

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

T.D. 9481, page 605.

Final regulations under section 162 of the Code provide guidance regarding the deduction of deemed living expenses while away from home for a state legislator who makes an election under section 162(h).

Notice 2010-33, page 609.

This notice lists positions identified as frivolous for purposes of section 6702(c) of the Code. Notice 2008-14 modified and superseded.

Notice 2010-34, page 612.

This notice provides guidance about reporting obligations for certain shareholders of passive foreign investment companies (PFICs) who are subject to the annual filing requirement set forth in new section 1298(f) of the Code.

EMPLOYEE PLANS

Notice 2010-36, page 612.

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 April 2010; the 24-month average segment rates; the funding transitional segment rates applicable for April 2010; and the minimum present value transitional rates for March 2010.

EXEMPT ORGANIZATIONS

Notice 2010-33, page 609.

This notice lists positions identified as frivolous for purposes of section 6702(c) of the Code. Notice 2008-14 modified and superseded.

Announcement 2010-28, page 616.

The IRS has revoked its determination that the Housing Action Resource Trust of Rancho Cucamonga, CA, and the Andrew S. Braddock Foundation of Waukesha, WI, qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Code.

ESTATE TAX

Notice 2010-33, page 609.

This notice lists positions identified as frivolous for purposes of section 6702(c) of the Code. Notice 2008-14 modified and superseded.

GIFT TAX

Notice 2010-33, page 609.

This notice lists positions identified as frivolous for purposes of section 6702(c) of the Code. Notice 2008-14 modified and superseded.

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EMPLOYMENT TAX

Notice 2010–33, page 609.

This notice lists positions identified as frivolous for purposes of section 6702(c) of the Code. Notice 2008–14 modified and superseded.

SELF-EMPLOYMENT TAX

Notice 2010–33, page 609.

This notice lists positions identified as frivolous for purposes of section 6702(c) of the Code. Notice 2008–14 modified and superseded.

EXCISE TAX

Notice 2010–33, page 609.

This notice lists positions identified as frivolous for purposes of section 6702(c) of the Code. Notice 2008–14 modified and superseded.

ADMINISTRATIVE

Notice 2010–33, page 609.

This notice lists positions identified as frivolous for purposes of section 6702(c) of the Code. Notice 2008–14 modified and superseded.

Announcement 2010–29, page 616.

This document contains a correction to Announcement 2009–23, 2010–16 I.R.B. 602, regarding Foundations Status of Certain Organizations.

The IRS Mission

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

the tax law with integrity and fairness to all.

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

Section 162.—Trade or Business Expense

26 CFR 1.162–24: *Travel expenses of state legislators.*

T.D. 9481

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1, 301 and 602

Travel Expenses of State Legislators

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to travel expenses of state legislators while away from home. The regulations affect eligible state legislators who make the election under section 162(h) of the Internal Revenue Code (Code). The regulations clarify the amount of travel expenses that a state legislator may deduct under section 162(h).

DATES: *Effective Date:* These regulations are effective April 8, 2010.

Applicability Date: For date of applicability, see §1.162–24(h).

FOR FURTHER INFORMATION CONTACT: R. Matthew Kelley, (202) 622–7900 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB Control Number 1545–2115.

The collection of information in these final regulations is in §1.162–24(e). The information will help the IRS determine if

a taxpayer may make or revoke an election under section 162(h). The collection of information is required to obtain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

The information will be reported on a statement attached to individual tax returns. The time needed to complete and file this statement will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this statement is 30 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224, and to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

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

Background

This document contains final amendments to the Income Tax Regulations, 26 CFR part 1, 26 CFR part 301, and 26 CFR Part 602, relating to travel expenses of state legislators while away from home.

On March 31, 2008, a notice of proposed rulemaking (REG–119518–07, 2008–1 C.B. 844) was published in the **Federal Register** (73 FR 16797). Written comments responding to the notice of proposed rulemaking were received. No public hearing was requested or held. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision. The

comments and revisions are discussed in the preamble.

Explanation of Provisions and Summary of Comments

Under section 162(a), a state legislator may be entitled to deduct expenses paid or incurred in conducting legislative business (for example, living, transportation, and miscellaneous expenses) while traveling away from home. In addition, section 162(h) allows a state legislator to deduct deemed living expenses, but not other deemed business travel expenses, on specified legislative days. These regulations provide guidance on the special rules for deducting a state legislator's deemed living expenses.

Section 162(h) and the proposed regulations provide that a taxpayer who is a state legislator at any time during the taxable year may make an election under section 162(h) to treat the taxpayer's place of residence within the taxpayer's legislative district as the taxpayer's tax home. In addition, as a result of the election the taxpayer is deemed to be away from home in the pursuit of a trade or business on each legislative day and is deemed to have expended an amount for living expenses on that day. Under the proposed regulations, a legislative day for a taxpayer includes each day (1) the legislature is actually in session, (2) the legislature is not in session for a period not longer than 4 consecutive days, (3) the taxpayer's attendance is formally recorded at a meeting of a committee of the legislature, or (4) the taxpayer's attendance is formally recorded at a session of the legislature that only a limited number of members are expected to attend, such as a *pro forma* session.

1. Limitation on Availability of Deduction for Travel Expenses

Some commentators expressed concerns that the proposed regulations might impose new limits on state legislators' deductions for business travel expenses and suggested that the proposed regulations should not be finalized.

The final regulations do not adopt this comment because the regulations do

not impose new limits. The regulations merely clarify the existing section 162(h) special rules for deducting state legislators' deemed living expenses for each legislative day. The regulations do not affect or limit the deduction for actual travel expenses under section 162(a). A taxpayer may continue to deduct actual substantiated travel expenses, whether or not the taxpayer qualifies under the special rule for deducting deemed expenses under section 162(h).

2. Definitions of In Session and Legislative Day

Some commentators objected to Federal regulations defining when a legislature is in session and what constitutes a legislative day for purposes of section 162(h). The commentators expressed concern that the proposed regulations would preempt state law governing the conduct of legislative affairs. The commentators recommended that the regulations not be issued.

The final regulations do not adopt this recommendation. These regulations define *in session* and *legislative day* solely for the purpose of interpreting the special rules of section 162(h), a matter of Federal law. See *Morgan v. Commissioner*, 309 U.S. 78, 81 (1940) ("If it is found in a given case that an interest or right created by local law was the object intended to be taxed, the federal law must prevail no matter what name is given to the interest or right by state law."). These regulations do not preempt or supersede state laws governing the conduct or operation of state legislatures. The regulations merely address what amounts (deemed living expenses) state legislators may deduct under section 162(h).

3. Definition of a State Legislator

The proposed regulations provide that a taxpayer is a state legislator for purposes of the regulations beginning on the day the taxpayer is sworn into office and ending on the day following the day on which the taxpayer's term in office ends.

Commentators noted that some state laws treat a legislator-elect as a legislator before the legislator-elect is sworn into office, for example, on the date elected, the date the election results are certified,

or on January 1 following the election. A commentator stated that legislators-elect often move to the state capital immediately upon election to conduct legislative business, for example, to participate in the formation of committees and assignments. Commentators suggested that the definition of a state legislator in the final regulations be modified to permit legislators-elect to deduct legislative business expenses under these circumstances.

The final regulations do not adopt this suggestion. Although a legislator-elect who is present in the state capital on business prior to being sworn into office is not eligible to deduct deemed living expenses under section 162(h), the legislator-elect may be traveling away from home and may be entitled to deduct actual business travel expenses under the general rules of section 162(a).

4. Definition of a Committee of the Legislature

The proposed regulations provide that a committee of the legislature is a group consisting solely of legislators charged with conducting business of the legislature.

Commentators noted that it is common practice in a number of states for legislative committees to have non-legislative members. Commentators suggested that the final regulations modify the definition of a committee of the legislature to include groups tasked with conducting public policy or other legislative business that have legislator and non-legislator members.

In response to these comments, the final regulations define a committee of the legislature as a group that includes one or more legislators and is charged with conducting business of the legislature.

5. Effective/Applicability Date

A commentator expressed concern that an effective date for the final regulations that falls in the middle of a taxable year would create confusion about expenses paid or incurred in the part of the year before the effective date. To eliminate confusion, the final regulations apply to expenses paid or incurred, or deemed expended under section 162(h), in taxable years beginning after April 8, 2010, the date of publication of this regulation.

Effect on Other Documents

Rev. Rul. 82-33, 1982-1 C.B. 28 is obsolete as of April 8, 2010.

Special Analyses

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

Drafting Information

The principal author of these regulations is R. Matthew Kelley of the Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301, and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.162-24 also issued under 26 U.S.C. 162(h). * * *

Par. 2. Section 1.162-24 is added to read as follows:

§1.162-24 Travel expenses of state legislators.

(a) *In general.* For purposes of section 162(a), in the case of any taxpayer who is a state legislator at any time during the

taxable year and who makes an election under section 162(h) for the taxable year—

(1) The taxpayer's place of residence within the legislative district represented by the taxpayer is the taxpayer's home for that taxable year;

(2) The taxpayer is deemed to have expended for living expenses (in connection with the taxpayer's trade or business as a legislator) an amount determined by multiplying the number of legislative days of the taxpayer during the taxable year by the greater of—

(i) The amount generally allowable with respect to those days to employees of the state of which the taxpayer is a legislator for *per diem* while away from home, to the extent the amount does not exceed 110 percent of the amount described in paragraph (a)(2)(ii) of this section; or

(ii) The Federal *per diem* with respect to those days for the taxpayer's state capital; and

(3) The taxpayer is deemed to be away from home in the pursuit of a trade or business on each legislative day.

(b) *Legislative day.* For purposes of section 162(h)(1) and this section, for any taxpayer who makes an election under section 162(h), a legislative day is any day on which the taxpayer is a state legislator and—

(1) The legislature is in session;

(2) The legislature is not in session for a period that is not longer than 4 consecutive days, without extension for Saturdays, Sundays, or holidays;

(3) The taxpayer's attendance at a meeting of a committee of the legislature is formally recorded; or

(4) The taxpayer's attendance at any session of the legislature that only a limited number of members are expected to attend (such as a *pro forma* session), on any day not described in paragraph (b)(1) or (b)(2) of this section, is formally recorded.

(c) *Fifty mile rule.* Section 162(h) and this section do not apply to any taxpayer who is a state legislator and whose place of residence within the legislative district represented by the taxpayer is 50 or fewer miles from the capitol building of the state. For purposes of this paragraph (c), the distance between the taxpayer's place of residence within the legislative district represented by the taxpayer and the capitol building of the state is the shortest of the

more commonly traveled routes between the two points.

(d) *Definitions and special rules.* The following definitions apply for purposes of section 162(h) and this section.

(1) *State legislator.* A taxpayer becomes a state legislator on the day the taxpayer is sworn into office and ceases to be a state legislator on the day following the day on which the taxpayer's term in office ends.

(2) *Living expenses.* Living expenses include lodging, meals, and incidental expenses. *Incidental expenses* has the same meaning as in 41 CFR 300–3.1.

(3) *In session—(i) In general.* For purposes of this section, the legislature of which a taxpayer is a member is in session on any day if, at any time during that day, the members of the legislature are expected to attend and participate as an assembled body of the legislature.

(ii) *Examples.* The following examples illustrate the rules of this paragraph (d)(3):

Example 1. B is a member of the legislature of State X. On Day 1, the State X legislature is convened and the members of the legislature are expected to attend and participate. On Day 1, the State X legislature is in session within the meaning of paragraph (d)(3)(i) of this section. B does not attend the session of the State X legislature on Day 1. However, Day 1 is a legislative day for B for purposes of section 162(h)(2)(A) and paragraph (b)(1) of this section.

Example 2. C, D, and E are members of the legislature of State X. On Day 2, the State X legislature is convened for a limited session in which not all members of the legislature are expected to attend and participate. Thus, on Day 2 the legislature is not in session within the meaning of paragraph (d)(3)(i) of this section, and Day 2 is not a legislative day under paragraph (b)(1) of this section. In addition, Day 2 is not a day described in paragraph (b)(2) of this section. C and D are the only members who are called to, and do, attend the limited session on Day 2, and their attendance at the session is formally recorded. E is not called and does not attend. Therefore, Day 2 is a legislative day as to C and D under section 162(h)(2)(B) and paragraph (b)(4) of this section. Day 2 is not a legislative day as to E.

(4) *Committee of the legislature.* A committee of the legislature is any group that includes one or more legislators and that is charged with conducting business of the legislature. Committees of the legislature include, but are not limited to, committees to which the legislature refers bills for consideration, committees that the legislature has authorized to conduct inquiries into matters of public concern, and committees charged with the internal administration of the legislature. For purposes of this section, groups that are not considered

committees of the legislature include, but are not limited to, groups that promote particular issues, raise campaign funds, or are caucuses of members of a political party.

(5) *Federal per diem.* The Federal *per diem* for any city and day is the maximum amount allowable to employees of the executive branch of the Federal government for living expenses while away from home in pursuit of a trade or business in that city on that day. See 5 U.S.C. 5702 and the regulations under that section.

(e) *Election—(1) Time for making election.* A taxpayer's election under section 162(h) must be made for each taxable year for which the election is to be in effect and must be made no later than the due date (including extensions) of the taxpayer's Federal income tax return for the taxable year.

(2) *Manner of making election.* A taxpayer makes an election under section 162(h) by attaching a statement to the taxpayer's income tax return for the taxable year for which the election is made. The statement must include—

(i) The taxpayer's name, address, and taxpayer identification number;

(ii) A statement that the taxpayer is making an election under section 162(h); and

(iii) Information establishing that the taxpayer is a state legislator entitled to make the election, for example, a statement identifying the taxpayer's state and legislative district and representing that the taxpayer's place of residence in the legislative district is not 50 or fewer miles from the state capitol building.

(3) *Revocation of election.* An election under section 162(h) may be revoked only with the consent of the Commissioner. An application for consent to revoke an election must be signed by the taxpayer and filed with the submission processing center with which the election was filed, and must include—

(i) The taxpayer's name, address, and taxpayer identification number;

(ii) A statement that the taxpayer is revoking an election under section 162(h) for a specified year; and

(iii) A statement explaining why the taxpayer seeks to revoke the election.

(f) *Effect of election on otherwise deductible expenses for travel away from home—(1) Legislative days—(i) Living expenses.* For any legislative day for which an election under section 162(h)

and this section is in effect, the amount of an electing taxpayer's living expenses while away from home is the greater of the amount of the living expenses—

(A) Specified in paragraph (a)(2) of this section in connection with the trade or business of being a legislator; or

(B) Otherwise allowable under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.

(ii) *Other expenses.* For any legislative day for which an election under section 162(h) and this section is in effect, the amount of an electing taxpayer's expenses (other than living expenses) for travel away from home is the sum of the substantiated expenses, such as expenses for travel fares, telephone calls, and local transportation, that are otherwise deductible under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.

(2) *Non-legislative days.* For any day that is not a legislative day, the amount of an electing taxpayer's expenses (includ-

ing amounts for living expenses) for travel away from home is the sum of the substantiated expenses that are otherwise deductible under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.

(g) *Cross references.* See §1.62-1T(e)(4) for rules regarding allocation of unreimbursed expenses of state legislators and section 274(n) for limitations on the amount allowable as a deduction for expenses for or allocable to meals.

(h) *Effective/applicability date.* This section applies to expenses paid or incurred, or deemed expended under section 162(h), in taxable years beginning after April 8, 2010.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

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

§301.9100-4T [Amended]

Par. 4. Section 301.9100-4T is amended by removing from the table in paragraph (a)(1) “section 127(a)”, and removing paragraph (a)(2)(iv).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 6. In §602.101, paragraph (b) is amended to add in numerical order an entry for “1.162-24” to read as follows:

§602.101 OMB Control numbers.

* * * * *
(b) * * *

CFR part or section where Identified and described	Current OMB control No.
* * * * *	
1.162-24	1545-2115
* * * * *	

Linda M. Kroening,
(Acting) Deputy Commissioner for Services and Enforcement.

Michael Mundaca,
(Acting) Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on April 7, 2010, 8:45 a.m., and published in the issue of the Federal Register for April 8, 2010, 75 F.R. 17854)

Approved August 27, 2009.

Part III. Administrative, Procedural, and Miscellaneous

Frivolous Positions

Notice 2010-33

I. Purpose

Positions that are the same as or similar to the positions listed in this notice are identified as frivolous for purposes of the penalty for a “frivolous tax return” under section 6702(a) of the Internal Revenue Code and the penalty for a “specified frivolous submission” under section 6702(b). Persons who file a purported return of tax, including an original or amended return, based on one or more of these positions are subject to a penalty of \$5,000 if the purported return of tax does not contain information on which the substantial correctness of the self-assessed determination of tax may be judged or contains information that on its face indicates the self-assessed determination of tax is substantially incorrect. Likewise, persons who submit a “specified submission” (namely, a request for a collection due process hearing or an application for an installment agreement, offer-in-compromise, or taxpayer assistance order) based on one or more of the positions listed in this notice are subject to a penalty of \$5,000. The penalty may also be applied if the purported return or any portion of the specified submission is not based on a position set forth in this notice, yet reflects a desire to delay or impede the administration of Federal tax laws for purposes of section 6702(a)(2)(B) or 6702(b)(2)(A)(ii). The penalty will be imposed only when the frivolous position or desire to delay or impede the administration of Federal tax laws appears on the face of the return, purported return, or specified submission, including any attachments to the return or submission.

II. Background

Section 407 of Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, 120 Stat. 2922, 2960-62 (2006), amended section 6702 to increase the amount of the penalty for frivolous tax returns from \$500 to \$5,000 and to impose a penalty of \$5,000 on any person who submits a “specified frivolous submission.” A sub-

mission is a “specified frivolous submission” if it is a “specified submission” (defined in section 6702(b)(2)(B) as a request for a hearing under section 6320 or 6330 or an application under section 6159, 7122 or 7811) and any portion of the submission (i) is based on a position identified by the Secretary as frivolous or (ii) reflects a desire to delay or impede administration of the Federal tax laws. Section 6702 was further amended to add a new subsection (c) requiring the Secretary to prescribe, and periodically revise, a list of positions identified as frivolous. Notice 2007-30, 2007-1 C.B. 883, contained the prescribed list. Notice 2007-30 was modified and superseded by Notice 2008-14, 2008-1 C.B. 310, which added frivolous positions to the prescribed list. This notice revises the list in Notice 2008-14 to add additional positions identified as frivolous. The positions that have been added are found in paragraphs 21, 22, and 27.

III. Discussion

Positions that are the same as or similar to the following are frivolous.

(1) Compliance with the internal revenue laws is voluntary or optional and not required by law, including arguments that:

(a) Filing a Federal tax or information return or paying tax is purely voluntary under the law, or similar arguments described as frivolous in Rev. Rul. 2007-20, 2007-1 C.B. 863.

(b) Nothing in the Internal Revenue Code imposes a requirement to file a return or pay tax, or that a person is not required to file a tax return or pay a tax unless the Internal Revenue Service responds to the person’s questions, correspondence, or a request to identify a provision in the Code requiring the filing of a return or the payment of tax.

(c) There is no legal requirement to file a Federal income tax return because the instructions to Forms 1040, 1040A, or 1040EZ or the Treasury regulations associated with the filing of the forms do not display an OMB control number as required by the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 *et seq.*, or similar arguments described as frivolous in Rev. Rul. 2006-21, 2006-1 C.B. 745.

(d) Because filing a tax return is not required by law, the Service must prepare a return for a taxpayer who does not file one in order to assess and collect tax.

(e) A taxpayer has an option under the law to file a document or set of documents in lieu of a return or elect to file a tax return reporting zero taxable income and zero tax liability even if the taxpayer received taxable income during the taxable period for which the return is filed, or similar arguments described as frivolous in Rev. Rul. 2004-34, 2004-1 C.B. 619.

(f) An employer is not legally obligated to withhold income or employment taxes on employees’ wages.

(g) Only persons who have contracted with the government by applying for a governmental privilege or benefit, such as holding a Social Security number, are subject to tax, and those who have contracted with the government may choose to revoke the contract at will.

(h) A taxpayer may lawfully decline to pay taxes if the taxpayer disagrees with the government’s use of tax revenues, or similar arguments described as frivolous in Rev. Rul. 2005-20, 2005-1 C.B. 821.

(i) An administrative summons issued by the Service is *per se* invalid and compliance with a summons is not legally required.

(2) The Internal Revenue Code is not law (or “positive law”) or its provisions are ineffective or inoperative, including the sections imposing an income tax or requiring the filing of tax returns, because the provisions have not been implemented by regulations even though the provisions in question either (a) do not expressly require the Secretary to issue implementing regulations to become effective or (b) expressly require implementing regulations which have been issued.

(3) A taxpayer’s income is excluded from taxation when the taxpayer rejects or renounces United States citizenship because the taxpayer is a citizen exclusively of a State (sometimes characterized as a “natural-born citizen” of a “sovereign state”), that is claimed to be a separate country or otherwise not subject to the laws of the United States. This position includes the argument that the United States does not include all or a part of

the physical territory of the 50 States and instead consists of only places such as the District of Columbia, Commonwealths and Territories (e.g., Puerto Rico), and Federal enclaves (e.g., Native American reservations and military installations), or similar arguments described as frivolous in Rev. Rul. 2004–28, 2004–1 C.B. 624, or Rev. Rul. 2007–22, 2007–1 C.B. 866.

(4) Wages, tips, and other compensation received for the performance of personal services are not taxable income or are offset by an equivalent deduction for the personal services rendered, including an argument that a taxpayer has a “claim of right” to exclude the cost or value of the taxpayer’s labor from income or that taxpayers have a basis in their labor equal to the fair market value of the wages they receive, or similar arguments described as frivolous in Rev. Rul. 2004–29, 2004–1 C.B. 627, or Rev. Rul. 2007–19, 2007–1 C.B. 843.

(5) United States citizens and residents are not subject to tax on their wages or other income derived from sources within the United States, as only foreign-based income or income received by nonresident aliens and foreign corporations from sources within the United States is taxable, and similar arguments described as frivolous in Rev. Rul. 2004–30, 2004–1 C.B. 622.

(6) A taxpayer has been untaxed, de-taxed, or removed or redeemed from the Federal tax system though the taxpayer remains a United States citizen or resident, or similar arguments described as frivolous in Rev. Rul. 2004–31, 2004–1 C.B. 617.

(7) Only certain types of taxpayers are subject to income and employment taxes, such as employees of the Federal government, corporations, nonresident aliens, or residents of the District of Columbia or the Federal territories, or similar arguments described as frivolous in Rev. Rul. 2006–18, 2006–1 C.B. 743.

(8) Only certain types of income are taxable, for example, income that results from the sale of alcohol, tobacco, or firearms or from transactions or activities that take place in interstate commerce.

(9) Federal income taxes are unconstitutional or a taxpayer has a constitutional right not to comply with the Federal tax laws for one of the following reasons:

(a) The First Amendment permits a taxpayer to refuse to pay taxes based on religious or moral beliefs.

(b) A taxpayer may withhold payment of taxes or the filing of a tax return until the Service or other government entity responds to a First Amendment petition for redress of grievances.

(c) Mandatory compliance with, or enforcement of, the tax laws invades a taxpayer’s right to privacy under the Fourth Amendment.

(d) The requirement to file a tax return is an unreasonable search and seizure contrary to the Fourth Amendment.

(e) Income taxation, tax withholding, or the assessment or collection of tax is a “taking” of property without due process of law or just compensation in violation of the Fifth Amendment.

(f) The Fifth Amendment privilege against self-incrimination grants taxpayers the right not to file returns or the right to withhold all financial information from the Service.

(g) The Ninth Amendment exempts those with religious or other objections to military spending from paying taxes to the extent the taxes will be used for military spending.

(h) Mandatory or compelled compliance with the internal revenue laws is a form of involuntary servitude prohibited by the Thirteenth Amendment.

(i) Individuals may not be taxed unless they are “citizens” within the meaning of the Fourteenth Amendment.

(j) The Sixteenth Amendment was not ratified, has no effect, contradicts the Constitution as originally ratified, lacks an enabling clause, or does not authorize a non-apportioned, direct income tax.

(k) Taxation of income attributed to a trust, which is a form of contract, violates the constitutional prohibition against impairment of contracts.

(l) Similar constitutional arguments described as frivolous in Rev. Rul. 2005–19, 2005–1 C.B. 819.

(10) A taxpayer is not a “person” within the meaning of section 7701(a)(14) or other provisions of the Internal Revenue Code, or similar arguments described as frivolous in Rev. Rul. 2007–22, 2007–1 C.B. 866.

(11) Only fiduciaries are taxpayers, or only persons with a fiduciary relationship to the United States are obligated to pay

taxes, and the United States or the Service must prove the fiduciary status or relationship.

(12) Federal Reserve Notes are not taxable income when paid to a taxpayer because they are not gold or silver and may not be redeemed for gold or silver.

(13) In a transaction using gold and silver coins, the value of the coins is excluded from income or the amount realized in the transaction is the face value of the coins and not their fair market value for purposes of determining taxable income.

(14) A taxpayer who is employed on board a ship that provides meals at no cost to the taxpayer as part of the employment may claim a so-called “Mariner’s Tax Deduction” (or the like) allowing the taxpayer to deduct from gross income the cost of the meals as an employee business expense.

(15) A taxpayer may purport to operate a home-based business as a basis to deduct as business expenses the taxpayer’s personal expenses or the costs of maintaining the taxpayer’s household when the maintenance items or amounts as reported do not correspond to a *bona fide* home business, such as when they are grossly excessive in relation to the conceivable costs for some portion of the home being used exclusively and regularly as a business, or similar arguments described as frivolous by Rev. Rul. 2004–32, 2004–1 C.B. 621.

(16) A “reparations” tax credit exists, including arguments that African-American taxpayers may claim a tax credit on their Federal income tax returns as reparations for slavery or other historical mistreatment, that Native Americans are entitled to an analogous credit (or are exempt from Federal income tax on the basis of a treaty), or similar arguments described as frivolous in Rev. Rul. 2004–33, 2004–1 C.B. 628, or Rev. Rul. 2006–20, 2006–1 C.B. 746.

(17) A Native American or other taxpayer who is not an employer engaged in a trade or business may nevertheless claim (for example, in an amount exceeding all reported income) the Indian Employment Credit under section 45A, which explicitly requires, among other criteria, that the taxpayer be an employer engaged in a trade or business to claim the credit.

(18) A taxpayer’s wages are excluded from Social Security taxes if the taxpayer waives the right to receive Social Security benefits, or a taxpayer is entitled to a re-

fund of, or may claim a charitable-contribution deduction for, the Social Security taxes that the taxpayer has paid, or similar arguments described as frivolous in Rev. Rul. 2005-17, 2005-1 C.B. 823.

(19) Taxpayers may reduce or eliminate their Federal tax liability by altering a tax return, including striking out the penalty-of-perjury declaration, or attaching documents to the return, such as a disclaimer of liability, or similar arguments described as frivolous in Rev. Rul. 2005-18, 2005-1 C.B. 817.

(20) A taxpayer is not obligated to pay income tax because the government has created an entity separate and distinct from the taxpayer—a “straw man”—that is distinguishable from the taxpayer by some variation of the taxpayer’s name, and any tax obligations are exclusively those of the “straw man,” or similar arguments described as frivolous in Rev. Rul. 2005-21, 2005-1 C.B. 822.

(21) A taxpayer may use a Form 1099-OID, *Original Issue Discount*, (or another Form 1099 Series information return) as a financial or other instrument to obtain or redeem (under a theory of “redemption” or “commercial redemption”) a monetary payment out of the United States Treasury or for a refund of tax, such as by drawing on a “straw man” or similar financial account maintained by the government in the taxpayer’s name (see paragraph (20), above); a taxpayer may file a Form 56, *Notice Concerning Fiduciary Relationship*, that names the Secretary of the Treasury or some other government employee as a fiduciary of the taxpayer and requires the Treasury Department to honor a Form 1099-OID as a financial or redemption instrument; or similar arguments described as frivolous in Rev. Rul. 2005-21, 2005-1 C.B. 822, and Rev. Rul. 2004-31, 2004-1 C.B. 617.

(22) A taxpayer may claim on an income tax return or purported return an amount of withheld income tax or other tax that is obviously false because it exceeds the taxpayer’s income as reported on the return or is disproportionately high in comparison with the income reported on the return or information on supporting documents filed with the return (such as Form 1099 Series, Form W-2, or Form 2439, *Notice to Shareholder of Undistributed Long-Term Capital Gains*).

(23) Inserting the phrase “nunc pro tunc” on a return or other document filed with or submitted to the Service has a legal effect, such as reducing a taxpayer’s tax liability, or similar arguments described as frivolous in Rev. Rul. 2006-17, 2006-1 C.B. 748.

(24) A taxpayer may avoid tax on income by attributing the income to a trust, including the argument that a taxpayer can put all of the taxpayer’s assets into a trust to avoid income tax while still retaining substantial powers of ownership and control over those assets or that a taxpayer may claim an expense deduction for the income attributed to a trust, or similar arguments described as frivolous in Rev. Rul. 2006-19, 2006-1 C.B. 749.

(25) A taxpayer may lawfully avoid income tax by sending income offshore, including depositing income into a foreign bank account.

(26) A taxpayer can claim the section 44 Disabled Access Credit to reduce tax or generate a refund, for example, by purportedly having purchased equipment or services for an inflated price (which may or may not have been actually paid), even though it is apparent that the taxpayer did not operate a small business that purchased the equipment or services to comply with the requirements of the Americans with Disabilities Act.

(27) A taxpayer may claim a refund of tax based on purported advance payments to employees of the Earned Income Tax Credit as reported by the taxpayer on a filed Form 941, *Employer’s Quarterly Federal Tax Return*, or other employment tax return that reports an amount of purported wages, tips, or other compensation but leaves other line items on the return blank (or with a zero as the amount).

(28) A taxpayer may claim the section 6421 fuels tax credit (such as on Form 4136, *Credit for Federal Tax Paid on Fuels*; Form 8849, *Claim for Refund of Excise Taxes*; or Form 1040) even though the taxpayer did not buy the gasoline or the gasoline was not used for an off-highway business use during the period for which the credit is claimed. Also, if the taxpayer claims an amount of credit that is so disproportionately excessive to any (including zero) business income reported on the taxpayer’s income tax return as to be patently unallowable (e.g., a credit that is 150 percent of business income

reported on Form 1040) or facially reflects an impossible quantity of gasoline given the business use, if any, as reported by the taxpayer.

(29) A taxpayer is allowed to buy or sell the right to claim a child as a qualifying child for purposes of the Earned Income Tax Credit.

(30) An IRS Form 23C, *Assessment Certificate — Summary Record of Assessments*, is an invalid record of assessment for purposes of section 6203 and Treas. Reg. § 301.6203-1, the Form 23C must be personally signed by the Secretary of the Treasury for an assessment to be valid, the Service must provide a copy of the Form 23C to a taxpayer if requested before taking collection action, or similar arguments described as frivolous in Rev. Rul. 2007-21, 2007-1 C.B. 865.

(31) A tax assessment is invalid because the assessment was made from a section 6020(b) substitute for return, which is not a valid return.

(32) A statutory notice of deficiency is invalid because the taxpayer to whom the notice was sent did not file an income tax return reporting the deficiency or because the statutory notice of deficiency was unsigned or not signed by the Secretary of the Treasury or by someone with delegated authority.

(33) A Notice of Federal Tax Lien is invalid because it is not signed by a particular official (such as by the Secretary of the Treasury), or because it was filed by someone without delegated authority.

(34) The form or content of a Notice of Federal Tax Lien is controlled by or subject to a state or local law, and a Notice of Federal Tax Lien that does not comply in form or content with a state or local law is invalid.

(35) A collection due process notice under section 6320 or 6330 is invalid if it is not signed by the Secretary of the Treasury or other particular official, or if no certificate of assessment is attached.

(36) Verification under section 6330 that the requirements of any applicable law or administrative procedure have been met may only be based on one or more particular forms or documents (which must be in a certain format), such as a summary record of assessment, or that the particular forms or documents or the ones on which verification was actually determined must

be provided to a taxpayer at a collection due process hearing.

(37) A Notice and Demand is invalid because it was not signed, was not on the correct form (e.g., a Form 17), or was not accompanied by a certificate of assessment when mailed.

(38) The United States Tax Court is an illegitimate court or does not, for any purported constitutional or other reason, have the authority to hear and decide matters within its jurisdiction.

(39) Federal courts may not enforce the internal revenue laws because their jurisdiction is limited to admiralty or maritime cases or issues.

(40) Revenue Officers are not authorized to issue levies or Notices of Federal Tax Lien or to seize property in satisfaction of unpaid taxes.

(41) A Service employee lacks the authority to carry out the employee's duties because the employee does not possess a certain type of identification or credential, for example, a pocket commission or a badge, or it is not in the correct form or on the right medium.

(42) A person may represent a taxpayer before the Service or in court proceedings even if the person does not have a power of attorney from the taxpayer, has not been enrolled to practice before the Service, or has not been admitted to practice before the court.

(43) A civil action to collect unpaid taxes or penalties must be personally authorized by the Secretary of the Treasury and the Attorney General.

(44) A taxpayer's income is not taxable if the taxpayer assigns or attributes the income to a religious organization (a "corporation sole" or ministerial trust) claimed to be tax-exempt under section 501(c)(3), or similar arguments described as frivolous in Rev. Rul. 2004-27, 2004-1 C.B. 625.

(45) The Service is not an agency of the United States government but rather a private-sector corporation or an agency of a State or Territory without authority to administer the internal revenue laws.

(46) Any position described as frivolous in any revenue ruling or other published guidance in existence when the return adopting the position is filed with or the specified submission adopting the position is submitted to the Service.

Returns or submissions that contain positions not listed above, which on their face

have no basis for validity in existing law, or which have been deemed frivolous in a published opinion of the United States Tax Court or other court of competent jurisdiction, may be determined to reflect a desire to delay or impede the administration of Federal tax laws and thereby subject to the \$5,000 penalty.

The list of frivolous positions above will be periodically revised as required by section 6702(c).

IV. *Effective Date*

This notice is effective for submissions made and issues raised after April 7, 2010. For submissions made and issues raised between January 14, 2008 and April 7, 2010, Notice 2008-14 applies.

V. *Effect on Other Documents*

Notice 2008-14 is modified and superseded.

VI. *Drafting Information*

The principal author of this notice is Emily M. Lesniak, Office of the Associate Chief Counsel, Procedure and Administration. For further information, contact Emily M. Lesniak at 202-622-4940 (not a toll-free number).

PFIC Shareholder Reporting Under New Section 1298(f) for Tax Years Beginning Before March 18, 2010

Notice 2010-34

On March 18, 2010, President Obama signed the Hiring Incentives to Restore Employment Act of 2010 (the Act). The Act amends the Internal Revenue Code by adding a new § 1298(f). Section 1298(f) requires United States persons who are shareholders of a passive foreign investment company (PFIC) to file an annual report containing such information as the Secretary may require. Section 1298(f) is effective on the date of enactment.

The Internal Revenue Service is developing further guidance regarding the reporting obligations under § 1298(f). In the meantime, persons that were required to file Form 8621, *Return by a Shareholder of a Passive Foreign Investment Company or*

a Qualified Electing Fund, prior to the enactment of § 1298(f) must continue to file Form 8621 as provided in the Instructions to such form (e.g., upon disposition of stock of a PFIC, or with respect to a qualified electing fund under § 1293). Shareholders of a PFIC that were not otherwise required to file Form 8621 annually prior to March 18, 2010, will not be required to file an annual report as a result of the addition of § 1298(f) for taxable years beginning before March 18, 2010.

The principal author of this notice is Kristine A. Crabtree of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact Susan E. Massey at (202) 622-3840 (not a toll-free call).

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

Notice 2010-36

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 March 2010 is 5.90 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	
<u>Month</u>	<u>Year</u>		<u>90%</u>	<u>to</u> <u>100%</u>
April	2010	6.39	5.75	6.39

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, 2007-2 C.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 March 2010 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of March 2010 are, respectively, 2.29, 5.65, and 6.58. The three 24-month average corporate bond segment rates applicable for April 2010 under the election of § 430(h)(2)(G)(iv) are as follows:

<u>First Segment</u>	<u>Second Segment</u>	<u>Third Segment</u>
4.35	6.59	6.72

The transitional segment rates under § 430(h)(2)(G) applicable for April 2010, taking into account the corporate bond

weighted average of 6.39 stated above, are as follows:

<u>For Plan Years Beginning in</u>	<u>First Segment</u>	<u>Second Segment</u>	<u>Third Segment</u>
2009	5.03	6.52	6.61

The transitional rule of § 430(h)(2)(G) does not apply to plan years starting in 2010. Therefore, for a plan year starting in 2010 with a lookback month to April 2010, the funding segment rates are the three 24-month average corporate bond segment rates applicable for April 2010,

listed above without blending for the transitional period.

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 March 2010 is 4.65 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 2040.

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%
April	2010	4.40	3.96	4.62

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 rates are the monthly spot segment rates 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 March 2010, taking into account the March 2010 30-year Treasury rate of 4.65 stated above, are as follows:

For Plan Years Beginning in	First Segment	Second Segment	Third Segment
2009	3.71	5.05	5.42
2010	3.23	5.25	5.81

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 March 2010
 Derived from March 2010 Data

<i>Maturity</i>	<i>Yield</i>								
0.5	0.76	20.5	6.32	40.5	6.61	60.5	6.71	80.5	6.76
1.0	1.07	21.0	6.34	41.0	6.62	61.0	6.71	81.0	6.77
1.5	1.40	21.5	6.35	41.5	6.62	61.5	6.72	81.5	6.77
2.0	1.75	22.0	6.36	42.0	6.62	62.0	6.72	82.0	6.77
2.5	2.11	22.5	6.37	42.5	6.63	62.5	6.72	82.5	6.77
3.0	2.48	23.0	6.38	43.0	6.63	63.0	6.72	83.0	6.77
3.5	2.84	23.5	6.39	43.5	6.63	63.5	6.72	83.5	6.77
4.0	3.18	24.0	6.40	44.0	6.64	64.0	6.72	84.0	6.77
4.5	3.50	24.5	6.41	44.5	6.64	64.5	6.73	84.5	6.77
5.0	3.79	25.0	6.42	45.0	6.64	65.0	6.73	85.0	6.77
5.5	4.05	25.5	6.43	45.5	6.65	65.5	6.73	85.5	6.77
6.0	4.28	26.0	6.44	46.0	6.65	66.0	6.73	86.0	6.77
6.5	4.49	26.5	6.45	46.5	6.65	66.5	6.73	86.5	6.78
7.0	4.68	27.0	6.46	47.0	6.65	67.0	6.73	87.0	6.78
7.5	4.85	27.5	6.47	47.5	6.66	67.5	6.73	87.5	6.78
8.0	5.01	28.0	6.47	48.0	6.66	68.0	6.74	88.0	6.78
8.5	5.14	28.5	6.48	48.5	6.66	68.5	6.74	88.5	6.78
9.0	5.27	29.0	6.49	49.0	6.66	69.0	6.74	89.0	6.78
9.5	5.38	29.5	6.50	49.5	6.67	69.5	6.74	89.5	6.78
10.0	5.48	30.0	6.50	50.0	6.67	70.0	6.74	90.0	6.78
10.5	5.58	30.5	6.51	50.5	6.67	70.5	6.74	90.5	6.78
11.0	5.66	31.0	6.52	51.0	6.67	71.0	6.74	91.0	6.78
11.5	5.74	31.5	6.52	51.5	6.68	71.5	6.74	91.5	6.78
12.0	5.80	32.0	6.53	52.0	6.68	72.0	6.75	92.0	6.78
12.5	5.86	32.5	6.54	52.5	6.68	72.5	6.75	92.5	6.78
13.0	5.92	33.0	6.54	53.0	6.68	73.0	6.75	93.0	6.79
13.5	5.97	33.5	6.55	53.5	6.69	73.5	6.75	93.5	6.79
14.0	6.01	34.0	6.55	54.0	6.69	74.0	6.75	94.0	6.79
14.5	6.05	34.5	6.56	54.5	6.69	74.5	6.75	94.5	6.79
15.0	6.09	35.0	6.56	55.0	6.69	75.0	6.75	95.0	6.79
15.5	6.12	35.5	6.57	55.5	6.69	75.5	6.75	95.5	6.79
16.0	6.15	36.0	6.57	56.0	6.70	76.0	6.76	96.0	6.79
16.5	6.18	36.5	6.58	56.5	6.70	76.5	6.76	96.5	6.79
17.0	6.20	37.0	6.58	57.0	6.70	77.0	6.76	97.0	6.79
17.5	6.22	37.5	6.59	57.5	6.70	77.5	6.76	97.5	6.79
18.0	6.24	38.0	6.59	58.0	6.70	78.0	6.76	98.0	6.79
18.5	6.26	38.5	6.60	58.5	6.71	78.5	6.76	98.5	6.79
19.0	6.28	39.0	6.60	59.0	6.71	79.0	6.76	99.0	6.79
19.5	6.29	39.5	6.60	59.5	6.71	79.5	6.76	99.5	6.79
20.0	6.31	40.0	6.61	60.0	6.71	80.0	6.76	100.0	6.79

Part IV. Items of General Interest

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2010–28

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had

knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on April 26, 2010 and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Housing Action Resource Trust
Rancho Cucamonga, CA

Andrew S. Braddock Foundation
Waukesha, WI

Correction to Foundations Status of Certain Organizations

Announcement 2010–29

This document contains a correction to Announcement 2009–23, 2010–16 I.R.B. 602, regarding Foundations Status of Certain Organizations.

Accordingly, the publication of this announcement is corrected as follows:

The announcement number shown on page 602 of I.R.B. 2010–16 as Announcement 2009–23 should read Announcement 2010–23.

Definition of Terms

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

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

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

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

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

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

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

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

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

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

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

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

Abbreviations

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

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

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

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

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

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