

# Internal Revenue bulletin

Bulletin No. 2002-42  
October 21, 2002

## 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

#### **Notice 2002-66, page 715.**

This notice extends through the end of calendar year 2002 the transitional documentation and reporting relief for foreign partnerships, Qualified Intermediaries (QIs), and U.S. withholding agents specified in Notice 2001-4.

#### **Notice 2002-67, page 715.**

**Gain or loss; payments to peanut quota holders.** Information is provided, in a question and answer format, to holders of peanut quotas regarding the tax treatment of federal payments made under section 1309 of the Farm Security and Rural Investment Act of 2002.

#### **Announcement 2002-94, page 727.**

This document contains corrections to proposed regulations (REG-136311-01, 2002-36 I.R.B. 485) that explain when a foreign corporation engaged in the international operation of ships or aircraft may exclude its U.S. source income from gross income for U.S. federal income tax purposes.

### EMPLOYEE PLANS

#### **Rev. Rul. 2002-62, page 710.**

**Substantially equal periodic payments; premature distributions.** This ruling provides that a change to the required minimum distribution method of calculating substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) of the Code will not generate additional income tax under section 72(t)(1). Notice 89-25 modified.

### EXEMPT ORGANIZATIONS

#### **Rev. Proc. 2002-64, page 717.**

This procedure provides a modified and supplemented list of Indian tribal governments that are to be treated similarly to states for specified purposes under the Internal Revenue Code. This list has been coordinated with the list of recognized tribes published by the Department of Interior, Bureau of Indian Affairs. Rev. Proc. 2001-15 superseded.

### EXCISE TAX

#### **Announcement 2002-95, page 727.**

This document contains a notice of public hearing scheduled for February 27, 2003, on proposed regulations (REG-103829-99, 2002-27 I.R.B. 59) relating to the definition of a highway vehicle for purposes of various excise taxes.

### ADMINISTRATIVE

#### **Notice 2002-66, page 715.**

This notice extends through the end of calendar year 2002 the transitional documentation and reporting relief for foreign partnerships, Qualified Intermediaries (QIs), and U.S. withholding agents specified in Notice 2001-4.

#### **Rev. Proc. 2002-66, page 724.**

**Penalties; substantial understatement.** Guidance is provided concerning when information shown on a return in accordance with the applicable forms and instructions will be adequate disclosure for purposes of reducing an understatement of income tax under section 6662(d) of the Code. Rev. Proc. 2001-52 updated.

Finding Lists begin on page ii.



Department of the Treasury  
Internal Revenue Service

# 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 72.—Annuities; Certain Proceeds of Endowment and Life Insurance Contracts

**Substantially equal periodic payments; premature distributions.** This ruling provides that a change to the required minimum distribution method of calculating substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) of the Code will not generate additional income tax under section 72(t)(1). Q&A-12 of Notice 89-25 modified.

### Rev. Rul. 2002-62

#### SECTION 1. PURPOSE AND BACKGROUND

.01 The purpose of this revenue ruling is to modify the provisions of Q&A-12 of Notice 89-25, 1989-1 C.B. 662, which provides guidance on what constitutes a series of substantially equal periodic payments within the meaning of § 72(t)(2)(A)(iv) of the Internal Revenue Code from an individual account under a qualified retirement plan. Section 72(t) provides for an additional income tax on early withdrawals from qualified retirement plans (as defined in § 4974(c)). Section 4974(c) provides, in part, that the term “qualified retirement plan” means (1) a plan described in § 401 (including a trust exempt from tax under § 501(a)), (2) an annuity plan described in § 403(a), (3) a tax-sheltered annuity arrangement described in § 403(b), (4) an individual retirement account described in § 408(a), or (5) an individual retirement annuity described in § 408(b).

.02 (a) Section 72(t)(1) provides that if an employee or IRA owner receives any amount from a qualified retirement plan before attaining age 59½, the employee’s or IRA owner’s income tax is increased by an amount equal to 10-percent of the amount that is includible in the gross income unless one of the exceptions in § 72(t)(2) applies.

(b) Section 72(t)(2)(A)(iv) provides, in part, that if distributions are part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the employee or the joint lives (or joint life ex-

pectancy) of the employee and beneficiary, the tax described in § 72(t)(1) will not be applicable. Pursuant to § 72(t)(5), in the case of distributions from an IRA, the IRA owner is substituted for the employee for purposes of applying this exception.

(c) Section 72(t)(4) provides that if the series of substantially equal periodic payments that is otherwise excepted from the 10-percent tax is subsequently modified (other than by reason of death or disability) within a 5-year period beginning on the date of the first payment, or, if later, age 59½, the exception to the 10-percent tax does not apply, and the taxpayer’s tax for the year of modification shall be increased by an amount which, but for the exception, would have been imposed, plus interest for the deferral period.

(d) Q&A-12 of Notice 89-25 sets forth three methods for determining whether payments to individuals from their IRAs or, if they have separated from service, from their qualified retirement plans constitute a series of substantially equal periodic payments for purposes of § 72(t)(2)(A)(iv).

(e) Final Income Tax Regulations that were published in the April 17, 2002, issue of the **Federal Register** (T.D. 8987, 2002-19 I.R.B. 852) under § 401(a)(9) provide new life expectancy tables for determining required minimum distributions.

#### SECTION 2. METHODS

.01 **General rule.** Payments are considered to be substantially equal periodic payments within the meaning of § 72(t)(2)(A)(iv) if they are made in accordance with one of the three calculations described in paragraphs (a) – (c) of this subsection (which is comprised of the three methods described in Q&A-12 of Notice 89-25).

(a) **The required minimum distribution method.** The annual payment for each year is determined by dividing the account balance for that year by the number from the chosen life expectancy table for that year. Under this method, the account balance, the number from the chosen life expectancy table and the resulting annual payments are redetermined for each year. If this method is chosen, there will not be deemed to be a modification in the series of substantially equal periodic payments, even if the amount of payments changes from year to

year, provided there is not a change to another method of determining the payments.

(b) **The fixed amortization method.** The annual payment for each year is determined by amortizing in level amounts the account balance over a specified number of years determined using the chosen life expectancy table and the chosen interest rate. Under this method, the account balance, the number from the chosen life expectancy table and the resulting annual payment are determined once for the first distribution year and the annual payment is the same amount in each succeeding year.

(c) **The fixed annuitization method.** The annual payment for each year is determined by dividing the account balance by an annuity factor that is the present value of an annuity of \$1 per year beginning at the taxpayer’s age and continuing for the life of the taxpayer (or the joint lives of the individual and beneficiary). The annuity factor is derived using the mortality table in Appendix B and using the chosen interest rate. Under this method, the account balance, the annuity factor, the chosen interest rate and the resulting annual payment are determined once for the first distribution year and the annual payment is the same amount in each succeeding year.

.02 **Other rules.** The following rules apply for purposes of this section.

(a) **Life expectancy tables.** The life expectancy tables that can be used to determine distribution periods are: (1) the uniform lifetime table in Appendix A, or (2) the single life expectancy table in § 1.401(a)(9)-9, Q&A-1 of the Income Tax Regulations or (3) the joint and last survivor table in § 1.401(a)(9)-9, Q&A-3. The number that is used for a distribution year is the number shown from the table for the employee’s (or IRA owner’s) age on his or her birthday in that year. If the joint and survivor table is being used, the age of the beneficiary on the beneficiary’s birthday in the year is also used. In the case of the required minimum distribution method, the same life expectancy table that is used for the first distribution year must be used in each following year. Thus, if the taxpayer uses the single life expectancy table for the required minimum distribution method in the first distribution year, the same table must be used in subsequent distribution years.

(b) *Beneficiary under joint tables.* If the joint life and last survivor table in § 1.401(a)(9)–9, Q&A–3, is used, the survivor must be the actual beneficiary of the employee with respect to the account for the year of the distribution. If there is more than one beneficiary, the identity and age of the beneficiary used for purposes of each of the methods described in section 2.01 are determined under the rules for determining the designated beneficiary for purposes of § 401(a)(9). The beneficiary is determined for a year as of January 1 of the year, without regard to changes in the beneficiary in that year or beneficiary determinations in prior years. For example, if a taxpayer starts distributions from an IRA in 2003 at age 50 and a 25-year-old and 55-year-old are beneficiaries on January 1, the 55-year-old is the designated beneficiary and the number for the taxpayer from the joint and last survivor tables (age 50 and age 55) would be 38.3, even though later in 2003 the 55-year-old is eliminated as a beneficiary. However, if that beneficiary is eliminated or dies in 2003, under the required minimum distribution method, that individual would not be taken into account in future years. If, in any year there is no beneficiary, the single life expectancy table is used for that year.

(c) *Interest rates.* The interest rate that may be used is any interest rate that is not more than 120 percent of the federal mid-term rate (determined in accordance with § 1274(d) for either of the two months immediately preceding the month in which the distribution begins). The revenue rulings that contain the § 1274(d) federal mid-term rates may be found at [www.irs.gov/taxpros/lists/0,,id=98042,00.html](http://www.irs.gov/taxpros/lists/0,,id=98042,00.html).

(d) *Account balance.* The account balance that is used to determine payments must be determined in a reasonable manner based on the facts and circumstances. For example, for an IRA with daily valuations that made its first distribution on July 15, 2003, it would be reasonable to determine the yearly account balance when using the required minimum distribution method based on the value of the IRA from December 31, 2002, to July 15, 2003. For subsequent years, under the required minimum distribution method, it would be reasonable to use the value either on December 31 of the prior year or on a date within a reasonable period before that year's distribution.

(e) *Changes to account balance.* Under all three methods, substantially equal periodic payments are calculated with respect to an account balance as of the first valuation date selected in paragraph (d) above. Thus, a modification to the series of payments will occur if, after such date, there is (i) any addition to the account balance other than gains or losses, (ii) any nontaxable transfer of a portion of the account balance to another retirement plan, or (iii) a rollover by the taxpayer of the amount received resulting in such amount not being taxable.

.03 *Special rules.* The special rules described below may be applicable.

(a) *Complete depletion of assets.* If, as a result of following an acceptable method of determining substantially equal periodic payments, an individual's assets in an individual account plan or an IRA are exhausted, the individual will not be subject to additional income tax under § 72(t)(1) as a result of not receiving substantially equal periodic payments and the resulting cessation of payments will not be treated as a modification of the series of payments.

(b) *One-time change to required minimum distribution method.* An individual who begins distributions in a year using either the fixed amortization method or the fixed annuitization method may in any subsequent year switch to the required minimum distribution method to determine the payment for the year of the switch and all subsequent years and the change in method will not be treated as a modification within the meaning of § 72(t)(4). Once a change is made under this paragraph, the required minimum distribution method must be followed in all subsequent years. Any subsequent change will be a modification for purposes of § 72(t)(4).

### SECTION 3. EFFECTIVE DATE AND TRANSITIONAL RULES

The guidance in this revenue ruling replaces the guidance in Q&A–12 of Notice 89–25 for any series of payments commencing on or after January 1, 2003, and may be used for distributions commencing in 2002. If a series of payments commenced in a year prior to 2003 that satisfied § 72(t)(2)(A)(iv), the method of calculating the payments in the series is permitted to be changed at any time to the required minimum distribution method de-

scribed in section 2.01(a) of this guidance, including use of a different life expectancy table.

### SECTION 4. EFFECT ON OTHER DOCUMENTS

Q&A–12 of Notice 89–25 is modified.

### SECTION 5. REQUEST FOR COMMENTS

The Service and Treasury invite comments with respect to the guidance provided in this revenue ruling. Comments should reference Rev. Rul. 2002–62.

Comments may be submitted to CC:ITA:RU (Rev. Rul. 2002–62, room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Comments may be hand delivered between the hours of 8:30 a.m. and 5 p.m. Monday to Friday to: CC:ITA:RU (Rev. Rul. 2002–62), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, D.C. Alternatively, comments may be submitted via the Internet at [Notice.Comments@irs.counsel.treas.gov](mailto:Notice.Comments@irs.counsel.treas.gov). All comments will be available for public inspection and copying.

### Drafting Information

The principal author of this revenue ruling is Michael Rubin of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this revenue ruling, please contact Mr. Rubin at 1–202–283–9888 (not a toll-free number).

**Appendix A**  
**Uniform Lifetime Table**

Taxpayer's Age	Life Expectancy	Taxpayer's Age	Life Expectancy
10	86.2	63	33.9
11	85.2	64	33.0
12	84.2	65	32.0
13	83.2	66	31.1
14	82.2	67	30.2
15	81.2	68	29.2
16	80.2	69	28.3
17	79.2	70	27.4
18	78.2	71	26.5
19	77.3	72	25.6
20	76.3	73	24.7
21	75.3	74	23.8
22	74.3	75	22.9
23	73.3	76	22.0
24	72.3	77	21.2
25	71.3	78	20.3
26	70.3	79	19.5
27	69.3	80	18.7
28	68.3	81	17.9
29	67.3	82	17.1
30	66.3	83	16.3
31	65.3	84	15.5
32	64.3	85	14.8
33	63.3	86	14.1
34	62.3	87	13.4
35	61.4	88	12.7
36	60.4	89	12.0
37	59.4	90	11.4
38	58.4	91	10.8
39	57.4	92	10.2
40	56.4	93	9.6
41	55.4	94	9.1
42	54.4	95	8.6
43	53.4	96	8.1
44	52.4	97	7.6
45	51.5	98	7.1
46	50.5	99	6.7
47	49.5	100	6.3
48	48.5	101	5.9
49	47.5	102	5.5
50	46.5	103	5.2
51	45.5	104	4.9
52	44.6	105	4.5
53	43.6	106	4.2
54	42.6	107	3.9
55	41.6	108	3.7
56	40.7	109	3.4
57	39.7	110	3.1
58	38.7	111	2.9
59	37.8	112	2.6
60	36.8	113	2.4
61	35.8	114	2.1
62	34.9	115	1.9

**Appendix B**  
**Mortality Table Used to Formulate the Single Life Table in § 1.401(a)(9)–9, Q&A–1**

age	$q_x$	$l_x$	age	$q_x$	$l_x$
0	0.001982	1000000	58	0.004736	941078
1	0.000802	998018	59	0.005101	936621
2	0.000433	997218	60	0.005509	931843
3	0.000337	996786	61	0.005975	926709
4	0.000284	996450	62	0.006512	921172
5	0.000248	996167	63	0.007137	915173
6	0.000221	995920	64	0.007854	908641
7	0.000201	995700	65	0.008670	901505
8	0.000222	995500	66	0.009591	893689
9	0.000241	995279	67	0.010620	885118
10	0.000259	995039	68	0.011778	875718
11	0.000277	994781	69	0.013072	865404
12	0.000292	994505	70	0.014519	854091
13	0.000306	994215	71	0.016139	841690
14	0.000318	993911	72	0.017950	828106
15	0.000331	993595	73	0.019958	813241
16	0.000344	993266	74	0.022198	797010
17	0.000359	992924	75	0.024699	779318
18	0.000375	992568	76	0.027484	760070
19	0.000392	992196	77	0.030582	739180
20	0.000411	991807	78	0.034010	716574
21	0.000432	991399	79	0.037807	692203
22	0.000454	990971	80	0.042010	666033
23	0.000476	990521	81	0.046652	638053
24	0.000501	990050	82	0.051766	608287
25	0.000524	989554	83	0.057392	576798
26	0.000547	989035	84	0.063583	543694
27	0.000567	988494	85	0.070397	509124
28	0.000584	987934	86	0.077892	473283
29	0.000598	987357	87	0.086124	436418
30	0.000608	986767	88	0.095238	398832
31	0.000615	986167	89	0.105068	360848
32	0.000619	985561	90	0.115518	322934
33	0.000622	984951	91	0.126487	285629
34	0.000625	984338	92	0.137876	249501
35	0.000629	983723	93	0.149419	215101
36	0.000636	983104	94	0.161176	182961
37	0.000657	982479	95	0.173067	153472
38	0.000696	981834	96	0.185008	126911
39	0.000749	981151	97	0.196920	103431
40	0.000818	980416	98	0.210337	83063.4
41	0.000904	979614	99	0.224861	65592.1
42	0.001007	978728	100	0.241017	50843.0
43	0.00113	977742	101	0.259334	38589.0
44	0.00127	976637	102	0.280356	28581.6
45	0.001426	975397	103	0.303142	20568.6
46	0.001597	974006	104	0.329482	14333.4
47	0.001783	972451	105	0.359886	9610.80
48	0.001979	970717	106	0.394865	6152.01
49	0.002187	968796	107	0.434933	3722.80
50	0.002409	966677	108	0.480599	2103.63
51	0.002646	964348	109	0.532376	1092.63
52	0.002896	961796	110	0.590774	510.940
53	0.003167	959011	111	0.656307	209.090
54	0.003453	955974	112	0.729484	71.8628
55	0.003754	952673	113	0.810817	19.4400
56	0.004069	949097	114	0.900819	3.67772
57	0.004398	945235	115	1.000000	0.364760

## **Section 103(c).—Definition. Interest on State and Local Bonds**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 105(e).—Amounts Received Under Accident and Health Plans**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 117(b)(2)(A).—Qualified Scholarships**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 164.—Taxes**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 403(b)(1)(A)(ii).—Taxation of Employee Annuities —Taxability of Beneficiary Under Annuity Purchased by Section 501(c)(3) Organization or Public School**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 454(b)(2).—Obligations Issued at Discount — Short-Term Obligations Issued on Discount Basis**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 511(a)(2)(B).—Imposition of Tax on Unrelated Business Income of Charitable, etc., Organizations — Organizations Subject to Tax**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 2055.—Transfers for Public, Charitable, and Religious Uses**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 2106(a)(2).—Taxable Estate — Transfers for Public, Charitable, and Religious Uses**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 2522.—Charitable and Similar Gifts**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4041(g).—Retail Excise Taxes — Special Fuels — Other Exceptions**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4216.—Definition of Price**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4253(i).—Exemptions — State and Local Governmental Exemption**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4483(a).—Exemptions**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4911.—Tax on Excess Expenditures to Influence Legislation**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4940(c).—Excise Tax Based on Investment Income — Net Investment Income Defined**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4941(d).—Taxes on Self-Dealing**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4942(f).—Taxes on Failure to Distribute Income — Adjusted Net Income**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4945(f).—Taxes on Taxable Expenditures — Non-partisan Activities Carried on by Certain Organizations**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## **Section 4946(c).—Definitions and Special Rules — Government Official**

For what purposes are Indian tribal governments treated as states? See Rev. Proc. 2002–64, page 717.

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## Part III. Administrative, Procedural, and Miscellaneous

### Extension of Transition Relief for Foreign Partnerships and Their Withholding Agents Under Notice 2001-4

#### Notice 2002-66

##### SECTION 1. PURPOSE

This notice extends the transitional documentation and reporting relief specified in Section IV of Notice 2001-4, 2001-1 C.B. 267, for foreign partnerships, Qualified Intermediaries (QI), and U.S. withholding agents through the end of calendar year 2002.

##### SECTION 2. BACKGROUND

In T.D. 8734, 1999-1 C.B. 455, as modified by T.D. 8881, 2000-1 C.B. 1158, the IRS issued comprehensive regulations (withholding regulations) under sections 1441-1446 and 6041-6050S of the Internal Revenue Code (the Code). These regulations became effective January 1, 2001. Under the withholding regulations, as well as the qualified intermediary withholding agreement (QI Agreement), a foreign partnership generally is treated as a flow-through entity. Therefore, prior to receiving a payment, it must provide a withholding agent, including a QI, with a Form W-8IMY together with documentation from each partner and a withholding statement that allocates the payment to each of the partners in the partnership.

The IRS recognizes that, under these rules, the withholding agent may receive a high volume of documentation and may therefore experience significant processing problems. The withholding regulations address this problem by allowing a foreign partnership to become a withholding foreign partnership under an agreement with the IRS similar to the QI Agreement. A withholding foreign partnership generally would not be required to provide documentation for its partners to the withholding agent.

As transition relief, pending the publication of a model agreement for entering into a withholding foreign partnership arrangement, the IRS issued Notice 2001-4, applicable to calendar year 2001. Notice 2001-4 allowed foreign partnerships to pro-

vide the withholding agent with a withholding statement based on withholding rate pools, along with certain other documentation. In addition, under Notice 2001-4, the required documentation for partners that were foreign persons or U.S. exempt recipients could be provided to the withholding agent at any time during the calendar year 2001.

In Notice 2002-41, 2002-24 I.R.B. 1153, the IRS published proposed guidance for entering into a withholding foreign partnership (WP) or withholding foreign trust (WT) agreement. These proposed WP and WT agreements addressed the unique features of partnerships and trusts by adopting tailored procedures for documentation, reporting, and audit that were intended to facilitate compliance and reduce administrative and audit costs.

To allow time for comments on the proposed WP and WT agreements, the IRS has determined that it is appropriate to extend the transition relief for foreign partnerships under Section IV of Notice 2001-4 to calendar year 2002. The IRS anticipates that it will finalize the WP and WT agreements in the near future and will enter into WP and WT agreements with foreign partnerships and trusts in 2003. Such partnerships and trusts will be able to function as WPs or WTs as of the beginning of 2003. The transition relief for foreign partnerships under Section IV of Notice 2001-4 will be rendered obsolete when the guidance for entering into a WP agreement is finalized. Accordingly, this notice will extend the relief provided in Section IV of Notice 2001-4, through the end of calendar year 2002.

##### SECTION 3. TRANSITION RELIEF

Under the transition relief of Section IV of Notice 2001-4, as extended by this notice, for calendar year 2002, the IRS will permit a foreign partnership to provide a withholding agent, including a QI, with a Form W-8IMY together with a withholding statement that provides the withholding agent with information regarding withholding rate pools. The foreign partnership must provide a separate withholding rate pool for each U.S. non-exempt recipient partner. The foreign partnership must associate the documentation from each of its partners with the Form W-8IMY. If

a partner is a foreign person or a U.S. exempt recipient (*e.g.*, a corporation), that documentation may be provided to the withholding agent at any time during calendar year 2002. If a partner is a U.S. non-exempt recipient, a Form W-9 must be provided before a payment is made to a partnership. For more detailed information regarding this transition relief, see Section IV of Notice 2001-4.

##### CONTACT INFORMATION

The principal author of this notice is Marc J. Korab of the Office of the Associate Chief Counsel (International), Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224. For further information regarding this notice, contact Mr. Korab at 202-622-3840 (not a toll-free call).

### Tax Treatment of Payments Made Under the USDA Peanut Quota Buyout Program

#### Notice 2002-67

##### PURPOSE

This notice provides answers to frequently asked questions regarding the tax treatment of federal payments made pursuant to § 1309 of the Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, 116 Stat. 134, 179 (2002) (the Act).

##### BACKGROUND

Section 1309(a)(1) of the Act repeals the marketing quota programs for peanuts in part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. §§ 1357-1359a). The repeal is effective May 13, 2002, the date the Act became law.

Section 1309(b)(1) of the Act directs the United States Department of Agriculture (USDA) to offer to enter into a contract with each eligible peanut quota holder for the purpose of providing compensation for the lost value of the quota on account of the repeal. The Act provides for five annual, equal payments of 11¢ per pound of peanut quota to be paid during 2002 through



2006, and does not provide for the payment of any interest. A quota holder also has an option of receiving a single lump sum payment in any one of those five years. The contract between a quota holder and USDA will set forth the payment terms selected by the quota holder.

## QUESTIONS AND ANSWERS

*Q-1. Are the payments received by a quota holder under the Act subject to federal income tax?*

A-1. Yes. If the amount paid for the quota is more than the quota holder's adjusted basis in the quota, the quota holder has a taxable gain; if the amount paid for the quota is less than the adjusted basis, the quota holder has a loss that may be deductible for tax purposes. The amount paid for the quota does not include any amount treated as interest for federal tax purposes, and the total amount paid to the quota holder is reduced by amounts treated as interest before determining the quota holder's gain or loss. See Q & A-7 for help in determining whether any portion of the amount paid is treated as interest for federal tax purposes.

*Q-2. How does a quota holder determine the adjusted basis of a quota?*

A-2. The adjusted basis of a quota is determined differently depending upon how the quota came into the hands of the quota holder.

- A quota holder who holds a quota that is derived from an original grant by the Federal government of an acreage allotment has a basis of zero in the quota.
- The basis of a quota that was purchased is the price the quota holder paid for it. The basis of a quota that is derived from an acreage allotment that was purchased is the price that the quota holder paid for the acreage allotment.
- Generally a quota holder who received a quota as a gift has the same basis in the quota as the person who gave it to the quota holder. Under certain circumstances, the basis is increased by an amount related to the amount of gift tax paid. If the basis is greater than the fair market value of the quota at the time of the gift, the basis for determining loss is that fair market value.

- The basis of a quota that was inherited generally is the fair market value of the quota at the time of the decedent's death.

The basis of a peanut quota is not subject to adjustment through amortization, depletion, or depreciation. However, if a quota holder has previously deducted amounts for these purposes, the basis should be reduced by a corresponding amount before determining the quota holder's gain or loss. A similar reduction in the basis of a quota should be made for any amount previously deducted as a loss because of a reduction in the number of pounds of peanuts allowable under the quota. If a quota holder purchased a quota or acreage allotment and deducted the entire cost in the year of purchase, then the quota holder's basis in the purchased quota or the quota derived from the acreage allotment is zero.

*Q-3. If a quota holder has a gain and either receives a lump sum payment in the taxable year that includes May 13, 2002, or elects not to use the installment method, when should the gain be included in income for tax purposes?*

A-3. The entire gain should be taken into account on the quota holder's federal income tax return for the taxable year that includes May 13, 2002. The amount of gain to include in income is the excess of the total amount to be received, reduced by any amount treated as interest, over the quota holder's adjusted basis in the quota. See Q & A-7 for help in determining whether any portion of the amount to be received is treated as interest for federal tax purposes.

*Q-4. If a quota holder has a gain and reports the transaction using the installment method, when should the gain be included in income for tax purposes?*

A-4. The installment method may be used to report a gain if a quota holder receives at least one payment after the close of the holder's taxable year that includes May 13, 2002. The amount of gain is the excess of the total amount to be received, reduced by any amount treated as interest, over the quota holder's adjusted basis in the quota. Under the installment method, a proportionate amount of the gain is taken into account in each year in which a payment is received. See the instructions for Form 6252, *Installment Sale Income*, for help in determining the amount

of gain to take into account. See Q & A-7 for help in determining whether any portion of the amount to be received is treated as interest for federal tax purposes.

*Q-5. Is the gain or loss ordinary or capital gain or loss?*

A-5. Whether the gain or loss is ordinary or capital depends on how the quota holder made use of the quota.

- If the quota holder used the quota in the trade or business of farming and, on May 13, 2002, the quota holder's holding period for the quota was more than one year, then the transaction is reported as a section 1231 transaction on Form 4797, *Sales of Business Property*. Assuming a quota holder has no other section 1231 transactions reportable on Form 4797, any gain is treated as long-term capital gain and any loss is treated as ordinary loss. Even if a quota holder has other reportable section 1231 transactions, the net result of all section 1231 transactions reported is generally either long-term capital gain or ordinary loss. See the instructions for Form 4797 for more detailed information.
- If the quota holder held the quota for investment purposes, any gain or loss is capital gain or loss. The same result also applies if the quota holder held the quota for the production of income, though not connected with a trade or business.

Under certain circumstances, some or all of the capital gain must be recharacterized and reported as ordinary income. If the quota holder previously deducted (a) the cost of acquiring a quota; (b) amounts for amortization, depletion, or depreciation; or (c) amounts to reflect a reduction in the quota pounds, any resulting capital gain is taxed as ordinary income up to the amount previously deducted. This amount of ordinary income should be included in income in the quota holder's return for the taxable year that includes May 13, 2002, even if the quota holder uses the installment method to report the remainder of the gain.

*Q-6. Is the compensation received under the Act self-employment income?*

A-6. No.

*Q-7. How does a quota holder determine if a portion of the amount paid will be treated as interest for federal tax purposes?*

A-7. In the following three situations, no part of the amount paid is treated as interest for federal tax purposes:

- The total amount paid will not exceed \$3,000;
- All of the payments will be made on or before November 13, 2002; or
- The total amount paid will not exceed \$250,000, and all of the payments will be made on or before May 13, 2003.

In all other cases, there is a possibility that a portion of each payment will be treated as interest for federal tax purposes. Sections 483 and 1274 of the Internal Revenue Code determine whether a portion of a payment is treated as interest and, if so, the amount of interest allocable to a payment. In some cases, even a quota holder that uses the cash receipts and disbursements method of accounting may have to include this interest in income prior to receipt of any payment (for example, if the total payments exceed \$250,000 and the cash method election under § 1274A is unavailable). Except in the three situations described above, therefore, you should consult your tax advisor to determine whether any portion of the amount to be received is treated as interest for federal tax purposes and, if so, when the interest is includible in income.

*Q-8. For an individual quota holder, does gain or loss resulting from the exchange of a quota qualify for farm income averaging?*

A-8. No. A peanut quota is considered an interest in land, and farm income averaging is not available for gain or loss arising from the sale or other disposition of land.

*Q-9. Are the payments under the Act subject to information reporting?*

A-9. Yes. Because a peanut quota is considered an interest in land, the total amount to be received under a contract generally will be reported by USDA on Form 1099-S for 2002 if the amount is \$600 or more. In addition, any portion of a payment treated as interest for federal tax purposes in an amount of \$600 or more generally will be reported by USDA on Form 1099-INT for the year in which the payment is made.

*Q-10. Is the buyout of the peanut quotas under the Act an involuntary conversion of the quotas?*

A-10. No, it is not an involuntary conversion.

## DRAFTING INFORMATION

The principal author of this notice is Robert Basso of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding Q & A-7 of this notice, contact Pamela Lew of the Office of Associate Chief Counsel (Financial Institutions and Products) at (202) 622-3950 (not a toll-free call). For further information regarding the remainder of this notice, contact Mr. Basso at (202) 622-4950 (not a toll-free call).

*26 CFR 601.201: Rulings and determination letters.*

*(Also Part I, Sections 103(c), 105(e), 117(b)(2)(A), 164, 170, 403(b)(1)(A)(ii), 454(b)(2), 511(a)(2)(B), 2055, 2106(a)(2), 2522, 4041(g), 4216, 4253(i), 4483(a), 4911, 4940(c), 4941(d), 4942(f), 4945(f), 4946(c).)*

## Rev. Proc. 2002-64

### SECTION 1. GENERAL

.01 *PURPOSE* The purpose of this revenue procedure is to provide a modified and supplemented list of Indian tribal governments that are to be treated similarly to states for specified purposes under the Internal Revenue Code.

.02 *CHANGES* One tribe was added to the list of Indian tribal governments published in Rev. Rul. 2001-15. In addition, there were several tribal name changes.

.03 *BACKGROUND* The Indian Tribal Governmental Tax Status Act of 1982 (Title II of Pub. L. No. 97-473, 1983-1 C.B. 510, 511, as amended by Pub. L. No. 98-21, 1983-2 C.B. 309, 315) added certain provisions to the Code that pertain to the status of Indian tribal governments. Section 7871(a) of the Internal Revenue Code and Section 305.7871-1 of the Income Tax Regulations provide that Indian tribal governments (or subdivisions thereof) will be treated as states for certain enumerated federal tax purposes. For example, charitable contributions to or for the use of a tribal government may be deductible under the federal income, gift, and estate tax laws; a tribal government is entitled to exemption from certain excise taxes; taxes imposed by a tribe may be deductible; and public activity bonds may be tax exempt

obligations. Section 1065 of the Tax Reform Act of 1984, 1984-3 (Vol. 1) C.B. 556, made permanent the rules treating Indian tribal governments (or subdivisions thereof) as states (or political subdivisions thereof).

.04 *DEFINITIONS* The term "Indian tribal government" is defined under section 7701(a)(40) of the Code, as amended, to mean the governing body of any tribe, band, community, village or group of Indians, or (if applicable) Alaska Natives that is determined by the Secretary of Treasury, after consultation with the Secretary of the Interior, to exercise governmental functions. Section 7871(d) of the Code states that, for purposes of section 7871(a), a subdivision of an Indian tribal government shall be treated as a political subdivision of a state if (and only if) the Secretary of the Treasury determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

### SECTION 2. APPLICATION

.01 *QUALIFICATIONS* The following modified and supplemented list of Indian tribal entities, including Indian tribes, bands, communities, villages, and groups of Indians, as well as Alaska Natives, represents Indian tribal governments and is subject to these qualifications:

(1) The list does not include Indian tribal subdivisions because the determination of which entities qualify as subdivisions is discussed in Rev. Proc. 84-36, 1984-1 C.B. 510, as modified by Rev. Proc. 86-17, 1986-1 C.B. 550.

(2) Temporary Regulation section 305.7701-1(a) defines "governmental functions" for purposes of defining an Indian tribal government or political subdivision thereof. Tribal entities not appearing on this list may apply for a ruling on whether they qualify pursuant to all applicable procedural rules set forth in the Statement of Procedural Rules (26 CFR Part 601), and guidelines set forth in Rev. Proc. 84-37, 1984-1 C.B. 513, as modified by Rev. Proc. 86-17, 1986-1 C.B. 550, and Rev. Proc. 2001-1, 2001-1 C.B. 1.

(3) Inclusion on a published list does not necessarily establish that a tribe qualifies for a particular tax benefit. For example, when a tribal entity seeks exemption from

excise taxes, the entity must be able to demonstrate that the underlying transaction involves the exercise of an essential governmental function of the Indian tribal government.

### SECTION 3. LIST

#### *.01 INDIAN TRIBAL ENTITIES THAT EXERCISE GOVERNMENTAL FUNCTIONS FOR PURPOSES OF TITLE II PUB. L. NO. 97-473.*

Absentee-Shawnee Tribe of Indians of Oklahoma  
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California  
Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona  
Alabama-Coushatta Tribes of Texas  
Alabama-Quassarte Tribal Town, Oklahoma  
Alturas Indian Rancheria, California  
Apache Tribe of Oklahoma  
Arapahoe Tribe of the Wind River Reservation, Wyoming  
Aroostook Band of Micmac Indians of Maine  
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana  
Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California  
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin  
Bay Mills Indian Community, Michigan (previously listed as the Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan)  
Bear River Band of the Rohnerville Rancheria, California  
Berry Creek Rancheria of Maidu Indians of California  
Big Lagoon Rancheria, California  
Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California  
Big Sandy Rancheria of Mono Indians of California

Big Valley Band of Pomo Indians of the Big Valley Rancheria, California  
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana  
Blue Lake Rancheria, California  
Bridgeport Paiute Indian Colony of California  
Buena Vista Rancheria of Me-Wuk Indians of California  
Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon  
Cabazon Band of Cahuilla Mission Indians of the Cabazon Reservation, California  
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California  
Caddo Indian Tribe of Oklahoma  
Cahto Indian Tribe of the Laytonville Rancheria, California  
Cahuilla Band of Mission Indians of the Cahuilla Reservation, California  
California Valley Miwok Tribe, California (formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)  
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California  
Capitan Grande Band of Diegueno Mission Indians of California  
Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California  
Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California  
Catawba Indian Nation (aka Catawba Tribe of South Carolina)  
Cayuga Nation of New York  
Cedarville Rancheria, California  
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California  
Cher-Ae Heights Indian Community of the Trinidad Rancheria, California  
Cherokee Nation, Oklahoma  
Cheyenne-Arapaho Tribes of Oklahoma  
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota

Chickasaw Nation, Oklahoma  
Chicken Ranch Rancheria of Me-Wuk Indians of California  
Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana  
Chitimacha Tribe of Louisiana  
Choctaw Nation of Oklahoma  
Citizen Potawatomi Nation, Oklahoma  
Cloverdale Rancheria of Pomo Indians of California  
Cocopah Tribe of Arizona  
Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho  
Cold Springs Rancheria of Mono Indians of California  
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California  
Comanche Nation, Oklahoma (formerly the Comanche Indian Tribe)  
Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana  
Confederated Tribes of the Chehalis Reservation, Washington  
Confederated Tribes of the Colville Reservation, Washington  
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians of Oregon  
Confederated Tribes of the Goshute Reservation, Nevada and Utah  
Confederated Tribes of the Grand Ronde Community of Oregon  
Confederated Tribes of the Siletz Reservation, Oregon  
Confederated Tribes of the Umatilla Reservation, Oregon  
Confederated Tribes of the Warm Springs Reservation of Oregon  
Confederated Tribes and Bands of the Yakama Nation, Washington, (formerly the Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation)  
Coquille Tribe of Oregon  
Cortina Indian Rancheria of Wintun Indians of California  
Coushatta Tribe of Louisiana  
Cow Creek Band of Umpqua Indians of Oregon  
Cowlitz Indian Tribe, Washington

Coyote Valley Band of Pomo Indians of California

Crow Tribe of Montana

Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota

Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California

Death Valley Timbi-Sha Shoshone Band of California

Delaware Nation, Oklahoma (formerly the Delaware Tribe of Western Oklahoma)

Delaware Tribe of Indians, Oklahoma

Dry Creek Rancheria of Pomo Indians of California

Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada

Eastern Band of Cherokee Indians of North Carolina

Eastern Shawnee Tribe of Oklahoma

Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California

Elk Valley Rancheria, California

Ely Shoshone Tribe of Nevada

Enterprise Rancheria of Maidu Indians of California

Flandreau Santee Sioux Tribe of South Dakota

Forest County Potawatomi Community, Wisconsin (previously listed as the Forest County Potawatomi Community of Wisconsin Potawatomi Indians, Wisconsin)

Fort Belknap Indian Community of the Fort Belknap Reservation of Montana

Fort Bidwell Indian Community of the Fort Bidwell Reservation of California

Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California

Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon

Fort McDowell Yavapai Nation, Arizona (formerly the Fort McDowell Mohave-Apache Community of the Fort McDowell Indian Reservation)

Fort Mojave Indian Tribe of Arizona, California and Nevada

Fort Sill Apache Tribe of Oklahoma

Gila River Indian Community of the Gila River Indian Reservation, Arizona

Grand Traverse Band of Ottawa and Chippewa Indians, Michigan (previously listed as the Grand Traverse Band of Ottawa & Chippewa Indians of Michigan)

Graton Rancheria, California

Greenville Rancheria of Maidu Indians of California

Grindstone Indian Rancheria of Wintun-Wailaki Indians of California

Guidiville Rancheria of California

Hannahville Indian Community, Michigan (previously listed as the Hannahville Indian Community of Wisconsin Potawatomi Indians of Michigan)

Havasupai Tribe of the Havasupai Reservation, Arizona

Ho-Chunk Nation of Wisconsin (formerly the Wisconsin Winnebago Tribe)

Hoh Indian Tribe of the Hoh Indian Reservation, Washington

Hoopa Valley Tribe, California

Hopi Tribe of Arizona

Hopland Band of Pomo Indians of the Hopland Rancheria, California

Houlton Band of Maliseet Indians of Maine

Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona

Huron Potawatomi, Inc., Michigan

Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California

Ione Band of Miwok Indians of California

Iowa Tribe of Kansas and Nebraska

Iowa Tribe of Oklahoma

Jackson Rancheria of Me-Wuk Indians of California

Jamestown S'Klallam Tribe of Washington

Jamul Indian Village of California

Jena Band of Choctaw Indians, Louisiana

Jicarilla Apache Nation, New Mexico (formerly the Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation)

Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona

Kalispel Indian Community of the Kalispel Reservation, Washington

Karuk Tribe of California

Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California

Kaw Nation, Oklahoma

Keweenaw Bay Indian Community, Michigan (previously listed as the Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians of the L'Anse Reservation, Michigan)

Kialegee Tribal Town, Oklahoma

Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas

Kickapoo Tribe of Oklahoma

Kickapoo Traditional Tribe of Texas

Kiowa Indian Tribe of Oklahoma

Klamath Indian Tribe of Oregon

Kootenai Tribe of Idaho

La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation, California

La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California

Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin (previously listed as the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin)

Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin

Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan (previously listed as the Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan)

Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada

Little River Band of Ottawa Indians, Michigan (previously listed as the Little River Band of Ottawa Indians of Michigan)

Little Traverse Bay Bands of Odawa Indians, Michigan (previously listed as the Little Traverse Bay Bands of Odawa Indians of Michigan)

Los Coyotes Band of Cahuilla Mission Indians of the Los Coyotes Reservation, California

Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada

Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota

Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington

Lower Lake Rancheria, California

Lower Sioux Indian Community in the State of Minnesota (previously listed as the Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota)

Lummi Tribe of the Lummi Reservation, Washington

Lytton Rancheria of California

Makah Indian Tribe of the Makah Indian Reservation, Washington

Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California

Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California

Mashantucket Pequot Tribe of Connecticut

Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan

Mechoopda Indian Tribe of Chico Rancheria, California

Menominee Indian Tribe of Wisconsin

Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California

Mescalero Apache Tribe of the Mescalero Reservation, New Mexico

Miami Tribe of Oklahoma

Miccosukee Tribe of Indians of Florida

Middletown Rancheria of Pomo Indians of California

Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band)

Mississippi Band of Choctaw Indians, Mississippi

Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada

Modoc Tribe of Oklahoma

Mohegan Indian Tribe of Connecticut

Mooretown Rancheria of Maidu Indians of California

Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California

Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington

Muscogee (Creek) Nation, Oklahoma

Narragansett Indian Tribe of Rhode Island

Navajo Nation, Arizona, New Mexico and Utah

Nez Perce Tribe of Idaho

Nisqually Indian Tribe of the Nisqually Reservation, Washington

Nooksack Indian Tribe of Washington

Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana

Northfork Rancheria of Mono Indians of California

Northwestern Band of Shoshoni Nation of Utah (Washakie)

Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota

Omaha Tribe of Nebraska

Oneida Nation of New York

Oneida Tribe of Indians of Wisconsin (previously listed as the Oneida Tribe of Wisconsin)

Onondaga Nation of New York

Osage Tribe, Oklahoma

Ottawa Tribe of Oklahoma

Otoe-Missouria Tribe of Indians, Oklahoma

Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)

Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California

Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada

Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California

Pala Band of Luiseno Mission Indians of the Pala Reservation, California

Pascua Yaqui Tribe of Arizona

Paskenta Band of Nomlaki Indians of California

Passamaquoddy Tribe of Maine

Pauma Band of Luiseno Mission Indians of the Pauma and Yuima Reservation, California

Pawnee Nation of Oklahoma

Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California

Penobscot Tribe of Maine

Peoria Tribe of Indians of Oklahoma

Picayune Rancheria of Chukchansi Indians of California

Pinoleville Rancheria of Pomo Indians of California

Pit River Tribe, California (includes Big Bend, Lookout, Montgomery Creek & Roaring Creek Rancherias & XL Ranch)

Poarch Band of Creek Indians of Alabama

Pokagon Band of Potawatomi Indians, Michigan and Indiana (previously listed as the Pokagon Band of Potawatomi Indians of Michigan)

Ponca Tribe of Indians of Oklahoma

Ponca Tribe of Nebraska

Port Gamble Indian Community of the Port Gamble Reservation, Washington

Potter Valley Rancheria of Pomo Indians of California

Prairie Band of Potawatomi Nation, Kansas (formerly the Prairie Band of Potawatomi Indians)

Prairie Island Indian Community in the State of Minnesota (previously listed as the Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota)

Pueblo of Acoma, New Mexico

Pueblo of Cochiti, New Mexico

Pueblo of Isleta, New Mexico

Pueblo of Jemez, New Mexico

Pueblo of Laguna, New Mexico

Pueblo of Nambe, New Mexico  
 Pueblo of Picuris, New Mexico  
 Pueblo of Pojoaque, New Mexico  
 Pueblo of San Felipe, New Mexico  
 Pueblo of San Juan, New Mexico  
 Pueblo of San Ildefonso, New Mexico  
 Pueblo of Sandia, New Mexico  
 Pueblo of Santa Ana, New Mexico  
 Pueblo of Santa Clara, New Mexico  
 Pueblo of Santo Domingo, New Mexico  
 Pueblo of Taos, New Mexico  
 Pueblo of Tesuque, New Mexico  
 Pueblo of Zia, New Mexico  
 Puyallup Tribe of the Puyallup  
 Reservation, Washington  
 Pyramid Lake Paiute Tribe of the  
 Pyramid Lake Reservation, Nevada  
 Quapaw Tribe of Indians, Oklahoma  
 Quartz Valley Indian Community of the  
 Quartz Valley Reservation of California  
 Quechan Tribe of the Fort Yuma Indian  
 Reservation, California and Arizona  
 Quileute Tribe of the Quileute  
 Reservation, Washington  
 Quinault Tribe of the Quinault  
 Reservation, Washington  
 Ramona Band or Village of Cahuilla  
 Mission Indians of California  
 Red Cliff Band of Lake Superior Chippewa  
 Indians of Wisconsin  
 Red Lake Band of Chippewa Indians,  
 Minnesota (previously listed as the Red  
 Lake Band of Chippewa Indians of the  
 Red Lake Reservation, Minnesota)  
 Redding Rancheria, California  
 Redwood Valley Rancheria of Pomo  
 Indians of California  
 Reno-Sparks Indian Colony, Nevada  
 Resighini Rancheria, California (formerly  
 the Coast Indian Community of Yurok  
 Indians of the Resighini Rancheria)  
 Rincon Band of Luiseno Mission Indians  
 of the Rincon Reservation, California  
 Robinson Rancheria of Pomo Indians of  
 California  
 Rosebud Sioux Tribe of the Rosebud  
 Indian Reservation, South Dakota  
 Round Valley Indian Tribes of the Round  
 Valley Reservation, California (formerly  
 the Covelo Indian Community)  
 Rumsey Indian Rancheria of Wintun  
 Indians of California  
 Sac and Fox Tribe of the Mississippi in  
 Iowa  
 Sac and Fox Nation of Missouri in  
 Kansas and Nebraska  
 Sac and Fox Nation, Oklahoma  
 Saginaw Chippewa Indian Tribe of  
 Michigan (previously listed as the  
 Saginaw Chippewa Indian Tribe of  
 Michigan, Isabella Reservation)  
 St. Croix Chippewa Indians of Wisconsin  
 (previously listed as the St. Croix  
 Chippewa Indians of Wisconsin, St. Croix  
 Reservation)  
 St. Regis Band of Mohawk Indians of New  
 York  
 Salt River Pima-Maricopa Indian  
 Community of the Salt River  
 Reservation, Arizona  
 Samish Indian Tribe, Washington  
 San Carlos Apache Tribe of the  
 San Carlos Reservation, Arizona  
 San Juan Southern Paiute Tribe of  
 Arizona  
 San Manuel Band of Serrano Mission  
 Indians of the San Manuel Reservation,  
 California  
 San Pasqual Band of Diegueno Mission  
 Indians of California  
 Santa Rosa Indian Community of the Santa  
 Rosa Rancheria, California  
 Santa Rosa Band of Cahuilla Mission  
 Indians of the Santa Rosa Reservation,  
 California  
 Santa Ynez Band of Chumash Mission  
 Indians of the Santa Ynez Reservation,  
 California  
 Santa Ysabel Band of Diegueno Mission  
 Indians of the Santa Ysabel  
 Reservation, California  
 Santee Sioux Tribe of the Santee  
 Reservation of Nebraska  
 Sauk-Suiattle Indian Tribe of Washington  
 Sault Ste. Marie Tribe of Chippewa  
 Indians of Michigan  
 Scotts Valley Band of Pomo Indians of  
 California  
 Seminole Nation of Oklahoma  
 Seminole Tribe of Florida, Dania, Big  
 Cypress, Brighton, Hollywood and Tampa  
 Reservations  
 Seneca Nation of New York  
 Seneca-Cayuga Tribe of Oklahoma  
 Shakopee Mdewakanton Sioux  
 Community of Minnesota (previously  
 listed as the Shakopee Mdewakanton  
 Sioux Community of Minnesota (Prior  
 Lake))  
 Shawnee Tribe, Oklahoma  
 Sherwood Valley Rancheria of Pomo  
 Indians of California  
 Shingle Springs Band of Miwok Indians,  
 Shingle Springs Rancheria (Verona Tract),  
 California  
 Shoalwater Bay Tribe of the Shoalwater  
 Bay Indian Reservation, Washington  
 Shoshone Tribe of the Wind River  
 Reservation, Wyoming  
 Shoshone-Bannock Tribes of the Fort Hall  
 Reservation of Idaho  
 Shoshone-Paiute Tribes of the Duck  
 Valley Reservation, Nevada  
 Sisseton-Wahpeton Sioux Tribe of the Lake  
 Traverse Reservation, South Dakota  
 Skokomish Indian Tribe of the  
 Skokomish Reservation, Washington  
 Skull Valley Band of Goshute Indians of  
 Utah  
 Smith River Rancheria, California  
 Snoqualmie Tribe, Washington  
 Soboba Band of Luiseno Indians,  
 California (formerly the Soboba Band of  
 Luiseno Mission Indians of the Soboba  
 Reservation)  
 Sokaogon Chippewa Community,  
 Wisconsin (previously listed as the  
 Sokaogon Chippewa Community of the  
 Mole Lake Band of Chippewa Indians,  
 Wisconsin)  
 Southern Ute Indian Tribe of the  
 Southern Ute Reservation, Colorado  
 Spirit Lake Tribe, North Dakota  
 Spokane Tribe of the Spokane  
 Reservation, Washington  
 Squaxin Island Tribe of the Squaxin  
 Island Reservation, Washington

Standing Rock Sioux Tribe of North and South Dakota	United Keetoowah Band of Cherokee Indians in Oklahoma (previously listed as the United Keetoowah Band of Cherokee Indians of Oklahoma)	Agdaagux Tribe of King Cove
Stockbridge Munsee Community, Wisconsin (previously listed as the Stockbridge-Munsee Community of Mohican Indians of Wisconsin)	Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California	Akhiok, Native Village of Akhiok
Stillaguamish Tribe of Washington	Upper Sioux Community, Minnesota (previously listed as the Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota)	Akiachak Native Community
Summit Lake Paiute Tribe of Nevada	Upper Skagit Indian Tribe of Washington	Akiak Native Community
Suquamish Indian Tribe of the Port Madison Reservation, Washington	Ute Indian Tribe of the Uintah and Ouray Reservation, Utah	Akutan, Native Village of Akutan
Susanville Indian Rancheria, California	Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico and Utah	Alakanuk, Village of Alakanuk
Swinomish Indians of the Swinomish Reservation, Washington	Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California	Alatna Village
Sycuan Band of Diegueno Mission Indians of California	Walker River Paiute Tribe of the Walker River Reservation, Nevada	Aleknagik, Native Village of Aleknagik
Table Bluff Reservation—Wiyot Tribe, California	Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts	Algaaciq Native Village of Algaaciq (St. Mary's)
Table Mountain Rancheria of California	Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)	Allakaket Village
Te-Moak Tribes of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band; and Wells Colony Band)	White Mountain Apache Tribe of the Fort Apache Reservation, Arizona	Ambler, Native Village of Ambler
Thlopthlocco Tribal Town, Oklahoma	Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma	Anaktuvuk Pass, Village of Anaktuvuk Pass
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota	Winnebago Tribe of Nebraska	Andreafski, Yupiit of Andreafski
Tohono O'odham Nation of Arizona	Winnemucca Indian Colony of Nevada	Angoon Community Association
Tonawanda Band of Seneca Indians of New York	Wyandotte Tribe of Oklahoma	Aniak, Village of Aniak
Tonkawa Tribe of Indians of Oklahoma	Yankton Sioux Tribe of South Dakota	Anvik Village
Tonto Apache Tribe of Arizona	Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona	Arctic Village (See Venetie, Native Village of Venetie Tribal Government)
Torres-Martinez Band of Cahuilla Mission Indians of California	Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona	Asa'carsarmiut Tribe (formerly the Native Village of Mountain Village)
Tulalip Tribes of the Tulalip Reservation, Washington	Yerington Paiute Tribe of the Yerington Colony and Campbell Ranch, Nevada	Atka, Native Village of Atka
Tule River Indian Tribe of the Tule River Reservation, California	Yomba Shoshone Tribe of the Yomba Reservation, Nevada	Atmautluak, Village of Atmautluak
Tunica-Biloxi Indian Tribe of Louisiana	Ysleta Del Sur Pueblo of Texas	Atqasuk Village (Atkasook)
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California	Yurok Tribe of the Yurok Reservation, California	Barrow, Native Village of Barrow Inupiat Traditional Government
Turtle Mountain Band of Chippewa Indians of North Dakota	Zuni tribe of the Zuni Reservation, New Mexico	Beaver Village
Tuscarora Nation of New York		Belkofski, Native Village of Belkofski
Twenty-Nine Palms Band of Mission Indians of California (previously listed as the Twenty-Nine Palms Band of Luiseno Mission Indians of California)		Bill Moore's Slough, Village of Bill Moore's Slough
United Auburn Indian Community of the Auburn Rancheria of California		Birch Creek Tribe

ALASKA NATIVE ENTITIES

Afognak, Village of Afognak

Chignik, Native Village of Chignik  
Chignik Lagoon, Native Village of Chignik Lagoon

Chignik Lake Village

Chilkat Indian Village (Klukwan)

Chilkoot Indian Association (Haines)

Chinik Eskimo Community (Golovin)

Chitina, Native Village of Chitina

Chuathbaluk, Native Village of Chuathbaluk (Russian Mission, Kuskokwim)

Chuloonawick Native Village

Circle Native Community

Clarks Point, Village of Clarks Point (previously listed as the Village of Clark's Point)

Council, Native Village of Council

Craig Community Association

Crooked Creek, Village of Crooked Creek

Curyung Tribal Council (formerly Native Village of Dillingham)

Deering, Native Village of Deering

Diomedede, Native Village of Diomedede (aka Inalik)

Dot Lake, Village of Dot Lake

Douglas Indian Association

Eagle, Native Village of Eagle

Eek, Native Village of Eek

Egegik Village

Eklutna Native Village

Ekuk, Native Village of Ekuk

Ekwok Village

Elim, Native Village of Elim

Emmonak Village

Evansville Village (aka Bettles Field)

Eyak, Native Village of Eyak (Cordova)

False Pass, Native Village of False Pass

Fort Yukon, Native Village of Fort Yukon

Gakona, Native Village of Gakona

Galena Village (aka Loudon Village)

Gambell, Native Village of Gambell

Georgetown, Native Village of Georgetown

Goodnews Bay, Native Village of Goodnews Bay

Grayling, Organized Village of Grayling (aka Holikachuk)

Gulkana Village

Hamilton, Native Village of Hamilton

Healy Lake Village

Holy Cross Village

Hoonah Indian Association

Hooper Bay, Native Village of Hooper Bay

Hughes Village

Huslia Village

Hydaburg Cooperative Association

Igiugig Village

Iliamna, Village of Iliamna

Inupiat Community of the Arctic Slope

Iqurmuit Traditional Council (formerly Native Village of Russian Mission)

Ivanoff Bay Village

Kaguyak Village

Kake, Organized Village of Kake

Kaktovik Village (aka Barter Island)

Kalskag, Village of Kalskag

Kaltag, Village of Kaltag

Kanatak, Native Village of Kanatak

Karluk, Native Village of Karluk

Kasaan, Organized Village of Kasaan

Kasigluk, Native Village of Kasigluk

Kenaitze Indian Tribe

Ketchikan Indian Corporation

Kiana, Native Village of Kiana

King Island Native Community

King Salmon Tribe

Kipnuk, Native Village of Kipnuk

Kivalina, Native Village of Kivalina

Klawock Cooperative Association

Kluti Kaah, Native Village of Kluti Kaah (aka Copper Center)

Knik Tribe

Kobuk, Native Village of Kobuk

Kokhanok Village

Kongiganak, Native Village of Kongiganak

Kotlik, Village of Kotlik

Kotzebue, Native Village of Kotzebue

Koyuk, Native Village of Koyuk

Koyukuk Native Village

Kwethluk, Organized Village of Kwethluk

Kwigillingok, Native Village of Kwigillingok

Kwinhagak, Native Village of Kwinhagak (aka Quinhagak)

Larsen Bay, Native Village of Larsen Bay

Levelock Village

Lesnoi Village (aka Woody Island)

Lime Village

Lower Kalskag, Village of Lower Kalskag

Manley Hot Springs Village

Manokotak Village

Marshall, Native Village of Marshall (aka Fortuna Ledge)

Mary's Igloo, Native Village of Mary's Igloo

McGrath Native Village

Mekoryuk, Native Village of Mekoryuk

Mentasta Traditional Council (formerly Mentasta Lake Village)

Metlakatla Indian Community, Annette Island Reserve

Minto, Native Village of Minto

Naknek Native Village

Nanwalek, Native Village of Nanwalek (aka English Bay)

Napaimute, Native Village of Napaimute

Napakiak, Native Village of Napakiak

Napaskiak, Native Village of Napaskiak

Nelson Lagoon, Native Village of Nelson Lagoon

Nenana Native Association

New Koliganek Village Council (formerly the Koliganek Village)

New Stuyahok Village

Newhalen Village

Newtok Village

Nightmute, Native Village of Nightmute

Nikolai Village

Nikolski, Native Village of Nikolski

Ninilchik Village

Noatak, Native Village of Noatak

Nome Eskimo Community

Nondalton Village

Noorvik Native Community

Northway Village

Nuiqsut, Native Village of Nuiqsut (aka Nooiksut)



Nulato Village  
Nunakauyarmiut Tribe (formerly the Native Village of Toksook Bay)  
Nunapitchuk, Native Village of Nunapitchuk  
Ohogamiut, Village of Ohogamiut  
Old Harbor, Village of Old Harbor  
Orutsararmiut Native Village (aka Bethel)  
Oscarville Traditional Village  
Ouzinkie, Native Village of Ouzinkie  
Paimiut, Native Village of Paimiut  
Pauloff Harbor Village  
Pedro Bay Village  
Perryville, Native Village of Perryville  
Petersburg Indian Association  
Pilot Point, Native Village of Pilot Point  
Pilot Station Traditional Village  
Pitka's Point, Native Village of Pitka's Point  
Platinum Traditional Village  
Point Hope, Native Village of Point Hope  
Point Lay, Native Village of Point Lay  
Port Graham, Native Village of Port Graham  
Port Heiden, Native Village of Port Heiden  
Port Lions, Native Village of Port Lions  
Portage Creek Village (aka Ohgsenakale)  
Pribilof Islands Aleut Communities of St. Paul and St. George Islands  
Qagan Tayagungin Tribe of Sand Point Village  
Qawalangin Tribe of Unalaska  
Rampart Village  
Red Devil, Village of Red Devil  
Ruby, Native Village of Ruby  
Saint George Island (See Pribilof Islands Aleut Communities of St. Paul and St. George Islands)  
Saint Michael, Native Village of Saint Michael  
Saint Paul Island (See Pribilof Islands Aleut Communities of St. Paul and St. George Islands)  
Salamatoff, Village of Salamatoff  
Savoonga, Native Village of Savoonga  
Saxman, Organized Village of Saxman  
Scammon Bay, Native Village of Scammon Bay

Selawik, Native Village of Selawik  
Seldovia Village Tribe  
Shageluk Native Village  
Shaktoolik, Native Village of Shaktoolik  
Sheldon's Point, Native Village of Sheldon's Point  
Shishmaref, Native Village of Shishmaref  
Shoonaq' Tribe of Kodiak  
Shungnak, Native Village of Shungnak  
Sitka Tribe of Alaska  
Skagway Village  
Sleetmute, Village of Sleetmute  
Solomon, Village of Solomon  
South Naknek Village  
Stebbins Community Association  
Stevens, Native Village of Stevens  
Stony River, Village of Stony River  
Taktotna Village  
Tanacross, Native Village of Tanacross  
Tanana, Native Village of Tanana  
Tatitlek, Native Village of Tatitlek  
Tazlina, Native Village of Tazlina  
Telida Village  
Teller, Native Village of Teller  
Tetlin, Native Village of Tetlin  
Tlingit and Haida, Central Council of the Tlingit and Haida Indian Tribes  
Togiak, Traditional Village of Togiak  
Tuluksak Native Community  
Tuntutuliak, Native Village of Tuntutuliak  
Tununak, Native Village of Tununak  
Twin Hills Village  
Tyonek, Native Village of Tyonek  
Ugashik Village  
Umkumiute Native Village  
Unalakleet, Native Village of Unalakleet  
Unga, Native Village of Unga  
Village of Venetie (See Native Village of Venetie Tribal Government)  
Venetie, Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie)  
Wainwright, Village of Wainwright  
Wales, Native Village of Wales

White Mountain, Native Village of White Mountain.  
Wrangell Cooperative Association  
Yakutat Tlingit Tribe

#### SECTION 4. EFFECT ON OTHER DOCUMENTS

.01 Rev. Proc. 2001-15, 2001-1 C.B. 465 is superseded. Letter rulings received by Indian tribal governments prior to the effective date below are not affected by this revenue procedure.

#### SECTION 5. EFFECTIVE DATE

.01 This revenue procedure is effective as of October 21, 2002.

#### SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Carol Cook of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For more information concerning this revenue procedure, contact Ms. Cook at (202) 622-6080 (not a toll-free call).

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*26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.*

### **Rev. Proc. 2002-66**

#### SECTION 1. PURPOSE

.01 This revenue procedure updates Rev. Proc. 2001-52, 2001-2 C.B. 491, and identifies circumstances under which the disclosure on a taxpayer's return of a position with respect to an item is adequate for the purpose of reducing the understatement of income tax under § 6662(d) of the Internal Revenue Code (relating to the substantial understatement aspect of the accuracy-related penalty), and for the purpose of avoiding the preparer penalty under § 6694(a) (relating to understatements due to unrealistic positions). This revenue procedure does not apply with respect to any other penalty provisions (including the negligence or disregard provisions of the § 6662 accuracy-related penalty).

.02 This revenue procedure applies to any return filed on 2002 tax forms for a taxable year beginning in 2002, and to any re-

turn filed on 2002 tax forms in 2003 for short taxable years beginning in 2003.

## SECTION 2. CHANGES FROM REV. PROC. 2001-52

Section 4.01(1)(d), concerning contributions on Form 1040, Schedule A, has been revised and editorial changes have been made in updating Rev. Proc. 2001-52.

## SECTION 3. BACKGROUND

.01 If § 6662 applies to any portion of an underpayment of tax required to be shown on a return, an amount equal to 20 percent of the portion of the underpayment to which the section applies is added to the tax. (The penalty rate is 40 percent in the case of gross valuation misstatements under § 6662(h).) Under § 6662(b)(2), § 6662 applies to the portion of an underpayment that is attributable to a substantial understatement of income tax.

.02 Section 6662(d)(1) provides that there is a substantial understatement of income tax if the amount of the understatement exceeds the greater of 10 percent of the amount of tax required to be shown on the return for the taxable year or \$5,000 (\$10,000 in the case of a corporation other than an S corporation or a personal holding company). Section 6662(d)(2) defines an understatement as the excess of the amount of tax required to be shown on the return for the taxable year over the amount of the tax that is shown on the return reduced by any rebate (within the meaning of § 6211(b)(2)).

.03 In the case of an item not attributable to a tax shelter, § 6662(d)(2)(B)(ii) provides that the amount of the understatement is reduced by the portion of the understatement attributable to any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed on the return or on a statement attached to the return, and there is a reasonable basis for the tax treatment of such item by the taxpayer.

.04 In general, this revenue procedure provides guidance in determining when disclosure is adequate for purposes of § 6662(d). For purposes of this revenue procedure, the taxpayer must furnish all required information in accordance with the applicable forms and instructions, and the money amounts entered on these forms

must be verifiable. Guidance under § 6662(d) for returns filed for 2001, 2000, and 1999 is provided in Rev. Proc. 2001-52; Rev. Proc. 2001-11, 2001-1 C.B. 275; and Rev. Proc. 99-41, 1999-2 C.B. 566, respectively.

## SECTION 4. PROCEDURE

.01 Additional disclosure of facts relevant to, or positions taken with respect to, issues involving any of the items set forth below is unnecessary for purposes of reducing any understatement of income tax under § 6662(d), provided that the forms and attachments are completed in a clear manner and in accordance with their instructions. The money amounts entered on the forms must be verifiable, and the information on the return must be disclosed in the manner described below. For purposes of this revenue procedure, a number is verifiable if, on audit, the taxpayer can demonstrate the origin of the number (even if that number is not ultimately accepted by the Internal Revenue Service) and the taxpayer can show good faith in entering that number on the applicable form.

(1) Form 1040, Schedule A, *Itemized Deductions*:

(a) Medical and Dental Expenses: Complete lines 1 through 4, supplying all required information.

(b) Taxes: Complete lines 5 through 9, supplying all required information. Line 8 must list each type of tax and the amount paid.

(c) Interest Expense: Complete lines 10 through 14, supplying all required information. This section 4.01(1)(c) does not apply to (I) amounts disallowed under § 163(d) unless Form 4952, *Investment Interest Expense Deduction*, is completed, or (ii) amounts disallowed under § 265.

(d) Contributions: Complete lines 15 through 18, supplying all required information. Enter the amount of the gift reduced by the value of any substantial benefit (goods or services) provided by the donee organization in consideration, in whole or in part. Entering the amount of the gift unreduced by the value of the benefit received will not constitute adequate disclosure. If a contribution of \$250 or more is made, this section 4.01(1)(d) will not apply unless a contemporaneous written acknowledgment, as required by § 170(f)(8), is obtained from the donee organization. If a contribution of property other than cash

is made and the amount claimed as a deduction exceeds \$500, attach a properly completed Form 8283, *Noncash Charitable Contributions*, to the return.

(e) Casualty and Theft Losses: Complete Form 4684, *Casualties and Thefts*, and attach to the return. Each item or article for which a casualty or theft loss is claimed must be listed on Form 4684.

(2) Certain Trade or Business Expenses (including, for purposes of this section 4.01(2), the following six expenses as they relate to the rental of property):

(a) Casualty and Theft Losses: The procedure outlined in section 4.01(1)(e) above must be followed.

(b) Legal Expenses: The amount claimed must be stated. This section 4.01(2)(b) does not apply, however, to amounts properly characterized as capital expenditures, personal expenses, or non-deductible lobbying or political expenditures, including amounts that are required to be (or that are) amortized over a period of years.

(c) Specific Bad Debt Charge-off: The amount written off must be stated.

(d) Reasonableness of Officers' Compensation: Form 1120, Schedule E, *Compensation of Officers*, must be completed when required by its instructions. The time devoted to business must be expressed as a percentage as opposed to "part" or "as needed." This section 4.01(2)(d) does not apply to "golden parachute" payments, as defined under § 280G. This section 4.01(2)(d) will not apply to the extent that remuneration paid or incurred exceeds the \$1 million-employee-remuneration limitation, if applicable.

(e) Repair Expenses: The amount claimed must be stated. This section 4.01(2)(e) does not apply, however, to any repair expenses properly characterized as capital expenditures or personal expenses.

(f) Taxes (other than foreign taxes): The amount claimed must be stated.

(3) Form 1120, Schedule M-1, *Reconciliation of Income (Loss) per Books With Income per Return*, provided:

(a) The amount of the deviation from the financial books and records is not the result of a computation that includes the netting of items; and

(b) The information provided reasonably may be expected to apprise the Internal Revenue Service of the nature of the potential controversy concerning the tax treatment of the item.

(4) Foreign Tax Items:

(a) International Boycott Transactions: Transactions disclosed on Form 5713, *International Boycott Report*.

(b) Treaty-Based Return Position: Transactions and amounts under § 6114 or § 7701(b) as disclosed on Form 8833, *Treaty-Based Return Position Disclosure*.

(5) Other:

(a) Moving Expenses: Complete Form 3903, *Moving Expenses*, and attach to the return.

(b) Employee Business Expenses: Complete Form 2106, *Employee Business Expenses*, or Form 2106-EZ, *Unreimbursed*

*Employee Business Expenses*, and attach to the return. This section 4.01(5)(b) does not apply to club dues, or to travel expenses for any non-employee accompanying the taxpayer on the trip.

(c) Fuels Credit: Complete Form 4136, *Credit for Federal Tax Paid on Fuels*, and attach to the return.

(d) Investment Credit: Complete Form 3468, *Investment Credit*, and attach to the return.

#### SECTION 5. EFFECTIVE DATE

This revenue procedure applies to any return filed on 2002 tax forms for a tax-

able year beginning in 2002, and to any return filed on 2002 tax forms in 2003 for short taxable years beginning in 2003.

#### SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is John Moran of the Office of Associate Chief Counsel, Procedure & Administration (Administrative Provisions & Judicial Practice Division). For further information regarding this revenue procedure, contact Branch 2 of the Administrative Provisions & Judicial Practice Division at (202) 622-4940 (not a toll-free call).

## Part IV. Items of General Interest

### Exclusions From Gross Income of Foreign Corporations; Correction

#### Announcement 2002-94

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Corrections to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing (REG-136311-01, 2002-36 I.R.B. 485 [67 FR 50510]) that was published in the **Federal Register** on Friday, August 2, 2002, relating to exclusions from gross income of foreign corporations.

FOR FURTHER INFORMATION CONTACT: Patricia Bray (202) 622-3880 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

#### Background

The notice of proposed rulemaking and notice of public hearing that is subject to these corrections is under section 883 of the Internal Revenue Code.

#### Need for Correction

As published the notice of proposed rulemaking and notice of public hearing contains errors that may prove to be misleading and are in need of clarification.

#### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG-208280-86; REG-136311-01), which was the subject of FR Doc. 02-19127, is corrected as follows:

1. On page 50510, column 1, line 5 of the heading, the numbers “RIN 1545-AJ57; RIN 1545-BA07” is corrected to read “RIN 1545-AJ57; RIN 1545-BB30”.

2. On page 50512, column 2, in the preamble under the paragraph heading “*ii. Space or slot charters.*”, first full paragraph, line 8 from the bottom of the paragraph, the language “is incidental to the

operation ships or” is corrected to read “is incidental to the operation of ships or”.

3. On page 50515, column 3, in the preamble under the heading “C. Comments Relating to § 1.883-2: Treatment of Publicly-Traded Corporations”, second paragraph, line 2 from the bottom of the paragraph, the language “aggregate 50 percent of more of the” is corrected to read “aggregate 50 percent or more of the”.

4. On page 50518, column 2, in the preamble under the paragraph heading “3. *Certain limitation on benefits article restrictions in income tax conventions applied to shareholders.*”, line 3 from the top of the column, the language “limitation of benefits article of the treaty” is corrected to read “limitation on benefits article of the treaty”.

#### § 1.883-1 [Corrected]

5. On page 50521, column 2, § 1.883-1(c)(3)(ii), line 6, the language “under § 1.883-2(f), 1.882-3(d) or 1.883-” is corrected to read “under §§ 1.883-2(f), 1.883-3(d) or 1.883-”.

6. On page 50525, column 2, § 1.883-1(h)(2), lines 5, 6 and 7, from the top of the column, the language “each category of income listed in (i) through (viii) of this section paragraph (h)(2)” is corrected to read “each category of income listed in paragraphs (h)(2)(I) through (viii) of this section”.

#### § 1.883-2 [Corrected]

7. On page 50528, column 2, § 1.883-2(f)(2), line 3, the language “that the stock is listed;” is corrected to read “the stock is listed;”.

#### § 1.883-4 [Corrected]

8. On page 50533, column 1, § 1.883-4(d)(3)(ii), lines 3 and 4, the language “requirements of paragraphs (d)(3)(ii)(A) and (B) are satisfied. If the widely-held” is corrected to read “requirements of paragraphs (d)(3)(ii)(A) and (B) of this section are satisfied. If the widely-held”.

9. On page 50534, column 2, § 1.883-4(d)(4)(iii)(B), line 3, the language “that the stock is listed;” is corrected to read “the stock is listed;”.

10. On page 50534, column 3, § 1.883-4(d)(4)(iv)(B), line 3, the language “this sec-

tion (as if it the language applied” is corrected to read “this section (as if the language applied”.

Cynthia E. Grigsby,  
Chief, Regulations Unit,  
Associate Chief Counsel  
(Income Tax & Accounting).

(Filed by the Office of the Federal Register on September 13, 2002, 8:45 a.m., and published in the issue of the Federal Register for September 16, 2002, 67 F.R. 58346)

### Excise Taxes; Definition of Highway Vehicle; Hearing

#### Announcement 2002-95

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document contains a notice of public hearing on proposed regulations (REG-103829-99, 2002-27 I.R.B. 59) relating to the definition of a highway vehicle for purposes of various excise taxes.

DATES: The public hearing is being held on February 27, 2003, at 10 a.m. The IRS must receive written or electronic outlines of the topics to be discussed at the hearing by February 6, 2003.

ADDRESSES: The public hearing is being held in Room 4718, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Mail outlines to: CC:ITA:RU (REG-103829-99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Hand deliver outlines Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-103829-99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC.

Submit electronic outlines of oral comments to the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs).

**FOR FURTHER INFORMATION**

**CONTACT:** Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing Treena Garrett, (202) 622-7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

The subject of the public hearing is the notice of proposed regulations (REG-

103829-99) that was published in the **Federal Register** on June 6, 2002 (67 FR 38913).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by February 6, 2003.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of

charge, at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this document.

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# 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 Counsel's Memorandum.  
GE—Grantee.  
GP—General Partner.  
GR—Grantor.  
IC—Insurance Company.  
I.R.B.—Internal Revenue Bulletin.  
LE—Lessee.  
LP—Limited Partner.  
LR—Lessor.  
M—Minor.  
Nonacq.—Nonacquiescence.  
O—Organization.  
P—Parent Corporation.  
PHC—Personal Holding Company.

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

## Numerical Finding List<sup>1</sup>

Bulletin 2002–26 through 2002–41

### Announcements:

2002–59, 2002–26 I.R.B. 28  
2002–60, 2002–26 I.R.B. 28  
2002–61, 2002–27 I.R.B. 72  
2002–62, 2002–27 I.R.B. 72  
2002–63, 2002–27 I.R.B. 72  
2002–64, 2002–27 I.R.B. 72  
2002–65, 2002–29 I.R.B. 182  
2002–66, 2002–29 I.R.B. 183  
2002–67, 2002–30 I.R.B. 237  
2002–68, 2002–31 I.R.B. 283  
2002–69, 2002–31 I.R.B. 283  
2002–70, 2002–31 I.R.B. 284  
2002–71, 2002–32 I.R.B. 323  
2002–72, 2002–32 I.R.B. 323  
2002–73, 2002–33 I.R.B. 387  
2002–74, 2000–33 I.R.B. 387  
2002–75, 2002–34 I.R.B. 416  
2002–76, 2002–35 I.R.B. 471  
2002–77, 2002–35 I.R.B. 471  
2002–78, 2002–36 I.R.B. 514  
2002–79, 2002–36 I.R.B. 515  
2002–80, 2002–36 I.R.B. 515  
2002–81, 2002–37 I.R.B. 533  
2002–82, 2002–37 I.R.B. 533  
2002–83, 2002–38 I.R.B. 564  
2002–84, 2002–37 I.R.B. 533  
2002–85, 2002–39 I.R.B. 624  
2002–86, 2002–39 I.R.B. 624  
2002–87, 2002–39 I.R.B. 624  
2002–88, 2002–38 I.R.B. 564  
2002–89, 2002–39 I.R.B. 626  
2002–90, 2002–40 I.R.B. 684  
2002–91, 2002–40 I.R.B. 685  
2002–92, 2002–41 I.R.B. 709  
2002–93, 2002–41 I.R.B. 709

### Court Decisions:

2075, 2002–38 I.R.B. 548

### Notices:

2002–42, 2002–27 I.R.B. 36  
2002–43, 2002–27 I.R.B. 38  
2002–44, 2002–27 I.R.B. 39  
2002–45, 2002–28, I.R.B. 93  
2002–46, 2002–28 I.R.B. 96  
2002–47, 2002–28 I.R.B. 97  
2002–48, 2002–29 I.R.B. 130  
2002–49, 2002–29 I.R.B. 130  
2002–50, 2002–28 I.R.B. 98  
2002–51, 2002–29 I.R.B. 131  
2002–52, 2002–30 I.R.B. 187  
2002–53, 2002–30 I.R.B. 187  
2002–54, 2002–30 I.R.B. 189  
2002–55, 2002–36 I.R.B. 481  
2002–56, 2002–32 I.R.B. 319  
2002–57, 2002–33 I.R.B. 379  
2002–58, 2002–35 I.R.B. 432  
2002–59, 2002–36 I.R.B. 481

### Notices—Continued:

2002–60, 2002–36 I.R.B. 482  
2002–61, 2002–38 I.R.B. 563  
2002–62, 2002–39 I.R.B. 574  
2002–63, 2002–40 I.R.B. 644  
2002–64, 2002–41 I.R.B. 690  
2002–65, 2002–41 I.R.B. 690

### Proposed Regulations:

REG–248110–96, 2002–26 I.R.B. 19  
REG–110311–98, 2002–28 I.R.B. 109  
REG–103823–99, 2002–27 I.R.B. 44  
REG–103829–99, 2002–27 I.R.B. 59  
REG–103735–00, 2002–28 I.R.B. 109  
REG–106457–00, 2002–26 I.R.B. 23  
REG–106871–00, 2002–30 I.R.B. 190  
REG–106876–00, 2002–34 I.R.B. 392  
REG–106879–00, 2002–34 I.R.B. 402  
REG–107524–00, 2002–28 I.R.B. 110  
REG–115285–01, 2002–27 I.R.B. 62  
REG–115781–01, 2002–33 I.R.B. 380  
REG–116644–01, 2002–31 I.R.B. 268  
REG–123345–01, 2002–32 I.R.B. 321  
REG–126024–01, 2002–27 I.R.B. 64  
REG–136311–01, 2002–36 I.R.B. 485  
REG–164754–01, 2002–30 I.R.B. 212  
REG–165868–01, 2002–31 I.R.B. 270  
REG–106359–02, 2002–34 I.R.B. 405  
REG–122564–02, 2002–26 I.R.B. 25  
REG–123305–02, 2002–26 I.R.B. 26  
REG–124256–02, 2002–33 I.R.B. 383  
REG–133254–02, 2002–34 I.R.B. 412  
REG–134026–02, 2002–40 I.R.B. 684

### Revenue Procedures:

2002–43, 2002–28 I.R.B. 99  
2002–44, 2002–26 I.R.B. 10  
2002–45, 2002–27 I.R.B. 40  
2002–46, 2002–28 I.R.B. 105  
2002–47, 2002–29 I.R.B. 133  
2002–48, 2002–37 I.R.B. 531  
2002–49, 2002–29 I.R.B. 172  
2002–50, 2002–29 I.R.B. 173  
2002–51, 2002–29 I.R.B. 175  
2002–52, 2002–31 I.R.B. 242  
2002–53, 2002–31 I.R.B. 253  
2002–54, 2002–35 I.R.B. 432  
2002–55, 2002–35 I.R.B. 435  
2002–56, 2002–36 I.R.B. 483  
2002–57, 2002–39 I.R.B. 575  
2002–58, 2002–40 I.R.B. 644  
2002–59, 2002–39 I.R.B. 615  
2002–60, 2002–40 I.R.B. 645  
2002–61, 2002–39 I.R.B. 616  
2002–62, 2002–40 I.R.B. 683  
2002–63, 2002–41 I.R.B. 691  
2002–65, 2002–41 I.R.B. 700

### Revenue Rulings:

2002–38, 2002–26 I.R.B. 4  
2002–39, 2002–27 I.R.B. 33  
2002–40, 2002–27 I.R.B. 30  
2002–41, 2002–28 I.R.B. 75

### Revenue Rulings—Continued:

2002–42, 2002–28 I.R.B. 76  
2002–43, 2002–28 I.R.B. 85  
2002–44, 2002–28 I.R.B. 84  
2002–45, 2002–29 I.R.B. 116  
2002–46, 2002–29 I.R.B. 117  
2002–47, 2002–29 I.R.B. 119  
2002–48, 2002–31 I.R.B. 239  
2002–49, 2002–32 I.R.B. 288  
2002–50, 2002–32 I.R.B. 292  
2002–51, 2002–33 I.R.B. 327  
2002–52, 2002–34 I.R.B. 388  
2002–53, 2002–35 I.R.B. 427  
2002–54, 2002–37 I.R.B. 527  
2002–55, 2002–37 I.R.B. 529  
2002–56, 2002–37 I.R.B. 526  
2002–57, 2002–37 I.R.B. 526  
2002–58, 2002–38 I.R.B. 541  
2002–59, 2002–38 I.R.B. 557  
2002–60, 2002–40 I.R.B. 641  
2002–61, 2002–40 I.R.B. 639  
2002–64, 2002–41 I.R.B. 688

### Treasury Decisions:

8997, 2002–26 I.R.B. 6  
8998, 2002–26 I.R.B. 1  
8999, 2002–28 I.R.B. 78  
9000, 2002–28 I.R.B. 87  
9001, 2002–29 I.R.B. 128  
9002, 2002–29 I.R.B. 120  
9003, 2002–32 I.R.B. 294  
9004, 2002–33 I.R.B. 331  
9005, 2002–32 I.R.B. 290  
9006, 2002–32 I.R.B. 315  
9007, 2002–33 I.R.B. 349  
9008, 2002–33 I.R.B. 335  
9009, 2002–33 I.R.B. 328  
9010, 2002–33 I.R.B. 341  
9011, 2002–33 I.R.B. 356  
9012, 2002–34 I.R.B. 389  
9013, 2002–38 I.R.B. 542  
9014, 2002–35 I.R.B. 429  
9015, 2002–40 I.R.B. 642  
9016, 2002–40 I.R.B. 628

<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2002–1 through 2002–25 is in Internal Revenue Bulletin 2002–26, dated July 1, 2002.

## Finding List of Current Actions on Previously Published Items<sup>1</sup>

Bulletin 2002–26 through 2002–41

### Announcements:

#### 98–99

Superseded by  
Rev. Proc. 2002–44, 2002–26 I.R.B. 10

#### 2000–4

Modified by  
Ann. 2002–60, 2002–26 I.R.B. 28

#### 2001–9

Superseded by  
Rev. Proc. 2002–44, 2002–26 I.R.B. 10

### Notices:

#### 97–26

Modified and superseded by  
Notice 2002–62, 2002–39 I.R.B. 574

#### 2001–6

Superseded by  
Notice 2002–63, 2002–40 I.R.B. 644

#### 2001–62

Modified and superseded by  
Notice 2002–62, 2002–39 I.R.B. 574

### Proposed Regulations:

#### REG–208280–86

Withdrawn by  
REG–136311–01, 2002–36 I.R.B. 485

#### REG–209114–90

Corrected by  
Ann. 2002–65, 2002–29 I.R.B. 182

#### REG–209813–96

Withdrawn by  
REG–106871–00, 2002–30 I.R.B. 190

#### REG–103823–99

Corrected by  
Ann. 2002–67, 2002–30 I.R.B. 237  
Ann. 2002–79, 2002–36 I.R.B. 515

#### REG–103829–99

Corrected by  
Ann. 2002–82, 2002–37 I.R.B. 533

#### REG–105885–99

Corrected by  
Ann. 2002–67, 2002–30 I.R.B. 237

#### REG–105369–00

Clarified by  
Notice 2002–52, 2002–30 I.R.B. 187  
Corrected by  
Ann. 2002–67, 2002–30 I.R.B. 237

#### REG–118861–00

Corrected by  
Ann. 2002–67, 2002–30 I.R.B. 237

#### REG–126100–00

Withdrawn by  
REG–133254–02, 2002–34 I.R.B. 412

### Proposed Regulations—Continued:

#### REG–136193–01

Corrected by  
Ann. 2002–67, 2002–30 I.R.B. 237

#### REG–161424–01

Corrected by  
Ann. 2002–67, 2002–30 I.R.B. 237

#### REG–165706–01

Corrected by  
Ann. 2002–67, 2002–30 I.R.B. 237

#### REG–165868–01

Corrected by  
Ann. 2002–93, 2002–41 I.R.B. 709

#### REG–102740–02

Corrected by  
Ann. 2002–67, 2002–30 I.R.B. 237

#### REG–106359–02

Corrected by  
Ann. 2002–81, 2002–37 I.R.B. 533

#### REG–108697–02

Corrected by  
Ann. 2002–84, 2002–37 I.R.B. 533

#### REG–123305–02

Corrected by  
Ann. 2002–69, 2002–31 I.R.B. 283

### Revenue Procedures:

#### 88–10

Superseded by  
Rev. Proc. 2002–48, 2002–37 I.R.B. 531

#### 91–23

Modified and superseded by  
Rev. Proc. 2002–52, 2002–31 I.R.B. 242

#### 91–26

Modified and superseded by  
Rev. Proc. 2002–52, 2002–31 I.R.B. 242

#### 95–18

Superseded by  
Rev. Proc. 2002–51, 2002–29 I.R.B. 175

#### 96–13

Modified and superseded by  
Rev. Proc. 2002–52, 2002–31 I.R.B. 242

#### 96–14

Modified and superseded by  
Rev. Proc. 2002–52, 2002–31 I.R.B. 242

#### 96–53

Amplified by  
Rev. Proc. 2002–52, 2002–31 I.R.B. 242

#### 2001–12

Obsolated by  
T.D. 9004, 2002–33 I.R.B. 331

#### 2001–17

Modified and superseded by  
Rev. Proc. 2002–47, 2002–29 I.R.B. 133

### Revenue Procedures—Continued:

#### 2001–26

Superseded by  
Rev. Proc. 2002–53, 2002–31 I.R.B. 253

#### 2001–45

Superseded by  
Rev. Proc. 2002–60, 2002–40 I.R.B. 645

#### 2001–46

Modified and amplified by  
Rev. Proc. 2002–65, 2002–41 I.R.B. 700

#### 2001–47

Superseded by  
Rev. Proc. 2002–63, 2002–41 I.R.B. 691

#### 2001–50

Superseded by  
Rev. Proc. 2002–57, 2002–39 I.R.B. 575

#### 2001–54

Superseded by  
Rev. Proc. 2002–61, 2002–39 I.R.B. 616

#### 2002–9

Modified and amplified by  
Rev. Proc. 2002–46, 2002–28 I.R.B. 105  
Rev. Proc. 2002–65, 2002–41 I.R.B. 700  
Amplified, clarified, and modified by  
Rev. Proc. 2002–54, 2002–35 I.R.B. 432

#### 2002–13

Modified by  
Rev. Proc. 2002–45, 2002–27 I.R.B. 40

#### 2002–15

Modified and superseded by  
Rev. Proc. 2002–59, 2002–39 I.R.B. 615

#### 2002–19

Amplified and clarified by  
Rev. Proc. 2002–54, 2002–35 I.R.B. 432

### Revenue Rulings:

#### 54–571

Obsolated by  
T.D. 9010, 2002–33 I.R.B. 341

#### 55–534

Distinguished by  
Rev. Rul. 2002–60, 2002–40 I.R.B. 641

#### 55–606

Obsolated by  
T.D. 9010, 2002–33 I.R.B. 341

#### 59–328

Obsolated by  
T.D. 9010, 2002–33 I.R.B. 341

#### 64–36

Obsolated by  
T.D. 9010, 2002–33 I.R.B. 341

#### 65–129

Obsolated by  
T.D. 9010, 2002–33 I.R.B. 341

<sup>1</sup> A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2002–1 through 2002–25 is in Internal Revenue Bulletin 2002–26, dated July 1, 2002.



**Revenue Rulings—Continued:**

**67–197**

Obsolated by  
T.D. 9010, 2002–33 I.R.B. 341

**69–259**

Modified and superseded by  
Rev. Rul. 2002–50, 2002–32 I.R.B. 292

**69–595**

Obsolated in part by  
T.D. 9010, 2002–33 I.R.B. 341

**70–608**

Obsolated in part by  
T.D. 9010, 2002–33 I.R.B. 341

**73–232**

Obsolated by  
T.D. 9010, 2002–33 I.R.B. 341

**76–225**

Revoked by  
REG–115781–01, 2002–33 I.R.B. 380

**77–53**

Obsolated by  
T.D. 9010, 2002–33 I.R.B. 341

**85–50**

Obsolated by  
T.D. 2002–33 I.R.B. 341

**92–17**

Amplified by  
Rev. Rul. 2002–49, 2002–32 I.R.B. 288

**92–75**

Clarified by  
Rev. Proc. 2002–52, 2002–31 I.R.B. 242

**93–70**

Obsolated by  
T.D. 9010, 2002–33 I.R.B. 341

**94–76**

Amplified by  
Rev. Rul. 2002–42, 2002–28 I.R.B. 76

**Treasury Decisions:**

**8925**

Corrected by  
Ann. 2002–89, 2002–39 I.R.B. 626

**8997**

Corrected by  
Ann. 2002–68, 2002–31 I.R.B. 283

**8999**

Corrected by  
Ann. 2002–71, 2002–32 I.R.B. 323

**9013**

Corrected by  
Ann. 2002–83, 2002–38 I.R.B. 564