

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 2000-31, page 1269.

Low-income housing credit; satisfactory bond; "bond factor" amounts for the period April through June 2000. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period April through June 2000.

EMPLOYEE PLANS

Rev. Proc. 2000-27, page 1272.

Qualified plans; determination letters; remedial amendment period. This procedure opens the determination letter program to allow sponsors of qualified plans within the meaning of section 401(a) or 403(a) of the Code to request determination letters from the Service that take into account all changes in the plan qualification requirements made by the Small Business Job Protection Act of 1996 and other recent legislation. It also extends the remedial period under section 401(b) of the Code for amending plans for these changes, as well as the remedial amendment period for amending governmental and nonelecting church plans for the Tax Reform Act of 1986. Rev. Procs. 98-14, 99-23, 2000-6, and 2000-20 modified.

Notice 2000-31, page 1274.

Weighted average interest rate update. The weighted average interest rate for June 2000 and the resulting permissible range of interest rates used to calculate current lia-

bility for purposes of the full funding limitation of section 412(c)(7) of the Code are set forth.

Notice 2000-32, page 1274.

Rollovers; hardship distributions. This notice provides relief relating to the exception to the definition of eligible rollover distribution for hardship distributions, as provided by sections 402(c)(4)(C) and 403(b)(8)(B) of the Code. Notice 99-5 modified.

EXEMPT ORGANIZATIONS

Announcement 2000-56, page 1281.

A list is provided of organizations that no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

EXCISE TAX

T.D. 8887, page 1269.

Final regulations under section 6302 of the Code relate to deposits of excise tax. Notice 97-15 obsoleted.

ADMINISTRATIVE

Announcement 2000-54, page 1276.

The Service is requesting comments from the public on proposed revisions to Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.

Finding Lists begin on page ii.

Announcement of Declaratory Judgment Proceedings Under Section 7428 begins on page 1281.



The IRS Mission

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

and by applying the tax law with integrity and fairness to all.

Introduction

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

dures 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 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 first 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 first Bulletin of the succeeding semiannual period, respectively.

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

Section 42.—Low-Income Housing Credit

Low-income housing credit; satisfactory bond; “bond factor” amounts for the period April through June 2000. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period April through June 2000.

Rev. Rul. 2000-31

In Rev. Rul. 90-60, 1990-2 C.B. 3, the Internal Revenue Service provided guidance to taxpayers concerning the general methodology used by the Treasury Department in computing the bond factor amounts used in calculating the amount of bond considered satisfactory by the Secretary under § 42(j)(6) of the Internal Revenue Code. It further announced that

the Secretary would publish in the Internal Revenue Bulletin a table of “bond factor” amounts for dispositions occurring during each calendar month.

This revenue ruling provides in Table 1 the bond factor amounts for calculating the amount of bond considered satisfactory under § 42(j)(6) for dispositions of qualified low-income buildings or interests therein during the period April through June 2000.

Table 1 Rev. Rul. 2000-31 Monthly Bond Factor Amounts for Dispositions Expressed As a Percentage of Total Credits														
Calendar Year Building Placed in Service or, if Section 42(f)(1) Election Was Made, the Succeeding Calendar Year														
Month of Disposition	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Apr '00	31.27	46.78	62.87	79.50	82.43	86.72	91.18	95.67	100.29	105.28	110.55	116.23	121.62	124.35
May '00	31.27	46.78	62.87	79.50	82.19	86.46	90.90	95.36	99.96	104.93	110.16	115.80	121.15	124.35
Jun '00	31.27	46.78	62.87	79.50	81.95	86.21	90.63	95.07	99.65	104.59	109.80	115.41	120.73	124.35

For a list of bond factor amounts applicable to dispositions occurring during other calendar years, see the following revenue rulings: Rev. Rul. 98-3, 1998-1 C.B. 248, for dispositions occurring during the calendar years 1996 and 1997; Rev. Rul. 98-13, 1998-1 C.B. 686, for dispositions occurring during the period January through March 1998; Rev. Rul. 98-31, 1998-1 C.B. 1269, for dispositions occurring during the period April through June 1998; Rev. Rul. 98-45, 1998-2 C.B. 364, for dispositions occurring during the period July through September 1998; Rev. Rul. 99-1, 1999-2 I.R.B. 4, for dispositions occurring during the period October through December 1998; Rev. Rul. 99-54, 1999-51 I.R.B. 675, for dispositions occurring during the calendar year 1999; and Rev. Rul. 2000-22, 2000-16 I.R.B. 880, for dispositions occurring during the period January through March 2000.

DRAFTING INFORMATION

The principal author of this revenue ruling is Gregory N. Doran of the Office

of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Mr. Doran on (202) 622-3040 (not a toll-free call).

Section 401.—Qualified Pension, Profit-Sharing, and Stock Bonus Plans

26 CFR 1.401(b)-1: Certain retroactive changes in plan.

A procedure describes when plans that are qualified under § 401(a) or § 403(a) must be amended for the Uruguay Round Agreements Act, the Uniformed Services Employment and Reemployment Rights Act of 1994, the Small Business Job Protection Act of 1996, the Taxpayer Relief Act of 1997, and the Internal Revenue Service Restructuring and Reform Act of 1998. See Rev. Proc. 2000-27, page 1272.

Section 6302.—Mode or Time of Collection

26 CFR 40.6302(c)-1: Use of Government depositaries.

T.D. 8887

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 40

Deposits of Excise Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the availability of the safe harbor deposit rule based on look-back quarter liability and affects persons required to make deposits of excise taxes. This document also contains final regulations related to floor stocks taxes and affects persons liable for those taxes. The regulations implement changes made by the Small Business Job Protection Act of 1996 and the Airport and Airway Trust Fund Tax Reinstatement

ment Act of 1997.

DATES: *Effective Date:* These regulations are effective June 8, 2000.

Applicability Dates: For dates of applicability of these regulations, see §§40.6302(c)-1(c)(2)(iv)(C) and 40.6302(c)-2(b)(2)(iii)(C).

FOR FURTHER INFORMATION CONTACT: Susan Athy, (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations (T.D. 8740, 1998-1 C.B. 289) relating to the safe harbor deposit rule based on look-back quarter liability and to floor stock taxes were published in the Federal Register on December 29, 1997 (62 F.R. 67568) along with a notice of proposed rulemaking (REG-102894-97, 1998-1 C.B. 344) cross-referencing the temporary regulations (62 F.R. 67589). Written comments and requests for a public hearing were solicited. However, no comments or requests were received and no public hearing was held.

The proposed regulations are adopted without revision by this Treasury decision.

Effect on Other Documents

The following publication is obsolete as of June 8, 2000:

Notice 97-15, 1997-1 C.B. 387.

Special Analyses

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

ness Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Susan Athy, Office of Assistant 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 part 40 is amended as follows:

PART 40—EXCISE TAX PROCEDURAL REGULATIONS

Paragraph 1. The authority citation for part 40 continues to read in part as follows:

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

Par. 2. In §40.0-1, paragraph (a) is amended by revising the second sentence to read as follows:

§40.0-1 Introduction.

(a) * * * The regulations set forth administrative provisions relating to the excise taxes imposed by chapters 31, 32, 33, 34, 36, 38, and 39 (except for the chapter 32 tax imposed by section 4181 (firearms tax) and the chapter 36 taxes imposed by sections 4461 (harbor maintenance tax) and 4481 (heavy vehicle use tax)), and to floor stocks taxes imposed on articles subject to any of these taxes. * * *

* * * * *

§40.0-1T [Removed]

Par. 3. Section 40.0-1T is removed.

Par. 4. In §40.6011(a)-1, paragraph (a)(2)(iii) is added to read as follows:

§40.6011(a)-1 Returns.

(a) * * *

(2) * * *

(iii) *Floor stocks tax return.* A return reporting liability for a floor stocks tax described in §40.0-1(a) is a return for the calendar quarter in which the tax payment is due and not the calendar quarter in which the liability for tax is incurred.

* * * * *

§40.6011(a)-1T [Removed]

Par. 5. Section 40.6011(a)-1T is removed.

Par. 6. Section 40.6302(c)-1 is amended as follows:

1. Paragraph (c)(2)(iv) is added.

2. Paragraph (f)(1) is amended by adding a sentence to the end of the paragraph.

The additions read as follows:

§40.6302(c)-1 Use of Government depositories.

* * * * *

(c) * * *

(2) * * *

(iv) *Modification for new or reinstated taxes—(A) Applicability.* The safe harbor rule of paragraph (c)(2)(i) of this section is modified for any calendar quarter in which a person's liability for a class of tax includes liability for any new or reinstated tax. For this purpose, a new or reinstated tax is—

(1) Any tax (including an alternative method tax) that was not in effect at all times during the look-back quarter; and

(2) Any alternative method tax that was not in effect at all times during the month preceding the look-back quarter.

(B) *Modification.* The safe harbor rule of paragraph (c)(2)(i) of this section does not apply to a class of tax unless the deposit of taxes in that class for each semi-monthly period in the calendar quarter is not less than the greater of—

(1) 1/6 of the net tax liability reported for the class of tax for the look-back quarter; or

(2) The sum of—

(i) 95 percent of the net tax liability incurred with respect to new or reinstated taxes during the semimonthly period; and

(ii) 1/6 of the net tax liability reported for all other taxes in the class for the look-back quarter.

(C) *Effective date.* This paragraph (c)(2)(iv) applies to tax liabilities for new or reinstated taxes incurred after February 28, 1997, except that paragraph (c)(2)(iv)(A)(2) of this section applies only for calendar quarters beginning after December 31, 1997.

* * * * *

(f) * * * (1) * * * Also, no deposit is required in the case of any floor stocks tax described in §40.0-1(a).

* * * * *

§40.6302(c)-1T [Removed]

Par. 7. Section 40.6302(c)-1T is removed.

Par. 8. In §40.6302(c)-2, paragraph (b)(2)(iii) is added to read as follows:
§40.6302(c)-2 *Special rules for use of Government depositaries under section 4681.*

* * * * *

(b) * * *

(2) * * *

(iii) *Modification for new chemicals—*

(A) *Applicability.* The safe harbor rule of paragraph (b)(2)(i) of this section is modified for any calendar quarter in which a person's liability for section 4681 tax includes liability with respect to any new chemical. For this purpose, a new chemical is any chemical that was not subject to tax at all times during the look-back quarter.

(B) *Modification.* The safe harbor rule of paragraph (b)(2)(i) of this section does

not apply unless the deposit of section 4681 taxes for each semimonthly period in the calendar quarter is not less than the greater of—

(1) 1/6 of the net tax liability reported under section 4681 for the look-back quarter; or

(2) The sum of—

(i) 95 percent of the net tax liability incurred under section 4681 with respect to the new chemical during the semimonthly period; and

(ii) 1/6 of the net tax liability reported under section 4681 with respect to all other chemicals for the look-back quarter.

(C) *Effective date.* This paragraph (b)(2)(iii) applies to tax liabilities for new chemicals incurred after February 28, 1997.

* * * * *

§40.6302(c)-2T [Removed]

Par. 9. Section 40.6302(c)-2T is removed.

Robert E. Wenzel,
*Deputy Commissioner of
Internal Revenue.*

Approved May 22, 2000.

Jonathan Talisman,
*Deputy Assistant Secretary
of the Treasury.*

(Filed by the Office of the Federal Register on June 7, 2000, 8:45 a.m., and published in the issue of the Federal Register for June 8, 2000, 65 F.R. 36326)

Part III. Administrative, Procedural, and Miscellaneous

26 CFR 601.201: Rulings and determination letters.
(Also, Part I, § 401; § 1.401(b)-1.)

Rev. Proc. 2000-27

SECTION 1. PURPOSE

.01 This revenue procedure opens the Internal Revenue Service's determination letter program to allow sponsors of qualified plans to obtain determination letters that take into account all the changes in the qualification requirements made by "GUST," including those changes made by the Small Business Job Protection Act of 1996, Pub. L. 104-188 ("SBJPA"), that are first effective in plan years beginning after December 31, 1998. This procedure also extends until the last day of the first plan year beginning on or after January 1, 2001, the remedial amendment period under § 401(b) of the Code for amending plans for GUST, as well as the TRA '86 remedial amendment period for governmental and nonelecting church plans. Finally, this revenue procedure extends by an additional year the period of extended reliance for certain plans that received favorable determination, opinion, or notification letters under TRA '86.

.02 The term "GUST" refers to the following:

- 1 the Uruguay Round Agreements Act, Pub. L. 103-465 ("GATT");
- 2 the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353 ("USERRA");
- 3 SBJPA;
- 4 the Taxpayer Relief Act of 1997, Pub. L. 105-34 ("TRA '97"); and
- 5 the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206 ("RRA '98").

SECTION 2. BACKGROUND

.01 Prior to June 26, 2000, plan sponsors could not request determination letters under § 401(a) or § 403(a) that take into account the changes in the qualification requirements made by SBJPA that are first effective in plan years beginning after December 31, 1998, unless the determination related to a terminating plan. Instead, sponsors of individually-designed plans, including volume submitter plans, could request letters that take into

account all the changes in the qualification requirements made by GUST other than those changes made by SBJPA that are first effective in plan years beginning after December 31, 1998. (These letters are referred to in this revenue procedure as "GUST I letters.") Alternatively, sponsors of individually-designed plans, including volume submitter plans, had the option to request determination letters that do not take into account any of the changes made by GUST, except for changes to § 401(a)(26) and § 414(n). (These letters are referred to as "pre-GATT letters.") Determination letters for master or prototype (M&P) or regional prototype plans that have not yet been amended by their sponsors for GUST do not consider the changes made by GUST. See Rev. Proc. 98-14, 1998-1 C.B. 371, as modified by Rev. Proc. 98-53, 1998-2 C.B. 456, and section 3.03 of Rev. Proc. 2000-6, 2000-1 I.R.B. 187.

.02 Proposed regulations (REG-109101-98, 2000-16 I.R.B. 903) under § 411(d)(6), which were published in the **Federal Register** on March 29, 2000 (65 F.R. 16546), would permit qualified defined contribution plans to be amended to eliminate some alternative forms in which an account balance can be paid under certain circumstances, and would permit certain transfers between defined contribution plans that are not permitted under regulations now in effect. The proposed regulations are proposed to be effective upon publication of final regulations in the **Federal Register** and cannot be relied upon before finalization.

.03 Under § 401(b), plan sponsors have a remedial amendment period in which to adopt GUST plan amendments. Rev. Proc. 99-23, 1999-16 I.R.B. 5, provides that the GUST remedial amendment period for nongovernmental plans ends on the last day of the first plan year beginning on or after January 1, 2000. For governmental plans, as defined in § 414(d), the GUST remedial amendment period ends on the later of (i) the last day of the last plan year beginning before January 1, 2001, or (ii) the last day of the first plan year beginning on or after the "1999 legislative date" (that is, the 90th day after the opening of the first legislative session beginning after December 31, 1998, of

the governing body with authority to amend the plan, if that body does not meet continuously). The remedial amendment period can be further extended by the timely submission of a determination letter application. The end of the GUST remedial amendment period is the deadline for making all GUST plan amendments, including plan amendments reflecting the repeal of § 415(e) and other plan amendments specifically enumerated in Rev. Proc. 99-23. The GUST remedial amendment period also applies with respect to all disqualifying provisions of new plans adopted or effective after December 7, 1994, and with respect to all plan amendments adopted after December 7, 1994, which would cause an existing plan to fail to be qualified.

.04 Rev. Proc. 2000-20, 2000-6 I.R.B. 553, includes a procedure for extending the GUST remedial amendment period for employers adopting M&P or volume submitter plans. To be eligible for the extension, employers must either adopt an M&P or volume submitter plan before the end of the GUST remedial amendment period (determined without regard to the extension) or, before such time, certify their intent to adopt a GUST-approved M&P or volume submitter plan. Additionally, the M&P sponsor or volume submitter practitioner must request a GUST opinion or advisory letter by December 31, 2000.

.05 Rev. Proc. 99-23 extended the TRA '86 remedial amendment period for governmental plans to the end of the GUST remedial amendment period for governmental plans described above. The plan amendments to which the TRA '86 remedial amendment period applies are those required to comply with the Tax Reform Act of 1986, Pub. L. 99-514 ("TRA '86") and subsequent legislation through the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66 ("OBRA '93").

.06 Under Notice 98-39, 1998-2 C.B. 205, nonelecting church plans are not required to be amended to comply with regulations under §§ 401(a)(4), 401(a)(5), 401(l), and 414(s) until the last day of the first plan year beginning on or after January 1, 2001. However, under Rev. Proc. 99-23, these plans are required to be amended to comply with other applicable

provisions of TRA '86 and subsequent legislation through OBRA '93 by the end of the generally applicable GUST remedial amendment period, that is, the end of the first plan year beginning on or after January 1, 2000.

.07 Plans that were submitted to the Service within certain deadlines for determination, opinion, or notification letters under TRA '86 and received favorable letters were entitled to extended reliance on their letters. However, plans with extended reliance are required to be amended to comply with regulations and administrative guidance of general applicability issued since the date of the plan's favorable TRA '86 letter. Rev. Proc. 99-23 extended the time for adopting such amendments to the end of the GUST remedial amendment period.

SECTION 3. PROGRAM OPENING

.01 Applications for determination letters under § 401(a) or § 403(a) that are filed with the Service on or after June 26, 2000, for individually-designed plans, including volume submitter plans, will be reviewed taking into account all the changes in the qualification requirements made by GUST, including those changes made by SBJPA that are first effective in plan years beginning after December 31, 1998, unless the sponsor asks the Service to limit the extent to which the plan is reviewed for GUST, as described below. (Determination letters that take into account all the GUST changes are referred to in this revenue procedure as "GUST II letters." Except in the case of terminating plans, the review of applications for determination letters for M&P plans will take into account the GUST changes only to the extent that the M&P plan sponsor has amended the plan for GUST and received a favorable opinion letter.

.02 Until further notice, sponsors of individually-designed plans, including volume submitter plans, will continue to have the option of limiting the extent to which their plans are reviewed for GUST by requesting either a GUST I letter or a pre-GATT letter, rather than a GUST II letter. The sponsor should make this request in a cover letter with the application. (This option does not apply to applications for determination on plan termination.) Under this option, the sponsor will need to submit another application and pay another

user fee to obtain a GUST II letter.

.03 Because the proposed regulations under § 411(d)(6) may not be relied upon prior to finalization, the proposed regulations will not be taken into account by the Service for purposes of issuing determination letters. Until such regulations are finalized, the Service will not issue a favorable determination letter for a plan that is amended to eliminate or reduce benefits in a manner that is not permitted under regulations now in effect. Therefore, sponsors who are considering submitting determination letter applications before the proposed regulations under § 411(d)(6) are finalized should also be aware that they may have to submit another application and pay another user fee if they wish to adopt plan amendments as a result of the final regulations.

.04 In general, plans must be restated when they are submitted for GUST II determination letters. For this purpose, submission of a working copy of the plan in a restated format will suffice. A plan is generally exempt from the requirement to restate, however, if there have been fewer than four consecutive amendments since the plan was last restated, excluding amendments making only nonsubstantive plan changes, the plan has a favorable TRA '86 determination letter, and the plan meets either of the following conditions:

- 1 The plan is a defined contribution plan under which the only contributions are nonelective employer contributions; or
- 2 The plan has a favorable GUST I determination letter and is not adding provisions designed to satisfy the safe harbor requirements of § 401(k)(12) or § 401(m)(11).

The Service nevertheless reserves the right to require restatement of a plan or submission of a working copy of a plan in a restated format in any case in which this is determined to be necessary.

.05 In general, Form 6406, *Short Form Application for Determination for Minor Amendment of Employee Benefit Plan*, may not be used to apply for either a GUST I or a GUST II letter. However, if use of Form 6406 is not otherwise precluded by section 11 of Rev. Proc. 2000-6, Form 6406 may be used to apply for a GUST II letter for a defined contribution plan with a favorable

GUST I letter which does not include provisions designed to satisfy the safe harbor requirements of § 401(k)(12) or § 401(m)(11). In this case, the application should include a cover letter indicating the application is for a GUST II letter. The Service reserves the right to require the filing of a Form 5300 series application in any case in which it determines that the use of Form 6406 is inappropriate.

.06 The Service will attempt to contact each plan sponsor who has a Form 5300 determination letter application being reviewed by a determination letter specialist on June 26, 2000, to determine if the sponsor wishes to convert the application to a GUST II application. The Service will continue to process each other pending application in accordance with the procedures in effect prior to June 26, 2000.

SECTION 4. EXTENSION OF THE REMEDIAL AMENDMENT PERIOD

.01 The GUST remedial amendment period for nongovernmental plans is extended to the last day of the first plan year beginning on or after January 1, 2001. The remedial amendment period for governmental plans, as defined in § 414(d), is extended to the later of (i) the last day of the first plan year beginning on or after January 1, 2001, or (ii) the last day of the first plan year beginning on or after the "2000 legislative date" (that is, the 90th day after the opening of the first legislative session beginning after December 31, 1999, of the governing body with authority to amend the plan, if that body does not meet continuously).

.02 In general, all plan provisions that either cause a plan to fail to satisfy the qualification requirements of the Code because of changes to those requirements made by GUST or are integral to a qualification requirement changed by GUST are disqualifying provisions under § 1.401(b)-1(b) of the regulations. Thus, this extension of the GUST remedial amendment period applies to all GUST plan amendments, including all those specifically enumerated in Rev. Proc. 99-23. In addition, this extends the remedial amendment period with respect to all disqualifying provisions of new plans adopted or effective after December 7, 1994, and with respect to all plan amend-

ments adopted after December 7, 1994, which would cause an existing plan to fail to be qualified.

.03 This extension also applies for purposes of the time by which employers must either adopt an M&P or volume submitter plan or certify their intent to adopt a GUST-approved M&P or volume submitter plan in order to be eligible for the extension described in section 19 of Rev. Proc. 2000-20. However, the December 31, 2000, deadline for submission of applications for opinion and advisory letters under section 19 of Rev. Proc. 2000-20 is not extended.

.04 The TRA '86 remedial amendment period for governmental plans is extended to the end of the GUST remedial amendment period for governmental plans described above. The TRA '86 remedial amendment period for nonelecting church plans is extended to the end of the GUST remedial amendment period for non-governmental plans described above. Thus, nonelecting church plans now have a single amendment deadline for all GUST and TRA '86 plan amendments, including amendments relating to the nondiscrimination requirements. The additional administrative relief provided under Notice 92-36, 1992-2 C.B. 364, continues to be available to governmental and nonelecting church plans through the end of their respective remedial amendment periods with respect to the applicable nondiscrimination requirements.

SECTION 5. EXTENSION OF EXTENDED RELIANCE PERIOD

The TRA '86 extended reliance period is extended by an additional year. A plan with extended reliance must be amended by the end of the GUST remedial amendment period to the extent necessary to comply with regulations or administrative guidance of general applicability issued since the date of the plan's favorable TRA '86 determination letter. These amendments must be made effective no later than the first day of the plan year in which the GUST remedial amendment period ends, and, except in the case of M&P or volume submitter plans, no earlier than the first day of the plan year in which the amendments are adopted. (But see Rev. Rul. 94-76, 1994-2 C.B. 46, and Rev. Rul. 96-47, 1996-2 C.B. 35.)

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Procs. 98-14, 99-23, 2000-6, and 2000-20 are modified.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective June 26, 2000.

DRAFTING INFORMATION

The principal author of this revenue procedure is James Flannery of the Tax Exempt and Government Entities Divi-

sion. For further information regarding this revenue procedure, contact the Employee Plans Division's telephone assistance service between the hours of 1:30 and 3:30 p.m. Eastern time, Monday through Thursday, on (202) 622-6074/75. (These telephone numbers are not toll-free.)

Weighted Average Interest Rate Update

Notice 2000-31

Notice 88-73 provides guidelines for determining the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of § 412(c)(7) of the Internal Revenue Code as amended by the Omnibus Budget Reconciliation Act of 1987 and as further amended by the Uruguay Round Agreements Act, Pub. L. 103-465 (GATT).

The average yield on the 30-year Treasury Constant Maturities for May 2000 is 6.15 percent.

The following rates were determined for the plan years beginning in the month shown below.

Month	Year	Weighted Average	90% to 105% Permissible Range	90% to 110% Permissible Range
June	2000	6.01	5.41 to 6.31	5.41 to 6.61

Drafting Information

The principal author of this notice is Todd Newman of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, call the Employee Plans Actuarial hotline, (202) 622-6076 between 2:30 and 3:30 p.m. Eastern time (not a toll-free number). Mr. Newman's number is (202) 622-8458 (also not a toll-free number).

Eligible Rollover Distributions

Notice 2000-32

I. PURPOSE

This notice provides additional relief relating to the exception to the definition of eligible rollover distribution for certain hardship distributions. This exception was added to §§ 402(c)(4) and 403(b)(8)(B) of the Internal Revenue Code (the "Code") by § 6005(c)(2)(A)

and (B) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206 ("RRA 98"). Transition relief and guidance relating to the exception was initially provided in Notice 99-5, 1999-3 I.R.B. 10. In response to comments from representatives of plan sponsors and recordkeepers regarding their significant difficulties in implementing certain requirements of Notice 99-5, this notice provides permanent relief to sponsors of qualified plans where records

pertaining to pre-1989 contributions are unavailable, and also provides transition relief to sponsors of both qualified plans and § 403(b) annuities from certain other requirements of Notice 99-5.

II. BACKGROUND

Section 401(a)(31) requires a qualified plan to permit distributees to elect to have an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

Section 403(b)(10) provides that a § 403(b) annuity must meet requirements similar to the requirements of § 401(a)(31).

Section 402(c)(4) generally provides that any distribution of all or any portion of the balance to the credit of an employee in a qualified plan is an eligible rollover distribution. However, as exceptions to this general rule, that section specifies certain distributions that are not eligible rollover distributions.

Prior to amendment by RRA 98, the only exceptions to the definition of eligible rollover distribution provided for in § 402(c) were any distribution that is one of a series of substantially equal periodic payments made for certain periods, any distribution to the extent such distribution is required under § 401(a)(9), and any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation described in § 402(e)(4)).

Section 403(b)(8) provides that rules similar to those in § 402(c)(4) apply for purposes of determining the amount eligible for rollover from a § 403(b) annuity. Section 1.403(b)-2, Q&A-1 provides that an eligible rollover distribution from a § 403(b) annuity is an eligible rollover distribution described in § 402(c)(4) and § 1.402(c)-2, except that the distribution is from a § 403(b) annuity rather than a qualified plan.

Section 6005(c)(2)(A) of RRA 98 added § 402(c)(4)(C) to the Code, which specifies an additional exception to the definition of eligible rollover distribution for any hardship distribution described in § 401(k)(2)(B)(i)(IV), effective for distributions after December 31, 1998. Section 6005(c)(2)(B) of RRA 98 amended § 403(b)(8)(B) of the Code to include a specific reference to § 402(c)(4)(C). Thus, the new exception also applies to

distributions from § 403(b) annuities.

Section 401(k)(2)(B)(i) provides that contributions made under a qualified cash or deferred arrangement ("CODA") are not permitted to be distributed earlier than the occurrence of certain specified events. Under § 401(k)(2)(B)(i)(IV), an employee's elective contributions may be distributed upon the hardship of the employee. Section 1.401(k)-1(d)(2)(ii) provides that qualified nonelective and qualified matching contributions that were treated as elective contributions, plus earnings on these contributions and on elective contributions, credited to an employee's account as of a date specified in the plan containing the qualified CODA (which date generally was required to be before July 1, 1989) may also be distributed upon the hardship of the employee. The date described in the preceding sentence is hereinafter referred to as the "'89 date" and the amounts described in the preceding sentence are hereinafter referred to as "pre-'89 401(k) amounts." Contributions not made under a qualified CODA, such as matching contributions or profit-sharing contributions, are not described in § 401(k)(2)(B)(i)(IV).

Sections 403(b)(1) and 403(b)(11) provide that amounts contributed pursuant to a salary reduction agreement for years beginning after December 31, 1988, are not permitted to be distributed earlier than the occurrence of certain specified events. Under § 403(b)(11)(B), such amounts may be distributed upon the hardship of the employee. Amounts held in an annuity contract described in § 403(b)(1) as of the close of the last year beginning before January 1, 1989, and amounts contributed to the contract as nonelective employer contributions are generally not subject to distribution restrictions.

Sections 403(b)(7) and 403(b)(11) provide that amounts contributed to a custodial account described in § 403(b)(7) are not permitted to be distributed earlier than the occurrence of certain specified events. Under §§ 403(b)(7) and 403(b)(11), contributions made pursuant to a salary reduction agreement, as well as any other amounts held in the custodial account as of the close of the last year beginning before January 1, 1989, may be distributed upon the hardship of the employee.

Notice 99-5 provided transition relief from the requirements of § 6005(c)(2)(A)

and (B) of RRA 98 by permitting qualified plans and § 403(b) annuities to treat those distributions made in calendar year 1999 that would have been eligible rollover distributions under § 402(c)(4) immediately prior to its amendment by RRA 98 as eligible rollover distributions for all purposes under the Code.

Notice 99-5 also provided that, for purposes of § 6005(c)(2)(A) and (B) of RRA 98, "a hardship distribution described in § 401(k)(2)(B)(i)(IV)" includes only amounts described in § 1.401(k)-1(d)(2)(ii), including pre-'89 401(k) amounts, and does not include amounts that are distributable under the Code without regard to the hardship of the employee. Similar rules were provided with respect to § 403(b) annuities. In addition, Notice 99-5 provided that if another event occurs, such as the employee's separation from service or attainment of age 59 1/2, so that distribution of an amount is permitted under the Code, without regard to hardship, no amount distributed after that event is ineligible for rollover treatment on account of being a hardship distribution described in § 401(k)(2)(B)(i)(IV). Lastly, Notice 99-5 provided that if a portion of a distribution that includes a hardship distribution is not includible in gross income, the portion of the distribution that is not includible in gross income is first allocated to the hardship distribution. Notice 99-5 provided that the above rules were first applicable to distributions made after December 31, 1999.

III. DEFINITIONS

For purposes of this notice, a "§ 403(b) annuity" includes an annuity contract, a custodial account, and a retirement income account described in § 403(b) (see § 1.403(b)-2, Q&A-1) and a "qualified plan" is an employees' trust described in § 401(a) that is exempt from tax under § 501(a) or an annuity plan described in § 403(a) (see § 1.402(c)-2, Q&A-2).

IV. RELIEF

Representatives of plan sponsors and recordkeepers have raised concerns about certain of the requirements of Notice 99-5. Those representatives indicated that, in many cases, plan records were inadequate to comply with the requirement that amounts treated as ineligible for rollover by reason of RRA 98 be limited to the amount

described in § 1.401(k)-1(d)(2)(ii), particularly with respect to pre-'89 401(k) amounts. In addition, it was stated that, in light of the extensive revisions to computer systems required to prevent "Y2K" problems, plan sponsors and recordkeepers were unable to modify their systems to comply with certain other requirements of Notice 99-5 by January 1, 2000, the date transition relief under Notice 99-5 became no longer available.

In response to these concerns, the requirements of Notice 99-5 are modified as follows:

(i) *Pre-'89 401(k) Amounts.* As noted, under Notice 99-5, amounts that are ineligible for rollover by reason of § 6005(c)(2)(A) of RRA 98 are limited to amounts described in § 1.401(k)-1(d)(ii), including pre-'89 401(k) amounts. Concerns have been raised that, in many instances, plan records do not make it possible to distinguish pre-'89 401(k) amounts from other amounts credited to an employee's account as of the '89 date.

Accordingly, if a qualified plan's records are not reasonably available to segregate an employee's pre-'89 401(k) amounts from other amounts that, as of the '89 date, were credited to the employee's account, then, for purposes of determining what is an eligible rollover distribution, the plan must treat the other amounts as described in § 401(k)(2)-(B)(i)(IV). That is, the other amounts are treated the same as pre-'89 401(k) amounts and elective contributions and are therefore treated as ineligible for rollover when distributed on account of hardship.

(ii) *Satisfaction of Another Statutory Distributable Event.* Notice 99-5 provides that, if another event occurs, such as the employee's separation from service or attainment of age 59 1/2, so that distribution of an amount is permitted under § 401(k)(2)(B), § 403(b)(7) or § 403(b)(11) without regard to hardship, no amount distributed after that event is ineligible for rollover treatment on account of being a hardship distribution described in § 401(k)(2)(B)(i)(IV), § 403(b)(7) or § 403(b)(11). Plan sponsors and recordkeepers indicated to the Service that, in many instances, their systems

are unable to track whether a distribution made on account of hardship under the terms of the plan might also be distributable under another statutory provision.

Therefore, as an alternative to the rule in Notice 99-5, until further guidance is issued, a distribution that is described in § 401(k)(2)(B)(i)(IV), § 403(b)(7) or § 403(b)(11) and that is made as a hardship distribution under the terms of a qualified plan or § 403(b) annuity may be treated as ineligible for rollover even though another event has occurred that could entitle the recipient to a distribution without regard to hardship under § 401(k)(2)-(B)(i)(IV), § 403(b)(7) or § 403(b)(11). Thus, for example, if a profit-sharing plan containing a qualified CODA provides that in-service distributions are available only upon hardship, an in-service distribution made to a participant aged 62 may, to the extent of elective contributions and other amounts described in § 1.401(k)-1(d)(2)(ii) (including amounts described in (i) above that are treated as pre-'89 401(k) amounts), be treated as ineligible for rollover. Alternatively, if the rule in Notice 99-5 is followed, the distribution in this example to the age-62 participant may be treated as eligible for rollover.

(iii) *Allocation of Basis.* The plan sponsor and recordkeeper community also raised concerns about the feasibility of timely programming their systems to follow the basis allocation rules of Notice 99-5. Therefore, until further guidance is issued, if a portion of a hardship distribution from a qualified plan or a § 403(b) annuity is not includible in gross income, the portion of the distribution that is not includible in gross income may be allocated to the portion ineligible for rollover or the portion eligible for rollover (or between the two portions) using any reasonable method.

A qualified plan or § 403(b) annuity generally must, in applying the above rules, be consistent in the treatment of all distributions.

V. EFFECT ON OTHER DOCUMENTS

Notice 99-5 is modified.

VI. DRAFTING INFORMATION

The principal author of this notice is Roger Kuehne of the Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans' taxpayer assistance telephone service at (202) 622-6074/6075 (not toll-free numbers) between the hours of 1:30 and 3:30 p.m. Eastern Time, Monday through Thursday.

Proposed 2001 Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding

Announcement 2000-54

The Internal Revenue Service announces that it is requesting comments from the public on proposed revisions to the 2001 Form 1042-S. This form is used by U.S. withholding agents to report the withholding of U.S. income tax on certain U.S. source income paid to foreign persons.

This announcement provides a draft copy of the 2001 Form 1042-S. The form is being issued so that withholding agents can adapt their systems to comply with the regulations under sections 1441, 1442, and 1443, which were recently amended by T.D. 8881 (published on May 22, 2000, in 65 F.R. 32152 and again on June 5, 2000, in 2000-23 I.R.B. 1158). Filers and recipients of the form are advised that the form may be revised based on further developments and comments.

Form 1042-S was previously released for public comments on April 19, 1999 (Announcement 99-46, 1999-16 I.R.B. 13). We made the following changes to the form as the result of those comments:

- **VOID box.** This box has been added to the recipient copies (Copies B, C & D).
- **Box 2 (Gross income), Box 4 (Net income), Box 7 (U.S. Federal tax withheld), and Box 8 (Amount reimbursed to recipient).** We increased the width of these boxes.
- **Box 9 (Withholding agent's EIN) and Box 14 (Recipient's U.S. TIN).** We increased the width of the checkboxes so that they are easier to line up in a printer.
- **Box 10 (Withholding agent's name and address) and Box 13 (Recipient's name and address).** We positioned

these boxes so that the information entered will show through a standard double window envelope. In doing so, we increased the vertical size of box 13 so that 6 lines are available in the entry area (allowing for 4 lines of print and 2 extra lines for printer line-up).

- **Box 11 (Recipient's account number).** We increased the available entry area.
- **Box 19 (Nonqualified intermediary's/Flow-through entity's address).** We increased the height of this box.
- **Income codes on the back of Copy C.** We changed the codes back to the way they were on the 2000 form (i.e., income codes 01 through 28 are the same on the 2000 and 2001 forms). New codes 29 through 31 have been added, but are grouped with the other Interest Income codes. New code 32 has been added and placed with the Other Income codes.

Form 1042-S, as designed for the year 2001, contains only one income line. Some commentators requested that we restore multiple income reporting lines (i.e., lines 1 through 3 of the current year 2000 form). Although we were not able to accommo-

date this comment, in an effort to mitigate the impact of this change, a withholding agent may be permitted to use substitute payee copies of the form (i.e., copies B, C, and D) that contain more than one income line. Under no circumstances, however, will the copy of the form filed with the IRS (copy A) be permitted to contain more than one income line (i.e., boxes 1 through 8).

The following change has been made to the form as the result of changes to the regulations made by T.D. 8881: The **PRO-RATA BASIS REPORTING** box at the top of the form was added as an indicator that the withholding agent must use to notify the IRS that a nonqualified intermediary that used the alternative procedures of Regulations section 1.1441-1(e)(3)(iv)(D) (i.e., year-end allocation) failed to properly comply with those allocation requirements. If this box is checked, withholding agents will be instructed to complete box 5 (Tax rate) by including the appropriate rate of withholding in the box, not the rate of withholding actually applied. For example, a withholding agent that withheld 15% from payments made to a nonqualified interme-

diary should place 30% in box 5 for payments it reports under the pro rata reporting rule of sec. 1.1441-1(e)(3)(iv)(D)(6).

Several respondents inquired as to the intended use for box 8. This new box was added to reflect the reimbursement procedure described in Regulations section 1.1461-2(a)(2)(i).

We anticipate that the instructions for Form 1042-S will state that a qualified intermediary reporting payments on behalf of a private arrangement intermediary (PAI) must treat each PAI as a separate recipient and therefore must file a separate Form 1042-S for each withholding rate pool paid to a PAI.

The IRS would like to receive comments on this proposed draft form from all interested persons by July 26, 2000. Please send comments to Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, OP:FS:FP, Room 5577, 1111 Constitution Avenue, NW, Washington, DC 20224. Alternatively, you may e-mail your comments to tfpmail@publish.no.irs.gov.

Form 1042-S		Foreign Person's U.S. Source Income				2001		OMB No. 1545-0096	
Department of the Treasury Internal Revenue Service		Subject to Withholding						Copy A for Internal Revenue Service	
<input type="checkbox"/> VOID		<input type="checkbox"/> CORRECTED		<input type="checkbox"/> PRO-RATA BASIS REPORTING					
1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient		
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN					
10 WITHHOLDING AGENT'S name and address (including ZIP code)				15 Recipient's country of residence for tax purposes			16 Country code		
11 Recipient's account number (optional)				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name			18 Country code		
				19 NQI's/Flow-through entity's address					
13 RECIPIENT'S name (first name, initial, and last name), street address, city or town, province or state, and country (including postal code)				12 Recipient code					
				20 NQI's/Flow-through entity's TIN, if any ▶					
				21 PAYER'S name and TIN (if different from withholding agent's)					
22 State income tax withheld			23 Payer's state tax no.		24 Name of state				

For Privacy Act and Paperwork Reduction Act Notice, see page 6 of the separate instructions.

Cat. No. 11386R

Form **1042-S** (2001)

Department of the Treasury
Internal Revenue Service

VOID CORRECTED PRO-RATA BASIS REPORTING

Copy B
for Recipient

1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN			
10 WITHHOLDING AGENT'S name and address (including ZIP code)				15 Recipient's country of residence for tax purposes		16 Country code	
				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name		18 Country code	
11 Recipient's account number (optional)				12 Recipient code			
13 RECIPIENT'S name (first name, initial, and last name), street address, city or town, province or state, and country (including postal code)				19 NQI's/Flow-through entity's address			
				20 NQI's/Flow-through entity's TIN, if any ▶			
				21 PAYER'S name and TIN (if different from withholding agent's)			
22 State income tax withheld		23 Payer's state tax no.		24 Name of state			

Form **1042-S** (2001)

U.S. Income Tax Filing Requirements

Every nonresident alien individual, nonresident alien fiduciary, and foreign corporation with United States income, including income that is effectively connected with the conduct of a trade or business in the United States, must file a United States income tax return. However, no return is required to be filed by a nonresident alien individual, nonresident alien fiduciary, or a foreign corporation if such person was not engaged in a trade or business in the United States at any time during the tax year and if the tax liability of such person was fully satisfied by the withholding of United States tax at the source. (Corporations file Form 1120-F; all others file Form 1040NR (or Form 1040NR-EZ if eligible).) You may get the return forms and instructions at any United States Embassy or consulate or by writing to: Eastern Area Distribution Center, P.O. Box 85074, Richmond, VA 23261-5074, U.S.A.

Tout étranger non-résident, tout organisme fideicommissaire étranger non-résident et toute société étrangère percevant un revenu aux Etats-Unis, y compris tout revenu dérivé, en fait, du fonctionnement d'un commerce ou d'une affaire aux Etats-Unis, doit soumettre aux Etats-Unis, une déclaration d'impôt sur le revenu. Cependant aucune déclaration d'impôt sur le revenu n'est exigée d'un étranger non-résident, d'un organisme fideicommissaire étranger non-résident, ou d'une société étrangère s'ils n'ont pris part à aucun commerce ou affaire aux Etats-Unis à aucun moment pendant l'année fiscale et si les impôts dont ils sont redevables, ont été entièrement acquittés par une retenue à la source, de leur montant. (Les sociétés doivent faire leur déclaration d'impôt en remplissant le formulaire 1120-F; tous les autres redevables doivent remplir le formulaire 1040NR (ou 1040NR-EZ si éligible).) On peut se procurer formulaires de déclarations d'impôts et instructions dans toutes les Ambassades et tous les Consultats des Etats-Unis. L'on peut également s'adresser pour tous renseignements à: Eastern Area Distribution Center, P.O. Box 85074, Richmond, VA 23261-5074, U.S.A.

Todo extranjero no residente, todo organismo fideicomisario extranjero no residente y toda sociedad anónima extranjera que reciba ingresos en los Estados Unidos, incluyendo ingresos relacionados con la conducción de un negocio o comercio dentro de los Estados Unidos, deberá presentar una declaración estadounidense de impuestos sobre ingreso. Sin embargo, no se requiere declaración alguna a un individuo extranjero, una sociedad anónima extranjera u organismo fideicomisario extranjero no residente, si tal persona no ha efectuado comercio o negocio en los Estados Unidos durante el año fiscal y si la responsabilidad con los impuestos de tal persona ha sido satisfecha plenamente mediante retención del impuesto de los Estados Unidos en la fuente. (Las sociedades anónimas envían la Forma 1120-F; todos los demás contribuyentes envían la Forma 1040NR (o la Forma 1040NR-EZ si le corresponde).) Se podrán obtener formas e instrucciones en cualquier Embajada o Consulado de los Estados Unidos o escribiendo directamente a: Eastern Area Distribution Center, P.O. Box 85074, Richmond, VA 23261-5074, U.S.A.

Jede ausländische Einzelperson, jeder ausländische Bevollmächtigte und jede ausländische Gesellschaft mit Einkommen in den Vereinigten Staaten, einschliesslich des Einkommens, welches direkt mit der Ausübung von Handel oder Gewerbe innerhalb der Staaten verbunden ist, müssen eine Einkommensteuererklärung der Vereinigten Staaten abgeben. Eine Erklärung, muss jedoch nicht von Ausländern, ausländischen Bevollmächtigten oder ausländischen Gesellschaften in den Vereinigten Staaten eingereicht werden, falls eine solche Person während des Steuerjahres kein Gewerbe oder Handel in den Vereinigten Staaten ausgeübt hat und die Steuerschuld durch Einbehaltung der Steuern der Vereinigten Staaten durch die Einkommensquelle abgegolten ist. (Gesellschaften reichen den Vordruck 1120-F ein; alle anderen reichen das Formblatt 1040NR oder wenn passend das Formblatt 1040NR-EZ ein.) Einkommensteuererklärungen und Instruktionen können bei den Botschaften und Konsulaten der Vereinigten Staaten eingeholt werden. Um weitere Informationen wende man sich bitte an: Eastern Area Distribution Center, P.O. Box 85074, Richmond, VA 23261-5074, U.S.A.

**Foreign Person's U.S. Source Income
 Subject to Withholding**

2001

OMB No. 1545-0096

Copy C for Recipient
 Attach to any Federal tax return you file

VOID CORRECTED PRO-RATA BASIS REPORTING

1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN			
10 WITHHOLDING AGENT'S name and address (including ZIP code)				15 Recipient's country of residence for tax purposes		16 Country code	
				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name		18 Country code	
11 Recipient's account number (optional)				12 Recipient code			
13 RECIPIENT'S name (first name, initial, and last name), street address, city or town, province or state, and country (including postal code)				19 NQI's/Flow-through entity's address			
				20 NQI's/Flow-through entity's TIN, if any ▶			
				21 PAYER'S name and TIN (if different from withholding agent's)			
22 State income tax withheld		23 Payer's state tax no.		24 Name of state			

Form **1042-S** (2001)

Explanation of Codes

Box 1. Income code.

Code	Interest Income
01	Interest paid by U.S. obligors—general
02	Interest on real property mortgages
03	Interest paid to controlling foreign corporations
04	Interest paid by foreign corporations
05	Interest on tax-free covenant bonds
29	Deposit interest
30	Original issue discount (OID)
31	Short-term OID
Dividend Income	
06	Dividends paid by U.S. corporations—general
07	Dividends paid by U.S. subsidiaries to foreign parent corporations (including consent dividends)
08	Dividends paid by foreign corporations
Other Income	
09	Capital gains
10	Industrial royalties
11	Motion picture or television copyright royalties
12	Other royalties (e.g., copyright, recording, publishing)
13	Real property income and natural resources royalties
14	Pensions, annuities, alimony, and/or insurance premiums
15	Scholarship or fellowship grants
16	Compensation for independent personal services ¹
17	Compensation for dependent personal services ¹
18	Compensation for teaching ¹
19	Compensation during studying and training ¹
20	Earnings as an artist or athlete ²
24	Real estate investment trust (REIT) distributions of capital gains
25	Trust distributions subject to IRC section 1445
26	Unsevered growing crops and timber distributions by a trust subject to IRC section 1445
27	Publicly traded partnership distributions subject to IRC section 1446
28	Gambling winnings
32	Notional principal contract income ³
50	Other income

Box 6. Exemption code (applies if the tax rate entered in box 5 is 0%).

Code	Authority for Exemption
01	Income effectively connected with a U.S. trade or business
02	Exempt under an Internal Revenue Code section (income other than portfolio interest)
03	Income is not from U.S. sources ⁴
04	Exempt under tax treaty
05	Portfolio interest exempt under an Internal Revenue Code section
06	Qualified intermediary that assumes primary withholding responsibility
07	Withholding foreign partnership
08	U.S. branch treated as a U.S. person
09	Qualified intermediary represents income is exempt

Box 12. Recipient code.

Code	Type of Recipient
01	Individual ¹
02	Corporation ²
03	Partnership other than withholding foreign partnership ²
04	Withholding foreign partnership or withholding foreign trust
05	Trust
06	Government or international organization
07	Tax-exempt organization (IRC section 501(a))
08	Private foundation
09	Artist or athlete ²
10	Estate
11	U.S. branch treated as U.S. person
12	Qualified intermediary
13	Private arrangement intermediary ⁵
14	Qualified intermediary withholding rate pool ⁵
15	Qualified intermediary withholding rate pool—exempt organizations ⁵
20	Unknown recipient

¹If compensation that otherwise would be covered under Income Codes 16–19 is directly attributable to the recipient's occupation as an artist or athlete, use Income Code 20 instead.

²If Income Code 20 is used, Recipient Code 09 (artist or athlete) should be used instead of Recipient Code 01 (individual), 02 (corporation), or 03 (partnership other than withholding foreign partnership).

³Use appropriate Interest Income Code for embedded interest in a notional principal contract.

⁴Non-U.S. source income received by a nonresident alien is not subject to U.S. tax. Use Exemption Code 03 when entering an amount for information reporting purposes only.

⁵May be used only by a qualified intermediary.

**Foreign Person's U.S. Source Income
 Subject to Withholding**

2001

OMB No. 1545-0096

VOID CORRECTED PRO-RATA BASIS REPORTING

Copy D for Recipient
 Attach to any state tax return you file

1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN			
10 WITHHOLDING AGENT'S name and address (including ZIP code)				15 Recipient's country of residence for tax purposes		16 Country code	
				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name		18 Country code	
11 Recipient's account number (optional)				12 Recipient code			
13 RECIPIENT'S name (first name, initial, and last name), street address, city or town, province or state, and country (including postal code)				19 NQI's/Flow-through entity's address			
				20 NQI's/Flow-through entity's TIN, if any ▶			
				21 PAYER'S name and TIN (if different from withholding agent's)			
		22 State income tax withheld		23 Payer's state tax no.		24 Name of state	

Form **1042-S** (2001)

**Foreign Person's U.S. Source Income
 Subject to Withholding**

2001

OMB No. 1545-0096

VOID CORRECTED PRO-RATA BASIS REPORTING

Copy E
 for Withholding Agent

1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN			
10 WITHHOLDING AGENT'S name and address (including ZIP code)				15 Recipient's country of residence for tax purposes		16 Country code	
				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name		18 Country code	
11 Recipient's account number (optional)				12 Recipient code			
13 RECIPIENT'S name (first name, initial, and last name), street address, city or town, province or state, and country (including postal code)				19 NQI's/Flow-through entity's address			
				20 NQI's/Flow-through entity's TIN, if any ▶			
				21 PAYER'S name and TIN (if different from withholding agent's)			
		22 State income tax withheld		23 Payer's state tax no.		24 Name of state	

Form **1042-S** (2001)

Part IV. Items of General Interest

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

Announcement 2000-56

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on June 26, 2000, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428 (c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Babbie Mason Ministries, Inc.
Marietta, GA

Sanborn Community Development, Inc.
Sanborn, MN

Notice of Disposition of Declaratory Judgment Proceedings Under Section 7428

This announcement serves notice to donors that on November 23, 1999, the United States District Court for the District of Columbia entered a Stipulation of Dismissal in response to the parties' request. By entering the Stipulation, the Court agreed that the organization listed below is not an organization recognized as tax exempt under section 501(a) of the Internal Revenue Code and is not described in sections 170(c)(2) and 501(c)(3) retroactive to January 1, 1991. The organization listed below reapplied to the Service for recognition of exempt status, and the Service has recognized the organization as tax exempt under section 501(a) and as an organization described in sections 170(c)(2) and 501(c)(3) effective January 1, 1997.

The Freedom Alliance
Dulles, VA

Notice of Disposition of Declaratory Judgment Proceedings Under Section 7428

This announcement serves notice to donors that on January 18, 2000, the United States Tax Court entered a Decision accepting the agreement of the parties that the organization listed below is recognized as an organization described in section 170(c)(2) and section 501(c)(3) which is exempt from tax under section 501(a).

Oriana House, Inc.
Akron, OH

Notice of Disposition of Declaratory Judgment Proceedings Under Section 7428

This announcement serves notice to donors that on April 13, 2000, the United States Tax Court entered a Decision accepting the agreement of the parties that the exempt status of the organization listed

below is retroactively revoked effective January 1, 1986. Further, by letter dated April 7, 2000, the Commissioner has recognized the organization listed below as an exempt organization described in sections 170(c)(2) and 501(c)(3) for periods of time on and after January 1, 1990.

United Cancer Council, Inc.
Indianapolis, IN

Notice of Disposition of Declaratory Judgment Proceedings Under Section 7428

This announcement serves notice to donors that on May 11, 2000, the United States Tax Court entered a Decision accepting the agreement of the parties that the organization listed below is not recognized as an organization described in section 170(c)(2) and section 501(c)(3) and is not exempt from tax under section 501(a) effective July 1, 1998.

Lenox Institute of Water Technology, Inc.
Lenox, MA

Notice of Disposition of Declaratory Judgment Proceedings Under Section 7428

This announcement serves notice to donors that on May 16, 2000, the Court of Federal Claims entered an Order of Dismissal in response to the parties' Stipulation for Entry of Judgment. The Court ordered and agreed that the organization listed below is not an organization described under sections 170(c)(2) and 501(c)(3) of the Internal Revenue Code and is not recognized as exempt under section 501(a) for the years beginning June 1, 1979 and June 1, 1980. The Court further agreed that the organization listed below is an organization described in sections 170(c)(2) and 501(c)(3) and is recognized as exempt under section 501(a) beginning June 1, 1981.

St. Matthew Publishing, Inc.
Los Angeles, CA

Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

This announcement serves notice to potential donors that the organization listed below has recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of

revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section 170(c)(2), as more particularly set forth in section 7428(c)(1). In the case of individual contributors, the maximum amount of contributions protected during this period is limited to \$1,000.00, with a husband and wife being treated as one contributor. This protection is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for the re-

vocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

Program to Aid Drug Abusers, Inc.
Lakeland, FL

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 ap-

plies 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 law 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 the 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 Contribution 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.—Statements 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 1999–27 through 1999–52 is in Internal Revenue Bulletin 2000–1, dated January 3, 2000.

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