

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 2005-79, page 1197.

LIFO; price indexes; department stores. The October 2005 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, October 31, 2005.

Notice 2005-93, page 1204.

This notice contains a proposed revenue procedure that would provide guidance to tax return preparers regarding the format and content of consents to use and consents to disclose tax return information under proposed section 301.7216-3 of the regulations, which was filed with the Federal Register contemporaneously with the public release of this notice on December 7, 2005. The proposed revenue procedure would also provide specific requirements for electronic signatures when a taxpayer executes an electronic consent to the use or disclosure of the taxpayer's tax return information.

Notice 2005-97, page 1210.

This notice requests comments on possible changes to Rev. Proc. 2002-9, which provides the procedures for taxpayers to request automatic consent from the Commissioner to change to certain methods of accounting.

Notice 2005-98, page 1211.

This notice solicits applications for allocations of the clean renewable energy bond limitation under section 54(f) of the Code and provides guidance with respect to the issuance and post issuance compliance of clean renewable energy bonds.

Notice 2005-99, page 1214.

Regulations section 1.482-7(d)(2)(iii)(B) provides an elective method whereby controlled participants of a qualified cost sharing arrangement (QCSA) may take into account the cost of certain stock-option compensation in the same amount, and as of the same time, as the fair value of the stock options reflected as a charge against income in certain audited financial statements or disclosed in footnotes to such statements. This notice extends this elective method to certain restricted shares and restricted share units. It also permits taxpayers employing the elective method to choose to determine whether stock-based compensation is related to the intangible development area by analyzing the activities of the employee recipients of the stock-based compensation by reference to financial reporting periods, identifying the related compensation on a period by period basis.

EMPLOYEE PLANS

Notice 2005-96, page 1209.

Weighted average interest rate update; corporate bond indices; 30-year Treasury securities. The weighted average interest rate for December 2005 and the resulting permissible range of interest rates used to calculate current liability and to determine the required contribution are set forth.

Notice 2005-101, page 1219.

Retirement plans; qualification, list of changes. This notice sets forth a list of changes referred to in Rev. Proc. 2005-66 pertaining to the statutory, regulatory, and guidance changes needed for certain requests to the Service.

(Continued on the next page)

Finding Lists begin on page ii.
Index for July through December begins on page vi.



EMPLOYMENT TAX

Notice 2005-94, page 1208.

This notice suspends employers' and payers' reporting and wage withholding requirements with respect to deferrals of compensation under section 409A of the Code for calendar year 2005. There will be no assertion of penalties against service providers in certain circumstances.

Notice 2005-100, page 1217.

This notice provides tables that show the amount of an individual's salary, wages, or other income that is exempt from a notice of levy used to collect delinquent tax in 2006.

ADMINISTRATIVE

T.D. 9230, page 1198.

Final regulations under section 6043 of the Code require information reporting by a corporation if control of the corporation is acquired or the corporation has a substantial change in capital structure, and the corporation or any shareholder is required to recognize gain (if any) under section 367(a) and the regulations. The regulations also pertain to information reporting requirements for brokers with respect to transactions described in section 6043(c).

Notice 2005-93, page 1204.

This notice contains a proposed revenue procedure that would provide guidance to tax return preparers regarding the format and content of consents to use and consents to disclose tax return information under proposed section 301.7216-3 of the regulations, which was filed with the Federal Register contemporaneously with the public release of this notice on December 7, 2005. The proposed revenue procedure would also provide specific requirements for electronic signatures when a taxpayer executes an electronic consent to the use or disclosure of the taxpayer's tax return information.

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 compiled 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.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

Section 472.—Last-in, First-out Inventories

26 CFR 1.472-1: Last-in, first-out inventories.

LIFO; price indexes; department stores. The October 2005 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, October 31, 2005.

Rev. Rul. 2005-79

The following Department Store Inventory Price Indexes for October 2005 were issued by the Bureau of Labor Statistics. The indexes are accepted by the Internal Revenue Service, under § 1.472-1(k) of the Income Tax Regulations and Rev. Proc. 86-46, 1986-2 C.B. 739, for appropriate application to inventories of department stores employing the retail inventory and last-in, first-out inventory

methods for tax years ended on, or with reference to, October 31, 2005.

The Department Store Inventory Price Indexes are prepared on a national basis and include (a) 23 major groups of departments, (b) three special combinations of the major groups — soft goods, durable goods, and miscellaneous goods, and (c) a store total, which covers all departments, including some not listed separately, except for the following: candy, food, liquor, tobacco, and contract departments.

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE
INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS
(January 1941 = 100, unless otherwise noted)

Groups	Oct. 2004	Oct. 2005	Percent Change from Oct. 2004 to Oct. 2005 ¹
1. Piece Goods	491.6	488.1	-0.7
2. Domestic and Draperies	539.0	512.4	-4.9
3. Women's and Children's Shoes	665.8	710.9	6.8
4. Men's Shoes	832.1	884.9	6.3
5. Infants' Wear	584.3	566.9	-3.0
6. Women's Underwear	513.0	542.9	5.8
7. Women's Hosiery	337.6	337.1	-0.1
8. Women's and Girls' Accessories	597.3	578.4	-3.2
9. Women's Outerwear and Girls' Wear	385.5	374.0	-3.0
10. Men's Clothing	542.7	538.4	-0.8
11. Men's Furnishings	578.7	571.2	-1.3
12. Boys' Clothing and Furnishings	430.6	405.4	-5.9
13. Jewelry	892.6	873.8	-2.1
14. Notions	793.7	806.3	1.6
15. Toilet Articles and Drugs	995.6	1003.6	0.8
16. Furniture and Bedding	608.5	598.1	-1.7
17. Floor Coverings	581.7	606.4	4.2
18. Housewares	714.6	706.7	-1.1
19. Major Appliances	202.8	203.7	0.4
20. Radio and Television	41.1	38.3	-6.8
21. Recreation and Education ²	79.8	77.8	-2.5
22. Home Improvements ²	131.0	137.3	4.8
23. Automotive Accessories ²	113.1	116.3	2.8
Groups 1-15: Soft Goods	569.9	565.3	-0.8
Groups 16-20: Durable Goods	382.5	377.4	-1.3
Groups 21-23: Misc. Goods ²	93.1	93.2	0.1
Store Total ³	502.4	498.4	-0.8

¹Absence of a minus sign before the percentage change in this column signifies a price increase.

²Indexes on a January 1986 = 100 base.

³The store total index covers all departments, including some not listed separately, except for the following: candy, food, liquor, tobacco and contract departments.

DRAFTING INFORMATION

The principal author of this revenue ruling is Michael Burkom of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Mr. Burkom at (202) 622-7924 (not a toll-free call).

Section 3401(a).—Definitions, Wages

A notice describes suspension of employer and payer reporting and wage withholding requirements with respect to deferrals of compensation under section 409A for calendar year 2005; no assertion of penalties against service providers in certain circumstances. See Notice 2005-94, page 1208.

Section 6041.—Information at Source

A notice describes suspension of employer and payer reporting and wage withholding requirements with respect to deferrals of compensation under section 409A for calendar year 2005; no assertion of penalties against service providers in certain circumstances. See Notice 2005-94, page 1208.

Section 6043.—Liquidating, etc., Transactions

26 CFR 1.6043-4: *Information returns relating to certain acquisitions of control and changes in capital structure.*

T.D. 9230

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Information Reporting Relating to Taxable Stock Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations requiring information reporting by a corporation if control of the corporation is acquired, or the corporation has a substantial change in capital structure,

and the corporation or any shareholder is required to recognize gain (if any) under section 367(a) and the regulations. This document also contains final regulations concerning information reporting requirements for brokers with respect to transactions described in section 6043(c).

DATES: Effective Date: These regulations are effective December 5, 2005.

Applicability Dates: For dates of applicability, see §§1.6043-4(i) and 1.6045-3(g).

FOR FURTHER INFORMATION CONTACT: Michael Hara at (202) 622-4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Sections 6043(c) and 6045

Section 6043(c) of the Internal Revenue Code (Code) provides that, when required by the Secretary, if any person acquires control of a corporation, or if there is a recapitalization or other substantial change in capital structure of a corporation, the corporation shall make a return setting forth the identity of the parties to the transaction, the fees involved, the changes in the capital structure involved, and such other information as the Secretary may require with respect to such transaction.

Section 6045 of the Code provides that, when required by the Secretary, every broker shall make a return showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may require by forms or regulations.

The Temporary and Proposed Regulations

On November 18, 2002, the IRS published in the **Federal Register** a notice of proposed rulemaking, REG-143321-02, 2002-2 C.B. 922 (67 FR 69496) and temporary regulations, T.D. 9022, 2002-2 C.B. 909 (67 FR 69468). These temporary and proposed regulations (the 2002 temporary and proposed regulations) generally required information reporting under section 6043(c) for certain large corporate transactions involving acquisitions of control and substantial changes in the capital structure of a corporation. Two types of reporting were required: Form

8806, “*Information Return for Acquisition of Control or Substantial Change in Capital Structure*,” to report and describe the transaction, to be attached to the corporation’s return, and Form 1099-CAP, “*Changes in Corporate Control and Capital Structure*,” to be filed with respect to shareholders unless they were exempt recipients. Brokers who received Forms 1099-CAP as the record holder of stock in a reporting corporation were required to file Form 1099-CAP with respect to the actual owners of the shares, unless such owners were exempt recipients.

The 2002 temporary regulations were effective only for acquisitions of control and substantive changes in capital structure occurring after December 31, 2001, if the reporting corporation or any shareholder were required to recognize gain (if any) as a result of the application of section 367(a).

On December 30, 2003, in response to comments on the 2002 temporary and proposed regulations, the 2002 proposed regulations were withdrawn, REG-143321-02, 2004-1 C.B. 399 (68 FR 75182), and a new notice of proposed rulemaking was published, REG-156232-03, 2004-1 C.B. 399 (68 FR 75182), and the 2002 temporary regulations were revised in 2003 (the 2003 temporary regulations), T.D. 9101, 2004-1 C.B. 376 (68 FR 75119). The 2003 temporary regulations retained the basic reporting requirements set forth in the 2002 temporary regulations, requiring a domestic corporation involved in an acquisition of control or substantial change in capital structure to file Form 8806 reporting and describing the transactions. The 2003 temporary regulations, however, changed the time and manner of filing, making the Form 8806 a stand-alone form required to be filed within 45 days following the transaction.

The 2003 temporary regulations also revised the 2002 temporary regulations by providing that a reporting corporation was not required to file Forms 1099-CAP with respect to its shareholders that are clearing organizations, or to furnish Forms 1099-CAP to such clearing organizations, if the corporation made an election to permit the IRS to publish information regarding the transaction.

The 2003 temporary regulations expanded the list of exempt recipients to

include brokers. The 2003 temporary regulations also required brokers to file an information return reporting the required information with respect to their customers who are not exempt recipients if they know or have reason to know, based on readily available information, that a transaction described in §1.6043-4T(c) or (d) has occurred. The 2003 temporary regulations required Form 1099-B, “*Proceeds From Broker and Barter Exchange Transactions*,” to be used for such reporting. The Form 1099-B was revised in 2004 to include new boxes for the information required under the temporary regulations.

The 2003 temporary regulations were effective only for acquisitions of control and substantial changes in capital structure that occur after December 31, 2002, and for which the reporting corporation or any shareholder is required to recognize gain (if any) as a result of the application of section 367(a) and the regulations.

Notice 2005-7

On December 31, 2004, the IRS issued Notice 2005-7, 2005-3 I.R.B. 340, (see §601.601(d)(2) of this chapter) in response to enactment of section 6043A of the Code, Returns Relating to Taxable Mergers and Acquisitions. Section 6043A was added by Section 805 of the American Jobs Creation Act of 2004, Public Law 108-357, (118 Stat. 1418), and provides for information reporting by an acquiring corporation in any taxable acquisition, according to forms or regulations prescribed by the Secretary. Notice 2005-7 stated that taxpayers required to report under Temp. Treas. Reg. §§1.6043-4T and 1.6045-3T must continue to report pursuant to those regulations. The notice observed that section 6043A supplements the information reporting provisions of sections 6043(c) and 6045, and it requested comments on the coordination of section 6043A with the requirements of the 2003 temporary and proposed regulations.

Summary of Comments

No comments were received in response to publication of the 2003 temporary and proposed regulations. The Treasury Department and the IRS, however, received comments in response to Notice 2005-7. The subject matter of

several of those comments related to issues addressed in the 2003 temporary and proposed regulations. A commentator recommended changes to the reporting obligations under the 2003 proposed regulations in four areas. First, the commentator recommended that reporting corporations furnish to the IRS or to clearing organizations, and the IRS publish, information in addition to that set forth in §1.6043-4T(a)(1)(v) and (a)(2) of the temporary regulations, including (i) a breakdown of the amount of cash, the fair market value of taxable stock or other property, and the number of shares of nontaxable stock received with respect to each share exchanged, and (ii) CUSIP numbers for both the shares exchanged and those received. Second, the commentator recommended that the regulations clearly state that brokers may separately report cash and other property on separate Forms 1099-B. Third, the commentator recommended that the IRS eliminate the requirement for brokers to report the address of corporations and that the IRS build into the final regulations flexibility concerning the content of Form 1099-B. Finally, the commentator recommended that the Form 1099-B revert back to the 2003 version for 2005 and future years and that the regulations be modified in any way necessary to permit this result.

In comments to Notice 2005-7, another commentator also recommended changes in the Form 1099-B, suggesting that the corporation’s name and address become optional data elements.

Explanation of Final Regulations

With the revisions explained below, the final regulations adopt the 2003 temporary regulations. The final regulations limit the information reporting to transactions in which the reporting corporation or any shareholder is required to recognize gain (if any) under section 367(a). The final regulations make certain clarifying changes to the rules of the temporary regulations and one modification in response to comments.

In the final regulations, the definition of *acquisition of control of a corporation* in §1.6043-4T(c)(1)(i) has been revised to omit transactions where stock representing control of a corporation is

distributed by a second corporation to shareholders of the second corporation because such transactions would not result in a recognition of gain under section 367(a) and the regulations. The rules regarding constructive ownership in §1.6043-4T(c)(3), two or more corporations acting pursuant to a plan or arrangement in §1.6043-4T(c)(4), and section 338 elections in §1.6043-4T(c)(5) have been deleted since those special rules are unnecessary regarding transactions that may result in recognition of gain under section 367(a) and the regulations. The definition of *change in capital structure* in §1.6043-4T(d)(2) has been modified to remove the inclusion of recapitalizations and redemptions since those transactions would not result in a recognition of gain under section 367(a) and the regulations. Finally, *Examples 2 and 3* in §1.6043-4T(h) have been omitted because those examples addressed circumstances beyond section 367(a) and the regulations.

The Treasury Department and the IRS continue to consider the comments received with respect to broker reporting under §1.6045-3T, particularly with respect to appropriate changes to Form 1099-B and that form’s interaction with other reporting obligations. Accordingly, to maintain flexibility in the design of Form 1099-B, the final regulations do not include the explicit requirement that Form 1099-B include the corporation’s address.

The proposed regulations under sections 6043(c) and 6045 issued on December 30, 2003 (and corrected on February 13, 2004) remain outstanding with respect to the transactions not covered by the final regulations. The Treasury Department and the IRS continue to consider the proper implementation of the additional information reporting provided in section 6043A and the coordination of reporting requirements under sections 6043(c), 6043A, and 6045 to transactions not covered by the final regulations.

The final regulations are effective for acquisitions of control and substantial changes in capital structure that occur after December 5, 2005, and for which the reporting corporation or any shareholder is required to recognize gain (if any) as a result of the application of section 367(a) and the regulations.

Special Analyses

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

Drafting Information

The principal author of these regulations is Michael Hara, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.6043-4 also issued under 26 U.S.C. 6043(c).

* * * * *

Section 1.6045-3 also issued under 26 U.S.C. 6045. * * *

Par. 2. Section 1.6043-4 is added to read as follows:

§1.6043-4 Information returns relating to certain acquisitions of control and changes in capital structure.

(a) *Information returns for an acquisition of control or a substantial change*

in capital structure—(1) *General rule.* If there is an acquisition of control (as defined in paragraph (c) of this section) or a substantial change in the capital structure (as defined in paragraph (d) of this section) of a domestic corporation (reporting corporation), the reporting corporation must file a completed Form 8806, “*Information Return for Acquisition of Control or Substantial Change in Capital Structure*,” in accordance with the instructions to that form. The Form 8806 will request information with respect to the following and such other information specified in the instructions:

(i) *Reporting corporation.* The name, address, and taxpayer identification number (TIN) of the reporting corporation.

(ii) *Common parent, if any, of the reporting corporation.* If the reporting corporation was a subsidiary member of an affiliated group filing a consolidated return immediately prior to the acquisition of control or the substantial change in capital structure, the name, address, and TIN of the common parent of that affiliated group.

(iii) *Acquiring corporation.* The name, address and TIN of any corporation that acquired control of the reporting corporation within the meaning of paragraph (c) of this section or combined with or received assets from the reporting corporation pursuant to a substantial change in capital structure within the meaning of paragraph (d) of this section (acquiring corporation) and whether the acquiring corporation was newly formed prior to its involvement in the transaction.

(iv) *Information about acquisition of control or substantial change in capital structure.*

(A) A description of the transaction or transactions that gave rise to the acquisition of control or the substantial change in capital structure of the corporation;

(B) The date or dates of the transaction or transactions that gave rise to the acquisition of control or the substantial change in capital structure; and

(C) A description of and a statement of the fair market value of any stock and other property, if any, provided to the reporting corporation’s shareholders in exchange for their stock.

(2) *Consent election.* Form 8806 will provide the reporting corporation with the ability to elect to permit the Internal Revenue Service (IRS) to publish information

that will inform brokers of the transaction and enable brokers to satisfy their reporting obligations under §1.6045-3. The information to be published, whether on the IRS website or in an IRS publication, would be limited to the name and address of the corporation, the date of the transaction, a description of the shares affected by the transaction, and the amount of cash and the fair market value of stock or other property provided to each class of shareholders in exchange for a share.

(3) *Time for making return.* Form 8806 must be filed on or before the 45th day following the acquisition of control or substantial change in capital structure of the corporation, or, if earlier, on or before January 5th of the year following the calendar year in which the acquisition of control or substantial change in capital structure occurs.

(4) *Exception where transaction is reported under section 6043(a).* No reporting is required under this paragraph (a) with respect to a transaction for which information is required to be reported pursuant to section 6043(a), provided the transaction is properly reported in accordance with that section.

(5) *Exception where shareholders are exempt recipients.* No reporting is required under this paragraph (a) if the reporting corporation reasonably determines that all of its shareholders who receive cash, stock, or other property pursuant to the acquisition of control or substantial change in capital structure are exempt recipients under paragraph (b)(5) of this section.

(b) *Information returns regarding shareholders*—(1) *General rule.* A corporation that is required to file Form 8806 pursuant to paragraph (a)(1) of this section shall file a return of information on Forms 1096, “*Annual Summary and Transmittal of U.S. Information Returns*,” and 1099-CAP, “*Changes in Corporate Control and Capital Structure*,” with respect to each shareholder of record in the corporation (before or after the acquisition of control or the substantial change in capital structure) who receives cash, stock, or other property pursuant to the acquisition of control or the substantial change in capital structure and who is not an exempt recipient as defined in paragraph (b)(5) of this section. A corporation is not required to file a Form 1096 or 1099-CAP with respect to a clearing organization if the

corporation makes the election described in paragraph (a)(2) of this section.

(2) *Time for making information returns.* Forms 1096 and 1099-CAP must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the acquisition of control or the substantial change in capital structure occurs.

(3) *Contents of return.* A separate Form 1099-CAP must be filed with respect to amounts received by each shareholder (who is not an exempt recipient as defined in paragraph (b)(5) of this section). The Form 1099-CAP will request information with respect to the following and such other information as may be specified in the instructions:

(i) The name, address, telephone number and TIN of the reporting corporation;

(ii) The name, address and TIN of the shareholder;

(iii) The number and class of shares in the reporting corporation exchanged by the shareholder; and

(iv) The aggregate amount of cash and the fair market value of any stock or other property provided to the shareholder in exchange for its stock.

(4) *Furnishing of forms to shareholders.* The Form 1099-CAP filed with respect to each shareholder must be furnished to such shareholder on or before January 31 of the year following the calendar year in which the shareholder receives cash, stock, or other property as part of the acquisition of control or the substantial change in capital structure. The Form 1099-CAP filed with respect to a clearing organization must be furnished to the clearing organization on or before January 5th of the year following the calendar year in which the acquisition of control or substantial change in capital structure occurred. A Form 1099-CAP is not required to be furnished to a clearing organization if the reporting corporation makes the election described in paragraph (a)(2) of this section.

(5) *Exempt recipients.* A corporation is not required to file a Form 1099-CAP pursuant to this paragraph (b) with respect to any of the following shareholders that is not a clearing organization:

(i) Any shareholder who receives stock in an exchange that is not subject to gain recognition under section 367(a) and the regulations.

(ii) Any shareholder if the corporation reasonably determines that the total amount of cash and the fair market value of stock and other property received by the shareholder does not exceed \$1,000.

(iii) Any shareholder described in paragraphs (b)(5)(iii)(A) through (M) of this section if the corporation has actual knowledge that the shareholder is described in one of paragraphs (b)(5)(iii)(A) through (M) of this section or if the corporation has a properly completed exemption certificate from the shareholder (as provided in §31.3406(h)-3 of this chapter). The corporation also may treat a shareholder as described in paragraphs (b)(5)(iii)(A) through (M) of this section based on the applicable indicators described in §1.6049-4(c)(1)(ii).

(A) A corporation, as described in §1.6049-4(c)(1)(ii)(A) (except for corporations for which an election under section 1362(a) is in effect).

(B) A tax-exempt organization, as described in §1.6049-4(c)(1)(ii)(B)(I).

(C) An individual retirement plan, as described in §1.6049-4(c)(1)(ii)(C).

(D) The United States, as described in §1.6049-4(c)(1)(ii)(D).

(E) A state, as described in §1.6049-4(c)(1)(ii)(E).

(F) A foreign government, as described in §1.6049-4(c)(1)(ii)(F).

(G) An international organization, as described in §1.6049-4(c)(1)(ii)(G).

(H) A foreign central bank of issue, as described in §1.6049-4(c)(1)(ii)(H).

(I) A securities or commodities dealer, as described in §1.6049-4(c)(1)(ii)(I).

(J) A real estate investment trust, as described in §1.6049-4(c)(1)(ii)(J).

(K) An entity registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1), as described in §1.6049-4(c)(1)(ii)(K).

(L) A common trust fund, as described in §1.6049-4(c)(1)(ii)(L).

(M) A financial institution such as a bank, mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or other similar organization.

(iv) Any shareholder that the corporation, prior to the transaction, associates with documentation upon which the corporation may rely in order to treat payments to the shareholder as made to a for-

eign beneficial owner in accordance with §1.1441-1(e)(1)(ii) or as made to a foreign payee in accordance with §1.6049-5(d)(1) or presumed to be made to a foreign payee under §1.6049-5(d)(2) or (3). For purposes of this paragraph (b)(5)(iv), the provisions in §1.6049-5(c) (regarding rules applicable to documentation of foreign status and definition of U.S. payor and non-U.S. payor) shall apply. The provisions of §1.1441-1 shall apply by using the terms “corporation” and “shareholder” in place of the terms “withholding agent” and “payee” and without regard to the fact that the provisions apply only to amounts subject to withholding under chapter 3 of the Internal Revenue Code. The provisions of §1.6049-5(d) shall apply by using the terms “corporation” and “shareholder” in place of the terms “payor” and “payee”. Nothing in this paragraph (b)(5)(iv) shall be construed to relieve a corporation of its withholding obligations under section 1441.

(v) Any shareholder if, on January 31 of the year following the calendar year in which the shareholder receives cash, stock, or other property, the corporation did not know and did not have reason to know that the shareholder received such cash, stock, or other property in a transaction or series of related transactions that would result in an acquisition of control or a substantial change in capital structure within the meaning of this section.

(6) *Coordination with other sections.* In general, no reporting is required under this paragraph (b) with respect to amounts that are required to be reported under sections 6042 or 6045, unless the corporation knows or has reason to know that such amounts are not properly reported in accordance with those sections. A corporation must satisfy the requirements under this paragraph (b) with respect to any shareholder of record that is a clearing organization.

(c) *Acquisition of control of a corporation—(1) In general.* For purposes of this section, an acquisition of control of a corporation (first corporation) occurs if, in a transaction or series of related transactions—

(i) Before an acquisition of stock of the first corporation (directly or indirectly) by a second corporation, the second corporation does not have control of the first corporation;

(ii) After the acquisition, the second corporation has control of the first corporation;

(iii) The fair market value of the stock acquired in the transaction and in any related transactions as of the date or dates on which such stock was acquired is \$100 million or more;

(iv) The shareholders of the first corporation receive stock or other property pursuant to the acquisition; and

(v) The first corporation or any shareholder of the first corporation is required to recognize gain (if any) under section 367(a) and the regulations, as a result of the transaction.

(2) *Control.* For purposes of this section, control is determined in accordance with the first sentence of section 304(c)(1). For these purposes the rules of section 318 as modified by the rules of section 958(b) shall apply in determining the ownership of stock.

(d) *Substantial change in capital structure of a corporation—(1) In general.* A corporation has a substantial change in capital structure if it has a change in capital structure (as defined in paragraph (d)(2) of this section) and the amount of any cash and the fair market value of any property (including stock) provided to the shareholders of such corporation pursuant to the change in capital structure, as of the date or dates on which the cash or other property is provided, is \$100 million or more.

(2) *Change in capital structure.* For purposes of this section, a corporation has a change in capital structure if —

(i) The corporation in a transaction or series of transactions—

(A) Merges, consolidates or otherwise combines with another corporation or transfers all or substantially all of its assets to one or more corporations;

(B) Transfers all or part of its assets to another corporation in a title 11 or similar case and, in pursuance of the plan, distributes stock or securities of that corporation; or

(C) Changes its identity, form or place of organization; and

(ii) The corporation or any shareholder is required to recognize gain (if any) under section 367(a) and the regulations, as a result of the transaction.

(e) *Reporting by successor entity.* If a corporation (transferor) transfers all or

substantially all of its assets to another entity (transferee) in a transaction that constitutes a substantial change in the capital structure of transferor, transferor must satisfy the reporting obligations in paragraph (a) and (b) of this section. If transferor does not satisfy one or both of those reporting obligations, then transferee must do so. If neither transferor nor transferee satisfies the reporting obligations in paragraphs (a) and (b) of this section, then transferor and transferee shall be jointly and severally liable for any applicable penalties (see paragraph (g) of this section).

(f) *Receipt of property.* For purposes of this section, a shareholder is treated as receiving property (or as having property provided to it) pursuant to an acquisition of control or a substantial change in capital structure if a liability of the shareholder is assumed in the transaction and, as a result of the transaction, an amount is realized by the shareholder from the sale or exchange of stock.

(g) *Penalties for failure to file.* For penalties for failure to file as required under this section, see section 6652(l). The information returns required to be filed under paragraphs (a) and (b) of this section shall be treated as one return for purposes of section 6652(l) and, accordingly, the penalty shall not exceed \$500 for each day the failure continues (up to a maximum of \$100,000) with respect to any acquisition of control or any substantial change in capital structure. Failure to file as required under this section also includes the failure to satisfy the requirement to file on magnetic media as required by section 6011(e) and §1.6011-2. In addition, criminal penalties under sections 7203, 7206 and 7207 may apply in appropriate cases.

(h) *Examples.* The following examples illustrate the application of the rules of this section. For purposes of these examples, assume the transaction is not reported under sections 6042, 6043(a), or 6045, unless otherwise specified, and assume that the fair market value of the consideration provided to the shareholders exceeds \$100 million. The examples are as follows:

Example 1. The shareholders of X, a domestic corporation and parent of an affiliated group, exchange their X stock for stock in Y, a foreign corporation, pursuant to sections 351 and 354. After the transaction, Y owns all the outstanding X stock. Assume that, under section 367(a) and the regulations, the X shareholders must recognize gain (if any) on the exchange of their stock. Because the transaction

results in an acquisition of control of X, X must comply with the rules in paragraphs (a) and (b) of this section. X must file Form 8806 reporting the transaction. X must also file a Form 1099-CAP with respect to each shareholder who is not an exempt recipient showing the fair market value of the Y stock received by that shareholder, and X must furnish a copy of the Form 1099-CAP to that shareholder. If X elects on the Form 8806 to permit the IRS to publish information regarding the transaction, X is not required to file or furnish Forms 1099-CAP with respect to shareholders that are clearing organizations.

Example 2. The facts are the same as in *Example 1*, except X hires a transfer agent to effectuate the exchange. The transfer agent is treated as a broker under section 6045 and is required to report the fair market value of the Y stock received by X's shareholders under §1.6045-3. Under paragraph (b)(6) of this section, X is not required to file information returns under paragraph (b) of this section with respect to a shareholder of record, unless X knows or has reason to know that the transfer agent does not satisfy its information reporting obligation under §1.6045-3 with respect to that shareholder. Thus, if the transfer agent satisfies its information reporting requirements under §1.6045-3 with respect to shareholder I, an individual who receives X stock, X is not required to file a Form 1099-CAP with respect to I. Conversely, if the transfer agent does not have an information reporting obligation under §1.6045-3 with respect to one of X's shareholders of record (for example, a clearing organization that is an exempt recipient under §1.6045-3(b)(2)), or if X knows or has reason to know that the transfer agent has not satisfied its information reporting requirement with respect to a shareholder, then X must provide a Form 1099-CAP to that shareholder.

(i) *Effective date.* This section applies to transactions occurring after December 5, 2005.

§1.6043-4T [Removed]

Par. 3. Section 1.6043-4T is removed.

Par. 4. Section 1.6045-3 is added to read as follows:

§ 1.6045-3 Information reporting for an acquisition of control or a substantial change in capital structure.

(a) *In general.* Any broker (as defined in §1.6045-1(a)(1)) that holds shares on behalf of a customer in a corporation that the broker knows or has reason to know based on readily available information (including, for example, information from a clearing organization or from information published by the Internal Revenue Service (IRS)) has engaged in a transaction described in §1.6043-4(c) (acquisition of control) or §1.6043-4(d) (substantial change in capital structure) shall file a return of information with respect to the

customer, unless the customer is an exempt recipient as defined in paragraph (b) of this section.

(b) *Exempt recipients.* A broker is not required to file a return of information under this section with respect to the following customers:

(1) Any customer who receives only cash in exchange for its stock in the corporation, which must be reported by the broker pursuant to §1.6045-1.

(2) Any customer who is an exempt recipient as defined in §1.6043-4(b)(5) or §1.6045-1(c)(3)(i).

(c) *Form, manner and time for making information returns.* The return required by paragraph (a) of this section must be on Forms 1096, "Annual Summary and Transmittal of U.S. Information Returns," and 1099-B, "Proceeds From Broker and Barter Exchange Transactions," or on an acceptable substitute statement. Such forms must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the acquisition of control or the substantial change in capital structure occurs.

(d) *Contents of return.* A separate Form 1099-B must be prepared for each customer. The Form 1099-B will request information with respect to the following and such other information as may be specified in the instructions:

(1) The name, address and taxpayer identification number (TIN) of the customer;

(2) The name of the corporation which engaged in the transaction described in §1.6043-4(c) or (d);

(3) The number and class of shares in the corporation exchanged by the customer; and

(4) The aggregate amount of cash and the fair market value of any stock or other

property provided to the customer in exchange for its stock.

(e) *Furnishing of forms to customers.* The Form 1099-B prepared for each customer must be furnished to the customer on or before January 31 of the year following the calendar year in which the customer receives stock, cash or other property.

(f) *Single Form 1099.* If a broker is required to file a Form 1099-B with respect to a customer under §§1.6045-3 and 1.6045-1(c) with respect to the same transaction, the broker may satisfy the requirements of both sections by filing and furnishing one Form 1099-B that contains all the relevant information, as provided in the instructions to Form 1099-B.

(g) *Effective date.* This section applies with respect to any acquisition of control and any substantial change in capital structure occurring after December 5, 2005.

§1.6045-3T [Removed]

Par. 5. Section 1.6045-3T is removed.

Mark E. Matthews,
*Deputy Commissioner for
Services and Enforcement.*

Approved November 22, 2005.

Eric Solomon,
*Acting Deputy Assistant Secretary
of the Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on December 2, 2005, 8:45 a.m., and published in the issue of the Federal Register for December 5, 2005, 70 F.R. 72376)

Section 6051.—Receipts for Employees

A notice describes suspension of employer and payer reporting and wage withholding requirements with respect to deferrals of compensation under sec-

tion 409A for calendar year 2005; no assertion of penalties against service providers in certain circumstances. See Notice 2005-94, page 1208.

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

A notice describes suspension of employer and payer reporting and wage withholding requirements with respect to deferrals of compensation under section 409A for calendar year 2005; no assertion of penalties against service providers in certain circumstances. See Notice 2005-94, page 1208.

Section 6654.—Failure by Individual to Pay Estimated Income Tax

A notice describes suspension of employer and payer reporting and wage withholding requirements with respect to deferrals of compensation under section 409A for calendar year 2005; no assertion of penalties against service providers in certain circumstances. See Notice 2005-94, page 1208.

Section 6662.—Imposition of Accuracy-Related Penalty on Underpayments

A notice describes suspension of employer and payer reporting and wage withholding requirements with respect to deferrals of compensation under section 409A for calendar year 2005; no assertion of penalties against service providers in certain circumstances. See Notice 2005-94, page 1208.

Part III. Administrative, Procedural, and Miscellaneous

Consents to Use and Disclose Tax Return Information

Notice 2005-93

This notice contains a proposed revenue procedure that would provide guidance to tax return preparers regarding the format and content of consents to use and consents to disclose tax return information under proposed section 301.7216-3 of the Regulations on Procedure and Administration (26 CFR Part 301), which is being published contemporaneously with this notice. The proposed revenue procedure would also provide specific requirements for electronic signatures when a taxpayer executes an electronic consent to the use or disclosure of the taxpayer's tax return information.

The IRS requests comments on this proposed revenue procedure. In particular, the IRS requests comments regarding the methods for a tax return preparer to obtain a taxpayer's electronic signature on a consent to use or a consent to disclose tax return information. The comments should address procedures by which individuals commonly execute electronic signatures to provide knowing consent.

Written comments must be received by March 8, 2006. Comments should be submitted to: CC:PA:RU (Notice 2005-93), Room 5526, Internal Revenue Service, Ben Franklin Station, Washington, DC 20224. Alternatively, comments may be hand delivered between the hours of 8:00 AM and 5:00 PM to CC:PA:RU (NOT-132007-05), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC. Comments may also be transmitted electronically via the following e-mail address: Notice.Comments@irs.counsel.treas.gov. Please include "Notice 2005-93" in the subject line of any electronic communications.

For further information regarding this notice, contact Dillon Taylor of the Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. Mr. Taylor may be contacted at 202-622-4940 (not a toll-free call).

APPENDIX (PROPOSED REVENUE PROCEDURE)

SECTION 1. PURPOSE

This revenue procedure provides guidance to tax return preparers regarding the format and content of consents to use and consents to disclose tax return information under section 301.7216-3 of the Regulations on Procedure and Administration (26 CFR Part 301). This revenue procedure also provides specific requirements for electronic signatures when a taxpayer executes an electronic consent to the use or disclosure of the taxpayer's tax return information.

SECTION 2. BACKGROUND

.01 Section 7216(a) prescribes a criminal penalty for tax return preparers who knowingly or recklessly disclose or use tax return information for a purpose other than preparing a tax return. A violation of section 7216 is a misdemeanor, with a maximum penalty of up to one year imprisonment or a fine of not more than \$1,000, or both, together with the costs of prosecution.

.02 Section 7216(b) establishes exceptions to the general rule and also authorizes the Secretary to promulgate regulations prescribing additional permitted disclosures and uses. Section 6713(a) prescribes a related civil penalty for disclosures and uses that constitute a violation of section 7216. The penalty for violating section 6713 is \$250 for each disclosure and use, not to exceed a total of \$10,000 for a calendar year. Section 6713(b) provides that the exceptions in section 7216(b) also apply to section 6713. Under section 7216(b), the provisions of section 7216(a) will not apply to any disclosure or use permitted under regulations prescribed by the Secretary.

.03 The regulations under section 7216 provide exceptions to the general rule. Section 301.7216-3 provides that, unless section 7216 or §301.7216-2 specifically permits the disclosure or use of tax return information, a tax return preparer may not disclose or use a taxpayer's tax

return information prior to obtaining a consent from the taxpayer. The consent must be knowing and voluntary. Section 301.7216-3(a)(3) provides that the Commissioner may, by revenue procedure, prescribe the form and content of consents, as well as the requirements for a valid signature on an electronic consent under section 7216. This revenue procedure provides those requirements.

SECTION 3. SCOPE

This revenue procedure applies to all tax return preparers, as defined in §301.7216-1(b)(2), who seek consent to disclose or use tax return information pursuant to §301.7216-3.

SECTION 4. FORM AND CONTENT OF A CONSENT TO USE OR A CONSENT TO DISCLOSE TAX RETURN INFORMATION

.01 Separate Written Document. Except as provided by §301.7216-3(c)(1) (special rule for multiple disclosures or uses within a single consent form), under §301.7216-3, a taxpayer's consent to each separate disclosure or use of tax return information must be contained on a separate written document, which can be furnished on paper or electronically.

.02 A consent on paper must be provided on one or more sheets of 8½ inch by 11 inch or larger paper. All of the text on each sheet of paper must pertain solely to the disclosure or use the consent authorizes, and the sheet or sheets, together, must contain all the elements described in section 4.04 and, if applicable, section 4.06. All of the text on each sheet of paper must also be in at least 12-point type (or 12 characters per inch).

.03 An electronic consent must be provided on one or more computer screens. All of the text on each screen must pertain solely to the disclosure or use the consent authorizes. The text of the consent must be easily readable and meet the following specifications: the size of the text must be at least the same size as, or larger than, the normal or standard body text used by the website or software package for direction, communications or instructions; and there must be sufficient contrast between the text

and background colors to ensure easy reading. In addition, each screen or, together, the screens must—

(1) contain all the elements described in section 4.04 and, if applicable, section 4.06,

(2) be able to be signed as required by section 5 and dated by the taxpayer,

(3) separate all paragraphs by a blank line, and

(4) be printable in a printer friendly format on 8½ inch by 11 inch paper.

.04 Requirements for Every Consent.

(1) Names and date. A taxpayer's consent to a tax return preparer's disclosure or use of tax return information must include the name of the tax return preparer, the name of the taxpayer, and the date on which the taxpayer signs the consent.

(2) Disclosure or use clearly stated. If a taxpayer consents to a disclosure of tax return information, the consent must identify the recipient or recipients of the tax return information and the intended purpose of the disclosure. If the taxpayer consents to use of tax return information, the consent must describe the particular use authorized. If the tax return preparer intends to use tax return information to generate solicitations for products or services other than tax return preparation, the consent must identify each specific type of product or service for which the tax return preparer may solicit use of the tax return information. Examples of products or services that must be identified, if solicited using tax return information, include, but are not limited to, refund anticipation loans, balance due loans, mortgage loans, mutual funds, individual retirement accounts, and life insurance.

(3) Purpose. A consent to use or a consent to disclose tax return information must clearly state that the information may not be used for any purpose not specifically prescribed in the consent.

(4) Identification of tax return information to be disclosed or used. The consent must specify the particular items of tax return information to be disclosed to each recipient or used by the return preparer.

(5) Contact telephone number for suspected violations of section 7216. The consent must include the contact telephone number for the Treasury Inspector General for Tax Administration (TIGTA), 1-800-366-4484. This telephone number allows taxpayers to report suspected unau-

thorized uses or disclosures of tax return information.

(6) Mandatory statements in the consent.

(a) A consent to disclose tax return information must contain the following statement in the following format:

We generally are not authorized to disclose your tax return information for purposes other than the preparation and filing of your tax return. We may disclose your tax return information to third parties only if you consent to each specific disclosure. Your consent is valid for one year.

Warning: Once your tax return information is disclosed to a third party per your consent, we have no control over what that third party does with your tax return information. If the third party uses or discloses your tax return information for purposes other than the purpose for which you authorized the disclosure, under Federal tax law, we are not responsible for that subsequent use or disclosure, and Federal tax law may not protect you from that disclosure.

(b) A consent to use tax return information must contain the following statement in the following format:

We generally are not authorized to use your tax return information for purposes other than the preparation and filing of your tax return. We may use your tax return information for other purposes only if you consent to each specific use. Your consent is valid for one year.

(c) All consents must contain the following statement in the following format:

If you believe that your rights have been violated

If you have any questions or concerns about your rights regarding the use or disclosure of your tax return information, visit www.irs.gov/advocate for more information, or contact the Taxpayer Advocate Service of the Internal Revenue Service at 1-877-777-4778.

If you believe we have used or disclosed your information without your permission, you may contact the Treasury Inspector General for Tax Administration at 1-800-366-4484.

(7) Mandatory statement in any consent to disclosure outside of the United States. If a tax return preparer to whom the tax return information is to be disclosed is located outside of the United States, the taxpayer's consent under §301.7216-3 prior to any disclosure is required. See §301.7216-2(c) and (d). All consents for disclosures of tax return information outside of the United States must contain the following statement in the following format:

This consent to disclose will result in your tax return information being disclosed to a tax return preparer located outside the United States.

(8) Affirmative consent. All consents must require the taxpayer's affirmative consent to a tax return preparer's disclosure or use of tax return information. A consent that requires the taxpayer to remove or "deselect" uses or disclosures that the taxpayer does not wish to be made, *i.e.*, an "opt-out" consent, is not permitted.

(9) Signature. All consents to use or disclose tax return information must be signed by the taxpayer.

(a) For consents on paper, the taxpayer's consent to a use or disclosure must contain the taxpayer's signature.

(b) For electronic consents, a taxpayer must sign the consent by any method prescribed in section 5, below.

.05 Special rule for multiple disclosures within a single consent form or multiple uses within a single consent form. Section 301.7216-3(c)(1) provides that a taxpayer can consent to multiple uses within the same written document, or multiple disclosures within the same written document. Multiple disclosure consents and multiple use consents must provide the taxpayer with the opportunity, within the separate written document, to affirmatively select each separate use or disclosure. Further, the taxpayer must be provided the information in section 4.04(2)-(4) for each separate use or disclosure.

.06 Disclosure of entire return. If, under §301.7216-3(c)(2), a consent autho-

rizes the disclosure of all information contained within a return, the consent must contain an explanation of the reasons why a consent authorizing a more limited disclosure of tax return information would not satisfy the purpose of the consent.

SECTION 5. ELECTRONIC SIGNATURES

.01 If a taxpayer furnishes consent to use or disclose tax return information electronically, the taxpayer must furnish the tax return preparer with an electronic signature that will verify that the taxpayer consented to the use or disclosure. The regulations under §301.7216-3(a) require that the consent be knowing and voluntary. Therefore, for an electronic consent to be valid, it must be furnished in a manner that ensures affirmative, knowing consent to each use or disclosure.

.02 A tax return preparer seeking to obtain a taxpayer's consent to the disclosure or use of tax return information must obtain the taxpayer's signature on the consent in one of the following manners:

(a) Assign a personal identification number (PIN) that is at least 6 characters long to the taxpayer when the taxpayer first starts using the tax preparation software. To consent to the use or disclosure of the taxpayer's tax return information, the taxpayer may type in the pre-assigned PIN as the taxpayer's signature authorizing the disclosure or use. A PIN may not be automatically furnished by the return preparation software so that the taxpayer only has to click a button for consent to be furnished. The taxpayer must affirmatively enter the PIN for the electronic signature to be valid; or

(b) Have the taxpayer type in the taxpayer's name and then hit "enter" to authorize the consent. The tax preparation software must not automatically furnish the taxpayer's name so that the taxpayer only has to click a button to consent. The taxpayer must affirmatively type the taxpayer's name for the electronic consent to be valid; or

(c) Any other manner in which the taxpayer affirmatively enters 6 or more characters that are unique to that taxpayer that can be used by the tax return preparer to verify the taxpayer's identity. For example, entry of the same information by which a taxpayer authorizes credit card

payment of preparation fees could be the type of information by which the taxpayer authorizes use or disclosure of tax return information.

SECTION 6. EXAMPLES

.01 The application of this revenue procedure is illustrated by the following examples:

(1) *Example 1.* Preparer P offers tax preparation services over the Internet. P wishes to use targeted banner advertisements (*i.e.*, electronic advertisements appearing on the computer screen based on the taxpayer's tax return information) during tax return preparation. P contracts with various corporations to advertise services and products not directly related to tax return preparation.

(a) P posts, in pertinent part, the following consent on the computer screen for taxpayers to indicate approval. If a taxpayer does not indicate approval, the tax return preparation software does not permit the taxpayer to use the software—

PRIVACY STATEMENT

Your privacy is very important to us at P. We are providing this statement to inform you about the types of information we collect from you, and how we may use or disclose that information in connection with the services we provide. This Privacy Statement describes the privacy practices of our company as required by applicable laws. . . . During the course of providing our services to you, we may offer you various other services that may be of interest to you based on our determination of your needs through analysis of your data. Your use of the services we offer constitutes a consent to our disclosure of tax information to the service providers. If at any time you wish to limit your receipt of promotional offers based upon information you provide, you may call us at the following. . . .

(b) Beneath this Privacy Statement, the following acknowledgment line appears next to two button images stating "yes" and "no:"

"I have read the Privacy Statement and agree to it by clicking here."

(c) If the taxpayer clicks "no," a message appears on the screen informing the taxpayer that tax return preparation will not proceed without the taxpayer agreeing to the company's Privacy Statement.

(d) P has failed to comply with the requirements of §301.7216-3 and this revenue procedure. (1) P has attempted to obtain consent from the taxpayer by making the use of the program contingent on the taxpayer's consent to P's use and disclosure of the taxpayer's tax return information for purposes other than tax preparation (*e.g.*, for use in displaying targeted banner advertisement). Thus, the consent is not voluntary, as required by §301.7216-3(a). (2) P has failed to identify the specific tax return information that it will use or disclose, as required by section 4.05, to identify the purposes of the uses and disclosures themselves, as required by section 4.04, and to the extent that P intends to disclose the entire return, P has failed to provide a consent containing an explanation why a more limited disclosure of tax return information would not satisfy the purpose of the consent, as required by section 4.06. (3) The single document attempts to have the taxpayer consent to both uses and disclosures, in violation of section 4.05. (4) P has not used the mandatory statements required by section 4.04(6) and has not provided a means for the taxpayer to electronically sign the consent in a form authorized by section 5. (5) The consent is not dated as required by section 4.04(1).

(2) *Example 2.* Preparer Q offers tax preparation services over the Internet and wishes to use targeted banner advertisements during tax return preparation. Q contracts with Bank A regarding the advertisement of Individual Retirement Accounts (IRAs), and with Bank B regarding the advertisement of refund anticipation loans (RALs). Preparer Q displays advertisements to the taxpayer only if the taxpayer's tax return information indicates that the services are relevant to the taxpayer (*i.e.*, they are targeted banner advertisements). A taxpayer using Q's software must enter a password to begin the process of preparing a return.

(a) Before the taxpayer starts providing tax return information, the following screen appears on Q's tax preparation program.

CONSENT TO USE OF TAX RETURN INFORMATION

We generally are authorized to use your tax return information only to prepare and file your tax return. We may use your tax return information for other purposes only if you consent to each specific use. Your consent is valid for one year.

For your convenience, Q has entered into arrangements with certain banks regarding the provision of two services that may interest you. The services are Individual Retirement Accounts (IRAs) and refund anticipation loans (RALs). To determine whether these services may be of interest to you, Q will need to use your tax return information.

If you would like Q to use your tax return information to determine whether these services are relevant to you while we are preparing your return, please check the corresponding box for the service(s) in which you are interested, provide the information requested below, and sign and date this consent to the use of your tax return information.

I, [INSERT NAME] authorize Q to use the information I provide regarding whether I contributed to an IRA for the 2006 tax year, and the amount I contributed to an IRA for the 2006 tax year, to determine whether to offer me an opportunity to invest in an IRA.

I, [INSERT NAME] authorize Q to use the information on my return for the 2006 tax year regarding whether I have overpaid my taxes and am entitled to a refund to determine whether to offer me a RAL.

Signature: [INSERT SIGNATURE AS PRESCRIBED UNDER SECTION 5]

Date: [INSERT DATE]

If you believe that your rights have been violated

If you have any questions or concerns about your rights regarding the use or disclosure of your tax return information, visit www.irs.gov/advocate for

more information, or contact the Taxpayer Advocate Service of the Internal Revenue Service at 1-877-777-4778 (a toll-free call).

If you believe we have used or disclosed your information without your permission, you may contact the Treasury Inspector General for Tax Administration at 1-800-366-4484 (a toll-free call).

(b) If the taxpayer selects one or both of the consents above, the taxpayer is directed to print the screen. Later, after the taxpayer has entered data reflecting that he is eligible for both a RAL and an IRA, the following screen is displayed:

CONSENT TO DISCLOSURE OF TAX RETURN INFORMATION

We generally are not authorized to disclose your tax return information to third parties. We may only disclose your tax return information to third parties if you consent to each specific disclosure. Your consent is valid for one year.

Warning: Once your tax return information is disclosed to a third party per your consent, we have no control over what that third party does with your tax return information. If the third party uses or discloses your tax return information for purposes other than the purpose for which you authorized the disclosure, we are not responsible for that unauthorized disclosure, and federal tax law may not protect that unauthorized disclosure.

You have indicated that you are interested in obtaining information on IRAs or RALs, or both. To provide you with this information, Q must forward your tax return information, as indicated below, to the banks that provide these services.

If you would like Q to disclose your tax return information to the banks providing these services, please check the corresponding box for the services in which you are interested, provide the information requested below, and sign and date your consent to the disclosure of your tax return information.

I, [INSERT NAME], authorize Q to disclose to A the information I provide regarding IRA contributions for the 2006 tax year, and/or the amount I contributed to an IRA for the 2006 tax year, so that A can provide information on obtaining an IRA or increasing my contribution to an IRA for the 2006 tax year.

I, [INSERT NAME], authorize Q to disclose to B the information on my return regarding whether I have overpaid my taxes and am entitled to a refund, and my social security number, so that B can determine whether I will qualify for a RAL for the 2006 tax year, and so that Bank B can provide information on obtaining a RAL for the 2006 tax year.

Signature: [INSERT SIGNATURE AS PRESCRIBED UNDER SECTION 5]

Date: [INSERT DATE]

If you believe that your rights have been violated

If you have any questions or concerns about your rights regarding the use or disclosure of your tax return information, visit www.irs.gov/advocate for more information, or contact the Taxpayer Advocate Service of the Internal Revenue Service at 1-877-777-4778 (a toll-free call).

If you believe we have used or disclosed your information without your permission, you may contact the Treasury Inspector General for Tax Administration at 1-800-366-4484 (a toll-free call).

If the taxpayer consents to the disclosure of the tax return information using the screen above, the taxpayer is directed to print the screen. Q will then transmit the relevant tax return information to the banks.

(c) These two consent documents, above, satisfy the requirements of §301.7216-3(c) and this revenue procedure for the use or disclosure of the information provided therein for the specific purposes stated.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective on [] .

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Dillon Taylor of the Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions & Judicial Practice Division. For further information regarding this revenue procedure, contact [] at [] (not a toll-free call).

Suspension of Employer and Payer Reporting and Wage Withholding Requirements With Respect to Deferrals of Compensation Under § 409A for Calendar Year 2005; No Assertion of Penalties Against Service Providers in Certain Circumstances

Notice 2005-94

I. PURPOSE

This notice suspends employers' and payers' reporting and wage withholding requirements for calendar year 2005 with respect to deferrals of compensation within the meaning of § 409A of the Internal Revenue Code (the Code). However, future published guidance may require an employer or payer to file a corrected information return and to furnish a corrected payee statement reporting any previously unreported amounts includible in gross income under § 409A. This notice does not affect the application of § 3121(v)(2) or an employer's reporting obligations under Treas. Reg. § 31.3121(v)(2)-1.

This notice does not affect a service provider's filing requirements, individual income tax liability, or interest on underpayments of tax. However, pursuant to this notice, the IRS will not assert penalties under §§ 6651(a)(1) and (2), 6654, and 6662 with respect to amounts includible in gross income under § 409A for calendar year 2005 if the service provider reports and pays any taxes due with respect

to such amounts in accordance with future published guidance.

II. BACKGROUND

A. *The American Jobs Creation Act of 2004*

Section 885(a) of the American Jobs Creation Act of 2004, Pub. Law No. 108-357, 118 Stat. 1418 (the Act) added § 409A, which provides, *inter alia*, that amounts deferred under a nonqualified deferred compensation plan for all taxable years are currently includible in gross income to the extent not subject to a substantial risk of forfeiture and not previously included in gross income, unless the plan meets certain requirements. Section 885(b) of the Act amended the Code to impose the following reporting and wage withholding requirements with respect to deferrals of compensation within the meaning of § 409A:

- The Act amended §§ 6051 and 6041 to require that an employer or payer report all deferrals for the year under a nonqualified deferred compensation plan on a Form W-2 (*Wage and Tax Statement*) or a Form 1099 (*Miscellaneous Income*).
- The Act amended § 3401(a) to provide that the term "wages" includes any amount includible in gross income of an employee under § 409A.
- The Act amended § 6041 to require that a payer report amounts includible in gross income under § 409A that are not treated as wages under § 3401(a) as gross income.

B. *Notice 2005-1*

On December 20, 2004, the IRS issued Notice 2005-1, 2005-2 I.R.B. 274 (published as modified on January 6, 2005), which provides guidance with respect to the application of § 409A. Additionally, in accordance with the amendments made by § 885(b) of the Act, Notice 2005-1 imposes the following reporting and wage withholding requirements with respect to deferred amounts:

- An employer must report to an employee the total amount of deferrals for the year under a nonqualified deferred

compensation plan in box 12 of Form W-2 using code Y. *See* Q&A-29.

- An employer must report amounts includible in gross income under § 409A and in wages under § 3401(a) in box 1 of Form W-2 as wages paid to the employee during the year. An employer must also report such amounts in box 12 of Form W-2 using code Z. *See* Q&A-33.
- A payer must report to a nonemployee the total amount of deferrals for the year under a nonqualified deferred compensation plan in box 15a of Form 1099-MISC. *See* Q&A-30.
- A payer must report amounts includible in gross income under § 409A and not treated as wages under § 3401(a) as nonemployee compensation in box 7 of Form 1099-MISC. A payer must also report such amounts in box 15b of Form 1099-MISC. *See* Q&A-35.

C. *Proposed Regulations*

On September 29, 2005, the IRS issued proposed regulations regarding the application of § 409A. *See* 70 Fed. Reg. 58930 (Oct. 4, 2005). The proposed regulations incorporate and expand on the guidance provided in Notice 2005-1 and are proposed to be generally applicable for taxable years beginning on or after January 1, 2007. As stated in the preamble to the proposed regulations, taxpayers may rely on the proposed regulations for periods preceding the effective date of the final regulations. However, the proposed regulations do not affect the applicability of this notice (and generally do not affect the application of other guidance issued with respect to § 409A, including Notice 2005-1).

III. INTERIM EMPLOYER AND PAYER REPORTING AND WAGE WITHHOLDING PROVISIONS

This notice suspends employers' and payers' reporting and wage withholding requirements for calendar year 2005 with respect to deferrals of compensation within the meaning of § 409A. In lieu thereof the following reporting and wage withholding provisions apply for calendar year 2005 until superseded by future published guidance:

A. Amounts reportable on Form 941 and Form W-2

- For calendar year 2005, an employer is not required to report deferrals for the year under a nonqualified deferred compensation plan as § 409A deferrals in box 12 of Form W-2 using code Y.
- For calendar year 2005, an employer is not required to include in the total amount of wages as defined in § 3401(a) amounts includible in the gross income of an employee under § 409A that the employee has neither actually nor constructively received during the calendar year. Thus, an employer may exclude such amounts from wages for income tax withholding purposes and is not required to report such amounts as wages paid to the employee in box 2 of Form 941 or in box 1 of Form W-2. Additionally, an employer is not required to report such amounts as § 409A income in box 12 of Form W-2 using code Z. However, see paragraph III.C. of this notice regarding an employer's potential obligation to file a corrected information return and to furnish a corrected payee statement.

B. Amounts reportable on Form 1099

- For calendar year 2005, a payer is not required to report deferrals for the year under a nonqualified deferred compensation plan as § 409A deferrals in box 15a of Form 1099-MISC.
- For calendar year 2005, a payer is not required to report amounts includible in the gross income of a nonemployee under § 409A that the nonemployee has neither actually nor constructively received during the calendar year. Thus, a payer is not required to report such amounts as nonemployee compensation in box 7 of Form 1099-MISC or as § 409A income in box 15b of Form 1099-MISC. However, see paragraph III.C. of this notice regarding a payer's potential obligation to file a corrected information return and to furnish a corrected payee statement.

C. Corrected Information Return and Corrected Payee Statement

Future published guidance may require an employer or payer to file a corrected information return and to furnish a corrected payee statement for calendar year 2005 reporting any previously unreported amounts includible in gross income under § 409A.

IV. SERVICE PROVIDER REQUIREMENTS WITH RESPECT TO AMOUNTS INCLUDIBLE IN GROSS INCOME UNDER § 409A

A service provider must file a return and pay any taxes due relating to amounts includible in gross income under § 409A for calendar year 2005. However, the IRS understands that it is likely that service providers will find it difficult to determine the correct amount and timing of inclusions under § 409A without reporting from the employer or payer. The IRS is working on guidance regarding the employers' and payers' reporting and withholding requirements, and that guidance is expected to be issued in the first half of 2006. Consequently, the IRS will not assert penalties under §§ 6651(a)(1) and (2), 6654, and 6662 with respect to amounts includible in gross income under § 409A for calendar year 2005 if the service provider reports and pays any taxes due with respect to such amounts in accordance with future published guidance. Such future guidance will provide a period during which the service provider may report and pay any taxes due with respect to amounts includible in gross income under § 409A without incurring such penalties. However, interest imposed under Chapter 67 of the Code will apply to any underpayments of tax resulting from a service provider's failure to include amounts includible in gross income under § 409A for calendar year 2005.

V. EFFECT ON OTHER DOCUMENTS

This notice suspends employers' and payers' reporting and wage withholding requirements for calendar year 2005 with respect to deferrals of compensation within the meaning of § 409A as set forth in Notice 2005-1.

VI. EFFECTIVE DATE

This notice is effective with respect to employers' and payers' reporting and wage withholding requirements for calendar year 2005 and with respect to service providers' filing requirements and tax payment obligations relating to amounts includible in gross income under § 409A for calendar year 2005.

VII. DRAFTING INFORMATION

The principal author of this notice is Frederick L. Wesner of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), though other Treasury and IRS officials participated. For further information regarding this notice, contact Mr. Wesner at (202) 622-6040 (not a toll-free number).

Weighted Average Interest Rates Update

Notice 2005-96

This notice provides guidance as to the corporate bond weighted average interest rate and the permissible range of interest rates specified under § 412(b)(5)(B)(ii)(II) of the Internal Revenue Code. In addition, it provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II), and the weighted average interest rate and permissible ranges of interest rates based on the 30-year Treasury securities rate.

CORPORATE BOND WEIGHTED AVERAGE INTEREST RATE

Sections 412(b)(5)(B)(ii) and 412(l)(7)(C)(i), as amended by the Pension Funding Equity Act of 2004, provide that the interest rates used to calculate current liability and to determine the required contribution under § 412(l) for plan years beginning in 2004 or 2005 must be within a permissible range based on the weighted average of the rates of interest on amounts invested conservatively in long term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year.

Notice 2004-34, 2004-1 C.B. 848, provides guidelines for determining the corporate bond weighted average interest rate

and the resulting permissible range of interest rates used to calculate current liability. That notice establishes that the corporate bond weighted average is based on the monthly composite corporate bond rate de-

rived from designated corporate bond indices.

The composite corporate bond rate for November 2005 is 5.78 percent. Pursuant to Notice 2004-34, the Service has determined this rate as the average of the

monthly yields for the included corporate bond indices for that month.

The following corporate bond weighted average interest rate was determined for plan years beginning in the month shown below.

Month	For Plan Years Beginning in: Year	Corporate Bond Weighted Average	90% to 110% Permissible Range
December	2005	5.78	5.20 to 5.78

30-YEAR TREASURY SECURITIES WEIGHTED AVERAGE INTEREST RATE

Section 417(e)(3)(A)(ii)(II) defines the applicable interest rate, which must be used for purposes of determining the minimum present value of a participant's benefit under § 417(e)(1) and (2), as the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe.

Section 1.417(e)-1(d)(3) of the Income Tax Regulations provides that the applicable interest rate for a month is the annual interest rate on 30-year Treasury securities as specified by the Commissioner for that month in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin.

Section 404(a)(1) of the Code, as amended by the Pension Funding Equity Act of 2004, permits an employer to elect to disregard subclause (II) of § 412(b)(5)(B)(ii) to determine the max-

imum amount of the deduction allowed under § 404(a)(1).

The rate of interest on 30-year Treasury securities for November 2005 is 4.73 percent. Pursuant to Notice 2002-26, 2002-1 C.B. 743, the Service has determined this rate as the monthly average of the daily determination of yield on the 30-year Treasury bond maturing in February 2031.

The following 30-year Treasury rates were determined for the plan years beginning in the month shown below.

Month	For Plan Years Beginning in: Year	30-Year Treasury Weighted Average	90% to 105% Permissible Range	90% to 110% Permissible Range
December	2005	4.87	4.38 to 5.11	4.38 to 5.35

Drafting Information

The principal authors of this notice are Paul Stern and Tony Montanaro of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500 (a toll-free number), between the hours of 8:00 a.m. and 6:30 p.m. Eastern time, Monday through Friday. Mr. Stern may be reached at 1-202-283-9703. Mr. Montanaro may be reached at 1-202-283-9714. The telephone numbers in the preceding sentences are not toll-free.

Request for Comments Regarding Procedures for Automatic Changes in Methods of Accounting Contained in Rev. Proc. 2002-9

Notice 2005-97

The Internal Revenue Service and the Treasury Department invite public comments on possible changes to Rev. Proc. 2002-9, 2002-1 C.B. 327, as modified and clarified by Announcement 2002-17, 2002-1 C.B. 561, modified and amplified by Rev. Proc. 2002-19, 2002-1 C.B. 696, and amplified, clarified, and modified by Rev. Proc. 2002-54, 2002-2 C.B. 432.

Rev. Proc. 2002-9 sets forth the procedures under § 446 of the Internal Revenue Code and the regulations thereun-

der for taxpayers to request automatic consent from the Commissioner to change to certain methods of accounting. In general, Rev. Proc. 2002-9 grants consent to any taxpayer within the scope of Rev. Proc. 2002-9 to change the taxpayer's method(s) of accounting as described in the APPENDIX of Rev. Proc. 2002-9 if the taxpayer complies with all the applicable provisions of the revenue procedure and implements the change in method of accounting for the requested year of change.

Since its publication, the Service has clarified, modified, and amplified Rev. Proc. 2002-9 in numerous revenue procedures, revenue rulings, notices, and other guidance. The Service and the Treasury Department intend to update Rev. Proc. 2002-9 with a revised revenue procedure that will consolidate this subsequently issued guidance.

The Service and the Treasury Department are considering whether to make any other changes to Rev. Proc. 2002-9. This includes the accounting method changes that should be eligible for the automatic consent procedures and changes that should be made to the rules and procedures applicable to automatic accounting method changes.

This notice identifies several issues that may be addressed in the revised revenue procedure. The Service and the Treasury Department request public comments on whether, why, and how these or other issues should be addressed in the revised revenue procedure.

ISSUES ON WHICH COMMENTS ARE REQUESTED

1. Should any accounting method changes that are currently ineligible for automatic consent be made eligible for automatic consent?

2. Should any accounting method changes that are currently eligible for automatic consent be made ineligible for automatic consent?

3. Should modifications be made to any aspect (such as to the description or scope) of the accounting method changes currently eligible for automatic consent?

4. Should any modifications be made to the general procedures applicable to all automatic accounting method changes?

Comments should be submitted in writing on or before March 27, 2006, and should include a reference to Notice 2005-97. Send submissions to: CC:PA:LDP:PR (Notice 2005-97), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (Notice 2005-97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC. Alternatively, comments may be submitted electronically directly to the Service via the following e-mail address: Notice.comments@irs.counsel.treas.gov. Please include "Notice 2005-97" in the subject line of any electronic communication. All materials submitted will be available for public inspection and copying.

DRAFTING INFORMATION

The principal authors of this notice are Kari Fisher and Cheryl Oseekey of the Office of the Associate Chief Counsel (Income Tax and Accounting). For further information concerning this notice, contact Ms. Fisher or Ms. Oseekey at (202) 622-4970 (not toll-free numbers).

Clean Renewable Energy Bonds

Notice 2005-98

SECTION 1. PURPOSE

This notice solicits applications for allocations of the clean renewable energy bond limitation under section 54(f) of the Internal Revenue Code (the Code). This notice also provides guidance on: (1) the requirements a project must meet in order to be eligible to obtain an allocation of the limitation; (2) the methodology the Treasury Department will use to allocate the limitation; and (3) the credit rate, maximum term and information reporting requirements applicable to clean renewable energy bonds. In addition, this notice announces that temporary and proposed regulations will be issued under section 54, and describes certain remedial action provisions and arbitrage restrictions that will be contained in those regulations. Applications for allocations of the clean renewable energy bond limitation must be filed by April 26, 2006, in accordance with this notice.

SECTION 2. INTRODUCTION

Section 1303 of the Energy Tax Incentives Act of 2005, Pub. L. No. 109-58 (the Act), added section 54 to the Code. In general, section 54 authorizes up to \$800,000,000 of tax credit bonds to be issued by qualified issuers to finance certain renewable energy projects described in section 45(d) of the Code. Section 54 applies to bonds issued after December 31, 2005, and before January 1, 2008.

SECTION 3. BACKGROUND

Section 54(a) provides that a taxpayer that holds a "clean renewable energy bond" on one or more credit allowance

dates of the bond occurring during any taxable year is allowed as a nonrefundable credit against Federal income tax for the taxable year an amount equal to the sum of the credits determined under section 54(b) with respect to such dates.

Section 54(b)(1) provides that the amount of the credit with respect to any credit allowance date is 25 percent of the annual credit. Section 54(b)(2) provides that the annual credit is the product of (1) the credit rate determined by the Secretary, multiplied by (2) the outstanding face amount of the bond.

Section 54(b)(3) provides that the Secretary shall determine daily a credit rate that shall apply to the first day on which there is a binding, written contract for the sale or exchange of a clean renewable energy bond. The credit rate for any day is the credit rate the Secretary estimates will permit the issuance of clean renewable energy bonds with a specified maturity or redemption date without discount and without interest cost to the issuer.

Section 54(b)(4) provides that the term "credit allowance date" means March 15, June 15, September 15, December 15, and the last day on which the bond is outstanding. Section 54(b)(5) generally provides that if a bond is issued or redeemed, or matures, during the 3-month period ending on a credit allowance date, then the amount of the credit for that credit allowance date is a ratable portion of the credit otherwise determined for that 3-month period.

Section 54(g) provides that gross income includes the amount of the credit allowed to the taxpayer under section 54 (without regard to section 54(c)) and the amount so included is treated as interest income.

Section 54(d) provides that a "clean renewable energy bond" means any bond issued as part of an issue if: (1) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to the issuer of a portion of the national clean renewable energy bond limitation under section 54(f)(2); (2) 95 percent or more of the proceeds of the issue are to be used for capital expenditures incurred by qualified borrowers for one or more qualified projects; (3) the qualified issuer designates the bond for purposes of section 54 and the bond is in registered form; and (4) the issue meets certain requirements described in section 54(h) with respect to the expenditure of

bond proceeds, including a requirement that the issuer reasonably expects, as of the issue date, that at least 95 percent of the net proceeds will be expended within 5 years.

Section 54(j)(4) defines a “qualified issuer” as: (1) a clean renewable energy bond lender; (2) a cooperative electric company; or (3) a governmental body. Section 54(j)(2) provides that a “clean renewable energy bond lender” is a lender that is: (1) a cooperative that is owned by, or has outstanding loans to, 100 or more cooperative electric companies and was in existence on February 1, 2002; or (2) any affiliated entity controlled by such a lender. Section 54(j)(1) defines the term “cooperative electric company” as a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility that has received a loan or loan guarantee under the Rural Electrification Act. Section 54(j)(3) defines the term “governmental body” as any State, territory, possession of the United States, the District of Columbia, Indian tribal government, or any political subdivision thereof.

Section 54(j)(5) provides that a “qualified borrower” is: (1) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C); or (2) a governmental body.

Section 54(d)(2) defines the term “qualified project” as any of the following qualified facilities (as determined under section 45(d) without regard to any placed in service date) owned by a qualified borrower: (1) a wind facility under section 45(d)(1); (2) a closed-loop biomass facility under section 45(d)(2); (3) an open-loop biomass facility under section 45(d)(3); (4) a geothermal or solar energy facility under section 45(d)(4); (5) a small irrigation power facility under section 45(d)(5); (6) a landfill gas facility under section 45(d)(6); (7) a trash combustion facility under section 45(d)(7); (8) a refined coal production facility under section 45(d)(8); and (9) a qualified hydropower facility under section 45(d)(9).

Section 54(f)(1) provides that the national clean renewable energy bond limitation is \$800,000,000. Section 54(f)(2) provides that the Secretary shall allocate the national clean renewable energy bond limitation among qualified projects in such manner as the Secretary determines appropriate, except that the Secretary may not

allocate more than \$500,000,000 of the national clean renewable energy bond limitation to finance qualified projects of qualified borrowers that are governmental bodies.

Section 54(d)(2)(D) provides that, for purposes of the requirement of section 54(d)(1)(B) that at least 95 percent of the proceeds of an issue be used for capital expenditures incurred by a qualified borrower for a qualified project, proceeds of an issue are not treated as used for a qualified project to the extent that a qualified borrower or qualified issuer takes any action within its control that causes such proceeds not to be used for a qualified project. Section 54(d)(2)(D) further provides that the Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean renewable energy bond.

Section 54(k) generally requires that any borrower of proceeds of a clean renewable energy bond that is a pooled financing bond (within the meaning of section 149(f)(4)(A)) enter into a written loan commitment before the issue date of the bond.

Section 54(l)(6) provides that a bond shall not be treated as a clean renewable energy bond unless it is part of an issue that provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

Section 54(e)(1) provides that a bond shall not be treated as a clean renewable energy bond if the maturity of the bond exceeds the maximum term determined by the Secretary under section 54(e)(2) with respect to the bond. Section 54(e)(2) provides that, during each calendar month, the Secretary shall determine the maximum term for clean renewable energy bonds issued in the following calendar month. The maximum term is the term the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of the bond. Section 54(e)(2) further provides that such present value shall be determined (1) without regard to the requirement of section 54(l)(6) that the principal of clean renewable energy bonds be amortized ratably each year and (2) using

a discount rate equal to the average annual interest rate of tax-exempt obligations having a term of 10 years or more that are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

Section 54(i) generally provides that the arbitrage requirements of section 148 applicable to tax-exempt State or local bonds apply to clean renewable energy bonds.

Section 54(l)(7) requires issuers of clean renewable energy bonds to submit reports similar to the reports required under section 149(e) for tax-exempt State or local bonds.

SECTION 4. TEMPORARY REGULATIONS

The Treasury Department and the Internal Revenue Service intend to issue temporary and proposed regulations (the “Temporary Regulations”) under section 54 to provide guidance to holders and issuers of clean renewable energy bonds. The Temporary Regulations will address, among other matters, remedial actions and arbitrage restrictions applicable to clean renewable energy bonds.

SECTION 5. APPLICATION REQUIREMENTS

Each application for an allocation of the clean renewable energy bond limitation must be prepared and submitted in accordance with this section. By submitting an application for an allocation of the clean renewable energy bond limitation, pursuant to section 54(f) and this notice, the applicant agrees to comply with the requirements of this notice.

a. *Qualified issuer.* The application must be submitted by a qualified issuer within the meaning of section 54(j)(4). A “qualified issuer” is: (1) a clean renewable energy bond lender (as defined in section 54(j)(2)); (2) a cooperative electric company (as defined in section 54(j)(1)); or (3) a governmental body (as defined in section 54(j)(3)). Applications must identify the qualified issuer and must demonstrate that the entity constitutes a qualified issuer within the meaning of section 54(j)(4).

b. *Signatures.* An application must be signed by an authorized employee of the qualified issuer.

c. *Addresses.* Applications must be submitted in duplicate to the Internal Revenue Service (IRS), Attention CC:TEGE:EOEG:TEB, 1111 Constitution Avenue, NW, Room 4306, Washington, D.C. 20224. Applications may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to the Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C., attention CC:TEGE:EOEG:TEB.

d. *Due date.* Applications must be filed with the IRS on or before April 26, 2006.

e. *Project description.* Each application must contain the information required by this subsection e.

(i) *Qualified borrower.* Each application must identify the qualified borrower expected to own the qualified project. A "qualified borrower" is: (1) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C); or (2) a governmental body (as defined in section 54(j)(3)). The application must demonstrate that the entity constitutes a qualified borrower within the meaning of section 54(j)(5). If any bond is expected to be a pooled financing bond (within the meaning of section 149(f)(4)(A)), the application must demonstrate that the qualified issuer will enter into a written loan commitment with each qualified borrower prior to the issue date of the bond issue.

(ii) *Qualified project.* Each application must describe in detail the project to be financed with the proceeds of the clean renewable energy bonds. The application must demonstrate that the project will constitute a "qualified project" within the meaning of section 54(d)(2)(A), and must indicate the expected date the project will be placed in service. The application also must contain a certification by an independent, licensed engineer that the project will meet the requirements to be a qualified facility (as determined under section 45(d) without regard to section 45(d)(10) and to any placed in service date) and that the project is technically viable.

(iii) *Location of project.* The application must indicate the location of the project.

(iv) *Regulatory approvals.* The application must describe a plan to obtain all necessary Federal, state and local regulatory approvals for the project.

f. *Plan of financing.* The application must contain a detailed description of the plan of financing for the project, including all private and public sources of financing and the status of the applicants' efforts to secure all such financing. The application must also describe the anticipated date of bond issuance, the sources of security and repayment for the bonds, the aggregate face amount of bonds expected to be issued for the project, and the issuer's reasonably expected schedule for spending proceeds of clean renewable energy bonds.

g. *Dollar amount of allocation requested.* The application must specify the dollar amount of the clean renewable energy bond limitation requested.

SECTION 6. ALLOCATION OF CLEAN RENEWABLE ENERGY BOND LIMITATION

The clean renewable energy bond limitation will be allocated, in accordance with this section, to qualified projects for which applications meeting the requirements of this notice have been filed with the IRS on or before April 26, 2006. Projects for governmental bodies and mutual or cooperative electric companies described in section 501(c)(12) or 1381(a)(2)(C) will be allocated the full amount of clean renewable energy bond limitation requested beginning with the project(s) for which the smallest dollar amount of clean renewable energy bond limitation has been requested and continuing with the project(s) for which the next-smallest dollar amount of such limitation has been requested until the total amount of clean renewable energy bond limitation has been exhausted. However, in the event that \$500,000,000 has been allocated to qualified projects of qualified borrowers that are governmental bodies, the remaining clean renewable energy bond limitation will be allocated, under the methodology described in the previous sentence, only to qualified projects of qualified borrowers that are not governmental bodies. For purposes of this section, all qualified projects located at the same site and owned by the same qualified borrower are treated as a single project.

SECTION 7. REQUIRED DECLARATIONS

Each application, certification, report or other document submitted under this

notice must include the following declaration signed by an authorized employee of the qualified issuer who has personal knowledge of the relevant facts and circumstances: "Under penalties of perjury, I declare that I have examined this document and, to the best of my knowledge and belief, all of the facts contained herein are true, correct, and complete."

SECTION 8. MAXIMUM TERM

The maximum term for a clean renewable energy bond is determined under section 54(e)(2) by using a discount rate equal to 110 percent of the long-term adjusted AFR, compounded semi-annually, for the month in which the bond is sold. For purposes of this notice, a bond is "sold" on the first day on which there is a binding contract in writing for the sale or exchange of the bond. The maximum term for a clean renewable energy bond will be published daily by the Bureau of Public Debt on its Internet site for State and Local Government Series securities at: <http://www.publicdebt.treas.gov>.

SECTION 9. CREDIT RATE

For each issue of clean renewable energy bonds, a separate credit rate will apply to each of the level annual repayments of principal of the issue (each, a "principal maturity"). The credit rate for a principal maturity of an issue of clean renewable energy bonds is the applicable clean renewable energy bond credit rate published each business day by the Bureau of Public Debt on its Internet site for State and Local Government Series securities at: <http://www.publicdebt.treas.gov>. The applicable clean renewable energy bond credit rate shall be applied to a principal maturity of an issue of clean renewable energy bonds on the day the issue is sold. The credit rates will be determined by the Treasury Department based on its estimate of the yield on outstanding AA rated corporate bonds of a similar maturity for the business day immediately prior to the date on which the issue is sold.

SECTION 10. INFORMATION REPORTING

Section 54(l)(7) requires issuers of clean renewable energy bonds to submit

reports similar to the reports required under section 149(e) for tax-exempt State or local bonds. To satisfy this requirement, an issuer of clean renewable energy bonds must submit for each issue, at the same time and in the same manner as required under section 149(e), Form 8038-G, *Information Return for Tax-Exempt Governmental Obligations*. Issuers of clean renewable energy bonds should complete Part II of Form 8038-G by checking the box on Line 18 (Other), writing “clean renewable energy bonds” in the space provided for the bond description, and entering the amount of the bonds in the Issue Price column. For purposes of this notice, an “issue” means one or more bonds that are sold on the same day by the same qualified issuer with respect to the same qualified borrower.

SECTION 11. REMEDIAL ACTIONS

It is anticipated that the Temporary Regulations will provide that, for purposes of the requirement of section 54(d)(1)(B) that at least 95 percent of the proceeds of an issue be used for capital expenditures incurred by a qualified borrower for a qualified project, proceeds of an issue will not be treated as used for a qualified project to the extent that a qualified issuer or qualified borrower takes a deliberate action that causes such proceeds not to be used for a qualified project. For this purpose, the term “deliberate action” will have the same meaning as in § 1.141-2(d)(3) of the Income Tax Regulations, except that “section 54” will be substituted for “section 141” in § 1.141-2(d)(3)(i). It is further anticipated that the Temporary Regulations will provide that an action that causes an issue to fail to meet the requirements of section 54(d)(1)(B) is not treated as a deliberate action if (1) the issuer takes a remedial action described in the Temporary Regulations and (2) certain other requirements specified in the Temporary Regulations are met. Finally, it is anticipated that the Temporary Regulations will contain a “redemption or defeasance” remedial action and an “alternative use of disposition proceeds” remedial action similar but not identical to the remedial actions contained in § 1.141-12(d) and § 1.141-12(e).

SECTION 12. ARBITRAGE REQUIREMENTS

Section 54(i) generally provides that a bond shall not be treated as a clean renewable energy bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue. It is anticipated that the Temporary Regulations will provide that, for purposes of applying the arbitrage requirements of section 148 to bonds issued under section 54—

(1) If an issue meets the requirements of section 54(h)(1) (including the requirement that the issuer reasonably expects, as of the issue date, that at least 95 percent of the net proceeds will be expended within 5 years), then the proceeds of the issue qualify for a temporary period of 5 years beginning on the date of issuance of the issue, and any unspent proceeds after the end of such 5-year period are eligible for yield reduction payments under the principles of § 1.148-5(c);

(2) The credit allowed under section 54(a) shall be disregarded for purposes of computing the yield on the issue under § 1.148-4;

(3) Section 148(b)(3) (relating to exception to the definition of “investment property” for certain tax-exempt bonds) shall not apply;

(4) The bonds shall not be treated as private activity bonds for purposes of section 148(f)(4)(A) (relating to rebate exception for amounts in a *bona fide* debt service fund);

(5) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of an issue; and

(6) Section 148(f)(4)(D) (relating to exception from rebate for certain small issuers) shall not apply.

SECTION 13. DRAFTING INFORMATION

The principal authors of this notice are Timothy L. Jones and Aviva M. Roth of the Office of Associate Chief Counsel (Tax Exempt & Government Entities). However, other personnel from the IRS and the Treasury Department participated in its development. For further

information regarding this notice, contact Timothy L. Jones or Aviva M. Roth at (202) 622-3980 (not a toll-free call).

Guidance on Valuation of Stock-Based Compensation for Purposes of Qualified Cost Sharing Arrangements

Notice 2005-99

PURPOSE

Treas. Reg. § 1.482-7(d)(2)(iii)(B) provides an elective method of measurement and timing that is applicable for taking certain options on publicly traded stock into account as intangible development costs of a controlled participant in a qualified cost sharing arrangement (QCSA). This notice extends that elective method to certain stock-based compensation commonly referred to as “restricted shares” or “restricted share units.” It also addresses the determination of whether stock-based compensation subject to the elective method is related to the covered intangible development area. The Treasury Department and the Internal Revenue Service (IRS) expect to issue regulations that incorporate the guidance provided in this notice.

BACKGROUND

The Treasury Department and the IRS promulgated T.D. 9088, 2003-2 C.B. 841, on August 26, 2003, providing explicit guidance with respect to taking stock-based compensation into account as intangible development costs of a controlled participant in a QCSA under § 1.482-7. Section 1.482-7(d)(1) of the cost sharing regulations generally requires that all costs related to the intangible development area be taken into account. Section 1.482-7(d)(2)(ii) provides that the determination of whether stock-based compensation is related to the intangible development area (within the meaning of § 1.482-7(d)(1)) is made as of the date that the stock-based compensation is granted (the grant-date identification rule).

Under T.D. 9088, once stock-based compensation is identified by application of the grant-date identification rule, its cost must be measured to establish the

amount taken into account for cost-sharing purposes. Generally, this cost is measured and taken into account in accordance with the tax-deduction-based rules set forth in § 1.482-7(d)(2)(iii)(A). In the case of certain options on publicly traded stock, however, controlled participants may choose the elective method of § 1.482-7(d)(2)(iii)(B). Under the elective method, controlled participants take into account stock-option costs in the same amount, and as of the same time, as the fair value of the stock options reflected in audited financial statements prepared in accordance with U.S. generally accepted accounting principles (U.S. GAAP) by or on behalf of the company issuing the publicly traded stock.

On August 22, 2005, the Treasury Department and the IRS issued a notice of proposed rulemaking (REG-144615-02, 2005-40 I.R.B. 625) which would amend, *inter alia*, the regulations under § 1.482-7(d). The Preamble to the proposed regulation stated that the Treasury Department and the IRS are considering extending availability of the elective method to other forms of publicly traded stock-based compensation and requested comments on which forms of publicly traded stock-based compensation should be eligible for the elective method. In response to comments, this notice extends the elective method to certain stock-based compensation commonly referred to as “restricted shares” or “restricted share units” and addresses the determination of whether stock-based compensation measured under the elective method is related to the intangible development area.

DISCUSSION

A. Certain restricted equity shares or units eligible for the elective method.

The Treasury Department and the IRS believe that the use of the elective method for certain shares or units would provide a reliable and administrable method for measuring the intangible development costs attributable to such compensation for purposes of § 1.482-7(d)(2). Accordingly, the Treasury Department and the IRS have determined that controlled participants may choose to apply the elective method to such shares or units.

Specifically, the elective method will be available with respect to nonvested equity shares or nonvested equity share units within the meaning of Statement of Financial Accounting Standards No. 123, “Share-Based Payment,” Financial Accounting Standards Board (rev. 2004) (SFAS 123R), provided that those shares or share units: (i) constitute or are issued with respect to publicly traded stock within the meaning of § 1.482-7(d)(2)(iii)(B)(2); and (ii) are not subject to market conditions or significant post-vesting restrictions within the meaning of SFAS 123R.

In general, an election to apply the elective method as modified by this notice is made at the same time and in the same manner as described in § 1.482-7(d)(2)(iii)(B)(4). In the case of a QCSA that predates December 8, 2005, if one or more controlled participants offer nonvested equity shares or units, an election to apply the elective method to such shares or units must be made by a written amendment to the cost sharing agreement not later than the latest due date (with regard to extensions) of a Federal income tax return of any controlled participant for the first taxable year beginning after December 8, 2005, and the consent of the Commissioner is not required.

B. Determination of whether stock-based compensation subject to the elective method is related to the intangible development area.

The grant-date identification rule directs that the “determination of whether stock based compensation is related to the intangible development area ... is made as of the date that the stock-based compensation is granted.” Section 1.482-7(d)(2)(ii) further states that all stock-based compensation granted during the term of a QCSA and related to the intangible development area is included as intangible development costs. Under the elective method, stock options are taken into account at the same time, and in the same amount as the value of stock options reflected in financial statements prepared in accordance with U.S. GAAP.

Under U.S. GAAP, companies must classify stock-based compensation expense attributable to a financial reporting period in the same functional area (*e.g.*, research and development, cost of revenue,

etc.) as the expense for cash compensation recognized for the employee in the income statement. *See* Staff Accounting Bulletin No. 107, Release No. SAB 107, 17 CFR Part 211 (Mar. 29, 2005); SFAS 123R ¶ 5. In the case of taxpayers utilizing the elective method of measurement, the Treasury Department and the IRS believe that determining whether stock-based compensation is related to the intangible development area on the basis of activities of employees during individual financial reporting periods is administrable both by taxpayers and the IRS and would likely produce results consistent with the purposes of T.D. 9088. Accordingly, provided that certain requirements are satisfied, controlled participants may choose to determine whether stock-based compensation measured by the elective method is related to the intangible development area by analyzing the activities of the employee recipients of the stock-based compensation by reference to financial reporting periods, identifying the related compensation on a period by period basis. In this context, the Treasury Department and the IRS emphasize that activities within the intangible development area are not necessarily coextensive with those activities classified as “research and development” for financial reporting purposes. Consequently, nothing in this notice should be interpreted as eliminating the requirement to take into account all stock-based compensation costs related to the intangible development area. Controlled participants must identify the stock-based compensation that is related to the intangible development area, notwithstanding that the activities conducted to develop intangibles covered by the QCSA may differ from the activities classified as “research and development” for U.S. GAAP purposes.

As an example of the identification of stock-based compensation by analyzing employee activities on the basis of financial reporting periods, assume that the stock-based compensation granted during the term of the QCSA and subject to the elective method vests over a total period that includes some periods in which the employee’s activities are related to the intangible development area and other periods in which the employee’s activities are not so related. Under these circumstances, in computing the intangible development costs related to the intangible develop-

ment area, the portion of such stock-based compensation that vests during the former periods is taken into account even if the employee's activities were not related to the intangible development area during the financial reporting period during which such stock-based compensation is granted, while the portion that vests during the latter periods is not taken into account. In contrast, under the grant-date identification rule, the determination whether the stock-based compensation relates to the intangible development area is made with respect to the entire grant of stock-based compensation by reference to the recipient employee's activities at the time the stock-based compensation is granted.

Taxpayers' implementation of this identification method based on financial reporting periods must meet four requirements. First, the identification methodology must be applied consistently (under the principles of § 1.482-7(d)(2)(iii)(C)). Second, any stock-based compensation the fair value of which is not reflected as a charge against income in audited financial statements (for example, as in the case of certain stock options the fair value of which was disclosed in footnotes prior to the effective date of SFAS 123R) must be identified for purposes of § 1.482-7 as if the fair value of such compensation were reflected as a charge against income in audited financial statements. Third, as under the grant-date identification rule, controlled participants using this identification methodology must exclude stock-based compensation granted prior to the term of the QCSA. Fourth and finally, stock-based compensation granted but not

vested during the term of the QCSA must be treated as vesting immediately before expiration or termination of the QCSA for purposes of § 1.482-7. Under this final requirement, if costs attributable to stock-based compensation granted during the term of the QCSA are allocable under U.S. GAAP to reporting periods subsequent to the term of the QCSA, the determination of whether these costs must be taken into account as intangible development costs must be based on the employee's activities as of the financial reporting period during which the date of the expiration or termination of the QCSA occurs.

In the case of a QCSA that predates December 8, 2005, a change of identification methodology pursuant to this notice will not require Commissioner consent under § 1.482-7(d)(2)(iii)(C) if made no later than the latest due date (with regard to extensions) of a Federal income tax return of any controlled participant for the first taxable year beginning after December 8, 2005.

EFFECTIVE DATE

This notice is effective for stock-based compensation granted in taxable years beginning on or after December 8, 2005. Until regulations incorporating the guidance set forth in this notice are issued, taxpayers may rely on the guidance contained in this notice. Taxpayers may elect to apply the provisions of this notice retroactively to grants of stock-based compensation occurring in open taxable years beginning on or after August 26, 2003.

REQUEST FOR COMMENTS AND CONTACT INFORMATION

The Treasury Department and the IRS continue to request comments concerning other forms of publicly traded stock-based compensation that should be eligible for the elective method. In addition, comments are requested concerning the interaction of the grant-date identification rule and the elective method; whether the regulations should continue to exclude all stock-based compensation granted prior to the term of the QCSA; whether stock-based compensation that vests after the term of the QCSA should be treated as vested during the term of the QCSA; and what standard the Commissioner should apply in considering requests for consent to changes to or from the elective method. Written comments may be submitted to the Office of Associate Chief Counsel (International), Attention: John E. Hinding (Notice 2005-99), CC:INTL:6, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224. Alternatively, taxpayers may submit comments electronically to notice.comments@irs.counsel.treas.gov. Comments will be available for public inspection and copying.

The principal author of this notice is John E. Hinding of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact John E. Hinding at (202) 435-5265 (not a toll-free call).

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

Notice 2005-100

1. Table for Figuring Amount Exempt From Levy on Wages, Salary, and Other Income (Forms 668-W(c), 668-W(c)(DO)) and 668-W(ICS) 2006

Publication 1494, shown below, provides tables that show the amount of an individual's income that is exempt from a notice of levy used to collect delinquent tax in 2006.

(Amounts are for each pay period.)

Filing Status: Single							
Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More than 6
Daily	32.50	45.19	57.88	70.58	83.27	95.96	19.81 plus 12.69 for each exemption
Weekly	162.50	225.96	289.42	352.88	416.35	479.81	99.04 plus 63.46 for each exemption
Biweekly	325.00	451.92	578.85	705.77	832.69	959.62	198.08 plus 126.92 for each exemption
Semi-monthly	352.08	489.58	627.08	764.58	902.08	1039.58	214.58 plus 137.50 for each exemption
Monthly	704.17	979.17	1254.17	1529.17	1804.17	2079.17	429.17 plus 275.00 for each exemption

Filing Status: Unmarried Head of Household							
Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More than 6
Daily	41.73	54.42	67.12	79.81	92.50	105.19	29.04 plus 12.69 for each exemption
Weekly	208.65	272.12	335.58	399.04	462.50	525.96	145.19 plus 63.46 for each exemption
Biweekly	417.31	544.23	671.15	798.08	925.00	1051.92	290.39 plus 126.92 for each exemption
Semi-monthly	452.08	589.58	727.08	864.58	1002.08	1139.58	314.58 plus 137.50 for each exemption
Monthly	904.17	1179.17	1454.17	1729.17	2004.17	2279.17	629.17 plus 275.00 for each exemption

Filing Status: Married Filing Joint Return (and Qualifying Widow(er)s)							
Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More than 6
Daily	52.31	65.00	77.69	90.38	103.08	115.77	39.62 plus 12.31 for each exemption
Weekly	261.54	325.00	388.46	451.92	515.38	578.85	198.08 plus 63.46 for each exemption
Biweekly	523.08	650.00	776.92	903.85	1030.77	1157.69	396.15 plus 126.92 for each exemption
Semi-monthly	566.67	704.17	841.67	979.17	1116.67	1254.17	429.17 plus 137.50 for each exemption
Monthly	1133.33	1408.33	1683.33	1958.33	2233.33	2508.33	858.33 plus 275.00 for each exemption

Filing Status: Married Filing Separate Return							
Pay Period	Number of Exemptions Claimed on Statement						
	1	2	3	4	5	6	More than 6
Daily	32.50	45.19	57.88	70.58	83.27	95.96	19.81 plus 12.69 for each exemption
Weekly	162.50	225.96	289.42	352.88	416.35	479.81	99.04 plus 63.46 for each exemption
Biweekly	325.00	451.92	578.85	705.77	832.69	959.62	198.08 plus 126.92 for each exemption
Semi-monthly	352.08	489.58	627.08	764.58	902.08	1039.58	214.58 plus 137.50 for each exemption
Monthly	704.17	979.17	1254.17	1529.17	1804.17	2079.17	429.17 plus 275.00 for each exemption

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

Additional Exempt Amount

Filing Status	*	Daily	Wkly	Bi-Wkly	Semi-Mo	Monthly
Single or Head of Household	1	4.81	24.04	48.08	52.08	104.17
	2	9.62	48.08	96.15	104.17	208.33
Any Other Filing Status	1	3.85	19.23	38.46	41.67	83.33
	2	7.69	38.46	76.92	83.33	166.67
	3	11.54	57.69	115.38	125.00	250.00
	4	15.38	76.92	153.85	166.67	333.33

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

Examples

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

1. A single taxpayer who is paid weekly and claims three exemptions (including one for the taxpayer) has \$289.42 exempt from levy.
2. If the taxpayer in number 1 is over 65 and writes 1 in the ADDITIONAL STANDARD DEDUCTION space on Parts 3, 4, & 5 of the levy, \$313.46 is exempt from this levy (\$289.42 plus \$24.04).
3. A taxpayer who is married, files jointly, is paid bi-weekly, and claims two exemptions (including one for the taxpayer) has \$650.00 exempt from levy.
4. If the taxpayer in number 3 is over 65 and has a spouse who is blind, this taxpayer should write 2 in the ADDITIONAL STANDARD DEDUCTION space on Parts 3, 4, & 5 of the levy. Then, \$726.92 is exempt from this levy (\$650.00 plus \$76.92).

2005 Cumulative List of Changes in Plan Qualification Requirements

Notice 2005-101

I. PURPOSE

This notice contains the 2005 Cumulative List of Changes in Plan Qualification Requirements (2005 Cumulative List) described in section 4 of Rev. Proc. 2005-66, 2005-37 I.R.B. 509. The 2005 Cumulative List is to be used primarily by plan sponsors of individually designed plans that fall in Cycle A. Those will be single employer individually designed defined contribution plans, including employee stock ownership plans (ESOPs), and individually designed defined benefit plans.

The 2005 Cumulative List in section 4 of this notice does not extend the deadline by which a plan must be amended to comply with any statutory, regulatory, or guidance changes. The general deadline for timely adoption of an interim or discretionary amendment can be found in section 5.05 of Rev. Proc. 2005-66.

II. BACKGROUND

Rev. Proc. 2005-66 sets forth procedures for issuing opinion, advisory, and determination letters and establishes the five-year remedial amendment cycle for individually designed plans and the six-year remedial amendment cycle for pre-approved plans. In addition, section 5.05 of Rev. Proc. 2005-66 provides the deadline for timely adoption of an interim

amendment or discretionary amendment. Notice 2005-95, 2005-51 I.R.B. 1172 (December 19, 2005), provides transitional relief relating to deadlines that would otherwise apply under Rev. Proc. 2005-66.

Under section 4 of Rev. Proc. 2005-66, the Internal Revenue Service intends to annually publish a Cumulative List to identify statutory, regulatory and guidance changes that must be taken into account in plan sponsor's submissions to the Service for opinion, advisory and determination letters whose remedial amendment period begins on February 1st following issuance of the Cumulative List.

In Notice 2004-84, 2004-2 C.B. 1030, the Service published the 2004 Cumulative List of Changes in Plan Qualification Requirements (2004 Cumulative List). The 2004 Cumulative List was used primarily by plan sponsors and practitioners in drafting defined contribution pre-approved plans (that is, defined contribution plans that are master and prototype or volume submitter plans) that must be submitted to the Service for review by January 31, 2006. Thus, the 2004 Cumulative List set forth only those plan qualification requirements that applied to defined contribution pre-approved plans. Plan qualification requirements included statutory changes and guidance that became effective after December 31, 2001, and any relevant qualification requirements not contained in the 2004 Cumulative List. The Service also stated that plan language for guidance issued after December 14, 2004, would not be reviewed, unless it was on the 2004 Cumulative List.

III. APPLICATION OF 2005 CUMULATIVE LIST

This notice is being issued in conjunction with the opening of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16 (EGTRRA) determination letter program for individually designed plans. The Service announced the opening of the initial five-year remedial amendment cycle for Cycle A in Rev. Proc. 2005-66. Thus, the Service will start accepting determination letter applications for Cycle A individually designed plans (*i.e.*, the last digit of the plan sponsor's employer identification number is 1 or 6) on February 1, 2006. The 12-month submission period for individually designed plans is intended to end January 31, 2007.

The 2005 Cumulative List informs plan sponsors of issues the Service has specifically identified for review in determining whether an individually designed plan has been properly updated. Specifically, the 2005 Cumulative List reflects law changes under EGTRRA (with technical corrections made by the Job Creation and Worker Assistance Act of 2002 (JCWAA), Pub. L. 104-147), the Pension Funding Equity Act of 2004 (PFEA), Pub. L. 108-218, and the American Jobs Creation Act of 2004 (AJCA), Pub. L. 108-357. In order to be qualified, a plan must comply with all relevant qualification requirements (that is, all qualification requirements in effect, or guidance published before the issuance of the Cumulative List), not just those on the 2005 Cumulative List. The only two items on the 2005 Cumulative List that are not yet published are listed under section 402A.

The Service will not review plan language for any qualification change that be-

comes effective, any guidance published, or any statutes enacted after December 13, 2005, unless it is on the 2005 Cumulative List. Thus, plan sponsors of individually designed plans may not rely on determination letters with respect to plan language reflecting any guidance issued after December 13, 2005, unless that guidance is on the 2005 Cumulative List.

IV. 2005 CUMULATIVE LIST OF CHANGES IN PLAN QUALIFICATION REQUIREMENTS

The following list consists of statutory provisions and associated guidance which reflect changes to plan qualification requirements. Miscellaneous guidance is also provided. The Service has identified below plan qualification requirements which were not on the 2004 Cumulative List as “(New)”. The 2005 Cumulative List adds statutory changes and guidance that have become effective after December 31, 2001, for defined benefit plans and ESOPs. It is also updated for plan qualification requirements published in 2005 for defined contribution plans. Thus, the 2005 Cumulative List contains those plan qualification requirements first listed in the 2004 Cumulative List as well as additional 2005 plan qualification requirements.

1. 72(p): Section 1.72(p)–1 of the Income Tax Regulations relating to plan loans was published on December 3, 2002 (67 Fed. Reg. 71821).
2. 401(a)(4):
 - Amendments to § 1.401(a)(4)–8 of the Regulations relating to new comparability plans were published on June 29, 2001 (66 Fed. Reg. 34535).
 - Rev. Rul. 2001–30, 2001–2 C.B. 46.
 - Amendments to § 1.401(a)(4)–9 of the Regulations relating to new comparability plans were published on June 29, 2001 (66 Fed. Reg. 34535). (New).
 - Rev. Rul. 2004–21, 2004–1 C.B. 544. (New).
3. 401(a)(9):
 - Sections 1.401(a)(9)–1 through –9 of the Regulations were published on April 17, 2002 and June 15,

2004 (67 Fed. Reg. 18834 and 69 Fed. Reg. 33288).

4. 401(a)(17): Section 401(a)(17) of the Code was amended by § 611(c) of EGTRRA to increase the compensation limit to \$200,000.
 - Notice 2001–56, 2001–2 C.B. 277.
5. 401(a)(31):
 - Section 401(a)(31) was amended by § 643(b) of EGTRRA to allow employees’ after-tax contributions to be rolled over under certain circumstances.
 - Section 401(a)(31)(B) was amended by § 657(a) of EGTRRA (as amended by § 411(t) of JCWAA) to provide for the automatic rollover of certain mandatory distributions. The effective date is March 28, 2005.
 - Notice 2005–5, 2005–3 I.R.B. 337.
 - Sections 641, 642 and 643 of EGTRRA (as amended by § 411(q) of JCWAA) amended the definition of eligible retirement plan in § 402 to include a § 403(b) annuity contract and eligible governmental § 457(b) plan.
 - Section 636(b) of EGTRRA modified the definition of eligible rollover distribution to exclude hardship distributions.
6. 401(k) & 401(m):
 - Section 401(k)(2) and § 401(k)(10) of the Code were amended by § 646(a)(1) of EGTRRA to permit distributions of elective deferrals from a § 401(k) plan upon severance from employment.
 - Notice 2002–4, 2002–1 C.B. 298.
 - Section 636(a) of EGTRRA directed the Secretary of the Treasury to revise the regulations relating to safe harbor hardship distributions of elective deferrals from § 401(k) plans so that the time the employee is prohibited from making elective and employee contributions is reduced from one year

to six months after a hardship distribution.

- Notice 2001–56.
 - Notice 2002–4.
7. 402A: Section 402A of the Code was added by § 617 of EGTRRA to offer optional treatment of elective deferrals as designated Roth contributions to defined contribution plans, effective for taxable years beginning after December 31, 2005.
 - Final Regulations under § 401(k) and § 401(m) of the Code relating to designated Roth contributions are expected to be published soon.
 - Proposed Regulations under § 402A are expected to be published soon.
 8. 404:
 - 404(k)(2)(A) of the Code was amended by § 662(a) of EGTRRA (as amended by § 411(w) of JCWAA) to allow ESOP dividends to be reinvested without the loss of dividend deductions. (New).
 - Notice 2002–2, 2002–1 C.B. 285, provides guidance with respect to the changes made to § 404(k) of the Code and on the effective date of § 409(p) of the Code. (New).
 9. 408(q): Section 408(q) of the Code was added by § 602 of EGTRRA (as amended by § 411(i) of JCWAA) to allow for deemed individual retirement

accounts (IRAs) in an eligible retirement plan.

- Section 1.408(q)–(e)(8)(T) of the Regulations was published on July 22, 2004 (69 Fed. Reg. 43735).

10. 409: Section 409(p) of the Code was added § 656 of EGTRRA relating to restrictions on the allocation of employer securities in an ESOP maintained by an S corporation. (New).

- Section 1.409(p)–1T of the Regulations was published on July 21, 2003 (68 Fed. Reg. 42970). (New).
- Section 1.409(p)–1T of the Regulations was published on December 17, 2004 (69 Fed. Reg. 75455). (New).
- Rev. Proc. 2003–23, 2003–1 C.B. 599, as modified and superseded by Rev. Proc. 2004–14, 2004–1 C.B. 489, allows a direct rollover from an ESOP maintained by an S corporation to an individual retirement plan (IRA). (New).
- Rev. Rul. 2003–6, 2003–1 C.B. 286, provides guidance with respect to whether an ESOP maintained by an S corporation is eligible for the delayed effective date of § 409(p) under § 656(d)(2) of EGTRRA. (New).
- Rev. Rul. 2004–4, 2004–1 C.B. 414, provides guidance relating to synthetic equity owned by a disqualified person in a nonallocation year of an ESOP maintained by an S corporation. (New).

11. 411(a):

- Section 411(a) of the Code was amended by § 633 of EGTRRA (as amended by § 411(o) of JCWAA) to provide for faster vesting of matching contributions.
- Rev. Rul. 2003–65, 2003–1 C.B. 1035. (New).

12. 411(a)(11): Section 411(a)(11)(D) of the Code was added by § 648(a) of EGTRRA (as amended by § 411(r) of JCWAA) to allow amounts attributable to rollover contributions to be disregarded in determining the value of an account balance for involuntary distributions.

13. 411(d)(6):

- *Central Laborers’ Pension Fund v. Heinz*, 124 S.Ct. 2230 (2004). (New).
- Rev. Proc. 2005–23, 2005–18 I.R.B. 991, as modified by Rev. Proc. 2005–76, 2005–50 I.R.B. 1139 (December 12, 2005). (New).
- Section 411(d)(6)(D) and § 411(d)(6)(E) of the Code were added by § 645 of EGTRRA to permit the elimination of certain optional forms of benefit under certain conditions. (New).
- Section 1.411(d)–4, Q&A–2(e) of the Regulations was published on January 25, 2005 (70 Fed. Reg. 3475) to implement § 411(d)(6)(E). (New).
- Section 645(b)(3) of EGTRRA directed the Secretary of the Treasury to issue regulations under § 411(d)(6). (New).
- Section 1.411(d)–3 of the Regulations was published on August 12, 2005 (70 Fed. Reg. 47109). (New).

14. 412:

- Rev. Rul. 2004–20, 2004–1 C.B. 546, provides guidance with respect to whether a qualified pension plan can be a § 412(i) plan if the plan holds life insurance contracts and annuity contracts for benefits at normal retirement age in excess of a participant’s benefits at normal retirement age under the plan. (New).
- Notice 2004–59, 2004–2 C.B. 447, provides guidance with respect to restrictions placed on plan amendments following an employer’s election of an alternative deficit reduction contribution. (New).

15. 414(v): Section 414(v) of the Code was added by § 631 of EGTRRA (as amended by § 411(o) of JCWAA) to allow for catch-up contributions for individuals age 50 or older.

- Regulations under § 1.414(v) were published on July 8, 2003 (68 Fed. Reg. 40510).
- Notice 2002–4.

16. 415:

- Section 415(b) of the Code was amended by § 611 of EGTRRA to increase the dollar limit and change the age when the limit is reduced or increased. (New).
- Rev. Rul. 2001–51, 2001–2 C.B. 427.
- Section 415(b)(2)(E)(ii) of the Code was amended by § 101(b)(4) of PFEA to fix the percentage at 5.50%. (New).
- Notice 2004–78, 2004–2 C.B. 879, provides the actuarial assumptions that must be used for distributions with annuity starting dates occurring during the plans years beginning in 2004 and 2005. (New).
- Section 415(c) of the Code was amended by §§ 611(b) and 632 of EGTRRA (as amended by § 411(p) of JCWAA) to increase the maximum annual additions permitted to the lesser of \$40,000 or 100% of compensation.
- Rev. Rul. 2001–51, 2001–2 C.B. 427.
- Section 1.415(c)–2(e) of the Proposed Regulations under § 415 was published on May 31, 2005 (70 Fed. Reg. 31214).
- Rev. Rul. 2002–27, 2002–1 C.B. 925, provided that “compensation” within the meaning of § 415(c) could in certain situations include “deemed § 125 compensation”.

17. 416: Section 416 of the Code was amended by § 613 of EGTRRA (as amended by § 411(k) of JCWAA) to make several changes to the top-heavy rules.

- Section 416(g)(4)(H) of the Code was added by § 613(d) of EGTRRA to provide certain safe harbor § 401(k) plans and § 401(m) plans an exemption from the top-heavy rules.
- Rev. Rul. 2004–13, 2004–1 C.B. 485.
- Section 416(c)(1)(C) of the Code was amended by § 613(e) of EGTRRA (as amended by § 411(k)(1) of JCWAA) to provide when a frozen defined benefit

plan is exempt from the minimum benefit requirements. (New).

18. 417: Section 1.417(e)-1 of the Regulations was published on July 16, 2003 (68 Fed. Reg. 41906) relating to retroactive annuity starting date. (New).

19. 4975:

- Section 4975 of the Code was amended by § 612 of EGTRRA to allow plan loans for Subchapter S shareholder-employees.
- Section 4975(f) of the Code was amended by § 240 of AJCA to allow an S corporation distribution on allocated shares to pay off an exempt loan as long as equal amounts are allocated to participant accounts. (New).

20. Katrina Relief:

- Katrina Emergency Tax Relief Act of 2005, P. L. 109-73. (New).
 - Notice 2005-92, 2005-51 I.R.B. 1165 (December 19, 2005). (New).
- Announcement 2005-70, 2005-40 I.R.B. 682. (New).

21. Miscellaneous:

- Rev. Rul. 2001-62, 2001-2 C.B. 632, provides guidance with respect to the mortality table under § 415(b)(2)(E)(v) of the Code

and the applicable mortality table under § 417(e)(3)(A)(ii)(I) of the Code. (New).

- Rev. Rul. 2002-42, 2002-1 C.B. 76, provides guidance with respect to a situation where a money purchase pension plan is merged or converted into a profit sharing plan.
- Rev. Proc. 2002-21, 2002-1 C.B. 911, provides guidance with respect to defined contribution retirement plans maintained by professional employer organizations.
- Rev. Proc. 2003-86, 2003-2 C.B. 1211, amplifies Rev. Proc. 2002-21 relating to relief provided for certain defined contribution plans maintained by professional employer organizations.
- Rev. Rul. 2003-11, 2003-1 C.B. 285, provides guidance with respect to satisfying the nondiscrimination rules under § 401(a)(4) of the Code and the minimum coverage requirements under § 410(b) of the Code when applying the increased compensation limit to former employees. (New).
- Rev. Rul. 2004-10, 2004-1 C.B. 484, provides guidance with respect to charging administrative expenses to former and current employees.
- Rev. Rul. 2004-12, 2004-1 C.B. 478, provides guidance with respect to the distribution restric-

tions applicable to rollover contributions.

- Rev. Rul. 2005-55, 2005-33 I.R.B. 284, provides guidance with respect to medical reimbursement accounts under a profit sharing plan. (New).

The following guidance contains sample or model amendments: Notice 2001-57, 2001-2 C.B. 279 (miscellaneous EGTRRA amendments); Rev. Rul. 2001-62, 2001-2 C.B. 632 (applicable mortality table); Rev. Proc. 2002-29, 2002-1 C.B. 1176 (required minimum distribution amendments); Rev. Proc. 2003-13, 2003-1 C.B. 317 (required language for deemed IRAs); and Notice 2005-5 (automatic rollover).

DRAFTING INFORMATION

The principal author of this notice is Dana A. Barry of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500 (a toll-free number) between the hours of 8:00 a.m. and 6:30 p.m. Eastern Time, Monday through Friday (a toll-free call). Ms. Barry may be reached at (202) 283-9888 (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.

Numerical Finding List¹

Bulletins 2005–27 through 2005–52

Announcements:

2005-46, 2005-27 I.R.B. 63
2005-47, 2005-28 I.R.B. 71
2005-48, 2005-29 I.R.B. 111
2005-49, 2005-29 I.R.B. 119
2005-50, 2005-30 I.R.B. 152
2005-51, 2005-32 I.R.B. 283
2005-52, 2005-31 I.R.B. 257
2005-53, 2005-31 I.R.B. 258
2005-54, 2005-32 I.R.B. 283
2005-55, 2005-33 I.R.B. 317
2005-56, 2005-33 I.R.B. 318
2005-57, 2005-33 I.R.B. 318
2005-58, 2005-33 I.R.B. 319
2005-59, 2005-37 I.R.B. 524
2005-60, 2005-35 I.R.B. 455
2005-61, 2005-36 I.R.B. 495
2005-62, 2005-36 I.R.B. 495
2005-63, 2005-36 I.R.B. 496
2005-64, 2005-37 I.R.B. 537
2005-65, 2005-38 I.R.B. 587
2005-66, 2005-39 I.R.B. 613
2005-67, 2005-40 I.R.B. 678
2005-68, 2005-39 I.R.B. 613
2005-69, 2005-40 I.R.B. 681
2005-70, 2005-40 I.R.B. 682
2005-71, 2005-41 I.R.B. 714
2005-72, 2005-41 I.R.B. 692
2005-73, 2005-41 I.R.B. 715
2005-74, 2005-42 I.R.B. 764
2005-75, 2005-42 I.R.B. 764
2005-76, 2005-42 I.R.B. 765
2005-77, 2005-44 I.R.B. 855
2005-78, 2005-44 I.R.B. 918
2005-79, 2005-45 I.R.B. 941
2005-80, 2005-46 I.R.B. 967
2005-81, 2005-45 I.R.B. 941
2005-82, 2005-45 I.R.B. 941
2005-83, 2005-45 I.R.B. 941
2005-84, 2005-48 I.R.B. 1064
2005-85, 2005-48 I.R.B. 1065
2005-86, 2005-48 I.R.B. 1069
2005-87, 2005-50 I.R.B. 1144
2005-88, 2005-50 I.R.B. 1145
2005-89, 2005-50 I.R.B. 1149

Notices:

2005-48, 2005-27 I.R.B. 9
2005-49, 2005-27 I.R.B. 14
2005-50, 2005-27 I.R.B. 14
2005-51, 2005-28 I.R.B. 74
2005-52, 2005-28 I.R.B. 75

Notices— Continued:

2005-53, 2005-32 I.R.B. 263
2005-54, 2005-30 I.R.B. 127
2005-55, 2005-32 I.R.B. 265
2005-56, 2005-32 I.R.B. 266
2005-57, 2005-32 I.R.B. 267
2005-58, 2005-33 I.R.B. 295
2005-59, 2005-35 I.R.B. 443
2005-60, 2005-39 I.R.B. 606
2005-61, 2005-39 I.R.B. 607
2005-62, 2005-35 I.R.B. 443
2005-63, 2005-35 I.R.B. 448
2005-64, 2005-36 I.R.B. 471
2005-65, 2005-39 I.R.B. 607
2005-66, 2005-40 I.R.B. 620
2005-67, 2005-40 I.R.B. 621
2005-68, 2005-40 I.R.B. 622
2005-69, 2005-40 I.R.B. 622
2005-70, 2005-41 I.R.B. 694
2005-71, 2005-44 I.R.B. 863
2005-72, 2005-47 I.R.B. 976
2005-73, 2005-42 I.R.B. 723
2005-74, 2005-42 I.R.B. 726
2005-75, 2005-45 I.R.B. 929
2005-76, 2005-46 I.R.B. 947
2005-77, 2005-46 I.R.B. 951
2005-78, 2005-46 I.R.B. 952
2005-79, 2005-46 I.R.B. 952
2005-80, 2005-46 I.R.B. 953
2005-81, 2005-47 I.R.B. 977
2005-82, 2005-47 I.R.B. 978
2005-83, 2005-49 I.R.B. 1075
2005-84, 2005-46 I.R.B. 959
2005-85, 2005-46 I.R.B. 961
2005-86, 2005-49 I.R.B. 1075
2005-87, 2005-50 I.R.B. 1097
2005-88, 2005-48 I.R.B. 1060
2005-89, 2005-49 I.R.B. 1077
2005-90, 2005-51 I.R.B. 1163
2005-91, 2005-51 I.R.B. 1164
2005-92, 2005-51 I.R.B. 1165
2005-93, 2005-52 I.R.B. 1204
2005-94, 2005-52 I.R.B. 1208
2005-95, 2005-51 I.R.B. 1172
2005-96, 2005-52 I.R.B. 1209
2005-97, 2005-52 I.R.B. 1210
2005-98, 2005-52 I.R.B. 1211
2005-99, 2005-52 I.R.B. 1214
2005-100, 2005-52 I.R.B. 1217
2005-101, 2005-52 I.R.B. 1219

Proposed Regulations:

REG-106030-98, 2005-42 I.R.B. 739
REG-144615-02, 2005-40 I.R.B. 625
REG-150088-02, 2005-43 I.R.B. 774
REG-150091-02, 2005-43 I.R.B. 780

Proposed Regulations— Continued:

REG-131739-03, 2005-36 I.R.B. 494
REG-130241-04, 2005-27 I.R.B. 18
REG-138362-04, 2005-33 I.R.B. 299
REG-138647-04, 2005-41 I.R.B. 697
REG-144620-04, 2005-50 I.R.B. 1141
REG-144898-04, 2005-48 I.R.B. 1062
REG-149436-04, 2005-35 I.R.B. 454
REG-156518-04, 2005-38 I.R.B. 582
REG-158080-04, 2005-43 I.R.B. 786
REG-104143-05, 2005-41 I.R.B. 708
REG-105847-05, 2005-47 I.R.B. 987
REG-111257-05, 2005-42 I.R.B. 759
REG-114371-05, 2005-45 I.R.B. 930
REG-114444-05, 2005-45 I.R.B. 934
REG-121584-05, 2005-37 I.R.B. 523
REG-122857-05, 2005-39 I.R.B. 609
REG-124988-05, 2005-51 I.R.B. 1186
REG-129782-05, 2005-40 I.R.B. 675
REG-133578-05, 2005-39 I.R.B. 610

Revenue Procedures:

2005-35, 2005-28 I.R.B. 76
2005-36, 2005-28 I.R.B. 78
2005-37, 2005-28 I.R.B. 79
2005-38, 2005-28 I.R.B. 81
2005-39, 2005-28 I.R.B. 82
2005-40, 2005-28 I.R.B. 83
2005-41, 2005-29 I.R.B. 90
2005-42, 2005-30 I.R.B. 128
2005-43, 2005-29 I.R.B. 107
2005-44, 2005-29 I.R.B. 110
2005-45, 2005-30 I.R.B. 141
2005-46, 2005-30 I.R.B. 142
2005-47, 2005-32 I.R.B. 269
2005-48, 2005-32 I.R.B. 271
2005-49, 2005-31 I.R.B. 165
2005-50, 2005-32 I.R.B. 272
2005-51, 2005-33 I.R.B. 296
2005-52, 2005-34 I.R.B. 326
2005-53, 2005-34 I.R.B. 339
2005-54, 2005-34 I.R.B. 353
2005-55, 2005-34 I.R.B. 367
2005-56, 2005-34 I.R.B. 383
2005-57, 2005-34 I.R.B. 392
2005-58, 2005-34 I.R.B. 402
2005-59, 2005-34 I.R.B. 412
2005-60, 2005-35 I.R.B. 449
2005-61, 2005-37 I.R.B. 507
2005-62, 2005-37 I.R.B. 507
2005-63, 2005-36 I.R.B. 491
2005-64, 2005-36 I.R.B. 492
2005-65, 2005-38 I.R.B. 564
2005-66, 2005-37 I.R.B. 509
2005-67, 2005-42 I.R.B. 729
2005-68, 2005-41 I.R.B. 694

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2005–1 through 2005–26 is in Internal Revenue Bulletin 2005–26, dated June 27, 2005.

Revenue Procedures— Continued:

2005-69, 2005-44 I.R.B. 864
2005-70, 2005-47 I.R.B. 979
2005-71, 2005-47 I.R.B. 985
2005-72, 2005-49 I.R.B. 1078
2005-73, 2005-49 I.R.B. 1090
2005-74, 2005-50 I.R.B. 1098
2005-75, 2005-50 I.R.B. 1137
2005-76, 2005-50 I.R.B. 1139
2005-77, 2005-51 I.R.B. 1176
2005-78, 2005-51 I.R.B. 1177

Revenue Rulings:

2005-38, 2005-27 I.R.B. 6
2005-39, 2005-27 I.R.B. 1
2005-40, 2005-27 I.R.B. 4
2005-41, 2005-28 I.R.B. 69
2005-42, 2005-28 I.R.B. 67
2005-43, 2005-29 I.R.B. 88
2005-44, 2005-29 I.R.B. 87
2005-45, 2005-30 I.R.B. 123
2005-46, 2005-30 I.R.B. 120
2005-47, 2005-32 I.R.B. 261
2005-48, 2005-32 I.R.B. 259
2005-49, 2005-30 I.R.B. 125
2005-50, 2005-30 I.R.B. 124
2005-51, 2005-31 I.R.B. 163
2005-52, 2005-35 I.R.B. 423
2005-53, 2005-35 I.R.B. 425
2005-54, 2005-33 I.R.B. 289
2005-55, 2005-33 I.R.B. 284
2005-56, 2005-35 I.R.B. 427
2005-57, 2005-36 I.R.B. 466
2005-58, 2005-36 I.R.B. 465
2005-59, 2005-37 I.R.B. 505
2005-60, 2005-37 I.R.B. 502
2005-61, 2005-38 I.R.B. 538
2005-62, 2005-38 I.R.B. 557
2005-63, 2005-39 I.R.B. 603
2005-64, 2005-39 I.R.B. 600
2005-65, 2005-41 I.R.B. 684
2005-66, 2005-41 I.R.B. 686
2005-67, 2005-43 I.R.B. 771
2005-68, 2005-44 I.R.B. 853
2005-69, 2005-44 I.R.B. 852
2005-70, 2005-45 I.R.B. 919
2005-71, 2005-45 I.R.B. 923
2005-72, 2005-46 I.R.B. 944
2005-73, 2005-48 I.R.B. 1050
2005-74, 2005-51 I.R.B. 1153
2005-75, 2005-49 I.R.B. 1073
2005-76, 2005-49 I.R.B. 1072
2005-77, 2005-49 I.R.B. 1071
2005-78, 2005-51 I.R.B. 1157
2005-79, 2005-52 I.R.B. 1197

Social Security Contribution and Benefit Base; Domestic Employee Coverage Threshold:

2005-85, 2005-46 I.R.B. 961

Tax Conventions:

2005-47, 2005-28 I.R.B. 71
2005-72, 2005-41 I.R.B. 692
2005-77, 2005-44 I.R.B. 855

Treasury Decisions:

9208, 2005-31 I.R.B. 157
9209, 2005-31 I.R.B. 153
9210, 2005-33 I.R.B. 290
9211, 2005-33 I.R.B. 287
9212, 2005-35 I.R.B. 429
9213, 2005-35 I.R.B. 440
9214, 2005-35 I.R.B. 435
9215, 2005-36 I.R.B. 468
9216, 2005-36 I.R.B. 461
9217, 2005-37 I.R.B. 498
9218, 2005-37 I.R.B. 503
9219, 2005-38 I.R.B. 538
9220, 2005-39 I.R.B. 596
9221, 2005-39 I.R.B. 604
9222, 2005-40 I.R.B. 614
9223, 2005-39 I.R.B. 591
9224, 2005-41 I.R.B. 688
9225, 2005-42 I.R.B. 716
9226, 2005-43 I.R.B. 772
9227, 2005-45 I.R.B. 924
9228, 2005-47 I.R.B. 972
9229, 2005-48 I.R.B. 1051
9230, 2005-52 I.R.B. 1198

Finding List of Current Actions on Previously Published Items¹

Bulletins 2005–27 through 2005–52

Announcements:

84-26

Obsolated by
REG-149436-04, 2005-35 I.R.B. 454

2004-72

Updated and superseded by
Ann. 2005-59, 2005-37 I.R.B. 524

2005-36

Modified by
Rev. Proc. 2005-66, 2005-37 I.R.B. 509

2005-53

Corrected by
Ann. 2005-61, 2005-36 I.R.B. 495

Notices:

89-111

Amplified by
Notice 2005-61, 2005-39 I.R.B. 607

2001-42

Modified by
Rev. Proc. 2005-66, 2005-37 I.R.B. 509

2004-43

Amplified by
Notice 2005-83, 2005-49 I.R.B. 1075

2004-57

Superseded by
Notice 2005-79, 2005-46 I.R.B. 952

2004-84

Modified by
Notice 2005-95, 2005-51 I.R.B. 1172

2005-4

Modified by
Notice 2005-62, 2005-35 I.R.B. 443
Notice 2005-80, 2005-46 I.R.B. 953

2005-5

Modified by
Notice 2005-95, 2005-51 I.R.B. 1172

2005-10

Clarified by
Notice 2005-64, 2005-36 I.R.B. 471

2005-38

Modified by
Notice 2005-64, 2005-36 I.R.B. 471

2005-42

Amplified by
Notice 2005-86, 2005-49 I.R.B. 1075

Notices— Continued:

2005-51

Modified and superseded by
Notice 2005-57, 2005-32 I.R.B. 267

2005-60

Superseded by
Notice 2005-84, 2005-46 I.R.B. 959

2005-66

Supplemented by
Notice 2005-81, 2005-47 I.R.B. 977

Proposed Regulations:

REG-108524-00

Corrected by
Ann. 2005-68, 2005-39 I.R.B. 613

REG-142686-01

Withdrawn by
Ann. 2005-55, 2005-33 I.R.B. 317

REG-100420-03

Corrected by
Ann. 2005-57, 2005-33 I.R.B. 318

REG-102144-04

Corrected by
Ann. 2005-56, 2005-33 I.R.B. 318

Revenue Procedures:

64-54

Obsolated by
Rev. Rul. 2005-43, 2005-29 I.R.B. 88

66-33

Obsolated by
Rev. Rul. 2005-43, 2005-29 I.R.B. 88

69-13

Obsolated by
Rev. Rul. 2005-43, 2005-29 I.R.B. 88

70-8

Modified by
Rev. Proc. 2005-46, 2005-30 I.R.B. 142

71-1

Obsolated by
Rev. Rul. 2005-43, 2005-29 I.R.B. 88

72-22

Obsolated by
Rev. Rul. 2005-43, 2005-29 I.R.B. 88

83-77

Superseded by
Rev. Proc. 2005-63, 2005-36 I.R.B. 491

87-8

Obsolated by
Rev. Proc. 2005-44, 2005-29 I.R.B. 110

Revenue Procedures— Continued:

87-9

Obsolated by
Rev. Proc. 2005-44, 2005-29 I.R.B. 110

89-20

Superseded by
Rev. Proc. 2005-52, 2005-34 I.R.B. 326

90-11

Modified by
Rev. Proc. 2005-40, 2005-28 I.R.B. 83

90-30

Section 4 superseded by
Rev. Proc. 2005-54, 2005-34 I.R.B. 353
Section 5 superseded by
Rev. Proc. 2005-55, 2005-34 I.R.B. 367
Section 6 superseded by
Rev. Proc. 2005-56, 2005-34 I.R.B. 383
Section 7 superseded by
Rev. Proc. 2005-58, 2005-34 I.R.B. 402
Section 8 superseded by
Rev. Proc. 2005-59, 2005-34 I.R.B. 412

90-31

Section 4 superseded by
Rev. Proc. 2005-52, 2005-34 I.R.B. 326
Section 5 superseded by
Rev. Proc. 2005-54, 2005-34 I.R.B. 353
Section 6 superseded by
Rev. Proc. 2005-55, 2005-34 I.R.B. 367
Section 7 superseded by
Rev. Proc. 2005-56, 2005-34 I.R.B. 383
Section 8 superseded by
Rev. Proc. 2005-58, 2005-34 I.R.B. 402
Section 9 superseded by
Rev. Proc. 2005-59, 2005-34 I.R.B. 412

93-22

Obsolated by
Rev. Proc. 2005-44, 2005-29 I.R.B. 110

98-18

Obsolated by
Rev. Proc. 2005-45, 2005-30 I.R.B. 141

99-39

Superseded by
Rev. Proc. 2005-60, 2005-35 I.R.B. 449

2000-27

Modified and superseded by
Rev. Proc. 2005-66, 2005-37 I.R.B. 509

2000-31

Superseded by
Rev. Proc. 2005-60, 2005-35 I.R.B. 449

2000-49

Superseded by
Rev. Proc. 2005-41, 2005-29 I.R.B. 90

¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2005–1 through 2005–26 is in Internal Revenue Bulletin 2005–26, dated June 27, 2005.

Revenue Procedures— Continued:**2001-9**

Superseded by
Rev. Proc. 2005-60, 2005-35 I.R.B. 449

2001-16

Superseded by
Rev. Proc. 2005-42, 2005-30 I.R.B. 128

2002-9

Modified and amplified by
Rev. Rul. 2005-42, 2005-28 I.R.B. 67
Rev. Proc. 2005-35, 2005-28 I.R.B. 76
Rev. Proc. 2005-43, 2005-29 I.R.B. 107
Rev. Proc. 2005-47, 2005-32 I.R.B. 269

2002-49

Modified, amplified, and superseded by
Rev. Proc. 2005-62, 2005-37 I.R.B. 507

2003-64

Modified by
Rev. Proc. 2005-77, 2005-51 I.R.B. 1176

2004-50

Superseded by
Rev. Proc. 2005-49, 2005-31 I.R.B. 165

2004-54

Superseded by
Rev. Proc. 2005-65, 2005-38 I.R.B. 564

2004-58

Superseded by
Rev. Proc. 2005-69, 2005-44 I.R.B. 864

2004-59

Modified by
Rev. Proc. 2005-71, 2005-47 I.R.B. 985

2004-62

Superseded by
Rev. Proc. 2005-74, 2005-50 I.R.B. 1098

2004-64

Modified by
Ann. 2005-71, 2005-41 I.R.B. 714
As modified by Announcement 2005-71,
superseded by
Rev. Proc. 2005-78, 2005-51 I.R.B. 1177

2004-73

Updated by
Rev. Proc. 2005-75, 2005-50 I.R.B. 1137

2005-1

Amplified by
Rev. Proc. 2005-68, 2005-41 I.R.B. 694

2005-3

Amplified by
Rev. Proc. 2005-61, 2005-37 I.R.B. 507
Rev. Proc. 2005-68, 2005-41 I.R.B. 694

2005-6

Modified by
Rev. Proc. 2005-66, 2005-37 I.R.B. 509

Revenue Procedures— Continued:**2005-10**

Superseded by
Rev. Proc. 2005-67, 2005-42 I.R.B. 729

2005-16

Modified by
Rev. Proc. 2005-66, 2005-37 I.R.B. 509

2005-23

Modified by
Rev. Proc. 2005-76, 2005-50 I.R.B. 1139

2005-65

Corrected by
Ann. 2005-78, 2005-44 I.R.B. 918

Revenue Rulings:**65-109**

Obsoleted by
Rev. Rul. 2005-43, 2005-29 I.R.B. 88

68-549

Obsoleted by
Rev. Rul. 2005-43, 2005-29 I.R.B. 88

74-203

Revoked by
Rev. Rul. 2005-59, 2005-37 I.R.B. 505

82-29

Modified and clarified by
Rev. Proc. 2005-39, 2005-28 I.R.B. 82

2004-45

Amplified by
Notice 2005-86, 2005-49 I.R.B. 1075

2004-107

Supplemented and superseded by
Rev. Rul. 2005-76, 2005-49 I.R.B. 1072

2004-108

Supplemented and superseded by
Rev. Rul. 2005-75, 2005-49 I.R.B. 1073

2005-41

Corrected by
Ann. 2005-50, 2005-30 I.R.B. 152

Treasury Decisions:**9149**

Removed by
T.D. 9221, 2005-39 I.R.B. 604

9186

Corrected by
Ann. 2005-53, 2005-31 I.R.B. 258

9193

Corrected by
Ann. 2005-62, 2005-36 I.R.B. 495

9205

Corrected by
Ann. 2005-63, 2005-36 I.R.B. 496

Treasury Decisions— Continued:**9206**

Corrected by
Ann. 2005-49, 2005-29 I.R.B. 119

9207

Corrected by
Ann. 2005-52, 2005-31 I.R.B. 257

9210

Corrected by
Ann. 2005-64, 2005-37 I.R.B. 537

INDEX

Internal Revenue Bulletins 2005–27 through 2005–52

The abbreviation and number in parenthesis following the index entry refer to the specific item; numbers in roman and italic type following the parentheses refer to the Internal Revenue Bulletin in which the item may be found and the page number on which it appears.

Key to Abbreviations:

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

EMPLOYEE PLANS

Disaster relief:

- Minimum funding standards (Notice 60) 39, 606; additional relief (Notice 84) 46, 959
- Postponement of deadlines for certain acts under section 7508A performed by IRS, Hurricane Katrina (Notice 66) 40, 620; supplement (Notice 81) 47, 977
- Postponement of deadlines for certain acts under section 7508A with respect to taxpayers affected by Hurricane Rita (Notice 82) 47, 978
- Qualified retirement plans, distributions and loans, Katrina Emergency Tax Relief Act (KETRA) (Notice 92) 51, 1165
- Section 401(k) hardship distributions, Hurricane Katrina (Ann 70) 40, 682
- Summary and clarification of relief previously granted under sections 6081, 6161, 6656, and 7508A with respect to taxpayers affected by Hurricane Katrina (Notice 73) 42, 723
- Electronic technologies, use for providing employee benefit notices and transmitting employee benefit elections and consents (REG-138362-04) 33, 299
- Federal credit unions, section 457, nonqualified deferred compensation plans (Notice 58) 33, 295
- Full funding limitations, weighted average interest rate for:
 - July 2005 (Notice 54) 30, 127
 - August 2005 (Notice 63) 35, 448
 - September 2005 (Notice 67) 40, 621
 - October 2005 (Notice 71) 44, 863
 - November 2005 (Notice 72) 47, 976
 - December 2005 (Notice 96) 52, 1209
- IRA annuity, converting to Roth IRA (TD 9220) 39, 596; (REG-122857-05) 39, 609

EMPLOYEE PLANS—Cont.

- Letter rulings and determination letters, areas from which Associates Chief Counsel and Division Counsel will not issue (RP 61) 37, 507
- Mortality tables for determining current liability (REG-124988-05) 51, 1186
- Nonbank trustee and nonbank custodian, approval list (Ann 59) 37, 524
- Prescription drug coverage, section 420, minimum cost requirement (RR 60) 37, 502
- Proposed Regulations:
 - 26 CFR 1.72(p)-1, amended; 1.401(a)-21, added; 1.402(f)-1, amended; 1.411(a)-11, amended; 1.417(a)(3)-1, amended; 1.7476-2, amended; use of electronic technologies for providing employee benefit notices and transmitting employee benefit elections and consents (REG-138362-04) 33, 299
 - 26 CFR 1.162(k)-1, added; 1.404(k)-2, -3, added; dividends paid deduction for stock held in employee stock ownership plan (ESOP) (REG-133578-05) 39, 610
 - 26 CFR 1.401(a)(9)-6, revised; 1.401(k)-1, amended; 1.403(b)-3(b)(4)(ii), revised; 1.415-1 thru -10, removed; 1.415(a)-1, (b)-1, (b)-2, (c)-1, (c)-2, (d)-1, (f)-1, (g)-1, (j)-1, added; 1.457-4, -5, -6, -10, amended; 11.415(c)(4)-1, removed; limitations on benefits and contributions under qualified plans (REG-130241-04) 27, 18
 - 26 CFR 1.408A-4, amended; converting an IRA annuity to a Roth IRA (REG-122857-05) 39, 609
 - 26 CFR 1.411(d)-3, amended; section 411(d)(6) protected benefits (REG-156518-04) 38, 582
 - 26 CFR 1.412(1)(7)-1, added; updated mortality tables for determining current liability (REG-124988-05) 51, 1186
- Qualified retirement plans:
 - Covered compensation tables for 2006, permitted disparity (RR 72) 46, 944
 - Determination letters, staggered remedial amendments (RP 66) 37, 509
 - Distributions, loans, Katrina Emergency Tax Relief Act (KETRA) (Notice 92) 51, 1165
 - Extensions, plan amendments, retroactive annuity starting date (Notice 95) 51, 1172
 - Limitations on benefits and contributions:
 - Cost-of-living adjustments, 2006 (Notice 75) 45, 929
 - Grandfather rule, section 415 (Notice 87) 50, 1097
 - Guidance (REG-130241-04) 27, 18
 - Profit-sharing plan, retiree health accounts (RR 55) 33, 284
 - Remedial amendment period (Notice 101) 52, 1219
 - Retroactive payment of benefits, multiemployer plan (RP 76) 50, 1139
 - Section 411(d)(6) protected benefits, anti-cutback rules (REG-156518-04) 38, 582
 - Section 411(d)(6) protected benefits, anti-cutback rules, notification requirements (TD 9219) 38, 538
 - Value of life insurance contracts when distributed from qualified retirement plan (TD 9223) 39, 591

EMPLOYEE PLANS—Cont.

Regulations:

26 CFR 1.79-1, amended; 1.83-3, amended; 1.402(a)-1, amended; value of life insurance contracts when distributed from a qualified retirement plan (TD 9223) 39, 591

26 CFR 1.408A-4, amended; 1.408A-4T, added; converting an IRA annuity to a Roth IRA (TD 9220) 39, 596

26 CFR 1.411(d)-3, revised; 1.411(a)-4, (d)-4, amended; 54.4980F-1, amended; section 411(d)(6) protected benefits (TD 9219) 38, 538

Settlement initiative to resolve certain tax transactions (Ann 80) 46, 967

Stocks, disallowance of deduction for reacquisition payments, dividends paid by corporation not maintaining employee stock ownership plan (ESOP) (REG-133578-05) 39, 610

EMPLOYMENT TAX

Alternative signature methods, facsimile signatures (RP 39) 28, 82

Collection due process hearings, clarification of the way conducted:

Federal tax lien (REG-150088-02) 43, 774

Levy (REG-150091-02) 43, 780

Delinquent tax, levy on wages, salary, and other income, exempt amount tables (Notice 100) 52, 1217

Disaster relief:

Leave-based donation programs, Hurricane Katrina (Notice 68) 40, 622

Postponement of deadlines for certain acts under section 7508A performed by IRS, Hurricane Katrina (Notice 66) 40, 620; supplement (Notice 81) 47, 977

Postponement of deadlines for certain acts under section 7508A with respect to taxpayers affected by Hurricane Rita (Notice 82) 47, 978

Summary and clarification of relief previously granted under sections 6081, 6161, 6656, and 7508A with respect to taxpayers affected by Hurricane Katrina (Notice 73) 42, 723

Disregarded entities, payment and reporting of employment and certain excise taxes (REG-114371-05) 45, 930

Electronic technologies, use for providing employee benefit notices and transmitting employee benefit elections and consents (REG-138362-04) 33, 299

Industry Issue Resolution (IIR) program, additional criteria for considering specific industries' proposals regarding accountable plan rules (Notice 59) 35, 443

Penalties, disclosure on reports filed with Securities and Exchange Commission (SEC) (RP 51) 33, 296

Proposed Regulations:

26 CFR 1.34-1, revised; 1.34-2 thru -6, removed; 1.1361-4, -6, amended; 301.7701-2, amended; disregarded entities, employment and excise taxes (REG-114371-05) 45, 930

26 CFR 31.3102-1, amended; 31.3121(a)-2, amended; 31.3121(a)(7)-1, (a)(8)-1, amended; 31.3121(a)(10)-1, revised; 31.3121(i)-1, amended; application of the Federal

EMPLOYMENT TAX—Cont.

Insurance Contributions Act (FICA) to payments made for certain services (REG-104143-05) 41, 708

26 CFR 35.3405-1, amended; use of electronic technologies for providing employee benefit notices and transmitting employee benefit elections and consents (REG-138362-04) 33, 299

26 CFR 301.6020-1, added; substitute for return (REG-131739-03) 36, 494

26 CFR 301.6320-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing upon filing of notice of federal tax lien (REG-150088-02) 43, 774

26 CFR 301.6330-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing prior to levy (REG-150091-02) 43, 780

Publication 1141, General Rules and Specifications for Substitute Forms W-2 and W-3, revised (RP 65) 38, 564; correction (Ann 78) 44, 918

Regulations:

26 CFR 301.6020-1, removed; 301.6020-1T, added; substitute for return (TD 9215) 36, 468

Settlement initiative to resolve certain tax transactions (Ann 80) 46, 967

Social security contribution and benefit base, domestic employee coverage threshold, 2006 (Notice 85) 46, 961

Stocks, statutory stock options, wages, application of FICA, FUTA, and income tax withholding, withdrawal of REG-142686-01 (Ann 55) 33, 317

Substitute for return, Internal Revenue officer or employee (TD 9215) 36, 468; (REG-131739-03) 36, 494

Substitute Forms W-2 and W-3, general rules and specifications (RP 65) 38, 564; correction (Ann 78) 44, 918

Suspension of employer and payer reporting and wage withholding requirements with respect to deferrals of compensation under section 409A for calendar year 2005, no assertion of penalties against service providers in certain circumstances (Notice 94) 52, 1208

Tool allowances to employees, arrangement not considered an accountable plan (RR 52) 35, 423

Wages, when paid and received, application of Federal Insurance Contributions Act (FICA) to payments (REG-104143-05) 41, 708

Withholding, nonresident aliens, amount to be withheld (Notice 76) 46, 947

ESTATE TAX

Charitable remainder unitrusts (CRUTs):

Inter vivos:

For a term of years (RP 53) 34, 339

For one measuring life (RP 52) 34, 326

With concurrent and consecutive interests for two measuring lives (RP 55) 34, 367

With consecutive interests for two measuring lives (RP 54) 34, 353

ESTATE TAX—Cont.

Testamentary:

For a term of years (RP 57) 34, 392

For one measuring life (RP 56) 34, 383

With concurrent and consecutive interests for two measuring lives (RP 59) 34, 412

With consecutive interests for two measuring lives (RP 58) 34, 402

Collection due process hearings, clarification of the way conducted:

Federal tax lien (REG-150088-02) 43, 774

Levy (REG-150091-02) 43, 780

Cost-of-living adjustments for inflation for 2006 (RP 70) 47, 979

Disaster relief:

Postponement of deadlines for certain acts under section 7508A performed by IRS, Hurricane Katrina (Notice 66) 40, 620; supplement (Notice 81) 47, 977

Postponement of deadlines for certain acts under section 7508A with respect to taxpayers affected by Hurricane Rita (Notice 82) 47, 978

Summary and clarification of relief previously granted under sections 6081, 6161, 6656, and 7508A with respect to taxpayers affected by Hurricane Katrina (Notice 73) 42, 723

Generation-skipping transfer (GST) tax:

Deemed allocations, election out (TD 9208) 31, 157

Predeceased parent rule (TD 9214) 35, 435

Proposed Regulations:

26 CFR 301.6020-1, added; substitute for return (REG-131739-03) 36, 494

26 CFR 301.6320-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing upon filing of notice of federal tax lien (REG-150088-02) 43, 774

26 CFR 301.6330-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing prior to levy (REG-150091-02) 43, 780

Regulations:

26 CFR 26.2600-1, amended; 26.2612-1, amended; 26.2651-1, -2, -3, added; predeceased parent rule (TD 9214) 35, 435

26 CFR 26.2600-1, amended; 26.2632-1, amended; 602.101, amended; election out of GST deemed allocations (TD 9208) 31, 157

26 CFR 301.6020-1, removed; 301.6020-1T, added; substitute for return (TD 9215) 36, 468

Substitute for return, Internal Revenue officer or employee (TD 9215) 36, 468; (REG-131739-03) 36, 494

EXCISE TAX

Air transportation services subject to tax, passive losses (RR 64) 39, 600

Biodiesel and aviation-grade kerosene (Notice 62) 35, 443

Collection due process hearings, clarification of the way conducted:

Federal tax lien (REG-150088-02) 43, 774

EXCISE TAX—Cont.

Levy (REG-150091-02) 43, 780

Collector of collected excise taxes, duties (TD 9221) 39, 604

Cost-of-living adjustments for inflation for 2006 (RP 70) 47, 979

Disaster relief:

Postponement of deadlines for certain acts under section 7508A performed by IRS, Hurricane Katrina (Notice 66) 40, 620; supplement (Notice 81) 47, 977

Postponement of deadlines for certain acts under section 7508A with respect to taxpayers affected by Hurricane Rita (Notice 82) 47, 978

Summary and clarification of relief previously granted under sections 6081, 6161, 6656, and 7508A with respect to taxpayers affected by Hurricane Katrina (Notice 73) 42, 723

Disregarded entities, payment and reporting of employment and certain excise taxes (REG-114371-05) 45, 930

Electronic technologies, use for providing employee benefit notices and transmitting employee benefit elections and consents (REG-138362-04) 33, 299

Extension for filing tax returns, automatic six-month (TD 9229) 48, 1051; (REG-144898-04) 48, 1062

Health Savings Accounts (HSAs), employer comparable contributions (REG-138647-04) 41, 697

Insurance, qualification of arrangements as insurance, comments requested (Notice 49) 27, 14

Leaking Underground Storage Tank Trust Fund (LUST) tax, kerosene for use in aviation, credit card sales of taxable fuel to certain exempt entities, mechanical dye injection of diesel fuel and kerosene (Notice 80) 46, 953

Penalties:

Disclosure on reports filed with Securities and Exchange Commission (SEC) (RP 51) 33, 296

Relief under section 6715, dyed diesel fuel (Ann 51) 32, 283

Proposed Regulations:

26 CFR 1.34-1, revised; 1.34-2 thru -6, removed; 1.1361-4, -6, amended; 301.7701-2, amended; disregarded entities, employment and excise taxes (REG-114371-05) 45, 930

26 CFR 53.6081-1, added; 55.6081-1, added; 156.6081-1, added; 157.6081-1, added; extension of time for filing returns (REG-144898-04) 48, 1062

26 CFR 54.4980F-1, amended; use of electronic technologies for providing employee benefit notices and transmitting employee benefit elections and consents (REG-138362-04) 33, 299

26 CFR 54.4980G-0 thru -5, added; employer comparable contributions to Health Savings Accounts (HSAs) under section 4980G (REG-138647-04) 41, 697

26 CFR 301.6020-1, added; substitute for return (REG-131739-03) 36, 494

26 CFR 301.6320-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing upon filing of notice of federal tax lien (REG-150088-02) 43, 774

26 CFR 301.6330-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing prior to levy (REG-150091-02) 43, 780

EXCISE TAX—Cont.

Regulations:

26 CFR 40.6302(c)-3, amended; 40.6302(c)-3T, removed; 49.4291-1, amended; 49.4291-1T, removed; collected excise taxes, duties of collector (TD 9221) 39, 604

26 CFR 53.6081-1, removed; 53.6081-1T, added; 55.6081-1, removed; 55.6081-1T, added; 156.6081-1, removed; 156.6081-1T, added; 157.6081-1, removed; 157.6081-1T, added; 301.6081-2T, added; extension of time for filing returns (TD 9229) 48, 1051

26 CFR 301.6020-1, removed; 301.6020-1T, added; substitute for return (TD 9215) 36, 468

Rural airport, exception to tax on the amount paid for a domestic segment of taxable transportation by air (RP 45) 30, 141

Settlement initiative to resolve certain tax transactions (Ann 80) 46, 967

Substitute for return, Internal Revenue officer or employee (TD 9215) 36, 468; (REG-131739-03) 36, 494

Taxable communications services (Notice 79) 46, 952

EXEMPT ORGANIZATIONS

Accounting methods, change in reporting method for eligible educational institution (RP 50) 32, 272

Disaster relief:

Postponement of deadlines for certain acts under section 7508A performed by IRS, Hurricane Katrina (Notice 66) 40, 620; supplement (Notice 81) 47, 977

Postponement of deadlines for certain acts under section 7508A with respect to taxpayers affected by Hurricane Rita (Notice 82) 47, 978

Summary and clarification of relief previously granted under sections 6081, 6161, 6656, and 7508A with respect to taxpayers affected by Hurricane Katrina (Notice 73) 42, 723

Federal credit unions, section 457, nonqualified deferred compensation plans (Notice 58) 33, 295

Form 1098-C, Contributions of Motor Vehicles, Boats, and Airplanes, new 2005 form released (Ann 66) 39, 613

Insurance, qualification of arrangements as insurance, comments requested (Notice 49) 27, 14

Letter rulings and determination letters, areas from which Associates Chief Counsel and Division Counsel will not issue (RP 61) 37, 507

List of organizations classified as private foundations (Ann 46) 27, 63; (Ann 58) 33, 319; (Ann 60) 35, 455; (Ann 65) 38, 587; (Ann 67) 40, 678; (Ann 83) 45, 941; (Ann 85) 48, 1065; (Ann 89) 50, 1149

Proposed Regulations:

26 CFR 1.501(c)(3)-1(d)(1)(iii) redesignated as 1.501(c)(3)-1(d)(1)(iv); 1.501(c)(3)-1(d)(1)(iii), -1(g), added; 53.4958-2(a)(6), added; standards for recognition of tax-exempt status if private benefit exists or if an applicable tax-exempt organization has engaged in excess benefit transaction(s) (REG-111257-05) 42, 759

Revocations (Ann 54) 32, 283; (Ann 75) 42, 764; (Ann 82) 45, 941; (Ann 86) 48, 1069

EXEMPT ORGANIZATIONS—Cont.

Settlement initiative to resolve certain tax transactions (Ann 80) 46, 967

Tax-exempt status, standards for recognition if private benefit exists or if applicable tax-exempt organization has engaged in excess benefit transaction(s) (REG-111257-05) 42, 759

GIFT TAX

Charitable remainder unitrusts (CRUTs):

Inter vivos:

For a term of years (RP 53) 34, 339

For one measuring life (RP 52) 34, 326

With concurrent and consecutive interests for two measuring lives (RP 55) 34, 367

With consecutive interests for two measuring lives (RP 54) 34, 353

Collection due process hearings, clarification of the way conducted:

Federal tax lien (REG-150088-02) 43, 774

Levy (REG-150091-02) 43, 780

Cost-of-living adjustments for inflation for 2006 (RP 70) 47, 979

Disaster relief:

Postponement of deadlines for certain acts under section 7508A performed by IRS, Hurricane Katrina (Notice 66) 40, 620; supplement (Notice 81) 47, 977

Postponement of deadlines for certain acts under section 7508A with respect to taxpayers affected by Hurricane Rita (Notice 82) 47, 978

Summary and clarification of relief previously granted under sections 6081, 6161, 6656, and 7508A with respect to taxpayers affected by Hurricane Katrina (Notice 73) 42, 723

Extension for filing tax returns, automatic six-month (TD 9229) 48, 1051; (REG-144898-04) 48, 1062

Proposed Regulations:

26 CFR 25.6081-1, added; 26.6081-1, added; extension of time for filing returns (REG-144898-04) 48, 1062

26 CFR 301.6020-1, added; substitute for return (REG-131739-03) 36, 494

26 CFR 301.6320-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing upon filing of notice of federal tax lien (REG-150088-02) 43, 774

26 CFR 301.6330-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing prior to levy (REG-150091-02) 43, 780

Regulations:

26 CFR 25.6081-1, removed; 25.6081-1T, added; 26.6081-1T, added; extension of time for filing returns (TD 9229) 48, 1051

26 CFR 301.6020-1, removed; 301.6020-1T, added; substitute for return (TD 9215) 36, 468

Substitute for return, Internal Revenue officer or employee (TD 9215) 36, 468; (REG-131739-03) 36, 494

INCOME TAX

Accounting methods:

Automatic consent to change to a method under which a utility may treat an up-front payment for network upgrades as not being taxable income when received (RP 35) 28, 76

Changes in method of accounting, time periods for requesting consent (RP 63) 36, 491

Change in reporting method for eligible educational institution (RP 50) 32, 272

Credit card cash advance fees (RP 47) 32, 269

Request for comments, possible changes to procedures, automatic consent from Commissioner (Notice 97) 52, 1210

Uniform capitalization of costs, environmental remediation (RR 42) 28, 67

Air transportation services subject to tax, passive losses (RR 64) 39, 600

Amended returns, qualified, John Doe summons (TD 9186); correction (Ann 53) 31, 258; correction (Ann 61) 36, 495

Arbitrage rebate payments:

Address change (Notice 52) 28, 75

Late payment (RP 40) 28, 83

ATM surcharge, treatment of cardholder surcharge fees by credit card issuers (RR 47) 32, 261

Balanced system for measuring organizational and employee performance within IRS (TD 9227) 45, 924; (REG-114444-05) 45, 934

Base period T-bill rate, 2005 (RR 70) 45, 919

Charitable contributions:

Allocation and apportionment of deductions (TD 9211) 33, 287

Food donations, contribution base (Ann 84) 48, 1064

Charitable remainder unitrusts (CRUTs):

Inter vivos:

For a term of years (RP 53) 34, 339

For one measuring life (RP 52) 34, 326

With concurrent and consecutive interests for two measuring lives (RP 55) 34, 367

With consecutive interests for two measuring lives (RP 54) 34, 353

Testamentary:

For a term of years (RP 57) 34, 392

For one measuring life (RP 56) 34, 383

With concurrent and consecutive interests for two measuring lives (RP 59) 34, 412

With consecutive interests for two measuring lives (RP 58) 34, 402

Collection due process hearings, clarification of the way conducted:

Federal tax lien (REG-150088-02) 43, 774

Levy (REG-150091-02) 43, 780

Compensation for labor or personal services, basis for determining source (TD 9212) 35, 429

Consumer Price Index (CPI) adjustments:

Below-market loans under section 7872(g) for 2006 (RR 75) 49, 1073

Certain loans under section 1274A for 2006 (RR 76) 49, 1072

INCOME TAX—Cont.

Corporations:

Corporate formations, capital contributions (Notice 70) 41, 694

Corporate reorganizations, corporate acquisitions, spin-offs (RR 65) 41, 684

Corporate reorganizations, guidance on the measurement of continuity of interest (TD 9225) 42, 716

Definition and tax treatment of a stapled foreign corporation (TD 9216) 36, 461

Determining a U.S. shareholder's pro rata share of subpart F income (TD 9222) 40, 614

Dividends received deduction (DRD), foreign tax credit, foreign currency, and alternative minimum tax (Notice 64) 36, 471

Effect of certain exchanges on gain recognition agreements (Notice 74) 42, 726

Election to treat members of family as single S corporation shareholder (Notice 91) 51, 1164

Exclusions from gross income of foreign corporations (TD 9218) 37, 503

Special rule regarding certain section 951 pro rata share allocations (REG-129782-05) 40, 675

Cost-of-living adjustments for inflation for 2006 (RP 70) 47, 979

Cost sharing arrangement, methods to determine taxable income in connection with (REG-144615-02) 40, 625

Credits:

Clean renewable energy bonds (Notice 98) 52, 1211

Enhanced oil recovery credit, 2005 inflation adjustment (Notice 56) 32, 266

Exception from credit disallowance under section 901(l) for certain back-to-back computer software licensing arrangements (Notice 90) 51, 1163

Health coverage tax credit (HCTC), miscellaneous issues (Notice 50) 27, 14

Increasing research activities (TD 9205); correction (Ann 63) 36, 496

Low-income housing credit:

Carryovers to qualified states, 2005 National Pool (RP 36) 28, 78

Elimination of requirement to file Form 8609, Low-Income Housing Credit Allocation and Certification, with federal return for each of 15 taxable years (TD 9228) 47, 972

Safe harbor for extending low-income housing commitments (RP 37) 28, 79

Satisfactory bond, "bond factor" amounts for the period:

January through September 2005 (RR 44) 29, 87

January through December 2005 (RR 67) 43, 771

Suspension of certain requirements under section 42 due to Hurricane Katrina (Notice 69) 40, 622

Deficiency procedures, use of mathematical or clerical error assessments (RR 51) 31, 163

Dependent care assistance, reporting requirements (Notice 61) 39, 607

Depreciable business property, election to expense (TD 9209) 31, 153

INCOME TAX—Cont.

Disaster relief:

- For tax-exempt bond issuers affected by Hurricane Katrina (Ann 69) 40, 681
- Grants, treatment with respect to gross income (RR 46) 30, 120
- Leave-based donation programs, Hurricane Katrina (Notice 68) 40, 622
- Postponement of deadlines for certain acts under section 7508A performed by IRS, Hurricane Katrina (Notice 66) 40, 620; supplement (Notice 81) 47, 977
- Postponement of deadlines for certain acts under section 7508A with respect to taxpayers affected by Hurricane Rita (Notice 82) 47, 978
- Rents from real property under the REIT income tests (Notice 89) 49, 1077
- Rules relating to temporary operation of ships in domestic trade as a result of Hurricane Katrina (Notice 65) 39, 607
- South Asia earthquake, designation as a qualified disaster (Notice 78) 46, 952
- Summary and clarification of relief previously granted under sections 6081, 6161, 6656, and 7508A with respect to taxpayers affected by Hurricane Katrina (Notice 73) 42, 723
- Disciplinary actions involving attorneys, CPAs, enrolled agents, and enrolled actuaries (Ann 48) 29, 111; (Ann 76) 42, 765
- Disclosure and use of tax return information (Notice 93) 52, 1204
- Domestic production activities, income attributable to (REG-105847-05) 47, 987
- Dual consolidated loss (REG-102144-04); correction (Ann 56) 33, 318
- E-file:
 - Individual e-file Partnership Program, request for applications to participate in 2006 (Ann 88) 50, 1145
 - Provider responsibilities (RP 60) 35, 449
 - Waiver request procedures (Notice 88) 48, 1060
- Employee relocation costs (RR 74) 51, 1153
- Employer-provided vehicles, cents-per-mile valuation rule, regulations sections 1.61-21(d) and (e) (RP 48) 32, 271
- Estimated income tax payments by individuals (TD 9224) 41, 688
- Extension for filing tax returns, automatic six-month (TD 9229) 48, 1051; (REG-144898-04) 48, 1062
- Forms:
 - W-4, specifications for filing electronically (RP 42) 30, 128
 - 1096, 1098, 1099, 5498, W-2G, and 1042-S, substitute form specifications (RP 69) 44, 864
 - 1098, 1099, 5498 and W-2G, requirements for filing electronically or magnetically (revised 8-2005) (RP 49) 31, 165
 - 1098-C, Contributions of Motor Vehicles, Boats, and Airplanes, new 2005 form released (Ann 66) 39, 613
 - 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, specifications for filing electronically or magnetically (RP 41) 29, 90
 - 8884, New York Liberty Zone Business Credit, obsolete for tax years after December 31, 2004 (Ann 79) 45, 941

INCOME TAX—Cont.

Health Savings Accounts (HSAs):

- Eligibility during cafeteria plan grace period (Notice 86) 49, 1075
- Guidance on state mandates (Notice 83) 49, 1075
- Information reporting:
 - Relating to taxable stock transactions (TD 9230) 52, 1198
 - Returns by donees relating to qualified intellectual property contributions (TD 9206); correction (Ann 49) 29, 119
- Institute on Current Issues in International Taxation (Ann 81) 45, 941
- Insurance companies:
 - Differential earnings rate, mutual insurance companies (RR 58) 36, 465
 - Net investment income included by foreign insurance company on U.S. income tax return, guidance regarding computation of amount (RP 64) 36, 492
 - Stock held by foreign insurance companies (TD 9226) 43, 772
 - Tax on insurance companies other than life insurance companies (RR 40) 27, 4
- Insurance, qualification of arrangements as insurance, comments requested (Notice 49) 27, 14
- Insurance companies:
 - Loss payment patterns and discount factors for the 2005 accident year (RP 72) 49, 1078
 - Salvage discount factors for the 2005 accident year (RP 73) 49, 1090
- Interest:
 - Foreign bank interest expense allocation to effectively connected income (Notice 53) 32, 263
- Investment:
 - Federal short-term, mid-term, and long-term rates for:
 - July 2005 (RR 38) 27, 6
 - August 2005 (RR 54) 33, 289
 - September 2005 (RR 57) 36, 466
 - October 2005 (RR 66) 41, 686
 - November 2005 (RR 71) 45, 923
 - December 2005 (RR 77) 49, 1071
- Rates:
 - Farm real property, special use value (RR 41) 28, 69; correction (Ann 50) 30, 152
 - Underpayments and overpayments, quarter beginning:
 - October 1, 2005 (RR 62) 38, 557
 - January 1, 2006 (RR 78) 51, 1157
 - Taxpayer remedies when the Service fails to suspend interest as required by section 6404(g) (RP 38) 28, 81
- Inventory:
 - LIFO, price indexes used by department stores for:
 - May 2005 (RR 45) 30, 123
 - June 2005 (RR 56) 35, 427
 - July 2005 (RR 63) 39, 603
 - August 2005 (RR 69) 44, 852
 - September 2005 (RR 73) 48, 1050
 - October 2005 (RR 79) 52, 1197

INCOME TAX—Cont.

- LIFO recapture by corporations holding LIFO inventory indirectly (TD 9210) 33, 290; correction (Ann 64) 37, 537
- Joint return elections, section 6020 documents and waivers (RR 59) 37, 505
- Judicial remedy for third person asserting wrongful levy (RR 49) 30, 125
- Large business taxpayers, Compliance Assurance Process (CAP) pilot program, reduction of taxpayer burden (Ann 87) 50, 1144
- Letter rulings and determination letters:
 - Areas from which Associates Chief Counsel and Division Counsel will not issue (RP 61) 37, 507
 - Issued by Associates Chief Counsel and Division Counsel, no-rule areas (RP 68) 41, 694
- Levied property, return in certain cases (TD 9213) 35, 440
- Marginal production rates, 2005 (Notice 55) 32, 265
- New York Liberty Zone, election out of section 1400L(c), 5-year property (RP 43) 29, 107
- Nonqualified deferred compensation plans, application of section 409A (REG-158080-04) 43, 786
- Nonresident alien individual's filing requirement for U.S. source effectively connected wages (Notice 77) 46, 951
- Obsoleting Rev. Proc. 64-54 and subsequent rulings (RR 43) 29, 88
- Optional standard mileage rates:
 - Effective September 1, 2005 (Ann 71) 41, 714
 - 2006 rates (RP 78) 51, 1177
- Partnerships:
 - Assumption of partner liabilities (TD 9207); correction (Ann 52) 31, 257
 - Installment obligations, treatment of property sold (TD 9193); correction (Ann 62) 36, 495
 - Look-through entities or members of a consolidated group, substantiality of partnership allocations (REG-144620-04) 50, 1141
 - Requirement to pay withholding tax on effectively connected U.S. trade or business income allocable to foreign partners (REG-108524-00); correction (Ann 68) 39, 613; hearing date change (Ann 74) 42, 764
- Payments to foreign partnerships and foreign simple or grantor trusts, withholding and reporting of taxes (RP 77) 51, 1176
- Penalties:
 - Disclosure on reports filed with Securities and Exchange Commission (SEC) (RP 51) 33, 296
 - Substantial understatement, adequate disclosure (RP 75) 50, 1137
- Per diem allowances, 2005-2006 (RP 67) 42, 729
- Private foundations, organizations now classified as (Ann 46) 27, 63; (Ann 58) 33, 319; (Ann 60) 35, 455; (Ann 65) 38, 587; (Ann 67) 40, 678; (Ann 83) 45, 941; (Ann 85) 48, 1065; (Ann 89) 50, 1149
- Procedures for claiming section 482 setoffs (RP 46) 30, 142
- Proposed Regulations:
 - 26 CFR 1.162(k)-1, added; 1.404(k)-2, -3, added; dividends paid deduction for stock held in employee stock ownership plan (ESOP) (REG-133578-05) 39, 610

INCOME TAX—Cont.

- 26 CFR 1.263A-1, -2, amended; guidance regarding the simplified service cost method and the simplified production method (REG-121584-05) 37, 523
- 26 CFR 1.367(a)-1T, amended; 1.482-0, -1, -4, -5, -8, amended; 1.482-7 redesignated as 1.482-7A, and new 1.482-7, added; 1.861-17, amended; 1.6662-6, amended; 301.7701-1, amended; methods to determine taxable income in connection with a cost sharing arrangement (REG-144615-02) 40, 625
- 26 CFR 1.409A-1, added; application of section 409A to non-qualified deferred compensation plans (REG-158080-04) 43, 786
- 26 CFR 1.475(a)-4; safe harbor for valuation under section 475 (REG-100420-03); correction (Ann 57) 33, 318
- 26 CFR 1.704-1, amended; partner's distributive share (REG-144620-04) 50, 1141
- 26 CFR 1.863-3, amended; 1.863-8, -9, added; source of income from certain space and ocean activities, source of communications income (REG-106030-98) 42, 739
- 26 CFR 1.951-1, amended; special rule regarding certain section 951 pro rata share allocations (REG-129782-05) 40, 675
- 26 CFR 1.999-0 thru -8, added; income attributable to domestic production activities (REG-105847-05) 47, 987
- 26 CFR 1.1503(d)-4, -5; dual consolidated loss (REG-102144-04); correction (Ann 56) 33, 318
- 26 CFR 1.6012-2, amended; return required by subchapter T cooperatives under section 6012 (REG-149436-04) 35, 454
- 26 CFR 1.6081-1, -5, amended; 1.6081-2, -4, -6, -7, -10, -11, added; 1.6081-3, revised; 301.6081-2, added; extension of time for filing returns (REG-144898-04) 48, 1062
- 26 CFR 301.6020-1, added; substitute for return (REG-131739-03) 36, 494
- 26 CFR 301.6320-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing upon filing of notice of federal tax lien (REG-150088-02) 43, 774
- 26 CFR 301.6330-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing prior to levy (REG-150091-02) 43, 780
- 26 CFR 801.1T redesignated as 801.1 and amended; 801.2T redesignated as 801.2 and amended; 801.3T redesignated as 801.3 and amended; 801.4T redesignated as 801.4 and amended; 801.5T redesignated as 801.5 and amended; 801.6T redesignated as 801.6 and amended; 801.7T redesignated as 801.7 and amended; 801.8T redesignated as 801.8 and revised; balanced system for measuring organizational and employee performance within the Internal Revenue Service (REG-114444-05) 45, 934
- Publications:
 - 1141, General Rules and Specifications for Substitute Forms W-2 and W-3, revised (RP 65) 38, 564; correction (Ann 78) 44, 918
 - 1167, General Rules and Specifications for Substitute Forms and Schedules (RP 74) 50, 1098

INCOME TAX—Cont.

- 1187, Specifications for Filing Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Electronically or Magnetically, updates and corrections (Ann 73) 41, 715
- 1220, Specifications for Filing Forms 1098, 1099, 5498 and W-2G Electronically or Magnetically, 2005 revision (RP 49) 31, 165
- 1239, changes affecting tax year 2005 electronic or magnetic filing of Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips (RP 41) 29, 90
- 1245, changes affecting the filing of Form W-4, Employee's Withholding Allowance Certificate, electronically or magnetically (RP 42) 30, 128
- Qualified green building and sustainable design projects, Brownfields Demonstration Program (Notice 48) 27, 9
- Real Estate Mortgage Investment Conduit (REMIC), net operating loss (NOL) (RR 68) 44, 853
- Reciprocal exemption agreement, Republic of Cape Verde (Ann 77) 44, 855
- Regulations:
- 26 CFR 1.42-1, amended; low-income housing credit allocation and certification, revisions (TD 9228) 47, 972
 - 26 CFR 1.179-0, -2, -4, -5, amended; 1.179-2T, -4T, -5T, -6, removed; 1.179-6T, redesignated as 1.179-6 and amended; 602.101, amended; section 179 elections (TD 9209) 31, 153
 - 26 CFR 1.263A-1, -2, amended; 1.263A-1T, -2T, added; guidance regarding the simplified service cost method and the simplified production method (TD 9217) 37, 498
 - 26 CFR 1.269B-1, added; 1.367(b)-2, revised; 301.269B-1, added; treatment of a stapled foreign corporation (TD 9216) 36, 461
 - 26 CFR 1.368-1, amended; corporate reorganizations, guidance on the measurement of continuity of interest (TD 9225) 42, 716
 - 26 CFR 1.861-4, amended; 602.101, amended; source of compensation for labor or personal services (TD 9212) 35, 429
 - 26 CFR 1.861-8, -8T, -14, -14T, amended; allocation and apportionment of deductions for charitable contributions (TD 9211) 33, 287
 - 26 CFR 1.864-4, revised; stock held by foreign insurance companies (TD 9226) 43, 772
 - 26 CFR 1.883-5, revised; exclusions from gross income of foreign corporations (TD 9218) 37, 503
 - 26 CFR 1.951-1, amended; guidance under section 951 for determining pro rata share (TD 9222) 40, 614
 - 26 CFR 1.1363-2, amended; 602.101, amended; LIFO recapture under section 1363(d) (TD 9210) 33, 290; correction (Ann 64) 37, 537
 - 26 CFR 1.6043-4, added; 1.6043-4T, removed; 1.6045-3, added; 1.6045-3T, removed; information reporting relating to taxable stock transactions (TD 9230) 52, 1198
 - 26 CFR 1.6015(a)-1 thru (j)-1, removed; 1.6654-2, -3, amended; 1.6654-5 redesignated as 1.6654-7; new

INCOME TAX—Cont.

- 1.6654-5, -6, added; updating estimated income tax regulations under section 6654 (TD 9224) 41, 688
 - 26 CFR 1.6081-2, -4, -6, -7, removed; 1.6081-3, -5, amended; 1.6081-2T thru -7T, -10T, -11T, added; 301.6081-2T, added; extension of time for filing returns (TD 9229) 48, 1051
 - 26 CFR 1.6664-2T, amended; qualified amended returns (TD 9186); correction (Ann 53) 31, 258
 - 26 CFR 301.6020-1, removed; 301.6020-1T, added; substitute for return (TD 9215) 36, 468
 - 26 CFR 301.6343-3, added; return of property in certain cases (TD 9213) 35, 440
 - 26 CFR 801.1, amended; 801.7, added; 801.1T thru .8T, added; balanced system for measuring organizational and employee performance within the Internal Revenue Service (TD 9227) 45, 924
- Restricted property, whether transfer restrictions prevent treatment as substantially vested (RR 48) 32, 259
- Revocations, exempt organizations (Ann 54) 32, 283; (Ann 75) 42, 764; (Ann 82) 45, 941; (Ann 86) 48, 1069
- Safe harbor, for valuation under section 475 for marking to market (REG-100420-03); correction (Ann 57) 33, 318
- Settlement initiative to resolve certain tax transactions (Ann 80) 46, 967
- Source of income from certain space and ocean activities, source of communications income (REG-106030-98) 42, 739
- Specifications for electronic or magnetic filing of Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, updates and corrections to Publication 1187 (Ann 73) 41, 715
- Standard Industry Fare Level (SIFL) formula (RR 61) 38, 538
- Stocks:
- Disallowance of deduction for reacquisition payments, dividends paid by corporation not maintaining employee stock ownership plan (ESOP) (REG-133578-05) 39, 610
 - Golden parachute payments, effect of election under section 83(b) for purposes of section 280G (RR 39) 27, 1
 - Held by foreign insurance companies (TD 9226) 43, 772
 - Identification, measurement, and timing of stock-based compensation cost for qualified cost sharing arrangements (QCSAs) (Notice 99) 52, 1214
 - Information reporting relating to taxable stock transactions (TD 9230) 52, 1198
- Subchapter T cooperatives, return required (REG-149436-04) 35, 454
- Substitute for return, Internal Revenue officer or employee (TD 9215) 36, 468; (REG-131739-03) 36, 494
- Substitute forms:
- W-2 and W-3, general rules and specifications (RP 65) 38, 564; correction (Ann 78) 44, 918
 - 1096, 1098, 1099, 5498, W-2G, and 1042-S, general rules and specifications (RP 69) 44, 864
 - Substitute forms and schedules, general rules and specifications (RP 74) 50, 1098
- Suspension of employer and payer reporting and wage withholding requirements with respect to deferrals of compensation under section 409A for calendar year 2005, no assertion of penal-

INCOME TAX—Cont.

ties against service providers in certain circumstances (Notice 94) 52, 1208

Tax conventions:

Canadian memorandum of understanding (MOU) on MAP (Ann 47) 28, 71

Reciprocal exemption agreement, Republic of Cape Verde (Ann 77) 44, 855

Representations required to claim exemption from withholding tax on personal services income under U.S. income tax treaties, students/teachers (RP 44) 29, 110

U.S.-Mexico MAP Agreement regarding eligibility of fiscally transparent entities to benefits (Ann 72) 41, 692

Third party not liable for tax, relief under sections 6325(b)(4) and 7426(a)(4) (RR 50) 30, 124

Tobacco marketing quotas, tax treatment of termination payments (Notice 51) 28, 74; (Notice 57) 32, 267

Uniform capitalization:

Simplified methods, assets produced on a routine and repetitive basis (RR 53) 35, 425

Simplified service cost and simplified production methods, assets produced on a routine and repetitive basis, guidance (TD 9217) 37, 498; (REG-121584-05) 37, 523

Utility companies, financing order by state agency (RP 62) 37, 507

Voluntary Compliance Program (VCP) extension, section 1441 (RP 71) 47, 985

SELF-EMPLOYMENT TAX

Collection due process hearings, clarification of the way conducted:

Federal tax lien (REG-150088-02) 43, 774

Levy (REG-150091-02) 43, 780

Disaster relief:

Postponement of deadlines for certain acts under section 7508A performed by IRS, Hurricane Katrina (Notice 66) 40, 620; supplement (Notice 81) 47, 977

Postponement of deadlines for certain acts under section 7508A with respect to taxpayers affected by Hurricane Rita (Notice 82) 47, 978

Summary and clarification of relief previously granted under sections 6081, 6161, 6656, and 7508A with respect to taxpayers affected by Hurricane Katrina (Notice 73) 42, 723

Proposed Regulations:

26 CFR 301.6020-1, added; substitute for return (REG-131739-03) 36, 494

26 CFR 301.6320-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing upon filing of notice of federal tax lien (REG-150088-02) 43, 774

26 CFR 301.6330-1, amended; miscellaneous changes to collection due process procedures relating to notice and opportunity for hearing prior to levy (REG-150091-02) 43, 780

SELF-EMPLOYMENT TAX—Cont.

Regulations:

26 CFR 301.6020-1, removed; 301.6020-1T, added; substitute for return (TD 9215) 36, 468

Settlement initiative to resolve certain tax transactions (Ann 80) 46, 967

Substitute for return, Internal Revenue officer or employee (TD 9215) 36, 468; (REG-131739-03) 36, 494