that the basis of a qualified building shall not be reduced by the amount of any grant described in § 42(i)(9)(A). The legislative history to the Act provides that grants received under this provision (*i.e.*, cash assistance received under section 1602 of the Act) do not reduce the tax basis of a qualified low-income building. By extension, subawards under section 1602(c) of the Act derived from cash assistance under that section that are used in a qualified low-income building are not federal grants for purposes of § 42(d)(5)(A) and do not otherwise reduce the depreciable or eligible basis of the building.

DRAFTING INFORMATION

The principal author of this notice is Christopher J. Wilson, Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information concerning this notice, contact Mr. Wilson at (202) 622–3040 (not a toll-free call).

INTERIM GUIDANCE ON MEASUREMENT OF CONTINUITY OF INTEREST IN REORGANIZATIONS

Notice 2010–25

This notice pertains to the continuity of interest test generally applicable to reorganizations described in section 368 of the Internal Revenue Code.

I. PURPOSE

Under section 7805(e)(2) of the Internal Revenue Code, temporary regulations expire three years after issuance, if not earlier withdrawn. Section 1.368–1T(e)(2) of the Income Tax Regulations will accordingly expire on March 19, 2010. The purpose of this notice is to provide taxpayers with interim guidance applicable to the period between the expiration of the temporary regulations and the issuance of replacement guidance.

II. BACKGROUND AND INTERIM GUIDANCE

The Internal Revenue Code of 1986 (Code) generally provides nonrecognition treatment for reorganizations described in section 368 of the Code. Besides satisfying the statutory and other requirements, in order to qualify as a reorganization, a transaction generally must satisfy the continuity of interest (COI) requirement. COI requires that, in substance, a substantial part of the value of the proprietary interests in the target corporation be preserved in the reorganization.

On March 20, 2007, the Internal Revenue Service (Service) and the Treasury Department (Treasury) published temporary regulations § 1.368–1T(e)(2) (T.D. 9316, 2007–1 C.B. 962) and proposed regulations (REG–146247–06, 2007–1 C.B. 977) in the Federal Register (72 FR 12974 and 72 FR 13058, respectively). The text of the temporary regulations and the proposed regulations is the same. The Service and the Treasury intend to issue final regulations, but do not expect to issue such regulations prior to the expiration of the temporary regulations. The purpose of this notice is to provide taxpayers with interim guidance applicable to the period between the expiration of the temporary regulations and the issuance of new regulations.

After expiration of the temporary regulations and prior to the issuance of new regulations, taxpayers may apply the rules set forth in the proposed regulations notwithstanding that the temporary regulations have expired. However, the target corporation, the issuing corporation, the controlling corporation of the acquiring corporation if stock thereof is provided as consideration in the transaction, and any direct or indirect transferee of transferred basis property from any of the foregoing, may not apply the provisions of the proposed regulations unless all such taxpayers elect to apply the provisions of such regulations. This requirement will be satisfied if none of the specified parties adopts treatment inconsistent with this election.

DRAFTING INFORMATION

The principal author of this notice is Richard Starke of the Office of Associate Chief Counsel (Corporate). For further information regarding this notice, please contact Richard Starke at (202) 622–7790 (not a toll-free call).

Chile Earthquake Occurring in February 2010 Designated as a Qualified Disaster Under § 139 of the Internal Revenue Code

Notice 2010–26

This notice designates the Chile earthquake occurring in February 2010 as a qualified disaster for purposes of § 139 of the Internal Revenue Code in the affected areas of Chile.

EARTHQUAKE DISASTER

On February 27, 2010, a magnitude 8.8 earthquake with numerous significant aftershocks and a tsunami affected southern and central Chile ("Chile earthquake"). The earthquake and resulting aftershocks affected approximately 2 million individuals, displaced thousands of individuals from damaged and destroyed houses, and resulted in 795 deaths. The earthquake also caused major damage to buildings and infrastructure near the epicenter, and disrupted communications, electricity, water, and gas services in the affected areas. In addition, a tsunami caused significant damage along parts of coastal Chile. *USAID Chile — Earthquake Fact Sheet No. 1* (March 1, 2010) and *No. 2* (March 2, 2010).

This notice enables employer-sponsored private foundations to assist certain victims in areas affected by the Chile earthquake and enables recipients to exclude qualified disaster relief payments from gross income.

QUALIFIED DISASTER RELIEF PAYMENTS EXCLUDED FROM RECIPIENT'S GROSS INCOME

Section 139(a) provides that gross income shall not include any amount received by an individual as a qualified disaster relief payment.

Section 139(b) provides that a qualified disaster relief payment includes any amount paid to or for the benefit of an individual—

(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses (not otherwise compensated for by insurance or otherwise)

incurred as a result of a qualified disaster, or

(2) to reimburse or pay reasonable and necessary expenses (not otherwise compensated for by insurance or otherwise) incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster.

Under § 139(c)(3) the term "qualified disaster" includes a disaster resulting from an event that is determined by the Secretary to be of a catastrophic nature.

DESIGNATION AS QUALIFIED DISASTER

The Commissioner of Internal Revenue, pursuant to delegation by the Secretary, has determined that the Chile earthquake occurring in February 2010 is an event of a catastrophic nature under § 139(c)(3). Therefore, the Chile earthquake is designated as a qualified disaster under § 139 in the affected areas of Chile.

SECTION 501(c)(3) ORGANIZATIONS

Employer-sponsored private foundations may choose to provide disaster relief to employee victims of the Chile earthquake. Like all organizations described in § 501(c)(3), private foundations should exercise due diligence when providing disaster relief as set forth in Publication 3833, *Disaster Relief: Providing Assistance Through Charitable Organizations*.

DRAFTING INFORMATION

The principal author of this notice is Sheldon Iskow of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Mr. Iskow at (202) 622–4920 (not a toll-free call).

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26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also Part I, §§ 118, 362.)

Rev. Proc. 2010–20

SECTION 1. PURPOSE

This revenue procedure provides a safe harbor under section 118(a) of the Internal Revenue Code for the treatment of a Smart Grid Investment Grant (SGIG) under 42 U.S.C. 17386 made by the United States Department of Energy (DOE) to a corporation for qualifying investments under the Smart Grid Investment Matching Grant Program as authorized by section 1306 of the Energy Independence and Security Act of 2007 (Pub. L. 110–140), as amended by section 405, Division A of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5).

SECTION 2. BACKGROUND

Section 118(a) of the Code provides that in the case of a corporation, gross income does not include a contribution to the capital of the taxpayer.

Section 1.118–1 of the Income Tax Regulations provides that section 118 applies to contributions to capital made by a person other than a shareholder, for example, property contributed to a corporation by a governmental unit for the purpose of enabling the corporation to expand its operating facilities.

Section 362(c)(2) of the Code requires a basis reduction in a corporation's property when the corporation receives money from a nonshareholder as a contribution to its capital.

42 U.S.C. 17386 provides that DOE shall establish a Smart Grid Investment Matching Grant Program to make grants for qualifying investments. Under 42 U.S.C. 17386, an SGIG may not be used for ongoing or routine operating and maintenance expenditures.

SECTION 3. SCOPE

This revenue procedure applies to corporate taxpayers that receive an SGIG under 42 U.S.C. 17386 from DOE. This revenue procedure does not apply to noncorporate taxpayers, or to grants under 42 U.S.C. 17384 (Smart Grid technology research, development, and demonstration).

SECTION 4. PROCEDURE

The Internal Revenue Service will not challenge a corporation's treatment of an SGIG made by DOE to the corporation as a nonshareholder contribution to the capital of the corporation under section 118(a) of the Code if the corporation properly reduces the basis of its property under section 362(c)(2) and the regulations thereunder.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective March 10, 2010.

SECTION 6. DRAFTING INFORMATION

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