

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.

SPECIAL ANNOUNCEMENT

Announcement 2003-66, page 1049.

The Sixteenth Annual Institute on Current Issues in International Taxation jointly sponsored by the Internal Revenue Service and the George Washington University Law School, will be held on December 11 and 12, 2003, at the J. W. Marriott Hotel in Washington, DC.

Announcement 2003-68, page 1050.

This announcement delays the implementation of rolling renewals applicable to enrolled agents, whose social security numbers end with 0, 1, 2, or 3, under section 10.6(d)(1) of the Regulations Governing Practice Before the Internal Revenue Service, Treasury Department Circular No. 230, 31 CFR part 10.

INCOME TAX

Rev. Rul. 2003-111, page 1009.

2003 base period T-bill rate. The “base period T-bill rate” for the period ending September 30, 2003, is published as required by section 995(f) of the Code.

Rev. Rul. 2003-112, page 1007.

Work Opportunity Tax Credit (WOTC). This ruling concerns the eligibility criteria for the Work Opportunity Tax Credit. The ruling clarifies that an individual whose family receives assistance for the requisite period meets the requirements to be certified as a qualified IV-A recipient under section 51(d)(2)(A) of the Code if the individual is included on the grant (and thus receives assistance) for some portion of the specified period.

Rev. Rul. 2003-114, page 1012.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for November 2003.

EMPLOYEE PLANS

Notice 2003-73, page 1017.

Retirement plans; year 2004 section 415(d) limitations. This notice sets forth certain cost-of-living adjustments effective January 1, 2004, applicable to the dollar limits on benefits under qualified defined benefit pension plans and to other provisions affecting (1) certain plans of deferred compensation and (2) “control employees.”

EXCISE TAX

Rev. Proc. 2003-78, page 1029.

This procedure provides instructions for establishing exemption from the section 4371 foreign insurance excise tax under certain United States income tax treaties. Rev. Proc. 92-39 superseded in part.

(Continued on the next page)

Finding Lists begin on page ii.



TAX CONVENTIONS

Announcement 2003–63, page 1015.

Dutch agreement on MAP Administrative Arrangements.

A copy of the news release issued by the Director, International (U.S. Competent Authority), on October 7, 2003 (IR–2003–116), is set forth.

Announcement 2003–60, page 1049.

This document contains corrections to final regulations (T.D. 9083, 2003-40 I.R.B. 700) that relate to the treatment of golden parachute payments under section 280G of the Code.

ADMINISTRATIVE

Rev. Proc. 2003–75, page 1018.

Automobile owners and lessees. This procedure provides owners and lessees of passenger automobiles (including trucks, vans, and electric automobiles) with tables detailing the limitations on depreciation deductions for passenger automobiles first placed in service during calendar year 2003 and the amounts to be included in income for passenger automobiles first leased during calendar year 2003. Separate tables are provided for passenger automobiles qualifying for additional first-year bonus depreciation under section 168(k). In addition, this procedure provides the maximum allowable value of employer-provided automobiles first made available to employees for personal use in calendar year 2003 for which the vehicle cents-per-mile valuation rule provided under section 1.61–21(e) of the regulations may be applicable. Rev. Procs. 2001–19 and 2002–14 amplified.

Rev. Proc. 2003–79, page 1036.

Annual accounting periods; partnerships; S corporations.

Procedures are provided under which partners or shareholders of S corporations may elect, under certain circumstances, to take into account ratably over four taxable years the partner's or S corporation shareholder's share of income from the partnership or S corporation that is attributable to a short taxable year ending on or after May 10, 2002, but before June 1, 2004. Rev. Procs. 2002–38 and 2002–39 modified.

Rev. Proc. 2003–80, page 1037.

Per diem allowances. This procedure provides rules for deeming substantiated the amount of certain reimbursed traveling expenses of an employee as well as optional rules for determining the amount of deductible meals and incidental expenses while traveling away from home. Rev. Proc. 2002–63 superseded.

Rev. Proc. 2003–81, page 1046.

This procedure provides issuers of qualified mortgage bonds, as defined in section 143(a) of the Code, and issuers of mortgage credit certificates, as defined in section 25(c), with a list of qualified census tracts for the Northern Mariana Islands, American Samoa, and Guam. The qualified census tracts are based on data from the 2000 census. Rev. Proc. 2003–49 supplemented.

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 last 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 last Bulletin of each semiannual period.*

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* **Beginning with Internal Revenue Bulletin 2003-43**, we are publishing the index at the end of the month, rather than at the beginning.

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

Section 25.—Interest on Certain Home Mortgages

26 CFR 1.25-3T: *Qualified Mortgage Credit Certificate.*

The qualified census tracts for the Northern Mariana Islands, American Samoa, and Guam are set forth for use in determining the portion of loans required to be placed in targeted areas under section 143(h). See Rev. Proc. 2003-81, page 1046.

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Section 51.—Amount of Credit

26 CFR 1.51-1: *Amount of credit.*

Work Opportunity Tax Credit (WOTC). This ruling concerns the eligibility criteria for the Work Opportunity Tax Credit. The ruling clarifies that an individual whose family receives assistance for the requisite period meets the requirements to be certified as a qualified IV-A recipient under section 51(d)(2)(A) of the Code if the individual is included on the grant (and thus receives assistance) for some portion of the specified period.

Rev. Rul. 2003-112

ISSUE

Does an individual whose family receives assistance for the requisite period meet the requirements to be certified as a qualified IV-A recipient under section 51(d)(2)(A) of the Internal Revenue Code (Code) if the individual is included on the grant (and receives assistance) for less than the specified period?

FACTS

Situation 1. H and W, a married couple, lived together with their children until March 1, 2002, when H moved away and established a new residence for himself. On March 25, 2002, W applied for Temporary Assistance for Needy Families

(TANF) payments for herself and her children, and TANF payments began on April 1, 2002. On January 1, 2003, H returned to live with W and their children. H obtained employment on January 10, 2003 (the hiring date). H was not included on the grant at any time prior to the hiring date.

Situation 2. The facts are the same as in Situation 1, except that H was included on W's TANF grant effective February 1, 2003, and did not obtain employment until February 10, 2003 (the hiring date).

Situation 3. H and W, a married couple, lived together with their children. On August 25, 2001, H and W applied for TANF payments for themselves and their children, and TANF payments began on September 1, 2001. In November 2001, H moved away and established a new residence for himself. H was removed from the grant effective December 1, 2001. W and the children continued to receive TANF payments through December 2002. H obtained employment on August 1, 2002 (the hiring date).

Situation 4. H and W, a married couple, lived together with their children, S and D. On January 10, 2002, H and W applied for TANF payments for themselves, S, and D. TANF payments began on February 1, 2002. S's 18th birthday was on March 15, 2002. S was removed from the grant effective April 1, 2002. H, W, and D continued to receive TANF payments through December 2002. S obtained employment on December 15, 2002 (the hiring date).

In each of the situations, the state makes monthly TANF payments prospectively on the first day of the month.

LAW AND ANALYSIS

Under section 51 of the Code, an employer who hires an individual belonging to one of nine targeted groups may be entitled to a credit equal to 40 percent of qualified first-year wages for the taxable year.

Section 51(d) of the Code lists the targeted groups and defines each of them. An individual who is a qualified IV-A recipient is a member of a targeted group. Section 51(d)(2)(A) defines a "qualified IV-A recipient" as an individual who is certified by the designated local agency (state employment security agency) as being a member of a family receiving assistance

under a IV-A program for any 9 months during the 18-month period ending on the hiring date. Section 51(d)(2)(B) defines a "IV-A program" as any program providing assistance under a state program funded under part A of title IV of the Social Security Act (now Temporary Assistance for Needy Families Block Grants for States; formerly Aid for Families with Dependent Children) and any successor of such program.

Before the amendment of section 51(d) by the Small Business Job Protection Act of 1996, the corresponding targeted group was limited to individuals who were certified as "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the [hiring date]. . . ." Section 51(d)(9) as in effect for workers hired before October 1, 1996.

In its explanation of the amendment of section 51(d) by the Small Business Job Protection Act of 1996, the Senate Finance Committee described a qualified IV-A recipient as follows:

An eligible recipient is an individual certified by the designated local employment agency as being a member of a family receiving benefits under AFDC or its successor program for a period of at least nine months part of which is during the nine-month period ending on the hiring date. For these purposes, each member of the family receiving assistance is treated as receiving such assistance and therefore is treated as an eligible recipient.

S. Rep. No. 104-291, 104th Cong., 2d Sess. 33-34 (1996).

The language above does not reflect the amendment of section 51(d) by the Taxpayer Relief Act of 1997, Pub.L. No. 105-34, § 603(b)(1) (1997). The Taxpayer Relief Act replaced the requirement that the family receive assistance for a period of at least nine months part of which is during the nine-month period ending on the hiring date with the current requirement that the family receive assistance for "any nine months during the 18-month period ending on the hiring date."

The 1996 amendment of section 51(d) and the legislative history evidence a clear

intent to eliminate the requirement that a IV-A recipient receive assistance for the entire period specified. The corresponding targeted group before the 1996 amendment was explicitly limited to individuals who continually received assistance during a specified period. There is no such limitation in the definition of a qualified IV-A recipient; instead, a qualified IV-A recipient is required only to be a member of a family that receives assistance during the specified period.

Neither section 51(d) nor the legislative history specifies the persons who are members of the family receiving assistance. In the absence of other guidance, it is appropriate to look to the TANF rules to determine who is a family member. Thus, if an individual receives assistance under TANF as a member of a family, even if only for a day, the individual will be treated as a member of the family for purposes of section 51(d)(2)(A). Conversely, if the individual never receives assistance under TANF as a member of a family, the individual will not be treated as a member of the family for such purposes.

Accordingly, if the family receives assistance for the required period, and the individual is included on the grant for some portion of the period, the individual is a qualified IV-A recipient.

In *Situation 1*, H was not included on the family's TANF grant for any month and is therefore not a qualified IV-A recipient.

In *Situation 2*, the family received assistance for at least 9 months during the 18-month period ending on the hiring date and H was included on the grant for part of the period during which the family received assistance. Accordingly, H is a qualified IV-A recipient.

In *Situation 3*, H's hiring date was August 1, 2002. The 18-month period ending on the hiring date began February 2, 2001. The family received assistance for at least 9 months during the 18-month period ending on the hiring date, and H was included on the grant for part of the period during which the family received assistance. Thus, H is a qualified IV-A recipient.

In *Situation 4*, the family received assistance for at least 9 months during the 18-month period ending on the hiring date and S was included on the grant for part

of the period during which the family received assistance. Accordingly, S is a qualified IV-A recipient.

HOLDING

An individual whose family receives assistance for the requisite period meets the requirements to be certified as a qualified IV-A recipient under section 51(d)(2)(A) of the Code if the individual is included on the grant (and thus receives assistance) for some portion of the specified period.

The principles of this revenue ruling also apply for purposes of determining whether an individual meets the corresponding family membership requirements to be certified as a qualified veteran under section 51(d)(3)(A), a qualified food stamp recipient under section 51(d)(8)(A), or a long-term family assistance recipient under section 51A(c)(1)(A).

DRAFTING INFORMATION

The principal author of this revenue ruling is Shoshanna Tanner of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue ruling, contact Ms. Tanner at (202) 622-6080 (not a toll-free call).

Section 61.—Gross Income Defined

26 CFR 1.61-21: Taxation of fringe benefits.

This procedure provides the maximum value of employer-provided automobiles first made available to employees for personal use in calendar year 2003 for which the vehicle cents-per-mile valuation rule provided under section 1.61-21(e) of the Income Tax Regulations may be applicable. See Rev. Proc. 2003-75, page 1018.

Section 62.—Adjusted Gross Income Defined

26 CFR 1.62-2: Reimbursements and other expense allowance arrangements.

Rules are provided under which a reimbursement or other expense allowance arrangement for the cost of lodging, meal, and incidental expenses, or of meal and incidental expenses, incurred by an employee while traveling away from home will satisfy the requirements of section 62(c) of the Code as to substantiation of the amount of the expenses. See Rev. Proc. 2003-80, page 1037.

Section 103.—Interest on State and Local Bonds

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

The qualified census tracts for the Northern Mariana Islands, American Samoa, and Guam are set forth for use in determining the portion of loans required to be placed in targeted areas under section 143(h). See Rev. Proc. 2003-81, page 1046.

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

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

The qualified census tracts for the Northern Mariana Islands, American Samoa, and Guam are set forth for use in determining the portion of loans required to be placed in targeted areas under section 143(h). See Rev. Proc. 2003-81, page 1046.

Section 162.—Trade or Business Expenses

26 CFR 1.162-17: Reporting and substantiation of certain business expenses of employees.

Rules are provided for substantiating the amount of a deduction of an expense for meal and incidental expenses, or for incidental expenses only, incurred while traveling away from home. See Rev. Proc. 2003-80, page 1037.

Section 168.—Accelerated Cost Recovery System

This procedure provides owners and lessees of passenger automobiles (including electric automobiles) with tables detailing the limitations on depreciation deductions for automobiles first placed in service during calendar year 2003 that qualify for the additional first-year bonus depreciation allowance under section 168(k) of the Code. See Rev. Proc. 2003-75, page 1018.

Section 274.—Disallowance of Certain Entertainment, etc., Expenses

26 CFR 1.274-5: Substantiation requirements.

Rules are provided for an optional method for substantiating the amount of ordinary and necessary business expenses of an employee for lodging, meal, and incidental expenses, or for meal and incidental expenses, incurred while traveling away from home when a payor provides a per diem allowance under a reimbursement or other expense allowance arrangement. Rules are also provided for an optional method

for employees and self-employed individuals to use in computing the deductible costs of business meal and incidental expenses, or incidental expenses only, paid or incurred while traveling away from home. See Rev. Proc. 2003-80, page 1037.

Section 280F.—Limitation on Depreciation for Luxury Automobiles; Limitation Where Certain Property Used for Personal Purposes

26 CFR 1.280F-7: Property leased after December 31, 1986.

This procedure provides owners and lessees of passenger automobiles (including electric automobiles) with tables detailing the limitations on depreciation deductions for automobiles first placed in service during calendar year 2003 and the amounts to be included in income for automobiles first leased during calendar year 2003. See Rev. Proc. 2003-75, page 1018.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

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

The adjusted applicable federal long-term rates is set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Section 995.—Taxation of DISC Income to Shareholders

2003 base period T-bill rate. The “base period T-bill rate” for the period ending September 30, 2003, is published as required by section 995(f) of the Code.

Rev. Rul. 2003-111

Section 995(f)(1) of the Internal Revenue Code provides that a shareholder of a DISC shall pay interest each taxable year in an amount equal to the product of the shareholder’s DISC-related deferred tax liability for the year and the “base period T-bill rate.” Under section 995(f)(4), the base period T-bill rate is the annual rate of interest determined by the Secretary to be equivalent to the average of the 1-year constant maturity Treasury yields, as published by the Board of Governors of the Federal Reserve System, for the 1-year period ending on September 30 of the calendar year ending with (or of the most recent calendar year ending before) the close of the taxable year of the shareholder. The base period T-bill rate for the period ending September 30, 2003, is 1.30 percent.

Pursuant to section 6222 of the Code, interest must be compounded daily. The table below provides factors for compounding the base period T-bill rate daily for any number of days in the shareholder’s taxable year (including a 52–53 week accounting period) for the 2003 base period T-bill rate. To compute the amount of the interest charge for the shareholder’s taxable year, multiply the amount of the shareholder’s DISC-related deferred tax liability (as defined in section 995(f)(2)) for that year by the base period T-bill rate factor corresponding to the number of days in the shareholder’s taxable year for which the interest charge is being computed. Generally, one would use the factor for 365 days. One would use a different factor only if the shareholder’s taxable year for which the interest charge being determined is a short taxable year, if the shareholder uses the 52–53 week taxable year, or if the shareholder’s taxable year is a leap year.

For the base period T-bill rates for the periods ending in prior years, see Rev. Rul. 2002-68, 2002-2 C.B. 808, Rev. Rul. 2001-56, 2001-2 C.B. 500, and Rev. Rul. 2000-52, 2000-2 C.B. 516.

DRAFTING INFORMATION

The principal author of this revenue ruling is David Bergkuist of the Office of the Associate Chief Counsel (International). For further information about this revenue ruling, contact Mr. Bergkuist at (202) 622-3850 (not a toll-free call).

2003 ANNUAL RATE, COMPOUNDED DAILY	
DAYS	1.30 PERCENT FACTOR
1	.000035616
2	.000071234
3	.000106853
4	.000142473
5	.000178095
6	.000213718
7	.000249342
8	.000284967
9	.000320594
10	.000356221
11	.000391851
12	.000427481
13	.000463113
14	.000498746
15	.000534380
16	.000570015
17	.000605652
18	.000641290
19	.000676929
20	.000712570
21	.000748212
22	.000783855
23	.000819499
24	.000855145
25	.000890792
26	.000926440
27	.000962089
28	.000997740
29	.001033392
30	.001069045
31	.001104700
32	.001140355
33	.001176012
34	.001211671
35	.001247330
36	.001282991
37	.001318653
38	.001354317
39	.001389981
40	.001425647

2003 ANNUAL RATE, COMPOUNDED DAILY		2003 ANNUAL RATE, COMPOUNDED DAILY	
DAYS	1.30 PERCENT FACTOR	DAYS	1.30 PERCENT FACTOR
41	.001461315	86	.003067655
42	.001496983	87	.003103381
43	.001532653	88	.003139107
44	.001568324	89	.003174836
45	.001603996	90	.003210565
46	.001639670	91	.003246296
47	.001675345	92	.003282028
48	.001711021	93	.003317761
49	.001746698	94	.003353496
50	.001782377	95	.003389232
51	.001818057	96	.003424969
52	.001853738	97	.003460707
53	.001889420	98	.003496447
54	.001925104	99	.003532188
55	.001960789	100	.003567930
56	.001996475	101	.003603674
57	.002032163	102	.003639419
58	.002067852	103	.003675165
59	.002103542	104	.003710912
60	.002139233	105	.003746661
61	.002174926	106	.003782411
62	.002210620	107	.003818162
63	.002246315	108	.003853914
64	.002282011	109	.003889668
65	.002317709	110	.003925423
66	.002353408	111	.003961179
67	.002389108	112	.003996937
68	.002424810	113	.004032695
69	.002460513	114	.004068455
70	.002496217	115	.004104217
71	.002531922	116	.004139979
72	.002567629	117	.004175743
73	.002603337	118	.004211508
74	.002639046	119	.004247275
75	.002674756	120	.004283043
76	.002710468	121	.004318812
77	.002746181	122	.004354582
78	.002781895	123	.004390353
79	.002817611	124	.004426126
80	.002853327	125	.004461900
81	.002889045	126	.004497676
82	.002924765	127	.004533452
83	.002960485	128	.004569230
84	.002996207	129	.004605009
85	.003031930	130	.004640790

2003 ANNUAL RATE,
COMPOUNDED DAILY

2003 ANNUAL RATE,
COMPOUNDED DAILY

2003 ANNUAL RATE,
COMPOUNDED DAILY

1.30 PERCENT		1.30 PERCENT		1.30 PERCENT	
DAYS	FACTOR	DAYS	FACTOR	DAYS	FACTOR
131	.004676572	176	.006288069	221	.007902151
132	.004712355	177	.006323909	222	.007938049
133	.004748139	178	.006359751	223	.007973948
134	.004783924	179	.006395594	224	.008009849
135	.004819711	180	.006431438	225	.008045750
136	.004855499	181	.006467284	226	.008081653
137	.004891289	182	.006503130	227	.008117558
138	.004927079	183	.006538979	228	.008153463
139	.004962871	184	.006574828	229	.008189370
140	.004998664	185	.006610678	230	.008225278
141	.005034459	186	.006646530	231	.008261188
142	.005070255	187	.006682384	232	.008297098
143	.005106052	188	.006718238	233	.008333010
144	.005141850	189	.006754094	234	.008368923
145	.005177650	190	.006789951	235	.008404838
146	.005213450	191	.006825809	236	.008440754
147	.005249253	192	.006861668	237	.008476671
148	.005285056	193	.006897529	238	.008512589
149	.005320861	194	.006933391	239	.008548509
150	.005356667	195	.006969255	240	.008584430
151	.005392474	196	.007005119	241	.008620352
152	.005428282	197	.007040985	242	.008656275
153	.005464092	198	.007076853	243	.008692200
154	.005499903	199	.007112721	244	.008728126
155	.005535715	200	.007148591	245	.008764053
156	.005571529	201	.007184462	246	.008799982
157	.005607344	202	.007220334	247	.008835912
158	.005643160	203	.007256208	248	.008871843
159	.005678977	204	.007292083	249	.008907775
160	.005714796	205	.007327959	250	.008943709
161	.005750616	206	.007363836	251	.008979644
162	.005786437	207	.007399715	252	.009015580
163	.005822260	208	.007435595	253	.009051518
164	.005858084	209	.007471476	254	.009087457
165	.005893909	210	.007507359	255	.009123397
166	.005929735	211	.007543243	256	.009159338
167	.005965563	212	.007579128	257	.009195281
168	.006001392	213	.007615014	258	.009231225
169	.006037222	214	.007650902	259	.009267170
170	.006073053	215	.007686791	260	.009303117
171	.006108886	216	.007722681	261	.009339064
172	.006144720	217	.007758572	262	.009375013
173	.006180555	218	.007794465	263	.009410964
174	.006216392	219	.007830359	264	.009446915
175	.006252230	220	.007866255	265	.009482868

2003 ANNUAL RATE, COMPOUNDED DAILY		2003 ANNUAL RATE, COMPOUNDED DAILY		2003 ANNUAL RATE, COMPOUNDED DAILY	
DAYS	1.30 PERCENT FACTOR	DAYS	1.30 PERCENT FACTOR	DAYS	1.30 PERCENT FACTOR
266	.009518822	311	.011138087	356	.012759948
267	.009554778	312	.011174100	357	.012796019
268	.009590735	313	.011210114	358	.012832092
269	.009626693	314	.011246130	359	.012868165
270	.009662652	315	.011282147	360	.012904240
271	.009698613	316	.011318165	361	.012940316
272	.009734574	317	.011354185	362	.012976393
273	.009770538	318	.011390206	363	.013012472
274	.009806502	319	.011426228	364	.013048552
275	.009842468	320	.011462251	365	.013084633
276	.009878435	321	.011498276	366	.013120715
277	.009914403	322	.011534302	367	.013156799
278	.009950373	323	.011570329	368	.013192884
279	.009986343	324	.011606358	369	.013228970
280	.010022315	325	.011642387	370	.013265058
281	.010058289	326	.011678419	371	.013301147
282	.010094264	327	.011714451		
283	.010130240	328	.011750485		
284	.010166217	329	.011786520		
285	.010202195	330	.011822556		
286	.010238175	331	.011858593		
287	.010274156	332	.011894632		
288	.010310139	333	.011930672		
289	.010346122	334	.011966714		
290	.010382107	335	.012002756		
291	.010418093	336	.012038800		
292	.010454081	337	.012074845		
293	.010490070	338	.012110892		
294	.010526060	339	.012146940		
295	.010562051	340	.012182989		
296	.010598044	341	.012219039		
297	.010634038	342	.012255091		
298	.010670033	343	.012291144		
299	.010706029	344	.012327198		
300	.010742027	345	.012363253		
301	.010778026	346	.012399310		
302	.010814026	347	.012435368		
303	.010850028	348	.012471427		
304	.010886031	349	.012507488		
305	.010922035	350	.012543550		
306	.010958040	351	.012579613		
307	.010994047	352	.012615678		
308	.011030055	353	.012651743		
309	.011066064	354	.012687811		
310	.011102075	355	.012723879		

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

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

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for November 2003.

Rev. Rul. 2003-114

This revenue ruling provides various prescribed rates for federal income tax purposes for November 2003 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described

in section 42(b)(2) for buildings placed in service during the current month. Finally, Table 5 contains the federal rate for determining the present value of annuity, an

interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2003-114 TABLE 1				
Applicable Federal Rates (AFR) for November 2003				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-Term</i>				
AFR	1.50%	1.49%	1.49%	1.49%
110% AFR	1.65%	1.64%	1.64%	1.63%
120% AFR	1.80%	1.79%	1.79%	1.78%
130% AFR	1.95%	1.94%	1.94%	1.93%
<i>Mid-Term</i>				
AFR	3.32%	3.29%	3.28%	3.27%
110% AFR	3.65%	3.62%	3.60%	3.59%
120% AFR	3.99%	3.95%	3.93%	3.92%
130% AFR	4.33%	4.28%	4.26%	4.24%
150% AFR	5.00%	4.94%	4.91%	4.89%
175% AFR	5.84%	5.76%	5.72%	5.69%
<i>Long-Term</i>				
AFR	4.99%	4.93%	4.90%	4.88%
110% AFR	5.49%	5.42%	5.38%	5.36%
120% AFR	6.01%	5.92%	5.88%	5.85%
130% AFR	6.51%	6.41%	6.36%	6.33%

REV. RUL. 2003-114 TABLE 2				
Adjusted AFR for November 2003				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	1.28%	1.28%	1.28%	1.28%
Mid-term adjusted AFR	2.63%	2.61%	2.60%	2.60%
Long-term adjusted AFR	4.56%	4.51%	4.48%	4.47%

REV. RUL. 2003-114 TABLE 3	
Rates Under Section 382 for November 2003	
Adjusted federal long-term rate for the current month	4.56%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	4.74%

REV. RUL. 2003-114 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for November 2003

Appropriate percentage for the 70% present value low-income housing credit	7.96%
Appropriate percentage for the 30% present value low-income housing credit	3.41%

REV. RUL. 2003-114 TABLE 5

Rate Under Section 7520 for November 2003

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	4.0%
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Section 1288.—Treatment of Original Issue Discounts on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2003. See Rev. Rul. 2003-114, page 1012.

Part II. Treaties and Tax Legislation

Subpart A.—Tax Conventions and Other Related Items

Dutch Administrative Arrangements MAP Agreement

Announcement 2003–63

Following is a copy of the News Release issued by the Director, International (U.S. Competent Authority), on October 7, 2003 (IR–2003–116).

The U.S. And The Netherlands Develop New Administrative Arrangements for Mutual Agreement Procedure

IR–2003–116, Oct. 7, 2003

WASHINGTON — The competent authorities of the United States and the Netherlands have agreed to new Administrative Arrangements that outline guiding principles to follow when using the Mutual Agreement Procedure (the MAP) found in Article 29 of the U.S.-Netherlands income Tax Convention. The Arrangements were developed to ensure that the MAP process works as efficiently and effectively as possible.

The text of the Agreement is as follows:

Administrative Arrangements for the Implementation of the Mutual Agreement Procedure (Article 29) of the Convention Between the Kingdom of the Netherlands and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains (Signed on December 18, 1992, as Amended by Protocols) (the “Convention”)

The competent authorities of the Netherlands and the United States hereby enter into an agreement under the Mutual Agreement Procedure Article (Article 29) of the Convention, with a view to the effective administration and resolution of cases conducted between them under the process. The Mutual Agreement Procedure (the “MAP”) of the Convention provides that the competent authorities of the two Contracting States shall endeavour to resolve by mutual agreement cases of

taxation not in accordance with this Convention. The Netherlands and the United States are committed to assisting taxpayers in the conduct of cases under the MAP, to ensuring taxpayers know what they can expect from the competent authorities, and to making the MAP as expeditious and effective as possible.

Particular areas in which MAP cases arise include, but are not limited to:

- i. determination of appropriate transfer pricing methodologies to be applied to cross-border transactions between associated enterprises and/or whether transfer prices used in cross-border transactions between associated enterprises are established at arm’s length;
- ii. determination of appropriate attributions of profits to the permanent establishments of enterprises; and
- iii. determination of residence under Article 4 of the Convention.

In these and other areas of difficulties and doubts arising as to the interpretation or application of the Convention, the Netherlands and the United States are committed to promoting and supporting domestic initiatives and programs designed to assist taxpayers and to helping taxpayers in avoiding or resolving disputes which might arise.

These Arrangements set out certain objectives and practices the Netherlands and the United States will adopt in dealing with cases under the MAP of the Convention with a view to ensuring taxation in accordance with the Convention.

Progress of the Mutual Agreement Procedure

The Netherlands and the United States agree that requests presented under Article 29 of the Convention shall be dealt with as expeditiously as possible. The objective is to resolve cases accepted for consideration by the competent authorities within 18 months from transmittal of a position paper by one Contracting State to the other, excluding time during which the issues

presented for competent authority consideration are under consideration by appellate or judicial authorities where permitted under applicable national procedures.

In order to ensure timely progress in the procedure, the competent authority of the country that made the adjustment (the “relevant competent authority”) will endeavour to deliver a position paper to its counterpart (the “responding competent authority”) within 120 days of acceptance of a case from a taxpayer. The case will be discussed without a written response unless such a response is needed to facilitate substantive discussion. If a written response is needed in a case concerning attribution of profits or transfer pricing adjustments under Article 7 or 9 of the Convention, the responding competent authority will endeavor to provide a position paper within 240 days after receipt of the first position paper. In all other cases in which a written response is needed, the responding competent authority will endeavor to deliver a position paper within 120 days of receipt of the first position paper. In cases of Advance Pricing Agreements or Arrangements, the competent authorities will endeavor to agree upon a joint target timetable for each stage of the consideration, with the aim of securing Mutual Agreements within a similar overall timeframe, taking into account the complexities of the particular cases involved.

The role of the taxpayer during procedure

The Netherlands and the United States agree that, in law, the negotiation of a MAP is a government-to-government process. A taxpayer has no legal right to attend negotiations between the competent authorities or to observe the negotiations.

However, it is also recognized that the taxpayer is a key stakeholder in the MAP process. The competent authorities therefore agree that they will keep taxpayers informed about the progress of a case under the MAP and will invite them to provide such further information as may be helpful in reaching a resolution. At their discretion, they may allow information to be provided to them in a joint presentation by the taxpayer.

Resolution of cases

While the staff of the respective competent authority offices will continue to carry on the primary negotiation of cases arising under Mutual Agreement Article of the Convention, the Netherlands and the United States agree that in any case that extends beyond the applicable timeframe agreed upon above, senior officials who have not been present at the competent authority meetings when the case was discussed or otherwise been personally involved in the decision making on the case will undertake a review of the case to ensure that all appropriate action is being taken to facilitate resolution of the matter.

The Netherlands and the United States will upon request also seek to resolve the issue for subsequent taxable periods, to the extent permitted under their respective national procedures.

Collection and interest

It is understood that where the competent authorities are endeavoring to resolve a case pursuant to Article 29 of the Convention, the Netherlands and the United States generally will not seek to collect the tax in dispute until the mutual agreement procedure has been completed. Any tax that is due upon the completion of the mutual agreement procedure shall, however, be subject to interest charges, and, if appropriate, surcharges or penalties, to the extent provided by applicable national law. Any tax that is refunded upon completion of the mutual agreement procedure will be subject to interest payable on refunds, to the extent provided by applicable national law.

Confidentiality of taxpayer information

The Netherlands and the United States are committed to ensuring confidentiality

concerning taxpayer information, under the Convention and their respective laws.

Meetings Schedule

The Netherlands and the United States agree to meet at least twice a year to conduct face-to-face discussions. Interim meetings and other communications also will be conducted as necessary in an effort to resolve cases.

The Netherlands and the United States have agreed to publish these Arrangements to assist taxpayers in understanding and making full and appropriate use of the MAP in the Convention. The Arrangements will be reviewed from time to time.

Agreed to August 25, 2003:

For the United States:

Carol A. Dunahoo
Director for International (LMSB)
Internal Revenue Service

For the Netherlands:

Paul Vlaanderen
Director for International Tax Policy and Legislation
Ministry of Finance

Part III. Administrative, Procedural, and Miscellaneous

2004 Limitations Adjusted As Provided in Section 415(d), etc.¹

Notice 2003-73

Section 415 of the Internal Revenue Code (the Code) provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415 also requires that the Commissioner annually adjust these limits for cost-of-living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments. Many of the limitations will change for 2004. For most of the limitations, the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. Furthermore, several of these limitations, set by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), are scheduled to increase at the beginning of 2004. For example, under EGTRRA, the limitation under § 402(g)(1) of the Code on the exclusion for elective deferrals described in § 402(g)(3) is increased from \$12,000 to \$13,000. This limitation affects elective deferrals to § 401(k) plans and to the Federal Government's Thrift Savings Plan, among other plans.

Cost-of-Living limits for 2004

Effective January 1, 2004, the limitation on the annual benefit under a defined benefit plan under § 415(b)(1)(A) is increased from \$160,000 to \$165,000. For participants who separated from service before January 1, 2004, the limitation for defined benefit plans under § 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2003, by 1.0220.

The limitation for defined contribution plans under § 415(c)(1)(A) is increased from \$40,000 to \$41,000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the

dollar limitation of § 415(b)(1)(A). These dollar amounts and the adjusted amounts are as follows:

The annual compensation limit under §§ 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii) is increased from \$200,000 to \$205,000.

The dollar limitation under § 416(i)(1)(A)(i) concerning the definition of key employee in a top-heavy plan remains unchanged at \$130,000.

The dollar amount under § 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5-year distribution period is increased from \$810,000 to \$830,000, while the dollar amount used to determine the lengthening of the 5-year distribution period is increased from \$160,000 to \$165,000.

The limitation used in the definition of highly compensated employee under § 414(q)(1)(B) remains unchanged at \$90,000.

The annual compensation limitation under § 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost-of-living adjustments to the compensation limitation under the plan under § 401(a)(17) to be taken into account, is increased from \$300,000 to \$305,000.

The compensation amount under § 408(k)(2)(C) regarding simplified employee pensions (SEPs) remains unchanged at \$450.

The compensation amounts under § 1.61-21(f)(5)(i) of the Income Tax Regulations concerning the definition of "control employee" for fringe benefit valuation purposes remains unchanged at \$80,000. The compensation amount under § 1.61-21(f)(5)(iii) is increased from \$160,000 to \$165,000.

Limitations specified by statute

The Code, as amended by EGTRRA, specifies the applicable dollar amount for

a particular year for certain limitations. These applicable dollar amounts are as follows:

The limitation under § 402(g)(1) on the exclusion for elective deferrals described in § 402(g)(3) is increased from \$12,000 to \$13,000.

The limitation under § 408(p)(2)(E) regarding SIMPLE retirement accounts is increased from \$8,000 to \$9,000.

The limitation on deferrals under § 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organizations is increased from \$12,000 to \$13,000.

The dollar limitation under § 414(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in § 401(k)(11) or 408(p) for individuals aged 50 or over is increased from \$2,000 to \$3,000. The dollar limitation under § 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in § 401(k)(11) or 408(p) for individuals aged 50 or over is increased from \$1,000 to \$1,500.

Administrators of defined benefit or defined contribution plans that have received favorable determination letters should not request new determination letters solely because of yearly amendments to adjust maximum limitations in the plans.

Drafting Information

The principal author of this notice is John Heil of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding the data in this notice, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500 (a toll-free call) between the hours of 8 a.m. and 6:30 p.m. Eastern time Monday through Friday. For information regarding the methodology used at arriving at the data in this notice, please contact Mr. Heil at 1-202-283-9888 (not a toll-free call).

¹ Based on News Release IR-2003-122 dated October 16, 2003.

Rev. Proc. 2003-75

SECTION 1. PURPOSE

01. This revenue procedure provides: (1) limitations on depreciation deductions for owners of passenger automobiles first placed in service by the taxpayer during calendar year 2003, including special tables of limitations on depreciation deductions for trucks and vans, and for passenger automobiles designed to be propelled primarily by electricity and built by an original equipment manufacturer (electric automobiles); (2) the amounts to be included in income by lessees of passenger automobiles first leased by the taxpayer during calendar year 2003, including a separate table of inclusion amounts for lessees of trucks and vans, and a separate table for lessees of electric automobiles; and (3) the maximum allowable value of employer-provided passenger automobiles first made available to employees for personal use in calendar year 2003 for which the vehicle cents-per-mile valuation rule provided under § 1.61-21(e) of the Income Tax Regulations may be applicable.

02. This revenue procedure also provides: (1) tables of dollar limitations on depreciation deductions for owners of passenger automobiles to which the additional 30 percent first-year allowance for depreciation available under § 168(k)(1)(A) applies, including special tables of limitations on depreciation deductions for qualifying trucks and vans and for qualifying electric automobiles; (2) tables of dollar limitations on depreciation deductions for owners of passenger automobiles to which the additional 50 percent first-year allowance for depreciation available under § 168(k)(4) applies, including special tables of limitations on depreciation deductions for qualifying trucks and vans and for qualifying electric automobiles; and (3) revised tables of dollar limitations for passenger automobiles and electric automobiles that were placed in service by the taxpayer during 2001 and 2002 and to which the additional 30 percent first-year allowance for depreciation available under § 168(k)(1)(A) applies. For purposes of

these tables, the additional 30 percent or 50 percent first-year allowance does not apply if the taxpayer has elected under § 168(k)(2)(C)(iii) not to take the additional allowance. Similarly, the additional 50 percent first-year allowance does not apply if the taxpayer has elected under § 168(k)(4)(E) to take the additional 30 percent allowance instead of the additional 50 percent allowance.

03. The tables detailing these depreciation limitations and lessee inclusion amounts reflect the automobile price inflation adjustments required by § 280F(d)(7). The maximum allowable passenger automobile value for applying the vehicle cents-per-mile valuation rule reflects the automobile price inflation adjustment of § 280F(d)(7) of the Internal Revenue Code, as required by § 1.61-21(e)(1)(iii)(A).

SECTION 2. BACKGROUND

01. For owners of passenger automobiles, § 280F(a) imposes dollar limitations on the depreciation deduction for the year that the passenger automobile is placed in service by the taxpayer and each succeeding year. In the case of electric automobiles placed in service after August 5, 1997, and before January 1, 2005, § 280F(a)(1)(C) requires tripling of these limitation amounts. Section 280F(d)(7) requires the amounts allowable as depreciation deductions to be increased by a price inflation adjustment amount for passenger automobiles placed in service after 1988. The method of calculating this price inflation amount for trucks and vans placed in service in or after calendar year 2003 uses a different CPI “automobile component” (the “new trucks” component) than that used in the price inflation amount calculation for other passenger automobiles (the “new cars” component), resulting in somewhat higher depreciation deductions for trucks and vans. This change reflects the higher rate of price inflation that trucks and vans have been subject to since 1988. For purposes of this revenue procedure, the term “trucks and vans” refers to passenger automobiles that are built on a truck chassis, including minivans and sport utility vehicles (SUVs) that are built on a truck chassis.

02. Section 101 of the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, 116 Stat. 21 (March

9, 2002) added § 168(k) to the Code. Generally, § 168(k)(1)(A) provides an additional 30 percent first-year depreciation deduction for new property acquired by the taxpayer after September 10, 2001, and before September 11, 2004 (subsequently extended to January 1, 2005), so long as no written binding contract for the acquisition of the property existed prior to September 11, 2001. In the case of a passenger automobile to which the 30 percent additional allowance applies (other than a § 168(k)(4) passenger automobile described in section 2.03 of this revenue procedure, or a passenger automobile for which a taxpayer has made an election under § 168(k)(2)(C)(iii)), § 168(k)(2)(E) increases the first-year depreciation allowed under § 280F(a)(1)(A) by \$4,600. For purposes of this revenue procedure, a passenger automobile to which the additional 30 percent first-year allowance under § 168(k)(1)(A) applies (other than a § 168(k)(4) passenger automobile described in section 2.03 of this revenue procedure, or a passenger automobile for which a taxpayer has made an election under § 168(k)(2)(C)(iii)) is referred to as a “§ 168(k)(1) passenger automobile”.

03. Section 201 of the Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. No. 108-27, 117 Stat. 752 (May 28, 2003) added § 168(k)(4) to the Code. Section 168(k)(4)(A)(i) provides that § 168(k)(1) is applied by substituting “50 percent” for “30 percent” for new property acquired by the taxpayer after May 5, 2003, and before January 1, 2005, so long as no written binding contract for the acquisition of the property existed prior to May 6, 2003. In the case of a passenger automobile to which the 50 percent additional allowance applies (or would apply but for an election under § 168(k)(4)(E)) and for which no election has been made under § 168(k)(2)(C)(iii), § 168(k)(4)(D) increases the first-year depreciation allowed under § 280F(a)(1)(A) by \$7,650. For purposes of this revenue procedure, a passenger automobile to which the additional 50 percent first-year allowance under § 168(k)(4) applies (or would apply but for an election under § 168(k)(4)(E)) and for which no election has been made under § 168(k)(2)(C)(iii) is referred to as a “§ 168(k)(4) passenger automobile”.

04. For leased passenger automobiles, § 280F(c) requires a reduction in the deduction allowed to the lessee of the passenger automobile. The reduction must be substantially equivalent to the limitations on the depreciation deductions imposed on owners of passenger automobiles. Under § 1.280F-7(a), this reduction requires the lessees to include in gross income an inclusion amount determined by applying a formula to the amount obtained from a table. There is a table for lessees of electric automobiles, a table for lessees of trucks and vans, and a table for all other passenger automobiles. Each table shows inclusion amounts for a range of fair market values for each tax year after the passenger automobile is first leased. These tables should also be used by lessees of § 168(k)(1) passenger automobiles and § 168(k)(4) passenger automobiles.

05. For passenger automobiles (including trucks, vans, and electric automobiles) first provided by employers to employees that meet the requirements of § 1.61-21(e)(1), the value to the employee of the use of the passenger automobile may be determined under the vehicle cents-per-mile valuation rule of § 1.61-21(e). Section 1.61-21(e)(1)(iii)(A) provides that for a passenger automobile first made available after 1988 to any employee of the employer for personal use, the value of the use of the passenger automobile may not be determined under the vehicle cents-per-mile valuation rule for a calendar year if the fair market value of the passenger automobile (determined pursuant to § 1.61-21(d)(5)(i) through (iv)) on the first date the passenger automobile is made available to the employee exceeds \$12,800 as adjusted by § 280F(d)(7).

SECTION 3. SCOPE AND OBJECTIVE

01. The limitations on depreciation deductions in section 4.02(2) of this revenue procedure apply to passenger automobiles (other than leased passenger automobiles) that are placed in service by the taxpayer in calendar year 2003, and continue to apply for each tax year that the passenger automobile remains in service.

02. The tables in section 4.03 of this revenue procedure apply to leased passenger automobiles for which the lease term begins during calendar year 2003. Lessees

of such passenger automobiles must use these tables to determine the inclusion amount for each tax year during which the passenger automobile is leased. *See* Rev. Proc. 2002-14, 2002-1 C.B. 450, for passenger automobiles first leased before January 1, 2003.

03. The maximum fair market value figure in section 4.04(2) of this revenue procedure applies to employer-provided passenger automobiles first made available to any employee for personal use in calendar year 2003. *See* Rev. Proc. 2002-14 for the maximum fair market value figure for passenger automobiles first made available before January 1, 2003.

04. The revised limitations on depreciation deductions in section 4.05(2) of this revenue procedure apply to § 168(k)(1) passenger automobiles placed in service by the taxpayer during 2001 and 2002. The tables in section 4.05(2) of this revenue procedure amplify both Rev. Proc. 2001-19, 2001-1 C.B. 732, and Rev. Proc. 2002-14 by providing tables for § 168(k)(1) passenger automobiles to which those revenue procedures apply.

SECTION 4. APPLICATION

01. In General.

(1) *Limitations on Depreciation Deductions for Certain Automobiles.* The limitations on depreciation deductions for passenger automobiles placed in service by the taxpayer for the first time during calendar year 2003 are found in Tables 1 through 9 in section 4.02(2) of this revenue procedure. Table 1 of this revenue procedure provides limitations on depreciation deductions for a passenger automobile (other than a truck, van, electric automobile, § 168(k)(1) passenger automobile, or § 168(k)(4) passenger automobile). Table 2 of this revenue procedure provides limitations on depreciation deductions for a § 168(k)(1) passenger automobile (other than a truck, van, or electric automobile). Table 3 of this revenue procedure provides limitations on depreciation deductions for a § 168(k)(4) passenger automobile (other than a truck, van, or electric automobile). Table 4 of this revenue procedure provides limitations on depreciation deductions for a truck or van (other than a § 168(k)(1) passenger automobile or § 168(k)(4) passenger automobile). Table 5 of this revenue

procedure provides limitations on depreciation deductions for a truck or van that is a § 168(k)(1) passenger automobile. Table 6 of this revenue procedure provides limitations on depreciation deductions for a truck or van that is a § 168(k)(4) passenger automobile. Table 7 of this revenue procedure provides limitations on depreciation deductions for an electric automobile (other than a § 168(k)(1) passenger automobile or § 168(k)(4) passenger automobile). Table 8 of this revenue procedure provides limitations on depreciation deductions for an electric automobile that is a § 168(k)(1) passenger automobile. Table 9 of this revenue procedure provides limitations on depreciation deductions for an electric automobile that is a § 168(k)(4) passenger automobile.

(2) *Inclusions in Income of Lessees of Passenger Automobiles.* A taxpayer first leasing a passenger automobile during calendar year 2003 must determine the inclusion amount that is added to gross income using the tables in section 4.03 of this revenue procedure. The inclusion amount is determined using Table 10 in the case of a passenger automobile (other than a truck, van, or electric automobile), Table 11 in the case of a truck or van, and Table 12 in the case of an electric automobile. In addition, the procedures of § 1.280F-7(a) must be followed.

(3) *Maximum Automobile Value for Using the Cents-per-mile Valuation Rule.* An employer providing a passenger automobile for the first time in calendar year 2003 for the personal use of any employee may determine the value of the use of the passenger automobile by using the cents-per-mile valuation rule in § 1.61-21(e) if the fair market value of the passenger automobile does not exceed the amount specified in section 4.04(2) of this revenue procedure. If the fair market value of the passenger automobile exceeds the amount specified in section 4.04(2) of this revenue procedure, the employer may determine the value of the use of the passenger automobile under the general valuation rules of § 1.61-21(b) or under the special valuation rules of § 1.61-21(d) (Automobile lease valuation) or § 1.61-21(f) (Commuting valuation) if the applicable requirements are met.

(4) *Limitations on Depreciation Deductions for Certain Passenger Automobiles*

Placed in Service in 2001 or 2002. Depreciation deductions with respect to § 168(k)(1) passenger automobiles placed in service during calendar year 2001 or 2002 are limited to the amounts set forth in Tables 13 through 16 of section 4.05(2) of this revenue procedure.

02. *Limitations on Depreciation Deductions for Certain Automobiles.*

(1) *Amount of the Inflation Adjustment.* Under § 280F(d)(7)(B)(i), the automobile price inflation adjustment for any calendar year is the percentage (if any) by which the CPI automobile component for October of the preceding calendar year exceeds the CPI automobile component for October 1987. The term "CPI automobile component" is defined in § 280F(d)(7)(B)(ii) as the "automobile component" of the Consumer Price Index for all Urban Consumers published by the Department of Labor (the CPI). The new car component of the CPI was 115.2 for October 1987 and 136.7 for October 2002. The October 2002 index exceeded the October 1987 index by 21.5. The Service has, therefore, determined that the automobile price inflation adjustment for 2003 for passenger automobiles (other than trucks and vans) is 18.66 percent (21.5/115.2 x 100%). This adjustment is applicable to all passenger automobiles (other than trucks and vans) that are first placed in service in calendar year 2003. The dollar limitations in § 280F(a) must therefore be multiplied by a factor of 0.1866, and the resulting increases, after rounding to the nearest \$100, are added to the 1988 limitations to

give the depreciation limitations applicable to passenger automobiles (other than trucks, vans, and electric automobiles) for calendar year 2003. To determine the dollar limitations applicable to an electric automobile first placed in service during calendar year 2003, the dollar limitations in § 280F(a) are tripled in accordance with § 280F(a)(1)(C) and are then multiplied by a factor of 0.1866; the resulting increases, after rounding to the nearest \$100, are added to the tripled 1988 limitations to give the depreciation limitations for calendar year 2003. To determine the dollar limitations applicable to trucks and vans first placed in service during calendar year 2003, the new truck component of the CPI is used instead of the new car component. The new truck component of the CPI was 112.4 for October 1987 and 147.5 for October 2002. The October 2002 index exceeded the October 1987 index by 35.1. The Service has, therefore, determined that the automobile price inflation adjustment for 2003 for trucks and vans is 31.23 percent (35.1/112.4 x 100%). This adjustment is applicable to all trucks and vans that are first placed in service in calendar year 2003. The dollar limitations in § 280F(a) must therefore be multiplied by a factor of 0.3123, and the resulting increases, after rounding to the nearest \$100, are added to the 1988 limitations to give the depreciation limitations applicable to trucks and vans.

(2) *Amount of the Limitation.* For passenger automobiles placed in service by the taxpayer in calendar year 2003,

Tables 1 through 9 contain the dollar amount of the depreciation limitation for each tax year. Use Table 1 for passenger automobiles (other than trucks, vans, electric automobiles, § 168(k)(1) passenger automobiles, and § 168(k)(4) passenger automobiles) placed in service by the taxpayer in calendar year 2003. Use Table 2 for § 168(k)(1) passenger automobiles (other than trucks, vans, and electric automobiles) placed in service by the taxpayer in calendar year 2003. Use Table 3 for § 168(k)(4) passenger automobiles (other than trucks, vans, and electric automobiles) placed in service by the taxpayer in calendar year 2003. Use Table 4 for trucks and vans (other than § 168(k)(1) passenger automobiles and § 168(k)(4) passenger automobiles) placed in service by the taxpayer in calendar year 2003. Use Table 5 for trucks or vans that are § 168(k)(1) passenger automobiles placed in service by the taxpayer in calendar year 2003. Use Table 6 for trucks or vans that are § 168(k)(4) passenger automobiles placed in service by the taxpayer in calendar year 2003. Use Table 7 for electric automobiles (other than § 168(k)(1) passenger automobiles and § 168(k)(4) passenger automobiles) placed in service by the taxpayer in calendar year 2003. Use Table 8 for electric automobiles that are § 168(k)(1) passenger automobiles placed in service by the taxpayer in calendar year 2003. Use Table 9 for electric automobiles that are § 168(k)(4) passenger automobiles placed in service by the taxpayer in calendar year 2003.

REV. PROC. 2003-75 TABLE 1

DEPRECIATION LIMITATIONS FOR PASSENGER AUTOMOBILES
(THAT ARE NOT § 168(k)(1) PASSENGER AUTOMOBILES,
§ 168(k)(4) PASSENGER AUTOMOBILES
TRUCKS, VANS, OR ELECTRIC AUTOMOBILES)
PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2003

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$3,060
2nd Tax Year	\$4,900
3rd Tax Year	\$2,950
Each Succeeding Year	\$1,775

REV. PROC. 2003-75 TABLE 2
 DEPRECIATION LIMITATIONS FOR
 § 168(k)(1) PASSENGER AUTOMOBILES
 (THAT ARE NOT TRUCKS, VANS, OR ELECTRIC AUTOMOBILES)
 PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2003

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$7,660
2nd Tax Year	\$4,900
3rd Tax Year	\$2,950
Each Succeeding Year	\$1,775

REV. PROC. 2003-75 TABLE 3
 DEPRECIATION LIMITATIONS FOR
 § 168(k)(4) PASSENGER AUTOMOBILES
 (THAT ARE NOT TRUCKS, VANS, OR ELECTRIC AUTOMOBILES)
 PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2003

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$10,710
2nd Tax Year	\$4,900
3rd Tax Year	\$2,950
Each Succeeding Year	\$1,775

REV. PROC. 2003-75 TABLE 4
 DEPRECIATION LIMITATIONS FOR TRUCKS AND VANS
 (THAT ARE NOT § 168(k)(1) PASSENGER AUTOMOBILES
 OR § 168(k)(4) PASSENGER AUTOMOBILES)
 PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2003

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$3,360
2nd Tax Year	\$5,400
3rd Tax Year	\$3,250
Each Succeeding Year	\$1,975

REV. PROC. 2003-75 TABLE 5

DEPRECIATION LIMITATIONS FOR TRUCKS AND VANS
 THAT ARE § 168(k)(1) PASSENGER AUTOMOBILES
 PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2003

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$7,960
2nd Tax Year	\$5,400
3rd Tax Year	\$3,250
Each Succeeding Year	\$1,975

REV. PROC. 2003-75 TABLE 6

DEPRECIATION LIMITATIONS FOR TRUCKS AND VANS
 (THAT ARE § 168(k)(4) PASSENGER AUTOMOBILES
 PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2003

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$11,010
2nd Tax Year	\$5,400
3rd Tax Year	\$3,250
Each Succeeding Year	\$1,975

REV. PROC. 2003-75 TABLE 7

DEPRECIATION LIMITATIONS FOR ELECTRIC AUTOMOBILES
 (THAT ARE NOT § 168(k)(1) PASSENGER AUTOMOBILES
 OR § 168(k)(4) PASSENGER AUTOMOBILES)
 PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2003

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$9,080
2nd Tax Year	\$14,600
3rd Tax Year	\$8,750
Each Succeeding Year	\$5,225

REV. PROC. 2003-75 TABLE 8

DEPRECIATION LIMITATIONS FOR ELECTRIC AUTOMOBILES
 THAT ARE § 168(k) (1) PASSENGER AUTOMOBILES
 PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2003

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$22,880
2nd Tax Year	\$14,600
3rd Tax Year	\$8,750
Each Succeeding Year	\$5,225

REV. PROC. 2003-75 TABLE 9

DEPRECIATION LIMITATIONS FOR ELECTRIC AUTOMOBILES
THAT ARE § 168(k)(4) PASSENGER AUTOMOBILES
PLACED IN SERVICE BY THE TAXPAYER DURING CALENDAR YEAR 2003

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$32,030
2nd Tax Year	\$14,600
3rd Tax Year	\$8,750
Each Succeeding Year	\$5,225

03. *Inclusions in Income of Lessees of Passenger Automobiles.*

The inclusion amounts for passenger automobiles (including § 168(k)(1) passenger automobiles and § 168(k)(4) passenger automobiles) first leased in calendar year 2003 are calculated under the

procedures described in § 1.280F-7(a). Lessees of passenger automobiles other than trucks, vans, and electric automobiles should use Table 10 of this revenue procedure in applying these procedures, while lessees of trucks and vans should use Table 11 of this revenue procedure and

lessees of electric automobiles should use Table 12 of this revenue procedure.

REV. PROC. 2003-75 TABLE 10

DOLLAR AMOUNTS FOR PASSENGER AUTOMOBILES
(THAT ARE NOT TRUCKS, VANS, OR ELECTRIC AUTOMOBILES)
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2003

Fair Market Value of Passenger Automobile		Tax Year During Lease				
		1st	2nd	3rd	4th	5th and Later
Over	Not Over					
\$18,000	18,500	10	22	33	40	45
18,500	19,000	12	26	39	46	53
19,000	19,500	14	30	44	53	61
19,500	20,000	15	34	50	59	69
20,000	20,500	17	37	56	66	77
20,500	21,000	19	41	61	73	85
21,000	21,500	21	45	66	80	92
21,500	22,000	22	49	72	87	100
22,000	23,000	25	54	81	97	111
23,000	24,000	28	62	92	110	127
24,000	25,000	32	70	103	123	143
25,000	26,000	35	77	115	137	158
26,000	27,000	39	85	125	151	174
27,000	28,000	42	92	137	165	189
28,000	29,000	46	100	148	178	204
29,000	30,000	49	108	159	191	221
30,000	31,000	52	115	171	205	236
31,000	32,000	56	123	182	218	251
32,000	33,000	59	130	194	231	267
33,000	34,000	63	138	204	245	283
34,000	35,000	66	146	215	259	298
35,000	36,000	70	153	227	272	314
36,000	37,000	73	161	238	285	330
37,000	38,000	77	168	249	299	346
38,000	39,000	80	176	260	313	361
39,000	40,000	83	184	272	326	376
40,000	41,000	87	191	283	340	391

REV. PROC. 2003-75 TABLE 10

DOLLAR AMOUNTS FOR PASSENGER AUTOMOBILES
(THAT ARE NOT TRUCKS, VANS, OR ELECTRIC AUTOMOBILES)
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2003

Fair Market Value of Passenger Automobile		Tax Year During Lease				
		1st	2nd	3rd	4th	5th and Later
Over	Not Over					
41,000	42,000	90	199	294	353	407
42,000	43,000	94	206	306	366	423
43,000	44,000	97	214	317	380	438
44,000	45,000	101	221	328	394	454
45,000	46,000	104	229	339	407	470
46,000	47,000	108	236	351	420	486
47,000	48,000	111	244	362	434	501
48,000	49,000	115	251	374	447	516
49,000	50,000	118	259	385	460	532
50,000	51,000	121	267	396	474	548
51,000	52,000	125	274	407	488	563
52,000	53,000	128	282	418	502	578
53,000	54,000	132	289	430	515	594
54,000	55,000	135	297	441	528	610
55,000	56,000	139	304	452	542	626
56,000	57,000	142	312	463	556	641
57,000	58,000	146	320	474	569	656
58,000	59,000	149	327	486	582	672
59,000	60,000	152	335	497	596	688
60,000	62,000	158	346	514	616	711
62,000	64,000	165	361	537	642	743
64,000	66,000	171	377	559	670	773
66,000	68,000	178	392	581	697	805
68,000	70,000	185	407	604	724	835
70,000	72,000	192	422	626	751	867
72,000	74,000	199	437	649	778	898
74,000	76,000	206	452	672	804	930
76,000	78,000	213	467	694	832	960
78,000	80,000	220	483	716	859	991
80,000	85,000	232	509	756	906	1,046
85,000	90,000	249	547	812	973	1,124
90,000	95,000	266	585	868	1,041	1,202
95,000	100,000	284	623	924	1,108	1,280
100,000	110,000	309	680	1,009	1,209	1,397
110,000	120,000	344	755	1,122	1,344	1,552
120,000	130,000	378	831	1,234	1,479	1,708
130,000	140,000	413	907	1,346	1,614	1,864
140,000	150,000	447	983	1,459	1,749	2,019
150,000	160,000	482	1,059	1,571	1,884	2,175
160,000	170,000	516	1,135	1,683	2,019	2,331
170,000	180,000	551	1,210	1,796	2,154	2,487
180,000	190,000	585	1,286	1,909	2,288	2,643
190,000	200,000	620	1,362	2,021	2,423	2,798
200,000	210,000	654	1,438	2,133	2,559	2,953
210,000	220,000	689	1,513	2,246	2,694	3,109
220,000	230,000	723	1,589	2,359	2,828	3,265
230,000	240,000	758	1,665	2,471	2,963	3,421
240,000	250,000	792	1,741	2,583	3,098	3,577

REV. PROC. 2003-75 TABLE 11

DOLLAR AMOUNTS FOR TRUCKS AND VANS
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2003

Fair Market Value of Truck or Van		Tax Year During Lease				
		1st	2nd	3rd	4th	5th and Later
Over	Not Over					
\$18,500	19,000	7	14	22	24	29
19,000	19,500	8	18	27	32	36
19,500	20,000	10	22	33	38	44
20,000	20,500	12	26	38	45	52
20,500	21,000	14	29	44	52	60
21,000	21,500	15	34	49	59	67
21,500	22,000	17	37	55	66	75
22,000	23,000	20	43	63	76	86
23,000	24,000	23	51	74	89	102
24,000	25,000	27	58	86	102	118
25,000	26,000	30	66	97	116	133
26,000	27,000	33	73	109	129	149
27,000	28,000	37	81	119	143	165
28,000	29,000	40	89	130	157	180
29,000	30,000	44	96	142	170	196
30,000	31,000	47	104	153	183	212
31,000	32,000	51	111	165	196	227
32,000	33,000	54	119	176	210	242
33,000	34,000	58	126	187	224	258
34,000	35,000	61	134	198	238	273
35,000	36,000	65	141	210	251	289
36,000	37,000	68	149	221	264	305
37,000	38,000	71	157	232	278	320
38,000	39,000	75	164	243	292	336
39,000	40,000	78	172	254	305	352
40,000	41,000	82	179	266	318	367
41,000	42,000	85	187	277	332	383
42,000	43,000	89	194	289	345	398
43,000	44,000	92	202	300	358	414
44,000	45,000	96	209	311	373	429
45,000	46,000	99	217	322	386	445
46,000	47,000	102	225	333	400	460
47,000	48,000	106	232	345	413	476
48,000	49,000	109	240	356	426	492
49,000	50,000	113	247	368	439	507
50,000	51,000	116	255	379	453	523
51,000	52,000	120	263	389	467	538
52,000	53,000	123	270	401	480	554
53,000	54,000	127	278	412	493	570
54,000	55,000	130	285	424	507	585
55,000	56,000	134	293	434	521	601
56,000	57,000	137	301	445	534	617
57,000	58,000	140	308	457	548	632
58,000	59,000	144	316	468	561	647
59,000	60,000	147	323	480	575	663
60,000	62,000	152	335	496	595	687
62,000	64,000	159	350	519	622	717
64,000	66,000	166	365	542	648	749
66,000	68,000	173	380	564	676	780
68,000	70,000	180	395	587	702	811
70,000	72,000	187	410	609	730	842
72,000	74,000	194	426	631	757	873

REV. PROC. 2003-75 TABLE 11

DOLLAR AMOUNTS FOR TRUCKS AND VANS
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2003

Fair Market Value of Truck or Van		Tax Year During Lease				
Over	Not Over	1st	2nd	3rd	4th	5th and Later
74,000	76,000	201	441	654	783	905
76,000	78,000	208	456	676	811	935
78,000	80,000	215	471	699	837	967
80,000	85,000	227	497	739	885	1,021
85,000	90,000	244	535	795	952	1,099
90,000	95,000	261	573	851	1,020	1,177
95,000	100,000	278	611	907	1,088	1,254
100,000	110,000	304	668	992	1,188	1,372
110,000	120,000	339	744	1,104	1,323	1,527
120,000	130,000	373	820	1,216	1,458	1,683
130,000	140,000	408	895	1,329	1,593	1,839
140,000	150,000	442	971	1,442	1,728	1,994
150,000	160,000	477	1,047	1,554	1,862	2,151
160,000	170,000	511	1,123	1,666	1,998	2,306
170,000	180,000	546	1,198	1,779	2,133	2,462
180,000	190,000	580	1,274	1,892	2,267	2,618
190,000	200,000	615	1,350	2,004	2,402	2,773
200,000	210,000	649	1,426	2,116	2,537	2,929
210,000	220,000	684	1,502	2,228	2,672	3,085
220,000	230,000	718	1,578	2,341	2,807	3,240
230,000	240,000	753	1,653	2,454	2,942	3,396
240,000	250,000	787	1,729	2,566	3,077	3,552

REV. PROC. 2003-75 TABLE 12

DOLLAR AMOUNTS FOR ELECTRIC AUTOMOBILES
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2003

Fair Market Value of Electric Automobile		Tax Year During Lease				
Over	Not Over	1st	2nd	3rd	4th	5th and Later
\$53,000	54,000	28	60	90	108	124
54,000	55,000	31	68	101	121	140
55,000	56,000	35	76	112	134	156
56,000	57,000	38	83	124	148	171
57,000	58,000	42	91	134	162	187
58,000	59,000	45	98	146	175	203
59,000	60,000	49	106	157	188	218
60,000	62,000	54	117	174	209	241
62,000	64,000	61	132	197	235	273
64,000	66,000	68	147	219	263	304
66,000	68,000	75	163	241	290	334
68,000	70,000	81	178	264	317	366
70,000	72,000	88	193	287	343	397
72,000	74,000	95	208	309	371	428
74,000	76,000	102	223	332	397	460
76,000	78,000	109	239	353	425	491
78,000	80,000	116	254	376	452	521

REV. PROC. 2003-75 TABLE 12

DOLLAR AMOUNTS FOR ELECTRIC AUTOMOBILES
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2003

Fair Market Value of Electric Automobile		Tax Year During Lease				
		1st	2nd	3rd	4th	5th and Later
Over	Not Over					
80,000	85,000	128	280	416	499	576
85,000	90,000	145	318	472	566	655
90,000	95,000	162	356	528	634	732
95,000	100,000	180	394	584	701	810
100,000	110,000	206	451	668	803	926
110,000	120,000	240	527	781	937	1,082
120,000	130,000	275	602	894	1,072	1,238
130,000	140,000	309	678	1,006	1,207	1,394
140,000	150,000	344	754	1,118	1,342	1,550
150,000	160,000	378	830	1,231	1,477	1,705
160,000	170,000	413	905	1,344	1,612	1,861
170,000	180,000	447	981	1,456	1,747	2,017
180,000	190,000	482	1,057	1,568	1,882	2,172
190,000	200,000	516	1,133	1,681	2,016	2,329
200,000	210,000	551	1,208	1,794	2,151	2,484
210,000	220,000	585	1,284	1,906	2,287	2,639
220,000	230,000	620	1,360	2,018	2,421	2,796
230,000	240,000	654	1,436	2,131	2,556	2,951
240,000	250,000	689	1,511	2,244	2,691	3,107

04. *Maximum Automobile Value for Using the Cents-per-mile Valuation Rule.*

(1) *Amount of Adjustment.* Under § 1.61-21(e)(1)(iii)(A), the limitation on the fair market value of an employer-provided passenger automobile first made available to any employee for personal use after 1988 is to be adjusted in accordance with § 280F(d)(7). Accordingly, the adjustment for any calendar year is the percentage (if any) by which the CPI automobile component for October of the preceding calendar year exceeds the CPI automobile component for October 1987. See, section 4.02(1) of this revenue procedure. The new car component of the CPI was 115.2 for October 1987 and 136.7 for October 2002. The October 2002 index exceeded the October 1987 index by 21.5. The Service has, therefore, determined that the adjustment for 2003 is 18.66 percent (21.5/115.2 x 100%). This adjustment is applicable to all employer-provided passenger automobiles first made available to any employee for personal use in calendar year 2003. The maximum fair market value specified in § 1.61-21(e)(1)(iii)(A) must therefore be multiplied by a factor of 0.1866, and

the resulting increase, after rounding to the nearest \$100, is added to \$12,800 to give the maximum value for calendar year 2003.

(2) *The Maximum Automobile Value.* For passenger automobiles first made available in calendar year 2003 to any employee of the employer for personal use, the vehicle cents-per-mile valuation rule may be applicable if the fair market value of the passenger automobile on the date it is first made available does not exceed \$15,200.

05. *Revised Limitation Amounts for § 168(k)(1) Passenger Automobiles Placed in Service During 2001 and 2002.*

(1) *Calculation of the Revised Amount.* The revised depreciation limits provided in this section for § 168(k)(1) passenger automobiles (other than electric automobiles) were calculated by augmenting the existing limitations on the first year allowance in Rev. Proc. 2001-19 (for passenger automobiles placed in service in calendar year 2001) and in Rev. Proc. 2002-14 (for passenger automobiles placed in service

in calendar year 2002) by \$4,600. Similarly, the revised depreciation limits provided in this section for electric automobiles that are § 168(k)(1) passenger automobiles were calculated by augmenting the existing limitations on the first year allowance in Rev. Proc. 2001-19 (for electric automobiles placed in service in calendar year 2001) and in Rev. Proc. 2002-14 (for electric automobiles placed in service in calendar year 2002) by \$13,800 (\$4,600 tripled).

(2) *Amount of the Revised Limitation.* For § 168(k)(1) passenger automobiles (other than electric automobiles) placed in service by the taxpayer in calendar year 2001, Table 13 of this revenue procedure contains the revised dollar amount of the depreciation limitations for each tax year. For electric automobiles that are § 168(k)(1) passenger automobiles placed in service by the taxpayer in calendar year 2001, Table 14 of this revenue procedure contains these revised amounts. For § 168(k)(1) passenger automobiles (other than electric automobiles) placed in service by the taxpayer in calendar year 2002, Table 15 of this revenue procedure contains the revised dollar amount of

the depreciation limitations for each tax year. For electric automobiles that are § 168(k)(1) passenger automobiles placed in service by the taxpayer in calendar year 2002, Table 16 of this revenue procedure contains these revised amounts.

REV. PROC. 2003-75 TABLE 13

DEPRECIATION LIMITATIONS FOR
§ 168(k)(1) PASSENGER AUTOMOBILES
(THAT ARE NOT ELECTRIC AUTOMOBILES) FIRST PLACED
IN SERVICE BY THE TAXPAYER IN CALENDAR YEAR 2001

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$7,660
2nd Tax Year	\$4,900
3rd Tax Year	\$2,950
Each Succeeding Year	\$1,775

REV. PROC. 2003-75 TABLE 14

DEPRECIATION LIMITATIONS FOR ELECTRIC AUTOMOBILES
THAT ARE § 168(k)(1) PASSENGER AUTOMOBILES
FIRST PLACED IN SERVICE BY THE TAXPAYER IN
CALENDAR YEAR 2001

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$23,080
2nd Tax Year	\$14,800
3rd Tax Year	\$8,850
Each Succeeding Year	\$5,325

REV. PROC. 2003-75 TABLE 15

DEPRECIATION LIMITATIONS FOR
§ 168(k)(1) PASSENGER AUTOMOBILES
(THAT ARE NOT ELECTRIC AUTOMOBILES) FIRST PLACED
IN SERVICE BY THE TAXPAYER IN CALENDAR YEAR 2002

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$7,660
2nd Tax Year	\$4,900
3rd Tax Year	\$2,950
Each Succeeding Year	\$1,775

REV. PROC. 2003-75 TABLE 16

DEPRECIATION LIMITATIONS FOR ELECTRIC AUTOMOBILES
THAT ARE § 168(k)(1) PASSENGER AUTOMOBILES
FIRST PLACED IN SERVICE BY THE TAXPAYER IN
CALENDAR YEAR 2002

<i>Tax Year</i>	<i>Amount</i>
1st Tax Year	\$22,980
2nd Tax Year	\$14,700
3rd Tax Year	\$8,750
Each Succeeding Year	\$5,325

SECTION 5. EFFECTIVE DATE

This revenue procedure, with the exception of section 4.05, applies to passenger automobiles (other than leased passenger automobiles) that are first placed in service by the taxpayer during calendar year 2003, to leased passenger automobiles that are first leased by the taxpayer during calendar year 2003, and to employer-provided passenger automobiles first made available to employees for personal use in calendar year 2003. Section 4.05 of this revenue procedure applies to § 168(k)(1) passenger automobiles that are placed in service by the taxpayer during calendar year 2001 or 2002.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2001-19 and Rev. Proc. 2002-14 are amplified.

DRAFTING INFORMATION

The principal author of this revenue procedure is Bernard P. Harvey of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding the depreciation limitations and lessee inclusion amounts in this revenue procedure, contact Mr. Harvey at (202) 622-3110; for further information regarding the maximum automobile value for applying the vehicle cents-per-mile valuation rule, contact John B. Richards of the Office of the Associate Chief Counsel (Tax Exempt and Government Entities) at (202) 622-6040 (not toll-free calls).

26 CFR 601.403: Miscellaneous excise taxes collected by return.

Rev. Proc. 2003-78

SECTION 1. PURPOSE

This revenue procedure provides instructions for establishing exemption from the section 4371 excise tax on insurance premiums paid to a foreign insurer or reinsurer when the exemption is based on the provisions of an income tax treaty to which the United States is a party.

SECTION 2. BACKGROUND

.01 Section 4371 of the Internal Revenue Code generally imposes a tax (the "insurance excise tax") on each policy of insurance or reinsurance with respect to United States risks issued by any foreign insurer or reinsurer, unless the premiums paid are taxed as income effectively connected with the conduct of a United States trade or business.

.02 Section 4374 provides that the insurance excise tax shall be paid by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued or sold.

.03 Section 46.4374-1(c) of the Excise Tax Regulations provides that the insurance excise tax shall be paid on the basis of a return. Such return shall be filed and tax remitted by the person who makes the payment of a premium to a foreign insurer or reinsurer. If the tax is not paid by the person who makes payment of a premium, the insurance excise tax shall be paid on the basis of a return by any person who makes,

signs, issues or sells any of the documents or instruments subject to the tax imposed by section 4371, or for whose use or benefit such document or instrument is made, signed, issued or sold.

.04 Pursuant to income tax treaties between the United States and several countries, policies issued by a foreign insurer or reinsurer that is a resident of any of such countries may be exempt from the insurance excise tax. This revenue procedure applies to a treaty excise tax exemption that is either a qualified exemption (for example, the exemption in the treaties with Germany and France) or an exemption subject to an anti-conduit arrangement limitation (for example, the exemption in the treaty with the United Kingdom), depending on the treaty.

SECTION 3. EXEMPTION PROCEDURE

.01 A person otherwise required to remit the insurance excise tax on account of premiums paid to a foreign insurance or reinsurance company may consider the premiums exempt from the insurance excise tax under an income tax treaty if the premiums are paid to an insurer or reinsurer that is a resident for treaty purposes of a country with which the United States has a treaty containing an excise tax exemption and, prior to filing the return for the taxable period, such person has knowledge that there was in effect for such taxable period a closing agreement between the Internal Revenue Service and the foreign insurer or reinsurer as provided by section 3.04(2). As part of the closing agreement, the foreign insurer or reinsurer must agree to be liable as a United States

taxpayer for the insurance excise tax pursuant to section 4371 *et seq.*, subject to an applicable exemption under the relevant treaty or any other United States treaty. However, a person required to remit the excise tax may not consider the premiums exempt if prior to filing the return for the taxable period such person has knowledge that the foreign insurer or reinsurer did not qualify for benefits under the relevant treaty during the taxable period.

.02 Premiums paid on policies written by a foreign insurer or reinsurer cannot qualify for exemption from the insurance excise tax under a treaty with a qualified exemption to the extent that the risks covered by such premiums are reinsured with a person not entitled to the benefits of the relevant treaty or any other treaty that provides exemption from the insurance excise tax. Premiums paid on policies written by a foreign insurer or reinsurer cannot qualify for exemption from the insurance excise tax under a treaty with an exemption subject to an anti-conduit arrangement limitation to the extent that the premium is paid pursuant to a conduit arrangement as defined in the treaty.

.03 In addition to the requirements of sections 3.01 and 3.02, premiums paid on policies written by a foreign insurer or reinsurer cannot qualify for exemption from the insurance excise tax under a treaty to which the United States is a party unless the foreign insurer or reinsurer qualifies for benefits under the relevant treaty, including the limitation on benefits provision.

.04 A foreign insurer or reinsurer that wishes to enter into a closing agreement under this revenue procedure must:

(1) Submit the following information and documentation:

a. A statement signed under penalties of perjury that:

i. The foreign insurer or reinsurer is a resident of _____ (name of treaty country) for purposes of the income tax treaty between the United States and _____ (name of treaty country); and

ii. The foreign insurer or reinsurer qualifies for benefits under the Limitation on Benefits Article of the income tax treaty between the United States and

_____ (name of treaty country), accompanied by an explanation of the basis on which the foreign insurer or reinsurer so qualifies;

b. A letter of credit in the amount of \$75,000. The Service may determine at any time that circumstances warrant a letter of credit in an increased amount and will notify the taxpayer if such a determination is made;

c. A completed Form SS-4 (*Application for Employer Identification Number*) to apply for an EIN if the applicant does not already have an EIN;

d. A list of the position titles of those persons who will be the responsible parties for performance under the closing agreement, and the names, addresses, and telephone numbers of those persons as of the date the application is submitted; and

(2) Enter into a closing agreement identical to the form set forth in Appendix A of this revenue procedure for treaties with qualified exemptions, or Appendix B of this revenue procedure for treaties with an exemption subject to an anti-conduit arrangement limitation.

.05 (1) Any foreign insurer or reinsurer wishing to enter into a closing agreement under this revenue procedure should submit a request for a closing agreement in accordance with Rev. Proc. 2003-1, 2003-1 I.R.B. 1, or any successor procedure, with the user fee stated in Appendix A of Rev. Proc. 2003-1, or any successor procedure, to the following address:

Internal Revenue Service
Attn: LM:IN:FP
1111 Constitution Avenue, NW
Washington, DC 20224
Telephone: (202) 435-5080
Fax: (202) 435-5082

(2) The request must be accompanied by three (3) copies of the closing agreement with an original signature on each copy and the information and documentation required by section 3.04. The Internal Revenue Service will sign the closing agreement and return one (1) copy to the Taxpayer.

SECTION 4. PERIODIC LISTING OF AGREEMENTS

The Service may periodically publish in the Internal Revenue Bulletin a list of foreign insurers or reinsurers that have entered into closing agreements under this revenue procedure and also a list of foreign insurers or reinsurers whose closing agreements are terminated.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective October 10, 2003.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 92-39, 1992-1 C.B. 860, is superceded except with respect to existing closing agreements. With respect to closing agreements in existence prior to the effective date of this revenue procedure, the Internal Revenue Service will treat a taxpayer as fully complying with the requirements of Paragraph 7(b) of a closing agreement under Rev. Proc. 92-39, Rev. Proc. 87-13, 1987-1 C.B. 596, or Rev. Proc. 84-82, 1984-2 C.B. 779 (requiring the taxpayer (i) to obtain a certificate of residency from the tax authorities in its home jurisdiction every three years, and/or (ii) to certify its eligibility for benefits under the relevant treaty on an annual basis), if such taxpayer complies with the certification of residency and entitlement to treaty benefits requirement as provided in paragraph 9 of the closing agreement set forth in Appendix A of this revenue procedure (requiring the taxpayer to certify residency and qualification for eligibility for benefits under the relevant treaty every three years and without a requirement for obtaining a certificate of residency from the tax authorities of the taxpayer's home jurisdiction).

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Karen Rennie-Quarrie of the Office of the Associate Chief Counsel (International). For further information on this procedure, call Ms. Rennie-Quarrie or Mr. W. Edward Williams at (202) 622-3880 (not a toll-free call).

APPENDIX A

FORM OF CLOSING AGREEMENT FOR CONVENTIONS
WITH A QUALIFIED EXEMPTION
CLOSING AGREEMENT ON FINAL
DETERMINATION COVERING
SPECIFIC MATTERS

Under *section 7121 of the Internal Revenue Code of 1986, as amended (the "Code")*, the taxpayer (as identified on the signature page of this agreement by taxpayer's name and address) (herein referred to as "Taxpayer") and the Commissioner of Internal Revenue (the "Commissioner") make the following closing agreement (this "Closing Agreement"):

WHEREAS, the Business Profits article of the income tax convention between the United States and Treaty Country (as identified on the signature page of this Closing Agreement), under which benefits are being claimed (the "Convention"), exempts insurance or reinsurance premiums paid to a resident of Treaty Country from the Federal excise tax imposed by section 4371 *et seq.* of the Code (the "Insurance Excise Tax") only to the extent that (i) Taxpayer does not reinsure such risks with a person not entitled to exemption from such tax under the Convention or any other income tax convention between the United States and another country, (ii) the premium was a receipt of a business of insurance carried on by an enterprise of Treaty Country, and (iii) the insurer or reinsurer qualifies under the Limitation on Benefits article of the Convention;

WHEREAS, section 3.01 of Rev. Proc. 2003-78 provides that the person otherwise required to remit the Insurance Excise Tax on account of premiums paid to a foreign insurance or reinsurance company may consider the premium exempt from the Insurance Excise Tax under an income tax treaty if premiums are paid to an insurer or reinsurer that is a resident for treaty purposes of a country with which the United States has a treaty containing an excise tax exemption and, prior to filing the return for the taxable period, such person has knowledge that Taxpayer has in effect for such taxable period a closing agreement with the Internal Revenue Service to be liable as a United States taxpayer for the Insurance Excise Tax pursuant to section 4371 *et seq.*, subject to an applicable exemption under the Convention or any other convention from the Insurance Excise Tax; and

WHEREAS, Taxpayer represents that it is and anticipates continuing to be eligible for benefits under the Convention.

IT IS HEREBY DETERMINED AND AGREED THAT:

(1) Taxpayer shall, for purposes of this closing agreement, be liable as a United States taxpayer for the Insurance Excise Tax on premiums pursuant to section 4371 *et seq.*, subject to an applicable exemption from the Insurance Excise Tax under the Convention or any other convention.

(2)(a) Returns of Insurance Excise Tax due under and pursuant to this Closing Agreement and section 4371 *et seq.* of the Code shall be made by Taxpayer, or by Taxpayer's authorized representative on Taxpayer's behalf, by filing Form 720, *Quarterly Federal Excise Tax Return*, for each return period covered by this Closing Agreement.

(b) For purposes of determining the tax with respect to premiums received on policies issued by the Taxpayer that do not qualify for an exemption under the Convention because Taxpayer reinsures, in whole or in part, a policy of insurance or reinsurance with any person(s) not entitled to exemption from the Insurance Excise Tax under the Convention or any other convention, the tax reportable on the return (Form 720) shall be computed on the basis of the percentage of such policies reinsured. For purposes of the preceding sentence, Taxpayer may consider a reinsurer to be entitled to exemption from the excise tax if the reinsurer is a party to a closing agreement with the Internal Revenue Service, pursuant to Rev. Proc. 2003-78 or a predecessor revenue procedure, under the Convention or an income tax convention between the United States and another country.

(c) Forms 720 shall be filed with the Internal Revenue Service Center, Cincinnati, OH 45999-0009.

(d) Taxpayer, or Taxpayer's authorized representative, shall make the required Federal tax deposits of the Insurance Excise Tax in such manner and at such times as are provided in the Federal tax regulations and in the instructions for Form 720.

(3) Taxpayer agrees that this Closing Agreement is not intended to modify the liability for the Insurance Excise Tax under section 4371 *et seq.* of the Code.

(4) Taxpayer agrees that, for purposes of determining its Insurance Excise Tax liability pursuant to this Closing Agreement and for purposes of verifying Taxpayer's entitlement to benefits under the Convention, Taxpayer will maintain for a period of 6 years from the end of each taxable period to which this Closing Agreement applies (i) accounts and records of items of insurance and reinsurance, and (ii) records to establish eligibility for benefits under the Convention, in each case, that will be made available upon written request by the Internal Revenue Service at the place mutually agreed upon by the Service and Taxpayer. Taxpayer will be allowed 60 days, or other period of time determined as reasonable by the Service within which to make available its accounts and records.

(5) If it is determined that there is an underpayment in respect of any Insurance Excise Tax determined to be due pursuant to this Closing Agreement and section 4371 *et seq.* of the Code, the Internal Revenue Service shall issue a statement of notice and demand for the tax due plus any interest and applicable penalties. Notice of any underpayment shall be sent to Taxpayer at the name and address shown on the Form 720, if a Form 720 was filed for the period for which an underpayment is determined by the Internal Revenue Service, or otherwise to Taxpayer's registered address in Treaty Country. Payment of all additional amounts due shall be

made in accordance with the terms specified in the statement of notice and demand. Collection of such amounts not paid per notice and demand shall be in accordance with paragraph (6) hereof.

(6)(a) As security for payment of tax, Taxpayer shall cause an irrevocable letter of credit to be issued by a United States bank that is a member of the Federal Reserve System, or by a United States branch or agency of a foreign bank that is on the National Association of Insurance Commissioners list of banks from which letters of credit may be accepted, in favor of the Internal Revenue Service in the amount of \$75,000, unless the Internal Revenue Service determines that circumstances warrant a letter of credit in an increased amount. Such letter of credit must be effective as of the date that the Closing Agreement is signed by the Commissioner or his delegate.

(b) The Service may issue a statement of notice and demand with respect to:

(i) Any tax shown on a Form 720 (original, amended, or substitute for return) that is not paid with such return; or

(ii) Any proposed additional liability for the Insurance Excise Tax sustained by the Internal Revenue Service Regional Director of Appeals having jurisdiction over such matter, if the time for filing a protest of such proposed liability has expired, provided that the statement of notice and demand has been issued as provided in paragraph (5) hereof.

(c) If, after the conditions in paragraph (6)(b) hereof have been met, the tax, interest, and any applicable penalties are not paid in accordance with the terms of the statement of notice and demand, collection of such amounts will be made by resorting to such letter of credit, to the extent thereof, before any levy or proceeding in court for collection is instituted against Taxpayer.

(d) If such letter of credit is drawn upon, it must be reinstated to \$75,000, or such higher amount as determined by the Internal Revenue Service pursuant to paragraph (6)(a) of this Closing Agreement, within 60 days after the date drawn upon.

(7)(a) Solely by reason of the execution by Taxpayer and the Commissioner of this Closing Agreement, any person otherwise required to remit the Insurance Excise Tax on insurance or reinsurance premiums pursuant to section 46.4374-1(c) of the Excise Tax Regulations may consider premiums paid to Taxpayer after the effective date of this Closing Agreement as exempt under the Convention from the Insurance Excise Tax, unless such person has knowledge that the foreign insurer or reinsurer did not qualify for benefits under the Convention during the relevant taxable period.

(b) Taxpayer agrees that the Commissioner or his or her authorized delegate may disclose, by publication or otherwise, Taxpayer's name as an insurer or reinsurer that has entered into a closing agreement under this revenue procedure.

(8) Taxpayer agrees to promptly notify the Competent Authority of Treaty Country and the Internal Revenue Service of any change that results in Taxpayer no longer qualifying for benefits under the Convention with respect to the Insurance Excise Tax. Taxpayer also agrees to promptly notify any person that has previously relied on this Closing Agreement and is required to remit the Insurance Excise Tax on account of premiums paid to Taxpayer that Taxpayer is not entitled to exemption from the Insurance Excise Tax.

(9) The statement submitted in accordance with section 3.04(1)(a) of Rev. Proc. 2003-78 is valid for the period provided in section 1.1441-1(e)(4)(ii) of the Treasury Regulations, or any successor regulations, beginning on the effective date of this Closing Agreement. On or before the expiration of the original validity period, or any subsequent validity period, Taxpayer will file with the Commissioner the same statement, signed under penalties of perjury, along with one copy of the closing agreement to the address set forth in subparagraph (e) of paragraph (10).

(10)(a) This Closing Agreement shall continue in effect until terminated as provided in subparagraph (b) of this paragraph.

(b) This Closing Agreement may be terminated by either Taxpayer or the Commissioner by giving the other written notice of the notifying party's intent to terminate. The decision to terminate is solely at the discretion of the party giving such notice. This Closing Agreement shall be terminated at the close of the last day of the quarterly return period immediately following the return period within which the written notice of termination is given. Taxpayer agrees that the Commissioner or his or her authorized delegate may disclose, by publication or otherwise, Taxpayer's name as an insurer or reinsurer whose closing agreement under this revenue procedure has been terminated.

(c) Taxpayer hereby agrees to file a return, Form 720, marked "Final Return" for the taxable period within which this Closing Agreement terminates pursuant to subparagraph (b) of this paragraph, in accordance with rules provided in the Federal tax regulations and the instructions for Form 720. Taxpayer also agrees to furnish a duplicate of such "Final Return" to the address set forth in subparagraph (e) of this paragraph.

(d) Taxpayer agrees that the letter of credit issued pursuant to paragraph (6) hereof shall remain in effect for a period of not less than 60 days after the "Final Return" has been filed in accordance with subparagraph (c) hereof, or until the examination of Taxpayer's returns is completed and any additional tax due has been paid, whichever is later.

(e) Taxpayer agrees to file the statement required by paragraph (9) and the duplicate Form 720 required by subparagraph (c) of this paragraph at the following address:

Internal Revenue Service
Attn: LM:IN:FP
1111 Constitution Avenue, NW
Washington, DC 20224

WHEREAS, the determinations set forth above are hereby agreed to by Taxpayer:

This Closing Agreement is final and conclusive except:

(1) the matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of material fact;

(2) it is subject to the Code sections that expressly provide that effect be given to their provisions (including any stated exception for section 7122) notwithstanding any other law or rule of law; and

(3) if it relates to a tax period ending after the date of this agreement, it is subject to any change or modification of applicable statutes or tax conventions that apply to that tax period.

IN WITNESS WHEREOF, the above parties have subscribed their names to these presents, in triplicate.

Date _____

By _____

Title _____

(Name of Taxpayer and authorized representative)

Address _____

Taxpayer Identification Number _____

(If the applicant does not already have a TIN, one will be supplied by the Service pursuant to the completed Form SS-4 submitted with the request for the closing agreement)

Treaty Country _____

Commissioner of the Internal Revenue

By _____

Associate Chief Counsel (International)

Date _____

By _____

Director, International

Date _____

APPENDIX B

FORM OF CLOSING AGREEMENT FOR CONVENTIONS WITH AN ANTI-CONDUIT LIMITATION

CLOSING AGREEMENT ON FINAL DETERMINATION COVERING SPECIFIC MATTERS

Under section 7121 of the Internal Revenue Code of 1986, as amended (the "Code"), the taxpayer (as identified on the signature page of this agreement by taxpayer's name and address) (herein referred to as "Taxpayer") and the Commissioner of Internal Revenue (the "Commissioner") make the following closing agreement (this "Closing Agreement"):

WHEREAS, the Business Profits article of the income tax convention between the United States and Treaty Country (as identified on the signature page of this Closing Agreement), under which benefits are being claimed (the "Convention"), exempts insurance or reinsurance premiums paid to a resident of Treaty Country from the Federal excise tax imposed by section 4371 *et seq.* of the Code (the "Insurance Excise Tax") only to the extent that (i) the policy was not entered into as part of a conduit arrangement, (ii) the premium was a receipt of a business of insurance carried on by an enterprise of Treaty Country, and (iii) the insurer or reinsurer qualifies under the Limitation on Benefits article of the Convention;

WHEREAS, section 3.01 of Rev. Proc. 2003-78 provides that the person otherwise required to remit the Insurance Excise Tax on account of premiums paid to a foreign insurance or reinsurance company may consider the premium exempt from the Insurance Excise Tax under an income tax treaty if premiums are paid to an insurer or reinsurer that is a resident for treaty purposes of a country with which the United States has a treaty containing an excise tax exemption and, prior to filing the return for the taxable period, such person has knowledge that Taxpayer has in effect for such taxable period a closing agreement with the Internal Revenue Service to be liable as a United States taxpayer for the Insurance Excise Tax pursuant to section 4371 *et seq.*, subject to an applicable exemption under the Convention or any other convention from the Insurance Excise Tax; and

WHEREAS, Taxpayer represents that it is and anticipates continuing to be eligible for benefits under the Convention.

IT IS HEREBY DETERMINED AND AGREED THAT:

(1) Taxpayer shall, for purposes of this closing agreement, be liable as a United States taxpayer for the Insurance Excise Tax on premiums pursuant to section 4371 *et seq.*, subject to an applicable exemption from the Insurance Excise Tax under the Convention or any other convention.

(2)(a) Returns of Insurance Excise Tax due under and pursuant to this Closing Agreement and section 4371 *et seq.* of the Code shall be made by Taxpayer, or by Taxpayer's authorized representative on Taxpayer's behalf, by filing Form 720, *Quarterly Federal Excise Tax Return*, for each return period covered by this Closing Agreement.

(b) For purposes of determining the tax with respect to premiums received on policies issued by the Taxpayer that do not qualify for an exemption under the Convention because Taxpayer, as part of a conduit arrangement, reinsures, in whole or in part, a policy of insurance or reinsurance with any person(s) not entitled to exemption from the Insurance Excise Tax under the Convention or any other convention, the tax reportable on the return (Form 720) shall be computed on the basis of the percentage of such policies reinsured. For purposes of the preceding sentence, Taxpayer may consider a reinsurer to be entitled to exemption from the excise tax if the reinsurer is a party to a closing agreement with the Internal Revenue Service, pursuant to Rev. Proc. 2003-78 or a predecessor revenue procedure, under the Convention or an income tax convention between the United States and another country.

(c) Forms 720 shall be filed with the Internal Revenue Service Center, Cincinnati, OH 45999-0009.

(d) Taxpayer, or Taxpayer's authorized representative, shall make the required Federal tax deposits of the Insurance Excise Tax in such manner and at such times as are provided in the Federal tax regulations and in the instructions for Form 720.

(3) Taxpayer agrees that this Closing Agreement is not intended to modify the liability for the Insurance Excise Tax under section 4371 *et seq.* of the Code.

(4) Taxpayer agrees that, for purposes of determining its Insurance Excise Tax liability pursuant to this Closing Agreement and for purposes of verifying Taxpayer's entitlement to benefits under the Convention, Taxpayer will maintain for a period of 6 years from the end of each taxable period to which this Closing Agreement applies (i) accounts and records of items of insurance and reinsurance, and (ii) records to establish eligibility for benefits under the Convention, in each case, that will be made available upon written request by the Internal Revenue Service at the place mutually agreed upon by the Service and Taxpayer. Taxpayer will be allowed 60 days, or other period of time determined as reasonable by the Service within which to make available its accounts and records.

(5) If it is determined that there is an underpayment in respect of any Insurance Excise Tax determined to be due pursuant to this Closing Agreement and section 4371 *et seq.* of the Code, the Internal Revenue Service shall issue a statement of notice and demand for the tax due plus any interest and applicable penalties. Notice of any underpayment shall be sent to Taxpayer at the name and address shown on the Form 720, if a Form 720 was filed for the period for which an underpayment is determined by the Internal Revenue Service, or otherwise to Taxpayer's registered address in Treaty Country. Payment of all additional amounts due shall be made in accordance with the terms specified in the statement of notice and demand. Collection of such amounts not paid per notice and demand shall be in accordance with paragraph (6) hereof.

(6)(a) As security for payment of tax, Taxpayer shall cause an irrevocable letter of credit to be issued by a United States bank that is a member of the Federal Reserve System, or by a United States branch or agency of a foreign bank that is on the National Association of Insurance Commissioners list of banks from which letters of credit may be accepted, in favor of the Internal Revenue Service in the amount of \$75,000, unless the Internal Revenue Service determines that circumstances warrant a letter of credit in an increased amount. Such letter of credit must be effective as of the date that the Closing Agreement is signed by the Commissioner or his delegate.

(b) The Service may issue a statement of notice and demand with respect to:

(i) Any tax shown on a Form 720 (original, amended, or substitute for return) that is not paid with such return; or

(ii) Any proposed additional liability for the Insurance Excise Tax sustained by the Internal Revenue Service Regional Director of Appeals having jurisdiction over such matter, if the time for filing a protest of such proposed liability has expired, provided that the statement of notice and demand has been issued as provided in paragraph (5) hereof.

(c) If, after the conditions in paragraph (6)(b) hereof have been met, the tax, interest, and any applicable penalties are not paid in accordance with the terms of the statement of notice and demand, collection of such amounts will be made by resorting to such letter of credit, to the extent thereof, before any levy or proceeding in court for collection is instituted against Taxpayer.

(d) If such letter of credit is drawn upon, it must be reinstated to \$75,000, or such higher amount as determined by the Internal Revenue Service pursuant to paragraph (6)(a) of this Closing Agreement, within 60 days after the date drawn upon.

(7)(a) Solely by reason of the execution by Taxpayer and the Commissioner of this Closing Agreement, any person otherwise required to remit the Insurance Excise Tax on insurance or reinsurance premiums pursuant to section 46.4374-1(c) of the Excise Tax Regulations may consider premiums paid to Taxpayer after the effective date of this Closing Agreement as exempt under the Convention from the Insurance Excise Tax, unless such person has knowledge that the foreign insurer or reinsurer did not qualify for benefits under the Convention during the relevant taxable period.

(b) Taxpayer agrees that the Commissioner or his or her authorized delegate may disclose, by publication or otherwise, Taxpayer's name as an insurer or reinsurer that has entered into a closing agreement under this revenue procedure.

(8) Taxpayer agrees to promptly notify the Competent Authority of Treaty Country and the Internal Revenue Service of any change that results in Taxpayer no longer qualifying for benefits under the Convention with respect to the Insurance Excise Tax. Taxpayer also agrees to promptly notify any person that has previously relied on this Closing Agreement and is required to remit the Insurance Excise Tax on account of premiums paid to Taxpayer that Taxpayer is not entitled to exemption from the Insurance Excise Tax.

(9) The statement submitted in accordance with section 3.04(1)(a) of Rev. Proc. 2003-78 is valid for the period provided in section 1.1441-1(e)(4)(ii) of the Treasury Regulations, or any successor regulations, beginning on the effective date of this Closing Agreement. On or before the expiration of the original validity period, or any subsequent validity period, Taxpayer will file with the

Commissioner the same statement, signed under penalties of perjury, along with one copy of the closing agreement to the address set forth in subparagraph (e) of paragraph (10).

(10)(a) This Closing Agreement shall continue in effect until terminated as provided in subparagraph (b) of this paragraph.

(b) This Closing Agreement may be terminated by either Taxpayer or the Commissioner by giving the other written notice of the notifying party's intent to terminate. The decision to terminate is solely at the discretion of the party giving such notice. This Closing Agreement shall be terminated at the close of the last day of the quarterly return period immediately following the return period within which the written notice of termination is given. Taxpayer agrees that the Commissioner or his or her authorized delegate may disclose, by publication or otherwise, Taxpayer's name as an insurer or reinsurer whose closing agreement under this revenue procedure has been terminated.

(c) Taxpayer hereby agrees to file a return, Form 720, marked "Final Return" for the taxable period within which this Closing Agreement terminates pursuant to subparagraph (b) of this paragraph, in accordance with rules provided in the Federal tax regulations and the instructions for Form 720. Taxpayer also agrees to furnish a duplicate of such "Final Return" to the address set forth in subparagraph (e) of this paragraph.

(d) Taxpayer agrees that the letter of credit issued pursuant to paragraph (6) hereof shall remain in effect for a period of not less than 60 days after the "Final Return" has been filed in accordance with subparagraph (c) hereof, or until the examination of Taxpayer's returns is completed and any additional tax due has been paid, whichever is later.

(e) Taxpayer agrees to file the statement required by paragraph (9) and the duplicate Form 720 required by subparagraph (c) of this paragraph at the following address:

Internal Revenue Service
Attn: LM:IN:FP
1111 Constitution Avenue, NW
Washington, DC 20224

WHEREAS, the determinations set forth above are hereby agreed to by Taxpayer:

This Closing Agreement is final and conclusive except:

- (1) the matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of material fact;
- (2) it is subject to the Code sections that expressly provide that effect be given to their provisions (including any stated exception for section 7122) notwithstanding any other law or rule of law; and
- (3) if it relates to a tax period ending after the date of this agreement, it is subject to any change or modification of applicable statutes or tax conventions that apply to that tax period.

IN WITNESS WHEREOF, the above parties have subscribed their names to these presents, in triplicate.

Date _____

By _____

Title _____

(Name of Taxpayer and authorized representative)

Address _____

Taxpayer Identification Number _____

(If the applicant does not already have a TIN, one will be supplied by the Service pursuant to the completed Form SS-4 submitted with the request for the closing agreement)

Treaty Country _____

Commissioner of the Internal Revenue

By _____

Associate Chief Counsel (International)

Date _____

By _____

Director, International

Date _____

Rev. Proc. 2003-79

SECTION 1. PURPOSE

Rev. Proc. 2002-38, 2002-1 C.B. 1037, and Rev. Proc. 2002-39, 2002-1 C.B. 1046, provide procedures for a partnership or S corporation to change its annual accounting period if its current taxable year no longer qualifies as a natural business year (or, for certain S corporations, an ownership taxable year). This revenue procedure provides procedures under which a partner or S corporation shareholder (within the scope of this revenue procedure) of such a partnership or S corporation may elect to take into account ratably over four taxable years the partner's or S corporation shareholder's share of income from the partnership or S corporation that is attributable to the short taxable year ending on or after May 10, 2002, but before June 1, 2004.

SECTION 2. BACKGROUND

.01 Section 442 of the Internal Revenue Code and § 1.442-1(a) of the Income Tax Regulations generally provide that a taxpayer that wants to change its annual accounting period and use a new taxable year must obtain the approval of the Commissioner.

.02 Section 1.442-1(b)(2) provides, in relevant part, that a change in annual accounting period will be approved only where the taxpayer agrees to the Commissioner's prescribed terms, conditions, and adjustments for effecting the change.

.03 Section 1.442-1(b)(3) provides that such terms, conditions, and adjustments may include adjustments necessary to neutralize the tax effects of a substantial distortion of income that would otherwise result from the requested annual accounting period.

.04 Rev. Proc. 2002-38 provides the exclusive procedures for certain partnerships and S corporations to obtain automatic approval to adopt, change, or retain their annual accounting periods under § 442 and § 1.442-1(b). Among the provisions of Rev. Proc. 2002-38:

(1) Section 4 provides that a partnership or S corporation may secure the Commissioner's approval to adopt or change to its "required taxable year," a "natural business year," or an "ownership taxable year;"

(2) Section 5.04 defines a "permitted taxable year" to include a required taxable year, natural business year, or ownership taxable year;

(3) Section 5.05 provides that a partnership or S corporation establishes a natural business year by satisfying a "25-percent gross receipts test;"

(4) Section 5.06 provides generally that an S corporation shareholder that is a tax-exempt entity under § 501(a) and that is not subject to tax on any income attributable to the S corporation is disregarded for purposes of determining an ownership taxable year of the S corporation unless the S corporation is wholly-owned by such tax-exempt entity; and

(5) Sections 6.05 and 6.06 provide that if a taxpayer changes to or retains a natural business year or an ownership taxable year and that year no longer qualifies as a permitted taxable year, the taxpayer is using an impermissible annual accounting period and should change to a permitted taxable year under Rev. Proc. 2002-38 or Rev. Proc. 2002-39, whichever applies.

.05 Rev. Proc. 2002-39 provides the exclusive procedures for taxpayers, including partnerships and S corporations, that do not qualify under one of the automatic approval procedures, to obtain prior approval of the Commissioner to adopt, change, or retain their annual accounting periods under § 442 and § 1.442-1(b). Among the provisions of Rev. Proc. 2002-39:

(1) Section 5.01 provides that a request to adopt, change, or retain an annual accounting period ordinarily will be approved if the taxpayer establishes a business purpose;

(2) Section 5.02 provides that a taxpayer requesting to adopt, change, or retain an annual accounting period that is the taxpayer's natural business year has established a business purpose to the satisfaction of the Commissioner;

(3) Section 5.03 provides that a natural business year of a taxpayer may be determined under the "annual business cycle test," the "seasonal business test," or the "25% gross receipts test;" and

(4) Section 5.04 provides that if a partnership or S corporation changed to or retained under Rev. Proc. 2002-39 a taxable year that was its natural business year, and that taxable year no longer qualifies as a permitted taxable year, the partnership or S corporation is using an impermissible annual accounting period and should change to a permitted taxable year under Rev. Proc. 2002-38 or Rev. Proc. 2002-39, whichever applies.

.06 In the case of a partnership or S corporation that changes its taxable year to a permitted taxable year, a partner or S corporation shareholder may be required to include in gross income in a single taxable year income items and expense items from more than one taxable year of the partnership or S corporation. The Internal Revenue Service and Treasury Department have determined that it is appropriate to allow partners and S corporation shareholders within the scope of this revenue procedure to elect to spread ratably over a four-year period their share of income from the partnership's or S corporation's short taxable year.

SECTION 3. DEFINITIONS

For purposes of this revenue procedure:

.01 *Share of income.* The term "share of income" means a partner's or S corporation shareholder's share of "income items" that exceeds its share of "expense items" from the partnership or S corporation that are attributable to the short taxable year;

.02 *Income Items and Expense Items.* The terms "income items" and "expense items" have the same meaning as in § 1.702-3T(b); and

.03 *Short Taxable Year.* The term "short taxable year" means the short taxable year of the partnership or S corporation that is required to effect the change in annual accounting period. An initial short year following an election under section 1362(a) will not be considered a "short taxable year" for purposes of this revenue procedure.

SECTION 4. SCOPE

This revenue procedure applies to a partner or S corporation shareholder, if:

.01 The partnership or S corporation has changed, or will change, its taxable year solely because either:

(1) its current taxable year no longer qualifies as a natural business year under Rev. Proc. 2002-38 or Rev. Proc. 2002-39, whichever applies; or

(2) in the case of an S corporation, its current taxable year no longer qualifies as an ownership taxable year because a tax-exempt owner is disregarded under section 5.06 of Rev. Proc. 2002-38;

.02 The partnership's or S corporation's short taxable year ends on or after May 10, 2002, but before June 1, 2004 (or, in the case of a taxpayer that uses a 52-53-week taxable year, with reference to the last day of any calendar month after April 30, 2002, and before June 1, 2004);

.03 As a consequence of the partnership or S corporation changing its taxable year to a permitted taxable year, income items and expense items from more than one taxable year of the partnership or S corporation would, but for the provisions of this revenue procedure, be includible in the income of the partner or S corporation shareholder in a single taxable year; and

.04 The partner's or S corporation shareholder's share of income items exceeds its share of expense items attributable to the short taxable year of the partnership or S corporation.

SECTION 5. FOUR-YEAR SPREAD PERIOD

.01 A partner or S corporation shareholder within the scope of this revenue procedure may elect to take into account its share of income from the short taxable year of the partnership or S corporation ratably over a four-year period.

.02 A partner or S corporation shareholder within the scope of this revenue procedure that elects a ratable four-year spread period under this revenue procedure must apply the provisions of § 1.702-3T (b), (d), (e), (f) and (g) with the following modifications for purposes of this section:

(1) the term "partner" in §1.702-3T means any partner or S corporation shareholder within the scope of this revenue procedure;

(2) the term "partnership" includes S corporations;

(3) the term "distributive share" includes a shareholder's *pro rata* share of S corporation items; and

(4) references to "section 806 of the 1986 Act" should be replaced with "Rev. Proc. 2002-38 or Rev. Proc. 2002-39, whichever applies."

SECTION 6. PROCEDURES FOR ELECTING FOUR-YEAR SPREAD PERIOD

A partner or S corporation shareholder within the scope of this revenue procedure that wants to elect to spread income ratably over a four-year period under this revenue procedure must make the election by:

(1) recording the appropriate ratable income amount (*i.e.*, one quarter of its share of income) on either:

(a) a timely filed original federal income tax return for the taxable year of the partner or S corporation shareholder with or within which the partnership's or S corporation's short taxable year ends; or

(b) in the case of a partner or S corporation shareholder within the scope of this revenue procedure that wants to make the four-year spread period election, but prior to November 24, 2003, has timely filed a federal income tax return for the taxable year with or within which the partnership's or S corporation's short taxable year ends, on an appropriate amended federal income tax return that is filed on or before April 12, 2004; and

(2) attaching to the original or amended federal income tax return for the taxable year with or within which the partnership's or S corporation's short taxable year ends, and to the federal income tax returns for every other taxable year of the spread period, a completed Form 8082, *Notice of Inconsistent Treatment or Administrative Adjustment Request*, containing an explanation in Part III similar to the following: "Election under Rev. Proc. 2003-79 to apply a ratable 4-year spread of the share of income attributable to a change in annual accounting period."

SECTION 7. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2002-38 and Rev. Proc. 2002-39 are modified.

DRAFTING INFORMATION

The principal authors of this revenue procedure are Roy A. Hirschhorn and

Jeffrey S. Marshall of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Hirschhorn or Mr. Marshall at (202) 622-4960 (not a toll-free call).

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

(Also Part I, §§ 62, 162, 267, 274; 1.62-2, 1.162-17, 1.267(a)-1, 1.274-5.)

Rev. Proc. 2003-80

SECTION 1. PURPOSE

This revenue procedure updates Rev. Proc. 2002-63, 2002-2 C.B. 691, by providing rules under which the amount of ordinary and necessary business expenses of an employee for lodging, meal, and incidental expenses or for meal and incidental expenses incurred while traveling away from home will be deemed substantiated under § 1.274-5 of the Income Tax Regulations when a payor (the employer, its agent, or a third party) provides a *per diem* allowance under a reimbursement or other expense allowance arrangement to pay for the expenses. In addition, this revenue procedure provides an optional method for employees and self-employed individuals who pay or incur meal costs to use in computing the deductible costs of business meal and incidental expenses paid or incurred while traveling away from home. This revenue procedure also provides an optional method for use in computing the deductible costs of incidental expenses paid or incurred while traveling away from home by employees and self-employed individuals who do not pay or incur meal costs and who are not reimbursed for the incidental expenses. Use of a method described in this revenue procedure is not mandatory, and a taxpayer may use actual allowable expenses if the taxpayer maintains adequate records or other sufficient evidence for proper substantiation. This revenue procedure does not provide rules under which the amount of an employee's lodging expenses will be deemed substantiated when a payor provides an allowance to pay for those expenses but not meal and incidental expenses.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 162(a) of the Internal Revenue Code allows a deduction for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Under that provision, an employee or self-employed individual may deduct expenses paid or incurred while traveling away from home in pursuit of a trade or business. However, under § 262, no portion of the travel expenses that is attributable to personal, living, or family expenses is deductible.

.02 Section 274(n) generally limits the amount allowable as a deduction under § 162 for any expense for food, beverages, or entertainment to 50 percent of the amount of the expense that otherwise would be allowable as a deduction. In the case of any expenses for food or beverages consumed while away from home (within the meaning of § 162(a)(2)) by an individual during, or incident to, the period of duty subject to the hours of service limitations of the Department of Transportation, § 274(n)(3) gradually increases the deductible percentage to 80 percent for taxable years beginning in 2008. For taxable years beginning in 2003, the deductible percentage for these expenses is 65 percent. For taxable years beginning in 2004, the deductible percentage for these expenses is 70 percent.

.03 Section 274(d) provides, in part, that no deduction shall be allowed under § 162 for any traveling expense (including meals and lodging while away from home) unless the taxpayer complies with certain substantiation requirements. Section 274(d) further provides that regulations may prescribe that some or all of the substantiation requirements do not apply to an expense that does not exceed an amount prescribed by such regulations.

.04 Section 1.274-5(g), in part, grants the Commissioner the authority to prescribe rules relating to reimbursement arrangements or *per diem* allowances for ordinary and necessary expenses paid or incurred while traveling away from home. Pursuant to this grant of authority, the Commissioner may prescribe rules under which such arrangements or allowances, if in accordance with reasonable business practice, will be regarded (1) as equivalent to substantiation, by adequate records or

other sufficient evidence, of the amount of such travel expenses for purposes of § 1.274-5(c), and (2) as satisfying the requirements of an adequate accounting to the employer of the amount of such travel expenses for purposes of § 1.274-5(f).

.05 For purposes of determining adjusted gross income, § 62(a)(2)(A) allows an employee a deduction for expenses allowed by Part VI (§ 161 and following), subchapter B, chapter 1 of the Code, paid or incurred by the employee in connection with the performance of services as an employee under a reimbursement or other expense allowance arrangement with a payor.

.06 Section 62(c) provides that an arrangement will not be treated as a reimbursement or other expense allowance arrangement for purposes of § 62(a)(2)(A) if it—

(1) does not require the employee to substantiate the expenses covered by the arrangement to the payor, or

(2) provides the employee with the right to retain any amount in excess of the substantiated expenses covered under the arrangement.

Section 62(c) further provides that the substantiation requirements described therein shall not apply to any expense to the extent that, under the grant of regulatory authority prescribed in § 274(d), the Commissioner has provided that substantiation is not required for such expense.

.07 Under § 1.62-2(c)(1) a reimbursement or other expense allowance arrangement satisfies the requirements of § 62(c) if it meets the requirements of business connection, substantiation, and returning amounts in excess of expenses as specified in the regulations. Section 1.62-2(e)(2) specifically provides that substantiation of certain business expenses in accordance with rules prescribed under the authority of § 1.274-5(g) or 1.274-5(j) will be treated as substantiation of the amount of such expenses for purposes of § 1.62-2. Under § 1.62-2(f)(2), the Commissioner may prescribe rules under which an arrangement providing *per diem* allowances will be treated as satisfying the requirement of returning amounts in excess of expenses, even though the arrangement does not require the employee to return the portion of such an allowance that relates to days of travel substantiated and that

exceeds the amount of the employee's expenses deemed substantiated pursuant to rules prescribed under § 274(d), provided the allowance is reasonably calculated not to exceed the amount of the employee's expenses or anticipated expenses and the employee is required to return any portion of such an allowance that relates to days of travel not substantiated.

.08 Section 1.62-2(h)(2)(i)(B) provides that if a payor pays a *per diem* allowance that meets the requirements of § 1.62-2(c)(1), the portion, if any, of the allowance that relates to days of travel substantiated in accordance with § 1.62-2(e), that exceeds the amount of the employee's expenses deemed substantiated for such travel pursuant to rules prescribed under § 274(d) and § 1.274-5(g) or § 1.274-5(j), and that the employee is not required to return, is subject to withholding and payment of employment taxes. See §§ 31.3121(a)-3, 31.3231(e)-1(a)(5), 31.3306(b)-2, and 31.3401(a)-4 of the Employment Tax Regulations. Because the employee is not required to return this excess portion, the reasonable period of time provisions of § 1.62-2(g) (relating to the return of excess amounts) do not apply to this portion.

.09 Under § 1.62-2(h)(2)(i)(B)(4), the Commissioner has the discretion to prescribe special rules regarding the timing of withholding and payment of employment taxes on *per diem* allowances.

.10 Section 1.274-5(j)(1) grants the Commissioner the authority to establish a method under which a taxpayer may elect to use a specified amount for meals paid or incurred while traveling away from home in lieu of substantiating the actual cost of meals.

.11 Section 1.274-5(j)(3) grants the Commissioner the authority to establish a method under which a taxpayer may elect to use a specified amount for incidental expenses paid or incurred while traveling away from home in lieu of substantiating the actual cost of incidental expenses.

.12 Sections 4.04(5) and 5.06 of this revenue procedure provide transition rules for the last 2 months of calendar year 2003.

.13 Section 4.05 of this revenue procedure is revised to provide a new rate for substantiating only incidental expenses for any OCONUS locality of travel.

.14 Section 5.02 of this revenue procedure contains revisions to the *per diem*

rates for high-cost localities and for other localities for purposes of section 5.

.15 Sections 5.03 and 5.04 of this revenue procedure contain revisions to the list of high-cost localities for purposes of section 5.

SECTION 3. DEFINITIONS

.01 *per diem allowance*. The term “*per diem allowance*” means a payment under a reimbursement or other expense allowance arrangement that meets the requirements specified in § 1.62–2(c)(1) and that is —

(1) paid with respect to ordinary and necessary business expenses incurred, or which the payor reasonably anticipates will be incurred, by an employee for lodging, meal, and incidental expenses, or for meal and incidental expenses for travel away from home in connection with the performance of services as an employee of the employer,

(2) reasonably calculated not to exceed the amount of the expenses or the anticipated expenses, and

(3) paid at or below the applicable federal *per diem* rate, a flat rate or stated schedule, or in accordance with any other Service-specified rate or schedule.

.02 *Federal per diem rate and federal M&IE rate*.

(1) *General rule*. The federal *per diem* rate is equal to the sum of the applicable federal lodging expense rate and the applicable federal meal and incidental expense (M&IE) rate for the day and locality of travel.

(a) *CONUS rates*. The rates for localities in the continental United States (“CONUS”) are set forth in Appendix A to 41 C.F.R. ch. 301. However, in applying section 4.01, 4.02, or 4.03 of this revenue procedure, a taxpayer may continue to use the CONUS rates in effect after October 1, 2002, that the taxpayer most recently used prior to October 1, 2003, for expenses of all CONUS travel away from home that are paid or incurred during the last three months of 2003, in lieu of the GSA rates that are updated effective October 1, 2003, provided that the taxpayer consistently uses those prior rates for the last three months of 2003.

(b) *OCONUS rates*. The rates for localities outside the continental United States

(“OCONUS”) are established by the Secretary of Defense (rates for non-foreign localities, including Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands, and the possessions of the United States) and by the Secretary of State (rates for foreign localities), and are published in the *per diem* Supplement to the Standardized Regulations (Government Civilians, Foreign Areas) (updated on a monthly basis).

(c) *Internet access to the rates*. The CONUS and OCONUS rates may be found on the Internet at www.policy.works.gov/perdiem.

(2) *Locality of travel*. The term “locality of travel” means the locality where an employee traveling away from home in connection with the performance of services as an employee of the employer stops for sleep or rest.

(3) *Incidental expenses*. The term “incidental expenses” has the meaning given to it in the Federal Travel Regulations, 41 C.F.R. 300–3.1 (2003). Thus, based on the current definition of “incidental expenses” in the Federal Travel Regulations, “incidental expenses” means fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships, and hotel servants in foreign countries; transportation between places of lodging or business and places where meals are taken, if suitable meals cannot be obtained at the temporary duty site; and the mailing cost associated with filing travel vouchers and payment of employer-sponsored charge card billings.

.03 *Flat rate or stated schedule*.

(1) *In general*. Except as provided in section 3.03(2) of this revenue procedure, an allowance is paid at a flat rate or stated schedule if it is provided on a uniform and objective basis with respect to the expenses described in section 3.01 of this revenue procedure. Such allowance may be paid with respect to the number of days away from home in connection with the performance of services as an employee or on any other basis that is consistently applied and in accordance with reasonable business practice. Thus, for example, an hourly payment to cover meal and incidental expenses paid to a pilot or flight attendant who is traveling away from home in connection with the performance of services as an employee is an allowance paid at a flat rate or stated schedule. Likewise, a payment based on the number of miles

traveled (such as cents per mile) to cover meal and incidental expenses paid to an over-the-road truck driver who is traveling away from home in connection with the performance of services as an employee is an allowance paid at a flat rate or stated schedule.

(2) *Limitation*. For purposes of this revenue procedure, an allowance that is computed on a basis similar to that used in computing the employee’s wages or other compensation (such as the number of hours worked, miles traveled, or pieces produced) does not meet the business connection requirement of § 1.62–2(d), is not a *per diem* allowance, and is not paid at a flat rate or stated schedule, unless, as of December 12, 1989, (a) the allowance was identified by the payor either by making a separate payment or by specifically identifying the amount of the allowance, or (b) an allowance computed on that basis was commonly used in the industry in which the employee is employed. See § 1.62–2(d)(3)(ii).

SECTION 4. PER DIEM SUBSTANTIATION METHOD

.01 *per diem allowance*. If a payor pays a *per diem* allowance in lieu of reimbursing actual expenses for lodging, meal, and incidental expenses incurred or to be incurred by an employee for travel away from home, the amount of the expenses that is deemed substantiated for each calendar day is equal to the lesser of the *per diem* allowance for that day or the amount computed at the federal *per diem* rate (see section 3.02 of this revenue procedure) for the locality of travel for that day (or partial day, see section 6.04 of this revenue procedure).

.02 *Meals and incidental expenses only per diem allowance*. If a payor pays a *per diem* allowance only for meal and incidental expenses in lieu of reimbursing actual expenses for meal and incidental expenses incurred or to be incurred by an employee for travel away from home, the amount of the expenses that is deemed substantiated for each calendar day is equal to the lesser of the *per diem* allowance for that day or the amount computed at the federal M&IE rate for the locality of travel for that day (or partial day). A *per diem* allowance is treated as paid only for meal and incidental expenses if (1) the payor pays the

employee for actual expenses for lodging based on receipts submitted to the payor, (2) the payor provides the lodging in kind, (3) the payor pays the actual expenses for lodging directly to the provider of the lodging, (4) the payor does not have a reasonable belief that lodging expenses were or will be incurred by the employee, or (5) the allowance is computed on a basis similar to that used in computing the employee's wages or other compensation (such as the number of hours worked, miles traveled, or pieces produced).

.03 Optional method for meal and incidental expenses only deduction. In lieu of using actual expenses in computing the amount allowable as a deduction for ordinary and necessary meal and incidental expenses paid or incurred for travel away from home, employees and self-employed individuals who pay or incur meal expenses may use an amount computed at the federal M&IE rate for the locality of travel for each calendar day (or partial day) the employee or self-employed individual is away from home. Such amount will be deemed substantiated for purposes of paragraphs (b)(2) and (c) of § 1.274-5, provided the employee or self-employed individual substantiates the elements of time, place, and business purpose of the travel for that day (or partial day) in accordance with those regulations. See section 6.05(1) of this revenue procedure for rules related to the application of the limitation under § 274(n) to amounts determined under this section 4.03. See section 4.05 of this revenue procedure for a method for substantiating incidental expenses that may be used by employees or self-employed individuals who do not pay or incur meal expenses.

.04 Special rules for transportation industry.

(1) *In general.* This section 4.04 applies to (a) a payor that pays a *per diem* allowance only for meal and incidental expenses for travel away from home as described in section 4.02 of this revenue procedure to an employee in the transportation industry, or (b) an employee or self-employed individual in the transportation industry who computes the amount allowable as a deduction for meal and incidental expenses for travel away from home in accordance with section 4.03 of this revenue procedure.

(2) *Rates.* A taxpayer described in section 4.04(1) of this revenue procedure may

treat \$41 as the federal M&IE rate for any CONUS locality of travel, and \$46 as the federal M&IE rate for any OCONUS locality of travel. A payor that uses either (or both) of these special rates with respect to an employee must use the special rate(s) for all amounts subject to section 4.02 of this revenue procedure paid to that employee for travel away from home within CONUS and/or OCONUS, as the case may be, during the calendar year. Similarly, an employee or self-employed individual that uses either (or both) of these special rates must use the special rate(s) for all amounts computed pursuant to section 4.03 of this revenue procedure for travel away from home within CONUS and/or OCONUS, as the case may be, during the calendar year. See section 4.04(5) of this revenue procedure for transition rules.

(3) *Periodic rule.* A payor described in section 4.04(1) of this revenue procedure may compute the amount of the employee's expenses that is deemed substantiated under section 4.02 of this revenue procedure periodically (not less frequently than monthly), rather than daily, by comparing the total *per diem* allowance paid for the period to the sum of the amounts computed at the federal M&IE rate(s) for the localities of travel for the days (or partial days) the employee is away from home during the period. For example, assume an employee in the transportation industry travels away from home within CONUS on 17 days (including partial days) during a calendar month and receives a *per diem* allowance only for meal and incidental expenses from a payor that uses the special rule under section 4.04(2) of this revenue procedure. The amount deemed substantiated under section 4.02 of this revenue procedure is equal to the lesser of the total *per diem* allowance paid for the month or \$697 (17 days at \$41 per day).

(4) *Transportation industry defined.* For purposes of this section 4.04, an employee or self-employed individual is "in the transportation industry" only if the employee's or individual's work (a) is of the type that directly involves moving people or goods by airplane, barge, bus, ship, train, or truck, and (b) regularly requires travel away from home which, during any single trip away from home, usually involves travel to localities with differing federal M&IE rates. For purposes of the preceding sentence, a payor must

determine that an employee or a group of employees is "in the transportation industry" by using a method that is consistently applied and in accordance with reasonable business practice.

(5) *Transition rules.* Under the calendar-year convention provided in section 4.04(2), a taxpayer who used the federal M&IE rates during the first 10 months of calendar year 2003 to substantiate the amount of an individual's travel expenses under sections 4.02 or 4.03 of Rev. Proc. 2002-63 may not use, for that individual, the special transportation industry rates provided in this section 4.04 until January 1, 2004. Similarly, a taxpayer who used the special transportation industry rates during the first 10 months of calendar year 2003 to substantiate the amount of an individual's travel expenses may not use, for that individual, the federal M&IE rates until January 1, 2004.

.05 Optional method for incidental expenses only deduction. In lieu of using actual expenses in computing the amount allowable as a deduction for ordinary and necessary incidental expenses paid or incurred for travel away from home, employees and self-employed individuals who do not pay or incur meal expenses for a calendar day (or partial day) of travel away from home may use, for each calendar day (or partial day) the employee or self-employed individual is away from home, an amount computed at the rate of \$3 per day for any CONUS or OCONUS locality of travel. Such amount will be deemed substantiated for purposes of paragraphs (b)(2) and (c) of § 1.274-5, provided the employee or self-employed individual substantiates the elements of time, place, and business purpose of the travel for that day (or partial day) in accordance with those regulations. See section 4.03 of this revenue procedure for a method that may be used by employees or self-employed individuals who pay or incur meal expenses. The method authorized by this section 4.05 may not be used by payors that use section 4.01, 4.02 or 5.01 of this revenue procedure, or by employees or self-employed individuals who use the method described in section 4.03 of this revenue procedure. See section 6.05(4) of this revenue procedure for rules related to the application of the limitation under § 274(n) to amounts determined under this section 4.05.

**SECTION 5. HIGH-LOW
SUBSTANTIATION METHOD**

.01 *General rule.* If a payor pays a *per diem* allowance in lieu of reimbursing actual expenses for lodging, meal, and incidental expenses incurred or to be incurred by an employee for travel away from home and the payor uses the high-low substantiation method described in this section 5 for travel within CONUS, the amount of the expenses that is deemed substantiated for each calendar day is equal to the lesser of the *per diem* allowance for such day or the amount computed at the rate set forth in section 5.02 of this revenue procedure for the locality of travel for such day (or partial day, see section 6.04 of this revenue procedure). Except as provided in section 5.06

of this revenue procedure, this high-low substantiation method may be used in lieu of the *per diem* substantiation method provided in section 4.01 of this revenue procedure, but may not be used in lieu of the meals only substantiation method provided in section 4.02 or 4.03 of this revenue procedure.

.02 *Specific high-low rates.* Except as provided in section 5.06 of this revenue procedure, the *per diem* rate set forth in this section 5.02 is \$207 for travel to any “high-cost locality” specified in section 5.03 of this revenue procedure, or \$126 for travel to any other locality within CONUS. Whichever *per diem* rate applies, it is applied as if it were the federal *per diem* rate for the locality of travel. For purposes of applying the high-low substantiation

method and the § 274(n) limitation on meal expenses (see section 6.05 of this revenue procedure), the federal M&IE rate shall be treated as \$46 for a high-cost locality and \$36 for any other locality within CONUS.

.03 *High-cost localities.* The following localities have a federal *per diem* rate of \$167 or more, and are high-cost localities for all of the calendar year or the portion of the calendar year specified in parenthesis under the key city name, except as provided in section 5.06 of this revenue procedure:

<i>Key city</i>	<i>County or other defined location</i>
California	
Napa (April 1–November 15)	Napa
Palm Springs (January 1–May 31)	Riverside
San Francisco	San Francisco
Santa Monica	City limits of Santa Monica
Tahoe City	Placer
Colorado	
Aspen (January 1–April 30)	Pitkin
Silverthorne/Keystone	Summit
Telluride (December 20–September 30)	San Miguel
Vail (December 1–March 31)	Eagle
District of Columbia	
Washington, D.C. (also the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun, in Virginia; and the counties of Montgomery and Prince George’s in Maryland)	
Florida	
Key West (January 1–April 30)	Monroe
Naples (December 16–April 15)	Collier
Idaho	
Coeur d’Alene (June 1–September 30)	Kootenai
Sun Valley	City limits of Sun Valley
Illinois	
Chicago	Cook and Lake

<i>Key city</i>	<i>County or other defined location</i>
Louisiana New Orleans/St. Bernard (January 1–May 31)	Orleans, St. Bernard, Plaquemine, and Jefferson Parishes
Maine Kennebunk/Kittery/Sanford (June 15–October 31)	York
Maryland (For the counties of Montgomery and Prince George’s, see District of Columbia) Baltimore Ocean City (June 15–October 31)	Baltimore Worcester
Massachusetts Boston Cambridge Martha’s Vineyard (June 1–October 15) Nantucket (June 15–October 15)	Suffolk Middlesex (except Lowell) Dukes Nantucket
Michigan Mackinac Island Traverse City	Mackinac Grand Traverse
Montana Big Sky	Gallatin (except West Yellowstone)
Nevada Stateline	Douglas
New Jersey Atlantic City (June 1–November 30) Cape May (June 1–November 30) Edison Newark Ocean City (June 15–September 15) Piscataway/Belle Mead Princeton/Trenton	Atlantic Cape May (except Ocean City) Middlesex (except Piscataway) Essex, Bergen, Hudson and Passaic City limits of Ocean City Somerset; and the city limits of Piscataway Mercer
New York The Bronx/Queens Brooklyn Manhattan Nassau County/Great Neck Staten Island Suffolk County White Plains	The boroughs of The Bronx and Queens The borough of Brooklyn The borough of Manhattan Nassau Richmond Suffolk City limits of White Plains

<i>Key city</i>	<i>County or other defined location</i>
Pennsylvania Hershey (June 1–September 15) King of Prussia/Ft. Washington/Bala Cynwyd Philadelphia	City limits of Hershey Montgomery Philadelphia
Utah Park City (December 15–March 31)	Summit
Virginia (For the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun, see District of Columbia) Wintergreen	Nelson
Washington Seattle	King

.04 *Changes in high-cost localities.* The list of high-cost localities in section 5.03 of this revenue procedure differs from the list of high-cost localities in section 5.03 of Rev. Proc. 2002–63.

(1) The following localities (listed by key cities) have been added to the list of high-cost localities: Naples, Florida; and Coeur d’Alene, Idaho.

(2) The portion of the year for which the following are high-cost localities (listed by key city) has been changed: Santa Monica, California; and King of Prussia/Ft. Washington/Bala Cynwyd, Pennsylvania.

(3) The following localities have been removed from the list of high-cost localities: San Mateo/Redwood City, California; Sunnyvale/Palo Alto/San Jose, California; Ogden/Layton/Davis County, Utah; Provo, Utah; and Salt Lake City, Utah.

(4) The borough of Brooklyn is now separately listed as a high-cost locality and is no longer combined with the boroughs of The Bronx and Queens.

.05 *Specific limitation.*

(1) Except as provided in section 5.05(2) of this revenue procedure, a payor that uses the high-low substantiation method with respect to an employee must use that method for all amounts paid to that employee for travel away from home within CONUS during the calendar year. See section 5.06 of this revenue procedure for transition rules.

(2) With respect to an employee described in section 5.05(1) of this revenue procedure, the payor may reimburse actual expenses or use the meals only *per diem*

method described in section 4.02 of this revenue procedure for any travel away from home, and may use the *per diem* substantiation method described in section 4.01 of this revenue procedure for any OCONUS travel away from home.

.06 *Transition rules.* A payor who used the substantiation method of section 4.01 of Rev. Proc. 2002–63 for an employee during the first 10 months of calendar year 2003 may not use the High-Low Substantiation Method in section 5 of this revenue procedure for that employee until January 1, 2004. A payor who used the High-Low Substantiation Method of section 5 of Rev. Proc. 2002–63 for an employee during the first 10 months of calendar year 2003 must continue to use the High-Low Substantiation Method for the remainder of calendar year 2003 for that employee. A payor described in the previous sentence may use the rates and high-cost localities published in section 5 of Rev. Proc. 2002–63, in lieu of the updated rates and high-cost localities provided in section 5 of this revenue procedure, for travel on or after November 1, 2003, and before January 1, 2004, if those rates and localities are used consistently during this period for all employees reimbursed under this method.

SECTION 6. LIMITATIONS AND SPECIAL RULES

.01 *In general.* The federal *per diem* rate and the federal M&IE rate described in section 3.02 of this revenue procedure for the locality of travel will be applied in the

same manner as applied under the Federal Travel Regulations, 41 C.F.R. Part 301–11 (2003), except as provided in sections 6.02 through 6.04 of this revenue procedure.

.02 *Federal per diem rate.* A receipt for lodging expenses is not required in determining the amount of expenses deemed substantiated under section 4.01 or 5.01 of this revenue procedure for the requirement that the employee substantiate the time, place, and business purpose of the expense.

.03 *Federal per diem or M&IE rate.* A payor is not required to reduce the federal *per diem* rate or the federal M&IE rate for the locality of travel for meals provided in kind, provided the payor has a reasonable belief that meal and incidental expenses were or will be incurred by the employee during each day of travel.

.04 *Proration of the federal per diem or M&IE rate.* Pursuant to the Federal Travel Regulations, in determining the federal *per diem* rate or the federal M&IE rate for the locality of travel, the full applicable federal M&IE rate is available for a full day of travel from 12:01 a.m. to 12:00 midnight. The method described in section 6.04(1) of this revenue procedure must be used for purposes of determining the amount deemed substantiated under section 4.03 or 4.05 of this revenue procedure for partial days of travel away from home. For purposes of determining the amount deemed substantiated under section 4.01, 4.02, 4.04 or 5 of this revenue procedure for partial days of travel away from home, either of the following methods may be

used to prorate the federal M&IE rate to determine the federal *per diem* rate or the federal M&IE rate for the partial days of travel:

(1) The rate may be prorated using the method prescribed by the Federal Travel Regulations. Currently the Federal Travel Regulations allow three-fourths of the applicable federal M&IE rate for each partial day during which the employee or self-employed individual is traveling away from home in connection with the performance of services as an employee or self-employed individual. The same ratio may be applied to prorate the allowance for incidental expenses described in section 4.05 of this revenue procedure; or

(2) The rate may be prorated using any method that is consistently applied and in accordance with reasonable business practice. For example, if an employee travels away from home from 9 a.m. one day to 5 p.m. the next day, a method of proration that results in an amount equal to two times the federal M&IE rate will be treated as being in accordance with reasonable business practice (even though only one and a half times the federal M&IE rate would be allowed under the Federal Travel Regulations).

.05 *Application of the appropriate § 274(n) limitation on meal expenses.* Except as provided in section 6.05(4), all or part of the amount of an expense deemed substantiated under this revenue procedure is subject to the appropriate limitation under § 274(n) (see section 2.02 of this revenue procedure) on the deductibility of food and beverage expenses.

(1) If an amount for meal and incidental expenses is computed pursuant to section 4.03 of this revenue procedure, the taxpayer must treat such amount as an expense for food and beverages.

(2) If a *per diem* allowance is paid only for meal and incidental expenses, the payor must treat an amount equal to the lesser of the allowance or the federal M&IE rate for the locality of travel for such day (or partial day, see section 6.04 of this revenue procedure) as an expense for food and beverages.

(3) If a *per diem* allowance is paid for lodging, meal, and incidental expenses, the payor must treat an amount equal to the federal M&IE rate for the locality of travel for each calendar day (or partial day) the

employee is away from home as an expense for food and beverages. For purposes of the preceding sentence, if a *per diem* allowance for lodging, meal, and incidental expenses is paid at a rate that is less than the federal *per diem* rate for the locality of travel for such day (or partial day), the payor may treat an amount equal to 40 percent of such allowance as the federal M&IE rate for the locality of travel for such day (or partial day).

(4) If an amount for incidental expenses is computed under section 4.05 of this revenue procedure, none of the amount so computed is subject to limitation under § 274(n) on the deductibility of food and beverage expenses.

.06 *No double reimbursement or deduction.* If a payor pays a *per diem* allowance in lieu of reimbursing actual expenses for lodging, meal, and incidental expenses or for meal and incidental expenses in accordance with section 4 or 5 of this revenue procedure, any additional payment with respect to such expenses is treated as paid under a nonaccountable plan, is included in the employee's gross income, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes. Similarly, if an employee or self-employed individual computes the amount allowable as a deduction for meal and incidental expenses for travel away from home in accordance with section 4.03 or 4.04 of this revenue procedure, no other deduction is allowed to the employee or self-employed individual with respect to such expenses. For example, assume an employee receives a *per diem* allowance from a payor for lodging, meal, and incidental expenses or for meal and incidental expenses incurred while traveling away from home. During that trip, the employee pays for dinner for the employee and two business associates. The payor reimburses as a business entertainment meal expense the meal expense for the employee and the two business associates. Because the payor also pays a *per diem* allowance to cover the cost of the employee's meals, the amount paid by the payor for the employee's portion of the business entertainment meal expense is treated as paid under a nonaccountable plan, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes.

.07 *Related parties.* Sections 4.01 and 5 of this revenue procedure will not apply in any case in which a payor and an employee are related within the meaning of § 267(b), but for this purpose the percentage of ownership interest referred to in § 267(b)(2) shall be 10 percent.

SECTION 7. APPLICATION

.01 If the amount of travel expenses is deemed substantiated under the rules provided in section 4 or 5 of this revenue procedure, and the employee actually substantiates to the payor the elements of time, place, and business purpose of the travel for that day (or partial day) in accordance with paragraphs (b)(2) and (c) (other than subparagraph (2)(iii)(A) thereof) of § 1.274-5, the employee is deemed to satisfy the adequate accounting requirements of § 1.274-5(f) as well as the requirement to substantiate by adequate records or other sufficient evidence for purposes of § 1.274-5(c). See § 1.62-2(e)(1) for the rule that an arrangement must require business expenses to be substantiated to the payor within a reasonable period of time.

.02 An arrangement providing *per diem* allowances will be treated as satisfying the requirement of § 1.62-2(f)(2) with respect to returning amounts in excess of expenses if the employee is required to return within a reasonable period of time (as defined in § 1.62-2(g)) any portion of such an allowance that relates to days of travel not substantiated, even though the arrangement does not require the employee to return the portion of such an allowance that relates to days of travel substantiated and that exceeds the amount of the employee's expenses deemed substantiated. For example, assume a payor provides an employee an advance *per diem* allowance for meal and incidental expenses of \$200, based on an anticipated 5 days of business travel at \$40 per day to a locality for which the federal M&IE rate is \$34, and the employee substantiates 3 full days of business travel. The requirement to return excess amounts will be treated as satisfied if the employee is required to return within a reasonable period of time (as defined in § 1.62-2(g)) the portion of the allowance that is attributable to the 2 unsubstantiated days of travel (\$80), even though the employee is not required to return the portion of the allowance (\$18) that exceeds the amount of

the employee's expenses deemed substantiated under section 4.02 of this revenue procedure (§102) for the 3 substantiated days of travel. However, the \$18 excess portion of the allowance is treated as paid under a nonaccountable plan as discussed in section 7.04 of this revenue procedure.

.03 An employee is not required to include in gross income the portion of a *per diem* allowance received from a payor that is less than or equal to the amount deemed substantiated under the rules provided in section 4 or 5 of this revenue procedure if the employee substantiates the business travel expenses covered by the *per diem* allowance in accordance with section 7.01 of this revenue procedure. See § 1.274-5(f)(2)(i). In addition, such portion of the allowance is treated as paid under an accountable plan, is not reported as wages or other compensation on the employee's Form W-2, and is exempt from the withholding and payment of employment taxes. See § 1.62-2(c)(2) and (c)(4).

.04 An employee is required to include in gross income only the portion of the *per diem* allowance received from a payor that exceeds the amount deemed substantiated under the rules provided in section 4 or 5 of this revenue procedure if the employee substantiates the business travel expenses covered by the *per diem* allowance in accordance with section 7.01 of this revenue procedure. See § 1.274-5(f)(2)(ii). In addition, the excess portion of the allowance is treated as paid under a nonaccountable plan, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes. See § 1.62-2(c)(3)(i), (c)(5), and (h)(2)(i)(B).

.05 If the amount of the expenses that is deemed substantiated under the rules provided in section 4.01, 4.02, or 5 of this revenue procedure is less than the amount of the employee's business expenses for travel away from home, the employee may claim an itemized deduction for the amount by which the business travel expenses exceed the amount that is deemed substantiated, provided the employee substantiates all the business travel expenses, includes on Form 2106, *Employee Business Expenses*, the deemed substantiated portion of the *per diem* allowance received from the payor, and includes in gross income the portion (if any) of the *per diem* allowance received from the

payor that exceeds the amount deemed substantiated. See § 1.274-5(f)(2)(iii). However, for purposes of claiming this itemized deduction with respect to meal and incidental expenses, substantiation of the amount of the expenses is not required if the employee is claiming a deduction that is equal to or less than the amount computed under section 4.03 of this revenue procedure minus the amount deemed substantiated under sections 4.02 and 7.01 of this revenue procedure. The itemized deduction is subject to the appropriate limitation (see section 2.02 of this revenue procedure) on meal and entertainment expenses provided in § 274(n) and the 2-percent floor on miscellaneous itemized deductions provided in § 67.

.06 An employee who pays or incurs amounts for meal expenses and does not receive a *per diem* allowance for meal and incidental expenses may deduct an amount computed pursuant to section 4.03 of this revenue procedure only as an itemized deduction. This itemized deduction is subject to the appropriate limitation on meal and entertainment expenses provided in § 274(n) and the 2-percent floor on miscellaneous itemized deductions provided in § 67. See section 7.07 of this revenue procedure for the treatment of an employee who does not pay or incur amounts for meal expenses and does not receive a *per diem* allowance for incidental expenses.

.07 An employee who does not pay or incur amounts for meal expenses and does not receive a *per diem* allowance for incidental expenses may deduct an amount computed pursuant to section 4.05 of this revenue procedure only as an itemized deduction. This itemized deduction is subject to the 2-percent floor on miscellaneous itemized deductions provided in § 67. See section 7.06 of this revenue procedure for the treatment of an employee who pays or incurs amounts for meal expenses and does not receive a *per diem* allowance for meal and incidental expenses.

.08 A self-employed individual who pays or incurs meal expenses for a calendar day (or partial day) of travel away from home may deduct an amount computed pursuant to section 4.03 of this revenue procedure in determining adjusted gross income under § 62(a)(1). This deduction is subject to the appropriate limitation on meal and entertainment expenses provided in § 274(n).

.09 A self-employed individual who does not pay or incur meal expenses for a calendar day (or partial day) of travel away from home may deduct an amount computed pursuant to section 4.05 of this revenue procedure in determining adjusted gross income under § 62(a)(1).

.10 If a payor's reimbursement or other expense allowance arrangement evidences a pattern of abuse of the rules of § 62(c) and the regulations thereunder, all payments under the arrangement will be treated as made under a nonaccountable plan. Thus, such payments are included in the employee's gross income, are reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of employment taxes. See § 1.62-2(c)(3), (c)(5), and (h)(2).

SECTION 8. WITHHOLDING AND PAYMENT OF EMPLOYMENT TAXES

.01 The portion of a *per diem* allowance, if any, that relates to the days of business travel substantiated and that exceeds the amount deemed substantiated for those days under section 4.01, 4.02, or 5 of this revenue procedure is subject to withholding and payment of employment taxes. See § 1.62-2(h)(2)(i)(B).

.02 In the case of a *per diem* allowance paid as a reimbursement, the excess described in section 8.01 of this revenue procedure is subject to withholding and payment of employment taxes in the payroll period in which the payor reimburses the expenses for the days of travel substantiated. See § 1.62-2(h)(2)(i)(B)(2).

.03 In the case of a *per diem* allowance paid as an advance, the excess described in section 8.01 of this revenue procedure is subject to withholding and payment of employment taxes no later than the first payroll period following the payroll period in which the days of travel with respect to which the advance was paid are substantiated. See § 1.62-2(h)(2)(i)(B)(3). If some or all of the days of travel with respect to which the advance was paid are not substantiated within a reasonable period of time and the employee does not return the portion of the allowance that relates to those days within a reasonable period of time, the portion of the allowance that relates to those days is subject to withholding and payment of employment taxes

no later than the first payroll period following the end of the reasonable period. See § 1.62-2(h)(2)(i)(A).

.04 In the case of a *per diem* allowance only for meal and incidental expenses for travel away from home paid to an employee in the transportation industry by a payor that uses the rule in section 4.04(3) of this revenue procedure, the excess of the *per diem* allowance paid for the period over the amount deemed substantiated for the period under section 4.02 of this revenue procedure (after applying section 4.04(3) of this revenue procedure), is subject to withholding and payment of employment taxes no later than the first payroll period following the payroll period in which the excess is computed. See § 1.62-2(h)(2)(i)(B)(4).

.05 For example, assume that an employer pays an employee a *per diem* allowance to cover business expenses for meals and lodging for travel away from home at a rate of 120 percent of the federal *per diem* rate for the localities to which the employee travels. The employer does not require the employee to return the 20 percent by which the reimbursement for those expenses exceeds the federal *per diem* rate. The employee substantiates 6 days of travel away from home: 2 days in a locality in which the federal *per diem* rate is \$100 and 4 days in a locality in which the federal *per diem* rate is \$125. The employer reimburses the employee \$840 for the 6 days of travel away from home (2 x (120% x \$100) + 4 x (120% x \$125)), and does not require the employee to return the excess payment of \$140 (2 days x \$20 (\$120-\$100) + 4 days x \$25 (\$150-\$125)). For the payroll period in which the employer reimburses the expenses, the employer must withhold and pay employment taxes on \$140. See section 8.02 of this revenue procedure.

SECTION 9. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2002-63 is hereby superseded (except to the extent specified in sections 4.04(5) and 5.06 of this revenue procedure) for *per diem* allowances that are paid both (1) to an employee on or after November 1, 2003, and (2) with respect to lodging, meal, and incidental expenses or with respect to meal and incidental expenses paid or incurred for travel away

from home on or after November 1, 2003. Rev. Proc. 2002-63 is also hereby superseded (except to the extent specified in section 4.04(5) of this revenue procedure) for purposes of computing the amount allowable as a deduction for meal and incidental expenses or for incidental expenses only paid or incurred by an employee or self-employed individual for travel away from home on or after November 1, 2003.

DRAFTING INFORMATION

The principal author of this revenue procedure is Sameera Hasan, of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Ms. Hasan at (202) 622-4930 (not a toll-free call).

26 CFR 601.201: Ruling and determination letters
(Also: Part I, sections 25, 103, 143, 1.25-3T, 1.103-1, 6a.103-2.)

Rev. Proc. 2003-81

SECTION 1. PURPOSE

This revenue procedure supplements Rev. Proc. 2003-49, 2003-29 I.R.B. 89, and provides 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) with a list of qualified census tracts for the Northern Mariana Islands, American Samoa, and Guam.

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 if that bond: (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 by a state or political subdivision thereof of one or more bonds, 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 An issue of bonds meets the requirements of § 143(h)(1) only if at least 20 percent of the proceeds of the issue is made available for owner financing of “targeted area residences” for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences. Section 143(h)(2) provides, however, that the amount made available need not exceed 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family, owner-occupied residences located in targeted areas within the jurisdiction of the issuing authority.

.04 Targeted area residences are defined in § 143(j)(1)(A) to include residences in a qualified census tract. A “qualified census tract”, according to § 143(j)(2)(A), is a census tract in which 70 percent or more of the families have income that is 80 percent or less of the statewide median family income. Section 143(j)(2)(B) provides that the determination that a census tract is a “qualified census tract” must be based on the most recent decennial census for which data are available.

.05 Section 6a.103A-2(b)(4)(ii) of the Temporary Income Tax Regulations provides that, with respect to any particular bond issue, the determination that a census tract is a “qualified census tract” may be based upon the decennial census data available 3 months prior to the date of issuance and shall not be affected by official changes to the data during or after that 3-month period.

.06 Section 143(k)(2)(A) of the Code provides that the term “statistical area” means (i) a metropolitan statistical area (“MSA”) and (ii) any county (or the portion thereof) that is not within an MSA.

.07 An MSA is currently defined as an area containing at least one urbanized area with a population of at least 50,000, plus adjacent territory having a high degree of social and economic integration with the core as measured through commuting ties. See Office of Management and Budget (“OMB”), Standards for Defining Metropolitan and Micropolitan Statistical Areas; Notice, 65 FR 249 (December 27, 2000); OMB Bulletin No. 03–04 (June 6, 2003).

.08 A state or local government may elect to exchange all or part of its qualified mortgage bond authority to issue mortgage credit certificates. Section 25(a)(1) states, in general, that the recipient of

a mortgage credit certificate may claim a federal income tax credit equal to the product of the certificate credit rate and the interest paid or accrued during the tax year on the remaining principal of the certified indebtedness amount. Section 25(c)(2)(A)(iii)(V) of the Code provides that the indebtedness certified by mortgage credit certificates must meet the requirements of § 143(h) concerning the portion of loans to be placed in targeted areas.

.09 The list of qualified census tracts is developed by the Department of Housing and Urban Development (“HUD”) for publication by the Internal Revenue Service. HUD’s determination is based upon decennial census data received by HUD from the Bureau of the Census.

.10 Qualified census tracts for the states, the District of Columbia, and Puerto Rico, based on the 2000 census,

were most recently published in Rev. Proc. 2003–49, 2003–29 I.R.B. 89. Qualified census tracts for the Northern Mariana Islands, American Samoa, and Guam have not been published in any previous revenue procedure.

SECTION 3. APPLICATION

The qualified census tracts for the Northern Mariana Islands, American Samoa, and Guam as listed below are based on the 2000 census. In 2000, the Bureau of the Census provided data for all areas, not only MSAs. Thus, the list of qualified census tracts includes tracts in Block Numbering Areas in nonmetropolitan counties as well as tracts in MSAs.

County or Equivalent	Qualified Census Tracts			
NORTHERN MARIANA ISLANDS				
Northern Islands Municipality	9501			
Rota Municipality	9501			
Saipan Municipality	9501 9505.01 9507 9511 9514	9502 9505.02 9508 9512 9515	9503 9506.01 9509 9513.01	9504 9506.02 9510 9513.02
Tinian Municipality	9501			
AMERICAN SAMOA				
Eastern District	9501 9505 9509	9502 9506	9503 9507	9504 9508
Manu’a District	9517	9518		
Rose Island	9519			
Swains Island	9520			
Western District	9510 9512.03	9511 9513	9512.01 9515	9512.02 9516
GUAM				
Guam	9501 9505 9509 9513 9517 9521 9525	9502 9506 9510 9514 9518 9522 9526	9503 9507 9511 9515 9519 9523 9527	9504 9508 9512 9516 9520 9524 9528

County or Equivalent	Qualified Census Tracts			
Guam (continued)	9529	9530	9531	9532
	9533	9534	9535	9536
	9537	9538	9539	9540
	9541	9542	9543	9544
	9545	9546	9547	9548
	9549	9550	9551	9552
	9553	9554	9555	9556

SECTION 4. EFFECT ON OTHER REVENUE PROCEDURES

This revenue procedure supplements Rev. Proc. 2003-49 by providing a list of qualified census tracts for the Northern Mariana Islands, American Samoa, and Guam.

SECTION 5. SCOPE

An issuer may rely on the list of qualified census tracts set forth in this revenue procedure with respect to a commitment to provide financing, if that commitment was made during the period specified in

this section, or the if purchase of the residence was made during the period specified in this section. The period begins on November 10, 2003, the date of publication of this revenue procedure in the Internal Revenue Bulletin, and ends on the date as of which the list of qualified census tracts is rendered obsolete by a new revenue procedure.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective on November 10, 2003, the date of publication of this revenue procedure in the Internal Revenue Bulletin, and ends on the

date as of which the list of qualified census tracts is rendered obsolete by a new revenue procedure.

SECTION 7. DRAFTING INFORMATION

The principal authors of this revenue procedure are Laura W. Lederman and Timothy L. Jones of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue procedure, contact Ms. Lederman at (202) 622-3980 (not a toll-free call).

Part IV. Items of General Interest

Golden Parachute Payments; Correction

Announcement 2003–60

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (T.D. 9083, 2003–40 I. R.B. 700) that were published in the **Federal Register** on Monday, August 4, 2003 (68 FR 45745), relating to golden parachute payments under section 280G of the Internal Revenue Code.

EFFECTIVE DATE: This correction is effective August 4, 2003.

FOR FURTHER INFORMATION CONTACT: Erinn Madden (202) 622–6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 280G of the Internal Revenue Code.

Need for Correction

As published, the final regulations (T.D. 9083) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 9083), which are the subject of FR Doc. 03–19274, is corrected as follows:

1. On page 45745, column 3, in the preamble, the caption “DATES” is corrected to read as follows:

DATES: *Effective Date:* August 4, 2003.

Applicability Date: These regulations apply to any payment that is contingent on a change in ownership or control if the change in ownership or control occurs on or after January 1, 2004. However, taxpayers may rely on these regulations after August 4, 2003, for the treatment of any parachute payment.

2. On page 45750, column 1, in the preamble under the paragraph heading “*Effective Date and Reliance*”, paragraph 1, line 5, the language “on or after January 1, 2004.” is corrected to read “on or after January 1, 2004. However, taxpayers may rely on these regulations after August 4, 2003, for the treatment of any parachute payment.”.

3. On page 45750, columns 1 and 2, in the preamble under the paragraph heading “*Effective Date and Reliance*”, the last line in the column 1 and first line in column 2, the language “2002 proposed regulations until the effective date of the final regulations.” is corrected to read “2002 proposed regulations until January 1, 2004.”.

§ 1.280G–1 [Corrected]

4. On page 45755, column 2, § 1.280G–1, paragraph (a) of A–11, line 3, the language “to receive cash, or a transfer of property” is corrected to read “to receive cash (including the value of accelerated vesting under Q/4–24(c)), or a transfer of property.”.

5. On page 45772, column 2, § 1.280G–1, A–48, line 5, the language “on or after January 1, 2004.” is corrected to read “on or after January 1, 2004. Taxpayers may rely on these regulations after August 4, 2003, for the treatment of any parachute payment.”.

Cynthia E. Grigsby,
*Acting Chief, Publications and
Regulations Branch,
Legal Processing Division,
Associate Chief Counsel (Procedures
and Administration).*

(Filed by the Office of the Federal Register on October 10, 2003, 8:45 a.m., and published in the issue of the Federal Register for October 14, 2003, 68 F.R. 59114)

IRS and The George Washington University Law School To Sponsor Institute on International Tax Issues

Announcement 2003–66

The Internal Revenue Service announces the Sixteenth Annual Institute

on Current Issues in International Taxation, jointly sponsored by the Internal Revenue Service and The George Washington University Law School, to be held on December 11 and 12, 2003, at the J.W. Marriott Hotel in Washington, DC. Registration is currently underway for the Institute, which is intended for international tax professionals.

The program will present a unique opportunity for top IRS and Treasury officials and tax experts, and leading private sector specialists, to address breaking issues and present key perspectives on new developments. The first day will feature sessions on the following:

- Current Competent Authority Issues (with the Competent Authorities of France, Japan, Korea, and the United States);
- Managing the Risks of Permanent Establishment in a Global Business;
- Latest IRS Transfer Pricing Guidance;
- Highlights of Current US Treaty Policy and Practice; and
- Updates on Outbound Issues.

The Honorable Pamela F. Olson, Assistant Secretary (Tax Policy), U.S. Department of the Treasury, will deliver the luncheon address. The day will begin with an address by the Honorable George Yin, Chief of Staff, Joint Committee on Taxation.

The second day will focus on the following topics:

- Updates on Inbound Issues;
- Foreign Tax Credit — The ABCs of FTCs;
- Legislative Developments and Other Breaking News; and
- Application of Tax Shelter Rules to International Transactions.

Emily Parker, Acting Chief Counsel, Internal Revenue Service will deliver the luncheon address. The second day will also include an “Ask the IRS” panel featuring senior officials from the Service.

Those interested in attending or obtaining more information should contact The George Washington University Law School, at <http://www.law.gwu.edu/ciit>.

**Delay of Rolling Renewal
Schedule for Enrolled Agents
Under Section 10.6(d)(1) of
Treasury Department Circular
No. 230, 31 CFR part 10**

Announcement 2003–68

The Internal Revenue Service announces a delay of the implementation of the new rolling renewal schedule for enrolled agents to renew their enrollment under section 10.6(d)(1) of the Regulations Governing Practice Before the Internal Revenue Service, Treasury Department Circular No. 230, 31 CFR part 10. Under Treasury Department Circular No. 230, amended July 26, 2002, approximately one-third of all enrolled agents

will renew their enrollment each year according to a rolling renewal schedule for enrollment. Except for those individuals who receive their initial enrollment after November 1, 2003, individuals licensed to practice before the Internal Revenue Service who have a social security number or tax identification number that ends with the numbers 0, 1, 2, or 3 (affected enrolled agents) are scheduled to apply for enrollment between November 1, 2003, and January 31, 2004.

To ensure an orderly transition to rolling renewals, the implementation of the new renewal of enrollment schedule for affected enrolled agents will be delayed until the 2004 calendar year. The Internal Revenue Service will publish the schedule for affected enrolled agents to apply for renewal of enrollment in the Internal Revenue Bulletin and on the Office of Professional Responsibility webpage at <http://www.irs.gov/taxpros/agents/index.html> at least 30 calendar days prior to the beginning of the period for renewal of enrollment and no later than June 1, 2004.

The period for renewal of enrollment will last at least 60 calendar days, but no more than 90 calendar days.

Affected enrolled agents should not file an application for renewal of enrollment before the period for renewal of enrollment is announced in the Internal Revenue Bulletin and on the Office of Professional Responsibility webpage. This delay will not impact an affected enrolled agent's current status as an enrolled agent in good standing. This delay will not affect the number of hours of continuing professional education required for renewal or the time period within which these hours must be completed.

The principal author of this announcement is Heather L. Dostaler of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this announcement, contact Heather L. Dostaler at (202) 622-4940 (not a toll-free call).

Definition of Terms

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

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

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

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

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

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

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws 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 a 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.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2003-1 through 2003-26 is in Internal Revenue Bulletin 2003-27, dated July 7, 2003.

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Rev. Rul. 2003-99, 2003-34 I.R.B. 388

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Rev. Rul. 2003-99, 2003-34 I.R.B. 388

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Rev. Proc. 2003-72, 2003-38 I.R.B. 578

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2002-63

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Rev. Proc. 2003-72, 2003-38 I.R.B. 578

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Rev. Rul. 2003-99, 2003-34 I.R.B. 388

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