Internal Revenue
bulletin

Bulletin No. 2006-31
July 31, 2006

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–118897–06, page 120.

Proposed regulations under section 985 of the Code provide translation rates that must be used when translating into dollars certain items and amounts transferred by a qualified business unit to its home office or parent corporation for purposes of computing dollar approximate separate transactions method gain or loss.

Notice 2006–68, page 105.

This notice alerts taxpayers who submit offers in compromise on or after July 16, 2006, that they must include a nonrefundable down payment with their offers. The notice also waives the down payment requirement for low-income taxpayers and taxpayers who submit offers based solely on doubt as to liability.

Notice 2006–69, page 107.

This notice provides further guidance on the use of debit cards to reimburse participants in health flexible spending arrangements (FSAs) and health reimbursement arrangements, including substantiating claimed medical expenses at the point-of-sale through an inventory information approval system. It also provides guidance on use of debit cards for dependent care FSAs. Rev. Rul. 2003–43 amplified.

EMPLOYEE PLANS

Announcement 2006–45, page 121.

Nonbank trustees; section 1.408–2(e) of the regulations. This announcement contains a list of entities previously approved to act as nonbank trustees and nonbank custodians within the meaning of section 1.408–2(e) of the regulations. In addition, the announcement contains instructions on how errors in the list may be corrected. Announcement 2005–59 updated and superseded.

EXEMPT ORGANIZATIONS

Notice 2006–65, page 102.

This document notifies the public of the new excise taxes and related disclosure requirements that target certain potentially abusive tax shelter transactions to which tax-exempt entities are parties. It also solicits comments regarding the new excise taxes and disclosure requirements.

Announcement 2006–48, page 135.

Fresh Start, Inc., of Wichita, KS; Hope International Mission of Columbus, OH; and Master Credit Corporation of Las Vegas, NV, no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

EMPLOYMENT TAX

Rev. Proc. 2006–30, page 110.

Report of tips by employee to employer. This procedure provides guidance on the Attributed Tip Income Program (ATIP), which is a new voluntary tip reporting program providing benefits to employers and employees similar to other tip reporting agreements without requiring one-on-one meetings with the Service to determine tip rates or eligibility.

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Finding Lists begin on page ii.
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Department of the Treasury
Internal Revenue Service

ADMINISTRATIVE

Notice 2006–68, page 105.
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The IRS Mission

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

Introduction

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

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

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

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

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

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

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

Part IV.—Items of General Interest.
This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

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

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Part III. Administrative, Procedural, and Miscellaneous

Excise Taxes With Respect To Prohibited Tax Shelter Transactions to Which Tax-Exempt Entities Are Parties and Related Disclosure Requirements

Notice 2006–65

The Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA"), enacted on May 17, 2006, includes new excise taxes and disclosure rules that target certain potentially abusive tax shelter transactions to which a tax-exempt entity is a party. TIPRA creates a new § 4965 and amends §§ 6033(a)(2), 6011(g) and 6652(c)(3) of the Internal Revenue Code ("Code"). The amendments made by TIPRA were generally effective upon enactment and have broad application to tax-exempt entities and their managers.

Entities that may be affected by the new provisions include, but are not limited to, charities, churches, state and local governments, Indian tribal governments, qualified pension plans, individual retirement accounts, and similar tax-favored savings arrangements. The managers of these entities, and in some cases the entities themselves, can be subject to excise taxes if the entity is a party to a prohibited tax shelter transaction. Prohibited tax shelter transactions include transactions that are identified by the Internal Revenue Service ("IRS") as potentially abusive "listed" tax avoidance transactions and reportable transactions that are confidential transactions or transactions with contractual protection. The newly enacted provisions also (1) contain new disclosure requirements, which apply not only to tax-exempt entities but also to taxable entities that are parties to prohibited tax shelter transactions involving tax-exempt entities, and (2) impose penalties for the failure to comply with the new disclosure requirements. A detailed description of the new TIPRA provisions is attached as an appendix.

The IRS and the Treasury Department ("Treasury") are publishing this notice in order to ensure that affected entities are aware of the new TIPRA provisions, so that such entities can take the new taxes and disclosure obligations into account immediately. In addition, the IRS and Treasury are requesting public comments on the new provisions in anticipation of the publication of additional guidance. The IRS and Treasury are also interested in hearing from tax-exempt entities, practitioners and others potentially affected by the TIPRA provisions who would like the opportunity to discuss their questions, concerns and suggestions.

Request for Comments

The IRS anticipates including projects related to these TIPRA provisions in the annual Guidance Priority Plan that the IRS and Treasury expect to release soon. The IRS expects to issue guidance under these provisions promptly, and invites comments from the public regarding all aspects of the new excise taxes and disclosure requirements created by these provisions. Written comments should be submitted by August 11, 2006. Send submissions to: CC:PA:LPD:PR (Notice 2006–65), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (Notice 2006–65), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically to *notice.comments@irscounsel.treas.gov* (Notice 2006–65).

Drafting Information

The principal author of this notice is Galina Kolomietz of the Office of Division Counsel/Associate Chief Counsel (Tax-Exempt and Government Entities). For further information regarding this notice, contact Ms. Kolomietz at (202) 622–6070 (not a toll-free call). For questions specifically relating to qualified pension plans, individual retirement accounts, and similar tax-favored savings arrangements, contact Dana Barry of the Office of Division Counsel/Associate Chief Counsel (Tax-Exempt and Government Entities) at (202) 622–6060 (not a toll-free call).

Appendix

I. Overview of New § 4965, as Added by Section 516 of TIPRA

Q–1: What excise taxes are imposed under new § 4965 of the Code, as added by section 516 of TIPRA?

A–1: Section 4965 imposes two new excise taxes. First, § 4965(a)(1) imposes an excise tax on certain tax-exempt entities that are parties to "prohibited tax shelter transactions," as defined in § 4965(e). See Part II of this appendix for the discussion of the entity-level excise tax under § 4965(a)(1). Second, § 4965(a)(2) imposes an excise tax on "entity managers" of tax-exempt entities who approve the entity as a party (or otherwise cause the entity to be a party) to a prohibited tax shelter transaction and know or have reason to know that the transaction is a prohibited tax shelter transaction. See Part III of this appendix for the discussion of the manager-level excise tax under § 4965(a)(2).

Q–2: What is a "tax-exempt entity"?

A–2: Under § 4965(c), the term "tax-exempt entity" refers to:

I. Non-Plan Entities, which are:

1. entities described in § 501(c), including but not limited to the following common types of entities:
   a. instrumentalities of the United States described in § 501(c)(1);
   b. churches, hospitals, museums, schools, scientific research organizations and other charities described in § 501(c)(3);
   c. civic leagues, social welfare organizations and local associations of employees described in § 501(c)(4);
   d. labor, agricultural or horticultural organizations described in § 501(c)(5);
   e. business leagues, chambers of commerce, trade associations and other organizations described in § 501(c)(6);
   f. voluntary employees' beneficiary associations (VEBAs) described in § 501(c)(9);
   g. credit unions described in § 501(c)(14);

h. insurance companies described in § 501(c)(15); and
i. veterans' organizations described in § 501(c)(19);

2. religious or apostolic associations or corporations described in § 501(d);
3. entities described in § 170(c), including states, possessions of the United States, the District of Columbia, political subdivisions of states and political subdivisions of possessions of the United States (but not including the United States); and
4. Indian tribal governments within the meaning of § 7701(a)(40).

II. Plan Entities, which are:

5. qualified pension, profit-sharing and stock bonus plans described in § 401(a);
6. annuity plans described in § 403(a);
7. annuity contracts described in § 403(b);
8. qualified tuition programs described in § 529;
9. retirement plans described in § 457(b) maintained by a governmental employer;
10. individual retirement accounts within the meaning of § 408(a);
11. Archer Medical Savings Accounts ("MSAs") within the meaning of § 220(d);
12. individual retirement annuities within the meaning of § 408(b);
13. Coverdell education savings accounts described in § 530; and
14. health savings accounts within the meaning of § 223(d).

Q–3: Who is an "entity manager" for purposes of § 4965?

A–3: Under § 4965(d), the term "entity manager" means:

1. In the case of Non-Plan Entities (see Q&A–2), the term "entity manager" means the person with authority or responsibility similar to that exercised by an officer, director or trustee, and, with respect to any act, the person having authority or responsibility with respect to such act.
2. In the case of Plan Entities (see Q&A–2), the term "entity manager" means the person who approves or otherwise causes the entity to be a party to the prohibited tax shelter transaction. An individual beneficiary (including a plan participant) or owner of the tax-favored retirement plans, individual retirement arrangements, and savings arrangements described in § 401(a), 403(a), 403(b), 529, 457(b), 408(a), 220(d), 408(b), 530 or 223(d), may be liable as an entity manager if the individual beneficiary or owner has broad investment authority under the arrangement.

Q–4: What is a "prohibited tax shelter transaction"?

A–4: Under § 4965(e), the term "prohibited tax shelter transaction" means:

1. Listed transactions within the meaning of § 6707A(c)(2), which are transactions that are the same as, or substantially similar to, any transaction that has been specifically identified by the Secretary as a tax avoidance transaction for purposes of § 6011; and
2. Prohibited reportable transactions, which are:
   a. Confidential transactions within the meaning of § 1.6011–4(b)(3) of the Income Tax Regulations; and
   b. Transactions with contractual protection within the meaning of § 1.6011–4(b)(4) of the Income Tax Regulations.

II. Excise Tax on Certain Tax-Exempt Entities Under § 4965(a)(1)

Q–5: Are all tax-exempt entities identified in Q&A–2 subject to the entity-level excise tax under § 4965(a)(1)?

A–5: No. Only the Non-Plan Entities identified in Q&A–2 are subject to the entity-level excise tax under § 4965(a)(1).

Q–6: What circumstances give rise to the entity-level excise tax under § 4965(a)(1)?

A–6: Under § 4965(a)(1), an entity-level excise tax is imposed on any Non-Plan Entity identified in Q&A–2 that becomes a party to a prohibited tax shelter transaction or is a party to a "subsequently listed transaction," as defined in § 4965.

Q–7: For purposes of § 4965(a)(1), what is a "subsequently listed transaction"?

A–7: A "subsequently listed transaction" is a transaction that is identified as a listed transaction after the tax-exempt entity has become a party to the transaction and that was not a prohibited reportable transaction at the time the tax-exempt entity became a party to the transaction (§ 4965(e)(2)).

Q–8: What is the entity-level excise tax imposed under § 4965(a)(1) on a Non-Plan Entity identified in Q&A–2 that becomes a party to a prohibited tax shelter transaction (other than a subsequently listed transaction)?

A–8: The excise tax imposed under § 4965(a)(1) applies for the taxable year in which the entity becomes a party to the prohibited tax shelter transaction and any subsequent taxable year. The amount of tax depends on whether the tax-exempt entity knew or had reason to know that the transaction was a prohibited tax shelter transaction at the time the entity became a party to the transaction. If the tax-exempt entity did not know (and did not have reason to know) that the transaction was a prohibited tax shelter transaction at the time the entity became a party to the transaction, the tax is the highest rate of tax under § 11 (currently 35 percent) multiplied by the greater of: (i) the entity's net income with respect to the prohibited tax shelter transaction (after taking into account any other applicable taxes with respect to such transaction) for the taxable year or (ii) 75 percent of the proceeds received by the entity for the taxable year that are attributable to such transaction (§ 4965(b)(1)(A)). If the tax-exempt entity knew or had reason to know that the transaction was a prohibited tax shelter transaction at the time the entity became a party to the transaction, the tax is the greater of (i) 100 percent of the entity's net income with respect to the transaction (after taking into account any other applicable taxes with respect to such transaction) for the taxable year or (ii) 75 percent of the proceeds received by the entity for the taxable year that are attributable to such transaction (§ 4965(b)(1)(B)).

Q–9: What is the entity-level excise tax imposed under § 4965(a)(1) on a Non-Plan Entity identified in Q&A–2 that is a party to a subsequently listed transaction?

A–9: In the case of a subsequently listed transaction, the tax-exempt entity's income and proceeds attributable to the transaction are allocated between the periods before and after the listing and the tax for each taxable year is the highest rate of tax under § 11 (currently 35 percent) multiplied by the greater of (i) the entity's net

income with respect to the subsequently listed transaction for the taxable year that is allocable to the period beginning on the later of the date such transaction is listed or the first day of the taxable year; or (ii) 75 percent of the proceeds received by the entity for the taxable year that are attributable to such transaction and allocable to the period beginning on the later of the date such transaction is listed or the first day of the taxable year (§ 4965(b)(1)(A)(i)(II) and (b)(1)(A)(ii)(II)).

III. Excise Tax on Entity Managers under § 4965(a)(2)

Q–10: In what circumstances will an entity manager be subject to the manager-level excise tax under § 4965(a)(2)?

A–10: The manager-level excise tax under § 4965(a)(2) is imposed on any entity manager of a tax-exempt entity identified in Q&A–2 (whether it is a Plan Entity or a Non-Plan Entity) who approves the entity as a party (or otherwise causes such entity to be a party) to a prohibited tax shelter transaction and knows or has reason to know that the transaction is a prohibited tax shelter transaction.

Q–11: What is the manager-level excise tax imposed under § 4965(a)(2)?

A–11: The amount of tax is $20,000 for each approval or other act causing the entity to be a party to the prohibited tax shelter transaction (§ 4965(b)(2)).

IV. Coordination Among Applicable Excise Taxes

Q–12: Can the entity-level tax under § 4965(a)(1) and the manager-level tax under § 4965(a)(2) both apply with respect to the same prohibited tax shelter transaction?

A–12: Yes. In the case of a Non-Plan Entity identified in Q&A–2 that is a party to a prohibited tax shelter transaction, both the entity-level tax under § 4965(a)(1) and the manager-level tax under § 4965(a)(2) may apply. In the case of a Plan Entity that is a party to a prohibited tax shelter transaction, only the manager-level tax under § 4965(a)(2) may apply.

Q–13: What is the relationship between the excise taxes imposed by § 4965 and taxes and penalties otherwise imposed under the Code?

A–13: The excise taxes imposed by § 4965 are in addition to any other tax, addition to tax, or penalty imposed under the Code.

V. New Disclosure Requirements Added by Section 516 of TIPRA

Q–14: What new disclosure requirements are added by section 516 of TIPRA for a tax-exempt entity that is a party to a prohibited tax shelter transaction?

A–14: Section 516(b) of TIPRA amends § 6033 to require every tax-exempt entity identified in Q&A–2 (whether it is a Plan Entity or a Non-Plan Entity) that is a party to a prohibited tax shelter transaction to disclose to the Service (in such form and manner and at such time as determined by the Secretary) the following information: (a) that such entity is a party to the prohibited tax shelter transaction; and (b) the identity of any other party to the transaction which is known to such tax-exempt entity (§ 6033(a)(2), as amended by section 516(b) of TIPRA).

Q–15: What are the consequences of a failure by a tax-exempt entity to comply with the new disclosure requirements added by section 516 of TIPRA?

A–15: Section 516(c) of TIPRA amends § 6652(c) to impose a penalty for each failure by a tax-exempt entity identified in Q&A–2 to file a disclosure required under the amended § 6033(a)(2) with respect to such entity's involvement in any prohibited tax shelter transaction. Under the amended § 6652(c)(3)(A), the amount of the penalty is $100 for each day during which such failure continues, not to exceed $50,000 with respect to any one disclosure. Section 6652(c) is also amended to authorize the Secretary to make a written demand on any entity or manager subject to the penalty for nondisclosure under the amended § 6033(a)(2), specifying a reasonable future date by which the required disclosure must be filed (§ 6652(c)(3)(B)(i), as amended by section 516(c) of TIPRA). Failure to comply with the Secretary's demand is subject to an additional penalty in the amount of $100 for each day after the expiration of the time specified in the demand during which such failure continues, not to exceed $10,000 with respect to any one disclosure (§ 6652(c)(3)(B)(ii)).

Q–16: Who is liable for the penalties under the amended § 6652(c) for failure to file a disclosure and for failure to comply with the Secretary's demand for disclosure?

A–16: In the case of the Non-Plan Entities identified in Q&A–2, the penalty is imposed on the tax-exempt entity. In the case of the Plan Entities identified in Q&A–2, the penalty is imposed on the entity manager of the tax-exempt entity.

Q–17: What new disclosure requirements are added by section 516 of TIPRA for a taxable party to a prohibited tax shelter transaction?

A–17: Section 516(b) of TIPRA amends § 6011 to require any taxable party to a prohibited tax shelter transaction to disclose by statement to any tax-exempt entity identified in Q&A–2 which is a party to such transaction that such transaction is a prohibited tax shelter transaction (§ 6011(g), as amended by section 516(b) of TIPRA).

Q–18: Are there any consequences for a failure by a taxable party to comply with the new disclosure requirements added by section 516 of TIPRA?

A–18: Yes. Taxable parties that fail to disclose to tax-exempt parties the information required by the amended § 6011(g) are subject to current law penalties for failure to comply with the various disclosure requirements imposed by § 6011. See § 6707A of the Code.

VI. Effective Date for Excise Taxes

Q–19: What is the effective date for the excise taxes imposed by new § 4965?

A–19: The excise taxes under § 4965 apply to taxable years ending after May 17, 2006, with respect to transactions entered into before, on, or after such date, except that no § 4965(a) excise tax applies with respect to income or proceeds that are properly allocable to any period ending on or before August 15, 2006 (TIPRA section 516(d)(1)). However, the increase in the entity-level tax imposed under § 4965(a)(1) on certain knowing transactions does not apply to any prohibited tax shelter transaction to which a tax-exempt entity becomes a party on or before May 17, 2006 (§ 4965(b)(1)(B)).

VII. Effective Date for Disclosure Requirements and Related Penalties

Q–20: What is the effective date for the disclosure requirements described above in Part V of this appendix and for the

penalties for failure to comply with those requirements?

A–20: The new disclosure requirements described in Part V of this appendix, and the penalties for failure to comply with those requirements, apply to disclosures the due date for which is after May 17, 2006 (TIPRA section 516(d)(2)).

Downpayments for Offers in Compromise

Notice 2006–68

The Internal Revenue Service and the Department of the Treasury are currently revising Form 656, *Offer in Compromise*, and developing regulations under section 7122 of the Internal Revenue Code to implement the amendments to section 7122 made by section 509 of the Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA"), Pub. L. No. 109–222. The TIPRA amendments to section 7122 apply to offers in compromise submitted on or after July 16, 2006.

As amended, section 7122 provides that a lump-sum offer (one payable in five or fewer installments) must be accompanied by the payment of 20 percent of the amount of the offer. Section 7122 also provides that a periodic payment offer (one payable in six or more installments) must be accompanied by the payment of the amount of the first proposed installment and additional installments must be paid while the offer is being evaluated by the Internal Revenue Service.

This notice provides interim guidance under section 7122, as amended by section 509 of TIPRA, until regulations or other guidance is issued and Form 656 is revised. Taxpayers may rely on this notice until regulations or other guidance is issued and may continue to use the current version of Form 656 (Rev. 7–2004) to submit offers until a revised Form 656 is available. The revised Form 656 will be made available on the Internal Revenue Service's website at *www.IRS.gov* and taxpayers may call 1 (800) Tax-Form to request a copy of Form 656.

SECTION 1. BACKGROUND AND GENERAL RULES

.01 Section 7122 permits the Service to compromise any civil liability arising under the internal revenue laws before the case is referred to the Department of Justice for prosecution or defense. Section 509 of TIPRA amended section 7122, effective for offers in compromise submitted on or after July 16, 2006. An offer in compromise will be treated as submitted on or after July 16, 2006, if the offer is *received* on or after that date by the Service. The postmark date is irrelevant in determining when an offer is submitted.

.02 Section 7122(c)(1), as amended by TIPRA, requires that an offer in compromise be accompanied by a partial payment. In the case of a lump-sum offer, the partial payment required is 20 percent of the amount of the offer. If the taxpayer does not make the required 20-percent payment, the offer may be returned to the taxpayer as unprocessable. Section 7122(d)(3)(C). The Service will treat the required 20-percent payment as a payment of tax, rather than a refundable deposit under section 7809(b) or Treas. Reg. § 301.7122–1(h). Voluntary payments submitted in connection with an offer in compromise, to the extent they exceed the payment or payments required under section 7122(c)(1), will be treated as refundable deposits if they are not designated as tax payments by the taxpayer.

.03 If the taxpayer submits a periodic payment offer, the taxpayer must include the first proposed installment with the offer. If the taxpayer does not make the first installment payment, the offer may be returned to the taxpayer as unprocessable. Section 7122(d)(3)(C). While a periodic payment offer is being evaluated by the Service, the taxpayer must make subsequent proposed installment payments as they become due. If the taxpayer fails to make an installment payment other than the first installment, the failure may be treated as a withdrawal of the offer. Section 7122(c)(1)(B)(ii). The Service will treat installment payments required for a periodic payment offer as payments of tax, rather than refundable deposits under section 7809(b) or Treas. Reg. § 301.7122–1(h). Voluntary payments submitted in connection with an offer in compromise, to the extent they exceed the payment or payments required under section 7122(c)(1), will be treated as refundable deposits if they are not designated as tax payments by the taxpayer.

.04 Section 7122(c)(2)(A) allows the taxpayer to specify how any payment made pursuant to section 7122(c)(1) is to be applied to the assessed taxes, penalties, interest, etc. The specification must be made in writing when the offer is submitted or when the payment is made. The specification should clearly indicate how the partial payment or partial payments (in the case of a periodic payment offer) are to be applied to specific taxable years (or other taxable periods) or to specific liabilities (*e.g.*, income taxes, employment taxes, and trust fund recovery penalties under section 6672(a)). Once the taxpayer specifies how a payment is to be applied, the specification cannot later be changed. In the absence of a specification, the Service will apply the payment or payments required by section 7122(c) in the best interests of the government.

.05 Section 7122(c)(2)(B) provides that the assessed tax or other amounts shall be reduced by any user fee imposed with respect to the taxpayer's offer in compromise. The applicable regulations provide that a $150 user fee is generally charged for processing an offer in compromise, but no fee is charged if the offer is based solely on doubt as to liability or is made by a low-income taxpayer. Treas. Reg. § 300.3(b)(1). Because a taxpayer may not specify how the $150 user fee for processing an offer in compromise will be applied, the Service will apply the user fee in the best interests of the government.

.06 Section 7122(c)(2)(C) provides that the Secretary may issue regulations waiving any payment required under section 7122(c)(1) in a manner consistent with the practices established in accordance with the requirements under section 7122(d)(3). See Section 4 of this notice for information concerning waivers for low-income taxpayers and for offers based solely on doubt as to liability.

.07 Section 7122(f) provides that if an offer in compromise is not rejected within 24 months after submission of the offer, the offer shall be deemed to be accepted. Any period during which any tax liability which is the subject of the offer is in dispute in any judicial proceeding is not taken into account in determining the

expiration of the 24-month period. The date of submission of an offer for purposes of section 7122(f) is the date on which the offer is received by the Service. The postmark date is irrelevant in determining when an offer is submitted. An offer will not be deemed to be accepted if the offer is, within the 24-month period, rejected by the Service, returned by the Service to the taxpayer as nonprocessable or no longer processable, withdrawn by the taxpayer, or deemed withdrawn under section 7122(c)(1)(B)(ii) because of the taxpayer's failure to make the second or later installment due on a periodic payment offer. The date an offer is rejected for purposes of section 7122(f) is the date on which the Service issues a written notice of rejection under Treas. Reg. § 301.7122–1(f)(1). The period during which the IRS Office of Appeals considers a rejected offer in compromise is not included as part of the 24-month period because the offer was rejected by the Service within the meaning of section 7122(f) prior to consideration of the offer by the Office of Appeals.

SECTION 2. GUIDANCE FOR LUMP-SUM OFFERS

.01 Unless a waiver under Section 4 of this notice applies, a lump-sum offer in compromise received on or after July 16, 2006, will be returned as not processable if the offer is not accompanied by a partial payment of the amount of the offer.

.02 If the taxpayer makes a partial payment when a lump-sum offer is submitted, but the payment is less than the 20-percent required amount, the Service may accept the offer for processing and solicit payment of the remaining portion of the 20-percent amount. If the taxpayer does not pay the balance of the 20-percent amount within the time allowed by the Service, the Service may return the offer as not processable unless the Service determines that continued processing of the offer would be in the best interests of the government.

SECTION 3. GUIDANCE FOR PERIODIC PAYMENT OFFERS

.01 Unless a waiver under Section 4 of this notice applies, a periodic payment offer in compromise received on or after July 16, 2006, will be returned as not processable if the submission of the offer is not accompanied by the full amount of the first proposed installment.

.02 If a periodic payment offer has been accepted for processing and the taxpayer fails to make full payment of the second or subsequent proposed installment while the offer is being evaluated, the Service may solicit payment from the taxpayer of the unpaid amount of the subsequent installment. The Service may issue a letter advising the taxpayer that the offer is considered withdrawn if the taxpayer does not make full payment of the installment within the time allowed unless the Service determines that continued processing of the offer is in the best interests of the government.

SECTION 4. WAIVER OF PAYMENTS UNDER SECTION 7122(c)(2)(C)

.01 The Treasury Department and the Service intend to issue regulations pursuant to section 7122(c)(2)(C) that will waive payments otherwise required by section 7122(c)(1) in two situations. Waivers will apply with respect to offers submitted by low-income taxpayers and with respect to offers submitted by other taxpayers based solely on doubt as to liability. Although regulations have not been issued, on an interim basis the Service will waive the payments otherwise required by section 7122(c)(1) using the criteria described in Sections 4.02 and 4.03 below.

.02 No payment under section 7122(c)(1) will be required when an offer is submitted by a low-income taxpayer. A low-income taxpayer is an individual whose income falls at or below poverty levels based on guidelines established by the U.S. Department of Health and Human Services under the authority of section 673(2) of the Omnibus Reconciliation Act of 1981 (95 Stat. 357, 511), or another measure that is adopted by the Secretary. Until further guidance is issued, a taxpayer should use the worksheet to Form 656–A, *Income Certification for Offer in Compromise Application Fee*, to determine if the taxpayer qualifies as a low-income taxpayer who is not required to make partial payments pursuant to section 7122(c)(1).

.03 No payment under section 7122(c)(1) will be required when an offer is submitted by a taxpayer based solely on doubt as to liability. An offer is considered to be submitted solely on the basis of doubt as to liability if the taxpayer submits the offer on Form 656–L, *Offer in Compromise (Doubt as to Liability)*, or, if the offer is submitted on Form 656, *Offer in Compromise*, it is clear on the face of the Form that the only basis on which the taxpayer relies in making the offer is doubt as to liability.

SECTION 5. REQUEST FOR COMMENTS

.01 The Treasury Department and the Service request comments from the public on the issues addressed in this notice and on additional issues that should be addressed in regulations or other guidance as a result of the recent amendments to section 7122.

.02 Comments are requested regarding the definition of low-income for purposes of section 7122(c)(2)(C). For purposes of this interim guidance, Section 4.02 of this notice defines low-income in a manner consistent with Treas. Reg. § 300.3(b)(1)(ii) regarding user fees for processing offers to compromise. However, the Treasury Department and the Service recognize that commentators have previously raised concerns regarding the definition of low-income in the context of the user fee regulations. Treasury and the Service are considering modifications to the definition of low-income for purposes of the user fee charged for processing an offer in compromise. Treasury and the Service anticipate that any modification to the definition of low-income for purposes of the user fee will be reflected in subsequent guidance issued under new section 7122(c)(2)(C).

.03 Comments should be submitted in writing on or before October 9, 2006, to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, D.C. 20044, Attn: CC:PA:CBS (Notice 2006–68). Submissions may also be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to the Courier's Desk at 950 L'Enfant Plaza, 5th Floor, Washington, DC 20024, by contacting the Legal Processing Division at (202) 874–9752. Submissions may also be sent electronically via the internet to the following email address: *Notice.comments@irscounsel.treas.gov*.

Include the notice number (Notice 2006–68) in the subject line. All comments will be available for public inspection and copying.

SECTION 6. DRAFTING INFORMATION

The principal author of this notice is William F. Conroy of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this notice, contact William F. Conroy at (202) 622–3600 (not a toll-free call).

Debit Cards Used to Reimburse Participants in Self-Insured Medical Reimbursement Plans and Dependent Care Assistance Programs

Notice 2006–69

I. PURPOSE

This notice provides further guidance on the use of debit cards, credit cards, and stored value cards (cards) to reimburse participants in self-insured medical reimbursement plans, such as health flexible spending arrangements (health FSAs) and health reimbursement arrangements (HRAs). See Rev. Rul. 2003–43, 2003–1 C.B. 935. This notice also clarifies certain substantiation methods and requirements that apply to all medical reimbursement plans whether or not a card is used. Finally, the notice provides guidance on the use of cards to reimburse participants in dependent care assistance programs (DCAPs), including dependent care flexible spending arrangements (dependent care FSAs).

II. BACKGROUND

Rev. Rul 2003–43 addresses the use of cards to reimburse participants in health FSAs and HRAs. The ruling describes three situations in which employers adopt electronic reimbursement systems in connection with health FSAs and HRAs. In each of the three situations, employees who participate in the health FSA or HRA are issued cards.

Each participating employee certifies upon enrollment and for each plan year thereafter that the card will only be used for eligible medical care expenses of the employee, the employee's spouse and dependents. The employee also certifies that any expense paid with the card has not been reimbursed and that the employees will not seek reimbursement under any other plan covering health benefits. The certification is printed on the back of the card and the employee-cardholder understands the certification is reaffirmed each time the card is used. The use of the card is limited to the maximum dollar amount of coverage available in the employee's health FSA or HRA. The card can only be used at merchants and service providers that have merchant category codes related to health care, such as physicians, pharmacies, dentists, vision care offices, hospitals, and other medical care providers.

In Situation 1 of the ruling, the employer establishes the following procedures for substantiating claimed medical expenses after the card is used. First, if the dollar amount of the transaction at a health care provider equals the dollar amount of the copayment for that service under the accident or health plan (*i.e.*, the major medical plan, health maintenance organization, etc.) covering the specific employee-cardholder, the charge is fully substantiated without the need for submission of a receipt or further review (*i.e.*, copayment match). Second, the employer permits automatic reimbursement without further review of recurring expenses that match expenses previously approved as to amount, provider, and time period (*i.e.*, recurring expenses). Third, if the merchant, service-provider, or other independent third-party (*e.g.*, Pharmacy Benefit Manager), at the time and point-of-sale, provides information to verify to the employer (including electronically by e-mail, the internet, intranet, or telephone) that the charge is for a medical expense, the charge is fully substantiated without the need for submission of a receipt or further review (*i.e.*, real-time substantiation).

All other charges to the card are treated as conditional pending confirmation of the charge by the submission of additional third-party information, such as a receipt. Claims that are identified as not qualifying for reimbursement because of lack of additional information or otherwise, are subject to certain correction procedures.

Rev. Rul. 2003–43 concludes that the procedures adopted by the employer in Situation 1 meet the requirements of § 105(b) because all claims for medical expenses are substantiated, either automatically or by the submission of additional information. Card systems that do not meet the requirements of § 105(b) result in all payments provided by the cards being included in the participant's income.

III. ADDITIONAL USE OF CARDS TO SUBSTANTIATE HEALTH FSA AND HRA MEDICAL EXPENSES

In addition to the substantiation methods approved in Rev. Rul. 2003–43, as described below, an employer may adopt additional methods for substantiating claimed medical expenses. Employers that adopt these methods must also comply with requirements of Treas. Reg. § 1.105–2, Prop. Treas. Reg. § 1.125–2, Q & A–7, Notice 2002–45, 2002–2 C.B. 93, and Rev. Rul. 2003–43, including, but not limited to, employee certifications and adoption of meaningful correction procedures for amounts that are not automatically substantiated at the point-of-sale or within a reasonable time after the transaction.

A. *Copayment Amounts*

As described in Rev. Rul. 2003–43, the copayment match substantiation method is only permissible at merchants or service-providers that have health care related merchant category codes. Consistent with this approach, this notice expands the copayment match substantiation method to include as automatic substantiations certain matches of multiple copayments. Under this method, if the employer's accident or health plan has copayments in specific dollar amounts, and the dollar amount of the transaction at a health care provider (as identified by its merchant category code) equals an exact multiple of not more than five times the dollar amount of the copayment for the specific service (*i.e.*, pharmacy benefit copayment, copayment for a physician's office visit, etc.) under the accident or health plan (*i.e.*, the major medical plan, health maintenance organization, etc.) covering the specific employee-card-

holder, then the charge is fully substantiated without the need for submission of a receipt or further review. In addition, if a health plan has multiple copayments for the same benefit, (*e.g.*, tiered copayments for a pharmacy benefit), exact matches of multiples or combinations of the copayments (but not more than the exact multiple of five times the maximum copayment) will similarly be fully substantiated without the need for submission of a receipt or further review.

If the dollar amount of the transaction at a health care provider exceeds a multiple of five or more times the dollar amount of the copayment for the specific service, the transaction must be treated as conditional pending confirmation of the charge by the submission of additional third-party information. In the case of a plan with multiple copayments for the same benefit, if the dollar amount of the transaction exceeds five or more times the maximum copayment for the benefit, the transaction must also be treated as conditional pending confirmation of the charge by the submission of additional third-party information. Similarly, if the dollar amount of the transaction is not an exact multiple of the copayment (or an exact match of a multiple or combination of different copayments for a benefit in the case of multiple copayments for the same benefit), the transaction must be treated as conditional pending confirmation of the charge, even if the amount is less than five times the copayment. In these cases, the employer must require that additional third-party information, such as merchant or service provider receipts, describing (1) the service or product, (2) the date of the service or sale and, (3) the amount, be submitted for review and substantiation.

The copayment schedule required under the accident or health plan must be independently verified by the employer (*i.e.*, the copayment amount must be substantiated by a third-party; statements or other representations by the employee are not sufficient).

Example 1. Employer W reimburses health FSA claims through debit cards, as described in Situation 1 of Rev. Rul. 2003–43. Employee A and Employee B are participants in the health FSA and are enrolled in W's medical plan. The plan has a $5 copayment for generic prescriptions and a $10 copayment for all other prescriptions.

A uses the card at a pharmacy to purchase five non-generic prescriptions, for a total card transaction of $50. W's system matches the amount of the transaction, $50, with the $10 copayment for non-generic prescriptions under A's coverage and the fact that the transaction is at a pharmacy. Because the amount of the transaction is an exact multiple not in excess of five times the maximum copayment for prescriptions under A's medical coverage and the transaction is at a pharmacy, the transaction is substantiated without further review or documentation.

B uses the card at a pharmacy to purchase three generic prescriptions and three non-generic prescriptions for a total card transaction of $45. Because the transaction is at a pharmacy and the amount of the transaction is an exact match of a combination of the copayments and does not exceed fives times the maximum copayment for prescriptions under B's medical coverage, the transaction is substantiated without further review or documentation.

Example 2. The facts are the same as *Example 1* except that A uses the card at a pharmacy to purchase six non-generic prescriptions for a total charge of $60. Because the amount of the transaction exceeds five times the maximum copayment for prescriptions under A's medical coverage, the entire transaction must be further substantiated through the submission of a receipt indicating that A purchased prescription drugs, the date of the purchase, and the amount of the purchase.

Example 3. The facts are the same as *Example 1*, except that A uses the card at a pharmacy to purchase two non-generic prescriptions and a nonprescription medication. The amount of the transaction is $27. Because the amount of the transaction is not an exact match of a multiple or combination of the copayments for generic and non-generic prescriptions under A's medical coverage, the transaction must be further substantiated through the submission of a receipt indicating that A incurred a medical expense (the prescription drugs and nonprescription medication), the date of the purchase and the amount of the purchase.

B. *Inventory Information Approval System*

An employer may adopt the method described below for approving reimbursements made through a payment card in conjunction with a health FSA or an HRA. Under this method, the payment card processor provides a system for approving and rejecting card transactions using inventory control information (*e.g.*, stock keeping units (SKUs)) with merchants who need not be health care providers as described in Rev. Rul. 2003–43. Card transactions using this method are fully substantiated without the need for submission of a receipt by the employee or further review.

Under this method, when an employee uses the card, the merchant's system collects information about the items purchased using the inventory control information (*e.g.*, SKUs). The system compares the inventory control information for the items purchased against a list of items, the purchase of which qualifies as expenses for medical care under § 213(d) (including nonprescription medications as described in Rev. Rul. 2003–102, 2003–2 C.B. 559). The § 213(d) medical expenses are totaled and the merchant's or payment card processor's system approves the use of the card only for the amount of the §213(d) medical expenses subject to coverage under the health FSA (taking into consideration the uniform coverage rule) or HRA. If the transaction is only partially approved, the employee is required to tender additional amounts, resulting in a split-tender transaction.

As described in Rev. Rul. 2003–43, if the merchant, service provider, or other independent third-party at the time and point-of-sale provides information to verify to the employer (including electronically by e-mail, the internet, intranet, or telephone) that the charge is for a medical expense, the charge is fully substantiated, without the need for submission of a receipt for further review (*i.e.*, real-time substantiation). Similarly, the inventory information approval system satisfies the substantiation requirements for purposes of reimbursing an employee's § 213(d) medical expenses without further review. However, an employer that adopts this system is nonetheless responsible for complying with all requirements in this notice, including recordkeeping requirements. Under this notice, the information required to be retained may be provided at the time of the transaction, or after the transaction (*e.g.*, upon an examination of the employer by Internal Revenue Service). Rev. Proc. 98–25, 1998–1 C.B. 689, which sets out requirements where a taxpayer's records are maintained within an automatic data processing system, also applies to the inventory information approval system.

An employer using this system may expand card use to merchants or service-providers that do not have health care related merchant category codes, provided that the only non-health care related merchants or service-providers where the card can be used are those that use the system (*i.e.*, participating merchants or participating service-providers). Under the inventory information approval system, attempts to use the card at non-participating merchants or service-providers would be rejected.

For example, if, after matching inventory information, it is determined that all

items purchased are § 213(d) medical expenses, the entire transaction is approved, subject to the coverage limitations of the health FSA or HRA. If, after matching inventory information, it is determined that only some of the items purchased are § 213(d) medical expenses, the transaction is approved only as to the § 213(d) medical expenses. In this case, the merchant or service-provider would request additional payments from the employee for the items that do not satisfy the definition of medical care under § 213(d). The merchant or service-provider would also request additional payments from the employee if the employee does not have sufficient health FSA or HRA coverage to purchase the § 213(d) medical items.

Example. Employer Y reimburses health FSA claims through debit cards, as described in Situation 1 of Rev. Rul. 2003–43. Y has adopted the inventory information approval system. Several stores that do not have health care related merchant category codes participate in the system (*i.e.*, participating merchants). These participating merchants sell nonprescription medications. The use of the card has been expanded to include the participating merchants.

Employee C is a participant in the health FSA sponsored by Employer Y and has $100 of health FSA coverage. Y's health FSA covers nonprescription medications. C purchases aspirin, antacid, and cold medication for C and C's spouse and dependents at one of the participating merchants. The total amount for these medical expenses is $20.75. At the same time, C also purchases $50.00 of items that do not qualify as medical expenses under § 213(d), for a total purchase amount of $70.75. The store's system compares the SKUs from all of the items against the SKUs from a list of items that qualify as medical expenses under § 213(d). The charge for the medical expenses totaling $20.75 is authorized and the remaining $50.00 is rejected. Employee C is asked for additional payment to purchase the remaining non-medical items.

IV. OTHER SUBSTANTIATION ISSUES

A. *Direct Third-Party Substantiation*

If the employer is provided with information from an independent third-party (such as an explanation of benefits from an insurance company (EOB)) indicating the date of the § 213(d) service and the employee's responsibility for payment for that service (*i.e.*, coinsurance payments and amounts below the plan's deductible), the claim is fully substantiated without the need for submission of a receipt by the employee or further review.

Example. Employee D is a participant in the health FSA sponsored by Employer X and is enrolled in X's medical plan. D visits a physician's office for medical care as defined in § 213(d). The cost of the services provided by the physician is $150.00. Under the medical plan, D is responsible for 20% of the services provided by the physician. X has coordinated with the medical plan and X or its agent is automatically provided with an EOB from the plan indicating that D is responsible for payment of 20% of the $150 (*i.e.*, $30) charged by the physician. Because X has received a statement from an independent third-party that D has incurred a medical expense, the date the expense was incurred, and the amount of the expense, the claim is substantiated without the need for D to submit additional information regarding the expense. D has sufficient FSA coverage for the claim, which was incurred during the coverage period. X's FSA reimburses D the $30 medical expense without requiring D to submit a receipt or a statement from the physician.

B. *Prohibition Against Self-Certification*

Section 105 and § 125 require the substantiation of all medical expenses as a precondition of payment or reimbursement (including the automatic substantiation methods described in Rev. Rul. 2003–43 and this notice). "Self-substantiation" or "self-certification" of an expense by an employee-participant does not constitute the required substantiation.

For example, a health FSA or an HRA does not satisfy the requirements of § 105(b) if it reimburses participants for expenses where the participants only submit information (including via internet, intranet, facsimile or other electronic means) describing medical expenses, the amount of the expenses, and the date of the expenses, but does not provide a statement from an independent third-party (either automatically or subsequent to the transaction) verifying the expenses. Under § 1.105–2 of the regulations, all amounts paid under a plan that permits "self-substantiation" or "self-certification" are included in gross income, including amounts reimbursed for medical expenses whether or not substantiated. *See* Rev. Rul. 2002–80, 2002–2 C.B. 925, and Rev. Rul. 2003–43. Similarly, "self-substantiation" or "self-certification" of an employee's copayment in connection with copayment matching procedures through payment cards or otherwise does not constitute substantiation. If a plan's copayment matching system relies on an employee to provide a copayment amount without independent verification of the amount, claims have not been substantiated, and all amounts paid from the plan are included in gross income, including amounts paid for medical care whether or not substantiated.

V. USE OF CARDS FOR DEPENDENT CARE ASSISTANCE PROGRAMS

An employer may use a payment card program to provide benefits under its DCAP, including a dependent care FSA. However, dependent care expenses may not be reimbursed before the expenses are incurred. For this purpose, dependent care expenses are treated as having been incurred when the dependent care services are provided, not when the expenses are formally billed, charged for, or paid by the participant. Prop. Treas. Reg. § 1.125–1, Q & A–18. Thus, if a dependent care provider requires payment before the dependent care services are provided, those expenses cannot be reimbursed at the time of payment, even through the use of a payment card program.

An employer offering a DCAP or dependent care FSA may nevertheless adopt the following method to provide reimbursements for dependent care expenses through a payment card program. At the beginning of the plan year or upon enrollment in the DCAP, the employee pays initial expenses to the dependent care provider and substantiates the initial expenses by submitting to the employer or plan administrator a statement from the dependent care provider substantiating the dates and amounts for the services. After the employer or plan administrator receives the substantiation, but not before the date the services are provided as indicated by the statement from the dependent care provider, the plan makes available through the payment card an amount equal to the lesser of: (1) the previously incurred and substantiated expense, or (2) the employee's total salary reduction amount to date. See Prop. Treas. Reg. § 1.125–2, Q & A–7(b)(8). The amount available through the card may be increased in the amount of any additional dependent care expenses only after the additional expenses have been incurred. The amount on the card may then be used to pay for later dependent care expenses.

Later card transactions that have been previously approved as to the dependent care provider and time period may be treated as substantiated without further review if the later card transactions are

for an amount equal to or less than the previously substantiated amount. If there is an increase to the previously substantiated amount or a change in the dependent care provider, the employee must submit a statement or receipt from the dependent care provider substantiating the new claimed expense before amounts relating to the increased amount or new provider may be added to the card.

Example. Employer Z sponsors a dependent care FSA that is offered through its cafeteria plan. Salary reduction amounts for participating employees are made on a weekly payroll basis, which are available for dependent care coverage on a weekly basis. As a result, the amount of available dependent care coverage equals the employee's salary reduction amount minus claims previously paid from the plan. Z has adopted a payment card program for its dependent care FSA. Employee F is a participant in the dependent care FSA and has elected $5,000 of dependent care coverage. Z reduces F's salary by $96.15 on a weekly basis to pay for coverage under the dependent care FSA.

At the beginning of the plan year, F is issued a debit card with a balance of zero. F's childcare provider, ABC Daycare Center, requires a $250 advance payment at the beginning of the week for dependent care services that will be provided during the week. The dependent care services provided for F by ABC qualify for reimbursement under § 129. However, because the services have not yet been provided as of the beginning of the plan year, F cannot be reimbursed for any of the amounts until the end of the first week after the services have been provided. F submits a claim for reimbursement that includes a statement from ABC with a description of the services, the amount of the services, and the dates of the services. Z increases the balance of F's payment card to $96.15 after the services have been provided (*i.e.*, the lesser of F's salary reduction to date or the incurred dependent care expenses). F uses the card to pay ABC $96.15 on the first day of the next week and pays ABC the remaining balance due for the week ($153.85) by check.

To the extent that this card transaction and each subsequent transaction is with ABC and is for an amount equal to or less than the previously substantiated amount, the charges are fully substantiated without the need for the submission by F of a statement from the provider or further review by the employer. However, the subsequent amount may not be made available on the card until the end of the week when the services have been provided.

EFFECTIVE DATE

With respect to the Inventory Information Approval System, as described in section III B of this notice, the requirement that an employer that uses this system is responsible for ensuring that the system complies with the recordkeeping requirements of this notice (including Rev. Proc. 98–25) is effective for plan years beginning after December 31, 2006.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 2003–43, 2003–1 C.B. 935, is amplified.

DRAFTING INFORMATION

The principal author of this notice is Barbara Pie of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Mireille T. Khoury at (202) 622–6080 (not a toll-free call).

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26 CFR 31.6053–1: Report of tips by employee to employer.

Rev. Proc. 2006–30

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SECTION 1. PURPOSE

This revenue procedure sets forth the requirements for participating in the Attributed Tip Income Program (ATIP). ATIP provides benefits to employers and employees similar to those offered under previous tip reporting agreements without requiring one-on-one meetings with the Service to determine tip rates or eligibility.

SECTION 2. BACKGROUND

.01 The Internal Revenue Service is expanding its Tip Rate Determination/Education Program (TRD/EP), which is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary agreements instead of traditional audit techniques.

.02 The Service developed the TRD/EP in 1993 as a means of enhancing tax compliance while reducing taxpayer burden and in 2004, the Service extended the TRD/EP program indefinitely. In TRD/EP, the Service works with taxpayers in industries in which tipping is customary to improve tax compliance. The TRD/EP currently offers employers operating food and beverage establishments two types of agreements. The Tip Rate Determination Agreement (TRDA) requires that tips be reported at or above a specific rate negotiated between the employer and the Service in return for certain benefits. The Tip Reporting Alternative Commitment (TRAC) agreement requires that the employer provide ongoing education to tipped employees on tip reporting procedures in return for certain benefits. A variation on TRAC, the Employer-designed Tip Reporting Alternative Commitment (EmTRAC), allows the employer considerable latitude in designing its educational program and tip reporting procedures. Employers who enter into these agreements and comply with their terms are not subject to challenge on audit with respect to the amount of tips they are reporting as wages. TRDA provides similar benefits to employees. Although not set forth in the TRAC agreements, if employees follow the procedures their employer describes in the required educational sessions, the Service will not challenge the amount of tips they report to their employers as wages. The Service also offers the Gaming Industry Tip Compliance Agreement (GITCA) which is an agreement designed to meet the needs of establishments in the gaming industry. The decision to enter into TRDA, TRAC, or GITCA is entirely voluntary on the part of the employer.

.03 ATIP is a new reporting alternative for employers in the food and beverage industry designed to promote compliance by employers and employees with the provisions of the Internal Revenue Code (the Code) governing tip income, to reduce disputes on audit, and to reduce filing and recordkeeping burdens. ATIP is being offered in addition to the existing TRD/EP programs described in section 2.02 of this revenue procedure. ATIP differs from the existing programs in that it does not require an employer to enter into an individual agreement with the Service. ATIP does not alter any of the existing TRD/EP programs. Employers currently participating in an existing TRD/EP program may elect to switch to ATIP. See Section 10 for additional information.

.04 The requirements for participation in ATIP for employers and employees are set forth in this revenue procedure. The benefits of participation for both employers and employees are also set forth. Participation by employers and employees is entirely voluntary. An employee cannot participate in ATIP unless he or she is employed by a participating employer.

.05 Pilot Program. The ATIP is a pilot program. Employers may elect to participate in ATIP on a calendar year basis for each of the three calendar years beginning on or after January 1, 2007.

SECTION 3. DEFINITIONS

.01 For purposes of this revenue procedure, the following definitions apply.

.02 Attribution date. The term "attribution date" means the date on which tips attributed to participating employees are treated as wages for federal employment tax purposes.

.03 Charge receipts. Charge receipts shall include credit card charges and charges under any other credit arrangement (*e.g.*, house charges, city ledgers and charge arrangements to country club member.) Debit card sales are included in charge receipts.

.04 Charged tips. A tip included on a charge receipt is a charged tip.

.05 Charged tip rate. For each calendar year, the "charged tip rate" for a participating establishment equals (i) the total charged tips reported (or to be reported) on the establishment's Form 8027 for the calendar year immediately preceding the calendar year of participation in ATIP divided by (ii) the total charge receipts reported (or to be reported) on the Form 8027 (sales from charge receipts showing charged tips) for the calendar year immediately preceding the calendar year of participation in ATIP.

Example: Total charged tips reported on the establishment's Form 8027 for the preceding calendar year equal $170,000 and total charge receipts reported on the Form 8027 for the preceding calendar year equal $1,000,000; the charged tip rate for the establishment for the calendar year would be 17 percent, or 170,000 divided by 1,000,000.

.06 Directly tipped employee. The term "directly tipped employee" means any tipped employee who receives tips directly from customers, including an employee who after receiving tips directly from customers turns all the tips over to a tip pool. Examples of directly tipped employees are waiters, waitresses, and bartenders.

.07 Eligible establishment. The term "eligible establishment" means an establishment where at least 20 percent of the establishment's gross receipts from the sale of food or beverages for the calendar year immediately preceding the calendar year of participation in ATIP are charge receipts showing charged tips.

.08 Employee participation agreement. The term "employee participation agreement" means a document signed by the tipped employee which includes a description of the requirements and benefits of employee participation in the ATIP (specifically including the employee's agreement to report on his or her federal income tax return at least the amount of tip income attributed to him or her under ATIP and reported on the employee's Form W–2 as tips), a description of the attribution method used by the establishment, and a provision for revocation. An employer may also use the employee participation agreement to provide an estimate of the tip amount that will be attributed. A document which conforms to the model employee participation agreement provided in Appendix of this revenue procedure satisfies this definition.

.09 Food or beverage employee. The term "food or beverage employee" means an employee who provides services in connection with the provision of food or beverages. Such employees include, but are not limited to, waiters, waitresses, busboys, bartenders, persons in charge of seating (such as a hostess, maitre d' or dining room captain), wine stewards, cooks, and kitchen help. Examples of employees who are not food or beverage employees include, but are not limited to, coat check persons, bellhops and doormen.

.10 Food or beverage establishment. The term "food or beverage establishment" means an establishment that provides food or beverages in which the tipping by customers of employees serving food or beverages is customary.

.11 Formula tip rate. The term "formula tip rate" equals the charged tip rate minus two percentage points.

Example. The charged tip rate for the establishment, based on data from Form 8027, is 17 percent. The formula tip rate is thus 15 percent (the charged tip rate minus two percentage points, .17 – .02 = .15).

.12 Indirectly tipped employee. The term "indirectly tipped employee" means a tipped employee who does not normally receive tips directly from customers. Examples of indirectly tipped employees are busboys, service bartenders and cooks. An employee, such as a maitre d', who receives tips both directly from customers and indirectly through tip splitting or tip pooling shall be treated as a directly tipped employee.

.13 Nonparticipating Employee. The term "nonparticipating employee" means any tipped employee who is not a participating employee.

.14 Participating Employee. The term "participating employee" means any tipped employee who has a signed employee participation agreement in effect.

.15 Payroll period. The term "payroll period" means the period of service for which a payment of wages is ordinarily made to the employee by his or her employer.

.16 Tip compliance agreement. The term "tip compliance agreement" means any of the following —

(1) A Tip Rate Determination Agreement (TRDA) for use by employers in the food and beverage industry, Ann. 2000–23, 2000–1 C.B. 992;

(2) A Tip Reporting Alternative Commitment (TRAC) Agreement, Ann. 2000–22, 2000–1 C.B. 987;

(3) An approval letter received pursuant to the Employer-Designed Tip Reporting Alternative Commitment (EmTRAC), Notice 2000–21, 2000–1 C.B. 967; or

(4) A Gaming Industry Tip Compliance Agreement (GITCA) for a food or beverage establishment, Rev. Proc. 2003–35, 2003–1 C.B. 919.

.17 Tipped employee. The term "tipped employee" of a food or beverage establishment means an employee who is a food or beverage employee who customarily receives tip income from employment at that establishment. An employee who occasionally receives small amounts of tip income is not a tipped employee. Generally, an employee who receives less than $20 per month in tip income would not be considered as customarily receiving tip income. For purposes of this revenue procedure the term tipped employee includes a directly tipped employee and an indirectly tipped employee, as defined in sections 3.06 and 3.12 of this revenue procedure.

SECTION 4. EMPLOYER PARTICIPATION IN ATIP

.01 Employers participate in ATIP establishment by establishment. An employer may participate in ATIP with respect to an establishment only if it is an eligible establishment as defined in section 3.07 of this revenue procedure. In order to participate with respect to an establishment, an employer must satisfy all of the requirements in this section for that establishment. If an employer has more than one eligible establishment, the employer must satisfy the requirements for each establishment that is going to participate. An employer may have both participating and nonparticipating establishments.

.02 Employee participation.

(1) General rule. At least 75 percent of the establishment's tipped employees must have agreed to participate and signed an employee participation agreement as of the last day of the first payroll period ending on or after January 1 of the calendar year. In addition, the employer must make a good faith effort to maintain the participation rate throughout the year. For purposes of this rule, an employer may treat an employee who signs an employee participation agreement as a participating employee until the first day of the first payroll period for which the employee submits a tip report for less than the attributed tips or which follows the date on which the employee gives the employer a signed notice revoking participation in ATIP.

(2) Good faith effort. A good faith effort means periodic review of the level of participation, steps taken to encourage more tipped employees to participate whenever the rate falls below the required 75 percent, and steps taken to offer participation to all new tipped employees. An employer that manipulates the participation rate so as to qualify at the beginning of the year even though there is a significant and sustained decline in participation for other parts of the year will not be considered to have made a good faith effort.

(3) Annual qualification. An establishment that participated in ATIP in a prior year but does not satisfy the 75 percent employee participation requirement as of the last day of the first payroll period ending on or after January 1 of the applicable year is not eligible to participate in that year.

Example. Establishment satisfies the 75 percent participation requirement for Year 1, determined as of the last day of the first payroll period ending on or after January 1 of Year 1. Notwithstanding the good faith efforts of the employer, the participation rate drops over the course of the year and on December 31 of Year 1, only 65 percent of tipped employees remain as participants. Also, as of the last day of the first payroll period ending on or after January 1 of Year 2, only 65 percent of tipped employees remain as participants. While the establishment retains the benefits of the ATIP for Year 1, it is not eligible to participate in the program for Year 2.

.03 Notification of Service. An employer must notify the Service of its participation in ATIP. Notification must be provided for each year in which the employer participates. If an employer has more than one food or beverage establishment, the employer must provide separate notification for each establishment for each year. An employer shall use a copy of a timely filed Form 8027 for the prior year for purposes of notifying the Service of its participation in ATIP for the current year for an establishment regardless of whether the employer is otherwise required to file Form 8027 for that establishment. The employer's participation with respect to an establishment is effective as of January 1 of the year in which the Form 8027 is filed. For example, to elect participation in ATIP

for 2007, the employer files a Form 8027 for 2006. If the employer is required to file Form 8027 for an establishment, the employer notifies the Service of its intent to participate with respect to a particular establishment by timely filing Form 8027 for that establishment and sending a copy of the completed form, with the box checked "ATIP" to the address in section 13 of this revenue procedure by the due date for filing the Form 8027 (paper returns are due February 28, or February 29 for calendar year 2008, and electronic returns are due March 31). If an employer is not required to file the Form 8027 for an establishment (for example, an establishment with less than 10 employees), the employer completes lines 1 – 5 of a Form 8027 for the calendar year preceding the year for which the establishment is electing to participate in ATIP for that establishment, signs the form, and sends the form, with the box checked "ATIP" to the address in section 13 by February 28.

.04 Tip attribution. The employer must select a period for computing the total tip amount and attributing tips to all tipped employees. The period may be no longer than a month and may be shorter if the employer so chooses. The employer must also select an attribution date on which to attribute the total tip amount to all tipped employees. The attribution date may be no later than the tenth day following the last day of the period for which the total tip amount is computed, and it may not be earlier than the last date on which an employee may submit to the employer a report of actual tips received for the period for which the total tip amount was computed. The employer must compute the total tip amount for the establishment and attribute tips as follows.

(1) As of the last day of the period determined by the employer to compute the total tip amount, the employer computes the total tip amount for the establishment by multiplying the total gross receipts from food and beverage sales of the establishment for the period by the formula tip rate.

(a) Except as provided in paragraph (b) below, for each year the employer computes the formula tip rate using the charged tip rate calculated based upon the information reported (or to be reported) on the establishment's Form 8027 for the preceding calendar year. For example, for employers participating in 2007, the formula tip rate is computed by reference to data on the 2006 Form 8027.

(b) For periods ending on or after January 1 and before March 1 of any year, the employer may compute the total tip amount using the formula tip rate used by the establishment in December of the prior year. For example, for periods ending on or after January 1 and before February 28, 2007, the employer may compute the total tip amount using a formula tip rate computed by reference to data on the establishment's 2005 Form 8027.

(2) The employer attributes the total tip amount computed in section 4.04(1) of this revenue procedure to all tipped employees without regard to whether the tipped employee is a participating or nonparticipating employee. The employer attributes tips to all tipped employees using any reasonable attribution method. The method used must be the method described in the employee participation agreement(s) used by the employer. If, during the calendar year, the employer modifies the attribution method, the employer must provide written notice to the participating employees at least seven days prior to the first day of the payroll period for which the employees will be subject to the new attribution method.

(a) An attribution method is reasonable if it is applied consistently to similarly situated tipped employees and approximates the relative amounts of tips received by different categories of similarly situated tipped employees. An attribution method that approximates the actual distribution of tips, rather than tracking the amount actually distributed, can be reasonable. For example, attributing the total tip amount based on hours worked by each tipped employee as a percentage of total hours worked by all tipped employees is a reasonable method if it reasonably approximates the actual distribution of tips, even if the practice of employees retaining tips is based on percentage of receipts, rather than hours worked.

(b) An attribution method will not be considered reasonable if the employer computes the total amount of attributed tips, subtracts tips reported by nonparticipating employees, and attributes the difference to all tipped employees.

(c) Following is an example of a reasonable attribution method:

Establishment R serves lunch five days a week and dinner six days a week. R employs eight directly tipped employees, A, B, C, D, E, F, G, and H. Employee A works 20 hours and employee B works 25 hours per week during the lunch shift. Employees C, D, E, F, and G work various hours per week during the dinner shift. Employee H is the bartender and works 40 hours per week spread between the lunch and dinner shifts. Establishment R notified the Service that it would participate in ATIP in 2007. Employees A, B, C, D, E, and F are participating employees while employees G and H are nonparticipating employees. Using the data from its 2006 Form 8027, Establishment R calculated its formula tip rate to be 13%. Establishment R computes the total tip amount weekly and uses a two step attribution method. First, Establishment R allocates a portion of the total tip amount to different groups of similarly situated employees based upon the average percentage of gross receipts attributable to lunch, dinner and the bar. Establishment R then further attributes tips to each employee in its three categories: lunch, dinner and the bar.

10% of the total tip amount is allocated to the lunch shift and attributed to employees A and B;

60% of the total tip amount is allocated to the dinner shift and attributed to employees C, D, E, F, and G; and

30% of the total tip amount is allocated to the bar and attributed to employee H.

Tips for the lunch shift employees are allocated among the employees based on the employee's percentage of total hours worked for the shift. Tips for the dinner shift employees are allocated among the employees based on the percentage of total dinner receipts from customers served by that employee.

In a typical week, Establishment R has $20,000 in gross receipts. R's total tip amount is $2,600 ($20,000 x 13% = $2,600).

The total tip amount is allocated to similarly situated employees as follows:

$2600 x 10% = $260 allocated to the lunch shift

$2600 x 60% = $1560 allocated to the dinner shift

$2600 x 30% = $780 allocated to the bar

The amounts are attributed to all tipped employees, participating and or nonparticipating.

Lunch shift employees (based upon hours worked)

A	$260 x 20/45 = $115.56
B	$260 x 25/45 = $144.44

Dinner shift employees (based upon percentage of dinner receipts)

C	$1560 x 27% = $421.20
D	$1560 x 20% = $312.00
E	$1560 x 20% = $312.00
F	$1560 x 18% = $280.80
G	$1560 x 15% = $234.00

Bartender (based upon percentage of gross receipts)

H	$780.00

The amounts attributed to the participating employees A, B, C, D, E, and F are treated as if the employees reported those amounts to the employer, and the employer treats these amounts as wages for purposes of Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act (FUTA), and income tax withholding (ITW). Employee G reported tips of $275.00 to the employer and employee H reported tips of $697.00 to the employer. Since G and H are not participating employees in ATIP, the amounts they reported to the employer, and not any tips attributed to them under the attribution method, will be treated as wages for purposes of FICA, FUTA and ITW.

.05 Treatment of attributed tips as wages for purposes of withholding, reporting, and payment of employment taxes.

(1) Participating employees. On the attribution date, the employer must treat tips attributed to the participating employees as if each participating employee had reported such attributed tips on a written statement furnished to the employer as tips received by the employee, as required by section 6053(a) of the Code. Thus, the employer must comply with the requirements to withhold, pay, and report FICA, FUTA, and ITW on a timely basis as applicable to the attributed tips.

(2) Nonparticipating employees. Tips attributed to nonparticipating employees are not treated as reported on a written statement furnished to the employer as tips received by the employee. Thus, tips attributed to nonparticipating employees are not treated as wages for FICA, FUTA, and ITW purposes. As under existing law, each nonparticipating employee must report the amount of tips actually received to the employer, and the employer must treat the reported amount of tips as wages.

(3) Tip allocations. If an employer is required to allocate tips pursuant to section 6053(c), the employer shall allocate tips only to nonparticipating employees, and then only in such amount as is allocable to them pursuant to Treas. Reg. § 31.6053–3(d), (e), and (f). No tips may be allocated to participating employees.

.06 Reconciling with reports of actual tips received. A participating employee retains the right to report tips actually received for a given period to the employer. See Section 5.07 of this revenue procedure. If a participating employee reports actual tips received for a given period to the employer in an amount that exceeds the tips that otherwise would have been attributed to the employee for that period, the excess must also be included in the participating employee's wages for purposes of withholding, reporting and paying FICA, FUTA, and ITW, as applicable. If a participating employee reports actual tips received for a given period to the employer in an amount that is less than the tips that otherwise would have been attributed to the employee for that period, the employer shall treat only the reported amount (and no part of the attributed tips) as wages for purposes of withholding, reporting and paying FICA, FUTA, and ITW for that period.

.07 Notification of participating employees as to amount of attributed tips. If in any calendar year, an employer reports on the participating employee's Form W–2 an amount of tips that includes both attributed tips and tips actually reported to the employer pursuant to section 6053(a) of the Code, the employer shall provide the participating employee with an additional written statement showing the amount of the tips reported on the Form W–2 that are attributed tips.

.08 Employer recordkeeping. For each year the employer participates in ATIP, the employer shall maintain the following records for each establishment to be made available to the Service upon request.

(1) Copies of employee participation agreements signed by employees.

(2) Employee records. For each tipped employee, the employee's name, address, social security number, date hired, status as directly or indirectly tipped employee, reported tips, the amount of tips attributed, and any other wages paid.

(3) Tip records.

(a) All records of information used to compute the total tip amount for the establishment, to determine the attribution method used, and to apply the attribution method to the total tip amount for each period, including records sufficient to support the amount of tips attributed to each tipped employee, both participating and nonparticipating, and any records of distributions of aggregate or pooled tips.

(b) Gross food or beverage receipts subject to tipping.

(c) All charge receipts showing charged tips.

(d) All tip reports submitted by tipped employees.

(e) All charge receipts or electronic charge records.

(4) A copy of the Form 8027 used to notify the Service of participation in ATIP.

(5) A copy of any letter sent to notify the Service of an establishment's termination of participation in ATIP.

The employer must retain the records described in this section for at least 4 years dating from April 15 of the calendar year following the calendar year to which the records relate. An employer that participates in ATIP is not relieved of the obligation to maintain records related to tipped employees required under statutes, regulations or other rules administered by other governmental agencies.

.09 Records to be furnished to the Service. With respect to each participating establishment, for each calendar year of participation in ATIP, the employer shall furnish the following records on or before March 31 of the succeeding calendar year to the address in section 13 of this revenue procedure.

(1) Description of the attribution method as provided in the employee participation agreement(s).

(2) An annual report providing each tipped employee's name, address, and social security number, status as a participating or nonparticipating employee, and the amount attributed to each tipped employee.

(3) Amount reported to each tipped employee as Social Security tips on Form W–2.

.10 Filing returns and paying and depositing taxes. The employer must comply with all applicable requirements for filing federal tax returns and depositing and paying all federal taxes. If an employer is required to file a Form 8027 with respect to a participating establishment, the employer must comply with the requirements for filing Form 8027. On the Form 8027 filed for calendar years in which an establishment participates in ATIP, the employer shall treat as reported tips on line 4c an amount equal to the sum of the tips attributed under ATIP to participating employees, the amount of reported tips in excess of the attributed tips reported by participating employees (if any), and the tips reported by nonparticipating employees.

.11 Fulfilling requirements on annual basis. Participation in ATIP is on a calendar year basis. Employers must attribute tips and otherwise comply with the requirements of ATIP beginning with the first period ending on or after January 1 of the year for which the employer notifies the Service of its intent to participate.

.12 Accuracy requirement. The information reported on the Form 8027 must be accurate.

.13 General compliance. Except as otherwise provided under this revenue procedure, the employer shall comply with all rules under the Code and Treasury regulations applicable to employers with respect to a participating establishment.

SECTION 5. EMPLOYEE PARTICIPATION IN ATIP

.01 In order to participate and receive the benefits set forth in section 6 of this revenue procedure, an employee must satisfy all of the requirements in this section.

.02 The employee must be a tipped employee.

.03 The employee must sign an employee participation agreement with the employer. If an employee works at more than one participating establishment owned or operated by the employer, the employee must sign a separate employee participation agreement for each establishment.

.04 The employee must report on his or her federal income tax return at least the amount of tip income attributed to him or her under ATIP and reported on the employee's Form W–2 as tips. A participating employee may report tips on his or her federal income tax return below or above the amount of tip income attributed to him or her under ATIP and reported on the employee's Form W–2 as tips. However, any participating employee who fails to report on his or her federal tax return all of the tips reported by the employer on the employee's Form W–2 for that year will not receive the benefits provided by section 6.02 of this revenue procedure. An employee who reports less than the amount of tips reported by the employer on Form W–2 must be able to substantiate, with adequate books and records, that the tip income earned was less than the amount reported on the Form W–2.

.05 Period of participation.

(1) General rule. Except as provided in section 5.04 of this revenue procedure, a participating employee receives the benefits of ATIP for periods beginning after the later of (1) the effective date of the employer's participation (see section 4.03) or (2) the first payroll period in which the employee's participation agreement is in effect.

(2) Special rule for new hires. An employee hired after the first pay period of the year is treated as a participating employee as of the date of hire if the employee provides the employer with a signed employee participation agreement within 30 days of the date of hire.

.06 A participating employee is not required to report tips to his or her employer for any payroll period beginning with the first payroll period in which the employee's participation agreement is in effect and continuing with every payroll period thereafter until the employee revokes his or her employee participation agreement, or the employer notifies the employee that the employer is no longer participating in ATIP.

.07 Consequences of reporting tips to the participating employer. A participating employee retains the right to report tips to his or her employer. If the participating employee reports an amount of tips for a given period that exceeds the amount the employer has attributed to that employee for that period, the excess shall be treated as wages for purposes of withholding, paying and reporting FICA, FUTA, and ITW, as applicable. See section 4.06 of this revenue procedure. Making such a report does not affect the employee's status as a participating employee. If the participating employee reports an amount of tips for a given period that is less than the amount the employer will attribute to that employee for that period, the participating employee revokes his or her employee participation agreement, effective the first day of the payroll period for which the employee reports an amount of tips less than the amount the employer would have attributed to the employee.

SECTION 6. BENEFITS OF PARTICIPATION IN ATIP

.01 Benefits to the employer. The Service will act as follows with respect to an employer that satisfies all the requirements of section 4 of this revenue procedure with respect to one or more establishment:

(1) The Service will not initiate any tip examinations of a participating establishment with respect to any period during

which the establishment is participating in ATIP.

(2) Code section 3121(q) notice and demand. Any section 3121(q) notice and demand issued to the employer with respect to a participating establishment relating to any period during which the establishment is participating in ATIP will be based solely on amounts reflected on:

(a) Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, filed by an employee with Form 1040; or

(b) Form 885–T, *Adjustment of Social Security Tax on Tip Income Not Reported to Employer*, prepared at the conclusion of an employee tip examination; or

(c) The reporting of additional tip income by a participating employee.

At the Service's discretion, the Service may continue any ongoing examination of the employer or establishment begun by the Service for a taxable period before the employer notifies the Service of its intent to participate in ATIP.

(3) A participating establishment will be considered in compliance with the reporting requirements of section 6053(c)(2) and (3) of the Code regarding allocation of tips to participating employees for the taxable periods during which the employer's participation in ATIP remains in effect.

.02 Benefits to participating employees. The Service will act as follows with respect to a participating employee who meets all the requirements of section 5 of this revenue procedure.

(1) The Service will not examine a participating employee's tip income with respect to the participating establishment for any period during which the employee is a participating employee, provided the employee reported as wages on his or her federal income tax return at least the amount of attributed tips reported to the employee in connection with employment at the participating establishment on Form W–2. The Service may examine a participating employee's tip income with respect to the participating establishment for any period if the employee reports on his or her federal income tax return less than the amount of tip income attributed to him or her under ATIP and reported in connection with employment at the participating establishment on the employee's Form W–2 as tips.

(2) If an employee becomes a participating employee more than 30 days after becoming employed as a tipped employee, the Service may examine the participating employee's tip income received in connection with employment at the participating establishment before the employee becomes a participating employee. At the Service's discretion, the Service may continue any ongoing examination of any tipped employee of the employer started by the Service before the effective date of the employer's participation in this program.

.03 Status of nonparticipating employee. A nonparticipating employee is subject to the full range of compliance and enforcement procedures available to the Service including examination of tip income for any time period. The Service has authority, including the issuance and enforcement of summonses pursuant to sections 7602, 7604, and 7609 of the Code, to secure the information necessary for the Service to develop the tip rates of nonparticipating employees including information in possession of the participating employer.

SECTION 7. LOSS OF PROGRAM BENEFITS

.01 Employer. An employer will lose the protections provided in section 6.01 of this revenue procedure with respect to an establishment if the employer fails to comply with any of the requirements of section 4 with respect to that establishment. If the failure to comply with one or more requirements occurs during the calendar year, the employer will not be permitted to attribute tips to participating employees for any remaining portion of the calendar year, and all tipped employees must report tips in accordance with the Code and regulations. An employer that loses the ability to participate in ATIP during the calendar year must notify the employees of that establishment that as of the start of the next payroll period, it will no longer attribute tip amounts to employees as provided in section 4 and that employees must begin reporting tips to the employer as required by section 6053(a) of the Code. Such notice must be provided immediately after receipt of written notice from the Service that the establishment has lost ATIP program benefits and in no event later than the last day of the payroll period in which written notice from the Service is received. If an employer fails to notify employees that it will no longer attribute tip income, the employer (but not the participating employees) will lose the protections provided in section 6 of this revenue procedure for the entire calendar year, regardless of when the employer stopped attributing tip income.

.02 Employee. If the participating employee reports an amount of tips for a given period that is less than the amount the employer would have attributed to that employee for that period, the participating employee revokes his or her employee participation agreement, effective the first day of the payroll period for which the employee reports an amount of tips less than the amount the employer would have attributed to the employee. On that date the employee loses the benefits of section 6.02 of this revenue procedure.

SECTION 8. REVOCATION

.01 Employer revocation. For an employer to terminate participation in ATIP for an establishment prior to the end of the calendar year, the employer must notify the Service in writing by sending a letter to the address in section 13 of this revenue procedure in advance of the first day of the first payroll period for which the establishment will not participate in ATIP. An employer must also notify employees of the establishment that it will no longer participate in ATIP and that employees must begin reporting their tips as required by section 6053(a) of the Code. An employer may satisfy the employee notification requirement by providing each tipped employee with a copy of the letter sent to the address in section 13 of this revenue procedure at least seven days prior to the first day of the payroll period for which the employees will be required to report tips.

.02 Employee revocation. An employee who signs an employee participation agreement remains a participating employee until the employee revokes the employee participation agreement. An employee revokes participation in ATIP by providing the employer a signed notice revoking the prior agreement or by reporting tips in an amount less than the amount attributed to the employee. See section 5.07 of this revenue procedure.

(1) An employee who revokes participation may not participate in the establishment's ATIP again during the year and must begin reporting tips to the employer effective the first day of the next payroll period as provided under section 6053 of the Code.

(2) An employee who revokes participation stops receiving the benefits provided under ATIP. The revocation is effective the earlier of the date the employee provides the employer a signed notice revoking the employee's participation agreement or the first day of the payroll period for which the employee reports an amount of tips less than the amount the employer would have attributed to the employee. However, the employee receives the benefits provided under ATIP for the payroll periods during which the employee was a participating employee, provided the employee satisfies the requirements of section 5.04 of this revenue procedure with respect to attributed tips reported on the employee's Form W–2.

.03 Revocation by Service. The Service may revoke an employer's participation in ATIP at any time provided that it gives the employer notice in writing.

SECTION 9. COMPLIANCE REVIEW

.01 Compliance review. The Service may evaluate the employer and its participating employees for compliance with the provisions of ATIP.

.02 Examinations and/or inspection of books and records. A compliance review or other inspection of books and records as required for compliance with ATIP will not be considered an inspection of books and records for purposes of section 7605(b) of the Code and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

SECTION 10. EFFECT ON OTHER TIP COMPLIANCE AGREEMENTS

The employer's election to participate in ATIP supersedes and revokes all existing tip compliance agreements between the employer and the Service with respect to the establishment.

SECTION 11. EFFECTIVE DATE

.01 Effective date. This revenue procedure is effective January 1, 2007. However, employers who elect to participate in ATIP for 2007 must attribute tips and otherwise comply with the requirements of ATIP beginning with the first payroll period ending on or after January 1, 2007. See section 4.11 of this revenue procedure.

.02 General termination and sunset provision. The ATIP established by this Revenue Procedure is a pilot program available for the three calendar years beginning on or after January 1, 2007. The ATIP terminates on December 31, 2009, unless the Service issues guidance extending the term. Notwithstanding the foregoing, the Commissioner of Internal Revenue may terminate ATIP at any time.

SECTION 12. PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545–2005. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information in this revenue procedure is in section 4, titled Employer Participation in ATIP. This information is required to evaluate the suitability of the Reporting Program for the particular taxpayer. The collection of information is required to obtain the benefits described in this revenue procedure. The likely respondents are businesses or other for-profit institutions.

The estimated total annual reporting burden is 6100 hours.

The estimated annual burden per respondent is an average of 10 hours, depending on individual circumstances. The estimated number of respondents is 610.

The estimated frequency of responses is 1 time per year per respondent.

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

SECTION 13. ADDRESS

Internal Revenue Service, 201 West River Center Blvd., Stop 5701 G, ATTN: Employment Tax/ATIP Coordinator, Covington, KY 41011.

SECTION 14. CONTACT INFORMATION

The principal author of this revenue procedure is Stephen Suetterlein of the Office of Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this revenue procedure, contact the IRS Business and Specialty Tax Line at (800) 829–4933 or by e-mail at *Tip.Program@irs.gov*.

Appendix

Attributed Tip Income Program (ATIP)

Model Employee Participation Agreement

I am a tipped employee of _____ (Employer), I work at _____ (Establishment), and by signing this agreement I am choosing to participate in the Attributed Tip Income Program (ATIP) established by the Internal Revenue Service (IRS) in Revenue Procedure 2006–30.

I understand that the benefits and requirements of ATIP are as follows:

1. *Tip reporting not required*. As a participating employee in ATIP, I am not required to report tips to Employer for any payroll period beginning with the first payroll period in which this agreement is in effect and continuing with every payroll period thereafter until I revoke this agreement or Employer notifies me that Employer is no longer participating in ATIP.

2. *Attributed tips treated as wages*. Under ATIP Employer will calculate a total tip amount for all tipped employees in the establishment. A portion of the attributed tips will be treated as if I had reported that amount as tips to Employer and will be treated as my tip income. This amount will be reported on my Form W–2 as tip income in addition to other wages paid to me by Employer.

3. *Total tip amount calculation*. Employer will calculate the total tip amount for the Establishment by multiplying the gross receipts from food and beverage sales of Establishment by the charged tip rate (based on Establishment's Form 8027 for the prior year) minus two percentage points and attributing the total to all directly and indirectly tipped employees using a reasonable attribution method.

4. *Attribution method*. The method Employer will use to attribute tips to tipped employees is [Employers may also use the agreement to provide an estimate of the tip amount that will be attributed.]

5. *Attributed tips reported on Form W–2*. Tips that are attributed to me under ATIP will be reported in Box 1 of my Form W–2 as tips.

6. *Federal income tax returns*. To receive the audit protection provided by ATIP I agree to report on my federal income tax return at least the amount of tips Employer reports on my Form W–2. If I report tips below the amount on my Form W–2, I will lose the audit protections offered by ATIP, and will need to have adequate records, such as a daily tip log to substantiate that the amount of tip income I received was less than the amount reported on my Form W–2.

7. *Audit protection*. If I report on my federal income tax return the tip amount reported on the Form W–2 that I receive from Employer in connection with my employment at [establishment], the IRS will not audit my tip income received in connection with my employment at [establishment] for the period beginning with the date of this agreement and continuing until the earlier of termination of my employment at [establishment] or termination of Employer's participation in ATIP.

8. *Effective date of audit protection*. Provided I sign this Employee Participation Agreement within 30 days after I became employed with Employer at Establishment, I will be protected from an IRS audit of my tip income received at Establishment beginning on the date I became employed. If I sign this Employee Participation Agreement more than 30 days after I became employed with Employer at Establishment, I will be protected from an IRS audit of my tip income received at Establishment after the date of this agreement unless I revoke my participation or my employer revokes its participation.

9. *Revocation by participating employee*. I understand that I may revoke this Employee Participation Agreement in two ways. If I decide to report actual tips for any payroll period to Employer in an amount that is less than the amount that will be attributed, the Employer will no longer attribute tips to me. I may also revoke this Employee Participation Agreement by providing Employer with a signed written notice stating my intent to revoke participation. If my participation in ATIP is revoked for any reason I may not participate in ATIP for the remainder of the calendar year and I must report tips to Employer as required by the Internal Revenue Code. If my participation in ATIP is revoked for any reason I will retain audit protection for tip income for those payroll periods prior to the effective date of the revocation.

10. *Revocation by employer*. I understand that the Employer may decide to cease participation in ATIP and if so will provide written notification that it is no longer participating in ATIP. If Employer ceases participation in ATIP for any reason, I may not participate in ATIP for the remainder of the calendar year and I must report tips to Employer as required by the Internal Revenue Code. If my employer ceases participation in ATIP for any reason, I will retain audit protection for tip income for those payroll periods prior to the effective date of the revocation.

11. *General compliance*. I agree to file my federal income tax return on a timely basis and report those tips and the rest of my earnings from my job as shown on the IRS Form W–2 that Employer gives me as well as any other income I receive from any other source. Failure to file timely and report my tip income as described in the preceding sentence will result in loss of the audit protection described in paragraph 7.

By signing below, I agree to fulfill my responsibilities under this agreement and to participate in ATIP in accordance with the terms of this Agreement.

Signature and Employee's name printed, address, Social Security Number, and date.

Revenue Procedure 2006–30 may be viewed or printed at *http://www.irs.gov/businesses/small/article/0,,id=98944,00.html*

Revocation Notice

By signing below, I revoke my participation in ATIP.

Signature and Employee's name printed, address, Social Security Number, and date.

Part IV. Items of General Interest

Notice of Proposed Rulemaking

United States Dollar Approximate Separate Transactions Method

REG–118897–06

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation which provides the translation rates that must be used when translating into dollars certain items and amounts transferred by a qualified business unit (QBU) to its home office or parent corporation for purposes of computing dollar approximate separate transactions method (DASTM) gain or loss.

DATES: Written or electronic comments and requests for a public hearing must be received by October 11, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–118897–06), room 5203, 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–118897–06), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically, via the IRS Internet site at *www.irs.gov/regs* or via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–118897–06).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Sheila Ramaswamy, at (202) 622–3870; concerning submissions of comments, *Richard.A.Hurst@irscounsel.treas.gov*, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Generally, a taxpayer and each of its qualified business units (QBUs) must make all determinations under subtitle A of the Internal Revenue Code in its respective functional currency. See §1.985–1(a)(1). For taxable years beginning after August 24, 1994, a U.S. corporation's QBU that would otherwise be required to use a hyperinflationary currency as its functional currency generally must use the dollar as its functional currency and must compute income or loss under the DASTM method of accounting described in §1.985–3. See §1.985–1(b)(2)(ii). Section 1.985–3(d)(3) contains a rule for translating into dollars dividends, certain transfers, and returns of capital from the QBU to its home office or parent corporation. On March 8, 2005, Notice 2005–27, 2005–13 I.R.B. 795, (see §601.601(d)(2) of this chapter), announced the intention to amend §1.985–3(d)(3) regarding the proper exchange rate for determining DASTM gain or loss when translating certain current and historical assets upon a transfer from a QBU to its home office or parent corporation, as the case may be.

Explanation of Provisions

Under the DASTM method of accounting, a QBU's income or loss for a taxable year is computed in U.S. dollars and adjusted to account for its DASTM gain or loss. See §1.985–3(b). A QBU's DASTM gain or loss for a taxable year is determined under §1.985–3(d) by first computing the QBU's change in net worth from the prior year and then making specified adjustments. The QBU's change in net worth is computed by comparing the year-end balance sheets for the current and preceding taxable years. See §1.985–3(d)(1)(i). Special rules provide that some balance-sheet items are translated at the exchange rate for the translation period in which the cost of the item was incurred and so do not give rise to DASTM gain or loss from year to year ("historical items"). See §1.985–3(d)(5). Other items are translated at the exchange rate for the last translation period for the taxable year and therefore do give rise to DASTM gain or loss ("current items"). See §1.985–3(d)(5).

The classification of an item as historical or current generally reflects the extent to which the item's dollar value changes with fluctuations in exchange rates. For example, the dollar value of a financial asset, such as a unit of hyperinflationary local currency, necessarily changes with fluctuations in exchange rates. Accordingly, a financial asset generally is a current item. See §1.985–3(d)(5)(iv). By contrast, the value of a nonfinancial asset generally does not change with fluctuations in exchange rates. Accordingly, a nonfinancial asset generally is an historical item. See §1.985–3(d)(5)(v).

The computed change in the QBU's net worth is then adjusted to reflect transactions that increase or decrease the QBU's net worth without affecting the QBU's income or loss. For example, an asset transferred from a QBU branch to its home office decreases the QBU's net worth but does not affect the QBU's income or loss and so must be added back to the QBU's net worth for purposes of computing DASTM gain or loss. See §1.985–3(d)(3).

The DASTM method of accounting provides that adjustments described in the preceding paragraphs generally shall be translated into dollars at the exchange rate on the date the amount is paid. See §1.985–3(d)(3). This rule ensures that the QBU branch properly takes into account a current item's change in value due to currency fluctuations while the item was in the QBU branch. However, applying this translation rule to historical items could potentially lead to distortions in the calculation of DASTM gain or loss. Because the value of historical items generally does not change with fluctuations in exchange rates, translating adjustments relating to historical items at the exchange rate on

the date of distribution or transfer would inappropriately give rise to DASTM gain or loss.

The potentially anomalous results that may arise due to the application of the existing translation rule in §1.985–3(d)(3) can be prevented by modifying the rule to ensure that only the assets whose dollar value changes with fluctuations in exchange rates will give rise to DASTM gain or loss upon a transfer from a QBU to its home office. Accordingly, this proposed regulation amends §1.985–3(d)(3) in accordance with Notice 2005–27 as follows. The proposed regulation provides that if the item giving rise to the adjustment is a current asset which would be translated under §1.985–3(d)(5) at the exchange rate for the last translation period of the taxable year if it were on the QBU's year-end balance sheet, the item will be translated at the exchange rate on the date the item is transferred. However, if the item giving rise to the adjustment is a historical asset which would be translated under §1.985–3(d)(5) at the exchange rate for the translation period in which the cost of the item was incurred if it were on the QBU's year-end balance sheet, the item will be translated at the same historical rate.

Proposed Effective Date

Consistent with Notice 2005–27, this regulation is proposed to be effective for any transfer, dividend, or distribution that is a return of capital that is made after March 8, 2005, and that gives rise to an adjustment under §1.985–3(d)(3).

Special Analyses

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

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for a public hearing will be published in the **Federal Register**.

Drafting Information

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

* * * * *

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.985–3 is amended by revising paragraph (d)(3) to read as follows:

§1.985–3 United States dollar approximate separate transactions method.

* * * * *

(d) * * *

(3) *Positive adjustments*—(i) *In general*. The items described in this paragraph (d)(3) are dividend distributions for the taxable year and any items that decrease net worth for the taxable year but that generally do not affect income or loss or earnings and profits (or a deficit in earnings and profits). Such items include a transfer to the home office of a QBU branch and a return of capital.

(ii) *Translation*. Except as provided by ruling or administrative pronouncement, items described in paragraph (d)(3)(i) of this section shall be translated into dollars as follows:

(A) If the item giving rise to the adjustment would be translated under paragraph (d)(5) of this section at the exchange rate for the last translation period of the taxable year if it were shown on the QBU's year-end balance sheet, such item shall be translated at the exchange rate on the date the item is transferred.

(B) If the item giving rise to the adjustment would be translated under paragraph (d)(5) of this section at the exchange rate for the translation period in which the cost of the item was incurred if it were shown on the QBU's year-end balance sheet, such item shall be translated at the same historical rate.

(iii) *Effective date*. Paragraph (d)(3)(ii) of this section is applicable for any transfer, dividend, or distribution that is a return of capital that is made after March 8, 2005, and that gives rise to an adjustment under this paragraph (d)(3).

* * * * *

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

(Filed by the Office of the Federal Register on July 12, 2006, 8:45 a.m., and published in the issue of the Federal Register for July 13, 2006, 71 F.R. 39604)

List of Nonbank Trustees and Custodians

Announcement 2006–45

The following is a list of entities that have been approved by the Commissioner of the Internal Revenue Service, pursuant to §1.408–2(e) of the Income Tax Regulations, to serve as a nonbank trustee or custodian. This list updates and supersedes the list published with Announcement 2005–59, 2005–37 I.R.B. 524.

Archer medical savings accounts (Archer MSAs) established under § 220

of the Internal Revenue Code, health savings accounts described in §223, custodial accounts of retirement plans qualified under § 401, custodial accounts described in § 403(b)(7), trust or custodial accounts of individual retirement accounts (IRAs) established under §§ 408 and 408A (Roth IRAs), Coverdell education savings accounts described in §530, and custodial accounts of eligible deferred compensation plans described in § 457(b) will not be tax exempt if the trustee or custodian of such accounts is not a bank (as defined in § 408(n)) (and in the case of Archer MSAs and health savings accounts, a bank within the meaning of § 408(n) or an insurance company within the meaning of § 816) or an approved nonbank trustee or custodian.

An entity that is not a bank (as defined in § 408(n)) (and in the case of Archer MSAs and health savings accounts a bank within the meaning of § 408(n) or an insurance company within the meaning of § 816) must receive approval from the Service to serve as a nonbank trustee or nonbank custodian. A prospective nonbank trustee or custodian must file a written application with the Commissioner of Internal Revenue demonstrating that the requirements of § 1.408–2(e)(2) through § 1.408–2(e)(7) of the regulations will be met. If the application is approved, a written notice of approval will be issued to the applicant. The notice of approval will state the day on which it becomes effective, and (except as otherwise provided therein) will remain effective until revoked by the Service or withdrawn by the applicant. Entities that have received such approval from the Service may also sponsor certain retirement plans, custodial accounts under § 403(b)(7) and individual retirement arrangements established under §§ 408 and 408A. (See, Rev. Proc. 2005–16, 2005–1 C.B. 674, and Rev. Proc. 87–50, 1987–2 C.B. 647, as modified.)

A prospective nonbank trustee or custodian may not accept any fiduciary account before such notice of approval becomes effective. In addition, a nonbank trustee or custodian may not accept a fiduciary account until after the plan administrator or the person for whose benefit the account is to be established is furnished with a copy of the written notice of approval issued to the applicant.

The continued reliance on a notice of approval is dependent upon the continued satisfaction of the nonbank trustee requirements set forth in the regulations. The notice of approval issued to an applicant will be revoked if the Commissioner determines that the applicant is unwilling or unable to administer fiduciary accounts in a manner consistent with the requirements of the regulations. Generally, the notice will not be revoked unless the Commissioner determines that the applicant has knowingly, willfully, or repeatedly failed to administer fiduciary accounts in a manner consistent with the requirements of the regulations, or has administered a fiduciary account in a grossly negligent manner.

The written notice of approval to serve as a nonbank trustee or nonbank custodian is not an endorsement of any investment made with respect to any retirement plan or arrangement handled by the approved nonbank trustee or custodian. The Internal Revenue Service does not review or approve investments.

If the trustee or custodian of an account described above is not a bank (and in the case of Archer MSAs and health savings accounts, a bank or an insurance company) or an approved nonbank trustee or nonbank custodian, the amounts held in such account (including earned interest) will be deemed distributed and includible in gross income in the year(s) the account's trustee or custodian was not a bank or, if applicable, an insurance company, or an approved nonbank trustee or nonbank custodian. Contributions made to such account are not deductible from gross income and will be disallowed if claimed on an income tax return.

This list of approved nonbank trustees and nonbank custodians includes their names, addresses, and the date each application was approved.

If an approved nonbank trustee or custodian believes that the information about it is incorrect, incomplete, or that it has been incorrectly omitted from this list, it may, on or before October 30, 2006, notify the Service in writing of any changes it proposes to the list. This notification should include a copy of the notice of approval.

The notification should be addressed to:

Internal Revenue Service
SE:T:EP:RA:T1
Announcement 2006–45
1111 Constitution Ave., NW — PE
Washington, DC 20224

Drafting Information

The principal author of this announcement is Calvin Thompson of the Employee Plans, Tax Exempt and Government Entities Division. Please contact Mr. Thompson at 1–202–283–9596 (not a toll-free number), if there are any questions regarding the publication of this list. Written inquiries concerning this announcement should be addressed to the Internal Revenue Service at the above address.

APPROVED Nonbank Trustees/Custodians as of December 31, 2005		
Name	Address	Approval Date
1. A.B. Culbertson & Co.	1250 Continental Plaza Fort Worth, TX 76102	5/15/1984
2. A.G. Becker & Co.	Chicago, IL	12/12/1979
3. A.G. Edwards & Sons, Inc.	One North Jefferson St. Louis, MO 63103	11/26/1980
4. ABN AMRO Securities LLC	55 East 52nd Street New York, NY 10022	9/7/2000

APPROVED Nonbank Trustees/Custodians as of December 31, 2005		
Name	Address	Approval Date
5. Adler, Coleman Clearing Corp.	20 Broad St. New York, NY 10005	4/7/1987
6. Advest, Inc.	280 Trumbull Street Hartford, CT 06103	1/24/1989
7. Aisel & Co.	20 Broad Street New York, NY 10005	4/26/1991
8. American Brokerage Services, Inc.	131 Lafayette Ave. Detroit, MI 48226	9/18/1991
9. American Capital Marketing, Inc. (FKA American General Capital)	2777 Allen Parkway Houston, TX 77215	6/25/1984
10. American Express Financial Corp.	200 AXP Financial Center Minneapolis, MN 55474	8/12/1977
11. American Heritage Life Ins. Co.	76 South Laura Street Jacksonville, FL 32202	12/11/1984
12. American Transtech, Inc.	8000 Baymeadows Way Jacksonville, FL 32256	8/15/1990
13. Ameritrade, Inc.	4211 South 102nd Street Omaha, NE 68127–1031	4/18/1984
14. Analytic Investment Management, Inc.	2222 Martin Street, Suite 230 Irvine, CA 92715–1454	5/9/1989
15. Aspen Partnership	1895 Claremont Road Hoffman Estates, IL 60195	10/25/1990
16. B.C. Ziegler & Co.	215 North Main Street West Bend, WI 53095	9/27/1985
17. Banc of America Securities LLC	100 North Tryon Street NC 1–007–20–01 Charlotte, NC 28255	4/30/2003
18. Banc One Capital Corporation	P.O. Box 18277 90 North High Street Columbus, OH 43218	2/24/1992
19. Bank Hapoulim B.M.	6501 Wilshire Blvd. Los Angeles, CA 90048	5/15/1986
20. Bank Julius Baer & Co., LTD	330 Madison Avenue New York, NY 10017	12/15/1988
21. Bank Leumi Le — Israel B.N. Western Hemisphere Regional Mgt.	242 Fifth Avenue New York, NY 10022	2/10/1982
22. Bartlett & Co.	36 East Fourth Street Cincinnati, OH 45202	2/1/1989
23. Bear, Stearns & Co., Inc.	5 Hanover Square New York, NY 10004	6/2/1986
24. Bear, Sterns Securities Corp.	2 Broadway, 12th Floor New York, NY 10004	6/24/1991
25. Berklee College of Music, Inc.	1140 Boylston Street Boston, MA 02110	5/9/1989

APPROVED Nonbank Trustees/Custodians as of December 31, 2005		
Name	Address	Approval Date
26. Bernard L. Madoff Investment Securities LLC	885 Third Avenue New York, NY 10022	7/7/2004
27. BISYS Fund Services, Inc.	3425 Stelzer Rd. Columbus, OH 43219	12/31/2003
28. Blunt Ellis & Loewi, Inc.	225 East Mason Street Milwaukee, WI 53202	1/25/1982
29. BNY Clearing Services, LLC (FKA Kemper Clearing Corporation)	111 East Kilbourn Ave. Milwaukee, WI 53202	8/21/1989
30. Boettcher & Company, Inc.	828 Seventeenth Street Denver, CO 80201	8/10/1987
31. Brown & Company Securities Corporation	20 Winthrop Square Boston, MA 02110	2/27/1985
32. Bruns, Nordeman, Rea & Co.	New York, NY	10/31/1977
33. Burke, Christensen & Lewis Securities, Inc.	120 S. La Salle Street Suite 940 Chicago, IL 60603	3/11/1986
34. Burton J. Vincent, Chesley & Co.	105 West Adams Street Chicago, IL 60603	3/25/1982
35. Butler Wick & Co., Inc.	City Center One Bldg. Youngstown, OH 44501	10/8/1992
36. BUYandHold Securities Corporation	110 Wall Street New York, NY 10005	10/5/2000
37. Carolina Securities Corp.	239 Fayetteville St. Mall Raleigh, NC 27602	8/29/1983
38. Chapin, Davis & Company, Inc.	3 Village Square, Cross Keys Baltimore, MD 21210	12/7/1983
39. Charles Schwab & Co., Inc.	101 Montgomery Street San Francisco, CA 94104	1/8/1982
40. Christian & Missionary Alliance	P.O. Box C Nyack, NY 10960	8/15/1985
41. CIBC World Markets Corporation	200 Liberty Street New York, NY 10281	7/26/1977
42. Citigroup Global Markets, Inc.	388 Greenwich St. New York, NY 10105	7/22/1985
43. City Securities Corp.	135 North Pennsylvania Street Indianapolis, IN 46204	12/21/1982
44. Commerce First Thrift	Midvale, UT 84047	5/25/1978
45. Comprehensive Investment Services, Inc.	One Moody Plaza Galveston, TX 77550	6/16/2000
46. Continental Trust Co.	17110 Dallas Parkway Suite 200 Dallas, TX 75248	2/22/1977

APPROVED Nonbank Trustees/Custodians as of December 31, 2005		
Name	Address	Approval Date
47. D. A. Davidson & Co.	Davidson Building 8 Third Street North Great Falls, MT 59403	6/11/1982
48. D.J. St. Germain, Inc.	1500 Main Street Springfield, MA 01115	1/1/1977
49. Davenport & Co. of Virginia, Inc.	901 E. Cary Street Richmond, VA 23219	2/2/1987
50. Davenport & Company LLC	901 East Cary Street Richmond, VA 23219	3/31/1997
51. Deutsche Bank Securities Corp. d.b.a. C.J. Lawrence Deutsche	1290 Avenue of the Americas New York, NY 10104	3/14/1980
52. Deutsche Bank Securities, Inc.	1 South Street Baltimore, MD 21203	4/11/1994
53. Dougherty, Dawkins, Strand & Yost, Inc.	100 South Fifth Street Suite 2300 Minneapolis, MN 55402	2/22/1986
54. Dresdner Kleinwort Wasserstein Securities LLC	75 Wall Street New York, NY 10005	10/9/2002
55. Dreyfus Investment Services, Corp.	Two Mellon Bank Center Pittsburgh, PA 15259	5/18/1989
56. Duncan-Williams, Inc.	5860 Ridgeway Center Parkway Memphis, TN 38120	12/13/1995
57. E *Trade Clearing LLC	10951 White Rock Road Rancho Cordova, CA 95670	9/3/2002
58. E *Trade Securities LLC	4500 Bohannon Drive Menlo Park, CA 94025	8/30/2002
59. E *Trade Securities, Inc.	480 California Avenue Palo Alto, CA 94306	2/1/1996
60. Eads Generoe Trust	St. Louis, MO	2/3/1977
61. Edward D. Jones & Co.	201 Progress Parkway Maryland Height, MO 63043	5/30/1985
62. El Paso Electric Co.	P.O. Box 982 El Paso, TX 79960	6/15/1983
63. Elan Investment Services, Inc.	777 East Wisconsin Avenue Milwaukee, WI 53282	12/21/1987
64. Emmett A. Larkin Co., Inc.	100 Bush Street San Francisco, CA 94104	4/17/1986
65. Eppler, Guerin & Turner, Inc.	2001 Bryan Tower, Suite 2300 Dallas, TX 75201	9/6/1984
66. EVEREN Securities, Inc.	77 West Wacker Drive Chicago, IL 60601–1694	11/19/1998
67. Fahnestock & Co., Inc. (FKA Edward A. Viner & Co.)	110 Wall Street New York, NY 10005	4/15/1982

APPROVED Nonbank Trustees/Custodians as of December 31, 2005		
Name	Address	Approval Date
68. Fechtor, Detwiler & Co., Inc.	155 Federal Street Boston, MA 02110	3/26/1982
69. Ferris, Baker Watts, Inc. (FKA Ferris & Company)	1720 Eye Street, NW Washington, DC 20006	12/4/1987
70. Fiduciary Services Corporation	310 Commercial Drive Savannah, GA 31406	10/2/2003
71. Financial Data Services, Inc.	400 Atrium Drive Somerset, NJ 08873	11/14/1990
72. First Albany Corp.	41 State Street Albany, NY 12207	9/26/1979
73. First Clearing Corporation	10700 Wheat First Drive Glen Allen, VA 23060	4/21/1999
74. First Clearing, LLC (FKA First Clearing Corporation)	10700 Wheat First Drive Glen Allen, VA 23060	5/30/2003
75. First Illinois Capital Corp.	424 7th Street Plaza 7 Rockford, IL 61110	5/27/1982
76. First Manhattan Co.	437 Madison Avenue New York, NY 10022	1/26/1990
77. First of Michigan Corporation	100 Renaissance Center 26th Floor Detroit, MI 48243	8/31/1994
78. Fiserv Securities, Inc.	One Commerce Square 2005 Market Street Philadelphia, PA 19103	11/15/1984
79. Fleet Clearing Corporation	67 Wall Street New York, NY 10005	12/3/1986
80. Fleet Norstar Securities, Inc.	14 Wall Street New York, NY 10005	8/30/1991
81. Folger, Nolan, Fleming & Douglass	725 15th Street, N.W. Washington, DC 20015	9/16/1981
82. Freedom Capital Management Corporation	One Beacon Street Boston, MA 02108	8/29/1991
83. Freeman Welwood & Co., Inc.	1501 Fourth Avenue Suite 1700 Seattle, WA 98101	2/13/1996
84. G.T. Global Investors Services, Inc.	50 California Street San Francisco, CA 94111	5/27/1994
85. General Conference of the Mennonite Brethren Churches, Board of Trustees	315 South Lincoln Hillsboro, KS 67063	3/8/1983
86. Goldman, Sachs & Co.	85 Broad Street New York, NY 10004	12/8/1982
87. Greater Beneficial Union of Pittsburgh	4254 Clairton Blvd. Pittsburgh, PA 15227–3394	9/24/2004

APPROVED Nonbank Trustees/Custodians as of December 31, 2005		
Name	Address	Approval Date
88. Greek Catholic Union of the U.S.A.	5400 Tuscarawas Rd. Beaver, PA 15009–9513	5/24/2000
89. Gruntal & Co., Inc.	14 Wall Street New York, NY 10005	6/13/1984
90. H&R Block Financial Advisors, Inc.	735 Griswold Street Detroit, MI 48226	12/8/1983
91. H.G. Wellington & Co., Inc.	14 Wall Street New York, NY 10005	9/13/1993
92. H.M. Payson & Co.	One Portland Square P.O. Box 31 Portland, ME 04112	8/20/1987
93. Halpert and Company, Inc.	284 Millburn Avenue Millburn, NJ 07041	4/17/1996
94. Hamilton Investments, Inc. (FKA Illinois Company, Inc.)	30 North La Salle Street Chicago, IL 60602	8/6/1982
95. Hampshire Funding, Inc.	One Granite Place P.O. Box 2005 Concord, NH 03301	5/26/1988
96. Hanifen, Imhoff Clearing Corp.	1125 17th Street Denver, CO 80217	4/22/1997
97. Hanifen, Imhoff, Inc.	1125 17th Street, Suite 1700 Denver, CO 80202	12/3/1985
98. Harrisdirect, LLC	Harborside Financial Center 501 Plaza II Jersey City, NJ 07311	5/1/2002
99. Hartford Life Insurance Co.	Hartford Plaza Hartford, CT 06106	3/3/1982
100. Hazlett, Burt & Watson, Inc.	1300 Chapline Street Wheeling, WV 26003	4/11/1995
101. Heartland Securities, Inc.	208 South LaSalle Street Chicago, IL 60604	3/6/1984
102. Henry Scott, Inc.	Philadelphia, PA	3/23/1982
103. Herzfeld & Stern, Inc.	30 Broad Street New York, NY 10004	12/12/1984
104. Herzog, Heine, Geduld, Inc.	26 Broadway New York, NY 10004	2/11/1982
105. Holt & Collins	188 Embarcadero Suite 760 San Francisco, CA 94105	9/8/1988
106. Home Life Financial Assurance Corporation	2400 West Bay Drive Largo, FL 33540	11/13/1986
107. Howard, Weil, Labouisse, Friedrichs, Inc.	1100 Paydrus Street Suite 900 New Orleans, LA 70163	12/28/1987

APPROVED Nonbank Trustees/Custodians as of December 31, 2005		
Name	Address	Approval Date
108. Huntleigh Securities Corporation	222 South Central Avenue St. Louis, MO 63102	10/22/1997
109. I.M. Simon & Co.	7730 Forsyth Blvd. Clayton, MO 63105	11/3/1981
110. iClearing, LLC	100 Wood Avenue South Iselin, NJ 08830	2/7/2001
111. Integrated Fund Services, Inc.	221 East Fourth Street Suite 300 Cincinnati, OH 45202	5/15/2003
112. Investment Advisers, Inc.	1100 Dain Tower Minneapolis, MN 55440	10/9/1981
113. Isler, Colling & McAdams	Portland, OR	10/5/1978
114. J.C. Bradford & Co.	330 Commerce Street Nashville, TN 37201	2/28/1982
115. J.J.B. Hilliard, W.L. Lyons, Inc.	Hilliard Lyons Center 501 South Fourth St. Louisville, KY 40202	2/11/1992
116. Jacob Engle Foundation, Inc. (The)	P.O. Box 1136 Upland, CA 91786	3/25/1983
117. Janney Montgomery Scott, Inc.	1801 Market Street Philadelphia, PA 19103	3/23/1982
118. Jefferson Pilot Investor Services, Inc.	100 North Greene Street Greensboro, NC 27401	10/22/1979
119. Jesup, Josephthal & Co., Inc.	One Whitehall Street New York, NY 10004	12/18/1990
120. John Hancock Clearing Corporation	200 Liberty Street New York, NY 10281	3/21/1991
121. John Hancock Mutual Life Insurance Company	John Hancock Place 200 Clarendon Street Boston, MA 02117	8/24/1993
122. Juran & Moody, Inc.	Minnesota Mutual Life Center 400 North Robert Street Suite 800 Saint Paul, MN 55101	5/27/1994
123. Kagin Numismatic Services, Ltd.	1000 Insurance Exchange Bldg. Des Moines, IA 50309	3/18/1980
124. KH Funding Company	10801 Lockwood Drive Suite 370 Silver Spring, MD 20901	2/13/2002
125. Kirkpatrick, Pettis, Smith, Polian, Inc.	1623 Farnam Street Suite 700 Omaha, NE 68102	8/18/1981
126. L.F. Rothchild, Unterberg, Towbin	55 Water Street New York, NY 10041	12/23/1985

APPROVED Nonbank Trustees/Custodians as of December 31, 2005		
Name	Address	Approval Date
127. Legg Mason Wood Walker, Inc.	111 S. Calvert Street P.O. Box 1476 Baltimore, MD 21203	6/4/1985
128. Lehman Brothers, Inc.	200 Vesey Street New York, NY 10285	12/20/2000
129. Lester Sumrall Evangelistic Association, Inc.	530 East Ireland Road South Bend, IN 46614	9/2/1988
130. Liberty Life Insurance Co.	P.O. Box 789 Greenville, SC 29602	9/3/1982
131. Manley, Bennett, McDonald & Co.	St. Louis, MO	1/1/1977
132. McDonald & Company Securities, Inc.	580 Walnut Street Cincinnati, OH 45202	12/15/1983
133. MEGA Life and Health Insurance Company	Service Road 501 West Interstate 44 Oklahoma City, OK 73118	5/29/1991
134. Menold, Crawford, Hippler & Co.	23930 Michigan Ave. Dearborn, MI 40126	12/9/1988
135. Merrill, Lynch, Pierce, Fenner & Smith, Inc.	1700 Merrill Lynch Drive MSC 0703 Pennington, NJ 08534	8/3/1987
136. Merrimack Valley Investment, Inc.	367 Kingsbury Ave. Haverhill, MA 01830	9/28/1984
137. Mesirow Financial, Inc.	350 N. Clark Street Chicago, IL 60610	5/28/1982
138. Metropolitan Life Insurance Co.	One Madison Avenue New York, NY 10010	1/28/1987
139. Metropolitan Mortgage & Securities Corporation	W 292 Sprague Ave. Spokane, WA 99204	11/10/1976
140. Mid-Ohio Securities Corp.	225 Burns Road Elyria, OH 44036	1/28/1983
141. Mid-States Enterprises, Inc.	Carroll, IA	12/30/1976
142. Miller Johnson & Kuehn, Inc.	5500 Wayzata Blvd. Minneapolis, MN 55416	11/15/2000
143. Milwaukee Company (The)	250 East Wisconsin Avenue Milwaukee, WI 53202	9/15/1986
144. MKI Securities Corp.	61 Broadway New York, NY 10006	4/17/1985
145. Money Management Associates	4922 Fairmont Avenue Bethesda, MD 20814	5/26/1987
146. Moody Bible Institute of Chicago	820 N. La Salle Boulevard Chicago, IL 60610–3284	4/25/2003
147. Moore & Schley, Cameron & Co.	Two Broadway New York, NY 10004	11/15/1977

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Name	Address	Approval Date
148. Morgan Keegan & Company, Inc.	Morgan Keegan Tower Fifty Front Street Memphis, TN 38108	1/27/1982
149. Morgan Stanley & Co., Incorporated	1585 Broadway New York, NY 10036	3/22/2004
150. Morgan Stanley DW Inc.	1585 Broadway New York, NY 10036	5/29/1986
151. Mortgage Loan Services, Inc.	780 Lynnhaven Parkway Suite 200 Virginia Beach, VA 23452	3/15/1995
152. Moseley, Hallgarten, Estabrook & Weeden, Inc.	One New York Plaza New York, NY 10004	12/10/1985
153. Murphy Favre, Inc.	W. 601 Riverside, 9th Floor Spokane, WA 99201	8/2/1976
154. Mutual Service Cooperative	Two Pine Tree Drive Arden Hills, MN 55112	6/6/1996
155. Myriad Corporation	1400 50th Street West Des Moines, IA 50265	7/20/1977
156. National Bank of Greece, S.A.	33 State Street Boston, MA 02109	2/4/1988
157. National Covenant Properties	5701 N. Francisco Dr. Chicago, IL 60625	6/30/1978
158. National Investor Services Corp.	44 Wall Street New York, NY 10005	3/18/1996
159. National Securities Corporation	1001 Fourth Avenue Suite 2200 Seattle, WA 98154	12/31/1986
160. National Slovak Society of the U.S.A.	351 Valley Brook Road McMurray, PA 15317–3337	10/28/2004
161. Nationwide Advisory Services, Inc. (Nationwide Financial Services, Inc.)	One Nationwide Plaza Columbus, OH 43216	9/25/1985
162. Nationwide Credit Union	One Nationwide Plaza Columbus, OH 43216	4/13/1978
163. NBC Securities, Inc.	1927 First Avenue North Birmingham, AL 35203	7/16/1996
164. Neuberger & Berman	522 Fifth Ave. New York, NY 10036	10/4/1983
165. Newhard, Cook & Co.	300 North Broadway St. Louis, MO 63102	6/4/1985
166. Oberweis Securities, Inc.	841 North Lake Street Aurora, IL 60506	2/11/1985
167. Parker/Hunter, Inc.	600 Grant Street Pittsburgh, PA 15219	6/15/1990
168. Partnership Services, Inc.	5520 LBJ Freeway Suite 430 Dallas, TX 75240	3/31/1993

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Name	Address	Approval Date
169. Peninsular Securities Co.	Waters Building Grand Rapids, MI 49503	1/28/1985
170. Penson Financial Services, Inc.	1700 Pacific Avenue Suite 1400 Dallas, TX 75201	6/9/2005
171. Perelman-Carley & Associates, Inc.	Twin Towers 3000 Farnam Street Omaha, NE 68131	1/13/1989
172. Perkins Coie LLP	1201 Third Avenue Suite 4800 Seattle, WA 98101–3099	8/2/2004
173. Pershing LLC	One Pershing Plaza Jersey City, NJ 07399	12/4/1985
174. Pflueger & Baerwald, Inc.	Mills Building 220 Montgomery Street Room 1000 San Francisco, CA 94104	11/9/1981
175. PFS Investments, Inc.	3120 Breckenridge Boulevard Duluth, GA 30199	9/28/1995
176. Pioneer Financial Services, Inc.	4233 Roanoke Road Kansas City, MO 64111	1/25/1985
177. Pioneer Investment Management USA	60 State Street Boston, MA 02109	2/21/1986
178. Piper Jaffray & Co.	Piper Jaffray Center 800 Nicollet Mall Minneapolis, MN 55402–7020	4/21/1982
179. Polish Falcons of America	615 Iron City Drive Pittsburgh, PA 15205–4397	11/3/2004
180. Prescott, Ball & Turben, Inc.	1331 Euclid Ave. Cleveland, OH 44115	1/27/1983
181. PrimeVest Financial Services, Inc.	400 First Street South St. Cloud, MN 56301–3600	12/8/1993
182. Principal Life Insurance Company	711 High Street Des Moines, IA 50392–0001	7/27/1988
183. PWMCO, LLC	310 South Michigan Avenue Chicago, IL 60604	1/6/2005
184. R. Rowland & Co., Inc.	St. Louis, MO	3/29/1984
185. R.G. Dickinson & Co.	200 Des Moines Building 405 6th Ave. Des Moines, IA 50309	7/20/1983
186. R.J. Steichen & Company	Midwest Plaza 801 Nicolett Mall Suite 100 Minneapolis, MN 55402–2526	5/21/1993
187. Raymond James & Associates, Inc.	880 Carillon Parkway P.O. Box 12749 St. Petersburg, FL 33733–2749	4/26/1982

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Name	Address	Approval Date
188. Raymond James & Associates, Inc.	880 Carillon Parkway P.O. Box 12749 St. Petersburg, FL 33733–2749	3/8/1982
189. RBC Dain Rauscher, Inc.	Dain Rauscher Plaza 60 South Sixth Street Minneapolis, MN 55402–4422	3/2/1998
190. RBC Dain Rauscher, Inc.	Dain Rauscher Plaza 60 South Sixth Street Minneapolis, MN 55402–4422	1/22/1982
191. Regan MacKenzie, Incorporated	999 Third Avenue Suite 4300 Seattle, WA 98104	8/31/1989
192. Regions Investment Company, Inc.	2011 Fourth Avenue North Birmingham, AL 35203	7/20/2000
193. Reserve Management Company, Inc.	810 Seventh Avenue New York, NY 10019	10/18/1989
194. Robert W. Baird & Co., Inc.	777 East Wisconsin Avenue Milwaukee, WI 53202	6/10/2004
195. Robert W. Baird & Co., Inc.	777 E. Wisconsin Avenue Milwaukee, WI 53202	7/31/1986
196. Robinson-Humphrey Co., Inc. (The)	Two Peachtree Street, N.W. Atlanta, GA 30383	5/24/1982
197. Romano Bros. & Co.	820 Davis Street Evanston, IL 60201	9/28/1984
198. Rose & Company Investment Brokers, Inc.	141 West Jackson Blvd. Chicago, IL 60604	4/14/1982
199. Rotan Mosle, Inc.	1500 South Tower Pennzoil Place P.O. Box 3226 Houston, TX 77001	5/6/1980
200. Rushmore Investment Brokers, Inc.	4922 Fairmont Avenue Bethesda, MD 20814	9/24/1986
201. Sanford C. Bernstein & Co., Inc.	767 Fifth Avenue New York, NY 10153	11/13/1986
202. Santa Ana City Employees Credit Union	800 West Santa Ana Blvd. Santa Ana, CA 92701	3/25/1982
203. Saturna Capital Corporation	101 Prospect Street Bellingham, WA 98227–2838	3/28/1991
204. SBC Trust Services, Inc.	2401 Cedar Springs Road Dallas, TX 75201–1407	4/10/2001
205. SBCI Swiss Bank Corporation Investment Banking, Inc.	222 Broadway, 4th Floor New York, NY 10038	2/11/1992
206. SBM Financial Services, Inc.	8400 Normandale Lake Boulevard Suite 1150 Minneapolis, MN 55437	5/13/1995

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207. Scott & Stringfellow, Inc. (FKA Craige, Inc.)	823 E. Main Street Richmond, VA 23219	5/5/1999
208. Scottsdale Securities, Inc.	12855 Flushing Meadow St. Louis, MO 63131	10/9/1996
209. Securities Management Research, Inc.	Two Moody Plaza Galveston, TX 77550	6/22/1978
210. Security Management Company, LLC (FKA Security Management Co.)	700 SW Harrison Street Topeka, KS 66636–0001	8/14/1996
211. SG Cowen Securities Corporation	1221 Avenue of the Americas New York, NY 10020	6/30/1998
212. ShareBuilder Securities Corporation	1000 124th Avenue, NE Bellevue, WA 98005	4/15/2003
213. SMA Services, Inc.	35 Lakeshore Drive Birmingham, AL 35209	8/27/1998
214. Smith, Moore & Co.	400 Locust Street St. Louis, MO 63102	1/18/1983
215. Southwest Securities, Inc.	Renaissance Tower 1201 Elm Street Suite 4300 Dallas, TX 75270	12/9/1992
216. Spear Rees & Co.	505 North Brand Boulevard Sixteenth Floor Glendale, CA 91203	1/13/1988
217. Spear, Leeds & Kellog	120 Broadway New York, NY 10271	3/29/1996
218. State Bond and Mortgage Company	8500 Normandale Lake Boulevard Minneapolis, MN 55437	12/21/1990
219. State Employees Credit Union	801 Hillsborough Street P.O. Box 26807 Raleigh, NC 27611–6807	1/1/1977
220. State Farm Investment Management Corporation	One State Farm Plaza Bloomington, IL 61410	9/22/1999
221. Stephens, Inc.	111 Center Street Little Rock, AR 72201	12/4/1987
222. Stern Brothers & Co.	1100 Main Street, Suite 2200 Kansas City, MO 64199	12/15/1987
223. Sterne, Agee & Leach, Inc.	1500 Am South-Sonat Tower Birmingham, AL 35203	9/11/1981
224. Stifel, Nicolaus & Co., Inc.	500 North Broadway St. Louis, MO 63102	9/9/1981
225. Summit Discount Brokerage (FKA Lehigh Securities Corp.)	1457 MacArthur Road Lehigh Valley, PA 18002	4/4/1990
226. Sunpoint Securities, Inc.	911 W. Loop 281 Longview, TX 75604	4/1/1998
227. SunTrust Capital Markets, Inc.	3333 Peachtree Road, NE Atlanta, GA 30326	5/27/1982

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228. Sutro & Company, Inc.	201 California Street San Francisco, CA 94111–5096	12/8/1988
229. Swiss American Securities, Inc.	100 Wall Street New York, NY 10005	12/2/1980
230. Texas First Securities Corporation	1360 Post Oak Blvd., Suite 120 Houston, TX 77056	11/17/1988
231. TIAA-CREF Individual & Institutional Services, Inc.	730 Third Avenue New York, NY 10017	9/9/2002
232. Tucker Anthony, Incorporated	One Beacon Street Boston, MA 02108	10/23/1980
233. U.S. Clearing Corporation	120 Wall Street New York, NY 10005	5/3/1983
234. UBS Financial Services, Inc. (FKA UBS Paine Webber, Inc.)	1285 Avenue of the Americas New York, NY 10019	5/12/1989
235. UBS Financial Services, Inc. (FKA UBS Paine Webber, Inc.)	1285 Avenue of the Americas New York, NY 10019	8/26/2004
236. Ukrainian National Association	2200 Route 10 Parsippany, NJ 07054	9/24/2004
237. Unified Financial Securities, Inc.	429 North Pennsylvania Indianapolis, IN 46204	10/28/1976
238. United of Omaha Life Insurance Co.	Mutual of Omaha Plaza Omaha, NE 68175	3/16/1982
239. W.H. Reaves & Co., Inc.	30 Montgomery Street Jersey City, NJ 07302	12/7/1990
240. W.H. Turlington & Co.	509 East Center Street Lexington, NC 27292	11/3/1980
241. Wachovia Securities, Inc.	201 North Tryon Street Charlotte, NC 28202	4/6/1990
242. Wachovia Securities, LLC	901 East Byrd Street Richmond, VA 23219	7/1/2003
243. Wayne Hummer & Co.	300 South Wacker Drive Chicago, IL 60606	1/25/1983
244. Web Street Securities, Inc.	222 South Riverside Plaza 11th Floor Chicago, IL 60601	4/27/2000
245. Wedbush Morgan Securities	1000 Wilshire Boulevard Los Angeles, CA 90030	12/24/1984
246. Weiss, Peck & Greer	One New York Plaza New York, NY 10004	6/16/1982
247. Wells Advisors, Inc.	3885 Holcomb Bridge Road Norcross, GA 30092	3/20/1992
248. Wexford LLC Corporation	1 New York Plaza, 11th Floor New York, NY 10292	6/30/1998

APPROVED Nonbank Trustees/Custodians as of December 31, 2005		
Name	Address	Approval Date
249. Wheat, First Securities, Inc.	P.O. Box 1357 707 East Main Street Richmond, VA 23211	3/23/1983
250. William R. Hough & Co., Inc.	100 2nd Avenue South Suite 800 St. Petersburg, FL 33701	4/18/1995

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

Announcement 2006–48

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 July 31, 2006, 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.

Fresh Start, Inc.
Wichita, KS
Hope International Mission
Columbus, OH
Master Credit Corporation
Las Vegas, NV

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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[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2006–1 through 2006–26 is in Internal Revenue Bulletin 2006–26, dated June 26, 2006.

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[1] A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2006–1 through 2006–26 is in Internal Revenue Bulletin 2006–26, dated June 26, 2006.

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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

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