, 8

Third party payer issues and reporting agents, revisions to Rev. Proc. 2007–38 (RP 32) 34, 267

Treatment of income from certain government bonds for purposes of the passive foreign investment company (PFIC) rules (Notice 45) 29, 59

Treatment of overall foreign and domestic losses (TD 9595) 30, 71

SELF-EMPLOYMENT TAX

Background file document requests, processing fees, update to
Rev. Proc. 95-15 (RP 31) 33, 256



**U.S. GOVERNMENT
PRINTING OFFICE**
KEEPING AMERICA INFORMED

Order Processing Code:
3465

Easy Secure Internet:
bookstore.gpo.gov

Internal Revenue Cumulative Bulletins Publications and Subscription Order Form

Toll Free: 866 512-1800
DC Area: 202 512-2800
Fax: 202 512-2250

Mail: Superintendent of Documents
P.O. Box 979050
St. Louis, MO 63197-9000

Publications

Qty.	Stock Number	Title	Price Each	Total Price
	048-004-02467-5	Cum. Bulletin 1999-3	20.40	
	048-004-02462-4	Cum. Bulletin 2001-2 (Jul-Dec)	24.00	
	048-004-02480-2	Cum. Bulletin 2001-3	71.00	
	048-004-02470-5	Cum. Bulletin 2002-2 (Jul-Dec)	28.80	
	048-004-02486-1	Cum. Bulletin 2002-3	54.00	
	048-004-02483-7	Cum. Bulletin 2004-2 (July-Dec)	54.00	
	048-004-02488-8	Cum. Bulletin 2005-2	56.00	
Total for Publications				

Subscriptions

Qty.	List ID	Title	Price Each	Total Price
	IRS	Internal Revenue Bulletin	\$247	
		Optional - Add \$50 to open Deposit Account		
Total for Subscriptions				
Total for Publications and Subscriptions				

NOTE: Price includes regular shipping and handling and is subject to change. International customers please add 40 percent.

Standing Order Service*

To automatically receive future editions of *Internal Revenue Cumulative Bulletins* without having to initiate a new purchase order, sign below for Standing Order Service.

Qty.	Standing Order	Title
	ZIRSC	Internal Revenue Cumulative Bulletins

Authorization

I hereby authorize the Superintendent of Documents to charge my account for Standing Order Service:

(enter account information at right)

VISA MasterCard Discover/NOVUS American Express

Superintendent of Documents (SOD) Deposit Account

Authorizing signature (Standing orders not valid unless signed.)

Please print or type your name.

Daytime phone number ()

SuDocs Deposit Account

A Deposit Account will enable you to use Standing Order Service to receive subsequent volumes quickly and automatically. For an initial deposit of \$50 you can establish your Superintendent of Documents Deposit Account.

YES! Open a SOD Deposit Account for me so I can order future publications quickly and easily.
I am enclosing the \$50 initial deposit.



Check method of payment:

Check payable to Superintendent of Documents

SOD Deposit Account -

VISA MasterCard Discover/Novus American Express

(expiration date)

Thank you for your Order!

Authorizing signature

06/06

Company or personal name

(Please type or print)

Additional address/attention line

Street address

City, State, Zip Code

E-mail address

Daytime phone including area code

Purchase order number (optional)

*Standing Order Service

Just sign the authorization above to charge selected items to your existing Deposit Account, VISA or MasterCard, Discover/NOVUS, or American Express account. Or open a Deposit Account with an initial deposit of \$50 or more. Your account will be charged only as each volume is issued and mailed. Sufficient money must be kept in your account to insure that items are shipped. Service begins with the next issue released of each item you select.

You will receive written acknowledgement for each item you choose to receive by Standing Order Service.

If you wish to cancel your Standing Order Service, please notify the Superintendent of Documents in writing (telephone cancellations are accepted, but must be followed up with a written cancellation within 10 days).

Important: Please include this completed order form with your payment.

Internal Revenue Service

Washington, DC 20224

Official Business
Penalty for Private Use, \$300

INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletin is sold on a yearly subscription basis by the Superintendent of Documents. Current subscribers are notified by the Superintendent of Documents when their subscriptions must be renewed.

CUMULATIVE BULLETINS

The contents of this weekly Bulletin are consolidated semiannually into a permanent, indexed, Cumulative Bulletin. These are sold on a single copy basis and *are not* included as part of the subscription to the Internal Revenue Bulletin. For the foreseeable future, the IRS will not create Cumulative Bulletins after the 2008–2 edition. Subscribers to the weekly Bulletin are notified when copies of the Cumulative Bulletin are available. Certain issues of Cumulative Bulletins are out of print and are not available. Persons desiring available Cumulative Bulletins, which are listed on the reverse, may purchase them from the Superintendent of Documents.

ACCESS THE INTERNAL REVENUE BULLETIN ON THE INTERNET

You may view the Internal Revenue Bulletin on the Internet at www.irs.gov. Select Businesses. Under Businesses Topics, select More Topics. Then select Internal Revenue Bulletins.

INTERNAL REVENUE BULLETINS ON CD-ROM

Internal Revenue Bulletins are available annually as part of Publication 1796 (Tax Products CD-ROM). The CD-ROM can be purchased from National Technical Information Service (NTIS) on the Internet at www.irs.gov/cdorders (discount for online orders) or by calling 1-877-233-6767. The first release is available in mid-December and the final release is available in late January.

HOW TO ORDER

Check the publications and/or subscription(s) desired on the reverse, complete the order blank, enclose the proper remittance, detach entire page, and mail to the Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197–9000. Please allow two to six weeks, plus mailing time, for delivery.

WE WELCOME COMMENTS ABOUT THE INTERNAL REVENUE BULLETIN

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page (www.irs.gov) or write to the IRS Bulletin Unit, SE:W:CAR:MP:T:M:S, Washington, DC 20224.
