

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.

EXEMPT ORGANIZATIONS

Announcement 2000-52, page 1142.

A list is given of organizations now classified as private foundations.

ESTATE TAX

Rev. Rul. 2000-26, page 1124.

Special use value; farms; interest rates. The 2000 interest rates to be used in computing the special use value of farm real property for which an election is made under section 2032A of the Code are listed for estates of decedents.

TAX CONVENTIONS

Page 1126.

The bilateral agreement between the United States and the Kingdom of Saudi Arabia, providing for the reciprocal tax exemption of income from the international operation of ships and/or aircraft, is set forth.

ADMINISTRATIVE

Rev. Proc. 2000-24, page 1133.

Magnetic media/electronic filing program; Form 1040 NR. Participants in the Magnetic Media/Electronic Filing Program for Form 1040NR, U.S. Nonresident Alien Income Tax Return, are informed of their obligations to the Service, taxpayers, and other participants. Rev. Proc. 99-25 superseded.

Announcement 2000-51, page 1141.

This document provides advance notice of a proposed rule-making and solicits comments to amend Circular 230, appearing in 31 CFR Part 10, which governs the rules of practice before the IRS.

Announcement 2000-53, page 1144.

This document contains corrections to final regulations (T.D. 8879, 2000-16 I.R.B. 882) relating to the kerosene tax under section 4081 of the Code.

Finding Lists begin on page ii.

Announcement of Disbarments and Suspensions begins on page 1145.



The IRS Mission

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

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

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

Section 2032A.—Valuation of Certain Farm, etc., Real Property

26 CFR 20.2032A-4: Method of valuing farm real property.

Special use value; farms; interest rates. The 2000 interest rates to be used in computing the special use value of farm real property for which an election is made under section 2032A of the Code are listed for estates of decedents.

Rev. Rul. 2000-26

This revenue ruling contains a list of the average annual effective interest rates on new loans under the Farm Credit Bank system. This revenue ruling also contains

a list of the states within each Farm Credit Bank District.

Under § 2032A(e)(7)(A)(ii) of the Internal Revenue Code, rates on new Farm Credit Bank loans are used in computing the special use value of real property used as a farm for which an election is made under § 2032A. The rates in this revenue ruling may be used by estates that value farmland under § 2032A as of a date in 2000.

Average annual effective interest rates, calculated in accordance with § 2032A(e)(7)(A) and § 20.2032A-4(e) of the Estate Tax Regulations, to be used under § 2032A(e)(7)(A)(ii), are set forth in the accompanying Table of Interest Rates (Table 1). The states within each Farm Credit Bank District are set forth in the accom-

panying Table of Farm Credit Bank Districts (Table 2).

Rev. Rul. 81-170, 1981-1 C.B. 454, contains an illustrative computation of an average annual effective interest rate. The rates applicable for valuation in 1999 are in Rev. Rul. 99-20, 1999-18 I.R.B. 5. For rate information for years prior to 1999, see Rev. Rul. 98-22, 1998-1 C.B. 999, and other revenue rulings that are referenced therein.

DRAFTING INFORMATION

The principal author of this revenue ruling, is the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Lane Damazo on (202) 622-3090 (not a toll-free call).

REV. RUL. 2000-26 TABLE 1

TABLE OF INTEREST RATES
(Year of Valuation 2000)

Farm Credit Bank District in Which Property Is Located	Interest Rate
Columbia	9.82
Omaha/Spokane	8.10
Sacramento	8.06
St. Paul	8.26
Springfield	8.93
Texas	8.19
Wichita	8.18

REV. RUL. 2000-26 TABLE 2

TABLE OF FARM CREDIT BANK DISTRICTS

District	States
Columbia	Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, West Virginia.
Omaha/Spokane	Alaska, Idaho, Iowa, Montana, Nebraska, Oregon, South Dakota, Washington, Wyoming.
Sacramento	Arizona, California, Hawaii, Nevada, Utah.
St. Paul	Arkansas, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, North Dakota, Ohio, Tennessee, Wisconsin.
Springfield	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont.
Texas	Alabama, Louisiana, Mississippi, Texas.
Wichita	Colorado, Kansas, New Mexico, Oklahoma.

Section 6012.—Persons Required to Make Returns of Income

26 CFR 1.6012-5: Composite return in lieu of specified form.

What are the obligations of participants in the Magnetic Media/Electronic Filing Program for Form 1040NR, U.S. Nonresident Alien Income Tax Return, to the Service, taxpayers, and other participants. See Rev. Proc. 2000-24, page 1133.

Section 6061.—Signing of Returns and Other Documents

26 CFR 1.6061-1: Signing of returns and other documents by individuals.

What are the obligations of participants in the Magnetic Media/Electronic Filing Program for Form 1040NR, U.S. Nonresident Alien Income Tax Return, to the Service, taxpayers, and other participants. See Rev. Proc. 2000-24, page 1133.

Part II. Treaties and Tax Legislation

Subpart A.—Tax Conventions

The Kingdom of Saudi Arabia

AN AGREEMENT BETWEEN
THE GOVERNMENT OF THE
UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE
KINGDOM OF SAUDI ARABIA
FOR
RECIPROCAL EXEMPTION OF
TAXES ON INCOME FROM THE
INTERNATIONAL OPERATION OF A
SHIP OR SHIPS OR AIRCRAFT

The Government of the United States of America and the Government of the Kingdom of Saudi Arabia, hereinafter “the Contracting Parties”, desiring to conclude an Agreement for reciprocal exemption with respect to taxes levied on income from the international operation of a ship or ships or aircraft,

Have agreed as follows:

Article I

TAXES COVERED

1. This Agreement shall apply to all taxes on income derived from the international operation of a ship or ships or aircraft imposed by each Contracting Party irrespective of the manner in which such taxes are levied.
2. There shall be regarded as taxes on income derived from the international operation of a ship or ships or aircraft all taxes imposed on the total of such income or imposed on elements of such income.
3. The taxes to which this Agreement shall apply are:
 - a) In the case of the Kingdom of Saudi Arabia, any Saudi tax described in paragraphs 1 and 2 (hereinafter referred to as “Saudi tax”); and
 - b) In the case of the United States, Federal income taxes described in paragraphs 1 and 2 imposed by the U.S. Internal Revenue Code, including the tax on gross income imposed by section 887 and, as provided in section 884(d)(2), the branch profits tax (hereinafter referred to as “United States tax”).

Article II

DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - a) The terms “a Contracting Party” and “the other Contracting Party” mean the Government of the Kingdom of Saudi Arabia or the Government of the United States of America, as the context requires;
 - b) The term “tax” means “Saudi tax” or “United States tax”, as the context requires;
 - c) The term “operation of a ship or ships or aircraft” means the transportation by sea or air, as the context requires, of persons, baggage, livestock, goods, merchandise or mail, including the sale of tickets and similar documents used for the purpose of such transport, and other directly related activities, carried on by the owner, lessor, or charterer of a ship or aircraft;
 - d) The term “international operation” or “international transport” means operation as defined in paragraph (c), except where the operation of the ship or aircraft is solely between places in a Contracting Party;
 - e) The term “income derived from the international operation of a ship or ships or aircraft” includes:
 - i) Income derived from the rental on a full (time or voyage) basis of a ship or ships or aircraft used in international transport;
 - ii) Income derived from the rental on a bareboat basis of a ship or ships or aircraft used in international transport;
 - iii) Income derived from the rental of containers and related equipment used in international transport that is incidental to income from the international operation of a ship or ships or aircraft;
 - iv) Gains from the sale or other alienation of a ship or ships or aircraft used in international transport;
 - v) Income derived from the international operation of a ship or ships or aircraft by an individual resident of a Contracting Party, or a corporation organized in a Contracting Party, engaged in the international operation of a ship or ships or aircraft from its participation in a pool, an alliance, joint businesses, international operating agency, or other venture that is itself engaged in the international, operation of a ship or ships or aircraft;
2. In the application of the provisions of this Agreement by a Contracting Party any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has at that time under the laws of that Contracting Party relating to the taxes which are the subject of this Agreement.

Article III

SHIPPING AND AIR TRANSPORT

1. Income derived from the international operation of a ship or ships or aircraft by a corporation organized in a Contracting Party and engaged in the international operation of a ship or ships or aircraft shall be exempt from tax by the other Contracting Party.
2. In order for a corporation organized in a Contracting Party to claim benefits under this agreement, it must satisfy any ownership or public trading requirements, as well as any filing requirements, of the other Contracting Party.
3. Corporations of a Contracting Party engaged in the international operation of aircraft include those airlines designated under the Air Transport Agreement between the Contracting Parties

or whose flights are otherwise authorized by the civil aviation authority of the receiving Contracting Party.

Article IV

CONSULTATION, SETTLEMENT OF DISPUTES AND AMENDMENT PROCEDURE

1. Consultation may be requested in writing at any time by either Contracting Party. Such consultation shall commence within sixty (60) days of the date of such written request.
2. The competent authorities of the Contracting Parties shall endeavor to resolve by mutual agreement any dispute regarding the interpretation or application of this Agreement and shall not refer any such dispute to any international tribunal or third party for settlement.
3. This Agreement may be amended by written agreement of the Contracting Parties.

Article V

ENTRY INTO FORCE

1. The Contracting Parties shall notify each other in writing through diplo-

matic channels when their respective legal procedures for entry into force have been met with respect to this Agreement.

2. The Agreement shall enter into force as of the date of the latter of the notifications required pursuant to paragraph 1 of this Article V and the provisions of this Agreement shall have effect with respect to all taxable years beginning on or after January 1, 1999, and to all prior open taxable years.

Article VI

TERMINATION

This Agreement may be terminated by either Contracting Party giving written notice of termination through diplomatic channels or as a consequence of a legislative act by a Contracting Party. In the case of termination by written notice through diplomatic channels, the Agreement shall cease to have effect for taxable periods beginning on or after 1 January of the calendar year next following the date on which notice of termination was given. If this Agreement is terminated as a consequence of any legislative act, the Contracting Party concerned shall give as much notice of termination as feasible

and such termination shall take effect as determined by such legislative act.

IN WITNESS WHEREOF, the undersigned being duly authorized by their respective Governments, have signed the present Agreement.

DONE at Riyadh this eleventh day of December one thousand nine hundred and ninety-nine, corresponding to the third day of Ramadan, one thousand four hundred and twenty, in the Arabic and English languages.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Wyche Fowler, Jr.
United States Ambassador
to the Kingdom of Saudi Arabia

FOR THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA:

Dr. Ibrahim Abdulaziz Al-Assaf
Minister of Finance and
National Economy

**اتفاقية بين
حكومة الولايات المتحدة الأمريكية
وحكومة المملكة العربية السعودية
بشأن تبادل الإعفاء الضريبي بينهما على الدخل المتحقق
من التشغيل الدولي للسفن أو الطائرات**

إن حكومة الولايات المتحدة الأمريكية وحكومة المملكة العربية السعودية ، المشار اليهما فيما بعد بـ « الطرفين المتعاقدين » رغبة منهما في إبرام إتفاقية لتبادل الإعفاء الضريبي بينهما فيما يتعلق بالضرائب المفروضة على الدخل المتحقق من التشغيل الدولي للسفن و الطائرات ، قد اتفقتا على مايلي :

المادة الأولى

الضرائب المغطاة

- ١ - تنطبق هذه الاتفاقية على جميع الضرائب التي يفرضها أي من الطرفين المتعاقدين على الدخل المتحقق من التشغيل الدولي للسفن أو الطائرات بغض النظر عن الأسلوب الذي يتم به فرض مثل هذه الضرائب .
- ٢ - تعتبر ضرائب على الدخل المتحقق من التشغيل الدولي للسفن أو الطائرات جميع الضرائب المفروضة على إجمالي هذا الدخل او على أي من عناصره .
- ٣ - الضرائب التي تنطبق عليها هذه الاتفاقية هي :
 - أ) في حالة المملكة العربية السعودية ، أية ضريبه سعودية ورد وصفها في الفقرتين (٢.١) من هذه المادة (المشار إليها فيما بعد بـ « الضريبة السعودية ») و
 - ب) في حالة الولايات المتحدة الأمريكية ، الضرائب الفيدرالية (الاتحادية) على الدخل والتي ورد وصفها في الفقرتين (٢.١) من هذه المادة ويفرضها القانون الأمريكي للضريبة على الدخل بما في ذلك الضريبة على الدخل الاجمالي المنصوص عليها في الفصل (٨٨٧) ، وفي الفصل ٨٨٤ (د) (٢) والضريبة المفروضة على أرباح الفروع (المشار إليها فيما بعد بـ « ضريبة الولايات المتحدة ») .



المادة الثانية

تعريف المصطلحات

١ - في هذه الإتفاقية ما لم يقتض السياق خلاف ذلك :

- (أ) يعني مصطلح « طرف متعاقد » ومصطلح « طرف متعاقد آخر » ، حكومة المملكة العربية السعودية وحكومة الولايات المتحدة الامريكية وفقاً لما يقضى به السياق.
- (ب) يعني مصطلح « ضريبة » الضريبة السعودية أو ضريبة الولايات المتحدة وفقاً لما يقضى به السياق .
- (ج) يعني مصطلح « تشغيل السفن أو الطائرات » النقل بالبحر أو بالجو ، وفقاً لما يقضى به السياق للأشخاص أو العفش أو الثروة الحيوانية أو البضائع أو السلع أو البريد بما في ذلك بيع التذاكر أو الوثائق المماثلة المستخدمة لغرض النقل والنشاطات الأخرى ذات العلاقة المباشرة التي يقوم بها المالك أو المؤجر أو المستأجر لسفينة أو لطائرة .
- (د) يعني مصطلح « تشغيل دولي » أو مصطلح « نقل دولي » التشغيل الوارد تعريفه في الفقرة (ج) باستثناء تشغيل السفينه أو الطائرة فيما بين النقاط التي تقع داخل حدود أحد الطرفين المتعاقدين .
- (هـ) يشمل مصطلح « دخل متحقق من التشغيل الدولي للسفن أو الطائرات » :
- (١) الدخل المتحقق من تأجير سفينة أو طائرة مستخدمة في النقل الدولي لفترة زمنية أو رحلة كاملة .
- (٢) الدخل المتحقق من تأجير السفن أو الطائرات المستخدمة في النقل الدولي بدون أي من مستلزماتها مثل أطقم العاملين والوقود اللازم للتشغيل وما إلى ذلك .
- (٣) الدخل المتحقق من تأجير حاويات ومعدات مستخدمة في النقل الدولي الذي يعد ثانوياً بالنسبة للدخل الناتج عن التشغيل الدولي للسفن والطائرات .
- (٤) المكاسب المتحققة من البيع أو التصرف لنقل ملكية سفينة أو طائرة مستخدمة في النقل الدولي أو نقل ملكيتها بوسيلة أخرى .

WA

هـ) الدخل المتحقق من التشغيل الدولي للسفن او الطائرات من قبل فرد مقيم لدى أحد الطرفين المتعاقدين أو من قبل شركة تأسست في أحد الطرفين المتعاقدين وتعمل في التشغيل الدولي للسفن والطائرات بموجب مشاركتها مع مجموعة أو تحالف أو مشاريع مشتركة أو وكالة دولية للتشغيل أو أي مشروع آخر يعمل في مجال التشغيل الدولي للسفن والطائرات .

و) لأغراض الضريبة السعودية ، يقصد بالسنوات الضريبية المفتوحة السنوات الضريبية التي لم تدفع عنها الضريبة لأي سبب كان . لأغراض ضريبة الولايات المتحدة ، يقصد بالسنوات الضريبية المفتوحة السنوات الضريبية التي لم يغلَق عنها قانون التقادم المسقط .

ز) يعني مصطلح « السلطة المختصة » :

- في حالة المملكة العربية السعودية [وزارة المالية والاقتصاد الوطني] .

- في حالة الولايات المتحدة [وزير الخزانة أو من يفوضه] .

٢ - في اطار تطبيق أحكام هذه الإتفاقية من قبل طرف متعاقد فإن أي مصطلح لم يرد تعريف له يكون معناه وفقاً لقوانين ذلك الطرف المتعاقد التي تتعلق بالضرائب الخاضعة لهذه الإتفاقية ما لم يقتض السياق خلاف ذلك .

المادة الثالثة

النقل البحري والنقل الجوي

١- يعفى الدخل المتحقق من التشغيل الدولي للسفن أو الطائرات الذي يتم من قبل شركة مؤسسة لدى أحد الطرفين المتعاقدين وتعمل في التشغيل الدولي للسفن أو الطائرات من الضريبة على هذا الدخل من قبل الطرف المتعاقد الآخر.

WA

- ٢ - لكي تستفيد شركة تأسست في طرف متعاقد من الإعفاء وفقاً لهذه الاتفاقية ، يتعين عليها تلبية أية متطلبات خاصة بالملكية أو بالإتجار العام أو أية متطلبات أخرى يفرضها ، الطرف المتعاقد الآخر في مثل هذه الحالات -
- ٣ - تشمل الشركات التابعة لأحد الطرفين المتعاقدين التي تعمل في التشغيل الدولي للطائرات شركات الخطوط الجوية المحددة بمقتضى اتفاقية النقل الجوي المبرمة بين الطرفين المتعاقدين ، أو تلك التي تجيز رحلاتها سلطات الطيران المدني لدى الطرف المتعاقد المتلقي .

المادة الرابعة

التشاور وتسوية المنازعات وأجراء التعديل

- ١ - يطلب التشاور خطياً في أي وقت من قبل أي من الطرفين المتعاقدين على أن يبدأ هذا التشاور خلال ستين (٦٠) يوماً من تاريخ مثل هذا الطلب الخطي -
- ٢ - تعمل السلطات المختصة لدى الطرفين المتعاقدين ، بالاتفاق فيما بينهما ، على حل أي نزاع ينشأ بشأن تفسير أو تطبيق هذه الاتفاقية على ألا يتم اللجوء إلى أي تحكيم دولي أو طرف ثالث لغرض التسوية -
- ٣ - يمكن تعديل هذه الإتفاقية بإتفاق خطي بين الطرفين المتعاقدين .

المادة الخامسة

الدخول في حيز التنفيذ

- ١ - يقوم كل طرف من الطرفين المتعاقدين بإبلاغ الطرف الآخر خطياً من خلال القنوات الدبلوماسية عند استيفاء الإجراءات القانونية اللازمة لدخول هذه الإتفاقية حيز التنفيذ -

(٥)

AS

٢ - تدخل الاتفاقية حيز التنفيذ إبتداءً من تاريخ آخر اخطار مطلوب وفقاً للفقرة (١) من هذه المادة ، وتسري أحكام هذه الإتفاقية على السنوات الضريبية التي تبدأ في أو بعد ١ يناير ١٩٩٩ م وعلى جميع السنوات الضريبية المفتوحة السابقة .

المادة السادسة إنهاء الإتفاقية

يمكن إنهاء هذه الإتفاقية من قبل أي من الطرفين المتعاقدين بتقديم إشعار خطي بإنهاء عن طريق القنوات الدبلوماسية أو بمرسوم تشريعي يصدر عن طرف متعاقد . في حالة الإنهاء بإشعار خطي عن طريق القنوات الدبلوماسية ، يتوقف سريان الإتفاقية عن الفترات الضريبية التي تبدأ في أوبعد [١] يناير من السنة الميلادية التالية للتاريخ الذي تم فيه تقديم اشعار الانهاء . وفي حالة انهاء هذه الاتفاقية بمرسوم تشريعي ، فعلى الطرف المتعاقد المعنى مراعاة أن تكون الفترة الزمنية من تاريخ تقديم الإشعار الخطي بإنهاء حتى تاريخ الإنهاء أطول ما يمكن ، ويسرى الإنهاء وفقاً لما يقرره المرسوم التشريعي .

وللشهادة على ما ورد يعالیه فان الموقعين أدناه المفوضين نظاماً من حكومتيهما المعنيتين قد وقعا هذه الإتفاقية .

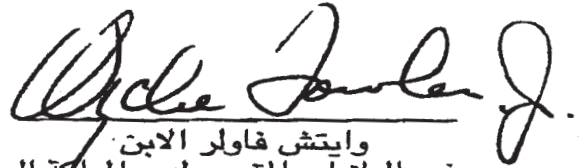
تم التوقيع في الرياض في اليوم الحادي عشر من شهر ديسمبر من العام ١٩٩٩ م الموافق الثالث من شهر رمضان من العام ١٤٢٠ هـ باللغتين العربية والإنجليزية .

عن حكومة المملكة العربية السعودية



الدكتور/ إبراهيم بن عبدالعزيز العساف
وزير المالية والاقتصاد الوطني

عن حكومة الولايات المتحدة الأمريكية



وايتش فاوولر الابن
سفير الولايات المتحدة لدى المملكة العربية السعودية
١٣٩٧ع

Part III. Administrative, Procedural, and Miscellaneous

26 CFR 601.602 : Tax forms and instructions.
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Rev. Proc. 2000-24

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SECTION 1. PURPOSE

This revenue procedure informs those who participate in the Magnetic Media/Electronic Filing Program for Form 1040NR, U.S. Nonresident Alien Income Tax Return (“1040NR Program”), of their obligations to the Internal Revenue Service, taxpayers, and other participants. This revenue procedure updates and supersedes Rev. Proc. 99-25, 1999-21 I.R.B. 24.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 1.6012-5 of the Income Tax Regulations provides that the Commissioner may authorize the use, at the option of a person required to make a return, of a composite return in lieu of any form specified in 26 CFR Part 1 (Income Tax), subject to the conditions, limitations, and special rules governing the preparation, execution, filing, and correction thereof as the Commissioner may deem appropriate.

.02 For purposes of this revenue procedure, a magnetically or electronically filed Form 1040NR is a composite return consisting of data submitted on magnetic tape, floppy disk, or via modem (the “data portion”), and certain paper documents (the “paper portion”). The paper portion of the return consists of a Form 8453-NR, U.S. Nonresident Alien Income Tax Declaration for Magnetic Media Filing, and other paper documents that cannot be filed magnetically or electronically. Form 8453-NR must be received by the Service before any composite return is complete (see section 5.07 of this revenue procedure). A composite return must contain the same information that a return filed completely on paper contains. See section 7 of this revenue procedure for procedures for completing Form 8453-NR.

.03 The Magnetic Media Project Office (“Project Office”, see section 17 of this revenue procedure for the address and telephone numbers) will periodically issue a list of the forms and schedules that can be magnetically or electronically filed.

.04 A Form 1040NR with a zero balance, balance due, or refund due may be magnetically or electronically filed.

.05 For purposes of the 1040NR Pro-

gram, a Form 1040NR cannot be filed magnetically or electronically after the first Friday of December following the close of the taxable year, notwithstanding the fact that the taxpayer has been granted an extension to file beyond that date.

.06 An amended tax return cannot be filed magnetically or electronically under the 1040NR Program. A taxpayer must file an amended tax return on paper in accordance with the instructions for Form 1040X, Amended U.S. Individual Income Tax Return.

.07 Upon request, the Project Office will provide technical information (file specifications, record layouts, and testing procedures) for filing Form 1040NR magnetically or electronically.

.08 Some of the updates and changes to Rev. Proc. 99-25 are as follows:

(1) the requirement that a return originator must retain and make available to the Service a complete copy of the data portion of the taxpayer’s return is amended to require that the data portion can be converted into a paper return format should the Service request that format (Section 5.11(4)(b)); and

(2) the requirement that a return originator retain certain materials is amended to require that the materials be retained until the end of the calendar year following the year in which a return was filed (Section 5.11(5)).

SECTION 3. 1040NR PROGRAM PARTICIPANTS—DEFINITIONS

.01 After acceptance into the 1040NR Program, as described in section 4 of this revenue procedure, a participant is referred to as a “1040NR Filer.”

.02 The 1040NR Filer categories are:

(1) 1040NR RETURN ORIGINATOR. A “1040NR Return Originator” is: (a) a “1040NR Return Preparer” who prepares tax returns, including Forms 8453-NR, for taxpayers who intend to have their returns magnetically or electronically filed; and/or (b) a “1040NR Return Collector” who accepts completed tax returns, including Forms 8453-NR, from taxpayers who intend to have their returns magnetically or electronically filed.

(2) SERVICE BUREAU. A “Service Bureau” receives tax return information

on any media from a 1040NR Return Originator, formats the return information, and either (a) sends back the return information to the 1040NR Return Originator, or (b) forwards the return information to a Transmitter. A Service Bureau may send Forms 8453–NR to the Service.

(3) SOFTWARE DEVELOPER. A “Software Developer” develops software for the purposes of (a) formatting the data portion of returns according to the Service’s magnetic or electronic return filing specifications; and/or (b) transmitting the data portion of returns directly with the Service. A Software Developer may also sell its software.

(4) TRANSMITTER. A “Transmitter” sends the data portion of a return directly to the Service.

.03 The 1040NR Filer categories are not mutually exclusive. For example, a 1040NR Return Originator can, at the same time, be considered a Transmitter, Software Developer, or Service Bureau depending on the function(s) performed.

SECTION 4. ACCEPTANCE INTO THE 1040NR PROGRAM

.01 Except as provided in sections 4.02 and 4.03 of this revenue procedure, a 1040NR Filer that has participated in the most recent 1040NR Program does not have to reapply to participate in the 1040NR Program. However, a 1040NR Filer that intends to function as a Transmitter or a Software Developer in the 1040NR Program must first successfully complete the testing referred to in section 4.07 of this revenue procedure. In addition, section 4.08 of this revenue procedure provides for the Service’s issuance of credentials necessary for participation in the 1040NR Program.

.02 Applicants and 1040NR Filers must file a new Form MAR–8980, Application for Electronic/Magnetic Media Filing of Form 1040NR, with the Project Office if:

(1) the applicant has never participated in the 1040NR Program;

(2) the applicant has previously been denied participation in the 1040NR Program; or

(3) the applicant has been suspended from the 1040NR Program.

.03 To participate in the 1040NR Program, a 1040NR Filer in the most recent 1040NR Program must submit to the Project Office either a revised Form

MAR–8980, or a letter containing the same information contained in the revised Form MAR–8980, if there is any change to the following information:

(1) the Firm name or Doing Business As (DBA) name;

(2) the business or mailing address;

(3) the contact person’s name or telephone number; or

(4) the 1040NR Filer category.

.04 Applications described in this section 4.02 of this revenue procedure may be submitted at any time during the year.

.05 If an applicant purchases an existing 1040NR Filer’s business, a new application and proof of sale must be submitted during the period beginning 45 days before, and ending 30 days after, the date of the purchase.

.06 Revised applications described in this section 4.03 of this revenue procedure must be submitted within 30 days of the change(s) reflected on the revised Form MAR–8980 or in the letter.

.07 A 1040NR Filer may not submit tax returns under the 1040NR Program until 30 days after it has successfully completed the necessary testing administered by the Project Office.

.08 The Service will issue credentials to eligible applicants, 1040NR Filers that do not have to reapply pursuant to section 4.01 of this revenue procedure, and 1040NR Filers that comply with section 4.02 or 4.03 of this revenue procedure, provided they have first satisfactorily completed the testing described in section 4.07 of this revenue procedure if they intend to function as a Transmitter or Software Developer. No one may participate in the 1040NR Program without the following credentials:

(1) a letter of acceptance into the 1040NR Program; and

(2) a Magnetic Tape 1040NR Filer Identification Number (MTFIN).

.09 The following reasons may result in rejection of an application to participate in the 1040NR Program (this list is not all-inclusive):

(1) conviction of any criminal offense under the revenue laws of the United States, or of any offense involving dishonesty or breach of trust;

(2) failure to timely and accurately file tax returns, including returns indicating that no tax is due;

(3) failure to timely pay any tax lia-

bilities;

(4) assessment of tax penalties;

(5) suspension/disbarment from practice before the Service;

(6) disreputable conduct or other facts that would reflect adversely on the 1040NR Program;

(7) misrepresentation on an application;

(8) suspension or rejection from the 1040NR Program in a prior year;

(9) unethical practices in return preparation;

(10) stockpiling returns prior to official acceptance into the 1040NR Program (see section 5.10 of this revenue procedure);

(11) knowingly and directly or indirectly employing or accepting assistance from any firm, organization, or individual that is prohibited from applying to participate in the 1040NR Program (see section 13.09 of this revenue procedure) or that is suspended from participating in that Program (see section 12.07 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the 1040NR Program; or

(12) knowingly and directly or indirectly accepting employment as an associate, a correspondent, or as a subagent, or sharing fees with any firm, organization, or individual that is prohibited from applying to participate in the 1040NR Program (see section 13.09 of this revenue procedure) or that is suspended from participating in that Program (see section 12.07 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the 1040NR Program.

SECTION 5. RESPONSIBILITIES OF A 1040NR FILER

.01 To ensure that complete returns are accurately and efficiently filed, a 1040NR Filer must comply with all publications and notices of the Service related to magnetic or electronic filing. Currently, these publications and notices include:

(1) Procedures for Magnetic Media Filing of U.S. Nonresident Alien Income Tax Returns, Form 1040NR (available from the Project Office);

(2) File Specifications and Record Layouts for Magnetic Media Filing of

U.S. Nonresident Alien Income Tax Returns, Form 1040NR (available from the Project Office); and

(3) Postings to the Electronic Filing System Bulletin Board (EFS Bulletin Board).

.02 A 1040NR Filer must maintain a high degree of integrity, compliance, and accuracy.

.03 A 1040NR Filer may accept returns for magnetic or electronic filing only from the taxpayer filing the return, a representative of the taxpayer filing the return, or from another 1040NR Filer.

.04 If a 1040NR Filer charges a fee for the transmission of the data portion of the tax return, the fee may not be based on a percentage of the refund amount or any other amount from the tax return. A 1040NR Filer may not charge a separate fee for Direct Deposit. See section 9 of this revenue procedure for a discussion of Direct Deposit.

.05 A 1040NR Filer must submit a revised Form MAR-8980 to the Project Office within 30 days of when any of the conditions or changes described in section 4.03 of this revenue procedure occur.

.06 A 1040NR Filer must notify the Project Office within 30 days of discontinuing its participation in the 1040NR Program. This does not preclude reapplication in the future.

.07 A 1040NR Filer must ensure that it promptly processes returns submitted to it for magnetic or electronic filing. See sections 5.10, 5.16, and 5.17 of this revenue procedure. However, a 1040NR Filer that receives a return for magnetic or electronic filing on or before the due date of the return must ensure that the data portion of the return is transmitted on or before that due date (including extensions, see section 5.08 of this revenue procedure). A composite return is not considered filed until the data portion of the tax return is acknowledged by the Service as accepted for processing and a completed and signed Form 8453-NR is received by the Service. However, if the data portion of a return is successfully transmitted on or shortly before the due date and the 1040NR Filer complies with section 7.01 of this revenue procedure, the return will be deemed timely filed. If the data portion of a return is transmitted on or shortly before the due date but is ultimately rejected, the return will be deemed timely

filed if the 1040NR Filer and the taxpayer comply with section 5.14 of this revenue procedure. In the case of a balance due return, see section 10 of this revenue procedure for instructions on how to make a timely payment of tax.

.08 Unless the Service grants an extension of time to file beyond the due date of the return, a 1040NR Filer must ensure that the return for any individual is received by the Service on or before:

(1) April 15 (unless this date is a Saturday, Sunday, or legal holiday in which case the return must be received by the next succeeding day which is not a Saturday, Sunday, or legal holiday) if the individual was an employee and received wages subject to U.S. federal income tax withholding; or

(2) June 15 (unless this date is a Saturday, Sunday or legal holiday in which case the return must be received by the next succeeding day which is not a Saturday, Sunday, or legal holiday) if the individual did not receive such wages. However, section 2.05 of this revenue procedure provides that a return cannot be filed magnetically or electronically after the first Friday of December following the close of the taxable year.

.09 A 1040NR Filer must ensure against the unauthorized use of its MTFIN. A 1040NR Filer must not transfer its MTFIN by sale, merger, loan, gift, or otherwise to another entity.

.10 A 1040NR Filer is responsible for ensuring that stockpiling does not occur. Prior to official acceptance of the 1040NR Filer into the 1040NR Program, stockpiling means collecting returns from taxpayers. After official acceptance, stockpiling means:

(1) in the case of a 1040NR Return Originator, waiting for more than three calendar days after receiving the necessary information to submit a return to a Transmitter or Service Bureau, or

(2) in the case of a Transmitter, waiting for more than ten calendar days after receiving the necessary information to send the data portion of the return to the Service.

.11 A 1040NR Filer that functions as a Return Originator must:

(1) comply with the procedures for completing Form 8453-NR described in section 7 of this revenue procedure;

(2) comply with the procedures de-

scribed in section 10 of this revenue procedure for handling a balance due return;

(3) furnish the taxpayer with a copy of the signed Form 8453-NR (except for multiple return filing as described in section 7.01(5) of this revenue procedure) and, in the case of a prepared or corrected return, a copy of the paper portion of the return;

(4) while returns are being filed, retain and, if requested, make available to the Service the following material at the business address from which a return was accepted for magnetic or electronic filing:

(a) a copy of the signed Form 8453-NR; paper copies of Forms W-2, Wage and Tax Statement; W-2G, Certain Gambling Winnings; 1099-R, Distributions From Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.; and the paper portion of the taxpayer's return;

(b) a complete copy of the data portion of the taxpayer's return (which may be retained on computer media) that can be readily and accurately converted into magnetic or electronic data that the Service can process or convert into a paper return format, should the Service request that format; and

(c) the acknowledgement file (stating that the Service accepts the data portion of the taxpayer's return for processing) received from the Service or from a third party Transmitter;

(5) retain until the end of the calendar year following the year in which a return was filed and make available to the Service, upon request, the materials described in section 5.11(4) of this revenue procedure, at the business address from which a return was accepted for magnetic or electronic filing or from the contact person named on Form MAR-8980.

.12 A 1040NR Return Originator who is the paid preparer of a magnetically or electronically filed Form 1040NR must also retain for the prescribed amount of time the materials described in § 1.6107-1(b) that are required to be kept by an income tax return preparer.

.13 A 1040NR Return Originator must identify the paid preparer (if any) in the appropriate field of the data portion of the return, in addition to ensuring that the paid preparer signed Form 8453-NR. If Form 8453-NR is not signed by the paid preparer, the 1040NR Return Originator

must attach a copy of the Form 1040NR originally signed by the paid preparer. This copy must be marked "COPY-DO NOT PROCESS" to prevent duplicate filings.

.14 If the Service rejects the data portion of a taxpayer's return (the Service states that it rejects the data portion of a taxpayer's return for processing in the acknowledgement file), and the reason for the rejection cannot be rectified by the actions described in section 6.02(3) of this revenue procedure, the 1040NR Return Originator, within 24 hours of receiving the rejection, must take reasonable steps to tell the taxpayer that the taxpayer's return has not been filed. If the taxpayer chooses to have the data portion of the return resubmitted magnetically or electronically, and the 1040NR Return Originator successfully works with the Project Office to correct the problems causing the data portion of the return to be rejected, the return will be accepted as timely filed. A new Form 8453-NR may be required (see section 7 of this revenue procedure). However, even when no new Form 8453-NR is required, the Transmitter must submit a photocopy of the original Form 8453-NR with the rejected file or return and mark the photocopy "Retransmitted." If the Project Office determines that the data portion of a return cannot be accepted for processing or the taxpayer chooses not to have the rejected data portion of the return resubmitted magnetically or electronically, the taxpayer must file a paper return by the later of:

- (1) the due date (with regard to any extensions of time to file) of the return; or
- (2) ten calendar days after the Service gives notification that the data portion of the return is rejected or that the data portion of the return cannot be accepted for processing.

The paper return should include an explanation of why the return is being filed after the due date.

.15 A 1040NR Return Originator must use the taxpayer's address in the data portion of the return. In addition, a 1040NR Return Originator must not put its address as the taxpayer's address in the data portion of the return.

.16 A 1040NR Filer that functions as a Service Bureau must:

- (1) deliver all data portions of returns to a Transmitter or return them to

the 1040NR Return Originator who gave the data portions of the returns to the Service Bureau within three calendar days of receipt;

- (2) retrieve the acknowledgement file from the Transmitter within one calendar day of receipt by the Transmitter;

- (3) send the acknowledgement file to the 1040NR Return Originator (whether related or not) within one work day of retrieving the acknowledgement file;

- (4) if the Service Bureau processes Forms 8453-NR, send back to the 1040NR Return Originator any return and Form 8453-NR that needs correction, unless the correction is described in section 7.02(1) of this revenue procedure;

- (5) accept tax return information only from 1040NR Filers;

- (6) include its MTFIN and the 1040NR Return Originator's MTFIN with all return information the Service Bureau forwards to a Transmitter or sends back to the 1040NR Return Originator;

- (7) retain each acknowledgement file received from a Transmitter until the end of the calendar year in which the return was filed;

- (8) if requested, serve as a contact point between its client 1040NR Return Originator and the Service; and

- (9) if requested, provide the Service with a list of each client 1040NR Return Originator.

.17 A 1040NR Filer that functions as a Transmitter must:

- (1) send to the Service all data portions of returns within ten calendar days of receipt;

- (2) match the acknowledgement file to the original transmission file and send the acknowledgement file to the 1040NR Return Originator or the Service Bureau (whether or not the 1040NR Return Originator or the Service Bureau are related to the Transmitter) within five calendar days after receipt of the acknowledgement file from the Service;

- (3) retain a copy of the acknowledgement file received from the Service until the end of the calendar year in which the return was filed;

- (4) immediately contact the Project Office for further instructions if an acknowledgement of acceptance for processing has not been received by the Transmitter within 14 calendar days of transmission, or if a Transmitter receives

an acknowledgement for a return that was not transmitted on the designated transmission;

- (5) promptly correct any transmission error that causes a data portion of a return to be rejected;

- (6) contact the Project Office for assistance if a data portion of a return has been rejected after three transmission attempts; and

- (7) ensure the security of all transmitted data.

.18 A Transmitter that provides transmission services to another 1040NR Filer must, in addition to the items covered in section 5.17 of this revenue procedure, also:

- (1) accept returns for transmission to the Service only from an accepted 1040NR Filer; and

- (2) use its assigned MTFIN when filing returns.

.19 A 1040NR Filer that functions as a Software Developer must:

- (1) promptly correct any software error that causes a data portion of a return to be rejected;

- (2) promptly distribute any software correction made to its software packages to all 1040NR Filers utilizing these packages; and

- (3) not incorporate into its software a Service-assigned production password.

.20 In addition to the specific responsibilities described in this section, a 1040NR Filer must meet all the requirements in this revenue procedure to keep the privilege of participating in the 1040NR Program.

SECTION 6. PENALTIES

.01 Penalties for Disclosure or Use of Information.

- (1) A 1040NR Filer, except a Software Developer, is a tax return preparer ("Preparer") under the definition of § 301.7216-1(b) of the Regulations on Procedure and Administration. A Preparer is subject to a criminal penalty for unauthorized disclosure or use of tax return information. See § 7216 of the Internal Revenue Code and § 301.7216-1(a). In addition, § 6713 establishes civil penalties for unauthorized disclosure or use of tax return information.

- (2) Under § 301.7216-2(h), disclosure of tax return information among accepted 1040NR Filers for the purpose of

preparing a return is permissible. For example, a 1040NR Return Originator may pass on tax return information to a Service Bureau and/or a Transmitter for the purpose of having the data portion of a return formatted and sent to the Service. However, if the tax return information is disclosed or used in any other way, a Service Bureau and/or a Transmitter may be subject to the penalties described in section 6.01(1) of this revenue procedure.

.02 Other Preparer Penalties.

(1) Preparer penalties may be asserted against an individual or firm who meets the definition of an income tax return preparer under §§ 7701(a)(36) and 301.7701-15. Preparer penalties that may be asserted under appropriate circumstances include, but are not limited to, those set forth in §§ 6694, 6695, and 6713.

(2) Under § 301.7701-15(d), 1040NR Return Collectors, Service Bureaus, Software Developers, and Transmitters are not income tax return preparers for the purpose of assessing most preparer penalties as long as their services are limited to “typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund.”

(3) If a 1040NR Return Collector, Service Bureau, Software Developer, or Transmitter alters the return information in a nonsubstantive way, this alteration will be considered to come under the “mechanical assistance” exception described in § 301.7701-15(d)(1). A nonsubstantive change is a correction or change limited to a transposition error, misplaced entry, spelling error, or arithmetic correction that falls within one of the following tolerances:

(a) the “Total tax”, “Total payments”, “Refund”, or “Amount you owe” on Form 8453-NR differs from the corresponding amount on the data portion of the return by no more than \$7;

(b) the “Total effectively connected income” amount shown on Form 8453-NR differs from the corresponding amount on the data portion of the return by no more than \$25; or

(c) dropping cents and rounding to whole dollars.

(4) If a 1040NR Return Collector, Service Bureau, or Transmitter alters the return information in a substantive way, rather than having the taxpayer alter the

return, the 1040NR Return Collector, Service Bureau, or Transmitter will be considered to be an income tax return preparer for purposes of § 7701(a)(36).

(5) If a 1040NR Return Collector, Service Bureau, Transmitter, or the product of a Software Developer, goes beyond mechanical assistance, any of these parties may be held liable for income tax return preparer penalties. See Rev. Rul. 85-189, 1985-2 C.B. 341, (which describes a situation where a Software Developer was determined to be an income tax return preparer and subject to certain preparer penalties).

.03 Other Penalties. In addition to the above specified provisions, the Service reserves the right to assert all appropriate civil and criminal penalties, including preparer, nonpreparer, and disclosure penalties, against a 1040NR Filer as warranted under the circumstances.

SECTION 7. FORM 8453-NR, U.S. NONRESIDENT ALIEN INCOME TAX DECLARATION FOR MAGNETIC MEDIA FILING

.01 Procedures for Completing Form 8453-NR.

(1) Form 8453-NR must be completed in accordance with the instructions for Form 8453-NR.

(2) The taxpayer’s name, taxpayer identification number, tax return information, and direct deposit of refund information in the data portion of the return must be identical to the information on the Form 8453-NR signed by the taxpayer (or by the taxpayer’s authorized representative as described in section 7.01(5) of this revenue procedure) and provided for submission to the Service.

(3) A 1040NR Filer, a financial institution, or any other entity associated with the magnetic or electronic filing of a taxpayer’s return must not put its address on Form 8453-NR or anywhere in the data portion of a return.

(4) Except for multiple return filing as described in section 7.01(5) of this revenue procedure, after the return has been prepared and before the return is submitted, the taxpayer must verify the information on the data portion of the return and on Form 8453-NR, and must sign Form 8453-NR.

(5) A 1040NR Filer must submit a Form 8453-NR to the Project Office with

each magnetically or electronically filed return. A single Form 8453-NR (inscribed with the language “See attached Multiple Return Information Listing”) may be used for a multiple return filing if the person who signs Form 8453-NR has authorization, either by a specific power of attorney or as a responsible representative or agent under § 1.6012-3(b), to sign each of the returns included in the multiple return filing. A person who makes a multiple return filing must attach to Form 8453-NR an information page(s) titled “Form 8453-NR for Multiple Returns — Tax Return Information Listing” at the top of the pages(s). Below the title, the multiple return 1040NR Filer must provide his or her name and address. The next item on the page(s) must be a list that includes every taxpayer’s name control, taxpayer identification number, and the information shown on lines one through five on Form 8453-NR, for each return included in a multiple return filing.

(6) If a 1040NR Filer functions as a 1040NR Return Originator, the 1040NR Filer must sign the 1040NR Return Originator’s Declaration on Form 8453-NR.

(7) If the 1040NR Filer is also the paid preparer, the 1040NR Filer must check the “Paid Preparer” box and sign the 1040NR Return Originator Declaration on Form 8453-NR.

.02 Corrections to Form 8453-NR.

(1) A new form 8453-NR is not required for a nonsubstantive change. A nonsubstantive change is limited to a correction that does not exceed the tolerances described in section 7.02(2) of this revenue procedure for arithmetic errors, a transposition error, a misplaced entry, or a spelling error. The incorrect nonsubstantive information must be neatly lined through on the Form 8453-NR and the correct data entered next to the lined-through entry. Also, the individual making the correction must initial the correction.

(2) The tolerances for section 7.02(1) of this revenue procedure are:

(a) the “Total effectively connected income” does not differ from the amount on the data portion of the return by more than \$25; or

(b) the “Total tax”, the “Total payments”, the “Refund”, or the “Amount you owe” does not differ from the amount on the data portion of the return by more than \$7.

(3) If the 1040NR Return Originator makes a substantive change to the data portion of the return after Form 8453–NR has been signed by the taxpayer, but before it is transmitted to the Service, the 1040NR Return Originator must have all the necessary parties described above sign a new Form 8453–NR that reflects the corrections before the data portion of the return is transmitted.

(4) Dropping cents or rounding to whole dollars does not constitute a substantive change or alteration to the return unless the amount differs by more than the above tolerances. All rounding should be accomplished in accordance with the instructions in the Form 1040NR tax package.

.03 *Missing Form 8453–NR.* If the Service determines that a Form 8453–NR is missing, the 1040NR Return Originator must provide the Service with a replacement. A 1040NR Return Originator must also provide a copy of the Form(s) W-2, W-2G, 1099R, and all other attachments to the Form 8453–NR.

.04 *Substitute Form 8453–NR.* If a substitute Form 8453–NR is used, it must be approved by the Service prior to use.

SECTION 8. INFORMATION A 1040NR FILER MUST PROVIDE TO THE TAXPAYER

.01 The 1040NR Return Originator must furnish the taxpayer with a complete paper copy of the taxpayer's return (except for multiple return filing as described in section 7.01(5) of this revenue procedure). However, the copy need not contain the social security number of the paid preparer. See Rev. Rul. 78–317, 1978–2 C.B. 335. A complete copy of the taxpayer's return includes:

(1) Form 8453–NR and other paper documents that cannot be magnetically or electronically transmitted, and

(2) a printout of the data portion of the return. See section 2.02 of this revenue procedure. The data portion of the return can be contained on a replica of an official form or on an unofficial form. However, on an unofficial form, data entries must be referenced to the line numbers on an official form.

.02 The 1040NR Return Originator must advise the taxpayer to retain a complete copy of the return and any supporting material.

.03 The 1040NR Return Originator must advise the taxpayer that an amended return, if needed, must be filed as a paper return and mailed to the Philadelphia Service Center.

.04 The 1040NR Return Originator must, upon request, provide the taxpayer with the date the Service acknowledged that the data portion of the taxpayer's return was accepted for processing.

.05 A 1040NR Return Originator must advise taxpayers that they can call the local IRS TeleTax number to inquire about the status of their tax refund. The 1040NR Return Originator should also advise taxpayers to wait at least three weeks from the date the Service acknowledged that the data portion of the taxpayer's return was accepted for processing before calling the TeleTax number.

.06 If a taxpayer chooses to use an address other than his or her home address on the return, the 1040NR Return Originator must inform the taxpayer that the address on the data portion of the return, once processed by the Service, will be used to update the taxpayer's address of record. The Internal Revenue Service uses the taxpayer's address of record for various notices that are required to be sent to a taxpayer's "last known address" under the Internal Revenue Code and for refunds of overpayments of tax (unless otherwise specifically directed by the taxpayer, such as by Direct Deposit).

SECTION 9. DIRECT DEPOSIT OF REFUNDS

.01 The Service will ordinarily process a request for Direct Deposit but reserves the right to issue a paper refund check.

.02 The Service does not guarantee a specific date by which a refund will be directly deposited into the taxpayer's financial institution account. The taxpayer's account must be with a financial institution located in the United States.

.03 Neither the Service nor the Financial Management Service (FMS) is responsible for the misapplication of a Direct Deposit that is caused by error, negligence, or malfeasance on the part of the taxpayer, 1040NR Filer, financial institution, or any of their agents.

.04 A 1040NR Return Originator must:

(1) advise taxpayers of the option to receive their refund by paper check or Direct Deposit;

(2) not charge a separate fee for Direct Deposit;

(3) accept any Direct Deposit election to any eligible financial institution designated by the taxpayer;

(4) ensure that the taxpayer is eligible to choose Direct Deposit;

(5) verify that the Direct Deposit information requested on Part II of Form 8453–NR was entered correctly and that the information entered is the information transmitted on the data portion of the return;

(6) caution the taxpayer that once a data portion of a return has been accepted for processing by the Service:

(a) the Direct Deposit election cannot be rescinded;

(b) the routing number of the financial institution cannot be changed; and

(c) the taxpayer's account number cannot be changed; and

(7) advise the taxpayer that refund information is available by calling the IRS TeleTax number. See section 8.05 of this revenue procedure.

SECTION 10. BALANCE DUE RETURNS

.01 A magnetically or electronically filed balance due return is submitted to the Philadelphia Service Center in the same manner that a refund or zero balance return is submitted. A balance due return is not complete unless and until the Service receives a Form 8453–NR completed and signed by the taxpayer (or by the taxpayer's authorized representative as described in section 7.01(5) of this revenue procedure).

.02 A taxpayer who magnetically or electronically files a balance due return must make a full and timely payment of any tax that is due. Failure to make full payment on or before the due date of the return (determined without regard to extensions) will result in the imposition of interest and may result in the imposition of penalties.

SECTION 11. ADVERTISING STANDARDS FOR 1040NR FILERS AND FINANCIAL INSTITUTIONS

.01 A 1040NR Filer must comply with the advertising and solicitation provisions of 31 C.F.R. Part 10 (Treasury Department Circular No. 230). This circular prohibits the use or participation in the

use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim. Any claims concerning faster refunds by virtue of magnetically or electronically filing returns must be consistent with the language in official Service publications.

.02 A 1040NR Filer must adhere to all relevant federal, state, and local consumer protection laws that relate to advertising and soliciting.

.03 A 1040NR Filer must not use the Service's name, "Internal Revenue Service," or "IRS" within a firm's name.

.04 A 1040NR Filer must not use improper or misleading advertising in relation to the 1040NR Program (including the time frames for refunds).

.05 A 1040NR Filer using promotional material or logos provided by the Service must comply with all Service instructions pertaining to the promotional materials or logos.

.06 A 1040NR Filer using the Direct Deposit name and logo must comply with the following:

(1) the name "Direct Deposit" will be used with initial capital letters or all capital letters;

(2) the logo/graphic for Direct Deposit will be used whenever feasible in advertising copy; and

(3) the color or size of the Direct Deposit logo/graphic may be changed when used in advertising pieces.

.07 Advertising materials must not carry the FMS, IRS, or other Treasury seals.

.08 Advertising for a cooperative 1040NR return project (public/private sector) must clearly state the names of all cooperating parties.

.09 If a 1040NR Filer uses radio or television broadcasting to advertise, the broadcast must be pre-recorded. The 1040NR Filer must keep a copy of the pre-recorded advertisement for a period of at least 36 months from the date of the last transmission or use.

.10 If a 1040NR Filer uses direct mail or fax communications to advertise, the 1040NR Filer must retain a copy of the actual mailing or fax, along with a list or other description of the firms, organizations or individuals to whom the communication was mailed, faxed, or otherwise distributed for a period of at least 36

months from the date of the last mailing, fax, or distribution.

.11 Acceptance to participate in the 1040NR Program does not imply endorsement by the Service or FMS of the software or quality of services provided.

SECTION 12. MONITORING AND SUSPENSION OF A 1040NR FILER

.01 The Service will monitor a 1040NR Filer for conformity with this revenue procedure. Before suspending a 1040NR Filer, the Service may issue a warning letter that describes specific corrective action for deviations from this revenue procedure. However, the Service can immediately suspend, without notice, a 1040NR Filer from the 1040NR Program. In most circumstances, a suspension from participation in the 1040NR Program is effective as of the date of the letter informing the 1040NR Filer of the suspension.

.02 The Service will monitor the timely receipt of Forms 8453-NR, as well as their overall legibility.

.03 The Service will monitor the quality of the 1040NR Filer's submissions throughout the filing season. The Service will also monitor data portions of returns and tabulate rejections, errors, and other defects. If quality deteriorates, the 1040NR Filer may receive a warning from the Service.

.04 The Service will monitor complaints about a 1040NR Filer and issue a warning or suspension letter as appropriate.

.05 The Service reserves the right to suspend a 1040NR Filer from participation in the 1040NR Program for violating any provision of this revenue procedure. Generally, the Service will advise a suspended 1040NR Filer concerning the requirements for reacceptance into the 1040NR Program. The following reasons may lead to a warning letter and/or suspension of a 1040NR Filer from the 1040NR Program (this list is not all-inclusive):

(1) the reasons listed in section 4.09 of this revenue procedure;

(2) deterioration in the format of individual submissions;

(3) unacceptable cumulative error or rejection rate;

(4) untimely received, illegible, incomplete, missing, or unapproved substi-

tute Forms 8453-NR;

(5) stockpiling returns at any time while participating in the 1040NR Program;

(6) failure on the part of a Transmitter to provide a 1040NR Return Originator or Service Bureau with acknowledgment files within five calendar days after receipt from the Service;

(7) significant complaints about a 1040NR Filer's performance in the 1040NR Program;

(8) failure on the part of a 1040NR Filer to ensure against the unauthorized use of its assigned MTFIN;

(9) having more than one MTFIN for the same business entity at the same location (the business entity is generally the entity that reports on its return the income derived from magnetic or electronic filing), unless the Service has issued more than one MTFIN to a business entity;

(10) failure on the part of a 1040NR Filer to cooperate with the Service's efforts to monitor 1040NR Filers and investigate filing abuse;

(11) failure on the part of a 1040NR Filer to properly use the standard/non-standard W-2 indicator;

(12) failure on the part of a Service Bureau or a Transmitter to use its assigned MTFIN when filing returns;

(13) failure on the part of the Transmitter to include a Service Bureau's MTFIN in the transmission of a return submitted by a Service Bureau;

(14) failure on the part of a Service Bureau or a Transmitter to include the 1040NR Return Originator's MTFIN as part of a return that the 1040NR Return Originator submits to the Service Bureau or the Transmitter;

(15) violation of the advertising standards described in section 11 of this revenue procedure;

(16) failure to maintain and make available records as described in sections 5.11(4) and (5) of this revenue procedure;

(17) accepting a tax return for magnetic or electronic filing either directly or indirectly from a firm, organization, or individual (other than the taxpayer who is submitting his or her return) that is not a 1040NR Filer;

(18) submitting information on the data portion of the return that is not identical to the information on the Form 8453-NR; or

(19) failure to timely submit a revised Form MAR-8980 notifying the Service of changes described in section 4.02 or 4.03 of this revenue procedure.

.06 The Service may list in the Internal Revenue Bulletin, district office listings, district office newsletters, on the EFS Bulletin Board, or in other appropriate publications, the name of any entity that is suspended from the 1040NR Program and the effective date of that suspension.

.07 If a participant is suspended from participating in the 1040NR Program, the period of suspension includes the remainder of the calendar year in which the suspension occurs plus the next two calendar years. A suspended participant may submit a new application for the application period immediately preceding the end of the suspension.

SECTION 13. ADMINISTRATIVE REVIEW PROCESS FOR DENIAL OF PARTICIPATION IN THE 1040NR PROGRAM

.01 An applicant that has been denied participation in the 1040NR Program has the right to an administrative review. During the administrative review process, the denial of participation remains in effect.

.02 In response to the submission of a Form MAR-8980, the Project Office will either (1) accept an applicant into the 1040NR Program, or (2) issue a proposed letter of denial that explains to the applicant why the Service proposes to reject the application to participate in the 1040NR Program.

.03 An applicant that receives a proposed letter of denial may mail or deliver, within 30 calendar days of the date of the proposed letter of denial, a written response to the Project Office. The applicant's response must address the Project Office's reason(s) for proposing the denial to participate.

.04 Upon receipt of an applicant's written response, the Project Office will reconsider its proposed letter of denial. The Project Office may (1) withdraw its proposed letter of denial and accept the applicant into the 1040NR Program, or (2) finalize the proposed denial letter.

.05 If an applicant receives a final denial letter from the Project Office, the applicant is entitled to an appeal, in writing, to the Director of Practice.

.06 The appeal must be mailed or delivered to the Project Office within 30 calendar days of the date of the final denial letter. An applicant's written appeal must contain a detailed explanation, with supporting documentation, of why the denial should be reversed.

.07 The Project Office, upon receipt of a written appeal to the Director of Practice, will forward to the Director of Practice its file on the applicant and the material described in section 13.06 of this revenue procedure. The Project Office will forward these materials to the Director of Practice within 15 calendar days of the receipt of the applicant's written appeal.

.08 Failure to respond within either of the 30-day periods described in sections 13.03 and 13.06 of this revenue procedure irrevocably terminates an applicant's right to an administrative review or appeal.

.09 If an application for participation in the 1040NR Program is denied, the applicant is ineligible to submit a new application for two years from the application date of the denied application.

SECTION 14. ADMINISTRATIVE REVIEW PROCESS FOR SUSPENSION FROM THE 1040NR PROGRAM

.01 A 1040NR Filer that has been suspended from participation in the 1040NR Program has the right to an administrative review. During the administrative review process, the suspension remains in effect.

.02 If a 1040NR Filer receives a suspension letter, the 1040NR Filer may mail or deliver, within 30 calendar days of the date of the suspension letter, a detailed written explanation, with supporting documentation, of why the suspension letter should be withdrawn. This written response should be sent to the Project Office.

.03 Upon receipt of the 1040NR Filer's written response, the Project Office will reconsider its suspension of the 1040NR Filer. The Project Office may either (1) withdraw its suspension letter and reinstate the 1040NR Filer, or (2) affirm the suspension.

.04 If a 1040NR Filer receives a letter affirming the suspension, the 1040NR Filer is entitled to an appeal, in writing, to the Director of Practice.

.05 The appeal must be mailed or delivered to the Project Office within 30 calendar days of the date of the letter affirming the suspension. The 1040NR Filer's written appeal must contain detailed reasons, with supporting documentation, for reversal of the suspension.

.06 The Project Office, upon receipt of a written appeal to the Director of Practice, will forward to the Director of Practice its file on the 1040NR Filer and the material described in section 14.05 of this revenue procedure. The Project Office will forward these materials to the Director of Practice within 15 calendar days of the receipt of a 1040NR Filer's written request for appeal.

.07 Failure to appeal within either of the 30-day periods described in sections 14.02 and 14.05 of this revenue procedure irrevocably terminates a 1040NR Filer's right to an appeal.

SECTION 15. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 99-25, 1999-21 I.R.B. 24, is superseded.

SECTION 16. EFFECTIVE DATE

This revenue procedure is effective May 30, 2000.

SECTION 17. PROJECT OFFICE INFORMATION

All questions regarding this revenue procedure should be directed to:

Internal Revenue Service
Philadelphia Service Center
ATTN: DP-115-Magnetic Media
Project Office
11601 Roosevelt Blvd.
Philadelphia, PA 19154
U.S.A.

The telephone number of this office is (215) 516-7533 (not a toll-free number) or 800-829-6945 (a toll-free number).

Part IV. Items of General Interest

Regulations Governing Practice Before the Internal Revenue Service

Announcement 2000-51

AGENCY: Office of the Secretary, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document provides advance notice of proposed rulemaking to amend the regulations governing practice before the Internal Revenue Service (IRS), which appear in the Code of Federal Regulations and in pamphlet form as Treasury Department Circular No. 230, Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, and Appraisers before the IRS. This document also invites individuals and organizations to submit comments on revising Circular No. 230 to address general standards of practice and standards of practice relating to tax shelters.

DATES: Submit comments on or before July 5, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-111835-99), 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: CC:DOM:CORP:R (REG-111835-99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Submit comments and data via electronic mail (email) to http://www.irs.gov/tax_regs/regslst.html.

FOR FURTHER INFORMATION CONTACT: Concerning issues for comment, Richard Goldstein at (202) 622-7880; concerning submissions of comments and delivering comments, Guy Traynor, (202) 622-7180; (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Section 330 of title 31 of the United States Code authorizes the Secretary of the

Treasury to regulate the practice of representatives before the Department and, after notice and an opportunity for a proceeding, to suspend or disbar from practice before the Department those representatives who are incompetent, disreputable, or who violate regulations prescribed under section 330. Pursuant to section 330, the Secretary has published the regulations in Circular No. 230 (31 CFR part 10). These regulations authorize the Director of Practice to act upon applications for enrollment to practice before the IRS, to institute proceedings for suspension or disbarment from practice before the IRS, to make inquiries with respect to matters under the Director's jurisdiction, and to perform such other duties as are necessary to carry out these functions.

The regulations have been amended from time to time to address various specific issues in need of resolution. For example, on February 23, 1984, the regulations were amended to provide standards for providing opinions used in tax shelter offerings (Notice 84-4, 1984-1 C.B. 331 [49 F.R. 6719]). On October 17, 1985, the regulations were amended to conform to legislative changes requiring the disqualification of an appraiser who is assessed a penalty under section 6701 for aiding and abetting the understatement of a tax liability (Notice 85-18, 1985-2 C.B. 409 [50 F.R. 42014]). The regulations were most recently amended on June 20, 1994 (T.D. 8545, 1994-2 C.B. 415 [59 F.R. 31523]) to provide standards for tax return preparation, to limit the use of contingent fees in return or refund claim preparation, to provide expedited rules for suspension, and to clarify or amend certain other items.

On June 15, 1999, the Director of Practice published an advance notice of proposed rulemaking (64 F.R. 31994) requesting comments on amendments to the regulations that would take into account legal developments, professional integrity and fairness to practitioners, taxpayer service, and sound tax administration. The Treasury Department received several comments and is currently reviewing them. The 1999 advance notice of proposed rulemaking contemplated a notice of proposed rulemaking that would make general revisions to Circular No. 230.

II. Tax Shelters

Following the release of the advance notice of proposed rulemaking, the Treasury Department issued a report on the proliferation of corporate tax shelters. See "The Problem of Corporate Tax Shelters: Discussion, Analysis and Legislative Proposals," Department of the Treasury, July 1999. In February of this year, the Treasury Department and the IRS took steps to deter abusive shelters by publishing temporary regulations requiring disclosure of certain transactions by corporate taxpayers (T.D. 8877, 2000-11 I.R.B. 747 [65 F.R. 11205]), registration of confidential corporate tax shelters (T.D. 8876, 2000-11 I.R.B. 753 [65 F.R. 11215]), and maintenance of lists of investors in certain tax shelters (T.D. 8875, 2000-11 I.R.B. 761 [65 F.R. 11211]).

In addition, practitioners and organizations, such as the Section of Taxation of the ABA, have recommended that the Treasury Department revise Circular No. 230 to raise the standards for providing advice with respect to corporate tax shelters. The Treasury Department and the IRS agree that it is appropriate to review the standards that should be followed by practitioners who provide advice with respect to such transactions.

III. Request for Comments

The Treasury Department and the IRS invite comments relating to standards of practice governing tax shelters and other general matters. The Treasury Department and the IRS are particularly interested in receiving comments on the following matters.

A. *Opinion standards of Circular No. 230*

1. Whether the opinion standards in §10.33 (relating to tax opinions provided for the marketing of tax shelters) should be revised.

2. Whether Circular No. 230 should establish standards for tax opinions other than those provided for in §10.33 or §10.51 (relating to false opinions). Particularly, whether Circular No. 230 should establish standards for opinions intended to provide legal justification for the treat-

ment of an item for purposes of §1.6664-4(e) of the Regulations on Procedure and Administration (relating to the reasonable cause exception).

3. Whether an opinion provided for legal justification for purposes of §1.6664-4(e) of the regulations should specifically state that it is provided for this purpose.

4. For purposes of the foregoing:

a. Whether the factual due diligence standards set forth in §10.33(a)(1) should be applied to tax shelter opinions other than those provided for the marketing of tax shelters.

b. Whether the factual due diligence standards should be modified to further limit the circumstances under which a practitioner may rely on factual assertions of other persons and to require a practitioner to specify the measures taken to confirm the facts.

c. Under what circumstances, if any, Circular No. 230 should permit a practitioner to base an opinion upon hypothetical facts or factual assumptions and conclusions, including assumptions regarding the existence of a business purpose and the significance of such purpose relative to the intended tax benefits.

d. Whether Circular No. 230 should require that the opinion state that the transaction in question was analyzed under all applicable judicial doctrines (including the step transaction, business purpose, economic substance, substance over form, and sham transaction doctrines).

e. Whether Circular No. 230 should require that an opinion state unambiguously that there is a greater than 50 percent likelihood that the taxpayer will prevail with respect to each material tax issue and with respect to the material tax benefits in the aggregate.

B. *Contingent fees*

1. Whether §10.28 should prohibit a practitioner from charging a fee for an opinion or advice relating to a position taken or to be taken by a taxpayer in an original return where such fee is contingent upon whether the tax treatment of the transaction is sustained, and whether §10.28 should prohibit a practitioner from providing an indemnity to a taxpayer with respect to a position taken or to be taken in an original return.

2. Whether §10.28 should continue to permit a practitioner to charge a contingent fee for assisting a client in filing an amended return or claim for refund when the practitioner reasonably anticipates at the time the fee arrangement is entered into that the amended return or claim will receive substantive review from the Service.

C. *Conditions of confidentiality*

1. Whether there are circumstances in which Circular No. 230 should prohibit a practitioner from agreeing to conditions of confidentiality other than conditions of confidentiality imposed by reasons of privilege. If so, how should confidentiality be defined?

2. Whether Circular No. 230 should prohibit a practitioner from asking a client to agree to conditions of confidentiality.

D. *Sanctions*

1. Whether §10.24 should be modified to clarify what types of relationships with suspended persons are prohibited.

2. Whether there are circumstances in which a practitioner's failure to comply with the rules under Circular No. 230 should be attributed to the firm with which the practitioner is associated so that the practitioner and the firm (or all practitioners in the firm) may be subject to discipline under Circular No. 230.

3. Whether Circular No. 230 can or should provide a broader array of sanctions, such as censure, for violation of its provisions.

4. Whether the identities of those who are disciplined under Circular No. 230 should be exposed to greater publicity. If so, how should greater publicity be achieved?

E. *General Issues*

1. Whether §10.7(c)(1) should be modified to permit, under limited circumstances, an individual who is not authorized to practice before the IRS to represent a taxpayer without obtaining authorization for a special appearance from the Director of Practice under §10.7(d).

2. Whether and to what extent §10.21 should be modified regarding the actions a practitioner must take when he or she discovers that there is an error or omission on a return or other document.

3. Whether §10.22 should be modified to define what constitutes due diligence.

4. Whether §10.29 should be expanded to define conflicting interests and to delineate what constitutes informed consent permitting a practitioner to represent clients with conflicting interests.

5. How the provisions of §10.30(a)(2), regarding uninvited solicitations, should be modified in light of *Edenfield v. Fane*, 507 U.S. 761 (1993).

6. Whether the definition of communication in §10.30(c) should be expanded specifically to include certain forms of electronic communications and whether there are any special considerations that should be addressed regarding these forms of communication for purposes of §10.30.

7. Whether the §10.51 definition of disreputable conduct should be expanded to include conviction of any felony.

In addition to the foregoing issues, the Treasury Department and the IRS invite comments on any other changes that are necessary or appropriate to carry out the purposes of Circular No. 230.

Neal Wolin,
General Counsel.

(Filed by the Office of the Federal Register on May 5, 2000, 3:35 p.m., and published in the issue of the Federal Register for May 11, 2000, 65 F.R. 30375)

Foundations Status of Certain Organizations

Announcement 2000-52

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

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

AESC Research and Education Institute, Inc., New York, NY
 Agape Foundation, Inc., Plainfield, NJ
 AL Hajj Incorporated, Montgomery, AL
 Allie L. Thomas Memorial, Inc., San Angelo, TX
 American Friends of Ballet Rambert, Inc., Lingfield, England
 American-International Childrens Alliance, Inc., Marblehead, MA
 Anthony Hyde PTA, Washington, DC
 The Archibald Memorial Home, Indianapolis, IN
 Baptist Village Residents Association, Phoenix, AZ
 Bay Area Children First, San Francisco, CA
 Black History Preservation Society, Philadelphia, PA
 Bojuka Parent-Student Association, Inc., Marina, CA
 Camera Arts Foundation, San Luis Obispo, CA
 Camphill Fellowship, Glenmoore, PA
 Carey Cox Wyatt Charitable Foundation, Inc., Atlanta, GA
 Caring Approach to Life Management, Inc., Willingboro, NJ
 Change for Planet Earth, Inc., Phoenix, AZ
 Childrens Health Coalition, Inc., Summit, NJ
 Church-Inmate Connection, Inc., Checotah, OK
 Coalition for the Advancement of Regional Transportation, Inc., Louisville, KY
 Comites of San Francisco, San Francisco, CA
 Concrete Volunteer Fire Department, Langdon, ND
 Desert Orthopedic Center Medical Research Foundation, Rancho Mirage, CA
 Development Alternatives Corporation, Boston, MA
 The D.O.M.E. Foundation, Inc., New York, NY
 Durham Regional Health Foundation, Inc., Durham, NC
 Eagle Wing Estates, Inc., Hattiesburg, MS
 Educare, Deerton, MI
 Empowerment Project, Charlotte, NC
 Environment Celebration Foundation, Las Vegas, NV
 Essex Housing Opportunities, Inc., Lawrence, MA
 Excel Performance Institute, Inc., Manassas, VA
 FC Hawaii, Honolulu, HI
 Faith Foundation of Darke County, Inc., Greenville, OH
 For Chicopee, Inc., Chicopee, MA
 Foundation For Airborne Relief, Anaheim, CA
 Foundation For Interactive Learning, Inc., Katona, NY
 The Fred and Ruth Hawkins Family Resource Center, Inc., Oakpark, IL
 Freedom Chapel - Help The Children, Inc., Torrance, CA
 Friends of Francis W. Gregory, JR. High School Foundation, New Orleans, LA
 Frost Parent Teacher Organization, Mesa, AZ
 Genesis Association of Richmond, Inc., Richmond, IN
 Global Education Partnership, Inc., Oakland, CA
 Good Samaritan, Inc., New London, CT
 Grand Boulevard Renaissance Society, Chicago, IL
 Griffin-Spalding Cleam Community Commission, Inc., Griffin, GA
 Guilford Community Aids Partnership, Inc., Greensboro, NC
 Harrah Senior Housing Corporation II, Harrah, OK
 Healthcare For All, Inc., Washington, DC
 Hobart Community Land Trust, Hobart, WA
 Hope & Charity Incorporated, Pittsburgh, PA
 Houston Gunners Football Association, Inc., Houston, TX
 Humanitarian Resource Institute, Carson City, NV
 Imperial Homes, Inc., Los Angeles, CA
 Jian Hua Foundation, El Cajon, CA
 Johnny Mercer Foundation, New York, NY
 Kelly Home of Iredell County, Raleigh, NC
 Ken-Crest Housing Del II, Inc., Plymouth Meeting, PA
 Kids Konnection, Dayton, OH
 King Gandhi Foundation, Inc., Silver Spring, MD
 Labette County Humane Society, Parsons, KS
 Lake Forest Knights of Columbus Charities, Inc., Lake Forest, IL
 Lemoyne-Owen College Community Development Corp., Memphis, TN
 Linwood Educational Trust Fund, Inc., Lincoln, NH
 Low Income Housing Foundation of New Mexico, Inc., Albuquerque, NM
 Lyndon Baines Johnson Health Complex, Brooklyn, NY
 Making the Difference Incorporated, Milwaukie, OR
 Marshall Opportunity Enterprises Corporation, Marshall, TX
 Marvelous Clark, Saint Louis, MO
 Multi Cultural Visions, Phoenix, AZ
 Nashville Coalition Against Domestic Violence, Nashville, TN
 National Center for Minority Health, Inc., Potomac, MD
 National Consumer Debt Counseling, Ontario, CA
 National Foundation for Imaging Excellence, Inc., New York, NY
 Neighborhood Development Foundation, Staten Island, NY
 North Council Tenant Council, Inc. Lowell, MA
 Oak Cliff Christian Housing, Dallas, TX
 Oasis Youth Center, Ormond Beach, FL
 Olney Crime Stoppers, Olney, TX
 Opportunities For Technological & Educational Achievement, Inc., Florence, TX
 Orchid Association, Middletown, OH
 Orthodox Christian Prison Ministry, Lompoc, CA
 Paladin Associates, Inc., Casper, WY
 Parks Education Foundation, Aloha, OR
 Path to Peace, Carthage, MO
 Paul Gage Ministries, Euless, TX
 Pearson & Associates, Inc., Lawton, OK
 Pollock Pines Camino Community Center Association, Pollock Pines, CA
 Predator Athletic Club, Inc., Papillion, NE
 Project Agape, Memphis, TN
 Pro Organo Pleno, XXI, Fort Collins, CO
 Public-Private Ventures, Inc., Irwindale, CA
 The Public Radio Service, Inc., Columbia, MD
 Recipes for Living, Greensboro, NC
 Reunification Behavioral Health Care RBHC, Inc., Gary, IN
 River Heights Apartments, Inc., Starkville, MS
 Roslyn Nadel Scholars for Disabled Persons, Inc., Trenton, NJ
 Rural Housing Development, Inc., Darlington, WI
 Salem First Corporation, Salem, NH

San Mateo High School Alumni Association, San Mateo, CA
 Second Chapel Hill Housing Development Corporation, Detroit, MI
 Self Help for Hard of Hearing People Greater Boston Chapter, Inc. Brookline, MA
 Senior Transport, Omaha, NE
 Solar Electric Education Network, Inc., Oregon, IL
 Special Socials for Seniors Services, Inc., Euclid, OH
 Spokane County Medical Society Auxiliary, Spokane, WA
 Sport Science Research Foundation, Inc., Lilburn, GA
 St. Elizabeth's Children Home, Lexington, MS
 St. Petersburg-Leningrad Salvation Fund, Studio City, CA
 Success Motivation Healing Institute, Sherman Oaks, CA
 Success Sisters, Dickenson, TX
 Suncoast Compensation and Benefits Foundation, Inc., Tampa, FL
 Texas Enterprises for the Disabled, Inc., Austin, TX
 Texas Institute for an Informed Public, Houston, TX
 Texas Newspaper Foundation, Inc., Austin, TX
 Touch the Earth Foundation, Solana Beach, CA
 The Training Place, Cypress, CA
 Trillium A Charitable Corporation, Edina, MN
 Tulsa Memorial High School Foundation, Inc., Tulsa, OK
 Tuolumne County Business Incubators, Inc., Sonora, CA
 Under the Oaks Foundation, Jackson, MI
 United Christian Charities Georgia, Inc., Roswell, GA
 Uvalde Housing Development Corporation, Uvalde, TX
 WASP Museum, Inc., Quartzite, AZ
 Westland Community Services, Inc., Albuquerque, NM
 Westside Track Club, Inc., Louisville, KY
 Women Representing Women Incorporated, Charlotte, NC
 Words of Assurance Ministry, Inc., Silver Spring, MD
 World City Pictures, New York, NY
 World Model Soldier Federation, Inc., Chicago, IL
 Yad Latorah, Inc., Patchogue, NY
 Youth Baseball and Softball Booster Club, West Plains, MO

If an organization listed above submits information that warrants the renewal of its classification as a public charity or as a private operating foundation, the Internal Revenue Service will issue a ruling or determination letter with the revised classification as to foundation status. Grantors and contributors may thereafter rely upon such ruling or determination letter as provided in section 1.509(a)-7 of the Income Tax Regulations. It is not the practice of the Service to announce such revised classification of foundation status in the Internal Revenue Bulletin.

Kerosene Tax; Aviation Fuel Tax; Taxable Fuel Measurement and Reporting; Tax on Heavy Trucks and Trailers; Highway Vehicle Use Tax; Correction

Announcement 2000-53

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to Treasury Decision 8879, which was published in the Federal Register on Friday, March 31, 2000 (T.D. 8879, 2000-16 I.R.B. 882 [65 F.R. 17149]). The corrections relate to the kerosene excise tax.

DATES: These corrections are effective March 31, 2000.

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

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under sections 4101 and 6427 of the Internal Revenue Code.

Need for Correction

As published, TD 8879 contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 48

Excise taxes, Reporting and record-keeping requirements.

Correction of Publication

Accordingly, 26 CFR Part 48 is corrected by making the following correcting amendments:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 continues to read in part as follows:

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

Par. 2. Section 48.4101-1 is amended by:

1. Redesignating paragraphs (c)(1)(v) and (c)(1)(vi) as paragraphs (c)(1)(vi) and (c)(1)(vii), respectively;
2. Adding paragraph (c)(1)(v);
3. Removing the language “(c)(1)(vi)” from paragraph (1)(2) and adding the language “(c)(1)(vii)” in its place.

The addition reads as follows:

§48.4101-1 Taxable fuel; registration.

* * * * *

(c) * * * (1) * * *

(v) A refiner;

* * * * *

§48.4101-2T [Removed]

Par. 3. Section 48.4101-2T is removed.

Par. 4. Section 48.6427-11(e)(2)(iii) is revised to read as follows:

§48.6427-11 Kerosene; claims by registered ultimate vendors (blending).

* * * * *

(e) * * *

(2) * * *

(iii) *Model certificate.*

CERTIFICATE OF BUYER FOR PRODUCTION OF A COLD WEATHER BLEND

(To support vendor's claim for a credit or payment under section 6427 of the Internal Revenue Code.)

_____(Buyer) certifies the following under penalties of perjury:

Name of buyer

The kerosene to which this certificate applies will be used by Buyer to produce a blend of kerosene and diesel fuel in an area described in a declaration of extreme cold and the blend will be sold for use or used for heating purposes.

This certificate applies to _____ percent of Buyer's purchase from _____(name, address, and employer identification number

of seller) on invoice or delivery ticket number _____.

If Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Printed or typed name of person signing

Title of person signing

Employer identification number

Address of Buyer

Signature and date signed

* * * * *

Cynthia E. Grigsby,
Chief, Regulations Unit,
Assistant Chief Counsel (Corporate).

(Filed by the Office of the Federal Register on May 3, 2000, 8:45 a.m., and published in the issue of the Federal Register for May 8, 2000, 65 F.R. 26488)

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 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 attorney, 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 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 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 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 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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