

Internal Revenue bulletin

Bulletin No. 2015-11
March 16, 2015

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

REG-136018-13, page 759.

These proposed regulations provide the method to be used to adjust the applicable Federal rates under section 1288 for tax-exempt obligations and the method to be used to determine the long-term tax-exempt rate and the adjusted Federal long-term rate under section 382.

T.D. 9712, page 750.

The final regulations allow a taxpayer to elect the alternative simplified credit for a tax year on an amended return.

EMPLOYEE PLANS

Announcement 2015-1, page 758.

This announcement describes changes to the processing of employee plans determination letters that will take effect in 2015. These changes are being adopted as a result of a process improvement strategy designed to promote case processing efficiency. The changes to the determination letter procedures described in this announcement will be reflected in Rev. Proc. 2015-6, which will be published in IRB 2015-1 and be effective on February 1, 2015.

Rev. Proc. 2015-22, page 754.

This revenue procedure contains a modification to Revenue Procedure 2013-22, 2013-18 I.R.B. 985, as modified by Revenue Procedure 2014-28, 2014-16 I.R.B. 944, and modifications to Revenue Procedure 2015-8, 2015-1 I.R.B. 235. In particular, this revenue procedure changes the addresses to which applications for opinion and advisory letters for § 403(b) pre-approved plans should be submitted and inserts a user fee that was omitted from Rev. Proc. 2015-8.

EXEMPT ORGANIZATIONS

Announcement 2015-10, page 758.

Revocation of IRC 501(c)(3) Organizations for failure to meet the code section requirements. Contributions made to the organizations by individual donors are no longer deductible under IRC 170(b)(1)(A).

EXCISE TAX

REG-143416-14, page 757.

The temporary and proposed regulations provide rules for the definition of a covered entity for purposes of the fee imposed by section 9010 of the Patient Protection and Affordable Care Act, as amended. The temporary and proposed regulations are necessary to clarify certain terms in section 9010.

T.D. 9711, page 748.

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(Continued on the next page)

Finding Lists begin on page ii.



ADMINISTRATIVE

Notice 2015–20, page 754.

This notice updates the appendix to Notice 2013–1, which lists the Indian tribes who have settled tribal trust cases against the United States. Notice 2012–60 originally was published in IRB 2012–41 (October 9, 2012). Notice 2012–60 was superceded by Notice 2013–1 IRB 2013–3, and the appendix to Notice 2013–1 was superceded by Notice 2013–16 (IRB 2013–14), then Notice 2013–36, then Notice 2013–55, then Notice 2014–22, Notice 2014–38, and then Notice 2014–61. However, one additional tribe has settled a case against the United States since the publication of Notice 2014–61, so we are seeking to publish an updated appendix to Notice 2013–1. This notice would supercede Notice 2014–61.

The IRS Mission

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

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.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

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

26 CFR 57.2T Explanation of Terms.

T.D. 9711

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 57

Health Insurance Providers Fee

AGENCY: Internal Revenue Service (IRS),
Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations that provide rules for the definition of a covered entity for purposes of the fee imposed by section 9010 of the Patient Protection and Affordable Care Act, as amended. The temporary regulations are necessary to clarify certain terms in section 9010. The temporary regulations affect persons engaged in the business of providing health insurance for United States health risks. The text of the temporary regulations also serves as the text of the proposed regulations (REG-143416-14) published in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on February 26, 2015.

Applicability Date: For dates of applicability, see §§ 57.10 and 57.10T.

FOR FURTHER INFORMATION

CONTACT: Rachel S. Smith, (202) 317-6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 9010 of the Patient Protection and Affordable Care Act (PPACA), Public Law No. 111-148 (124 Stat. 119 (2010)), as amended by section 10905 of PPACA, and as further amended by section 1406 of the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act or

ACA) imposes an annual fee on covered entities that provide health insurance for United States health risks. All references in this preamble to section 9010 are references to the ACA. Section 9010 did not amend the Internal Revenue Code (Code) but contains cross-references to specified Code sections. Unless otherwise indicated, all other references to subtitles, chapters, subchapters, and sections in this preamble are references to subtitles, chapters, subchapters, and sections in the Code and related regulations. All references to “fee” in this preamble are references to the fee imposed by section 9010.

On November 27, 2013, the Treasury Department and the IRS issued the Health Insurance Providers Fee regulations as final regulations (TD 9643). On August 12, 2014, the Treasury Department and the IRS issued Notice 2014-47, 2014-35 IRB 522, to provide further guidance for the 2014 fee year on the definition of a covered entity. The temporary regulations provide further guidance on the definition of a covered entity for the 2015 fee year and subsequent fee years.

General Overview

Section 9010(a) imposes an annual fee on each covered entity engaged in the business of providing health insurance. The fee is due by the annual date specified by the Secretary, but in no event later than September 30th of each calendar year in which a fee must be paid (fee year).

Section 9010(b) requires the Secretary to determine the annual fee for each covered entity based on the ratio of the covered entity’s net premiums written for health insurance for any United States health risk that are taken into account for the calendar year immediately before the fee year (data year) to the aggregate net premiums written for health insurance of United States health risks of all covered entities that are taken into account during the data year. In calculating the fee, the Secretary must determine each covered entity’s net premiums written for United States health risks based on reports submitted to the Secretary by the covered

entity and through the use of any other source of information available to the Secretary.

Section 9010(c)(1) defines a covered entity as any entity that provides health insurance for any United States health risk during each fee year. Section 9010(c)(2) excludes the following entities from being covered entities: (A) Any employer to the extent that the employer self-insures its employees’ health risks; (B) any governmental entity; (C) any entity (i) that is incorporated as a nonprofit corporation under a State law, (ii) no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in section 501(h)), and which does not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office, and (iii) more than 80 percent of the gross revenues of which is received from government programs that target low income, elderly, or disabled populations under titles XVIII, XIX, and XXI of the Social Security Act; and (D) any entity that is described in section 501(c)(9) (a voluntary employees’ beneficiary association (VEBA)) and is established by an entity (other than by an employer or employers) for purposes of providing health care benefits.

Section 9010(c)(3)(A) provides a controlled group rule under which all persons treated as a single employer under section 52(a) or (b) or section 414(m) or (o) are treated as a single covered entity. Section 9010(c)(4) provides that, if more than one person is liable to pay the fee on a single covered entity by reason of the application of the controlled group rule, then all such persons are jointly and severally liable for payment of the fee.

Section 57.2(c)(1) of the Health Insurance Providers Fee regulations defines the term *controlled group* to mean a group of two or more persons, including at least one person that is a covered entity, that is treated as a single employer under section 52(a), 52(b), 414(m), or 414(o). Section

57.2(c)(3)(ii) further provides that a person is treated as being a member of the controlled group if it is a member of the group at the end of the day on December 31st of the data year.

Explanation of Provisions

Following the publication of the final regulations in TD 9643, the Treasury Department and the IRS received questions about how to apply the exclusions under section 9010(c)(2) to the general definition of a covered entity. The Treasury Department and the IRS also received questions about whether covered entities must report information on net premiums written for certain members of a controlled group. Notice 2014–47 was subsequently issued to resolve those questions for the 2014 fee year. The temporary regulations adopt the general approach of Notice 2014–47 to resolve those questions for the 2015 fee year and each subsequent fee year.

Application of Exclusions under Section 9010(c)(2)

Notice 2014–47 provided that, for the 2014 fee year, the Treasury Department and the IRS would not treat any entity as a covered entity if it would be excluded from the definition of a covered entity because it qualified for one of the exclusions under section 9010(c)(2) either for the entire 2013 data year or for the entire 2014 fee year, which began on January 1, 2014. As described later in this preamble, the controlled group rules under section 9010(c)(3)(A) and § 57.2(c)(1) do not apply for the limited purpose of determining whether an entity qualifies for an exclusion under section 9010(c)(2). Notice 2014–47 further provided that the entity should not report its net premiums written for the 2013 data year because the Treasury Department and the IRS would not treat such an entity as a covered entity.

The temporary regulations amend the rules in the existing Health Insurance Providers Fee regulations to incorporate the general approach in Notice 2014–47. Specifically, the temporary regulations provide that, for the 2015 fee year and each subsequent fee year, an entity qualifies for an exclusion under section 9010(c)(2) if it qualifies for an exclusion

either for the entire data year ending on the prior December 31st or for the entire fee year beginning on January 1st. An entity that qualifies for an exclusion under this rule is not a covered entity for that fee year and must not report its net premiums written.

The temporary regulations also impose two additional requirements. First, the temporary regulations generally impose a consistency requirement that binds an entity to its original selection of either the data year or the fee year (its test year) to determine whether it qualifies for an exclusion under section 9010(c)(2) for the 2015 fee year and each subsequent fee year. For example, if an entity selects the 2014 data year as its test year for the 2015 fee year, it must use the data year as its test year for the 2016 fee year and each subsequent fee year.

Second, the temporary regulations impose a special rule for an entity that uses the fee year as its test year. A special rule is important in this context because the fee is due by September 30th of the fee year, and it may not be clear until the end of the fee year whether an entity will in fact qualify for an exclusion. If an entity using the fee year as its test year does not report its net premiums written because it expects to qualify for an exclusion under section 9010(c)(2), but the entity ultimately does not qualify for an exclusion, the temporary regulations require the entity to use the data year as its test year in all subsequent fee years. In this circumstance, the entity will necessarily be a covered entity that is required to report its net premiums written for the immediately following fee year. In addition, an entity that does not timely file a report in a fee year, and that is a covered entity for that fee year because it does not qualify for an exclusion, may be subject to penalties, including the failure to report penalty under section 9010(g)(2).

For example, assume that for the 2015 fee year an entity used the fee year as its test year and reasonably expected to qualify for the section 9010(c)(2)(C) exclusion for that fee year. As a result, the entity did not report its net premiums written and it was not treated as a covered entity for purposes of the 2015 fee calculation. Further assume that as of December 31, 2015, the entity did not satisfy the 80 percent

minimum gross revenues requirement of section 9010(c)(2)(C)(iii) and therefore did not qualify for this or any other exclusion under section 9010(c)(2) for the 2015 fee year. Under the temporary regulations, this entity must use the data year for each subsequent fee year to determine whether it qualifies for an exclusion under section 9010(c)(2). Thus, for the 2016 fee year, because this entity must determine its eligibility for an exclusion based on the 2015 data year, it would not be eligible for an exclusion under section 9010(c)(2) for the 2016 fee year and must submit a report in that year. This entity must also use the data year as its test year for the 2017 fee year and each subsequent fee year.

The Treasury Department and the IRS request comments regarding whether there are any circumstances in which an entity should be permitted by the IRS to change its test year, and if so, what conditions and limitations should apply to any such change.

Reporting for Controlled Group Members

Notice 2014–47 provided that a controlled group must report net premiums written only for each person who is a controlled group member at the end of the day on December 31st of the data year and who would qualify as a covered entity in the fee year if it were a single-person covered entity (that is, not a member of a controlled group). The temporary regulations incorporate this rule for the 2015 fee year and each subsequent fee year. Therefore, a controlled group must not report net premiums written for any controlled group member who would fail to be a covered entity in the fee year if it were not a member of a controlled group. Although that person's net premiums written are not taken into account, it remains a member of the controlled group and is jointly and severally liable for the fee amount allocated to the controlled group.

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. Therefore, a regulatory assessment is not required. It has also been

determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these temporary regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these regulations is Rachel S. Smith, IRS Office of the Associate Chief Counsel (Pass-throughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in their development.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 57 is amended as follows:

PART 57—HEALTH INSURANCE PROVIDERS FEE

Paragraph 1. The authority citation for part 57 continues to read in part as follows:

Authority: 26 U.S.C. 7805; sec. 9010, Public Law 111–148 (124 Stat. 119 (2010)).

Par. 2. Section 57.2 is amended by:

1. Redesignating paragraph (b)(3) as paragraph (b)(4).
2. Adding paragraph (b)(3).
3. Revising paragraph (c)(3)(ii).

The addition and revision read as follows:

§ 57.2 Explanation of terms.

(b) ***

(3) [Reserved]. For further guidance, see § 57.2T(b)(3).

(c) ***

(3) ***

(ii) [Reserved]. For further guidance see § 57.2T(c)(3)(ii).

Par. 3. Section 57.2T is added to read as follows:

§ 57.2T Explanation of terms (temporary).

(a) through (b)(2) [Reserved]. For further guidance, see § 57.2(a) through (b)(2).

(3) *Application of exclusions*—(i) *Test year*. An entity qualifies for an exclusion described in § 57.2(b)(2)(i) through (iv) if it so qualifies in its test year. The term *test year* means either the entire data year or the entire fee year.

(ii) *Consistency rule*. For purposes of paragraph (b)(3)(i) of this section, an entity must use the same test year as it used in its first fee year beginning after December 31, 2014, and in each subsequent fee year. Thus, for example, if an entity used the 2014 data year as its test year for the 2015 fee year, that entity must use the data year as its test year for each subsequent fee year.

(iii) *Special rule for fee year as test year*. For purposes of paragraph (b)(3) of this section, any entity that uses the fee year as its test year but ultimately does not qualify for an exclusion described in § 57.2(b)(2)(i) through (iv) for that entire fee year must use the data year as its test year for each subsequent fee year.

(b)(4) through (c)(3)(i) [Reserved]. For further guidance, see § 57.2(b)(4) through (c)(3)(i).

(ii) A person is treated as being a member of the controlled group if it is a member of the group at the end of the day on December 31st of the data year. However, a person's net premiums written are included in net premiums written for the controlled group only if the person would qualify as a covered entity in the fee year if the person were not a member of the controlled group.

(d) through (n) [Reserved]. For further guidance, see § 52.7(d) through (n).

Par. 4. Section 57.10 is revised to read as follows:

§ 57.10 Effective/applicability date.

(a) *In general*. Except as provided in paragraph (b), §§ 57.1 through 57.9 apply

to any fee that is due on or after September 30, 2014.

(b) [Reserved]. For further guidance, see § 57.10T(b).

Par. 5. Section 57.10T is added to read as follows:

§ 57.10T Effective/applicability date (temporary).

(a) [Reserved]. For further guidance, see § 57.10(a).

(b) *Paragraphs (b)(3) and (c)(3)(ii) of § 57.2T*. Paragraphs (b)(3) and (c)(3)(ii) of § 57.2T apply on February 26, 2015.

(c) *Expiration date*. Paragraphs (b)(3) and (c)(3)(ii) of § 57.2T expire on February 23, 2018.

John Dalrymple,
Deputy Commissioner for
Services and Enforcement.

Approved: February 19, 2015.

Mark J. Mazur,
Assistant Secretary of the
Treasury (Tax Policy).

(Filed by the Office of the Federal Register on February 23, 2015, 4:15 p.m., and published in the issue of the Federal Register for February 26, 2015, 80 F.R. 10333)

26 CFR 1.41–9: Alternative simplified credit

T.D. 9712

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Alternative Simplified Credit Election

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the election of the alternative simplified credit under section 41(c)(5) of the Internal Revenue Code (Code). The final regulations affect certain taxpayers claiming the credit under section 41.

DATES: *Effective Date:* These regulations are effective on February 27, 2015.

Applicability Date: For dates of applicability, see § 1.41-9(d).

FOR FURTHER INFORMATION

CONTACT: David Selig (202) 317-4137 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends 26 CFR part 1 to provide rules relating to the time and manner of electing the alternative simplified credit (ASC) under section 41(c)(5) of the Internal Revenue Code (Code).

Section 41(a) provides an incremental tax credit for increasing research activities (research credit) based on a percentage of a taxpayer's qualified research expenses above a base amount. A taxpayer can apply the rules and credit rate percentages under section 41(a)(1) to calculate the credit (commonly referred to as the regular credit) or a taxpayer can make an election to apply the ASC rules and credit rate percentages under section 41(c)(5) to calculate the credit. Section 41(c)(5)(C) provides that an ASC election under section 41(c)(5) applies to the taxable year for which it is made and all succeeding taxable years unless revoked with the consent of the Secretary.

On June 10, 2011, the Treasury Department and the IRS published final regulations (TD 9528) (2011 Final Regulations) in the **Federal Register** (76 FR 33994) relating to the election and calculation of the ASC. Section 1.41-9(b)(2) provides that a taxpayer makes an election under section 41(c)(5) by completing the portion of Form 6765, "Credit for Increasing Research Activities," (or successor form) relating to the ASC election, and attaching the completed form to the taxpayer's timely filed (including extensions) original return for the taxable year to which the election applies. Section 1.41-9(b)(2) also provides that a taxpayer may not make an election under section 41(c)(5) on an amended return and that an extension of time to make an election under section 41(c)(5) will not be granted under § 301.9100-3.

Following the publication of the 2011 Final Regulations, the Treasury Department and the IRS received requests to

amend the regulations to allow taxpayers to make an ASC election on an amended return. The requests explained that the burden of substantiating expenditures and costs for the base period under the regular credit can be costly, time-consuming, and difficult, and suggested that taxpayers often need additional time to determine whether to claim the regular credit or the ASC.

On June 3, 2014, the Treasury Department and the IRS published a notice of proposed rulemaking by cross-reference to temporary regulations (REG-133495-13) in the **Federal Register** (79 FR 31892), and final and temporary regulations (TD 9666) (the Temporary Regulations) in the **Federal Register** (79 FR 31863). The final regulations removed the rule in § 1.41-9(b)(2) that prohibited a taxpayer from making an ASC election for a tax year on an amended return. In its place, the Temporary Regulations provided a rule allowing a taxpayer to make an ASC election for a tax year on an amended return if the taxpayer had not previously claimed a section 41 credit for that tax year on an original or amended return. In addition, the Temporary Regulations provided that a taxpayer that is a member of a controlled group in a tax year may not make an election under section 41(c)(5) for that tax year on an amended return if any member of the controlled group for that year claimed the research credit using a method other than the ASC on an original or amended return.

Written and electronic comments responding to the proposed regulations were received. No requests for a public hearing were made and no public hearing was held. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision.

Summary of Comments and Explanation of Provisions

Interaction with Section 280C Elections

A commenter requested clarification regarding whether a section 280C(c)(3) election made for a taxable year on line 17 of Form 6765, Credit For Increasing Research Activities, where no amount of regular credit is claimed, will be viewed by the IRS as a claim of the section 41(a)(1) credit and preclude an ASC election from

being made on an amended return for that taxable year. Section 280(c)(3) allows a taxpayer to make an annual irrevocable election to claim a reduced research credit rather than reducing the section 174 deduction, as required by section 280(c)(1). A section 280C(c)(3) election must be made on an original return. If a taxpayer is undecided whether to claim the regular credit for a taxable year but wants to preserve the operative effect of the section 280C(c)(3) election for that taxable year, then the taxpayer will make the section 280C(c)(3) election on line 17 of Form 6765, but leave the remaining section of the form blank. A section 280C(c)(3) election on line 17 of Form 6765 made in a taxable year does not, in and of itself, constitute a credit claim under section 41(a)(1), and accordingly does not preclude a taxpayer from making an ASC election on an amended return for that taxable year.

Section 9100 Relief

One commenter requested that the final regulations allow an extension of time to make an election under section 41(c)(5) under § 301.9100-3. Under § 301.9100-3(c), the Commissioner will grant a reasonable extension of time to make a regulatory election only when the interests of the Government will not be prejudiced by the granting of relief. Under § 301.9100-3(c)(1)(ii), the interests of the Government are ordinarily prejudiced if the taxable year in which the regulatory election should have been made or any taxable years that would have been affected by the election had it been timely made are closed by the period of limitations on assessment under section 6501(a) before the taxpayer's receipt of a ruling granting relief under this section. Because the final regulations allow a taxpayer to amend its return to make the ASC election in a taxable year that is not closed by the period of limitations for assessment under section 6501(a) if no credit under section 41(a)(1) was claimed in the prior taxable year on an original or amended return, an extension of time under § 301.9100-3 to make the ASC election is not necessary during this period. An extension of time to make an ASC election in a taxable year closed by the period of limitations on as-

assessment under section 6501(a) ordinarily prejudices the interests of the government. See section 301.9100-3(c)(1)(ii). Accordingly, the final regulations retain the rule that an extension of time to make an election under section 41(c)(5) will not be granted under § 301.9100-3.

Period for Making an ASC Election

One commenter requested that the final regulations provide that a taxpayer may make an ASC election for an earlier, closed tax year on a later year's return in which a research credit from that closed year is reported on a carryforward schedule, or actually used as a credit against tax, so long as no intervening amended return claiming a research credit for that tax year using a different method has been claimed. The Temporary Regulations only permitted a taxpayer to elect the ASC on an amended return for taxable years ending before June 3, 2014, (the effective/applicability date of those regulations) if the taxpayer makes the election before the period of limitations for assessment of tax has expired for that year. The rule in the Temporary Regulations provided a reasonable time period for taxpayers to determine whether or not to make an ASC election with respect to a prior, open tax year. To permit a taxpayer to make an ASC election for a tax year in which the period of limitations for assessment of tax has expired has the practical effect of permitting the taxpayer to make an ASC election on a return that cannot be amended. Therefore, these final regulations do not adopt this suggested modification.

One commenter requested that these final regulations provide that an ASC election can be made on an amended return for a tax year so long as the period for making a refund claim under section 6511 has not expired for that tax year, even in cases where the statute of limitations on assessment under section 6501 is closed. These final regulations retain the rule of the Temporary Regulations that a taxpayer must make an ASC election on an amended return before the statute of limitations on assessment under section 6501(a) is closed. The general period under the statute of limitations on assessment under section 6501(a), which is three years after the tax return is filed, provides

a reasonable time for taxpayers to file an ASC election on an amended return, and a reasonable time for the IRS to examine the amended return. This rule also preserves the integrity of the rule in the final regulations providing that an extension of time to make an election under section 41(c)(5) will not be granted under § 301.9100-3. Under § 301.9100-3, the interests of the government are ordinarily prejudiced if the taxable year in which a regulatory election should have been made or any taxable years that would have been affected by the election had it been timely made are closed by the period of limitations on assessment under section 6501(a) before the taxpayer's receipt of a ruling granting relief under § 301.9100. This requirement is mitigated by the fact that the period of limitations on assessment may be extended by agreement of the IRS and the taxpayer. For clarity, the language found in the effective date of the Temporary Regulations referencing the period of limitations for assessment of tax is added to the text of the final regulations under § 1.41-9(b)(2) relating to the time and manner of making the ASC election.

Controlled Group ASC Elections

One commenter requested that the final regulations modify the rules for controlled group ASC elections under § 1.41-9(b)(4), under which only the designated member of a controlled group may make or revoke an ASC election. Revising those rules is beyond the scope of these regulations. Therefore, the final regulations do not amend § 1.41-9(b)(4).

Modification of the Election Rule

One commenter requested that these final regulations amend the rule in the Temporary Regulations that allows a taxpayer to make an ASC election for a tax year on an amended return only if the taxpayer has not previously claimed the section 41 credit on its original return or an amended return for that tax year to clarify that the previously claimed section 41 credit is determined under section 41(a)(1), and not under sections 41(a)(2) or (3). The commenter stated that the ASC is an alternative method to the regular credit under section 41(a)(1), and whether

a taxpayer elects the ASC or claims the regular credit does not impact the determination of the credits allowable under sections 41(a)(2) and 41(a)(3). This approach is consistent with the language of section 41(c)(5)(A) and § 1.41-9(a), which specifically reference section 41(a)(1). Accordingly, the final regulations provide that a taxpayer may make an ASC election for a tax year on an amended return only if the taxpayer has not previously claimed the section 41(a)(1) credit on its original return or an amended return for that tax year.

Effect on Other Documents

The Temporary Regulations are obsolete for taxable years beginning on or after February 27, 2015.

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. 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. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. Although a substantial number of small entities may make an ASC election on an amended return pursuant to these regulations, the economic impact of any collection burden on these entities relating to this election is minimal because the regulations will result in a benefit to taxpayers by providing additional time for taxpayer to calculate and elect the ASC. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is David Selig, Office of the Asso-

ciate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.41-9 also issued under 26 U.S.C. 41(c)(5)(C). * * *

Par. 2. Section 1.41-9 is amended by:

1. Revising paragraph (b)(2).
2. Adding a third and fourth sentence to paragraph (d).

The revision and addition read as follows:

§ 1.41-9 *Alternative simplified credit.*

* * * * *

(b) * * *

(2) *Time and manner of election.* A taxpayer makes an election under section 41(c)(5) by completing the portion of Form 6765, “Credit for Increasing Research Activities,” (or successor form) relating to the election of the ASC, and attaching the completed form to the taxpayer’s timely filed (including extensions) original return for the taxable year to which the election applies. A taxpayer may make an election under section 41(c)(5) for a tax year on an amended return, but only if the taxpayer has not previously claimed a section 41(a)(1) credit on its original return or an amended return for that tax year, and only if that tax year is not closed by the period of limitations on assessment under section 6501(a). An extension of time to make an election under section 41(c)(5) will not be granted under § 301.9100-3 of this chapter. A taxpayer that is a member of a controlled group in a tax year may not make an election under section 41(c)(5) for that tax year on an amended return if any member of the controlled group for that tax year previously claimed the research credit under section 41(a)(1) using a method other than the ASC on an original or amended return for that tax year. See paragraph (b)(4) of this section for

additional rules concerning controlled groups. See also § 1.41-6(b)(1) requiring that all members of the controlled group use the same method of computation.

* * * * *

(d) *Effective/applicability date.* * * * Paragraph (b)(2) of this section applies to elections with respect to taxable years ending on or after February 27, 2015. For taxable years ending before February 27, 2015, see § 1.41-9T as contained in 26 CFR part 1, revised April 1, 2015.

§ 1.41-9T [Removed]

Par. 3. Section 1.41-9T is removed.

John Dalrymple,
Deputy Commissioner for
Services and Enforcement.

Approved: February 3, 2015.

Mark J. Mazur,
Assistant Secretary of the
Treasury (Tax Policy).

(Filed by the Office of the Federal Register on February 26, 2015, 8:45 a.m., and published in the issue of the Federal Register for February 27, 2015, 80 F.R. 10587)

Part III. Administrative, Procedural, and Miscellaneous

Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases

Notice 2015–20

BACKGROUND

Notice 2013–1, 2013–3 IRB 281, provides guidance on the federal tax treatment of per capita payments that members of Indian tribes receive from proceeds of certain settlements of tribal trust cases between the United States and those Indian tribes. Additional tribes have settled tribal trust cases against the United States since publication of Notice 2013–1. This notice provides an updated Appendix that reflects the additional settlement agreements.

EFFECT ON OTHER DOCUMENTS

Notice 2013–1 Appendix is modified and superseded.

FURTHER INFORMATION

For further information regarding this notice, please contact Telly Meier at phone number (202) 317-8494(not a toll-free number).

Appendix

Tribes That Have Entered into Settlement Agreements of Tribal Trust Cases

1. Assiniboine and Sioux Tribes of the Fort Peck Reservation
2. Bad River Band of Lake Superior Chippewa Indians
3. Blackfeet Tribe of the Blackfeet Indian Reservation
4. Bois Forte Band of Chippewa
5. Cachil Dehe Band of Wintun Indians of the Colusa Rancheria
6. Chippewa Cree Tribe of the Rocky Boy's Reservation
7. Coeur d'Alene Tribe
8. Confederated Salish and Kootenai Tribes
9. Confederated Tribes of Siletz Indians
10. Confederated Tribes of the Colville Reservation

11. Confederated Tribes of the Goshute Reservation
12. Crow Creek Sioux Tribe
13. Eastern Shawnee Tribe of Oklahoma
14. Hualapai Indian Tribe
15. Iowa Tribe of Kansas and Nebraska
16. Kaibab Band of Paiute Indians of Arizona
17. Kickapoo Tribe of Kansas
18. Lac Courte Oreilles Band of Lake Superior Chippewa Indians
19. Lac du Flambeau Band of Lake Superior Chippewa Indians
20. Leech Lake Band of Ojibwe
21. Lower Brule Sioux Tribe
22. Makah Indian Tribe of the Makah Reservation
23. Mescalero Apache Tribe
24. Minnesota Chippewa Tribe
25. Nez Perce Tribe
26. Nooksack Indian Tribe
27. Northern Cheyenne Tribe of Indians
28. Omaha Tribe of Nebraska
29. Passamaquoddy Tribe of Maine
30. Pawnee Nation
31. Prairie Band of Potawatomi Nation
32. Pueblo of Zia
33. Quechan Tribe of the Fort Yuma Reservation
34. Red Cliff Band of Lake Superior Chippewa Indians
35. Rincon Luiseño Band of Indians
36. Rosebud Sioux Tribe
37. Round Valley Indian Tribes
38. Salt River Pima-Maricopa Indian Community
39. Santee Sioux Tribe of Nebraska
40. Sault Ste. Marie Tribe
41. Shoshone-Bannock Tribes of the Fort Hall Reservation
42. Soboba Band of Luiseno Indians
43. Spirit Lake Dakotah Nation
44. Spokane Tribe of Indians
45. Standing Rock Sioux Tribe
46. Stillaguamish Tribe of Indians
47. Summit Lake Paiute Tribe
48. Swinomish Indian Tribal Community
49. Te-Moak Tribe of Western Shoshone Indians
50. Tohono O'odham Nation
51. Tulalip Tribes
52. Tule River Indian Tribe

53. Ute Indian Tribe of the Uintah and Ouray Reservation
54. Ute Mountain Ute Tribe
55. Winnebago Tribe of Nebraska
56. Qawalangin Tribe of Unalaska
57. Tlingit & Haida Tribes of Alaska
58. Northwestern Band of Shoshone Indians
59. Hoopa Valley Tribe
60. Ak-Chin Indian Community
61. Oglala Sioux Tribe
62. Yoruk Tribe
63. Cheyenne River Sioux Tribe
64. Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony
65. Seminole Nation of Oklahoma
66. Otoe-Missouria Tribe of Oklahoma
67. Samish Indian Nation
68. Tonkawa Tribe of Indians of Oklahoma
69. Yakama Nation
70. Miami Tribe of Oklahoma
71. Shoshone Indian Tribe and the Northern Arapahoe Indian Tribe of the Wind River Reservation
72. Pueblo of Laguna
73. Navajo Nation
74. Caddo Nation of Oklahoma
75. Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation

User Fees and Change of Address for Submission of Applications for Approval of § 403(b) Pre-approved Plans

Revenue Procedure 2015–22

SECTION 1. PURPOSE

This revenue procedure contains a modification to Revenue Procedure 2013–22, 2013–18 I.R.B. 985, as modified by Revenue Procedure 2014–28, 2014–16 I.R.B. 944, and modifications to Revenue Procedure 2015–8, 2015–1 I.R.B. 235. In particular, this revenue procedure changes the addresses to which applications for opinion and advisory letters for § 403(b) pre-approved plans should be submitted and inserts a user fee that was omitted from Rev. Proc. 2015–8.

SECTION 2. BACKGROUND

.01 Rev. Proc. 2013–22 established a new program for the submission of § 403(b) pre-approved plans to the Internal Revenue Service (Service), modeled after the program for pre-approved § 401(a) qualified plans, which is described in Rev. Proc. 2011–49, 2011–44 I.R.B. 608.

.02 Rev. Proc. 2014–28 modified, among other changes, section 11.03 of Rev. Proc. 2013–22 to allow a person to sponsor a plan as a minor modifier of a § 403(b) volume submitter specimen plan of a mass submitter under the same conditions listed in section 11.03 for a person sponsoring a plan as a minor modifier of a § 403(b) prototype plan of a mass submitter.

.03 The modifications to Rev. Proc. 2013–22 contained in Rev. Proc. 2014–28 did not specify a user fee for a minor modifier of a § 403(b) volume submitter specimen plan of a mass submitter.

.04 Rev. Proc. 2015–8, which, in part, provides a fee schedule for certain filings and submissions to the Service, did not include a user fee for a minor modifier of a § 403(b) volume submitter specimen plan of a mass submitter.

SECTION 3. MODIFICATION OF REV. PROC. 2013–22

The following change is made to Rev. Proc. 2013–22:

.01 The last sentence of section 17.03 of Rev. Proc. 2013–22 is revised to read as follows:

The request is to be sent to:

Internal Revenue Service
Attn: Pre-Approved Plans Coordinator
Room 5106, Group 7521
P.O. Box 2508
Cincinnati, OH 45201-2508

SECTION 4. MODIFICATION OF REV. PROC. 2015–8

The following changes are made to Rev. Proc. 2015–8

.01 Section 6.07 is modified to include a user fee for an advisory letter for a § 403(b) volume submitter specimen plan that is a minor modifier of a § 403(b) volume submitter specimen plan of a mass submitter. Section 6.07 is revised to add a new section (4) and the remaining sections are renumbered. As revised, section 6.07 reads as follows:

.07 Advisory Letters on § 403(b) volume submitter plans.

- | | |
|---|----------|
| (1) Section 403(b) volume submitter specimen plan (non-mass submitter) | |
| (a) with no or one adoption agreement | \$12,000 |
| (b) per additional adoption agreement | \$ 9,500 |
| (2) Section 403(b) volume submitter mass submitter specimen plan | |
| (a) with no or one adoption agreement | \$12,000 |
| (b) per additional adoption agreement | \$ 1,000 |
| (3) Section 403(b) volume submitter specimen plan of a word-for-word Identical adopter of a mass submitter specimen plan | \$ 300 |
| (4) Section 403(b) volume submitter specimen plan of a minor modifier of a § 403(b) volume submitter mass submitter specimen plan (or per adoption agreement, if applicable) | \$ 1,000 |
| (5) Assumption of sponsorship of an approved § 403(b) volume submitter plan, without any amendment to the plan document, by a new entity, as evidenced by a change of employer identification number, per specimen plan | \$ 300 |
| (6) Change in name and/or address of practitioner of an approved § 403(b) volume submitter specimen plan, per specimen plan | None |

.02 Section 7.01(3) is deleted.

.03 Section 7.02 is restated to include the submission of applications for opinion and advisory letters for § 403(b) pre-approved plans and to provide the correct addresses for all pre-approved plan submissions. As revised, section 7.02 reads as follows:

.02 *Matters handled by EP or EO Determinations Office.*

(1) The following types of requests and applications are handled by the EP or EO

Determinations Office and should be sent to the Internal Revenue Service Center in Covington, Kentucky, at the address shown below: (a) requests for determination letters on the qualified status of employee plans under § 401, 403(a), or 409, and the exempt status of any related trust under § 501; (b) applications for recognition of tax exemption on Form 1023, Form 1024 and Form 1028; (c) requests for determination letters submitted with Form 8940; (d) requests for changes in accounting period; and (e) and other applications for recognition of qualification or exemption (other than on Form 1023–EZ). The address is:

Internal Revenue Service
Attention: EP/EO Determination Letters
Stop 31
P.O. Box 12192
Covington, KY 41012-0192

(2) Applications for recognition of exemption on Form 1023–EZ are handled by the EO Determinations Office, but must be submitted electronically online at www.pay.gov. Paper submissions of Form 1023–EZ will not be accepted.

(3) The following types of requests and applications are handled by the EP Determinations Office and should be sent to the Internal Revenue Service at the address shown below: (a) requests for master and prototype opinion letters and for volume submitter advisory letters on the form of pre-approved employee plans under § 401 or 403(a); (b) the exempt status of any related trust under § 501; and (c) requests for prototype opinion letters and for volume submitter advisory letters for § 403(b) pre-approved plans under Rev. Proc. 2013–22. The address is:

Internal Revenue Service
Attn: Pre-Approved Plans Coordinator
P.O. Box 2508
Rm. 5106: Group 7521
Cincinnati, OH 45201

(4) Determinations and requests not subject to a user fee are handled by the EO Determinations Office and should be sent to the Internal Revenue Service at the address shown below:

Internal Revenue Service
P.O. Box 2508
Rm. 4024
Cincinnati, OH 45201

(5) Applications shipped by Express Mail or a delivery service for all of the above **except for pre-approved employee plans** should be sent to:

Internal Revenue Service
Attention: EP/EO Determination Letters
Stop 31
201 West Rivercenter Boulevard
Covington, KY 41011

Applications shipped by Express Mail or a delivery service for **pre-approved employee plans** should be sent to:

Internal Revenue Service
Attn: Pre-Approved Plans Coordinator
550 Main Street
Room 5106: Group 7521
Cincinnati, OH 45202

SECTION 5. PAPERWORK REDUCTION ACT

The collections of information contained in the revenue procedure have 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 1545-1520.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2013–22 and Rev. Proc. 2015–8 are modified.

SECTION 7. EFFECTIVE DATE

The modifications in this revenue procedure are effective as of February 26, 2015.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Kathleen Herrmann of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Ms. Herrmann at (202) 317-6799 (not a toll-free number).

Part IV. Items of General Interest

Health Insurance Providers Fee

REG-143416-14

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains proposed regulations that provide rules for the definition of a covered entity for purposes of the fee imposed by section 9010 of the Patient Protection and Affordable Care Act, as amended. In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations. The text of those temporary regulations also serves as the text of these proposed regulations. The proposed regulations are necessary to clarify certain terms in section 9010. The proposed regulations affect persons engaged in the business of providing health insurance for United States health risks.

DATES: Comments and requests for a public hearing must be received by May 27, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-143416-14), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-143416-14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically, via the Federal eRulemaking portal at www.regulations.gov (IRS REG-143416-14)

FOR FURTHER INFORMATION

CONTACT: Concerning the proposed regulations, Rachel S. Smith, (202) 317-6855; concerning submissions of comments and request for a hearing, Regina Johnson, (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Health Insurance Providers Fee Regulations (26 CFR Part 57) and serve as the text for these proposed regulations.

Special Analyses

It has been determined that these proposed regulations are not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. 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 the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before the proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the "Addresses" heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be available at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Rachel S. Smith, IRS Office of the Associate Chief Counsel (Pass-

throughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in their development.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 57 is proposed to be amended as follows:

PART 57—HEALTH INSURANCE PROVIDERS FEE

Paragraph 1. The authority citation for part 57 continues to read in part as follows:

Authority: 26 U.S.C. 7805; sec. 9010, Public Law 111-148 (124 Stat. 119 (2010)).

* * * * *

Par. 2. Section 57.2 is amended by revising paragraphs (b)(3) and (c)(3)(ii) to read as follows:

§ 57.2 Explanation of terms.

* * * * *

(b) * * *

(3) [The text of proposed § 57.2(b)(3) is the same as the text of § 57.2T(b)(3) published elsewhere in this issue of the **Federal Register**].

* * * * *

(c) * * *

(3) * * *

(ii) [The text of proposed § 57.2(c)(3)(ii) is the same as the text of § 57.2T(c)(3)(ii) published elsewhere in this issue of the **Federal Register**].

* * * * *

Par. 3. Section 57.10 is amended by revising paragraph (b) to read as follows:

§ 57.10 Effective/applicability date.

* * * * *

(b) [The text of proposed § 57.10(b) is the same as the text of § 57.10T(b) published elsewhere in this issue of the **Federal Register**].

John Dalrymple,
Deputy Commissioner for
Services and Enforcement.

Changes to Employee Plans Determination Letter Processing

Announcement 2015-1

This announcement describes changes to the processing of employee plans determination letters that will take effect in 2015. These changes are being adopted as a result of a process improvement strategy designed to promote case processing efficiency.

The changes to the determination letter procedures described in this announcement will be reflected in Rev. Proc. 2015-6, which will be published in IRB 2015-1 and be effective on February 1, 2015. Rev. Proc. 2015-6 will set forth the Service's procedures for issuing determination letters on the qualified status of employee plans.

Incomplete Applications – Procedural Requirements. Upon receipt of a timely filed determination letter application ("Application"), the Service will review the Application to determine if it is complete. For an Application to be complete, it must include all of the information and documents required by Rev. Proc. 2015-6, including, but not limited to, a completed copy of the Procedural Requirements Checklist set forth in Forms 5300, 5307, 5310 and 5316. The Procedural Requirements Checklist is designed to assist applicants in the filing of a complete Application. If an Application is incomplete, the Service will contact the applicant in writing and request the missing information. The applicant will have 30 days from the date of the letter to provide the information to the Service. If the applicant fails to provide the information within the 30-day period, the case will be closed. The Service will retain the incomplete Application, and the user fee submitted with the Application will not be refunded. The applicant may submit a new on-cycle Application, with a new user fee, by the end of the plan's remedial amend-

ment cycle, unless a later date is specified in the Service's letter informing the applicant that the case has been closed. However, if both the response deadline and the postmark date of any response to the letter identifying the missing information occur after the end of the plan's remedial amendment cycle, the remedial amendment cycle will not be extended and the Service will send the applicant a final disposition letter.

The Service intends to develop a reference list ("Reference List") that applicants may use to indicate the specific provisions in the plan document that reflect the items in the Cycle E Cumulative List. A template of the Reference List will be available at www.irs.gov. The inclusion of a completed Reference List with the Application will facilitate the Service's review of the Application, and is encouraged. Submission of a Reference List is not mandatory in Cycle E; however, the Service is considering making the inclusion of the Reference List mandatory beginning the following year, in Cycle A.

Request for Additional Information – Technical Review. The Service will not conduct technical review of an Application until it is procedurally complete, as described above. During the course of the technical review, the Service may issue a written request for additional information from the applicant. The written request will specify the time period in which the applicant must supply the required information. If the applicant's response to this request is not timely and complete, the Service will inform the applicant again, in writing, that the applicant must provide the specified information within a specified period of time. If the applicant's response to the second request is not timely and complete, the case will be closed, the documents retained, and the user fee submitted with the Application will not be refunded. The applicant may submit a new on-cycle Application, with a new user fee, by the end of the plan's remedial amendment cycle, unless a later date is specified in the Service's letter informing the applicant that the case has been closed. However, if both the response deadline and the postmark date of any response to the second request occur after the end of the plan's remedial amendment cycle, the re-

medial amendment cycle will not be extended and the Service will send the applicant a final disposition letter.

DRAFTING INFORMATION

The principal author of this announcement is Sherri Edelman of the Employee Plans, Tax Exempt and Government Entities Division. Questions regarding this announcement may be sent via e-mail to RetirementPlanQuestions@irs.gov.

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

Announcement 2015-10

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the IRS 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 IRS 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 March 16, 2015 and would end on the date the court first determines the organization is not described in section 170(c)(2) as more par-

ticularly set for 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.

NAME OF ORGANIZATION	Effective Date of Revocation	LOCATION
Academy of America	July 1, 2001	Oak Park, MI
National LUST Program Fund	March 29, 2011	Richmond, VA
Association for Honest Attorneys (AHA)	January 1, 2010	Derby, KS
Hispanic Office of Planning & Evaluation Inc.	July 1, 2011	Foxboro, MA

Determination of Adjusted Applicable Federal Rates under Section 1288 and the Adjusted Federal Long-Term Rate under Section 382

REG-136018-13

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations that provide the method to be used to adjust the applicable Federal rates (AFRs) under section 1288 of the Internal Revenue Code (Code) (adjusted AFRs) for tax-exempt obligations and the method to be used to determine the long-term tax-exempt rate and the adjusted Federal long-term rate under section 382. For tax-exempt obligations, the proposed regulations affect the determination of original issue discount under section 1273 and of total unstated interest under section 483. In addition, the proposed regulations affect the determination of the limitations under sections 382 and 383 on the use of certain operating loss carryforwards, tax credits, and other attributes of corporations following ownership changes. This document also contains a request for comments and provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by June 1, 2015. Outlines of topics to be discussed at the public hearing scheduled for June 24, 2015 must be received by June 1, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-136018-13), Room 5203, Internal Revenue Service, P.O. 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-136018-13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC, or sent electronically, via the Federal eRulemaking portal at www.regulations.gov (IRS REG-136018-13). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, DC.

FOR FURTHER INFORMATION

CONTACT: Concerning the proposed regulations under section 1288, Jason G. Kurth at (202) 317-6842; concerning the proposed regulations under section 382, William W. Burhop at (202) 317-6847; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo (Funmi) Taylor at (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 (Income Tax Regulations) under sections 382 and 1288 of the Code. The proposed regulations provide the new method by which the Treasury Department and the IRS propose to determine the adjusted AFRs under section 1288 to take into account the tax exemption for interest on tax-exempt obligations (as defined in section 1275(a)(3) and § 1.1275-1(e)) and the long-term tax-exempt rate and the ad-

justed Federal long-term rate under section 382(f) to take into account differences between rates on long-term taxable and tax-exempt obligations.

Section 1274(d) directs the Secretary to determine the AFRs that are used for determining the imputed principal amount of debt instruments to which section 1274 applies, computing total unstated interest on payments to which section 483 applies, and other purposes. Under section 1274(d)(1), the AFR is: (i) in the case of a debt instrument with a term not over three years, the Federal short-term rate; (ii) in the case of a debt instrument with a term over three years but not over nine years, the Federal mid-term rate; and (iii) in the case of a debt instrument with a term over nine years, the Federal long-term rate. Sections 1274(d)(2) and (3) provide special rules for selecting the appropriate AFR in specified circumstances. Section 1274(d)(2) provides that, in the case of a sale or exchange, the AFR shall be the lowest AFR in effect for any month in the 3-calendar-month period ending with the first calendar month in which there is a binding contract in writing for the sale or exchange. Section 1274(d)(3) requires that options to renew or extend be taken into account in determining the term of a debt instrument. During each month, the Treasury Department determines the AFRs that will apply during the following calendar month based on the average market yield of outstanding marketable obligations of the United States with appropriate maturities. See § 1.1274-4(b). The IRS publishes the AFRs for each month in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)).

Section 1288(b)(1) provides that, in applying section 483 or section 1274 to a tax-exempt obligation, under regulations

prescribed by the Secretary, appropriate adjustments shall be made to the AFR to take into account the tax exemption for interest on the obligation. The IRS publishes the adjusted AFRs for each month in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)).

In the case of a corporation that has undergone an ownership change described in section 382(g): (i) section 382 places an annual limit (the section 382 limitation) on the amount of the corporation's taxable income that may be offset by certain net operating loss carryforwards and built-in losses; and (ii) section 383 places a limit, determined by reference to the section 382 limitation, on the amount of the corporation's income tax liability that may be offset by certain tax credits and other tax attributes. Under section 382(b)(1), the section 382 limitation generally equals the product of (A) the value of the stock of the corporation immediately prior to the ownership change and (B) the long-term tax-exempt rate.

Section 382(f)(1) defines the long-term tax-exempt rate as the highest of the adjusted Federal long-term rates in effect for any month in the three-calendar-month period ending with the calendar month in which the ownership change occurs. Section 382(f)(2) provides that the term "adjusted Federal long-term rate" means the Federal long-term rate determined under section 1274(d), except that sections 1274(d)(2) and (3) shall not apply, and such rate shall be properly adjusted for differences between rates on long-term taxable and tax-exempt obligations.

Section 382(f) was added to the Code by the Tax Reform Act of 1986, Public Law 99-514 (100 Stat. 2254). The Report of the Committee on Ways and Means on H.R. 3838, the Tax Reform Act of 1985 (the title of the Act as it passed the House), states that the long-term tax-exempt rate should be determined by adjusting the Federal long-term rate (determined under section 1274) pursuant to section 1288 to take into account tax exemption. H.R. Rep. No. 99-426, 99th Cong., 1st Sess. 268 (1985) (1986-3 CB (Vol. 2) 1, 268). The Conference Report for the Tax Reform Act of 1986 states that the adjusted Federal long-term rate is to be computed as the yield on a diversified pool of prime, general obligation tax-

exempt bonds with remaining periods to maturity of more than nine years. The report also explains that it is necessary to the purposes of section 382 that the long-term tax-exempt rate be lower than the Federal long-term rate. Further, the Committee anticipated that the long-term tax-exempt rate would ordinarily fall in a range between (i) the Federal long-term rate multiplied by a percentage equal to the difference between 100 percent and the corporate tax rate, and (ii) 100 percent of the Federal long-term rate. 2 H.R. Rep. No. 99-841 (Conf. Rep.), 99th Cong., 2d Sess. II-188 (1986) (1986-3 CB (Vol. 4) 1, 188). Under current tax rates, that would be between 65 percent and 100 percent of the Federal long-term rate.

Since November 1986, the adjusted Federal long-term rate published under section 382(f)(2) has been equal to the long-term adjusted AFR with annual compounding published under section 1288(b) in the same month. See Rev. Rul. 86-133 (1986-2 CB 59) (see § 601.601(d)(2)(ii)). For calendar months from November 1986 to February 2013, the Treasury Department determined the adjusted Federal long-term rate and each adjusted AFR described in section 1288(b)(1) by multiplying the corresponding AFR by a fraction (the adjustment factor). The numerator of the adjustment factor was a composite yield of the highest-grade tax-exempt obligations available, which are prime, general obligation tax-exempt obligations. The denominator was a composite yield of U.S. Treasury obligations with maturities similar to those of the tax-exempt obligations. Each of the composite yields was measured over a one-month period.

Since the beginning of 2008, market yields of prime, general obligation tax-exempt obligations have sometimes exceeded market yields of comparable U.S. Treasury obligations, causing the adjusted Federal long-term rate and each adjusted AFR to exceed the corresponding AFRs. This relationship between the adjusted rates and the corresponding AFRs showed that the adjustment factor no longer served the purposes of sections 1288(b)(1) and 382(f)(2), which require adjustments to reflect only tax exemption, not credit quality. These rates are also inconsistent with the express intention of Congress that the adjusted Federal long-term rate

and the long-term tax-exempt rate be lower than the Federal long-term rate.

Request for Comments and Summary of Comments

In response, the IRS published Notice 2013-4 (2013-9 IRB 527) on February 25, 2013, requesting comments on possible modifications to the method by which adjusted AFRs and the adjusted Federal long-term rate are determined. The notice solicited comments on several potential adjustment factors. One proposal was an adjustment factor based on tax rates, under which each adjusted AFR would be the product of (A) the appropriate AFR, and (B) the excess of (i) one hundred percent over (ii) a tax rate or a fixed percentage of a tax rate. Another proposal was an adjustment factor based on historical data, under which the adjustment factor would be fixed at an amount that would produce a spread between Federal long-term rates and adjusted Federal long-term rates equal to the average spread between those rates during the period from 1986 through 2007 (which is the period before changes in market conditions elevated the yields of many obligations in relation to U.S. Treasury obligations). The notice also requested comments on whether the adjusted Federal long-term rate described in section 382(f)(2) should continue to be determined in the same manner as the adjusted AFRs described in section 1288(b)(1).

Notice 2013-4 provided that, until the Treasury Department and the IRS issue further guidance, the adjusted AFRs and the long-term tax-exempt rate would continue to be calculated using the adjustment factor, except that the adjustment factor would equal one for any month in which the adjustment factor would otherwise be greater than one or in which the denominator of the adjustment factor would otherwise be less than or equal to zero.

The IRS received two comments in response to Notice 2013-4. One commenter recommended an adjustment factor based on tax rates for purposes of section 1288, and made no recommendation regarding section 382. That commenter suggested that the proper tax rate to use to calculate the adjusted AFRs is the highest individual tax rate set forth in section 1, increased by the tax rate under

section 1411 applicable to the investment income of individuals.

The other commenter recommended the use of historical data to determine the lowest individual marginal tax rate needed to attract sufficient investors to clear the market supply of tax-exempt obligations for purposes of section 1288. That commenter recommended that there be no change to the calculation of the long-term tax-exempt rate under section 382. In the alternative, the commenter recommended that the adjusted Federal long-term rate described in section 382(f) be subject to a floor because the commenter argued that section 382 is intended to defer rather than eliminate net operating losses, and the lower the long-term tax-exempt rate, the greater the likelihood that net operating losses subject to section 382 limitation will expire before they are used.

Explanation of Provisions

The language and purposes of sections 382 and 1288 suggest that AFRs are to be adjusted in the same manner for purposes of both provisions. Implementation of each provision requires an adjustment to take into account the effect of tax exemption on market yields. Therefore, under these proposed regulations, the adjusted Federal long-term rate under section 382(f) would continue to be determined in the same manner as the adjusted AFRs under section 1288.

The Treasury Department and the IRS recognize that, to be entirely consistent with the language and legislative history of sections 382 and 1288, the adjusted Federal long-term rate and each adjusted AFR should be determined based on the current market yield on a pool of tax-exempt obligations that have terms, features, and credit quality matching those of U.S. Treasury obligations, which would result in an adjusted Federal long-term rate or adjusted AFR that is lower than the corresponding AFR. However, under recent market conditions tax-exempt obligations with perceived credit qualities approximating U.S. Treasury obligations arguably no longer exist. Because of the increasing spreads between the yields of U.S. Treasury obligations and other debt instruments, the yield of a pool of tax-exempt obligations will likely be higher than the yield of similar U.S. Treasury

obligations and the AFR for the corresponding term.

During the period from 1986 to 2007, certain tax-exempt obligations satisfied the criteria in the Code and the legislative history. As discussed in this preamble, the current adjustment factor is based on the ratio of yields on prime, general obligation tax-exempt obligations to yields of U.S. Treasury obligations with similar maturities. From 1986 to 2007, that ratio (and, as a result, the ratios of adjusted AFRs and adjusted Federal long-term rates to AFRs) was, on average, approximately equal to one minus 59 percent of the maximum individual tax rate under section 1. That relationship was relatively stable over the period; the ratio of the spread between the yields to the maximum individual tax rate under section 1 generally did not vary by more than a few percentage points. In the absence of current market data from tax-exempt obligations and U.S. Treasury obligations with similar maturities and similar credit quality, the Treasury Department and the IRS believe this historical market data provides the best indication of the effect of a tax exemption on market yields.

The Treasury Department and the IRS therefore propose use of this historical market data to create an appropriate adjustment factor based on individual tax rates. Consistent with a proposal in Notice 2013-4 and one commenter's suggestion regarding section 1288, the proposed adjustment factor is one minus the product of a tax rate and a fixed percentage. The Treasury Department would therefore determine the adjusted AFRs and the adjusted Federal long-term rate for each month from the appropriate AFRs for that month using the proposed adjustment factor that results from the following calculation: 100 percent – [(a combined tax rate) × (a fixed percentage)]. Consistent with both commenters' suggestions regarding section 1288, the tax rate is the maximum individual tax rate.

Specifically, the tax rate in the proposed adjustment factor is the sum of the maximum individual rate under section 1 and the maximum individual rate under section 1411 for the month to which the rate applies. Using current maximum individual tax rates under sections 1 and 1411, the combined tax rate in the calcu-

lation would be 43.4 percent, the sum of 39.6 percent and 3.8 percent. High-income individuals purchase a large percentage of municipal bonds because these purchasers benefit the most from the tax exemption. While individual and corporate tax rates were relatively stable from 1986 to 2007, data analyzed by the Treasury Department indicate that the differential between yields on tax-exempt municipal bonds and comparable U.S. Treasury obligations was significantly more correlated with the highest individual income tax rates than with corporate tax rates. Thus, an adjustment factor based on the maximum individual tax rate allows a better approximation of the market-based adjustment that Congress intended than would one based on a corporate tax rate. The tax on net investment income under section 1411 is included in the proposed adjustment factor to account for the entire rate of federal tax imposed on high-income individuals who hold taxable obligations.

The fixed percentage is the amount by which that combined tax rate must be multiplied to reflect the historical relationship between the maximum tax rate and the spread between yields of taxable and tax-exempt obligations. The spread is less than 100% of the maximum tax rate because, for example, issuers of tax-exempt bonds need to attract purchasers with effective tax rates lower than the maximum individual tax rate. The fixed percentage in the proposed adjustment factor is 59 percent, because the yield on tax-exempt obligations from February 1986 to July 2007 was lower than that of comparable taxable obligations by, on average, 59 percent of the maximum individual rate in effect under section 1.

Therefore, the adjustment factor under current tax rates would be 74.39 percent, the result of subtracting 25.61 percent (the product of 43.4 percent and 59 percent) from 100 percent. If an AFR for a given month were 5 percent, under current tax rates, the corresponding adjusted AFR would be 3.72 percent: the product of 74.39 percent and 5 percent. If that 5 percent AFR were the Federal long-term rate for debt instruments with annual compounding, the adjusted Federal long-term rate under section 382 would likewise be 3.72 percent.

The proposed regulations do not adopt the suggestion of one commenter that the adjusted Federal long-term rate described in section 382(f) be subject to a floor because that would be inconsistent with the primary purpose of section 382. The primary purpose of section 382 is to preserve the integrity of the carryover provisions by discouraging tax-motivated corporate acquisitions while allowing the carryover provisions to perform their intended averaging function. To accomplish this purpose, section 382 seeks to limit the use of pre-change losses by an acquiring corporation to no more than the loss corporation's ability to use such losses, with that limit being determined by multiplying the long-term tax-exempt rate—a rate below the Federal long-term rate—by the value of the loss corporation. The Conference Report for the Tax Reform Act of 1986 explains:

The use of a rate lower than the long-term Federal rate is necessary to ensure that the value of NOL carryforwards to the buying corporation is not more than their value to the loss corporation. Otherwise there would be a tax incentive for acquiring loss corporations. If the loss corporation were to sell its assets and invest in long-term Treasury obligations, it could absorb its NOL carryforwards at a rate equal to the yield on long-term government obligations. Since the price paid by the buyer is larger than the value of the loss company's assets (because of the value of NOL carryforwards are taken into account), applying the long-term Treasury rate to the purchase price would result in faster utilization of NOL carryforwards by the buying corporation.

2 H.R. Rep. No. 99–841 (Conf. Rep.), 99th Cong., 2d Sess. II–188 (1986) (1986–3 CB (Vol. 4) 1, 188).

Imposing a floor on the adjusted Federal long-term rate, and thereby on the long-term tax-exempt rate, would reduce the effect of the mechanism Congress established to ensure that the value of net operating loss carryforwards to the acquiring corporation is not more than the value of those carryforwards to the loss corporation. Moreover, as a matter of statutory interpretation, an upward adjustment of the adjusted Federal long-term rate to

comply with a fixed minimum level would disregard the express direction of Congress to determine the adjusted Federal long-term rate based on the Federal long-term rate determined under section 1274(d), which is not subject to a floor, with adjustments to take into account the differences between rates on taxable and tax-exempt obligations. Further, the legislative history of section 382(f) suggests that Congress intended that the adjusted Federal long-term rate be determined in a manner similar to the adjusted AFR under section 1288.

The tax rate used to determine adjusted AFRs under these proposed regulations differs from the tax rate used to determine the interest rate on demand deposit securities under the State and Local Government Series (SLGS). Demand deposit SLGS securities are one-day certificates of indebtedness that are automatically rolled over each day until the holder requests redemption. See 31 CFR § 344.7. The interest rate on the securities is based on yields of 13-week Treasury bills, with a number of adjustments. Among the adjustments is multiplying the annualized Treasury bill yield by the excess of one over the estimated marginal tax rate of purchasers of tax-exempt bonds. That estimated marginal tax rate is published from time to time in the Federal Register and is currently 39.6 percent. The Treasury Department and the IRS request comments on whether the interest rate on SLGS should reflect the same correction for tax exemption as the adjusted AFRs (the product of the fixed percentage and the combined tax rate).

Proposed Effective/Applicability Date

These regulations are proposed to apply to calendar months beginning after the date of publication of the 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. 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 the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. 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 comments on its impact on small business.

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 as prescribed in this preamble under the “Addresses” heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available for public inspection and copying at www.regulations.gov or upon request.

A public hearing has been scheduled for June 24, 2015, at 10:00 a.m., in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC. Due to building security procedures, visitors must enter through the Constitution Avenue entrance. In addition, 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 (signed original and eight (8) copies) or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by June 1, 2015. A period of 10 minutes will be allotted 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 authors of the proposed regulations are Jason G. Kurth, IRS Office of the Associate Chief Counsel (Financial Institutions and Products) and William W. Burhop, IRS Office of the Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

* * * * *

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.382–12 also issued under 26 U.S.C. 382(f) and 26 U.S.C. 382(m). * * *

Section 1.1288–1 also issued under 26 U.S.C. 1288(b). * * *

Par. 2. Section 1.382–1 is amended by revising the introductory text and adding an entry for § 1.382–12 to read as follows:

§ 1.382–1 Table of contents.

This section lists the captions that appear in the regulations for §§ 1.382–2 through 1.382–12.

* * * * *

§ 1.382–12 Determination of adjusted Federal long-term rate.

- (a) In general.
- (b) Adjusted Federal long-term rate.
- (c) Adjustment factor.
- (d) Effective/applicability date.

Par. 3. Section 1.382–12 is added to read as follows:

§ 1.382–12 Determination of adjusted Federal long-term rate.

(a) *In general.* The long-term tax-exempt rate for an ownership change is the highest of the adjusted Federal long-term rates in effect for any month in the 3-calendar-month period ending with the calendar month in which the change date occurs. For purposes of the previous sentence, the adjusted Federal long-term rate is the Federal long-term rate determined under section 1274(d) (without regard to paragraphs (2) and (3) thereof), adjusted for differences between rates on long-term taxable and tax-exempt obligations. The Secretary calculates the adjusted Federal long-term rate as provided in paragraph (b) of this section. The Internal Revenue Service publishes the long-term tax-exempt rate and the adjusted Federal long-term rate for each month in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii) of this chapter).

(b) *Adjusted Federal long-term rate.* The adjusted Federal long-term rate for a calendar month is the product of the Federal long-term rate determined under section 1274(d) for that month, based on annual compounding, multiplied by the adjustment factor described in paragraph (c) of this section.

(c) *Adjustment factor.* The adjustment factor is a percentage equal to—

- (1) The excess of 100 percent, over
- (2) The product of—
- (i) 59 percent, and

(ii) The sum of the maximum rate in effect under section 1 applicable to individuals and the maximum rate in effect under section 1411 applicable to individuals for the month to which the adjusted applicable Federal rate applies.

(d) *Effective/applicability date.* The rules of this section apply to the determination of the long-term tax-exempt rate and the adjusted Federal long-term rate during calendar months beginning after the date of publication of the Treasury

decision adopting these rules as final regulations in the **Federal Register**.

Par. 4. Section 1.1288–1 is added to read as follows:

§ 1.1288–1 Adjustment of applicable Federal rate for tax-exempt obligations.

(a) *In general.* In applying section 483 or section 1274 to a tax-exempt obligation, the applicable Federal rate is adjusted to take into account the tax exemption for interest on the obligation. For each applicable Federal rate determined under section 1274(d), the Secretary computes a corresponding adjusted applicable Federal rate by multiplying the applicable Federal rate by the adjustment factor described in paragraph (b) of this section. The Internal Revenue Service publishes the applicable Federal rates and the adjusted applicable Federal rates for each month in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii) of this chapter).

(b) *Adjustment factor.* The adjustment factor is a percentage equal to—

- (1) The excess of 100 percent, over
- (2) The product of—
- (i) 59 percent, and

(ii) The sum of the maximum rate in effect under section 1 applicable to individuals and the maximum rate in effect under section 1411 applicable to individuals for the month to which the adjusted applicable Federal rate applies.

(c) *Effective/applicability date.* The rules of this section apply to the determination of adjusted applicable Federal rates during calendar months beginning after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

John M. Dalrymple
Deputy Commissioner for
Services and Enforcement.

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 sub-

stance 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.

Numerical Finding List¹

Bulletin 2015–1 through 2015–11

Announcements:

2015-1, 2015-11 I.R.B. 758
2015-2, 2015-3 I.R.B. 324
2015-3, 2015-3 I.R.B. 328
2015-4, 2015-5 I.R.B. 565
2015-5, 2015-7 I.R.B. 602
2015-6, 2015-8 I.R.B. 685
2015-8, 2015-9 I.R.B. 698
2015-10, 2015-11 I.R.B. 758

Proposed Regulations:

REG-109187-11, 2015-2 I.R.B. 277
REG-132751-14, 2015-2 I.R.B. 279
REG-145878-14, 2015-2 I.R.B. 290
REG-153656-3, 2015-5 I.R.B. 566
REG-102648-15, 2015-10 I.R.B. 745
REG-136018-13, 2015-11 I.R.B. 759
REG-143416-14, 2015-11 I.R.B. 757

Notices:

2015-1, 2015-2 I.R.B. 249
2015-2, 2015-4 I.R.B. 334
2015-3, 2015-6 I.R.B. 583
2015-4, 2015-5 I.R.B. 407
2015-5, 2015-5 I.R.B. 408
2015-6, 2015-5 I.R.B. 412
2015-7, 2015-6 I.R.B. 585
2015-8, 2015-6 I.R.B. 589
2015-9, 2015-6 I.R.B. 590
2015-11, 2015-8 I.R.B. 618
2015-15, 2015-9 I.R.B. 687
2015-12, 2015-8 I.R.B. 700
2015-13, 2015-10 I.R.B. 722
2015-14, 2015-10 I.R.B. 722
2015-16, 2015-10 I.R.B. 732
2015-19, 2015-9 I.R.B. 690
2015-20, 2015-11 I.R.B. 754

Revenue Procedures:

2015-1, 2015-1 I.R.B. 1
2015-2, 2015-1 I.R.B. 105
2015-3, 2015-1 I.R.B. 129
2015-4, 2015-1 I.R.B. 144
2015-5, 2015-1 I.R.B. 186
2015-6, 2015-1 I.R.B. 194
2015-7, 2015-1 I.R.B. 231
2015-8, 2015-1 I.R.B. 235
2015-9, 2015-2 I.R.B. 249
2015-10, 2015-2 I.R.B. 261
2015-12, 2015-2 I.R.B. 265
2015-13, 2015-5 I.R.B. 419
2015-14, 2015-5 I.R.B. 450
2015-15, 2015-5 I.R.B. 564

Revenue Procedures—Continued:

2015-16, 2015-7 I.R.B. 596
2015-17, 2015-7 I.R.B. 599
2015-18, 2015-8 I.R.B. 642
2015-19, 2015-8 I.R.B. 678
2015-20, 2015-9 I.R.B. 694
2015-22, 2015-11 I.R.B. 754

Revenue Rulings:

2015-1, 2015-4 I.R.B. 331
2015-2, 2015-3 I.R.B. 321
2015-3, 2015-6 I.R.B. 580
2015-4, 2015-10 I.R.B. 743

Treasury Decisions:

9707, 2015-2 I.R.B. 247
9708, 2015-5 I.R.B. 337
9709, 2015-7 I.R.B. 593
9710, 2015-8 I.R.B. 603
9711, 2015-11 I.R.B. 748
9712, 2015-11 I.R.B. 750

¹A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2014–27 through 2014–52 is in Internal Revenue Bulletin 2014–52, dated December 28, 2014.

Finding List of Current Actions on Previously Published Items¹

Bulletin 2015–1 through 2015–11

Announcements:

2010-3

Amplified by
Ann. 2015-3, 2015-3 I.R.B. 328

Revenue Procedures:

2014-01

Superseded by
Rev. Proc. 2015-01, 2015-01 I.R.B. 1

2014-02

Superseded by
Rev. Proc. 2015-02, 2015-01 I.R.B. 105

2014-03

Superseded by
Rev. Proc. 2015-03, 2015-01 I.R.B. 129

2014-04

Superseded by
Rev. Proc. 2015-04, 2015-01 I.R.B. 144

2014-05

Superseded by
Rev. Proc. 2015-05, 2015-01 I.R.B. 186

2014-06

Superseded by
Rev. Proc. 2015-06, 2015-01 I.R.B. 194

2014-07

Superseded by
Rev. Proc. 2015-07, 2015-01 I.R.B. 231

2014-08

Superseded by
Rev. Proc. 2015-08, 2015-01 I.R.B. 235

2014-10

Superseded by
Rev. Proc. 2015-10, 2015-2 I.R.B. 261

2003-63

Superseded by
Rev. Proc. 2015-12, 2015-2 I.R.B. 265

2011-14

Modified by
Rev. Proc. 2015-12, 2015-2 I.R.B. 265

2011-14

Modified by
Rev. Proc. 2015-13, 2015-5 I.R.B. 419

Revenue Procedures—Continued:

2011-14

Amplified by
Rev. Proc. 2015-13, 2015-5 I.R.B. 419

2011-14

Clarified by
Rev. Proc. 2015-13, 2015-5 I.R.B. 419

1997-27

Clarified by
Rev. Proc. 2015-13, 2015-5 I.R.B. 419

1997-27

Modified by
Rev. Proc. 2015-13, 2015-5 I.R.B. 419

2012-11

Superseded by
Rev. Proc. 2015-17, 2015-7 I.R.B. 599

2015-9

Modified by
Rev. Proc. 2015-17, 2015-7 I.R.B. 599

2015-14

Modified by
Rev. Proc. 2015-20, 2015-9 I.R.B. 694

2013-22

Modified by
Rev. Proc. 2015-22, 2015-11 I.R.B. 754

2015-8

Modified by
Rev. Proc. 2015-22, 2015-11 I.R.B. 754

Revenue Rulings:

92-19

Supplemented by
Rev. Rul. 2015-02, 2015-3 I.R.B. 321

Notices:

2013-01

Modified by
Notice 2015-20, 2015-11 I.R.B. 754

2013-01

Superseded by
Notice 2015-20, 2015-11 I.R.B. 754

¹A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2014–27 through 2014–52 is in Internal Revenue Bulletin 2014–52, dated December 28, 2014.

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INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at www.irs.gov/irb/.

We Welcome Comments About the Internal Revenue Bulletin

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