

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 2001-22, page 1152.

Federal rates; adjusted federal rates; adjusted federal long-term rate, and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for May 2001.

Notice 2001-33, page 1155.

Electricity produced from certain renewable resources; calendar year 2001 inflation adjustment factor and reference prices. This notice announces the calendar year 2001 inflation adjustment factor and reference prices for the renewable electricity production credit under section 45 of the Code.

Rev. Proc. 2001-27, page 1155.

Section 911(d)(4) waiver. Guidance is provided to individuals who fail to meet the eligibility requirements of section 911(d)(1) of the Code because adverse conditions in a foreign country preclude the individual from meeting those requirements. A current list of countries and the dates those countries are subject to the section 911(d)(4) waiver is provided. Rev. Proc. 2000-14 supplemented.

EXEMPT ORGANIZATIONS

Announcement 2001-46, page 1165.

A list is provided of organizations that no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

Announcement 2001-47, page 1165.

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

EXCISE TAX

Announcement 2001-48, page 1168.

The Service announces the availability of two new forms and their instructions. Form 720-TO, *Terminal Operator Report*, and Form 720-CS, *Carrier Summary Report*, are information returns that will be used by terminal operators and carriers to report their monthly receipts and disbursements of liquid products.

ADMINISTRATIVE

Rev. Proc. 2001-28, page 1156.

Rulings; leveraged leasing transactions. This procedure provides guidelines that the Service will use for advance ruling purposes in determining whether certain transactions purporting to be leases of property are, in fact, leases for federal income tax purposes. Rev. Procs. 75-21, 76-30, and 79-48 modified and superseded.

Rev. Proc. 2001-29, page 1160.

Rulings; leveraged leasing transactions; information and representations. This procedure sets forth the information and representations required to be furnished by taxpayers in requests for advance rulings on leveraged lease transactions within the meaning of Rev. Proc. 2001-28. Rev. Procs. 75-28 and 79-48 modified and superseded.

Rev. Proc. 2001-30, page 1163.

Qualified fuel under section 29(c)(1)(C). This procedure informs the public of the Service's decision to issue private letter rulings, under specified circumstances, regarding whether a solid fuel produced from coal is a qualified fuel under section 29(c)(1)(C) of the Code. Section 5.01 of Rev. Proc. 2001-3 revoked.

Finding Lists begin on page ii.
Index for January through April begins on page vi.



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 1100.—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 29.—Credit for Producing Fuel From a Nonconventional Source

Under what circumstances may a taxpayer obtain a private letter ruling under section 29(c)(1)(C) that a solid fuel produced from coal is a qualified fuel? See Rev. Proc. 2001–30, page 1163.

Section 38.—General Business Credit

What guidelines will be used, and what information and representations are required to be furnished by taxpayers, in connection with obtaining an advance ruling from the Service as to whether certain transactions purporting to be leases of property are, in fact, leases for federal income tax purposes. See Rev. Proc. 2001–28, page 1156, and Rev. Proc. 2001–29, page 1160.

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

Section 61.—Gross Income Defined

26 CFR 1.61–1: Gross income.

What guidelines will be used, and what information and representations are required to be furnished by taxpayers, in connection with obtaining an advance ruling from the Service as to whether certain transactions purporting to be leases of property are, in fact, leases for federal income tax purposes. See Rev. Proc. 2001–28, page 1156, and Rev. Proc. 2001–29, page 1160.

Section 162.—Trade or Business Expenses

26 CFR 1.162–1: Business expenses.

What guidelines will be used, and what information and representations are required to be furnished by taxpayers, in connection with obtaining an advance ruling from the Service as to whether certain transactions purporting to be leases of property are, in fact, leases for federal income tax purposes. See Rev. Proc. 2001–28, page 1156, and Rev. Proc. 2001–29, page 1160.

Section 167.—Depreciation

26 CFR 1.167(a)–1: Depreciation in general.

What guidelines will be used, and what information and representations are required to be furnished by taxpayers, in connection with obtaining an advance ruling from the Service as to whether certain transactions purporting to be leases of property are, in fact, leases for federal income tax purposes. See Rev. Proc. 2001–28, page 1156, and Rev. Proc. 2001–29, page 1160.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

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

The adjusted applicable federal long-term rate is set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

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

26 CFR 1.467–3: Disqualified leasebacks and long-term agreements.

What guidelines will be used, and what information and representations are required to be furnished by taxpayers, in connection with obtaining an advance ruling from the Service as to whether certain transactions purporting to be leases of property are, in fact, leases for federal income tax purposes. See Rev. Proc. 2001–28, page 1156, and Rev. Proc. 2001–29, page 1160.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001–22, beginning on this page.

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

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

Federal rates; adjusted federal rates; adjusted federal long-term rate, and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for May 2001.

Rev. Rul. 2001-22

This revenue ruling provides various prescribed rates for federal income tax purposes for May 2001 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for

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

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

REV. RUL. 2001-22 TABLE 1				
Applicable Federal Rates (AFR) for May 2001				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-Term</i>				
AFR	4.25%	4.21%	4.19%	4.17%
110% AFR	4.68%	4.63%	4.60%	4.59%
120% AFR	5.11%	5.05%	5.02%	5.00%
130% AFR	5.54%	5.47%	5.43%	5.41%
<i>Mid-Term</i>				
AFR	4.77%	4.71%	4.68%	4.66%
110% AFR	5.25%	5.18%	5.15%	5.12%
120% AFR	5.73%	5.65%	5.61%	5.58%
130% AFR	6.21%	6.12%	6.07%	6.04%
150% AFR	7.19%	7.07%	7.01%	6.97%
175% AFR	8.41%	8.24%	8.16%	8.10%
<i>Long-Term</i>				
AFR	5.43%	5.36%	5.32%	5.30%
110% AFR	5.99%	5.90%	5.86%	5.83%
120% AFR	6.53%	6.43%	6.38%	6.35%
130% AFR	7.09%	6.97%	6.91%	6.87%

REV. RUL. 2001-22 TABLE 2				
Adjusted AFR for May 2001				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
adjusted AFR	3.34%	3.31%	3.30%	3.29%
<i>Mid-term</i>				
adjusted AFR	3.89%	3.85%	3.83%	3.82%
<i>Long-term</i>				
adjusted AFR	4.89%	4.83%	4.80%	4.78%

REV. RUL. 2001-22 TABLE 3

Rates Under Section 382 for May 2001

Adjusted federal long-term rate for the current month	4.89%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	4.89%

REV. RUL. 2001-22 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for May 2001

Appropriate percentage for the 70% present value low-income housing credit	8.19%
Appropriate percentage for the 30% present value low-income housing credit	3.51%

REV. RUL. 2001-22 TABLE 5

Rate Under Section 7520 for May 2001

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	5.8%
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Section 1288.—Treatment of Original Issue Discounts on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001-22, page 1152.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001-22, page 1152.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2001. See Rev. Rul. 2001-22, page 1152.

Part III. Administrative, Procedural, and Miscellaneous

Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2001

Notice 2001-33

This notice publishes the inflation adjustment factor and reference prices for calendar year 2001 for the renewable electricity production credit under § 45(a) of the Internal Revenue Code. The 2001 inflation adjustment factor and reference prices are used in determining the availability of the credit. The 2001 inflation adjustment factor and reference prices apply to calendar year 2001 sales of kilowatt-hours of electricity produced in the United States or a possession thereof from qualified energy resources.

BACKGROUND

Section 45(a) provides that the renewable electricity production credit for any tax year is an amount equal to the product of 1.5 cents multiplied by the kilowatt-hours of specified electricity produced by the taxpayer and sold to an unrelated person during the tax year. This electricity must be produced from qualified energy resources and at a qualified facility during the 10-year period beginning on the date the facility was originally placed in service.

Section 45(b)(1) provides that the amount of the credit determined under § 45(a) is reduced by an amount that bears the same ratio to the amount of the credit as (A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents bears to (B) 3 cents. Under § 45(b)(2), the 1.5 cents in § 45(a) and the 8 cents in § 45(b)(1) are each adjusted by multiplying the amount by the inflation adjustment factor for the calendar year in which the sale occurs.

Section 45(c)(1) defines qualified energy resources as wind, closed-loop biomass, and poultry waste. Section 45(c)(3) defines a qualified facility as any facility owned by the taxpayer that originally is placed in service after December 31, 1993 (in the case of a facility using wind to produce electricity), December 31, 1992 (in the case of a facility using closed-loop

biomass to produce electricity), or December 31, 1999 (in the case of a facility using poultry waste to produce electricity), and before January 1, 2002. See § 45(d)(7) for rules relating to the inapplicability of the credit to electricity sold to utilities under certain contracts.

Section 45(d)(2)(A) requires the Secretary to determine and publish in the Federal Register each calendar year the inflation adjustment factor and the reference prices for the calendar year. The inflation adjustment factor and the reference prices for the 2001 calendar year were published in the Federal Register on April 18, 2001, (66 Fed. Reg. 20032).

Section 45(d)(2)(B) defines the inflation adjustment factor for a calendar year as the fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term "GDP implicit price deflator" means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

Section 45(d)(2)(C) provides that the reference price is the Secretary's determination of the annual average contract price per kilowatt-hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. Only contracts entered into after December 31, 1989, are taken into account.

INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICES

The inflation adjustment factor for calendar year 2001 is 1.1641. The reference prices for calendar year 2001 are 2.57 cents per kilowatt-hour for facilities producing electricity from wind energy resources and 0 cents per kilowatt-hour for facilities producing electricity from closed-loop biomass and poultry waste energy resources.

PHASE-OUT CALCULATION

Because the 2001 reference prices for electricity produced from wind, closed-loop biomass, and poultry waste energy

resources do not exceed 8 cents per kilowatt-hour multiplied by the inflation adjustment factor, the phaseout of the credit provided in § 45(b)(1) does not apply to electricity produced from wind, closed-loop biomass, or poultry waste energy resources sold during calendar year 2001.

CREDIT AMOUNT

As required by § 45(b)(2), the 1.5¢ amount in § 45(a)(1) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1¢, such amount is rounded to the nearest multiple of 0.1¢. Under the calculation required by § 45(b)(2), the renewable electricity production credit for calendar year 2001 is 1.7¢ per kilowatt-hour on the sale of electricity produced from wind energy, closed-loop biomass, and poultry waste resources.

DRAFTING INFORMATION CONTACT

The principal author of this notice is David A. Selig of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact Mr. Selig at (202) 622-3040 (not a toll-free call).

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also Part 1, § 911, 1.911-1)

Rev. Proc. 2001-27

SECTION 1. PURPOSE

01. This revenue procedure provides information to any individual who failed to meet the eligibility requirements of § 911(d)(1) of the Internal Revenue Code because adverse conditions in a foreign country precluded the individual from meeting those requirements for taxable year 2000.

02. The Internal Revenue Service has previously listed countries for which the el-

eligibility requirements of § 911(d)(1) of the Code are waived under § 911(d)(4) because of adverse conditions in those countries on and after the date stated. See Rev. Proc. 2000-14, 2000-18 I.R.B. 960, Rev. Proc. 99-20, 1999-1 C.B. 872, and Rev. Proc. 98-38, 1998-2 C.B. 28. This revenue procedure lists countries added to the list in 2000, for which the eligibility requirements of § 911(d)(1) are waived. Rev. Proc. 2000-14, Rev. Proc. 99-20, and Rev. Proc. 98-38 remain in full force and effect.

SEC. 2. BACKGROUND

01. Section 911(a) of the Code allows a “qualified individual,” as defined in § 911(d)(1), to exclude foreign earned income and housing cost amounts from gross income. Section 911(c)(3) of the Code allows a qualified individual to deduct housing cost amounts from gross income.

02. Section 911(d)(1) of the Code defines the term “qualified individual” as an individual whose tax home is in a foreign country and who is (A) a citizen of the United States and establishes to the satisfaction of the Secretary of the Treasury that the individual has been a *bona fide* resident of a foreign country or countries for an uninterrupted period that includes an entire taxable year, or (B) a citizen or resident of the United States who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days.

03. Section 911(d)(4) of the Code provides an exception to the eligibility requirements of § 911(d)(1). An individual will be treated as a qualified individual with respect to a period in which the individual was a *bona fide* resident of, or was present in, a foreign country if the individual left the country during a period for which the Secretary of the Treasury, after consultation with the Secretary of State, determines that individuals were required to leave because of war, civil unrest, or similar adverse conditions that precluded the normal conduct of business. An individual must establish that but for those conditions the individual could reasonably have been expected to meet the eligibility requirements.

04. For 2000, the Secretary of the Treasury in consultation with the Secretary of State, has determined that war, civil unrest, or similar adverse condi-

tions that precluded the normal conduct of business existed in the following country beginning on or after the specified date:

<i>Country</i>	<i>Date of Departure On or After</i>
Eritrea	May 19, 2000

05. Accordingly, for purposes of § 911 of the Code, an individual who left the foregoing country on or after the specified departure date shall be treated as a qualified individual with respect to the period during which that individual was present in, or was a *bona fide* resident of, such foreign country if the individual establishes a reasonable expectation of meeting the requirements of § 911(d) but for those conditions.

06. To qualify for relief under § 911(d)(4) of the Code, an individual must have established residency or have been physically present in the foreign country on or prior to the date that the Secretary of the Treasury determines that individuals were required to leave the foreign country. Individuals who establish residency or are first physically present in the foreign country after the date that the Secretary prescribes, shall not be treated as qualified individuals under § 911(d)(4) of the Code pursuant to § 911(d)(4)(C). For example, individuals who are first physically present in Eritrea after May 19, 2000, are not eligible to qualify for the exemption prescribed in § 911(d)(4) of the Code for taxable year 2000.

07. In order to assist those individuals who are filing prior year or amended tax returns, the Internal Revenue Service is republishing the countries listed for tax years 1997, 1998, and 1999, for which the eligibility requirements of § 911(d)(1) of the Code are waived under § 911(d)(4):

Tax Year 1997-	
<i>Country</i>	<i>Date of Departure On or After</i>
Albania	March 12, 1997
Cambodia	July 9, 1997
Central African Republic	March 28, 1997
Democratic Republic of the Congo	May 3, 1997
Republic of the Congo	June 7, 1997
Sierra Leone	May 28, 1997
Tajikistan	November 26, 1997

Tax Year 1998-

<i>Country</i>	<i>Date of Departure On or After</i>
Albania	August 14, 1998
Democratic Republic of the Congo	August 5, 1998
Eritrea	June 5, 1998
Guinea-Bissau	June 10, 1998
Indonesia	May 15, 1998
Pakistan	August 16, 1998
Sierra Leone	December 23, 1998
Serbia- Montenegro	October 11, 1998

Tax Year 1999-

<i>Country</i>	<i>Date of Departure On or After</i>
Eritrea	February 12, 1999
Ethiopia	February 12, 1999
Serbia- Montenegro	March 20, 1999

SEC. 3. INQUIRIES

A taxpayer who needs assistance on how to claim this exclusion, or on how to file an amended return, should contact a local IRS Office or, for a taxpayer residing or traveling outside the United States, the nearest overseas IRS office.

SEC. 4. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2000-14, 2000-18 I.R.B. 960, is supplemented.

DRAFTING INFORMATION

The principal author of this revenue procedure is Kate Y. Hwa of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure, contact Ms. Hwa at (202) 622-3840 (not a toll-free call).

26 CFR 601.201: Rulings and determination letters.
(Also Part I, sections 38, 61, 162, 167, 467; 1.61-1, 1.162-1, 1.167(a)-1, 1.467-3.)

Rev. Proc. 2001-28

SECTION 1. PURPOSE

This revenue procedure provides guidelines that the Internal Revenue Ser-

vice will use for advance ruling purposes in determining whether certain transactions purporting to be leases of property are, in fact, leases for federal income tax purposes. This revenue procedure modifies and supersedes Rev. Proc. 75-21, 1975-1 C.B. 715. Rev. Proc. 2001-29, 2001-19 I.R.B. 1160, sets forth the information and representations required to be furnished by taxpayers in requests for advance rulings on leveraged lease transactions within the meaning of this revenue procedure.

SECTION 2. BACKGROUND

Section 4.01 of Rev. Rul. 55-540, 1955-2 C.B. 39, sets forth certain conditions that, in the absence of compelling factors of contrary implication, would warrant treatment of a transaction for federal income tax purposes as a conditional sales contract rather than a lease of equipment. See Rev. Rul. 55-541, 1955-2 C.B. 19; Rev. Rul. 55-542, 1955-2 C.B. 59; and Rev. Rul. 57-371, 1957-2 C.B. 214, for examples of transactions determined to be sales rather than leases. See Rev. Rul. 60-122, 1960-1 C.B. 56, for two transactions, one considered a lease and the other considered a sale. See also Rev. Rul. 72-408, 1972-2 C.B. 86, concerning the federal income tax consequences of a transaction cast in the form of a lease subsequently determined to be a sale.

SECTION 3. SCOPE

This revenue procedure applies in the case of transactions commonly called "leveraged leases." Such leases generally involve three parties: a lessor, a lessee and a lender to the lessor. In general, these leases are net leases, the lease term covers a substantial part of the useful life of the leased property, and the lessee's payments to the lessor are sufficient to discharge the lessor's payments to the lender.

The guidelines set forth in this revenue procedure clarify the circumstances in which an advance ruling recognizing the existence of a lease ordinarily will be issued solely to assist taxpayers in preparing ruling requests and the Service in issuing advance ruling letters as promptly as practicable. These guidelines do not define, as a matter of law, whether a transaction is or is not a lease for federal in-

come tax purposes and are not intended to be used for audit purposes.

SECTION 4. GUIDELINES

Unless other facts and circumstances indicate a contrary intent, for advance ruling purposes only, the Service will consider the lessor in a leveraged lease transaction to be the owner of the property and the transaction a valid lease if all the guidelines described below are met. If all of these guidelines are not met, the Service nevertheless will consider ruling in appropriate cases on the basis of all the facts and circumstances.

.01 *Minimum unconditional "at risk" investment*

The lessor must have made a minimum unconditional "at risk" investment in the property (the "Minimum Investment") when the lease begins, must maintain such Minimum Investment throughout the entire lease term, and such Minimum Investment must remain at the end of the lease term. The Minimum Investment must be an equity investment (the "Equity Investment") that, for purposes of this revenue procedure, includes only consideration paid, and personal liability incurred, by the lessor to purchase the property. The net worth of the lessor must be sufficient to satisfy any such personal liability. In determining the lessor's Minimum Investment, the following rules will be applied:

(1) *Initial Minimum Investment.* When the property is first placed in service or use by the lessee, the Minimum Investment must be equal to at least 20 percent of the cost of the property. The Minimum Investment must be unconditional. That is, after the property is first placed in service or use by the lessee, the lessor must not be entitled to a return of any portion of the Minimum Investment through any arrangement, directly or indirectly, with the lessee, a shareholder of the lessee, or any party related to the lessee (within the meaning of § 318 of the Internal Revenue Code) (the "Lessee Group"). The lease transaction may include an arrangement with someone other than the foregoing parties that provides for such a return to the lessor if the property fails to satisfy written specifications for the supply, construction, or manufacture of the property.

(2) *Maintenance of Minimum Investment.* The Minimum Investment must

remain equal to at least 20 percent of the cost of the property at all times throughout the entire lease term. That is, the excess of the cumulative payments required to have been paid by the lessee to or for the lessor over the cumulative disbursements required to have been paid by or for the lessor in connection with the ownership of the property must never exceed the sum of (i) any excess of the lessor's initial Equity Investment over 20 percent of the cost of the property plus (ii) the cumulative *pro rata* portion of the projected profit from the transaction (exclusive of tax benefits).

(3) *Residual Investment.* The lessor must represent and demonstrate that an amount equal to at least 20 percent of the original cost of the property is a reasonable estimate of what the fair market value of the property will be at the end of the lease term. For this purpose, fair market value must be determined (i) without including in such value any increase or decrease for inflation or deflation during the lease term, and (ii) after subtracting from such value any cost to the lessor for removal and delivery of possession of the property to the lessor at the end of the lease term. In addition, the lessor must represent and demonstrate that a remaining useful life of the longer of one year or 20 percent of the originally estimated useful life of the property is a reasonable estimate of what the remaining useful life of the property will be at the end of the lease term.

.02 *Lease Term and Renewal Options*

For purposes of this revenue procedure, the lease term includes all renewal or extension periods except renewals or extensions at the option of the lessee at fair rental value at the time of such renewal or extension.

.03 *Purchase and Sale Rights*

No member of the Lessee Group may have a contractual right to purchase the property from the lessor at a price less than its fair market value at the time the right is exercised. When the property is first placed in service or use by the lessee, the lessor may not have a contractual right (except as provided in section 4.01(1) above) to cause any party to purchase the property. The lessor must also represent that it does not have any present intention to acquire such a contractual right. The effect of any such right acquired at a sub-

sequent time will be determined at that time based on all the facts and circumstances. A provision that permits the lessor to abandon the property to any party will be treated as a contractual right of the lessor to cause such party to purchase the property.

.04 Investment by Lessee

(1) *Permitted Investments.* Except as otherwise specifically provided in paragraphs (2) and (3) below, no part of the cost of the property or the cost of improvements, modifications, or additions to the property (“Improvements”), may be furnished by any member of the Lessee Group. Property that could itself be separately leased in a transaction eligible for an advance ruling under this revenue procedure does not constitute an Improvement. For example, assume X leases a chemical plant from Y. Assume further, that after the plant is placed in service, X wishes to erect and own additional tanks that will be used to store the output of the plant. Although the tanks will be used in conjunction with X’s plant, they constitute separate items of property that could be used in conjunction with other facilities and therefore do not constitute limited use property under section 5.02 of this revenue procedure. If a third party owned the tanks, it could lease them to X in a transaction eligible for an advance ruling. Thus, the tanks do not constitute an Improvement.

(2) *Severable Improvements.* A member of the Lessee Group may furnish amounts to pay for the cost of an Improvement that is owned by a member of the Lessee Group, and is readily removable without causing material damage to the leased property (“Severable Improvement”), provided that such Improvement is not subject to a contract or option for purchase or sale between the lessor and any member of the Lessee Group at a price other than fair market value at the time of such purchase or sale. At the commencement of the term of the lease, a Severable Improvement to the leased property must not be required in order to render the leased property complete for its intended use by the lessee. However, property will be considered to be complete even though the lessee may add as Severable Improvements ancillary items of equipment of a kind that customarily are selected and furnished by purchasers

or lessees of property of the kind subject to the lease. Thus, for example, to the extent an item of equipment such as the boiler for a leased, steam powered vessel otherwise constituted a Severable Improvement, the vessel would not, for purposes of this section, be considered complete without the boiler. On the other hand, a leased airplane would be considered complete without items of equipment such as aviation electronics and a leased vessel would be considered complete without such ancillary items such as radar, lines, or readily removable fittings, and will be eligible for an advance ruling even though such items of equipment are to be added by the lessee.

(3) *Nonseverable Improvements.* A member of the Lessee Group may furnish amounts to pay for the cost of Improvements that are not readily removable without causing material damage to the property (“Nonseverable Improvements”) if they are described in subparagraph (a) below and the conditions of subparagraph (b) are met.

(a) A Nonseverable Improvement is described in this subparagraph if either:

(i) it is furnished in order to comply with health, safety, or environmental standards of any government or governmental authority having relevant jurisdiction (or any industry-wide standard recognized by such government or governmental authority);

(ii) it does not increase the productivity (or capacity) of the leased property to more than 125 percent of its productivity (or capacity) when first placed in service, or modify the leased property for a materially different use. For this purpose, separate units that are subject to one lease (*e.g.*, ten boxcars subject to one lease) are each considered “the leased property;” or

(iii) the cost of the Nonseverable Improvement, when added to the cost of Nonseverable Improvements that previously have been made to the property (other than those described in subparagraph (i) above) does not exceed 10 percent of the cost of the property. For purposes of this subparagraph, the cost of a Nonseverable Improvement will be considered to be the actual cost multiplied by a fraction, the numerator of which is the Implicit Price Deflator for Fixed Nonresi-

dential Investment (published by the Department of Commerce in the Survey of Current Business) for the year in which the property was placed in service, and the denominator of which is the Implicit Price Deflator for Fixed Nonresidential Investment for the year in which the Improvement is made. As indicated in section 4.04(5) of this revenue procedure, ordinary maintenance and repair does not constitute an Improvement.

(b) The following conditions must be satisfied:

(i) At the commencement of the term of the lease, a Nonseverable Improvement must not be required in order to complete the property for its intended use by the lessee;

(ii) The Nonseverable Improvement must not cause the leased property to become limited use property within the meaning of section 5.02 of this revenue procedure; and

(iii) The furnishing of the cost of the Nonseverable Improvement must not constitute an equity investment by a member of the Lessee Group in the property. For this purpose, the lessee’s right to use the Improvement during the lease term in which such improvement is made does not constitute an equity investment in the property. The furnishing of such cost will be considered an equity investment in the property if a member of the Lessee Group may receive compensation, directly or indirectly, for its interest in such Nonseverable Improvement. A member of the Lessee Group will be regarded as having made an equity investment in the property if, for example:

– the lessor is obligated to purchase the Nonseverable Improvement or reimburse a member of the Lessee Group for the cost or the fair market value of the Nonseverable Improvement;

– any option price or renewal rental rate to a member of the Lessee Group is adjusted downward to reflect any portion of the cost or fair market value of the Nonseverable Improvement; or

– the lessor is obligated to share with a member of the Lessee Group a portion of the proceeds of any sale or lease of the property to a third party.

(4) *Cost Overruns and Modifications.* If the cost of property exceeds the

estimate on which the lease was based, the lease may provide for adjustments of rent to compensate the lessor for such additional cost.

(5) *Maintenance and Repair.* If the lease requires the lessee to maintain and keep the property in good repair during the term of the lease, ordinary maintenance and repairs performed by a member of the Lessee Group will not constitute an Improvement.

.05 No Lessee Loans or Guarantees

No member of the Lessee Group may lend to the lessor any of the funds necessary to acquire the property, or guarantee any indebtedness created in connection with the acquisition of the property by the lessor. A guarantee by any member of the Lessee Group of the lessee's obligation to pay rent, properly maintain the property, or pay insurance premiums or other similar conventional obligations of a net lease does not constitute a guarantee of the indebtedness of the lessor.

.06 Profit Requirement

The lessor must represent and demonstrate that it expects to receive a profit from the transaction, apart from the value of or benefits obtained from the tax deductions, allowances, credits, and other tax attributes arising from such transaction. This requirement is met if:

(1) *Overall Profit.* The aggregate amount required to be paid by the lessee to or for the lessor over the lease term plus the value of the residual investment referred to in section 4.01(3) of this revenue procedure exceed an amount equal to the sum of the aggregate disbursements required to be paid by or for the lessor in connection with the ownership of the property and the lessor's Equity Investment in the property, including any direct costs to finance the Equity Investment; and

(2) *Positive Cash Flow.* The aggregate amount required to be paid to or for the lessor over the lease term exceeds by a reasonable amount the aggregate disbursements required to be paid by or for the lessor in connection with the ownership of the property.

SECTION 5. OTHER CONSIDERATIONS

.01 Uneven Rent Test. Leveraged lease transactions that satisfy the guidelines set forth in section 4 of this revenue procedure and that contain uneven rent pay-

ments may be subject to § 467 and the regulations thereunder relating to the accounting treatment for certain leases with prepaid or deferred rent. In addition, § 1.467-3(c)(4) of the Income Tax Regulations provides an uneven rent test. A lease meeting this uneven rent test will not be treated as a disqualified leaseback or long-term agreement for purposes of § 467. How the lease is treated under § 467, including whether or not the uneven rent test of § 1.467-3(c)(4) is met, will not affect the ability of a taxpayer to obtain an advance ruling under this revenue procedure.

.02 Limited Use Property.

(1) *In General.* Section 4.01(3) of this revenue procedure requires the lessor to represent and demonstrate certain facts relating to the estimated fair market value and estimated remaining useful life of the property at the end of the lease term. This requirement is intended, in part, to assure that the purported lessor has not transferred the use of the property to the purported lessee for substantially its entire useful life. In the case of such "limited use" property, at the end of the lease term there will probably be no potential lessees or buyers other than members of the Lessee Group. As a result, the lessor of limited use property will probably sell or rent the property to a member of the Lessee Group, thus enabling the Lessee Group to enjoy the benefits of the use or ownership of the property for substantially its entire useful life. See Rev. Rul. 55-541, 1955-2 C.B. 19, for an example of a transaction in which property was determined to be leased for substantially its entire useful life and the conclusion that such a transaction transfers equitable ownership. Accordingly, the Service will not issue advance rulings concerning whether certain transactions purporting to be leases of property are, in fact, leases for federal income tax purposes when the property is limited use property.

(2) *Examples.* The following examples illustrate the types of property the Service considers to be limited use property, and the types of property the Service does not consider to be limited use property.

(a) X builds a masonry smokestack attached to a masonry warehouse building owned by Y, and leases the smokestack to Y for use as an addition to

the heating system of the warehouse. The lease term is 15 years; the smokestack has a useful life of 25 years, and the warehouse has a remaining useful life of 25 years. It would not be commercially feasible to disassemble the smokestack at the end of the lease term and reconstruct it at a new location. The smokestack is considered to be limited use property.

(b) X builds a complete chemical production facility on land owned by Y and leases the facility to Y, a manufacturer of chemicals. The lease term is 24 years, and the facility has a useful life of 30 years. The land is leased to X pursuant to a ground lease for a term of 30 years. The technical "know-how" and trade secrets Y possesses are necessary elements in the commercial operation of the facility. At the time the lease is entered into, no person who is not a member of the lessee group possesses the technical "know-how" and trade secrets necessary for the commercial operation of the facility. The taxpayers submit to the Service the written opinion of a qualified expert stating it is probable that by the expiration of the lease term of the facility third parties who are potential purchasers or lessees of the facility will have independently developed such "know-how" and trade secrets. The facility is considered to be limited use property. In reaching this conclusion, the Service will not take into account such expert opinion because such opinions are too speculative for advance ruling purposes.

(c) The facts are the same as in example (b) except X has an option, exercisable at the end of the lease term of the facility, to purchase from Y the "know-how" and trade secrets necessary for the commercial operation of the facility, and it would be commercially feasible at the end of such lease term for X to exercise the option and operate the facility itself. The facility is not considered to be limited use property.

(d) The facts are the same as in example (b) except it would be commercially feasible for the lessor at the end of the lease term to make certain structural modifications of the facility that would make the facility capable of being used by persons not possessing any special technical "know-how" or trade secrets. Furthermore, if such modifications were made, it would be commercially feasible, at the end

of the lease term, for a person who is not a member of the lessee group to purchase or lease the facility from X. The facility is not considered to be limited use property.

(e) X builds an electrical generating plant on land owned by Y and leases the plant to Y. The lease term is 40 years, and the plant has an estimated useful life of 50 years. The land is leased to X pursuant to a ground lease for a term of 50 years. The plant is adjacent to a fuel source that it is estimated will last for at least 50 years. Access to this fuel source is necessary for the commercial operation of the plant, and Y has recently obtained the contractual right to acquire all fuel produced from the source for 50 years. Y will use the plant to produce and generate electrical power for sale to a city located 500 miles away. The plant is synchronized into a power grid that makes the sale of electrical power to a number of potential markets commercially feasible. It would not be commercially feasible to disassemble the plant and reconstruct it at a new location. The electrical generating plant is considered to be limited use property because access to the fuel source held exclusively by Y is necessary for the commercial operation of the plant.

(f) The facts are the same as in example (e) except X has an option, exercisable at the end of the lease term of the plant, to acquire from Y the contractual right to acquire all fuel produced from the fuel source for the 10-year period commencing at the end of such lease term. It would be commercially feasible at the end of such lease term for X to exercise this option. Furthermore, it would be commercially feasible, at the end of such lease term, for a person who is not a member of the lessee group to purchase the contractual right to the fuel from X for an amount equal to the option price and purchase or lease the plant from X. The plant is not considered to be limited use property.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 75-21, 1975-1 C.B. 715, Rev. Proc. 76-30, 1976-2 C.B. 647, and Rev. Proc. 79-48, 1979-2 C.B. 529, are modified and, as modified, are superseded.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective May 7, 2001.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Edward Schwartz of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Schwartz at (202) 622-4960 (not a toll-free call).

26 CFR 601.201: Rulings and determination letters.
(Also Part I, sections 38, 61, 162, 167, 467; 1.61-1, 1.162-1, 1.167(a)-1, 1.467-3.)

Rev. Proc. 2001-29

SECTION 1. PURPOSE

This revenue procedure sets forth the information and representations required to be furnished by taxpayers in requests for advance rulings on leveraged lease transactions within the meaning of Rev. Proc. 2001-28, 2001-19 I.R.B. 1156. Rev. Proc. 2001-28 provides guidelines to be used for advance ruling purposes in determining whether such a transaction is, in fact, a valid lease for federal income tax purposes. The specific terms used in this revenue procedure are defined in Rev. Proc. 2001-28.

SECTION 2. BACKGROUND

.01 The checklist set forth in this revenue procedure is designed to ensure the inclusion and order of presentation of necessary information in the initial ruling request so that the Internal Revenue Service can more promptly and efficiently process the request. However, since the information necessary for the issuance of a ruling with regard to any particular transaction depends upon all the facts and circumstances of that case, information in addition to that outlined in the checklist may be required with respect to that transaction.

.02 In view of the complexity of a typical leveraged lease transaction and the voluminous nature of the related documentation, the Service cannot accept the responsibility for raising or considering issues arising out of such provisions that are not specifically brought to its attention.

SECTION 3. GENERAL REQUIREMENTS

.01 The lessor, the lessee, and any other party with an interest in the leasing transaction for which a specific ruling is requested must join in the ruling request.

.02 The ruling request must include a summary statement of the facts as described in section 8 of Rev. Proc. 2001-1, 2001-1 I.R.B. 1 (or its successor).

.03 In addition to the information and documents required by section 8 of Rev. Proc. 2001-1, the ruling request must include detailed information required by section 4 of this revenue procedure. If the information requested is not applicable to the parties or to the transaction, an express statement to that effect is required. The response to each item of information requested must include a reference to the page number of any relevant document containing the information that supports the response. Furthermore, portions of the relevant documents supporting a particular response should be underscored or otherwise highlighted and cross-referenced to the appropriate subsection of section 4 of this revenue procedure. All parties joining in the request for ruling are jointly responsible for responses to each item of information requested by section 4 of this revenue procedure, with the exception of section 4.02 for which only the lessor is responsible.

.04 The lessor must also submit copies of any offering circular, prospectus, economic analysis, or other document used to induce the lessor's investment in the leased property (the "Property"). These documents must include an analysis of the projected cash flow to the lessor from the lease transaction including the projected benefits from the tax attributes thereof.

SECTION 4. SPECIFIC INFORMATION REQUIRED

.01 *In general*

(1) Describe in detail the type and quantity of the Property.

(2) Identify and describe all parties to the leveraged lease transaction, their respective interests in such transaction, and the relationships that exist between or among such parties.

(3) Submit a diagram of the transaction showing (a) the parties to the transaction, (b) the succession of ownership to

the Property, and (c) the source, amounts, and flow of the funds used to acquire the Property (total acquisition cost within the meaning of § 1012 of the Internal Revenue Code).

(4) Indicate whether the Property is to be temporarily or permanently affixed to or installed on or in land, buildings, or other property. If so, indicate who will own such land, buildings, or other property.

(5) Indicate whether the Property is new, reconstructed, used, or rebuilt. (See §§ 1.48-2 and 1.48-3 of the Income Tax Regulations; Rev. Rul. 68-111, 1968-1 C.B. 29; and Rev. Rul. 70-135, 1970-1 C.B. 10.)

(6) Indicate when, where, and how the Property will be, or has been, first placed in service or use.

.02 Minimum Unconditional At Risk Investment

The lessor must:

(1) Indicate the total acquisition cost (within the meaning of § 1012) of the Property.

(2) Indicate when and in what amounts the lessor did or will make its Equity Investment or incur personal liability for such Equity Investment.

(3) Indicate the conditions under which the lessor would be entitled to a return of any portion of its Equity Investment or would be released from any personal liability for such Equity Investment.

(4) Submit a representation of the net worth of the lessor and financial data to support the representation, including, for example, audited balance sheets or unaudited balance sheets with a representation that the latter are prepared in accordance with generally accepted accounting principles.

(5) Submit an analysis demonstrating that the lessor's Equity Investment will remain equal to at least 20 percent of the cost of the Property at all times throughout the lease term. This analysis must demonstrate that throughout the lease term the items designated as (a), (b), (c), and (d) below solve the formula "(a)-(b) never exceeds (c) + (d)."

(a) The projected cumulative payments required to be paid by the lessee to or for the lessor.

(b) The projected cumulative disbursements required to be paid by or

for the lessor in connection with the ownership of the Property, excluding the lessor's initial Equity Investment, but including any direct costs to finance the Equity Investment.

(c) The excess of the lessor's initial Equity Investment over 20 percent of the cost of the Property.

(d) A cumulative *pro rata* portion of the projected profits from the transaction (exclusive of tax benefits). Profit for this purpose is the excess of the sum of (i) the amounts required to be paid by the lessee to or for the lessor over the lease term plus (ii) the value of the residual investment referred to in section 4.01(3) of Rev. Proc. 2001-28, over the aggregate disbursements required to be paid by or for the lessor in connection with the ownership of the Property, including the lessor's initial Equity Investment and any direct costs to finance the Equity Investment.

(6) Furnish an opinion, from a qualified expert who has professional knowledge of the type of property subject to the lease, regarding:

(a) the fair market value of the Property at the end of the lease term, determined in accordance with section 4.01(3) of Rev. Proc. 2001-28, and the manner in which such fair market value was determined;

(b) the cost to the lessor, if any, of the removal and delivery of possession of the Property to the lessor at the end of the lease term; and

(c) the remaining useful life of the Property at the end of the lease term, and the manner in which such useful life was determined.

.03 Lease Term and Renewal Options

Indicate the period for which the Property will be leased initially, if there are any provisions for the renewal or extension of such period, and, if so, on what terms.

.04 Purchase and Sale Rights

(1) Indicate whether any member of the Lessee Group or any other party has a contractual obligation or right to purchase all or any part of the Property at any time, and, if so, when, under what conditions, and at what price.

(2) Indicate whether the lessor or any other party has a contractual right to cause any party to purchase the Property, and if so, when and under what conditions.

(3) Indicate whether the lessor, a shareholder of the lessor, or a party related to the lessor (within the meaning of § 318), or any other party who has joined in the request for a ruling has any present intention to acquire a contractual right to cause any party to purchase or sell the Property, and, if so, when and under what conditions.

(4) Indicate whether the lessor may abandon the Property to any party at any time, and if so, when, to whom, and under what conditions.

.05 No Investment by Lessee

(1) Indicate whether any member of the Lessee Group may be required to furnish any part of the cost of the Property, and if so, when and under what conditions.

(2) Submit a representation that at the commencement of the term of the lease neither a Nonseverable Improvement, nor a Severable Improvement (other than a Severable Improvement of a kind customarily furnished by purchasers or lessees of property of the kind subject to the lease) is required in order to complete the property for its intended use by the lessee.

(3) If Severable Improvements may be made to the Property, indicate who will own the Severable Improvements and identify the parties who will provide the funds necessary to purchase them.

(4) Indicate whether any Severable Improvement is to be the subject of a contract or option for purchase or sale, and if so, describe the contract or option terms.

(5) If Nonseverable Improvements may be made to the Property, identify the parties who will provide the funds necessary to purchase them.

(6) Indicate whether a member of the Lessee Group may receive compensation, directly or indirectly, for its interest in any Nonseverable Improvement.

(7) Indicate whether the lease states that the addition of any Nonseverable Improvement will not cause the Property to become limited use property.

(8) Indicate whether a member of the Lessee Group may provide the cost of a Nonseverable Improvement that is not described in one of the subparagraphs of section 4.04(3)(a) of Rev. Proc. 2001-28.

(9) Indicate whether the lease (or any document or other agreement) requires a member of the Lessee Group either to make a specific Nonseverable Improvement, or to make Nonseverable Improvements of a specific value or minimum value.

(10) Indicate whether the transaction contains any cost overrun provisions, who must pay the cost overrun, and whether the lease provides for an adjustment to rents to compensate the lessor for any additional cost incurred because of cost overruns.

(11) If a member of the Lessee Group may furnish amounts to pay for the cost of a Nonseverable Improvement, indicate which subparagraph of section 4.04(3)(a) of Rev. Proc. 2001-28 describes the Nonseverable Improvement.

.06 No Lessee Loans or Guarantees

(1) Indicate whether any member of the Lessee Group will guarantee an indebtedness incurred in connection with the acquisition of the Property by the lessor and, if so, under what terms and conditions.

(2) Indicate whether any member of the Lessee Group directly or indirectly made or will make any other guarantees as a part or result of the lease transaction. If so, describe such guarantees.

.07 Profit Requirement

(1) Submit an analysis demonstrating that the lessor will receive a profit from the transaction exclusive of benefits from the tax attributes thereof. This analysis should demonstrate that the items identified as (a), (b), and (c) below will solve the formula “(a) + (b) exceed (c).”

(a) The projected aggregate payments required to be paid by the lessee to or for the lessor over the lease term.

(b) The value of the residual investment described in section 4.01(3) of Rev. Proc. 2001-28.

(c) The projected sum of the aggregate disbursements required to be paid by or for the lessor in connection with the ownership of the Property, including the lessor’s initial Equity Investment, and any direct costs to finance the Equity Investment.

(2) Submit an analysis demonstrating that the lessor will have a projected positive cash flow from the lease transaction. This analysis must contain the

following information in order to demonstrate that the items identified as (a) and (b) will solve the formula “(a) exceeds (b) by a reasonable minimum amount.”

(a) The projected aggregate payments required to be paid by the lessee to or for the lessor over the lease term.

(b) The projected aggregate disbursements required to be paid by or for the lessor in connection with the ownership of the Property, excluding the lessor’s initial Equity Investment, but including any direct costs to finance the Equity Investment.

.08 Other Considerations: Limited Use Property

(1) Indicate whether the Property is expected to be useful or usable by the lessor at the end of the lease term and capable of continued leasing or transfer to any party. If such a representation is made, demonstrate its commercial feasibility.

(2) Indicate whether the Property would be useful or usable at the end of the lease term by a party other than a member of the Lessee Group, and if so, describe such use.

(3) Indicate whether the Property needs to be dismantled, disconnected, or removed from any site on which it was placed or installed in order for possession thereof to be returned to the lessor at the end of the lease term. If so:

(a) Indicate whether and how such dismantling, disconnection, or removal will affect the value of the Property for the purpose for which it was originally intended to be used, and

(b) Demonstrate the commercial feasibility of reassembling, reconnecting, or installing the Property at another location.

.09 Other

(1) Set forth the details of the repayment of the portion of the total acquisition cost borrowed by the lessor (debt service), including an analysis of the anticipated repayment of principal and interest on such debt by the lessor.

(2) List and explain all provisions of the lease transaction relating to indemnities, termination, obsolescence, casualty, stipulated casualty value, and insurance.

(3) State that if the Service rules that the lessor is the owner of the

Property for federal income tax purposes at the time that the Property is first placed in service or use, the lessee will not claim that it is such an owner at such time.

SECTION 5. OTHER INSTRUCTIONS

Documents that have been submitted with the request for an advance ruling may, as indicated below, be amended by the parties, prior to the date on which the Property is first placed in service or use. A complete explanation of the changes must be submitted together with specific references to both the original and amended documents. If, as a result of the amended documents, the responses required by section 4 of this revenue procedure are modified, the revised responses must be brought to the attention of the Service in such a fashion as to be readily understandable. In situations where the transaction is materially revised by the amendments, the original request for advance ruling, together with all submissions including the amended documents, will be considered by the Service to be a new request for advance ruling received on the date that it receives the amended documents. The Service ordinarily will not rule on the consequences of a proposed amendment that purports to relate back to the time when the Property was first placed in service, or purports to affect the issue of the ownership of the Property at that time.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 75-28, 1975-1 C.B. 752, and Rev. Proc. 79-48, 1979-2 C.B. 529, are modified, and as modified, are superseded.

SECTION 7. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-1738.

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

The collection of information is contained in section 4 of this revenue procedure. This information is required to establish the economic substance of the transaction and its *bona fides* as a true lease. The likely respondents are individual taxpayers and corporations.

The estimated total annual reporting burden is 800 hours.

The estimated annual burden per respondent will vary from 60 hours to 100 hours, depending on individual circumstances, with an estimated average of 80 hours. The estimated number of respondents is 10.

The estimated annual frequency of responses is on occasion.

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

SECTION 8. EFFECTIVE DATE

This revenue procedure is effective May 7, 2001.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Edward Schwartz of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Schwartz at (202) 622-4960 (not a toll-free call).

26 CFR 601.201: Rulings and determination letters.

(Also Part I, § 29.)

Rev. Proc. 2001-30

SECTION 1. PURPOSE

This revenue procedure informs the public of the Internal Revenue Service's decision to issue private letter rulings regarding whether a solid fuel produced from coal is a qualified fuel under § 29(c)(1)(C) of the Internal Revenue Code under the circumstances described in section 3 of this revenue procedure.

SECTION 2. BACKGROUND

Section 2.01 of Rev. Proc. 2001-3, 2001-1 I.R.B. 111, provides that whenever appropriate in the interest of sound tax administration, it is the policy of the Service to answer inquiries of individuals and organizations regarding their status for tax purposes and the tax effects of their acts or transactions, prior to the filing of returns or reports that are required by the revenue laws. There are, however, certain areas in which, because of the inherently factual nature of the problems involved, or for other reasons, the Service will not issue rulings or determination letters.

Section 4 of Rev. Proc. 2001-3 sets forth those areas in which rulings or determination letters will not ordinarily be issued. "Not ordinarily" means that unique and compelling reasons must be demonstrated to justify the issuance of a ruling or determination letter. Section 2.01 of Rev. Proc. 2001-3.

Section 4.02(1) of Rev. Proc. 2001-3 provides that the Service will not ordinarily issue rulings or determination letters regarding any matter in which the determination requested is primarily one of fact, for example, market value of property, or whether an interest in a corporation is to be treated as stock or indebtedness.

Section 5 of Rev. Proc. 2001-3 sets forth those areas under extensive study in which rulings or determination letters will not be issued until the Service resolves the issue through publication of a revenue ruling, revenue procedure, regulations, or otherwise.

Section 5.01 of Rev. Proc. 2001-3 provides that the Service will not issue rulings or determination letters on whether a solid fuel other than coke or a fuel produced from waste coal is a qualified fuel under § 29(c)(1)(C). Waste coal for this purpose is limited to waste coal fines from normal mining and crushing operations and does not include fines produced (for example, by crushing run-of-mine coal) for the purpose of claiming the credit.

Section 5.01 of Rev. Proc. 2001-3 supersedes Rev. Proc. 2000-47, 2000-46 I.R.B. 482. Rev. Proc. 2000-47 was published because concern had been raised that taxpayers were claiming the § 29 credit for processing coal in ways that

may not have been intended by the Congress. Rev. Proc. 2000-47 requested comments concerning the standard to be applied in determining whether fuel produced from coal is a solid synthetic fuel. The Service received extensive comments.

Section 29 provides a credit against income tax for the production and sale of "qualified fuels" produced from a non-conventional source. Section 29(c)(1)(C) provides that qualified fuels include liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

Rev. Rul. 86-100, 1986-2 C.B. 3, adopts for purposes of § 29(c)(1)(C) the definition of synthetic fuel in § 1.48-9(c)(5) of the Income Tax Regulations. Section 1.48-9(c)(5)(ii) provides that, to be "synthetic," a fuel must differ significantly in chemical composition, as opposed to physical composition, from the substance used to produce it. Rev. Rul. 86-100 describes favorably processes such as gasification, liquefaction, and production of solvent refined coal that result in substantial chemical changes to the entire coal feedstock rather than changes that affect only the surface of the coal.

Section 29(f) provides that § 29 applies to qualified fuels that are produced in a facility placed in service after December 31, 1979, and before January 1, 1993, and that are sold before January 1, 2003. Section 29(g)(1)(A) provides that a facility for producing qualified fuels described in § 29(c)(1)(C) is treated for this purpose as being placed in service before January 1, 1993, if the facility is placed in service before July 1, 1998, pursuant to a binding written contract in effect before January 1, 1997. For a facility that meets this condition and is originally placed in service after December 31, 1992, § 29(g)(1)(B) provides that the § 29 credit applies to qualified fuels that are sold before January 1, 2008.

Property is "placed in service" in the taxable year the property is placed in a condition or state of readiness and availability for a specifically assigned function. See, for example, § 1.167(a)-11(e)(1)(i). Thus, the § 29 credit is not allowed for fuel produced in a facility that was originally placed in service for a function other than producing qualified fuel under § 29(c)(1)(C) and was not con-

verted into a facility for producing qualified fuel until after June 30, 1998.

The Service interprets § 29(f) and (g) to allow the § 29 credit for qualified fuel produced in a facility after its modification only if the modification was placed in service before July 1, 1998, or does not significantly increase the production capacity of the facility or significantly extend the life of the facility. For example, a facility (including one of multiple facilities located at the same site) may be relocated without affecting the availability of the credit if all essential components of the facility are retained and the production capacity of the relocated facility is not significantly increased at the new location. If, however, the essential components of a single facility are combined after June 30, 1998, with other components that were not part of the facility on June 30, 1998, to create multiple facilities or significantly increase production capacity, the credit will not be allowed for fuel produced at any of those facilities.

After reviewing the comments received in response to Rev. Proc. 2000-47 and re-considering its interpretation of § 29(c)(1)(C), the Service has decided that the significant chemical change standard of Rev. Rul. 86-100 is the correct standard. The Service has also decided to resume the issuance of rulings under § 29(c)(1)(C), but only in the circumstances described below.

The Service is willing to issue rulings that do not go beyond the processes approved in the rulings issued prior to 2000. One procedure common to all of those

processes (other than processes for the production of coke and similar products) is the use of elevated temperature and pressure to produce briquettes, pellets, or an extruded fuel product. The Service is also willing to rule with respect to a process that omits this procedure if the process is otherwise consistent with a process approved in a pre-2000 ruling and the omission of the procedure will not significantly increase the production output of the facility. Accordingly, the Service will issue rulings regarding whether a solid fuel (other than coke) is a qualified fuel under § 29(c)(1)(C) under the circumstances described in section 3 of this revenue procedure.

SECTION 3. PROCEDURE

The Service will issue rulings that a solid fuel (other than coke) produced from coal is a qualified fuel under § 29(c)(1)(C) if the conditions set forth below are satisfied and evidence is presented that all, or substantially all, of the coal used as feedstock undergoes a significant chemical change. The conditions are that:

1. The feedstock coal consists entirely of coal fines or crushed coal comprised of particles no larger than 1/8 inch;

2. The feedstock coal is thoroughly mixed in a mixer: (a) with styrene or other monomers following an acid bath, (b) with quinoline (C₉H₇N) or other organic resin and left to cure for several days, (c) with ultra heavy hydrocarbons, or (d) with an aluminum and/or magnesium silicate binder following heating to a

minimum temperature of 500 degrees Fahrenheit; and

3. The treated feedstock is subjected to elevated temperature and pressure that results in briquettes, pellets, or an extruded fuel product, or the taxpayer represents that the omission of this procedure will not significantly increase the production output of the facility over the remainder of the period during which the § 29 credit is allowable.

SECTION 4. EFFECTIVE DATE

This revenue procedure applies to all ruling requests, including any pending in the national office and any submitted after the date of publication of this revenue procedure.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Section 5.01 of Rev. Proc. 2001-3 is revoked.

DRAFTING INFORMATION

The principal author of this revenue procedure is David McDonnell of the Office of Associate Chief Counsel (Passthroughs and Special Industries). Other personnel from the IRS and Treasury participated in its development. For further information regarding this revenue procedure contact Mr. McDonnell at (202) 622-3120 (not a toll-free call).

Part IV. Items of General Interest

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

Announcement 2001-46

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

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

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on May 7, 2001, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

American Heart Foundation
Ankeny, IA

Career Guidance Foundation
San Diego, CA

Foundations Status of Certain Organizations

Announcement 2001-47

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:

1st North Carolina Artillery Battery A,
Conowingo, MD
Abe Lincoln's America, Inc., Jasper, GA
Aids Victims Fund, Philadelphia, PA
All in the Family Group Associates, Inc.,
Philadelphia, PA
Alston Jennings Foundation, Inc.,
Little Rock, AR
Amateur Soccer Funding Association -
Fairborn, Fairborn, OH
American Friends of the China National
Symphony Orchestra, Inc., Olathe, KS
American Rehabilitation Services,
Butler, PA
Americans United to Help, Inc.,
Doylestown, PA
A M L Leukemia Foundation Trust,
Dunellen, NJ
Anabaptist Deaf Ministries,
Lancaster, PA
Animal Shelter & Welfare Society
NHHA, Inc., Hollywood, FL
Annie Sisk Memorial Educational Trust,
Park Hills, MO
Anodos Foundation, Cambria, CA
Association of Special People Inspired to
Riding Excellence, Inc.,
Philadelphia, PA
Atlanta's Extended Family, Inc.,
Atlanta, GA
Autism Society Stanley County Housing
Corporation #2, Raleigh, NC

Autism Society Wake County Housing
Corporation #3, Raleigh, NC
Bertha B. Blair Telephone Founders
Association, Ephrata, PA
Bethlehem Townhouse I Resident
Association, Bethlehem, PA
Better Community Development
Corporation, Plano, TX
Big Ben Foundation, Inc.,
Bethlehem, PA
Brandywine Valley Quilters,
Concordville, PA
Bravo Dance, Wilkes-Barre, PA
Brentwood Economic Development
Corporation, Pittsburgh, PA
Brian Scott Belson Parenting Foundation,
Inc., Turnerville, NJ
Brotherhood 2, Inc., of Connecticut,
W. Haven, CT
Burn Institute, San Diego, CA
Butler Township Playground & Athletic
Assn., Drums, PA
Caldwell Community Mosque,
Caldwell, NJ
Canal Center Housing Rehabilitation
Corporation, Trenton, NJ
Caring Generations, Inc.,
East Orange, NJ
Cats Haven, Inc., Norristown, PA
Cedar Lake Association, Inc.,
Faribault, MN
Center for Accelerating Literacy, Inc.,
Syosset, NY
Center for Intelligence Studies, Inc.,
Alexandria, VA
Center for Responsible Government, Inc.,
Wilkes Barre, PA
Central Point Comets, Central Point, OR
Central Valley Charitable Foundation,
Visalia, CA
Chalk Hill Festival for the Performing
Arts, Inc., Pittsburgh, PA
Challah Fund, Inc., New Brunswick, NJ
Child Association of Nigeria
Corporation, Hackensack, NJ
Children for Change, Inc., Salem, OR
Children of Colors, Houston, TX
Childrens Museum of Centre County,
Inc., Lemont, PA
Choyce Foundation, Riverside, CA
Chrysalis of Western Pennsylvania,
Keene, NH
Clark Wildcats, Inc., Clark, NJ
Clay Ambulance Assoc., Lititz, PA
Coalition of Food Pantries for the
Hungry, Pittsburgh, PA

Coastal Aquasystems, Depoe Bay, OR
Columbus PHA Communities United,
Columbus, OH
Committee for the Support of Inter
Seminaries for the Biblical Faith,
Philadelphia, PA
Community Child Health Foundation,
Denver, CO
Community Outreach & Vocational
Training Center, Inc., East Orange, NJ
Concerned Christian Men, Inc.,
Dayton, OH
Corry Kids Wrestling, Inc., Corry, PA
Cosmic Learning Center,
Philadelphia, PA
Creative Fund Raisers Corporation,
Las Vegas, NV
Critical Mass Media Corp., Boston, MA
CSTR Tax Research Institute,
Washington, DC
Dailey Care, Inc., Philadelphia, PA
David Coleman Firearms Freedom
Foundation, Stratham, NH
David Pegel Childrens Cancer Fund, Inc.,
Wycoff, NJ
Delaware Valley Siberian Huskey
Rescue, Inc., Horsham, PA
Della N. Landes Foundation Charitable
TR, Souderton, PA
Doctor Rex A. Patterson Foundation,
Greensburg, PA
Donald E. Farber Jr., Memorial
Charitable Trust, State College, PA
Eco Environment & Community
Organized, Inc., Ottsville, PA
Economic Revitalization Corporation of
Chester, Philadelphia, PA
Education Fund for Israel,
Philadelphia, PA
Educational and Health Care Services
Network, Inc., Philadelphia, PA
Edward A. Zabielski Jr. Foundation, Inc.,
Wilmington, DE
Emanuel Lutheran Development
Corporation, Pittsburgh, PA
Empower Network, Inc.,
State College, PA
Energy Education Foundation, Inc.,
Canton, GA
Eortc USA Foundation, Inc.,
Washington, DC
Eurolink Charities, Inc.,
La Jolla, CA
E X A M S, Inc., West Orange, NJ
Family and Youth Benefit of Idaho, Inc.,
McCall, ID
Family Bridges Advocacy & Resource
Services, Inc., Cleveland, OH
Family Endeavors Assisted Living, Inc.,
Library, PA
Farmington Valley Band, Collinsville, CT
Fibromyalgia Association of Greensburg
PA, Greensburg, PA
First Church Community Development
Corporation, Paterson, NJ
Fly Art Ltd., New York, NY
Food and Emotions Foundation,
Franklin, MI
Foundation, Highlands, NJ
Fredericksburg Area Library-Kathryn
Richard Memorial, Fredericksburg, PA
Free Enterprise Foundation,
Princeton, NJ
Free People, Washington, DC
Friends Bettering Independence,
McAdoo, PA
Friends of the Library of Mount Vernon
and Knox County, Mt. Vernon, OH
Friends of the New Jersey Motion Picture
and Television Comm, Inc.,
Fairlawn, NJ
Friends Who Care, Inc., Garfield, NJ
Garden State Discovery Museum Ctr. for
Learning, Cherry Hill, NJ
Glenside Green, Inc., Glenside, PA
Golden Years Retirement Association,
St. Louis, MO
Good Providers Child Care Alliance, Inc.,
Randallstown, MD
Gratitude House, Inc., Newton, NJ
Greater Naples Babe Ruth Baseball
League, Naples, FL
Greater New York Association of
Holocaust Survivors, Inc.,
Woodburgh, NY
Grove Tree-Man Trust, Inc.,
Coconut Grove, FL
Groveton Endowment Fund,
Groveton, NH
Guardians of Big Beaver, Darlington, PA
Gujarati Samaj of Greater Philadelphia,
Philadelphia, PA
Harrison Bmx Parents Association,
Harrison, OH
Heads on Straight Support Group,
Bensalem, PA
Health for Humanity, Houston, TX
Healthco, Inc., Berlin, NJ
Hearts for Jesus Ministries,
Vintondale, PA
Heartwood Bus, Inc., Pittsburgh, PA
Helena Housing Development
Corporation, Helena, MT
Hepatitis C Foundation, Warminster, PA
Holocaust Survivors of the Desert,
Cathedral City, CA
Homeless Animal Adoption League, Inc.,
Bloomfield, NJ
Homeless Enrichment Liaison Program,
Seattle, WA
Hope Prison Ministry, Inc.,
Schenectady, NY
ICA USA, London, England
Inclusion, Inc., Metuchen, NJ
Indian Cultural Center, Yardley, PA
Indiana Area School District Pigskin
Club, Indiana, PA
International Association for Breast
Ultrasound, Freiburg, Germany
International Society for Krishna
Consciousness of Center City, Inc.,
Philadelphia, PA
International Ukramdas Bhudardas Patel
Organization, North Bergen, NJ
Irish Famine Curriculum Foundation,
Nutley, NJ
Jade Fastpitch, Inc, Phoenixville, PA
Jerusalem Community Development
Corp., Wichita Falls, TX
John Woodward Memorial Foundation,
Inc., Huntington Valley, PA
Judees Place, Inc., Coatesville, PA
Juliet Chris Foundation, Inc.,
Trexlerstown, PA
Just Say No, Richmond, VA
Juvenation, Collegeville, PA
K-9 Search & Rescue Specialists, Inc.,
Temple, GA
Kairos Institute, Madison, NJ
Kendleton Community Action Group,
Kendleton, TX
Kids & Momma Wonda Bookgee
Projects, Houston, TX
Kings Ferry Apartments Resident
Association, Inc., Philadelphia, PA
Korean Youth Cultural Organization,
Philadelphia, PA
Koz Research & Development Ltd.,
Radnor, PA
Lehighon Area Soccer Club,
Lehighon, PA
Lillye's Net Work, Maxton, NC
Little Lamb Nursery, Inc., Kenner, LA
Love Links Ministries, Forge, PA
Macedonia Housing and Development
Corporation, Lakewood, NJ
Madison Housing, Inc., Media, PA
Manville Soccer Club, Manville, NJ
Marian Anderson Award Foundation,
Inc., Danbury, CT
Mark Little Ministries, Elk City, OK
Mercer County Wildlife Center A New
Jersey Nonprofit Corporation,
Chalfont, PA

Merion Village Civic Association,
Columbus, OH

Metropolitan Ecumenical Ministry
Community Development Corporation,
Ventnor, NJ

Miami County Foster Parents
Association, Troy, OH

Miami Heights Volunteer Firemens
Association, Inc., North Bend, OH

Milford Youth Football, Milford, OH

Mobile VOA Home Development,
Mobile, AL

Monroeville Area Chamber Foundation,
Monroeville, PA

Morning Sun Foundation, Inc.,
Ridgewood, NJ

Morrisville Playground, Inc.,
Morrisville, PA

Mount Vernon Academy Alumni
Association, Inc., Mt Vernon, OH

Mt. Airy Community Development
Corp., Philadelphia, PA

Muskingum Area Aids Task Force,
Zanesville, OH

Napa County Fire Department Station
16-West Hills, Yountville, CA

National Black MBA Association
Columbus Chapter, Columbus, OH

N A T Neighbors About Town,
Natrona, PA

New Beginnings at Woods Mansion, Inc.,
Vineland, NJ

New Creations, Inc., of Phila,
Philadelphia, PA

New Horizons in Autism Foundation,
Inc., Neptune, NJ

New Jersey Food Council Foundation,
Inc., Trenton, NJ

New Jersey Intergenerational Network,
Inc., Eatontown, NJ

New Jersey State Law Enforcement
Officers Scholarship Fdn, Inc.,
Hillside, NJ

New Kensington Summer Youth
Programs, Inc., Pittsburgh, PA

Newark Yankees, Inc., Newark, NJ

NJ Car Charitable Foundation, Inc.,
Trenton, NJ

Norristown Area Fight Against Drugs,
Norristown, PA

Ocean Gate Improvement Association,
Inc., Ocean Gate, NJ

Operation Get Done, Inc., Fords, NJ

Oswayo Valley Memorial Library,
Shinglehouse, PA

Our Lady of Rivers and Bridges, Inc.,
Pittsburgh, PA

Pangea United, Inc., Maumelle, AZ

Paraclete Retreat Center, Pittsboro, IN

Parent Teacher Organization,
Kingman, AZ

Pawtucket Police Athletic League, Inc.,
Pawtucket, RI

Pennsylvania Battleship Monument,
Glen Mills, PA

Pennsylvania Made Crafts, Inc.,
Pittsburgh, PA

Pennsylvania School Age Child Care
Alliance, Broad Axe, PA

Peoples United Community
Organization, Inc., Philadelphia, PA

PerDev Perceptual Development Center,
Inc., New York, NY

Pet Recyclers, Inc., Cherry Hill, NJ

Phila Noma, Inc., Philadelphia, PA

Philadelphia Air & Space Museum,
Philadelphia, PA

Philadelphia Eight Icoc, Inc.,
Philadelphia, PA

Philadelphia-White Marsh Rugby
Football Club, Inc., Philadelphia, PA

Picc of New Jersey, Inc., New York, NY

Pittsburgh Shade Tree Commission,
Pittsburgh, PA

Pittsburgh West Hills Basketball,
McKees Rocks, PA

Port Neches Girls Softball League, Inc.,
Port Neches, TX

Presbyterian Ministries Foundation,
Wayne, PA

Present Help, Inc., Pittsburgh, PA

Project W I N, Inc., Cherry Hill, NJ

Quaker City Rowing Foundation,
Philadelphia, PA

Rainbows Unlimited, Inc.,
Morrisville, VT

Ralph Stover Climbers Coalition, Inc.,
Coopersburg, PA

Raven Centers, Inc., Bensalem, PA

Real Estate Consumer Council, Inc.,
Narberth, PA

Real World Computer Museum,
Glen Mills, PA

Return to Love Outreach Store, Inc.,
Fairfield, OH

Rimersburg Veterans Memorial Park,
Rimersburg, PA

Rockwell City Public Library
Foundation, Rockwell City, IA

Rosemary's Barrier Free Country Inn,
Inc., Tampa, FL

Roxbury High School Baseball Parents
Club, Inc., Succasunna, NJ

Rufus W. Walden Scholarship
Association, Philadelphia, PA

Sail-Habilitation, Toms River, NJ

Sanberger, Inc., Rockville, MD

School of Spiritual Formation,
Franconia, PA

Servants of Jesus Christ, Inc.,
Estes Park, CO

Sewicklynet, Sewickley, PA

Shiloh Baptist Community Development
Corporation SBCDC, Bridgeport, CT

Signal 10-13, Inc., Pittsburgh, PA

Smicksburg Area Heritage Society,
Smicksburg, PA

South Shore Bay Band, Duxbury, MA

South Village Community Development
Corporation, Philadelphia, PA

Southwestern Alliance of the Navajo
Nation, Winslow, AZ

Spiritual Eldering Institute, Bolder, CO

Spiritual Renewal Ministries, Inc.,
Southeastern, PA

Springfield Township Emergency
Medical Services, Inc., Jobstown, NJ

St. Johns East European Cultural and
Information Center, Homestead, PA

Steps to Success, Inc., Leola, PA

Summit Urban Renewal Nonprofit
Corporation, Teaneck, NJ

Support our Communities' Kids, Inc.,
Gainesville, FL

Susquehanna Aids Awareness Coalition,
Clifford, PA

Talent Plus Education, Albuquerque, NM

Target Youth, Inc., Morrisville, PA

Tele-Jazz, Inc., South Orange, NJ

Texas Midwest Communities, Inc.,
Abilene, TX

Threshold Foundation in Support of
Youth, Lancaster, PA

Township of Neptune Economic
Development Corporation,
Neptune, NJ

T P I Foundation, Pittsburgh, PA

Treasures Along the Trail,
West Newton, PA

Triumphant House Mission Homes,
Philadelphia, PA

Unionville-Chadds Ford Education
Foundation, Inc., Kennett Square, PA

Vision Quest Association, Inc.,
Atlanta, GA

Volunteer Center of Burlington County,
Inc., Westhampton, NJ

Wayne County Deputy Sheriffs
Association, Detroit, MI

Wayne County Housing Development
Corporation, Inc., Waymart, PA

Westlanco Love, Inc., Mount Joy, PA

Williamsburg Creative Education Fund,
Williamsburg, PA

Windber Centennial Committee 1997,
 Windber, PA
 Wings of Charity, East Orange, NJ
 Woman of Color, Inc., Bala Cynwyd, PA
 Womens Crisis Center of West
 Philadelphia, Philadelphia, PA
 World Disaster Aid, Inc., Nashville, TN
 Yella Gal Productions, Huntsville, AL
 Yes I Can, Inc., Cornwall, NY
 Youth Development and Encouragement,
 Inc., Philadelphia, PA

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 clas-

sification of foundation status in the Internal Revenue Bulletin.

New Form 720-TO, Terminal Operator Report, and New Form 720-CS, Carrier Summary Report

Announcement 2001-48

New Form 720-TO, Form 720-CS, and the Instructions for Forms 720-TO and 720-CS are available. Forms 720-TO and 720-CS are information returns that will be used by terminal operators and carriers to report their monthly receipts and disbursements of liquid products. A liquid product is any liquid that is transported into storage at a terminal or delivered out of a terminal. For a list of products, see the product code table in the Instructions for Forms 720-TO and 720-CS.

Also available is new Publication 3536, *Excise Tax EDI Guide*, which contains the application requirements to electronically file these forms. Electronic filing is available to all terminal operators and carriers.

You can obtain Forms 720-TO and 720-CS by telephone or by using IRS electronic information services.

Request by	Number or address
Telephone	1-800-TAX-FORM (1-800-829-3676)
Personal computer:	
IRS Web Site	www.irs.gov
File transfer protocol	ftp.irs.gov

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 Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.

PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—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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Key to Abbreviations:

Ann	Announcement
CD	Court Decision
DO	Delegation Order
EO	Executive Order
PL	Public Law
PTE	Prohibited Transaction Exemption
RP	Revenue Procedure
RR	Revenue Ruling
SPR	Statement of Procedural Rules
TC	Tax Convention
TD	Treasury Decision
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