

## **HIGHLIGHTS OF THIS ISSUE**

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

### **INCOME TAX**

#### **Rev. Rul. 2010-21, page 388.**

**Interest rates; underpayments and overpayments.** The rates for interest determined under section 6621 of the Code for the calendar quarter beginning October 1, 2010, will be 4 percent for overpayments (3 percent in the case of a corporation), 4 percent for underpayments, and 6 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding \$10,000 will be 1.5 percent.

#### **Rev. Rul. 2010-22, page 388.**

**Fringe benefits aircraft valuation formula.** The Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charge in effect for the second half of 2010 are set forth for purposes of determining the value of noncommercial flights on employer-provided aircraft under section 1.61-2(g) of the regulations.

#### **Rev. Rul. 2010-23, page 388.**

**Revenue ruling obsolete.** This ruling obsoletes Rev. Rul. 2003-102, 2003-2 C.B. 559, which provides guidance on employer reimbursements of amounts paid by an employee to purchase nonprescription medicines or drugs.

#### **Notice 2010-59, page 396.**

This notice provides guidance on new section 106(f) of the Code, which requires that an over-the-counter medicine or drug be prescribed to be a medical expense for purposes of section 105. Notices 96-53, 2004-2, 2004-50, 2008-51, 2008-52 modified. Notice 2006-69 amplified.

#### **Announcement 2010-56, page 398.**

The results of the 2009-10 allocation round of the qualifying advanced coal project program and the qualifying gasification project program provide the identity of the applicants that have been awarded credits and the amount of credits awarded to each applicant. This announcement also serves notice to applicants that the 2010-11 allocation round is currently open for the Code section 48A program pursuant to Notice 2009-24. The Service will not conduct a 2010-11 allocation round for the Code section 48B program because the total amount of available credits were allocated during the 2009-10 round.

### **ADMINISTRATIVE**

#### **Announcement 2010-59, page 399.**

This document contains a correction to Notice 2009-80, 2009-51 I.R.B. 859, which contained an incorrect name.



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

force the 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 61.—Gross Income Defined

26 CFR 1.61–21: Taxation of fringe benefits.

**Fringe benefits aircraft valuation formula.** The Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charge in effect for the second half of 2010 are set forth for purposes of determining the value of noncommercial flights on employer-provided aircraft under section 1.61–2(g) of the regulations.

## Rev. Rul. 2010–22

For purposes of the taxation of fringe benefits under section 61 of the Internal Revenue Code, section 1.61–21(g) of the Income Tax Regulations provides a rule for valuing noncommercial flights on employer-provided aircraft. Section 1.61–21(g)(5) provides an aircraft valuation formula to determine the value of such flights. The value of a flight is determined under the base aircraft valuation formula (also known as the Standard Industry Fare

Level formula or SIFL) by multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple provided in section 1.61–21(g)(7) and then adding the applicable terminal charge. The SIFL cents-per-mile rates in the formula and the terminal charge are calculated by the Department of Transportation and are reviewed semi-annually.

The following chart sets forth the terminal charge and SIFL mileage rates:

<i>Period During Which the Flight Is Taken</i>	<i>Terminal Charge</i>	<i>SIFL Mileage Rates</i>
7/1/10 – 12/31/10	\$41.00	Up to 500 miles = \$.2243 per mile  501–1500 miles = \$.1710 per mile  Over 1500 miles = \$.1644 per mile

### DRAFTING INFORMATION

The principal author of this revenue ruling is Kathleen Edmondson of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt/Government Entities). For further information regarding this revenue ruling, contact Ms. Edmondson at (202) 622–0047 (not a toll-free call).

## Section 105.—Amounts Received Under Accident and Health Plans

**Revenue ruling obsoleted.** This ruling obsoletes Rev. Rul. 2003–102, 2003–2 C.B. 559, which provides guidance on employer reimbursements of amounts paid by an employee to purchase nonprescription medicines or drugs.

## Rev. Rul. 2010–23

Rev. Rul. 2003–102, 2003–2 C.B. 559, holds that reimbursements by the employer of amounts expended for medicines

or drugs available without a prescription are excludable from gross income under §105(b).

Section 9003 of the Patient Protection and Affordable Care Act (Affordable Care Act), Pub. L. No. 111–148 (March 23, 2010), adds § 106(f) and amends §§ 223(d)(2)(A) and 220(d)(2)(A). These sections revise the definition of medical expenses after December 31, 2010, and apply to health flexible spending arrangements, health reimbursement arrangements, Health Savings Accounts, and Archer Medical Savings Accounts. These sections provide that a medicine or a drug shall be treated as medical expenses only if such medicine or drug is prescribed (regardless of whether the medicine or drug requires a prescription). Because the definition of medical expenses has been changed, the Internal Revenue Service has concluded that the ruling position stated in Rev. Rul. 2003–102 is no longer determinative. Accordingly, Rev. Rul. 2003–102 is declared obsolete as of the effective date of section 9003 of the Affordable Care Act.

### DRAFTING INFORMATION

The principal author of this revenue ruling is Robin Ehrenberg of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this revenue ruling, contact Ms. Ehrenberg at (202) 622–6080 (not a toll-free call).

## Section 6621.—Determination of Rate of Interest

26 CFR 301.6621–1: Interest rate.

**Interest rates; underpayments and overpayments.** The rates for interest determined under section 6621 of the Code for the calendar quarter beginning October 1, 2010, will be 4 percent for overpayments (3 percent in the case of a corporation), 4 percent for underpayments, and 6 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding \$10,000 will be 1.5 percent.

## Rev. Rul. 2010-21

Section 6621 of the Internal Revenue Code establishes the rates for interest on tax overpayments and tax underpayments. Under section 6621(a)(1), the overpayment rate is the sum of the federal short-term rate plus 3 percentage points (2 percentage points in the case of a corporation), except the rate for the portion of a corporate overpayment of tax exceeding \$10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point. Under section 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under section 6601 on any large corporate underpayment, the underpayment rate under section 6621(a)(2) is determined by substituting "5 percentage points" for "3 percentage points." See section 6621(c) and section 301.6621-3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable date. Section 6621(c) and section 301.6621-3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal

short-term rate for the first month in each calendar quarter. Section 6621(b)(2)(A) provides that the federal short-term rate determined under section 6621(b)(1) for any month applies during the first calendar quarter beginning after that month. Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during that month by the Secretary in accordance with section 1274(d), rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, the rate is increased to the next highest full percent).

Notice 88-59, 1988-1 C.B. 546, announced that, in determining the quarterly interest rates to be used for overpayments and underpayments of tax under section 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with section 6621 which, pursuant to section 6622, is subject to daily compounding.

The federal short-term rate determined in accordance with section 1274(d) during July 2010 is the rate published in Revenue Ruling 2010-19, 2010-31 I.R.B. 174 to take effect beginning August 1, 2010. The federal short-term rate, rounded to the nearest full percent, based on daily compounding determined during the month of July 2010 is 1 percent. Accordingly, an

overpayment rate of 4 percent (3 percent in the case of a corporation) and an underpayment rate of 4 percent are established for the calendar quarter beginning October 1, 2010. The overpayment rate for the portion of a corporate overpayment exceeding \$10,000 for the calendar quarter beginning October 1, 2010, is 1.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning October 1, 2010, is 6 percent. These rates apply to amounts bearing interest during that calendar quarter.

Interest factors for daily compound interest for annual rates of 1.5 percent, 3 percent, 4 percent, and 6 percent are published in Tables 8, 11, 13, and 17 of Rev. Proc. 95-17, 1995-1 C.B. 556, 562, 565, 567, and 571.

Annual interest rates to be compounded daily pursuant to section 6622 that apply for prior periods are set forth in the tables accompanying this revenue ruling.

### DRAFTING INFORMATION

The principal author of this revenue ruling is Deborah Colbert-James of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue ruling, contact Ms. Colbert-James at (202) 622-8143 (not a toll-free call).

TABLE OF INTEREST RATES  
PERIODS BEFORE JUL. 1, 1975 — PERIODS ENDING DEC. 31, 1986  
OVERPAYMENTS AND UNDERPAYMENTS

PERIOD	RATE	In 1995-1 C.B. DAILY RATE TABLE
Before Jul. 1, 1975	6%	Table 2, pg. 557
Jul. 1, 1975—Jan. 31, 1976	9%	Table 4, pg. 559
Feb. 1, 1976—Jan. 31, 1978	7%	Table 3, pg. 558
Feb. 1, 1978—Jan. 31, 1980	6%	Table 2, pg. 557
Feb. 1, 1980—Jan. 31, 1982	12%	Table 5, pg. 560
Feb. 1, 1982—Dec. 31, 1982	20%	Table 6, pg. 560
Jan. 1, 1983—Jun. 30, 1983	16%	Table 37, pg. 591
Jul. 1, 1983—Dec. 31, 1983	11%	Table 27, pg. 581
Jan. 1, 1984—Jun. 30, 1984	11%	Table 75, pg. 629
Jul. 1, 1984—Dec. 31, 1984	11%	Table 75, pg. 629
Jan. 1, 1985—Jun. 30, 1985	13%	Table 31, pg. 585
Jul. 1, 1985—Dec. 31, 1985	11%	Table 27, pg. 581
Jan. 1, 1986—Jun. 30, 1986	10%	Table 25, pg. 579
Jul. 1, 1986—Dec. 31, 1986	9%	Table 23, pg. 577

TABLE OF INTEREST RATES  
FROM JAN. 1, 1987 — DEC. 31, 1998

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Jan. 1, 1987—Mar. 31, 1987	8%	21	575	9%	23	577
Apr. 1, 1987—Jun. 30, 1987	8%	21	575	9%	23	577
Jul. 1, 1987—Sep. 30, 1987	8%	21	575	9%	23	577
Oct. 1, 1987—Dec. 31, 1987	9%	23	577	10%	25	579
Jan. 1, 1988—Mar. 31, 1988	10%	73	627	11%	75	629
Apr. 1, 1988—Jun. 30, 1988	9%	71	625	10%	73	627
Jul. 1, 1988—Sep. 30, 1988	9%	71	625	10%	73	627
Oct. 1, 1988—Dec. 31, 1988	10%	73	627	11%	75	629
Jan. 1, 1989—Mar. 31, 1989	10%	25	579	11%	27	581
Apr. 1, 1989—Jun. 30, 1989	11%	27	581	12%	29	583
Jul. 1, 1989—Sep. 30, 1989	11%	27	581	12%	29	583
Oct. 1, 1989—Dec. 31, 1989	10%	25	579	11%	27	581
Jan. 1, 1990—Mar. 31, 1990	10%	25	579	11%	27	581
Apr. 1, 1990—Jun. 30, 1990	10%	25	579	11%	27	581
Jul. 1, 1990—Sep. 30, 1990	10%	25	579	11%	27	581
Oct. 1, 1990—Dec. 31, 1990	10%	25	579	11%	27	581
Jan. 1, 1991—Mar. 31, 1991	10%	25	579	11%	27	581
Apr. 1, 1991—Jun. 30, 1991	9%	23	577	10%	25	579
Jul. 1, 1991—Sep. 30, 1991	9%	23	577	10%	25	579
Oct. 1, 1991—Dec. 31, 1991	9%	23	577	10%	25	579
Jan. 1, 1992—Mar. 31, 1992	8%	69	623	9%	71	625
Apr. 1, 1992—Jun. 30, 1992	7%	67	621	8%	69	623
Jul. 1, 1992—Sep. 30, 1992	7%	67	621	8%	69	623
Oct. 1, 1992—Dec. 31, 1992	6%	65	619	7%	67	621
Jan. 1, 1993—Mar. 31, 1993	6%	17	571	7%	19	573
Apr. 1, 1993—Jun. 30, 1993	6%	17	571	7%	19	573
Jul. 1, 1993—Sep. 30, 1993	6%	17	571	7%	19	573
Oct. 1, 1993—Dec. 31, 1993	6%	17	571	7%	19	573
Jan. 1, 1994—Mar. 31, 1994	6%	17	571	7%	19	573
Apr. 1, 1994—Jun. 30, 1994	6%	17	571	7%	19	573
Jul. 1, 1994—Sep. 30, 1994	7%	19	573	8%	21	575
Oct. 1, 1994—Dec. 31, 1994	8%	21	575	9%	23	577
Jan. 1, 1995—Mar. 31, 1995	8%	21	575	9%	23	577
Apr. 1, 1995—Jun. 30, 1995	9%	23	577	10%	25	579
Jul. 1, 1995—Sep. 30, 1995	8%	21	575	9%	23	577
Oct. 1, 1995—Dec. 31, 1995	8%	21	575	9%	23	577
Jan. 1, 1996—Mar. 31, 1996	8%	69	623	9%	71	625
Apr. 1, 1996—Jun. 30, 1996	7%	67	621	8%	69	623
Jul. 1, 1996—Sep. 30, 1996	8%	69	623	9%	71	625
Oct. 1, 1996—Dec. 31, 1996	8%	69	623	9%	71	625
Jan. 1, 1997—Mar. 31, 1997	8%	21	575	9%	23	577
Apr. 1, 1997—Jun. 30, 1997	8%	21	575	9%	23	577
Jul. 1, 1997—Sep. 30, 1997	8%	21	575	9%	23	577
Oct. 1, 1997—Dec. 31, 1997	8%	21	575	9%	23	577
Jan. 1, 1998—Mar. 31, 1998	8%	21	575	9%	23	577
Apr. 1, 1998—Jun. 30, 1998	7%	19	573	8%	21	575
Jul. 1, 1998—Sep. 30, 1998	7%	19	573	8%	21	575
Oct. 1, 1998—Dec. 31, 1998	7%	19	573	8%	21	575

TABLE OF INTEREST RATES  
 FROM JANUARY 1, 1999 — PRESENT  
 NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1999—Mar. 31, 1999	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	9%	23	577
Apr. 1, 2001—Jun. 30, 2001	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	6%	17	571
Apr. 1, 2002—Jun. 30, 2002	6%	17	571
Jul. 1, 2002—Sep. 30, 2002	6%	17	571
Oct. 1, 2002—Dec. 31, 2002	6%	17	571
Jan. 1, 2003—Mar. 31, 2003	5%	15	569
Apr. 1, 2003—Jun. 30, 2003	5%	15	569
Jul. 1, 2003—Sep. 30, 2003	5%	15	569
Oct. 1, 2003—Dec. 31, 2003	4%	13	567
Jan. 1, 2004—Mar. 31, 2004	4%	61	615
Apr. 1, 2004—Jun. 30, 2004	5%	63	617
Jul. 1, 2004—Sep. 30, 2004	4%	61	615
Oct. 1, 2004—Dec. 31, 2004	5%	63	617
Jan. 1, 2005—Mar. 31, 2005	5%	15	569
Apr. 1, 2005—Jun. 30, 2005	6%	17	571
Jul. 1, 2005—Sep. 30, 2005	6%	17	571
Oct. 1, 2005—Dec. 31, 2005	7%	19	573
Jan. 1, 2006—Mar. 31, 2006	7%	19	573
Apr. 1, 2006—Jun. 30, 2006	7%	19	573
Jul. 1, 2006—Sep. 30, 2006	8%	21	575
Oct. 1, 2006—Dec. 31, 2006	8%	21	575
Jan. 1, 2007—Mar. 31, 2007	8%	21	575
Apr. 1, 2007—Jun. 30, 2007	8%	21	575
Jul. 1, 2007—Sep. 30, 2007	8%	21	575
Oct. 1, 2007—Dec. 31, 2007	8%	21	575
Jan. 1, 2008—Mar. 31, 2008	7%	67	621
Apr. 1, 2008—Jun. 30, 2008	6%	65	619
Jul. 1, 2008—Sep. 30, 2008	5%	63	617
Oct. 1, 2008—Dec. 31, 2008	6%	65	619
Jan. 1, 2009—Mar. 31, 2009	5%	15	569
Apr. 1, 2009—Jun. 30, 2009	4%	13	567
Jul. 1, 2009—Sep. 30, 2009	4%	13	567
Oct. 1, 2009—Dec. 31, 2009	4%	13	567
Jan. 1, 2010—Mar. 31, 2010	4%	13	567
Apr. 1, 2010—Jun. 30, 2010	4%	13	567
Jul. 1, 2010—Sep. 30, 2010	4%	13	567
Oct. 1, 2010—Dec. 31, 2010	4%	13	567

TABLE OF INTEREST RATES  
FROM JANUARY 1, 1999 — PRESENT  
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Jan. 1, 1999—Mar. 31, 1999	6%	17	571	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	7%	19	573	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	7%	19	573	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	7%	19	573	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	7%	67	621	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	8%	69	623	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	8%	69	623	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	8%	69	623	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	8%	21	575	9%	23	577
Apr. 1, 2001—Jun. 30, 2001	7%	19	573	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	6%	17	571	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	6%	17	571	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	5%	15	569	6%	17	571
Apr. 1, 2002—Jun. 30, 2002	5%	15	569	6%	17	571
Jul. 1, 2002—Sep. 30, 2002	5%	15	569	6%	17	571
Oct. 1, 2002—Dec. 31, 2002	5%	15	569	6%	17	571
Jan. 1, 2003—Mar. 31, 2003	4%	13	567	5%	15	569
Apr. 1, 2003—Jun. 30, 2003	4%	13	567	5%	15	569
Jul. 1, 2003—Sep. 30, 2003	4%	13	567	5%	15	569
Oct. 1, 2003—Dec. 31, 2003	3%	11	565	4%	13	567
Jan. 1, 2004—Mar. 31, 2004	3%	59	613	4%	61	615
Apr. 1, 2004—Jun. 30, 2004	4%	61	615	5%	63	617
Jul. 1, 2004—Sep. 30, 2004	3%	59	613	4%	61	615
Oct. 1, 2004—Dec. 31, 2004	4%	61	615	5%	63	617
Jan. 1, 2005—Mar. 31, 2005	4%	13	567	5%	15	569
Apr. 1, 2005—Jun. 30, 2005	5%	15	569	6%	17	571
Jul. 1, 2005—Sep. 30, 2005	5%	15	569	6%	17	571
Oct. 1, 2005—Dec. 31, 2005	6%	17	571	7%	19	573
Jan. 1, 2006—Mar. 31, 2006	6%	17	571	7%	19	573
Apr. 1, 2006—Jun. 30, 2006	6%	17	571	7%	19	573
Jul. 1, 2006—Sep. 30, 2006	7%	19	573	8%	21	575
Oct. 1, 2006—Dec. 31, 2006	7%	19	573	8%	21	575
Jan. 1, 2007—Mar. 31, 2007	7%	19	573	8%	21	575
Apr. 1, 2007—Jun. 30, 2007	7%	19	573	8%	21	575
Jul. 1, 2007—Sep. 30, 2007	7%	19	573	8%	21	575
Oct. 1, 2007—Dec. 31, 2007	7%	19	573	8%	21	575
Jan. 1, 2008—Mar. 31, 2008	6%	65	619	7%	67	621
Apr. 1, 2008—Jun. 30, 2008	5%	63	617	6%	65	619
Jul. 1, 2008—Sep. 30, 2008	4%	61	615	5%	63	617
Oct. 1, 2008—Dec. 31, 2008	5%	63	617	6%	65	619
Jan. 1, 2009—Mar. 31, 2009	4%	13	567	5%	15	569
Apr. 1, 2009—Jun. 30, 2009	3%	11	565	4%	13	567
Jul. 1, 2009—Sep. 30, 2009	3%	11	565	4%	13	567
Oct. 1, 2009—Dec. 31, 2009	3%	11	565	4%	13	567
Jan. 1, 2010—Mar. 31, 2010	3%	11	565	4%	13	567
Apr. 1, 2010—Jun. 30, 2010	3%	11	565	4%	13	567
Jul. 1, 2010—Sep. 30, 2010	3%	11	565	4%	13	567
Oct. 1, 2010—Dec. 31, 2010	3%	11	565	4%	13	567

TABLE OF INTEREST RATES FOR  
LARGE CORPORATE UNDERPAYMENTS  
FROM JANUARY 1, 1991 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1991—Mar. 31, 1991	13%	31	585
Apr. 1, 1991—Jun. 30, 1991	12%	29	583
Jul. 1, 1991—Sep. 30, 1991	12%	29	583
Oct. 1, 1991—Dec. 31, 1991	12%	29	583
Jan. 1, 1992—Mar. 31, 1992	11%	75	629
Apr. 1, 1992—Jun. 30, 1992	10%	73	627
Jul. 1, 1992—Sep. 30, 1992	10%	73	627
Oct. 1, 1992—Dec. 31, 1992	9%	71	625
Jan. 1, 1993—Mar. 31, 1993	9%	23	577
Apr. 1, 1993—Jun. 30, 1993	9%	23	577
Jul. 1, 1993—Sep. 30, 1993	9%	23	577
Oct. 1, 1993—Dec. 31, 1993	9%	23	577
Jan. 1, 1994—Mar. 31, 1994	9%	23	577
Apr. 1, 1994—Jun. 30, 1994	9%	23	577
Jul. 1, 1994—Sep. 30, 1994	10%	25	579
Oct. 1, 1994—Dec. 31, 1994	11%	27	581
Jan. 1, 1995—Mar. 31, 1995	11%	27	581
Apr. 1, 1995—Jun. 30, 1995	12%	29	583
Jul. 1, 1995—Sep. 30, 1995	11%	27	581
Oct. 1, 1995—Dec. 31, 1995	11%	27	581
Jan. 1, 1996—Mar. 31, 1996	11%	75	629
Apr. 1, 1996—Jun. 30, 1996	10%	73	627
Jul. 1, 1996—Sep. 30, 1996	11%	75	629
Oct. 1, 1996—Dec. 31, 1996	11%	75	629
Jan. 1, 1997—Mar. 31, 1997	11%	27	581
Apr. 1, 1997—Jun. 30, 1997	11%	27	581
Jul. 1, 1997—Sep. 30, 1997	11%	27	581
Oct. 1, 1997—Dec. 31, 1997	11%	27	581
Jan. 1, 1998—Mar. 31, 1998	11%	27	581
Apr. 1, 1998—Jun. 30, 1998	10%	25	579
Jul. 1, 1998—Sep. 30, 1998	10%	25	579
Oct. 1, 1998—Dec. 31, 1998	10%	25	579
Jan. 1, 1999—Mar. 31, 1999	9%	23	577
Apr. 1, 1999—Jun. 30, 1999	10%	25	579
Jul. 1, 1999—Sep. 30, 1999	10%	25	579
Oct. 1, 1999—Dec. 31, 1999	10%	25	579
Jan. 1, 2000—Mar. 31, 2000	10%	73	627
Apr. 1, 2000—Jun. 30, 2000	11%	75	629
Jul. 1, 2000—Sep. 30, 2000	11%	75	629
Oct. 1, 2000—Dec. 31, 2000	11%	75	629
Jan. 1, 2001—Mar. 31, 2001	11%	27	581
Apr. 1, 2001—Jun. 30, 2001	10%	25	579
Jul. 1, 2001—Sep. 30, 2001	9%	23	577
Oct. 1, 2001—Dec. 31, 2001	9%	23	577
Jan. 1, 2002—Mar. 31, 2002	8%	21	575
Apr. 1, 2002—Jun. 30, 2002	8%	21	575
Jul. 1, 2002—Sep. 30, 2002	8%	21	575
Oct. 1, 2002—Dec. 30, 2002	8%	21	575
Jan. 1, 2003—Mar. 31, 2003	7%	19	573
Apr. 1, 2003—Jun. 30, 2003	7%	19	573
Jul. 1, 2003—Sep. 30, 2003	7%	19	573
Oct. 1, 2003—Dec. 31, 2003	6%	17	571
Jan. 1, 2004—Mar. 31, 2004	6%	65	619
Apr. 1, 2004—Jun. 30, 2004	7%	67	621
Jul. 1, 2004—Sep. 30, 2004	6%	65	619
Oct. 1, 2004—Dec. 31, 2004	7%	67	621



TABLE OF INTEREST RATES FOR  
LARGE CORPORATE UNDERPAYMENTS  
FROM JANUARY 1, 1991 — PRESENT – Continued

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 2005—Mar. 31, 2005	7%	19	573
Apr. 1, 2005—Jun. 30, 2005	8%	21	575
Jul. 1, 2005—Sep. 30, 2005	8%	21	575
Oct. 1, 2005—Dec. 31, 2005	9%	23	577
Jan. 1, 2006—Mar. 31, 2006	9%	23	577
Apr. 1, 2006—Jun. 30, 2006	9%	23	577
Jul. 1, 2006—Sep. 30, 2006	10%	25	579
Oct. 1, 2006—Dec. 31, 2006	10%	25	579
Jan. 1, 2007—Mar. 31, 2007	10%	25	579
Apr. 1, 2007—Jun. 30, 2007	10%	25	579
Jul. 1, 2007—Sep. 30, 2007	10%	25	579
Oct. 1, 2007—Dec. 31, 2007	10%	25	579
Jan. 1, 2008—Mar. 31, 2008	9%	71	625
Apr. 1, 2008—Jun. 30, 2008	8%	69	623
Jul. 1, 2008—Sep. 30, 2008	7%	67	621
Oct. 1, 2008—Dec. 31, 2008	8%	69	623
Jan. 1, 2009—Mar. 31, 2009	7%	19	573
Apr. 1, 2009—Jun. 30, 2009	6%	17	571
Jul. 1, 2009—Sep. 30, 2009	6%	17	571
Oct. 1, 2009—Dec. 31, 2009	6%	17	571
Jan. 1, 2010—Mar. 31, 2010	6%	17	571
Apr. 1, 2010—Jun. 30, 2010	6%	17	571
Jul. 1, 2010—Sep. 30, 2010	6%	17	571
Oct. 1, 2010—Dec. 31, 2010	6%	17	571

TABLE OF INTEREST RATES FOR CORPORATE  
OVERPAYMENTS EXCEEDING \$10,000  
FROM JANUARY 1, 1995 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1995—Mar. 31, 1995	6.5%	18	572
Apr. 1, 1995—Jun. 30, 1995	7.5%	20	574
Jul. 1, 1995—Sep. 30, 1995	6.5%	18	572
Oct. 1, 1995—Dec. 31, 1995	6.5%	18	572
Jan. 1, 1996—Mar. 31, 1996	6.5%	66	620
Apr. 1, 1996—Jun. 30, 1996	5.5%	64	618
Jul. 1, 1996—Sep. 30, 1996	6.5%	66	620
Oct. 1, 1996—Dec. 31, 1996	6.5%	66	620
Jan. 1, 1997—Mar. 31, 1997	6.5%	18	572
Apr. 1, 1997—Jun. 30, 1997	6.5%	18	572
Jul. 1, 1997—Sep. 30, 1997	6.5%	18	572
Oct. 1, 1997—Dec. 31, 1997	6.5%	18	572
Jan. 1, 1998—Mar. 31, 1998	6.5%	18	572
Apr. 1, 1998—Jun. 30, 1998	5.5%	16	570
Jul. 1, 1998—Sep. 30, 1998	5.5%	16	570
Oct. 1, 1998—Dec. 31, 1998	5.5%	16	570
Jan. 1, 1999—Mar. 31, 1999	4.5%	14	568
Apr. 1, 1999—Jun. 30, 1999	5.5%	16	570
Jul. 1, 1999—Sep. 30, 1999	5.5%	16	570
Oct. 1, 1999—Dec. 31, 1999	5.5%	16	570
Jan. 1, 2000—Mar. 31, 2000	5.5%	64	618
Apr. 1, 2000—Jun. 30, 2000	6.5%	66	620
Jul. 1, 2000—Sep. 30, 2000	6.5%	66	620

TABLE OF INTEREST RATES FOR CORPORATE  
OVERPAYMENTS EXCEEDING \$10,000  
FROM JANUARY 1, 1995 — PRESENT — Continued

	RATE	1995-1 C.B. TABLE	PG
Oct. 1, 2000—Dec. 31, 2000	6.5%	66	620
Jan. 1, 2001—Mar. 31, 2001	6.5%	18	572
Apr. 1, 2001—Jun. 30, 2001	5.5%	16	570
Jul. 1, 2001—Sep. 30, 2001	4.5%	14	568
Oct. 1, 2001—Dec. 31, 2001	4.5%	14	568
Jan. 1, 2002—Mar. 31, 2002	3.5%	12	566
Apr. 1, 2002—Jun. 30, 2002	3.5%	12	566
Jul. 1, 2002—Sep. 30, 2002	3.5%	12	566
Oct. 1, 2002—Dec. 31, 2002	3.5%	12	566
Jan. 1, 2003—Mar. 31, 2003	2.5%	10	564
Apr. 1, 2003—Jun. 30, 2003	2.5%	10	564
Jul. 1, 2003—Sep. 30, 2003	2.5%	10	564
Oct. 1, 2003—Dec. 31, 2003	1.5%	8	562
Jan. 1, 2004—Mar. 31, 2004	1.5%	56	610
Apr. 1, 2004—Jun. 30, 2004	2.5%	58	612
Jul. 1, 2004—Sep. 30, 2004	1.5%	56	610
Oct. 1, 2004—Dec. 31, 2004	2.5%	58	612
Jan. 1, 2005—Mar. 31, 2005	2.5%	10	564
Apr. 1, 2005—Jun. 30, 2005	3.5%	12	566
Jul. 1, 2005—Sep. 30, 2005	3.5%	12	566
Oct. 1, 2005—Dec. 31, 2005	4.5%	14	568
Jan. 1, 2006—Mar. 31, 2006	4.5%	14	568
Apr. 1, 2006—Jun. 30, 2006	4.5%	14	568
Jul. 1, 2006—Sep. 30, 2006	5.5%	16	570
Oct. 1, 2006—Dec. 31, 2006	5.5%	16	570
Jan. 1, 2007—Mar. 31, 2007	5.5%	16	570
Apr. 1, 2007—Jun. 30, 2007	5.5%	16	570
Jul. 1, 2007—Sep. 30, 2007	5.5%	16	570
Oct. 1, 2007—Dec. 31, 2007	5.5%	16	570
Jan. 1, 2008—Mar. 31, 2008	4.5%	62	616
Apr. 1, 2008—Jun. 30, 2008	3.5%	60	614
Jul. 1, 2008—Sep. 30, 2008	2.5%	58	612
Oct. 1, 2008—Dec. 31, 2008	3.5%	60	614
Jan. 1, 2009—Mar. 31, 2009	2.5%	10	564
Apr. 1, 2009—Jun. 30, 2009	1.5%	8	562
Jul. 1, 2009—Sep. 30, 2009	1.5%	8	562
Oct. 1, 2009—Dec. 31, 2009	1.5%	8	562
Jan. 1, 2010—Mar. 31, 2010	1.5%	8	562
Apr. 1, 2010—Jun. 30, 2010	1.5%	8	562
Jul. 1, 2010—Sep. 30, 2010	1.5%	8	562
Oct. 1, 2010—Dec. 31, 2010	1.5%	8	562

## Part III. Administrative, Procedural, and Miscellaneous

### Section 105 — Amounts Received Under Accident and Health Plans, Section 106 — Contributions by Employers to Accident and Health Plans, Section 125 — Cafeteria Plans, Section 220 — Archer MSAs, Section 223 — Health Savings Accounts

#### Notice 2010-59

##### I. PURPOSE

This notice provides guidance on § 9003 of the Patient Protection and Affordable Care Act (Affordable Care Act), Pub. L. No. 111-148, enacted March 23, 2010, which revises the definition of medical expenses as it relates to over-the-counter drugs. Section 9003 generally applies after December 31, 2010.

##### II. BACKGROUND

Section 9003 of the Affordable Care Act adds new § 106(f) of the Internal Revenue Code, which revises the definition of medical expenses for employer-provided accident and health plans, including health flexible spending arrangements (health FSAs) and health reimbursement arrangements (HRAs). Section 9003 also revises the definition of qualified medical expenses for Health Savings Accounts (HSAs) and Archer Medical Savings Accounts (Archer MSAs).

##### III. PAYMENT OR REIMBURSEMENT OF MEDICINES OR DRUGS RESTRICTED TO PRESCRIBED DRUGS, INSULIN, AND OVER-THE-COUNTER DRUGS THAT ARE PRESCRIBED

Section 106 provides that the gross income of an employee does not include employer-provided coverage under an accident or health plan. Section 105(b) generally provides that the gross income of an employee does not include amounts paid as reimbursements for medical care under an employer-provided accident or health plan. New § 106(f), as added by the Affordable Care Act, provides that, for pur-

poses of §§ 106 and 105, beginning after December 31, 2010, expenses incurred for a medicine or a drug shall be treated as a reimbursement for medical expenses only if such medicine or drug is a prescribed drug (determined without regard to whether such drug is available without a prescription) or is insulin. Thus, under new § 106(f), expenses incurred for medicines or drugs may be paid or reimbursed by an employer-provided plan, including a health FSA or HRA, only if (1) the medicine or drug requires a prescription, (2) is available without a prescription (an over-the-counter medicine or drug) and the individual obtains a prescription, or (3) is insulin. Expenses incurred for over-the-counter medicines or drugs purchased without a prescription before January 1, 2011 may be reimbursed tax-free at any time, pursuant to the terms of the employer's plan.

The Affordable Care Act also amends § 223(d)(2)(A) with respect to HSAs and § 220(d)(2)(A) with respect to Archer MSAs, to provide that for amounts paid after December 31, 2010, a distribution from an HSA or Archer MSA for a medicine or drug is a tax-free qualified medical expense only if the medicine or drug is a prescribed drug (determined without regard to whether such drug is available without a prescription) or is insulin. Thus, under new § 223(d)(2)(A) and new § 220(d)(2)(A), a distribution from an HSA or an Archer MSA for a medicine or drug is a tax-free qualified medical expense only if (1) the medicine or drug requires a prescription, (2) is an over-the-counter medicine or drug and the individual obtains a prescription, or (3) is insulin. If amounts are distributed from an HSA or Archer MSA for any medicine or drug which does not satisfy this requirement, the amounts will be distributions for nonqualified medical expenses, which are includable in gross income and generally subject to a 20 percent additional tax. This change does not affect HSA or Archer MSA distributions for medicines or drugs made before January 1, 2011, nor does it affect distributions made after December 31, 2010, for medicines or drugs purchased on or before that date.

See Revenue Ruling 2003-102, 2003-2 C.B. 559.

Section 213(d)(3) defines a prescribed drug as a drug or biological that requires a prescription of a physician for its use by an individual. In contrast, under §§ 106(f), 223(d)(2)(A) and 220(d)(2)(A), an individual may be reimbursed for over-the-counter medicines or drugs, so long as the individual obtains a prescription for the medicines or drugs. For purposes of §§ 106(f), 223(d)(2)(A) and 220(d)(2)(A) only, a "prescription" means a written or electronic order for a medicine or drug that meets the legal requirements of a prescription in the state in which the medical expense is incurred and that is issued by an individual who is legally authorized to issue a prescription in that state.

The rules in §§ 106(f), 223(d)(2)(A) and 220(d)(2)(A) do not apply to items that are not medicines or drugs, including equipment such as crutches, supplies such as bandages, and diagnostic devices such as blood sugar test kits. Such items may qualify as medical care if they otherwise meet the definition of medical care in § 213(d)(1), which includes expenses for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. However, expenses for items that are merely beneficial to the general health of an individual, such as an expenditure for a vacation, are not expenses for medical care. Treas. Reg. § 1.213-1(e)(1)(ii).

##### IV. HEALTH FSA AND HRA DEBIT CARDS AND OVER-THE-COUNTER DRUG EXPENSES

The current rules for use of health FSA or HRA debit cards are set forth in Prop. Treas. Reg. § 1.125-6 and in Rev. Rul. 2003-43, 2003-1 C.B. 935; Notice 2006-69, 2006-2 C.B. 107; Notice 2007-2, 2007-1 C.B. 254; and Notice 2008-104, 2008-2 C.B. 1298. Current debit card systems are not capable of substantiating compliance with new § 106(f), which is effective for expenses incurred after December 31, 2010, with respect to over-the-counter medicines or drugs because the systems are incapable of recognizing and substantiating that the medicines or drugs were pre-

scribed. Therefore, except as provided below, for expenses incurred on and after January 1, 2011, health FSA and HRA debit cards may not be used to purchase over-the-counter medicines or drugs. Notwithstanding the preceding sentence, in order to facilitate the significant changes to existing systems necessary to reflect the statutory change, the IRS will not challenge the use of health FSA and HRA debit cards for expenses incurred through January 15, 2011 if the use of the debit cards complies with the guidance specified in the first sentence of this paragraph. However, on and after January 16, 2011, over-the-counter medicine or drug purchases at all providers and merchants (whether or not they have an inventory information approval system (IIAS)) must be substantiated before reimbursement may be made. Substantiation is accomplished by submitting the prescription (or a copy of the prescription or other documentation that a prescription has been issued) for the over-the-counter medicine or drug, and other information from an independent third party that satisfies the requirements under Prop. Treas. Reg. § 1.125-6(b)(3)(i). Thus, for example, a customer receipt issued by a pharmacy which identifies the name of the purchaser (or the name of the person for whom the prescription applies), the date and amount of the purchase and an Rx number satisfies the substantiation requirements for over-the-counter medicines or drugs, as does a receipt without an Rx number accompanied by a copy of the related prescription. Debit cards may continue to be used for medical expenses other than over-the-counter medicines or drugs.

Notice 2007-2 provides that health FSA and HRA debit cards may be used at a pharmacy that does not have an IIAS if 90 percent of the store's gross receipts during the prior taxable year consists of items which qualify as expenses for medical care under § 213(d). Until further guidance is issued, debit cards may be used at a pharmacy that satisfies the 90-percent test to purchase over-the-counter medicines or drugs that have been prescribed, provided that substantiation is properly submitted, in accordance with the terms of the plan, including the prescription (or a copy of the prescription or other documentation that a prescription has been issued) and other information from an independent third party

that satisfies the requirements under Prop. Treas. Reg. § 1.125-6(b)(3)(i). Solely for the purpose of determining whether a pharmacy meets this 90-percent test, sales of over-the-counter medicines and drugs at the pharmacy may continue to be taken into account after December 31, 2010.

#### V. EFFECTIVE DATES

For expenses incurred after December 31, 2010, payments or reimbursements for medicines or drugs from an employer-provided accident and health plan, including a health FSA or an HRA, are restricted to prescribed drugs, insulin, and over-the-counter medicines or drugs that are prescribed. This effective date applies regardless of whether the plan year for the employer's plan is a fiscal or calendar year or whether there is no plan year (or other coverage period in the case of an HRA), and regardless of any applicable grace period for a health FSA (as provided in Prop. Treas. Reg. § 1.125-1(e)).

Tax-free distributions for qualified medical expenses from an HSA or Archer MSA for medicines or drugs purchased after December 31, 2010, are restricted to prescribed drugs, insulin, and over-the-counter medicines or drugs that are prescribed.

#### VI. TRANSITION RULE FOR CAFETERIA PLAN AMENDMENTS

Cafeteria plans may need to be amended to conform to the new over-the-counter drug requirements. Pursuant to Prop. Treas. Reg. § 1.125-1(c), cafeteria plan amendments may be effective only prospectively. Notwithstanding the rule against retroactive amendments, an amendment to conform a cafeteria plan to the requirements set forth in this notice that is adopted no later than June 30, 2011, may be made effective retroactively for expenses incurred after December 31, 2010 (or after January 15, 2011 for health FSA and HRA debit card purchases).

#### VII. EFFECT ON OTHER DOCUMENTS

The IRS intends to amend the regulations under §§ 1.105-1, 1.105-2, 1.106-1, 1.125-1 and 1.125-5 to provide for the new definition of medical expenses. Tax-

payers may rely on this notice pending the issuance of the amended regulations. See also Revenue Ruling 2010-23 in this issue of the Internal Revenue Bulletin, which states that Revenue Ruling 2003-102, 2003-2 C.B. 559, is obsolete. Also, the following guidance concerning the definition of qualified medical expenses under § 220(d)(2) (Archer MSAs) and § 223(d)(2) (HSAs) is modified: Notice 96-53, Q&A 22, 1996-2 C.B. 219; Notice 2004-2, Q&A 26, 2004-1 C.B. 269; Notice 2004-50, Q&A 38, 2004-1 C.B. 196; Notice 2008-51, 2008-1 C.B. 1163; and Notice 2008-52, 2008-1 C.B. 1166. Notice 2006-69, 2006-2 C.B. 107, is amplified.

#### REQUEST FOR COMMENTS

The IRS and Treasury invite comments on further guidance that may be needed on § 9003 of the Affordable Care Act (for example, on new designs for debit card systems that could provide substantiation that an over-the-counter medicine or drug was prescribed). Comments should be submitted on or before December 27, 2010, and should include a reference to Notice 2010-59. Send submissions to CC:PA:LPD:PR (Notice 2010-59), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered **Monday through Friday** between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (Notice 2010-59), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20044, or sent electronically, via the following e-mail address: [Notice.comments@irs.counsel.treas.gov](mailto:Notice.comments@irs.counsel.treas.gov). Please include "Notice 2010-59" in the subject line of any electronic communication. All material submitted will be available for public inspection and copying.

#### DRAFTING INFORMATION

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

## Part IV. Items of General Interest

### Announcement of the Results of 2009–10 Allocation Round of the Qualifying Advanced Coal Project Program and the Qualifying Gasification Project Program

#### Announcement 2010–56

This announcement discloses the results of the 2009–10 allocation round under the qualifying advanced coal project program of § 48A and the qualifying gasification project program of § 48B of the Internal Revenue Code. This announcement also serves notice to applicants that a 2010–11 allocation round under the qualifying advanced coal project program is currently open pursuant to Notice 2009–24, 2009–16 I.R.B. 817. No allocation round will be conducted under the qualifying gasification project program.

#### QUALIFYING ADVANCED COAL PROJECT PROGRAM

Section 48A provides a qualifying advanced coal project credit in an amount equal to (1) 20 percent of the qualified investment (as defined in § 48A(b)) for that taxable year in qualifying advanced coal projects (as defined in § 48A(c)(1) and (e)) described in § 48A(d)(3)(B)(i), (2) 15 percent of the qualified investment for that taxable year in qualified advanced coal projects described in § 48A(d)(3)(B)(ii), and (3) 30 percent of the qualified investment for that taxable year in qualifying advanced coal projects described in § 48A(d)(3)(B)(iii).

On April 20, 2009, the Internal Revenue Service (“Service”) issued Notice 2009–24 to announce an allocation round for the qualifying advanced coal projects described in § 48A(d)(3)(B)(iii) (“the Phase II advanced coal program”). The

Service will certify \$1.25 billion of credits to qualifying projects under the Phase II advanced coal program.

Section 48A(d)(5) provides that the Secretary shall, upon making a certification under § 48A(d) or § 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.

Section 10.01 of Notice 2009–24 provides that the Service intends to publish the results of the allocation process, and disclose the following information in the event a qualifying advanced coal project credit under § 48A is allocated to the taxpayer’s project: (a) the name of the taxpayer and (b) the amount of the qualifying advanced coal project credit allocated to the project.

Accordingly, the results of the 2009–10 allocation round under the Phase II advanced coal program are as follows:

Program	Taxpayer	Amount of Credit Awarded	Total Credit Awarded
§ 48A			
	Christian County Generation, LLC	\$417,000,000	
	Summit Texas Clean Energy, LLC	\$313,436,000	
	Mississippi Power Company	\$279,000,000	
			\$1,009,436,000

Based on the results shown above, the available credit amount for 2010–11 allocation round under the Phase II advanced coal program is \$240,564,000, out of which \$103,564,000 is available for advanced coal projects that use sub-bituminous coal as a primary feedstock, and \$138,000,000 is available for advanced coal projects that use lignite as a primary feedstock. No credit amount is available for advanced coal projects that use bituminous coal as a primary feedstock. The allocation round for 2010–11 will be conducted in the manner and under the procedures as provided under Notice 2009–24. Under the notice, the application period for the 2010–11 allocation round begins on March 2, 2010, and ends on March 1, 2011, and the applications must be submitted to the Department of Energy (DOE) on or before October 31, 2010, and to the Service on or before March 2, 2011.

#### QUALIFYING GASIFICATION PROJECT PROGRAM

Section 48B provides that the qualifying gasification project credit for a taxable year is an amount equal to (1) 20 percent of the qualified investment (as defined in § 48B(b)) for that taxable year in qualifying gasification projects (as defined in § 48B(c)(1)) for which the credit is allocated under § 48B(d)(1)(A), and (2) 30 percent of the qualified investment for that taxable year in qualifying gasification projects for which the credit is allocated under § 48B(d)(1)(B).

On April 20, 2009, the Service issued Notice 2009–23, 2009–16 I.R.B. 802, to announce an allocation round for the qualifying gasification project program described in § 48B(d)(1)(B) (“the Phase II gasification program”). The Service will certify \$250 million of credits to qualify-

ing projects under the Phase II gasification program.

Section 48B(d)(5) provides that the Secretary shall, upon making a certification under § 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.

Section 10.01 of Notice 2009–23 provides that the Service intends to publish the results of the allocation process, and disclose the following return information in the event a qualifying gasification project credit under § 48B is allocated to the taxpayer’s project: (a) the name of the taxpayer and (b) the amount of the qualifying gasification project credit allocated to the project.

Accordingly, the results of the 2009–10 allocation round under the Phase II gasification program are as follows:

Program	Taxpayer	Amount of Credit Awarded	Total Credit Awarded
§ 48B	Faustina Hydrogen Products	\$121,660,000	
	Lake Charles Gasification, LLC	\$128,340,000	
			\$250,000,000

Because the total credit amount of \$250 million was allocated, the Service will not conduct an allocation round in 2010–11 under the Phase II gasification program.

**DRAFTING INFORMATION**

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

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

**Announcement 2010–59**

This document contains a correction to Notice 2009–80, 2009–51 I.R.B. 859, which contained an incorrect name. The taxpayer name incorrectly read: “Thorek Hospital & Medical Center in Chicago, IL”.

The taxpayer name should have read: “Thorek Hospital & Medical Center Self Insurance Trust Fund in Chicago, IL”.

**FOR FURTHER INFORMATION CONTACT:**

Flora McClain  
 1100 Commerce Street  
 MS 4920DAL  
 Dallas, TX 75242  
 214–413–5462

# 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.  
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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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