

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. 2012-24, page 329.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for September 2012.

EMPLOYEE PLANS

Notice 2012-55, page 332.

This notice provides guidance on the 25-year average segment rates that are applied to adjust the otherwise applicable 24-month average segment rates that are used to compute the funding target and other items under section 430 of the Code and section 303 of the Employee Retirement Income Security Act of 1974 (ERISA). The guidance reflects the changes made to the Code and ERISA by the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. No. 112-141.

ADMINISTRATIVE

Announcement 2012-34, page 334.

This announcement makes permanent fast track settlement program for TE/GE taxpayers that is currently ongoing as a pilot program. Announcement 2008-105 modified and superseded.

Finding Lists begin on page ii.



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.

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

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted applicable federal long-term rates is set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 467.—Certain Payments for the Use of Property or Services

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

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

of September 2012. See Rev. Rul. 2012-24, page 329.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also Sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.)

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for September 2012.

Rev. Rul. 2012-24

This revenue ruling provides various prescribed rates for federal income tax purposes for September 2012 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2012-24 TABLE 1

Applicable Federal Rates (AFR) for September 2012

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	.21%	.21%	.21%	.21%
110% AFR	.23%	.23%	.23%	.23%
120% AFR	.25%	.25%	.25%	.25%
130% AFR	.27%	.27%	.27%	.27%
<i>Mid-term</i>				
AFR	.84%	.84%	.84%	.84%
110% AFR	.92%	.92%	.92%	.92%
120% AFR	1.01%	1.01%	1.01%	1.01%
130% AFR	1.09%	1.09%	1.09%	1.09%
150% AFR	1.26%	1.26%	1.26%	1.26%
175% AFR	1.48%	1.47%	1.47%	1.47%
<i>Long-term</i>				
AFR	2.18%	2.17%	2.16%	2.16%
110% AFR	2.40%	2.39%	2.38%	2.38%
120% AFR	2.62%	2.60%	2.59%	2.59%
130% AFR	2.84%	2.82%	2.81%	2.80%

REV. RUL. 2012-24 TABLE 2

Adjusted AFR for September 2012

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.23%	.23%	.23%	.23%
Mid-term adjusted AFR	.95%	.95%	.95%	.95%
Long-term adjusted AFR	2.80%	2.78%	2.77%	2.76%

REV. RUL. 2012-24 TABLE 3

Rates Under Section 382 for September 2012

Adjusted federal long-term rate for the current month	2.80%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	3.02%

REV. RUL. 2012-24 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for September 2012

Note: Under Section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%.

Appropriate percentage for the 70% present value low-income housing credit	7.35%
Appropriate percentage for the 30% present value low-income housing credit	3.15%

REV. RUL. 2012-24 TABLE 5

Rate Under Section 7520 for September 2012

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years,
or a remainder or reversionary interest

1.0%

**Section 1288.—Treatment
of Original Issue Discount
on Tax-Exempt Obligations**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

**Section 7520.—Valuation
Tables**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

**Section 7872.—Treatment
of Loans With Below-Market
Interest Rates**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 2012. See Rev. Rul. 2012-24, page 329.

Part III. Administrative, Procedural, and Miscellaneous

25-Year Average Segment Rates and Adjusted 24-Month Average Segment Rates Used for Pension Funding

Notice 2012-55

This notice provides guidance on the 25-year average segment rates that are applied to adjust the otherwise applicable 24-month average segment rates that are used to compute the funding target and other items under § 430 of the Internal Revenue Code (Code) and § 303 of the Employee Retirement Income Security Act of 1974 (ERISA). The guidance reflects the changes made to the Code and ERISA by the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. No. 112-141, which was enacted July 6, 2012.

BACKGROUND

Section 430 specifies the minimum funding requirements that generally apply to single-employer defined benefit pension plans pursuant to § 412. Section 430(h)(2) specifies interest rates that are used for purposes of calculating the minimum required contribution. The interest rates that are used for this purpose are a set of three segment rates described in § 430(h)(2)(C)(i), (ii), and (iii), or, alternatively, a full yield curve as described in § 430(h)(2)(D)(ii).

Each segment rate described in § 430(h)(2)(C)(i), (ii), and (iii) is, for any month, the single rate of interest determined by the Secretary for the month on the basis of the applicable corporate bond yield curve for that month, taking into account only that portion of the yield curve applicable to that segment. Section 430(h)(2)(D)(i) provides that the Secretary shall prescribe a corporate bond yield curve applicable for each month. The applicable corporate bond yield curve is, with respect to any month, a yield curve which reflects a 24-month average (the average of the yield curve values for the preceding month and the prior 23 months) of the yields on investment grade corporate bonds with varying maturities that are in the top 3 quality levels available. Under

§ 430(h)(2)(D)(ii), an employer may elect to use the corporate bond yield curve determined without regard to the 24-month averaging, in lieu of the segment rates.

Section 40211(a) of MAP-21 adds § 430(h)(2)(C)(iv), generally effective for plan years beginning on or after January 1, 2012. Section 430(h)(2)(C)(iv) provides that, for a plan year, each of the three segment rates described in § 430(h)(2)(C)(i), (ii), and (iii) is adjusted as necessary to fall within a specified range that is determined based on a percentage of the average of the corresponding segment rates for the 25-year period ending on September 30 preceding the calendar year that includes the first day of that plan year. Under § 430(h)(2)(C)(iv)(II), for plan years beginning in 2012, each segment rate is adjusted so that it is no less than 90% and no more than 110% of the corresponding 25-year average segment rate. For later plan years, this range is gradually increased, so that the segment rates for plan years beginning after 2015 are no less than 70% and no more than 130% of the corresponding 25-year average segment rates. Section 430(h)(2)(C)(iv)(I) provides that the Secretary may prescribe equivalent rates for any years in the 25-year period for which segment rates are not available.

Section 430(h)(2)(F) (as amended by MAP-21) provides that each month the Secretary shall publish the corporate bond yield curve, the segment rates in § 430(h)(2)(C), and the 25-year average of the segment rates. Section 430(h)(2)(F) also provides that the Secretary shall publish a description of the methodology used to determine the yield curve and the segment rates in sufficient detail to enable plans to make reasonable predictions regarding the yield curve and rates for future months. 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.

DEVELOPMENT OF EQUIVALENT RATES

Segment rates determined under § 430(h)(2)(C) (i), (ii) and (iii) are available as far back as October 2005. The

October 2005 segment rates are the average of the “spot” segment rates for the 24 months beginning October 2003 and ending September 2005. In order to determine equivalent rates for earlier months, the Treasury Department used a statistical regression analysis to combine information about the relationship of the spot segment rates, zero-coupon yields for Treasury securities (“Treasury spot rates”), corporate bond index values, and Constant Maturity Treasury rates — using monthly average rates for the period October 2003 through July 2011 — in order to estimate spot segment rates for months back to October 1984.

Specifically, the spot segment rates for months before October 2003 were estimated using regressions that compared, for the period October 2003 through July 2011, the spreads between the spot segment rates and a corresponding average of Treasury spot rates with spreads between two corporate bond indices and Constant Maturity Treasury rates (“corporate bond spreads”). For the first segment regression, the corresponding average of Treasury spot rates was the average over the period of 1–5 years and the two corporate bond spreads were the difference between a Citigroup A bond index and the 7-year Constant Maturity Treasury rate and the difference between a Citigroup AA-AAA bond index and the 7-year Constant Maturity Treasury rate. For the second segment regression, the corresponding average of Treasury spot rates was the average of the Treasury spot rates for the period of 6–20 years and the corporate bond spreads were the same as those that were used in the first segment regression. For the third segment regression, the corresponding average of Treasury spot rates was the average of the Treasury spot rates for the period of 21–60 years, assuming that the spot rates for years after 30 was the same as for year 30, and the corporate bond spreads were the same as those that were used in the first and second segment regressions.

The result of the regressions was a series of coefficients that were applied to the corporate bond spreads for months before October 2003 in order to estimate a spread that can be added to the corresponding average of Treasury spot rates for those

months in order to estimate monthly spot segment rates for each month before October 2003. The estimated monthly spot segment rates were combined with the actual monthly spot segment rates for October 2003 and later months in order to determine rates that are equivalent to the segment rates for months before October 2005.

DETERMINATION OF THE 25-YEAR AVERAGE OF SEGMENT RATES

Based on the calculation of equivalent rates for months before October 2005 and

actual segment rates for later months, the averages, for the 25 years ending September 30, 2011, of the first, second, and third segment rates are 6.15, 7.61, and 8.35 percent, respectively.

ADJUSTED 24-MONTH AVERAGE SEGMENT RATES

In prior notices, the Treasury and the Service issued 24-month average segment rates that did not reflect the adjustment required by § 430(h)(2)(C)(iv) (as added by MAP-21). Table 1 contains previously issued 24-month average segment rates

without adjustment, and, for plan years beginning in 2012, the adjusted 24-month average segment rates taking into account the 90–110% corridor around the 25-year average segment rates:

Table 1: Adjusted 24-Month Average Segment Rates

Applicable Year Month		24-Month Average Segment Rates not Adjusted			Adjusted 24-Month Average Segment Rates, For Plan Years Beginning in 2012, Using 25-Year Average Segment Rate Corridors		
Year	Month	First Segment	Second Segment	Third Segment	First Segment	Second Segment	Third Segment
2011	September	2.06	5.25	6.32	5.54	6.85	7.52
2011	October	2.03	5.20	6.30	5.54	6.85	7.52
2011	November	2.01	5.16	6.28	5.54	6.85	7.52
2011	December	1.99	5.12	6.24	5.54	6.85	7.52
2012	January	1.98	5.07	6.19	5.54	6.85	7.52
2012	February	1.96	5.01	6.13	5.54	6.85	7.52
2012	March	1.93	4.95	6.07	5.54	6.85	7.52
2012	April	1.90	4.90	6.01	5.54	6.85	7.52
2012	May	1.87	4.84	5.96	5.54	6.85	7.52
2012	June	1.84	4.79	5.90	5.54	6.85	7.52
2012	July	1.81	4.73	5.85	5.54	6.85	7.52
2012	August	1.77	4.67	5.78	5.54	6.85	7.52

POSSIBLE CHANGE IN METHODOLOGY FOR FUTURE YEARS AND FUTURE GUIDANCE ON OTHER ISSUES

The methodology described in this notice that was used for determining equivalent rates for months prior to October 2005 reflects a balance between the goal of a timely determination and publication of the 25-year average segment rates and the goal of having the equivalent rates be as close as possible to the segment rates that would result from application of the method currently used to determine

the monthly corporate bond yield curve and the related spot segment rates. The Treasury Department is considering replacing the methodology for determining the equivalent rates for months before October 2005, including possibly by applying the method — based on bond price data — that is currently used to determine the monthly corporate bond yield curve and the related spot segment rates. In no event would any such change in the methodology apply for purposes of plan years beginning in 2012.

The Treasury and the Service intend to issue additional guidance in the near fu-

ture on other issues relating to the application of the MAP-21 amendments, including guidance relating to benefit restrictions and transition issues.

DRAFTING INFORMATION

The principal author of this notice is Tony Montanaro of the Employee Plans, Tax Exempt and Government Entities Division. However, other personnel from the Service and the Treasury Department participated in preparing this notice. Mr. Montanaro may be e-mailed at RetirementPlanQuestions@irs.gov.

Part IV. Items of General Interest

Fast Track Settlement for TE/GE Taxpayers

Announcement 2012–34

This announcement provides an opportunity for taxpayers (entities or individuals) with issues under examination by the Tax Exempt and Government Entities Division (TE/GE) to use Fast Track Settlement (FTS) to expedite case resolution within the TE/GE organization. The TE/GE FTS will enable TE/GE taxpayers that currently have unagreed issues in at least one open period under examination to work together with TE/GE and the Office of Appeals (Appeals) to resolve outstanding disputed issues while the case is still in TE/GE jurisdiction.

DESCRIPTION OF TE/GE FAST TRACK SETTLEMENT

TE/GE and Appeals jointly administer the TE/GE FTS process. TE/GE FTS is used to resolve factual and legal issues, and it may be initiated at any time after an issue has been fully developed, but before the issuance of a 30-day letter (or its equivalent). TE/GE FTS is available to taxpayers nationwide.

BACKGROUND

The pilot program for TE/GE FTS was announced in Announcement 2008–105, 2008–2 C.B. 1219, to extend fast track settlement to TE/GE cases and provide for direct oversight of the program by TE/GE and Appeals. The pilot program officially expired on November 30, 2010; however, TE/GE and Appeals have continued to offer FTS on an unofficial basis. This announcement establishes TE/GE FTS as a permanent program based on the determination that it supports the Service-wide initiative of reducing the time and cost of examination and case resolution. TE/GE FTS is consistent with the pilot program with the exception of an additional level of review for TE/GE FTS applications to accommodate the management structure of TE/GE. The key features of TE/GE FTS are:

- The TE/GE Group Manager coordinates preparation and submission of

the application package to the Appeals FTS Program Manager. The Appeals Team Manager responsible for TE/GE programs serves as the Appeals FTS Program Manager.

- The TE/GE Group Manager notifies the taxpayer of acceptance into or rejection from the FTS program, participates in the FTS Session on behalf of the government, and is primarily responsible for accepting or rejecting any settlement proposal that arises as a result of the FTS.
- The TE/GE FTS Application will be reviewed by both the TE/GE Group Manager and an operating division official (*e.g.*, a Director of Examination) before it is sent to the Appeals FTS Program Manager for final approval.
- In managing cases eligible for TE/GE FTS, the Appeals FTS Program Manager may consult with the TE/GE Group Manager.
- The TE/GE FTS process is designed to be completed within 60 days of acceptance of the TE/GE FTS Application.

CASE ELIGIBILITY AND EXCLUSIONS

Generally, TE/GE FTS is available for cases involving income tax; exclusion of income from interest paid on municipal obligations; employment tax; estate and gift taxes; excise tax; exemption, foundation or qualification issues; or other such TE/GE functional issues as appropriate when:

- Issues are fully developed;
- The taxpayer has stated a position in writing; and
- There are a limited number of unagreed issues.

TE/GE FTS will not be available for:

- Issues that can be resolved through other established settlement initiatives, such as, but not limited to, the Self Correction Program “SCP,” the Audit Closing Agreement Program “Audit CAP,” or other programs described in Rev. Proc. 2008–50, 2008–2 C.B. 464;
- Correspondence examination cases;

- Cases in which the taxpayer has failed to respond to IRS communications or no documentation has been previously submitted for consideration by TE/GE;
- Cases in which Appeals does not have jurisdiction (including determination of penalties under § 6700 of the Code);
- Cases involving Listed Transactions or Abusive Tax Avoidance Transactions (ATAT) defined in I.R.M. Exhibit 4.32.1–1;
- Cases involving potential for civil or criminal fraud;
- Rebate claim cases;
- Tax Equity and Fiscal Responsibility Act (TEFRA) partnership cases;
- Issues designated for litigation;
- Issues under consideration for designation for litigation;
- Frivolous issues, such as, but not limited to, those identified in Notice 2010–33, 2010–17 I.R.B. 609, or any successor guidance;
- “Whipsaw” issues, *i.e.*, issues for which resolution with respect to one party might result in inconsistent treatment in the absence of the participation of another party; or
- Issues that have been identified in a Chief Counsel Notice, or equivalent publication, as excluded from the FTS process.

If an issue is determined to be ineligible for the FTS program, all issues in the case are ineligible for the FTS program. TE/GE FTS may not be the appropriate dispute resolution process for all cases involving TE/GE taxpayers. The TE/GE Group Manager and the taxpayer will evaluate the individual circumstances of the case to determine if this process meets their needs.

APPLICATION PROCESS

A taxpayer that is interested in participating in TE/GE FTS, or that has questions about the program and its suitability for the taxpayer’s case, may contact the TE/GE Group Manager or the Examiner conducting the audit for the period(s) currently under examination. The taxpayer, the Examiner, or the TE/GE Group Manager may consider using the TE/GE FTS process at any time after an issue has been fully de-

veloped but before a 30-day letter (or its equivalent) is issued.

To apply for the TE/GE FTS program, the taxpayer should submit Form 14017, *Application for Fast Track Settlement*, available at <http://www.irs.gov/pub/irs-pdf/f14017.pdf> (TE/GE FTS Application). A Form 5701, *Notice of Proposed Adjustment*, or a preliminary report of findings, as appropriate, and a written response from the taxpayer must be included with the TE/GE FTS Application to facilitate the understanding of the parties' opposing views. If the Form 5701 has not previously been prepared, the TE/GE Examiner should prepare one for submission with the Form 14017. The TE/GE FTS Application will be reviewed by both the TE/GE Group Manager and an operating division official before it is sent to the Appeals FTS Program Manager for final approval.

If the case is not accepted for inclusion in TE/GE FTS, the TE/GE or Appeals representative will discuss other dispute resolution opportunities with the taxpayer, including 30-day letter procedures contained in IRS Publication 1, *Your Rights as a Taxpayer*, or Publication 5, *Your Appeal Rights and How To Prepare a Protest If You Don't Agree*. The decision not to accept a case into the TE/GE FTS program is not subject to administrative appeal or judicial review.

SETTLEMENT PROCESS

TE/GE FTS employs various alternative dispute resolution techniques to promote case or issue resolution. An FTS Appeals Official will serve as a neutral party. A TE/GE Appeals Officer trained in mediation or, in limited cases, a mediation-trained Appeals Team Case Leader, serves as the neutral FTS Appeals Official. The FTS Appeals Official does not perform in a traditional Appeals role, but uses dispute resolution techniques to facilitate settlement between the parties.

During TE/GE FTS, the taxpayer and TE/GE representatives meet with the FTS Appeals Official (the FTS Session). The taxpayer and TE/GE representatives at the FTS Session should include individuals with decision-making authority and the information and expertise necessary to assist the parties and the FTS Appeals Official during the settlement process. The FTS Appeals Official may ask the parties

to limit the number of participants at the FTS Session to facilitate the process. A taxpayer is not required to have a representative to participate in TE/GE FTS. If the taxpayer is represented by a person engaged in practice before the Service, however, this individual must have a power of attorney from the taxpayer (Form 2848, *Power of Attorney and Declaration of Representative*).

The FTS Appeals Official will hold the FTS Session at the date and location agreed to by both parties. Prior to the FTS Session, the FTS Appeals Official will advise the participants of the procedures and establish ground rules. The FTS Appeals Official may modify the rules and procedures during the FTS Session to adapt to changes in circumstances. The FTS Session may include joint sessions with all parties, separate meetings, or both, as determined appropriate in the sole judgment of the FTS Appeals Official.

The FTS Appeals Official will use an FTS Session Report to assist in planning the FTS Session and to report on developments during the FTS Session. The FTS Session Report will include a list of all issues approved for the FTS program, a description of the issues, the amounts in dispute, conference dates, a plan of action for the FTS Session and other information useful to the process as determined by the parties and the FTS Appeals Official. The FTS Appeals Official will prepare and update an agenda to guide the communication, set the order of issue discussion, and pose questions to clarify the issues. During the FTS Session, the FTS Appeals Official will provide decision makers from both parties with copies of the agenda and the FTS Session Report.

Generally, the FTS Appeals Official will consider only those issues outlined in the FTS Session Report, except by mutual agreement of the parties. If the taxpayer presents information during the FTS Session that the taxpayer had not previously presented during the audit, the FTS Appeals Official will adjust the targeted completion date to give the appropriate IRS officials time to evaluate the information.

During the FTS Session, the FTS Appeals Official may propose settlement terms for any or all issues and may consider settlement terms proposed by either party. If the taxpayer accepts the FTS Ap-

peals Official's settlement proposal, but the TE/GE Group Manager rejects it, the TE/GE Area Manager with jurisdiction for the case must review the rejection of the settlement proposal and either concur in writing with the rejection or accept the settlement proposal on behalf of TE/GE. If the TE/GE Area Manager concurs with the rejection of the settlement proposal, and an acceptable alternative settlement cannot be reached, the issue will be closed out of the FTS program as unagreed.

If the parties resolve any of the disputed issues at the conclusion of the FTS Session, the parties and the FTS Appeals Official shall sign the FTS Session Report acknowledging acceptance of the terms of settlement for purposes of preparing computations or making other determinations. The signature of the parties on the FTS Session Report does not constitute a final settlement, nor does it waive restrictions on assessment, terminate consents to extend periods of limitation, start the running of any periods of limitation, or constitute agreement to close the case. Post-settlement procedures are described below.

The TE/GE FTS process is confidential. IRS employees involved in any way with the TE/GE FTS process are subject to the confidentiality and disclosure provisions of the Internal Revenue Code. To participate in TE/GE FTS, the taxpayer must consent, pursuant to section 6103(c), to the disclosure of the taxpayer's returns and return information pertaining to the issues being considered in the TE/GE FTS process to those persons named on the Form 14017 as participants in the process. IRS employees, the taxpayer, and persons invited to participate by the IRS or the taxpayer shall not voluntarily disclose information regarding any communication made during the FTS Session, except as provided by statute.

The prohibition against *ex parte* communications between Appeals Officers and other IRS employees provided by § 1001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 does not apply to the communications arising in the TE/GE FTS process because the Appeals personnel are facilitating an agreement between the taxpayer and TE/GE and are not acting in their traditional Appeals settlement role. Rev. Proc. 2012-18, 2012-10 I.R.B. 455.

Any recommended settlement by the FTS Appeals Official of an issue in TE/GE FTS shall be subject to the procedures in the Internal Revenue Manual and published guidance existing at the time of the recommendation that would be applicable if the issue was being considered by Appeals. FTS therefore creates no special authority for settlement by the FTS Appeals Official. For example, if the FTS issue is coordinated in either the Technical Advisor Program or the Appeals Technical Guidance program, the proposed settlement of that issue is subject to established procedures, including submission of the proposed settlement to the Appeals Coordinator for review and concurrence.

If the parties fail to resolve any issue in TE/GE FTS, the taxpayer retains the option of requesting that the issue be heard through the traditional Appeals process.

Except as specifically provided above, both parties retain the right to withdraw throughout the entire TE/GE FTS process. A party wishing to withdraw should provide written notice to the FTS Appeals Official and the other party.

POST-SETTLEMENT PROCEDURE

If the parties reach an agreement on all or some issues through the TE/GE FTS process, the TE/GE representative, or FTS Appeals Official, as appropriate, will use established issue or case closing procedures and applicable agreement forms, including preparation of a Form 906, *Closing Agreement on Final Determination Covering Specific Matters*, if appropriate.

If applicable, the IRS will report a proposed resolution reached as a result

of TE/GE FTS to the Joint Committee on Taxation in accordance with section 6405. The IRS may reconsider a proposed settlement, as reflected in a signed FTS Session Report, upon receipt of comments on the proposed settlement from the Joint Committee on Taxation. If the taxpayer declines to agree with any changes by the IRS upon reconsideration, TE/GE will close the case unagreed, and the taxpayer will retain all the usual rights to request Appeals consideration of any unagreed issues.

UNRESOLVED CASES

With respect to TE/GE FTS cases that are returned for traditional Appeals consideration for any reason, *ex parte* restrictions will not be imposed on intra-Appeals communications. See Rev. Proc. 2012-18, 2012-10 I.R.B. 455. Appeals management will take appropriate measures to ensure these cases are handled impartially.

PRECEDENTIAL VALUE OF SETTLEMENT AGREEMENTS

A resolution reached by the parties through the TE/GE FTS process will not bind the parties for taxable periods or issues not covered by the settlement, unless such taxable periods or issues are addressed expressly in a closing agreement reached as part of the TE/GE FTS process.

DELEGATION OF AUTHORITY

This announcement constitutes a delegation by the Commissioner of Internal Revenue of settlement authority to Grade

14, 13, and 12 Appeals Officers who are assigned to be FTS Appeals Officials for TE/GE FTS cases described in this announcement. This delegation of settlement authority includes the responsibility for arriving at the final disposition from the Government's perspective, approving the final settlement in accordance with the delegated authority, and executing the appropriate closing documents. This authority may not be redelegated.

EFFECTIVE DATE

This program is effective beginning September 4, 2012.

EFFECT ON OTHER DOCUMENTS

Announcement 2008-105 is modified and superseded.

CONTACT INFORMATION

The principal author of this announcement is Debra Kohn, Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this announcement, contact Joan T. Hirsch, Program Manager, TE/GE Entities at (562) 400-1801 (not a toll-free call), or by email at Joan.T.Hirsch@irs.gov.

Definition of Terms

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

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

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

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

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

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

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

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

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

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

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

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

Abbreviations

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

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

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

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

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