

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

Notice 2010-38, page 682.

This notice provides guidance on the exclusion from employees' gross income for employer-provided accident and health plan coverage for employees' children under age 27, on the employment tax treatment of these benefits, and on the parallel amendments to section 401(h) for retiree health accounts in pension plans, section 501(c)(9) (voluntary employees' beneficiary associations (VEBAs)), and the deductions by self-employed individuals under section 162(1).

EMPLOYEE PLANS

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EXEMPT ORGANIZATIONS

Announcement 2010-35, page 685.

The IRS has revoked its determination that the Ann Arbor Spark of Ann Arbor, MI, and the Indigenous Nations Federal Charter Association Buffalo Reserve Charitable Trust of Norman, OK, qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Code.

EMPLOYMENT TAX

Notice 2010-38, page 682.

This notice provides guidance on the exclusion from employees' gross income for employer-provided accident and health plan coverage for employees' children under age 27, on the employment tax treatment of these benefits, and on the parallel amendments to section 401(h) for retiree health accounts in pension plans, section 501(c)(9) (voluntary employees' beneficiary associations (VEBAs)), and the deductions by self-employed individuals under section 162(1).

ADMINISTRATIVE

Announcement 2010-34, page 685.

This document contains a correction to Announcement 2010-22, 2010-16 I.R.B. 602, regarding implementation of FATCA and request for comments. The Federal e-Rulemaking Portal was incorrect.

Announcements of Disbarments and Suspensions begin on page 685.
Finding Lists begin on page ii.



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 III. Administrative, Procedural, and Miscellaneous

Tax Treatment of Health Care Benefits Provided With Respect to Children Under Age 27

Notice 2010-38

I. PURPOSE

This notice provides guidance on the tax treatment of health coverage for children up to age 27 under the Affordable Care Act. (In this notice, the “Affordable Care Act” refers to the Patient Protection and Affordable Care Act, Public Law No. 111-148 (PPACA), and the Health Care and Education Reconciliation Act of 2010, Public Law No. 111-152 (HCERA), signed into law by the President on March 23 and 30, 2010, respectively.)

The Affordable Care Act requires group health plans and health insurance issuers that provide dependent coverage of children to continue to make such coverage available for an adult child until age 26. The Affordable Care Act also amends the Internal Revenue Code (Code) to give certain favorable tax treatment to coverage for adult children. This notice addresses a number of questions regarding the tax treatment of such coverage.

Specifically, this notice provides guidance on the Affordable Care Act’s amendment of § 105(b) of the Code, effective March 30, 2010, to extend the general exclusion from gross income for reimbursements for medical care under an employer-provided accident or health plan to any employee’s child who has not attained age 27 as of the end of the taxable year. (See § 1004(d) of HCERA.) The Affordable Care Act also makes parallel amendments, effective March 30, 2010, to § 401(h) for retiree health accounts in pension plans, to § 501(c)(9) for voluntary employees’ beneficiary associations (VEBAs), and to § 162(l) for deductions by self-employed individuals for medical care insurance. (See § 1004(d) of HCERA.)

The Affordable Care Act amended the Public Health Service Act (PHS Act) to add § 2714, which requires group health plans and health insurance issuers that provide dependent coverage of children to

continue to make such coverage available for an adult child until age 26. (See § 1001 of PPACA.) Section 2714 of the PHS Act is incorporated into § 9815 of the Code by § 1562(f) of PPACA. In certain respects, the rules of § 2714 of the PHS Act extending coverage to an adult child do not parallel the gross income exclusion rules provided by the Affordable Care Act’s amendments of §§ 105(b), 401(h), 501(c)(9), and 162(l) of the Code. For example, § 2714 of the PHS Act applies to children under age 26 and is effective for the first plan year beginning on or after September 23, 2010, while, as noted above, the amendments to the Code addressed in this notice apply to children who have not attained age 27 as of the end of the taxable year and are effective March 30, 2010.

II. EXCLUSION OF EMPLOYER-PROVIDED MEDICAL CARE REIMBURSEMENTS FOR EMPLOYEE’S CHILD UNDER AGE 27

Section 105(b) generally excludes from an employee’s gross income employer-provided reimbursements made directly or indirectly to the employee for the medical care of the employee, employee’s spouse or employee’s dependents (as defined in § 152 (determined without regard to § 152(b)(1), (b)(2) or (d)(1)(B))). As amended by the Affordable Care Act, the exclusion from gross income under § 105(b) is extended to employer-provided reimbursements for expenses incurred by the employee for the medical care of the employee’s child (within the meaning of § 152(f)(1)) who has not attained age 27 as of the end of the taxable year. (The Affordable Care Act does not alter the existing definitions of spouse or dependent for purposes of § 105(b).) Under § 152(f)(1), a child is an individual who is the son, daughter, stepson, or stepdaughter of the employee, and a child includes both a legally adopted individual of the employee and an individual who is lawfully placed with the employee for legal adoption by the employee. Under § 152(f)(1), a child also includes an “eligible foster child,” defined as an individual who is placed with the employee by an authorized placement agency or by judgment, decree,

or other order of any court of competent jurisdiction.

As amended by the Affordable Care Act, the exclusion from gross income under § 105(b) applies with respect to an employee’s child who has not attained age 27 as of the end of the taxable year, including a child of the employee who is not the employee’s dependent within the meaning of § 152(a). Thus, the age limit, residency, support, and other tests described in § 152(c) do not apply with respect to such a child for purposes of § 105(b).

The exclusion applies only for reimbursements for medical care of individuals who are not age 27 or older at any time during the taxable year. For purposes of §§ 105(b) and 106, the taxable year is the employee’s taxable year; employers may assume that an employee’s taxable year is the calendar year; a child attains age 27 on the 27th anniversary of the date the child was born (for example, a child born on April 10, 1983 attained age 27 on April 10, 2010); and employers may rely on the employee’s representation as to the child’s date of birth.

III. EXCLUSION OF EMPLOYER-PROVIDED ACCIDENT OR HEALTH COVERAGE FOR EMPLOYEE’S CHILD UNDER AGE 27

Section 106 excludes from an employee’s gross income coverage under an employer-provided accident or health plan. The regulations under § 106 provide that the exclusion applies to employer-provided coverage for an employee and the employee’s spouse or dependents (as defined in § 152, determined without regard to § 152(b)(1), (b)(2) or (d)(1)(B)). See Prop. Treas. Reg. § 1.106-1. Prior to the Affordable Care Act, the exclusion for employer-provided accident or health plan coverage under § 106 paralleled the exclusion for reimbursements under § 105(b). There is no indication that Congress intended to provide a broader exclusion in § 105(b) than in § 106. Accordingly, IRS and Treasury intend to amend the regulations under § 106, retroactively to March 30, 2010, to provide that coverage for an employee’s child under age 27 is excluded from gross income. Thus, on and after March 30, 2010, both coverage under an

employer-provided accident or health plan and amounts paid or reimbursed under such a plan for medical care expenses of an employee, an employee's spouse, an employee's dependents (as defined in § 152, determined without regard to § 152(b)(1), (b)(2) or (d)(1)(B)), or an employee's child (as defined in § 152(f)(1)) who has not attained age 27 as of the end of the employee's taxable year are excluded from the employee's gross income.

The following examples illustrate this rule. In these examples, any reference to a "dependent" means a dependent as defined in § 152, determined without regard to § 152(b)(1), (b)(2) or (d)(1)(B). Also, in these examples, it is assumed that none of the individuals are disabled.

Example (1). (i) Employer X provides health care coverage for its employees and their spouses and dependents and for any employee's child (as defined in § 152(f)(1)) who has not attained age 26. For the 2010 taxable year, Employer X provides coverage to Employee A and to A's son, C. C will attain age 26 on November 15, 2010. During the 2010 taxable year, C is not a full-time student. C has never worked for Employer X. C is not a dependent of A because prior to the close of the 2010 taxable year C had attained age 19 (and was also not a student who had not attained age 24).

(ii) C is a child of A within the meaning of § 152(f)(1). Accordingly, and because C will not attain age 27 during the 2010 taxable year, the health care coverage and reimbursements provided to him under the terms of Employer X's plan are excludible from A's gross income under §§ 106 and 105(b) for the period on and after March 30, 2010 through November 15, 2010 (when C attains age 26 and loses coverage under the terms of the plan).

Example (2). (i) Employer Y provides health care coverage for its employees and their spouses and dependents and for any employee's child (as defined in § 152(f)(1)) who has not attained age 27 as of the end of the taxable year. For the 2010 taxable year, Employer Y provides health care coverage to Employee E and to E's son, G. G will not attain age 27 until after the end of the 2010 taxable year. During the 2010 taxable year, G earns \$50,000 per year, and does not live with E. G has never worked for Employer Y. G is not eligible for health care coverage from his own employer. G is not a dependent of E because G does not live with E and E does not provide more than one half of his support.

(ii) G is a child of E within the meaning of § 152(f)(1). Accordingly, and because G will not attain age 27 during the 2010 taxable year, the health care coverage and reimbursements for G under Employer Y's plan are excludible from E's gross income under §§ 106 and 105(b) for the period on and after March 30, 2010 through the end of the 2010 taxable year.

Example (3). (i) Same facts as *Example (2)*, except that G's employer offers health care coverage, but G has decided not to participate in his employer's plan.

(ii) G is a child of E within the meaning of § 152(f)(1). Accordingly, and because G will not attain age 27 during the 2010 taxable year, the health care coverage and reimbursements for G under Employer Y's plan are excludible from E's gross income under §§ 106 and 105(b) for the period on and after March 30, 2010 through the end of the 2010 taxable year.

Example (4). (i) Same facts as *Example (3)*, except that G is married to H, and neither G nor H is a dependent of E. G and H have decided not to participate in the health care coverage offered by G's employer, and Employer Y provides health care coverage to G and H.

(ii) G is a child of E within the meaning of § 152(f)(1). Accordingly, and because G will not attain age 27 during the 2010 taxable year, the health care coverage and reimbursements for G under Employer Y's plan are excludible from E's gross income under §§ 106 and 105(b) for the period on and after March 30, 2010 through the end of the 2010 taxable year. The fair market value of the coverage for H is includible in E's gross income for the 2010 taxable year.

Example (5). (i) Employer Z provides health care coverage for its employees and their spouses and dependents. Effective May 1, 2010, Employer Z amends the health plan to provide coverage for any employee's child (as defined in § 152(f)(1)) who has not attained age 26. Employer Z provides coverage to Employee F and to F's son, K, for the 2010 taxable year. K will attain age 22 in 2010. During the 2010 taxable year, F provides more than one half of K's support. K lives with F and graduates from college on May 15, 2010 and thereafter is not a student. K has never worked for Employer Z. Prior to K's graduation from college, K is a dependent of F. Following graduation from college, K is no longer a dependent of F.

(ii) For the 2010 taxable year, the health care coverage and reimbursements provided to K under the terms of Employer Z's plan are excludible from F's gross income under §§ 106 and 105(b). For the period through May 15, 2010, the reimbursements and coverage are excludible because K was a dependent of F. For the period on and after March 30, 2010, the coverage is excludible because K is a child of F within the meaning of § 152(f)(1) and because K will not attain age 27 during the 2010 taxable year. (Thus, for the period from March 30 through May 15, 2010, there are two bases for the exclusion.)

IV. CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND HEALTH REIMBURSEMENT ARRANGEMENTS

Section 125 allows employees to elect between cash and certain qualified benefits, including accident or health plans (described in § 106) and health flexible spending arrangements (health FSAs) (described in § 105(b)). Section 125(f) defines "qualified benefit" as any benefit which, with the application of § 125(a), is not includible in the gross income of the employee

by reason of an express provision of chapter 1 of the Code (other than §§ 106(b) (which applies to Archer MSAs), 117, 127, or 132). Accordingly, the exclusion of coverage and reimbursements from an employee's gross income under §§ 106 and 105(b) for an employee's child who has not attained age 27 as of the end of the employee's taxable year carries forward automatically to the definition of qualified benefits for § 125 cafeteria plans, including health FSAs. Thus, a benefit will not fail to be a qualified benefit under a cafeteria plan (including a health FSA) merely because it provides coverage or reimbursements that are excludible under §§ 106 and 105(b) for a child who has not attained age 27 as of the end of the employee's taxable year.

A cafeteria plan may permit an employee to revoke an election during a period of coverage and to make a new election only in limited circumstances, such as a change in status event. See Treas. Reg. § 1.125-4(c). A change in status event includes changes in the number of an employee's dependents. The regulations under § 1.125-4(c) currently do not permit election changes for children under age 27 who are not the employee's dependents. IRS and Treasury intend to amend the regulations under § 1.125-4, effective retroactively to March 30, 2010, to include change in status events affecting nondependent children under age 27, including becoming newly eligible for coverage or eligible for coverage beyond the date on which the child otherwise would have lost coverage.

In general, a health reimbursement arrangement (HRA) is an arrangement that is paid for solely by an employer (and not through a § 125 cafeteria plan) which reimburses an employee for medical care expenses up to a maximum dollar amount for a coverage period. Notice 2002-45, 2002-2 C.B. 93. The same rules that apply to an employee's child under age 27 for purposes of §§ 106 and 105(b) apply to an HRA.

V. FICA, FUTA, RRTA, AND INCOME TAX WITHHOLDING TREATMENT

Coverage and reimbursements under an employer-provided accident and health plan for employees generally and their dependents (or a class or classes

of employees and their dependents) are excluded from wages for Federal Insurance Contributions Act (FICA) and Federal Unemployment Tax Act (FUTA) tax purposes under §§ 3121(a)(2) and 3306(b)(2), respectively. For these purposes, a child of the employee is a dependent. Treas. Reg. §§ 31.3121(a)(2)-1(c) and 31.3306(b)(2)-1(c). No age limit, residency, support, or other test applies for these purposes. Thus, coverage and reimbursements under a plan for employees and their dependents that are provided for an employee's child under age 27 are not wages for FICA or FUTA purposes. For this purpose, child has the same meaning as in § 152(f)(1), as discussed in the first paragraph in Section II of this notice. A similar exclusion applies for Railroad Retirement Tax Act (RRTA) tax purposes under § 3231(e)(1)(i) and Treas. Reg. § 31.3231(e)-1(a)(1).

Such coverage and reimbursements are also exempt from income tax withholding. See Rev. Rul. 56-632, 1956-2 C.B. 101.

VI. VEBAS, SECTION 401(h) ACCOUNTS, AND SECTION 162(l) DEDUCTIONS

A VEBA is a tax-exempt entity described in § 501(c)(9) providing for the payment of life, sick, accident, or other benefits to members of the VEBA or their dependents or designated beneficiaries. The regulations provide that, for purposes of § 501(c)(9), "dependent" means the member's spouse; any child of the member or the member's spouse who is a minor or a student (within the meaning of § 151(e)(4) (now § 152(f)(2)); any other minor child residing with the member; and any other individual who an association, relying on information furnished to it by a member, in good faith believes is a person described in § 152(a). Treas. Reg. § 1.501(c)(9)-3. As amended by the Affordable Care Act, § 501(c)(9) provides that, for purposes of providing for the payment of sick and ac-

cident benefits to members of the VEBA and their dependents, the term dependent includes any individual who is a member's child (as defined in § 152(f)(1)) and who has not attained age 27 as of the end of the calendar year.

Section 401(h) provides that a pension or annuity plan can establish and maintain a separate account to provide for the payment of benefits for sickness, accident, hospitalization, and medical expenses of retired employees, their spouses and their dependents if certain enumerated conditions are met ("401(h) Account"). The regulations provide that, for purposes of § 401(h) and § 1.401-14, the term "dependent" shall have the same meaning as that assigned to it by § 152. Treas. Reg. § 1.401-14(b)(4)(i). As amended by the Affordable Care Act, § 401(h) provides that the term dependent includes any individual who is a retired employee's child (within the meaning of § 152(f)(1)) and who has not attained age 27 as of the end of the calendar year.

Section 162(l) generally allows a self-employed individual to deduct, in computing adjusted gross income, amounts paid during the taxable year for insurance that constitutes medical care for the taxpayer, his or her spouse, and dependents, if certain requirements are satisfied. As amended by the Affordable Care Act, § 162(l) covers medical insurance for any child (within the meaning of § 152(f)(1)) who has not attained age 27 as of the end of the taxable year.

VII. TRANSITION RULE FOR CAFETERIA PLAN AMENDMENTS

Cafeteria plans may need to be amended to include employees' children who have not attained age 27 as of the end of the taxable year. Pursuant to § 1.125-1(c) of the proposed regulations, cafeteria plan amendments may be effective only prospectively. Notwithstanding this general rule, as of March 30,

2010, employers may permit employees to immediately make pre-tax salary reduction contributions for accident or health benefits under a cafeteria plan (including a health FSA) for children under age 27, even if the cafeteria plan has not yet been amended to cover these individuals. However, a retroactive amendment to a cafeteria plan to cover children under age 27 must be made no later than December 31, 2010, and must be effective retroactively to the first date in 2010 when employees are permitted to make pre-tax salary reduction contributions to cover children under age 27 (but in no event before March 30, 2010).

VIII. EFFECT ON OTHER DOCUMENTS

IRS and Treasury intend to amend the regulations at §§ 1.105-1, 1.105-2, 1.106-1, 1.125-1, 1.125-4, 1.125-5, and 1.401-14 to include children (as defined in § 152(f)(1)) who are under age 27. Additionally, IRS and Treasury intend to amend the regulations at § 1.501(c)(9)-3 to include children (as defined in § 152(f)(1)) who are under age 27, with respect to sick and accident benefits. Taxpayers may rely on this notice pending the issuance of the amended regulations.

IX. EFFECTIVE DATES

The changes relating to §§ 105(b), 106, 501(c)(9), 401(h) and 162(l) are effective on March 30, 2010.

DRAFTING INFORMATION

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

Part IV. Items of General Interest

Correction to Announcement Regarding Implementation of FATCA and Request for Comments

Announcement 2010–34

This document contains a correction to Announcement 2010–22, 2010–16 I.R.B. 602. The Federal e-Rulemaking Portal was incorrect.

The Announcement incorrectly stated:

“Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (NOT–112379–10), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (NOT–112379–10).”

The Announcement should have stated:

“Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (NOT–112379–10), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224 or sent electronically via the Federal eRulemaking

Portal at *Notice.Comments@irsconsult.treas.gov* (NOT–112379–10).”

For further information regarding this announcement, contact Kathryn T. Holman at (202) 622–8556 (not a toll-free call).

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

Announcement 2010–35

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 May 17, 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.

Ann Arbor Spark
Ann Arbor, MI
Indigenous Nations Federal Charter
Association Buffalo Reserve Charitable
Trust
Norman, OK

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2010-37

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. Un-

like 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)
Arizona				
Mesa	Hillerman, Marjorie J.	Enrolled Agent	Disbarred by ALJ default decision for violation of § 10.51 (willful failure to timely file several Federal income tax returns)	Indefinite from January 26, 2010
California				
Hacienda Heights	Abrams, Gary R.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from April 14, 2010

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
California (Continued)				
Elk Grove	Appelblatt, Gary M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license and convictions under state law, sexual battery, and attempted sexual battery)	Indefinite from March 15, 2010
	Gong, Gloria M., See Texas			
Aliso Viejo	Grant, Gary D.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from March 9, 2010
Yorba Linda	Johnston, Dennis H.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from April 14, 2010
Tarzana	Kamarian, Garabed	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from March 9, 2010
Studio City	Krell, Steven	CPA	Suspended by decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from April 5, 2010
Arcadia	Sun, Alexander F.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license and conviction under state law, insurance fraud)	Indefinite from March 9, 2010
Florida				
Bonita Springs	Bryan, Clyde C.	Enrolled Agent	Suspended by decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1512, destroying documents to impair the integrity and availability for use in an official proceeding, and 18 U.S.C. § 1519, altering documents to impede, obstruct, and influence an agency of the U.S.)	Indefinite from March 3, 2010

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Maryland				
Baltimore	Alivizatos, Constandin	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from March 12, 2010
Baltimore	Kwarteng, Charles O.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from March 12, 2010
Missouri				
Kansas City	Day, Neysa L.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from March 12, 2010
New York				
New York	Holzer, Eric A.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 371, conspiracy to commit securities fraud, 15 U.S.C. §§ 78j(b), 78ff, securities fraud; and stricken from attorney rolls)	Indefinite from March 12, 2010
Ridgewood	Ignacio, David G.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from March 12, 2010
Buffalo	Parker, David E.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 371, conspiracy to defraud the U.S.)	Indefinite from March 12, 2010
East Berne	Spargo, Thomas J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. §§ 1951 and 2, attempted extortion, and 18 U.S.C. §§ 666 and 2, attempted bribery)	Indefinite from March 12, 2010

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
North Carolina				
Concord	Gipson, Frederick M.	CPA	Suspended by decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from April 14, 2010
Wilmington	Mitchell, Hilton S.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from March 12, 2010
Ohio				
Mentor	Zgoznic, Anton	CPA	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. §§ 371 and 1349, conspiracy to commit mail fraud, 18 U.S.C. §§ 1341 and 1346, mail fraud, 18 U.S.C. § 371, conspiracy to defraud the IRS, 26 U.S.C. § 7712(a), corruptly endeavoring to obstruct and impede, and 26 U.S.C. § 7206(2), aiding and assisting preparation of false document)	Indefinite from April 5, 2010
Pennsylvania				
Wrightsville	Butler, Michael S.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from April 5, 2010
Erie	DeSantis, Joseph J.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from April 5, 2010
Bryn Mawr	James, Janeane M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from April 5, 2010

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Tennessee				
Springfield	Singleton, Jamie E.	CPA	Suspended by consent for admitted violations of § 10.51 (failure to timely file Federal individual income tax return, failure to file employer's quarterly Federal tax return for number of quarters, failure to file U.S. corporation income tax returns, and failure to file employer's annual federal unemployment tax return)	Indefinite from March 16, 2010, but at least 48 months
Texas				
Richmond	Gong, Gloria M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment in California)	Indefinite from April 14, 2010

Definition of Terms

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

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

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

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

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

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

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

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

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

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

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

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

Abbreviations

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

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

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

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

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2009–27 through 2009–52 is in Internal Revenue Bulletin 2009–52, dated December 28, 2009.

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¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2009–27 through 2009–52 is in Internal Revenue Bulletin 2009–52, dated December 28, 2009.

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