

# Internal Revenue bulletin

Bulletin No. 2003–20  
May 19, 2003

## 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

**T.D. 9053, page 914.**

**REG-141659-02, page 927.**

Temporary and proposed regulations under section 6695 of the Code clarify and amend existing regulations to facilitate electronic filing by return preparers. The regulations eliminate the references to manually signed returns. In addition, they provide that the Commissioner may prescribe, in forms, instructions, or other appropriate guidance, the manner in which preparers may satisfy their obligations under section 6107 to furnish returns to taxpayers and to retain copies of returns.

**Notice 2003–29, page 917.**

**Electricity produced from certain renewable resources; calendar year 2003 inflation adjustment factor and reference prices.** This notice announces the calendar year 2003 inflation adjustment factor and reference prices for the renewable electricity production credit under section 45 of the Code.

### EMPLOYEE PLANS

**Announcement 2003–32, page 933.**

The Service invites the public to participate in the ongoing dialog on the long-term future of the EP determination letter program. This announcement requests comments on the future of the program as modified by responses received in response to Announcement 2001–83, 2001–35 I.R.B. 205. The second white letter may be downloaded from the Internet at: [www.irs.gov/ep](http://www.irs.gov/ep).

### EXEMPT ORGANIZATIONS

**Rev. Rul. 2003–49, page 903.**

**Reporting requirements for section 527 organizations.** This ruling provides questions and answers regarding the reporting and disclosure requirements for political organizations described in section 527 of the Code. Rev. Rul. 2000–49 modified and superseded.

**Announcement 2003–29, page 928.**

The Service requests public comment on how it might clarify existing requirements that section 501(c)(3) organizations must meet with respect to international grant-making and other international activities. The IRS seeks comments on how new guidance might reduce the possibility of diversion of assets for noncharitable purposes.

**Announcement 2003–30, page 929.**

The Service withdraws Announcement 99–45 relating to the deletion of an organization to which contributions are deductible under section 170 of the Code. The Abraham Lincoln Opportunity Foundation will be treated as having been on the Cumulative List retroactively for all periods that it was in existence.

**Announcement 2003–31, page 930.**

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

(Continued on the next page)

Finding Lists begin on page ii.



Department of the Treasury  
Internal Revenue Service

## EMPLOYMENT TAX

### **Rev. Proc. 2003-35, page 919.**

This document provides guidance relating to the Gaming Industry Tipping Agreement Program. Under this program, a gaming industry employer and the Service may work together to reach a Gaming Industry Tip Compliance Agreement that objectively establishes minimum tip rates for tipped employees in specified occupational categories, prescribes a threshold level of participation by the employer's employees, and reduces compliance burdens for the employer and enforcement burdens for the Service.

## ADMINISTRATIVE

### **T.D. 9053, page 914.**

### **REG-141659-02, page 927.**

Temporary and proposed regulations under section 6695 of the Code clarify and amend existing regulations to facilitate electronic filing by return preparers. The regulations eliminate the references to manually signed returns. In addition, they provide that

the Commissioner may prescribe, in forms, instructions, or other appropriate guidance, the manner in which preparers may satisfy their obligations under section 6107 to furnish returns to taxpayers and to retain copies of returns.

### **T.D. 9054, page 909.**

Final regulations under section 6103 of the Code relate to disclosure by IRS employees of returns and return information to a designee of the taxpayer. The regulations also provide guidance to taxpayers who wish to designate a person or persons to whom return and return information may be disclosed.

### **Rev. Proc. 2003-29, page 917.**

**Qualified mortgage bonds; mortgage credit certificates; national median gross income.** Guidance is provided concerning the use of the national and area median gross income figures by issuers of qualified mortgage bonds and mortgage credit certificates in determining the housing cost/income ratio described in section 143(f) of the Code. Rev. Proc. 2002-24 obsoleted, except as provided in section 5.02 of this procedure.

# 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 25.—Interest on Certain Home Mortgages

26 CFR 1.25-4T: *Qualified mortgage credit certificate program (temporary).*

Guidance is provided with respect to the national and area median gross income figures for use by issuers of qualified mortgage bonds and mortgage credit certificates in determining the housing cost/income ratio described in section 143(f)(5) of the Code. See Rev. Proc. 2003-29, page 917.

## Section 103.—Interest on State and Local Bonds

26 CFR 1.103-1: *Interest upon obligations of a State, Territory, etc.*

Guidance is provided with respect to the national and area median gross income figures for use by issuers of qualified mortgage bonds and mortgage credit certificates in determining the housing cost/income ratio described in section 143(f)(5) of the Code. See Rev. Proc. 2003-29, page 917.

## Section 143.—Mortgage Revenue Bonds: Qualified Mortgage Bond and Qualified Veterans' Mortgage Bond

26 CFR 6a.103A-2: *Qualified mortgage bond.*

Guidance is provided with respect to the national and area median gross income figures for use by issuers of qualified mortgage bonds and mortgage credit certificates in determining the housing cost/income ratio described in section 143(f)(5) of the Code. See Rev. Proc. 2003-29, page 917.

## Section 527.—Political Organizations

26 CFR 1.527-2: *Definitions.*  
(Also §§ 6012, 6033, 6104, 6651, and 6652.)

**Reporting requirements for section 527 organizations.** This ruling provides questions and answers regarding the reporting and disclosure requirements for section 527 of the Code. Rev. Rul. 2000-49 modified and superseded.

## Rev. Rul. 2003-49

### ISSUES

On November 2, 2002, Pub. L. 107-276 was enacted, amending § 527 of the Code. The new law amends the reporting and disclosure requirements for tax-exempt political organizations described in § 527 with respect to the following: (1) notice of status, (2) periodic reports of contributions and expenditures, and (3) annual returns. This revenue ruling provides questions and answers relating to the reporting and disclosure requirements for political organizations described in § 527, as amended by Pub. L. 107-276.

### QUESTIONS AND ANSWERS

#### I. *Notice of Status*

Q-1. What is the notice of status requirement for an organization described in § 527?

A-1. Under § 527(i)(1)(A), to be tax-exempt, a political organization is required to give notice electronically to the Service that it is a political organization described in § 527, unless excepted (see Q&A-3).

Q-2. What is the required notice form?

A-2. The required notice form is Form 8871, *Political Organization Notice of Section 527 Status*.

Q-3. Are all political organizations required to file the Form 8871 notice to be tax-exempt?

A-3. No. Under § 527(i)(5) and § 527(i)(6), five types of organizations are not required to file the Form 8871 notice:

(a) Any person required to report under the Federal Election Campaign Act of 1971 (FECA) as a political committee (see 2 U.S.C. § 431(4));

(b) Any political committee of a state or local candidate;

(c) Any state or local committee of a political party;

(d) Any organization that reasonably anticipates that its annual gross receipts will always be less than \$25,000; and

(e) Any organization described in § 501(c) that is subject to § 527(f)(1) because it has made an "exempt function" expenditure.

Q-4. Must a political committee of a state or local candidate be incorporated or otherwise have formal organizational documents to be excepted from the Form 8871 filing requirements?

A-4. No. As discussed in Q&A-13, § 527 does not require political organizations to be incorporated or otherwise have formal organizational documents to qualify as a tax-exempt political organization. Therefore, a political organization need not be incorporated or otherwise have formal organizational documents to qualify for the exception under § 527(i)(5) for political committees of a state or local candidate.

Q-5. Is a political organization required to file Form 8871 if it does not know whether it will have annual gross receipts of \$25,000 or more for any taxable year?

A-5. A newly established political organization is not required to file Form 8871 if it reasonably anticipates that its annual gross receipts will be less than \$25,000 for its first six taxable years. However, if an organization, in fact, does have annual gross receipts of \$25,000 or more for any taxable year, it is required to file Form 8871 within 30 days of receiving \$25,000 in a single taxable year to continue to be tax-exempt.

Q-6. Is the separate segregated fund established under § 527(f)(3) by a § 501(c) organization required to file Form 8871?

A-6. A § 501(c) organization that is not prohibited from participating in political campaign activity has the option of conducting the activity itself or setting up a separate segregated fund. If the § 501(c) organization conducts the activity itself, it is subject to tax under § 527(f)(1) on the lesser of its investment income or the amount of its political expenditures, but it is not required to file Form 8871 pursuant to § 527(i)(5)(A). If the § 501(c) organization establishes a separate segregated fund, the fund is treated as a separate political organization under § 527(f)(3) and does not qualify for the exception under § 527(i)(5)(A). Therefore, unless it meets one of the other exceptions, the separate segregated fund is required to file Form 8871 to be tax-exempt.

Q-7. Is an organization that finances both federal and non-federal election activity required to file the Form 8871 notice to be tax-exempt?

A-7. As a general rule, any political organization (whether or not separately incorporated) that is organized and operated primarily for an exempt function under § 527(e)(2) (see Q&A-22) must file Form 8871 to be tax-exempt unless it meets one of the exceptions discussed above (see Q&A-3), one of which is being required to report under FECA as a political committee. An organization that finances election activity (within the meaning of FECA) for both federal and non-federal elections may establish a political committee to receive contributions and make expenditures for both federal and non-federal election activity. In that case, the organization must register as a political committee and comply with the FECA contribution limitations and reporting requirements. 11 C.F.R. 102.5(a)(1)(ii). Such an organization is, therefore, not required to file Form 8871.

If, however, the organization sets up separate accounts to conduct its federal election activity and its non-federal election activity, the federal account is treated as a separate political committee that is required to register and report under FECA. 11 C.F.R. 102.5(a)(1)(i). The treatment of the federal account as a separate committee is consistent with the organizational requirements for political organizations under § 527, as discussed below in Q&A-13. Accordingly, the separate federal account is not required to file Form 8871. However, a separate non-federal account is not required to register and report under FECA as a political committee. Therefore, a separate non-federal account that is described in § 527(e)(1) is required to file Form 8871 to be tax-exempt.

Q-8. Is a political organization that is required to report to state or local election agencies excepted from the notice requirement?

A-8. Section 527(i) does not except political organizations that file reports with state or local election agencies from the notice of status requirement. Therefore, unless the political organization meets one of the exceptions discussed above in Q&A-3, it must file Form 8871 to be tax-exempt.

Q-9. When must the organization file Form 8871?

A-9. If the political organization seeks tax-exempt status, Form 8871 must be filed within 24 hours after the date on which the organization was established. If the orga-

nization has a material change in any of the information reported on Form 8871, it must file an amended Form 8871 within 30 days of the material change to maintain its tax-exempt status. When the organization terminates its existence, it must file a final Form 8871 within 30 days of termination.

Q-10. What are the methods of filing Form 8871?

A-10. Section 527(i)(1)(A) requires that the Form 8871 be filed electronically. Form 8871 may be filed electronically via the Internal Revenue Service Internet web site (IRS web site) at [www.irs.gov/polorgs](http://www.irs.gov/polorgs) (IRS Keyword: political orgs).

Q-11. Must an organization take any additional steps before filing Form 8871?

A-11. To file Form 8871, the political organization must have its own employer identification number (EIN) even if it has no employees. To obtain an EIN, an organization must file Form SS-4, *Application for Employer Identification Number*, with the Service. See the Form SS-4 Instructions for information on how to get an EIN by telephone.

Q-12. What information must be provided in the Form 8871 notice?

A-12. Under § 527(i)(3), an organization must provide in its Form 8871 notice its name and address (including any business address, if different) and electronic mailing address; its purpose; the names and addresses of its officers, highly compensated employees, contact person, custodian of records, and members of its Board of Directors; the name and address of, and relationship to, any related entities (within the meaning of § 168(h)(4)); and whether it is claiming an exemption from filing Form 8872 as a qualified state or local political organization (within the meaning of § 527(e)(5)) or an exemption from filing Form 990 as a caucus or association of state or local officials.

Q-13. Does § 527(i) change the organizational requirements for § 527 organizations?

A-13. No. Section 527 does not require an organization to have formal organizational documents, such as articles of incorporation. Under § 1.527-2(a)(2) of the Income Tax Regulations, a political organization meets the organizational test if it is organized for the primary purpose of carrying on exempt function activities as defined in § 527. The regulation specifically states that the organization need not be for-

mally chartered or established as a corporation, trust, or association. For example, a separate bank account can qualify as a political organization. See Rev. Rul. 79-11, 1979-1 C.B. 207.

The requirement that a § 527 organization include the names and addresses of its officers, highly compensated employees, and members of its Board of Directors does not change the organizational test for § 527. Section 527(i) does not require political organizations to be organized with Boards of Directors, officers and highly compensated employees. It merely requires the organization to provide their names and addresses if it is so organized.

Q-14. What is a “related entity” for this purpose?

A-14. An entity is a “related entity” within the meaning of § 168(h)(4), which provides that an organization is related to another entity as follows:

(a) The two entities have (i) significant common purposes and substantial common membership or (ii) directly or indirectly substantial common direction or control; or

(b) Either entity owns (directly or through one or more entities) a 50 percent or greater interest in the capital or profits of the other. For this purpose, entities treated as related entities under (a) above shall be treated as one entity.

Q-15. What are “highly compensated employees” for this purpose?

A-15. Highly compensated employees for this purpose are the five employees (other than officers and directors) who are reasonably expected to have the highest annual compensation over \$50,000. Annual compensation includes both cash and non-cash amounts, whether paid currently or deferred.

Q-16. What is a qualified state or local political organization?

A-16. A qualified state or local political organization is a political organization that meets the following requirements:

a. The organization limits its exempt function (see Q&A-22) to the “selection process” (see Q&A-22) relating solely to any state or local public office or office in a state or local political organization;

b. The organization is required under a state law to report to a state agency (and the organization does so) the information that otherwise would be required to be reported on Form 8872. The organization will

meet this requirement even if the state law does not require reporting of the identical information required on the Form 8872, so long as at least the following information is required to be reported under the state law and is reported by the organization:

(a) The name and address of every person who contributes \$500 or more in the aggregate to the organization during the calendar year and the amount of each contribution, and

(b) The name and address of every person to whom the organization makes expenditures aggregating \$800 or more during the calendar year, and the amount of each expenditure.

However, if the state law requires the reporting of any additional information specified in § 527(j)(3) (see Q&A-40), the organization will meet this requirement only if it reports that additional information to the state agency:

(c) The state agency makes the reports filed by the organization publicly available;

(d) The organization makes the reports filed with the state agency publicly available in the manner described in § 6104(d) (see Q&A-44); and

(e) No federal candidate or office holder controls or materially participates in the direction of the organization, solicits contributions to the organization, or directs any of the organization's disbursements.

Q-17. May a political organization that is required under a state law to report to a state agency some, but not all, of its contributions and expenditures that otherwise would be required to be reported on Form 8872 meet the requirements for a qualified state or local political organization?

A-17. Except for contributions or expenditures that are not required to be reported because the state law has a higher threshold for reporting (see Q&A-16), all contributions and expenditures that otherwise would be required to be reported on Form 8872 must be required to be reported under the state law to a state agency (and the organization must so report) for the political organization to meet the requirements of a qualified state or local political organization.

Q-18. May a political organization that conducts activities in more than one state meet the requirements for a qualified state or local political organization?

A-18. A political organization that conducts activities in more than one state that otherwise meets the requirements (see Q&A-16) for a qualified state or local political organization, including the requirement that it limit its exempt function activities to the "selection process" relating solely to any state or local office and not influence or attempt to influence the "selection process" of any individual to federal public office, may be a qualified state or local political organization. To be a qualified state or local political organization, a political organization that conducts activities in more than one state must be required under the laws of one state to report to that state's agency (and the organization must so report) information regarding all of its contributions and expenditures that otherwise would be required to be reported on Form 8872, without regard to whether those contributions or expenditures were received or made within that state. The organization must identify this state on its Form 8871 when claiming an exception from filing Form 8872 as a qualified state or local political organization (see Q&A-12).

Q-19. May a caucus or association of state or local officials be a qualified state or local political organization?

A-19. Yes, a caucus or association of state or local political officials may be a qualified state or local political organization if it meets the requirements (see Q&A-16).

Q-20. What if an organization described in § 527(e)(1) does not file the Form 8871 notice?

A-20. An organization described in § 527(e)(1) must file Form 8871 to be tax-exempt, unless it is an organization described in § 527(i)(5) or § 527(i)(6) (see Q&A-3). If the organization fails to file Form 8871 on a timely basis, § 527(i)(4) provides that, from the date of establishment (or from the date of material change if the organization fails to file an amended Form 8871 (see Q&A-9)) until the date the organization satisfies the notice requirement, the taxable income of the organization includes its exempt function income (including contributions received, membership dues, and political fundraising receipts), minus any deductions directly connected with the production of that income. For purposes of computing its taxable income, the organization may not

deduct its exempt function expenditures because § 162(e) denies a deduction for political campaign expenditures.

Under § 527(b), the tax is computed by multiplying the organization's taxable income (including its net investment income) by the highest corporate tax rate, currently 35 percent. The organization must file a Form 1120-POL to report the income and pay the tax.

Q-21. When is an organization described in § 527(e)(1)?

A-21. An organization is described in § 527(e)(1) if it meets both the organizational and operational tests, that is, it must be organized and operated primarily for the purpose of accepting contributions or making expenditures for an exempt function under § 527(e)(2). See § 1.527-2(a).

Q-22. What is an "exempt function" under § 527(e)(2)?

A-22. "Exempt function" means, under § 527(e)(2), influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed (referred to as the "selection process").

Q-23. Are transfers to political organizations that fail to file Form 8871 subject to the gift tax?

A-23. Section 2501(a)(5) provides that the gift tax does not apply to transfers of money or other property to political organizations within the meaning of § 527(e)(1). Therefore, transfers to an organization described in § 527(e)(1) (see Q&A-21) are not subject to the gift tax, regardless of whether the organization has filed Form 8871.

Q-24. Is the Form 8871 notice publicly available?

A-24. Yes. Under § 6104(a), Form 8871 (including any supporting papers), and any letter or other document the Service issues with regard to Form 8871, will be open to public inspection. Copies of Form 8871 that have been filed are currently available at the IRS web site at [www.irs.gov/polorgs](http://www.irs.gov/polorgs) (IRS Keyword: political orgs) and are considered widely available under § 301.6104(d)-2 of the Procedure and Administration Regulations, as long as the organization provides the IRS web site

address to any person making a request for a copy (see also Q&A-54). In addition, the organization is required to make a copy of these materials available for public inspection during regular business hours at the organization's principal office (and at each of its regional or district offices having at least three paid employees) in the same manner as applications for exemption of § 501(c) organizations are made available. § 6104(d).

Q-25. What is the penalty on the organization for failure to comply with the public inspection requirement?

A-25. Under § 6652(c)(1)(D), a penalty of \$20 per day may be imposed on any person with a duty to comply with the public inspection requirement for each day a failure to comply continues.

## II. Periodic Reporting Requirements

Q-26. What are the periodic reporting requirements imposed upon tax-exempt political organizations?

A-26. Under § 527(j), a tax-exempt political organization is required to report periodically certain contributions it receives and expenditures it makes.

Q-27. What is the required periodic reporting form?

A-27. The required periodic reporting form is Form 8872, *Political Organization Report of Contributions and Expenditures*.

Q-28. When are tax-exempt political organizations required to file periodic reports on Form 8872?

A-28. Under § 527(j)(2), tax-exempt political organizations that accept contributions or make expenditures for an exempt function under § 527 (see Q&A-22) during a calendar year are required to file periodic reports on Form 8872, beginning with the first month or quarter during the calendar year in which they accept contributions or make expenditures, unless excepted (see Q&A-29). For example, a tax-exempt political organization that does not accept contributions or make expenditures for an exempt function under § 527 until April of a particular calendar year is not required to file Form 8872 for the first quarter or first three months of that year (see Q&A-31 through Q&A-36 for filing due dates), but must file all quarterly or monthly reports due for the rest of the calendar year. In addition, tax-exempt political organizations that make contributions or expenditures with

respect to an election for federal office (as defined in § 527(j)(6)) may be required to file pre-election reports for that election.

Q-29. Are all tax-exempt political organizations required to file periodic reports on Form 8872?

A-29. No, § 527(j)(5) provides that certain organizations are not subject to this requirement. The following tax-exempt political organizations are excepted from the filing requirements:

(a) Any organization excepted from the requirement to file a Form 8871 (see Q&A-3); and

(b) Any qualified state or local political organization (see Q&A-16).

All other tax-exempt political organizations are subject to the reporting requirements of § 527(j).

Q-30. Is an organization that reasonably anticipated it would not have annual gross receipts of \$25,000 or more required to file Form 8872 if it, in fact, receives \$25,000 or more in any taxable year?

A-30. An organization that receives \$25,000 in any taxable year no longer qualifies for the exception in § 527(j)(5)(D) and, therefore, must begin filing Form 8872 unless it meets one of the other exceptions discussed in Q&A-29. (See Q&A-5 with respect to Form 8871.) A tax-exempt political organization must file, within 30 days of receiving \$25,000, any Form 8872 that would otherwise have been due during the calendar year prior to that date.

Q-31. How often must the Form 8872 be filed?

A-31. A tax-exempt political organization subject to the periodic reporting requirement may choose to file Form 8872 on a monthly basis or on a quarterly/semi-annual basis, but it must file on the same basis for the entire calendar year.

Q-32. What is an election year and non-election year for purposes of determining the due dates for filing Form 8872?

A-32. An election year is any year in which a regularly scheduled general election for federal office is held, *i.e.*, any even-numbered year. A non-election year is therefore any odd-numbered year.

Q-33. If an organization chooses to file on a monthly basis, when is Form 8872 due in a non-election year?

A-33. Pursuant to § 527(j)(2)(B), a tax-exempt political organization that chooses to file monthly must file Form 8872 reports not later than the 20th day after the

end of the month, which must be complete as of the last day of the month. December activity is included in the year-end report that is due not later than January 31 of the following year.

Q-34. If an organization chooses to file on a monthly basis, when is Form 8872 due during an election year?

A-34. Pursuant to § 527(j)(2)(B), in any election year (*i.e.*, even-numbered years), monthly reports are due not later than the 20th day after the end of the month (see Q&A-33), except the organization shall not file the reports regularly due in November and December (*i.e.*, the monthly reports for activity in October and November). Instead, the organization must file a Form 8872 report not later than 12 days before the general election (or 15 days before the general election if posted by registered or certified mail) that contains information through the 20th day before the general election. The organization must also file a report no more than 30 days after the general election containing information through the 20th day after the election. The December activity is included in the year-end report due not later than January 31 of the following year.

Q-35. If an organization chooses not to file on a monthly basis, when is Form 8872 due in a non-election year?

A-35. Pursuant to § 527(j)(2)(A), a tax-exempt political organization that chooses not to file monthly must file semi-annual reports in non-election years (*i.e.*, odd-numbered years). These reports are due not later than July 31 for the first half of the year and, for the second half of the year, not later than January 31 of the following year.

Q-36. If an organization chooses not to file on a monthly basis, when is Form 8872 due during an election year?

A-36. Pursuant to § 527(j)(2)(A), in an election year (even-numbered years), an organization that chooses not to file monthly reports must file quarterly reports not later than the 15th day after the last day of the quarter, except that the return for the final quarter shall be due not later than January 31 of the following year. The organization must also file a post-general election report not later than 30 days after the general election that contains information through the 20th day after the election. In addition, the organization must file a pre-election report for any election for

federal office with respect to which the organization makes a contribution or expenditure. These reports shall be filed not later than 12 days before the election (15 days before if posted by registered or certified mail) and must contain information through the 20th day before the election.

Q-37. What is an election for purposes of the reporting deadlines under § 527(j)?

A-37. For purposes of determining what is an election year and what elections trigger the pre-election and post-general election reports, § 527(j)(6) provides that an "election" is a general, special, primary, or runoff election for a federal office; a convention or caucus of a political party with authority to nominate a candidate for federal office; a primary election to select delegates to a national nominating convention of a political party; or a primary election to express a preference for the nomination of individuals for election to the office of President. Thus, an election for purpose of these reporting deadlines does not include a purely state or local election. When an election involves both candidates for federal office and candidates for state or local offices, it is an election for purposes of the reporting deadlines, but only those organizations that make contributions or expenditures with respect to the candidates for federal office are required to file the pre-election reports for those elections under § 527(j)(2)(A)(i)(II). However, all reports filed under § 527(j) must contain information about the contributions and expenditures within the reporting period, regardless of whether they were accepted or made with respect to candidates for federal, state, or local office.

Q-38. What is a general election?

A-38. A general election is either one of the following:

(a) An election for federal office held in even numbered years on the Tuesday following the first Monday in November or

(b) An election held to fill a vacancy in a federal office (*i.e.*, a special election) that is intended to result in the final selection of a single individual to the office at stake. See 11 C.F.R. 100.2(b).

Q-39. How will "election" under § 527(j)(6) be interpreted?

A-39. The definition of "election" under § 527(j)(6) is virtually identical to the definition of "election" under FECA (2 U.S.C. § 431(1)). Organizations may rely

on FEC interpretations of the FECA definition in the absence of further guidance from the Service. The FEC publishes information concerning the filing requirements under FECA and the dates for filing those reports, including information on the dates of elections, on its web site at [www.fec.gov](http://www.fec.gov). The Service also publishes this information on the IRS web site at [www.irs.gov/polorgs](http://www.irs.gov/polorgs) (IRS Keyword: political orgs).

Q-40. What must a Form 8872 report contain?

A-40. The report must include the name, address, and (if an individual) the occupation and employer, of any person to whom expenditures are made that aggregate \$500 or more in a calendar year and the amount, date and purpose of each expenditure. The report must also include the name, address, and (if an individual) the occupation and employer, of any person that contributes in the aggregate \$200 or more in a calendar year and the amount and date of each contribution. However, an organization is not required to report independent expenditures, as defined in § 301 of FECA. Only expenditures made or contributions received after July 1, 2000, that are not made or received pursuant to binding contracts entered into before July 2, 2000, must be reported.

Q-41. What is an independent expenditure under § 301 of FECA?

A-41. An independent expenditure is an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate for federal office that is made without cooperation or consultation with any candidate for federal office, or any authorized committee or agent of such candidate, and that is not made in concert with, or at the request or suggestion of, any candidate for federal office, or authorized committee or agent of such candidate. See 2 U.S.C. § 431(17).

Q-42. Where is the Form 8872 filed?

A-42. Except as provided below, the Form 8872 may be filed either electronically or by sending a signed copy of Form 8872 to the Internal Revenue Service Center, Ogden, UT 84201. The form must be signed by an official authorized by the organization to sign the report. The form may be filed electronically at the IRS web site at [www.irs.gov/polorgs](http://www.irs.gov/polorgs) (IRS Keyword: political orgs). For forms due after June 30, 2003, the Form 8872 must be filed elec-

tronically by organizations that have, or expect to have, contributions or expenditures exceeding \$50,000 for the calendar year. Organizations that complete the electronic filing of Form 8871 receive a user ID and password that must be used when filing Form 8872 electronically.

Q-43. What if a tax-exempt political organization that has filed Form 8871 does not file the required Form 8872?

A-43. Under § 527(j)(1), a tax-exempt political organization that does not timely file the required Form 8872, or that fails to include the information required on the Form 8872, must pay an amount calculated by multiplying the amount of contributions and expenditures that are not disclosed by the highest corporate tax rate, currently 35 percent.

Q-44. Is the Form 8872 filed by tax-exempt political organizations publicly available?

A-44. Yes. Under § 6104(b) and § 6104(d)(6), Form 8872 will be made available for public inspection by the Service. Copies of Form 8872 that have been filed are currently available at the IRS web site at [www.irs.gov/polorgs](http://www.irs.gov/polorgs) (IRS Keyword: political orgs) and are considered widely available under § 301.6104(d)-2, as long as the organization provides the IRS web site address to any person making a request for a copy (see also Q&A-54). In addition, under § 6104(d)(1)(A), the organization is required to make a copy of these reports available for public inspection during regular business hours at the organization's principal office (and at each of its regional or district offices having at least three paid employees) in the same manner as applications for exemption of § 501(c) organizations are made available. Pursuant to § 6104(b) and § 6104(d)(3)(A), contributor information must be disclosed to the public.

Q-45. What if the political organization does not make its Form 8872 publicly available?

A-45. Under § 6652(c)(1)(C), a penalty of \$20 per day may be imposed on any person with a duty to comply with the public inspection requirement for each day a failure to comply continues. The maximum penalty that may be incurred for any failure to disclose any one report is \$10,000.

### III. Annual Return Requirements

Q-46. Which political organizations are required to file annual income tax returns?



A-46. A political organization, whether or not tax-exempt, that has taxable income in excess of the \$100 specific deduction allowed under § 527 is required to file an annual income tax return on Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations*. § 6012(a)(6).

Q-47. When is the Form 1120-POL due?

A-47. The Form 1120-POL is due on or before the 15th day of the third month after the close of the organization's taxable year. § 6072(b). Thus, for a calendar-year taxpayer, Form 1120-POL is due on March 15 of the following year. Political organizations may request a six-month extension of the filing deadline by filing Form 7004, *Application for Automatic Extension of Time to File Corporate Income Tax Return*. This form must be filed by the due date of Form 1120-POL.

Q-48. What if the political organization fails to file Form 1120-POL?

A-48. A political organization that fails to timely file a required Form 1120-POL must pay an additional amount equal to 5 percent of the tax due for each month (or partial month) the return is late up to a maximum of 25 percent of the tax due, unless the organization shows that the failure was due to reasonable cause. A political organization that fails to timely pay the tax shown or required to be shown on Form 1120-POL, must pay an additional amount equal to 0.5 percent of the unpaid tax for each month (or partial month) the tax is not paid up to a maximum of 25 percent of the unpaid tax, unless the organization shows that the failure was due to reasonable cause. § 6651(a). (A technical correction may be needed to clarify that penalties under § 6652 that apply to failure to file Form 990 (see Q&A-53) do not apply to a failure to file Form 1120-POL.)

Q-49. Are the Forms 1120-POL filed by political organizations publicly available?

A-49. No, the Forms 1120-POL filed by political organizations are not required to be available for public inspection by the Service or the organization.

Q-50. Which political organizations are required to file an annual information return?

A-50. Only tax-exempt political organizations may be required to file annual information returns. A tax-exempt political organization (other than a qualified state or local political organization) with \$25,000

or more of annual gross receipts is required to file Form 990, *Return of Organization Exempt From Income Tax*, for taxable years beginning after June 30, 2000, unless excepted (see Q&A-51). Qualified state or local political organizations (see Q&A-16) are required to file Form 990 if they have annual gross receipts of \$100,000 or more. § 6033(g)(1). Tax-exempt organizations with gross receipts of less than \$100,000 and assets less than \$250,000 may file Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*. Tax-exempt organizations with gross receipts of less than \$25,000 are not required to file Form 990 or Form 990-EZ.

Q-51. Are all tax-exempt political organizations required to file the Form 990?

A-51. No, § 6033(g)(3) provides that certain organizations are not subject to this requirement. The tax-exempt political organizations excepted from the Form 990 filing requirements are as follows:

(a) Any organization excepted from the requirement to file a Form 8871 (see Q&A-3); and

(b) Any caucus or association of state or local officials.

Q-52. When is the Form 990 due?

A-52. The Form 990 (or Form 990-EZ) is due on or before the 15th day of the fifth month after the close of the organization's taxable year. Thus, for a calendar-year taxpayer, Form 990 is due on May 15 of the following year. Tax-exempt political organizations may request a three-month extension, without showing cause, by filing Form 8868, *Application for Extension of Time to File an Exempt Organization Return*, by the due date of the Form 990. A second three-month extension, with cause, may also be requested by filing Form 8868.

Q-53. What if the political organization fails to file Form 990?

A-53. A political organization that fails to file a required Form 990 or fails to include required information on those returns is subject to a penalty of \$20 per day for every day such failure continues. The maximum penalty imposed regarding any one return is the lesser of \$10,000 or 5 percent of the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding \$1,000,000 for any year, the penalty is increased to \$100 per day with a maximum penalty of \$50,000. § 6652(c)(1)(A).

Q-54. Are the Forms 990 filed by tax-exempt political organizations publicly available?

A-54. Yes, the Forms 990 filed for taxable years beginning after June 30, 2000, including contributor information reported on Schedule B, will be made available for public inspection by the Service. § 6104(b) and § 6104(d)(3)(A). In addition, each political organization must make a copy of these returns, including contributor information reported on Schedule B, available for public inspection during regular business hours at its principal office (and any regional or district offices having at least three paid employees) in the same manner as annual information returns of § 501(c) organizations are made available. It must also provide a copy of these returns to any person requesting a copy in person or in writing without charge other than a reasonable charge for reproduction and postage in the same manner that § 501(c) organizations provide copies of their annual returns. § 6104(d)(1) and § 6104(d)(3)(A). If an organization's returns are widely available under § 301.6104(d)-2 (such as on the Internet), the organization need not respond to requests for copies so long as it provides the web site address where the returns are available to any person making a request. Returns only need to be made available for three years after filing. § 6104(d)(2).

Q-55. What if the tax-exempt political organization does not make its Forms 990 publicly available?

A-55. A penalty of \$20 per day may be imposed on any person with a duty to comply with the public inspection requirement for each day a failure to comply continues. The maximum penalty that may be incurred for any failure to disclose any one return is \$10,000. § 6652(c)(1)(C).

#### IV. General

Q-56. What if the filing date for any of these forms falls on Saturday, Sunday or a holiday?

A-56. If any due date falls on a Saturday, Sunday, or legal holiday, the organization may file the report on the next business day.

Q-57. Where can organizations access the various forms?

A-57. The various forms and their instructions are available by calling 1-800-TAX-FORM (1-800-829-3676) or via the

Internet at the IRS web site at [www.irs.gov](http://www.irs.gov) in the “Forms and Publications” section.

Q–58. What if an organization has questions regarding the notice and reporting requirements?

A–58. For more information, organizations may call the TE/GE Customer Service Center at 1–877–829–5500.

#### EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 2000–49 is modified and superseded.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is Judith E. Kindell of Exempt Organizations. For further information regarding this revenue ruling, contact Judith E. Kindell at (202) 283–8964 (not a toll-free call).

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### Section 6012.—Persons Required to Make Returns of Income

Questions and answers relating to the reporting and disclosure requirements for political organizations described in section 527. See Rev. Rul. 2003–49, page 903.

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### Section 6033.—Returns by Exempt Organizations

Questions and answers relating to the reporting and disclosure requirements for political organizations described in section 527. See Rev. Rul. 2003–49, page 903.

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### Section 6103. —Confidentiality and Disclosure of Returns and Return Information

*26 CFR 301.6103(c)–1: Disclosure of returns and return information to designee of taxpayer.*

## T.D. 9054

### DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 301 and 602

#### Disclosure of Returns and Return Information to Designee of Taxpayer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation and removal of temporary regulation.

SUMMARY: This final regulation relates to the disclosure of returns and return information to a designee of the taxpayer. The regulation provides guidance to IRS employees responsible for disclosing returns and return information and to taxpayers who wish to designate a person or persons to whom returns and return information may be disclosed.

DATES: *Effective Date:* This regulation is effective April 29, 2003.

*Applicability Date:* For dates of applicability, see §301.6103(c)–1(f).

FOR FURTHER INFORMATION CONTACT: Joseph Conley, (202) 622–4580 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

The collections of information contained in this final regulation have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1816.

The collections of information relating to requests for or consents to disclosure of returns and return information are in §301.6103(c)–1(b), (c), and (d). Information provided in a request or consent under paragraph (b) is required by the IRS to identify the return or return information described in the request or consent; to search for and, where found, compile such return or return information; and to identify the person to whom any such return or re-

turn information is to be provided. Information provided in a request under paragraph (c) is required by the IRS to determine the nature and extent of the information or assistance requested by the taxpayer; to determine any return or return information to be disclosed to a third party in order to comply with the taxpayer’s request; and to search for and, where found, to compile any such return or return information. Information provided in a request under paragraph (c)(2) is also required by the IRS to confirm the identity of the taxpayer and the designee. Information provided in a consent under paragraph (d)(1) is required by the IRS to make certain disclosures to an electronic return transmitter or other third party in connection with the taxpayer’s electronic filing of returns or other documents or information, such as disclosures to a transmitter of the IRS’s receipt of a taxpayer’s return and its acceptance or rejection by the IRS. The collections of information in this regulation are not mandatory, but are required if the IRS is to make disclosures to designees under the regulation. The likely respondents are individuals and households; farms, businesses, and other for-profit institutions; non-profit institutions; and small businesses and organizations.

Comments on the collections of information should be sent to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collections of information should be received by June 30, 2003.

Comments on the collections of information are specifically requested concerning the following:

(a) Whether the collections of information are necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

(b) The accuracy of the estimated burden associated with the collections of information (see below);

(c) How the quality, utility, and clarity of the information to be collected may be enhanced;

(d) How the burden of complying with the collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

Portions of the burden for the reporting requirements contained in paragraph (b) will be reflected in IRS Forms 4506, 6847, and 8821, and in the United States Department of Education form entitled "William D. Ford Federal Direct Loan Program Income Contingent Repayment Plan Consent to Disclosure of Tax Information." A portion of the burden for the reporting requirement contained in paragraph (c)(1) will be reflected in the return of the taxpayer. The burden for the reporting requirement contained in paragraph (d)(1) will be reflected in IRS Forms 8453 and 8879 and the income tax return of the taxpayer.

Estimated total annual reporting burden under §301.6103(c)-1(b) for consents not using forms disclosed above: 800 hours.

Estimated annual burden per respondent: 0.2 hours (12 minutes).

Estimated number of respondents: 4,000.

Estimated annual frequency of responses: On occasion.

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

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

## Background

On January 11, 2001, a temporary regulation (T.D. 8935, 2001-1 C.B. 702 [66 FR 2261]) and a cross-referenced notice of proposed rulemaking (REG-103320-00, 2001-1 C.B. 714 [66 FR 2373]) under section 6103(c) of the Internal Revenue Code (Code) were published in the **Federal Register**.

No written comments were received on the proposed regulation. In this Treasury de-

cision, the regulation proposed by REG-103320-00 is adopted as revised in six minor respects.

## Explanation of Provisions

Under section 6103(a), returns and return information are confidential unless disclosure is otherwise authorized by the Code. Section 6103(c), as amended in 1996 by section 1207 of the Taxpayer Bill of Rights II, Public Law 104-168 (110 Stat. 1452), authorizes the IRS to disclose returns and return information to such person or persons as the taxpayer may designate in a request for or consent to disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. Disclosure is permitted subject to such requirements and conditions as may be prescribed by regulations. With the amendment in 1996, Congress eliminated the longstanding requirement that disclosures to designees of the taxpayer must be pursuant to the written request or consent of the taxpayer.

The temporary regulation contained in T.D. 8935 authorized the disclosure of tax returns and return information to a designee of the taxpayer pursuant to a nonwritten request or consent when the taxpayer seeks the assistance of a third party in resolving a tax matter. T.D. 8935 also amended the existing regulation to clarify the rules applicable to written requests or consents to disclosure. The temporary regulation is scheduled to expire on January 10, 2004.

This final regulation adopts the proposed regulation as revised in six minor respects.

Paragraphs (b) and (c) of the proposed regulation permit disclosures of returns or return information to the designee of a taxpayer when the requirements of such paragraphs are met. In the final regulation, paragraphs (b) and (c) have been amended to state that returns or return information may be disclosed in written or nonwritten form. This amendment is intended as a clarification rather than a change in the effect of the regulation.

Paragraph (b) of the proposed regulation concerns disclosures of returns and return information to a designee of the taxpayer pursuant to a written request or consent. Paragraph (b)(1)(i) - (iv) lists four pieces of information that must be included

in the written request or consent (taxpayer identify information, the identity of the person to whom disclosure is to be made, the type of return or return information to be disclosed, and the taxable years covered by the return or return information). The final regulation adds language to paragraph (b) to make clear that, in order to constitute a valid written request or consent, a writing must contain the four pieces of information when it is signed and dated by the taxpayer. A written request or consent is not valid if the taxpayer signs it in blank, *i.e.*, signs the written request or consent with any of the four pieces of information or the date missing, even if another party later adds such information or the date. This addition is intended as a clarification rather than a change in the effect of the regulation.

Paragraph (c)(2) of the proposed regulation concerns disclosures of returns and return information to a designee of the taxpayer pursuant to a nonwritten request or consent. Paragraph (c)(2)(i) sets forth the requirements to be met in order for such disclosures to be authorized. Paragraph (c)(2)(ii) provides two examples of circumstances under which such disclosures may be useful or convenient: a meeting or interview with the IRS to which a taxpayer brings a friend, relative, or other person, and a telephone conversation with the IRS when the taxpayer wishes to involve another person. In the final regulation, a new paragraph (c)(2)(iii) has been added, which states that the taxpayer does not need to be present, either in person or as part of a telephone conversation, for disclosures of returns and return information to be made to the other person under paragraph (c)(2). This addition is intended as a clarification rather than a change in the effect of the regulation.

Paragraphs (d)(1) and (d)(2) of the proposed regulation provide parameters for the development of consents for, respectively, the IRS's electronic filing program and combined Federal-State (FedState) return filing programs. Each of these paragraphs permits the creation of limited purpose disclosure consents that would not otherwise be effective under paragraph (b) (relating to general purpose consents in the form of separate written documents pertaining solely to an authorized disclosure) or paragraph (c) (relating to disclosures to designees to comply with a taxpayer's re-

quest for information or assistance). Accordingly, the last sentence in paragraph (d)(1) of the proposed regulation states that the requirements of paragraphs (b) and (c) do not apply to a consent under paragraph (d)(1). The final regulation deletes such sentence and adds a similar sentence at the beginning of paragraph (d), stating that the requirements of paragraphs (b) and (c) do not apply under paragraph (d). This modification is intended as a clarification rather than a change in the effect of the regulation.

Paragraph (e)(1) of the proposed regulation defines the phrase “separate written document.” (To be valid under paragraph (b), a request for or consent to disclosure must be in the form of a separate written document pertaining solely to the authorized disclosure.) Under paragraph (e)(1)(A), one meaning of the phrase “separate written document” is the text appearing on a sheet of 8½-inch by 11-inch or larger paper. Similarly, under paragraph (e)(1)(B), another meaning of the phrase “separate written document” is the text appearing on a single computer screen containing all the elements described in paragraph (b)(1), which can be signed and dated by the taxpayer, and which can be reproduced if necessary. In the final regulation, paragraphs (e)(1)(A) and (e)(1)(B) have been amended to provide that the text at issue in such paragraphs may appear, respectively, on one or more sheets of 8½-inch by 11-inch or larger paper or on one or more computer screens. This amendment will provide taxpayers and their representatives with additional flexibility in drafting written and electronic consents while continuing to require that language authorizing disclosures of tax information be kept separate and distinct from language regarding other matters.

Paragraph (e)(3) of the proposed regulation provides rules regarding permissible designees. Paragraph (e)(3) has been amended to include an additional sentence stating that when a designee is an individual, this regulation does not authorize disclosures to other individuals associated with such individual, such as employees of such individual or members of such individual’s staff. This modification is intended as a clarification rather than a change in the effect of the regulation.

## Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. This final regulation provides taxpayers with enhanced procedures to resolve problems with the IRS, and it clarifies the requirements for a valid request for or consent to the disclosure of returns or return information. Therefore, notice and public procedure are not required pursuant to 5 U.S.C. 553(b)(B). Moreover, a delayed effective date would be contrary to the public interest and is not required under 5 U.S.C. 553(d). Pursuant to section 7805(f) of the Code, the temporary regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

It is hereby certified that the collection of information in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that any burden on taxpayers is minimal, since the regulation only applies to taxpayers which request or consent to the disclosure of returns or return information, and since the information collected is only that necessary to carry out the disclosure of returns or return information requested or consented to by the taxpayer (such as the name and taxpayer identification number of the taxpayer, the return or return information to be disclosed, and the identity of the designee). Moreover, it is based upon the fact that the regulation reduces the burden imposed upon taxpayers by the prior regulation by clarifying the requirements for and conditions of a request for or consent to disclosure and by permitting certain disclosures pursuant to nonwritten requests or consents. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

## Drafting Information

The principal author of this regulation is Joseph Conley, Office of the Associate Chief Counsel (Procedure and Administration), Disclosure and Privacy Law Division.

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## Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 and 26 CFR part 602 are amended as follows:

### PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

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

Par. 2. Section 301.6103(c)–1 is added to read as follows:

*§301.6103(c)–1 Disclosure of returns and return information to designee of taxpayer.*

(a) *Overview.* Subject to such requirements and conditions as the Secretary may prescribe by regulation, section 6103(c) of the Internal Revenue Code authorizes the Internal Revenue Service to disclose a taxpayer’s return or return information to such person or persons as the taxpayer may designate in a request for or consent to such disclosure, or to any other person at the taxpayer’s request to the extent necessary to comply with the taxpayer’s request to such other person for information or assistance. This regulation contains the requirements that must be met before, and the conditions under which, the Internal Revenue Service may make such disclosures. Paragraph (b) of this section provides the requirements that are generally applicable to designate a third party to receive the taxpayer’s returns and return information. Paragraph (c) of this section provides requirements under which the Internal Revenue Service may disclose information in connection with a taxpayer’s written or nonwritten request for a third party to provide information or assistance with regard to a tax matter, for example, a Congressional inquiry. Paragraph (d) of this section provides the parameters for disclosure consents connected with electronic return filing programs and combined Federal-State filing. Finally, paragraph (e) of this section provides definitions and general rules related to requests for or consents to disclosure.

(b) *Disclosure of returns and return information to person or persons designated in a written request or consent—(1) General requirements.* Pursuant to section 6103(c) of the Internal Revenue Code, the Internal Revenue Service (or an agent or

contractor of the Internal Revenue Service) may disclose a taxpayer's return or return information (in written or nonwritten form) to such person or persons as the taxpayer may designate in a request for or consent to such disclosure. A request for or consent to disclosure under this paragraph (b) must be in the form of a separate written document pertaining solely to the authorized disclosure. (For the meaning of separate written document, see paragraph (e)(1) of this section.) The separate written document must be signed (see paragraph (e)(2) of this section) and dated by the taxpayer who filed the return or to whom the return information relates. At the time it is signed and dated by the taxpayer, the written document must also indicate—

- (i) The taxpayer's taxpayer identity information described in section 6103(b)(6);
- (ii) The identity of the person or persons to whom the disclosure is to be made;
- (iii) The type of return (or specified portion of the return) or return information (and the particular data) that is to be disclosed; and
- (iv) The taxable year or years covered by the return or return information.

(2) *Requirement that request or consent be received within sixty days of when signed and dated.* The disclosure of a return or return information authorized by a written request for or written consent to the disclosure shall not be made unless the request or consent is received by the Internal Revenue Service (or an agent or contractor of the Internal Revenue Service) within 60 days following the date upon which the request or consent was signed and dated by the taxpayer.

(c) *Disclosure of returns and return information to designee of taxpayer to comply with a taxpayer's request for information or assistance.* If a taxpayer makes a written or nonwritten request, directly to another person or to the Internal Revenue Service, that such other person (for example, a member of Congress, friend, or relative of the taxpayer) provide information or assistance relating to the taxpayer's return or to a transaction or other contact between the taxpayer and the Internal Revenue Service, the Internal Revenue Service (or an agent or contractor of the Internal Revenue Service or a federal government agency performing a federal tax administration function) may disclose returns or return information (in written or

nonwritten form) to such other person under the circumstances set forth in paragraphs (c)(1) through (3) of this section.

(1) *Written request for information or assistance.* (i) The taxpayer's request for information or assistance may be in the form of a letter or other written document, which must be signed (see paragraph (e)(2) of this section) and dated by the taxpayer. The taxpayer must also indicate in the written request—

- (A) The taxpayer's taxpayer identity information described in section 6103(b)(6);
- (B) The identity of the person or persons to whom disclosure is to be made; and
- (C) Sufficient facts underlying the request for information or assistance to enable the Internal Revenue Service to determine the nature and extent of the information or assistance requested and the returns or return information to be disclosed in order to comply with the taxpayer's request.

(ii) A person who receives a copy of a taxpayer's written request for information or assistance but who is not the addressee of the request, such as a member of Congress who is provided with a courtesy copy of a taxpayer's letter to another member of Congress or to the Internal Revenue Service, cannot receive returns or return information under paragraph (c)(1) of this section.

(2) *Nonwritten request or consent.* (i) A request for information or assistance may also be nonwritten. Disclosure of returns and return information to a designee pursuant to a taxpayer's nonwritten request will be made only after the Internal Revenue Service has—

- (A) Obtained from the taxpayer sufficient facts underlying the request for information or assistance to enable the Internal Revenue Service to determine the nature and extent of the information or assistance requested and the return or return information to be disclosed in order to comply with the taxpayer's request;
- (B) Confirmed the identity of the taxpayer and the designee; and
- (C) Confirmed the date, the nature, and the extent of the information or assistance requested.

(ii) Examples of disclosures pursuant to nonwritten requests for information or assistance under this paragraph (c)(2) include, but are not limited to, disclosures to a friend, relative, or other person whom the

taxpayer brings to an interview or meeting with Internal Revenue Service officials, and disclosures to a person whom the taxpayer wishes to involve in a telephone conversation with Internal Revenue Service officials.

(iii) As long as the requirements of this paragraph (c)(2) are met, the taxpayer does not need to be present, either in person or as part of a telephone conversation, for disclosures of returns and return information to be made to the other person.

(3) *Rules applicable to written and nonwritten requests for information or assistance.* A return or return information will be disclosed to the taxpayer's designee as provided by this paragraph only to the extent considered necessary by the Internal Revenue Service to comply with the taxpayer's request or consent. Such disclosures shall not be made unless the request or consent is received by the Internal Revenue Service, its agent or contractor, or a federal government agency performing a federal tax administration function in connection with a request for advice or assistance relating to such function. This paragraph (c) does not apply to disclosures to a taxpayer's representative in connection with practice before the Internal Revenue Service (as defined in Treasury Department Circular No. 230, 31 CFR Part 10). For disclosures in these cases, see section 6103(e)(6) and §§601.501 through 601.508 of this chapter.

(d) *Acknowledgments of electronically filed returns and other documents; combined filing programs with state tax agencies.* The requirements of paragraphs (b) and (c) of this section do not apply to this paragraph (d).

(1) *Acknowledgment of, and notices regarding, electronically filed returns and other documents.* When a taxpayer files returns or other documents or information with the Internal Revenue Service electronically, the taxpayer may consent to the disclosure of return information to the transmitter or other third party, such as the taxpayer's financial institution, necessary to acknowledge that the electronic transmission was received and either accepted or rejected by the Internal Revenue Service, the reason for any rejection, and such other information as the Internal Revenue Service determines is necessary to the operation of the electronic filing program. The consent must inform the taxpayer of the re-

turn information that will be transmitted and to whom disclosure will be made.

(2) *Combined return filing programs with state tax agencies.* (i) A taxpayer's participation in a combined return filing program between the Internal Revenue Service and a State agency, body, or commission (State agency) described in section 6103(d)(1) constitutes a consent to the disclosure by the Internal Revenue Service, to the State agency, of taxpayer identity information, signature, and items of common data contained on the return. For purposes of this paragraph, common data means information reflected on the federal return required by state law to be attached to or included on the state return. Instructions accompanying the forms or published procedures involved in such program must indicate that by participating in the program, the taxpayer is consenting to the Internal Revenue Service's disclosure to the State agency of the taxpayer identity information, signature, and items of common data, and that such information will be treated by the State agency as if it had been directly filed with the State agency. Such instructions or procedures must also describe any verification that takes place before the taxpayer identity information, signature and common data is transmitted by the Internal Revenue Service to the State agency.

(ii) No disclosures may be made under this paragraph (d)(2) unless there are provisions of state law protecting the confidentiality of such items of common data.

(e) *Definitions and rules applicable to this section—*(1) *Separate written document.* (i) For the purposes of paragraph (b) of this section, *separate written document* means—

(A) Text appearing on one or more sheets of 8½-inch by 11-inch or larger paper, each of which pertains solely to the authorized disclosure, so long as such sheet or sheets, taken together, contain all the elements described in paragraph (b)(1) of this section;

(B) Text appearing on one or more computer screens, each of which pertains solely to the authorized disclosure, so long as such screen or, taken together, such screens—

(1) contain all the elements described in paragraph (b)(1) of this section,

(2) can be signed (see paragraph (e)(2) of this section) and dated by the taxpayer, and

(3) can be reproduced, if necessary; or

(C) A consent on the record in an administrative or judicial proceeding, or a transcript of such proceeding recording such consent, containing the information required under paragraph (b)(1) of this section.

(ii) A provision included in a taxpayer's application for a loan or other benefit authorizing the grantor of the loan or other benefit to obtain any financial information, including returns or return information, from any source as the grantor may request for purposes of verifying information supplied on the application, does not meet the requirements of paragraph (b)(1) of this section because the provision is not a separate written document relating solely to the disclosure of returns and return information. In addition, the provision does not contain the other information specified in paragraph (b)(1) of this section.

(2) *Method of signing.* A request for or consent to disclosure may be signed by any method of signing the Secretary has prescribed pursuant to §301.6061-1(b) in forms, instructions, or other appropriate guidance.

(3) *Permissible designees and public forums.* Permissible designees under this section include individuals; trusts; estates; corporations; partnerships; federal, state, local and foreign government agencies or subunits of such agencies; or the general public. When disclosures are to be made in a public forum, such as in a courtroom or congressional hearing, the request for or consent to disclosure must describe the circumstances surrounding the public disclosure, e.g., congressional hearing, judicial proceeding, media, and the date or dates of the disclosure. When a designee is an individual, this section does not authorize disclosures to other individuals associated with such individual, such as employees of such individual or members of such individual's staff.

(4) *Authority to execute a request for or consent to disclosure.* Any person who may

obtain returns under section 6103(e)(1) through (5), except section 6103(e)(1)(D)(iii), may execute a request for or consent to disclose a return or return information to third parties. For taxpayers that are legal entities, such as corporations and municipal bond issuers, any officer of the entity with authority under applicable state law to legally bind the entity may execute a request for or consent to disclosure. A person described in section 6103(e)(6) (a taxpayer's representative or individual holding a power of attorney) may not execute a request for or consent to disclosure unless the designation of representation or power of attorney specifically delegates such authority. A designee pursuant to this section does not have authority to execute a request for or consent to disclosure permitting the Internal Revenue Service to disclose returns or return information to another person.

(5) *No disclosure of return information if impairment.* A disclosure of return information shall not be made under this section if the Internal Revenue Service determines that the disclosure would seriously impair federal tax administration (as defined in section 6103(b)(4) of the Internal Revenue Code).

(f) *Effective date.* This section is applicable on April 29, 2003.

### §301.6103(c)-1T [Removed]

Par. 3. Section 301.6103(c)-1T is removed.

### PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In §602.101, paragraph (b) is revised as follows:

1. The following entry to the table is removed:

§602.101 OMB Control numbers.

\* \* \* \* \*

(b) \* \* \*

CFR part or section where identified and described	Current OMB control No.
*****	
301.6103(c)-1 .....	1545-0280
*****	

2. The following entry is added in numerical order to the table:

§602.101 OMB Control numbers. (b) \* \* \*  
\* \* \* \* \*

CFR part or section where identified and described	Current OMB control No.
*****	
301.6103(c)-1 .....	1545-1816
*****	

David A. Mader,  
Assistant Deputy Commissioner  
of Internal Revenue.

Approved April 9, 2003.

Pamela F. Olson,  
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on April 28, 2003, 8:45 a.m., and published in the issue of the Federal Register for April 29, 2003, 68 F.R. 22596)

### Section 6695.—Other Assessable Penalties With Respect to the Preparation of Income Tax Returns for Other Persons

26 CFR 1.6996-1: Other assessable penalties with respect to the preparation of income tax returns for other persons.

T.D. 9053

### DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR part 1

#### Tax Return Preparers — Electronic Filing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations to facilitate electronic filing by tax return preparers. The existing regulations, which contain references to manually signed returns, have resulted in uncertainty over whether preparers must produce manually signed, paper copies of returns for taxpayers and for the preparers' records. The temporary regulations clarify that preparers may avoid paper copies by retaining and furnishing to taxpayers copies of returns in electronic or digital format prescribed by the Commissioner.

DATES: *Effective Date:* These regulations are effective by April 24, 2003.

*Applicability Date:* For dates of applicability, see §1.6107-2T(b) and §1.6695-1T(b)(5).

FOR FURTHER INFORMATION CONTACT: Richard Charles Grosenick, (202) 622-7940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

#### Background

This document contains temporary regulations that amend the Income Tax Regulations (26 CFR part 1) under sections 6107 and 6695 of the Internal Revenue Code (Code) to facilitate electronic filing and recordkeeping by tax return preparers. Section 6695 of the Code imposes various penalties on tax return preparers, including a penalty for failure to sign the returns that they prepare. Originally, the regulations under section 6695 contemplated only manually signed (*i.e.*, paper) returns. Although the regulations under section 6695 were amended in 1996 to permit tax return preparers to sign and file returns electronically in the manner prescribed by the Secretary (see T.D. 8689, 1997-1 C.B. 214 [61 FR 65319]) (Dec. 12, 1996), §1.6695-1(b) of the regulations continues to refer to manually signed returns and copies. Those references have resulted in uncertainty over whether preparers must produce manually signed, paper copies of returns to satisfy their obligations under section 6107 to provide copies of returns to taxpayers and keep copies of returns in their records.

These temporary regulations eliminate the references to manually signed returns in §1.6695-1(b). In addition, they provide that the Commissioner may prescribe, in forms, instructions, or other appropriate guidance, the manner in which preparers may satisfy their obligations under section 6107 to furnish returns to taxpay-

### Section 6104.—Publicity of Information Required From Certain Exempt Organizations and Certain Trusts

Questions and answers relating to the reporting and disclosure requirements for political organizations described in section 527. See Rev. Rul. 2003-49, page 903.

### Section 6651.—Failure to File Tax Return or to Pay Tax

Questions and answers relating to the reporting and disclosure requirements for political organizations described in section 527. See Rev. Rul. 2003-49, page 903.

### Section 6652.—Failure to File Certain Information Returns, Registration Statements, etc.

Questions and answers relating to the reporting and disclosure requirements for political organizations described in section 527. See Rev. Rul. 2003-49, page 903.

ers and to retain copies of returns. These changes and the applicable forms, instructions, and guidance clarify that preparers may maintain electronic (paperless) filing systems.

### Special Analyses

It has been determined that this temporary regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation and, because the regulation does not impose a collection of information on small entities, that the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Drafting Information

The principal author of this regulation is Richard Charles Grosenick, Office of Assistant Chief Counsel (Administrative Provisions & Judicial Practice). However, other personnel from the IRS and the Treasury Department participated in its development.

\* \* \* \* \*

### Adoption of Amendment to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.6695-1T also issued under 26 U.S.C. 6695(b). \* \* \*

Par. 2. Section 1.6107-2T is added to read as follows:

*§1.6107-2T Form and manner of furnishing copy of return and retaining copy or record.*

(a) *In general.* The Commissioner may prescribe the form and manner of satisfying the requirements imposed by section

6107(a) and (b) and §1.6107-1(a) and (b) in forms, instructions, or other appropriate guidance.

(b) *Effective date.* To the extent this section relates to section 6107(a) and §1.6107-1(a), it applies to income tax returns and claims for refund presented to a taxpayer for signature after December 31, 2002. To the extent this section relates to section 6107(b) and §1.6107-1(b), it applies after December 31, 2002, to returns and claims for refund for which the 3-year period described in section 6107(b) expires after December 31, 2002.

Par. 3. Section 1.6695-1 is amended by revising paragraph (b) to read as follows:

*§1.6695-1 Other assessable penalties with respect to the preparation of income tax returns for other persons.*

\* \* \* \* \*

(b) [Reserved]. For further guidance, see §1.6695-1T(b).

\* \* \* \* \*

Par. 4. Section 1.6695-1T is added to read as follows:

*§1.6695-1T Other assessable penalties with respect to the preparation of income tax returns for other persons.*

(a) [Reserved]. For further guidance, see §1.6695-1(a).

(b) *Failure to sign return.* (1) An individual who is an income tax return preparer with respect to a return of tax under subtitle A of the Internal Revenue Code or claim for refund of tax under subtitle A of the Internal Revenue Code shall sign the return or claim for refund after it is completed and before it is presented to the taxpayer (or nontaxable entity) for signature. If the preparer is unavailable for signature, another preparer shall review the entire preparation of the return or claim for refund, and then shall sign the return or claim for refund. The preparer shall sign the return in the manner prescribed by the Commissioner in forms, instructions, or other appropriate guidance.

(2) If more than one income tax return preparer is involved in the preparation of the return or claim for refund, the individual preparer who has the primary responsibility as between or among the preparers for the overall substantive accuracy of the preparation of such return or claim for refund shall be considered to be

the income tax return preparer for purposes of this paragraph.

(3) The application of this paragraph is illustrated by the following examples:

*Example 1.* X law firm employs Y, a lawyer, to prepare for compensation returns and claims for refund of taxes. X is employed by T, a taxpayer, to prepare his federal tax return. X assigns Y to prepare T's return. Y obtains the information necessary for completing the return from T and makes determinations with respect to the proper application of the tax laws to such information in order to determine T's tax liability. Y then forwards such information to C, a computer tax service which performs the mathematical computations and prints the return by means of computers. C then sends the completed return to Y who reviews the accuracy of the return. Y is the individual preparer who is primarily responsible for the overall accuracy of T's return. Y must sign the return as preparer.

*Example 2.* X partnership is a national accounting firm which prepares for compensation returns and claims for refund of taxes. A and B, employees of X, are involved in preparing the tax return of T Corporation. After they complete the return, including the gathering of the necessary information, the proper application of the tax laws to such information, and the performance of the necessary mathematical computations, C, a supervisory employee of X, reviews the return. As part of this review, C reviews the information provided and the application of the tax laws to this information. The mathematical computations and carried-forward amounts are proved by D, an employee of X's comparing and proving department. The policies and practices of X require that P, a partner, finally review the return. The scope of P's review includes reviewing the information provided by applying to this information his knowledge of T's affairs, observing that X's policies and practices have been followed, and making the final determination with respect to the proper application of the tax laws to determine T's tax liability. P may or may not exercise these responsibilities, or may exercise them to a greater or lesser extent, depending on the degree of complexity of the return, his confidence in C (or A and B), and other factors. P is the individual preparer who is primarily responsible for the overall accuracy of T's return. P must sign the return as preparer.

*Example 3.* C corporation maintains an office in Seattle, Washington, for the purpose of preparing for compensation returns and claims for refund of taxes. C makes compensatory arrangements with individuals (but provides no working facilities) in several states to collect information from taxpayers and to make determinations with respect to the proper application of the tax laws to the information in order to determine the tax liabilities of such taxpayers. E, an individual, who has such an arrangement in Los Angeles with C, collects information from T, a taxpayer, and completes a worksheet kit supplied by C which is stamped with E's name and an identification number assigned to E by C. In this process, E classifies this information in appropriate income and deduction categories for the tax determination. The completed worksheet kit signed by E is then mailed to C. D, an employee in C's office, reviews the worksheet kit to make sure it was properly completed. D does not review the information obtained from T for its validity or accuracy. D may, but did not, make the



final determination with respect to the proper application of tax laws to the information. The data from the worksheet is entered into a computer and the return form is completed. The return is prepared for submission to T with filing instructions. E is the individual preparer primarily responsible for the overall accuracy of T's return. E must sign the return as preparer.

*Example 4.* X employs A, B, and C to prepare income tax returns for taxpayers. After A and B have collected the information from the taxpayer and applied the tax laws to the information, the return form is completed by computer service. On the day the returns prepared by A and B are ready for their signatures, A is away from the city for 1 week on another assignment and B is on detail to another office for the day. C may sign the returns prepared by A, provided that (i) C reviews the information obtained by A relative to the taxpayer, and (ii) C reviews the preparation of each return prepared by A. C may not sign the returns prepared by B because B is available.

(4) An individual required by this paragraph (b) to sign a return or claim for refund shall be subject to a penalty of \$50 for each failure to sign, with a maximum of

\$25,000 per person imposed with respect to each calendar year, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. If the preparer asserts reasonable cause for failure to sign, the Internal Revenue Service will require a written statement in substantiation of the preparer's claim of reasonable cause. For purposes of this paragraph (b), reasonable cause is a cause which arises despite ordinary care and prudence exercised by the individual preparer. Thus, no penalty may be imposed under section 6695(b) and this paragraph (b) upon a person who is an income tax return preparer solely by reason of—

(i) Section 301.7701-15(a)(2) and (b) of this chapter on account of having given advice on specific issues of law; or

(ii) Section 301.7701-15(b)(3) of this chapter on account of having prepared the

return solely because of having prepared another return which affects amounts reported on the return.

(5) *Effective date.* This paragraph (b) applies to income tax returns and claims for refund presented to a taxpayer for signature after December 31, 2002.

(c) through (f) [Reserved]. For further guidance, see §1.6695-1(c) through (f).

David A. Mader,  
*Assistant Deputy Commissioner  
of Internal Revenue.*

Approved April 7, 2003.

Pamela F. Olson,  
*Assistant Secretary of the Treasury.*

(Filed by the Office of the Federal Register on April 23, 2003, 8:45 a.m., and published in the issue of the Federal Register for April 24, 2003, 68 F.R. 20069)

## Part III. Administrative, Procedural, and Miscellaneous

### Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2003

#### Notice 2003-29

This notice publishes the inflation adjustment factor and reference prices for calendar year 2003 for the renewable electricity production credit under § 45(a) of the Internal Revenue Code. The 2003 inflation adjustment factor and reference prices are used in determining the availability of the credit. The 2003 inflation adjustment factor and reference prices apply to calendar year 2003 sales of kilowatt-hours of electricity produced in the United States or a possession thereof from qualified energy resources.

#### BACKGROUND

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

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

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

ber 31, 1999 (in the case of a facility using poultry waste to produce electricity), and before January 1, 2004. See § 45(d)(7) for rules relating to the inapplicability of the credit to electricity sold to utilities under certain contracts.

Section 45(d)(2)(A) requires the Secretary to determine and publish in the Federal Register each calendar year the inflation adjustment factor and the reference prices for the calendar year. The inflation adjustment factor and the reference prices for the 2003 calendar year were published in the Federal Register on April 17, 2003, (68 Fed. Reg. 19073).

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

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

#### INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICES

The inflation adjustment factor for calendar year 2003 is 1.2048. The reference prices for calendar year 2003 are 4.85 cents per kilowatt-hour for facilities producing electricity from wind energy resources and 0 cents per kilowatt-hour for facilities producing electricity from closed-loop biomass and poultry waste energy resources.

#### PHASE-OUT CALCULATION

Because the 2003 reference prices for electricity produced from wind, closed-loop biomass, and poultry waste energy resources do not exceed 8 cents per kilowatt hour multiplied by the inflation adjustment factor, the phaseout of the credit pro-

vided in § 45(b)(1) does not apply to electricity produced from wind, closed-loop biomass, or poultry waste energy resources sold during calendar year 2003.

#### CREDIT AMOUNT

As required by § 45(b)(2), the 1.5¢ amount in § 45(a)(1) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1¢, such amount is rounded to the nearest multiple of 0.1¢. Under the calculation required by § 45(b)(2), the renewable electricity production credit for calendar year 2003 is 1.8¢ per kilowatt hour on the sale of electricity produced from wind energy, closed-loop biomass, and poultry waste resources.

#### DRAFTING INFORMATION

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

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*26 CFR 601.601: Rules and Regulations.  
(Also Part I, §§ 25, 103, 143; 1.25-4T, 1.103-1, 6a.103A-2.)*

### Rev. Proc. 2003-29

#### SECTION 1. PURPOSE

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

#### SECTION 2. BACKGROUND

.01 Section 103(a) provides that, except as provided in § 103(b), gross income does not include interest on any state or local bond. Section 103(b)(1) provides that § 103(a) shall not apply to any private activity bond that is not a qualified

bond (within the meaning of § 141). Section 141(e) provides that the term “qualified bond” includes any private activity bond that (1) is a qualified mortgage bond, (2) meets the volume cap requirements under § 146, and (3) meets the applicable requirements under § 147.

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

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

.04 Section 143(f)(4) provides that the term “applicable median family income” means the greater of (A) the area median gross income for the area in which the resi-

dence is located, or (B) the statewide median gross income for the state in which the residence is located.

.05 Section 143(f)(5) provides for an upward adjustment of the income limitations in certain high housing cost areas. Under § 143(f)(5)(C), a high housing cost area is a statistical area for which the housing cost/income ratio is greater than 1.2. The housing cost/income ratio is determined under § 143(f)(5)(D) by dividing (a) the applicable housing price ratio by (b) the ratio that the area median gross income bears to the median gross income for the United States. The applicable housing price ratio is the new housing price ratio (new housing average purchase price for the area divided by the new housing average purchase price for the United States) or the existing housing price ratio (existing housing average area purchase price divided by the existing housing average purchase price for the United States), whichever results in the housing cost/income ratio being closer to 1. This income adjustment applies only to bonds issued, and nonissued bond amounts elected, after December 31, 1988. *See* Technical and Miscellaneous Revenue Act of 1988, § 4005(h), 1988-3 C.B. 1, 311 (1988).

.06 The Department of Housing and Urban Development (HUD) has computed the median gross income for the United States, the states, and statistical areas within the states. The income information was released to the HUD regional offices on February 20, 2003, and may be obtained by calling the HUD reference service at 1-800-245-2691. The income information is also available at HUD’s World Wide Web site, <http://huduser.org/datasets/il.html>, which provides a menu from which you may select the year and type of data of interest. The Internal Revenue Service annually publishes only the median gross income for the United States.

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

### SECTION 3. APPLICATION

.01 When computing the housing cost/income ratio under § 143(f)(5), issuers of qualified mortgage bonds and mortgage credit certificates must use \$56,500 as the median gross income for the United States. *See* § 2.06 of this revenue procedure.

.02 When computing the housing cost/income ratio under § 143(f)(5), issuers of qualified mortgage bonds and mortgage credit certificates must use the area median gross income figures released by HUD on February 20, 2003. *See* § 2.06 of this revenue procedure.

### SECTION 4. EFFECT ON OTHER REVENUE PROCEDURES

.01 Rev. Proc. 2002-24, 2002-1 C.B. 798, is obsolete except as provided in § 5.02 of this revenue procedure.

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

### SECTION 5. EFFECTIVE DATES

.01 Issuers must use the United States and area median gross income figures specified in section 3 of this revenue procedure for commitments to provide financing that are made, or (if the purchase precedes the financing commitment) for residences that are purchased, in the period that begins on February 20, 2003, and ends on the date when these United States and area median gross income figures are rendered obsolete by a new revenue procedure.

.02 Notwithstanding section 5.01 of this revenue procedure, issuers may continue to rely on the United States and area median gross income figures specified in Rev. Proc. 2002-24 with respect to bonds originally sold and nonissued bond amounts elected not later than June 18, 2003, if the commitments or purchases described in § 5.01 are made not later than August 17, 2003.

### DRAFTING INFORMATION

The principal author of this revenue procedure is Zoran Stojanovic of the Office of Assistant Chief Counsel (Exempt Organizations/Employment Tax/Government Entities). For further information regarding this revenue procedure, contact Mr. Stojanovic at (202) 622-3980 (not a toll-free call).

# Gaming Industry Tip Compliance Agreement Program

## Rev. Proc. 2003-35

### SECTION 1. PURPOSE

The Gaming Industry Tip Compliance Agreement Program is designed to promote compliance by the gaming industry employers and employees with the provisions of the Internal Revenue Code relating to tip income and to reduce disputes under section 3121(q).

### SECTION 2. OVERVIEW

Under the Gaming Industry Tipping Agreement Program, a gaming industry employer and the Internal Revenue Service may work together to reach a Gaming Industry Tip Compliance Agreement that objectively establishes minimum tip rates for tipped employees in specified occupational categories, prescribes a threshold level of participation by the employer's employees, and reduces compliance burdens for the employer and enforcement burdens for the Service.

### SECTION 3. EMPLOYER PARTICIPATION

.01 All employers operating a gaming establishment may participate in the Gaming Industry Tip Compliance Agreement Program. Either the Service or an employer may suggest the employer's potential participation in the program.

.02 The Service's decision to refuse participation by any employer in this program is not subject to review and will not deprive the employer of any rights under Internal Revenue Service procedures.

### SECTION 4. GAMING INDUSTRY TIP COMPLIANCE AGREEMENTS

.01 To participate in this program, an employer must execute a Gaming Industry Tip Compliance Agreement. The Gaming Industry Tip Compliance Agreement shall conform with all requirements of this revenue procedure and will use the form appended to this revenue procedure as Exhibit 1.

.02 An executed Gaming Industry Tip Compliance Agreement shall supersede all existing tip compliance agreements between an employer and the Service. An employer under any gaming industry tip compliance agreement, including a Tip Rate Determination Agreement, may request to change to a Gaming Industry Tip Compliance Agreement.

.03 In general, Gaming Industry Tip Compliance Agreements shall be for a term of three years. For new properties and for properties that do not have a prior agreement with the Service, however, the initial term of the Agreement may be for a shorter period.

.04 All Gaming Industry Tip Compliance Agreements may be renewed for additional terms of up to three years, in accordance with Section IX. of the form Gaming Industry Tip Compliance Agreement. Beginning not later than six months prior to the termination date of a Gaming Industry Tip Compliance Agreement, the Service and the employer shall commence discussions as to any appropriate revisions to the agreement, including any appropriate revisions to the tip rates described in Section VIII. of the form Gaming Industry Tip Compliance Agreement. In the event that the Service and the employer have not reached final agreement on the terms and conditions of a renewal agreement, the parties may, by mutual agreement, extend the existing agreement for an appropriate time to finalize and execute a renewal agreement.

.05 Decisions regarding renewal of a Gaming Industry Tip Compliance Agreement are not subject to review.

### SECTION 5. DEEMED COMPLIANCE WITH SECTION 6053.

An employer who complies with the reporting requirements of Section V. of its Gaming Industry Tip Compliance Agreement, and participating employees of the employer who report in accordance with the agreement, will be deemed to be in compliance with the reporting requirements of section 6053 of the Internal Revenue Code for the taxable periods during which the agreement remains in effect.

### SECTION 6. EFFECTIVE DATE

This revenue procedure is effective May 1, 2003.

### SECTION 7. PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-1530. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information in this revenue procedure is in the section titled GAMING INDUSTRY TIP COMPLIANCE AGREEMENTS. This information is required to evaluate the suitability of the Gaming Industry Tip Compliance Agreement Program for the particular taxpayer and to assess the validity of the proposed tip rates. The collection of information is required to obtain the benefits described in this revenue procedure. The likely respondents are businesses or other for-profit institutions.

The estimated total annual reporting burden is 6100 hours.

The estimated annual burden per respondent is an average of 10 hours, depending on individual circumstances. The estimated number of respondents is 610.

The estimated frequency of responses is 1 time per year per respondent.

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

### SECTION 8. CONTACT INFORMATION

A taxpayer that wants to participate in the Gaming Industry Tip Compliance Agreement Program, or that has questions about the program, may contact Thomas Burger at (202) 622-3704 (not a toll-free number) or by email at [thomas.r.burger@irs.gov](mailto:thomas.r.burger@irs.gov) or Jason Spitzer at (202) 622-7940 (not a toll-free number) or by email at [jason.a.spitzer@irs.counsel.treas.gov](mailto:jason.a.spitzer@irs.counsel.treas.gov).

Exhibit 1

Gaming Industry Tip Compliance Agreement

I. PARTIES

The parties to this Agreement are \_\_\_\_\_ (hereinafter "Employer") and the Commissioner of the Internal Revenue Service (hereinafter "Service"; collectively "the parties"). This Agreement will establish tip rates for all Participating Employees of the Employer. This Agreement is pursuant to Rev. Proc. 2003-35.

II. APPENDICES

The parties have agreed to:

- A. The Occupational Categories, available shifts, and tip rates for all participating employees of the Employer, set forth in Appendix A,
- B. A Narrative Summary of Tip Rate Calculation Methodology (specific to the Employer), set forth in Appendix B,
- C. The Model Gaming Employee Tip Reporting Agreement, set forth in Appendix C, and
- D. The Model Extension Agreement, set forth in Appendix D.

III. INTENDED BENEFICIARIES

The Participating Employees of the Employer are intended beneficiaries of this Agreement.

IV. EMPLOYEE PARTICIPATION

- A. For purposes of this Agreement, an "Eligible Employee" means an individual who:
  - (1) performs a job function in an Occupational Category described in Appendix A of this Agreement, and;
  - (2) regularly and routinely receives tips, directly or indirectly, of at least \$20 per month during the course of his or her employment.
- B. A "Participating Employee" is an Eligible Employee who:
  - (1) filed, if required to do so by law, federal income tax returns for the three taxable years that precede the Effective Date of this Agreement or, if he or she has not filed, files these returns prior to signing the Model Gaming Employee Tip Reporting Agreement provided in Appendix C of this Agreement;
  - (2) gives to the Employer a signed Model Gaming Employee Tip Reporting Agreement;
  - (3) reports and continues to report his or her tips to the Employer at or above the "tip rates" set forth in Section VIII. of this Agreement, except as provided by paragraph E of this section; and
  - (4) timely files federal income tax returns that report those tips.
- C. An Eligible Employee who has filed federal income tax returns for the three taxable years that precede the Effective Date of this Agreement but has not fully paid the tax liability reported on such returns, or has additional tax liability due to, for example, a completed examination of such returns or the filing of amended returns, may participate in this program. To participate, however, he or she must contact the local office of the Service within the later of 60 days of electing to become a Participating Employee under this Agreement or 60 days of commencing employment to resolve his or her tax liability.
- D. For purposes of this Agreement, a "Nonparticipating Employee" is any Eligible Employee who is not a Participating Employee.
- E. A Participating Employee may report tips on his or her federal tax return below the tip rates if the employee can substantiate, with adequate books and records, that he or she earned less tip income than would be reflected by applying the tip rates.

V. EMPLOYER PROGRAM

- A. The Employer agrees to encourage all of its Eligible Employees to become Participating Employees and to sign the Model Gaming Employee Tip Reporting Agreement, attached as Appendix C. The Employer will keep these agreements for at least the period of limitation on assessment of employment tax for the years in which this Agreement is in effect and the Employer will make the agreements available to the Service upon request.
- B. The Employer shall make tax withholding based upon tips reported, as required by law.
- C. The Employer shall include all reported tips in I.R.S. Forms W-2.
- D. The Employer acknowledges that the Service has authority, including the issuance and enforcement of summonses pursuant to sections 7602, 7604, and 7609 of the Code, to secure the information necessary to the Service to develop the tip rates of Nonparticipating Employees.

E. The Employer shall maintain the following records, to be made available to the Service upon request:

(1) Employee records. For each Eligible Employee, the Employer will maintain a record of the employee's name and social security number; the date on which the employee was hired by the Employer; the employee's Occupational Category or Categories, as set forth in Appendix A; the employee's reported tips; the employee's shift(s) and/or hours; and the employee's wages.

(2) Gaming establishment records. For each instance of toke and chip-cashing, where such information is in the possession or control of the Employer, the Employer will maintain a record of the dollar amount of tokens and chips presented to the Employer for cashing by the toke committee (or other representatives of eligible employees); a list of the tip splits furnished to the Employer by its Eligible Employees or the toke committee (or other representatives of eligible employees); and other separate records of the amounts presented to the Employer for cashing by toke committee. The Service acknowledges that the records of the toke committee reflecting the actual division of tips may not be in the Employer's possession or control.

(3) Food and beverage operations records. If the Occupational Categories set forth in Appendix A include food or beverage servers, the Employer will maintain gross receipts subject to food or beverage tipping, and aggregate receipts showing charged tips.

(4) Tip rates records. The Employer will maintain any other records relevant to determining tip rates, as may be required by other governmental agencies.

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

F. The Employer shall furnish to the Service the following documents:

(1) An annual report showing each Eligible Employee's name and social security number; the Employee's Occupational Category or Categories; the employee's shift(s) and hours; the employee's wages and reported tips; and whether the employee is a Participating Employee. The report is due on or before March 31 for the preceding calendar year or any portion thereof during which the Gaming Industry Tip Compliance Agreement was in effect.

(2) If the Occupational Categories listed in Appendix A include employees of large food and beverage establishments as defined in section 6053(c)(4) of the Code, the Employer shall provide annually to the Service the following information: (1) the gross receipts subject to food and beverage tipping; (2) the aggregate amount of charge receipts attributable to such gross receipts; (3) the aggregate amount of charged tips shown on such charge receipts; (4) the sum of (i) the aggregate amount of tips reported by Nonparticipating Employees to the Employer and (ii) the amount the Employer is required to report under section 6051 of the Code with respect to service charges of less than 10 percent; and (5) the amount allocated to each Nonparticipating Employee under section 6053(c)(3) of the Code. In addition, the Employer shall include on the Forms W-2 issued to Nonparticipating Employees tips allocated pursuant to section 6053 of the Code. No such tip allocation shall be required on Forms W-2 issued to Participating Employees. Accordingly, no preparation and filing of I.R.S. Forms 8027 by the Employer shall be required with respect to Participating Employees. The information is due on or before the Form 8027 filing date.

G. If the Employer complies with the terms of this Agreement with respect to its Participating Employees and provides the information described in paragraph F of this section to the Service with respect to its Nonparticipating Employees on I.R.S. Forms 8027 (or the equivalent information in an alternate form deemed acceptable by the Service) and I.R.S. Forms W-2, the Employer shall be deemed to satisfy the requirement that the Employer prepare and file I.R.S. Forms 8027 with respect to its Employees.

H. If the Employer fails to maintain or provide any material information in the manner described in paragraphs E and F of this section, following notice and demand to the Employer for such information the Service may employ any lawful means, including the issuance and enforcement of summonses pursuant to sections 7602, 7604, and 7609 of the Code, in order to secure that information.

I. In the event of a material breach by the Employer of its obligation to maintain or provide the information described in paragraphs E and F of this section that continues following notice and demand for such information by the Service, the restrictions in Section VII.A on methods of determination of additional liabilities under section 3121(q) of the Code shall be deemed to be waived by the Employer and shall be inapplicable for all taxable periods occurring after the date of such material breach, and the Service shall be permitted to determine employer liability by any lawful means.

## VI. TIP EXAMINATIONS OF EMPLOYEES

A. Except as provided in paragraph B. of this section, the Service may not examine a Participating Employee's tip income for any taxable year that ends after the Effective Date of this Agreement to which this Agreement applies, provided that each of the following conditions is met:

(1) The employee is a Participating Employee for the entire taxable year (or such portion thereof during which he or she earns tip income). In the case of a new employee, he or she must become a Participating Employee within 60 days after commencement of employment with the Employer as an Eligible Employee.

(2) The Participating Employee reports the tips he or she earns during the taxable year to the Employer at or above the tip rates set forth in Section VIII. of this Agreement.

(3) The Participating Employee timely files a federal income tax return for the taxable year that reports earned tips and wages reported on IRS Form W-2.

B. If an employee becomes a Participating Employee more than 60 days after becoming employed as an Eligible Employee, the Service may examine the Participating Employee's tip income received before the employee becomes a Participating Employee, unless the employee was a participating employee of the Employer or another employer under a tip compliance agreement for any taxable year. Once the employee becomes a Participating Employee, the Service may not examine the employee's tip income received after the employee becomes a Participating Employee.

C. The Service may not examine tip income of a Participating Employee for any taxable year that ends on or before the Effective Date of this Agreement, provided that during that prior period he or she was:

(1) a participating employee of the Employer under a predecessor agreement between the Employer and the Service and satisfied the terms and conditions of that agreement in that prior taxable year;

(2) a participating employee of another employer who had a Gaming Industry Tip Compliance Agreement (or a predecessor agreement) with the Service and satisfied the terms and conditions of that agreement in that prior taxable year; or

(3) an employee of (i) an employer that did not have a Gaming Industry Tip Compliance Agreement (or predecessor agreement) with the Service or (ii) the Employer but held a position in which he or she was not an Eligible Employee, and he or she filed, if required to do so by law, federal income tax returns for the three taxable years that preceded the Effective Date of this Agreement year.

D. A Nonparticipating Employee is subject to the full range of compliance and enforcement procedures of the Service, at any time, including during the term of this Agreement. (The treatment of the Employer in the case of Nonparticipating Employees is set forth in Section VII.A.(2)).

E. At the Service's discretion, the Service may continue any ongoing examination of any employees of the Employer begun by the Service before the Effective Date of this Agreement.

## VII. TIP EXAMINATIONS OF EMPLOYER

A. With respect to any taxable year during which this Agreement is in effect:

(1) the Service may not assert liability against the Employer pursuant to section 3121(q) of the Code with respect to the tip income of Participating Employees (except in the limited case provided in subparagraph (2)(ii) immediately below);

(2) the Service may assert liability against the Employer pursuant to section 3121(q) of the Code based on (i) tips received by a Nonparticipating Employee if the asserted liability is based upon the final results of an audit or agreement of the Nonparticipating Employee or (ii) the reporting of additional tip income by an employee.

B. At the Service's discretion, the Service may continue any ongoing examination of the Employer begun by the Service before the Effective Date of this Agreement.

## VIII. TIP RATES

A. This Section sets forth the applicable tip rates under this Agreement. The parties established the applicable tip rates as follows:

(1) **Employees Who Pool Tips.** In satisfaction of their tip reporting obligations under section 6053(a) of the Code with respect to Employees who pool tips, these Employees or their employee group representatives (*e.g.*, the token committee) shall present to the Employer a listing of the actual share of pooled tips received by or given to each Employee. This listing must reconcile to the tips presented to the Employer's cage for cashing. The tip rate in the case of these Employees is the amount of tips so reported to the Employer with respect to each such Employee.

(2) **Other Tipped Employees — Specified Occupational Categories.** By agreement between the Employer and the Service, based on information available from the Employer, historical information available to the Service, and generally accepted accounting principles, tip rates have been established for the occupational categories or subcategories of Eligible Employees ("Occupational Category") and, where applicable, shifts listed on Appendix A. These rates specify tips received, by hour, by shift, by drink, by percentage of sales, or other mutually agreed and verifiable bases of measurement depending on the nature of the work performed.

B. (1) In general. The applicable Tip Rates and Occupational Categories established by this Agreement shall remain in effect for the term of this Agreement, unless otherwise modified pursuant to paragraphs B.(2) or (3) of this section.

(2) **Mutual agreement process.** The Service or the Employer may propose revisions to Tip Rates or Occupational Categories during the term of the Agreement. The non-proposing party will notify the proposing party in writing of approval or disapproval within 60 calendar days of receipt of the proposed revision. The non-proposing party will not unreasonably withhold approval. If accepted, the revisions will become effective upon the date agreed to by the parties.

(3) **Specific events.** Upon the occurrence of one of the following specific events—

(a) a significant change in the nature of the business (or segment thereof) in which the Participating Employee earns tips (*e.g.*, Employer converts upscale restaurant into coffee shop),

(b) a decrease of 20 percent or more in the Employer's gross monthly revenue as compared to the same month of the previous year, or

(c) a drop below 50 percent in the participation rate of any Occupational Category as of the participation measurement date,

the Employer may request that the Service agree to a modification in the relevant Tip Rate of an affected Participating Employee within an Occupational Category (*e.g.*, an outlet or shift) that is appropriate in amount and duration, which consent shall not be unreasonably withheld. The process established in this paragraph B.(3) for the revision of a Tip Rate upon the occurrence of specific events in no way limits the circumstances that may give rise to a request for revision of a Tip Rate under the mutual agreement process described in paragraph B.(2) of this section.

#### IX. TERM OF AGREEMENT

A. This Agreement shall commence on the Effective Date and shall terminate on \_\_\_\_\_. The “Effective Date” of this Agreement shall be \_\_\_\_\_.

B. The Service and the Employer agree that, beginning not later than six months prior to the termination date described in paragraph A., they shall commence discussions as to any appropriate revisions to this Agreement, including any appropriate revisions to the tip rates described in Section VIII. In the event that the Service and the Employer have not reached final agreement on the terms and conditions of a renewal Agreement to become effective beginning on \_\_\_\_\_, the parties may, by mutual agreement, extend this agreement for an appropriate time to finalize and execute a renewal Agreement.

C. Neither the Employer’s nor the Service’s decisions regarding renewal of agreements are subject to review.

#### X. TERMINATION OF AGREEMENT; SURVIVAL OF TERMS

A. If Employee participation is below 75 percent of the Eligible Employees, the Service and Employer shall meet to discuss the cause of the decline in the participation rate and appropriate measures to increase the participation rate. At the meetings, the Employer shall provide information with respect to the records necessary for assessing the tip rate and for assessing the procedures employed to encourage all of the Employer’s Eligible Employees to be Participating Employees.

(1) If the Employer undertakes good faith consultations with the Service to discuss these matters and the Employer is not in breach of its obligations under Section V.A., the Service may not terminate the Agreement.

(2) If the Employer fails to undertake good faith consultations with the Service to discuss these matters or the Employer is in breach of its obligations under Section V.A., the Service may terminate the Agreement.

B. The Service may terminate this Agreement if participation falls below 50 percent of the Eligible Employees. Termination shall be effective beginning with the first calendar quarter that commences after the 60-day period for notice to the Employer.

C. This Agreement may be terminated upon the joint agreement of the Employer and the Service, without the consent of any Participating Employee. The effective date of termination shall be as agreed to by the Employer and the Service.

D. If either party fails to comply with any material provision of this Agreement, the non-defaulting party, at its option, may terminate this Agreement by giving written notice of termination to the other party. Termination of the Agreement shall be effective upon receipt of the notice by the other party.

E. If this Agreement is terminated pursuant to the terms of this agreement, the mutual obligations of the parties shall remain in effect through the effective date of termination. The agreements set forth in Sections VI. and VII. shall survive termination with respect to taxable periods (or portion thereof) that occur prior to the effective date of termination.

#### XI. PRECEDENTIAL VALUE

The contents of this agreement may not be used or cited as precedent by any other Employer or other taxpayer and will not bind, or otherwise control, the parties for taxable years or issues not covered by this Agreement.

#### XII. FAILURE TO COMPLY

If the Employer fails or refuses to provide any of the information required by this Agreement, the Service may employ any lawful means, including the issuance and enforcement of summonses pursuant to sections 7602, 7604, and 7609 of the Code, in order to secure the information.

#### XIII. COMPLIANCE REVIEW

The Employer agrees that a compliance review or other inspection of books and records, as required for compliance with the terms of this Agreement, will not be considered an inspection of books and records for purposes of section 7605(b) of the Code, or an audit for purposes of section 530 of the Revenue Act of 1978.

#### XIV. EXCLUSION OF CERTAIN EMPLOYEES

This Agreement does not cover those employees of Employer working in housekeeping and such employees shall not be considered Eligible Employees for purposes of this Agreement.



**XV. OTHER AGREEMENTS SUPERSEDED**

This Agreement shall supersede all existing tip compliance agreements between the Employer and the Service.

**XVI. ENTIRE AGREEMENT**

This Agreement contains the final and entire agreement between the Employer and the Service.

By signing this *Gaming Industry Tip Compliance Agreement*, the parties certify that they have read and agreed to the terms of this document, including Appendices.

**EMPLOYER:**

**INTERNAL REVENUE SERVICE:**

**By** \_\_\_\_\_

**By** \_\_\_\_\_

**TITLE** \_\_\_\_\_

**TITLE** Territory Manager  
[operating division]  
Territory XX

**Address**

**Address**

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

APPENDIX A

Occupational Categories, Outlets, Shifts, and Tip Rates

Occupational Category	Outlet	Shift	Tip Rate
Food Server			
Cocktail Server			
Bartender			
Room Service Food Server			
Bell Person			
Valet			
Barback			
Bingo			
Cage			
Captain			
Change person			
Doorman			
Keno Writers/Runners			
Race & Sportsbook writers/runners			
Maitre D'			
Parking (Valet)			
Bus Person			
Slot Floorperson			
Other			
Other			
Other			

APPENDIX B

Narrative Summary of Tip Rate Calculation Methodology

## APPENDIX C

### Model Gaming Employee Tip Reporting Agreement

I am an employee of \_\_\_\_\_, and by signing this agreement I am choosing to participate in the tip reporting program administered by my employer under the Gaming Industry Tip Compliance Agreement between my employer and the Internal Revenue Service (IRS).

I understand that I have responsibilities under this tip reporting program:

- In general, I agree to report to my employer tips at or above the tip rate that has been established for my job. However, I understand that I may report tips below the tip rate if I can substantiate, to the satisfaction of the IRS and subject to a possible review by the IRS, that I earned less tip income than would be reflected by applying the tip rate.
- I agree to file my Federal tax return on a timely basis and report those tips and the rest of my earnings from my job as shown on the IRS Form W-2 that my employer gives me and my other income.
- For each of the three years prior to the date of this agreement, if required to do so I have filed a Federal tax return on a timely basis. If I have filed all of these tax returns but have not fully paid the tax I owe, I must contact the local office of the IRS within 60 days from now to resolve my account.

If I fulfill my responsibilities and continue to participate under this tip reporting program, I will receive important benefits under this agreement:

- If I report to my employer tips at or above the tip rate that has been established for my job, the IRS will not audit my tip income received after the date of this agreement during which the Gaming Industry Tip Compliance Agreement between my employer and the IRS is in effect. If I report tips below such tip rate, the IRS can review my substantiation of that tip income and can make any adjustment necessary to accurately report such income.
- The IRS also will not audit my tip income for any prior tax year during which: (1) I was a participant in a prior tip compliance agreement of my current employer or a former employer, or (2) I had no opportunity to participate in a prior tip compliance agreement because I worked in a job that was not covered by an agreement or because my employer did not have a tip compliance agreement with the IRS.
- If I was eligible to participate in an employer's tip compliance agreement in prior tax years but did not do so, I will not be protected from an IRS audit of my tip income for those prior years, but I will receive protection from audit of my tip income received after the date of this agreement during which the Gaming Industry Tip Compliance Agreement between my employer and the IRS is in effect.
- If I sign this agreement more than 60 days after I first became employed with my current employer, I will be protected from an IRS audit of my tip income received after the date of this agreement during which the Gaming Industry Tip Compliance Agreement between my employer and the IRS is in effect.

By signing below, I agree to fulfill my responsibilities under this agreement and to participate in the Gaming Industry Tip Compliance Agreement between my employer and the IRS. This agreement shall remain in effect so long as there is a Gaming Industry Tip Compliance Agreement between my employer and the IRS, and I have not notified my employer in writing that I wish to terminate this agreement.

Signature and Employee's name printed, address  
Social Security Number

## APPENDIX D

### Model Extension Agreement

The Gaming Industry Tip Compliance Agreement ("Agreement") signed by \_\_\_\_\_ and the Commissioner of Internal Revenue ("the Parties"), effective on \_\_\_\_\_, shall expire on \_\_\_\_\_.

The Parties wish to renew the Agreement, but have not reached final agreement on the terms and conditions of the renewal. In order to allow more time to finalize and execute a renewal, the Parties agree to extend the original Agreement until \_\_\_\_\_.

## Part IV. Items of General Interest

### Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulation

#### Tax Return Preparers — Electronic Filing

##### REG-141659-02

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulation

SUMMARY: In this issue of the Bulletin, the IRS is issuing a temporary regulation (T.D. 9053, on page 914) relating to a paid income tax preparer's obligation to retain and furnish copies of income tax returns and claims for refund. The text of that temporary regulation also serves as the text of this proposed regulation.

DATES: Written and electronic comments and requests for a public hearing must be received by July 23, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG-141659-02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG-141659-02), courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. Alternatively, taxpayers may submit comments electronically directly to the IRS Internet site at [www.irs.gov/reg](http://www.irs.gov/reg).

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, Richard Charles Grosenick (202) 622-7940; concerning submissions, LaNita Van Dyke (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

#### Background

Temporary regulations in this issue of the Bulletin amend the Income Tax Regula-

tions (26 CFR part 1) under sections 6107 and 6695 of the Internal Revenue Code. The temporary regulations eliminate the references to manually signed returns in the regulations under section 6695. In addition, they provide that the Commissioner may prescribe, in forms, instructions, or other appropriate guidance, the manner in which preparers may satisfy their obligations under section 6107 to furnish returns to taxpayers and to retain copies of returns.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation and, because the regulation does not impose a collection of information on small entities, that the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments, either electronically or on paper (a signed original and 8 copies), that are timely submitted to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who timely sub-

mits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

#### Drafting Information

The principal author of these regulations is Richard Charles Grosenick, Office of Assistant Chief Counsel (Administrative Provisions & Judicial Practice). However, other personnel from the IRS and the Treasury Department participated in its development.

\* \* \* \* \*

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

##### PART 1—INCOME TAXES

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

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

Par. 2. Section 1.6107-2 is added to read as follows:

*§1.6107-2 Form and manner of furnishing copy of return and retaining copy or record.*

[The text of this proposed section is the same as the text of §1.6107-2T published elsewhere in this issue of the Bulletin.

Par. 3. Section 1.6695-1 is amended by revising paragraph (b) to read as follows:

*§1.6695-1 Other assessable penalties with respect to the preparation of income tax returns for other persons.*

\* \* \* \* \*

(b) [The text of this proposed paragraph (b) is the same as the text of §1.6695-1T(b) published elsewhere in this issue of the Bulletin.

\* \* \* \* \*

David A. Mader,  
Assistant Deputy Commissioner  
of Internal Revenue.

(Filed by the Office of the Federal Register on April 23, 2003, 8:45 a.m., and published in the issue of the Federal Register for April 24, 2003, 68 F.R. 20089)

# International Grant-making and International Activities by Domestic 501(c)(3) Organizations: Request for Comments Regarding Possible Changes

## Announcement 2003–29

The Internal Revenue Service requests public comment on how it might clarify existing requirements that section 501(c)(3) organizations must meet with respect to international grant-making and other international activities. The IRS is particularly interested in comments on how new guidance might reduce the possibility of diversion of assets for non-charitable purposes while preserving the important role of charitable organizations world-wide.

### Background

The attacks of September 11, 2001, focused public attention on the need to take comprehensive measures to prevent terrorism. Investigative and law enforcement initiatives have identified situations in which charitable organizations have been a significant source of terrorist funding. The financing has come not only from United States-based charitable organizations, but also from foreign organizations that receive support directly or indirectly from United States donors. Further, investigative efforts have also identified situations in which diversion of charitable assets occurred without the knowledge of donors.

### Statement of Purpose

The IRS is evaluating current guidance with respect to international grant-making and international activities of United States-based charities (both public charities and private foundations) to determine whether and to what extent additional guidance is needed to help prevent the diversion of charitable assets for non-charitable purposes and to assure donors that donations are used for their intended charitable purpose.

Guidance addressing standards, controls, and reporting requirements for international giving by U.S. charities has focused more on reducing the risk that charitable assets might be diverted for personal gain. The IRS is concerned that this guidance does not adequately cover the measures charities

should take to protect funds from being used for other non-charitable purposes (including terrorist activities). As a result, the IRS is considering new guidance applicable to public charities and private foundations that clarifies standards and requirements for international grant-making and international activities. The IRS is also considering making revisions to Forms 990, 990–PF, and 1023 to provide for more specific reporting on international grant-making and international activities.

The IRS is interested in learning how domestic charitable organizations conduct their international grant-making and international activities, and receiving suggestions on how existing guidance could be expanded to better address compliance with section 501(c)(3) and other federal tax standards. The IRS is particularly interested in comments on how the existing rules might be improved to help preclude the diversion of assets for non-charitable purposes and assure donors that their contributions are used solely for charitable purposes.

Within the past year, the IRS has issued three other requests for comments that could bear on international grant-making and international activities of charities. In Announcement 2002–87, 2002–39 I.R.B. 624, the IRS asked for public comments on how, among other matters, Form 990 might be improved to better reflect international grant-making activities of exempt organizations. In Announcement 2002–92, 2002–41 I.R.B. 709, the IRS asked for comments on changes to Form 1023. In Announcement 2002–47, 2002–18 I.R.B. 844, the IRS asked for comments on changes to private foundation regulations. The comment period has closed for all three requests. The IRS is aware that members of the public submitted comments in response to those requests that would also be responsive to this request and will take those comments into consideration. However, you may wish to modify or expand those comments to address the specific considerations raised here.

### Existing Law

Section 501(a) of the Internal Revenue Code provides for exemption from income tax of organizations described in section 501(c)(3). Section 501(c)(3) describes organizations that are organized and oper-

ated exclusively for religious, charitable, scientific, educational, or certain other specified purposes.

Section 170(c)(2) of the Code provides that the term “charitable contribution” includes a contribution or gift to a domestic organization that is organized and operated exclusively for religious, charitable, scientific, educational, or certain other specified purposes.

Rev. Rul. 71–460, 1971–2 C.B. 231, provides that a domestic organization that conducts some or all of its activities outside the United States is not precluded from qualifying for exempt status under section 501(c)(3). See also Rev. Rul. 68–117, 1968–1 C.B. 251, and Rev. Rul. 68–165, 1968–1 C.B. 253.

Rev. Rul. 68–489, 1968–2 C.B. 210, provides that an exempt organization under section 501(c)(3) does not jeopardize its exempt status by distributing funds to organizations not themselves exempt under section 501(c)(3), provided the exempt organization:

- 1) retains control and discretion as to the use of the funds;
- 2) maintains records establishing that the funds were used for section 501(c)(3) purposes; and
- 3) limits distributions to specific projects that are in furtherance of its own exempt purposes.

Rev. Rul. 56–304, 1956–2 C.B. 306, provides that an organization is not precluded from section 501(c)(3) exemption when it makes grants to individuals, provided the distributions are made on a true charitable basis and in furtherance of its exempt purposes. Such organizations should keep adequate records and case histories to show:

- 1) the name and address of the recipients;
- 2) the amount distributed to each;
- 3) the purpose for which the aid was given;
- 4) the manner in which the recipient was selected; and
- 5) the relationship, if any, between the recipient and
  - (i) members, officers, or trustees of the organization;
  - (ii) a grantor or substantial contributor to the organization or a member of the family of either; and
  - (iii) a corporation controlled by a grantor or substantial contributor.

For private foundations, section 4945 and its underlying regulations impose an excise tax on certain distributions. If a grant is made to another organization that is not a public charity, the excise tax of section 4945 will apply unless the foundation exercises expenditure responsibility with respect to that grant. Expenditure responsibility, as defined in section 4945(h) and the regulations thereunder, means that the foundation must exert all reasonable efforts and establish adequate procedures (1) to see that the grant is spent solely for the purpose for which made, (2) to obtain full and complete reports from the grantee on how the funds were spent, and (3) to make full and detailed reports to the IRS with respect to these expenditures. Section 4945 imposes other specific requirements that private foundations must meet when making grants to an individual in order to avoid making a taxable expenditure.

Rev. Rul. 63-252, 1963-2 C.B. 101, and Rev. Rul. 66-79, 1966-1 C.B. 48, provide guidance as to whether and under what circumstances gifts to domestic charities that subsequently transfer the gifts to foreign organizations are deductible by donors.

### Issues for Comment

The IRS requests comments on how domestic charitable organizations conduct their international grant-making and international activities, and whether the existing guidance discussed above provides adequate federal tax standards for these activities. The IRS is particularly interested in comments on how the existing rules discussed above might be improved to help preclude the diversion of assets for non-charitable purposes. While the IRS welcomes all ideas, some possible areas to address are:

1. What specific practices and safeguards are currently used by public charities and private foundations to ensure that grants to foreign recipients are not diverted for nonexempt purposes and overseas activities are in furtherance of exempt purposes? The IRS would find it particularly helpful to have specific details about the grant-making process, and examples of typical programs, including but not limited to:

- a. What kind of due diligence investigation is done in advance of grant-making?
- b. What provisions are used by grant agreements to ensure grants are used for their intended purpose?

c. What reports or other mechanisms are used to track the use of grant funds?

d. If a public charity or a private foundation makes repeated grants to the same foreign grantee, how often does it perform renewed due diligence on the grantee?

e. Are grant agreements, reports, and other significant correspondence written or accurately translated into English? Are grant funds disbursed by check? By electronic funds transfer? By cash?

2. In the aftermath of September 11, 2001, what review or changes in practice have organizations made to ensure that grants are not diverted to support terrorism or other non-charitable activities?

3. What difficulties have public charities and private foundations encountered in monitoring how international grants are actually used, or how international activities are conducted? Are there particular types of grants, recipients, or activities that are easier to monitor than others?

4. a. Are there additional requirements that should be added beyond those already specified in Rev. Rul. 56-304, Rev. Rul. 63-252, Rev. Rul. 66-79, and Rev. Rul. 68-489 to reduce the risk that charitable assets may be diverted to non-charitable purposes? Please also comment on how any burden associated with any new requirements might be mitigated.

b. What specific changes to Forms 990, 990-PF, and 1023 would you recommend to allow for better monitoring of international grant-making and international activities by the IRS, and by other government agencies and members of the public who can review these forms as public documents?

5. In November 2002, the Treasury Department released "Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities" (search at [www.treas.gov](http://www.treas.gov)). These guidelines were developed to help a charity reduce the risk that the charity's funds would be frozen in connection with any ongoing anti-terrorism investigation. Recognizing that some of these voluntary best practices impose additional burdens on charities and may not be directly related to tax administration, the IRS is nevertheless interested in learning which of the best practices specified in the guidelines organizations currently use. The IRS is also interested in learning whether these currently used best practices are useful in achieving compliance with federal income

tax requirements and appropriate for other public charities and private foundations to follow.

### How to Comment

Public comments should be submitted in writing on or before July 18, 2003, and should include a reference to Announcement 2003-29.

Comments may be submitted to:

Internal Revenue Service  
Attn: T:EO:RA:G  
(Announcement 2003-29)  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

Comments may be hand delivered between the hours of 8 a.m. and 4 p.m., Monday through Friday, to:

T:EO:RA:G (Announcement 2003-29)  
Courier's Desk  
Internal Revenue Service  
1111 Constitution Ave, N.W.  
Washington, DC 20224

Comments may also be sent via e-mail to: [Tege.eo2@irs.gov](mailto:Tege.eo2@irs.gov)

All comments received will be subject to public inspection.

### Drafting Information

The principal author of this announcement is Robert Fontenrose of the Exempt Organizations Technical Division. For further information regarding this announcement, contact Mr. Fontenrose at (202) 283-9484 (not a toll-free call).

## Withdrawal of Announcement 99-45; Restoration of Organization on Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

### Announcement 2003-30

In Announcement 99-45, 1999-1 C.B. 927, the Internal Revenue Service announced that the Abraham Lincoln Opportunity Foundation, of Pine Mountain Georgia, had been deleted from the Cumulative List of Organizations to Which

Contributions Are Deductible Under Section 170 of the Internal Revenue Code of 1986. Announcement 99-45 is hereby withdrawn. The Abraham Lincoln Opportunity Foundation will be treated as having been on the Cumulative List retroactively for all periods that it was in existence.

## Foundations Status of Certain Organizations

### Announcement 2003-31

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

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

108th Street Tae Kwon Do Inst., Inc.,  
New York, NY  
Abondia Center for Public Dialogue  
Education & Reflection,  
Minneapolis, MN  
Accelerated Music Program, Inc.,  
Portland, OR  
Acheinu, Inc., Los Angeles, CA  
Action Council of the Blind of Missouri,  
St. Louis, MO  
Action for the Betterment of Our  
Community, Sturgis, SD  
Active 20-30 United States and Canada,  
Tucson, AZ  
Adam Clayton Powell Jr. Memorial  
Committee, Inc., New York, NY  
Afrika is Home Coalition, Inc.,  
New York, NY  
After School, Denver, CO  
Aids Living Remembrance Project,  
Chicago, IL  
Akoma, Rochester, NY

Alice in Kids World Learning Center,  
N. Chicago, IL  
Aliza Brandwine Center for Parent  
Infant Development, Inc.,  
Baltimore, MD  
All-Star Boys Competitive Gymnastics  
Training Fund, Spring, TX  
Alliance for Democracy, Waltham, MA  
Alliance of Harari Volunteers, Inc.,  
Silver Spring, MD  
Alpha Education Fund, Seattle, WA  
American Artists Relief Organization  
Network, Inc., New York, NY  
American Collectors Association of  
Texas Educational Foundation,  
Austin, TX  
American Institute for Global Studies,  
Inc., Byron, GA  
American Institute of Advanced Drivers,  
Malibu, CA  
Amputee Assistance Association, Inc.,  
San Diego, CA  
Angels Door, Chicago, IL  
Armstrong Cooper Basketball, Inc.,  
Plymouth, MN  
Art-Works Childrens Art Museum &  
Resource Center, Fox Lake, IL  
Artspace at Tri-Main, Inc., Buffalo, NY  
Asian American Education & Heritage  
Foundation, New York, NY  
Athletic Training for Sports Excellence,  
Foster City, CA  
Axxis Performing Arts Association,  
Pico Rivera, CA  
Ballet Theatre Dallas, Richardson, TX  
Band of Indians Council, Inc.,  
Tioga, LA  
Bear Creek High School Spirit Boosters  
Club, Lakewood, CO  
Believing Ground Ministries,  
Cahokia, IL  
Ben Davis High School Hockey Club,  
Indianapolis, IN  
Bethel Youth Basketball Association,  
Bethel, OH  
Bicicletta Co., Chicago, IL  
Bilad as International Center,  
Houston, TX  
Blue River Riders, Mohave Valley, AZ  
Blue Star Performance Company,  
Chicago, IL  
Booker T. Washington High School  
Band Boosters, Inc., Pensacola, FL  
Bosnia Educational Alliance,  
Petersburg, VA  
Boy Scouts of America Troop 574, Inc.,  
St. Louis, MO

Boys & Girls Club of Assumption,  
Napoleonville, LA  
Brazos Valley Community Partners, Inc.,  
Bryan, TX  
Brooke High Cheering Booster Club,  
Follansbee, WV  
Brownfield Revival Ministries,  
Dunbar, WI  
Brunswick Area Responsible Canine  
Owners, Inc., Ocean Isle, NC  
Buchanan Basketball Foundation,  
Grundy, VA  
Buffalo Urban Arts, Buffalo, NY  
California Association of Black Lawyers  
Foundation, Los Angeles, CA  
California Sports High School Hall of  
Fame, Palm Desert, CA  
Calumet Magic Girls Softball, Ltd.,  
Hammond, IN  
Camp Ravencliff Corporation,  
El Sobrante, CA  
Campus Renewal Ministries,  
Cedar Park, TX  
Candelighter North Texas Childhood  
Cancer Foundation, Dallas, TX  
Carbon County International Folkfest,  
Helper, UT  
Cardinal Booster Club, Akron, OH  
Catalyst, Ann Arbor, MI  
Cedar Grove High School Association of  
Parents & Teachers, Inc.,  
Cedar Grove, NJ  
Centennial Elementary Parents in Action,  
Evans, CO  
Center for Integrated Infrastructure  
Strategies, Inc., Parker, CO  
Central Jersey Mustangs, Inc.,  
N. Brunswick, NJ  
Channel Zero, Incorporated,  
St. Louis Park, MN  
Child Safe Alliance, Inc.,  
Lakewood, OH  
Children of the Sun Guidance Center,  
Inc., Columbus, OH  
Childrens Literature Connection, Inc.,  
Schenectady, NY  
Christian Singles Fellowship, Inc.,  
Altamonte Springs, FL  
Chuck Reynolds Ministries, Inc.,  
Oklahoma City, OK  
Cincinnati Public Theater, Inc.,  
Cincinnati, OH  
Circus Historical Society, Inc.,  
Columbus, OH  
Clarice Community Service Programs,  
Dallas, TX

Colors of Love, Inc.,  
 Yorktown Heights, NY  
 Community Incentives for Teaching  
 Excellence Foundation,  
 Costa Mesa, CA  
 Community Justice Assistance Services,  
 Phoenix, AZ  
 Companion Cat Adoption Agency,  
 Flint, MI  
 Compel Mens Resource and Referral  
 Center, Inc., Wyandanch, NY  
 Concerned Filipino Americans of  
 California, Carson, CA  
 Connecticut Firefighters for Christ, Inc.,  
 West Haven, CT  
 Cordell Jenkins Charitable Enterprises,  
 Inc., Los Angeles, CA  
 Cornerstone International Youth Camp  
 Foundation, Atlanta, GA  
 Cornerstone Masonic Historical Society,  
 Monroe, NY  
 Cosmopolitan Community Center of  
 Miami, Inc., Miami, FL  
 Cottage Ambulance, Inc.,  
 Carbondale, PA  
 Cottage City Civic Association,  
 Cottage City, MD  
 Crossroads Gospel Music & Ministries,  
 Lubbock, TX  
 Dean Park Historic District, Inc.,  
 Fort Myers, FL  
 Dearborn Athletic Association,  
 Dearborn, MO  
 Deep Ellum Center for the Arts,  
 Dallas, TX  
 Dickson Memorial Hospital Preservation  
 Society, Inc., Paragould, AR  
 Directions, Memphis, TN  
 Documentaries for the Betterment of  
 Educational Opportunity, Inc.,  
 Quincy, MA  
 Dog Savers Rescue, Inc.,  
 Muir Beach, CA  
 Dolphin Basketball Boosters,  
 Dana Point, CA  
 E Kuppa Kakou I Ka Uhane O Ka  
 Olelo, Puihi, HI  
 Earl Beaver Childrens Foundation,  
 Chicago, IL  
 Earth Right, San Diego, CA  
 East Fairmont Gold and Blue Club,  
 Fairmont, WV  
 East Islip Student Athletes Booster Club,  
 East Islip, NY  
 Eastern Shepherd Drug Rehabilitation  
 Center, Inc., Patrick Springs, VA  
 Edisto – Orangeburg Medical Alliance,  
 Orangeburg, SC  
 Entrepreneur Association at the  
 University of Utah,  
 Salt Lake City, UT  
 Epsilon XI Lambda Education  
 Foundation, Greenville, MS  
 Esteem Team, Inc., New York, NY  
 Faith Foundation, Champaign, IL  
 Faith in Action of Lafayette, Inc.,  
 Lafayette, LA  
 Family Holdings, Belleville, MI  
 First Night San Luis Obispo,  
 San Luis Obispo, CA  
 Floral Park Sports Association, Inc.,  
 Floral Park, NY  
 Florence Community Development  
 Corporation, Florence, SC  
 Florida Gold Coast Youth Hockey  
 League, Inc., Pompano Beach, FL  
 Foundation for Children of the Future,  
 Salinas, CA  
 Foundation of America, Peoria, AZ  
 Franklin Wrestling Club, Inc.,  
 Franklin, TN  
 French American Friendship Foundation,  
 Inc., New York, NY  
 Friends of Eastpark, Inc.,  
 Philadelphia, PA  
 Friends of Haddo, Inc., New York, NY  
 Friends of Hungarian Higher Education  
 Foundation, Washington, DC  
 Friends of Spruce Creek Preserve, Inc.,  
 New Smyrna Beach, FL  
 Friends of the Los Angeles Childrens  
 Ballet Theatre, Los Angeles, CA  
 Friends of the Park County Fair,  
 Powell, WY  
 Friends of Toras Simcha,  
 New York, NY  
 Frontier Medical Services,  
 Birmingham, AL  
 FSU Foundation, Concord, CA  
 Ft. Stockton Sports Booster Club,  
 Ft. Stockton, TX  
 Fullerton Childrens Repertory Theater,  
 Inc., Fullerton, CA  
 Gems Foundation, Glenburn, ME  
 Georgia Deaf Awareness, Ltd.,  
 Dunwoody, GA  
 Gibson County High School Band  
 Boosters, Dyer, TN  
 Glory Bethel, Inc., Baton Rouge, LA  
 Granite City Junior Olympic Volleyball  
 Association, St. Cloud, MN  
 Greater Baton Rouge Childrens Chorus,  
 Inc., Baton Rouge, LA  
 Greater Glens Falls Swim Club, Inc.,  
 Queensbury, NY  
 Greater Oneonta Swim Team, Inc.,  
 Oneonta, NY  
 Guidance & Orientation for Future  
 Achievement & Recognition, Inc.,  
 Staten Island, NY  
 Gulf Coast Interventional Radiology  
 Society, Inc., Pensacola, FL  
 Habersham Raider Tip-Off Club,  
 Cornelia, GA  
 Hampton Recital Foundation,  
 San Francisco, CA  
 Harlem Opera, Inc., New York, NY  
 Harvard Global Peace Project,  
 Boston, MA  
 Health Beat, Inc., White Plains, NY  
 Health Education Aids Liaison San  
 Francisco, Inc., San Francisco, CA  
 Heartland Community Foundation,  
 Overland Park, KS  
 Heels Down Riding Program, Inc.,  
 Big Horn, WY  
 Heide Educational Center, Inc.,  
 Los Angeles, CA  
 Hellenic Orthodox Christian Brotherhood  
 Mission of Jesus, Flushing, NY  
 Help the Children & Widows, Inc.,  
 Fairfax Station, VA  
 Helping Hands Ministry Foundation,  
 Inc., Mobile, AL  
 Henry McNeal Turner Cultural Center,  
 Staten Island, NY  
 Hiddenite Parent Teachers Organization,  
 Hiddenite, NC  
 Highland Park Cheerleading Booster  
 Club, Inc., Dallas, TX  
 Hispanic Cultural Center of Midland,  
 Midland, TX  
 Hockey Future Ohio, Inc.,  
 Westerville, OH  
 Horses for Therapeutic Riding, Inc.,  
 Boca Raton, FL  
 House Calls, Ltd., Fernley, NV  
 Houston Institute of Cultural Studies,  
 Houston, TX  
 Howland Playground Project, Inc.,  
 Warren, OH  
 Huntington Beach Art Center,  
 Santa Ana, CA  
 Imaginary Friends Puppet Troupe, Inc.,  
 Alpharetta, GA  
 Institute for Korean-American Culture,  
 Inc., Flushing, NY  
 Institute for Urban Gardening, Inc.,  
 Tempe, AZ  
 International Social Services Center,  
 Norwalk, CA  
 Iowa Digital Education Association,  
 Ltd., Anamosa, IA



Jacob Bookwalter Foundation,  
Kankakee, IL

James Monroe Parent & Teacher  
Organization, San Leandro, CA

Jamie Mastruserio Memorial Foundation,  
Middletown, OH

Jelly Educational Theater, Inc.,  
Buxton, NC

Jesus Saves Ministries, Inc.,  
Lakeland, FL

Jobs for Teens, Inc., Medford, OR

Jonathan Robertozzi Memorial Fund,  
E. Brunswick, NJ

Kali Search Center, Inc.,  
East Rochester, NY

Kalispell Regional Medical Center  
Foundation, Inc., Kalispell, MT

Keren Rachamim, Inc., Brooklyn, NY

Key Foundation Resource Services, Inc.,  
Dallas, TX

Kids With a Cause, Inc.,  
Los Angeles, CA

Kidzville Friends of the Playground,  
Inc., Zanesville, OH

Konigswort, Incorporated,  
St. Petersburg, FL

Kory Pope Foundation, Inc.,  
Boynton Beach, FL

Lakeside Terrace Resident Council,  
Urbana, IL

Lakewood Elementary PTO,  
Buchanan, TN

Laughing Willows Productions, Inc.,  
Culver City, CA

Leadership Granbury, Granbury, TX

Learning Center of Southeastern Ohio,  
Inc., Zanesville, OH

Lenoir County Aids Task Force,  
Grifton, NC

Liberty City Outreach Program, Inc.,  
Miami, FL

Life Achievement, Inc., Portland, OR

Lighthouse Youth Center of Palacios,  
Palacios, TX

Lincoln County Correctional Officers  
Association, Lincolnton, NC

Little Peoples Place, New York, NY

Living Rosary of Saint Anne,  
Caledonia, MI

Lords Ministry of Helps, Hilltop, MN

Los Angeles Childrens Ballet Theatre,  
Culver, CA

Los Angeles Dynamo Youth Hockey,  
Inc., Studio City, CA

Los Angeles First Preschool Education  
Center, Inc., Los Angeles, CA

Los Angeles Hockey Officials  
Association, Los Angeles, CA

Louisiana Missouri Scouts,  
Louisiana, MO

Lowell Youth Soccer Association,  
Lowell, MA

Lucas Samuel Freund Foundation,  
New York, NY

Lyric West Theatre Company, Inc.,  
Wellesely, MA

Main Street Morrilton, Inc.,  
Morrilton, AR

Maine Dads, Inc., Harmony, ME

Making Life Choices, Inc.,  
Mason City, IA

Marshall Main Street Program,  
Marshall, IL

Maryland All-Star Twisters, Inc.,  
Glen Burnie, MD

McAfee & Taft Community Foundation,  
Inc., Oklahoma City, OK

Mellenium Organization, Inc.,  
Langley Park, MD

Mesrobian Foundation, Montebello, CA

Miami All Stars Cultural Association,  
Inc., Miami, FL

Mid City Home Owner Association,  
St. Louis, MO

Middle School Parent Teacher  
Organization, Shrewsbury, MA

Middle Tennessee Womens Club,  
Nashville, TN

Milford Midget Football, Inc.,  
Dallas, GA

Miracles of Love, Inc., Morehead, KY

Montomery County Handicapped  
Association, Inc.,  
Washington Grove, MD

Moscow State University Support  
Foundation, Inc., San Francisco, CA

Mothers Center of the South Shore, Inc.,  
Sayville, NY

Mulling Career Foundation, Inc.,  
Atlanta, GA

Municipal Forum Youth Education Fund,  
New York, NY

Museum of Architecture,  
Dana Point, CA

Museum of the Quest for Social Justice,  
Inc., Pittsburgh, PA

Nashua Panthers Youth Hockey  
Association, Nashua, NH

National College Days, Inc., Keller, TX

National Immigrant Center 1, Inc.,  
Long Island City, NY

New Beginnings Career Development,  
Dallas, TX

New Jersey Chinese Computer  
Professionals Society, Inc.,  
Denville, NJ

New Leaf Guild, Alice, TX

New Point, Ann Arbor, MI

New Schools Project, Inc., Austin, TX

New York State Prekindergarten  
Administrators Assoc., Inc.,  
Tarrytown, NY

Noahs Children Pediatric Hospice, Inc.,  
Richmond, VA

North Shore Community Theatre,  
Haleiwa, HI

Northern Nevada Roller Hockey League  
Youth, Reno, NV

Omaha Public Theatre in Our  
Neighborhoods Option, Ohama, NE

Omo Oduduwa of Miami Valley, Inc.,  
Xenia, OH

Orland Township Scholarship Fund,  
Orland Park, IL

Otero Elementary School PTO,  
Colorado Springs, CO

Over the Rainbow Foundation, Inc.,  
Orlando, FL

Pacific Surge Ministries, Le Mesa, CA

Palm Springs Animal Wellness Services,  
Palm Springs, CA

Parent-to-Parent of the Capital Area,  
Inc., Tallahassee, FL

Parksburg Childrens Charities,  
Parkesburg, PA

Parkside Development Foundation,  
Philadelphia, PA

Partners in Education of Tuckahoe, Inc.,  
Tuckahoe, NY

Pasadena Parent Advocates for the  
Gifted Talented, Pasadena, TX

Pathways to Eros Foundation,  
Culver City, CA

Perry Link Memorial Humane Society,  
Inc., Jasper, TN

Pharmacists Recovery Network, Inc.,  
Kingston, NY

Pineywoods Bird and Bloom Club,  
Livingston, TX

Pleasant Ridge Kids Place,  
Knoxville, TN

Pleasant View Parent Boosters,  
Lansing, MI

Pond Gap Elementary PTO,  
Knoxville, TN

Portsmouth City Soccer Club, Rye, NH

Prairie Brass Band Association, Inc.,  
Crystal Lake, IL

Program for Academic & Language  
Services, Rancho Cucamonga, CA

Providence Community Development  
Corp., Brooklyn, NY

Pyramid, Inc., New York, NY

Ray Chinese School, Naperville, IL

Razz Ma Tazz Musical Review  
Company, Inc., Greensboro, NC  
Recovery Management Service Co., Inc.,  
Coral Springs, FL  
Restoration Educational Media  
Corporation Ministries,  
Scottsdale, AZ  
Rexburg Boxing Club, Rexburg, ID  
Rhombus Theatre, Minneapolis, MN  
Richmond Alumnae Delta House  
Foundation, Inc., Richmond, VA  
Richmond Youth Chamber Collegium,  
Inc., Hanover, VA  
Rim Youth Football, Inc.,  
Lake Arrowhead, CA  
Rockaway Township Education  
Association Philanthropic Fund, Inc.,  
Boonton, NJ  
Rural Housing for the Elderly II, Inc.,  
Manchester, NH  
Santa Cruz Campus Bike Center,  
Santa Cruz, CA  
Satellite Arts, Incorporated,  
Stony Brook, NY  
Schoolhouse Resource Center, Inc.,  
Durham, NC  
Science Coalition of New Jersey,  
North Brunswick, NJ  
Sea Hawks Swim Team of Metro East,  
Inc., Belleville, IL  
Self Help Initiative, Silver Spring, MD  
Shady Spring Elementary School PTO,  
Shady Spring, WV  
Showbiz, Scranton, PA  
Sickle Cell Foundation of New Jersey,  
Inc., Newark, NJ  
Sierra Rosa Housing Corp.,  
Los Angeles, CA  
Sisters in the Name of Love,  
Eastpointe, MI  
Sisters of Color, Inc., Longview, TX  
Sisu Productions, Beverly Hills, CA  
Slammers Futbol Club,  
Newport Beach, CA  
Slavik Missionary Society, Wheaton, IL  
Snoqualmie Pony League Association,  
Snoqualmie, WA  
So Kapi Ka Ya Yis Skat Tsii Yi Ta to  
Run a Good Race, Browning, MT  
Software Commercialization and  
Innovation Center, Inc.,  
College Sta, TX  
Solon Stars Swim Club, Solon, OH  
Soma Foundation,  
South San Francisco, CA  
Sonshine Haven, Inc., Hillsborough, NC  
Soul Rep Theatre Company, Dallas, TX

Southern Maine Association for the  
Education of Young Children,  
S. Portland, ME  
Soweto Academy, Newark, NJ  
Spalding County Outreach for  
Re-Establishment and Education,  
Griffin, GA  
Special Technical Aquatic Rescue,  
Greenwich, CT  
Spurwink Endowment Corporation,  
Portland, ME  
Stage First Cincinnati, Inc.,  
Newport, KY  
Stemley Volunteer Fire Department, Inc.,  
Pell City, AL  
Stings Softball Booster Club, Inc.,  
Victoria, TX  
Sultan Senior Parents Association,  
Sultan, WA  
Sunny Joe White Foundation, Inc.,  
Boston, MA  
Sunnyside Youth, Inc., Wichita, KS  
Susitna Amateur Hockey Association,  
Wasilla, AK  
Synesthetic Winter Percussion,  
Kokomo, IN  
Team Go Foundation, Inc.,  
Manchester Center, VT  
Teen-Hope USA, Inc., Baytown, TX  
Tender Loving Care Corporation,  
Birmingham, AL  
Tender Loving Care Homes, Inc.,  
Richmond, VA  
Theatre America, Inc., New York, NY  
Thousand Island Park Tabernacle  
Community Association,  
Thousand Island Park, NY  
Torah Learning Center, Monsey, NY  
Touchdown, Inc., Detroit, IL  
Valley Vikings Youth Football  
Organization, San Antonio, TX  
Village Garden Club of Sewickley, Inc.,  
Pittsburgh, PA  
Ville Platte Dixie Youth, Inc.,  
Ville Platte, LA  
Virgin Islands Library Association,  
Christiansted, VI  
Voices Against Violence,  
Sacramento, CA  
Washington Township Baseball  
Association, Trenton, NJ  
West Africa Womens Association USA,  
Inc., Mineola, NY  
Westchester Council on Crime and  
Delinquency, Inc., White Plains, NY  
White Plains Masonic Historical Society,  
White Plains, NY  
Woga Parents Club, Plano, TX

Womens Education & Research Institute,  
Hazel Crest, IL  
Womens Forum Foundation, Inc.,  
Chesapeake, VA  
World Christian Network, Flushing, NY  
World Craft Alliance, Inc., Boise, ID  
World Firefighters Assistance League,  
Inc., Salt Lake City, UT  
World Peace & Environmental Film  
Festival, New York, NY  
Worthington Rugby Club, Inc.,  
Worthington, OH  
Wyandotte Village Neighborhood  
Association, Kansas City, KS  
Young Musicians of Central New York,  
Canastota, NY  
Youth Alive, Inc., Kissimmee, FL  
Youth Connection, Forest Lake, MN  
Youth Recycling, Granada Hills, CA  
Ziegler Memorial Foundation,  
Canyon Lake, CA

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

## **Second White Paper on Future of Employee Plans Determination Letter Program**

### **Announcement 2003-32**

The Service has published on the Internet a second white paper on the Employee Plans determination letter program.

The Service has maintained an Employee Plans determination letter program for many years, essentially in its present form. Under this program, the Employee Plans (EP) component of Tax Exempt and Government Entities (TE/GE) issues letters of determination regarding the qualified status of retirement plans under § 401(a) of the Internal Revenue Code and the status of related trusts under § 501(a). Determination letters provide assurance to plan sponsors, participants and other interested par-

ties that the terms of employer-sponsored retirement plans satisfy the qualification requirements of the Code. Qualified plans offer significant tax advantages to employers and participants.

EP has undertaken a project to consider the long-term future of the determination letter program. The question the Service is considering, and which it has asked the public to consider, is whether there might be better alternatives to the present determination letter program.

As a preliminary step, in August 2001, EP published on the Internet a white paper outlining several options it had identified as possible alternatives to the present program. The second white paper, which has just been released, evaluates the public comments on these options. While recognizing the importance of the Service continuing to issue determination letters for qualified plans, the second white paper explores further how this process might be improved. One of the options outlined in the first white paper was a system of staggered remedial amendment periods. Such a system would introduce regular determination letter cycles for plan sponsors and would even-out determination letter workload from year to year for EP and practitioners. The second white paper explains in greater detail how such a system could work. The second white paper also discusses the possibility of requiring plans to

be updated annually. An annual plan update requirement could be established either without making other changes to the current determination letter program or in combination with a system of staggered remedial amendment periods. In the latter case, as described in the second white paper, plan sponsors would not need to request determination letters more frequently than every five years to have reliance even though plan amendments could be required every year.

The second white paper is entitled *The Future of the Employee Plans Determination Letter Program: Evaluation of Public Comments and Additional Explanation of Staggered Remedial Amendment Period Option*. It may be downloaded from the Internet at: <http://www.irs.gov/ep>.

The Service invites interested parties to comment on the ideas in the second white paper. In particular, commentators are asked to address several questions that are listed at the end of the white paper. Written comments should reference Announcement 2003-32 and should be submitted, preferably in duplicate, to the following address:

CC:PA:RU (Announcement 2003-32),  
room 5226  
Internal Revenue Service  
POB 7604  
Ben Franklin Station  
Washington, DC 20044

Alternatively, comments may be hand delivered between the hours of 8:30 a.m. and 4:00 p.m. to:

CC:PA:RU (Announcement 2003-32)  
Courier's Desk  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC

Written comments should be submitted by September 2, 2003. All written comments will be open to public inspection.

#### DRAFTING INFORMATION

The principal author of this announcement is James Flannery of Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this announcement, please contact the Employee Plans' taxpayer assistance telephone service at: 1-877-829-5500 (a toll-free number) between the hours of 8:00 a.m. and 6:30 p.m. Eastern Time, Monday through Friday. Mr. Flannery may be reached at 1-202-283-9888 (not a toll-free number).

# 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.

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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2002–26 through 2002–52 is in Internal Revenue Bulletin 2003–1, dated January 6, 2003.

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<sup>2</sup> A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2002–26 through 2002–52 is in Internal Revenue Bulletin 2003–1, dated January 6, 2003.

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