

Internal Revenue bulletin

Bulletin No. 2001-52
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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. 2001-63, page 606.

Interest rates; underpayments and overpayments. The rate of interest determined under section 6621 of the Code for the calendar quarter beginning January 1, 2002, will be 6 percent for overpayments (5 percent in the case of a corporation), 6 percent for underpayments, and 8 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding \$10,000 will be 3.5 percent.

Notice 2001-76, page 613.

Proposed revenue procedure regarding the cash method. This notice provides a proposed revenue procedure under section 446 of the Code that would permit the eligible trades or businesses of qualifying taxpayers to use the cash method of accounting as described in the procedure.

Notice 2001-82, page 619.

This notice extends the safe harbor provisions of Notice 88-129 under section 118 of the Code to include transfers of interties from non-Qualifying Facilities and certain other transactions. Notices 88-129 and 90-60 amplified and modified.

Rev. Proc. 2001-59, page 623.

Cost-of-living adjustments for 2002. This procedure provides cost-of-living adjustments for the tax rate tables for individuals, estates, and trusts, the standard deduction amounts, the personal exemption, and several other items that use the adjustment method provided for the tax rate tables. The Service also provides the adjustment for eligible long-term care premiums and another item that uses the adjustment method provided for eligible long-term care premiums.

EMPLOYEE PLANS

Notice 2001-80, page 617.

Weighted average interest rate update. The weighted average interest rate for December 2001 and the resulting permissible range of interest rates used to calculate current liability for purposes of the full funding limitation of section 412(c)(7) of the Code are set forth.

EXEMPT ORGANIZATIONS

Notice 2001-81, page 617.

This notice provides guidance regarding recordkeeping, reporting, and other requirements applicable to qualified tuition programs described in section 529 of the Code.

Announcement 2001-123, page 629.

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

EMPLOYMENT TAX

Notice 2001-83, page 621.

This notice provides tables that show the amount of an individual's income that is exempt from a notice of levy used to collect delinquent tax in 2002.

Finding Lists begin on page ii.

(Continued on the next page)

ADMINISTRATIVE

Announcement 2001-124, page 630.

This announcement provides additional disaster relief for partners, shareholders, and beneficiaries of affected taxpayers as

defined in Notice 2001-61 (2001-40 I.R.B. 305). This announcement modifies and expands the relief granted by Announcement 2001-117 (2001-49 I.R.B. 567).

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 procedures must be considered,

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

The 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 1.—Tax Imposed

The Service provides inflation adjustments to the tax rate tables for individuals, trusts, and estates for taxable years beginning in 2002. In addition, the amounts of certain reductions allowed against the unearned income of minor children in computing the “kiddie tax” are adjusted. Also adjusted are the amounts used to determine whether a parent may elect to report the “kiddie tax” on the parent’s return. See Rev. Proc. 2001–59, page 623.

Section 24.—Child Tax Credit

The Service provides inflation adjustments for the value used in determining the amount of the credit that may be refundable beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 25A.—Hope and Lifetime Learning Credits

The Service provides inflation adjustments for the amount of qualified tuition and related expenses that are taken into account in determining the amount of the Hope Scholarship Credit for taxable years beginning in 2002, and for the amount of a taxpayer’s modified adjusted gross income that is taken into account in determining the reduction in the amount of the Hope Scholarship and Lifetime Learning Credits otherwise available. See Rev. Proc. 2001–59, page 623.

Section 32.—Earned Income

The Service provides inflation adjustments to the limitations on the earned income tax credit for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 59.—Other Definitions and Special Rules for the Alternative Minimum Tax

The Service provides an inflation adjustment to the exemption amount used in computing the alternative minimum tax for a minor child subject to the “kiddie tax” for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 63.—Taxable Income Defined

The Service provides inflation adjustments to the standard deduction amounts (including the limitation in the case of certain dependents, and the additional standard deduction for the aged or blind) for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 68.—Overall Limitation on Itemized Deductions

The Service provides inflation adjustments to the overall limitation on itemized deductions for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 132.—Certain Fringe Benefits

The Service provides inflation adjustments to the limitations on the exclusion of income for a qualified transportation fringe for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 135.—Income From United States Savings Bonds Used to Pay Higher Education Tuition and Fees

The Service provides inflation adjustments to the limitation on the exclusion of income from United States savings bonds for taxpayers who pay qualified higher education expenses for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 151.—Allowance of Deductions for Personal Exemptions

The Service provides inflation adjustments to the personal exemption and to the threshold amounts of adjusted income above which the exemption amount phases out for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 170.—Charitable, etc., Contributions and Gifts

The Service provides inflation adjustments to the “insubstantial benefit” guidelines for calendar year 2002. Under the guidelines, a charitable contribution is fully deductible even though the contributor receives “insubstantial benefits” from the charity. See Rev. Proc. 2001–59, page 623.

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

The Service provides inflation adjustments to the limitation on the amount of eligible long-term care premiums includible in the term “medical care,” for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 220.—Archer MSAs

The Service provides inflation adjustments to the amounts used to determine whether a health plan is a “high deductible health plan” for purposes of determining whether an individual is eligible for a deduction for cash paid to a medical savings account for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 512.—Unrelated Business Taxable Income

The Service provides an inflation adjustment to the maximum amount of annual dues that can be paid to certain agricultural or horticultural organizations without any portion being treated as unrelated trade or business income by reason of any benefits or privileges available to members for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 513.—Unrelated Trade or Business

The Service provides inflation adjustments to the maximum amount of a “low cost article” for taxable years beginning in 2002. Funds raised through a charity’s distribution of “low cost articles” will not be treated as unrelated business income to the charity. See Rev. Proc. 2001–59, page 623.

Section 685.—Treatment of Funeral Trusts

The Service provides an inflation adjustment to the maximum amount of contributions that may be made to a qualified funeral trust for contracts entered in calendar year 2002. See Rev. Proc. 2001–59, page 623.

Section 877.—Expatriation to Avoid Tax

The Service provides inflation adjustments to amounts used to determine whether an individual's loss of United States citizenship had the avoidance of United States tax as one of its principal purposes for calendar year 2002. See Rev. Proc. 2001–59, page 623.

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

The Service provides an inflation adjustment to the maximum amount by which the value of certain farm and other qualified real property included in a decedent's gross estate may be decreased for purposes of valuing the estate of a decedent dying in calendar year 2002. See Rev. Proc. 2001–59, page 623.

Section 2503.—Taxable Gifts

The Service provides an inflation adjustment to the amount of gifts that may be made to a person in a calendar year without including the amount in taxable gifts for calendar year 2002. See Rev. Proc. 2001–59, page 623.

Section 2523.—Gift to Spouse

The Service provides an inflation adjustment to the amount of gifts that may be made in a calendar year to a spouse who is not a citizen of the United States without including the amount in taxable gifts for calendar year 2002. See Rev. Proc. 2001–59, page 623.

Section 2631.—GST Exemption

The Service provides an inflation adjustment to the amount of the generation-skipping transfer tax exemption for calendar year 2002. See Rev. Proc. 2001–59, page 623.

Section 4001.—Imposition of Tax

The Service provides inflation adjustments to the price above which a passenger vehicle becomes subject to an excise tax for transactions occurring in calendar year 2002. See Rev. Proc. 2001–59, page 623.

Section 4003.—Special Rules

The Service provides inflation adjustments to the price above which a passenger vehicle becomes subject to an excise tax for transactions occurring in calendar year 2002. (Price includes the price of installation of parts or accessories on a passenger vehicle within six months of the date after the vehicle was first placed in service.) See Rev. Proc. 2001–59, page 623.

Section 4261.—Imposition of Tax

The Service provides an inflation adjustment to the amount of the excise tax on passenger air transportation beginning or ending in the United States for calendar year 2002. See Rev. Proc. 2001–59, page 623.

Section 6033.—Returns by Exempt Organizations

The Service provides an inflation adjustment to the amount of dues certain exempt organizations with nondeductible lobbying expenditures can charge and still be excepted from reporting requirements for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 6039F.—Notice of Large Gifts Received From Foreign Persons

The Service provides an inflation adjustment to the amount of gifts in a taxable year from foreign person(s) that triggers a reporting requirement for a United States person for taxable years beginning in 2002. See Rev. Proc. 2001–59, page 623.

Section 6323.—Validity and Priority Against Certain Persons

The Service provides inflation adjustments for calendar year 2002 to (1) the maximum amount of a casual sale of personal property below which a federal tax lien will not be valid against a purchaser of the property, and (2) the maximum amount of a contract for the repair or improvement of certain residential property at or below which a federal tax lien will not be valid against a mechanic's lienor. See Rev. Proc. 2001–59, page 623.

Section 6334.—Property Exempt From Levy

The Service provides inflation adjustments to the value of certain property exempt from levy (fuel, provisions, furniture, household personal effects, arms for personal use, livestock, poultry, and books and tools of a trade, business, or profession) for calendar year 2002. See Rev. Proc. 2001–59, page 623.

Section 6601.—Interest on Underpayment, Nonpayment, or Extension of Time for Payment, of Tax

The Service provides an inflation adjustment to the amount used to determine the amount of interest charged on a certain portion of the estate tax payable in installments for the estate of a decedent dying in calendar year 2002. See Rev. Proc. 2001–59, page 623.

Section 6621.—Determination of Rate of Interest

26 CFR 301.6621-1: Interest rate.

Interest rates; underpayments and overpayments. The rate of interest determined under section 6621 of the Code for the calendar quarter beginning January 1, 2002, will be 6 percent for overpayments (5 percent in the case of a corporation), 6 percent for underpayments, and 8 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding \$10,000 is 3.5 percent.

Rev. Rul. 2001-63

Section 6621 of the Internal Revenue Code establishes the rates for interest on tax overpayments and tax underpayments. Under § 6621(a)(1), the overpayment rate beginning January 1, 2002, is the sum of the federal short-term rate plus 3 percentage points (2 percentage points in the case of a corporation), except the rate for the portion of a corporate overpayment of tax exceeding \$10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point for interest computations made after December 31, 1994. Under § 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under § 6601 on any large corporate underpayment, the underpayment rate under § 6621(a)(2) is determined by substituting "5 percentage points" for "3 percentage points." See § 6621(c) and § 301.6621-3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable date. Section 6621(c) and § 301.6621-3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal short-term rate for the first month in each calendar quarter.

Section 6621(b)(2)(A) provides that the federal short-term rate determined under § 6621(b)(1) for any month applies during the first calendar quarter beginning after such month.

Section 6621(b)(2)(B) provides that in determining the addition to tax under § 6654 for failure to pay estimated tax for any taxable year, the federal short-term rate that applies during the third month following such taxable year also applies during the first 15 days of the fourth month following such taxable year.

Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during such month by the Secretary in accordance with § 1274(d), rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, the rate is increased to the next highest full percent).

Notice 88-59 (1988-1 C.B. 546) announced that, in determining the quarterly interest rates to be used for overpayments and underpayments of tax under § 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with § 6621 which, pursuant to § 6622, is subject to daily compounding.

Rounded to the nearest full percent, the federal short-term rate based on daily compounding determined during the month of October 2001 is 3 percent. Accordingly, an overpayment rate of 6 percent (5 percent in the case of a corpo-

ration) and an underpayment rate of 6 percent are established for the calendar quarter beginning January 1, 2002. The overpayment rate for the portion of a corporate overpayment exceeding \$10,000 for the calendar quarter beginning January 1, 2002, is 3.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning January 1, 2002, is 8 percent. These rates apply to amounts bearing interest during that calendar quarter.

The 6 percent rate also applies to estimated tax underpayments for the first calendar quarter in 2002 and for the first 15 days in April 2002.

Interest factors for daily compound interest for annual rates of 3.5 percent, 5 percent, 6 percent, and 8 percent are published in Tables 12, 15, 17, and 21 of Rev. Proc. 95-17 (1995-1 C.B. 556, 566, 569, 571, and 575).

Annual interest rates to be compounded daily pursuant to § 6622 that apply for prior periods are set forth in the tables accompanying this revenue ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Raymond Bailey of the Office of Assistant Chief Counsel (Administrative Provisions and Judicial Practice). For further information regarding this revenue ruling, contact Mr. Bailey at (202) 622-6226 (not a toll-free call).

TABLE OF INTEREST RATES
PERIODS BEFORE JUL. 1, 1975 - PERIODS ENDING DEC. 31, 1986
OVERPAYMENTS AND UNDERPAYMENTS

PERIOD	RATE	In 1995-1 C.B. DAILY RATE TABLE
Before Jul. 1, 1975	6%	Table 2, pg. 557
Jul. 1, 1975—Jan. 31, 1976	9%	Table 4, pg. 559
Feb. 1, 1976—Jan. 31, 1978	7%	Table 3, pg. 558
Feb. 1, 1978—Jan. 31, 1980	6%	Table 2, pg. 557
Feb. 1, 1980—Jan. 31, 1982	12%	Table 5, pg. 560
Feb. 1, 1982—Dec. 31, 1982	20%	Table 6, pg. 560
Jan. 1, 1983—Jun. 30, 1983	16%	Table 37, pg. 591
Jul. 1, 1983—Dec. 31, 1983	11%	Table 27, pg. 581
Jan. 1, 1984—Jun. 30, 1984	11%	Table 75, pg. 629

TABLE OF INTEREST RATES
PERIODS BEFORE JUL. 1, 1975 - PERIODS ENDING DEC. 31, 1986
OVERPAYMENTS AND UNDERPAYMENTS—CONTINUED

PERIOD	RATE	In 1995-1 C.B. DAILY RATE TABLE
Jul. 1, 1984—Dec. 31, 1984	11%	Table 75, pg. 629
Jan. 1, 1985—Jun. 30, 1985	13%	Table 31, pg. 585
Jul. 1, 1985—Dec. 31, 1985	11%	Table 27, pg. 581
Jan. 1, 1986—Jun. 30, 1986	10%	Table 25, pg. 579
Jul. 1, 1986—Dec. 31, 1986	9%	Table 23, pg. 577

TABLE OF INTEREST RATES
FROM JAN. 1, 1987 - DEC. 31, 1998

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Jan. 1, 1987—Mar. 31, 1987	8%	21	575	9%	23	577
Apr. 1, 1987—Jun. 30, 1987	8%	21	575	9%	23	577
Jul. 1, 1987—Sep. 30, 1987	8%	21	575	9%	23	577
Oct. 1, 1987—Dec. 31, 1987	9%	23	577	10%	25	579
Jan. 1, 1988—Mar. 31, 1988	10%	73	627	11%	75	629
Apr. 1, 1988—Jun. 30, 1988	9%	71	625	10%	73	627
Jul. 1, 1988—Sep. 30, 1988	9%	71	625	10%	73	627
Oct. 1, 1988—Dec. 31, 1988	10%	73	627	11%	75	629
Jan. 1, 1989—Mar. 31, 1989	10%	25	579	11%	27	581
Apr. 1, 1989—Jun. 30, 1989	11%	27	581	12%	29	583
Jul. 1, 1989—Sep. 30, 1989	11%	27	581	12%	29	583
Oct. 1, 1989—Dec. 31, 1989	10%	25	579	11%	27	581
Jan. 1, 1990—Mar. 31, 1990	10%	25	579	11%	27	581
Apr. 1, 1990—Jun. 30, 1990	10%	25	579	11%	27	581
Jul. 1, 1990—Sep. 30, 1990	10%	25	579	11%	27	581
Oct. 1, 1990—Dec. 31, 1990	10%	25	579	11%	27	581
Jan. 1, 1991—Mar. 31, 1991	10%	25	579	11%	27	581
Apr. 1, 1991—Jun. 30, 1991	9%	23	577	10%	25	579
Jul. 1, 1991—Sep. 30, 1991	9%	23	577	10%	25	579
Oct. 1, 1991—Dec. 31, 1991	9%	23	577	10%	25	579
Jan. 1, 1992—Mar. 31, 1992	8%	69	623	9%	71	625
Apr. 1, 1992—Jun. 30, 1992	7%	67	621	8%	69	623
Jul. 1, 1992—Sep. 30, 1992	7%	67	621	8%	69	623
Oct. 1, 1992—Dec. 31, 1992	6%	65	619	7%	67	621
Jan. 1, 1993—Mar. 31, 1993	6%	17	571	7%	19	573
Apr. 1, 1993—Jun. 30, 1993	6%	17	571	7%	19	573

TABLE OF INTEREST RATES
FROM JAN. 1, 1987 - DEC. 31, 1998—CONTINUED

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Jul. 1, 1993 – Sep. 30, 1993	6%	17	571	7%	19	573
Oct. 1, 1993—Dec. 31, 1993	6%	17	571	7%	19	573
Jan. 1, 1994—Mar. 31, 1994	6%	17	571	7%	19	573
Apr. 1, 1994—Jun. 30, 1994	6%	17	571	7%	19	573
Jul. 1, 1994—Sep. 30, 1994	7%	19	573	8%	21	575
Oct. 1, 1994—Dec. 31, 1994	8%	21	575	9%	23	577
Jan. 1, 1995—Mar. 31, 1995	8%	21	575	9%	23	577
Apr. 1, 1995—Jun. 30, 1995	9%	23	577	10%	25	579
Jul. 1, 1995—Sep. 30, 1995	8%	21	575	9%	23	577
Oct. 1, 1995—Dec. 31, 1995	8%	21	575	9%	23	577
Jan. 1, 1996—Mar. 31, 1996	8%	69	623	9%	71	625
Apr. 1, 1996—Jun. 30, 1996	7%	67	621	8%	69	623
Jul. 1, 1996—Sep. 30, 1996	8%	69	623	9%	71	625
Oct. 1, 1996—Dec. 31, 1996	8%	69	623	9%	71	625
Jan. 1, 1997—Mar. 31, 1997	8%	21	575	9%	23	577
Apr. 1, 1997—Jun. 30, 1997	8%	21	575	9%	23	577
Jul. 1, 1997—Sep. 30, 1997	8%	21	575	9%	23	577
Oct. 1, 1997—Dec. 31, 1997	8%	21	575	9%	23	577
Jan. 1, 1998—Mar. 31, 1998	8%	21	575	9%	23	577
Apr. 1, 1998—Jun. 30, 1998	7%	19	573	8%	21	575
Jul. 1, 1998—Sep. 30, 1998	7%	19	573	8%	21	575
Oct. 1, 1998—Dec. 31, 1998	7%	19	573	8%	21	575

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 - PRESENT
NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	1995-1 C.B.		
	RATE	TABLE	PAGE
Jan. 1, 1999—Mar. 31, 1999	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	9%	23	577

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 - PRESENT
NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS—CONTINUED

		1995-1 C.B.	
	RATE	TABLE	PAGE
Apr. 1, 2001—Jun. 30, 2001	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	6%	17	571

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 - PRESENT
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Jan. 1, 1999—Mar. 31, 1999	6%	17	571	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	7%	19	573	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	7%	19	573	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	7%	19	573	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	7%	67	621	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	8%	69	623	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	8%	69	623	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	8%	69	623	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	8%	21	575	9%	23	577
Apr. 1, 2001—Jun. 30, 2001	7%	19	573	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	6%	17	571	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	6%	17	571	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	5%	15	569	6%	17	571

TABLE OF INTEREST RATES FOR
LARGE CORPORATE UNDERPAYMENTS
FROM JANUARY 1, 1991 - PRESENT

		1995-1 C.B.	
	RATE	TABLE	PG
Jan. 1, 1991—Mar. 31, 1991	13%	31	585
Apr. 1, 1991—Jun. 30, 1991	12%	29	583
Jul. 1, 1991—Sep. 30, 1991	12%	29	583
Oct. 1, 1991—Dec. 31, 1991	12%	29	583
Jan. 1, 1992—Mar. 31, 1992	11%	75	629
Apr. 1, 1992—Jun. 30, 1992	10%	73	627
Jul. 1, 1992—Sep. 30, 1992	10%	73	627

TABLE OF INTEREST RATES FOR
LARGE CORPORATE UNDERPAYMENTS
FROM JANUARY 1, 1991 - PRESENT—CONTINUED

	RATE	1995-1 C.B.	
		TABLE	PG
Oct. 1, 1992—Dec. 31, 1992	9%	71	625
Jan. 1, 1993—Mar. 31, 1993	9%	23	577
Apr. 1, 1993—Jun. 30, 1993	9%	23	577
Jul. 1, 1993—Sep. 30, 1993	9%	23	577
Oct. 1, 1993—Dec. 31, 1993	9%	23	577
Jan. 1, 1994—Mar. 31, 1994	9%	23	577
Apr. 1, 1994—Jun. 30, 1994	9%	23	577
Jul. 1, 1994—Sep. 30, 1994	10%	25	579
Oct. 1, 1994—Dec. 31, 1994	11%	27	581
Jan. 1, 1995—Mar. 31, 1995	11%	27	581
Apr. 1, 1995—Jun. 30, 1995	12%	29	583
Jul. 1, 1995—Sep. 30, 1995	11%	27	581
Oct. 1, 1995—Dec. 31, 1995	11%	27	581
Jan. 1, 1996—Mar. 31, 1996	11%	75	629
Apr. 1, 1996—Jun. 30, 1996	10%	73	627
Jul. 1, 1996—Sep. 30, 1996	11%	75	629
Oct. 1, 1996—Dec. 31, 1996	11%	75	629
Jan. 1, 1997—Mar. 31, 1997	11%	27	581
Apr. 1, 1997—Jun. 30, 1997	11%	27	581
Jul. 1, 1997—Sep. 30, 1997	11%	27	581
Oct. 1, 1997—Dec. 31, 1997	11%	27	581
Jan. 1, 1998—Mar. 31, 1998	11%	27	581
Apr. 1, 1998—Jun. 30, 1998	10%	25	579
Jul. 1, 1998—Sep. 30, 1998	10%	25	579
Oct. 1, 1998—Dec. 31, 1998	10%	25	579
Jan. 1, 1999—Mar. 31, 1999	9%	23	577
Apr. 1, 1999—Jun. 30, 1999	10%	25	579
Jul. 1, 1999—Sep. 30, 1999	10%	25	579
Oct. 1, 1999—Dec. 31, 1999	10%	25	579
Jan. 1, 2000—Mar. 31, 2000	10%	73	627
Apr. 1, 2000—Jun. 30, 2000	11%	75	629
Jul. 1, 2000—Sep. 30, 2000	11%	75	629
Oct. 1, 2000—Dec. 31, 2000	11%	75	629
Jan. 1, 2001—Mar. 31, 2001	11%	27	581
Apr. 1, 2001—Jun. 30, 2001	10%	25	579
Jul. 1, 2001—Sep. 30, 2001	9%	23	577
Oct. 1, 2001—Dec. 31, 2001	9%	23	577
Jan. 1, 2002—Mar. 31, 2002	8%	21	575

TABLE OF INTEREST RATES FOR
CORPORATE OVERPAYMENTS EXCEEDING \$10,000
FROM JANUARY 1, 1995 - PRESENT

		1995-1 C.B.	
	RATE	TABLE	PG
Jan. 1, 1995—Mar. 31, 1995	6.5%	18	572
Apr. 1, 1995—Jun. 30, 1995	7.5%	20	574
Jul. 1, 1995—Sep. 30, 1995	6.5%	18	572
Oct. 1, 1995—Dec. 31, 1995	6.5%	18	572
Jan. 1, 1996—Mar. 31, 1996	6.5%	66	620
Apr. 1, 1996—Jun. 30, 1996	5.5%	64	618
Jul. 1, 1996—Sep. 30, 1996	6.5%	66	620
Oct. 1, 1996—Dec. 31, 1996	6.5%	66	620
Jan. 1, 1997—Mar. 31, 1997	6.5%	18	572
Apr. 1, 1997—Jun. 30, 1997	6.5%	18	572
Jul. 1, 1997—Sep. 30, 1997	6.5%	18	572
Oct. 1, 1997—Dec. 31, 1997	6.5%	18	572
Jan. 1, 1998—Mar. 31, 1998	6.5%	18	572
Apr. 1, 1998—Jun. 30, 1998	5.5%	16	570
Jul. 1, 1998—Sep. 30, 1998	5.5%	16	570
Oct. 1, 1998—Dec. 31, 1998	5.5%	16	570
Jan. 1, 1999—Mar. 31, 1999	4.5%	14	568
Apr. 1, 1999—Jun. 30, 1999	5.5%	16	570
Jul. 1, 1999—Sep. 30, 1999	5.5%	16	570
Oct. 1, 1999—Dec. 31, 1999	5.5%	16	570
Jan. 1, 2000—Mar. 31, 2000	5.5%	64	618
Apr. 1, 2000—Jun. 30, 2000	6.5%	66	620
Jul. 1, 2000—Sep. 30, 2000	6.5%	66	620
Oct. 1, 2000—Dec. 31, 2000	6.5%	66	620
Jan. 1, 2001—Mar. 31, 2001	6.5%	18	572
Apr. 1, 2001—Jun. 30, 2001	5.5%	16	570
Jul. 1, 2001—Sep. 30, 2001	4.5%	14	568
Oct. 1, 2001—Dec. 31, 2001	4.5%	14	568
Jan. 1, 2002—Mar. 31, 2002	3.5%	12	566

Section 7430.—Awarding of Costs and Certain Fees

The Service provides an inflation adjustment to the hourly limit on attorney fees that may be awarded in a judgment or settlement of an administrative or judicial proceeding concerning the determination, collection, or refund of tax, interest, or penalty for calendar year 2002. See Rev. Proc. 2001-59, page 623.

Section 7702B.—Treatment of Qualified Long-Term Care Insurance

The Service provides an inflation adjustment to the stated dollar amount of the *per diem* limitation regarding periodic payments received under a qualified long-term care insurance contract or periodic payments received under a life insurance contract

that are treated as paid by reason of the death of a chronically ill individual for calendar year 2002. See Rev. Proc. 2001-59, page 623.

Part III. Administrative, Procedural, and Miscellaneous

Proposed Revenue Procedure Regarding the Cash Method

Notice 2001-76

Pursuant to the discretion granted the Commissioner of Internal Revenue under §§ 446 and 471 of the Internal Revenue Code, this notice provides a proposed revenue procedure that will allow qualifying small business taxpayers with gross receipts of less than \$10 million to use the cash receipts and disbursements method of accounting as described in the proposed revenue procedure with respect to eligible trades or businesses. This proposed revenue procedure is intended to reduce the administrative and tax compliance burdens on certain small business taxpayers and to minimize disputes between the Internal Revenue Service (Service) and these taxpayers regarding the requirement to use an accrual method of accounting under § 446 of the Code because of the requirement to account for inventories under § 471. Although this revenue procedure is being issued in proposed form, taxpayers may rely on it for taxable years ending on or after December 31, 2001.

The Service believes that § 263A will have limited applicability to resellers and producers with gross receipts of \$10,000,000 or less because of the exception for resellers in § 263A(b)(2)(B) and the indirect cost exception for producers in § 1.263A-2(b)(3)(iv). However, the Service requests comments on any additional relief that should be considered for taxpayers with gross receipts of \$10,000,000 or less to relieve any administrative burden of § 263A. The Service also welcomes other comments on the proposed revenue procedure provided in this notice. Comments should be submitted by March 1, 2002, either to:

Internal Revenue Service
P. O. Box 7604
Ben Franklin Station
Washington, DC 20044
Attn: CC:PA:T:CRU (ITA)
Room 5529

or electronically via the Service internet site at:

Notice.Comments@ml.irs.counsel.treas.gov
(the Service Comments e-mail address).

Rev. Proc. 2001-XX

SECTION 1. PURPOSE

In order to reduce the administrative and tax compliance burdens on certain small business taxpayers and to minimize disputes between the Internal Revenue Service (Service) and small business taxpayers regarding the requirement to use an accrual method of accounting (accrual method) under § 446 of the Internal Revenue Code because of the requirement to account for inventories under § 471, this revenue procedure provides that the Commissioner of Internal Revenue will exercise his discretion to allow qualifying small business taxpayers to use the cash receipts and disbursements method of accounting (cash method) as described in this revenue procedure with respect to eligible trades or businesses. This revenue procedure also provides the procedures for these qualifying small business taxpayers to obtain automatic consent to change to the cash method for such trades or businesses.

SECTION 2. BACKGROUND

.01 Section 446(a) provides that taxable income must be determined under the method of accounting on the basis of which the taxpayer regularly computes income in keeping its books.

.02 Section 446(c) generally allows a taxpayer to select the method of accounting it will use to compute its taxable income. A taxpayer is entitled to adopt any one of the permissible methods for each separate trade or business, including the cash method and an accrual method, subject to certain restrictions. For example, § 446(b) provides that the selected method must clearly reflect income. In addition, § 1.446-1(c)(2)(i) of the Income Tax Regulations requires that a taxpayer use an accrual method with regard to purchases and sales of merchandise whenever § 471 requires the taxpayer

to account for inventories, unless otherwise authorized by the Commissioner under § 1.446-1(c)(2)(ii). Under § 1.446-1(c)(2)(ii), the Commissioner has the authority to permit a taxpayer to use a method of accounting that clearly reflects income even though the method is not specifically authorized by the regulations.

.03 Section 447 generally requires the taxable income from farming of a C corporation engaged in the trade or business of farming, or a partnership engaged in the trade or business of farming with a C corporation partner, to be determined using an accrual method, unless the C corporation meets the \$1,000,000 (\$25,000,000 for family corporations) gross receipts test.

.04 Section 448 generally prohibits the use of the cash method by a C corporation (other than a farming business and a qualified personal service corporation) and a partnership with a C corporation partner (other than a farming business and a qualified personal service corporation), unless the C corporation or partnership with a C corporation partner meets the \$5,000,000 gross receipts test. Section 448 also prohibits tax shelters from using the cash method.

.05 The cash method generally requires an item of income to be included in income when actually or constructively received and permits a deduction for an expense when paid. Section 1.446-1(c)(1)(i). Other provisions of the Code or regulations applicable to cash method taxpayers may change these general rules, including, for example, § 263 (requiring the capitalization of expenses paid out for a new building or for permanent improvements or betterments made to increase the value of any property or estate, or for restoring property or making good the exhaustion of property for which an allowance is or has been made); § 263A (requiring capitalization of direct and allocable indirect costs of real or tangible personal property produced by a taxpayer or real or personal property that is acquired by a taxpayer for resale); § 460 (requiring the use of the percentage-of-completion method for certain long-term contracts); and § 475 (requiring dealers in securities to mark securities to market).

.06 Section 471 provides that whenever, in the opinion of the Secretary, the use of inventories is necessary to clearly determine the income of the taxpayer, inventories must be taken by the taxpayer. Section 1.471-1 requires a taxpayer to account for inventories when the production, purchase, or sale of merchandise is an income-producing factor in the taxpayer's business.

.07 Section 1.162-3 requires taxpayers carrying materials and supplies (other than incidental materials and supplies) on hand to deduct the cost of materials and supplies only in the amount that they are actually consumed and used in operations during the taxable year.

.08 Section 263A generally requires direct costs and an allocable portion of indirect costs of certain property produced or acquired for resale by a taxpayer to be included in inventory costs, in the case of property that is inventory, or to be capitalized, in the case of other property. However, resellers with gross receipts of \$10,000,000 or less are not required to capitalize costs under § 263A and certain producers with \$200,000 or less of indirect costs are not required to capitalize certain costs under § 263A. See §§ 263A(b)(2)(B) and 1.263A-2(b)(3)(iv).

.09 Sections 446(e) and 1.446-1(e) state that, except as otherwise provided, a taxpayer must secure the consent of the Commissioner before changing a method of accounting for federal income tax purposes. Section 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting in accordance with § 446(e).

.10 Section 481(a) requires those adjustments necessary to prevent amounts from being duplicated or omitted to be taken into account when the taxpayer's taxable income is determined under a method of accounting different from the method used to determine taxable income for the preceding taxable year.

SECTION 3. SCOPE

.01 Applicability. This revenue procedure applies to a qualifying small business taxpayer. A qualifying small business

taxpayer is any taxpayer with "average annual gross receipts" of more than \$1,000,000 but less than or equal to \$10,000,000 that is not prohibited from using the cash method under § 448.

.02 Taxpayers not within the scope of this revenue procedure.

(1) Notwithstanding section 3.01 of this revenue procedure, this revenue procedure does not apply to a farming business (within the meaning of § 263A(e)(4)) of a qualifying small business taxpayer. If a qualifying small business taxpayer is engaged in the trade or business of farming, this revenue procedure may apply to the taxpayer's non-farming trades or businesses, if any. A taxpayer engaged in the trade or business of farming generally is allowed to use the cash method for any farming business, unless the taxpayer is required to use an accrual method under § 447 or is prohibited from using the cash method under § 448.

(2) Although this revenue procedure does not apply to a taxpayer with average annual gross receipts of \$1,000,000 or less, such taxpayer generally is allowed to use the cash method pursuant to Rev. Proc. 2001-10 (2001-2 I.R.B. 272).

SECTION 4. QUALIFYING SMALL BUSINESS TAXPAYER EXCEPTION

.01 Pursuant to his discretion under §§ 446 and 471, and to simplify the recordkeeping requirements of a qualifying small business taxpayer, the Commissioner, as a matter of administrative convenience, will allow a qualifying small business taxpayer to use the cash method as described in this revenue procedure for a trade or business described in this section 4.01 (eligible trade or business). No inference is intended regarding whether a taxpayer that does not satisfy the qualifying small business taxpayer exception of this section 4.01 is permitted to use the cash method.

(1) A qualifying small business taxpayer that reasonably determines that its principal business activity (*i.e.*, the activity from which the taxpayer derived the largest percentage of its gross receipts) for its prior taxable year is described in a North American Industry Classification System ("NAICS") code other than one of the ineligible codes listed below may

use the cash method as described in this revenue procedure for all of its trades or businesses. The ineligible NAICS codes are as follows:

(a) mining activities within the meaning of NAICS codes 211 and 212;

(b) manufacturing within the meaning of NAICS codes 31 – 33;

(c) wholesale trade within the meaning of NAICS code 42;

(d) retail trade within the meaning of NAICS codes 44 – 45; and,

(e) information industries within the meaning of NAICS codes 5111 and 5122.

Information regarding the NAICS codes can be found at www.census.gov. Visitors to the site should select "Subjects A to Z," followed by "N," and then should select "NAICS (North America)." Taxpayers also may find a partial list of NAICS codes, described as "Principal Business Activity Codes," in the instructions to their tax return forms.

(2) A qualifying small business taxpayer may use the cash method as described in this revenue procedure for all of its trades or businesses if its principal business activity is the provision of services, including the provision of property incident to those services. For example, a publisher whose principal business activity is the sale of advertising space in its publications is eligible to use the cash method as described in this revenue procedure, notwithstanding that the taxpayer's principal business activity is described in an ineligible NAICS code.

(3) A qualifying small business taxpayer may use the cash method as described in this revenue procedure (subject to the potential application of § 460) for all of its trades or businesses if its principal business activity is the fabrication or modification of tangible personal property upon demand in accordance with customer design or specifications. For purposes of this rule, tangible personal property is not fabricated or modified in accordance with customer design or specifications if the customer merely chooses among pre-selected options (*e.g.*, size, color, or materials) offered by the taxpayer or if the taxpayer must make only minor modifications to its basic design to meet the customer's specifications.

(4) Notwithstanding the taxpayer's principal business activity, a qualifying

small business taxpayer may use the cash method as described in this revenue procedure with respect to any separate and distinct trade or business whose principal business activity is not described in an ineligible NAICS code in section 4.01(1)(a) through (e) or is described in either section 4.01(2) or section 4.01(3). No trade or business will be considered separate and distinct unless a complete and separable set of books and records is kept for such trade or business. See § 1.446-1(d)(2).

.02 Notwithstanding § 1001 and the regulations thereunder, qualifying taxpayers that use the cash method for an eligible trade or business under section 4.01 of this revenue procedure include amounts in income attributable to open accounts receivable (*i.e.*, receivables due in 120 days or less) as amounts are actually or constructively received. However, § 1001 may be applicable to other transactions.

.03 Qualifying small business taxpayers that are permitted to use the cash method for an eligible trade or business under section 4.01 of this revenue procedure and that do not want to account for inventories under section 471 must treat all inventoriable items (*e.g.*, items purchased for resale to customers and raw materials purchased for use in producing finished goods) in such trade or business in the same manner as materials and supplies that are not incidental under § 1.162-3. Items that would be accounted for as incidental materials and supplies for purposes of § 1.162-3 may still be accounted for in that manner. Whether an item is purchased for resale (and thus must be accounted for as a non-incidental material and supply) or is purchased to provide to customers incident to services (and thus may be accounted for as either an incidental or a non-incidental material and supply depending on the facts and circumstances) must be determined under general tax principles.

.04 Under § 1.162-3, materials and supplies that are not incidental are deductible only in the year in which they are actually consumed and used in the taxpayer's business. For purposes of this revenue procedure, inventoriable items that are treated as materials and supplies that are not incidental are consumed and used in the year the qualifying small busi-

ness taxpayer sells the items to a customer. Thus, under the cash method as described in this revenue procedure, the cost of such inventoriable items are deductible only in that year, or in the year in which the taxpayer actually pays for the goods, whichever is later. A qualifying small business taxpayer may use any reasonable method to determine the amount of the allowable deduction (*e.g.*, first in, first out or average cost) provided that the method is used consistently.

SECTION 5. DEFINITIONS

.01 Average annual gross receipts. A taxpayer has average annual gross receipts of \$10,000,000 or less if, for each prior taxable year ending on or after December 31, 2000, the taxpayer's average annual gross receipts for the 3-taxable-year period ending with the applicable prior taxable year does not exceed \$10,000,000.

.02 Gross receipts. Gross receipts is defined consistent with § 1.448-1T(f)(2)(iv) of the Temporary Income Tax Regulations. Thus, gross receipts for a taxable year equal all receipts derived from all of a taxpayer's trades or businesses that must be recognized under the method of accounting actually used by the taxpayer for that taxable year for federal income tax purposes. For example, gross receipts include total sales (net of returns and allowances), all amounts received from services, interest, dividends, and rents. However, gross receipts do not include amounts received by the taxpayer with respect to sales tax or other similar state and local taxes if, under the applicable state or local law, the tax is legally imposed on the purchaser of the good or service, and the taxpayer merely collects and remits the tax to the taxing authority. *See also* § 448(c)(3)(C).

.03 Aggregation of gross receipts. For purposes of computing gross receipts, all taxpayers treated as a single employer under subsection (a) or (b) of § 52 or subsection (m) or (o) of § 414 (or that would be treated as a single employer under these sections if the taxpayers had employees) will be treated as a single taxpayer. However, when transactions occur between taxpayers that are treated as a single taxpayer by the previous sentence, gross receipts arising from these transac-

tions will not be treated as gross receipts for purposes of the average annual gross receipts limitation. *See* §§ 448(c)(2) and 1.448-1T(f)(2)(ii).

.04 Taxpayer not in existence for 3 taxable years. If a taxpayer has been in existence for less than the 3-taxable-year period referred to in section 5.01 of this revenue procedure, the taxpayer must determine its average annual gross receipts for the number of years (including short taxable years) that the taxpayer has been in existence. *See* § 448(c)(3)(A).

.05 Treatment of short taxable years. In the case of a short taxable year, a taxpayer's gross receipts must be annualized by multiplying the gross receipts for the short taxable year by 12 and then dividing the result by the number of months in the short taxable year. *See* §§ 448(c)(3)(B) and 1.448-1T(f)(2)(iii).

.06 Treatment of predecessors. Any reference to taxpayer in this section 5 includes a reference to any predecessor of that taxpayer. *See* § 448(c)(3)(D).

SECTION 6. EXAMPLES

Assume for purposes of the following examples that the taxpayers are not prohibited from using the cash method under § 448. Also assume for purposes of examples 2 through 10 that the taxpayers have average annual gross receipts of \$10,000,000 or less.

Example 1. Taxpayer is a calendar year plumbing contractor that installs plumbing fixtures in customers' homes and businesses. Taxpayer reasonably determines that its principal business activity is construction, which is described in NAICS code 23. Taxpayer's gross receipts at the end of the three preceding taxable years are:

	<i>Gross receipts</i>
1998:	\$ 6,000,000
1999:	9,000,000
2000:	12,000,000

Taxpayer's average annual gross receipts for the 3-taxable year-period ending in the 2000 taxable year is \$9,000,000 (\$6,000,000 + \$9,000,000 + \$12,000,000 = \$27,000,000/3). Taxpayer may use the cash method for all its trades or businesses pursuant to this revenue procedure for its 2001 taxable year because its average annual gross receipts for each prior taxable year ending on or after December 31, 2000, is \$10,000,000 or less and its principal business activity is not described in the ineligible NAICS codes listed in section 4.01(1)(a) - (e).

Example 2. Taxpayer is a plumbing contractor that installs plumbing fixtures in customers' homes and businesses. Taxpayer also has a store that sells plumbing equipment to homeowners and other plumbers who visit the store. Taxpayer derives 60 percent of its total receipts from plumbing installation (including amounts charged for parts and fixtures used in installation) and 40 percent of its total receipts from the sale of plumbing equipment through its store. Taxpayer reasonably determines that its principal business activity is plumbing installation, which is included in the construction activities described in NAICS code 23. Taxpayer may use the cash method for both business activities because Taxpayer is a qualifying small business taxpayer whose principal business activity—plumbing installation—is not described in the ineligible NAICS codes listed in section 4.01(a)–(e).

Example 3. Same as *Example 2*, except Taxpayer derives 40 percent of its total receipts from plumbing installation (including amounts charged for parts and fixtures used in installation) and 60 percent of its total receipts from the sale of plumbing equipment through its store. Taxpayer's principal business activity is described in the ineligible NAICS code 44. Moreover, Taxpayer's principal business activity is neither the provision of services under section 4.01(2) nor the fabrication or modification of tangible personal property under section 4.01(3). Therefore, Taxpayer may not use the cash method under this revenue procedure for its plumbing retail business. Taxpayer may use the cash method for its plumbing installation business if the Taxpayer keeps complete and separate books and records for its plumbing installation business and its plumbing retail business. If Taxpayer keeps one set of books and records for its plumbing installation business and its plumbing retail business, then Taxpayer is required to use an accrual method for both businesses.

Example 4. Taxpayer sells refrigerators. As part of the sale price, Taxpayer will deliver the refrigerator to the customer and confirm that the refrigerator is functioning properly at the customer's site. Taxpayer's principal business activity is described in the ineligible NAICS code 44. Moreover, taxpayer's principal business activity is not the provision of services under section 4.01(2). Taxpayer does not provide refrigerators incident to the performance of services. Rather, Taxpayer performs certain services (delivery and confirmation of functionality) incident to the sale of refrigerators. In addition, Taxpayer does not fabricate or modify tangible personal property under section 4.01(3). Taxpayer may not use the cash method under this revenue procedure.

Example 5. Taxpayer is a sofa manufacturer that only produces sofas upon receipt of a customer order. Customers are allowed to pick among 150 different fabrics offered by the taxpayer or to provide their own fabric, which the taxpayer will use to finish the customer's sofa. Taxpayer's principal business activity is described in the ineligible NAICS code 33. Taxpayer does not provide sofas incident to the performance of services for purposes of section 4.01(2). Rather, Taxpayer performs certain services (upholstering) incident to the sale of sofas. Taxpayer also does not fabricate or modify tangible personal property for purposes of section 4.01(3) because customers merely choose among pre-selected options offered by Taxpayer and Tax-

payer only makes minor modifications to the basic design of its sofa. Taxpayer may not use the cash method under this revenue procedure.

Example 6. Taxpayer makes tools based entirely on specific designs and specifications provided to it by customers in their orders. Taxpayer's principal business activity is described in the ineligible NAICS code 33. However, Taxpayer's principal business activity is the fabrication of tangible personal property for purposes of section 4.01(3). Taxpayer may use the cash method under this revenue procedure (subject to the potential application of § 460).

Example 7. Taxpayer is a roofing contractor that is a qualifying small business taxpayer eligible to use the cash method under sections 3 and 4 of this revenue procedure. Taxpayer, who uses the calendar year, chooses to use the cash method as described in this revenue procedure and to not account for inventories under § 471. Taxpayer enters into a contract with a homeowner in December 2001 to replace the homeowner's roof. Taxpayer purchases roofing shingles from a local supplier and has them delivered to the homeowner's residence. Taxpayer pays the supplier \$5,000 for the shingles upon their delivery later that month. Taxpayer replaces the homeowner's roof in December 2001, and gives the homeowner a bill for \$15,000 at that time. Taxpayer receives a check from the homeowner in January 2002.

Taxpayer deducts the \$5,000 cost of the shingles on its 2001 Federal income tax return (the year the shingles are paid for by Taxpayer and provided to the customer in connection with the performance of roofing services). Taxpayer includes the \$15,000 in income in 2002 when it receives the check from the homeowner.

Example 8. The facts are the same as in *Example 7*, except that Taxpayer does not replace the roof until January 2002 and is not paid until March 2002. Because the shingles are not used until 2002, their cost can only be deducted on Taxpayer's 2002 Federal income tax return notwithstanding that Taxpayer paid for the shingles in 2001. Thus, on its 2002 return, Taxpayer must report \$15,000 of income and \$5,000 of deductions.

Example 9. Taxpayer, a qualifying small business taxpayer, elects to use the cash method as described in this revenue procedure. Taxpayer is a speculative builder of houses that are built on land it owns. In 2001, Taxpayer builds a house using various items such as lumber, piping, and metal fixtures that it had paid for in 2000. In 2002, Taxpayer sells the house to a buyer. Because the house is real property held for sale by Taxpayer, it is not an inventoriable item under section 4.03 of this revenue procedure. Thus, the taxpayer may not account for the items used to build the house as non-incidentals materials and supplies under § 1.162–3. Rather, Taxpayer must capitalize the costs of the lumber, piping, metal fixtures and other goods used by Taxpayer to build the house. Upon the sale of the house in 2002, the costs capitalized by Taxpayer will be offset against the house sales price to determine Taxpayer's gain or loss from the sale.

Example 10. The facts are the same as in *Example 9*, except that Taxpayer builds houses on land its customers own. Because Taxpayer does not own the house, the lumber, piping, metal fixtures and other goods used by Taxpayer in the provision

of construction services are not real property held for sale. Taxpayer must deduct the cost of the lumber, piping, metal fixtures and other non-incidentals materials and supplies that are used by it to build the house in 2001 (the year those items were used by Taxpayer to build the house) notwithstanding that Taxpayer had paid for the items in 2000. Taxpayer will report income it receives from its customer as the income is actually or constructively received.

SECTION 7. CHANGE IN ACCOUNTING METHOD

.01 In general. Any change in a taxpayer's method of accounting pursuant to this revenue procedure is a change in method of accounting to which the provisions of §§ 446 and 481 and the regulations thereunder apply.

.02 Automatic change for taxpayers within the scope of this revenue procedure.

(1) Automatic change to the cash method. A qualifying small business taxpayer that wants to use the cash method as described in this revenue procedure for an eligible trade or business must follow the automatic change in accounting method provisions of Rev. Proc. 99–49 (1999-2 C.B. 725) (or its successor) with the following modifications:

(a) The scope limitations in section 4.02 of Rev. Proc. 99–49 do not apply. However, if the taxpayer is under examination, before an appeals office, or before a federal court with respect to any income tax issue, the taxpayer must provide a copy of the Form 3115, *Application for Change in Accounting Method*, to the examining agent(s), appeals officer, or counsel for the government, as appropriate, at the same time that it files the copy of the Form 3115 with the national office. The Form 3115 must contain the name(s) and telephone number(s) of the examining agent(s), appeals officer, or counsel for the government, as appropriate;

(b) Taxpayers filing Form 3115 for a change in method of accounting under this revenue procedure must complete all applicable parts of the form but need not complete Part II of Schedule A of Form 3115. Specifically, Part II, line 17 (regarding information on gross receipts in previous years) and Part III (regarding the § 481(a) adjustment) must be completed. Taxpayers should write "Filed under Rev. Proc. 2001–XX" at the top of their Form 3115.

(2) Automatic change to section 1.162-3. A qualifying taxpayer that does not want to account for inventories under § 471 of an eligible trade or business must make any necessary change from the taxpayer's current method of accounting for inventoriable items in that trade or business to treat such inventoriable items in the same manner as materials and supplies that are not incidental under section 1.162-3. For purposes of such a change, the rules of section 6.02(1) of this revenue procedure apply. Taxpayers may file a single Form 3115 for both changes described in sections 7.02(1) and 7.02(2).

.03 Section 481(a) adjustment. The net amount of the § 481(a) adjustment computed under this revenue procedure must take into account both increases and decreases in the applicable account balances such as accounts receivable, accounts payable, and inventory. For example, the § 481(a) adjustment may include the difference resulting from changing from taking inventory accounts under § 471 to treating the goods as materials and supplies that are not incidental under § 1.162-3.

.04 Taxpayers not within the scope of this revenue procedure. A taxpayer that ceases to qualify for the qualifying small business taxpayer exception described in section 4 of this revenue procedure for any trade or business and otherwise is

required to use an accrual method for that trade or business must change to an accrual method (and, if applicable an inventory method that complies with § 471) for that trade or business using either the automatic change in accounting method provisions of section 5.01 of the APPENDIX to Rev. Proc. 99-49, if applicable, or the advance consent provisions of Rev. Proc. 97-27 (1997-1 C.B. 680) (or its successor).

SECTION 8. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 99-49 (1999-2 C.B. 725) is modified and amplified to include this automatic change in section 10 of the APPENDIX.

SECTION 9. EFFECTIVE DATE

This revenue procedure is effective for taxable years ending on or after December 31, 2001. However, the Service will not challenge a taxpayer's use of the cash method under § 446, or a taxpayer's failure to account for inventories under § 471, for a trade or business in an earlier year if the taxpayer, for that year, was a qualifying small business taxpayer as described in section 3 of this revenue procedure and the taxpayer was eligible to use the cash method for such trade or

business under section 4.01 of this revenue procedure.

CONTACT INFORMATION

For further information regarding this revenue procedure, contact Cheryl Lynn Oseekey of the Office of Associate Chief Counsel (Income Tax and Accounting) at (202) 622-4970 (not a toll-free call).

Weighted Average Interest Rate Update

Notice 2001-80

Notice 88-73 provides guidelines for determining the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the full funding limitation of § 412(c)(7) of the Internal Revenue Code as amended by the Omnibus Budget Reconciliation Act of 1987 and as further amended by the Uruguay Round Agreements Act, Pub. L. 103-465 (GATT).

The average yield on the 30-year Treasury Constant Maturities for November 2001 is 5.12 percent.

The following rates were determined for the plan years beginning in the month shown below.

Month	Year	Weighted Average	90% to 105% Permissible Range	90% to 110% Permissible Range
December	2001	5.72	5.15 to 6.01	5.15 to 6.29

DRAFTING INFORMATION

The principal author of this notice is Todd Newman of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please call Mr. Newman at (202) 283-9888 (not a toll-free number).

Section 529 Programs

Notice 2001-81

This notice provides guidance regarding certain recordkeeping, reporting, and other requirements applicable to qualified tuition programs described in § 529 of the Internal Revenue Code, in light of certain amendments made to § 529 by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. No. 107-16, 115 Stat. 38) (EGTRRA).

Among other changes to § 529, EGTRRA: (1) expands the definition of "qualified tuition program" to include certain prepaid tuition programs established and maintained by one or more eligible educational institutions; (2) provides an exclusion from gross income for distributions from a State § 529 program (and, beginning in 2004, a prepaid tuition program established and maintained by one or more eligible educational institutions) which are used to pay for qualified

higher education expenses of the designated beneficiary; (3) repeals the requirement that a § 529 program impose a more than *de minimis* penalty on any refund of earnings not used for qualified higher education expenses of the beneficiary; and (4) replaces that penalty with an additional 10-percent tax on the amount of a distribution from a § 529 program that is includible in gross income (with certain exceptions). In general, these amendments are effective for taxable years beginning after December 31, 2001.¹

In light of these changes, and to give § 529 programs adequate time to implement appropriate recordkeeping and reporting procedures, the Internal Revenue Service and the Treasury Department are issuing this guidance, which they intend to incorporate in final regulations under § 529. Section 529 programs and their participants may rely on this notice pending the issuance of final regulations under § 529.

a. Imposition of a penalty and verification of purpose of a distribution.

As currently in effect (prior to the effective date of EGTRRA), § 529(b)(3) provides that a program is not treated as a qualified § 529 program unless it imposes a more than *de minimis* penalty on any refund of earnings that is not: (a) used for qualified higher education expenses of the designated beneficiary; (b) made on account of the death or disability of the designated beneficiary; or (c) made on account of certain scholarships or other educational assistance received by the beneficiary. Prop. Treas. Reg. § 1.529-2(e) provides rules on *de minimis* penalties and procedures for verifying the use of distributions and imposing and collecting penalties.

EGTRRA repeals § 529(b)(3), effective for taxable years beginning after December 31, 2001. Therefore, the final regulations under § 529 will provide that, with respect to any distributions made after December 31, 2001, a § 529 program will no longer be required to verify how distributions are used or to collect any penalty. However, with respect to any distributions made on or before December 31, 2001, a § 529 program must con-

tinue to verify whether the distribution is used for qualified higher education expenses of the beneficiary and to collect a more than *de minimis* penalty on non-qualified distributions.

b. Reporting of distributions.

Section 529(d) provides that a § 529 program shall make reports regarding the program to the Internal Revenue Service and to designated beneficiaries regarding contributions, distributions, and such other matters as the Internal Revenue Service may require. Prop. Treas. Reg. § 1.529-4 requires a State tuition program to report on Form 1099-G, Certain Government Payments, the earnings portion of any distribution made during the year, together with other information such as the name, address and TIN of the distributee. A § 529 program must furnish a statement to the distributee on or before January 31st of the year following the calendar year in which the distribution is made. In addition, a § 529 program must file Form 1099-G on or before February 28th of the year following the calendar year in which the distribution is made.

These reporting requirements continue in effect for distributions made in 2001. Thus, with respect to any distributions made in 2001, a § 529 program must furnish statements to the distributees on or before January 31, 2002, and file returns on Form 1099-G on or before February 28, 2002.

In light of the expansion of § 529 to include prepaid tuition programs established and maintained by one or more eligible educational institutions (which may be private institutions), the Internal Revenue Service will issue a new form, Form 1099-Q, for taxable years beginning after December 31, 2001. A copy of Form 1099-Q is available on the IRS website at www.irs.gov.

c. Calculation of earnings.

1. In general.

Section 529(c)(3)(A) provides that a distribution from a § 529 program is includible in the gross income of the distributee in the manner as provided under § 72, to the extent not excluded from

gross income under any other provision of Chapter 1 of the Code. Section 529(c)(3)(D)(iii) provides that, except to the extent provided by the Secretary, the value of the contract, income on the contract, and the investment in the contract are to be computed as of the close of the calendar year.

2. Recordkeeping requirements with respect to rollover contributions.

Section 529(b)(3)² states that a program must provide a separate accounting for each designated beneficiary. Prop. Treas. Reg. § 1.529-2(f) requires a § 529 program to maintain records with respect to the designated beneficiary of each account showing the total investment in the account and any earnings attributable thereto.

In the case of a contribution to a § 529 account that represents a transfer from a Coverdell education savings account described in § 530(b)(2)(B), a transfer of proceeds of a qualified U.S. Savings Bond described in § 135(c)(2)(C), or a “rollover” of amounts from another § 529 program account (each, a “rollover contribution”), the recipient § 529 program must determine the basis and earnings portions of the amounts contributed. (See Prop. Treas. Reg. § 1.529-3(a)(2), which provides that the earnings portion of the rollover amount must be added to the earnings of the account that received the contribution.)

Although this requirement was not changed by EGTRRA, § 529 programs have indicated that there is some confusion about the requirement that a § 529 program determine and maintain records that reflect the basis and earnings portions of any rollover contribution. Accordingly, it is expected that final regulations will clarify that, when accepting a contribution, a § 529 program must ask whether the contribution is a rollover contribution from a Coverdell education savings account, a qualified U.S. Savings Bond, or another § 529 program. If the contribution is a rollover contribution, the § 529 program must determine the earnings portion of the contribution, and add that amount to the earnings recorded in the account to which the rollover contribution

¹ Unless otherwise indicated, references herein are to § 529 of the Internal Revenue Code, as amended by EGTRRA.

² Section 529(b)(4) was renumbered as § 529(b)(3) by EGTRRA.

is made. Until the § 529 program receives appropriate documentation showing the earnings portion of the contribution, the program must treat the entire amount of the contribution as earnings in the § 529 account receiving the distribution. For this purpose, “appropriate documentation” means: (1) in the case of a rollover contribution from a Coverdell education savings account, an account statement issued by the financial institution that acted as trustee or custodian of the education savings account that shows basis and earnings in the account; (2) in the case of a rollover contribution from the redemption of qualified U.S. Savings Bonds, an account statement or Form 1099-INT issued by the financial institution that redeemed the bonds showing interest from the redemption of the bonds; and (3) in the case of a rollover contribution from another § 529 program, a statement issued by the distributing § 529 program that shows the earnings portion of the distribution.

3. Rollover statement between § 529 programs.

In the case of any direct transfer (*i.e.*, trustee-to-trustee rollover) between § 529 programs, the distributing program must provide to the receiving program a statement setting forth the earnings portion of the rollover distribution within 30 days after the distribution or by January 10th of the year following the calendar year in which the rollover occurred, whichever is earlier. This rule is effective for direct transfers between § 529 programs that occur on or after January 1, 2002.

4. Timing of earnings calculation.

Consistent with § 529(c)(3)(D), the proposed regulations provide that the earnings portion of any distribution is determined by applying an earnings ratio, generally the earnings allocable to an account as of the close of the year divided by the total account balance as of the close of the calendar year, determined by adding back the amount of all distributions made during the year. See Prop. Treas. Reg. § 1.529-1(c).

In response to comments received on the proposed regulations, and consis-

tent with the Secretary’s authority under § 529(c)(3)(D)(iii) to adopt a different rule, the Treasury Department and the Internal Revenue Service expect that final regulations will revise the time for determining the earnings portion of any distribution from a § 529 account. It is expected that final regulations will provide that, effective for distributions made after December 31, 2002, programs will be required to determine the earnings portion of each distribution as of the date of distribution. In the case of direct transfers between § 529 programs, this requirement is effective for distributions made after December 31, 2001. In the case of any State program for which this change would require legislation and whose State legislature has a biennial legislative session, the program will have until January 1, 2004, to conform to this method of calculating earnings.

5. Aggregation of Accounts.

Section 529(c)(3)(D)(i) provides that to the extent provided by the Secretary, all § 529 programs of which an individual is a designated beneficiary shall be treated as one program. Prop. Treas. Reg. § 1.529-3(d) provides that all accounts maintained by a § 529 program for the benefit of a designated beneficiary shall be treated as a single account for purposes of calculating the earnings portion of any distribution. Based on comments received on the proposed regulations, it is expected that the final regulations will provide that only accounts maintained by a § 529 program and having the same account owner and the same designated beneficiary must be aggregated for purposes of computing the earnings portion of any distribution. For this purpose, a State that has both a prepaid § 529 program and a § 529 savings program should consider each program separately for purposes of calculating the earnings portion of any distribution from either the prepaid or the savings program. These changes will apply for purposes of the earnings calculation only, and will not affect the application of § 529(b)(6) (prohibition on excess contributions)³. The § 529(b)(6) limit will continue to be applied based upon all accounts, both savings and prepaid, in programs established and main-

tained by the State for the benefit of the same designated beneficiary.

Comments on Future Guidance Invited

The Internal Revenue Service invites comments on the matters described in this notice and any other matters relating to § 529 and the regulations thereunder. Please send written comments by March 25, 2002, to: CC:ITA:RU (Notice 2001-81), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submission may be hand-delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:ITA:RU (Notice 2001-81), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the “Tax Regs” option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.gov/prod/tax_regs/regslst.html. Comments will be available for public inspection.

DRAFTING INFORMATION

The principal author of this notice is Monice Rosenbaum of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Ms. Rosenbaum at (202) 622-6070 (not a toll-free number).

Expansion of Safe Harbor Provisions Under Notice 88-129

Notice 2001-82

PURPOSE

This notice amplifies and modifies Notice 88-129 (1988-2 C.B. 541) as modified and amplified by Notice 90-60 (1990-2 C.B. 345). Notice 88-129 provides that a regulated public utility (utility) will not realize income upon transfers of interties from qualifying small power

³ Section 529(b)(7) was renumbered as § 529(b)(6) by EGTRRA.

producers and qualifying cogenerators (collectively, Qualifying Facilities), as defined in section 3 of the Federal Power Act, as amended by section 201 of the Public Utilities Regulatory Policies Act of 1978 (PURPA). This notice extends the safe harbor provisions of Notice 88-129 to include transfers of interties from non-Qualifying Facilities. The safe harbor also is extended to transactions in which there is not a long-term power purchase contract between the utility and the power producer but rather the intertie is transferred pursuant to a long-term interconnection agreement and in which the intertie is used exclusively to transmit power across the utility's transmission grid for sale to consumers or intermediaries.

BACKGROUND

At the time Notice 88-129 was issued, most generators that were not owned by regulated public utilities (stand-alone generators) were Qualifying Facilities for regulatory purposes. As a stand-alone generator, the Qualifying Facility had to be connected to a utility's transmission lines in order to move its power to market. PURPA required that a utility interconnect with a Qualifying Facility for the purpose of allowing the sale of power produced by the Qualifying Facility. A Qualifying Facility generally sold its electricity under a long-term power purchase contract to the local utility with whom it was interconnecting at the utility's avoided cost. A Qualifying Facility also arranged in certain cases for the interconnected utility to transmit electricity across its transmission grid for sale to another utility (wheeling) at that utility's avoided cost.

Deregulation of the electric power industry has significantly changed the operation of the industry. Today, few new stand-alone generators are Qualifying Facilities. The Federal Energy Regulatory Commission (FERC) encouraged the construction of non-Qualifying Facilities starting in the late 1980's by issuing a number of orders to individual projects (known in the industry as independent power producers) approving sales of power at market rates. In addition, the Energy Policy Act of 1992 created a new class of stand-alone generators, called exempt wholesale generators, that are permitted to sell their power at market

rates with FERC approval, and are exempted from certain utility regulation. Unlike PURPA, the Energy Policy Act has no requirement that utilities buy electricity from stand-alone generators.

In 1996, FERC issued Order No. 888 in an effort to ensure that every wholesale supplier of electricity, including, for example, power marketers and stand-alone generators, has open access to the national transmission grid. The order requires regulated utilities to allow stand-alone generators to interconnect to the grid and to file nondiscriminatory tariffs under which any wholesale supplier can pay to have its electricity wheeled. Stand-alone generators (including Qualifying Facilities) have additional outlets for their power today that they did not have in 1988, including sales of power at auction on regional power exchanges or spot markets and under short and medium-term contracts to specific customers or to power marketers that trade electricity. Regulated utilities have many more sources of supply for electricity than in 1988. As a result of these changes, very few utilities enter into long-term power purchase contracts with stand-alone generators. Electricity produced by stand-alone generators is more likely today than in 1988 to be wheeled across the transmission grid of the interconnected utility for sale to consumers or intermediaries rather than to be sold directly to the interconnected utility.

The new stand-alone generators still need to be interconnected to the transmission grid in order for a customer to take the power. Therefore, the stand-alone generator enters into a long-term interconnection agreement with the local utility. The term of a long-term interconnection agreement may be tied to the period that the stand-alone generator remains in commercial operation. This agreement may permit assignment of the agreement by the utility to accommodate future consolidation of local grids into regional transmission systems that will cover broad regions of the country.

MODIFICATIONS TO NOTICE 88-129 AND NOTICE 90-60

In light of the above-mentioned changes in the electric power industry, the safe harbor provisions of Notice 88-129 are modified as follows:

1. The safe harbor provisions are extended to include transfers of interties from non-Qualifying Facilities. Accordingly, the term "QF transfer" appearing in Notice 88-129 will be construed as including "qualified transfers" of interties from non-Qualifying Facilities that meet the other requirements of the safe harbor provisions. Similarly, the term "Qualifying Facility" for purposes of Notice 88-129 will be construed as including "stand-alone generators" that are not Qualifying Facilities.

2. The safe harbor provisions also are extended to include transfers of interties used exclusively or in part to transmit power over the utility's transmission grid for sale to consumers or intermediaries, including affiliated intermediaries (wheeling). This safe harbor only applies to transactions in which the intertie is transferred pursuant to a long-term interconnection agreement and in which ownership of the electricity wheeled passes to the purchaser prior to its transmission on the utility's transmission grid. The ownership requirement of the preceding sentence is deemed satisfied if title to electricity wheeled passes to the purchaser at the busbar on the generator's end of the intertie. The terms "power purchase contract" and "power supply contract" appearing in Notice 88-129 will be construed as including interconnection agreements in transactions in which the intertie is used for wheeling. Accordingly, a long-term interconnection agreement in lieu of a long-term power purchase contract or power supply contract may be used to satisfy the safe harbor provisions of Notice 88-129 in such transactions. The term "dual-use intertie" appearing in Notice 88-129 will be construed as including an intertie which may be used to transmit power from a third party for sale to the Qualifying Facility.

3. Section 6, sentence 4, of Notice 88-129, states, "The cost of property transferred in a QF transfer must be capitalized by the Qualifying Facility as an intangible asset and recovered as appropriate." This sentence is modified to read as follows: "The cost of property transferred in a QF transfer must be capitalized by the Qualified Facility as an intangible asset and recovered using the straight-line method over a useful life of 20 years."

EFFECT ON OTHER DOCUMENTS

Notice 88–129, as amplified and modified by Notice 90–60, is further amplified and modified.

EFFECTIVE DATE

This notice applies to transfers of property to regulated public utilities, pursuant to interconnection agreements, completed after December 26, 2001, the date this notice is published in the Bulletin. For transfers of interties occurring on or before December 26, 2001, and meeting the requirements of this notice, taxpayers may request application of this notice through a request for a private letter ruling (including in appropriate circumstances where the taxpayer’s return for the year of transfer has already been filed).

DRAFTING INFORMATION

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

Publication 1494, shown below, provides tables that show the amount of an individual’s income that is exempt from a notice of levy used to collect delinquent tax in 2002.

(Amounts are for each pay period.)

Tables for Figuring Amount Exempt From Levy on Wages, Salary, and Other Income

Notice 2001–83

1. Table for Figuring Amount Exempt From Levy on Wages, Salary, and Other Income (Forms 668–W(c) and 668–W(c)(DO)) 2002

Filing Status: Single							
Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More Than 6
Daily	29.62	41.15	52.69	64.23	75.77	87.31	18.08 plus 11.54 for each exemption
Weekly	148.08	205.77	263.46	321.15	378.85	436.54	90.38 plus 57.69 for each exemption
Biweekly	296.15	411.54	526.92	642.31	757.69	873.08	180.77 plus 115.38 for each exemption
Semi-Monthly	320.83	445.83	570.83	695.83	820.83	945.83	195.83 plus 125.00 for each exemption
Monthly	641.67	891.67	1141.67	1391.67	1641.67	1891.67	391.66 plus 250.00 for each exemption

Filing Status: Unmarried Head of Household							
Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More Than 6
Daily	38.08	49.62	61.15	72.69	84.23	95.77	26.54 plus 11.54 for each exemption
Weekly	190.38	248.08	305.77	363.46	421.15	478.85	132.69 plus 57.69 for each exemption
Biweekly	380.77	496.15	611.54	726.92	842.31	957.69	265.38 plus 115.38 for each exemption
Semi-Monthly	412.50	537.50	662.50	787.50	912.50	1037.50	287.50 plus 125.00 for each exemption
Monthly	825.00	1075.00	1325.00	1575.00	1825.00	2075.00	575.00 plus 250.00 for each exemption

Filing Status: Married Filing Joint Return (and Qualifying Widow(er)s)							
Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More Than 6
Daily	41.73	53.27	64.81	76.35	87.88	99.42	30.19 plus 11.54 for each exemption
Weekly	208.65	266.35	324.04	381.73	439.42	497.12	150.96 plus 57.69 for each exemption
Biweekly	417.31	532.69	648.08	763.46	878.85	994.23	301.92 plus 115.38 for each exemption
Semi-Monthly	452.08	577.08	702.08	827.08	952.08	1077.08	327.08 plus 125.00 for each exemption
Monthly	904.17	1154.17	1404.17	1654.17	1904.17	2154.17	654.17 plus 250.00 for each exemption

Filing Status: Married Filing Separate Return							
Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More Than 6
Daily	26.63	38.17	49.71	61.25	72.79	84.33	15.10 plus 11.54 for each exemption
Weekly	133.17	190.87	248.56	306.25	363.94	421.63	75.48 plus 57.69 for each exemption
Biweekly	266.35	381.73	497.12	612.50	727.88	843.27	150.96 plus 115.38 for each exemption
Semi-Monthly	288.54	413.54	538.54	663.54	788.54	913.54	163.54 plus 125.00 for each exemption
Monthly	577.08	827.08	1077.08	1327.08	1577.08	1827.08	327.08 plus 250.00 for each exemption

2. Table for Figuring Additional Exempt Amount for Taxpayers at Least 65 Years Old and/or Blind

Additional Exempt Amount

Filing Status	*	Daily	Wkly	Bi-Wkly	Semi-Mo	Monthly
Single or Head of Household	1	4.42	22.12	44.23	47.92	95.83
	2	8.85	44.23	88.46	95.83	191.57
Any Other Filing Status	1	3.46	17.31	34.62	37.50	75.00
	2	6.92	34.62	69.23	75.00	150.00
	3	10.38	51.92	103.85	112.50	225.00
	4	13.85	69.23	138.46	150.00	300.00

* ADDITIONAL STANDARD DEDUCTION claimed on Parts 3, 4, & 5 of levy.

Examples

These tables show the amount exempt from a levy on wages, salary, and other income.

For example:

1. A single taxpayer who is paid weekly and claims three exemptions (including one for the taxpayer) has \$263.46 exempt from levy.

2. If the taxpayer in number 1 is over 65 and writes 1 in the ADDITIONAL STANDARD DEDUCTION space on Parts 3, 4, & 5 of the levy, \$285.58 is exempt from this levy (\$263.46 plus \$22.12).

3. A taxpayer who is married, files jointly, is paid biweekly, and claims two exemptions (including one for the taxpayer) has \$532.69 exempt from levy.

4. If the taxpayer in number 3 is over 65 and has a spouse who is blind, this taxpayer should write 2 in the ADDITIONAL STANDARD DEDUCTION space on Parts 3, 4, & 5 of the levy. Then, \$601.92 is exempt from this levy (\$532.69 plus \$69.23).

Rev. Proc. 2001-59

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SECTION 4. EFFECTIVE DATE

SECTION 5. DRAFTING INFORMATION

SECTION 1. PURPOSE

This revenue procedure sets forth inflation adjusted items for 2002.

SECTION 2. CHANGES

.01 Section 201 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) amended § 24 to

increase the amount of credit under § 24 that may be refundable. The value in § 24(d)(1)(B)(i) used in determining the new potentially refundable amount is adjusted for inflation.

.02 The amounts in § 25A(b)(1) which are used in determining the Hope Scholarship Credit and the amounts in § 25A(d)(2)(A)(ii) which are used in determining the reduction in the

amount of the Hope Scholarship and Lifetime Learning Credits otherwise allowable under § 25A(a) are adjusted for inflation.

SECTION 3. 2002 ADJUSTED ITEMS

.01 *Tax Rate Tables.* For tax years beginning in 2002, the tax rate tables under § 1 are as follows:

TABLE 1—Section 1(a).—MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES

If Taxable Income Is:	The Tax Is:
Not Over \$12,000	10% of the taxable income
Over \$12,000 but not over \$46,700	\$1,200 plus 15% of excess over \$12,000
Over \$46,700 but not over \$112,850	\$6,405 plus 27% of excess over \$46,700
Over \$112,850 but not over \$171,950	\$24,265.50 plus 30% of excess over \$112,850
Over \$171,950 but not over \$307,050	\$41,995.50 plus 35% of excess over \$171,950
Over \$307,050	\$89,280.50 plus 38.6% of excess over \$307,050

TABLE 2—Section 1(b).—HEADS OF HOUSEHOLDS

If Taxable Income Is:	The Tax is:
Not Over \$10,000	10% of the taxable income
Over \$10,000 but not over \$37,450	\$1,000 plus 15% of excess over \$10,000
Over \$37,450 but not over \$96,700	\$5,117.50 plus 27% of the excess over \$37,450
Over \$96,700 but not over \$156,600	\$21,115 plus 30% of the excess over \$96,700
Over \$156,600 but not over \$307,050	\$39,085 plus 35% of the excess over \$156,600
Over \$307,050	\$91,742.50 plus 38.6% of the excess over \$307,050

TABLE 3—Section 1(c).—UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).

If Taxable Income Is:	The Tax Is:
Not over \$6,000	10% of the taxable income
Over \$6,000 but not over \$27,950	\$600 plus 15% of the excess over \$6,000
Over \$27,950 but not over \$67,700	\$3,892.50 plus 27% of the excess over \$27,950
Over \$67,700 but not over \$141,250	\$14,625 plus 30% of the excess over \$67,700
Over \$141,250 but not over \$307,050	\$36,690 plus 35% of the excess over \$141,250
Over \$307,050	\$94,720 plus 38.6% of the excess over \$307,050

TABLE 4—Section 1(d). —MARRIED INDIVIDUALS FILING SEPARATE RETURNS

If Taxable Income Is:	The Tax Is:
Not Over \$6,000	10% of the taxable income
Over \$6,000 but not over \$23,350	\$600.00 plus 15% of the excess over \$6,000
Over \$23,350 but not over \$56,425	\$3,202.50 plus 27% of the excess over \$23,350
Over \$56,425 but not over \$85,975	\$12,132.75 plus 30% of the excess over \$56,425
Over \$85,975 but not over \$153,525	\$20,997.75 plus 35% of the excess over \$85,975
Over \$153,525	\$44,640.25 plus 38.6% of the excess over \$153,525

TABLE 5—Section 1(e). —ESTATES AND TRUSTS

If Taxable Income Is:	The Tax Is:
Not Over \$1,850	15% of the taxable income
Over \$1,850 but not over \$4,400	\$277.50 plus 27% of the excess over \$1,850
Over \$4,400 but not over \$6,750	\$966.00 plus 30% of the excess over \$4,400
Over \$6,750 but not over \$9,200	\$1,671.00 plus 35% of the excess over \$6,750
Over \$9,200	\$2,528.50 plus 38.6% of the excess over \$9,200

.02 *Unearned Income of Minor Children Taxed as if Parent's Income (the "Kiddie Tax").* For tax years beginning in 2002, the amount in § 1(g)(4)(A)(ii)(I), which is used to reduce the net unearned income reported on the child's return that is subject to the "kiddie tax," is \$750. (This amount is the same as the \$750 standard deduction amount provided in section 3.07(2) of this revenue procedure.) The same \$750 amount is also used for purposes of § 1(g)(7) (that is, determining whether a parent may elect to include a child's gross income in the parent's gross income and for calculating the "kiddie tax"). For example, one of the requirements for such a parental election is that a child's gross income be more than the amount referenced in § 1(g)(4)(A)(ii)(I) but less than 10 times such amount; thus, a child's gross income for 2002 must be more than \$750 but less than \$7,500 to satisfy that requirement.

.03 *Child Tax Credit.* Section 201 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) amended § 24 to increase the amount of credit under § 24 that may be refundable. The value in § 24(d)(1)(B)(i) used in determining the new potentially refundable amount is adjusted for inflation. For tax years beginning in 2002, that value is \$10,350.

.04 *Hope and Lifetime Learning Credits.*

(1) For taxable years beginning in 2002, 100 percent of qualified tuition and related expenses not in excess of \$1,000 and 50 percent of such expenses in excess of \$1,000 are taken into account in determining the amount of the Hope Scholarship Credit under § 25A(b)(1).

(2) For tax years beginning in 2002, a taxpayer's modified gross income in excess of \$41,000 (\$82,000 in the case of a joint return) is taken into account

in determining the reduction under § 25A(d)(2)(A)(ii) in the amount of the Hope Scholarship and Lifetime Learning Credits otherwise allowable under § 25A(a).

.05 *Earned Income Tax Credit.*

(1) *In general.* For tax years beginning in 2002, the following amounts are used to determine the earned income tax credit under § 32(b). The "earned income amount" is the amount of earned income at or above which the maximum amount of the earned income tax credit is allowed. The "threshold phaseout amount" is the amount of adjusted gross income (or, if greater, earned income) above which the maximum amount of the credit begins to phase out. The "completed phaseout amount" is the amount of adjusted gross income (or if greater, earned income) at or above which no credit is allowed.

Item	Number of Qualifying Children		
	One	Two or More	None
Earned Income Amount	\$ 7,370	\$10,350	\$ 4,910
Maximum Amount of Credit	\$ 2,506	\$ 4,140	\$ 376
Threshold Phaseout Amount	\$13,520	\$13,520	\$ 6,150
Completed Phaseout Amount	\$29,201	\$33,178	\$11,060
Threshold Phaseout Amount (Married Filing Jointly)	\$14,520	\$14,520	\$ 7,150
Completed Phaseout Amount (Married Filing Jointly)	\$30,201	\$34,178	\$12,060

The Internal Revenue Service, in the instructions for the Form 1040 series, provides tables showing the amount of the earned income tax credit for each type of taxpayer.

(2) *Excessive investment income.* For tax years beginning in 2002, the earned income tax credit is denied under § 32(i)

if the aggregate amount of certain investment income exceeds \$2,550.

.06 *Alternative Minimum Tax Exemption for a Child Subject to the "Kiddie Tax."* For tax years beginning in 2002, in the case of a child to whom the § 1(g) "kiddie tax" applies, the exemption amount under § 55 and § 59(j) for pur-

poses of the alternative minimum tax under § 55 may not exceed the sum of (A) such child's earned income for the taxable year, plus (B) \$5,500.

.07 *Standard Deduction.*

(1) *In general.* For tax years beginning in 2002, the standard deduction amounts under § 63(c)(2) are as follows:

Filing Status	Standard Deduction
MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES (§ 1(a))	\$7,850
HEADS OF HOUSEHOLDS (§ 1(b))	\$6,900
UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS) (§ 1(c))	\$4,700
MARRIED INDIVIDUALS FILING SEPARATE RETURNS (§ 1(d))	\$3,925

(2) *Dependent.* For tax years beginning in 2002, the standard deduction amount under § 63(c)(5) for an individual who may be claimed as a dependent by another taxpayer may not exceed the greater of \$750, or the sum of \$250 and the individual's earned income.

(3) *Aged and blind.* For tax years beginning in 2002, the additional standard deduction amounts under § 63(f) for the aged and for the blind are \$900 for each. These amounts are increased to \$1,150 if the individual is also unmarried and not a surviving spouse.

.08 *Overall Limitation on Itemized Deductions.* For tax years beginning in 2002, the "applicable amount" of adjusted gross income under § 68(b), above which the amount of otherwise allowable item-

ized deductions is reduced under § 68, is \$137,300 (or \$68,650 for a separate return filed by a married individual).

.09 *Qualified Transportation Fringe.* For tax years beginning in 2002, the monthly limitation under § 132(f)(2)(A), regarding the aggregate fringe benefit exclusion amount for transportation in a commuter highway vehicle and any transit pass, is \$100. The monthly limitation under § 132(f)(2)(B) regarding the fringe benefit exclusion amount for qualified parking is \$185.

.10 *Income from United States Savings Bonds for Taxpayers Who Pay Qualified Higher Education Expenses.* For tax years beginning in 2002, the exclusion under § 135, regarding income from United States savings bonds for taxpayers

who pay qualified higher education expenses, begins to phase out for modified adjusted gross income above \$86,400 for joint returns and \$57,600 for other returns. This exclusion completely phases out for modified adjusted gross income of \$116,400 or more for joint returns and \$72,600 or more for other returns.

.11 *Personal Exemption.*

(1) *Exemption amount.* For tax years beginning in 2002, the personal exemption amount under § 151(d) is \$ 3,000.

(2) *Phase out.* For tax years beginning in 2002, the personal exemption amount begins to phase out at, and is completely phased out after, the following adjusted gross income amounts:

<i>Filing Status</i>	<i>AGI — Beginning Phaseout</i>	<i>AGI Above Which Exemption Fully Phased Out</i>
Code § 1(a)	\$206,000	\$328,500
Code § 1(b)	\$171,650	\$294,150
Code § 1(c)	\$137,300	\$259,800
Code § 1(d)	\$103,000	\$164,250

.12 *Eligible Long-Term Care Premiums.* For tax years beginning in 2002, the limitations under § 213(d), regarding eligible long-term care premiums includible in the term “medical care,” are as follows:

<i>Attained age before the close of the taxable year:</i>	<i>Limitation on premiums:</i>
40 or less	\$ 240
More than 40 but not more than 50	\$ 450
More than 50 but not more than 60	\$ 900
More than 60 but not more than 70	\$2,390
More than 70	\$2,990

.13 *Medical Savings Accounts.*

(1) *Self-only coverage.* For tax years beginning in 2002, the term “high deductible health plan” as defined in § 220(c)(2)(A) means, in the case of self-only coverage, a health plan which has an annual deductible that is not less than \$1,650 and not more than \$2,500, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits does not exceed \$3,300.

(2) *Family coverage.* For tax years beginning in 2002, the term “high deductible health plan” means, in the case of family coverage, a health plan which has an annual deductible that is not less than \$3,300 and not more than \$4,950, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits does not exceed \$6,050.

.14 *Treatment of Dues Paid to Agricultural or Horticultural Organizations.* For tax years beginning in 2002, the limitation under § 512(d)(1), regarding the exemption of annual dues required to be paid by a member to an agricultural or horticultural organization, is \$120.

.15 *Insubstantial Benefit Limitations for Contributions Associated with Charitable Fund-Raising Campaigns.*

(1) *Low cost article.* For tax years beginning in 2002, the unrelated business

income of certain exempt organizations under § 513(h)(2) does not include a “low cost article” of \$7.90 or less.

(2) *Other insubstantial benefits.* For tax years beginning in 2002, the \$5, \$25, and \$50 guidelines in section 3 of Rev. Proc. 90–12 (1990–1 C.B. 471) (as amplified and modified), for disregarding the value of insubstantial benefits received by a donor in return for a fully deductible charitable contribution under § 170, are \$7.90, \$39.50, and \$79.00, respectively.

.16 *Funeral Trusts.* For a contract entered into during calendar year 2002 for a “qualified funeral trust,” as defined in § 685, the trust may not accept aggregate contributions by or for the benefit of an individual in excess of \$7,700.

.17 *Expatriation to Avoid Tax.* For calendar year 2002, the thresholds used under § 877(a)(2), regarding whether an individual’s loss of United States citizenship had the avoidance of United States taxes as one of its principal purposes, are more than \$120,000 for “average annual net income tax” and \$599,000 or more for “net worth.”

.18 *Valuation of Qualified Real Property in Decedent’s Gross Estate.* For an estate of a decedent dying in calendar year 2002, if the executor elects to use the special use valuation method under § 2032A for qualified real property, the aggregate decrease in the value of

qualified real property resulting from electing to use § 2032A that is taken into account for purposes of the estate tax may not exceed \$820,000.

.19 *Annual Exclusion for Gifts.*

(1) For calendar year 2002, the first \$11,000 of gifts to any person (other than gifts of future interests in property) are not included in the total amount of taxable gifts under § 2503 made during that year.

(2) For calendar year 2002, the first \$110,000 of gifts to a spouse who is not a citizen of the United States (other than gifts of future interests in property) are not included in the total amount of taxable gifts under §§ 2503 and 2523(i)(2) made during that year.

.20 *Generation-Skipping Transfer Tax Exemption.* For calendar year 2002, the generation-skipping transfer tax exemption under § 2631, which is allowed in determining the “inclusion ratio” defined in § 2642, is \$1,100,000.

.21 *Luxury Automobile Excise Tax.* For calendar year 2002, the excise tax under §§ 4001 and 4003 is imposed on the first retail sale of a passenger vehicle (including certain parts or accessories installed within six months of the date after the vehicle was first placed in service), to the extent the price exceeds \$40,000.

.22 *Passenger Air Transportation Excise Tax.* For calendar year 2002, the

tax under § 4261(c) on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States, generally is \$13.20. However, in the case of a domestic segment beginning or ending in Alaska or Hawaii as described in § 4261(c)(3), the tax only applies to departures and is at the rate of \$6.60.

.23 Reporting Exception for Certain Exempt Organizations with Nondeductible Lobbying Expenditures. For tax years beginning in 2002, the annual per person, family, or entity dues limitation to qualify for the reporting exception under § 6033(e)(3) (and section 5.05 of Rev. Proc. 98-19, 1998-1 C.B. 547), regarding certain exempt organizations with nondeductible lobbying expenditures, is \$83 or less.

.24 Notice of Large Gifts Received from Foreign Persons. For tax years beginning in 2002, recipients of gifts from certain foreign persons may have to report these gifts under § 6039F if the aggregate value of gifts received in a taxable year exceeds \$11,642.

.25 Persons against Which a Federal Tax Lien is Not Valid. For calendar year 2002, a federal tax lien is not valid against (1) certain purchasers under § 6323(b)(4) that purchased personal property in a casual sale for less than \$1,130 or (2) a mechanic's lienor under § 6323(b)(7) that repaired or improved certain residential property if the contract price with the owner is not more than \$5,660.

.26 Property Exempt from Levy. For calendar year 2002, the value of property exempt from levy under § 6334(a)(2) (fuel, provisions, furniture, and other household personal effects, as well as arms for personal use, livestock, and

poultry) may not exceed \$6,780. The value of property exempt from levy under § 6334(a)(3) (books and tools necessary for the trade, business, or profession of the taxpayer) may not exceed \$3,390.

.27 Interest on a Certain Portion of the Estate Tax Payable in Installments. For an estate of a decedent dying in calendar year 2002, the dollar amount used to determine the "2-percent portion" (for purposes of calculating interest under § 6601(j)) of the estate tax extended as provided in § 6166 is \$1,100,000.

.28 Attorney Fee Awards. For fees incurred in calendar year 2002, the attorney fee award limitation under § 7430(c)(1)(B)(iii) is \$150 per hour.

.29 Periodic Payments Received under Qualified Long-Term Care Insurance Contracts or under Certain Life Insurance Contracts. For calendar year 2002, the stated dollar amount of the *per diem* limitation under § 7702B(d)(4), regarding periodic payments received under a qualified long-term care insurance contract or periodic payments received under a life insurance contract that are treated as paid by reason of the death of a chronically ill individual, is \$210.

SECTION 4. EFFECTIVE DATE

.01 General Rule. Except as provided in section 4.02, this revenue procedure applies to tax years beginning in 2002.

.02 Calendar Year Rule. This revenue procedure applies to transactions or events occurring in calendar year 2002 for purposes of section 3.16 (funeral trusts), section 3.17 (expatriation to avoid tax), section 3.18 (valuation of qualified real property in decedent's gross estate), section 3.19 (annual exclusion for gifts), section 3.20 (generation-skipping transfer

tax exemption), section 3.21 (luxury automobile excise tax), section 3.22 (passenger air transportation excise tax), section 3.25 (persons against which a federal tax lien is not valid), section 3.26 (property exempt from levy), section 3.27 (interest on a certain portion of the estate tax payable in installments), section 3.28 (attorney fee awards), and section 3.29 (periodic payments received under qualified long-term care insurance contracts or under certain life insurance contracts).

SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is Richard Ennis of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Ennis at (202) 622-7057 (not a toll-free call).

Part IV. Items of General Interest

Foundations Status of Certain Organizations

Announcement 2001-123

The following organizations have failed to establish or have been unable to maintain their status as public charities or 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:

- 4 As-Hope Psychosocial After Care Family Services, Inc., Dearborn, MI
African American Achievers Youth Corps, Inc., Gary, IN
African Anti-Poachins Foundation, Brunswick, ME
African Arts Foundation, Beverly Hills, CA
Always in Season, Inc., Myakka City, FL
American Friends of Ezer Lachim, Inc., Monsey, NY
American Friends of Qatzrin, Inc., New York, NY
American History Studies, Katy, TX
American Pushington University, Pomona, CA
American Sculpture Association, Glenmoore, PA
ARC Foundation of Kentucky, Inc., Frankfort, KY
Art Spirit, Inc., Sea Cliff, NY
B A S U, San Jose, CA
Belvidere Main Street Center, Belvidere, IL
Bernard and Sonya Singer Non Profit Corporation, Englewood, CO
Bridgewater Bears Hockey Club, Inc., Budd Lake, NJ
Broadway Institute of Massage Therapy, Inc., Hollywood, FL
Burnt Hills Hockey Association, Inc., Burnt Hills, NY
Center for Research on Innovation & Society, Santa Barbara, CA
Central Arkansas School-To-Work Council, North Little Rock, AR
Central Kitsap Medic One Foundation, Silverdale, WA
Century One Foundation, Inc., Pasadena, CA
Chattanooga Lafayette Emmaus Community, Inc., Rossville, GA
Child Abuse Awareness, Inc., Batesville, AR
Child Search, Moore, OK
Children's Developmental Services, Inc., Riverdale, NY
Chimney Peak Development Corporation, Jacksonville, AL
Chippewa County Foster and Adoptive Parents Association, Sault Ste Marie, MI
Clams-Computer Literate Advocates for Multiple Sclerosis, Bainbridge Island, WA
Collaborative Research for Endangered Wildlife, Inc., Burlingame, CA
Color Box Foundation, New York, NY
Communities United Together, LaPlace, LA
Community for Progress Association, Kansas City, KS
Community Justice Outreach, Inc., Miami, FL
Cornerstone Community Development Corporation, Inc., Dallas, TX
Delta County Cancer Alliance, Inc., Escanaba, MI
DeVaughn Corporation, Balitmore, MD
East County Youth Soccer Association Inc., Vancouver, WA
El Shaddai, Springfield, MO
Exercise Tiger Memorial Association, Inc., New Bedford, MA
Families for Autism Intervention and Resources, La Mesa, CA
Family Works, Inc., Oceanside, CA
Filipino-American Tennis Club of McAllen, McAllen, TX
Forgotten Treasures, Inc., Denver, CO
Friends of Petoskey Public Library, Petoskey, MI
Friends of the Library for the Blind and Physical Handicap of the State of DE, Inc., Dover, DE
G A N G-Girls of the Ann Norton Gardens, Palm Beach, FL
Great Expectations Foundation, Inc., New Orleans, LA
Great Lakes Non-Profit Housing Corporation, Marquette, MI
Greater Mid-South Junior Chamber of Commerce Foundation, Inc., Memphis, TN
Greenspace Bucks County, Inc., Morrisville, PA
Hall County Homeless Resource Coalition, Inc., Gainesville, GA
Hammerheads Theatre, Incorporated, New York, NY
Helping Ministry Neighborhood Development Corporation, Hayti, MO
Hemangioma and Vascular Birthmarks Foundation, Inc., Latham, NY
Himalayan Instructional Ministries, Madras, OR
House of Angels, Inc., Silver Spring, MD
How to Get an A in Life, Inc., Los Altos, CA
Institute for Global Environmental Issues, Inc., Naples, FL
Institute of World Traditional Medicine, Santa Monica, CA
International Cultural & Educational Exchange Foundation, Inc., Falls Church, VA
Ipswich Equine Rescue Corp., Ipswich, MA
Jimmy's Heart Foundation, Kihei, HI
Kansas City Area Historic Trails Association, Shawnee Mission, KS
Kings Kids Learning Center, Inc., Houston, TX
Lady Monarchs of New Jersey, Inc., Bayonne, NJ
Lafayette County Literacy Council, University, MS
Lancaster County Historical Society & Museum, Whitestone, VA
Legacy Ministries, Inc., California, MO
Lighthouse - Reach Ministries, Incorporated, Plainview, TX

Little Peoples Day Care,
Philadelphia, PA

Long Island Seaport and Ecocenter, Inc.,
Port Jefferson, NY

Longfellow Area Neighborhood
Association, Inc., Roslindale, MA

Majestic Harmony, Inc., Bronx, NY

Malemute Football Booster Club,
Fairbanks, AK

Maui Military Museum, Inc.,
Makawao, HI

Medford High Alumni Association,
Medford, OK

Miami Valley Fandom for Literacy,
Dayton, OH

Mountain Meadow PTA 5 9 15,
Buckley, WA

MSL Barristers, Inc., Andover, MA

Mutual Assisted Senior Housing, Inc.,
New York, NY

National Decubitus Foundation,
Aurora, CO

National Large Cell Braille Foundation,
Incorporated, Orlando, FL

Nelson A. Rockefeller Foundation for
Public Service, Bellevue, WA

New Concept Education and Research,
Inc., San Jose, CA

New Day Foundation, Inc.,
Broken Arrow, OK

New Hope Home for Boys, Inc.,
Memphis, TN

New London Partners in Education,
New London, OH

New Vision Community Church, Inc.,
Valdosta, GA

New Vision House, Inc., Valdosta, GA

Newbury Education Foundation,
Cleveland, OH

North East School Scholarship Fund,
Inc., North East, PA

North Emergency Planning Committee,
Pearland, TX

Northwest Sarcoma Memorial
Foundation, Seattle, WA

Oakfield Historical Society,
Oakfield, ME

Operation Role Models of America, Inc.,
New York, NY

Owerri Cultural Association,
Beverly Hills, CA

Pakistan American Cultural Society, Inc.,
Tenafly, NJ

Peggy Thorns Evangelistic Association,
Charlotte, NC

Perry County Medical Association
Alliance, Inc., Hazard, KY

Phillip Ates Broadcast Group, Inc.,
Maywood, IL

Phoenix Heros Endowment Fund,
Scottsdale, AZ

Pieces of a Dream, Inc., St. Louis, MO

Play Source International, Inc.,
Louisville, KY

Poimens Family Care, Manteca, CA

Prospect Hill Neighborhood Community
Council, Omaha, NE

Rabbit Rescue, Inc., Hollywood, FL

Railway Memorial Project,
Columbia, MT

Restore Hope Relief International,
Santa Barbara, CA

Rim Civic Orchestra, Incorporated,
Payson, AZ

Rivers of Healing Ministries,
Philadelphia, PA

Rotary Club of Winters Community
Foundation, Winters, CA

Sacramento 21 Community Partnership,
Sacramento, CA

Safari Missions International,
Beverly Hills, CA

Salinas Boxing Club, Inc., Salinas, CA

San Francisco Clidrens Museum,
San Francisco, CA

S E W Sewing Education Workstudy
Foundation, El Cerrito, CA

SGPHS Chey-Anne Booster Club,
Grand Prairie, TX

Southwest Section of the Air & Waste
Management Association,
Arlington, TX

Teen Pregnancy Outreach Development
Center Shelter, Inc., Whitesburg, GA

Theatre Asylum, Ltd., Brooklyn, NY

Tiger Foundation, Newtown Square, PA

Time Dollars Madison, Madison, IN

Tonga Peoples Development Society,
Salt Lake City, UT

Uncle Kens Kitchen, Inc.,
East Setauket, NY

Urban Black Music Project,
Incorporated, New York, NY

Wawasee Area Swim Team, Inc.,
North Webster, IN

Web Cinema Group, New York, NY

West High School Alumni Association,
Denver, CO

West Texas Expo Center, Inc.,
Midland, TX

Wichterich Ministries, Slidell, LA

Women of Georgia for Peace and Life,
Inc., Chevy Chase, MD

Youth Guidance, Plattsmouth, NE

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

Additional Disaster Relief in Connection With the September 11 Terrorist Attack for Taxpayers With Interests in Passthrough Entities

Announcement 2001-124

This announces additional relief in connection with the September 11, 2001, terrorist attack for partners, shareholders, and beneficiaries of passthrough entities that are affected taxpayers as defined in Notice 2001-61 (2001-40 I.R.B. 305) (October 1, 2001). This announcement modifies and expands the relief granted by Announcement 2001-117 (2001-49 I.R.B. 567). Under section 301.7508A-1(d)(1)(vii) of the Procedure and Administration Regulations, the IRS may determine whether any person is affected by a Presidentially declared disaster. The IRS has determined that a taxpayer that is a partner, shareholder, or beneficiary of a taxpayer affected by the September 11, 2001, terrorist attack, is also an affected taxpayer. Accordingly, partners, shareholders, and beneficiaries of an affected taxpayer are eligible for all the relief granted by Notice 2001-61 and Notice 2001-68 (2001-47 I.R.B. 504). Thus, for example, a partner that is an individual income taxpayer with an extended due date of October 15, 2001, for the 2000 return will have until February 12, 2002, to file the return.

If a partner, shareholder, or beneficiary of an affected taxpayer qualifies for relief under this notice because an original due date fell within the specified period, and

such partner, shareholder, or beneficiary has already obtained an extension of time to file, the IRS will supplement such extension with the relief granted by Notice 2001-61 and/or Notice 2001-68. Thus, for example, a corporate partner with an original due date during the specified period that has obtained the automatic six-month extension of time to file will be granted a six-month extension

of time to pay and an additional 120 day postponement of time to file and time to pay.

Taxpayers that qualify for relief under this announcement should mark "September 11, 2001, Terrorist Attacks — Passthrough Entity" in red ink on the top of their returns or other documents filed with the IRS.

This announcement was drafted by the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). For further information regarding this notice, you may call (202) 622-4940 (not a toll-free call).

Definition of Terms

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

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

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

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

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

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

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in 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 Counsels 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.

Numerical Finding List¹

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