

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.

SPECIAL ANNOUNCEMENT

REG-116284-11, page 598.

Proposed regulations to the user fee regulations under Part 300 of the Code would establish a new user fee for individuals to take the registered tax return preparer competency examination and a new user fee for certain persons to be fingerprinted in conjunction with the preparer tax identification number (PTIN), acceptance agent, and authorized e-file provider programs.

Notice 2011-80, page 591.

This notice provides guidance to individuals who have or will obtain a preparer tax identification number (PTIN), including a provisional PTIN, or who become registered tax return preparers.

INCOME TAX

Rev. Rul. 2011-23, page 585.

Insurance companies; interest rate tables. Prevailing state assumed interest rates are provided for the determination of reserves under section 807 of the Code for contracts issued in 2010 and 2011. Rev. Rul. 92-19 supplemented in part.

T.D. 9547, page 580.

Final regulations under section 179C of the Code provide rules for the election to deduct 50 percent of the cost of any refinery property that meets the following requirements: (1) the property is part of a qualified refinery; (2) the original use of the property commences with the taxpayer within a specified time period; (3) the property is placed in service by a speci-

fied date; (4) the property meets certain production capacity requirements; (5) the property meets all applicable environmental laws; and (6) the property meets certain construction and written binding contract requirements. The election is made by entering the deduction claimed at the appropriate place on a timely filed return for the taxable year in which the property is placed in service, and attaching a report to that return.

REG-116284-11, page 598.

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Notice 2011-83, page 593.

This notice provides for the suspension of certain requirements under section 42 of the Code for certain low-income housing credit projects in order to provide emergency housing relief needed as a result of the devastation in Pennsylvania caused by either Hurricane Irene during the period of August 26, 2011, to August 30, 2011, or Tropical Storm Lee beginning on September 3, 2011.

(Continued on the next page)

Finding Lists begin on page ii.



EMPLOYEE PLANS

Notice 2011-84, page 595.

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

This notice contains updates for the corporate bond weighted average interest rate for plan years beginning in October 2011; the 24-month average segment rates; the funding transitional segment rates applicable for October 2011; and the minimum present value transitional rates for September 2011.

ADMINISTRATIVE

REG-116284-11, page 598.

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The IRS Mission

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

force the law with integrity and fairness to all.

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

Section 179.—Election to Expense Certain Refineries

26 CFR 1.179C-1: Election to expense certain refineries.

T.D. 9547

Election to Expense Certain Refineries

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document provides final regulations relating to the election to expense qualified refinery property under section 179C of the Internal Revenue Code (Code). These final regulations adopt the temporary regulations with certain modifications to reflect changes to the law made by the Energy Improvement and Extension Act of 2008.

DATES: *Effective Date:* These regulations are effective August 22, 2011.

FOR FURTHER INFORMATION CONTACT: Philip Tiegerman (202) 622-3110 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number (1545-2103). Responses to this collection of information are mandatory.

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.

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.

Background

Section 179C was added to the Code by section 1323(a) of the Energy Policy Act of 2005, Public Law 109-58 (119 Stat. 594), to encourage the construction of new refineries and the expansion of existing refineries to enhance the nation's refinery capacity. Section 179C(a) allows a taxpayer to elect to deduct as an expense 50 percent of the cost of any qualified refinery property. The remaining 50 percent of the taxpayer's qualifying expenditures generally are recovered under section 168 and section 179B, if applicable. All costs properly capitalized into qualified refinery property are includable in the cost of the qualified refinery property.

As originally enacted, section 179C(c)(1)(B) required that qualified refinery property be placed in service by a taxpayer after August 8, 2005, and before January 1, 2012. Under section 179C(c)(1)(F) as originally enacted, (i) the construction of the property must have been subject to a written binding construction contract entered into before January 1, 2008, (ii) the property must have been placed in service before January 1, 2008, or (iii) in the case of self-constructed property, the construction of the property must have begun after June 14, 2005, and before January 1, 2008. Section 179C(d)(1) originally required that a qualified refinery be designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)). Under section 179C(e) as originally enacted, qualified refinery property must have enabled the existing qualified refinery to increase total volume output (determined without regard to asphalt or lube oil) by 5 percent or more on an average daily basis or to process qualified fuels (as defined in section 45K(c)) at a rate that is equal to or greater than 25 percent of the total throughput of the qualified refinery on an average daily basis.

Section 209 of the Energy Improvement and Extension Act of 2008 (the "2008 Act"), Division B, Public Law 110-343 (122 Stat. 3765), amended section 179C in several respects. The 2008 Act extended the placed in service date of section 179C(c)(1)(B) to January 1, 2014. In addition, the 2008 Act amended section 179C(c)(1)(F) to provide that (i) the construction of the property must be subject to a written binding construction contract entered into before January 1, 2010, (ii) the property must be placed in service before January 1, 2010, or (iii) in the case of self-constructed property, the construction of the property must begin after June 14, 2005, and before January 1, 2010.

Effective for property placed in service after October 3, 2008, the 2008 Act amended the definition of "qualified refinery" under section 179C(d)(1) to include a refinery that is designed to serve the primary purpose of processing liquid fuel directly from shale or tar sands, and expanded the production capacity requirement of section 179C(e)(2) to include property that enables the existing qualified refinery to process shale or tar sands.

On July 9, 2008, the Treasury Department and the IRS published in the **Federal Register** temporary regulations (T.D. 9412, 2008-2 C.B. 687 [73 FR 39230]) and a notice of proposed rulemaking (REG-146895-05, 2008-2 C.B. 700 [73 FR 39270]) by cross-reference to temporary regulations. A public hearing was scheduled for November 20, 2008. The public hearing was cancelled on November 6, 2008 (73 FR 66001) because no written comments or requests to speak were received.

The temporary regulations and proposed regulations are hereby removed and the final regulations adopt the rules of the temporary and proposed regulations with certain revisions, described below, to reflect amendments to the statute made by the 2008 Act.

Explanation of Provisions

Placed in Service and Construction and Written Binding Contract Requirements

Section 1.179C-1T(b)(4) and §1.179C-1T(b)(7)(i)(A) of the temporary regulations required that qualified refinery property be placed in service by the taxpayer after August 8, 2005, and before January 1, 2012. Section 1.179C-1(b)(4) and §1.179C-1(b)(7)(i)(A) of the final regulations provide that the property must be placed in service after August 8, 2005, and before January 1, 2014.

Section 1.179C-1T(b)(7)(iii) of the temporary regulations provided that the manufacture, construction, or production of self-constructed property must begin before January 1, 2008. Under §1.179C-1(b)(7)(iii) of the final regulations, the manufacture, construction, or production of self-constructed property must begin before January 1, 2010.

Under §1.179C-1T(b)(7)(iii)(C) of the temporary regulations, a component of self-constructed property had to be acquired or self-constructed before January 1, 2008, in order to qualify as qualified refinery property. Section 1.179C-1(b)(7)(iii)(C) of the final regulations provides that the component must be acquired or self-constructed before January 1, 2010.

Qualified Refinery Property

Section 1.179C-1T(b)(2)(i) of the temporary regulations provided that a qualified refinery is any refinery located in the United States that is designed to serve the primary purpose of processing crude oil or qualified fuels. The final regulations add new §1.179C-1(b)(2)(i)(A) and new §1.179C-1(b)(2)(i)(B). Section 1.179C-1(b)(2)(i)(A) of the final regulations provides that in the case of property placed in service after August 8, 2005, and on or before October 3, 2008, a qualified refinery is any refinery located in the United States that is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels. Section 1.179C-1(b)(2)(i)(B) of the final regulations provides that, in the case of property placed in service after October 3, 2008, and before January 1, 2014, a qualified refinery is any refinery located in the United

States that is designed to serve the primary purpose of processing liquid fuel from crude oil, qualified fuels, or directly from shale or tar sands.

Production Capacity

Section 1.179C-1T(b)(5)(i) of the temporary regulations generally provided that refinery property is considered to be qualified refinery property if (A) it enables the existing qualified refinery to increase the total volume output by at least 5 percent on an average daily basis; or (B) it enables the existing qualified refinery to increase the percentage of total throughput attributable to processing qualified fuels to a rate that is at least 25 percent of the total throughput on an average daily basis. The final regulations, in §1.179C-1(b)(5)(i), modify this definition to provide generally that refinery property is considered to be qualified refinery property if (A) it enables the existing qualified refinery to increase the total volume output by at least 5 percent on an average daily basis; (B) in the case of property placed in service after August 8, 2005, and on or before October 3, 2008, it enables the existing qualified refinery to increase the percentage of total throughput attributable to processing qualified fuels to a rate that is at least 25 percent of the total throughput on an average daily basis; or (C) in the case of property placed in service after October 3, 2008, and before January 1, 2014, it enables the existing qualified refinery to increase the percentage of total throughput attributable to processing shale, tar sands, or qualified fuels to a rate that is at least 25 percent of total throughput on an average daily basis.

Effective/Applicability Date

This section is applicable for taxable years ending on or after August 22, 2011. For taxable years ending before August 22, 2011, taxpayers may apply the proposed regulations published on July 9, 2008, or, in the alternative, may apply these final regulations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866 as supplemented by Executive Order 13563. The collections of information

in §1.179-1(d)(2), (e)(2), and (f) are required by section 179C(b), (g), and (h), respectively, and, therefore, are not imposed by these regulations. Accordingly, they are not subject to the Regulatory Flexibility Act. Only the collection of information in §1.179-1(d)(3), regarding the revocation of an election under section 179C(a), is imposed by these regulations. It is hereby certified that the collection of information contained in §1.179-1(d)(3) of the regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that although most of the 12 taxpayers who potentially could or would make an election under section 179C(a) will be small entities, it is expected that few, if any, of those 12 taxpayers once having made the election will choose to revoke it. Therefore, the collection of information will not affect a substantial number of small entities. The information required to revoke an election under section 179C(a) consists entirely of a portion of the information required to make the election. Consequently, the economic burden for those taxpayers who choose to revoke the election is minimal in nature and the regulations do not impose any burden in addition to the burden associated with making the election. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 6) does not apply to these regulations.

Drafting Information

The principal author of these regulations is Philip Tiegerman, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.179C-1 is added to read as follows:

§1.179C-1 Election to expense certain refineries.

(a) *Scope and definitions—(1) Scope.* This section provides the rules for determining the deduction allowable under section 179C(a) for the cost of any qualified refinery property. The provisions of this section apply only to a taxpayer that elects to apply section 179C in the manner prescribed under paragraph (d) of this section.

(2) *Definitions.* For purposes of section 179C and this section, the following definitions apply:

(i) *Applicable environmental laws* are any applicable federal, state, or local environmental laws.

(ii) *Qualified fuels* has the meaning set forth in section 45K(c).

(iii) *Cost* is the unadjusted depreciable basis (as defined in §1.168(b)-1(a)(3), but without regard to the reduction in basis for any portion of the basis the taxpayer properly elects to treat as an expense under section 179C and this section) of the property.

(iv) *Throughput* is a volumetric rate measuring the flow of crude oil, qualified fuels, or, in the case of property placed in service after October 3, 2008, and before January 1, 2014, shale or tar sands, processed over a given period of time, typically referenced on the basis of barrels per calendar day.

(v) *Barrels per calendar day* is the amount of fuels that a facility can process under usual operating conditions, expressed in terms of capacity during a 24-hour period and reduced to account for down time and other limitations.

(vi) *United States* has the same meaning as that term is defined in section 7701(a)(9).

(b) *Qualified refinery property—(1) In general.* Qualified refinery property is any property that meets the requirements set forth in paragraphs (b)(2) through (b)(7) of this section.

(2) *Description of qualified refinery property—(i) In general.* Property that comprises any portion of a qualified refinery may be qualified refinery property. For purposes of section 179C and this section, a qualified refinery is any refinery located in the United States that —

(A) In the case of property placed in service after August 8, 2005, and on or before October 3, 2008, is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels; or

(B) In the case of property placed in service after October 3, 2008, and before January 1, 2014, is designed to serve the primary purpose of processing liquid fuel from crude oil, qualified fuels, or directly from shale or tar sands.

(ii) *Nonqualified refinery property.* Refinery property is not qualified refinery property for purposes of this paragraph (b)(2) if—

(A) The primary purpose of the refinery property is for use as a topping plant, asphalt plant, lube oil facility, crude or product terminal, or blending facility; or

(B) The refinery property is built solely to comply with consent decrees or projects mandated by Federal, State, or local governments.

(3) *Original use—(i) In general.* For purposes of the deduction allowable under section 179C(a), refinery property will meet the requirements of this paragraph (b)(3) if the original use of the property commences with the taxpayer. Except as provided in paragraph (b)(3)(ii) of this section, original use means the first use to which the property is put, whether or not that use corresponds to the use of the property by the taxpayer. Thus, if a taxpayer incurs capital expenditures to recondition or rebuild property acquired or owned by the taxpayer, only the capital expenditures incurred by the taxpayer to recondition or rebuild the property acquired or owned by the taxpayer satisfy the original use requirement. However, the cost of reconditioned or rebuilt property acquired by a taxpayer does not satisfy the original use requirement. Whether property is reconditioned or rebuilt property is a question of fact. For purposes of this paragraph (b)(3)(i), acquired or self-constructed property that contains used parts will be treated as reconditioned or rebuilt only if the cost of the used parts is more than 20 percent of the total cost of the property.

(ii) *Sale-leaseback.* If any new portion of a qualified refinery is originally placed in service by a person after August 8, 2005, and is sold to a taxpayer and leased back to the person by the taxpayer within three months after the date the property was originally placed in service by the

person, the taxpayer-lessor is considered the original user of the property.

(4) *Placed-in-service date—(i) In general.* Refinery property will meet the requirements of this paragraph (b)(4) if the property is placed in service by the taxpayer after August 8, 2005, and before January 1, 2014.

(ii) *Sale-leaseback.* If a new portion of refinery property is originally placed in service by a person after August 8, 2005, and is sold to a taxpayer and leased back to the person by the taxpayer within three months after the date the property was originally placed in service by the person, the property is treated as originally placed in service by the taxpayer-lessor not earlier than the date on which the property is used by the lessee under the leaseback.

(5) *Production capacity—(i) In general.* Refinery property is considered qualified refinery property if—

(A) It enables the existing qualified refinery to increase the total volume output, determined without regard to asphalt or lube oil, by at least 5 percent on an average daily basis;

(B) In the case of property placed in service after August 8, 2005, and on or before October 3, 2008, it enables the existing qualified refinery to increase the percentage of total throughput attributable to processing qualified fuels to a rate that is at least 25 percent of total throughput on an average daily basis; or

(C) In the case of property placed in service after October 3, 2008, and before January 1, 2014, it enables the existing qualified refinery to increase the percentage of total throughput attributable to processing qualified fuels, shale, or tar sands to a rate that is at least 25 percent of total throughput on an average daily basis.

(ii) *When production capacity is tested.* The production capacity requirement of this paragraph (b)(5) is determined as of the date the property is placed in service by the taxpayer. Any reasonable method may be used to determine the appropriate baseline for measuring capacity increases and to demonstrate and substantiate that the capacity of the existing qualified refinery has been sufficiently increased.

(iii) *Multi-stage projects.* In the case of multi-stage projects, a taxpayer must satisfy the reporting requirements of paragraph (f)(2) of this section, sufficient to establish that the production capacity re-

quirements of this paragraph (b)(5) will be met as a result of the taxpayer's overall plan.

(6) *Applicable environmental laws*—(i) *In general.* The environmental compliance requirement applies only with respect to refinery property, or any portion of refinery property, that is placed in service after August 8, 2005. A refinery's failure to meet applicable environmental laws with respect to a portion of the refinery that was in service prior to August 8, 2005 will not disqualify a taxpayer from making the election under section 179C(a) with respect to otherwise qualifying refinery property.

(ii) *Waiver under the Clean Air Act.* Refinery property must comply with the Clean Air Act, notwithstanding any waiver received by the taxpayer under that Act.

(7) *Construction of property*—(i) *In general.* Qualified property will meet the requirements of this paragraph (b)(7) if no written binding contract for the construction of the property was in effect before June 14, 2005, and if—

(A) The construction of the property is subject to a written binding contract entered into before January 1, 2010;

(B) The property is placed in service before January 1, 2010; or

(C) In the case of self-constructed property, the construction of the property began after June 14, 2005, and before January 1, 2010.

(ii) *Definition of binding contract*—(A) *In general.* A contract is binding only if it is enforceable under state law against the taxpayer or a predecessor, and does not limit damages to a specified amount (for example, by use of a liquidated damages provision). For this purpose, a contractual provision that limits damages to an amount equal to at least 5 percent of the total contract price will not be treated as limiting damages to a specified amount. In determining whether a contract limits damages, the fact that there may be little or no damages because the contract price does not significantly differ from fair market value will not be taken into account.

(B) *Conditions.* A contract is binding even if subject to a condition, as long as the condition is not within the control of either party or the predecessor of either party. A contract will continue to be binding if the parties make insubstantial changes in its terms and conditions, or if any term is to be

determined by a standard beyond the control of either party. A contract that imposes significant obligations on the taxpayer or a predecessor will be treated as binding, notwithstanding the fact that insubstantial terms remain to be negotiated by the parties to the contract.

(C) *Options.* An option to either acquire or sell property is not a binding contract.

(D) *Supply agreements.* A binding contract does not include a supply or similar agreement if the payment amount and design specification of the property to be purchased have not been specified.

(E) *Components.* A binding contract to acquire one or more components of a larger property will not be treated as a binding contract to acquire the larger property. If a binding contract to acquire a component does not satisfy the requirements of this paragraph (b)(7), the component is not qualified refinery property.

(iii) *Self-constructed property*—(A) *In general.* Except as provided in paragraph (b)(7)(iii)(B) of this section, if a taxpayer manufactures, constructs, or produces property for use by the taxpayer in its trade or business (or for the production of income by the taxpayer), the construction of property rules in this paragraph (b)(7) are treated as met for qualified refinery property if the taxpayer begins manufacturing, constructing, or producing the property after June 14, 2005, and before January 1, 2010. Property that is manufactured, constructed, or produced for the taxpayer by another person under a written binding contract (as defined in paragraph (b)(7)(ii) of this section) that is entered into prior to the manufacture, construction, or production of the property for use by the taxpayer in its trade or business (or for the production of income) is considered to be manufactured, constructed, or produced by the taxpayer.

(B) *When construction begins.* For purposes of this paragraph (b)(7)(iii), construction of property generally begins when physical work of a significant nature begins. Physical work does not include preliminary activities such as planning or designing, securing financing, exploring, or researching. The determination of when physical work of a significant nature begins depends on the facts and circumstances.

(C) *Components of self-constructed property*—(1) *Acquired components.* If a

binding contract (as defined in paragraph (b)(7)(ii) of this section) to acquire a component of self-constructed property is in effect on or before June 14, 2005, the component does not satisfy the requirements of paragraph (b)(7)(i) of this section, and is not qualified refinery property. However, if construction of the self-constructed property begins after June 14, 2005, the self-constructed property may be qualified refinery property if it meets all other requirements of section 179C and this section (including paragraph (b)(7)(i) of this section), even though the component is not qualified refinery property. If the construction of self-constructed property begins before June 14, 2005, neither the self-constructed property nor any component related to the self-constructed property is qualified refinery property. If the component is acquired before January 1, 2010, but the construction of the self-constructed property begins after December 31, 2009, the component may qualify as qualified refinery property even if the self-constructed property is not qualified refinery property.

(2) *Self-constructed components.* If the manufacture, construction, or production of a component fails to meet any of the requirements of paragraph (b)(7)(iii) of this section, the component is not qualified refinery property. However, if the manufacture, construction, or production of a component fails to meet any of the requirements provided in paragraph (b)(7)(iii) of this section, but the construction of the self-constructed property begins after June 14, 2005, the self-constructed property may qualify as qualified refinery property if it meets all other requirements of section 179C and this section (including paragraph (b)(7)(i) of this section). If the construction of the self-constructed property begins before June 14, 2005, neither the self-constructed property nor any components related to the self-constructed property are qualified refinery property. If the component was self-constructed before January 1, 2010, but the construction of the self-constructed property begins after December 31, 2009, the component may qualify as qualified refinery property, although the self-constructed property is not qualified refinery property.

(c) *Computation of expense deduction for qualified refinery property.* In general,

the allowable deduction under paragraph (d) of this section for qualified refinery property is determined by multiplying by 50 percent the cost of the qualified refinery property paid or incurred by the taxpayer.

(d) *Election*—(1) *In general*. A taxpayer may make an election to deduct as an expense 50 percent of the cost of any qualified refinery property. A taxpayer making this election takes the 50 percent deduction for the taxable year in which the qualified refinery property is placed in service.

(2) *Time and Manner for making election*—(i) *Time for making election*. An election specified in this paragraph (d) generally must be made not later than the due date (including extensions) for filing the original Federal income tax return for the taxable year in which the qualified refinery property is placed in service by the taxpayer.

(ii) *Manner of making election*. The taxpayer makes an election under section 179C(a) and this paragraph (d) by entering the amount of the deduction at the appropriate place on the taxpayer's timely filed original Federal income tax return for the taxable year in which the qualified refinery property is placed in service, and attaching a report as specified in paragraph (f) of this section to the taxpayer's timely filed original federal income tax return for the taxable year in which the qualified refinery property is placed in service.

(3) *Revocation of Election*—(i) *In general*. An election made under section 179C(a) and this paragraph (d), and any specification contained in such election, may not be revoked except with the consent of the Commissioner of Internal Revenue.

(ii) *Revocation prior to the revocation deadline*. A taxpayer is deemed to have requested, and to have been granted, the consent of the Commissioner to revoke an election under section 179C(a) and this paragraph (d) if the taxpayer revokes the election before the revocation deadline. The revocation deadline is 24 months after the due date (including extensions) for filing the taxpayer's Federal income return for the taxable year for which the election applies. An election under section 179C(a) and this paragraph (d) is revoked by attaching a statement to an amended return for the taxable year for which the election applies. The statement must specify the name and address of the refinery for

which the election applies and the amount deducted on the taxpayer's original Federal income tax return for the taxable year for which the election applies.

(iii) *Revocation after the revocation deadline*. An election under section 179C(a) and this paragraph (d) may not be revoked after the revocation deadline. The revocation deadline may not be extended under §301.9100-1.

(iv) *Revocation by cooperative taxpayer*. A taxpayer that has made an election to allocate the section 179C deduction to cooperative owners under section 179C(g) and paragraph (e) of this section may not revoke its election under section 179C(a).

(e) *Election to allocate section 179C deduction to cooperative owners*—(1) *In general*. If a cooperative taxpayer makes an election under section 179C(g) and this paragraph (e), the cooperative taxpayer may elect to allocate all, some, or none of the deduction allowable under section 179C(a) for that taxable year to the cooperative owner(s). This allocation is equal to the cooperative owner(s)' ratable share of the total amount allocated, determined on the basis of each cooperative owner's ownership interest in the cooperative taxpayer. For purposes of this section, a cooperative taxpayer is an organization to which part I of subchapter T applies, and in which another organization to which part I of subchapter T applies (cooperative owner) directly holds an ownership interest. No deduction shall be allowed under section 1382 for any amount allocated under this paragraph (e).

(2) *Time and Manner for making election*—(i) *Time for making election*. A cooperative taxpayer must make the election under section 179C(g) and this paragraph (e) by the due date (including extensions) for filing the cooperative taxpayer's original Federal income tax return for the taxable year to which the cooperative taxpayer's election under section 179C(a) and paragraph (d) of this section applies.

(ii) *Manner of making election*. An election under this paragraph (e) is made by attaching to the cooperative taxpayer's timely filed Federal income tax return for the taxable year (including extensions) to which the cooperative taxpayer's election under section 179C(a) and paragraph (d) of this section applies a statement providing the following information:

(A) The name and taxpayer identification number of the cooperative taxpayer.

(B) The amount of the deduction allowable to the cooperative taxpayer for the taxable year to which the election under section 179C(a) and paragraph (d) of this section applies.

(C) The name and taxpayer identification number of each cooperative owner to which the cooperative taxpayer is allocating all or some of the deduction allowable.

(D) The amount of the allowable deduction that is allocated to each cooperative owner listed in paragraph (e)(2)(ii)(C) of this section.

(3) *Written notice to owners*. If any portion of the deduction allowable under section 179C(a) is allocated to a cooperative owner, the cooperative taxpayer must notify the cooperative owner of the amount of the deduction allocated to the cooperative owner in a written notice, and on Form 1099-PATR, "Taxable Distributions Received from Cooperatives." This notice must be provided on or before the due date (including extensions) of the cooperative taxpayer's original federal income tax return for the taxable year for which the cooperative taxpayer's election under section 179C(a) and paragraph (d) of this section applies.

(4) *Irrevocable Election*. A section 179C(g) election, once made, is irrevocable.

(f) *Reporting requirement*—(1) *In general*. A taxpayer may not claim a deduction under section 179C(a) for any taxable year unless the taxpayer files a report with the Secretary containing information with respect to the operation of the taxpayer's refineries.

(2) *Information to be included in the report*. The taxpayer must specify—

(i) The name and address of the refinery;

(ii) Under which production capacity requirement under section 179C(e) and paragraph (b)(5)(i)(A), (B), and (C) of this section the taxpayer's qualified refinery qualifies;

(iii) Whether the refinery is qualified refinery property under section 179C(d) and paragraph (b)(2) of this section, sufficient to establish that the primary purpose of the refinery is to process liquid fuel from crude oil, qualified fuels, or directly from shale or tar sands.

(iv) The total cost basis of the qualified refinery property at issue for the taxpayer's current taxable year; and

(v) The depreciation treatment of the capitalized portion of the qualified refinery property.

(3) *Time and Manner for submitting report*—(i) *Time for submitting report*. The taxpayer is required to submit the report specified in this paragraph (f) not later than the due date (including extensions) of the taxpayer's Federal income tax return for the taxable year in which the qualified refinery property is placed in service.

(ii) *Manner of submitting report*. The taxpayer must attach the report specified in

this paragraph (f) to the taxpayer's timely filed original Federal income tax return for the taxable year in which the qualified refinery property is placed in service.

(g) *Effective/applicability date*. This section is applicable for taxable years ending on or after August 22, 2011. For taxable years ending before August 22, 2011, taxpayers may apply the proposed regulations published on July 9, 2008, or, in the alternative, may apply these final regulations.

§1.179C-1T [Removed]

Par. 3. Section 1.179C-1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read in part as follows:

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

Par. 5. In §602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

§602.101 OMB control numbers.

* * * * *
(b) * * *

CFR part or section where identified and described	Current OMB Control No.
* * * * *	
1.179C-1	1545-2103
* * * * *	

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

Approved August 9, 2011.

Emily S. McMahon,
(Acting) Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on August 22, 2011, 8:45 a.m., and published in the issue of the Federal Register for August 23, 2011, 76 F.R. 52556)

Section 807.—Rules for Certain Reserves

Insurance companies; interest rate tables. Prevailing state assumed interest rates are provided for the determination of reserves under section 807 of the Code for contracts issued in 2010 and 2011. Rev. Rul. 92-19 supplemented in part.

Rev. Rul. 2011-23

For purposes of § 807(d)(4) of the Internal Revenue Code, for taxable years beginning after December 31, 2009, this rul-

ing supplements the schedules of prevailing state assumed interest rates set forth in Rev. Rul. 92-19, 1992-1 C.B. 227. This information is to be used by insurance companies in computing their reserves for (1) life insurance and supplementary total and permanent disability benefits, (2) individual annuities and pure endowments, and (3) group annuities and pure endowments. As § 807(d)(2)(B) requires that the interest rate used to compute these reserves be the greater of (1) the applicable federal interest rate, or (2) the prevailing state assumed interest rate, the table of applicable federal interest rates in Rev. Rul. 92-19 is also supplemented.

Following are supplements to schedules A, B, C, and D to Part III of Rev. Rul. 92-19, providing prevailing state assumed interest rates for insurance products with different features issued in 2010 and 2011, and a supplement to the table in Part IV of Rev. Rul. 92-19, providing the applicable federal interest rates under § 807(d) for 2010 and 2011. This ruling does not supplement Parts I and II of Rev. Rul. 92-19.

This is the nineteenth supplement to the interest rates provided in Rev. Rul. 92-19.

Earlier supplements were published in Rev. Rul. 93-58, 1993-2 C.B. 241 (interest rates for insurance products issued in 1992 and 1993); Rev. Rul. 94-11, 1994-1 C.B. 196 (1993 and 1994); Rev. Rul. 95-4, 1995-1 C.B. 141 (1994 and 1995); Rev. Rul. 96-2, 1996-1 C.B. 141 (1995 and 1996); Rev. Rul. 97-2, 1997-1 C.B. 134 (1996 and 1997); Rev. Rul. 98-2, 1998-1 C.B. 259 (1997 and 1998); Rev. Rul. 99-10, 1999-1 C.B. 671 (1998 and 1999); Rev. Rul. 2000-17, 2000-1 C.B. 842 (1999 and 2000); Rev. Rul. 2001-11, 2001-1 C.B. 780 (2000 and 2001); Rev. Rul. 2002-12, 2002-1 C.B. 624 (2001 and 2002); Rev. Rul. 2003-24, 2003-1 C.B. 557 (2002 and 2003); Rev. Rul. 2004-14, 2004-1 C.B. 511 (2003 and 2004); Rev. Rul. 2005-29, 2005-1 C.B. 1080 (2004 and 2005); Rev. Rul. 2006-25, 2006-1 C.B. 882 (2005 and 2006); Rev. Rul. 2007-10, 2007-1 C.B. 660 (2006 and 2007); Rev. Rul. 2008-19, 2008-1 C.B. 669 (2007 and 2008); Rev. Rul. 2009-3, 2009-5 I.R.B. 382 (2008 and 2009); and Rev. Rul. 2010-7, 2010-8 I.R.B. 417 (2009 and 2010).

Part III. Prevailing State Assumed Interest Rates — Products Issued in Years After 1982.*

Schedule A

STATUTORY VALUATION INTEREST RATES
BASED ON THE 1980 AMENDMENTS TO THE
NAIC STANDARD VALUATION LAW

A. Life insurance valuation:

<u>Guarantee Duration (years)</u>	<u>Calendar Year of Issue</u> <u>2011</u>
10 or fewer	4.50**
More than 10 but not more than 20	4.25**
More than 20	4.00**

Source: Rates calculated from the monthly averages, ending June 30, 2010, of Moody's Composite Yield on Seasoned Corporate Bonds.

* The terms used in the schedules in this ruling and in Part III of Rev. Rul. 92-19 are those used in the Standard Valuation Law; the terms are defined in Rev. Rul. 92-19.

** As these rates exceed the applicable federal interest rate for 2011 of 3.46 percent, the valuation interest rate to be used for this product under § 807 is the applicable rate specified in this table.

Part III, Schedule B

STATUTORY VALUATION INTEREST RATES
BASED ON THE 1980 AMENDMENTS TO THE
NAIC STANDARD VALUATION LAW

B. Single premium immediate annuities and annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

<u>Calendar Year of Issue</u>	<u>Valuation Interest Rate</u>
2010	5.25*

Source: Rates calculated from the monthly averages, ending June 30, 2010, of Moody's Composite Yield on Seasoned Corporate Bonds (formerly known as Moody's Corporate Bond Yield Average — Monthly Average Corporates). The terms used in this schedule are those used in the Standard Valuation Law as defined in Rev. Rul. 92-19.

*As this prevailing state assumed interest exceeds the applicable federal interest rate for 2010 of 3.81 percent, the valuation interest rate of 5.25 percent is to be used for this product under § 807.

Part III, Schedule C24 — 2010

**STATUTORY VALUATION INTEREST RATES
BASED ON NAIC STANDARD VALUATION LAW
FOR 2010 CALENDAR YEAR BUSINESS
GOVERNED BY THE 1980 AMENDMENTS**

C. Valuation interest rates for other annuities and guaranteed interest contracts that are valued on an issue year basis:

Cash Settlement Options?	Future Interest Guarantee?	Guarantee Duration (years)	Valuation Interest Rate (%) For Plan Type		
			A	B	C
Yes	Yes	5 or fewer	5.25*	4.75*	4.25*
		More than 5, but not more than 10	5.00*	4.75*	4.25*
		More than 10, but not more than 20	4.75*	4.25*	4.25*
		More than 20	4.25*	4.00*	4.00*
Yes	No	5 or fewer	5.25*	4.75*	4.50*
		More than 5, but not more than 10	5.25*	4.75*	4.50*
		More than 10, but not more than 20	5.00*	4.50*	4.25*
		More than 20	4.25*	4.00*	4.00*
No	Yes or No	5 or fewer	5.25*		
		More than 5, but not more than 10	5.00*	NOT APPLICABLE	
		More than 10, but not more than 20	4.75*		
		More than 20	4.25*		

Source: Rates calculated from the monthly averages, ending June 30, 2010, of Moody's Composite Yield on Seasoned Corporate Bonds.

*As these rates exceed the applicable federal interest rate for 2010 of 3.81 percent, the valuation interest rate to be used for this product under § 807 is the applicable rate specified in the above table.

Part III, Schedule D24 — 2010

STATUTORY VALUATION INTEREST RATES
 BASED ON NAIC STANDARD VALUATION LAW
 FOR 2010 CALENDAR YEAR BUSINESS
GOVERNED BY THE 1980 AMENDMENTS

D. Valuation interest rates for other annuities and guaranteed interest contracts that are contracts with cash settlement options and that are valued on a change in fund basis:

Cash Settlement Options?	Future Interest Guarantee?	Guarantee Duration (years)	Valuation Interest Rate For Plan Type		
			A	B	C
Yes	Yes	5 or fewer	5.50	5.25	4.50
		More than 5, but not more than 10	5.50	5.25	4.50
		More than 10, but not more than 20	5.25	5.00	4.25
		More than 20	4.75	4.75	4.00*
Yes	No	5 or fewer	5.75	5.50	4.75
		More than 5, but not more than 10	5.50	5.50	4.75
		More than 10, but not more than 20	5.25	5.25	4.50
		More than 20	4.75	4.75	4.25*

Source: Rates calculated from the monthly averages, ending June 30, 2010, of Moody's Composite Yield on Seasoned Corporate Bonds.

*As the applicable federal interest rate for 2010 of 3.81 percent is less than the prevailing state assumed interest rate, the valuation interest rate to be used for this product under § 807 is the applicable rate specified in the above table.

Part IV. Applicable Federal Interest Rates.

TABLE OF
APPLICABLE FEDERAL INTEREST RATES
FOR PURPOSES OF § 807

<u>Year</u>	<u>Interest Rate</u>
2010	3.81
2011	3.46

Sources: Rev. Rul. 2004–106, 2004–2 C.B. 893, for the 2005 rate; Rev. Rul. 2005–77, 2005–2 C.B. 1071, for the 2006 rate; Rev. Rul. 2006–61, 2006–2 C.B. 1028 for the 2007 rate; Rev. Rul. 2007–70, 2007–2 C.B. 1158 for the 2008 rate; Rev. Rul. 2008–53, 2008–49 I.R.B. 1231 for the 2009 rate; Rev. Rul. 2009–38, 2009–49 I.R.B. 736 for the 2010 rate; and Rev. Rul. 2010–29, 2010–50 I.R.B. 818 for the 2011 rate.

**EFFECT ON OTHER REVENUE
RULINGS**

Rev. Rul. 92–19 is supplemented by the addition to Part III of that ruling of prevailing state assumed interest rates under § 807 for certain insurance products issued in 2010 and 2011 and is further supplemented by an addition to the table in Part

IV of Rev. Rul. 92–19 listing applicable federal interest rates. Parts I and II of Rev. Rul. 92–19 are not affected by this ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Linda K. Boyd of the Office of Associate Chief Counsel (Financial

Institutions and Products). For further information regarding this revenue ruling, contact her at (202) 622–3970 (not a toll-free call).

Part III. Administrative, Procedural, and Miscellaneous

Guidance Regarding Obtaining and Renewing PTINs and Continuing Education Requirements for Registered Tax Return Preparers

Notice 2011-80

Purpose

This notice provides guidance to individuals who have or will obtain a preparer tax identification number (PTIN), including a provisional PTIN, or who become registered tax return preparers. Section 1 of this notice provides guidance regarding the last date that provisional PTINs may be obtained, provides that provisional PTINs must be continually maintained, and clarifies that, beginning in 2012, provisional PTIN holders must complete continuing education requirements. Section 2 of this notice provides guidance regarding PTIN (including provisional PTIN) renewal, section 3 provides that certain individuals must be fingerprinted and pass a suitability check prior to obtaining a PTIN, and section 4 provides guidance regarding continuing education requirements for registered tax return preparers.

Background

The Treasury Department and the IRS are implementing the recommendations contained in Publication 4832, *“Return Preparer Review.”* As part of this implementation, the Treasury Department and the IRS have published final regulations (T.D. 9527, 2011-27 I.R.B. 1 [76 FR 32286]) that include registered tax return preparers as practitioners under 31 CFR Part 10 (reprinted as Treasury Department Circular 230).

In addition, the Treasury Department and the IRS published final regulations under section 6109 (T.D. 9501, 2010-46 I.R.B. 651 [75 FR 60309]) providing that after December 31, 2010, all individuals who prepare all or substantially all of a tax return or claim for refund for compensation must have a PTIN that was applied for and received at the time and in the manner prescribed by the IRS and must use that PTIN as their sole identifying number. The Treasury Department and

the IRS also published final regulations (T.D. 9503, 2010-47 I.R.B. 706 [75 FR 60316]) requiring individuals to pay a \$50 user fee to the IRS, plus any IRS-approved fee charged by the third-party vendor, to initially obtain and to annually renew a PTIN. Under the section 6109 regulations, only attorneys, certified public accountants, enrolled agents, registered tax return preparers, and individuals authorized under § 1.6109-2(h) are eligible to receive a PTIN.

In section 1 of Notice 2011-6, 2011-3 I.R.B. 315, the IRS identified two additional groups of individuals who are eligible under § 1.6109-2(h) to obtain a PTIN: (1) specified individuals who are supervised by the attorney, certified public accountant, enrolled agent, enrolled retirement plan agent, or enrolled actuary who signs the tax return or claim for refund prepared by the individual and (2) individuals who certify they do not prepare or assist in the preparation of all or substantially all of any tax return or claim for refund covered by a competency examination (Form 1040 series tax returns and accompanying schedules until further notice). Section 2 of Notice 2011-6 further provides that individuals who are not attorneys, certified public accountants, or enrolled agents may obtain a provisional PTIN before the date that the registered tax return preparer competency examination is first offered (initial test offering date).

For purposes of this notice, individuals who obtain a provisional PTIN under the terms of section 2 of Notice 2011-6 are “provisional PTIN holders.” Individuals who obtain a PTIN under section 1 of Notice 2011-6 are not provisional PTIN holders.

Section 1: Provisional PTINs

a. Deadline To Obtain a Provisional PTIN

In Notice 2011-6, the IRS announced that it did not expect to offer the registered tax return preparer competency examination before mid-2011 and, once the examination was offered, the IRS would no longer issue provisional PTINs. The IRS currently does not expect to offer the competency examination before Fall 2011.

The IRS, therefore, will continue to issue provisional PTINs until at least April 18, 2012, to allow individuals sufficient time to prepare for the competency examination and to prevent disruption of the 2012 filing season. The IRS will announce the last date it will issue provisional PTINs in a news release issued at least 30 days before that date. The IRS will issue provisional PTINs until the designated date regardless of the initial test offering date.

The provisions of section 2 of Notice 2011-6 will continue to apply to provisional PTIN holders regardless of the date the provisional PTIN is obtained. Thus, all provisional PTIN holders must comply with both section 2 of Notice 2011-6 and the applicable provisions of this notice.

b. Provisional PTINs Must be Continually Maintained

Individuals who obtain a provisional PTIN may retain the provisional PTIN until December 31, 2013. Individuals who have a provisional PTIN during this period, however, must annually renew and continually maintain the provisional PTIN to retain the ability to prepare tax returns or claims for refund for compensation until December 31, 2013. If an individual allows the provisional PTIN to expire, the individual must become a registered tax return preparer or other authorized individual under § 1.6109-2 to be eligible to obtain a PTIN and to prepare all or substantially all of a tax return or claim for refund for compensation. See section 2 of this notice for the requirement to renew provisional PTINs on a calendar year basis.

c. Continuing Education Requirements for Provisional PTIN Holders

Section 10.6(d)(4) of Circular 230 requires registered tax return preparers to renew their status as a registered tax return preparer as prescribed by the IRS in forms, instructions, or other appropriate guidance. As a condition of renewal, section 10.6(e) provides that registered tax return preparers must complete minimum continuing education requirements. Section 2.04 of Notice 2011-6 provides that tax return preparers who obtain a provisional PTIN before October 1, 2011 are not

required to complete continuing education requirements during 2011.

Individuals who obtain a provisional PTIN in accordance with Notice 2011-6 or this notice are not registered tax return preparers and may not represent that they are registered tax return preparers or have passed the competency examination. Notice 2011-45, 2011-25 I.R.B. 886. Nevertheless, the IRS has decided that these individuals must satisfy the same minimum continuing education requirements that registered tax return preparers are required to complete. Details regarding these requirements are more fully discussed in section 4 of this notice.

Provisional PTIN holders who do not satisfy the minimum continuing education requirements will not be allowed to renew their provisional PTIN. Individuals whose provisional PTINs are not renewed will be required to pass the registered tax return preparer competency examination or otherwise become eligible to obtain a PTIN before preparing all or substantially all of a tax return or claim for refund for compensation.

Section 2: PTIN Renewed Annually on a Calendar Year Basis

Section 1.6109-2(e) provides that the IRS may designate an expiration date for any PTIN or other prescribed identifying number. The regulation further provides that the IRS may prescribe the time and manner for renewing a PTIN or other prescribed identifying number in forms, instructions, or other appropriate guidance.

The IRS has decided that all PTINs (including provisional PTINs) must be renewed on a calendar year basis using the IRS's online PTIN application available at www.irs.gov or paper application, Form W-12, *IRS Paid Preparer Tax Identification Number (PTIN) Application*. Individuals who hold valid PTINs must renew their PTIN and pay the required fee (currently \$64.25, \$50.00 IRS user fee plus \$14.25 vendor fee) after October 15th and before January 1st each year. PTINs renewed during this period will be valid from January 1st through December 31st of the following calendar year. PTINs obtained or renewed during a calendar year will expire on December 31st of that year.

Individuals obtaining a new PTIN after October 15th will have the option of receiving a PTIN for the current calendar year or the following calendar year. Individuals who choose to receive a PTIN for the current calendar year will be required to renew their PTIN before January 1st to prepare returns during the following calendar year. Individuals who choose to receive a PTIN for the following calendar year may not prepare tax returns for compensation during the remainder of the current calendar year. Instead, the PTINs issued to these individuals will be valid for the following calendar year.

To assist with the transition to a calendar year renewal period, the IRS has determined that PTINs issued after September 27, 2010 and before October 16, 2011 will expire on December 31, 2011.

Section 3. Certain PTIN Holders Required to be Fingerprinted

Section 6109(c) provides that "the Secretary is authorized to require such information as may be necessary to assign an identifying number to any person." Section 1.6109-2(d) provides that a PTIN must be applied for and received in the time and manner as may be prescribed by the IRS in forms, instructions, or other appropriate guidance. The IRS has previously stated that it intends to conduct a suitability check on all applicants prior to issuing a PTIN. As part of the suitability check, certain PTIN applicants will be required to be fingerprinted for purposes of performing a background check. Collected fingerprints will be processed through the Federal Bureau of Investigation's (FBI) identification records database. Information obtained through this process will enable the IRS to better determine if the applicant should receive a PTIN or have an existing provisional PTIN revoked. The IRS is not requiring attorneys, certified public accountants, enrolled agents, enrolled retirement plan agents, and enrolled actuaries to be fingerprinted at this time.

The Treasury Department and the IRS are currently establishing procedures to facilitate the collection and processing of fingerprints. The IRS is working with third-party vendors to establish these procedures. In addition, the Treasury Department and the IRS intend to publish regu-

lations proposing to establish a user fee to be fingerprinted. It is anticipated that the third-party vendor will also charge a reasonable, IRS-approved fee for its fingerprinting services.

Additionally, under the current proposed regulations any participant in the PTIN, acceptance agent, or authorized e-file provider programs who resides and is employed outside of the United States will not have to be fingerprinted to participate in these programs. Such persons, however, must comply with all other elements of the suitability check. In addition, the Treasury Department and the IRS continue to study what additional requirements should apply to such persons. Any additional requirements would be set forth in future guidance.

The IRS will not require individuals to be fingerprinted prior to obtaining a PTIN until at least April 18, 2012. The IRS will announce the last date that an individual may receive a PTIN (or provisional PTIN) without first being fingerprinted in a news release issued at least 30 days before that date. After this date, individuals not exempted from the fingerprint requirement must be fingerprinted and pass the background check prior to obtaining a PTIN (provisional PTINs will no longer be available after the date provided in the news release).

In addition, individuals who obtain a PTIN (or a provisional PTIN) prior to the date provided in the news release and who continually maintain their PTIN will not be required to be fingerprinted until December 31, 2013. After December 31, 2013, these individuals must be fingerprinted and pass the background check before renewing their PTIN unless they were already fingerprinted or are not required to be fingerprinted.

Section 4. Continuing Education Requirements for Registered Tax Return Preparers

Section 10.6(d)(4) of Circular 230 requires registered tax return preparers to renew their status as a registered tax return preparer as prescribed by the IRS in forms, instructions, or other appropriate guidance. As a condition of renewal, section 10.6(e)(3) of Circular 230 provides that registered tax return preparers must complete a minimum of fifteen hours

of continuing education credits, including two hours of ethics or professional conduct, three hours of federal tax law updates, and ten hours of federal tax law topics during each registration year.

a. Continuing Education Requirements to be Completed on a Calendar Year Basis

The IRS has determined that registered tax return preparers must complete their continuing education requirements on a calendar year basis. The IRS will require registered tax return preparers (and provisional PTIN holders) to satisfy continuing education requirements beginning in 2012. Therefore, except as set forth in section 4b of this notice, registered tax return preparers must complete continuing education requirements as prescribed in section 10.6(e)(3) of Circular 230 between January 1st and December 31st of each year beginning in 2012.

b. Continuing Education Requirements Prorated for Individuals Who Initially Become a Registered Tax Return Preparer During the Registration Year

Continuing education requirements for individuals who initially become a registered tax return preparer after January 31st will be prorated for the initial registration year. These individuals will be required to complete one hour of continuing education credit regarding federal tax law updates or federal tax law topics for each month or portion of a month that the individual is a registered tax return preparer. In addition, these individuals will be required to complete two hours of ethics credits regardless of when the individual becomes a registered tax return preparer. For example, an individual who initially becomes a registered tax return preparer on April 20th is required to complete two hours of ethics credits plus 9 hours of credits regarding federal tax law or federal tax law updates. Except in the case of a waiver under section 10.6(i) of Circular 230, continuing education requirements will not be prorated after the initial application year. Individuals who do not timely renew their PTIN before December 31st ordinarily will not qualify for a waiver and must complete all of the continuing education hours required in section 10.6(e)(3) of Circular 230.

Contact Information

The principal author of this notice is Emily M. Lesniak of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, contact Emily M. Lesniak at (202) 622-4570 (not a toll-free call).

Pennsylvania Low-Income Housing Credit Disaster Relief Notice 2011-83

The Internal Revenue Service is suspending certain requirements under § 42 of the Internal Revenue Code for low-income housing credit projects to provide emergency housing relief needed as a result of the devastation in Pennsylvania caused by either Hurricane Irene during the period of August 26, 2011 to August 30, 2011, or Tropical Storm Lee beginning on September 3, 2011. This relief is being granted pursuant to the Service's authority under § 42(n) and § 1.42-13(a) of the Income Tax Regulations.

BACKGROUND

On September 3, 2011, and September 12, 2011, the President declared major disasters for the Commonwealth of Pennsylvania. The declarations were made under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* Subsequently, the Federal Emergency Management Agency (FEMA) designated jurisdictions for Individual Assistance. The Commonwealth of Pennsylvania has requested that the Service allow owners of low-income housing credit projects to provide temporary housing in vacant units to individuals who resided in jurisdictions designated for Individual Assistance in Pennsylvania and who have been displaced because their residences were destroyed or damaged as a result of the devastation caused by Hurricane Irene or Tropical Storm Lee. Based upon this request and because of the widespread damage to housing caused by Hurricane Irene and Tropical Storm Lee, the Service has determined that the Pennsylvania Housing Finance Agency (Agency) may

provide approval to project owners to provide temporary emergency housing for displaced individuals in accordance with this notice.

I. SUSPENSION OF INCOME LIMITATIONS

The Service has determined that it is appropriate to temporarily suspend certain income limitation requirements under § 42 for certain qualified low-income projects. The suspension will apply to low-income housing projects approved by the Agency, in which vacant units are rented to displaced individuals. The Agency will determine the appropriate period of temporary housing for each project, not to extend beyond October 31, 2012 (temporary housing period).

II. STATUS OF UNITS

A. Units in the first year of the credit period

A displaced individual temporarily occupying a unit during the first year of the credit period under § 42(f)(1) will be deemed a qualified low-income tenant for purposes of determining the project's qualified basis under § 42(c)(1), and for meeting the project's 20-50 test or 40-60 test as elected by the project owner under § 42(g)(1). After the end of the temporary housing period established by the Agency (not to extend beyond October 31, 2012), a displaced individual will no longer be deemed a qualified low-income tenant.

B. Vacant units after the first year of the credit period

During the temporary housing period established by the Agency, the status of a vacant unit (that is, market-rate or low-income for purposes of § 42 or never previously occupied) after the first year of the credit period that becomes temporarily occupied by a displaced individual remains the same as the unit's status before the displaced individual moves in. Displaced individuals temporarily occupying vacant units will not be treated as low-income tenants under § 42(i)(3)(A)(ii). However, even if it houses a displaced individual, a low-income or market rate unit that was vacant before the effective date of this notice will continue to be treated as a va-

cant low-income or market rate unit. Similarly, a unit that was never previously occupied before the effective date of this notice will continue to be treated as a unit that has never been previously occupied even if it houses a displaced individual. Thus, the fact that a vacant unit becomes occupied by a displaced individual will not affect the building's applicable fraction under § 42(c)(1)(B) for purposes of determining the building's qualified basis, nor will it affect the 20–50 test or 40–60 test of § 42(g)(1). If the income of occupants in low-income units exceeds 140 percent of the applicable income limitation, the temporary occupancy of a unit by a displaced individual will not cause application of the available unit rule under § 42(g)(2)(D)(ii). In addition, the project owner is not required during the temporary housing period to make attempts to rent to low-income individuals the low-income units that house displaced individuals.

III. SUSPENSION OF NON-TRANSIENT REQUIREMENTS

The non-transient use requirement of § 42(i)(3)(B)(i) shall not apply to any unit providing temporary housing to a displaced individual during the temporary housing period determined by the Agency in accordance with section I of this notice.

IV. OTHER REQUIREMENTS

All other rules and requirements of § 42 will continue to apply during the temporary housing period established by the Agency. After the end of the temporary housing period, the applicable income limitations contained in § 42(g)(1), the available unit rule under § 42(g)(2)(D)(ii), the nontransient requirement of § 42(i)(3)(B)(i), and the requirement to make reasonable attempts to rent vacant units to low-income individuals shall resume. If a project owner offers to rent a unit to a displaced individual after the end of the temporary housing period, the displaced individual must be certified under the requirements of § 42(i)(3)(A)(ii) and § 1.42–5(b) and (c) to be a qualified low-income tenant. To qualify for the relief in this notice, the project owner must additionally meet all of the following requirements:

- (1) Major Disaster Area

In the case of an individual displaced by the devastation caused by Hurricane Irene, the displaced individual must have resided in a Pennsylvania jurisdiction designated for Individual Assistance by FEMA as a result of the devastation in Pennsylvania caused by Hurricane Irene during the period of August 26, 2011, to August 30, 2011.

In the case of an individual displaced by the devastation caused by Tropical Storm Lee, the displaced individual must have resided in a Pennsylvania jurisdiction designated for Individual Assistance by FEMA as a result of the devastation in Pennsylvania caused by Tropical Storm Lee beginning on September 3, 2011.

(2) Approval of the Pennsylvania Housing Finance Agency

The project owner must obtain approval from the Agency for the relief described in this notice. The Agency will determine the appropriate period of temporary housing for each project, not to extend beyond October 31, 2012.

(3) Certifications and Recordkeeping

To comply with the requirements of § 1.42–5, project owners are required to maintain and certify certain information concerning each displaced individual temporarily housed in the project, specifically the following: name, address of damaged residence, social security number, and a statement signed under penalties of perjury by the displaced individual that, because of damage to the individual's residence in a Pennsylvania jurisdiction designated for Individual Assistance by FEMA as a result of the devastation caused in Pennsylvania by Hurricane Irene during the period of August 26, 2011 to August 30, 2011, or Tropical Storm Lee beginning on September 3, 2011, as applicable, the individual requires temporary housing. The owner must notify the Agency that vacant units are available for rent to displaced individuals.

The owner must also certify the date the displaced individual began temporary occupancy and the date the project will discontinue providing temporary housing as established by the Agency. The certifications and recordkeeping for displaced individuals must be maintained as part of the annual compliance monitoring process with the Agency.

(4) Rent Restrictions

Rents for the low-income units that house displaced individuals must not exceed the existing rent-restricted rates for the low-income units established under § 42(g)(2).

(5) Protection of Existing Tenants

Existing tenants in occupied low-income units cannot be evicted or have their tenancy terminated as a result of efforts to provide temporary housing for displaced individuals.

EFFECTIVE DATES

This notice is effective September 3, 2011 (the date of the President's major disaster declaration) for devastation caused by Hurricane Irene in Pennsylvania during the period of August 26, 2011 to August 30, 2011. This notice is effective September 12, 2011 (the date of the President's major disaster declaration) for devastation caused by Tropical Storm Lee in Pennsylvania beginning on September 3, 2011.

PAPERWORK REDUCTION ACT

The collection of information contained in this notice 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 1545–2218.

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 notice is in the section titled "OTHER REQUIREMENTS" under "(3) Certifications and Recordkeeping." This information is required to enable the Service to verify whether individuals are displaced as a result of the devastation caused in Pennsylvania by either Hurricane Irene during the period of August 26, 2011 to August 30, 2011, or Tropical Storm Lee beginning on September 3, 2011, and thus warrant temporary housing in vacant low-income housing units. The collection of information is required to obtain a benefit. The likely respondents are individuals and businesses.

The estimated total annual recordkeeping burden is 150 hours.

The estimated annual burden per recordkeeper is approximately 15 minutes.

The estimated number of recordkeepers is 600.

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

DRAFTING INFORMATION

The principal author of this notice is David Selig of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Mr. Selig at (202) 622-3040 (not a toll-free call).

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

Notice 2011-84

This notice provides guidance as to the corporate bond weighted average interest rate and the permissible range of interest rates specified under § 412(b)(5)(B)(ii)(II)

of the Internal Revenue Code as in effect for plan years beginning before 2008. It also provides guidance on the corporate bond monthly yield curve (and the corresponding spot segment rates), and the 24-month average segment rates under § 430(h)(2). In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008, the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I), and the minimum present value segment rates under § 417(e)(3)(D) as in effect for plan years beginning after 2007.

CORPORATE BOND WEIGHTED AVERAGE INTEREST RATE

Sections 412(b)(5)(B)(ii) and 412(l)(7)(C)(i), as amended by the Pension Funding Equity Act of 2004 and by the Pension Protection Act of 2006 (PPA), provide that the interest rates used to calculate current liability and to determine the required contribution under § 412(l) for plan years beginning in 2004 through 2007 must be within a permissible range based on the weighted average of the rates

of interest on amounts invested conservatively in long term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year.

Notice 2004-34, 2004-1 C.B. 848, provides guidelines for determining the corporate bond weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability. That notice establishes that the corporate bond weighted average is based on the monthly composite corporate bond rate derived from designated corporate bond indices. The methodology for determining the monthly composite corporate bond rate as set forth in Notice 2004-34 continues to apply in determining that rate. See Notice 2006-75, 2006-2 C.B. 366.

The composite corporate bond rate for September 2011 is 4.82 percent. Pursuant to Notice 2004-34, the Service has determined this rate as the average of the monthly yields for the included corporate bond indices for that month.

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

For Plan Years Beginning in		Corporate Bond Weighted Average	Permissible Range	
Month	Year		90%	100%
October	2011	5.86	5.28	5.86

YIELD CURVE AND SEGMENT RATES

Generally for plan years beginning after 2007 (except for delayed effective dates for certain plans under sections 104, 105, and 106 of PPA), § 430 of the Code specifies the minimum funding requirements that apply to single employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates

(“segment rates”), each of which applies to cash flows during specified periods. However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates. Section 430(h)(2)(G) set forth a transitional rule applicable to plan years beginning in 2008 and 2009 under which the segment rates were blended with the corporate bond weighted average described above, including an election under § 430(h)(2)(G)(iv) for an employer to use the segment rates without the transitional rule.

Notice 2007-81, 2007-2 C.B. 899, provides guidelines for determining the

monthly corporate bond yield curve, and the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. Pursuant to Notice 2007-81, the monthly corporate bond yield curve derived from September 2011 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of September 2011 are, respectively, 1.98, 4.49, and 5.80. The three 24-month average corporate bond segment rates applicable for October 2011 are as follows:

First Segment	Second Segment	Third Segment
2.03	5.20	6.30

The transitional rule of § 430(h)(2)(G) does not apply to plan years beginning after December 31, 2009. Therefore, for a plan year beginning after 2009 with a look-back month to October 2011, the funding segment rates are the three 24-month average corporate bond segment rates applicable for October 2011, listed above without blending for any transitional period.

30-YEAR TREASURY SECURITIES INTEREST RATES

Section 417(e)(3)(A)(ii)(II) (prior to amendment by PPA) defines the applicable interest rate, which must be used for purposes of determining the minimum present value of a participant's benefit under § 417(e)(1) and (2), as the annual rate of interest on 30-year Treasury securities

for the month before the date of distribution or such other time as the Secretary may by regulations prescribe. Section 1.417(e)-1(d)(3) of the Income Tax Regulations provides that the applicable interest rate for a month is the annual rate of interest on 30-year Treasury securities as specified by the Commissioner for that month in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin.

The rate of interest on 30-year Treasury securities for September 2011 is 3.18 percent. The Service has determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in August 2041.

Generally for plan years beginning after 2007, § 431 specifies the mini-

imum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount for the full-funding limitation described in section 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88-73, 1988-2 C.B. 383, provides guidelines for determining the weighted average interest rate. The following rates were determined for plan years beginning in the month shown below.

For Plan Years Beginning in		30-Year Treasury Weighted Average	Permissible Range	
Month	Year		90%	105%
October	2011	4.20	3.78	4.41

MINIMUM PRESENT VALUE SEGMENT RATES

Generally for plan years beginning after December 31, 2007, the applicable interest rates under § 417(e)(3)(D) are segment rates computed without regard

to a 24-month average. For plan years beginning in 2008 through 2011, the applicable interest rates are the monthly spot segment rates blended with the applicable rate under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning in 2007. Notice 2007-81 provides guidelines for

determining the minimum present value segment rates. Pursuant to that notice, the minimum present value transitional segment rates determined for September 2011, taking into account the September 2011 30-year Treasury rate of 3.18 stated above, are as follows:

For Plan Years Beginning in	First Segment	Second Segment	Third Segment
2010	2.46	3.97	4.75
2011	2.22	4.23	5.28
2012	1.98	4.49	5.80

DRAFTING INFORMATION

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

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

Table I
 Monthly Yield Curve for September 2011
 Derived from September 2011 Data

<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>
0.5	0.61	20.5	5.28	40.5	5.86	60.5	6.06	80.5	6.16
1.0	0.99	21.0	5.31	41.0	5.87	61.0	6.06	81.0	6.16
1.5	1.35	21.5	5.34	41.5	5.88	61.5	6.07	81.5	6.16
2.0	1.67	22.0	5.36	42.0	5.89	62.0	6.07	82.0	6.16
2.5	1.96	22.5	5.39	42.5	5.89	62.5	6.07	82.5	6.16
3.0	2.22	23.0	5.41	43.0	5.90	63.0	6.07	83.0	6.17
3.5	2.46	23.5	5.44	43.5	5.90	63.5	6.08	83.5	6.17
4.0	2.67	24.0	5.46	44.0	5.91	64.0	6.08	84.0	6.17
4.5	2.86	24.5	5.48	44.5	5.92	64.5	6.08	84.5	6.17
5.0	3.04	25.0	5.50	45.0	5.92	65.0	6.09	85.0	6.17
5.5	3.20	25.5	5.52	45.5	5.93	65.5	6.09	85.5	6.17
6.0	3.35	26.0	5.54	46.0	5.93	66.0	6.09	86.0	6.18
6.5	3.49	26.5	5.55	46.5	5.94	66.5	6.09	86.5	6.18
7.0	3.61	27.0	5.57	47.0	5.95	67.0	6.10	87.0	6.18
7.5	3.73	27.5	5.59	47.5	5.95	67.5	6.10	87.5	6.18
8.0	3.84	28.0	5.60	48.0	5.96	68.0	6.10	88.0	6.18
8.5	3.95	28.5	5.62	48.5	5.96	68.5	6.10	88.5	6.18
9.0	4.05	29.0	5.63	49.0	5.97	69.0	6.11	89.0	6.18
9.5	4.14	29.5	5.64	49.5	5.97	69.5	6.11	89.5	6.19
10.0	4.22	30.0	5.66	50.0	5.98	70.0	6.11	90.0	6.19
10.5	4.30	30.5	5.67	50.5	5.98	70.5	6.11	90.5	6.19
11.0	4.38	31.0	5.68	51.0	5.99	71.0	6.12	91.0	6.19
11.5	4.45	31.5	5.70	51.5	5.99	71.5	6.12	91.5	6.19
12.0	4.52	32.0	5.71	52.0	5.99	72.0	6.12	92.0	6.19
12.5	4.59	32.5	5.72	52.5	6.00	72.5	6.12	92.5	6.20
13.0	4.65	33.0	5.73	53.0	6.00	73.0	6.13	93.0	6.20
13.5	4.71	33.5	5.74	53.5	6.01	73.5	6.13	93.5	6.20
14.0	4.76	34.0	5.75	54.0	6.01	74.0	6.13	94.0	6.84
14.5	4.82	34.5	5.76	54.5	6.02	74.5	6.81	94.5	6.20
15.0	4.87	35.0	5.77	55.0	6.02	75.0	6.13	95.0	6.20
15.5	4.91	35.5	5.78	55.5	6.02	75.5	6.14	95.5	6.20
16.0	4.96	36.0	5.79	56.0	6.03	76.0	6.14	96.0	6.20
16.5	5.00	36.5	5.80	56.5	6.03	76.5	6.14	96.5	6.21
17.0	5.04	37.0	5.81	57.0	6.03	77.0	6.14	97.0	6.21
17.5	5.08	37.5	5.82	57.5	6.04	77.5	6.15	97.5	6.21
18.0	5.12	38.0	5.83	58.0	6.04	78.0	6.15	98.0	6.21
18.5	5.16	38.5	5.83	58.5	6.05	78.5	6.15	98.5	6.21
19.0	5.19	39.0	5.84	59.0	6.05	79.0	6.15	99.0	6.21
19.5	5.22	39.5	5.85	59.5	6.05	79.5	6.15	99.5	6.21
20.0	5.25	40.0	5.86	60.0	6.06	80.0	6.15	100.0	6.21

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

User Fees Relating to the Registered Tax Return Preparer Competency Examination and Fingerprinting Participants in the Preparer Tax Identification Number, Acceptance Agent, and Authorized E-File Provider Programs

REG-116284-11

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed amendments to the user fee regulations. The proposed regulations would establish a new user fee for individuals to take the registered tax return preparer competency examination and a new user fee for certain persons to be fingerprinted in conjunction with the preparer tax identification number, acceptance agent, and authorized e-file provider programs. The proposed regulations also would redesignate §300.12, Fee for obtaining a preparer tax identification number, as §300.13. The proposed regulations affect individuals who take the registered tax return preparer competency examination and applicants and certain participants in the preparer tax identification number, acceptance agent, or authorized e-file provider programs. The charging of user fees is authorized by the Independent Offices Appropriations Act of 1952. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by October 27, 2011. Outlines of topics to be discussed at the public hearing scheduled for October 7, 2011, at 10 a.m. must be received by October 4, 2011.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-116284-11), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-116284-11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov/> (IRS REG-116284-11). The public hearing will be held in the Auditorium at the Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Emily M. Lesniak at (202) 622-4570; concerning cost methodology, Eva J. Williams at (202) 435-5514; concerning submission of comments, the public hearing, and/or to be placed on the building access list to attend the public hearing, Richard A. Hurst at Richard.A.Hurst@irs.counsel.treas.gov or (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

In June 2009, the IRS launched a Tax Return Preparer Review with the intent to propose a comprehensive set of recommendations that would increase taxpayer compliance and ensure uniform and high ethical standards of conduct for tax return preparers. In December 2009, the IRS made findings and recommendations based upon this review that would increase oversight of the federal tax return preparer community. The findings and recommendations were published in Publication 4832, "Return Preparer Review" (the Report), which was published on January 4, 2010. In part, the Report recommended registering all tax return preparers with the IRS and requiring tax return preparers who are not attorneys, certified public accountants, or enrolled agents to pass a

competency examination before they are eligible to prepare a tax return or claim for refund. The Treasury Department and the IRS have published several documents implementing the recommendations in the Report, three of which are relevant to these proposed regulations.

First, on September 30, 2010, the Treasury Department and the IRS published final regulations under I.R.C. section 6109 (75 FR 60309) providing that for returns or claims for refund filed after December 31, 2010, the identifying number of a tax return preparer is the individual's preparer tax identification number (PTIN) or such other number prescribed by the IRS in forms, instructions, or other appropriate guidance. The section 6109 final regulations require a tax return preparer who prepares all or substantially all of a tax return or claim for refund after December 31, 2010 to have a PTIN. These regulations further provide that only attorneys, certified public accountants, enrolled agents, and registered tax return preparers are eligible to obtain a PTIN. Section 1.6109-2(h) of the regulations states, however, that the IRS can provide exceptions to the §1.6109-2 regulations through forms, instructions, or other appropriate guidance.

Second, on December 30, 2010, the Treasury Department and the IRS published Notice 2011-6, 2011-3 I.R.B. 315, that, in part, creates exceptions under §1.6109-2(h), allowing two additional classes of individuals to obtain a PTIN (provided all tax compliance and suitability checks are passed) and prepare all or substantially all of a tax return or claim for refund for compensation. Section 2a. of Notice 2011-6 permits specified individuals who are supervised by the attorney, certified public accountant, enrolled agent, enrolled retirement plan agent, or enrolled actuary who signs the tax return or claim for refund prepared by the individual to obtain a PTIN. These supervised individuals may not sign a tax return or claim for refund. Section 2b. of Notice 2011-6 provides that individuals who certify that they do not prepare or assist in the preparation of all or substantially all of any tax return or claim for refund that is covered by a competency examination will be able

to obtain a PTIN. This exception recognizes that the initial registered tax return preparer competency examination will be limited to individual income tax returns (Form 1040 series returns and accompanying schedules).

Third, on June 3, 2011, the Treasury Department and the IRS published final regulations amending the regulations governing practice before the IRS (76 FR 32286). These regulations are found in 31 CFR part 10 and have been reprinted as Treasury Department Circular No. 230 (Circular 230). The amendments to Circular 230, in part, provide that practice before the IRS includes preparing for compensation a tax return, claim for refund, or other document submitted to the IRS and include registered tax return preparers as practitioners under Circular 230. Registered tax return preparers must demonstrate the necessary qualifications and competency by passing a minimum competency examination, completing annual continuing education requirements, and complying with any other applicable procedures relating to the application for registration and renewal of registration established and published by the IRS. Registered tax return preparers may prepare and sign tax returns, claims for refund, and other documents as provided in forms, instructions, or other appropriate guidance. Registered tax return preparers also may represent taxpayers before revenue agents, customer service representatives, or similar officers and employees of the IRS during an examination if the registered tax return preparer signed the tax return or claim for refund for the time period under examination. Registered tax return preparers may not represent taxpayers before appeals officers, revenue officers, Counsel, or similar officers or employees of the IRS or the Department of the Treasury.

User Fee to Take the Registered Tax Return Preparer Competency Examination

To become a registered tax return preparer, applicants will be required to pass a competency examination. Proposed §300.12 establishes a \$27 user fee to take the registered tax return preparer competency examination. This user fee must be paid each time the applicant takes the competency examination and is in addi-

tion to any reasonable fee charged by the third-party vendor that is approved by the IRS. Applicants who pass the competency examination generally will not, however, be required to re-take the examination in the future years.

There are costs to the IRS for administering the registered tax return preparer competency examination. The user fee to take the registered tax return preparer competency examination will recover these costs. These costs include the personnel, administrative, management, and information technology costs to the IRS for developing and reviewing the competency examination, overseeing the competency examination, validating the competency examination results, and establishing a review procedure for applicants who contest any portion of the competency examination. The user fee also recovers the cost to conduct background checks on employees of the third-party vendor who are involved in the administration of the examination.

Individuals who pay the competency examination user fee and become registered tax return preparers will receive a special benefit from the IRS that is not received by the general public. Passing the competency examination enables registered tax return preparers to prepare and sign Form 1040 series returns (and accompanying schedules) for compensation. Registered tax return preparers also are able to represent taxpayers before revenue agents, customer service representatives, or similar officers and employees of the IRS during examination if the registered tax return preparer signed the tax return for the period under examination. That representation does not include practice before appeals officers, revenue officers, Counsel, or similar officers or employees of the IRS or the Department of the Treasury. Because the competency examination initially will cover only the Form 1040 series returns, only attorneys, certified public accountants, enrolled agents, or registered tax return preparers will be able to sign a Form 1040 series return. While tax return preparers who are supervised will be able to prepare all or substantially all of a Form 1040 series tax return or claim for refund, they will not be able to sign the return or claim for refund and are not able to represent the taxpayers before the IRS. Any individual with a PTIN, however, can prepare and sign a tax return or claim for re-

fund that is not part of the Form 1040 series.

User Fee to be Fingerprinted as Part of the PTIN, Acceptance Agent, and Authorized E-File Provider Programs

The IRS intends to collect fingerprints as part of the PTIN, acceptance agent, and authorized e-file provider programs to assist in evaluating the suitability of applicants and participants in these programs. Individuals who have been or are fingerprinted in conjunction with their participation in any one of these programs after June 8, 2009, however, will not have to be re-fingerprinted to participate in these programs.

Proposed §300.13 establishes a \$33 user fee on individuals who will be fingerprinted in conjunction with their application to participate or participation in these programs. This user fee is in addition to any reasonable fee charged by a third-party vendor that is approved by the IRS. The third-party vendor fee will cover the costs for obtaining the fingerprints and transmitting the fingerprints to the Federal Bureau of Investigation (FBI), where the fingerprints will be run through the FBI identification records database. The IRS fingerprinting user fee recovers the costs to the IRS to transfer the fingerprints and the results of the FBI search to the IRS; perform background checks on third-party vendor employees; modify the database used to receive, record, and store the search results; evaluate the results received from the search of the FBI database; provide internal review of circumstances when an individual is determined not to be suitable to participate in a program; and process appeals by individuals who are denied the ability to participate in a program because the individual failed this suitability check.

Additionally, under the current proposed regulations any participant in the PTIN, acceptance agent, or authorized e-file provider programs who resides and is employed outside of the United States will not have to be fingerprinted to participate in these programs. Such persons, however, must comply with all other elements of the suitability check. In addition, the Treasury Department and the IRS continue to study what additional requirements should apply to such persons. Any

additional requirements would be set forth in future guidance.

Individuals who are fingerprinted as part of their application or participation in the PTIN, acceptance agent, or authorized e-file provider programs receive a special benefit that is not received by the general public. Individuals who participate in the PTIN program receive the special benefit of being able to prepare all or substantially all of a tax return or claim for refund for compensation. Individuals with a PTIN can charge for their tax preparation services. The regulations under section 6109 require tax return preparers to have a PTIN if they prepare all or substantially all of a tax return or claim for refund for compensation. Passing a suitability check is a prerequisite for receiving a PTIN. For most PTIN applicants, the suitability check includes, but is not limited to, fingerprinting and processing the fingerprints through the FBI identification records database. The IRS, however, does not intend to fingerprint attorneys, certified public accountants, enrolled agents, enrolled retirement plan agents, and enrolled actuaries who apply for a PTIN at this time. The Treasury Department and the IRS specifically request comments on whether these individuals should be exempt from the fingerprinting process.

Participants in the acceptance agent program, which includes certifying acceptance agents, also receive a special benefit from participation in the program. As provided in Revenue Procedure 2006-10, 2006-1 C.B. 293, acceptance agents facilitate and expedite the issuance of individual taxpayer identification numbers (ITINs) and employer identification number (EINs) by verifying the identity and foreign status of applicants. An individual who wants to obtain an ITIN must submit a Form W-7, "Application for IRS Individual Taxpayer Identification Number," and documentation that evidences the individual's identity and status as an alien. An EIN applicant must submit a Form SS-4, "Application for Employer Identification Number," and any required supplementary statements. Section 301.6109-1(d)(3)(iv) provides that ITIN and EIN applicants may submit the application and accompanying information directly to the IRS or may use an acceptance agent. When a certifying acceptance agent is used to apply for an ITIN, the ITIN applicant is not

required to submit documentation proving the applicant's identity or status as an alien because the certifying acceptance agent certifies to these facts. This certification procedure is not available to EIN applicants. The certification is submitted to the IRS as part of the ITIN application.

To become an acceptance agent, applicants must pass a suitability check. As part of the suitability check, most applicants will be fingerprinted for processing through the FBI identification records database. Successful applicants receive the special benefit of being able to facilitate and expedite ITIN and EIN applications and verify the applicants' identity and status as an alien. Certifying acceptance agents receive the additional benefit of being able to certify ITIN applicants' identity and status as an alien, which enables ITIN applicants to retain their identification and foreign status documentation. Acceptance agents can charge a fee for their services.

All individuals who apply to become an acceptance agent and who are required to be fingerprinted must pay the fingerprinting user fee. As of June 8, 2009, the IRS began storing the fingerprints of all acceptance agent applicants electronically. Prior to that time, the fingerprints of acceptance agent applicants generally were not stored electronically. Fingerprints that are not stored electronically deteriorate over time. The IRS, therefore, may require acceptance agents who were fingerprinted prior to June 8, 2009, and who are currently required to be fingerprinted, to be re-fingerprinted and pay the associated user fee.

All individuals who apply to become authorized e-file providers also must pass a suitability check. As part of the suitability check, most applicants will be fingerprinted for processing through the FBI identification records database. The guidelines for participation in this program are in Revenue Procedure 2007-40, 2007-1 C.B. 1488, and numerous publications that are tailored to specific tax or information returns. Successful applicants receive an electronic filing identification number (EFIN). Multiple persons associated with an applicant may use the same EFIN to electronically file tax and information returns. Authorized e-file providers receive the special benefit of being able to electronically file specified tax and information returns with the IRS.

Some e-file providers charge a fee for performing this service.

All individuals who apply to become an authorized e-file provider and who are required to be fingerprinted must pay the fingerprinting user fee. Additionally, similar to the process for acceptance agents described earlier in this preamble, authorized e-file providers who were fingerprinted before June 8, 2009, the date the IRS began digitally storing all fingerprints, and are required to be fingerprinted, may be re-fingerprinted and required to pay the associated user fee.

If the IRS has an individual's fingerprints digitally stored due to the individual's application to participate or participation in the PTIN, acceptance agent, or authorized e-file provider programs, the individual will not have to be fingerprinted again to participate in one of the other programs.

The IRS did not charge a user fee for acceptance agents or authorized e-file providers to be fingerprinted previously because an unduly large part of the user fee would have been the cost of collecting a user fee. With the addition of many PTIN applicants as individuals who also must be fingerprinted (the number of persons being fingerprinted will increase to approximately 460,000), the cost of collecting the user fee has decreased relative to the costs associated with fingerprinting. Because the cost of collecting a user fee is no longer an unduly large part of the user fee, the IRS has determined that a user fee is now appropriate and will charge a user fee to recover the cost of fingerprinting the applicants and certain participants in the PTIN, acceptance agent, and authorized e-file provider programs.

The proposed regulations also would redesignate §300.12, Fee for obtaining a preparer tax identification number, as §300.13.

Authority

The charging of user fees is authorized by the Independent Offices Appropriations Act (IOAA) of 1952, which is codified at 31 U.S.C. 9701. The IOAA authorizes agencies to prescribe regulations that establish charges for services provided by the agency. The charges must be fair and must be based on the costs to the government, the value of the service to the recipient,

the public policy or interest served, and other relevant facts. The IOAA provides that regulations implementing user fees are subject to policies prescribed by the President; these policies are currently set forth in the Office of Management and Budget Circular A-25, 58 FR 38142 (July 15, 1993) (the OMB Circular).

The OMB Circular encourages user fees for government-provided services that confer benefits on identifiable recipients over and above those benefits received by the general public. Under the OMB Circular, an agency that seeks to impose a user fee for government-provided services must calculate the full cost of providing those services. In general, a user fee should be set at an amount that allows the agency to recover the full cost of providing the special service, unless the Office of Management and Budget grants an exception.

Pursuant to the guidelines in the OMB Circular, the IRS has calculated its cost of providing services for the registered tax return preparer competency examination and for fingerprinting applicants and certain participants in the PTIN, acceptance agent, and authorized e-file provider programs. The government will charge the full cost of administering these services and will implement the proposed user fees under the authority of the IOAA and the OMB Circular.

Proposed Effective/Applicability Date

The Administrative Procedure Act provides that substantive rules generally will not be effective until thirty days after the final regulations are published in the **Federal Register** (5 U.S.C. 553(d)). Final regulations may be effective prior to thirty days after publication if the publishing agency finds that there is good cause for an earlier effective date.

This regulation is part of the IRS's continued effort to implement the recommendations in the "Return Preparer Review." The recently published amendments to Circular 230 established registered tax return preparers as practitioners under Circular 230 and required that individuals must pass a competency examination, among other requirements, to become a registered tax return preparer. Before the competency examination can be offered, the competency examination user fee must

be in place. As part of the recent amendments to the section 6109 regulations, the IRS established a requirement to pass a suitability check prior to obtaining a PTIN. To fully implement the suitability check, the regulations establishing a user fee to be fingerprinted must be finalized so the IRS can begin fingerprinting required applicants. Further, the competency examination and the fingerprinting user fees must be finalized significantly before the 2012 filing season to enable the IRS to have these aspects of the new regulatory program in place for the 2012 filing season.

Thus, the Treasury Department and the IRS find that there is good cause for these regulations to be effective upon the publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563.

It has been determined that an initial regulatory flexibility analysis under 5 U.S.C. 603 is required for this final rule. The analysis is set forth under the heading, "Initial Regulatory Flexibility Analysis."

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (5 U.S.C. chapter 6) (RFA) requires the agency "to prepare and make available for public comment an initial regulatory flexibility analysis" that will "describe the impact of the proposed rule on small entities." See 5 U.S.C. 603(a). Section 605 of the RFA provides an exception to this requirement if the agency certifies that the proposed rulemaking will not have a significant economic impact on a substantial number of small entities. A small entity is defined as a small business, small non-profit organization, or small governmental

jurisdiction. See 5 U.S.C. 601(3) through (6). The IRS and the Treasury Department conclude that the proposed rule, if promulgated, will have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is required.

Description of the reasons why action by the agency is being considered

Based upon the finding in the Report, the IRS and the Treasury Department are implementing regulatory changes that increase the oversight of the tax return preparer industry. These regulatory changes include requiring persons who prepare all or substantially all of a tax return or claim for refund for compensation to obtain a PTIN and creating a new category of Circular 230 practitioner called registered tax return preparers. Individuals who wish to become a registered tax return preparer must pass a competency examination. Individuals who pass the competency examination and become a registered tax return preparer will receive a special benefit that the general public does not receive because a registered tax return preparer is allowed to prepare and sign Form 1040 series returns (and accompanying schedules) for compensation. Under the new PTIN and Circular 230 guidance (including Notice 2011-6), only attorneys, certified public accountants, enrolled agents, or registered tax return preparers can prepare and sign all or substantially all of a Form 1040 series return for compensation. There are costs to the IRS associated with overseeing the registered tax return preparer competency examination and providing the special benefits associated with being a registered tax return preparer. These proposed regulations implement a user fee for taking the registered tax return preparer competency examination to recover these costs.

PTIN holders, acceptance agents, and e-file providers also receive a special benefit from participation in the PTIN, acceptance agent, and authorized e-file provider programs. PTIN holders receive the special benefit of being able to prepare all or substantially all of a tax return or claim for refund for compensation. Acceptance agents receive the special benefit of being able to facilitate and expedite ITIN and EIN applications by validating the applicant's identity and status as a foreign per-

son. Certifying acceptance agents also receive the special benefit of being able to certify an ITIN applicant's identity and status as an alien. Authorized e-file providers receive the benefit of being able to electronically file tax and information returns with the IRS. As a prerequisite for participation in these programs, applicants and certain participants must pass a suitability check. As part of the suitability check, most applicants will be fingerprinted for processing through the FBI identification record database. There are costs to the IRS to administer and review the processing of applicant's and certain participant's fingerprints as part of the suitability check. These proposed regulations implement a user fee for certain individuals to be fingerprinted as part of the PTIN, acceptance agent, or authorized e-file provider programs to recover these costs.

A succinct statement of the objectives of, and legal basis for, the proposed rule

Regarding the registered tax return preparer program, the objective of the proposed regulations is to recover the costs to the government associated with the registered tax return preparer competency examination. This user fee will be in addition to any reasonable fee charged by the third-party vendor that is approved by the IRS for administering the competency examination. The costs to the government include the personnel, administrative, management, and information technology costs to develop and review the competency examination, oversee the competency examination, validate the competency examination results, and establish review procedures for persons who contest the competency examination. All individuals who are not attorneys, certified public accountants, or enrolled agents and want to prepare and sign Form 1040 series tax returns (and accompanying schedules) for compensation will be required to become a registered tax return preparer and pass the competency examination. Individuals who pass the competency examination and become a registered tax return preparer will receive the special benefit of being able to prepare and sign Form 1040 series returns for compensation. Registered tax return preparers also will receive the benefit of being able to represent taxpayers before revenue

agents, customer service representatives, or similar officers and employees of the IRS during examination if the registered tax return preparer signed the tax return for the period under examination. These regulations recover the costs to the government that are associated with providing this special benefit.

Regarding the fingerprinting user fee to participate in the PTIN, acceptance agent, or authorized e-file provider programs, the purpose of the user fee is to recover the costs to the government for providing the special benefits associated with these programs. This user fee will be in addition to any user fee charged by the third-party vendor, which will be approved by the IRS, and covers the costs for obtaining the fingerprints and transmitting the fingerprints to the FBI. The fingerprinting user fee recovers the costs to the IRS to transfer the fingerprints and the results of the FBI database search to the IRS; perform background checks on third-party vendor employees; modify the database used to receive, record, and store the search results; evaluate the results received from the search of the FBI database; provide internal review of circumstances where an individual is found not suitable to participate in the respective program; and process appeals by individuals who are denied the ability to participate in their respective program because the individuals failed the suitability check. Individuals who participate in the PTIN program receive the special benefit of being able to prepare all or substantially all of a tax return or claim for refund for compensation. Individuals who participate in the acceptance agent program receive the special benefit of being able to facilitate and expedite the issuance of ITINs and EINs by verifying the applicant's identity and status as an alien; certifying acceptance agents receive the additional benefit of being able to certify an ITIN applicant's identity and status as an alien. Persons who participate in the authorized e-file provider program receive the special benefit of being able to electronically file tax and information returns.

The legal basis for establishing a user fee is contained in section 9701 of title 31.

A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply

The proposed regulations affect all individuals who want to become registered tax return preparers under the new oversight rules in Circular 230. Only individuals, not businesses, can practice before the IRS or become a registered tax return preparer. Thus, the economic impact of these regulations on any small entity generally will be a result of applicants owning a small business or a small entity employing applicants. The NAICS code that relates to tax preparation services (NAICS code 541213) is the appropriate code for the registered tax return preparer program. Entities identified as tax preparation services are considered small under the Small Business Administration size standards (13 CFR 121.201) if their annual revenue is less than \$7 million. The IRS estimates that approximately 350,000 individuals will become registered tax return preparers. The IRS estimates that approximately 70 to 80 percent of the individuals who apply to become registered tax return preparers are operating as or employed by small entities.

The proposed regulations affect certain individuals who have or want to obtain a PTIN. Only individuals, not businesses, can obtain a PTIN. Thus, the economic impact of these regulations on any small entity generally will be a result of an individual tax return preparer who is required to obtain a PTIN owning a small business or a small business otherwise employing an individual tax return preparer who is required to apply for or renew a PTIN to prepare all or substantially all of a tax return or claim for refund. The appropriate NAICS codes for applicants or participants in the PTIN program who will have to be fingerprinted relates to tax preparation services (NAICS code 541213). The IRS estimates that approximately 450,000 individuals who receive a PTIN will be required to pay the fingerprinting user fee. Entities identified as tax preparation services and offices of lawyers are considered small under the Small Business Administration size standards if their annual revenue is less than \$7 million. The IRS estimates that approximately 70 to 80 percent of the individuals required to be fin-

gerprinted are operating as or employed by small entities.

The proposed regulations also affect individuals who are or want to become an acceptance agent. Only an individual can become an acceptance agent; thus, the regulations will economically impact any small entity that is owned by or employs an acceptance agent. The NAICS code that relates to tax preparation services (NAICS code 541213) is the appropriate code for the acceptance agent program. Entities identified as tax preparation services are considered small under the Small Business Administration size standards if their annual revenue is less than \$7 million. The IRS estimates that 3,500 individuals who are not required to obtain a PTIN will be fingerprinted as part of the acceptance agent program. The IRS estimates that 80 to 90 percent of acceptance agents are operating as or employed by small entities.

Finally, the proposed regulations will affect any person that is an authorized e-file provider or applies to become an authorized e-file provider. Small businesses can be authorized e-file providers. The NAICS code that relates to authorized e-file providers is data processing, hosting, and related services (NAICS code 518210). Entities identified as data processing, hosting, and related services are considered small under the Small Business Administration size standards if their annual revenue is less than \$25 million. The IRS projects that 6,500 persons who are not required to obtain a PTIN will be fingerprinted as part of the authorized e-file provider program. The IRS estimates that 99 percent of authorized e-file providers are operating as small businesses.

A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record

No reporting or recordkeeping requirements are projected to be associated with this proposed regulation.

An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule

The IRS is not aware of any federal rules that duplicate, overlap, or conflict with the proposed rule.

A description of any significant alternatives to the proposed rule, which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities

The IOAA authorizes the charging of user fees for agency services, subject to policies designated by the President. The OMB Circular implements presidential policies regarding user fees and encourages user fees when a government agency provides a special benefit to a member of the public. As Congress has not appropriated funds to the registered tax return preparer, PTIN, acceptance agent, or authorized e-file provider programs, there are no viable alternatives to the imposition of user fees.

While the IRS previously did not charge a user fee to recover its costs in conjunction with the fingerprinting of applicants to the acceptance agent and authorized e-file programs, the number of applicants in these programs was small enough that the cost of collecting a user fee to fingerprint applicants in these programs would represent an unduly large portion of the user fee. The addition of the PTIN applicants as a group of individuals who also are required to be fingerprinted increased the number of persons required to be fingerprinted to approximately 460,000. Because the population of individuals to be fingerprinted substantially increased, the cost of collecting a user fee for fingerprinting acceptance agents and authorized e-file providers is no longer an unduly large portion of the user fee.

Comments and Public Hearing

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

posed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for October 7, 2011 beginning at 10:00 am in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. All visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by October 4, 2011. A period of 10 minutes will be allocated to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Emily M. Lesniak, Office of the Associate Chief Counsel (Procedure and Administration).

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR Part 300 is proposed to be amended as follows:

Part 300 — USER FEES

Paragraph 1. The authority citation for part 300 continues to read in part as follows:

Authority: 31 U.S.C. 9701.

Par. 2. Section 300.0 is amended by:

1. Redesignating paragraph (b)(12) as paragraph (b)(13).

2. Adding new paragraph (b)(12).
3. Adding paragraph (b)(14).

The additions and revisions read as follows:

§300.0 User fees; in general.

* * * * *

(b) * * *

(12) Taking the registered tax return preparer examination.

* * *

(14) Fingerprinting to apply for, or participate, in the preparer tax identification number, authorized e-file provider, or acceptance agent programs.

§300.12 [Redesignated as §300.13]

Par. 3. Redesignate §300.12 as §300.13.

Par. 4. Adding new §300.12 to read as follows:

§300.12 Registered tax return preparer competency examination fee.

(a) *Applicability.* This section applies to the competency examination to become

a registered tax return preparer pursuant to 31 CFR 10.4(c).

(b) *Fee.* The fee for taking the registered tax return preparer competency examination is \$27, which is the government cost for overseeing the examination and does not include any fees charged by the administrator of the examination.

(c) *Person liable for the fee.* The person liable for the competency examination fee is the applicant taking the examination.

(d) *Effective/applicability date.* This section is applicable on the date the final regulations are published in the **Federal Register**.

Par. 5. Section 300.14 is added to read as follows:

§300.14 Fingerprinting fee to participate in the preparer tax identification number, acceptance agent, or authorized e-file provider programs.

(a) *Applicability.* This section applies to applicants and participants in the preparer tax identification number, acceptance agent, and authorized e-file provider programs who are required to be fingerprinted as prescribed by forms, in-

structions, or other appropriate guidance. This section does not apply, however, to individuals who reside and are employed outside of the United States.

(b) *Fee.* The fee to be fingerprinted is \$33, which is the cost to the government for processing the fingerprints and does not include any fees charged by the vendor.

(c) *Person liable for the fee.* The person liable for the fingerprinting fee is the person being fingerprinted.

(d) *Effective/applicability date.* This section is applicable on the date the final regulations are published in the **Federal Register**.

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

(Filed by the Office of the Federal Register on September 21, 2011, 11:15 a.m., and published in the issue of the Federal Register for September 26, 2011, 76 F.R. 59329)

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 2011–1 through 2011–26 is in Internal Revenue Bulletin 2011–26, dated June 27, 2011.

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¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2011–1 through 2011–26 is in Internal Revenue Bulletin 2011–26, dated June 27, 2011.

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