

on the basis of career average compensation. As another example, a defined benefit plan that bases benefits on highest average compensation and that is amended to add a statutory hybrid benefit formula (as defined in §1.411(a)(13)–1(d)(3)) that provides for pay credits to be made based on each year's compensation is eligible for this separate testing exception if the plan provides that one or more participants are entitled to the greater of the benefit determined under the statutory hybrid benefit formula and the benefit determined under the original formula.

(3) *Plans with three or more formulas.* If a plan determines a participant's benefits as the greatest of the benefits determined under three or more separate formulas, but two or more of the formulas use the same basis for determining benefits, then the plan may nonetheless apply paragraphs (b)(2)(ii)(G)(I) and (2) of this section by aggregating all benefit formulas that have the same basis and treating those aggregated formulas as a single formula for purposes of paragraphs (b)(2)(ii)(G)(I) and (2) of this section.

(4) *Anti-abuse rule.* A plan is not eligible for separate testing under this paragraph (b)(2)(ii)(G) if the Commissioner determines that the plan's use of separate formulas with different bases is structured to evade the requirement to aggregate formulas under paragraph (a)(1) of this section (for example, if the differences between the bases of the separate formulas are minor).

(5) *Effective/applicability date.* This paragraph (b)(2)(ii)(G) is applicable for plan years beginning on or after January 1, 2009.

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

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

Announcement 2008–69

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

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on August 11, 2008, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Homes for All, Inc.
Fort Myers, FL
H & H Housing, Inc.
Los Angeles, CA
Family Home Providers, Inc.
Cumming, GA

Miller County New Vision Coalition, Inc.
Colquitt, GA
Buyer's Dream Fund
Cleveland Heights, OH
American Bowling Congress
Wyoming, MI
Accelerated Trust, Inc.
Boca Raton, FL
National Home Charities, Inc.
Westminster, CO
Independent Group, Inc.
Covington, KY
Shepherd Hills Development Corporation
Las Vegas, NV

Foundations Status of Certain Organizations

Announcement 2008–70

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

Former Public Charities. The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations.

Adonai Christian Ministries, Inc.,
Norfolk, VA
Advance Humanity Aide AHA,
McClellanville, SC
Almarie King Education Fund,
Port Orchard, WA
Alpha and Omega Church Alpha
and Omega Immanuel NFP-Inc.,
Chicago, IL
Alvarado Project, San Francisco, CA
American Cowboy Association, Inc.,
Longwood, FL
American Indian Community History
Center, Kensington, CA
Americare Community Services, Inc.,
Richmond, WA