

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 2000-23, page 964.

Federal rates; adjusted federal rates; adjusted federal long-term rate, and the long-term exempt rate. For purposes of sections 1274, 1288, 382, and other sections of the Code, tables set forth the rates for May 2000.

Rev. Rul. 2000-24, page 963.

Medical expenses. Amounts paid by an individual for expenses of admission and transportation to a medical conference relating to the chronic disease of the individual's dependent are deductible as medical expenses under section 213 of the Code (subject to the limitations of that section), if the costs are primarily for and essential to the medical care of the dependent. The cost of meals and lodging while attending the conference are not deductible as medical expenses under Code section 213.

EMPLOYMENT TAX

Notice 2000-21, page 967.

This notice sets forth the requirements employers must meet and the procedures for obtaining approval of employer-designed tip reporting alternative commitment (EmTRAC) programs for the food and beverage industry. This notice also solicits comments on the EmTRAC program. Comments must be received by July 7, 2000.

Announcement 2000-19, page 973.

Public comments are requested on the proposed tip reporting alternative commitment (TRAC) agreement for use in industries other than the food and beverage industry and the cosmetology and barber industry, where employees receive both cash and charged tips. Comments must be received by July 7, 2000.

Announcement 2000-20, page 977.

Public comments are requested on the proposed tip rate determination agreement (TRDA) for use in industries other than food and beverage industry and the gaming industry. Comments must be received by July 7, 2000.

Announcement 2000-21, page 983.

Public comments are requested on the proposed revision of the tip reporting alternative commitment (TRAC) agreement used in the cosmetology and barber industry. Comments must be received by July 7, 2000.

Announcement 2000-22, page 987.

Public comments are requested on the proposed revision of the tip reporting alternative commitment (TRAC) agreement used in the food and beverage industry. Comments must be received by July 7, 2000.

Announcement 2000-23, page 992.

Public comments are requested on the proposed revision of the tip rate determination agreement (TRDA) used in the food and beverage industry. Comments must be received by July 7, 2000.

(Continued on the next page)

Actions Relating to Court Decisions is on the page following the Introduction.

Finding Lists begin on page ii.

Announcements of Disbarments and Suspensions begin on page 998.



ADMINISTRATIVE

Rev. Proc. 2000-21, page 971.

Qualified mortgage bonds; mortgage credit certificates; national median gross income. Guidance is provided concerning the use of the national and area median gross income figures by issuers of qualified mortgage bonds and mortgage credit certificates in determining the housing cost/income ratio described in section 143(f) of the Code. Rev. Proc. 99-22 is obsolete except as provided in section 5.02 of this revenue procedure.

Announcement 2000-46, page 997.

Notice of call for redemption: 8 1/4 percent Treasury Bonds of 2000-5. Treasury bonds dated May 15, 1975, and due on May 15, 2005, are called for redemption at par on May 15, 2000, on which date interest on these bonds will cease.

Announcement 2000-49, page 998.

This announcement informs the public of a delay in finalizing proposed regulations (REG-104939-99, 1999-49, I.R.B. 643) under section 6212(b) of the Code regarding a taxpayer's last known address published in the Federal Register (64 FR 63768) on November 22, 1999. The regulations were proposed to be effective May 1, 2000, but will not be effective until all necessary steps are taken to implement the regulations.

Announcement 2000-50, page 998.

This announcement contains the section pertaining to the Paperwork Reduction Act which was omitted from Revenue Procedure 2000-12 (2000-4 I.R.B. 387).

The IRS Mission

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

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

Introduction

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

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and proce-

dures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the first Bulletin of the succeeding semiannual period, respectively.

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.

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Actions Relating to Decisions of the Tax Court

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 ac-

quiescence 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 Actions on Decisions published in the weekly Internal Revenue Bulletin are consolidated semiannually and appear in the first Bulletin for July and the Cumulative Bulletin for the first half of the year. A semiannual consolidation also appears in the first Bulletin for the following January and in the Cumulative Bulletin for the last half of the year.

The Commissioner NONACQUIESCES in the following decision:

Estate of Smith v. Commissioner,¹
198 F.3d 515 (5th Cir. 1999), rev’g,
108 T.C. 412 (1997)

¹ Nonacquiescence relating to whether post-death events should be considered in determining the amount deductible under Internal Revenue Code section 2053(a)(3) for claims against the estate that are contingent or contested at the date of death.

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

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000–23, page 964.

Section 213.—Medical, Dental, etc., Expenses

26 CFR 1.213-1: *Medical, dental, etc., expenses.* (Also § 262; 1.262-1.)

Medical expenses. Amounts paid by an individual for expenses of admission and transportation to a medical conference relating to the chronic disease of the individual's dependent are deductible as medical expenses under section 213 of the Code (subject to the limitations of that section), if the costs are primarily for and essential to the medical care of the dependent. The cost of meals and lodging while attending the conference are not deductible as medical expenses under section 213.

Rev. Rul. 2000-24

ISSUE

Are amounts paid by an individual for expenses (including transportation costs, registration fee, meals and lodging) of attending a medical conference relating to the chronic disease of the individual's dependent deductible as medical expenses under § 213 of the Internal Revenue Code?

FACTS

Taxpayer *A* resides in City *X* and is the parent of *B*, who is *A*'s dependent. *B* suffers from a chronic disease and is being treated by physician *C*.

At *C*'s recommendation and for the purpose of obtaining medical information that may be useful in making decisions concerning *B*'s treatment or in providing care to *B*, *A* travels to City *Y* to attend a conference sponsored by an association that supports research and education concerning the disease. The conference is attended by medical practitioners and individuals with the disease and their families. *A* spends the majority of *A*'s

time at the conference attending sessions that disseminate medical information concerning *B*'s disease. Other sessions at the conference involve presentations or discussions on legal issues, family finances, and other matters commonly arising in families in which a member has the disease. While in City *Y*, *A*'s social and recreational activities outside of the conference are secondary to *A*'s attendance at the conference.

A pays the following expenses in connection with the conference: transportation to City *Y*, local transportation to the conference site, a registration fee, meals while attending the conference, and lodging at a hotel while attending the conference.

LAW AND ANALYSIS

Section 213(a) allows a deduction for uncompensated expenses for medical care of an individual, the individual's spouse, or a dependent, to the extent the expenses exceed 7.5 percent of adjusted gross income. Section 213(d)(1) provides that medical care means amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body.

Section 1.213-1(e)(1)(ii) of the Income Tax Regulations provides, in part, that the deduction for medical care expenses will be confined strictly to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness. Whether an expenditure is "primarily for" medical care is a question of fact. An expense that is merely beneficial to the general health of an individual is not an expense for medical care.

Section 213(d)(1)(B) provides that "medical care" also includes transportation that is "primarily for and essential to" medical care referred to in § 213(d)(1)(A). A taxpayer who, for purely personal reasons, travels to another locality to obtain an operation or other medical care prescribed by a doctor may not deduct the costs of transportation under § 213. Section 1.213-1(e)(1)(iv).

Section 213(d)(2) provides that the cost of lodging (up to \$50 per night) while away from home that is primarily for and

essential to medical care (as defined in § 213(d)(1)(A)) is an amount paid for medical care if (A) the medical care is provided by a physician in a licensed hospital or a related or equivalent facility, and (B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

Meal expenses are not deductible as expenses for medical care unless they are provided at a hospital or similar institution at which the taxpayer, the taxpayer's spouse, or dependent is receiving medical care. Section 1.213-1(e)(1)(iv) and (v).

Section 262 provides that, except as otherwise expressly provided by the Code, no deduction is allowed for personal, living, or family expenses.

In Rev. Rul. 58-533, 1958-2 C.B. 108, the parents of a child who lives away from home at a psychiatric center incur transportation costs to visit the child at regular intervals on the advice of the child's doctors and as an essential part of the child's therapy. The ruling holds that the transportation costs are primarily for and essential to medical care and are deductible under § 213.

By contrast, Rev. Rul. 76-79, 1976-1 C.B. 70, holds that a deduction under § 213 is not allowed for transportation costs incurred by an individual to take a cruise (upon the recommendation of a physician) on which a group of doctors provide both instructional seminars relating to the individual's medical condition and certain medical services. The seminars are for the preservation of the individual's general health only and the medical services are available in the individual's home town. The ruling holds that the transportation costs are not primarily for and essential to medical care.

In the present case, *A* travels to the conference in City *Y* on the recommendation of *C*, the physician treating *A*'s child *B*, to obtain medical information that may be useful in making decisions concerning *B*'s treatment or in providing care to *B*. *A* spends the majority of *A*'s time at the conference attending sessions that disseminate medical information concerning *B*'s disease. While in City *Y*, *A*'s social and recreational activities outside of the conference are secondary to *A*'s attendance at the conference. Under these facts, the

registration fee paid by A to attend the conference is primarily for medical care, and A's travel is primarily for and essential to medical care. Accordingly, A may deduct the registration fee and transportation expenses under § 213 (subject to the limitations of that section). A may not deduct the cost of meals and lodging while attending the conference because neither A, A's spouse, nor a dependent is receiving medical care from a physician at a licensed hospital or similar institution. See §§ 213(d)(2) and 1.213-1(e)(1)(iv). The result would be the same if A, and not A's dependent, was the individual with the disease.

HOLDING

Amounts paid by an individual for expenses of admission and transportation to a medical conference relating to the chronic disease of the individual's dependent are deductible as medical expenses under § 213 (subject to the limitations of that section), if the costs are primarily for and essential to the medical care of the dependent. The cost of meals and lodging while attending the conference are not deductible as medical expenses under § 213.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 76-79 is distinguished.

DRAFTING INFORMATION

The principal author of this revenue ruling is Donna M. Crisalli of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Ms. Crisalli on (202) 622-4920 (not a toll-free call).

Section 262.—Personal, Living, and Family Expenses

26 CFR 1.262-1: Personal, living, and family expenses.

Are amounts paid by an individual for expenses (including transportation costs, registration fee, meals and lodging) of attending a medical conference relating to the chronic disease of the individual's dependent deductible as medical expenses under section 213 of the Code. See Rev. Rul. 2000-24, page 963.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-in Losses Following Ownership Change

The adjusted applicable federal long-term rate is set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 467.—Certain Payments for the Use of Property or Services

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, on this page.

Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.)

Federal rates; adjusted federal rates; adjusted federal long-term rate, and the long-term exempt rate. For purposes of sections 1274, 1288, 382, and other sections of the Code, tables set forth the rates for May 2000.

Rev. Rul. 2000-23

This revenue ruling provides various prescribed rates for federal income tax purposes for May 2000 (the current month.) Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(2) for buildings placed in service during the current month. Finally, Table 5 contains the federal rate for deter-

mining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2000-23 TABLE 1				
Applicable Federal Rates (AFR) for May 2000				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-Term</i>				
AFR	6.42%	6.32%	6.27%	6.24%
110% AFR	7.07%	6.95%	6.89%	6.85%
120% AFR	7.72%	7.58%	7.51%	7.46%
130% AFR	8.39%	8.22%	8.14%	8.08%
<i>Mid-Term</i>				
AFR	6.40%	6.30%	6.25%	6.22%
110% AFR	7.05%	6.93%	6.87%	6.83%
120% AFR	7.70%	7.56%	7.49%	7.44%
130% AFR	8.36%	8.19%	8.11%	8.05%
150% AFR	9.67%	9.45%	9.34%	9.27%
175% AFR	11.33%	11.03%	10.88%	10.78%
<i>Long-Term</i>				
AFR	6.20%	6.11%	6.06%	6.03%
110% AFR	6.83%	6.72%	6.66%	6.63%
120% AFR	7.46%	7.33%	7.26%	7.22%
130% AFR	8.10%	7.94%	7.86%	7.81%

REV. RUL. 2000-23 TABLE 2				
Adjusted AFR for May 2000				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
adjusted AFR	4.34%	4.29%	4.27%	4.25%
<i>Mid-term</i>				
adjusted AFR	4.91%	4.85%	4.82%	4.80%
<i>Long-term</i>				
adjusted AFR	5.57%	5.49%	5.45%	5.43%

REV. RUL. 2000-23 TABLE 3	
Rates Under Section 382 for May 2000	
Adjusted federal long-term rate for the current month	5.57%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	5.84%

REV. RUL. 2000-23 TABLE 4	
Appropriate Percentages Under Section 42(b)(2) for May 2000	
Appropriate percentage for the 70% present value low-income housing credit	8.48%
Appropriate percentage for the 30% present value low-income housing credit	3.63%

REV. RUL. 2000-23 TABLE 5
Rate Under Section 7520 for May 2000

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest

7.8%

Section 1288.—Treatment of Original Issue Discounts on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, page 964.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, page 964.

Section 7872.—Treatment of Loans with Below-Market Interest Rates

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2000. See Rev. Rul. 2000-23, page 964.

Part III. Administrative, Procedural, and Miscellaneous

Employer-designed Tip Reporting Program for the Food and Beverage Industry

Notice 2000-21

I. BACKGROUND

In 1993, the Internal Revenue Service introduced its Tip Rate Determination/Education Program (TRD/EP), which is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary advance agreements instead of traditional audit techniques. The TRD/EP was developed as a means of enhancing tax compliance while reducing taxpayer burden. In essence, the TRD/EP envisions that the Service and taxpayers in industries in which tipping is common will work together to improve tax compliance.

The TRD/EP currently offers employers the opportunity of entering into one of two types of agreements. The Tip Rate Determination Agreement (TRDA) requires the determination of tip rates; the Tip Reporting Alternative Commitment (TRAC) agreement emphasizes education and tip reporting procedures. The agreements also set forth an understanding that both the employer and employees who comply with the terms of the agreement will not be subject to challenge by the Service. The decision to enter into either a TRDA or a TRAC agreement is entirely voluntary on the part of the employer.

TRDAs are currently in use in the food and beverage industry and the gaming industry. TRAC agreements are currently in use in the food and beverage industry and the hairstyling industry. The Service expects to begin making these agreements available to other industries during 2000.

Taxpayers in the food and beverage industry have expressed interest in designing their own TRAC programs. This notice sets forth the requirements employers must meet and the procedures for obtaining approval of their individual programs. Because the basic premise of the employer-designed program is similar to the TRAC program, the employer-designed program is designated the EmTRAC program. The Service believes that employers that have already developed their own

educational programs and tip reporting procedures will find that the EmTRAC program meets their needs.

II. EmTRAC PROGRAM

The EmTRAC program is available only to employers in the food and beverage industry that have employees who receive both cash and charged tips. The employer may have one place of business or many places of business. For purposes of the program, each place of business is called an establishment. If an employer has more than one establishment, it can choose which establishments to include in its EmTRAC program.

The EmTRAC program retains many of the provisions in the TRAC agreements. The employer must establish an educational program that trains employees that the law requires them to report all their cash and charged tips to their employer. Education must be furnished for newly hired employees and quarterly for existing employees.

The employer must establish tip reporting procedures, under which a written or electronic statement is prepared and processed on a regular basis (no less frequently than monthly), reflecting all tips for services attributable to each employee.

The employer has considerable latitude in designing its educational program and tip reporting procedures and may combine them. For example, a point-of-sale tip reporting system would meet both of these requirements, because the employee is prompted of the tip reporting requirement at the end of each sale and because the reporting occurs at the end of each sale.

The employer must agree—

1. to comply with the requirements for filing all required federal tax returns and paying and depositing all federal taxes;

2. to maintain the following records for at least 4 years after the April 15 following the calendar year to which the records relate:

- a. gross receipts subject to tipping, and

- b. charge receipts showing charged tips; and

3. upon the request of the Service, to make the following quarterly totals avail-

able, by establishment, for statistical samplings of its establishments:

- a. Gross receipts subject to tipping,

- b. Charge receipts showing charged tips,

- c. Total charged tips, and

- d. Total tips reported.

The Service agrees—

1. not to initiate any tip examinations of the employer or an establishment included in the EmTRAC for any period for which the EmTRAC program is in effect;

2. to base any section 3121(q) notice and demand issued to the employer or an establishment included in the EmTRAC and relating to any period during which the EmTRAC program is in effect solely on amounts reflected on—

- a. Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, filed by an Employee with his or her Form 1040, or

- b. Form 885-T, *Adjustment of Social Security Tax on Tip Income Not Reported to Employer*, prepared at the conclusion of an employee tip examination; and

3. not to evaluate the employer for compliance with the provisions of its EmTRAC program for the first two calendar quarters for which the EmTRAC program is effective.

Both parties agree that, for purposes of the EmTRAC program, a compliance review is not treated as an examination or an inspection of books of account or records, and an inspection of books of account or records pursuant to a tip examination is not an inspection of books or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

The effective date of an EmTRAC program is the first day of the quarter beginning on or after the date the Service signs an approval letter.

An employer may at any time terminate its EmTRAC program either completely or with respect to one or more establishments. The Service may terminate its approval only if—

1. the Service determines that the employer has failed to comply with the required provisions; or

2. the Service pursues an administrative or judicial action relating to the employer, an establishment included in the EmTRAC, or any other related party to the employer's EmTRAC program.

Any termination is effective the first day of the first calendar quarter after the terminating party notifies the other party in writing.

III. PROCEDURES FOR REQUESTING APPROVAL

The employer must request approval of its EmTRAC program. For this purpose, the Service has developed a pro forma letter that employers must use to request approval of their EmTRAC program. The letter requests approval of the employer's EmTRAC program and states that the employer will comply with the provisions set forth in the letter (and also set forth in section II above).

A copy of the approval request letter is attached to this notice. It can be obtained by mail by contacting the tips coordinator in any local IRS office or by calling (202 622-4177 (not a toll-free call).

The completed approval request letter and a copy of the employer's EmTRAC program should be sent to:

Internal Revenue Service
OP:EX:ST:ET Room 2404
Attn: EmTRAC Coordinator
1111 Constitution Avenue, NW
Washington, DC 20224

IV. PROCEDURES FOR APPROVING REQUESTS

After it receives the approval request letter, the Service will review the employer's program. If the program meets the necessary requirements, the Service will send the employer an approval letter, a copy of which is attached to this notice. The approval letter will specify the effective date of the employer's EmTRAC program.

If the IRS determines that the employer's EmTRAC program fails to meet all the requirements, the IRS will contact the employer and offer assistance in

working out a program that will meet both the employer's needs and the IRS's requirements.

V. MISCELLANEOUS

Upon request to the local tips coordinator or the EmTRAC Coordinator, the Service will assist any employer in establishing, maintaining, or improving its educational program or tip reporting procedures.

The Commissioner of Internal Revenue may terminate all EmTRAC programs at any time following a significant statutory change in the FICA taxation of tips. After May 31, 2005, the Commissioner may terminate prospectively the Tip Rate Determination/Education Program and all EmTRAC programs.

VI. PAPERWORK REDUCTION ACT

The collections of information contained in this notice will be submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number. The collections of information in this document are in sections II and III. This information is required to comply with sections 6053(a) and 6001 of the Internal Revenue Code and to assist the Internal Revenue Service in its compliance efforts. This information will be used to monitor the Employer's performance under its EmTRAC program. The collections of information are required to obtain the benefits available under the EmTRAC program. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 870 hours.

The estimated annual burden per respondent/recordkeeper varies from 8 hours to 44 hours, depending on individual circumstances, with an estimated average of 13

hours. The estimated number of respondents and/or recordkeepers is 20.

The estimated annual frequency of responses (used for reporting requirements only) is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

VII. COMMENTS

The IRS invites interested persons to comment on the EmTRAC program. In particular, the Service requests comments from the industry regarding whether electronic tip reporting systems, other than the point-of-sale system, would also meet the educational requirement.

Written comments must be received by July 7, 2000. Send submissions to Office of Specialty Taxes, c/o CC:DOM:CORP:R (Notice 2000-21), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: Specialty Taxes, c/o CC:DOM:CORP:R (Notice 2000-21), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax_regs/regslst.html.

DRAFTING INFORMATION

The principal author of this notice is Karin Loverud of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this announcement, contact Ida Volz of the Office of Specialty Taxes on (202) 622-4177 (not a toll-free call).

Letter — Request for EmTRAC approval

Tip Coordinator
Internal Revenue Service

Re: Request for EmTRAC Approval

Dear Internal Revenue Service:

Pursuant to the Employer Tip Reporting Alternative Commitment Program (EmTRAC), I request your approval of the enclosed program for _____ (name of business).

In accordance with Notice 2000-21, 2000-19 I.R.B. , if you approve this program, _____ (name of business) agrees to:

- (1) comply with the requirements for filing all required federal tax returns and paying and depositing all federal taxes;
- (2) maintain the following records for at least 4 years after the April 15 following the calendar year to which the records relate:
 - a. gross receipts subject to tipping, and
 - b. charge receipts showing charged tips;
- (3) upon your request, make the following quarterly totals available, by establishment, for statistical samplings:
 - a. gross receipts subject to tipping,
 - b. charge receipts showing charged tips,
 - c. total charged tips, and
 - d. total tips reported;
- (4) operate its EmTRAC program as indicated in the program documents attached to this letter; and
- (5) comply with the terms of your approval described in Notice 2000-21.

Also in accordance with Notice 2000-21, _____ (name of business) agrees that a compliance review will not be treated as an examination or an inspection of its books of account or records and that your inspection of books of account or records pursuant to a tip examination is not an inspection of books or records for purposes of section 7605(b) of the Internal Revenue Code, and will not be treated as a prior audit for purposes of section 530 of the Revenue Act of 1978.

All correspondence pertaining to this EmTRAC program (including a notice of termination) should be sent to the address indicated below, unless we notify you in writing of a change of address. _____ (name of business) will send correspondence to you in the manner indicated in your approval letter. All correspondence is effective on the date of the postmark stamped on the envelope or, in the case of a notice sent by certified mail, on the sender's receipt.

I represent that I have the authority to agree to these terms on behalf of _____ (name of business).

If you have any questions, please contact _____ at _____ (telephone number) or _____ (e-mail address).

Name of Business

\s\ _____

By: _____

Title: _____

Date: _____

Enclosure: EmTRAC program documents

Letter – EmTRAC approval

Internal Revenue Service
Service Representative

Department of the Treasury

Person to Contact:
Identification Number:
Contact Telephone Number:

Re: EmTRAC Approval

Dear _____ (Taxpayer):

Thank you for your letter of _____ requesting our approval of your EmTRAC program and containing your agreements with respect to that program. We are pleased to inform you that your EmTRAC Program meets the requirements of Notice 2000-21.

Accordingly, we agree as follows:

Your EmTRAC program will be effective on _____ [insert the first day of the quarter beginning on or after the date the Service signs the letter]. The Service agrees not to initiate any new tip examinations of you or any of the establishments included in your letter for any period during which your EmTRAC program is in effect.

Any section 3121(q) notice and demand that we issue to you (or an establishment) relating to any period during which your EmTRAC program is in effect will be based solely on amounts reflected on Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, filed by an employee with his or her Form 1040, or Form 885-T, *Adjustment of Social Security Tax on Tip Income Not Reported to Employer*, prepared at the conclusion of an employee tip examination.

The Service will not evaluate your EmTRAC program for compliance until _____ [insert the first day of the second calendar quarter following the date on which the EmTRAC program becomes effective]. The Service may, however, review your progress in implementing your EmTRAC program before then.

Your EmTRAC program will remain in effect until you terminate it or the Service terminates it approval. If you no longer wish your EmTRAC program to apply to one or more of your establishments, you may terminate the program with respect to any establishment(s) by identifying the establishment(s) in writing to the Service Representative described below. If you want to completely terminate your EmTRAC program, please say that in your letter to the Service Representative.

The Service may terminate its approval only (1) if you fail to comply with your agreements described in your letter, (2) if the Service pursues an administrative or judicial action relating to you, an establishment, or any other related party to your EmTRAC program, (3) following a significant statutory change in the FICA taxation of tips, or (4) after May 31, 2005.

Any termination will be effective the first day of the first calendar quarter after the terminating party notifies the other party in writing, unless you (or an establishment) fail to comply with your agreements. In that case, the Service may terminate your EmTRAC program effective as of the first day of the quarter in which you ceased to comply.

Please send all correspondence relating to your EmTRAC program to _____ (name and address), unless we notify you in writing otherwise.

If you have any questions regarding this agreement, please contact _____ (ID _____) at _____ (telephone number) or _____ (e-mail address).

Thank you for your participation in the program.

INTERNAL REVENUE SERVICE

By: _____

ID: _____

Date: _____

Rev. Proc. 2000-21

SECTION 1. PURPOSE

This revenue procedure provides guidance concerning the United States and area median gross income figures that are to be used by issuers of qualified mortgage bonds, as defined in § 143(a) of the Internal Revenue Code, and issuers of mortgage credit certificates, as defined in § 25(c), in computing the housing cost/income ratio described in § 143(f)(5).

SECTION 2. BACKGROUND

.01 Section 103(a) provides that, except as provided in § 103(b), gross income does not include interest on any state or local bond. Section 103(b)(1) provides that § 103(a) shall not apply to any private activity bond that is not a “qualified bond” within the meaning of § 141. Section 141(e) provides that the term “qualified bond” includes any private activity bond that (1) is a qualified mortgage bond, (2) meets the volume cap requirements under § 146, and (3) meets the applicable requirements under § 147.

.02 Section 143(a)(1) provides that the term “qualified mortgage bond” means a bond that is issued as part of a “qualified mortgage issue”. Section 143(a)(2)(A) provides that the term “qualified mortgage issue” means an issue of one or more bonds by a state or political subdivision thereof, but only if (i) all proceeds of the issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences; (ii) the issue meets the requirements of subsections (c),(d),(e),(f),(g),(h),(i), and (m)(7) of § 143; (iii) the issue does not meet the private business tests of paragraphs (1) and (2) of § 141(b); and (iv) with respect to amounts received more than 10 years after the date of issuance, repayments of \$250,000 or more of principal on financing provided by the issue are used not later than the close of the first semi-annual period beginning after the date the prepayment (or complete repayment) is received to redeem bonds that are part of the issue.

.03 Section 143(f) imposes eligibility requirements concerning the maximum in-

come of mortgagors for whom financing may be provided by qualified mortgage bonds. Section 25(c)(2)(A)(iii)(IV) provides that recipients of mortgage credit certificates must meet the income requirements of § 143(f). Generally, under §§ 143(f)(1) and 25(c)(2)(A)(iii)(IV), these income requirements are met only if all owner-financing under a qualified mortgage bond and all certified indebtedness amounts under a mortgage credit certificate program are provided to mortgagors whose family income is 115 percent or less of the applicable median family income. Under § 143(f)(6), the income limitation is reduced to 100 percent of the applicable median family income if there are fewer than three individuals in the family of the mortgagor.

.04 Section 143(f)(4) provides that the term “applicable median family income” means the greater of (A) the area median gross income for the area in which the residence is located or (B) the statewide median gross income for the state in which the residence is located.

.05 Section 143(f)(5) provides for an upward adjustment of the income limitations in certain high housing cost areas. Under § 143(f)(5)(C), a high housing cost area is a statistical area for which the housing cost/income ratio is greater than 1.2. The housing cost/income ratio is determined under § 143(f)(5)(D) by dividing (a) the applicable housing price ratio by (b) the ratio that the area median gross income bears to the median gross income for the United States. The applicable housing price ratio is the new housing price ratio (new housing average purchase price for the area divided by the new housing average purchase price for the United States) or the existing housing price ratio (existing housing average area purchase price divided by the existing housing average purchase price for the United States), whichever results in the housing cost/income ratio being closer to 1. This income adjustment applies only to bonds issued and nonissued bond amounts elected after December 31, 1988.

.06 The Department of Housing and Urban Development (HUD) has computed the median gross income for the United States, the states, and statistical areas within the states. The income information was released to the HUD regional offices on March 9, 2000, and may be obtained by

calling the HUD reference service at 1-800-245-2691. The income information is also available at HUD’s World Wide Web site, which provides a menu from which you may select the year and type of data of interest (<http://huduser.org/datasets/il.html>). The Internal Revenue Service annually publishes only the median gross income for the United States.

.07 The most recent nationwide average purchase prices and average area purchase price safe harbor limitations were published on September 6, 1994, in Rev. Proc. 94-55, 1994-2 C.B. 716.

SECTION 3. APPLICATION

.01 When computing the housing cost/income ratio under § 143(f)(5), issuers of qualified mortgage bonds and mortgage credit certificates must use \$50,200 as the median gross income for the United States. See section 2.06 of this revenue procedure.

.02 When computing the housing cost/income ratio under § 143(f)(5), issuers of qualified mortgage bonds and mortgage credit certificates must use the area median gross income figures released by HUD on March 9, 2000. See section 2.06 of this revenue procedure.

SECTION 4. EFFECT ON OTHER REVENUE PROCEDURES

.01 Rev. Proc. 99-22, 1999-15 I.R.B. 5, is obsolete except as provided in section 5.02 of this revenue procedure.

.02 This revenue procedure does not affect the effective date provisions of Rev. Rul. 86-124, 1986-2 C.B. 27. Those effective date provisions will remain operative at least until the Service publishes a new revenue ruling that conforms the approach to effective dates set forth in Rev. Rul. 86-124 to the general approach taken in this revenue procedure.

SECTION 5. EFFECTIVE DATES

.01 Issuers must use the United States and area median gross income figures specified in section 3 of this revenue procedure for commitments to provide financing that are made, or (if the purchase precedes the financing commitment) for residences that are purchased, in the period that begins on March 9, 2000, and ends on the date when these United States and area median gross income figures are

rendered obsolete by a new revenue procedure.

.02 Notwithstanding section 5.01 of this revenue procedure, issuers may continue to rely on the United States and area median gross income figures specified in Rev. Proc. 99-22 with respect to bonds originally sold and nonissued bond

amounts elected not later than June 7, 2000 if the commitments or purchases described in section 5.01 are made not later than August 7, 2000.

DRAFTING INFORMATION

The principal author of this revenue procedure is Patricia M. Monahan of the

Office of Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this revenue procedure contact Ms. Monahan at (202) 622-4431 (not a toll-free call).

Part IV. Items of General Interest

Proposed Tip Reporting Alternative Commitment (TRAC) Agreement for Use Where Tipped Employees Receive Both Cash and Charged Tips (Other Than in the Food and Beverage Industry and the Cosmetology and Barber Industry)

Announcement 2000-19

The Internal Revenue Service is expanding its Tip Rate Determination/Education Program (TRD/EP), which is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary advance agreements instead of traditional audit techniques. This announcement solicits comments on a draft agreement for use in industries other than the food and beverage industry and the cosmetology and barber industry. The agreement is entitled Tip Reporting Alternative Commitment (For use only where tipped employees receive both cash and charged tips, other than in the food and beverage industry and the cosmetology and barber industry).

OVERVIEW

The Service developed its TRD/EP in 1993 as a means of enhancing tax compliance while reducing taxpayer burden. In essence, the TRD/EP envisioned that the Service and taxpayers in industries in which tipping is common would work together to improve tax compliance. The TRD/EP currently offers employers the opportunity of entering into one of two types of agreements. The Tip Rate Determination Agreement (TRDA) requires the determination of tip rates; the Tip Reporting Alternative Commitment (TRAC) agreement emphasizes education and tip reporting procedures. The agreements also set forth an understanding that employers that comply with the terms of the agreement will not be subject to challenge

by the Service. The TRDAs set forth similar understandings with respect to employees who participate in the agreements. Although not set forth in the TRAC agreements, employees who properly report tips also will not be subject to challenge by the Service. The decision to enter into either a TRDA or a TRAC agreement is entirely voluntary on the part of the employer.

In 1995, the Service developed the TRAC agreement for use in the food and beverage industry. In 1997, the Service developed a TRAC agreement for employers in the hairstyling industry. The agreements have been both popular and effective. Other industries have expressed interest in TRAC agreements tailored to their industries. Because the number of employees who receive both cash and charged tips in industries other than the food and beverage industry and the cosmetology and barber industry is relatively small, the Service has designed a general TRAC agreement for use in other industries.

To ensure consistency in the agreements offered to taxpayers and to provide an opportunity for public comment before making agreements available for use, a TRAC agreement for use in other industries is attached to this announcement. The Service requests comments from industries that might use the agreement.

The Service plans to allow electronic systems (including point-of-sale systems) to satisfy the TRAC education requirement. The Service requests comments on what information the system must provide to employees to satisfy the education requirement.

COMMENTS

Written comments must be received by July 7, 2000. Send submissions to Office of Specialty Taxes, c/o CC:DOM:CORP:R (Announcement 2000-19), room 5226, In-

ternal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: Specialty Taxes, c/o CC:DOM:CORP:R (Ann. 2000-19), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax_regs/regslst.html.

OTHER TRDA AND TRAC AGREEMENTS

The Service is simultaneously proposing by announcement in this Internal Revenue Bulletin four other agreements: (1) a revised TRAC agreement for use in the food and beverage industry (Announcement 2000-22), (2) a revised TRAC agreement for use in the cosmetology and barber industry (Announcement 2000-21), (3) a revised TRDA for use in the food and beverage industry (Announcement 2000-23), and (4) a new TRDA for use in any industry other than the food and beverage industry and the gaming industry (Announcement 2000-20).

DRAFTING INFORMATION

The principal author of this announcement is Karin Loverud of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this announcement, contact Ida Volz of the Office of Specialty Taxes on (202) 622-4177 (not a toll-free call).

TIP REPORTING ALTERNATIVE COMMITMENT

(For use only where tipped employees receive both cash and charged tips, other than in the food and beverage industry and the cosmetology and barber industry)

between

Department of the Treasury—Internal Revenue Service

and

_____ [Name of Employer]

This Tip Reporting Alternative Commitment (TRAC) agreement is part of the Tip Rate Determination/Education Program that the Internal Revenue Service implemented in 1993 to promote tip reporting compliance by employees in accordance with the Internal Revenue Code of 1986.

Section 6053(a) of the Code requires employees to furnish one or more written statements to their employers reporting all tips received in each calendar month. The statements must be furnished to the employer by the 10th day of the following month.

I. DEFINITIONS

A. *Service Representative* means the Internal Revenue Service employee or delegate authorized to execute or terminate this TRAC agreement on behalf of the Internal Revenue Service.

B. *Employer* means _____ [insert name, address, and EIN].

C. *Establishment* means each of the establishments or divisions listed by name, address, and identifying number in Attachment A. [sample attached]

1. *One place of business*. If the Employer has one place of business, that place of business is an Establishment, and no attachment is necessary.

2. *Additional establishment*. If the Employer subsequently wishes to include an additional establishment in this TRAC agreement, the Employer must notify the Service Representative in writing. The notification must include the name, address, and identifying number of the additional establishment.

D. *Employee* means a person employed by the Establishment who directly or indirectly receives tips of at least \$20.00 per month during the course of the employee's employment.

II. COMMITMENT OF EMPLOYER

A. Education.

1. *New Employees*. The Employer will establish an educational program that trains newly hired Employees that the law requires them to report all their cash and charged tips to their employer. At a minimum, the program will give each Employee—

a. A short oral explanation of the reporting requirements and the records maintenance requirements. The material in IRS Publication 1244, *Employee's Daily Record of Tips and Report to Employer*, is suitable for this purpose;

b. Written informational materials, which may include any of the following IRS documents: Publication 1244, *Employee's Daily Record of Tips and Report to Employer*, Publication 531, *Reporting Tip Income*, and Publication 3148, *Tips on Tips* for employees; and

c. An explanation of the Employer's tip reporting procedures.

2. *Existing Employees*. The Employer will establish a quarterly education program for existing Employees.

B. *Employee tip-reporting procedures*. Each Establishment will establish a procedure or procedures under which a written or electronic statement is prepared and processed on a regular basis (no less frequently than monthly), reflecting all tips for services attributable to each Employee. These procedures are to enable Employees to meet their reporting requirements under section 6053(a) of the Code. An Employer may provide different procedures for cash and charged tips, as well as for directly tipped and indirectly tipped Employees. IRS Publication 3144, *Tips on Tips* for employers, includes an example of an acceptable TRAC statement that an employer can use for both directly and indirectly tipped Employees.

C. Returns, taxes, and records.

1. *Filing returns and paying and depositing taxes*. The Employer (or employing Establishment) will comply with the requirements for filing all required federal tax returns and paying and depositing all federal taxes.

2. *Maintaining records*. Each Establishment will maintain records of the following:

a. Gross receipts subject to tipping, and

b. Charge receipts showing charged tips.

The Employer will retain these records for at least 4 years after the April 15 following the calendar year to which the records relate.

3. *Making records available*. Upon the request of the Service Representative, the Employer will make the following quarterly totals available, by Establishment, for statistical samplings of its Establishments:

a. Gross receipts subject to tipping,

b. Charge receipts showing charged tips,

- c. Total charged tips, and
- d. Total tips reported.

III. COMMITMENT OF INTERNAL REVENUE SERVICE

A. *Tip examinations.* The IRS will not initiate any tip examinations of the Employer (or Establishment) for any period for which this TRAC agreement is in effect.

B. *Section 3121(q) notice and demand.* Any section 3121(q) notice and demand issued to the Employer (or Establishment) relating to any period during which this TRAC agreement is in effect will be based solely on amounts reflected on—

- 1. Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, filed by an Employee with his or her Form 1040, or
- 2. Form 885-T, *Adjustment of Social Security Tax on Tip Income Not Reported to Employer*, prepared at the conclusion of an employee tip examination.

C. *Compliance review.* The IRS may evaluate the Employer for compliance with the provisions of this TRAC agreement.

D. *Assistance.* Upon request, the IRS will assist any Employer or Establishment in establishing, maintaining, or improving its educational program or tip reporting procedures.

IV. TERMINATION OF AGREEMENT

A. *Termination by Employer.* If the Employer no longer wishes this TRAC agreement to apply to one or more Establishments, the Employer may terminate this TRAC agreement with respect to the Establishment(s) by providing written notification to the Service Representative identifying the Establishments(s). If the termination applies to all the Establishments of the Employer, the TRAC agreement will be terminated.

B. *Termination by Internal Revenue Service.* The IRS may terminate this TRAC agreement only if—

- 1. The Service Representative determines that the Employer (or any Establishment) has failed to substantially comply with section II.A (pertaining to Education for Employees) or II.B (pertaining to Employee tip reporting procedures);
- 2. The Employer (or any Establishment) fails to meet any of the requirements of section II.C (pertaining to filing returns and paying and depositing taxes, maintaining records, and making records available); or
- 3. The IRS pursues an administrative or judicial action relating to the Employer, Establishment, or any other related party to this TRAC agreement.

C. *Effective date of termination.* Except for a termination described in section IV.B.1, any termination will be effective the first day of the first calendar quarter after the terminating party notifies the other party in writing. In the case of a termination under section IV.B.1, the Service Representative may elect an earlier termination date, but no earlier than the first day of the first calendar quarter of the substantial noncompliance.

D. *Renewal after termination.* The Employer and the Service Representative may at any time enter into a new TRAC agreement.

V. EFFECTIVE DATE OF AGREEMENT

A. *General rule.* This TRAC agreement is effective on the first day of the first calendar quarter following the date the Service Representative signs the TRAC agreement.

B. *Additional establishment.* This TRAC agreement is effective with respect to an additional establishment on the first day of the quarter in which notification of the additional establishment is made.

VI. MISCELLANEOUS

A. *Examinations and/or inspections of books and records.* For purposes of this TRAC agreement—

- 1. *Compliance review.* A compliance review is not an examination or an inspection of the taxpayer's books of account or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.
- 2. *Examination.* The inspection of books of account or records pursuant to a tip examination is not an inspection of books or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

B. *Notices.* The parties will send all correspondence pertaining to this TRAC agreement, including a notice of termination, to the addresses stated below, unless notified in writing of a change of address. In the event of a change of address, the parties must send all correspondence to the new address. All notices are deemed to be sent or submitted on the date of the postmark stamped on the envelope or, in the case of a notice sent by certified mail, the sender's receipt.

C. *Authority.* The Employer represents that it has the authority to enter into this TRAC agreement on behalf of itself and the Establishment(s) listed in Attachment A.

D. *General termination and sunset provision.* The Commissioner of Internal Revenue may terminate all TRAC agreements at any time following a significant statutory change in the FICA taxation of tips. After May 31, 2005, the Commissioner may terminate prospectively the Tip Rate Determination/Education Program and all TRAC agreements.

VII. PAPERWORK REDUCTION ACT

The collections of information contained in this document will be submitted to the Office of Management and Budget for review

in accordance with the Paperwork Reduction Act (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number. The collections of information in this document are in sections I.C, II.A, II.B, II.C.2 and 3, and IV.A. This information is required to comply with sections 6053(a) and 6001 of the Internal Revenue Code and to assist the Internal Revenue Service in its compliance efforts. This information will be used to monitor the Employer's performance under the TRAC agreement. The collections of information are required to obtain the benefits available under the TRAC agreement. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 4,877 hours.

The estimated annual burden per respondent/recordkeeper varies from 13 hours to 30 hours, depending on individual circumstances, with an estimated average of 20 hours. The estimated number of respondents and/or recordkeepers is 300.

The estimated annual frequency of responses (used for reporting requirements only) is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

VIII. SIGNATURES

By signing this TRAC agreement, the parties certify that they have read and agreed to the terms of this document, including Attachment A, Establishments.

EMPLOYER:

INTERNAL REVENUE SERVICE:

(Name of Employer)

(Signature)

BY: _____

BY: _____

(Service Representative's Name)

TITLE: _____

TITLE: _____

ADDRESS:

ADDRESS:

(Headquarters street address)

(Street address)

(City, state, ZIP code)

(City, state, ZIP code)

DATE: _____

DATE: _____

ATTACHMENT A ESTABLISHMENTS [format for individual establishments]

Employer
A & B Company
xx-xxxxxxx
Street address
City, state, zip code

[format for chains]

Employer (parent, if applicable)
XYZ Corp.
yy-yyyyyyy
Street address
City, state, zip code

Establishments (if applicable)
AB Enterprises
Street address

City, state, zip code

CD Enterprises

Street address

City, state, zip code

Related entity (if applicable)

UVW Corp.

ZZ-ZZZZZZ

Street address

City, state, zip code

Establishments (if applicable)

EF Enterprises

Street address

City, state, zip code

GH Enterprises

Street address

City, state, zip code

Proposed Tip Rate Determination Agreement (TRDA) for Use by Any Employer With Tipped Employees (Other Than in the Food and Beverage Industry and the Gaming Industry)

Announcement 2000-20

The Internal Revenue Service is expanding its Tip Rate Determination/Education Program (TRD/EP), which is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary advance agreements instead of traditional audit techniques. This announcement solicits comments on a draft agreement for use in industries other than the food and beverage industry and the gaming industry. This agreement is entitled Tip Rate Determination Agreement (For use by any employer with tipped employees, other than in the food and beverage industry and the gaming industry).

OVERVIEW

The Service developed its TRD/EP in 1993 as a means of enhancing tax compliance while reducing taxpayer burden. In essence, the TRD/EP envisions that the Service and taxpayers in industries in which tipping is common would work together to improve tax compliance. The TRD/EP currently offers employers the opportunity of entering into one of two types of agreements. The Tip Rate Determination

Agreement (TRDA) requires the determination of tip rates; the Tip Reporting Alternative Commitment (TRAC) agreement emphasizes education and tip reporting procedures. The agreements also set forth an understanding that employers that comply with the terms of the agreement will not be subject to challenge by the Service. The TRDAs set forth similar understandings with respect to employees who participate in the agreements. Although not set forth in the TRAC agreements, employees who properly report tips also will not be subject to challenge by the Service. The decision to enter into either a TRDA or a TRAC agreement is entirely voluntary on the part of the employer.

In 1993, the Service developed the TRDA for use in the food and beverage industry. In 1997, the Service developed a TRDA for use in the gaming industry. Other industries have expressed interest in TRDAs tailored to their industries. Because the number of tipped employees in these other industries is diverse, the Service has designed a TRDA for use in industries other than the food and beverage industry and the gaming industry.

To ensure consistency in the agreements offered to taxpayers and to provide an opportunity for public comment before making agreements available for use, a TRDA for use in industries other than the food and beverage industry and the gaming industry is attached to this announcement. The Service requests comments from industries that might use the agreement.

COMMENTS

Written comments must be received by July 7, 2000. Send submissions to Office of Specialty Taxes, c/o CC:DOM:CORP:R (Announcement 2000-20), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: Specialty Taxes, c/o CC:DOM:CORP:R (Ann. 2000-20), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax_regs/regslst.html.

OTHER TRDA AND TRAC AGREEMENTS

The Service is simultaneously proposing by announcement in this Internal Revenue Bulletin four other agreements: (1) a revised TRAC agreement for use in the food and beverage industry (Announcement 2000-22), (2) a revised TRDA for use in the food and beverage industry (Announcement 2000-23), (3) a revised TRAC agreement for use in the cosmetology and barber industry (Announcement 2000-21), and (4) a new TRAC agreement for use in industries, other than the food and beverage industry and the cosmetology and barber industry, in which tipped

employees receive both cash and charged tips (Announcement 2000-19).

Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this announcement, contact Ida Volz of the Office of Specialty Taxes, on (202) 622-4177 (not a toll-free call).

DRAFTING INFORMATION

The principal author of this announcement is Karin Loverud of the Office of the

Release date: April 24, 2000

TIP RATE DETERMINATION AGREEMENT

(For use by any employer with tipped employees, other than in the food and beverage industry and the gaming industry)

between

Department of the Treasury—Internal Revenue Service

and

_____ [Name of Employer]

This Tip Rate Determination Agreement (TRDA) is part of the Tip Rate Determination/Education Program implemented by the Internal Revenue Service in 1993 to promote tip reporting compliance by employees in accordance with the Internal Revenue Code of 1986.

Section 6053(a) of the Code requires employees to furnish one or more written statements to their employers reporting all tips received in each calendar month. The statements must be furnished to the employer by the 10th day of the following month.

I. DEFINITIONS AND ATTACHMENTS

A. Definitions.

1. *Service Representative* means the Internal Revenue Service employee or delegate authorized to execute or terminate this TRDA on behalf of the Internal Revenue Service.

2. *Employer* means _____ [insert name, address, and EIN].

3. *Establishment* means each of the establishments or divisions listed by name, address, and EIN in Attachment A [sample attached].

a. *One place of business.* If the Employer has one place of business, that place of business is an Establishment, and no attachment is necessary.

b. *Additional establishment.* If the Employer subsequently wishes to include an additional establishment in this TRDA, the Employer must notify the Service Representative in writing. The notification must include the name, address, and identifying number of the additional establishment.

4. *Employee* means a person whose Occupational Category is listed in Attachment B [sample attached], and who is employed by an Establishment, and who directly or indirectly receives tips of at least \$20.00 per month during the course of the employee's employment.

5. *Occupational Category* describes a group of employees performing a particular type of service to which a stated tip rate is assigned. Employees performing the same service at different locations or during different shifts may be assigned different Occupational Categories.

6. *Participating Employee* means an Employee who gives to the Employer a signed Tipped Employee Participation Agreement (TEPA), which includes the language set forth in Attachment C, indicating participation in the tip reporting program.

7. *Tip Rate* means the applicable rate described in Section III.

B. Attachments

1. *Attachment A, Establishments*, lists the Employer's establishments participating in this TRDA.

2. *Attachment B, Occupational Categories and Initial Tip Rates*, lists the Employee occupational categories and tip rates subject to this TRDA.

3. *Attachment C, Tipped Employee Participation Agreement*, is the document signed by an Employee agreeing to report tips at or above the rate established for the Employee's Occupational Category.

4. *Attachment D, Formula for Tip Rate Calculation*, is the calculation described in section III.A.1 for determining tip rates.

II. COMMITMENT OF EMPLOYER

A. *Maintaining records.* While this TRDA is in effect, and in addition to records otherwise required to be maintained, the Employer will maintain the following records:

1. *Employee records.* For each Employee, the Employee's name, address, social security number, reported tips, and shift(s) and hours.

2. *Tip rates records.* All records of data used to determine the tip rates.

The Employer will retain the records listed in this section II.A. for at least 4 years after the April 15 following the calendar year to which the records relate.

B. *Furnishing information.* The Employer will furnish to the Service Representative the following documents:

1. *Quarterly report of employees.* A quarterly report showing, as of the last day of each quarter, (1) the total number of Employees, and (2) the total number of Participating Employees. The report is due on the last day of the month following each calendar quarter.

2. *Annual report of nonparticipating Employees.*

a. *General rule.* For each Employee who is a nonparticipating Employee on the last day of the calendar year, an annual report showing the Employee's name, address, social security number, shift(s), and hours. The report may list all Employees, indicating those Employees who are nonparticipating Employees, as long as the required information is included for all nonparticipating Employees. The report is due on March 31 following each calendar year.

b. *Exception.* No report is required for an Occupational Category for any calendar year for which all the Employees in the Occupational Category reported tips at a rate equal to or greater than the rates established under section III of this TRDA.

C. *Making records available.* At the request of the Service Representative, the Employer will furnish any of the records identified in section II.A.

D. *Filing returns and paying and depositing taxes.* The Employer or employing Establishment will comply with the requirements for filing all required federal tax returns and paying and depositing all federal taxes.

III. TIP RATES

A. *Tip rates.*

1. *Determining tip rates.* The Employer will determine tip rates based on the formula set forth in Attachment D, Formula for Tip Rate Calculation. If information necessary for the formula is unavailable or insufficient, the Employer will determine tip rates based on information available to the Employer, historical information provided by the Service Representative, and generally accepted accounting principles. The rates will generally be based on a dollar amount per hour, but a different measure may be used.

2. *Initial tip rates.* The initial tip rates are identified in Attachment B, Occupational Categories and Initial Tip Rates. They will remain in effect through December 31 of the calendar year following the year in which this TRDA takes effect.

B. *Determining subsequent tip rates and Occupational Categories.*

1. *Annual review.* The Employer will review annually, on a calendar year basis, its Occupational Categories and the tip rates assigned to its Occupational Categories.

2. *Procedures.*

a. *Employer submission.* If the Employer believes that a change in Occupational Categories or a revision of one or more rates is appropriate, the Employer will submit proposed revisions to the Service Representative by September 30. If the Employer fails to submit a proposed rate revision by September 30, the Employer will be treated as having submitted the rate in effect for the current year.

b. *Internal Revenue Service review.* The Service Representative will review the proposed rates and notify the Employer in writing of the IRS's approval or disapproval by November 30. If the IRS does not approve one or more proposed rates, the existing rate or rates will be continued until no later than the last day of the following February. If the Employer and the IRS are unable to agree upon a rate or rates by the last day of the following February, this TRDA will terminate pursuant to section V.C.

3. *Effective date of revised rates and Occupational Categories.* Approved revised rates for a calendar year will become effective on the later of (1) January 1 of the calendar year, or (2) the first day of the month following the date the Employer and the Service Representative agree upon a revised rate.

IV. COMMITMENT OF INTERNAL REVENUE SERVICE

A. *Participating Employee.* The IRS will not examine a Participating Employee's tip income for any period for which a TEPA is in effect, if the Employee reports tips to the Employer at or above the tip rate established for the Employee.

B. *Employer.*

1. *Tip examinations.* The IRS will not initiate any tip examinations of the Employer (or Establishment) for any period for which this TRDA is in effect.

2. *Section 3121(q) notice and demand.* Any section 3121(q) notice and demand issued to the Employer (or Establishment) relating to any period during which this TRDA is in effect will be based solely on amounts reflected on—

a. Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, filed by an Employee with his or her Form 1040, or

b. Form 885-T, *Adjustment of Social Security Tax on Tip Income Not Reported to Employer*, prepared at the conclusion of an employee tip examination.

C. *Compliance review.* The IRS may evaluate the Employer and its Participating Employees for compliance with the provisions of this TRDA.

V. TERMINATION OF AGREEMENT

A. *Termination by Employer.* If the Employer no longer wishes this TRDA to apply to one or more Establishments, the Employer may terminate this TRDA with respect to the Establishment(s), by providing written notification to the Service Representative identifying the Establishment(s). If the termination applies to all the Establishments of the Employer, the TRDA will be terminated.

B. *Termination by Internal Revenue Service.* The IRS may terminate this TRDA only if—

1. As of any December 31, less than 75 percent of the Employees are Participating Employees,
2. The Employer fails to meet any of the requirements of section II, Commitment of Employer, or
3. The IRS pursues an administrative or judicial action relating to the Employer, Establishment, or any other related party to this TRDA.

C. *Termination upon failure of parties to agree to revision of tip rates.* This TRDA will terminate if the Employer and the Service Representative fail to agree to a revision of the tip rates under the procedures set forth in section III.B.2.

D. *Notice of termination and effective date.* Any termination will be effective the first day of the first calendar quarter after the terminating party notifies the other party in writing.

E. *Renewal after termination.* The Employer and the Service Representative may at any time enter into a new TRDA.

VI. EFFECTIVE DATE OF AGREEMENT

A. *General rule.* This TRDA is effective on the first day of the first calendar quarter following the date the Service Representative signs the TRDA.

B. *Additional establishment.* This TRDA is effective with respect to an additional establishment on the first day of the quarter in which notification of the additional establishment is made.

VII. MISCELLANEOUS

A. *Examinations and/or inspections of books and records.* For purposes of this TRDA—

1. *Compliance review.* A compliance review is not an examination or an inspection of the taxpayer's books of account or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.
2. *Examination.* The inspection of books of account or records pursuant to a tip examination is not an inspection of books or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

B. *Notices.* The parties will send all correspondence pertaining to this TRDA to the addresses stated below, unless notified in writing of a change of address. In the event of a change of address, the parties must send all correspondence to the new address. All notices are deemed to be sent or submitted on the date of the postmark stamped on the envelope or, in the case of a notice sent by certified mail, the sender's receipt.

C. *Authority.* The Employer represents that it has the authority to enter into this TRDA.

D. *General termination and sunset provision.* The Commissioner of Internal Revenue may terminate all TRDAs at any time following a significant statutory change in the FICA taxation of tips. After May 31, 2005, the Commissioner may terminate prospectively the Tip Rate Determination/Education Program and all TRDAs.

VIII. PAPERWORK REDUCTION ACT

The collections of information contained in this document will be submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number. The collections of information in this document are in sections I.A.3, 4, and 5, II.A, II.B, II.C, III, and V.A. This information is required to comply with sections 6053(a) and 6001 of the Internal Revenue Code and to assist the IRS in its compliance efforts. This information will be used to monitor the Employer's performance under the TRDA. The collections of information are required to obtain the benefits available under the TRDA. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 1,897 hours.

The estimated annual burden per respondent/recordkeeper varies from 6 hours to 21 hours, depending on individual circumstances, with an estimated average of 11 hours. The estimated number of respondents and/or recordkeepers is 100.

The estimated annual frequency of responses (used for reporting requirements only) is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

IX. SIGNATURES

By signing this TRDA, the parties certify that they have read and agreed to the terms of this document, including Attachments A, B, and C.

EMPLOYER:

(Name of Employer)

(Signature)

BY: _____

TITLE: _____

ADDRESS:

(Headquarters street address)

(City, state, ZIP code)

DATE: _____

INTERNAL REVENUE SERVICE:

(Signature)

BY: _____
(Service Representative's Name)

TITLE: _____

ADDRESS:

(Street address)

(City, state, ZIP code)

DATE: _____

**ATTACHMENT A
ESTABLISHMENTS
[format for individual establishments]**

Employer

A & B Company

xx-xxxxxxx

Street address

City, state, zip code

[format for chains]

Employer (parent, if applicable)

XYZ Corp.

yy-yyyyyyy

Street address

City, state, zip code

Establishments (if applicable)

AB Enterprises

Street address

City, state, zip code

CD Enterprises

Street address

City, state, zip code

Related entity (if applicable)

UVW Corp.

zz-zzzzzzz

Street address

City, state, zip code

Establishments (if applicable)

EF Enterprises

Street address

City, state, zip code

**ATTACHMENT B
OCCUPATIONAL CATEGORIES AND INITIAL TIP RATES**

[sample format]

<i>Occupational Categories</i>	<i>Initial Tip Rates</i>
Category A — actual tips	
Category B — 1st shift	___ % of sales
Category B — 2nd shift	___ % of sales
Category B — 3rd shift	___ % of sales
Category C — location 1	\$ /
Category C — location 2	\$ /

**ATTACHMENT C
TIPPED EMPLOYEE PARTICIPATION AGREEMENT**

I am an employee of _____ and wish to participate in my employer's tip reporting program.

In accordance with a Tip Rate Determination Agreement between my employer and the Internal Revenue Service, I agree to report my tips to my employer, as required by law, at or above the tip rate established by my employer and approved by the IRS for my Occupational Category.

I also acknowledge that, to continue participation in my employer's tip reporting program, I must file all federal tax returns required by law and pay all federal taxes for which I am liable.

EMPLOYEE

Name (printed): _____

Signature: _____

Home address: _____

Social Security Number: _____

DATE: _____

Attachments:

Copy of TRDA and Attachment B (Occupational Categories and Tip Rates)

Copy of TRDA Information for Employees

**ATTACHMENT D
FORMULA FOR TIP RATE CALCULATION**

Directly tipped employees

Step 1: Determine charged and cash tip rates.

Charged tip rate = $\frac{\text{Total charged tips}}{\text{Total charged receipts with charged tips}^*}$

Cash tip rate = Charged tip rate
less: difference between charged and cash tips

Step 2: Calculate tip rate per hour (or per receipts)

1. Gross receipts subject to tipping
2. minus: stiff factor
charged receipts with charged tips
other factors
3. equals: receipts subject to cash tipping
4. times cash tip rate
5. equals: cash tips received
6. plus: charged tips
tips received from other employees
7. equals: total tips received
8. minus: tip outs (if applicable)
9. equals: adjusted tips
10. divided by: total hours worked (or total receipts)

11. equals: tip rate per hour (or per receipts)

Indirectly tipped employees

Calculate tip rate per hour:

$$\text{Tip rate per hour} = \frac{\text{Tips received from other workers}}{\text{Total hours worked}}$$

* If this figure is unavailable, use "total charged receipts" for the denominator to figure the charged tip rate.

Proposed Revised Tip Reporting Alternative Commitment (TRAC) Agreement for Use in the Cosmetology and Barber Industry

Announcement 2000-21

The Internal Revenue Service is expanding its Tip Rate Determination/Education Program (TRD/EP), which is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary advance agreements instead of traditional audit techniques. This announcement solicits comments on a draft agreement entitled Tip Reporting Alternative Commitment (For use in the cosmetology and barber industry).

OVERVIEW

The Service developed its TRD/EP in 1993 as a means of enhancing tax compliance while reducing taxpayer burden. In essence, the TRD/EP envisioned that the Service and taxpayers in industries in which tipping is common would work together to improve tax compliance. The TRD/EP currently offers employers the opportunity of entering into one of two types of agreements. The Tip Rate Determination Agreement (TRDA) requires the determination of tip rates; the Tip Reporting Alternative Commitment (TRAC) agreement emphasizes education and tip reporting procedures. The agreements also set forth an understanding that employers that comply with the terms of the agreement will not be subject to challenge by the Service. The TRDAs set forth similar understandings with respect to employees who participate in the agreements. Although not set forth in the TRAC agreements, employees who properly report tips also will not be subject to

challenge by the Service. The decision to enter into either a TRDA or a TRAC agreement is entirely voluntary on the part of the employer.

In 1997, the Service developed a TRAC agreement for use in the hair-styling industry. The industry has expressed interest in making the TRAC agreement available to the entire cosmetology and barber industry. The industry has also advised the Service that a substantial portion of the industry includes independent contractors who pay a booth rental for use of space.

To ensure consistency in the agreements offered to taxpayers and to provide an opportunity for public comment before making agreements available for use, a revised TRAC agreement is attached to this announcement. The revised agreement addresses workers who are booth renters and other independent contractors and will be available to the entire industry. The Service requests comments from the industry regarding the inclusion of booth renters and other independent contractors.

The Service plans to allow electronic systems (including point-of-sale systems) to satisfy the TRAC education requirement. The Service requests comments on what information the system must provide to employees to satisfy the education requirement.

COMMENTS

Written comments must be received by July 7, 2000. Send submissions to Office of Specialty Taxes, c/o CC:DOM:CORP:R (Announcement 2000-21), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8

a.m. and 5 p.m. to: Specialty Taxes, c/o CC:DOM:CORP:R (Ann. 2000-21), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax_regs/regslst.html.

OTHER TRDA AND TRAC AGREEMENTS

The Service is simultaneously proposing by announcement in this Internal Revenue Bulletin four other agreements: (1) a revised TRAC agreement for use in the food and beverage industry (Announcement 2000-22), (2) a revised TRDA for use in the food and beverage industry (Announcement 2000-23), (3) a new TRAC agreement for use in industries, other than the food and beverage industry and the cosmetology and barber industry, in which tipped employees receive both cash and charged tips (Announcement 2000-19), and (4) a new TRDA for use in any industry other than the food and beverage industry and the gaming industry (Announcement 2000-20).

DRAFTING INFORMATION

The principal author of this announcement is Karin Loverud of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this announcement, contact Don Segal of the Office of Specialty Taxes on (202) 622-4177 (not a toll-free call).

TIP REPORTING ALTERNATIVE COMMITMENT

(For use in the cosmetology and barber industry)

between

Department of the Treasury—Internal Revenue Service

and

_____ [Name of Business]

This Tip Reporting Alternative Commitment (TRAC) agreement is part of the Tip Rate Determination/Education Program that the Internal Revenue Service implemented in 1993 to promote tip reporting compliance by employees in accordance with the Internal Revenue Code of 1986.

For federal income tax purposes, taxpayers are required to report to the IRS all income from all sources, unless the income is expressly excluded. Under section 61(a)(1) of the Code, gross income includes compensation for services, including tips. Under section 61(a)(2), gross income includes all income from business.

Section 6053(a) of the Code requires employees to furnish one or more written statements to their employers reporting all tips received in each calendar month. The statements must be furnished to the employer by the 10th day of the following month.

I. DEFINITIONS

A. *Service Representative* means the Internal Revenue Service employee or delegate authorized to execute or terminate this TRAC agreement on behalf of the Internal Revenue Service.

B. *Business* means _____
[insert name, address, and EIN].

C. *Establishment* means each of the establishments or divisions listed by name, address, and identifying number in Attachment A [sample attached].

1. *One place of business*. If the Business has one place of business, that place of business is an Establishment, and no attachment is necessary.

2. *Additional establishment*. If the Business subsequently wishes to include an additional establishment in this TRAC agreement, the Business must notify the Service Representative in writing. The notification must include the name, address, and identifying number of the additional establishment.

D. *Employee* means a person employed by the Establishment who directly or indirectly receives tips of at least \$20.00 per month during the course of the employee's employment.

E. *Booth Renter* means a person who rents a booth from the Business for a fee, receives and retains all fees from customers, generally selects his or her own customers, and generally sets his or her own work schedule.

F. *Independent Contractor* means a person who is neither an Employee nor a Booth Renter, but who performs services at an Establishment and meets the standards of an independent contractor with respect to that establishment.

II. COMMITMENT OF BUSINESS

A. *Commitment with respect to Employees*.

1. *Education*.

a. *New Employees*. The Business will establish and maintain an educational program to train newly hired Employees that the law requires employees to report monthly their cash and charged tips to their employer. At a minimum, the program will give each Employee—

i. A short oral explanation of the reporting requirements and the records maintenance requirements. The material in IRS Publication 1244, *Employee's Daily Record of Tips and Report to Employer*, is suitable for this purpose;

ii. Written informational materials, which may include any of the following IRS documents: Publication 1244, *Employee's Daily Record of Tips and Report to Employer*, Publication 531, *Reporting Tip Income*, and Publication 3148, *Tips on Tips* for employees; and

iii. An explanation of the Business's tip reporting procedures.

b. *Existing Employees*. The Business will establish and maintain a quarterly education program for existing Employees.

2. *Employee tip-reporting procedures*. Each Establishment will establish a procedure or procedures under which a written or electronic statement is prepared and processed on a regular basis (no less frequently than monthly), reflecting all tips for services attributable to each Employee. These procedures are to enable Employees to meet their reporting requirements under section 6053(a) of the Code. The Business or Establishment may provide different procedures for cash and charged tips, as well as for directly tipped and indirectly tipped Employees. IRS Publication 3144, *Tips on Tips* for employers, includes an example of an acceptable TRAC statement that an employer can use for both directly and indirectly tipped Employees.

B. Educational commitment with respect to Booth Renters and Independent Contractors.

1. *New Booth Renters and Independent Contractors.* The Business will give each new Booth Renter or Independent Contractor a copy of Publication 531, *Reporting Tip Income*, and a copy of Publication 3518, *Beauty Industry Federal Tax Guidelines*.
2. *Existing Booth Renters and Independent Contractors.* At the end of each calendar year, the Business will provide a copy of Publication 531 and Publication 3518 to each Booth Renter and Independent Contractor who performed services on the Business's premises at any time during the calendar year.

C. Returns, taxes, and records.

1. *Filing returns and paying and depositing taxes.* The Business (or employing Establishment) will comply with the requirements for filing all required federal tax returns and paying and depositing all federal taxes.
2. *Maintaining records.* Each Establishment will maintain records of the following:
 - a. Gross receipts subject to tipping, and
 - b. Charge receipts showing charged tips.

The Business will retain these records for at least 4 years after the April 15 following the calendar year to which the records relate.

3. *Making records available.* Upon the request of the Service Representative, the Business will make the following quarterly totals available, by Establishment, for statistical samplings of its Establishments:
 - a. Total charged tips,
 - b. Charge receipts showing charged tips,
 - c. Total tips reported, and
 - d. Gross receipts subject to tipping.

III. COMMITMENT OF INTERNAL REVENUE SERVICE

A. Tip examinations. The IRS will not initiate any tip examinations of the Business (or Establishment) for any period for which this TRAC agreement is in effect.

B. Section 3121 (q) notice and demand. Any section 3121 (q) notice and demand issued to the Business (or Establishment) relating to any period during which this TRAC agreement is in effect will be based solely on amounts reflected on—

1. Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, filed by an Employee with his or her Form 1040, or
2. Form 885-T, *Adjustment of Social Security Tax on Tip Income Not Reported to Employer*, prepared at the conclusion of an employee tip examination.

C. Compliance review. The IRS may evaluate the Business for compliance with the provisions of this TRAC agreement.

D. Assistance. Upon request, the IRS will assist any Business or Establishment in establishing, maintaining, or improving its educational program or tip reporting procedures.

IV. TERMINATION OF AGREEMENT

A. Termination by Business. If the Business no longer wishes this TRAC agreement to apply to one or more Establishments, the Business may terminate this TRAC agreement with respect to the Establishment(s) by providing written notification to the Service Representative identifying the Establishments(s). If the termination applies to all the Establishments of the Business, the TRAC agreement will be terminated.

B. Termination by Internal Revenue Service. The IRS may terminate this TRAC agreement only if—

1. The IRS determines that the Business (or any Establishment) has failed to substantially comply with section II.A (pertaining to the Business's commitment with respect to employees);
2. The Business (or any Establishment) fails to meet any of the requirements of section II.C (pertaining to filing returns and paying and depositing taxes, maintaining records, and making records available) or II.D (pertaining to Booth Renter and Independent Contractor information); or
3. The IRS pursues an administrative or judicial action relating to the Business, Establishment, or any other related party to this TRAC agreement.

C. Effective date of termination. Except for a termination described in section IV.B.1, any termination will be effective the first day of the first calendar quarter after the terminating party notifies the other party in writing. In the case of a termination under section IV.B.1, the Service Representative may elect an earlier termination date, but no earlier than the first day of the first calendar quarter of the substantial noncompliance.

D. Renewal after termination. The Business and the Service Representative may at any time enter into a new TRAC agreement.

V. EFFECTIVE DATE OF AGREEMENT

A. General rule. This TRAC agreement is effective on the first day of the first calendar quarter following the date the Service

Representative signs the TRAC agreement.

B. *Additional establishment.* This TRAC agreement is effective with respect to an additional establishment on the first day of the quarter in which notification of the additional establishment is made.

VI. MISCELLANEOUS

A. *Examinations and/or inspections of books and records.* For purposes of this TRAC agreement—

1. *Compliance review.* A compliance review is not an examination or an inspection of the taxpayer's books of account or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

2. *Examination.* The inspection of books of account or records pursuant to a tip examination is not an inspection of books or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

B. *Employment tax classification.* Nothing in this TRAC agreement is intended to address the classification, for employment tax purposes, of any person who performs services at or for an Establishment.

C. *Notices.* The parties will send all correspondence pertaining to this TRAC agreement, including a notice of termination, to the addresses stated below, unless notified in writing of a change of address. In the event of a change of address, the parties must send all correspondence to the new address. All notices are deemed to be sent or submitted on the date of the postmark stamped on the envelope or, in the case of a notice sent by certified mail, the sender's receipt.

D. *Authority.* The Employer represents that it has the authority to enter into this TRAC agreement on behalf of itself and the Establishment(s) listed in Attachment A.

E. *General termination and sunset provision.* The Commissioner of Internal Revenue may terminate all TRAC agreements at any time following a significant statutory change in the FICA taxation of tips. After May 31, 2005, the Commissioner may terminate prospectively the Tip Rate Determination/Education Program and all TRAC agreements.

VII. PAPERWORK REDUCTION ACT

The collections of information contained in this document 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 1545-1529.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number. The collections of information in this document are in sections I.C, II.A, II.B, II.C.1 and 2, and IV.A. This information is required to comply with sections 6053(a) and 6001 of the Internal Revenue Code and to assist the Internal Revenue Service in its compliance efforts. This information will be used to monitor the Employees performance under the TRAC agreement. The collections of information are required to obtain the benefits available under the TRAC agreement. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 58,267 hours.

The estimated annual burden per respondent/recordkeeper varies from 9 hours to 30 hours, depending on individual circumstances, with an estimated average of 14 hours. The estimated number of respondents and/or recordkeepers is 6,400.

The estimated annual frequency of responses (used for reporting requirements only) is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by section 6103 of the Code.

VIII. SIGNATURES

By signing this TRAC agreement, the parties certify that they have read and agreed to the terms of this document, including Attachment A, Names, Addresses, and Employer Identification Numbers by Employer of Establishments Covered Under TRAC Agreements.

Business:

INTERNAL REVENUE SERVICE:

(Name of Business)

(Signature)

(Signature)

BY: _____

BY: _____

(Service Representative's Name)

TITLE: _____

TITLE: _____

ADDRESS:

(Headquarters street address)

(City, state, ZIP code)

DATE: _____

ADDRESS:

(Street address)

(City, state, ZIP code)

DATE: _____

**ATTACHMENT A
ESTABLISHMENTS
[format for individual establishments]**

Business
A & B Hairstylists
xx-xxxxxxx
Street address
City, state, zip code

[format for chains]

Business (parent, if applicable)
XYZ Corp.
yy-yyyyyyy
Street address
City, state, zip code

Establishments (if applicable)
AB Restaurant
Street address
City, state, zip code
CD Restaurant
Street address
City, state, zip code

Related entity (if applicable)
UVW Corp.
zz-zzzzzzz
Street address
City, state, zip code

Establishments (if applicable)
EF Restaurant
Street address
City, state, zip code

**Proposed Revised Tip Reporting
Alternative Commitment (TRAC)
Agreement for Use in the Food
and Beverage Industry**

Announcement 2000-22

The Internal Revenue Service is expanding its Tip Rate Determination/Education Program (TRD/EP), which is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary advance agreements

instead of traditional audit techniques. This announcement solicits comments on a draft agreement entitled Tip Reporting Alternative Commitment (For use in the food and beverage industry).

OVERVIEW

The Service developed its TRD/EP in 1993 as a means of enhancing tax compliance while reducing taxpayer burden. In essence, the TRD/EP envisioned that the Service and taxpayers in industries in which tipping is common would work to-

gether to improve tax compliance. The TRD/EP currently offers employers the opportunity of entering into one of two types of agreements. The Tip Rate Determination Agreement (TRDA) requires the determination of tip rates; the Tip Reporting Alternative Commitment (TRAC) agreement emphasizes education and tip reporting procedures. The agreements also set forth an understanding that employers that comply with the terms of the agreement will not be subject to challenge by the Service. The TRDAs set forth sim-

ilar understandings with respect to employees who participate in the agreements. Although not set forth in the TRAC agreements, employees who properly report tips also will not be subject to challenge by the Service. The decision to enter into either a TRDA or a TRAC agreement is entirely voluntary on the part of the employer.

In 1995, the Service developed the TRAC agreement for use in the food and beverage industry. The agreement has been both popular and effective. The industry has expressed interest in making the educational program and tip reporting procedures more flexible.

To ensure consistency in the agreements offered to taxpayers and to provide an opportunity for public comment before making agreements available for use, a revised TRAC agreement is attached to this announcement. The revised agreement is more flexible.

The Service also announces that it will treat an electronic system (including point-of-sale systems) that prompts an employee to report tips after each sale as meeting the TRAC requirement that an employer educate its employee at least quarterly. The

Service requests comments on other electronic tip reporting system.

COMMENTS

Written comments must be received by July 7, 2000. Send submissions to Office of Specialty Taxes, c/o CC:DOM:CORP:R (Announcement 2000-22), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: Specialty Taxes, c/o CC:DOM:CORP:R (Ann. 2000-22), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax_regs/reglist.html.

OTHER TRDA AND TRAC AGREEMENTS

The Service is simultaneously proposing by announcement in this Internal Rev-

enue Bulletin four other agreements: (1) a revised TRDA for use in the food and beverage industry (Announcement 2000-23), (2) a revised TRAC agreement for use in the cosmetology and barber industry (Announcement 2000-21), (3) a new TRAC agreement for use in industries, other than the food and beverage industry and the cosmetology and barber industry, in which tipped employees receive both cash and charged tips (Announcement 2000-19), and (4) a new TRDA for use in any industry other than the food and beverage industry and the gaming industry (Announcement 2000-20).

DRAFTING INFORMATION

The principal author of this announcement is Karin Loverud of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this announcement, contact Ida Volz of the Office of Specialty Taxes on (202) 622-4177 (not a toll-free call).

Release date: April 24, 2000

TIP REPORTING ALTERNATIVE COMMITMENT

(For use only in the food and beverage industry)

between

Department of the Treasury—Internal Revenue Service

and

_____ [Name of Employer]

This Tip Reporting Alternative Commitment (TRAC) agreement is part of the Tip Rate Determination/Education Program that the Internal Revenue Service implemented in 1993 to promote tip reporting compliance by employees in accordance with the Internal Revenue Code of 1986.

Section 6053(a) of the Code requires employees to furnish one or more written statements to their employers reporting all tips received in each calendar month. The statements must be furnished to the employer by the 10th day of the following month.

I. DEFINITIONS

A. *Service Representative* means the Internal Revenue Service employee or delegate authorized to execute or terminate this TRAC agreement on behalf of the Internal Revenue Service.

B. *Employer* means _____ [insert name, address, and EIN].

C. *Establishment* means each of the establishments or divisions listed by name, address, and identifying number in Attachment A. [sample attached]

1. *One place of business*. If the Employer has one place of business, that place of business is an Establishment, and no attachment is necessary.

2. *Additional establishment*. If the Employer subsequently wishes to include an additional establishment in this TRAC agreement, the Employer must notify the Service Representative in writing. The notification must include the name, address, and identifying number of the additional establishment.

D. *Employee* means a person employed by the Establishment who directly or indirectly receives tips of at least \$20.00 per month during the course of the employee's employment.

II. COMMITMENT OF EMPLOYER

A. Education.

1. *New Employees.* The Employer will establish an educational program that trains newly hired Employees that the law requires them to report all their cash and charged tips to their employer. At a minimum, the program will give each Employee—

a. A short oral explanation of the reporting requirements and the records maintenance requirements. The material in IRS Publication 1244, *Employee's Daily Record of Tips and Report to Employer*, is suitable for this purpose;

b. Written informational materials, which may include any of the following IRS documents: Publication 1244, *Employee's Daily Record of Tips and Report to Employer*, Publication 531, *Reporting Tip Income*, and Publication 1872, *Tips on Tips* for employees in the food and beverage industry; and

c. An explanation of the Employer's tip reporting procedures.

2. *Existing Employees.* The Employer will establish a quarterly education program for existing Employees.

B. *Employee tip-reporting procedures.* Each Establishment will establish a procedure or procedures under which a written or electronic statement is prepared and processed on a regular basis (no less frequently than monthly), reflecting all tips for services attributable to each Employee. These procedures are to enable Employees to meet their reporting requirements under section 6053(a) of the Code. An Employer may provide different procedures for cash and charged tips, as well as for directly tipped and indirectly tipped Employees. IRS Publication 1875, *Tips on Tips* for employers in the food and beverage industry, includes an example of an acceptable TRAC statement that an employer can use for both directly and indirectly tipped Employees.

C. Returns, taxes, and records.

1. *Filing returns and paying and depositing taxes.*

a. *In general.* The Employer (or employing Establishment) will comply with the requirements for filing all required federal tax returns and paying and depositing all federal taxes.

b. *Form 8027.* For each Establishment that is a "large food or beverage establishment," the Employer will comply with the requirements for filing Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips*, and send an additional copy of each Form 8027 to the IRS.

2. *Maintaining records.* Each Establishment will maintain records of the following:

a. Gross receipts subject to tipping, and

b. Charge receipts showing charged tips.

The Employer will retain these records for at least 4 years after the April 15 following the calendar year to which the records relate.

3. *Making records available.* Upon the request of the Service Representative, the Employer will make the following quarterly totals available, by Establishment, for statistical samplings of its Establishments:

a. Gross receipts subject to tipping,

b. Charge receipts showing charged tips,

c. Total charged tips, and

d. Total tips reported.

III. COMMITMENT OF INTERNAL REVENUE SERVICE

A. *Tip examinations.* The IRS will not initiate any tip examinations of the Employer (or Establishment) for any period for which this TRAC agreement is in effect.

B. *Section 3121(q) notice and demand.* Any section 3121(q) notice and demand issued to the Employer (or Establishment) relating to any period during which this TRAC agreement is in effect will be based solely on amounts reflected on—

1. Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, filed by an Employee with his or her Form 1040, or

2. Form 885-T, *Adjustment of Social Security Tax on Tip Income Not Reported to Employer*, prepared at the conclusion of an employee tip examination.

C. *Compliance review.* The IRS may evaluate the Employer for compliance with the provisions of this TRAC agreement.

D. *Assistance.* Upon request, the IRS will assist any Employer or Establishment in establishing, maintaining, or improving its educational program or tip reporting procedures.

IV. TERMINATION OF AGREEMENT

A. *Termination by Employer.* If the Employer no longer wishes this TRAC agreement to apply to one or more Establishments, the Employer may terminate this TRAC agreement with respect to the Establishment(s) by providing written notification to the Service Representative identifying the Establishments(s). If the termination applies to all the Establishments of the Employer, the TRAC agreement will be terminated.

B. *Termination by Internal Revenue Service.* The IRS may terminate this TRAC agreement only if—

1. The Service Representative determines that the Employer (or any Establishment) has failed to substantially comply with section II.A (pertaining to Education for Employees) or II.B (pertaining to Employee tip reporting procedures);

2. The Employer (or any Establishment) fails to meet any of the requirements of section II.C (pertaining to filing returns and

paying and depositing taxes, maintaining records, and making records available); or

3. The IRS pursues an administrative or judicial action relating to the Employer, Establishment, or any other related party to this TRAC agreement.

C. *Effective date of termination.* Except for a termination described in section IV.B.1, any termination will be effective the first day of the first calendar quarter after the terminating party notifies the other party in writing. In the case of a termination under section IV.B.1, the Service Representative may elect an earlier termination date, but no earlier than the first day of the first calendar quarter of the substantial noncompliance.

D. *Renewal after termination.* The Employer and the Service Representative may at any time enter into a new TRAC agreement.

V. EFFECTIVE DATE OF AGREEMENT

A. *General rule.* This TRAC agreement is effective on the first day of the first calendar quarter following the date the Service Representative signs the TRAC agreement.

B. *Additional establishment.* This TRAC agreement is effective with respect to an additional establishment on the first day of the quarter in which notification of the additional establishment is made.

VI. MISCELLANEOUS

A. *Examinations and/or inspections of books and records.* For purposes of this TRAC agreement—

1. *Compliance review.* A compliance review is not an examination or an inspection of the taxpayer's books of account or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

2. *Examination.* The inspection of books of account or records pursuant to a tip examination is not an inspection of books or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

B. *Notices.* The parties will send all correspondence pertaining to this TRAC agreement, including a notice of termination, to the addresses stated below, unless notified in writing of a change of address. In the event of a change of address, the parties must send all correspondence to the new address. All notices are deemed to be sent or submitted on the date of the postmark stamped on the envelope or, in the case of a notice sent by certified mail, the sender's receipt.

C. *Authority.* The Employer represents that it has the authority to enter into this TRAC agreement on behalf of itself and the Establishment(s) listed in Attachment A.

D. *General termination and sunset provision.* The Commissioner of Internal Revenue may terminate all TRAC agreements at any time following a significant statutory change in the FICA taxation of tips. After May 31, 2005, the Commissioner may terminate prospectively the Tip Rate Determination/Education Program and all TRAC agreements.

VII. PAPERWORK REDUCTION ACT

The collections of information contained in this document 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 1545-1549.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number. The collections of information in this document are in sections I.C, II.A, II.B, II.C.2 and 3, and IV.A. This information is required to comply with sections 6053(a) and 6001 of the Internal Revenue Code and to assist the Internal Revenue Service in its compliance efforts. This information will be used to monitor the Employer's performance under the TRAC agreement. The collections of information are required to obtain the benefits available under the TRAC agreement. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 42,296 hours.

The estimated annual burden per respondent/recordkeeper varies from 7 hours to 30 hours, depending on individual circumstances, with an estimated average of 14 hours. The estimated number of respondents and/or recordkeepers is 6,600.

The estimated annual frequency of responses (used for reporting requirements only) is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

VIII. SIGNATURES

By signing this TRAC agreement, the parties certify that they have read and agreed to the terms of this document, including Attachment A, Establishments.

EMPLOYER:

INTERNAL REVENUE SERVICE:

(Name of Employer)

(Signature)

(Signature)

BY: _____

BY: _____

(Service Representative's Name)

TITLE: _____

TITLE: _____

ADDRESS:

ADDRESS:

(Headquarters street address)

(Street address)

(City, state, ZIP code)

(City, state, ZIP code)

DATE: _____

DATE: _____

**ATTACHMENT A
ESTABLISHMENTS
[format for individual establishments]**

Employer

A & B Company

xx-xxxxxxx

Street address

City, state, zip code

[format for chains]

Employer (parent, if applicable)

XYZ Corp.

yy-yyyyyyy

Street address

City, state, zip code

Establishments (if applicable)

AB Restaurant

Street address

City, state, zip code

CD Restaurant

Street address

City, state, zip code

Related entity (if applicable)

UVW Corp.

zz-zzzzzzz

Street address

City, state, zip code

Establishments (if applicable)

EF Restaurant

Street address

City, state, zip code

GH Restaurant

Street address

City, state, zip code

Proposed Revised Tip Rate Determination Agreement (TRDA) for Use by Employers in the Food and Beverage Industry
Announcement 2000-23

The Internal Revenue Service is expanding its Tip Rate Determination/Education Program (TRD/EP), which is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary advance agreements instead of traditional audit techniques. This announcement solicits comments on a draft agreement entitled Tip Rate Determination Agreement (For Use in the Food and Beverage Industry).

OVERVIEW

The Service developed its TRD/EP in 1993 as a means of enhancing tax compliance while reducing taxpayer burden. In essence, the TRD/EP envisions that the Service and taxpayers in industries in which tipping is common would work together to improve tax compliance. The TRD/EP currently offers employers the opportunity of entering into one of two types of agreements. The Tip Rate Determination Agreement (TRDA) requires the determination of tip rates; the Tip Reporting Alternative Commitment (TRAC) agreement emphasizes education and tip reporting procedures. The agreements also set forth an understanding that employers that comply with the terms of the agreement will not be subject to challenge by the Service. The TRDAs set forth sim-

ilar understandings with respect to employees who participate in the agreements. Although not set forth in the TRAC agreements, employees who properly report tips also will not be subject to challenge by the Service. The decision to enter into either a TRDA or a TRAC agreement is entirely voluntary on the part of the employer.

In 1993, the Service developed the TRDA for use in the food and beverage industry. In 1995, the Service developed the TRAC agreement for use in the food and beverage industry. Small employers often find that the TRDA better meets their needs and have requested that the TRDA be simplified.

To ensure consistency in the agreements offered to taxpayers and to provide an opportunity for public comment before making the agreement available for use, a revised TRDA for use in the food and beverage industry is attached to this announcement. The Service has simplified the TRDA.

COMMENTS

Written comments must be received by July 7, 2000. Send submissions to Office of Specialty Taxes, c/o CC:DOM:CORP:R (Announcement 2000-23), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: Specialty Taxes, c/o CC:DOM:CORP:R (Ann. 2000-23), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washing-

ton, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax_regs/regslst.html.

OTHER TRDA AND TRAC AGREEMENTS

The Service is simultaneously proposing by announcement in this Internal Revenue Bulletin four other agreements: (1) a revised TRAC agreement for use in the food and beverage industry (Announcement 2000-22), (2) a revised TRAC agreement for use in the cosmetology and barber industry (Announcement 2000-21), (3) a new TRAC agreement for use in industries, other than the food and beverage industry and the cosmetology and barber industry, in which tipped employees receive both cash and charged tips (Announcement 2000-19), and (4) a new TRDA for use in any industry other than the food and beverage industry and the gaming industry (Announcement 2000-20).

DRAFTING INFORMATION

The principal author of this announcement is Karin Loverud of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this announcement, contact Ida Volz of the Office of Specialty Taxes, on (202) 622-4177 (not a toll-free call).

Release date: April 24, 2000

TIP RATE DETERMINATION AGREEMENT
(For use by employers in the food and beverage industry)

between

Department of the Treasury—Internal Revenue Service
and

_____ [Name of Employer]

This Tip Rate Determination Agreement (TRDA) is part of the Tip Rate Determination/Education Program implemented by the Internal Revenue Service in 1993 to promote tip reporting compliance by employees in accordance with the Internal Revenue Code of 1986.

Section 6053(a) of the Code requires employees to furnish one or more written statements to their employers reporting all tips received in each calendar month. The statements must be furnished to the employer by the 10th day of the following month.

I. DEFINITIONS AND ATTACHMENTS

A. *Definitions.*

1. *Service Representative* means the Internal Revenue Service employee or delegate authorized to execute or terminate this TRDA on behalf of the Internal Revenue Service.

2. *Employer* means _____ [insert name, address, and EIN].

3. *Establishment* means each of the establishments or divisions listed by name, address, and EIN in Attachment A [sample attached].

a. *One place of business*. If the Employer has one place of business, that place of business is an Establishment, and no attachment is necessary.

b. *Additional establishment*. If the Employer subsequently wishes to include an additional establishment in this TRDA, the Employer must notify the Service Representative in writing. The notification must include the name, address, and identifying number of the additional establishment.

4. *Employee* means a person whose Occupational Category is listed in Attachment B [sample attached], and who is employed by an Establishment, and who directly or indirectly receives tips of at least \$20.00 per month during the course of the employee's employment.

5. *Occupational Category* describes a group of employees performing a particular type of service to which a stated tip rate is assigned. Employees performing the same service at different locations or during different shifts may be assigned different Occupational Categories.

6. *Participating Employee* means an Employee who gives to the Employer a signed Tipped Employee Participation Agreement (TEPA), which includes the language set forth in Attachment C, indicating participation in the tip reporting program.

7. *Tip Rate* means the applicable rate described in Section III.

B. Attachments

1. *Attachment A, Establishments*, lists the Employer's establishments participating in this TRDA.

2. *Attachment B, Occupational Categories and Initial Tip Rates*, lists the Employee occupational categories and tip rates subject to this TRDA.

3. *Attachment C, Tipped Employee Participation Agreement*, is the document signed by an Employee agreeing to report tips at or above the rate established for the Employee's Occupational Category.

4. *Attachment D, Formula for Tip Rate Calculation*, is the calculation described in section III.A.1 for determining tip rates.

II. COMMITMENT OF EMPLOYER

A. *Maintaining records*. While this TRDA is in effect, and in addition to records otherwise required to be maintained, the Employer will maintain the following records:

1. *Employee records*. For each Employee, the Employee's name, address, social security number, reported tips, and shift(s) and hours.

2. *Tip rates records*. All records of data used to determine the tip rates.

The Employer will retain the records listed in this section II.A. for at least 4 years after the April 15 following the calendar year to which the records relate.

B. *Furnishing information*. The Employer will furnish to the Service Representative the following documents:

1. *Quarterly report of employees*. A quarterly report showing, as of the last day of each quarter, (1) the total number of Employees, and (2) the total number of Participating Employees. The report is due on the last day of the month following each calendar quarter.

2. *Annual report of nonparticipating Employees*.

a. *General rule*. For each Employee who is a nonparticipating Employee on the last day of the calendar year, an annual report showing the Employee's name, address, social security number, shift(s), and hours. The report may list all Employees, indicating those Employees who are nonparticipating Employees, as long as the required information is included for all nonparticipating Employees. The report is due on March 31 following each calendar year.

b. *Exception*. No report is required for an Occupational Category for any calendar year for which all the Employees in the Occupational Category reported tips at a rate equal to or greater than the rates established under section III of this TRDA.

C. *Making records available*. At the request of the Service Representative, the Employer will furnish any of the records identified in section II.A.

D. *Filing returns and paying and depositing taxes*.

1. *In general*. The Employer or employing Establishment will comply with the requirements for filing all required federal tax returns and paying and depositing all federal taxes.

2. *Form 8027*. For each Establishment that is a "large food or beverage establishment," the Employer will comply with the requirements for filing Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips*, and send an additional copy of each Form 8027 to the IRS.

III. TIP RATES

A. *Tip rates*.

1. *Determining tip rates*. The Employer will determine tip rates based on the formula set forth in Attachment D, Formula for

Tip Rate Calculation. If information necessary for the formula is unavailable or insufficient, the Employer will determine tip rates based on information available to the Employer, historical information provided by the Service Representative, and generally accepted accounting principles. The rates will generally be based on a dollar amount per hour, but a different measure may be used.

2. *Initial tip rates.* The initial tip rates are identified in Attachment B, Occupational Categories and Initial Tip Rates. They will remain in effect through December 31 of the calendar year following the year in which this TRDA takes effect.

B. Determining subsequent tip rates and Occupational Categories.

1. *Annual review.* The Employer will review annually, on a calendar year basis, its Occupational Categories and the tip rates assigned to its Occupational Categories.

2. *Procedures.*

a. *Employer submission.* If the Employer believes that a change in Occupational Categories or a revision of one or more rates is appropriate, the Employer will submit proposed revisions to the Service Representative by September 30. If the Employer fails to submit a proposed rate revision by September 30, the Employer will be treated as having submitted the rate in effect for the current year.

b. *Internal Revenue Service review.* The Service Representative will review the proposed rates and notify the Employer in writing of the IRS's approval or disapproval by November 30. If the IRS does not approve one or more proposed rates, the existing rate or rates will be continued until no later than the last day of the following February. If the Employer and the Service Representative are unable to agree upon a rate or rates by the last day of the following February, this TRDA will terminate pursuant to section V.C.

3. *Effective date of revised tip rates and Occupational Categories.* Approved revised rates for a calendar year will become effective on the later of (1) January 1 of the calendar year, or (2) the first day of the month following the date the Employer and the Service Representative agree upon a revised rate.

IV. COMMITMENT OF INTERNAL REVENUE SERVICE

A. *Participating Employee.* The IRS will not examine a Participating Employee's tip income for any period for which a TEPA is in effect, if the Employee reports tips to the Employer at or above the tip rate established for the Employee.

B. Employer.

1. *Tip examinations.* The IRS will not initiate any tip examinations of the Employer (or Establishment) for any period for which this TRDA is in effect.

2. *Section 3121(q) notice and demand.* Any section 3121(q) notice and demand issued to the Employer (or Establishment) relating to any period during which this TRDA is in effect will be based solely on amounts reflected on—

a. Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, filed by an Employee with his or her Form 1040, or

b. Form 885-T, *Adjustment of Social Security Tax on Tip Income Not Reported to Employer*, prepared at the conclusion of an employee tip examination.

C. *Compliance review.* The IRS may evaluate the Employer and its Participating Employees for compliance with the provisions of this TRDA.

V. TERMINATION OF AGREEMENT

A. *Termination by Employer.* If the Employer no longer wishes this TRDA to apply to one or more Establishments, the Employer may terminate this TRDA with respect to the Establishment(s), by providing written notification to the Service Representative identifying the Establishment(s). If the termination applies to all the Establishments of the Employer, the TRDA will be terminated.

B. *Termination by Internal Revenue Service.* The IRS may terminate this TRDA only if—

1. As of any December 31, less than 75 percent of the Employees are Participating Employees,

2. The Employer fails to meet any of the requirements of section II, Commitment of Employer, or

3. The IRS pursues an administrative or judicial action relating to the Employer, Establishment, or any other related party to this TRDA.

C. *Termination upon failure of parties to agree to revision of tip rates.* This TRDA will terminate if the Employer and the Service Representative fail to agree to a revision of the tip rates under the procedures set forth in section III.B.2.

D. *Notice of termination and effective date.* Any termination will be effective the first day of the first calendar quarter after the terminating party notifies the other party in writing.

E. *Renewal after termination.* The Employer and the Service Representative may at any time enter into a new TRDA.

VI. EFFECTIVE DATE OF AGREEMENT

A. *General rule.* This TRDA is effective on the first day of the first calendar quarter following the date the Service Representative signs the TRDA.

B. *Additional establishment.* This TRDA is effective with respect to an additional establishment on the first day of the quarter in which notification is made.

VII. MISCELLANEOUS

A. *Examinations and/or inspections of books and records.* For purposes of this TRDA–

1. *Compliance review.* A compliance review is not an examination or an inspection of the taxpayer’s books of account or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

2. *Examination.* The inspection of books of account or records pursuant to a tip examination is not an inspection of books or records for purposes of section 7605(b) of the Code, and is not a prior audit for purposes of section 530 of the Revenue Act of 1978.

B. *Notices.* The parties will send all correspondence pertaining to this TRDA to the addresses stated below, unless notified in writing of a change of address. In the event of a change of address, the parties must send all correspondence to the new address. All notices are deemed to be sent or submitted on the date of the postmark stamped on the envelope or, in the case of a notice sent by certified mail, the sender’s receipt.

C. *Authority.* The Employer represents that it has the authority to enter into this TRDA.

D. *General termination and sunset provision.* The Commissioner of Internal Revenue may terminate all TRDAs at any time following a significant statutory change in the FICA taxation of tips. After May 31, 2005, the Commissioner may terminate prospectively the Tip Rate Determination/Education Program and all TRDAs.

VIII. PAPERWORK REDUCTION ACT

The collections of information contained in this document will be submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in this document are in sections I.A.3, 4, and 5, II.A, II.B, II.C., III, and V.A. This information is required to comply with sections 6053(a) and 6001 of the Internal Revenue Code and to assist the Internal Revenue Service in its compliance efforts. This information will be used to monitor the Employer’s performance under the TRDA. The collections of information are required to obtain the benefits available under the TRDA. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 1,737 hours.

The estimated annual burden per respondent/recordkeeper varies from 6 hours to 20 hours, depending on individual circumstances, with an estimated average of 11 hours. The estimated number of respondents and/or recordkeepers is 200.

The estimated annual frequency of responses (used for reporting requirements only) is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103 of the Code.

IX. SIGNATURES

By signing this TRDA, the parties certify that they have read and agreed to the terms of this document, including Attachments A, B, and C.

EMPLOYER:

INTERNAL REVENUE SERVICE:

(Name of Employer)

(Signature)

(Signature)

BY: _____

BY: _____
(Service Representative’s Name)

TITLE: _____

TITLE: _____

ADDRESS:

ADDRESS:

(Headquarters street address)

(Street address)

(City, state, ZIP code)

(City, state, ZIP code)

DATE: _____

DATE: _____

ATTACHMENT A
ESTABLISHMENTS
[format for individual establishments]

Employer
A & B Company
xx-xxxxxxx
Street address
City, state, zip code

[format for chains]

Employer (parent, if applicable)
XYZ Corp.
yy-yyyyyyy
Street address
City, state, zip code

Establishments (if applicable)
AB Restaurant
Street address
City, state, zip code

CD Restaurant
Street address
City, state, zip code

Related entity (if applicable)
UVW Corp.
zz-zzzzzzz
Street address
City, state, zip code

Establishments (if applicable)
EF Restaurant
Street address
City, state, zip code

ATTACHMENT B
OCCUPATIONAL CATEGORIES AND INITIAL TIP RATES
[sample format]

<i>Occupational Categories</i>	<i>Initial Tip Rates</i>
Category A	actual tips
Category B — 1st shift	___% of sales
Category B — 2nd shift	___% of sales
Category B — 3rd shift	___% of sales
Category C — location 1	\$ /
Category C — location 2	\$ /

ATTACHMENT C
TIPPED EMPLOYEE PARTICIPATION AGREEMENT

I am an employee of _____ and wish to participate in my employer's tip reporting program.

In accordance with a Tip Rate Determination Agreement between my employer and the Internal Revenue Service, I agree to report my tips to my employer, as required by law, at or above the tip rate established by my employer and approved by the IRS for my Occupational Category.

I also acknowledge that, to continue participation in my employer's tip reporting program, I must file all federal tax returns required by law and pay all federal taxes for which I am liable.

EMPLOYEE

Name (printed): _____

Signature: _____

Home address: _____

Social Security Number: _____

DATE: _____

Attachments:

- Copy of TRDA and Attachment B (Occupational Categories and Tip Rates)
- Copy of TRDA Information for Employees

ATTACHMENT D
FORMULA FOR TIP RATE CALCULATION

Directly tipped employees

Step 1: Determine charged and cash tip rates.

$$\text{Charged tip rate} = \frac{\text{Total charged tips}}{\text{Total charged sales with charged tips}^*}$$

$$\text{Cash tip rate} = \text{Charged tip rate} \\ \text{less: difference between charged and cash tips}$$

Step 2: Calculate tip rate per hour (or per sales)

1. Gross sales subject to tipping
2. minus: stiff factor
 charged sales with charged tips
 other factors
3. equals: sales subject to cash tipping
4. times cash tip rate
5. equals: cash tips received
6. plus: charged tips
 tips received from other employees
7. equals: total tips received
8. minus: tip outs
9. equals: adjusted tips
10. divided by: total hours worked (or total sales)
11. equals: tip rate per hour (or per sales)

Indirectly tipped employees

Calculate tip rate per hour:

$$\text{Tip rate per hour} = \frac{\text{Tips received from other workers}}{\text{Total hours worked}}$$

* If this figure is unavailable, use "total charged sales" for the denominator to figure the charged tip rate.

**Notice of Call for Redemption: 8
1/4 Percent Treasury Bonds of
2000-5**

Announcement 2000-46

AGENCY: DEPARTMENT OF THE
TREASURY, Office of the Secretary.

January 14, 2000, Washington, D.C.

1. Public notice is hereby given that all outstanding 8 1/4 percent Treasury Bonds of 2000-5 (CUSIP no. 912810 BU 1) dated May 15, 1975, due May 15, 2005, are hereby called for redemption at par on May 15, 2000, on which date interest on such bonds will cease.

2. Full information regarding the presentation and surrender of such bonds held in coupon and registered form for redemption under this call will be found in

Department of the Treasury Circular No. 3000 dated March 4, 1973, as amended (31 CFR part 306), and on the Bureau of the Public Debt's website, www.publicdebt.treas.gov.

3. Redemption payments for such bonds held in book-entry form, whether on the books of the Federal Reserve Banks or in Treasury-Direct accounts, will be made automatically on May 15, 2000.

Donald V. Hammond,
Fiscal Assistant Secretary.

(Filed by the Office of the Federal Register on January 14, 2000, 11:00 a.m., and published in the issue of the Federal Register for January 19, 2000, 65 F.R. 3006)

Delay in Finalizing Proposed Regulations Regarding Last Known Address

Announcement 2000-49

This announcement informs the public of a delay in finalizing proposed regulations (REG-104939-99, 1999-49 I.R.B. 643) under § 6212(b) of the Internal Revenue Code regarding a taxpayer's last known address published in the Federal Register (64 FR 63768) on November 22, 1999. When finalized, the regulations will modify the definition of "last known address" to include an address obtained from the United States Postal Service National Change of Address database (NCOA database). The regulations were proposed to be effective May 1, 2000.

However, all steps necessary to implement the regulations will not be completed by May 1, 2000. Therefore, the Internal Revenue Service will not begin using the NCOA database to update a tax-

payer's last known address on May 1, 2000. Final regulations will not be effective until all the necessary steps are taken to implement the regulations.

Correction to Rev. Proc. 2000-12 Announcement 2000-50

As published, Rev. Proc. 2000-12 (2000-4 I.R.B. 387) omitted the section pertaining to the Paperwork Reduction Act. The following section should be added to the procedure:

Section 8. Paperwork Reduction Act

The collections of information contained in this 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 1545-1597.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information are contained in sections 3 and 4 of this revenue procedure regarding (1) the application procedures for QI status and withholding

agreements, and (2) the provisions of the QI withholding agreement requiring record retention or maintenance, and any communication or contact with the IRS or the account holders. This information will be used to enable the IRS to determine whether to enter into a withholding agreement with the QI applicant and, if accepted, to verify the QI's compliance with the agreement. The collection of information is required to obtain a QI withholding agreement. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 301, 393 hours.

The estimated average annual burden is 30 minutes for a QI account holder, and 2,093 hours for a QI, depending on the individual circumstances. The estimated number of recordkeepers is 88,504.

The estimated frequency of responses is on occasion. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Announcement of the Disbarment and Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under Section 330, Title 31 of the United States Code, the Secretary of the Treasury, after due notice and opportunity for hearing, is authorized to suspend or disbar from practice before the Internal Revenue Service any person who has violated the rules and regulations governing the recognition of attorneys, certified public accountants, enrolled agents or enrolled actuaries to practice before the Internal Revenue Service.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are prohibited in any Internal Revenue Service

matter from directly or indirectly employing, accepting assistance from, being employed by or sharing fees with, any practitioner disbarred or under suspension from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents and enrolled actuaries to identify such disbarred or suspended practitioners, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public accountant, enrolled

agent or enrolled actuary, and the date of disbarment or period of suspension. This announcement will appear in the weekly Bulletin for five successive weeks or as long as it is practicable for each attorney, certified public accountant, enrolled agent or enrolled actuary so suspended or disbarred and will be consolidated and published in the Cumulative Bulletin.

After due notice and opportunity for hearing before an administrative law judge, the following individuals has been disbarred from further practice before the Internal Revenue Service:

Name	Address	Designation	Effective Date
Kolesar, Gary	N. Patchogue, NY	CPA	October 27, 1999

Announcement of the Consent Voluntary Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under 31 Code of Federal Regulations, Part 10, an attorney, certified public accountant, enrolled agent or enrolled actuary, in order to avoid the institution or conclusion of a proceeding for his disbarment or suspension from practice before the Internal Revenue Service, may offer his consent to suspension from such practice. The Director of Practice, in his discretion, may suspend an attorney, certified public accountant, enrolled agent or enrolled actuary in accordance with the consent offered.

Attorneys, certified public accountants, enrolled agents and enrolled actuaries are

prohibited in any Internal Revenue Service matter from directly or indirectly employing, accepting assistance from, being employed by or sharing fees with, any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents and enrolled actuaries to identify practitioners under consent suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as at-

torney, certified public accountant, enrolled agent or enrolled actuary, and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individuals have been placed under consent suspension from practice before the Internal Revenue Service:

Name	Address	Designation	Date of Suspension
Quann, Warren	Elk Grove, CA	Attorney	Indefinite from March 1, 1999
Helms, W. Richard	Western Springs, IL	Attorney	March 1, 1999 to August 31, 2002
Dillahunty, Larry L.	St. Petersburg, FL	Attorney	March 1, 1999 to February 28, 2003
Friesen, Alan	Lincoln, NE	CPA	March 8, 1999 to July 7, 2002
Cummins, Richard L.	Torrance, CA	CPA	March 20, 1999 to March 19, 2002
Potter, Thomas C.	Oneonta, NY	CPA	April 16, 1999 to October 15, 2000
Jenkins, Gordon	Idaho Falls, ID	Attorney	May 1, 1999 to October 31, 2002
Blair Jr., John D.	Charleston, WV	CPA	June 1, 1999 to May 31, 2002
Caudle, Larry	Anchorage, AK	Attorney	June 21, 1999 to December 31, 2001
Schorr, Harvey	Voorheese, NJ	CPA	July 1, 1999 to December 31, 2001

Fernandez, Michael J.	Camillus, NY	CPA	July 7, 1999 to July 6, 2000
Polking, William G.	Carol, IA	Attorney	September 27, 1999 to September 26, 2000
Luxen, Robert J.	Oak Lawn, IL	CPA	October 1, 1999 to June 30, 2001
Underwood, Kenneth	Chattanooga, TN	CPA	October 14, 1999 to April 13, 2001
Vancho, John	Greenwich, CT	CPA	November 1, 1999 to October 31, 2001
Enkulenko, Thomas	Moscow, PA	CPA	November 15, 1999 to November 14, 2000
Moody, James E.	Pittsburgh, PA	CPA	December 1, 1999 to November 30, 2000
Patterson, Robert A.	Marietta, GA	CPA	December 13, 1999 to December 12, 2002
Hanson, Raymond L.	Boise, ID	CPA	January 1, 2000 to December 31, 2001
Wallach, Steven	North Brook, IL	CPA	February 25, 2000 to February 24, 2002
Watkins Sr., Richard	Washington, MO	CPA	March 15, 2000 to September 14, 2002
Peltin, Ronald	Escanaba, MI	Enrolled Agent	March 15, 2000 to March 14, 2003
Arwood B. Joe	Chuckey, TN	CPA	March 20, 2000 to June 19, 2001
Gazzola, Frank L.	N. Mankato, MN	CPA	May 1, 2000 to October 31, 2002
O'Hearn, James	Bakersfield, CA	Enrolled Agent	June 1, 2000 to May 31, 2002
Dooner Jr., William	Toms River, NJ	Enrolled Agent	June 1, 2000 to August 31, 2000

Announcement of the Expedited Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under title 31 of the Code of Federal Regulations, section 10.76, the Director of Practice is authorized to immediately suspend from practice before the Internal Revenue Service any practitioner who, within five years, from the date the expedited proceeding is instituted, (1) has had a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause; or (2) has been convicted of any crime under title 26 of the United States Code or, of a felony under title 18 of the United States Code involving dishonesty or breach of trust.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are prohibited in any Internal Revenue Ser-

vice matter from directly or indirectly employing, accepting assistance from, being employed by, or sharing fees with, any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents, and enrolled actuaries to identify practitioners under expedited suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public accountant, enrolled agent, or enrolled actu-

ary, and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent, or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individuals have been placed under suspension from practice before the Internal Revenue Service by virtue of the expedited proceeding provisions of the applicable regulations:

Name	Address	Designation	Date of Suspension
Moeller, David G.	Golden Valley, MN	Attorney	Indefinite from March 8, 1999
Dais, Robert E.	Plano, TX	CPA	Indefinite from March 15, 1999
Taylor, Donald J.	Sequim, WA	CPA	Indefinite from March 15, 1999
Thurson, Terrance N.	Jacksonville, FL	CPA	Indefinite from March 15, 1999
Hartman, Richard	Merrick, NY	Attorney	Indefinite from March 15, 1999
Mandel, Stewart I.	Univ. Heights, OH	Attorney	Indefinite from March 15, 1999
Gowin, Dennis L.	Falls Church, VA	CPA	Indefinite from March 15, 1999
Kelly, Richard	Lloyd Harbor, NY	Attorney	Indefinite from March 16, 1999
Nagel, Maxine M.	Renton, WA	CPA	Indefinite from March 16, 1999
Cox, James L.	Bedford, TX	CPA	Indefinite from March 23, 1999

Shields, Morris R.	Omaha, NE	CPA	Indefinite from March 23, 1999
Stradone, Mark A.	San Antonio, TX	CPA	Indefinite from March 24, 1999
Anderson, David J.	Minnetonka, MN	CPA	Indefinite from March 28, 1999
Budenz, Lawrence J.	Miamisburg, OH	CPA	Indefinite from March 28, 1999
Hogan, Kelly M.	Ogallala, NE	Attorney	Indefinite from March 28, 1999
Fernez, Daniel J.	Monroe, CT	CPA	Indefinite from March 28, 1999
Fitsos, John	Sacramento, CA	Attorney	Indefinite from March 28, 1999
Schweitzer, Clifford A.	Aberdeen, SD	CPA	Indefinite from April 2, 1999
Magdalena, Lynn Joseph	McAlester, OK	CPA	Indefinite from April 2, 1999
Parrott, George	Nashville, TN	CPA	Indefinite from April 2, 1999
Elder Jr., Wilton K.	Burlington, NC	Attorney	Indefinite from May 6, 1999
Passero, Robert	Seal Beach, CA	CPA	Indefinite from July 8, 1999
Stringham, Richard	Columbia, MO	CPA	Indefinite from July 8, 1999
Koseluk, Alexander F.	Omaha, NE	Attorney	Indefinite from July 19, 1999
Dotson, Marshall F.	Jacksonville, NC	Attorney	Indefinite from July 27, 1999
Schaffer, Clark D.	Atlantic Beach, FL	CPA	Indefinite from July 27, 1999
Zimmerman, Robert	Alpharetta, GA	CPA	Indefinite from January 17, 2000

Definition of Terms

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

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

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

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

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

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

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

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

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

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

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

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

Abbreviations

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

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

E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contribution Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.

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

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 1999–27 through 1999–52 is in Internal Revenue Bulletin 2000–1, dated January 3, 2000.

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