

# INTERNAL REVENUE BULLETIN



## 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.

### EMPLOYMENT TAX

#### **AOD 2022-2, page 903.**

Nonacquiescence to the holding that relocation benefits provided by a railroad to its employees are exempt from Railroad Retirement Tax Act (RRTA) taxation under I.R.C. § 3231(e)(1)(iii).

### INCOME TAX

#### **Notice 2022-12, page 906.**

Resident populations of the 50 states, the District of Columbia, Puerto Rico, and the insular areas for purposes

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**March 21, 2022**

of determining the 2022 calendar year (1) state housing credit ceiling under section 42(h) of the Code, (2) private activity bond volume cap under section 146, and (3) private activity bond volume limit under section 142(k) are reproduced.

#### **Rev. Rul. 2022-6, page 904.**

Fringe benefits aircraft valuation formula. For purposes of section 1.61-21(g) of the Income Tax Regulations, relating to the rule for valuing non-commercial flights on employer-provided aircraft, the Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charges in effect for the first half of 2022 are set forth.

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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.

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## Actions Relating to Court Decisions

It is the policy of the Internal Revenue Service to announce at an early date whether it will follow the holdings in certain cases. An Action on Decision is the document making such an announcement. An Action on Decision will be issued at the discretion of the Service only on unappealed issues decided adverse to the government. Generally, an Action on Decision is issued where its guidance would be helpful to Service personnel working with the same or similar issues. Unlike a Treasury Regulation or a Revenue Ruling, an Action on Decision is not an affirmative statement of Service position. It is not intended to serve as public guidance and may not be cited as precedent.

Actions on Decisions shall be relied upon within the Service only as conclusions applying the law to the facts in the particular case at the time the Action on Decision was issued. Caution should be exercised in extending the recommendation

of the Action on Decision to similar cases where the facts are different. Moreover, the recommendation in the Action on Decision may be superseded by new legislation, regulations, rulings, cases, or Actions on Decisions.

Prior to 1991, the Service published acquiescence or nonacquiescence only in certain regular Tax Court opinions. The Service has expanded its acquiescence program to include other civil tax cases where guidance is determined to be helpful. Accordingly, the Service now may acquiesce or nonacquiesce in the holdings of memorandum Tax Court opinions, as well as those of the United States District Courts, Claims Court, and Circuit Courts of Appeal. Regardless of the court deciding the case, the recommendation of any Action on Decision will be published in the **Internal Revenue Bulletin**.

The recommendation in every Action on Decision will be summarized as acquiescence, acquiescence in result only, or nonacquiescence. Both “acquiescence” and “acquiescence in result only” mean that the Service accepts the holding

of the court in a case and that the Service will follow it in disposing of cases with the same controlling facts. However, “acquiescence” indicates neither approval nor disapproval of the reasons assigned by the court for its conclusions; whereas, “acquiescence in result only” indicates disagreement or concern with some or all of those reasons. “Nonacquiescence” signifies that, although no further review was sought, the Service does not agree with the holding of the court and, generally, will not follow the decision in disposing of cases involving other taxpayers. In reference to an opinion of a circuit court of appeals, a “nonacquiescence” indicates that the Service will not follow the holding on a nationwide basis. However, the Service will recognize the precedential impact of the opinion on cases arising within the venue of the deciding circuit.

The Commissioner does NOT ACQUIESCE in the following decision:

**CSX Corp. v. United States, 18 F.4th 672 (11th Cir. 2021).**<sup>1</sup>

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<sup>1</sup>Nonacquiescence to the holding that relocation benefits provided by a railroad to its employees are exempt from Railroad Retirement Tax Act (RRTA) taxation under I.R.C. § 3231(e)(1)(iii).

# Part I

## Rev. Rul. 2022-6

For purposes of the taxation of fringe benefits under section 61 of the Internal Revenue Code, section 1.61-21(g) of the Income Tax Regulations provides a rule for valuing noncommercial flights on employer-provided aircraft. Section 1.61-21(g)(5) provides an aircraft valuation formula to determine the value of such flights. The value of a flight is determined under the base aircraft valuation formula (also known as the Standard Industry Fare Level formula or SIFL) by multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple provided in section 1.61-21(g)(7) and then adding the applicable terminal charge. The SIFL cents-per-mile rates in the formula and the terminal charge are calculated by

the Department of Transportation (DOT) and are reviewed semi-annually.

According to DOT, due to the effect of the COVID-19 pandemic, airline industry capacity (as measured by airline seat miles) was reduced faster than airline industry expenses were reduced. Generally, the SIFL rate is the result of airline industry expenses divided by airline seat miles. Because airline seat miles were reduced faster than airline industry expenses, the SIFL rate for the 6-month Tax Period Effective 1/1/2021 increased substantially.

Furthermore, in March 2020, the Coronavirus Aid, Relief, and Economic Security Act was enacted, directing the Treasury Department to allot up to \$25 billion for domestic carriers to cover payroll expenses via grants and promissory notes, known as the Payroll Support Program (PSP). The PSP grants and PSP promissory notes offset airline industry expenses.

Accordingly, DOT provided two alternatives to incorporate differing levels of the PSP into the SIFL rate calculations to both account for the PSP in the rate calculations and to mitigate the pandemic impact on the SIFL rate. One calculation adjusts the SIFL rates to account for PSP grants only while the other calculation adjusts the SIFL rates to account for both the PSP grants and PSP promissory notes.

This revenue ruling contains these three SIFL rates: (1) the Unadjusted SIFL Rate, (2) the SIFL Rate Adjusted for PSP Grants, and (3) the SIFL Rate Adjusted for PSP Grants and Promissory Notes. Taxpayers may use any of the three rates when determining the value on noncommercial flights of employer-provided aircraft under section 1.61-21(g).

The following charts set forth the terminal charges and SIFL mileage rates:

<i>Period During Which the Flight Is Taken</i>	<i>Terminal Charge</i>	<i>SIFL Mileage Rates</i>
<i>Unadjusted SIFL Rate</i>		
1/1/22 - 6/30/22	\$44.98	Up to 500 miles = \$.2460 per mile  501-1500 miles = \$.1876 per mile  Over 1500 miles = \$.1803 per mile
<i>SIFL Rate Adjusted for PSP Grants</i>		
1/1/22 - 6/30/22	\$33.88	Up to 500 miles = \$.1853 per mile  501-1500 miles = \$.1413 per mile  Over 1500 miles = \$.1359 per mile
<i>SIFL Rate Adjusted for PSP Grants and Promissory Notes</i>		
1/1/22 - 6/30/22	\$29.45	Up to 500 miles = \$.1611 per mile  501-1500 miles = \$.1228 per mile  Over 1500 miles = \$.1181 per mile

DRAFTING INFORMATION

The principal author of this revenue ruling is Kathleen Edmondson of the Office

of Associate Chief Counsel (Employee Benefits, Exempt Organizations and Employment Taxes). For further information regarding this revenue ruling, contact Ms.

Edmondson at (202) 317-6798 (not a toll-free number).

# Part III

## 2022 Calendar Year Resident Population Figures

### Notice 2022-12

This notice advises State and local housing credit agencies that allocate low-income housing tax credits under § 42 of the Internal Revenue Code, and States and other issuers of tax-exempt private activity bonds under § 141, of the population figures to use in calculating: (1) the 2022 calendar year population-based component of the State housing credit ceiling (Credit Ceiling) under § 42(h)(3)(C)(ii); (2) the 2022 calendar year volume cap (Volume Cap) under § 146; and (3) the 2022 volume limit (Volume Limit) under § 142(k)(5).

Generally, the population-based component of both the Credit Ceiling and

the Volume Cap are determined under § 146(j), which requires determining the population figures for any calendar year on the basis of the most recent census estimate of the resident population of a State (or issuing authority) released by the U.S. Census Bureau before the beginning of the calendar year. Similarly, § 142(k)(5) bases the Volume Limit on the State population.

Sections 42(h)(3)(H) and 146(d)(2) require adjusting for inflation the population-based component of the Credit Ceiling and the Volume Cap. The Credit Ceiling adjustment for the 2022 calendar year is in Rev. Proc. 2021-45, 2021-48 I.R.B 764. Section 3.09 of Rev. Proc. 2021-45 provides that, for calendar year 2022, the amount for calculating the Credit Ceiling under § 42(h)(3)(C)(ii) is the greater of \$2.60 multiplied by the State population, or \$2,975,000. Further, section 3.20 of Rev. Proc. 2021-45 provides that the amount for calculating the Volume Cap

under § 146(d)(1) for calendar year 2022 is the greater of \$110 multiplied by the State population, or \$335,115,000.

For the 50 states, the District of Columbia, and Puerto Rico, the population figures for calculating the Credit Ceiling, the Volume Cap, and the Volume Limit for the 2022 calendar year are the resident population estimates released electronically by the U.S. Census Bureau on December 21, 2021, and described in Press Release CB21-208. For American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands, the population figures for the 2022 calendar year are the 2021 midyear population figures in the U.S. Census Bureau's International Data Base (IDB). The U.S. Census Bureau electronically announced an update of the IDB on December 21, 2021, in Press Release CB21-TPS.148.

For convenience, these figures are reprinted below.

#### *Resident Population Figures*

Alabama	5,039,877
Alaska	732,673
American Samoa	46,366
Arizona	7,276,316
Arkansas	3,025,891
California	39,237,836
Colorado	5,812,069
Connecticut	3,605,597
Delaware	1,003,384
District of Columbia	670,050
Florida	21,781,128
Georgia	10,799,566
Guam	168,801
Hawaii	1,441,553
Idaho	1,900,923
Illinois	12,671,469
Indiana	6,805,985
Iowa	3,193,079
Kansas	2,934,582
Kentucky	4,509,394
Louisiana	4,624,047
Maine	1,372,247
Maryland	6,165,129
Massachusetts	6,984,723
Michigan	10,050,811
Minnesota	5,707,390
Mississippi	2,949,965
Missouri	6,168,187
Montana	1,104,271

*Resident Population Figures*

Nebraska	1,963,692
Nevada	3,143,991
New Hampshire	1,388,992
New Jersey	9,267,130
New Mexico	2,115,877
New York	19,835,913
North Carolina	10,551,162
North Dakota	774,948
Northern Mariana Islands	51,659
Ohio	11,780,017
Oklahoma	3,986,639
Oregon	4,246,155
Pennsylvania	12,964,056
Puerto Rico	3,263,584
Rhode Island	1,095,610
South Carolina	5,190,705
South Dakota	895,376
Tennessee	6,975,218
Texas	29,527,941
Utah	3,337,975
Vermont	645,570
Virginia	8,642,274
Virgin Islands, U.S.	105,870
Washington	7,738,692
West Virginia	1,782,959
Wisconsin	5,895,908
Wyoming	578,803

The principal authors of this notice are Michael J. Torruella Costa, Office of the Associate Chief Counsel (Passthroughs and Special Industries), and Lewis Bell, Office of the Associate Chief Counsel (Financial Institutions and Products). For further information regarding this notice, please contact Mr. Torruella Costa at (202) 317-4137 (not a toll-free number).

# Definition of Terms

*Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:*

*Amplified* describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

*Clarified* is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

*Distinguished* describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

*Modified* is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

*Obsoleted* describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

*Revoked* describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

*Superseded* describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

*Supplemented* is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

*Suspended* is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

## Abbreviations

*The following abbreviations in current use and formerly used will appear in material published in the Bulletin.*

A—Individual.  
Acq.—Acquiescence.  
B—Individual.  
BE—Beneficiary.  
BK—Bank.  
B.T.A.—Board of Tax Appeals.  
C—Individual.  
C.B.—Cumulative Bulletin.  
CFR—Code of Federal Regulations.  
CI—City.  
COOP—Cooperative.  
Ct.D.—Court Decision.  
CY—County.  
D—Decedent.  
DC—Dummy Corporation.  
DE—Donee.  
Del. Order—Delegation Order.  
DISC—Domestic International Sales Corporation.  
DR—Donor.  
E—Estate.  
EE—Employee.  
E.O.—Executive Order.  
ER—Employer.

ERISA—Employee Retirement Income Security Act.  
EX—Executor.  
F—Fiduciary.  
FC—Foreign Country.  
FICA—Federal Insurance Contributions Act.  
FISC—Foreign International Sales Company.  
FPH—Foreign Personal Holding Company.  
FR—Federal Register.  
FUTA—Federal Unemployment Tax Act.  
FX—Foreign corporation.  
G.C.M.—Chief Counsel's Memorandum.  
GE—Grantee.  
GP—General Partner.  
GR—Grantor.  
IC—Insurance Company.  
I.R.B.—Internal Revenue Bulletin.  
LE—Lessee.  
LP—Limited Partner.  
LR—Lessor.  
M—Minor.  
Nonacq.—Nonacquiescence.  
O—Organization.  
P—Parent Corporation.  
PHC—Personal Holding Company.  
PO—Possession of the U.S.  
PR—Partner.  
PRS—Partnership.

PTE—Prohibited Transaction Exemption.  
Pub. L.—Public Law.  
REIT—Real Estate Investment Trust.  
Rev. Proc.—Revenue Procedure.  
Rev. Rul.—Revenue Ruling.  
S—Subsidiary.  
S.P.R.—Statement of Procedural Rules.  
Stat.—Statutes at Large.  
T—Target Corporation.  
T.C.—Tax Court.  
T.D.—Treasury Decision.  
TFE—Transferee.  
TFR—Transferor.  
T.I.R.—Technical Information Release.  
TP—Taxpayer.  
TR—Trust.  
TT—Trustee.  
U.S.C.—United States Code.  
X—Corporation.  
Y—Corporation.  
Z—Corporation.

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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2020–27 through 2020–52 is in Internal Revenue Bulletin 2020–52, dated December 27, 2021.

## **Finding List of Current Actions on Previously Published Items<sup>1</sup>**

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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2020–27 through 2020–52 is in Internal Revenue Bulletin 2020–52, dated December 27, 2021.

# **Internal Revenue Service**

## **Washington, DC 20224**

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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/](http://www.irs.gov/irb/).

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## **We Welcome Comments About the Internal Revenue Bulletin**

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page ([www.irs.gov](http://www.irs.gov)) or write to the Internal Revenue Service, Publishing Division, IRB Publishing Program Desk, 1111 Constitution Ave. NW, IR-6230 Washington, DC 20224.