

HIGHLIGHTS OF THIS ISSUE

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

SPECIAL ANNOUNCEMENT

Announcement 2009-51, page 1105.

This announcement is temporarily suspending the reporting requirement for FBARs due June 30, 2009, for those persons who are not citizens, residents, or domestic entities. All persons may rely on the definition of "United States person" found in the instructions to the prior version of the FBAR (July 2000 version) to determine whether they have a filing obligation. All other requirements of the current version of the FBAR form and instructions (revised October 2008) still apply.

INCOME TAX

Notice 2009-49, page 1093.

This notice provides that, if the Treasury Department (or an entity acting on its behalf) acquires preferred stock, common stock, warrants to purchase common stock or other types of equity of a financial institution or other entity pursuant to the Emergency Economic Stabilization Act of 2008 (EESA), then such acquisition is not a change in control event with respect to which a payment can be made under a nonqualified deferred compensation plan pursuant to section 409A(2)(2)(A)(v) of the Code.

Notice 2009-52, page 1094.

Election of investment tax credit in lieu of production tax credit; coordination with Department of Treasury grants for specified energy property in lieu of tax credits. This notice provides a description of the procedures that taxpayers will be required to follow to make an irrevocable election to take the investment tax credit for energy property under section 48

of the Code in lieu of the production tax credit under section 45.

Notice 2009-53, page 1095.

Nonbusiness energy property credit. This notice provides procedures that manufacturers may follow to certify property as qualified nonbusiness energy property under § 25C of the Code, as well as guidance regarding the conditions under which taxpayers seeking to claim the § 25C credit may rely on a manufacturer's certification. This notice also includes transition rules to provide taxpayers with guidance concerning the interaction of the effective date and timing provisions of the Energy Policy Act, the Energy Improvement and Extension Act, and the American Recovery and Reinvestment Tax Act. Notice 2006-26 superseded.

EMPLOYEE PLANS

Notice 2009-49, page 1093.

This notice provides that, if the Treasury Department (or an entity acting on its behalf) acquires preferred stock, common stock, warrants to purchase common stock or other types of equity of a financial institution or other entity pursuant to the Emergency Economic Stabilization Act of 2008 (EESA), then such acquisition is not a change in control event with respect to which a payment can be made under a nonqualified deferred compensation plan pursuant to section 409A(2)(2)(A)(v) of the Code.

(Continued on the next page)

Announcements of Disbarments and Suspensions begin on page 1107.
Finding Lists begin on page ii.



Notice 2009–56, page 1100.

Weighted average interest rate update; corporate bond indices; 30-year Treasury securities; segment rates.

This notice contains updates for the corporate bond weighted average interest rate for plan years beginning in June 2009; the 24-month average segment rates; the funding transitional segment rates applicable for June 2009; and the minimum present value transitional rates for May 2009.

ESTATE TAX

Announcement 2009–50, page 1105.

This document contains corrections to proposed regulations (REG–119532–08, 2009–20 I.R.B. 1017) that provide guidance on the portion of trust property includable in the grantor's gross estate if the grantor has retained the use of the property, the right to an annuity, unitrust, graduated retained interest, or other payment from such property for life, for any period not ascertainable without reference to the grantor's death, or for a period that does not in fact end before the grantor's death.

ADMINISTRATIVE

Announcement 2009–51, page 1105.

This announcement is temporarily suspending the reporting requirement for FBARs due June 30, 2009, for those persons who are not citizens, residents, or domestic entities. All persons may rely on the definition of "United States person" found in the instructions to the prior version of the FBAR (July 2000 version) to determine whether they have a filing obligation. All other requirements of the current version of the FBAR form and instructions (revised October 2008) still apply.

Announcement 2009–52, page 1106.

This document contains corrections to final and temporary regulations (T.D. 9448, 2009–20 I.R.B. 942) relating to the use of actuarial tables in valuing annuities, interests for life or terms of years and remainder or reversionary interests.

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying

the tax law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are compiled semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations,

court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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

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

Part III. Administrative, Procedural, and Miscellaneous

Guidance Under § 409A(a)(2)(A)(v) on Certain Transactions Pursuant to the Emergency Economic Stabilization Act of 2008

Notice 2009-49

I. PURPOSE

This notice provides guidance with respect to whether a transaction under the Emergency Economic Stabilization Act of 2008, as amended (12 U.S.C. 5021 *et seq.*) (EESA), that involves the acquisition by, or on behalf of, the Treasury Department of preferred stock, common stock, warrants to purchase common stock, or other types of equity of a financial institution or other entity, is an event with respect to which a payment can be made under a nonqualified deferred compensation plan pursuant to § 409A(a)(2)(A)(v) of the Internal Revenue Code (Code) and § 1.409A-3(a)(5) of the Income Tax Regulations (a permissible § 409A payment event). This notice clarifies that, for purposes of § 1.409A-3(a)(5), such a transaction is not a change in ownership or effective control, or a change in the ownership of a substantial portion of the assets of the corporation and, accordingly, is not a permissible § 409A payment event. The Treasury Department and the IRS intend to amend the regulations under § 409A to incorporate the guidance set out in this notice. The guidance in this notice is effective for, and the amended regulations will be applicable to, transactions occurring on or after June 4, 2009.

II. BACKGROUND

A. Section 409A and Permissible Change in Control Event Distributions

Section 409A prescribes certain requirements applicable to nonqualified deferred compensation plans. If a plan does not meet those requirements, participants in the plan are required to include immediately compensation otherwise deferred under the plan in income and pay taxes on such income. As provided by § 409A(a)(1)(A)(i), a nonqualified deferred compensation plan must comply

with the requirements of § 409A(a) both in form and in operation.

Section 409A(a)(2)(A) provides that compensation deferred under a nonqualified deferred compensation plan may not be distributed earlier than one of six specified events or times that include, in the case of a plan maintained by a corporation, to the extent provided by the Secretary of the Treasury (Secretary), a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation. Section 409A(e)(2) provides that the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 409A, including regulations relating to changes in ownership and control of a corporation for purposes of section 409A(a)(2)(A)(v).

The Treasury Department and the IRS issued final regulations under § 409A in April 2007 (T.D. 9321, 2007-1 C.B. 1123 [72 Fed. Reg. 19234] (April 17, 2007)). The final regulations apply to taxable years beginning on or after January 1, 2009. Section 1.409A-3(a) provides that the requirements of § 409A(a)(2)(A) are met only if the plan provides that an amount of deferred compensation under the plan may be paid only upon one of the six payment triggers set forth in § 1.409A-3(a). These permissible payment triggers include, under § 1.409A-3(a)(5), a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation (in accordance with § 1.409A-3(i)(5)). Section 1.409A-3(i)(5) provides a definition of a change in the ownership or effective control of a corporation, or a change in the ownership of a substantial portion of the assets of the corporation (collectively referred to in this notice as a change in control event).

B. The Emergency Economic Stabilization Act of 2008

The Treasury Department established the Troubled Asset Relief Program (TARP) under EESA, which was enacted on October 3, 2008. EESA provided immediate authority and facilities that the Secretary could use to restore liquidity and

stability to the financial system. Section 101(a) of EESA authorizes the Secretary to establish the TARP to “purchase, and to make and fund commitments to purchase, troubled assets from any financial institution, on such terms and conditions as are determined by the Secretary, and in accordance with this Act and the policies and procedures developed and published by the Secretary.”

As part of its effort to restore liquidity and stability to the financial system, the Treasury Department has developed several programs and may develop additional programs. Under these programs, the Treasury Department has participated, and may participate in the future, in numerous transactions with financial institutions and other entities that involve the acquisition by, or on behalf of, the Treasury Department of preferred stock, common stock, warrants to purchase common stock, or other types of equity of the financial institution or other entity (collectively referred to as Treasury EESA Equity Acquisition Transactions).

The Treasury Department and the IRS anticipate that most of the financial institutions and other entities involved in Treasury EESA Equity Acquisition Transactions are, and will be, sponsors of nonqualified deferred compensation plans subject to § 409A of the Code. Questions have arisen whether the Federal government’s acquisition of an equity interest in a financial institution or other entity in connection with a Treasury EESA Equity Acquisition Transaction constitutes a change in control event and accordingly a permissible § 409A payment event.

The final regulations under § 409A were promulgated before the enactment of EESA. Therefore, the final regulations do not explicitly provide guidance with respect to whether a Treasury EESA Equity Acquisition Transaction constitutes a change in control event and a permissible § 409A payment event.

The Treasury Department and IRS have determined that a Treasury EESA Equity Acquisition Transaction is not a change in control event under § 409A and the final regulations. Treating a Treasury EESA Equity Acquisition Transaction as a change in control event and, therefore, a

permissible payment event, would be inconsistent with the purposes of EESA and § 409A, and would be contrary to the public interest. For example, payment of non-qualified deferred compensation amounts as a result of a Treasury EESA Equity Acquisition Transaction could reduce the liquidity of the financial institution or other entity, which is directly contrary to the purpose of a Treasury EESA Equity Acquisition Transaction.

III. GUIDANCE

For purposes of § 409A, a Treasury EESA Equity Acquisition Transaction is not a change in control event and, accordingly, is not a permissible § 409A payment event. (This notice does not address whether a Treasury EESA Equity Acquisition Transaction constitutes a change in control event for any other purpose). Accordingly, a nonqualified deferred compensation plan will fail to satisfy the requirements of § 409A(a) if a payment is made on account of a Treasury EESA Equity Acquisition Transaction and will not fail to satisfy the requirements of § 409A(a) merely because the plan fails to make a payment on account of a Treasury EESA Equity Acquisition Transaction. A nonqualified deferred compensation plan will not fail to satisfy the plan document requirements of § 409A(a) and the regulations thereunder merely because the plan fails to explicitly provide that a Treasury EESA Equity Acquisition Transaction will not trigger a payment under the plan, regardless of whether the plan incorporates the definition of a change in control event by reference to the final regulations or sets forth a definition of a change in control event that otherwise meets the requirements of the final regulations. The guidance in this notice is effective June 4, 2009.

IV. ANTICIPATED REGULATIONS

The Treasury Department and the IRS intend to amend the regulations under § 409A(a) to incorporate the guidance set out in this notice. Such amended regulations will be applicable to Treasury EESA Equity Acquisition Transactions entered into on or after June 4, 2009.

V. DRAFTING INFORMATION

The principal author of this notice is Bill Schmidt of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), although other Treasury and IRS officials participated in its development. For further information on the provisions of this notice, contact Bill Schmidt at (202) 927-9639 (not a toll-free number).

Election of Investment Tax Credit in Lieu of Production Tax Credit; Coordination With Department of Treasury Grants for Specified Energy Property in Lieu of Tax Credits

Notice 2009-52

This notice describes the procedures that taxpayers will be required to follow to make the irrevocable election to take the investment tax credit determined under § 48 of the Internal Revenue Code in lieu of the production tax credit under § 45 with respect to certain renewable energy facilities. This election was created by the American Recovery and Reinvestment Tax Act of 2009, Division B of Pub. L. 111-5, 123 Stat 115 (the Act), which was enacted on February 17, 2009. This notice includes information about election procedures and the documentation required to complete the election. The notice also describes the coordination of the tax credits under §§ 45 and 48 with Treasury Department grants for specified energy property under § 1603 of the Act (Section 1603 Grants).

SECTION 1. Background

.01 *In General.* Section 48(a)(5) allows taxpayers to irrevocably elect to take the investment tax credit determined under § 48 in lieu of the production tax credit under § 45 with respect to certain renewable energy facilities. Section 46 provides for the investment tax credit and includes in that credit the energy credit determined under § 48. Except as otherwise provided in § 48(c)(1)(B), (2)(B), and (3)(B), the energy credit for any taxable year is the energy percentage of the basis

of each energy property placed in service during the taxable year. Section 48(a)(1). Section 48(a)(5)(A) provides that qualified property that is part of a qualified investment credit facility shall be treated as energy property for purposes of § 48, and that the energy percentage with respect to such property shall be 30 percent. Section 48(a)(5)(C) provides that taxpayers may elect to treat certain qualified facilities (within the meaning of § 45) as qualified investment credit facilities. Section 48(a)(5)(B) provides that no credit shall be allowed under § 45 for any taxable year with respect to any qualified investment credit facility.

.02 *Qualified Investment Credit Facility.* Section 48(a)(5)(C) provides that the term “qualified investment credit facility” means a qualified facility (within the meaning of § 45)—

- (1) that is described in § 48(a)(5)(C)(i) or (ii);
- (2) for which the taxpayer makes an irrevocable election to have § 48(a)(5) apply; and
- (3) with respect to which no credit has been allowed under § 45.

SECTION 2. Election Procedures

.01 *In General.* An election to treat a qualified facility as a qualified investment credit facility and take the investment tax credit determined under § 48 in lieu of the production tax credit under § 45 will be effective if it is made in the form and manner set forth in this notice. To make the election with respect to a qualified facility, a taxpayer must claim the energy credit with respect to qualified property that is an integral part of the facility on a completed Form 3468 and file such form with the taxpayer’s income tax return for the year in which the property is placed in service. The taxpayer must make a separate election for each qualified facility that is to be treated as a qualified investment credit facility. The taxpayer must also attach a statement to the Form 3468 that includes the following information:

- (1) The name, address, taxpayer identification number, and telephone number of the taxpayer.
- (2) For each qualified investment credit facility:
 - (i) A detailed technical description of the facility, including generating capacity.

(ii) A detailed technical description of the energy property placed in service during the taxable year as an integral part of the facility, including a statement that the property is an integral part of such facility.

(iii) The date that the energy property was placed in service.

(iv) An accounting of the taxpayer's basis in the energy property.

(v) A depreciation schedule reflecting the taxpayer's remaining basis in the energy property after the energy credit is claimed.

(3) A statement that the taxpayer has not and will not claim a Section 1603 Grant for property for which the taxpayer is claiming the energy credit.

(4) A declaration, applicable to the statement and any accompanying documents, signed by the taxpayer, or signed by a person currently authorized to bind the taxpayer in such matters, in the following form:

"Under penalties of perjury, I declare that I have examined this statement, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this statement are true, correct, and complete."

.02 *Effective Date.* The election to take the investment tax credit determined under § 48 in lieu of the production tax credit under § 45 is available for facilities placed in service after December 31, 2008.

.03 *Deadline for Making Election.* The election to take the investment tax credit determined under § 48 in lieu of the production tax credit under § 45 must be made on a timely filed return (including extensions) for the taxable year in which facility that is to be treated a qualified investment credit facility is placed in service.

.04 *Revocation.* Section 48(a)(5)(C) makes the election to treat a facility as a qualified investment credit facility irrevocable.

SECTION 3. Documentation Required

In order to satisfy the recordkeeping requirements of § 6001 and the regulations thereunder, a taxpayer that elects to claim the investment tax credit determined under § 48 in lieu of the production tax credit under § 45 must retain adequate books and records. This requirement specifically includes the statement described in section 2

of this notice, the Form 3468, and all supporting documentation relevant to the election and the taxpayer's credit claim under § 48, so that, for any taxable year, the IRS may verify that the property with respect to which the taxpayer claimed the credit satisfies the applicable requirements of § 48 and this notice.

SECTION 4. Coordination with Department Of Treasury Grants

Section 48(d) governs the interaction between the investment tax credit determined under § 48 and Section 1603 Grants. Generally, § 1603 of the Act requires the Treasury Department to make grants to persons who place in service specified energy property (including certain energy property eligible for the investment tax credit determined under § 48 or the production tax credit under § 45). Section 48(d)(1) provides, in the case of property with respect to which the Treasury makes a Section 1603 Grant, that no credit may be determined under § 48 or § 45 with respect to such property for the taxable year in which such grant is made or any subsequent taxable year.

SECTION 5. Paperwork Reduction Act

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-2145.

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

The collection of information is in section 2 of this notice. This information is required to be collected and retained in order to ensure that energy property meets the requirements for the investment tax credit determined under § 48. This information will be used to determine whether the property for which the energy credit is claimed is energy property that qualifies for the credit.

The collection of information is required to obtain a benefit.

The respondents are taxpayers providing a statement and filing a Form 3468 in order to make the election to claim the investment tax credit determined under § 48

in lieu of the production tax credit under § 45. The estimated total annual reporting burden is 100 hours. The estimated annual burden per respondent varies from 50 to 70 minutes, depending on individual circumstances, with an estimated average burden of 60 minutes to complete the statement required to claim the credit. The estimated number of respondents is 100. The estimated frequency of responses is once.

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

SECTION 6. Drafting Information

The principal author of this notice is Jennifer C. Bernardini of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Jennifer C. Bernardini at (202) 622-3110 (not a toll-free call).

Nonbusiness Energy Property

Notice 2009-53

SECTION 1. PURPOSE

This notice updates interim guidance, pending the issuance of regulations, relating to the credit for nonbusiness energy property under § 25C of the Internal Revenue Code. Specifically, this notice provides procedures that manufacturers may follow to certify property as either eligible building envelope components or qualified energy property, as well as guidance regarding the conditions under which taxpayers seeking to claim the § 25C credit may rely on a manufacturer's certification. Additionally, this notice provides guidance about changes made to the § 25C credit by the Energy Improvement and Extension Act of 2008 (EIEA), Division B of Pub. L. No. 110-343, 122 Stat. 3765 (2008), and the American Recovery and Reinvestment Tax Act of 2009 (ARRTA), Division B of Pub. L. No. 111-5, 123 Stat. 115 (2009). This notice also provides transition rules for certain nonbusiness energy property acquired before June 1, 2009, and for certain nonbusiness energy property

placed in service after December 31, 2008. The Internal Revenue Service (Service) and the Treasury Department expect that the regulations will incorporate the rules set forth in this notice.

SECTION 2. BACKGROUND

.01 *Energy Policy Act of 2005*. Section 1333 of the Energy Policy Act of 2005 (EPACT), Pub. L. No. 109-58, 119 Stat. 594 (2005), added § 25C to the Internal Revenue Code. Section 25C, as added by EPACT, provided a credit for amounts paid or incurred for qualified energy efficiency improvements installed during a taxable year and for residential energy property expenditures paid or incurred by a taxpayer during the taxable year. Section 25C, as added by EPACT and as modified by EIEA and ARRTA, defines qualified energy efficiency improvements as building envelope components that satisfy specified efficiency standards (eligible building envelope components) and the requirements listed in section 2.05(1) of this notice and defines residential energy property expenditures as expenditures for energy property that satisfies specified energy standards (qualified energy property) and the requirements listed in section 2.05(1) of this notice. The credit was available for property placed in service after December 31, 2005, and before January 1, 2008. Notice 2006-26, 2006-1 C.B. 622, as clarified by Notice 2006-53, 2006-1 C.B. 1180, provides guidance on the credit under § 25C for property placed in service after December 31, 2005, and before January 1, 2008.

.02 *EIEA*. Section 302 of EIEA reinstated and modified the § 25C credit for property placed in service during 2009. Neither EPACT nor EIEA provided any credit under § 25C for property placed in service during 2008.

Section 25C, as amended by EIEA, provided a credit against tax for the taxable year in an amount equal to the sum of—

(1) Ten percent of the expenditures paid or incurred by the taxpayer for qualified energy efficiency improvements installed during the taxable year, and

(2) The amount of expenditures for residential energy property.

The maximum amount of credit allowed was \$50 for any advanced main air circulating fan; \$150 for any qualified

natural gas, propane, or oil furnace or hot water boiler; and \$300 for any item of energy-efficient building property. The maximum amount of the credit allowable to a taxpayer under § 25C for all taxable years was \$500 (\$200 in the case of amounts paid or incurred for exterior windows (including storm windows and skylights)).

.03 *EIEA Energy Efficiency Standards*. Section 25C, as amended by EIEA, and Notice 2006-26, as clarified by Notice 2006-53, allowed a credit with respect to the following property:

(1) *Eligible Building Envelope Components*.

(a) An insulation material or system (including any vapor retarder or seal to limit infiltration) that—

(i) Is specifically and primarily designed (within the meaning of section 4.03 of this notice) to reduce heat loss or gain of a dwelling unit when installed in or on the dwelling unit; and

(ii) May be taken into account in determining whether the building thermal envelope requirements established by the International Energy Conservation Code (IECC) are satisfied.

(b) An exterior window, skylight, or door (other than a storm window or storm door) that meets or exceeds the prescriptive criteria established by the IECC for the climate zone in which the window, skylight, or door is installed.

(c) A storm window that, in combination with the exterior window over which it is installed, meets or exceeds the prescriptive criteria established by the IECC for the climate zone in which such storm window is installed.

(d) A storm door that, in combination with a wood door that is assigned a default U factor by the IECC, does not exceed the default U factor requirement assigned to such combination by the IECC.

(e) Any metal roof that—

(i) has appropriate pigmented coatings that are specifically and primarily designed to reduce the heat gain of a dwelling unit when installed on the dwelling unit, and

(ii) meets or exceeds either of the applicable Energy Star program requirements. The applicable Energy Star program requirements for this purpose are those in effect at the time the expenditures for the roof are actually paid or incurred and those

in effect at the time the expenditures are treated as made under § 25D(e)(8). (See § 25C(e)(1), which requires the application of rules similar to those of § 25D(e)(8) (relating to the time at which expenditures are deemed made for purposes of the credit under § 25D)).

(f) Any asphalt roof that—

(i) has appropriate cooling granules that are specifically and primarily designed to reduce the heat gain of a dwelling unit when installed on the dwelling unit, and

(ii) meets or exceeds either of the applicable Energy Star program requirements (within the meaning of section 2.03(1)(e)(ii) of this notice).

(2) *Qualified Energy Property*.

(a) An electric heat pump water heater that yields an energy factor of at least 2.0 in the standard Department of Energy (DOE) test procedure.

(b) An electric heat pump that has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13.

(c) A central air conditioner that achieves the highest efficiency tier that has been established by the Consortium for Energy Efficiency, and is in effect on January 1, 2006.

(d) A natural gas, propane, or oil water heater that has an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.

(e) A stove that uses the burning of biomass fuel to heat a dwelling unit or to heat water for use in such a dwelling unit, and that has a thermal efficiency rating of at least 75 percent as measured using a lower heating value.

(f) A natural gas, propane, or oil furnace or hot water boiler that achieves an annual fuel utilization efficiency rate of not less than 95.

(g) A fan that is used in a natural gas, propane, or oil furnace and has an annual electricity use of no more than two percent of the total annual site energy use of the furnace (as determined in the standard DOE test procedure).

.04 *ARRTA*. Section 1121 of ARRTA modified the credit under § 25C for amounts paid or incurred in taxable years beginning after December 31, 2008, and extended the credit to apply to property

that is placed in service in 2009 and 2010. Section 25C, as amended by ARRTA—

(1) Provides, with respect to property placed in service in 2009 and 2010, a credit against the tax imposed for the taxable year in an amount equal to 30 percent of the sum of—

(a) The amount paid or incurred by the taxpayer during the taxable year for qualified energy efficiency improvements, and

(b) The amount paid or incurred by the taxpayer during the taxable year for residential energy property expenditures;

(2) Limits the cumulative total of credits allowed for taxable years beginning in 2009 and 2010 to \$1,500 per taxpayer (credits allowed in, and unused credit limitations from, prior years are disregarded in applying this limitation); and

(3) Applies new energy efficiency standards for certain types of property (see sections 4.01 and 5.01 of this notice).

.05 *General Provisions.* Under all three of the acts, EPACT, EIEA, and ARRTA, the following provisions apply:

(1) *Requirements to Claim the Credit.* A taxpayer may claim a credit under § 25C with respect to amounts paid or incurred for an item of property only if each of the following requirements is satisfied:

(a) The item is installed in or on a dwelling unit located in the United States and, at the time of installation, the dwelling unit is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of § 121). Thus, the credit is only available for existing homes. See § 45L for the credit applicable to new homes.

(b) The original use of the item commences with the taxpayer.

(c) In the case of a building envelope component described in section 2.03(1) or 4.01 of this notice, the component reasonably can be expected to remain in use for at least five years. For this purpose, a component will be treated as reasonably expected to remain in use for at least five years if the manufacturer offers, at no extra charge, at least a two-year warranty providing for repair or replacement of the component in the event of a defect in materials or workmanship. If the manufacturer does not offer such a warranty, all relevant facts and circumstances are taken into account in determining whether the component reasonably can be expected to remain in use for at least five years.

(2) *Time of Expenditure.* The credit is allowed for amounts paid or incurred by the taxpayer during the taxable year. Section 25C(e)(1) incorporates § 25D(e)(8), relating to the time expenditures are treated as made. Accordingly, except as provided in section 2.03(1)(e) and (f) of this notice, expenditures will be treated as made for purposes of § 25C when the original installation of the property is complete or, in the case of reconstruction, when the original use of the reconstructed property begins.

SECTION 3. REFERENCES TO THE INTERNATIONAL ENERGY CONSERVATION CODE

Manufacturers and taxpayers may treat any reference in this notice to the International Energy Conservation Code (IECC) as a reference to (1) the 2001 Supplement of the 2000 International Energy Conservation Code, (2) the 2004 Supplement of the 2003 International Energy Conservation Code, or (3) the 2009 International Energy Conservation Code (2009 IECC). However, a reference to the 2009 IECC is a reference only to the 2009 International Energy Conservation Code.

SECTION 4. ELIGIBLE BUILDING ENVELOPE COMPONENTS

.01 Under ARRTA, an eligible building envelope component for a taxable year beginning after December 31, 2008, is a component that is placed in service on or before February 17, 2009, and is described in section 2.03(1) of this notice or a component that is placed in service after February 17, 2009, and is described below:

(1) *Insulation Material or System.* An insulation material or system (including any vapor retarder or seal to limit infiltration) that—

(a) Is specifically and primarily designed (within the meaning of section 4.03 of this notice) to reduce heat loss or gain of a dwelling unit when installed in or on the dwelling unit; and

(b) Meets the prescriptive criteria for such material or system established by the 2009 IECC, as such Code (including supplements) was in effect on February 17, 2009.

(2) *Exterior Window, Skylight, or Door.* An exterior window, skylight, or door

(other than a storm window or storm door) that—

(a) Has a U factor and Solar Heat Gain Coefficient (SHGC) of 0.30 or below; and

(b) Meets the prescriptive criteria for such component established by the IECC.

(3) *Storm Window.* A storm window that, in combination with the exterior window over which it is installed—

(a) Has a U factor and SHGC of 0.30 or below; and

(b) Meets the prescriptive criteria for such component established by the IECC.

(4) *Storm Door.* A storm door that, in combination with the exterior door over which it is installed—

(a) Has a U factor and SHGC of 0.30 or below; and

(b) Meets the prescriptive criteria for such component established by the IECC.

(5) *Metal Roof.* Any metal roof described in section 2.03(1)(e) of this notice (ARRTA did not change the efficiency standard for a metal roof).

(6) *Asphalt Roof.* Any asphalt roof described in section 2.03(1)(f) of this notice (ARRTA did not change the efficiency standard for an asphalt roof).

.02 *Installation Costs.* With respect to eligible building envelope components, the credit is allowed only for amounts paid or incurred to purchase the components. The credit is not allowed for amounts paid or incurred for the onsite preparation, assembly, or original installation of the components.

.03 *Specifically and Primarily Designed.* A component is not specifically and primarily designed to reduce heat loss or gain of a dwelling unit if it provides structural support or a finished surface, as in the case of drywall or siding. In addition, a component is not specifically and primarily designed to reduce heat loss or gain of a dwelling unit if its principal purpose is to serve any function unrelated to the reduction of heat loss or gain. For purposes of the preceding sentence, the principal purpose of a component is to serve functions unrelated to the reduction of heat loss or gain if—

(1) Production costs attributable to features other than those that reduce heat loss or gain exceed production costs attributable to features that reduce heat loss or gain; or

(2) The facts and circumstances otherwise establish that the component's prin-

cipal purpose is to serve a function other than the reduction of heat loss or gain.

SECTION 5. QUALIFIED ENERGY PROPERTY

.01 Under ARRTA, qualified energy property for a taxable year beginning after December 31, 2008, is property that is placed in service on or before February 17, 2009, and is described in section 2.03(2) of this notice or property that is placed in service after February 17, 2009, and is described below:

(1) *Electric Heat Pump Water Heater.* An electric heat pump water heater described in section 2.03(2)(a) of this notice (ARRTA did not change the efficiency standard for an electric heat pump water heater).

(2) *Electric Heat Pump.* An electric heat pump that achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2009.

(3) *Central Air Conditioner.* A central air conditioner that achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2009.

(4) *Natural Gas, Propane, or Oil Water Heater.* A natural gas, propane, or oil water heater that has an energy factor of at least 0.82 or a thermal efficiency of at least 90 percent.

(5) *Biomass-Burning Stove.* A biomass-burning stove described in section 2.03(2)(e) of this notice (the retroactive clarifying change ARRTA made to the efficiency standard for a stove that burns biomass is reflected in section 2.03(2)(e)).

(6) *Natural Gas Furnace.* A natural gas furnace described in section 2.03(2)(f) of this notice (ARRTA did not change the efficiency standard for a natural gas furnace).

(7) *Natural Gas Hot Water Boiler.* A natural gas hot water boiler that achieves an annual fuel utilization efficiency rate of not less than 90.

(8) *Propane Furnace.* A propane furnace described in section 2.03(2)(f) of this notice (ARRTA did not change the efficiency standard for a propane furnace).

(9) *Propane Hot Water Boiler.* A propane hot water boiler that achieves an annual fuel utilization efficiency rate of not less than 90.

(10) *Oil Furnace.* An oil furnace that achieves an annual fuel utilization efficiency rate of not less than 90.

(11) *Oil Hot Water Boiler.* An oil hot water boiler that achieves an annual fuel utilization efficiency rate of not less than 90.

(12) *Advanced Main Air Circulating Fan.* A fan described in section 2.03(2)(g) of this notice (ARRTA did not change the efficiency standard for a fan).

.02 *Installation Costs.* For qualified energy property, the credit is allowed only for amounts paid or incurred to purchase qualified energy property and for expenditures for labor costs properly allocable to the on-site preparation, assembly, or original installation of the property.

.03 *Natural Gas, Propane, or Oil Furnace with an Advanced Main Air Circulating Fan.* If a natural gas, propane, or oil furnace is qualified energy property, the entire amount paid or incurred to purchase and install the furnace, including any costs attributable to the furnace's main air circulating fan, are taken into account in determining the amount of the credit under § 25C. If the furnace is not qualified energy property, but the furnace's main air circulating fan is qualified energy property, only the amount paid or incurred to purchase and install the fan are taken into account in determining the amount of the credit under § 25C. In such a case—

(1) The amount paid or incurred to purchase and install the main air circulating fan may be determined by any method that reasonably allocates costs between the fan and other components of the furnace;

(2) The manufacturer of the furnace may determine, using any reasonable method, the percentage of the cost of the furnace that is allocable to the fan and inform taxpayers of the percentage in the certification it provides under section 6 of this notice; and

(3) A taxpayer may treat this percentage of the total amount paid or incurred to purchase and install the furnace as the amount paid or incurred to purchase and install the advanced main air circulating fan.

.04 *Geothermal Heat Pump Property.* The credit under § 25D for geothermal heat pump property expenditures in taxable years beginning after December 31, 2007, is described in Notice 2009-41, 2009-19 I.R.B. 933.

SECTION 6. MANUFACTURER'S CERTIFICATION

.01 *Requirements Applicable to Manufacturer.* The manufacturer of a building envelope component or energy property may certify to a taxpayer that the component is an eligible building envelope component or that the energy property is qualified energy property by providing the taxpayer with a certification statement that satisfies the requirements of sections 6.04, 6.05 and 6.06 of this notice. The certification statement may be provided by including a written copy of the statement with the packaging of the component or property, in printable form on the manufacturer's website, or in any other manner that will permit the taxpayer to retain the certification statement for tax recordkeeping purposes.

.02 *Taxpayer Reliance.* Except as provided in sections 6.03 and 6.08 of this notice, a taxpayer may rely on a manufacturer's certification that a building envelope component is an eligible building envelope component or that energy property is qualified energy property. A taxpayer is not required to attach the certification statement to the return on which the credit is claimed. However, § 1.6001-1(a) of the Income Tax Regulations requires that a taxpayer maintain such books and records as are sufficient to establish the entitlement to, and amount of, any credit claimed by the taxpayer. Accordingly, a taxpayer claiming a credit for an eligible building envelope component or qualified energy property should retain the certification statement as part of the taxpayer's records for purposes of § 1.6001-1(a).

.03 *Reliance Permitted Only for Installation Consistent with Certification.* A taxpayer may rely on a manufacturer's certification in the case of a building envelope component only if the building envelope component is installed in a manner that is consistent with the manufacturer's certification. For example, in the case of a storm window (or door), a taxpayer may rely on the manufacturer's certification only if the component is installed over an exterior window (or door) of a class identified in the certification statement as one which in combination with the storm window (or door) has a U factor and SHGC of 0.30 or below.

.04 *Content of Manufacturer's Certification; Required Information.* A manufac-

turer's certification must contain the following information:

(1) The name and address of the manufacturer.

(2) Identification of the class of eligible building envelope component as listed in section 4.01 of this notice or the class of qualified energy property as listed in section 5.01 of this notice in which the component or property is included.

(3) The make, model number, and any other appropriate identifiers of the component or property.

(4) A statement that the component is an eligible building envelope component as defined in section 4.01 of this notice or the property is qualified energy property as defined in section 5.01 of this notice. In the case of a certification provided after June 1, 2009, this statement may be provided only for components that are eligible building envelope components and property that is qualified energy property under the rules applicable to components and property placed in service after February 17, 2009.

.05 Content of Manufacturer's Certification; Specific Information. A manufacturer's certification statement must contain any of the following statements that are applicable:

(1) In the case of an exterior window, skylight, or door (other than a storm window or storm door), a statement that the exterior window, skylight, or door has a U factor and SHGC of 0.30 or below.

(2) In the case of a storm window, the classes of exterior window (e.g., single pane; double pane, clear glass; double pane, Low-E coating) over which the storm window may be installed and that, in combination with the storm window, will have a U factor and SHGC of 0.30 or below.

(3) In the case of a storm door, the classes of exterior door (e.g., 1-3/4" insulated steel, 50 percent or less glazing, double pane, clear glass) over which the storm door may be installed and that, in combination with the storm door, will have a U factor and SHGC of 0.30 or below.

.06 Content of Manufacturer's Certification; Required Declaration.

A manufacturer's certification statement must contain a declaration, signed by a person currently authorized to bind the manufacturer in these matters, in the following form:

"Under penalties of perjury, I declare that I have examined this certification statement, and to the best of my knowledge and belief, the facts are true, correct, and complete."

.07 Manufacturer's Records. A manufacturer that certifies to a taxpayer that a component is an eligible building envelope component or that property is qualified energy property must retain in its records documentation establishing that the component or property satisfies the applicable conditions of section 4.01 or 5.01 of this notice. In the case of an exterior window, the manufacturer must retain a record of its National Fenestration Rating Council rating. If a manufacturer certifies the percentage of the cost of the furnace allocable to an advanced main air circulating fan, the manufacturer must maintain in its records the basis for such allocation. The manufacturer must, upon request, make such documentation available for inspection by the Service.

.08 Effect of Erroneous Certification or Failure to Satisfy Documentation Requirements. The Service may, upon examination (and after any appropriate consultation with the DOE or Environmental Protection Agency (EPA)), determine that a component that has been certified under this section is not an eligible building envelope component or that property that has been certified under this section is not qualified energy property. In that event, or if the manufacturer of the component or property fails to satisfy the requirements relating to documentation in section 6.07 of this notice, the manufacturer's right to provide a certification on which future purchasers of the component or property can rely will be withdrawn, and taxpayers purchasing the component or property after the date on which the Service publishes an announcement of the withdrawal may not rely on the manufacturer's certification. Taxpayers may continue to rely on the certification for a component or property purchased on or before the date on which the announcement of the withdrawal is published (including in cases in which the component or property is not installed and the credit is not claimed until after the announcement of the withdrawal is published). Manufacturers are reminded that an erroneous certification statement may result in the imposition of penalties—

(1) Under § 7206 for fraud and making false statements; and

(2) Under § 6701 for aiding and abetting an understatement of tax liability (in the amount of \$1,000 per return on which a credit is claimed in reliance on the certification).

.09 Availability of Certification Information. Manufacturers are encouraged to provide a listing of eligible building envelope components and qualified energy property and applicable certification information on their websites to facilitate taxpayer identification of qualified components and energy property.

.10 Special Rule for Energy Star. The Energy Star label designates that the product has met energy efficiency guidelines set by the EPA and the DOE. Not all Energy Star labeled building envelope components qualify for the tax credit under § 25C. The component must meet the definition of an eligible building envelope component in § 25C. Taxpayers can no longer rely on an Energy Star label in claiming the § 25C credit for exterior windows and skylights placed in service after the enactment of the ARRTA. Similarly, an Energy Star label does not establish that a product is qualified energy property. The product must meet the definition of qualified energy property in § 25C.

SECTION 7. EFFECTIVE DATES AND TRANSITION RULES.

.01 For amounts that are paid or incurred in taxable years beginning after December 31, 2008, with respect to property placed in service in calendar years 2009 and 2010, including amounts paid or incurred for property placed in service before February 18, 2009, the credit is computed in accordance with sections 2.04(1) and (2) of this notice.

.02 The efficiency standards listed for EIEA in section 2.03 of this notice apply to property placed in service before February 18, 2009, and the efficiency standards listed for ARRTA in sections 4.01 and 5.01 of this notice apply to property placed in service after February 17, 2009.

.03 In the case of amounts paid or incurred before June 1, 2009, for property placed in service after February 17, 2009, taxpayers may rely on:

(1) An Energy Star label for exterior windows and skylights, rather than on a

manufacturer's certification statement, in claiming the § 25C credit, if the window or skylight is installed in the region identified on the label;

(2) A manufacturer's certification issued before February 18, 2009, that is made in accordance with Notice 2006-26, as clarified by Notice 2006-53; or

(3) A manufacturer's certification made in accordance with the procedures of Notice 2006-26, as clarified by Notice 2006-53, for certifications issued after February 17, 2009, provided that the manufacturer's certification statement clearly indicates that the item complies with the efficiency standards contained in ARRTA.

.04 For amounts that are paid or incurred in taxable years beginning before December 31, 2008, with respect to property placed in service in calendar year 2009, the credit is computed in accordance with section 2.02 of this notice.

SECTION 8. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1989.

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

The collections of information in this notice are in section 6. This information is required to be collected and retained in order to ensure that property meets the requirements for the nonbusiness energy credit under § 25C. This information will be used to determine whether the property for which manufacturers provide certifications is property that qualifies for the credit. The collection of information is required to obtain a benefit from manufacturers' certification statements that property qualifies for the credit. The likely respondents are corporations, partnerships, and individuals.

The estimated total annual reporting burden is 350 hours.

The estimated annual burden per respondent varies from 2 hours to 3 hours,

depending on individual circumstances, with an estimated average burden of 2.5 hours to complete the requests for certification required under this notice. The estimated number of respondents is 140.

The estimated annual frequency of responses is on occasion.

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

SECTION 9. EFFECT ON OTHER DOCUMENTS

This notice supersedes Notice 2006-26, as clarified by Notice 2006-53, which was modified by Notice 2006-71, 2006-2 C.B. 316.

SECTION 10. DRAFTING INFORMATION

The principal author of this notice is Martha S. McRee of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Ms. McRee at (202) 622-3110 (not a toll-free call).

Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates

Notice 2009-56

This notice provides guidance as to the corporate bond weighted average interest rate and the permissible range of interest rates specified under § 412(b)(5)(B)(ii)(II) of the Internal Revenue Code as in effect for plan years beginning before 2008. It also provides guidance on the corporate bond monthly yield curve (and the corresponding spot segment rates), the 24-month average segment rates, and the funding transitional segment rates under § 430(h)(2). In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008, the

30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I), and the minimum present value segment rates under § 417(e)(3)(D) as in effect for plan years beginning after 2007.

CORPORATE BOND WEIGHTED AVERAGE INTEREST RATE

Sections 412(b)(5)(B)(ii) and 412(l)(7)(C)(i), as amended by the Pension Funding Equity Act of 2004 and by the Pension Protection Act of 2006 (PPA), provide that the interest rates used to calculate current liability and to determine the required contribution under § 412(l) for plan years beginning in 2004 through 2007 must be within a permissible range based on the weighted average of the rates of interest on amounts invested conservatively in long term investment grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year.

Notice 2004-34, 2004-1 C.B. 848, provides guidelines for determining the corporate bond weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability. That notice establishes that the corporate bond weighted average is based on the monthly composite corporate bond rate derived from designated corporate bond indices. The methodology for determining the monthly composite corporate bond rate as set forth in Notice 2004-34 continues to apply in determining that rate. See Notice 2006-75, 2006-2 C.B. 366.

The composite corporate bond rate for May 2009 is 6.95 percent. Pursuant to Notice 2004-34, the Service has determined this rate as the average of the monthly yields for the included corporate bond indices for that month.

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

For Plan Years Beginning in		Corporate Bond Weighted Average	Permissible Range	
<i>Month</i>	<i>Year</i>		90%	to 100%
June	2009	6.46	5.81	6.46

YIELD CURVE AND SEGMENT RATES

Generally for plan years beginning after 2007 (except for delayed effective dates for certain plans under sections 104, 105, and 106 of PPA), § 430 of the Code specifies the minimum funding requirements that apply to single employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates

("segment rates"), each of which applies to cash flows during specified periods. However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates. For plan years beginning in 2008 and 2009, a transitional rule under § 430(h)(2)(G) provides that the segment rates are blended with the corporate bond weighted average as specified above. An election may be made under § 430(h)(2)(G)(iv) to use the segment rates without applying the transitional rule.

Notice 2007-81, 2007-44 I.R.B. 899, provides guidelines for determining the

monthly corporate bond yield curve, the 24-month average corporate bond segment rates, and the funding transitional segment rates used to compute the target normal cost and the funding target. Pursuant to Notice 2007-81, the monthly corporate bond yield curve derived from May 2009 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of May 2009 are, respectively, 4.27, 7.00, and 6.77. The three 24-month average corporate bond segment rates applicable for June 2009 under the election of § 430(h)(2)(G)(iv) are as follows:

First Segment	Second Segment	Third Segment
5.28	6.72	6.84

The transitional segment rates under § 430(h)(2)(G) applicable for June 2009, taking into account the corporate bond

weighted average of 6.46 stated above, are as follows:

For Plan Years Beginning in	First Segment	Second Segment	Third Segment
2008	6.07	6.55	6.59
2009	5.67	6.63	6.71

30-YEAR TREASURY SECURITIES INTEREST RATES

Section 417(e)(3)(A)(ii)(II) (prior to amendment by PPA) defines the applicable interest rate, which must be used for purposes of determining the minimum present value of a participant's benefit under § 417(e)(1) and (2), as the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe. Section 1.417(e)-1(d)(3) of the Income Tax Regulations provides that the applicable interest rate for a month is the annual rate of interest on 30-year Treasury securities as specified by the Commissioner

for that month in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin.

The rate of interest on 30-year Treasury securities for May 2009 is 4.23 percent. The Service has determined this rate as the monthly average of the daily determination of yield on the 30-year Treasury bond maturing in February 2039 determined each day through May 6, 2009, and the yield on the 30-year Treasury bond maturing in May 2039 determined each day for the balance of the month.

Generally for plan years beginning after 2007, § 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum

amount for the full-funding limitation described in section 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88-73, 1988-2 C.B. 383, provides guidelines for determining the weighted average interest rate. The following rates were determined for plan years beginning in the month shown below.

For Plan Years Beginning in		30-Year Treasury Weighted Average	Permissible Range	
<i>Month</i>	<i>Year</i>		90%	to 105%
June	2009	4.42	3.98	4.65

**MINIMUM PRESENT VALUE
SEGMENT RATES**

Generally for plan years beginning after December 31, 2007, the applicable interest rates under § 417(e)(3)(D) are segment rates computed without regard to a

24-month average. For plan years beginning in 2008 through 2011, the applicable interest rate is the monthly spot segment rate blended with the applicable rate under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning in 2007. Notice 2007-81 provides guidelines for determin-

ing the minimum present value segment rates. Pursuant to that notice, the minimum present value transitional segment rates determined for May 2009, taking into account the May 2009 30-year Treasury rate of 4.23 stated above, are as follows:

For Plan Years Beginning in	First Segment	Second Segment	Third Segment
2008	4.24	4.78	4.74
2009	4.25	5.34	5.25

DRAFTING INFORMATION

The principal author of this notice is Tony Montanaro of the Employee Plans,

Tax Exempt and Government Entities Division. Mr. Montanaro may be e-mailed at RetirementPlanQuestions@irs.gov.

Table I

Monthly Yield Curve for May 2009*

<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>
0.5	2.66	20.5	7.11	40.5	6.73	60.5	6.61	80.5	6.56
1.0	3.08	21.0	7.09	41.0	6.72	61.0	6.61	81.0	6.55
1.5	3.49	21.5	7.07	41.5	6.72	61.5	6.61	81.5	6.55
2.0	3.87	22.0	7.05	42.0	6.71	62.0	6.61	82.0	6.55
2.5	4.21	22.5	7.03	42.5	6.71	62.5	6.61	82.5	6.55
3.0	4.53	23.0	7.01	43.0	6.71	63.0	6.60	83.0	6.55
3.5	4.83	23.5	7.00	43.5	6.70	63.5	6.60	83.5	6.55
4.0	5.10	24.0	6.98	44.0	6.70	64.0	6.60	84.0	6.55
4.5	5.35	24.5	6.97	44.5	6.70	64.5	6.60	84.5	6.55
5.0	5.59	25.0	6.95	45.0	6.69	65.0	6.60	85.0	6.55
5.5	5.81	25.5	6.94	45.5	6.69	65.5	6.60	85.5	6.55
6.0	6.01	26.0	6.92	46.0	6.69	66.0	6.59	86.0	6.54
6.5	6.19	26.5	6.91	46.5	6.68	66.5	6.59	86.5	6.54
7.0	6.36	27.0	6.90	47.0	6.68	67.0	6.59	87.0	6.54
7.5	6.51	27.5	6.89	47.5	6.68	67.5	6.59	87.5	6.54
8.0	6.65	28.0	6.88	48.0	6.67	68.0	6.59	88.0	6.54
8.5	6.77	28.5	6.87	48.5	6.67	68.5	6.59	88.5	6.54
9.0	6.88	29.0	6.86	49.0	6.67	69.0	6.58	89.0	6.54
9.5	6.97	29.5	6.86	49.5	6.66	69.5	6.58	89.5	6.54
10.0	7.05	30.0	6.85	50.0	6.66	70.0	6.58	90.0	6.54
10.5	7.12	30.5	6.84	50.5	6.66	70.5	6.58	90.5	6.54
11.0	7.18	31.0	6.83	51.0	6.66	71.0	6.58	91.0	6.54
11.5	7.22	31.5	6.83	51.5	6.65	71.5	6.58	91.5	6.53
12.0	7.26	32.0	6.82	52.0	6.65	72.0	6.58	92.0	6.53
12.5	7.29	32.5	6.81	52.5	6.65	72.5	6.57	92.5	6.53
13.0	7.31	33.0	6.81	53.0	6.65	73.0	6.57	93.0	6.53
13.5	7.32	33.5	6.80	53.5	6.64	73.5	6.57	93.5	6.53
14.0	7.32	34.0	6.79	54.0	6.64	74.0	6.57	94.0	6.53
14.5	7.32	34.5	6.79	54.5	6.64	74.5	6.57	94.5	6.53
15.0	7.31	35.0	6.78	55.0	6.64	75.0	6.57	95.0	6.53
15.5	7.30	35.5	6.78	55.5	6.63	75.5	6.57	95.5	6.53
16.0	7.29	36.0	6.77	56.0	6.63	76.0	6.57	96.0	6.53
16.5	7.27	36.5	6.76	56.5	6.63	76.5	6.56	96.5	6.53
17.0	7.26	37.0	6.76	57.0	6.63	77.0	6.56	97.0	6.53
17.5	7.24	37.5	6.75	57.5	6.62	77.5	6.56	97.5	6.53
18.0	7.22	38.0	6.75	58.0	6.62	78.0	6.56	98.0	6.52
18.5	7.20	38.5	6.74	58.5	6.62	78.5	6.56	98.5	6.52
19.0	7.17	39.0	6.74	59.0	6.62	79.0	6.56	99.0	6.52
19.5	7.15	39.5	6.74	59.5	6.62	79.5	6.56	99.5	6.52
20.0	7.13	40.0	6.73	60.0	6.61	80.0	6.56	100.0	6.52

* This spot monthly yield curve represents data from May 2009 only, and under the proposed regulations for § 430(h)(2), this table is for use by § 430(h)(2)(D)(ii) electing plans with valuation dates in

June 2009. Until final regulations are effective, a reasonable interpretation of § 430(h)(2)(D)(ii) would permit plan sponsors to use this table in conjunction with the applicable month rules of

§ 430(h)(2)(E). In such a case, this table could also be used for a valuation as of a date in May, July, August, or September of 2009.

Part IV. Items of General Interest

Section 2036—Graduated Retained Interests; Correction Announcement 2009–50

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking (REG–119532–08, 2009–20 I.R.B. 1017) that was published in the **Federal Register** on Thursday, April 30, 2009, at 74 FR 19913. The corrections relate to proposed regulations that provide guidance on the portion of trust property includible in the grantor’s gross estate if the grantor has retained the use of the property, the right to an annuity, unitrust,

graduated retained interest, or other payment from such property for life, for any period not ascertainable without reference to the grantor’s death, or for a period that does not in fact end before the grantor’s death.

FOR FURTHER INFORMATION CONTACT: Theresa M. Melchiorre, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this document is under section 2036 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–119532–08) that was

published on April 30, 2009 (74 FR 19913) contains errors in one of the charts that are misleading and needs clarification.

Correction to Publication

Accordingly, the notice of proposed rulemaking which was the subject of FR Doc. E9–10003 is corrected as follows:

On page 19917, §20.2036–1(c)(2)(iii) *Example 7* (iii), the chart at the top of the page is corrected to read as follows:

§20.2036–1 Transfers with retained life estate.

* * * * *
 (c) * * *
 (2) * * *
 (iii) * * *
Example 7. (i) * * *
 (iii) * * *

		Year 3	Year 4	Year 5	Amount required to generate annuity
Additional annuity	\$34,560	<i>Deferral period</i>		\$453,109	\$453,109
Additional annuity	\$28,800	<i>Deferral period</i>	\$403,266		\$403,266
Annuity in year of death	\$144,000	\$2,117,647			<u>2,117,647</u>
Total amount (sum) included in gross estate					\$2,974,022

* * * * *

Cynthia E. Grigsby,
 Senior Federal Register Liaison Officer,
 Publications and Regulations Branch,
 Legal Processing Division,
 Associate Chief Counsel
 (Procedure and Administration).

(Filed by the Office of the Federal Register on June 2, 2009, 8:45 a.m., and published in the issue of the Federal Register for June 3, 2009, 74 F.R. 26597)

Temporary Suspension of FBAR Filing Requirements for Persons who are not Citizens, Residents, or Domestic Entities

Announcement 2009–51

The Internal Revenue Service is temporarily suspending the reporting requirement with respect to foreign bank accounts (Form TD F 90–22.1 (Report of Foreign Bank and Financial Accounts)) due on June 30, 2009, for those persons who are not citizens, residents, or domestic entities. The revised Form TD F 90–22.1 (October 2008) was issued with a change in the instructions to the definition of “United States person.” The IRS has received a number of questions and comments from the public concerning the new filing re-

quirement that may require additional guidance.

To reduce the burden on the public with respect to FBARs due on June 30, 2009, all persons may rely on the definition of “United States person” found in the instructions for the prior version of the FBAR (the July 2000 version) to determine whether they have an obligation to file an FBAR. The definition of “United States person” from the prior version is as follows:

United States Person The term “United States person” means (1) a citizen or resident of the United States, (2) a domestic partnership, (3) a domestic corporation, or (4) a domestic estate or trust.

The definition of the term “United States person” from the instructions for the prior version of the FBAR form may be relied upon for purposes of determining

who must file an FBAR. All other requirements of the current version of the FBAR form and instructions (revision October 2008) are still in effect. The current version of the form must be used when filing an FBAR.

The substitution of the definition of "United States person" from the instructions for the prior version of the FBAR applies only with respect to FBARs due on June 30, 2009. Additional guidance will be issued with respect to FBARs due in subsequent years.

The Service invites interested persons to submit comments regarding the revised FBAR form and instructions (revision October 2008). Please submit comments by August 31, 2009 to: Internal Revenue Service, CC:PA:LPD:PR (Announcement 2009-51), room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions also may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (Announcement 2009-51), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS e-mail address: notice.comments@irscounsel.treas.gov (attention: Announcement 2009-51).

The principal author of this announcement is Adrienne Mikolashek of the Office

of Associate Chief Counsel (Procedure and Administration). For further information regarding this announcement, contact Adrienne Mikolashek at 202-622-4940 (not a toll-free call).

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests; Correction

Announcement 2009-52

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations (T.D. 9448, 2009-20 I.R.B. 942) that were published in the **Federal Register** on Thursday, May 7, 2009 (74 FR 21438). This regulation relates to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests.

DATES: This correction is effective on June 8, 2009 and is applicable on May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mayer R. Samuels, (202) 622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulation (T.D. 9448) that is the subject of this correction is under sections 170 and 2032 of the Internal Revenue Code.

Need for Correction

As published, T.D. 9448 contains errors that may prove to be misleading and is in need of clarification.

* * * * *

Correction of Publication

Accordingly, 26 CFR parts 1 and 20 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

Authority: 26 USC 7805 * * *

Par. 2. For each section listed in the table below, remove the language in the "Remove" column and add in its place the language in the "Add" column as set forth below:

Section	Remove	Add
§1.170A-12(e)(2) following the formula.....	Table 90CM in §20.2031-7....	Table 2000CM in §20.2031-7T.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 3. The authority citation for part 20 continues to read in part as follows:

Authority: 26 USC 7805 * * *

Par. 4. Section 20.2032-1 is amended by revising paragraph (f)(1) to read as follows:

§20.2032-1 *Alternate valuation.*

* * * * *

(f) * * *

(1) [Reserved]. Further guidance, see §20.2032-1T(f)(1).

* * * * *

Treena V. Garrett,
Federal Register Liaison,
Publications and Regulations Branch,
Legal Processing Division,
Associate Chief Counsel
(Procedure and Administration).

(Filed by the Office of the Federal Register on June 5, 2009, 8:45 a.m., and published in the issue of the Federal Register for June 8, 2009, 74 F.R. 27079)

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2009-53

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and appraisers. These individuals are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Part 10, and which are published in pamphlet form as Treasury Department Circular No. 230. The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations.

The disciplinary sanctions to be imposed for violation of the regulations are:

Disbarred from practice before the IRS—An individual who is disbarred is not eligible to represent taxpayers before the IRS.

Suspended from practice before the IRS—An individual who is suspended is not eligible to represent taxpayers before the IRS during the term of the suspension.

Censured in practice before the IRS—Censure is a public reprimand. Unlike disbarment or suspension, censure does not affect an individual's eligibility to represent taxpayers before the IRS, but OPR may subject the individual's future representations to conditions designed to promote high standards of conduct.

Monetary penalty—A monetary penalty may be imposed on an individual who engages in conduct subject to sanction or on an employer, firm, or entity if the individual was acting on its behalf and if it knew, or reasonably should have known, of the individual's conduct.

Disqualification of appraiser—An appraiser who is disqualified is barred from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or the IRS.

Under the regulations, attorneys, certified public accountants, enrolled agents, enrolled actuaries, and enrolled retirement

plan agents may not assist, or accept assistance from, individuals who are suspended or disbarred with respect to matters constituting practice (*i.e.*, representation) before the IRS, and they may not aid or abet suspended or disbarred individuals to practice before the IRS.

Disciplinary sanctions are described in these terms:

Disbarred by decision after hearing, Suspended by decision after hearing, Censured by decision after hearing, Monetary penalty imposed after hearing, and Disqualified after hearing—An administrative law judge (ALJ) conducted an evidentiary hearing upon OPR's complaint alleging violation of the regulations and issued a decision imposing one of these sanctions. After 30 days from the issuance of the decision, in the absence of an appeal, the ALJ's decision became the final agency decision.

Disbarred by default decision, Suspended by default decision, Censured by default decision, Monetary penalty imposed by default decision, and Disqualified by default decision—An ALJ, after finding that no answer to OPR's complaint had been filed, granted OPR's motion for a default judgment and issued a decision imposing one of these sanctions.

Disbarment by decision on appeal, Suspended by decision on appeal, Censured by decision on appeal, Monetary penalty imposed by decision on appeal, and Disqualified by decision on appeal—The decision of the ALJ was appealed to the agency appeal authority, acting as the delegate of the Secretary of the Treasury, and the appeal authority issued a decision imposing one of these sanctions.

Disbarred by consent, Suspended by consent, Censured by consent, Monetary penalty imposed by consent, and Disqualified by consent—In lieu of a disciplinary proceeding being instituted or continued, an individual offered a consent to one of these sanctions and OPR

accepted the offer. Typically, an offer of consent will provide for: suspension for an indefinite term; conditions that the individual must observe during the suspension; and the individual's opportunity, after a stated number of months, to file with OPR a petition for reinstatement affirming compliance with the terms of the consent and affirming current eligibility to practice (*i.e.*, an active professional license or active enrollment status). An enrolled agent or an enrolled retirement plan agent may also offer to resign in order to avoid a disciplinary proceeding.

Suspended by decision in expedited proceeding, Suspended by default decision in expedited proceeding, Suspended by consent in expedited proceeding—OPR instituted an expedited proceeding for suspension (based on certain limited grounds, including loss of a professional license and criminal convictions).

OPR has authority to disclose the grounds for disciplinary sanctions in these situations: (1) an ALJ or the Secretary's delegate on appeal has issued a decision on or after September 26, 2007, which was the effective date of amendments to the regulations that permit making such decisions publicly available; (2) the individual has settled a disciplinary case by signing OPR's "consent to sanction" form, which requires consenting individuals to admit to one or more violations of the regulations and to consent to the disclosure of the individual's own return information related to the admitted violations (for example, failure to file Federal income tax returns); or (3) OPR has issued a decision in an expedited proceeding for suspension.

Announcements of disciplinary sanctions appear in the Internal Revenue Bulletin at the earliest practicable date. The sanctions announced below are alphabetized first by the names of states and second by the last names of individuals. Unless otherwise indicated, section numbers (*e.g.*, §10.51) refer to the regulations.

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Arkansas				
Jonesboro	Straub, F. S.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment in Louisiana)	Indefinite from May 12, 2009
California				
San Jose	Jenks, Kenneth E.	Enrolled Agent	Suspended by default decision in expedited proceeding under § 10.82 (conviction by Superior Court of California, County of Santa Clara, for lewd/lascivious act on a child by force, in violation of PC 288(b)(1))	Indefinite from May 13, 2009
Los Angeles	Krohn, Charles H.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from May 27, 2009
San Diego	Swartzlander, Jeffrey C.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from May 27, 2009
Colorado				
Frederick	Scott, William S.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from May 21, 2009
Kansas				
	Franklin, Gene See Missouri			
Kentucky				
	Doan, Burgess L., See Ohio			
Louisiana				
	Straub, F. S., See Arkansas			
Maryland				
Clarksburg	Brennan, Richard A.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from May 12, 2009

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Massachusetts				
Methuen	Carreiro, Jr., Joseph M.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from May 29, 2009
Dennis	Roberts, Jr., John D.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from May 12, 2009
Missouri				
Gladstone	Franklin, Gene L.	Enrolled Agent	Suspended by default decision in expedited proceeding under §10.82 (conviction under 26 U.S.C. § 7206, aiding in preparation of false tax return) in Kansas	Indefinite from May 27, 2009
Chesterfield	Shklar, Mark A.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from May 12, 2009
New Jersey				
Riverside	Kivler, Russell T.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from May 27, 2009
	Rondos, Steven T., See New York			
New York				
Manlius	Baker, Brian	CPA	Suspended by default decision in expedited proceeding under §10.82 (conviction under state law, PL 155.42, grand larceny, and PL 190.65, scheme to defraud)	Indefinite from May 29, 2009
Long Beach	Garcia, Rene G.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from May 27, 2009
	Goli, Satish K., See Texas			
Miller Place	Kosak, Mark S.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from May 27, 2009

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
New York (Continued)				
Roslyn	Kroll, Martin N.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from May 12, 2009
Brooklyn	Rondos, Steven T.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (attorney disbarment in New Jersey)	Indefinite from May 29, 2009
Ohio				
Cincinnati	Doan, Burgess L.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (attorney disbarment in Kentucky)	Indefinite from June 2, 2009
Texas				
Houston	Goli, Satish K.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment in New York)	Indefinite from May 27, 2009
Wisconsin				
Oconto Falls	Woods, Terrence J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from May 12, 2009

Definition of Terms

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

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

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

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

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

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

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

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

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

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

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

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

Abbreviations

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

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

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

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

Numerical Finding List¹

Bulletins 2009–1 through 2009–25

Announcements:

2009-1, 2009-1 I.R.B. 242
2009-2, 2009-5 I.R.B. 424
2009-3, 2009-6 I.R.B. 459
2009-4, 2009-8 I.R.B. 597
2009-5, 2009-8 I.R.B. 569
2009-6, 2009-9 I.R.B. 643
2009-7, 2009-10 I.R.B. 663
2009-8, 2009-8 I.R.B. 598
2009-9, 2009-9 I.R.B. 643
2009-10, 2009-9 I.R.B. 644
2009-11, 2009-10 I.R.B. 663
2009-12, 2009-11 I.R.B. 686
2009-13, 2009-11 I.R.B. 686
2009-14, 2009-11 I.R.B. 687
2009-15, 2009-11 I.R.B. 687
2009-16, 2009-11 I.R.B. 691
2009-17, 2009-12 I.R.B. 714
2009-18, 2009-12 I.R.B. 714
2009-19, 2009-12 I.R.B. 715
2009-20, 2009-12 I.R.B. 716
2009-21, 2009-13 I.R.B. 730
2009-22, 2009-13 I.R.B. 731
2009-23, 2009-13 I.R.B. 731
2009-24, 2009-13 I.R.B. 732
2009-25, 2009-14 I.R.B. 755
2009-26, 2009-14 I.R.B. 755
2009-27, 2009-14 I.R.B. 756
2009-28, 2009-15 I.R.B. 760
2009-29, 2009-14 I.R.B. 757
2009-30, 2009-15 I.R.B. 794
2009-31, 2009-15 I.R.B. 798
2009-32, 2009-15 I.R.B. 799
2009-33, 2009-15 I.R.B. 799
2009-34, 2009-18 I.R.B. 916
2009-35, 2009-17 I.R.B. 892
2009-36, 2009-18 I.R.B. 927
2009-37, 2009-19 I.R.B. 940
2009-38, 2009-19 I.R.B. 940
2009-39, 2009-20 I.R.B. 1022
2009-40, 2009-20 I.R.B. 1023
2009-41, 2009-20 I.R.B. 1026
2009-42, 2009-20 I.R.B. 1027
2009-43, 2009-24 I.R.B. 1075
2009-44, 2009-24 I.R.B. 1079
2009-45, 2009-21 I.R.B. 1040
2009-46, 2009-21 I.R.B. 1040
2009-47, 2009-23 I.R.B. 1071
2009-48, 2009-23 I.R.B. 1071
2009-49, 2009-24 I.R.B. 1092
2009-50, 2009-25 I.R.B. 1105
2009-51, 2009-25 I.R.B. 1105
2009-52, 2009-25 I.R.B. 1106

Announcements— Continued:

2009-53, 2009-25 I.R.B. 1107

Notices:

2009-1, 2009-2 I.R.B. 250
2009-2, 2009-4 I.R.B. 344
2009-3, 2009-2 I.R.B. 250
2009-4, 2009-2 I.R.B. 251
2009-5, 2009-3 I.R.B. 309
2009-6, 2009-3 I.R.B. 311
2009-7, 2009-3 I.R.B. 312
2009-8, 2009-4 I.R.B. 347
2009-9, 2009-5 I.R.B. 419
2009-10, 2009-5 I.R.B. 419
2009-11, 2009-5 I.R.B. 420
2009-12, 2009-6 I.R.B. 446
2009-13, 2009-6 I.R.B. 447
2009-14, 2009-7 I.R.B. 516
2009-15, 2009-6 I.R.B. 449
2009-16, 2009-8 I.R.B. 572
2009-17, 2009-8 I.R.B. 575
2009-18, 2009-10 I.R.B. 648
2009-19, 2009-10 I.R.B. 660
2009-20, 2009-12 I.R.B. 711
2009-21, 2009-13 I.R.B. 724
2009-22, 2009-14 I.R.B. 741
2009-23, 2009-16 I.R.B. 802
2009-24, 2009-16 I.R.B. 817
2009-25, 2009-15 I.R.B. 758
2009-26, 2009-16 I.R.B. 833
2009-27, 2009-16 I.R.B. 838
2009-28, 2009-24 I.R.B. 1082
2009-29, 2009-16 I.R.B. 849
2009-30, 2009-16 I.R.B. 852
2009-31, 2009-16 I.R.B. 856
2009-32, 2009-17 I.R.B. 865
2009-33, 2009-17 I.R.B. 865
2009-34, 2009-17 I.R.B. 876
2009-35, 2009-17 I.R.B. 876
2009-36, 2009-17 I.R.B. 883
2009-37, 2009-18 I.R.B. 898
2009-38, 2009-18 I.R.B. 901
2009-39, 2009-18 I.R.B. 902
2009-40, 2009-19 I.R.B. 931
2009-41, 2009-19 I.R.B. 933
2009-42, 2009-20 I.R.B. 1011
2009-43, 2009-21 I.R.B. 1037
2009-44, 2009-21 I.R.B. 1037
2009-45, 2009-22 I.R.B. 1047
2009-46, 2009-23 I.R.B. 1068
2009-47, 2009-24 I.R.B. 1083
2009-48, 2009-24 I.R.B. 1085
2009-49, 2009-25 I.R.B. 1093
2009-52, 2009-25 I.R.B. 1094
2009-53, 2009-25 I.R.B. 1095
2009-56, 2009-25 I.R.B. 1100

Proposed Regulations:

REG-144615-02, 2009-7 I.R.B. 561
REG-144689-04, 2009-18 I.R.B. 906
REG-148568-04, 2009-5 I.R.B. 421
REG-160872-04, 2009-4 I.R.B. 358
REG-158747-06, 2009-4 I.R.B. 362
REG-116699-07, 2009-13 I.R.B. 727
REG-138326-07, 2009-9 I.R.B. 638
REG-143686-07, 2009-8 I.R.B. 579
REG-150670-07, 2009-4 I.R.B. 378
REG-107271-08, 2009-22 I.R.B. 1051
REG-107845-08, 2009-20 I.R.B. 1014
REG-113462-08, 2009-4 I.R.B. 379
REG-119532-08, 2009-20 I.R.B. 1017
REG-147636-08, 2009-9 I.R.B. 641
REG-150066-08, 2009-5 I.R.B. 423
REG-115699-09, 2009-22 I.R.B. 1052

Revenue Procedures:

2009-1, 2009-1 I.R.B. 1
2009-2, 2009-1 I.R.B. 87
2009-3, 2009-1 I.R.B. 107
2009-4, 2009-1 I.R.B. 118
2009-5, 2009-1 I.R.B. 161
2009-6, 2009-1 I.R.B. 189
2009-7, 2009-1 I.R.B. 226
2009-8, 2009-1 I.R.B. 229
2009-9, 2009-2 I.R.B. 256
2009-10, 2009-2 I.R.B. 267
2009-11, 2009-3 I.R.B. 313
2009-12, 2009-3 I.R.B. 321
2009-13, 2009-3 I.R.B. 323
2009-14, 2009-3 I.R.B. 324
2009-15, 2009-4 I.R.B. 356
2009-16, 2009-6 I.R.B. 449
2009-17, 2009-7 I.R.B. 517
2009-18, 2009-11 I.R.B. 670
2009-19, 2009-14 I.R.B. 747
2009-20, 2009-14 I.R.B. 749
2009-21, 2009-16 I.R.B. 860
2009-22, 2009-16 I.R.B. 862
2009-23, 2009-17 I.R.B. 884
2009-24, 2009-17 I.R.B. 885
2009-25, 2009-24 I.R.B. 1088
2009-26, 2009-19 I.R.B. 935
2009-27, 2009-19 I.R.B. 938
2009-28, 2009-20 I.R.B. 1011
2009-29, 2009-22 I.R.B. 1050

Revenue Rulings:

2009-1, 2009-2 I.R.B. 248
2009-2, 2009-2 I.R.B. 245
2009-3, 2009-5 I.R.B. 382
2009-4, 2009-5 I.R.B. 408
2009-5, 2009-6 I.R.B. 432

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2008–27 through 2008–52 is in Internal Revenue Bulletin 2008–52, dated December 29, 2008.

Revenue Rulings— Continued:

2009-6, 2009-12 I.R.B. 694
2009-7, 2009-13 I.R.B. 717
2009-8, 2009-10 I.R.B. 645
2009-9, 2009-14 I.R.B. 735
2009-10, 2009-14 I.R.B. 738
2009-11, 2009-18 I.R.B. 896
2009-12, 2009-19 I.R.B. 928
2009-13, 2009-21 I.R.B. 1029
2009-14, 2009-21 I.R.B. 1031
2009-15, 2009-21 I.R.B. 1035
2009-16, 2009-23 I.R.B. 1058

Tax Conventions:

2009-5, 2009-8 I.R.B. 569
2009-43, 2009-24 I.R.B. 1075
2009-44, 2009-24 I.R.B. 1079

Treasury Decisions:

9434, 2009-4 I.R.B. 339
9435, 2009-4 I.R.B. 333
9436, 2009-3 I.R.B. 268
9437, 2009-4 I.R.B. 341
9438, 2009-5 I.R.B. 387
9439, 2009-5 I.R.B. 416
9440, 2009-5 I.R.B. 409
9441, 2009-7 I.R.B. 460
9442, 2009-6 I.R.B. 434
9443, 2009-8 I.R.B. 564
9444, 2009-9 I.R.B. 603
9445, 2009-9 I.R.B. 635
9446, 2009-9 I.R.B. 607
9447, 2009-12 I.R.B. 694
9448, 2009-20 I.R.B. 942
9449, 2009-22 I.R.B. 1044
9450, 2009-24 I.R.B. 1073
9451, 2009-23 I.R.B. 1060

Finding List of Current Actions on Previously Published Items¹

Bulletins 2009–1 through 2009–25

Notices:

99-35

Obsoleted by
Notice 2009-15, 2009-6 I.R.B. 449

2001-55

Modified by
Notice 2009-1, 2009-2 I.R.B. 250

2002-27

Modified by
Notice 2009-9, 2009-5 I.R.B. 419

2005-74

Obsoleted by
T.D. 9446, 2009-9 I.R.B. 607

2006-26

Superseded by
Notice 2009-53, 2009-25 I.R.B. 1095

2007-26

Modified by
Notice 2009-15, 2009-6 I.R.B. 449

2007-52

Clarified, modified, and amplified by
Notice 2009-24, 2009-16 I.R.B. 817

2007-53

Clarified, modified, and amplified by
Notice 2009-23, 2009-16 I.R.B. 802

2007-54

Obsoleted by
T.D. 9436, 2009-3 I.R.B. 268

2008-11

Obsoleted by
T.D. 9436, 2009-3 I.R.B. 268

2008-12

Obsoleted by
T.D. 9436, 2009-3 I.R.B. 268
Rev. Proc. 2009-11, 2009-3 I.R.B. 313

2008-13

Obsoleted by
T.D. 9436, 2009-3 I.R.B. 268
List of forms modified and superseded by
Rev. Proc. 2009-11, 2009-3 I.R.B. 313
Modified and clarified by
Notice 2009-5, 2009-3 I.R.B. 309

2008-46

Obsoleted by
T.D. 9436, 2009-3 I.R.B. 268
Rev. Proc. 2009-11, 2009-3 I.R.B. 313

Notices— Continued:

2008-100

Amplified and superseded by
Notice 2009-14, 2009-7 I.R.B. 516

2008-110

Modified by
Notice 2009-34, 2009-17 I.R.B. 876

2009-31

Modified by
Notice 2009-42, 2009-20 I.R.B. 1011

Proposed Regulations:

REG-144615-02

Corrected by
Ann. 2009-19, 2009-12 I.R.B. 715

REG-149519-03

Withdrawn by
Ann. 2009-4, 2009-8 I.R.B. 597

REG-148326-05

Corrected by
Ann. 2009-14, 2009-11 I.R.B. 687

REG-158747-06

Hearing scheduled by
Ann. 2009-29, 2009-14 I.R.B. 757

REG-138326-07

Hearing cancelled by
Ann. 2009-49, 2009-24 I.R.B. 1092

REG-143686-07

Corrected by
Ann. 2009-40, 2009-20 I.R.B. 1023

REG-119532-08

Corrected by
Ann. 2009-50, 2009-25 I.R.B. 1105

REG-150066-08

Corrected by
Ann. 2009-31, 2009-15 I.R.B. 798
Hearing cancelled by
Ann. 2009-36, 2009-18 I.R.B. 927

Revenue Procedures:

2007-17

Superseded by
Rev. Proc. 2009-14, 2009-3 I.R.B. 324

2007-66

Modified and superseded by
Rev. Proc. 2009-21, 2009-16 I.R.B. 860

2007-68

Superseded by
Rev. Proc. 2009-17, 2009-7 I.R.B. 517

2007-71

Modified by
Notice 2009-3, 2009-2 I.R.B. 250

Revenue Procedures— Continued:

2008-1

Superseded by
Rev. Proc. 2009-1, 2009-1 I.R.B. 1

2008-2

Superseded by
Rev. Proc. 2009-2, 2009-1 I.R.B. 87

2008-3

Superseded by
Rev. Proc. 2009-3, 2009-1 I.R.B. 107

2008-4

Superseded by
Rev. Proc. 2009-4, 2009-1 I.R.B. 118

2008-5

Superseded by
Rev. Proc. 2009-5, 2009-1 I.R.B. 161

2008-6

Superseded by
Rev. Proc. 2009-6, 2009-1 I.R.B. 189

2008-7

Superseded by
Rev. Proc. 2009-7, 2009-1 I.R.B. 226

2008-8

Superseded by
Rev. Proc. 2009-8, 2009-1 I.R.B. 229

2008-9

Superseded by
Rev. Proc. 2009-9, 2009-2 I.R.B. 256

2008-17

Obsoleted in part by
Rev. Proc. 2009-18, 2009-11 I.R.B. 670

2008-19

Obsoleted in part by
Rev. Proc. 2009-27, 2009-19 I.R.B. 938

2008-61

Superseded by
Rev. Proc. 2009-3, 2009-1 I.R.B. 107

2008-65

Amplified and supplemented by
Rev. Proc. 2009-16, 2009-6 I.R.B. 449

2008-66

Modified and superseded by
Rev. Proc. 2009-21, 2009-16 I.R.B. 860

2008-68

Amplified and superseded by
Rev. Proc. 2009-15, 2009-4 I.R.B. 356

2009-1

Amplified by
Rev. Proc. 2009-25, 2009-24 I.R.B. 1088

¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2008–27 through 2008–52 is in Internal Revenue Bulletin 2008–52, dated December 29, 2008.

Revenue Procedures— Continued:

2009-3

Amplified by

Rev. Proc. 2009-25, 2009-24 I.R.B. 1088

2009-19

Modified and superseded by

Rev. Proc. 2009-26, 2009-19 I.R.B. 935

Revenue Rulings:

65-286

Obsoleted by

T.D. 9435, 2009-4 I.R.B. 333

71-381

Obsoleted in part by

Rev. Rul. 2009-9, 2009-14 I.R.B. 735

76-54

Obsoleted by

T.D. 9435, 2009-4 I.R.B. 333

92-19

Supplemented by

Rev. Rul. 2009-3, 2009-5 I.R.B. 382

2008-19

Modified by

Rev. Rul. 2009-3, 2009-5 I.R.B. 382

Treasury Decisions:

9394

Corrected by

Ann. 2009-42, 2009-20 I.R.B. 1027

9436

Corrected by

Ann. 2009-15, 2009-11 I.R.B. 687

9438

Corrected by

Ann. 2009-30, 2009-15 I.R.B. 794

9439

Corrected by

Ann. 2009-12, 2009-11 I.R.B. 686

9441

Corrected by

Ann. 2009-18, 2009-12 I.R.B. 714

Ann. 2009-39, 2009-20 I.R.B. 1022

9442

Corrected by

Ann. 2009-13, 2009-11 I.R.B. 686

Ann. 2009-20, 2009-12 I.R.B. 716

9446

Corrected by

Ann. 2009-23, 2009-13 I.R.B. 731

Ann. 2009-45, 2009-21 I.R.B. 1040

9448

Corrected by

Ann. 2009-52, 2009-25 I.R.B. 1106



**U.S. GOVERNMENT
PRINTING OFFICE**
KEEPING AMERICA INFORMED

Order Processing Code:
3465

Easy Secure Internet:
bookstore.gpo.gov

Internal Revenue Cumulative Bulletins Publications and Subscription Order Form

Toll Free: 866 512-1800
DC Area: 202 512-2800
Fax: 202 512-2250

Mail: Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250-7954

Publications

Qty.	Stock Number	Title	Price Each	Total Price
	048-004-02467-5	Cum. Bulletin 1999-3	20.40	
	048-004-02462-4	Cum. Bulletin 2001-2 (Jul-Dec)	24.00	
	048-004-02480-2	Cum. Bulletin 2001-3	71.00	
	048-004-02470-5	Cum. Bulletin 2002-2 (Jul-Dec)	28.80	
	048-004-02486-1	Cum. Bulletin 2002-3	54.00	
	048-004-02483-7	Cum. Bulletin 2004-2 (July-Dec)	54.00	
	048-004-02488-8	Cum. Bulletin 2005-2	56.00	
Total for Publications				

Subscriptions

Qty.	List ID	Title	Price Each	Total Price
	IRS	Internal Revenue Bulletin	\$247	
		Optional - Add \$50 to open Deposit Account		
Total for Subscriptions				
Total for Publications and Subscriptions				

NOTE: Price includes regular shipping and handling and is subject to change. International customers please add 40 percent.

Standing Order Service*

To automatically receive future editions of *Internal Revenue Cumulative Bulletins* without having to initiate a new purchase order, sign below for Standing Order Service.

Qty.	Standing Order	Title
	ZIRSC	Internal Revenue Cumulative Bulletins

Authorization

I hereby authorize the Superintendent of Documents to charge my account for Standing Order Service:
(enter account information at right)

VISA MasterCard Discover/NOVUS American Express

Superintendent of Documents (SOD) Deposit Account

Authorizing signature (Standing orders not valid unless signed.)

Please print or type your name.

Daytime phone number (____) _____

SuDocs Deposit Account

A Deposit Account will enable you to use Standing Order Service to receive subsequent volumes quickly and automatically. For an initial deposit of \$50 you can establish your Superintendent of Documents Deposit Account.

YES! Open a SOD Deposit Account for me so I can order future publications quickly and easily.
I am enclosing the \$50 initial deposit.



Check method of payment:

- Check payable to Superintendent of Documents
- SOD Deposit Account -
- VISA MasterCard Discover/Novus American Express

(expiration date)

Thank you for your Order!

Authorizing signature

06/06

Company or personal name

(Please type or print)

Additional address/attention line

Street address

City, State, Zip Code

E-mail address

Daytime phone including area code

Purchase order number (optional)

*Standing Order Service

Just sign the authorization above to charge selected items to your existing Deposit Account, VISA or MasterCard, Discover/NOVUS, or American Express account. Or open a Deposit Account with an initial deposit of \$50 or more. Your account will be charged only as each volume is issued and mailed. Sufficient money must be kept in your account to insure that items are shipped. Service begins with the next issue released of each item you select.

You will receive written acknowledgement for each item you choose to receive by Standing Order Service.

If you wish to cancel your Standing Order Service, please notify the Superintendent of Documents in writing (telephone cancellations are accepted, but must be followed up with a written cancellation within 10 days).

Important: Please include this completed order form with your payment.

INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletin is sold on a yearly subscription basis by the Superintendent of Documents. Current subscribers are notified by the Superintendent of Documents when their subscriptions must be renewed.

CUMULATIVE BULLETINS

The contents of this weekly Bulletin are consolidated semiannually into a permanent, indexed, Cumulative Bulletin. These are sold on a single copy basis and *are not* included as part of the subscription to the Internal Revenue Bulletin. Subscribers to the weekly Bulletin are notified when copies of the Cumulative Bulletin are available. Certain issues of Cumulative Bulletins are out of print and are not available. Persons desiring available Cumulative Bulletins, which are listed on the reverse, may purchase them from the Superintendent of Documents.

ACCESS THE INTERNAL REVENUE BULLETIN ON THE INTERNET

You may view the Internal Revenue Bulletin on the Internet at www.irs.gov. Select Businesses. Under Businesses Topics, select More Topics. Then select Internal Revenue Bulletins.

INTERNAL REVENUE BULLETINS ON CD-ROM

Internal Revenue Bulletins are available annually as part of Publication 1796 (Tax Products CD-ROM). The CD-ROM can be purchased from National Technical Information Service (NTIS) on the Internet at www.irs.gov/cdorders (discount for online orders) or by calling 1-877-233-6767. The first release is available in mid-December and the final release is available in late January.

HOW TO ORDER

Check the publications and/or subscription(s) desired on the reverse, complete the order blank, enclose the proper remittance, detach entire page, and mail to the Superintendent of Documents, P.O. Box 371954, Pittsburgh PA, 15250-7954. Please allow two to six weeks, plus mailing time, for delivery.

WE WELCOME COMMENTS ABOUT THE INTERNAL REVENUE BULLETIN

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page (www.irs.gov) or write to the IRS Bulletin Unit, SE:W:CAR:MP:T:T:SP, Washington, DC 20224.

Internal Revenue Service
Washington, DC 20224

Official Business
Penalty for Private Use, \$300