

## 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. 2008-4, page 272.

**Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate.** For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for January 2008.

#### Rev. Rul. 2008-5, page 271.

**Loss from wash sales of stock or securities.** This ruling provides that if an individual sells stock or securities for a loss and causes his or her IRA or Roth IRA to purchase substantially identical stock or securities within a specified period, the loss on the sale of the stock or securities is disallowed under section 1091 of the Code, and the individual's basis in the IRA or Roth IRA is not increased by virtue of section 1091(d).

#### Rev. Rul. 2008-6, page 271.

**Indian Housing Block Grant (IHBG) Program.** This ruling advises taxpayers that certain rental assistance payments made to a building owner on behalf or in respect of a tenant under the Indian Housing Block Grant (IHBG) Program are not grants made with respect to a building or its operation under section 42(d)(5) of the Code.

#### Notice 2008-8, page 276.

This notice clarifies that the information reporting requirements under section 6039 of the Code apply to certain stock transfers occurring on or after January 1, 2007. Because new regulations under section 6039 have not yet been issued, the IRS is waiving the obligation to make an information return for 2007 stock transfers governed by section 6039. This notice explains, however, that corporations should continue to furnish to employees the information, required by and in accordance with

existing section 1.6039-1, with respect to such stock transfers.

#### Notice 2008-9, page 277.

**Section 1502.** This notice provides that final regulations under section 1.1502-36 will not apply to a transfer to an unrelated person if the transfer is pursuant to an agreement that is binding before the date the regulations are published and at all times thereafter.

#### Notice 2008-10, page 277.

This notice announces the intention to issue regulations under section 367(a) of the Code to clarify that certain outbound reorganizations that effectively repatriate earnings of foreign corporations to U.S. corporations will be subject to recognition of gain under section 367(a)(1).

### EMPLOYEE PLANS

#### Notice 2008-7, page 276.

**Diversification; transition rules; extension.** This notice provides an extension of certain transitional rules with respect to the diversification requirements of publicly traded securities for certain defined contribution plans. Notice 2006-107 modified.

(Continued on the next page)

Finding Lists begin on page ii.



**Notice 2008–8, page 276.**

This notice clarifies that the information reporting requirements under section 6039 of the Code apply to certain stock transfers occurring on or after January 1, 2007. Because new regulations under section 6039 have not yet been issued, the IRS is waiving the obligation to make an information return for 2007 stock transfers governed by section 6039. This notice explains, however, that corporations should continue to furnish to employees the information, required by and in accordance with existing section 1.6039–1, with respect to such stock transfers.

**Announcement 2008–2, page 307.**

**Minimum funding standards; alternative funding schedule.** This announcement describes how a commercial passenger airline may make an election for an alternative funding schedule under section 402(a)(2) of the Pension Protection Act of 2006 as amended by section 6615 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007.

## EXEMPT ORGANIZATIONS

**Notice 2008–6, page 275.**

This notice provides transitional relief for certain trusts that have become private foundations through failure to meet the responsiveness test for Type III supporting organizations as a result of the Pension Protection Act of 2006. It also provides timing and instructions for these trusts filing their first annual return as a private foundation.

## ADMINISTRATIVE

**Notice 2008–11, page 279.**

This notice clarifies Notice 2007–54, 2007–27 I.R.B. 12, which provided guidance and transitional relief for the tax return preparer penalty provisions under section 6694 of the Code. Notice 2007–54 clarified.

**Notice 2008–12, page 280.**

This notice provides guidance to the public regarding implementation of the tax return preparer signature requirement penalty provisions under section 6695(b) of the Code, as amended by the Small Business and Work Opportunity Tax Act of 2007.

**Notice 2008–13, page 282.**

This notice provides guidance regarding implementation of the tax return preparer penalty provisions under section 6694 and the related definitional provisions under section 7701(a)(36) of the Code, as amended by the Small Business and Work Opportunity Tax Act of 2007. The Service is also requesting comments on the interim guidelines in this notice and on future rules for the preparer penalty provisions.

**Rev. Proc. 2008–10, page 290.**

**Insurance companies; loss reserves; discounting unpaid losses.** The loss payment patterns and discount factors are set forth for the 2007 accident year. These factors will be used for computing discounted unpaid losses under section 846 of the Code.

**Rev. Proc. 2008–11, page 301.**

**Insurance companies; discounting estimated salvage recoverable.** The salvage discount factors are set forth for the 2007 accident year. These factors will be used for computing discounted estimated salvage recoverable under section 832 of the Code.

# 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.

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

## Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

26 CFR 1.42-16: Eligible basis reduced by federal grants.

**Indian Housing Block Grant (IHBG) Program.** This ruling advises taxpayers that certain rental assistance payments made to a building owner on behalf or in respect of a tenant under the Indian Housing Block Grant (IHBG) Program are not grants made with respect to a building or its operation under section 42(d)(5) of the Code.

## Rev. Rul. 2008-6

Pursuant to § 1.42-16(b)(3) of the Income Tax Regulations, the Internal Revenue Service has determined that certain rental assistance payments made to a building owner on behalf or in respect of a tenant under the *Indian Housing Block Grant Program authorized by the Native American Housing Assistance and Self-Determination Act of 1996* (25 U.S.C. 4101 *et seq.*) are not grants made with respect to a building or its operation under § 42(d)(5) of the Internal Revenue Code. These rental assistance payments are provided under 24 C.F.R. 1000.103(b).

## DRAFTING INFORMATION

The principal author of this revenue ruling is Christopher J. Wilson of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Mr. Wilson at (202) 622-3040 (not a toll-free call).

## Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

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

The adjusted applicable federal long-term rate is set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

## Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

## Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

## Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

## Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

## Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

## Section 832.—Insurance Company Taxable Income

26 CFR 1.832-4: Gross income.

The salvage discount factors are set forth for 2007. These factors must be used to compute discounted estimated salvage recoverable for purposes of section 832 of the Code. See Rev. Proc. 2008-11, page 301.

## Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

26 CFR 1.846-1: Application of discount factors.

The salvage discount factors are set forth for 2007. These factors must be used to compute discounted estimated salvage recoverable for purposes of section 832 of the Code. See Rev. Proc. 2008-11, page 301.

## Section 1091.—Loss From Wash Sales of Stock or Securities

26 CFR 1.1091-1: Losses from wash sales of stock or securities.

**Loss from wash sales of stock or securities.** This ruling provides that if an individual sells stock or securities for a loss and causes his or her IRA or Roth IRA to purchase substantially identical stock or securities within a specified period, the loss on the sale of the stock or securities is disallowed under section 1091 of the Code, and the individual's basis in the IRA or Roth IRA is not increased by virtue of section 1091(d).

## Rev. Rul. 2008-5

### ISSUE

If an individual sells stock or securities for a loss and causes his or her individual retirement account or Roth IRA to purchase substantially identical stock or securities within 30 days before or after the sale, is the loss on the sale of the stock or securities disallowed?

### FACTS

A, an individual, owns 100 shares of X Company stock with a basis of \$1,000. On December 20, 2007, A sells the 100 shares of X Company stock for \$600 (the "Sale").

On December 21, 2007, A causes an individual retirement account (within the meaning of § 408) or a Roth IRA (within the meaning of § 408A), established for the exclusive benefit of A or A's beneficiaries, to purchase 100 shares of X Company stock for its then fair market value (the "Purchase").

A executes the Sale and the Purchase with different, unrelated market participants.

A is not a dealer in stock or securities.

### LAW AND ANALYSIS

Under § 408(a), the term "individual retirement account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets certain other requirements.

Under § 408(e)(1), generally, an individual retirement account is exempt from taxation.

Under §§ 408 and 72, any amount distributed from an individual retirement account is includible in the distributee's gross income for the year of the distribution unless it is properly allocable to the account owner's basis in the account. Under § 408A, a similar income inclusion rule applies to nonqualified distributions from a Roth IRA. An individual has basis in an individual retirement account only to the extent that the account includes nondeductible contributions.

Section 1091(a) provides that in the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it

appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange on which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction shall be allowed under § 165 unless the taxpayer is a dealer in stock or securities and the loss is sustained in a transaction made in the ordinary course of such business.

Section 1091(d) provides rules for determining the basis of stock or securities the acquisition of which resulted in the nondeductibility under § 1091 (or corresponding provisions of prior law) of the loss from the sale or other disposition of substantially identical stock or securities.

In *Security First National Bank of Los Angeles*, 28 BTA 289 (1933), the taxpayer sold bonds (at a market price) to a corporation of which the taxpayer was the sole shareholder. On the same day, in exchange for land, the corporation transferred the same bonds at the same price to a trust over which the taxpayer had absolute dominion and control. In finding that § 214(a)(5), the predecessor to § 1091(a), applied to disallow the loss, the court reasoned as follows:

The [taxpayer] did not personally reacquire substantially identical property and, strictly construed, the language of section 214(a)(5), above referred to, might not apply. However, the rule of strict construction should not be unduly pressed to permit easy evasion of a taxing statute. *Carbon Steel Co. v. Lewellyn*, 251 U.S. 501. Unless the respondent is right, a trust like this one could be used deliberately to accomplish the very thing which Congress intended to frustrate. ... Although title to the bonds was acquired by the trust, actual command over the property was still in the [taxpayer]. ... The difference between acquisition by him personally and acquisition by the trust amounts only to a refinement of title and may be disregarded so far as section 214(a)(5) is concerned.

*Security First National Bank*, 28 BTA at 314 - 315.

Applying this reasoning to the facts of this ruling, even though an individual retirement account is a tax-exempt trust, A has nevertheless acquired, for purposes of

§ 1091(a), 100 shares of X Company stock on December 21, 2007, by virtue of the Purchase. See also *Shoenberg v. Commissioner*, 77 F.2d 446 (8<sup>th</sup> Cir. 1935).

### HOLDING

The loss on the Sale of stock is disallowed under § 1091. A's basis in the individual retirement account or Roth IRA is not increased by virtue of § 1091(d). This ruling does not address any issues other than those specifically addressed herein. In particular, this ruling does not address (and no inference should be drawn with respect to) any issue arising under § 4975.

### DRAFTING INFORMATION

The principal author of this revenue ruling is Roger E. Wade of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Mr. Wade at (202) 622-3950 (not a toll-free call).

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

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

**Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate.** For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for January 2008.

## Rev. Rul. 2008-4

This revenue ruling provides various prescribed rates for federal income tax purposes for January 2008 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in

section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(2) for buildings placed in service during the current month. Table 5 contains the federal rate for determin-

ing the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520. Finally, Table 6 contains the deemed rate of return for transfers made during calendar year 2008

to pooled income funds described in section 642(c)(5) that have been in existence for less than 3 taxable years immediately preceding the taxable year in which the transfer was made.

REV. RUL. 2008-4 TABLE 1				
Applicable Federal Rates (AFR) for January 2008				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	3.18%	3.16%	3.15%	3.14%
110% AFR	3.51%	3.48%	3.46%	3.46%
120% AFR	3.83%	3.79%	3.77%	3.76%
130% AFR	4.15%	4.11%	4.09%	4.08%
<i>Mid-term</i>				
AFR	3.58%	3.55%	3.53%	3.52%
110% AFR	3.95%	3.91%	3.89%	3.88%
120% AFR	4.31%	4.26%	4.24%	4.22%
130% AFR	4.67%	4.62%	4.59%	4.58%
150% AFR	5.40%	5.33%	5.29%	5.27%
175% AFR	6.31%	6.21%	6.16%	6.13%
<i>Long-term</i>				
AFR	4.46%	4.41%	4.39%	4.37%
110% AFR	4.91%	4.85%	4.82%	4.80%
120% AFR	5.36%	5.29%	5.26%	5.23%
130% AFR	5.81%	5.73%	5.69%	5.66%

REV. RUL. 2008-4 TABLE 2				
Adjusted AFR for January 2008				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	3.05%	3.03%	3.02%	3.01%
Mid-term adjusted AFR	3.39%	3.36%	3.35%	3.34%
Long-term adjusted AFR	4.25%	4.21%	4.19%	4.17%

REV. RUL. 2008-4 TABLE 3	
Rates Under Section 382 for January 2008	
Adjusted federal long-term rate for the current month	4.25%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	4.34%

REV. RUL. 2008-4 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for January 2008

Appropriate percentage for the 70% present value low-income housing credit	7.93%
Appropriate percentage for the 30% present value low-income housing credit	3.40%

REV. RUL. 2008-4 TABLE 5

Rate Under Section 7520 for January 2008

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	4.4%
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REV. RUL. 2008-4 TABLE 6

Deemed Rate for Transfers to New Pooled Income Funds During 2008

Deemed rate of return for transfers during 2008 to pooled income funds that have been in existence for less than 3 taxable years	4.8%
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**Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

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**Section 7520.—Valuation Tables**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2008. See Rev. Rul. 2008-4, page 272.



# Part III. Administrative, Procedural, and Miscellaneous

## Transitional Relief and Filing Procedures for Certain Charitable Trusts that Fail the Responsiveness Test for Type III Supporting Organizations

### Notice 2008-6

#### PURPOSE

This notice provides transitional relief and filing procedures for certain charitable trusts that fail the responsiveness test for Type III supporting organizations.

These procedures are intended for:

- charitable trusts that received a determination recognizing their tax-exempt status under section 501(c)(3) and that met the requirements of section 509(a)(3) until August 17, 2007, and
- non-exempt charitable trusts described in section 4947(a)(1), that are treated for certain purposes as organizations described in section 501(c)(3), and that met the requirements of section 509(a)(3) until August 17, 2007. See Rev. Proc. 72-50, 1972-2 C.B. 830.

#### BACKGROUND

Section 1.509(a)-4(i) of the Income Tax Regulations sets forth the requirements for organizations to qualify as section 509(a)(3) supporting organizations that are “operated in connection with” one or more publicly supported organizations (hereafter, “Type III” supporting organizations). Type III supporting organizations are required to meet a “responsiveness test” to show that they are responsive to the needs of the organizations they support. See section 1.509(a)-4(i)(1), (i)(2).

Prior to passage of the Pension Protection Act of 2006, Pub. L. No. 109-280, 120 Stat. 708 (2006) (PPA), there were two alternative ways for Type III supporting organizations to meet the responsiveness test.

- *The significant voice test.* Section 1.509(a)-4(i)(2)(ii) generally provides that an organization meets the responsiveness test if the officers, directors, or trustees of the publicly supported

organization have a significant voice in the investment policies and grant-making of the supporting organization, and in otherwise directing the use of its income or assets.

- *The charitable trust test.* Section 1.509(a)-4(i)(2)(iii) provides that certain charitable trusts meet the responsiveness test requirement of section 1.509(a)-4(i)(2) if they are charitable trusts under state law, each publicly supported organization is a named beneficiary under the trust’s governing instrument, and each beneficiary organization has the power to enforce the trust and compel an accounting under state law.

Section 1241(c) of the PPA eliminated the charitable trust test, effective August 17, 2007. Consequently, as of August 17, 2007, trusts previously classified as Type III supporting organizations may be classified as private foundations as a result of the PPA. A trust will continue to qualify as a section 509(a)(3) supporting organization if it meets the significant voice test for Type III supporting organizations or if it is able to establish that it meets the requirements of a Type I or Type II supporting organization under section 1.509(a)-4(g) or (h).

#### DISCUSSION

##### *Transitional Relief for Charitable Trusts*

Because of the need for affected charitable trusts to adjust record-keeping systems to reflect private foundation status, and the administrative difficulties in processing returns reflecting a mid-year change of status, trusts that became private foundations during 2007 by virtue of section 1241(c) of the PPA may continue to file Form 990, *Return of Organization Exempt From Income Tax*, for taxable years beginning before January 1, 2008. An organization that is classified as a private foundation by virtue of section 1241(c) of the PPA will not be required to file an information return on Form 990-PF or pay excise taxes on investment income under section 4940 until its first taxable year beginning on or after January 1, 2008.

##### *Filing Procedures for Charitable Trusts that Became Private Foundations* *Taxable years beginning before January 1, 2008:*

- Charitable trusts that became private foundations by virtue of section 1241(c) of the PPA should file Form 990 for taxable years beginning before January 1, 2008.
- Normal due dates and submission rules for filing Form 990 apply.

##### *Taxable years beginning on or after January 1, 2008*

- Charitable trusts that became private foundations by virtue of section 1241(c) of the PPA must file Form 990-PF, *Return of Private Foundation*, for taxable years beginning on or after January 1, 2008.
- For the first taxable year beginning on or after January 1, 2008, file **paper** Form 990-PF. Write “**Notice 2008-6 status change**” at the top of Form 990-PF.
- Normal due dates and submission rules for filing Form 990-PF otherwise apply.

##### *Filing Procedures for Charitable Trusts that Did Not Become Private Foundations*

A charitable trust that meets the significant voice test for Type III supporting organizations (section 1.509(a)-4(i)(2)(ii)), or that can establish that it meets the requirements of a Type I or Type II supporting organization under section 1.509(a)-4(g) or (h), should continue to file Form 990 under currently applicable procedures for taxable years beginning on or after January 1, 2008. Such a trust should not file Form 990-PF.

#### DRAFTING INFORMATION

The principal author of this notice is Robert Fontenrose of the Exempt Organizations, Tax Exempt and Government Entities Division. For further information regarding this notice, contact Mr. Ronald Shoemaker at (202) 283-9475 (not a toll-free call).

# Extension of Transitional Relief for Diversification Requirements for Certain Defined Contribution Plans

## Notice 2008-7

### I. PURPOSE

This notice extends the transitional guidance and transitional relief provided to certain defined contribution plans holding publicly traded employer securities under Notice 2006-107, 2006-51 I.R.B. 1114, until the regulations being issued under § 401(a)(35) of the Internal Revenue Code become effective.

### II. BACKGROUND

Section 401(a)(35), added by section 901 of the Pension Protection Act of 2006, Public Law 109-280, 120 Stat. 780, provides diversification rights with respect to publicly traded employer securities held by a defined contribution plan. Section 401(a)(35) provides that, to remain qualified under § 401(a), a defined contribution plan (other than certain employee stock ownership plans) must provide applicable individuals with the right to divest employer securities in their accounts and reinvest those amounts in certain diversified investments, and generally prohibits a plan from imposing restrictions or conditions with respect to the investment of employer securities that are not imposed on the investment of other assets of the plan.

Notice 2006-107 provides transitional guidance with respect to § 401(a)(35). For example, Part III.D of Notice 2006-107 provides that a restriction or condition with respect to employer securities generally includes: (1) a restriction on an applicable individual's rights to divest an investment in employer securities that is not imposed on an investment that is not in employer securities; and (2) a benefit that is conditioned on investment in employer securities. Notice 2006-107 also provides certain transitional relief with respect to the requirements of Part III.D of the notice. The relief set forth in paragraph 4 of Part III.D of Notice 2006-107 is limited to the period prior to January 1, 2008.

Notice 2006-107 also states that Treasury and the Service expect to issue regulations under § 401(a)(35) that will be con-

sistent with the guidance in the notice and that will incorporate the transitional relief in the notice.

### III. EXTENSION OF TRANSITIONAL RELIEF UNDER NOTICE 2006-107

The Treasury and the Service are issuing proposed regulations under § 401(a)(35). It is expected that these regulations, when finalized, will not be effective before plan years beginning on or after January 1, 2009. Except as otherwise provided in the proposed or final regulations, plans must continue to apply Notice 2006-107 until the regulations go into effect. For this purpose, the transitional relief provided for the period prior to January 1, 2008, in paragraph 4 of Part III.D of Notice 2006-107 will continue to apply after 2007 until the regulations go into effect.

### IV. EFFECT ON OTHER DOCUMENTS

Notice 2006-107 is modified.

### DRAFTING INFORMATION

The principal author of this notice is Robert M. Walsh of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please call the Employee Plans taxpayer assistance number between 8 a.m. and 4:30 p.m. Eastern time, Monday through Friday at (877) 829-5500 (a toll-free number) or email Mr. Walsh at [RetirementPlanQuestions@irs.gov](mailto:RetirementPlanQuestions@irs.gov).

## Information Reporting Requirements Under Internal Revenue Code § 6039

### Notice 2008-8

#### SECTION 1. PURPOSE

This notice provides interim guidance with respect to the information returns required by § 6039 of the Internal Revenue Code.

#### SECTION 2. BACKGROUND

Section 403 of the Tax Relief and Health Care Act of 2006 (Act) amended the information reporting requirements of § 6039. Prior to its amendment, § 6039

required corporations to furnish a written statement to each employee, in a manner prescribed by the Secretary in regulations, regarding: (i) the corporation's transfer of stock pursuant to the employee's exercise of an incentive stock option described in § 422(b); and (ii) transfers of stock by the employee where the stock was acquired pursuant to the exercise of an option described § 423(c). Corporations must furnish the statements required by § 6039 on or before January 31 of the year following the year for which the statement is required.

As amended by the Act, § 6039 requires corporations to make an information return with the IRS, in addition to providing employees with an information statement, following a stock transfer. The time and manner for making a return with the IRS, as well as the information to be contained in the return and furnished to employees, is to be set forth in regulations. Section 6039, as amended by the Act, applies to stock transfers occurring on or after January 1, 2007.

Prior to the amendment made by the Act, the Treasury Department and the IRS issued regulation § 1.6039-1 effective on August 3, 2004. Section 1.6039-1(a) enumerates the information that must be furnished to employees with respect to stock transfers relating to the employee's exercise of an incentive stock option. It provides that the statement the corporation furnishes to the employee must include the following information —

(1) The name, address, and employer identification number of the corporation transferring the stock;

(2) The name, address, and identifying number of the person to whom the share or shares of stock were transferred;

(3) The name and address of the corporation the stock of which is the subject of the option (if other than the corporation transferring the stock);

(4) The date the option was granted;

(5) The date the shares were transferred to the person exercising the option;

(6) The fair market value of the stock at the time the option was exercised;

(7) The number of shares of stock transferred pursuant to the option;

(8) The type of option under which the transferred shares were acquired; and

(9) The total cost of all the shares.

Section 1.6039-1(b) lists the information that must be furnished to employees

who transfer stock acquired pursuant to an option granted under an employee stock purchase plan. It provides that the statement the corporation furnishes to the employee must include the following information —

- (1) The name and address of the corporation whose stock is being transferred;
- (2) The name, address, and identifying number of the transferor;
- (3) The date such stock was transferred to the transferor;
- (4) The number of shares to which title is being transferred; and
- (5) The type of option under which the transferred shares were acquired.

### SECTION 3. ISSUANCE OF REGULATIONS AND INTERIM REPORTING

The Treasury Department and the IRS intend to issue regulations that prescribe rules relating to the information return requirements contained in § 6039, as amended by the Act. The Treasury Department and the IRS expect that the forthcoming regulations generally will retain the existing rules contained in § 1.6039-1, relating to the information statements to be provided to employees, and generally require that the same information be included in the information returns made with the IRS. The Treasury Department and the IRS also expect that the new § 6039 regulations will be effective retroactively to January 1, 2007.

Because regulations under § 6039 have not yet been issued, the IRS is waiving the obligation to make an information return for 2007 stock transfers governed by § 6039. However, corporations should continue to furnish to employees the information required by, and in accordance with, existing § 1.6039-1, with respect to such stock transfers.

### SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Tom Scholz of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this notice, contact Mr. Scholz at (202) 622-6030 (not a toll-free call).

## Effective Date Relief for Unified Rule for Loss on Subsidiary Stock

### Notice 2008-9

On January 23, 2007, the IRS and Treasury Department issued a notice of proposed rulemaking (REG-157711-02, 2007-8 I.R.B. 537 [72 FR 2964]) under §1.1502-36. The proposed regulations set forth rules applicable to transfers of loss shares of subsidiary stock by members of a consolidated group. The IRS and Treasury Department have received, and are considering, comments on the proposed regulations.

While most comments will be addressed in the final regulations, there is one concern that the IRS and Treasury Department believe appropriate to address immediately. The concern relates to the proposed effective date, which would make the regulations applicable to all transfers on or after the date such regulations are published as final regulations in the Federal Register.

Practitioners have observed that the proposed effective date presents a significant burden on taxpayers attempting to negotiate transactions prior to the publication of the final regulations. The IRS and Treasury Department recognize that it is inappropriate to impose this level of uncertainty on taxpayers negotiating these transactions.

Accordingly, the IRS and Treasury Department have concluded that the regulations will generally apply to transfers on or after the date they are published as final regulations in the Federal Register, but will not apply to a transfer to an unrelated person if the transfer is pursuant to an agreement that is binding before the date the regulations are so published and at all times thereafter. The IRS and Treasury Department expect that the rule will incorporate the provisions of section 267(b) in determining whether persons are related for this purpose.

The principal author of this notice is Sean P. Duffley of the Office of Associate Chief Counsel (Corporate). For further information regarding this notice, contact Sean P. Duffley at (202) 622-7770 (not a toll-free call).

## Regulations Under Section 367(a) Applicable to Certain Outbound Reorganizations and Section 351 Exchanges

### Notice 2008-10

#### SECTION 1. OVERVIEW

The Internal Revenue Service (IRS) and the Treasury Department (Treasury) will issue regulations under section 367(a) of the Internal Revenue Code (Code) to clarify how the two exceptions to the rule in §1.367(a)-3(d)(2)(vi) of the Income Tax Regulations (coordination rule) provided by §1.367(a)-3(d)(2)(vi)(B) apply to certain outbound reorganizations described in section 368(a) and certain successive transfers to which section 351 applies. This notice is issued in response to certain transactions designed to avoid U.S. income tax. The regulations issued pursuant to this notice will apply to transactions occurring on or after December 28, 2007.

#### SECTION 2. TRANSACTIONS AT ISSUE

The IRS and Treasury are aware that certain taxpayers are engaging in transactions intended to repatriate cash or other property from foreign subsidiaries without the recognition of gain or a dividend inclusion. In one such transaction, for example, USP, a domestic corporation, owns 100 percent of the stock of FA, a foreign corporation, and USP's basis in its FA stock is \$100x. USP also owns 100 percent of the stock of UST, a domestic corporation, and USP's basis in its UST stock equals its fair market value of \$100x. UST's property consists of property with zero tax basis, such as self-created intangibles or fully depreciated tangible property. UST sells its property to FA in exchange for \$100x cash and, in connection with the transaction, UST liquidates and FA transfers all of the property acquired from UST to U.S. Newco, a newly formed domestic corporation, in exchange for 100 percent of the U.S. Newco stock (the Transaction). Other variations of the Transaction may be available. For example, FA may purchase the stock of UST from USP for \$100x and, in connection with the acquisition, UST merges into a domestic limited liability

company (LLC) wholly owned by FA that is disregarded as separate from FA for U.S. tax purposes. FA then contributes all of its LLC interests to U.S. Newco, a newly formed domestic corporation, in exchange for 100 percent of the U.S. Newco stock.

Taxpayers take the position that, pursuant to §1.367(a)-3(d)(2)(vi)(B)(I)(i), UST's transfer of property to FA is not subject to section 367(a) or (d) because the basis adjustment requirement of section 367(a)(5) is satisfied if USP reduces by \$100x its basis in the FA stock that it held prior to the Transaction.

### SECTION 3. BACKGROUND

Section 367(a)(1) provides that if, in connection with an exchange described in section 332, 351, 354, 356, or 361, a United States person transfers property to a foreign corporation, such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation. Section 367(a)(2) provides that, except to the extent provided in regulations, section 367(a)(1) shall not apply to the transfer of stock or securities of a foreign corporation that is a party to a reorganization. Section 367(a)(3) provides that, except to the extent provided in regulations, section 367(a)(1) shall not apply to the transfer of property used in an active foreign trade or business. Section 367(a)(6) grants regulatory authority to provide additional exceptions to the general rule of section 367(a)(1).

Section 367(a)(5) provides that in the case of an exchange described in section 361(a) or (b) (section 361 exchange), the exceptions to section 367(a)(1) provided under sections 367(a)(2) and (a)(3) shall not apply. Therefore, the general rule under section 367(a)(5) is that a transfer of property by a domestic corporation (U.S. transferor) to a foreign corporation in a section 361 exchange is subject to section 367(a)(1). Section 367(a)(5) also provides, however, that subject to basis adjustments and other conditions to be provided in regulations, the general rule will not apply (and the transfer may therefore be eligible for the exceptions under sections 367(a)(2) and (a)(3)) if the U.S. transferor is controlled (within the meaning of section 368(c)) by five or fewer domestic corporations.

Regulations have not been issued under section 367(a)(5). However, the legislative history of section 367(a)(5) explains how the required basis adjustments would have to be made:

It is expected that regulations will provide this relief only if the U.S. corporate shareholders in the transferor agree to take a basis in the stock they receive in a foreign corporation that is a party to the reorganization equal to the lesser of (a) the U.S. corporate shareholders' basis in such stock received pursuant to section 358, or (b) their proportionate share of the basis in the property of the transferor corporation transferred to the foreign corporation.

S. Rep. No. 100-445, 100<sup>th</sup> Cong., 2d Sess. at 62 (Aug. 3, 1988). Thus, the gain realized, but not recognized, by the U.S. transferor in connection with the section 361 exchange must be preserved in the stock *received* by certain corporate shareholders of the U.S. transferor in the reorganization.

The rules regarding the treatment of transfers of stock or securities to foreign corporations are contained in §1.367(a)-3. Certain outbound reorganizations followed by transfers to controlled corporations and certain successive transfers of property to which section 351 applies constitute "indirect stock transfers" and are subject to §1.367(a)-3. See §1.367(a)-3(d)(1). Such indirect stock transfers are subject to gain recognition under section 367(a)(1), unless they qualify for the exceptions contained in §1.367(a)-3(b) (for transfers of foreign stock) or -3(c) (for transfers of domestic stock). See §1.367(a)-3(d)(1).

The general coordination rule of §1.367(a)-3(d)(2)(vi)(A) provides, in general, that if, pursuant to an indirect stock transfer, a U.S. person transfers (or is deemed to transfer) property to a foreign corporation in an exchange described in sections 351 or 361, such transfer is subject to sections 367(a) and (d), prior to the application of the indirect stock transfer rules of §1.367(a)-3(d). Section 1.367(a)-3(d)(2)(vi)(A). This general coordination rule, however, is subject to two exceptions (Exception One and Exception Two).

Exception One is available for certain section 361 transfers of property made pursuant to a reorganization to the extent

the foreign acquiring corporation transfers the acquired property (re-transferred property) to a domestic corporation controlled within the meaning of section 368(c) (domestic controlled corporation) as part of the same transaction. However, Exception One applies only if the domestic controlled corporation's basis in the re-transferred property is no greater than the basis the U.S. transferor had in such property and either (i) the domestic acquired corporation is controlled (within the meaning of section 368(c)) by five or fewer domestic corporate shareholders, appropriate basis adjustments as provided in section 367(a)(5) are made to the stock of the foreign acquiring corporation, and any other conditions provided in regulations under section 367(a)(5) are satisfied; or (ii) the indirect transfer of stock of the domestic acquired corporation satisfies the requirements of §1.367(a)-3(c)(1)(i), (ii), and (iv), and (c)(6), and the domestic acquired corporation attaches a statement to its tax return for the taxable year of the transfer. Section 1.367(a)-3(d)(2)(vi)(B)(I)(i) and (ii).

Exception Two is available for transfers described in §1.367(a)-3(d)(1)(vi) where a U.S. person transfers property to a foreign corporation in a section 351 exchange, to the extent that such property is transferred by such foreign corporation to a domestic corporation in another section 351 exchange, but only if the domestic transferee's basis in the property is no greater than the basis that the U.S. transferor had in such property. See §1.367(a)-3(d)(2)(vi)(B)(2).

### SECTION 4. REGULATIONS TO BE ISSUED UNDER SECTION 367(a)

The IRS and Treasury will issue regulations under section 367(a) to clarify how the two exceptions to the general coordination rule of §1.367(a)-3(d)(2)(vi)(A) are to be applied.

The rule of Exception One contained in §1.367(a)-3(d)(2)(vi)(B)(I)(i) will be modified to clarify that the basis adjustment required as provided in section 367(a)(5) must be made to the stock of the foreign acquiring corporation received by domestic corporate shareholders of the U.S. transferor in the reorganization such that the appropriate amount of unrecognized gain in the U.S. transferor's

property is reflected in such stock. Thus, the basis adjustment requirement cannot be satisfied by adjusting the basis in stock of the foreign acquiring corporation held by such shareholders prior to the reorganization. The regulations will clarify that to the extent the appropriate amount of unrecognized gain in the U.S. transferor's property cannot be preserved in the stock of the foreign acquiring corporation received in the reorganization, then the U.S. transferor's transfer of property to the foreign acquiring corporation shall be subject to sections 367(a) and (d).

Section 1.367(a)-3(d)(2)(vi)(B)(2) will be modified to clarify that Exception Two shall not apply to a section 351 transfer that is also a section 361 exchange. Thus, a section 351 transfer that is also a section 361 exchange may only qualify, if at all, for Exception One.

#### SECTION 5. EFFECTIVE DATE

The regulations described in this notice will apply to transactions occurring on or after December 28, 2007. No inference is intended as to the treatment of transactions described herein under current law, and the IRS may, where appropriate, challenge such transactions under applicable provisions or judicial doctrines.

#### SECTION 6. COMMENTS

The IRS and Treasury are studying other transactions and structures that have the effect of repatriating earnings of foreign corporations without the recognition of gain or a dividend inclusion. Comments are requested in this regard. Comments are also requested regarding more fundamental changes that can be made in this area, including possible changes to the coordination rule.

#### SECTION 7. DRAFTING INFORMATION

The principal authors of this notice are John Seibert and Daniel McCall of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in its development. For further information regarding this notice, contact Mr. Seibert or Mr. McCall at (202) 622-3860 (not a toll-free call).

## Clarification of Notice 2007-54 Providing Guidance and Transitional Relief Under the Preparer Penalty Provisions of the Small Business and Work Opportunity Tax Act of 2007

### Notice 2008-11

This notice clarifies Notice 2007-54, 2007-27 I.R.B. 12, which provided guidance and transitional relief for the tax return preparer penalty provisions under section 6694 of the Internal Revenue Code, as amended by the Small Business and Work Opportunity Tax Act of 2007.

#### BACKGROUND

The Small Business and Work Opportunity Tax Act of 2007 (the Act), Pub. L. No. 110-28, 121 Stat. 190, was enacted on May 25, 2007. Section 8246 of the Act amended several provisions of the Code to extend the application of the income tax return preparer penalties to all tax return preparers, alter the standards of conduct that must be met to avoid imposition of the penalties for preparing a return which reflects an understatement of liability, and increase applicable penalties. The amendments are effective for tax returns prepared after the date of the enactment, May 25, 2007.

In order to provide sufficient time to address issues pertaining to the implementation of the Act, the Treasury Department and the IRS issued Notice 2007-54 on June 11, 2007, and which provided the following transitional relief: For income tax returns, amended returns, and refund claims, the standards set forth under the previous law and current regulations under section 6694 will be applied in determining whether the IRS will impose a penalty under section 6694(a), as amended by the Act. Notice 2007-54 provided that generally, in applying transitional relief for income tax returns, amended returns, or refund claims, disclosure would be adequate if made on a Form 8275, *Disclosure Statement*, or Form 8275-R, *Regulation Disclosure Statement*, attached to the return, amended return, or refund claim, or pursuant to the annual revenue procedure au-

thorized in Treasury Regulation sections 1.6694-2(c)(3) and 1.6662-4(f)(2).

Notice 2007-54 further provided that for all other returns, amended returns, and claims for refund, including estate, gift, and generation-skipping transfer tax returns, employment tax returns, and excise tax returns, the reasonable basis standard set forth in the regulations issued under section 6662, without regard to the disclosure requirements contained therein, will be applied in determining whether the IRS will impose a penalty under section 6694(a).

Notice 2007-54 provided that the transitional relief applies to all returns, amended returns, and refund claims due on or before December 31, 2007 (determined with regard to any extension of time for filing), and to 2007 employment and excise tax returns due on or before January 31, 2008. Notice 2007-54 also provided that no transitional relief was provided under section 6694(b) as transitional relief is not appropriate for tax return preparers who exhibit willful or reckless conduct, regardless of the type of return prepared.

#### TRANSITIONAL RELIEF CLARIFICATIONS

Questions have arisen regarding the extent to which amended returns or claims for refund qualify for transitional relief under Notice 2007-54. There is no set due date for such returns and claims other than prior to the expiration of the period prescribed by the applicable statute of limitations. The transitional relief described in Notice 2007-54 applies to timely amended returns or claims for refund (other than 2007 employment and excise tax returns) filed on or before December 31, 2007, and to timely amended employment and excise tax returns or claims for refund filed on or before January 31, 2008.

Questions have arisen regarding the extent to which original tax returns due on extension after December 31, 2007, but filed on or before December 31, 2007, qualify for transitional relief. The transitional relief described in Notice 2007-54 applies to original returns (other than 2007 employment and excise tax returns) filed on or before December 31, 2007, and to original employment and excise tax returns filed on or before January 31, 2008.

Questions have also arisen regarding the extent to which advice rendered by nonsigning preparers qualifies for transitional relief under Notice 2007-54. The transitional relief described in Notice 2007-54, as clarified by this notice, applies to nonsigning preparers for advice provided on or before December 31, 2007.

In future guidance, the Treasury Department and the IRS intend to provide transitional rules to address amended returns filed after the expiration of the transitional relief period described in Notice 2007-54 that relate to original returns filed under previous law or during the transitional relief period, as clarified by this notice.

#### EFFECTIVE DATE

This notice is effective as of May 25, 2007.

#### EFFECT ON OTHER DOCUMENTS

Notice 2007-54, 2007-27 I.R.B. 12, is clarified.

#### CONTACT INFORMATION

The principal authors of this notice are Matthew S. Cooper and Michael E. Hara of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, contact Mr. Cooper at (202) 622-4940 or Mr. Hara at (202) 622-4910 (not toll-free calls).

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## Preparer Signature Requirements Under Section 6695(b), as Amended by the Small Business and Work Opportunity Tax Act of 2007

### Notice 2008-12

This notice provides guidance to the public regarding implementation of the tax return preparer signature requirement penalty provisions under section 6695(b) of the Internal Revenue Code, as amended by the Small Business and Work Opportunity Tax Act of 2007.

#### BACKGROUND

The Small Business and Work Opportunity Tax Act of 2007 (the Act), Pub. L. No. 110-28, 121 Stat. 190, was enacted on May 25, 2007. Section 8246 of the Act amended several provisions of the Code, including section 6695(b), to extend the application of the income tax return preparer penalties to all tax return preparers. As amended by the Act, section 6695(b) imposes a penalty on a tax return preparer of any return or claim for refund who fails to sign a return when required by regulations prescribed by the Secretary, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. The penalty under section 6695(b) is \$50 for each failure to sign, with a maximum of \$25,000 per person imposed with respect to each calendar year. The amendments to section 6695(b) made by section 8246 of the Act are effective for tax returns and claims for refund prepared after May 25, 2007.

#### INTERIM AND PLANNED GUIDANCE

The Treasury Department and the Internal Revenue Service intend to issue regulations that implement the signature requirements under section 6695(b) for certain 2008 tax year returns and claims for refund. In advance of these regulations, guidance is being issued to (1) identify the returns and claims for refund required to be signed by a tax return preparer in order to avoid a section 6695(b) penalty under current regulations, and (2) identify the returns and claims for refund that will be required to be signed by a tax return preparer in order to avoid a section 6695(b) penalty under future regulations published by the Treasury Department and IRS. This interim guidance will apply until further guidance is issued and tax return preparers may rely on the interim guidance in this notice.

##### A. Signing Tax Return Preparer

For purposes of section 6695(b), an individual who is a tax return preparer with respect to a return of tax or claim for refund of tax listed below in paragraph (B)(1) of this notice shall sign the return or claim for refund after it is completed and before it is presented to the taxpayer (or nontaxable

entity) for signature. If the tax return preparer is unavailable for signature, another tax return preparer shall review the entire preparation of the return or claim for refund, and then shall sign the return or claim for refund.

If more than one tax return preparer is involved in the preparation of the return or claim for refund, the individual tax return preparer who has the primary responsibility as between or among the preparers for the overall substantive accuracy of the preparation of such return or claim for refund shall be considered to be the tax return preparer for purposes of section 6695(b).

##### B. Forms Requiring Signature of Tax Return Preparer

(1) Consistent with existing regulations, in order to avoid the imposition of a penalty under section 6695(b), a signing tax return preparer described above in paragraph (A) of this notice must provide a signature on any income tax returns or claims for refund of income tax that are filed after December 31, 2007, including but not limited to the following:

- Form 990-T, *Exempt Organization Business Income Tax Return*
- Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation*
- Form 1040, *U.S. Individual Income Tax Return*
- Form 1040A, *U.S. Individual Income Tax Return*
- Form 1040-C, *U.S. Departing Alien Income Tax Return*
- Form 1040EZ, *Income Tax Return for Single and Joint Filers With No Dependents*
- Form 1040NR, *U.S. Nonresident Alien Income Tax Return*
- Form 1040NR-EZ, *U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents*
- Form 1040-PR, *Planilla para la Declaración de la Contribución Federal sobre el Trabajo por Cuenta Propia (Incluyendo el Crédito Tributario Adicional por Hijos para Residentes Bona fide de Puerto Rico)*
- Form 1040-SS, *U.S. Self-Employment Tax Return (Including the Additional*

- *Child Tax Credit for Bona Fide Residents of Puerto Rico*
- Form 1040X, *Amended U.S. Individual Income Tax Return*
- Form 1041, *U.S. Income Tax Return for Estates and Trusts*
- Form 1041-N, *U.S. Income Tax Return for Electing Alaska Native Settlement Trusts*
- Form 1041-QFT, *U.S. Income Tax Return for Qualified Funeral Trusts*
- Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*
- Form 1065, *U.S. Return of Partnership Income*
- Form 1065-B, *U.S. Return of Income for Electing Large Partnerships*
- Form 1066, *U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return*
- Form 1120, *U.S. Corporation Income Tax Return*
- Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*
- Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*
- Form 1120-FSC, *U.S. Income Tax Return of a Foreign Sales Corporation*
- Form 1120-H, *U.S. Income Tax Return for Homeowners Associations*
- Form 1120IC-DISC, *Interest Charge Domestic International Sales Corporation Return*
- Form 1120-L, *U.S. Life Insurance Company Income Tax Return*
- Form 1120-ND, *Return for Nuclear Decommissioning Funds and Certain Related Persons*
- Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*
- Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations*
- Form 1120-REIT, *U.S. Income Tax Return for Real Estate Investment Trusts*
- Form 1120-RIC, *U.S. Income Tax Return for Regulated Investment Companies*
- Form 1120S, *U.S. Income Tax Return for an S Corporation*
- Form 1120-SF, *U.S. Income Tax Return for Settlement Funds (Under Section 468B)*
- Form 1120X, *Amended U.S. Corporation Income Tax Return*
- Form 2438, *Undistributed Capital Gains Tax Return*
  - (2) In the absence of Treasury regulations requiring signature, a signing tax return preparer described above in paragraph (A) of this notice will not be subject to the penalty under section 6695(b) with respect to tax returns or refund claims for taxes other than income taxes that are filed after December 31, 2007, but on or before December 31, 2008, including the filing of the following returns:
    - Form CT-1, *Employer's Annual Railroad Retirement Tax Return*
    - Form CT-2, *Employee Representative's Quarterly Railroad Tax Return*
    - Form 11-C, *Occupational Tax and Registration Return for Wagering*
    - Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*
    - Form 706-A, *United States Additional Estate Tax Return*
    - Form 706-D, *United States Additional Estate Tax Return Under Code Section 2057*
    - Form 706-GS(D), *Generation-Skipping Transfer Tax Return For Distributions*
    - Form 706-GS(T), *Generation-Skipping Transfer Tax Return For Terminations*
    - Form 706-NA, *United States Estate (and Generation-Skipping Transfer) Tax Return — Estate of nonresident not a citizen of the United States*
    - Form 706-QDT, *United States Estate Tax Return for Qualified Domestic Trusts*
    - Form 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*
    - Form 720, *Quarterly Federal Excise Tax Return*
    - Form 720X, *Amended Quarterly Federal Excise Tax Return*
    - Form 730, *Monthly Tax Return for Wagers*
    - Form 843, *Claim for Refund and Request for Abatement*
    - Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*
    - Form 940-PR, *Planilla para la Declaración Federal ANUAL del Patrono de la Contribución Federal para el Desempleo (FUTA)*
- Form 941, *Employer's QUARTERLY Federal Tax Return*
- Form 941-PR, *Planilla para la Declaración Federal TRIMESTRAL del Patrono*
- Form 941-SS, *Employer's QUARTERLY Federal Tax Return*
- Form 941-M, *Employer's MONTHLY Federal Tax Return*
- Form 943, *Employer's Annual Federal Tax Return for Agricultural Employees*
- Form 943(PR), *Planilla Para la Declaración ANUAL De La Contribución Del Patrono De Empleados Agrícolas*
- Form 944, *Employer's ANNUAL Federal Tax Return*
- Form 944-PR, *Planilla para la Declaración ANUAL de la Contribución Federal del Patrono 944(SP), Declaración Federal ANUAL de Impuestos del Patrono o Empleador*
- Form 944-SS, *Employer's ANNUAL Federal Tax Return*
- Form 945, *Annual Return of Withheld Federal Income Tax*
- Form 1040 (Schedule H), *Household Employment Taxes*
- Form 1040-PR (Anexo H-PR), *Contribuciones sobre el Empleo de Empleados Domesticos*
- Form 2290, *Heavy Highway Vehicle Use Tax Return*
- Form 2290(FR), *Declaration d'Impot sur L'utilisation des Vehicules Lourds sur les Routes*
- Form 2290(SP), *Declaración del Impuesto sobre el Uso de Vehículos Pesados en las Carreteras*
- Form 4720, *Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code*
- Form 5330, *Return of Excise Taxes Related to Employee Benefit Plans*
- Form 8612, *Return of Excise Tax on Undistributed Income of Real Estate Investment Trusts*
- Form 8613, *Return of Excise Tax on Undistributed Income of Regulated Investment Companies*
- Form 8725, *Excise Tax on Greenmail*
- Form 8831, *Excise Taxes on Excess Inclusions of REMIC Residual Interests*
- Form 8849, *Claim for Refund of Excise Taxes*
- Form 8876, *Excise Tax on Structured Settlement Factoring Transactions*

- Form 8924, *Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests*

The tax return preparer shall sign the return in the manner prescribed by the Commissioner in forms, instructions, or other appropriate guidance.

The Treasury Department and IRS intend to issue regulations on or before December 31, 2008, requiring signatures under section 6695(b) for all the above listed forms that are filed after December 31, 2008.

Information on the preparer signature requirement for electronically filed returns will be announced in IRS publications, instructions, and information posted electronically on the *IRS.gov* website.

#### EFFECTIVE DATE

This notice is effective as of January 1, 2008.

#### CONTACT INFORMATION

The principal authors of this notice are Matthew S. Cooper and Michael E. Hara of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, contact Mr. Cooper at (202) 622-4940 or Mr. Hara at (202) 622-4910 (not toll-free calls).

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## Guidance Under the Preparer Penalty Provisions of the Small Business and Work Opportunity Tax Act of 2007

### Notice 2008-13

This notice provides guidance regarding implementation of the tax return preparer penalty provisions under section 6694 and the related definitional provisions under section 7701(a)(36) of the Internal Revenue Code (Code), as amended by the Small Business and Work Opportunity Tax Act of 2007 (the Act), Pub. L. No. 110-28, 121 Stat. 190.

In 2008, the Treasury Department and the IRS intend to revise the regulatory scheme governing tax return preparer penalties, which has remained substantially unchanged since the late 1970's. Until then, this notice provides interim

guidance on the application of the tax return preparer penalties as amended by the Act. This notice also solicits public comments regarding the revision of the regulatory scheme governing tax return preparer penalties in order to enable the Treasury Department and the IRS to complete their work on the overhaul of these rules by the end of 2008.

#### BACKGROUND

Section 8246 of the Act amended several provisions of the Code to extend the application of the income tax return preparer penalties to all tax return preparers, alter the standards of conduct that must be met to avoid imposition of the section 6694(a) penalty for preparing a return which reflects an understatement of liability, and increase applicable penalties under section 6694(a) and (b). The amendments made by the Act to section 6694 are effective for tax returns and claims for refund prepared after May 25, 2007. The Treasury Department and the IRS issued Notice 2007-54, 2007-27 I.R.B. 12, on June 11, 2007, which provided transitional relief under section 6694(a). Concurrent with the issuance of this notice, the Treasury Department and the IRS are issuing additional guidance clarifying Notice 2007-54. See Notice 2008-11.

Prior to amendment by the Act, section 7701(a)(36) defined *income tax return preparer* as any person who prepared for compensation an income tax return or claim for refund, or a substantial portion of an income tax return or claim for refund. As amended by the Act, section 7701(a)(36) now defines *tax return preparer* as any person that prepares for compensation a tax return or claim for refund, or a substantial portion of a tax return or claim for refund, and is no longer limited to persons who prepare income tax returns.

Section 301.7701-15 of the current Procedure and Administration Regulations defines the term *income tax return preparer* to include any person who prepares for compensation all or a substantial portion of a tax return or claim for refund under Subtitle A of the Code. Operation of the current regulations brings into the preparer penalty regime a wide range of activities performed by persons who do not sign the tax return or claim for refund, who may have no knowledge of how their

work is ultimately reported on the tax return or claim for refund, or who may have no knowledge of the size or complexity of the schedule, entry, or other portion of a tax return or claim for refund relative to the entire tax return. For example, current regulations broadly define the term *substantial portion* using a facts and circumstances test that compares the relative length, complexity, and tax liability of a particular schedule, entry, or other portion of a tax return or claim for refund to the length, complexity, and tax liability of the tax return or claim for refund as a whole. Case law, including *Goulding v. United States*, 717 F. Supp. 545 (N.D. Ill. 1989), *aff'd*, 957 F.2d 1420 (7th Cir. 1992), supports the current regulations which deem the preparer of a Schedule K-1 for a partnership to be the preparer of a partner's income tax return on which the partnership items were reported, if the Schedule K-1 constitutes a substantial portion of the partner's tax return.

The Act also amended section 6694(a) by raising the standards of conduct for tax return preparers. For *undisclosed positions*, the Act replaced the realistic possibility standard with a requirement that there be a reasonable belief that the tax treatment of the position would more likely than not be sustained on its merits. For *disclosed positions*, the Act replaced the nonfrivolous standard with the requirement that there be a reasonable basis for the tax treatment of the position.

The amendments made by the Act did not modify the exception to liability under section 6694 that is applicable when it is shown, considering all the facts and circumstances, that the tax return preparer has acted in good faith and there is reasonable cause for the understatement.

As part of the regulatory rulemaking process, the Treasury Department and the IRS will determine the appropriate modifications to the existing regulatory framework, given the complexities and anomalies created by the inter-relationship of the amendments to section 6694 applicable to tax return preparers and the various accuracy-related penalty provisions applicable to taxpayers, as well as the inter-relationship of the amendments to section 6694 and the regulations governing the practice before the IRS in Circular 230 (31 CFR part 10). In advance of publication of regulations in 2008, this notice provides in-



terim guidance to tax return preparers regarding the definitions and standards of conduct that must be met by a tax return preparer to avoid a penalty under section 6694(a). Tax return preparers may rely on the interim guidance in this notice until further guidance is issued. It is important to note that the regulations expected to be finalized in 2008 may be substantially different from the rules described in this notice, and in some cases more stringent.

Section 7805(a) provides the Treasury Department and the IRS with authority to issue regulations and other published guidance interpreting the Code, including sections 6694 and 7701(a)(36). Consistent with the legislative history of section 6694, the Treasury Department and the IRS promulgated regulations dating back to 1977 that interpreted the statutory term *disclosed* in section 6694(a)(3), as applied to *nonsigning preparers*, to include making statements, either orally or in writing. See Treas. Reg. § 1.6694-2(c)(3)(ii)(A) and (B). Section 6694(a)(3) provides the Treasury Department and the IRS with authority to grant relief from penalty liability if a tax return preparer has acted in good faith and there is reasonable cause for any understatement of tax that may result from a position taken on a return. In addition, in the past, reasonable cause relief (such as in section 6694(a)) has been provided to implement appropriate transitional rules for a new or revised statutory provision.

This interim guidance discusses the following issues: (1) relevant categories of tax returns or claims for refund for purposes of section 6694; (2) the definition of *tax return preparer* under sections 6694 and 7701(a)(36); (3) standards of conduct applicable to tax return preparers for disclosed and undisclosed positions taken on tax returns; and (4) interim penalty compliance obligations applicable to tax return preparers. It is the IRS's intent to administer these provisions in a fair and equitable manner that will promote compliance with the requirements of the Code and effective tax administration.

#### *INTERIM GUIDANCE UNDER SECTION 6694*

Except to the extent modified by the interim guidance in this notice, and until further guidance is issued, existing regu-

lations and guidance under sections 6694 and 7701(a)(36) will remain in effect.

#### *A. Returns and Claims for Refund Subject to the Section 6694 Penalty*

Interim guidance discussed below describes categories of returns to which section 6694 could apply and includes associated exhibits to this notice. The Treasury Department and the IRS may choose to add or remove documents from any of the categories or exhibits to this notice in future guidance as they gain experience in implementing the provisions of the Act and receive public comments.

##### *1. Tax Returns Reporting Tax Liability*

Until further guidance is issued, solely for purposes of section 6694, a *return* or *claim for refund* includes the tax returns listed on Exhibit 1 or a claim for refund with respect to any such return. A claim for refund of tax includes a claim for credit against any tax. A person who for compensation prepares all or a substantial portion of a tax return listed on Exhibit 1, or a claim for refund with respect to any such tax return, is a tax return preparer who is subject to section 6694.

##### *2. Information Returns and Other Documents*

Under current regulations, a person who for compensation prepares information returns or other documents that include information that is or may be reported on a taxpayer's tax return is subject to section 6694 if the information reported on the information return or other document constitutes a *substantial portion* of the taxpayer's tax return, notwithstanding the fact that the information return or other document may not be reporting the liability of the taxpayer. The current regulatory definitions of *substantial portion* and *substantial preparation* require a facts and circumstances analysis of each document prepared and a comparison of the items included on that document with the tax return that actually reports a tax liability. Section 301.7701-15(b). Thus, for example, under current regulations, the preparer of a Form 1065, *U.S. Return of Partnership Income*, may be deemed to be the preparer of any of the partners' individual income tax return (e.g., Form 1040, *U.S. Individual Income Tax Return*), if the items on the partnership return constitute a

substantial portion of that partner's income tax return. Section 301.7701-15(b)(3).

##### *(a) Information Returns Constituting a Substantial Portion of a Taxpayer's Tax Return*

Until further guidance is issued, solely for purposes of section 6694, an information return listed on Exhibit 2 that includes information that is or may be reported on a taxpayer's tax return or claim for refund is a return to which section 6694 could apply if the information reported constitutes a *substantial portion* of that taxpayer's tax return or claim for refund. A person who for compensation prepares any of the forms listed on Exhibit 2, which form does not report a tax liability but affects an entry or entries on a tax return and constitutes a substantial portion of the tax return or claim for refund that does report a tax liability, is a tax return preparer who is subject to section 6694.

##### *(b) Other Documents Constituting a Substantial Portion of a Taxpayer's Tax Return*

Until further guidance is issued, solely for purposes of section 6694, a document that includes information that is or may be reported on a taxpayer's tax return or claim for refund is treated as a return to which section 6694 could apply if the information reported constitutes a *substantial portion* of that taxpayer's tax return or claim for refund. For example, a person who for compensation prepares documents, such as depreciation schedules or cost, expense or income allocation studies, that do not report a tax liability but which will affect an entry or entries on a tax return that does report a tax liability, and that constitute a substantial portion of such tax return, is a tax return preparer who is subject to section 6694.

##### *(c) Other Documents Not Constituting a Substantial Portion of a Taxpayer's Tax Return Unless Prepared Willfully to Understate Tax or in Reckless or Intentional Disregard of the Rules or Regulations*

Until further guidance is issued, solely for purposes of section 6694, a document listed on Exhibit 3 that includes information that is or may be reported on a taxpayer's tax return or claim for refund (and that constitutes a substantial portion of such tax return or claim for refund) will not subject the preparer to a penalty under section 6694(a). A document listed on Exhibit 3, however, may subject the preparer

to a willful or reckless conduct penalty under section 6694(b) if the information reported on the document constitutes a substantial portion of the tax return or claim for refund and is prepared willfully in any manner to understate the liability of tax on a tax return or claim for refund, or in reckless or intentional disregard of rules or regulations. For example, preparation of a Form W-2, *Wage and Tax Statement*, reporting certain executive compensation may constitute preparation of a substantial portion of the Form 1040 return on which the compensation is reported if it is prepared willfully in a manner to understate the liability of tax. A person who for compensation prepares all or a substantial portion of any of the forms or other documents listed on Exhibit 3 is not a tax return preparer subject to section 6694(a) unless the form or document was prepared willfully in any manner to understate the liability of tax on a tax return or claim for refund or in reckless or intentional disregard of rules or regulations.

#### B. Definition of Tax Return Preparer

Until further guidance is issued, solely for purposes of section 6694, the term *tax return preparer* in section 7701(a)(36) is defined by using the definitions in §§ 1.6694-1, 1.6694-3 and 301.7701-15, with the following modifications:

1. Eliminating the word *income* as a modifier to *tax return preparer* throughout §§ 1.6694-1, 1.6694-3, and 301.7701-15. This modification conforms the current regulations to amendments made by the Act.
2. Expanding the definition of returns and claims for refund from *returns of tax under subtitle A, claims for refund under subtitle A*, or similar language, to include returns of tax and claims for refund under subtitles A through E of the Code throughout §§ 1.6694-1, 1.6694-3, and 301.7701-15. This modification conforms the current regulations to amendments made by the Act.
3. Interpreting the term *substantial portion* in § 301.7701-15(b)(1) to mean a schedule, entry, or other portion of a tax return or claim for refund that, if adjusted or disallowed, could result in a deficiency determination (or disallowance of a claim for refund) that the

preparer knows or reasonably should know is a significant portion of the tax liability reported on the tax return (or, in the case of a claim for refund, a significant portion of the tax originally reported or previously adjusted). This clarifies that any determination as to whether a person has prepared a substantial portion of a tax return and thus is considered a tax return preparer will depend on the relative size of the deficiency attributable to the schedule, entry, or other portion.

For examples illustrating the provisions of this section B, see section H below.

#### C. Date Return is Prepared

Until further guidance is issued, solely for purposes of section 6694, a return or claim for refund is deemed prepared on the date reflected by the tax return preparer's signature. If a signing preparer fails to sign the tax return, the tax return is deemed prepared on the date the tax return is filed. In the case of a nonsigning preparer, the relevant date is the date the person provides the advice, which date will be determined based on all the facts and circumstances. For purposes of this interim guidance, the rules described in this section will apply instead of § 1.6694-2(b)(5).

#### D. Reasonable Belief that the Tax Treatment of the Position Would More Likely Than Not Be Sustained on the Merits

Until further guidance is issued, solely for purposes of section 6694, a tax return preparer is considered to reasonably believe that the tax treatment of an item is more likely than not the proper tax treatment (without taking into account the possibility that the tax return will not be audited, that an issue will not be raised on audit, or that an issue will be settled) if the tax return preparer analyzes the pertinent facts and authorities in the manner described in § 1.6662-4(d)(3)(ii) and, in reliance upon that analysis, reasonably concludes in good faith that there is a greater than fifty percent likelihood that the tax treatment of the item will be upheld if challenged by the IRS. For purposes of interim guidance, the standard described in this section will apply instead of § 1.6694-2(b).

For purposes of determining whether the tax return preparer has a reasonable belief that the position would more likely than not be sustained on the merits, a tax return preparer may rely in good faith without verification upon information furnished by the taxpayer, as provided in § 1.6694-1(e). In addition, a tax return preparer may rely in good faith and without verification upon information furnished by another advisor, tax return preparer or other third party. Thus, a tax return preparer is not required to independently verify or review the items reported on tax returns, schedules or other third party documents to determine if the items meet the standard requiring a reasonable belief that the position would more likely than not be sustained on the merits. The tax return preparer, however, may not ignore the implications of information furnished to the tax return preparer or actually known to the tax return preparer. The tax return preparer also must make reasonable inquiries if the information furnished by another tax return preparer or a third party appears to be incorrect or incomplete.

For examples illustrating the provisions of this section D, see section H below.

#### E. Reasonable Basis

Until further guidance is issued, solely for purposes of section 6694, reasonable basis will be interpreted in accordance with § 1.6662-3(b)(3). For purposes of this interim guidance, the standards described in this section will apply instead of § 1.6694-2(c). The *reasonable basis* standard will also apply for purposes of § 1.6694-3(c)(2).

For purposes of determining whether the tax return preparer has a reasonable basis for a position, a tax return preparer may rely in good faith without verification upon information furnished by the taxpayer, as provided in § 1.6694-1(e). In addition, a tax return preparer may rely in good faith and without verification upon information furnished by another tax return preparer or other third party. Thus, a tax return preparer is not required to independently verify or review the items reported on tax returns, schedules or other third party documents to determine if the items meet the standard requiring a reasonable basis for a position. The tax return preparer, however, may not ignore the implications of in-

formation furnished to the tax return preparer or actually known to the tax return preparer. The tax return preparer also must make reasonable inquiries if the information furnished by another tax return preparer or a third party appears to be incorrect or incomplete.

For examples illustrating the provisions of this section E, see section H below.

#### F. Reasonable Cause and Good Faith

Until further guidance is issued, solely for purposes of section 6694, the IRS will continue to consider the factors described in §§ 1.6694-2(d)(1) to -2(d)(4), but the factor regarding reliance on advice found in § 1.6694-2(d)(5) is replaced by the rules described in this section F. For purposes of this interim guidance, a tax return preparer will be found to have acted in good faith when the tax return preparer relied on the advice of a third party who is not in the same firm as the tax return preparer and who the tax return preparer had reason to believe was competent to render the advice. The advice may be written or oral, but in either case the burden of establishing that the advice was received is on the tax return preparer. A tax return preparer is not considered to have relied in good faith if—

(i) The advice is unreasonable on its face;

(ii) The tax return preparer knew or should have known that the third party advisor was not aware of all relevant facts; or

(iii) The tax return preparer knew or should have known (given the nature of the tax return preparer's practice), at the time the tax return or claim for refund was prepared, that the advice was no longer reliable due to developments in the law since the time the advice was given.

For examples illustrating the provisions of this section F, see section H below.

#### G. Interim Penalty Compliance Rules

Until further guidance is issued, solely for purposes of section 6694, a *signing tax return preparer* shall be deemed to meet the requirements of section 6694 with respect to a position for which there is a reasonable basis but for which the tax return preparer does not have a reasonable belief that the position would more likely than not be sustained on the merits, if the tax

return preparer meets any of the following requirements:

1. The position is disclosed in accordance with § 1.6662-4(f) (which permits disclosure on a properly completed and filed Form 8275, *Disclosure Statement*, or Form 8275-R, *Regulation Disclosure Statement*, as appropriate, or on the tax return in accordance with the annual revenue procedure described in § 1.6662-4(f)(2));
2. If the position would not meet the standard for the taxpayer to avoid a penalty under section 6662(d)(2)(B) without disclosure, the tax return preparer provides the taxpayer with the prepared tax return that includes the disclosure in accordance with § 1.6662-4(f);
3. If the position would otherwise meet the requirement for nondisclosure under section 6662(d)(2)(B)(i), the tax return preparer advises the taxpayer of the difference between the penalty standards applicable to the taxpayer under section 6662 and the penalty standards applicable to the tax return preparer under section 6694, and contemporaneously documents in the tax return preparer's files that this advice was provided; or
4. If section 6662(d)(2)(B) does not apply because the position may be described in section 6662(d)(2)(C), the tax return preparer advises the taxpayer of the penalty standards applicable to the taxpayer under section 6662(d)(2)(C) and the difference, if any, between these standards and the standards under section 6694, and contemporaneously documents in the tax return preparer's files that this advice was provided.

For purposes of this interim guidance, the rules applicable to signing tax return preparers described in this section will apply instead of § 1.6694-2(c)(3)(i).

Until further guidance is issued, solely for purposes of section 6694, a *nonsigning tax return preparer* shall be deemed to meet the requirements of section 6694 with respect to a position for which there is a reasonable basis but for which the nonsigning tax return preparer does not have a reasonable belief that the position would more likely than not be sustained on the merits, if the advice to the taxpayer in-

cludes a statement informing the taxpayer of any opportunity to avoid penalties under section 6662 that could apply to the position as a result of disclosure, if relevant, and of the requirements for disclosure. If a nonsigning tax return preparer provides advice to another tax return preparer, a nonsigning tax return preparer shall be deemed to meet the requirements of section 6694 with respect to a position for which there is a reasonable basis but for which the nonsigning tax return preparer does not have a reasonable belief that the position would more likely than not be sustained on the merits, if the advice to the tax return preparer includes a statement that disclosure under section 6694(a) may be required. If the advice with respect to a position is in writing, the statement must be in writing. If the advice with respect to a position is oral, the statement also may be oral. Contemporaneously prepared documentation in the nonsigning tax return preparer's files is sufficient to establish that the statement was given to the taxpayer or other tax return preparer. For purposes of this interim guidance, the rules applicable to nonsigning tax return preparers described in this section will apply instead of § 1.6694-2(c)(3)(ii).

For examples illustrating the provisions of this section G, see section H below.

#### H. Examples

Examples illustrating the provisions of this notice and existing rules under current regulations:

*Example 1.* Accountant A prepares a Form 8886, *Reportable Transaction Disclosure Statement*, that is used to disclose reportable transactions. Accountant A does not prepare the tax return or advise the taxpayer regarding the tax return reporting position of the transaction to which the Form 8886 relates. The preparation of the Form 8886 is not directly relevant to the determination of the existence, characterization, or the amount of an entry on a tax return or claim for refund. Rather, the Form 8886 is prepared by Accountant A to disclose a reportable transaction. Accountant A has not prepared a substantial portion of the tax return and is not considered a tax return preparer under section 6694.

*Example 2.* Accountant B prepares a partnership's Form 1065 (including Schedules K-1) allocating the partnership's losses among its partners in proportion to their original investment. Accountant B is not an employee of either the partnership or the general partner. Accountant B knows that the loss deduction calculated by Accountant B and claimed by one of the partners on that partner's tax return, if disallowed, is the most significant portion of the liability on that partner's tax return. Accountant B has pre-

pared a substantial portion of that partner's tax return and is considered a tax return preparer under section 6694.

*Example 3.* Attorney C, an attorney in a law firm, advises a large corporate taxpayer on specific issues of law regarding the tax consequences of a proposed corporate transaction. Based upon this advice, the corporate taxpayer enters into the transaction. Once the transaction is completed, the corporate taxpayer does not receive any additional advice from Attorney C or anyone in Attorney C's firm with respect to the proposed corporate transaction. Six months later, the corporate taxpayer hires Preparer D, who is not associated with the same firm as Attorney C, to prepare its entire tax return. Attorney C has not prepared a substantial portion of the corporation's tax return and is not considered a tax return preparer under section 6694.

*Example 4.* Attorney D, an attorney in a law firm, advises a large corporate taxpayer concerning the proper treatment and amount of a single entry on the corporate taxpayer's tax return. The tax liability involved in this entry is an insignificant portion of the tax liability for the corporate tax return as a whole. Neither Attorney D nor any other attorney associated with Attorney D's firm signs the corporate taxpayer's tax return as a tax return preparer. Attorney D has not prepared a substantial portion of the corporation's tax return and is not considered a tax return preparer under section 6694.

*Example 5.* Attorney E specializes in tax planning at a law firm and develops Strategy Y, a plan with a significant purpose of tax avoidance. Attorney E provides advice with respect to Strategy Y to 50 taxpayers. The 50 taxpayers implement Strategy Y in a manner that significantly reduces the Federal tax liability that would otherwise be reported on their tax returns. After Strategy Y is entered into, Attorney E advises each of the 50 taxpayers on the reporting of specific amounts that Attorney E knows will be placed on the tax return of each of the 50 taxpayers. Attorney E knows that the tax liability involved in this entry, if disallowed, is a significant portion of the tax liability for each of the tax returns. Neither Attorney E nor any other person associated with Attorney E's firm signs the taxpayers' tax returns as a tax return preparer. The advice relating to Strategy Y constitutes preparation of a substantial portion of each of the 50 taxpayers' tax returns. Thus, Attorney E is a tax return preparer under section 6694.

*Example 6.* During an interview conducted by Preparer F, the taxpayer provided a schedule prepared by another advisor in Preparer F's firm for use in preparing the taxpayer's tax return. The schedule did not appear to be incorrect or incomplete. On the basis of this information, Preparer F completed the tax return. It is later determined that there is an understatement of liability for tax that resulted from incorrect information on the schedule. Preparer F is not required to audit, examine or review the schedule in order to verify independently that the information on the schedule met the standard requiring a reasonable belief that the position would more likely than not be sustained on the merits. Preparer F is not subject to a penalty under section 6694.

*Example 7.* In preparing a tax return, Accountant G relies on the advice of an actuary concerning the limit on deductibility under section 404(a)(1)(A) of a contribution by an employer to a qualified pension

trust. The actuary providing the advice was not associated with Accountant G's firm. On the basis of this advice, Accountant G completed the tax return. It is later determined that there is an understatement of liability for tax that resulted from incorrect advice provided by the actuary. Accountant G had no reason to believe that the advice was incorrect or incomplete, and the advice appeared reasonable on its face. Accountant G was also not aware of any reason why the actuary did not know all of the relevant facts or that the advice was no longer reliable due to developments in the law since the time the advice was given. Accountant G is not subject to a penalty under section 6694.

*Example 8.* During an interview conducted by Preparer H, a taxpayer stated that he had made a charitable contribution of real estate in the amount of \$50,000 during the tax year, when in fact he had not made this charitable contribution. Preparer H did not inquire about the existence of a qualified appraisal or complete a Form 8283 in accordance with the reporting and substantiation requirements under section 170(f)(11). Preparer H reported deductions on the tax return for the charitable contribution which resulted in an understatement of liability for tax. Preparer H is subject to a penalty under section 6694.

*Example 9.* Preparer I prepared the tax returns of a taxpayer for each of the past three years. While preparing this year's tax return, Preparer I realizes that the taxpayer did not provide a Form 1099 for a bank account that produced significant taxable income in each of the previous three years. When Preparer I asked the taxpayer about any other existing income and the lack of this Form 1099, the taxpayer furnishes the Form 1099 to Preparer I for use in preparation of the tax return. Preparer I did not know that the taxpayer owned an additional bank account this past year that generated taxable income and the taxpayer did not reveal this information to the tax return preparer. Preparer I is not subject to a penalty under section 6694.

*Example 10.* A corporate taxpayer hires Accountant J to prepare its tax return. Accountant J encounters an issue regarding various small asset expenditures. Accountant J researches the issue and concludes that there is a reasonable basis for a particular treatment of the issue. Accountant J cannot, however, reach a reasonable belief whether the position would more likely than not be sustained on the merits because it was impossible to make a precise quantification regarding whether the position would more likely than not be sustained on the merits. The position is not disclosed on the tax return. Accountant J signs the tax return as the tax return preparer. The IRS later disagrees with this position taken on the tax return. Accountant J is not subject to a penalty under section 6694.

*Example 11.* A corporate taxpayer hires Accountant K to prepare its income tax return. Accountant K does not reasonably believe that a particular position taken on the tax return would more likely than not be sustained on its merits although there is substantial authority for the position. Accountant K prepares and signs the tax return without disclosing the position taken on the tax return, but advises the corporate taxpayer of the difference between the penalty standards applicable to the taxpayer under section 6662 and to the tax return preparer under section 6694, and contemporaneously documents in the

tax return preparer's files that this advice was provided. The corporate taxpayer signs and files the tax return without disclosing the position because the position meets the requirements for nondisclosure under section 6662(d)(2)(B)(i). The IRS later disagrees with the position taken on the tax return, resulting in an understatement of liability reported on the tax return. Accountant K is not subject to a penalty under section 6694.

*Example 12.* Attorney L advises a large corporate taxpayer in writing concerning the proper treatment of complex entries on the corporate taxpayer's tax return. Attorney L has reason to know that the tax liability involved in these entries, if disallowed, is a significant portion of the tax liability for the tax return. When providing the advice, Attorney L concludes that one position with respect to these entries does not meet the reasonable belief that the position would more likely than not be sustained on the merits standard and also does not have substantial authority, although the position meets the reasonable basis standard. Attorney L, in good faith, advises the corporate taxpayer in writing that the position lacks substantial authority and the taxpayer will be subject to an accuracy-related penalty under section 6662 unless the position is disclosed in a disclosure statement included in the return. Attorney L also documents the fact that this advice was contemporaneously provided to the corporate taxpayer in writing at the time the advice was provided. The corporate taxpayer decides not to include a disclosure statement in the return. Neither Attorney L nor any other attorney associated with Attorney L's firm signs the corporate taxpayer's return as a tax return preparer, but the advice by Attorney L constitutes preparation of a substantial portion of the tax return. Thus, Attorney L is a tax return preparer for purposes of section 6694. Attorney L, however, will not be subject to a penalty under section 6694.

## REQUESTS FOR COMMENTS

Interested parties are invited to submit comments on this notice by March 24, 2008. Comments should be submitted to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2008-13), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20224. Alternatively, comments may be hand delivered Monday through Friday between the hours of 8:00 a.m. to 4:00 p.m. to: CC:PA:LPD:PR (Notice 2008-13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC. Comments may also be submitted electronically via the following e-mail address: [Notice.Comments@irs.counsel.treas.gov](mailto:Notice.Comments@irs.counsel.treas.gov). Please include *Notice 2008-13* in the subject line of any electronic submissions.

Specifically, this notice requests comments with respect to the definition of a *tax return preparer*. The Treasury Department and the IRS are considering various modifications to the regulations defining

*tax return preparer* for purposes of sections 6694 and 7701(a)(36). These modifications may include limiting the definition or keeping a broader definition in order to clarify the definition of nonsigning tax return preparers in such a manner that nonsigning tax return preparers can more easily identify the circumstances under which they would be subject to section 6694. This may involve the addition of examples or changes to the current *de minimis* safe harbor in § 301.7701-15(b)(2).

This notice also requests comments with respect to providing additional guidance on defining both the *reasonable belief* and *more likely than not* concepts included in section 6694, as amended by the Act. Comments are requested whether the

Treasury Department and the IRS should promulgate rules specifically tailored to common situations when reaching a *more likely than not* level of certainty on a position is not possible or practical as either a legal or factual matter and, specifically, whether disclosure should be necessary to avoid penalties under section 6694(a) and how disclosure should be made in those situations.

#### *EFFECTIVE DATE*

This notice is effective as of: (1) January 1, 2008, for all tax returns, amended tax returns, and claims for refund (other than 2007 employment and excise tax returns) filed on or after that date and with

respect to advice provided on or after that date; and (2) February 1, 2008, for all 2007 employment and excise tax returns filed on or after that date and with respect to advice provided on or after that date.

#### *CONTACT INFORMATION*

The principal authors of this notice are Matthew S. Cooper and Michael E. Hara of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, contact Mr. Cooper at (202) 622-4940 or Mr. Hara at (202) 622-4910 (not toll-free calls).

## EXHIBIT 1 — Tax Returns Reporting Tax Liability

### Income Tax Returns — Subtitle A

Form 926, *Return by a U.S. Transferor of Property to a Foreign Corporation*;  
Form 990-T, *Exempt Organization Business Income Tax Return*;  
Form 1040, *U.S. Individual Income Tax Return*;  
Form 1040A, *U.S. Individual Income Tax Return*;  
Form 1040EZ, *Income Tax Return for Single and Joint Filers With No Dependents*;  
Form 1040EZ-T, *Request for Refund of Federal Telephone Excise Tax*;  
Form 1040X, *Amended U.S. Individual Income Tax Return*;  
Form 1040-PR (Anexo H-PR), *Contribuciones sobre el Empleo de Empleados Domesticos*;  
Form 1041, *U.S. Income Tax Return for Estates and Trusts*;  
Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*;  
Form 1066, *U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return*;  
Form 1120, *U.S. Corporation Income Tax Return*;  
Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*;  
Form 1120-IC DISC, *Interest Charge Domestic International Sales Corporation Return*;  
Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*;  
Form 1120S, *U.S. Income Tax Return for an S Corporation*;  
Form 1120X, *Amended U.S. Corporation Income Tax Return*;  
Form 8831, *Excise Taxes on Excess Inclusions of REMIC Residual Interests*; and  
Form 8924, *Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests* (New Form, Exclusion from Capital Gains).

### Estate and Gift Tax Returns — Subtitle B

Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*;  
Form 706-A, *United States Additional Estate Tax Return*;  
Form 706-D, *United States Additional Estate Tax Return Under Code Section 2057*;  
Form 706-GS(D) *Generation-Skipping Transfer Tax Return for Distributions*;  
Form 706-GS(T) *Generation-Skipping Transfer Tax Return for Terminations*;  
Form 706-NA, *United States Estate (and Generation-Skipping Transfer) Tax Return — Estate of nonresident not a citizen of the United States*;  
Form 706-QDT, *United States Estate Tax Return for Qualified Domestic Trusts*;  
Form 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*; and  
Form 843, *Claim For Refund and Request for Abatement* (also used to claim refunds for employment and certain excise tax returns).

### Employment Tax Returns — Subtitle C

Form CT-1, *Employer's Annual Railroad Retirement Tax Return*;  
Form CT-2, *Employee Representative's Quarterly Railroad Tax Return*;  
Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*;  
Form 940-PR, *Planilla para la Declaración Federal ANUAL del Patrono de la Contribución Federal para el Desempleo (FUTA)*;  
Form 941, *Employer's QUARTERLY Federal Tax Return*;

Form 941–PR, *Planilla para la Declaración Federal TRIMESTRAL del Patrono*;  
Form 941–SS, *Employer’s QUARTERLY Federal Tax Return*;  
Form 941–M, *Employer’s MONTHLY Federal Tax Return*;  
Form 943, *Employer’s Annual Federal Tax Return for Agricultural Employees*;  
Form 943–PR, *Planilla para la Declaración ANUAL de la Contribución Federal del Patrono de Empleados Agrícolas*;  
Form 944, *Employer’s ANNUAL Federal Tax Return*;  
Form 944–PR, *Planilla para la Declaración ANUAL del Patrono*;  
Form 944(SP), *Declaración Federal ANUAL de Impuestos del Patrono o Empleador*;  
Form 944–SS, *Employer’s ANNUAL Federal Tax Return*;  
Form 945, *Annual Return of Withheld Federal Income Tax*;  
Form 1040–SS, *U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico)*.

Miscellaneous Excise Tax Returns — Subtitle D

Form 11–C, *Occupational Tax and Registration Return for Wagering*;  
Form 720, *Quarterly Federal Excise Tax Return*;  
Form 720X, *Amended Quarterly Federal Excise Tax Return*;  
Form 730, *Monthly Tax Return for Wagers*;  
Form 990–PF, *Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation* (with respect to the excise tax based on investment income);  
Form 2290, *Heavy Highway Vehicle Use Tax Return*;  
Form 2290(FR), *Declaration d’Impot sur L’utilisation des Vehicules Lourds sur les Routes*;  
Form 2290(SP), *Declaración del Impuesto sobre el Uso de Vehículos Pesados en las Carreteras*;  
Form 4720, *Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code*;  
Form 5330, *Return of Excise Taxes Related to Employee Benefit Plans*;  
Form 8612, *Return of Excise Tax on Undistributed Income of Real Estate Investment Trusts*;  
Form 8613, *Return of Excise Tax on Undistributed Income of Regulated Investment Companies*; and  
Form 8849, *Claim for Refund of Excise Taxes*.

Alcohol, Tobacco, and Certain Other Excise Taxes — Subtitle E

Form 8725, *Excise Tax on Greenmail*; and  
Form 8876, *Excise Tax on Structured Settlement Factoring Transactions*.

**Exhibit 2 — Information Returns That Report Information That is or May be Reported on Another Tax Return That May Subject a Tax Return Preparer to the Section 6694(a) Penalty if the Information Reported Constitutes a Substantial Portion of the Other Tax Return**

Form 1042–S, *Foreign Person’s U.S. Source Income Subject to Withholding*;  
Form 1065, *U.S. Return of Partnership Income* (including Schedules K–1);  
Form 1120S, *U.S. Income Tax Return for an S Corporation* (including Schedules K–1);  
Form 5500, *Annual Return/Report of Employee Benefit Plan*;  
Form 8038, *Information Return for Tax-Exempt Private Activity Bond Issues*;  
Form 8038–G, *Information Return for Tax-Exempt Governmental Obligations*; and  
Form 8038–GC, *Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales*.

**Exhibit 3 — Forms That Would Not Subject a Tax Return Preparer to the Section 6694(a) Penalty Unless Prepared Willfully in any Manner to Understate the Liability of Tax on a Return or Claim for Refund or in Reckless or Intentional Disregard of Rules or Regulations**

- Form 1099 series of returns;
- Form W-2 series of returns;
- Form W-8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding*;
- Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*.
- Form 990, *Return of Organization Exempt from Income Tax*;
- Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*;
- Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required To File Form 990 or 990-EZ*;
- Form 1040-ES, *Estimated Tax for Individuals*;
- Form 1120-W, *Estimated Tax for Corporations*;
- Form 2350, *Application for Extension of Time to File U.S. Income Tax Return*;
- Form 2350 (SP), *Solicitud de Prorroga para Presentar la Declaracion Del Impuesto Sobre el Ingreso Personal de los Estados Unidos*.
- Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*;
- Form 4768, *Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes*;
- Form 4868, *Application for Automatic Extension of Time to File U.S. Individual Income Tax Return*;
- Form 4868 (SP), *Solicited de Prorroga Automatic para Presentar la Declaracion del Impuesto Sobre el Ingreso Personal de los Estados Unidos*.
- Form 5558, *Application for Extension of Time to File Certain Employee Plan Returns*;
- Form 7004, *Application for Automatic 6-Month Extension of Time To File Certain Business Income Tax, Information, and Other Returns*;
- Form 8109, *Federal Tax Deposit Coupon*;
- Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips*;
- Form 8809, *Application for Extension of Time to File Information Returns*;
- Form 8868, *Application for Extension of Time To File an Exempt Organization Return*;
- Form 8892, *Application for Automatic Extension of Time to File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax*; and
- Form 8919, *Uncollected Social Security and Medicare Tax on Wages*.

26 CFR 601.201: Rulings and determination letters.  
(Also Part 1, Section 846; 1.846-1.)

**Rev. Proc. 2008-10**

**SECTION 1. PURPOSE**

This revenue procedure prescribes the loss payment patterns and discount factors for the 2007 determination year. These factors will be used to compute discounted unpaid losses under § 846 of the Internal Revenue Code.

**SEC. 2. BACKGROUND**

.01 Section 846 provides that discounted unpaid losses must be separately determined for each accident year of each line of business by applying an interest rate determined under § 846(c) and the appropriate loss payment pattern to the amount of unpaid losses as measured at the end of the tax year.

Section 846(d) directs the Secretary to use the most recent aggregate loss payment data of property and casualty insurance companies to determine and publish a loss payment pattern for each line of busi-

ness every five years. This payment pattern is used to discount unpaid losses for the accident year ending with a determination year and for each of the four succeeding accident years.

Section 846(e) allows a taxpayer to make an election in each determination year to use its own historical payment pattern instead of the Secretary's tables. This election does not apply to any international insurance or reinsurance line of business.

Section 846(f)(4) defines the term "line of business" as a category for the reporting of loss payment patterns on the an-



annual statement for fire and casualty companies approved by the National Association of Insurance Commissioners (NAIC), except that the multiple peril lines shall be treated as a single line of business. Section 846(f)(5) states that the term “multiple peril lines” means the lines of business relating to farmowners multiple peril, homeowners multiple peril, commercial multiple peril, ocean marine, aircraft (all perils) and boiler and machinery.

.02 Pursuant to § 846(d), the Secretary has determined a loss payment pattern for each property and casualty line of business for the 2007 determination year that, pursuant to § 846(d)(1), must be applied through the 2011 accident year.

.03 The loss payment patterns for the 2007 determination year are based on the aggregate loss payment information reported on the 2005 annual statements of property and casualty insurance companies and compiled by A.M. Best and Co. The tables are arranged in alphabetical order. Following is an additional explanation of some of the tables and changes to the tables.

(1) *Lines of Business.* The lines of business for the 2007 determination year are the same as the lines of business for the

2002 determination year. *See Rev. Proc. 2003–17, 2003–1 C.B. 427*

(2) *Format of the Tables.* To simplify the tables, the columns entitled Tax Year provide the actual tax years, rather than AY+0, AY+1, and so on.

(3) *Accident Years Not Separately Reported on the NAIC Annual Statement.* Section V of Notice 88–100, 1988–2 C.B. 439, sets forth a composite method for computing discounted unpaid losses for accident years that are not separately reported on the annual statement. The tables separately provide discount factors for taxpayers who elect to use the composite method of section V of Notice 88–100. *See Rev. Proc. 2002–74, 2002–2 C.B. 980.*

(4) *Smoothing Data.* In Rev. Proc. 2003–17, section 2.03(4), comments were requested as to whether a methodology should be adopted to smooth the raw payment data and thus produce a more stable pattern of discount factors. This revenue procedure does not adopt such a methodology with respect to the 2007 determination year.

### SEC. 3. SCOPE

This revenue procedure applies to any taxpayer that is required to discount unpaid losses under § 846 for a line of business using the discount factors published by the Secretary.

### SEC. 4. TABLES OF DISCOUNT FACTORS

.01 The following tables present separately for each line of business the discount factors under § 846 for accident year 2007. All the discount factors presented in this section were determined using the applicable interest rate under § 846(c) for 2007, 3.97 percent, and by assuming all loss payments occur in the middle of the calendar year.

.02 If the groupings of individual lines of business on the annual statement change, taxpayers must discount unpaid losses on the resulting line of business in accordance with the discounting patterns that would have applied to those unpaid losses based on their classification on the 2007 annual statement.

.03 Tables

### Accident and Health (Other Than Disability Income or Credit Disability Insurance)

Taxpayers that do not use the composite method of Notice 88–100 should use 98.0722 percent to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the 2007 and later taxable years.

Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount all unpaid losses in this line of business that are outstanding at the end of the 2007 taxable year.

### Auto Physical Damage

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	89.4096	89.4096	10.5904	10.3687	97.9072
2008	99.6848	10.2752	0.3152	0.3032	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2009 and later years	0.1576	0.1576	0.1546	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2009 taxable year.

### Commercial Auto/Truck Liability/Medical

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	23.6718	23.6718	76.3282	70.3185	92.1265
2008	47.5425	23.8708	52.4575	48.7701	92.9709
2009	66.6847	19.1421	33.3153	31.1879	93.6143
2010	81.5105	14.8258	18.4895	17.3088	93.6143
2011	90.0548	8.5443	9.9452	9.2837	93.3488
2012	94.7311	4.6763	5.2689	4.8841	92.6963
2013	97.0602	2.3292	2.9398	2.7031	91.9480
2014	98.1174	1.0572	1.8826	1.7324	92.0225
2015	98.8692	0.7518	1.1308	1.0346	91.4939
2016	99.1160	0.2467	0.8840	0.8241	93.2174

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2006 accident year and that are outstanding at the end of the tax year shown.

2017	0.2467	0.6373	0.6052	94.9641
2018	0.2467	0.3906	0.3777	96.6929
2019 and later years	0.2467	0.1439	0.1411	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 95.5650 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

### Composite

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	34.7004	34.7004	65.2996	59.3989	90.9638
2008	58.6076	23.9072	41.3924	37.3799	90.3063
2009	71.7608	13.1532	28.2392	25.4522	90.1307
2010	81.4987	9.7379	18.5013	16.5333	89.3631
2011	87.8488	6.3501	12.1512	10.7148	88.1789
2012	91.4226	3.5739	8.5774	7.4961	87.3938
2013	93.4057	1.9831	6.5943	5.7716	87.5245
2014	94.2280	0.8222	5.7720	5.1623	89.4370
2015	95.4875	1.2595	4.5125	4.0830	90.4817
2016	96.3560	0.8685	3.6440	3.3595	92.1928

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2006 accident year and that are outstanding at the end of the tax year shown.

2017	0.8685	2.7754	2.6072	93.9399
2018	0.8685	1.9069	1.8251	95.7124
2019	0.8685	1.0383	1.0120	97.4599
2020 and later years	0.8685	0.1698	0.1665	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 91.0440 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

### Fidelity/Surety

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	25.2328	25.2328	74.7672	71.1687	95.1871
2008	61.1025	35.8698	38.8975	37.4193	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2009 and later years	19.4487	19.4487	19.0738	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2009 taxable year.

### Financial Guaranty/Mortgage Guaranty

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	7.7824	7.7824	92.2175	88.3402	95.7954
2008	62.1390	54.3565	37.8610	36.4222	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2009 and later years	18.9305	18.9305	18.5656	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2009 taxable year.

### International (Composite)

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	34.7004	34.7004	65.2996	59.3989	90.9638
2008	58.6076	23.9072	41.3924	37.3799	90.3063
2009	71.7608	13.1532	28.2392	25.4522	90.1307
2010	81.4987	9.7379	18.5013	16.5333	89.3631
2011	87.8488	6.3501	12.1512	10.7148	88.1789
2012	91.4226	3.5739	8.5774	7.4961	87.3938
2013	93.4057	1.9831	6.5943	5.7716	87.5245
2014	94.2280	0.8222	5.7720	5.1623	89.4370
2015	95.4875	1.2595	4.5125	4.0830	90.4817
2016	96.3560	0.8685	3.6440	3.3595	92.1928

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

**International (Composite)**

2017	0.8685	2.7754	2.6072	93.9399
2018	0.8685	1.9069	1.8251	95.7124
2019	0.8685	1.0383	1.0120	97.4599
2020 and later years	0.8685	0.1698	0.1665	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 91.0440 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Medical Malpractice — Claims-Made**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	4.9425	4.9425	95.0575	85.2278	89.6591
2008	19.9369	14.9944	80.0631	73.3222	91.5804
2009	44.3489	24.4120	55.6511	51.3411	92.2554
2010	64.8374	20.4885	35.1626	32.4882	92.3941
2011	80.2530	15.4156	19.7470	18.0593	91.4535
2012	85.7907	5.5377	14.2093	13.1297	92.4024
2013	91.2722	5.4815	8.7278	8.0618	92.3685
2014	93.3314	2.0593	6.6686	6.2821	94.2043
2015	96.1257	2.7942	3.8743	3.6823	95.0438
2016	97.6538	1.5281	2.3462	2.2704	96.7663

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2017 and later years	1.5281	0.8182	0.8024	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 97.4255 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Medical Malpractice — Occurrence**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	1.5878	1.5878	98.4122	82.4895	83.8204
2008	4.4720	2.8842	95.5280	82.8234	86.7006
2009	17.7738	13.3018	82.2262	72.5482	88.2300
2010	35.8814	18.1076	64.1186	56.9648	88.8429
2011	52.9447	17.0633	47.0553	41.8276	88.8904
2012	68.4348	15.4901	31.5652	27.6936	87.7346
2013	79.5616	11.1268	20.4384	17.4475	85.3663
2014	85.8198	6.2582	14.1802	11.7590	82.9253
2015	90.1267	4.3069	9.8733	7.8342	79.3476
2016	90.3701	0.2434	9.6299	7.8971	82.0057

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

**Medical Malpractice — Occurrence**

2017	0.2434	9.3865	7.9624	84.8282
2018	0.2434	9.1431	8.0304	87.8294
2019	0.2434	8.8998	8.1010	91.0250
2020	0.2434	8.6564	8.1745	94.4327
2021 and later years	0.2434	8.4130	8.2508	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 84.8282 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Miscellaneous Casualty**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	72.9064	72.9064	27.0936	26.2154	96.7589
2008	93.5836	20.6771	6.4164	6.1726	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2009 and later years	3.2082	3.2082	3.1464	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2009 taxable year.

**Multiple Peril Lines  
(Homeowners/Farmowners, Commercial Multiple Peril, and Special Liability  
(Ocean Marine, Aircraft (All Perils), Boiler and Machinery))**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	52.5880	52.5880	47.4120	44.3168	93.4716
2008	80.0449	27.4570	19.9551	18.0795	90.6009
2009	86.1625	6.1175	13.8375	12.5595	90.7636
2010	90.7452	4.5827	9.2548	8.3853	90.6043
2011	93.9006	3.1555	6.0994	5.5007	90.1844
2012	95.7613	1.8607	4.2387	3.8218	90.1647
2013	96.8755	1.1141	3.1245	2.8375	90.8127
2014	97.6715	0.7960	2.3285	2.1385	91.8377
2015	98.0329	0.3615	1.9671	1.8548	94.2925
2016	98.6810	0.6481	1.3190	1.2676	96.1051

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2017	0.6481	0.6709	0.6571	97.9448
2018 and later years	0.6481	0.0228	0.0224	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 97.9855 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Other (Including Credit)**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	67.9528	67.9528	32.0472	30.8449	96.2484
2008	89.4609	21.5081	10.5391	10.1386	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2009 and later years	5.2695	5.2695	5.1680	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2009 taxable year.

**Other Liability — Claims-Made**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	5.8796	5.8796	94.1204	83.4520	88.6652
2008	18.8735	12.9938	81.1265	73.5158	90.6186
2009	41.6840	22.8105	58.3160	53.1755	91.1850
2010	62.5322	20.8483	37.4678	34.0284	90.8206
2011	73.5207	10.9885	26.4793	24.1749	91.2974
2012	82.0036	8.4829	17.9964	16.4850	91.6017
2013	88.6279	6.6244	11.3721	10.3849	91.3196
2014	90.7107	2.0828	9.2893	8.6735	93.3708
2015	94.8439	4.1332	5.1561	4.8034	93.1593
2016	96.2689	1.4249	3.7311	3.5411	94.9069

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2017	1.4249	2.3062	2.2287	96.6413
2018 and later years	1.4249	0.8812	0.8642	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 96.1717 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Other Liability — Occurrence**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	13.6594	13.6594	86.3406	74.7852	86.6165
2008	24.8389	11.1795	75.1611	66.3549	88.2836
2009	41.7792	16.9403	58.2208	51.7160	88.8273
2010	58.4995	16.7203	41.5005	36.7201	88.4811
2011	69.5197	11.0203	30.4803	26.9411	88.3885
2012	77.7513	8.2316	22.2487	19.6172	88.1725
2013	84.2243	6.4730	15.7757	13.7958	87.4497
2014	83.2275	-0.9968	16.7725	15.3599	91.5778
2015	88.8524	5.6249	11.1476	10.2342	91.8064
2016	91.3852	2.5328	8.6148	8.0579	93.5358

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2017	2.5328	6.0820	5.7952	95.2850
2018	2.5328	3.5492	3.4427	96.9998
2019 and later years	2.5328	1.0164	0.9968	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 92.8572 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Private Passenger Auto Liability/Medical**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	42.6108	42.6108	57.3892	54.1196	94.3029
2008	71.5827	28.9719	28.4173	26.7268	94.0513
2009	84.6947	13.1120	15.3053	14.4182	94.2036
2010	92.3556	7.6610	7.6444	7.1790	93.9125
2011	96.2369	3.8812	3.7631	3.5065	93.1803
2012	97.9275	1.6907	2.0725	1.9218	92.7305
2013	98.7719	0.8444	1.2281	1.1371	92.5934
2014	99.2692	0.4973	0.7308	0.6752	92.3927
2015	99.5053	0.2361	0.4947	0.4613	93.2429
2016	99.6440	0.1387	0.3560	0.3382	94.9893

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2017	0.1387	0.2174	0.2102	96.7159
2018 and later years	0.1387	0.0787	0.0772	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 97.0832 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Products Liability — Claims-Made**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	1.0259	1.0259	98.9741	84.0703	84.9417
2008	11.7927	10.7667	88.2073	76.4295	86.6475
2009	29.3642	17.5716	70.6358	61.5467	87.1325
2010	55.1655	25.8012	44.8345	37.6817	84.0462
2011	83.4171	28.2516	16.5829	10.3708	62.5388
2012	64.8933	-18.5238	35.1067	29.6704	84.5149
2013	82.3346	17.4414	17.6654	13.0641	73.9533
2014	86.3986	4.0640	13.6014	9.4389	69.3965
2015	76.3310	-10.0676	23.6690	20.0791	84.8330
2016	78.7910	2.4600	21.2090	18.3679	86.6043

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2017	2.4600	18.7490	16.5888	88.4781
2018	2.4600	16.2890	14.7390	90.4843
2019	2.4600	13.8290	12.8158	92.6732
2020	2.4600	11.3691	10.8163	95.1377
2021 and later years	2.4600	8.9091	8.7373	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 88.4781 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Products Liability — Occurrence**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	5.0466	5.0466	94.9534	80.4479	84.7236
2008	13.6935	8.6469	86.3065	74.8249	86.6967
2009	28.2541	14.5606	71.7459	62.9486	87.7383
2010	41.3083	13.0542	58.6917	52.1369	88.8318
2011	59.3693	18.0610	40.6307	35.7907	88.0878
2012	73.0717	13.7024	26.9283	23.2398	86.3026
2013	74.6612	1.5895	25.3388	22.5417	88.9612
2014	78.9833	4.3221	21.0167	19.0296	90.5449
2015	86.1231	7.1398	13.8769	12.5049	90.1129
2016	88.6931	2.5700	11.3069	10.3808	91.8095

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.



**Products Liability — Occurrence**

2017	2.5700	8.7369	8.1724	93.5389
2018	2.5700	6.1669	5.8763	95.2882
2019	2.5700	3.5969	3.4891	97.0031
2020 and later years	2.5700	1.0269	1.0071	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 92.1824 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Reinsurance — Nonproportional Assumed Liability**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	12.9458	12.9458	87.0542	80.9635	93.0035
2008	60.1796	47.2338	39.8204	36.0155	90.4447
2009	80.8225	20.6429	19.1775	16.3966	85.4991
2010	84.9430	4.1205	15.0570	12.8460	85.3161
2011	85.6680	0.7250	14.3320	12.6167	88.0322
2012	80.0452	-5.6229	19.9548	18.8510	94.4685
2013	86.7013	6.6561	13.2987	12.8124	96.3436
2014	97.2533	10.5520	2.7467	2.5617	93.2640
2015	97.6721	0.4188	2.3279	2.2363	96.0671
2016	98.8078	1.1357	1.1922	1.1671	97.8949

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2017 and later years	1.1357	0.0564	0.0553	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 92.7876 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Reinsurance — Nonproportional Assumed Liability**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	32.5917	32.5917	67.4083	54.7592	81.2352
2008	33.3995	0.8078	66.6005	56.1095	84.2479
2009	35.4948	2.0953	64.5052	56.2006	87.1256
2010	44.0321	8.5373	55.9679	49.7267	88.8485
2011	64.8299	20.7979	35.1701	30.4941	86.7047
2012	66.4358	1.6059	33.5642	30.0673	89.5814
2013	77.8097	11.3738	22.1903	19.6635	88.6130
2014	82.4438	4.6341	17.5562	15.7190	89.5350
2015	84.1944	1.7507	15.8056	14.5579	92.1064
2016	87.9223	3.7279	12.0777	11.3347	93.8485

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

**Reinsurance — Nonproportional Assumed Liability**

2017	3.7279	8.3498	7.9835	95.6137
2018	3.7279	4.6219	4.4993	97.3478
2019 and later years	3.7279	0.8940	0.8768	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 92.6803 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Reinsurance — Nonproportional Assumed Financial Lines**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	8.4783	8.4783	91.5217	82.8118	90.4832
2008	28.0475	19.5693	71.9525	66.1455	91.9295
2009	60.4351	32.3875	39.5649	35.7473	90.3510
2010	82.4448	22.0097	17.5552	14.7241	83.8733
2011	90.2720	7.8271	9.7280	7.3277	75.3251
2012	85.3168	-4.9551	14.6831	12.6710	86.2966
2013	88.3777	3.0608	11.6223	10.0531	86.4983
2014	89.9934	1.6157	10.0066	8.8048	87.9894
2015	81.6664	-8.3269	18.3336	17.6449	96.2439
2016	91.0491	9.3827	8.9509	8.7783	98.0722

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2017 and later years	-	-	-	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 92.7966 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

**Special Property  
(Fire, Allied Lines, Inland Marine, Earthquake, Glass, Burglary and Theft)**

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	44.5756	44.5756	55.4244	53.6032	96.7140
2008	88.4263	41.8507	13.5737	13.0579	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2009 and later years	6.7869	6.7869	6.6560	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2009 taxable year.

## Workers' Compensation

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2007	19.0410	19.0410	80.9590	69.8486	86.2765
2008	40.2442	21.2032	59.7558	51.0015	85.3500
2009	57.1497	16.9055	42.8503	35.7885	83.5198
2010	67.8601	10.7104	32.1399	26.2883	81.7936
2011	75.5399	7.6797	24.4601	19.5013	79.7269
2012	80.1157	4.5758	19.8843	15.6098	78.5028
2013	82.1828	2.0672	17.8172	14.1216	79.2587
2014	84.4045	2.2217	15.5955	12.4169	79.6188
2015	85.5195	1.1150	14.4805	11.7730	81.3024
2016	86.2855	0.7661	13.7145	11.4593	83.5562

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2007 accident year and that are outstanding at the end of the tax year shown.

2017	0.7661	12.9484	11.1331	85.9805
2018	0.7661	12.1823	10.7940	88.6033
2019	0.7661	11.4163	10.4414	91.4603
2020	0.7661	10.6502	10.0748	94.5968
2021 and later years	0.7661	9.8842	9.6936	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 89.5536 percent to discount unpaid losses incurred in this line of business in 2007 and prior years and that are outstanding at the end of the 2017 taxable year.

### DRAFTING INFORMATION

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*26 CFR 601.201: Rulings and determination letters. (Also Part I, Section 832, 846; 1.832–4, 1.846–1.)*

## Rev. Proc. 2008–11

### SECTION 1. PURPOSE

This revenue procedure prescribes the salvage discount factors for 2007. These factors must be used to compute discounted estimated salvage recoverable under § 832 of the Internal Revenue Code.

### SEC. 2. BACKGROUND

Section 832(b)(5)(A) requires that all estimated salvage recoverable (including

that which cannot be treated as an asset for state accounting purposes) be taken into account in computing the deduction for losses incurred. Under § 832(b)(5)(A), paid losses are reduced by salvage and reinsurance recovered during the taxable year. This amount is adjusted to reflect changes in discounted unpaid losses on nonlife insurance contracts and in unpaid losses on life insurance contracts. An adjustment is then made to reflect any changes in discounted estimated salvage recoverable and in reinsurance recoverable.

Pursuant to § 832(b), the amount of estimated salvage is determined on a discounted basis in accordance with procedures established by the Secretary.

### SEC. 3. SCOPE

This revenue procedure applies to any taxpayer that is required to discount estimated salvage recoverable under § 832.

### SEC. 4. APPLICATION

.01 The following tables present separately for each line of business the discount factors under § 832 for 2007. All the discount factors presented in this section were determined using the applicable interest rate under § 846(c) for 2007, which is 3.97 percent, and by assuming all estimated salvage is recovered in the middle of the calendar year.

.02 Section V of Notice 88–100, 1988–2 C.B. 439, sets forth a composite method for computing discounted unpaid losses for accident years that are not separately reported on the annual statement. Rev. Proc. 2002–74, section 3.03, 2002–2 C.B. 980, provides that an insurance company that elects to use the composite method of Notice 88–100 must use the same method to compute discounted estimated salvage recoverable. Accordingly, the tables separately provide discount factors for taxpayers who elect to use the composite method of section V of Notice 88–100.

.02 These tables must be used by taxpayers irrespective of whether they elected to discount unpaid losses using their own experience under § 846(e).

.03 Tables.

**Accident and Health (Other Than Disability Income or Credit Disability Insurance)**

Taxpayers that do not use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable with respect to losses incurred in this line of business in the 2007 accident year as of the end of the 2007 and later taxable years.

Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount all salvage recoverable in this line of business as of the end of the 2007 taxable year.

**Auto Physical Damage**

Tax Year	Discount Factors (%)
2007	97.2919
2008	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2009 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2009 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Commercial Auto/Truck Liability/Medical**

Tax Year	Discount Factors (%)
2007	92.5072
2008	92.4531
2009	92.7905
2010	93.1328
2011	93.8564
2012	93.6497
2013	92.1165
2014	93.0132
2015	96.3177
2016	98.0722

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Composite**

Tax Year	Discount Factors (%)
2007	92.5224
2008	92.2753
2009	92.1017
2010	91.9308
2011	91.3215
2012	90.4149
2013	91.2470
2014	92.5673
2015	94.5527

**Composite**

2016	96.3399
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Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 95.5806 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Fidelity/Surety**

Tax Year	Discount Factors (%)
2007	93.8272
2008	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2009 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2009 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Financial Guaranty/Mortgage Guaranty**

Tax Year	Discount Factors (%)
2007	94.8523
2008	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2009 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2009 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**International (Composite)**

Tax Year	Discount Factors (%)
2007	92.5224
2008	92.2753
2009	92.1017
2010	91.9308
2011	91.3215
2012	90.4149
2013	91.2470
2014	92.5673
2015	94.5527
2016	96.3399

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

**International (Composite)**

2017 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 95.5806 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Medical Malpractice — Claims-Made**

Tax Year	Discount Factors (%)
2007	92.8129
2008	93.8690
2009	92.3083
2010	92.9226
2011	92.2409
2012	87.9349
2013	84.6380
2014	90.4891
2015	96.5200
2016	98.0722

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Medical Malpractice — Occurrence**

Tax Year	Discount Factors (%)
2007	85.8039
2008	90.1315
2009	92.4448
2010	84.5882
2011	94.8975
2012	91.5995
2013	93.1599
2014	95.9622
2015	97.1608
2016	98.0722

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Miscellaneous Casualty**

Tax Year	Discount Factors (%)
2007	96.6559
2008	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

**Miscellaneous Casualty**

2009 and later 98.0722  
years

Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2009 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Multiple Peril Lines (Homeowners/Farmowners, Commercial Multiple Peril, and Special Liability (Ocean Marine, Aircraft (All Perils), Boiler and Machinery))**

Tax Year	Discount Factors (%)
2007	93.1480
2008	92.5520
2009	92.4746
2010	92.4125
2011	91.6181
2012	90.0772
2013	91.2078
2014	93.5843
2015	94.9567
2016	96.6862

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017 and later 98.0722  
years

Taxpayers that use the composite method of Notice 88–100 should use 98.0719 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Other (Including Credit)**

Tax Year	Discount Factors (%)
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2007	95.7364
2008	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2009 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2009 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Other Liability — Claims-Made**

Tax Year	Discount Factors (%)
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2007	88.6489
2008	89.7449
2009	87.8992
2010	91.0630
2011	92.5154
2012	94.3565
2013	93.3084
2014	91.9440
2015	97.4177
2016	98.0722

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

**Other Liability — Claims-Made**

2019 and later 98.0722  
years

Taxpayers that use the composite method of Notice 88–100 should use 96.8697 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Other Liability — Occurrence**

Tax Year	Discount Factors (%)
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2007	87.3760
2008	88.3943
2009	90.6775
2010	91.4222
2011	90.8722
2012	90.9863
2013	90.4663
2014	93.1478
2015	95.8515
2016	97.6241

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017 and later 98.0722  
years

Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Private Passenger Auto Liability/Medical**

Tax Year	Discount Factors (%)
2007	94.6456
2008	94.6698
2009	94.4266
2010	93.5793
2011	93.0072
2012	92.2508
2013	93.1304
2014	94.6575
2015	94.7279
2016	96.4851

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 98.0708 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Products Liability — Claims-Made**

Tax Year	Discount Factors (%)
2007	89.1458
2008	52.2690
2009	54.6584
2010	90.8903
2011	80.5163
2012	91.5977
2013	60.2981
2014	90.6932
2015	91.8054
2016	92.9177

**Products Liability — Claims-Made**

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017	94.6739
2018	96.4396
2019 and later years	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 94.6739 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Products Liability — Occurrence**

Tax Year	Discount Factors (%)
2007	87.8817
2008	89.9255
2009	91.7722
2010	92.5755
2011	93.0145
2012	90.6124
2013	91.2345
2014	94.1309
2015	94.3955
2016	96.2156

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

**Products Liability — Occurrence**

2017 and later years	98.0722
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Taxpayers that use the composite method of Notice 88–100 should use 94.6056 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Reinsurance — Nonproportional Assumed Property**

Tax Year	Discount Factors (%)
2007	91.2766
2008	92.8906
2009	95.7836
2010	80.5177
2011	90.0569
2012	81.8877
2013	52.3517
2014	92.9805
2015	73.8412
2016	88.3425

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017	90.0606
2018	91.8464
2019	93.7215
2020	95.7382
2021 and later years	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 90.0606 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Reinsurance — Nonproportional Assumed Liability**

Tax Year	Discount Factors (%)
2007	87.0242
2008	90.2399
2009	91.6689
2010	88.8580
2011	90.8909
2012	91.7421
2013	91.6386
2014	93.3665
2015	95.2650
2016	96.9798

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017 and later years	98.0722
----------------------	---------

Taxpayers that use the composite method of Notice 88–100 should use 93.1607 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Reinsurance — Nonproportional Assumed Financial Lines**

Tax Year	Discount Factors (%)
2007	87.4122
2008	86.1745
2009	90.1030
2010	78.9216
2011	90.4446
2012	80.6766
2013	90.6123
2014	91.0121
2015	97.5684

**Reinsurance — Nonproportional Assumed Financial Lines**

2016	98.0722
------	---------

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017 and later years	98.0722
----------------------	---------

Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Special Property (Fire, Allied Lines, Inland Marine, Earthquake, Glass, Burglary and Theft)**

Tax Year	Discount Factors (%)
----------	----------------------

2007	94.9917
2008	96.1998

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2009 and later years	98.0722
----------------------	---------

Taxpayers that use the composite method of Notice 88–100 should use 98.0722 percent to discount salvage recoverable as of the end of the 2009 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**Workers' Compensation**

Tax Year	Discount Factors (%)
2007	88.6073
2008	90.6085
2009	91.3932
2010	91.3110
2011	89.8407
2012	88.4546
2013	89.0394
2014	88.7616
2015	90.9000
2016	92.6321

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2007 accident year.

2017	94.4075
2018	96.2249
2019 and later years	98.0722

Taxpayers that use the composite method of Notice 88–100 should use 95.3569 percent to discount salvage recoverable as of the end of the 2017 taxable year with respect to losses incurred in this line of business in 2007 and prior years.

**DRAFTING INFORMATION**

The principal author of this revenue procedure is Katherine A. Hossofsky of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue procedure, contact Ms. Hossofsky at (202) 622–8435 (not a toll-free call).



## Part IV. Items of General Interest

### Election of Alternative Funding Schedule

#### Announcement 2008-2

This announcement sets forth the procedures for electing an alternative funding schedule for certain employers, as described in section 402(a)(2) of the Pension Protection Act of 2006 (PPA), Pub. L. No. 109-280, as amended by section 6615 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. No. 110-28.

Section 402(a) of PPA permits an eligible plan to elect one of two alternative funding schedules to apply in lieu of the generally applicable minimum funding requirements. An eligible plan is a defined benefit plan (other than a multiemployer plan) that is sponsored by an employer that

is a commercial passenger airline or whose principal business is providing catering services to a commercial passenger airline. The two alternative funding schedules are set forth in sections 402(a)(1) and (2) of PPA.

An election that is made under section 402(a)(1) of PPA applies beginning in the first applicable year, which must be a plan year that begins in 2006 or 2007. Announcement 2006-70, 2006-40 I.R.B. 629, provides details for the election procedure for the section 402(a)(1) election. If an eligible employer makes the election under section 402(a)(1), the rules of section 402(e) of PPA apply to determine the minimum funding requirements for applicable plan years that begin on or after January 1, 2008.

An election that is made under section 402(a)(2) of PPA applies beginning for the first plan year beginning in 2008. Any

such election applies to the plan year for which the election is made and subsequent plan years unless revoked with the consent of the Service. If an employer makes the election under section 402(a)(2) of PPA then, (1) the shortfall amortization base is amortized over a period of 10 plan years (rather than 7 years) and (2) for each of those 10 years, the funding target is determined using an interest rate of 8.25% (instead of the segment rates calculated on the basis of the corporate bond yield curve as more fully described in Notice 2007-81, 2007-44 I.R.B. 899). Under section 402(d)(1)(B) of PPA an election made under section 402(a)(2) of PPA must be made not later than December 31, 2007.

The Appendix of this announcement sets forth the information that must be contained in the election and the address to which the election must be sent.

**Appendix**  
**Election of Alternative Funding Schedule under Section 402(a)(2) of the Pension  
Protection Act of 2006**

A. As an officer of the employer maintaining the plan, I hereby elect the alternative funding schedule under section 402(a)(2) of PPA and provide the following information:

1. The employer is:

\_\_\_\_\_ (a) a commercial passenger airline, or

\_\_\_\_\_ (b) an entity whose principal business is providing catering services to a commercial passenger airline.

2. The name and EIN of the employer: \_\_\_\_\_

3. The name and plan number of the plan: \_\_\_\_\_

4. Specify the first plan year for which the alternative funding schedule provisions are to apply: \_\_\_\_\_

Signature of employer \_\_\_\_\_ Date \_\_\_\_\_

The election must be signed by an officer of the employer maintaining the plan. An authorized representative of the employer, a plan administrator, or an enrolled actuary may not sign this election on behalf of the employer.

B. This election must be filed at the following address:

Internal Revenue Service  
Commissioner, Tax Exempt and Government Entities Division  
Attention: SE:T:EP:RA:T  
Alternative Funding Schedule Election  
P.O. Box 27063  
McPherson Station  
Washington, D.C. 20038

# Definition of Terms

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

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

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

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

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

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

*Obsoleted* describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

*Revoked* describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

*Superseded* describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance

of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

*Supplemented* is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

*Suspended* is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

## Abbreviations

*The following abbreviations in current use and formerly used will appear in material published in the Bulletin.*

A—Individual.  
Acq.—Acquiescence.  
B—Individual.  
BE—Beneficiary.  
BK—Bank.  
B.T.A.—Board of Tax Appeals.  
C—Individual.  
C.B.—Cumulative Bulletin.  
CFR—Code of Federal Regulations.  
CI—City.  
COOP—Cooperative.  
Ct.D.—Court Decision.  
CY—County.  
D—Decedent.  
DC—Dummy Corporation.  
DE—Donee.  
Del. Order—Delegation Order.  
DISC—Domestic International Sales Corporation.  
DR—Donor.  
E—Estate.  
EE—Employee.  
E.O.—Executive Order.

ER—Employer.  
ERISA—Employee Retirement Income Security Act.  
EX—Executor.  
F—Fiduciary.  
FC—Foreign Country.  
FICA—Federal Insurance Contributions Act.  
FISC—Foreign International Sales Company.  
FPH—Foreign Personal Holding Company.  
F.R.—Federal Register.  
FUTA—Federal Unemployment Tax Act.  
FX—Foreign corporation.  
G.C.M.—Chief Counsel's Memorandum.  
GE—Grantee.  
GP—General Partner.  
GR—Grantor.  
IC—Insurance Company.  
I.R.B.—Internal Revenue Bulletin.  
LE—Lessee.  
LP—Limited Partner.  
LR—Lessor.  
M—Minor.  
Nonacq.—Nonacquiescence.  
O—Organization.  
P—Parent Corporation.  
PHC—Personal Holding Company.  
PO—Possession of the U.S.  
PR—Partner.

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

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