

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. 2010–29, page 818.

Federal rates; adjusted federal rates, adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for December 2010.

Rev. Rul. 2010–30, page 820.

Section 1274A – inflation adjusted numbers for 2011. This ruling provides the dollar amounts, increased by the 2011 inflation adjustment, for section 1274A of the Code. Rev. Rul. 2010–2 supplemented and superseded.

Notice 2010–81, page 825.

This notice provides guidance on the determination of when state and local bonds (as defined in section 103(c)) are considered “issued” for purposes of deadlines on issuing bonds. The notice provides guidance on the relevant distinction between the “issue date” of a “bond” versus the “issue date” of an “issue” for purposes of this determination. One instance, among others in which this notice applies, is in determining when Build America Bonds, structured as “draw-down” bonds or loans in which draws are funded at different times are considered issued for purposes of statutory deadlines on issuing these bonds under section 54AA.

Rev. Proc. 2010–47, page 827.

Cost limitations for expensing section 179 property. This procedure provides that for taxable years beginning in 2010, the aggregate cost of any section 179 property a taxpayer elects to treat as an expense cannot exceed \$500,000. This amount is reduced by the amount by which the cost of the property placed in service during the year exceeds \$2,000,000.

Rev. Proc. 2009–50 modified and superseded. Rev. Proc. 2010–24 superseded.

Rev. Proc. 2010–49, page 830.

Insurance companies; loss reserves; discounting unpaid losses. This procedure sets forth the loss payment patterns and discount factors for accident year 2010. Under section 846 of the Code, discount factors are determined by the Secretary based on the interest rate determined annually under section 846(c) and on loss payment patterns determined every five years under section 846(d). Section 846(d) directs the Secretary to use the most recent aggregate loss payment data of property and casualty insurance companies to determine and publish a loss payment pattern for each line of business every five years.

Rev. Proc. 2010–50, page 841.

Insurance companies; discounting estimated salvage recoverable. This procedure sets forth the salvage discount factors for accident year 2010 for purposes of section 832 of the Code. Under section 832, discount factors are determined by the Secretary based on the interest rate determined annually under section 846(c) and on salvage recovery patterns determined every five years by the Secretary.

(Continued on the next page)

Finding Lists begin on page ii.



EMPLOYEE PLANS

Rev. Proc. 2010–48, page 828.

This procedure provides guidance to drafters and users of pre-approved IRAs. Section 3 provides guidance to drafters and users of prototype IRAs, including rules for when documents must be submitted to the Internal Revenue Service and for new user fees for individual retirement annuities. Section 4 provides guidance to users of the Service's model IRAs and describes the availability of new model individual retirement annuities. Rev. Procs. 87–50 and 98–59 modified.

EXEMPT ORGANIZATIONS

Announcement 2010–91, page 848.

The IRS has revoked its determination that Debt Management Corporation of Orange Park, FL, qualifies as an organization described in sections 501(c)(3) and 170(c)(2) of the Code.

EMPLOYMENT TAX

Notice 2010–86, page 827.

2011 social security contribution and benefit base; domestic employee coverage threshold. The Commissioner of the Social Security Administration has announced (1) the OASDI contribution and benefit base for remuneration paid in 2011 and self-employment income earned in taxable years beginning in 2011, and (2) the domestic employee coverage threshold amount for 2011.

EXCISE TAX

Notice 2010–71, page 822.

This notice provides guidance on the annual fee imposed on covered entities engaged in the business of manufacturing or importing branded prescription drugs by section 9008 of the Patient Protection and Affordable Care Act (ACA), as amended by section 1404 of the Health Care and Education Reconciliation Act of 2010 (HCERA).

ADMINISTRATIVE

Announcement 2010–83, page 848.

This document contains corrections to final regulations (T.D. 9340, 2007–2 C.B. 487) providing updated guidance on section 403(b) contracts of public schools and tax-exempt organizations described in section 501(c)(3). These regulations will affect sponsors of section 403(b) contracts, administrators, participants, and beneficiaries.

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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 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

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

The adjusted applicable federal long-term rate is set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

This ruling provides the dollar amounts, increased by the 2011 inflation adjustment, for section 1274A of the Code. Rev. Rul. 2010-2 supplemented and superseded. See Rev. Rul. 2010-30, page 820.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

Section 832.—Insurance Company Taxable Income

26 CFR 1.832-4: Gross income.

The salvage discount factors are set forth for 2010. These factors must be used to compute discounted estimated salvage recoverable for purposes of section 832 of the Code. See Rev. Proc. 2010-50, page 841.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

26 CFR 1.846-1: Application of discount factors.

The salvage discount factors are set forth for the 1998 accident year. These factors will be used for computing estimated salvage recoverable for purposes of section 832 of the Code. See Rev. Proc. 99-16.

The composite loss discount factor for Reinsurance (Nonproportional Assumed Property). See Rev. Proc. 2010-49, page 830.

The salvage discount factors are set forth for 2010. These factors must be used to compute discounted estimated salvage recoverable for purposes of section 832 of the Code. See Rev. Proc. 2010-50, page 841.

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

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

Federal rates; adjusted federal rates, adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for December 2010.

Rev. Rul. 2010-29

This revenue ruling provides various prescribed rates for federal income tax purposes for December 2010 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current

month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before

December 31, 2013, shall not be less than 9%. Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term

of years, or a remainder or a reversionary interest for purposes of section 7520. Finally, Table 6 contains the 2011 interest rate for sections 846 and 807.

REV. RUL. 2010-29 TABLE 1				
Applicable Federal Rates (AFR) for December 2010				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	.32%	.32%	.32%	.32%
110% AFR	.35%	.35%	.35%	.35%
120% AFR	.38%	.38%	.38%	.38%
130% AFR	.42%	.42%	.42%	.42%
<i>Mid-term</i>				
AFR	1.53%	1.52%	1.52%	1.52%
110% AFR	1.68%	1.67%	1.67%	1.66%
120% AFR	1.83%	1.82%	1.82%	1.81%
130% AFR	1.99%	1.98%	1.98%	1.97%
150% AFR	2.29%	2.28%	2.27%	2.27%
175% AFR	2.68%	2.66%	2.65%	2.65%
<i>Long-term</i>				
AFR	3.53%	3.50%	3.48%	3.47%
110% AFR	3.89%	3.85%	3.83%	3.82%
120% AFR	4.24%	4.20%	4.18%	4.16%
130% AFR	4.60%	4.55%	4.52%	4.51%

REV. RUL. 2010-29 TABLE 2				
Adjusted AFR for December 2010				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.49%	.49%	.49%	.49%
Mid-term adjusted AFR	1.63%	1.62%	1.62%	1.61%
Long-term adjusted AFR	3.67%	3.64%	3.62%	3.61%

REV. RUL. 2010-29 TABLE 3	
Rates Under Section 382 for December 2010	
Adjusted federal long-term rate for the current month	3.67%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	3.67%

REV. RUL. 2010-29 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for December 2010

Note: Under Section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%.

Appropriate percentage for the 70% present value low-income housing credit	7.58%
Appropriate percentage for the 30% present value low-income housing credit	3.25%

REV. RUL. 2010-29 TABLE 5

Rate Under Section 7520 for December 2010

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	1.8%
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REV. RUL. 2010-29 TABLE 6

Rates Under Sections 846 and 807

Applicable rate of interest for 2011 for purposes of sections 846 and 807	3.46%
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Section 1274A.—Special Rules for Certain Transactions Where Stated Principal Amount Does Not Exceed \$2,800,000

26 CFR 1.1274A-1: Special rules for certain transactions where stated principal amount does not exceed \$2,800,000. (Also sections 483, 1274.)

Section 1274A – inflation adjusted numbers for 2011. This ruling provides the dollar amounts, increased by the 2011 inflation adjustment, for section 1274A of the Code. Rev. Rul. 2010-2 supplemented and superseded.

Rev. Rul. 2010-30

BACKGROUND

In general, sections 483 and 1274 determine the principal amount of a debt instrument given in consideration for the sale or exchange of nonpublicly traded property. In addition, any interest on a debt instrument subject to section 1274 is taken into account under the original issue discount provisions of the Code. Section 1274A, however, modifies the rules under sections 483 and 1274 for certain types of debt instruments.

In the case of a “qualified debt instrument,” the discount rate used for purposes of sections 483 and 1274 may not exceed nine percent, compounded semiannually. Section 1274A(b) defines a qualified debt instrument as any debt instrument given in consideration for the sale or exchange of property (other than new section 38 property within the meaning of section 48(b), as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990) if the stated principal amount of the instrument does not exceed the amount specified in section 1274A(b). For debt instruments arising out of sales or exchanges before January 1, 1990, this amount is \$2,800,000.

In the case of a “cash method debt instrument,” as defined in section 1274A(c), the borrower and lender may elect to use the cash receipts and disbursements method of accounting. In particular, for any cash method debt instrument, section 1274 does not apply, and interest on the instrument is accounted for by both the borrower and the lender under the cash method of accounting. A cash method debt instrument is a qualified debt instrument that meets the following additional requirements: (A) In the case of instruments arising out of sales or exchanges before January 1, 1990, the stated principal amount does not exceed \$2,000,000;

(B) the lender does not use an accrual method of accounting and is not a dealer with respect to the property sold or exchanged; (C) section 1274 would have applied to the debt instrument but for an election under section 1274A(c); and (D) an election under section 1274A(c) is jointly made with respect to the debt instrument by the borrower and the lender. Section 1.1274A-1(c)(1) of the Income Tax Regulations provides rules concerning the time for, and manner of, making this election.

Section 1274A(d)(2) provides that, for any debt instrument arising out of a sale or exchange during any calendar year after 1989, the dollar amounts stated in section 1274A(b) and section 1274A(c)(2)(A) are increased by the inflation adjustment for the calendar year. Any increase due to the inflation adjustment is rounded to the nearest multiple of \$100 (or, if the increase is a multiple of \$50 and not of \$100, the increase is increased to the nearest multiple of \$100). The inflation adjustment for any calendar year is the percentage (if any) by which the CPI for the preceding calendar year exceeds the CPI for calendar year 1988. Section 1274A(d)(2)(B) defines the CPI for any calendar year as the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of that calendar year.

INFLATION-ADJUSTED AMOUNTS
UNDER Section 1274A

For debt instruments arising out of sales or exchanges after December 31, 1989, the inflation-adjusted amounts under section 1274A are shown in Table 1.

Rev. Rul. 2010-30 Table 1		
Inflation-Adjusted Amounts Under Section 1274A		
Calendar Year of Sale or Exchange	1274A(b) Amount (qualified debt instrument)	1274A(c)(2)(A) Amount (cash method debt instrument)
1990	\$2,933,200	\$2,095,100
1991	\$3,079,600	\$2,199,700
1992	\$3,234,900	\$2,310,600
1993	\$3,332,400	\$2,380,300
1994	\$3,433,500	\$2,452,500
1995	\$3,523,600	\$2,516,900
1996	\$3,622,500	\$2,587,500
1997	\$3,723,800	\$2,659,900
1998	\$3,823,100	\$2,730,800
1999	\$3,885,500	\$2,775,400
2000	\$3,960,100	\$2,828,700
2001	\$4,085,900	\$2,918,500
2002	\$4,217,500	\$3,012,500
2003	\$4,280,800	\$3,057,700
2004	\$4,381,300	\$3,129,500
2005	\$4,483,000	\$3,202,100
2006	\$4,630,300	\$3,307,400
2007	\$4,800,800	\$3,429,100
2008	\$4,913,400	\$3,509,600
2009	\$5,131,700	\$3,665,500
2010	\$5,115,100	\$3,653,600
2011	\$5,201,300	\$3,715,200

Note: These inflation adjustments were computed using the All-Urban, Consumer Price Index, 1982-1984 base, published by the Bureau of Labor Statistics.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 2010-2, 2010-3 I.R.B. 272, is supplemented and superseded.

DRAFTING INFORMATION

The author of this revenue ruling is Andrea M. Hoffenson of the Office of the Associate Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling, please contact Ms. Hoffenson at (202) 622-3920 (not a toll-free call).

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month

of December 2010. See Rev. Rul. 2010-29, page 818.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 2010. See Rev. Rul. 2010-29, page 818.

Part III. Administrative, Procedural, and Miscellaneous

Branded Prescription Drug Sales

Notice 2010–71

This notice provides guidance on the annual fee imposed on covered entities engaged in the business of manufacturing or importing branded prescription drugs by section 9008 of the Patient Protection and Affordable Care Act (ACA), Public Law 111–148 (124 Stat. 119 (2010)), as amended by section 1404 of the Health Care and Education Reconciliation Act of 2010 (HCERA), Public Law 111–152 (124 Stat. 1029 (2010)). All references in this notice to section 9008 are references to section 9008 of the ACA, as amended by section 1404 of HCERA.

Part I of this notice describes a proposed methodology for calculating the section 9008 fee. Part II of this notice describes how the Internal Revenue Service (IRS) will use this proposed methodology to provide each covered entity with a preliminary 2011 fee calculation. The IRS and Treasury Department intend that a covered entity's preliminary fee calculation for 2011 will serve as a basis for comments by the covered entity on the proposed methodology. Part III of this notice solicits public comments on all aspects of the notice.

Part I — Proposed Methodology for Calculating the Fee

Section 9008(b)(4) sets an applicable fee amount for each year, beginning with 2011, that will be allocated among covered entities with aggregate branded prescription drug sales of over \$5 million to specified government programs or pursuant to coverage under such programs. Section 9008(e)(2) provides that “branded prescription drug” means (i) any prescription drug the application for which was submitted under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)), or (ii) any biological product the license for which was submitted under section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)). The specified government programs are the Medicare

Part B program, the Medicare Part D program, the Medicaid program, any program under which branded prescription drugs are procured by the Department of Veterans Affairs, any program under which branded prescription drugs are procured by the Department of Defense, and the TRICARE retail pharmacy program (collectively, the Programs). The applicable fee amount is allocated among the covered entities using a formula specified in section 9008(b) based on sales to the Programs, which sales data is to be provided by the Centers for Medicare and Medicaid Services of the Department of Health and Human Services (CMS), the Department of Veterans Affairs (VA), and the Department of Defense (DOD) (collectively, the Agencies).

There are two years relevant to the calculation of the section 9008 fee — the calendar year in which the fee must be paid (herein referred to as the fee year) and the calendar year of the branded prescription drug sales, which will be used to determine the amount of the fee (herein referred to as the sales year). As discussed more fully below, the IRS and Treasury Department are proposing to use the second calendar year preceding the fee year as the sales year for purposes of calculating the section 9008 fee. An adjustment amount will also be calculated as discussed below.

Definition of Covered Entity

Section 9008(a) imposes the fee on each covered entity engaged in the business of manufacturing or importing branded prescription drugs. Section 9008(d)(1) defines a covered entity as “any manufacturer or importer with gross receipts from branded prescription drug sales.” For purposes of section 9008(a), a manufacturer or importer is the person identified in the Labeler Code of the National Drug Code (NDC) for a branded prescription drug. The NDC is an identifier assigned by the Food and Drug Administration (FDA) to a branded prescription drug, as well as other drugs. The Labeler Code is the first five numeric characters of the NDC or the first six numeric characters when the available

five-character code combinations are exhausted.

Section 9008(d)(2) provides a controlled group rule under which all persons treated as a single employer under section 52(a), 52(b), 414(m), or 414(o) of the Internal Revenue Code (Code) shall be treated as a single covered entity. For this purpose, a foreign entity subject to tax under section 881 is included within a controlled group under section 52(a) or 52(b). This controlled group rule will be applied as of the end of the day on December 31 of the sales year. All persons treated as a single employer under section 9008(d)(2) are jointly and severally liable for the fee. See section 9008(d)(3).

In the case of a controlled group that is treated as a single covered entity under section 9008(d)(2), the controlled group must identify a single person as the “designated entity” that may act for the controlled group with respect to the section 9008 fee. If the controlled group, without regard to foreign corporations included under section 9008(d)(2)(B), is also an affiliated group that filed a consolidated return for federal income tax purposes, the designated entity is the common parent of the affiliated group as identified on the tax return filed for the sales year. In all other situations, the controlled group must select a person as the designated entity on Form 8947, *Report of Branded Prescription Drug Information*¹ (discussed further below), which is signed by the designated entity under penalties of perjury, stating that all the manufacturers or importers of branded prescription drugs who are members of the covered entity have consented to the selection of the designated entity.

Sales Taken Into Account

Section 9008(b) provides that the annual fee for each covered entity is calculated by determining the ratio of (i) the covered entity's branded prescription drug sales taken into account during the preceding calendar year to (ii) the aggregate branded prescription drug sales taken into account for all covered entities during the same year, and applying this ratio to the applicable amount as specified in the statute.

¹ The Office of Management and Budget approved Form 8947 under control number 1545–2192.

“Sales taken into account” means sales exclusive of certain orphan drugs and after application of the percentage adjustment table in section 9008(b)(2). Section 9008(b)(1) provides that the calculation of the fee in any given year is based on branded prescription drug sales in the immediately preceding calendar year.

Section 9008(b)(3) provides that the Secretary of the Treasury shall determine the amount of each covered entity’s fee. In determining that amount, the Secretary may rely on reports submitted by the Agencies and any other source of information. Section 9008(i) also provides the Secretary with regulatory authority to carry out the purposes of the statute.

The IRS and Treasury Department have determined that, although the DOD and VA are expected to have complete data on branded prescription drug sales for the calendar year immediately preceding the fee year within the time frame necessary to administer the fee, CMS is not expected to have comparable data because it cannot complete its data processing within the necessary time frame. Accordingly, the IRS and Treasury Department will calculate the fee based on the branded prescription drug sales data provided by the Agencies for the second calendar year preceding the fee year. Because the use of the second preceding year, rather than the immediately preceding year, as the sales year may affect the amount of the fee paid by any particular covered entity, the fee due in every year after 2011 will include an adjustment amount.

Adjustment Methodology

An adjustment amount will be calculated for each NDC and will be added or subtracted, as appropriate, to the fee otherwise payable by the covered entity responsible for the NDC in the fee year in which the adjustment is calculated. The adjustment amount added or subtracted to the amount payable in a fee year will reflect the difference between the fee determined for the NDC in the immediately prior fee year, using data from the second calendar year preceding that fee year, and what the fee for that NDC would have been for the immediately prior fee year using data from the calendar year immediately preceding that prior fee year. For example, the amount due from a covered entity in

the 2012 fee year will include an adjustment amount for each NDC for which the covered entity is responsible in 2012 equal to the difference between the 2011 fee associated with that NDC using 2009 data, and what the 2011 fee for that NDC would have been using 2010 data.

To calculate the adjustment amount for an NDC, the IRS will first determine two ratios: one based on data from the second preceding calendar year; and the other based on data from the third preceding calendar year. In both cases, the numerator of the ratio is the sales taken into account for the particular NDC during the relevant calendar year, and the denominator of the ratio is aggregate branded prescription drug sales taken into account for all NDCs during the relevant calendar year. For each NDC, the IRS will then take the difference between the ratio using second preceding year data and the ratio using third preceding year data and multiply that amount by the applicable amount of the fee for the relevant fee year, as set forth in section 9008(b)(4), to determine an adjustment for the NDC. The adjustment amount for any particular NDC will then be added to, or subtracted from, as appropriate, the amount of the fee otherwise payable by the covered entity associated with the NDC for the fee year in which the adjustment amount is calculated.

For example, in 2012 the fee payable by each covered entity will consist of two components. First, the applicable amount for 2012 will be allocated to the covered entities based on sales data for 2010 (*i.e.*, the second preceding calendar year). Second, an adjustment amount will be calculated in 2012 for each NDC with respect to the 2011 fee year, by multiplying (i) the difference between the sales ratio determined using 2010 data and the sales ratio determined using 2009 data by (ii) the applicable amount of the fee for 2011. The adjustment amount for each NDC will then be added to, or subtracted from, as appropriate, the fee otherwise payable in 2012 by the covered entity associated with the NDC for the 2012 fee year.

The adjustment amount is applied only with respect to the amount of the fee otherwise payable by the relevant covered entity in the year in which the adjustment is calculated, and is not a refund, credit, or recalculation of a fee payable by any covered entity in any preceding fee year. In

any given fee year, the amount assessed by the IRS will be based on data provided to it by the Agencies. The IRS does not intend to recalculate either the fee allocations or the adjustment amounts based on data that becomes available after those amounts are assessed.

Information Requested from Covered Entities

Annually, each covered entity should submit a Form 8947 and provide the information specified by the form and instructions. The designated entity for a covered entity described in section 9008(d)(2) submits a single form for the covered entity. A covered entity should submit a completed Form 8947 by December 15 of each year unless an alternative date is prescribed by the form or instructions. The Form 8947 information is return information subject to the confidentiality protections of section 6103. Form 8947 will be available at <http://www.irs.gov>.

Form 8947 solicits the following information from each covered entity:

1. For a single-person covered entity, the covered entity’s name, address, and employer identification number. For a covered entity described in section 9008(d)(2), the name, address, and employer identification number of the designated entity and each manufacturer or importer with gross receipts from the sale of branded prescription drugs that was included in the covered entity as of the end of the day on December 31 of the sales year.

2. All of the NDCs for branded prescription drugs in which the covered entity is identified in the labeler code as of the end of the day on December 31 of the sales year. For a covered entity described in section 9008(d)(2), this includes all NDCs in which a member of the covered entity is identified in the labeler code as of the end of the day on December 31 of the sales year.

3. The brand name and NDC for each orphan drug for which the covered entity was allowed a section 45C credit. For purposes of section 9008(e)(3), the credit was “allowed” for any particular drug if the covered entity claimed the credit and there has not been a final assessment or a court order disallowing the full credit taken for the drug. In addition, even if the credit

has been allowed, a covered entity must not report an NDC for an orphan drug for any sales year following the calendar year in which the FDA approved the drug for marketing for any indication other than the treatment of the rare disease or condition for which the section 45C credit was allowed.

4. The rebates for each NDC paid in the sales year by the covered entity to Medicare Part D with respect to sales occurring in that sales year. For this purpose, a rebate is considered paid in the sales year if it is taken into account on the covered entity's tax return(s) for the sales year. This information is needed for the 2009 sales year because, at this time, CMS does not have rebate data on branded prescription drug sales by NDC. However, starting in 2011, CMS is planning to collect this rebate information by NDC for the 2010 and subsequent sales years. It is therefore possible that covered entities will not report this rebate information for years following 2009.

5. The state supplemental rebates for each NDC paid in the sales year by the covered entity with respect to sales under Medicaid occurring in that sales year. For this purpose, a rebate is considered paid in the sales year if it is taken into account on the covered entity's tax return(s) for the sales year. This information is needed because Medicaid data will not include state supplemental rebates.

Information Provided by the Agencies

The IRS will compile a list of branded prescription drugs by NDC using the data submitted on Forms 8947. Appropriate due diligence will be performed to check for potential oversights. For example, the IRS may use information published by the FDA identifying drugs for which applications were submitted under section 505(b) of the Federal Food, Drug, and Cosmetic Act. The IRS will provide the Agencies with the compiled list of branded prescription drugs.

For each year in which the fee is due, the Agencies will provide data to the IRS on the branded prescription drug sales during the sales year by Program and NDC. The calculation methodology for each Program, including any reasonable estimation techniques and assumptions that the Agencies expect to use, are described below.

1. *Medicare Part D.* Section 9008 requires CMS to report the product of the per-unit ingredient cost reported by Part D sponsors (net of any per-unit rebate or other price concessions) and the number of units for each branded prescription drug. CMS currently collects prescription level encounter data from Part D sponsors on the Prescription Drug Event (PDE) records. On the PDE records, Part D sponsors report the NDC, as well as the ingredient cost, dispensing fee, sales tax, and units. CMS will aggregate the ingredient cost reported in the "Ingredient Cost Paid" field and the units reported in the "Quantity Dispensed" field of the PDE records for Part D covered drugs. These amounts will be aggregated at the NDC level for each sales year. Only PDE data that Part D sponsors have submitted by the PDE submission deadline (within 6 months after the end of the sales year) and have been approved for inclusion in the Part D payment reconciliation will be included.

2. *Medicare Part B.* First, for Healthcare Common Procedure Coding System (HCPCS) codes that consist solely and exclusively of branded prescription drugs (as identified by their respective NDCs) manufactured by a single entity, CMS will provide the total Medicare-allowed charges for the HCPCS code for the appropriate sales year.

Second, for HCPCS codes consisting of a mixture of branded prescription drugs made by different manufacturers or a mixture of branded prescription and generic drugs, CMS will determine: (i) the total Medicare-allowed charges for the HCPCS code for the appropriate sales year; (ii) the entities engaged in manufacturing each NDC assigned to the HCPCS code; and (iii) those entities (if any) that are manufacturing branded prescription drugs. CMS will then: (i) estimate the amount of Medicare-allowed charges for each manufacturer by applying the utilization percentage attributed to each manufacturer as determined under the Medicare Part B Program using manufacturer reported Average Sales Price sales data; (ii) multiply that percentage by the Medicare-allowed charge for that HCPCS code; and (iii) assign the result to each manufacturer within that HCPCS code.

Third, for the remainder of HCPCS codes that consist of multiple branded prescription drugs (as identified by their re-

spective NDCs) manufactured by multiple entities that cannot be reliably calculated using the two methods above, CMS will determine: (i) the total Medicare-allowed charges for the HCPCS code for the appropriate sales year; (ii) the entities engaged in manufacturing each NDC assigned to the HCPCS code; and (iii) those entities (if any) that are manufacturing branded prescription drugs. CMS will then: (i) estimate the amount of Medicare-allowed charges for each manufacturer by applying the utilization percentage attributed to each manufacturer as determined under the Medicare Part D Program; (ii) multiply that percentage by the Medicare-allowed charge for that HCPCS code; and (iii) assign the result to each manufacturer within that HCPCS code.

Thus, the amounts attributed to branded prescription drugs within the HCPCS code will be estimated. CMS will calculate the sum of these components to arrive at an estimate of Medicare Part B spending on branded prescription drugs for each manufacturer.

3. *Medicaid.* The branded prescription drug sales for Medicaid may be determined as the per-unit Average Manufacturer Price less the Unit Rebate Amounts (URA) that CMS calculates based on manufacturer-reported pricing data multiplied by the number of units reported billed by states to manufacturers. This data would be based on the data reported to Medicaid by covered entities and the states. CMS does not currently intend to reduce this calculation for state supplemental rebates.

4. *Department of Veterans Affairs.* VA will provide, by NDC, the total amount paid for each branded prescription drug procured by the VA for its beneficiaries. The basis of this information will be national procurement data reported by VA's Pharmaceutical Prime Vendor to the VA Pharmacy Benefits Management Service and National Acquisition Center. This information will not include procurement data that resides exclusively at the individual medical treatment facility level.

5. *Department of Defense.* The DOD will provide, by Labeler Code, the manufacturer's name, the NDC, brand name, and the amount paid (net of rebates) for each branded prescription drug procured by DOD. TRICARE Management Activity will provide, by Labeler Code, the manufacturer's name, the NDC, brand name,

and the amount paid (net of refunds or rebates) for each branded prescription drug procured by DOD through the TRICARE Retail Pharmacy Program.

Fee calculation

After receiving data from the Agencies and information from the covered entities, the IRS will calculate each covered entity's branded prescription drug sales for each Program by NDC. A covered entity's branded prescription drug sales for each Program will equal (i) the sum of all the covered entity's branded prescription drug sales reported by the Program, less (ii) the sum of all branded prescription drug sales reported by the Program for each NDC for which the covered entity has appropriately claimed the orphan drug exclusion, less (iii) the sum of rebates reported by the covered entity on Form 8947 for the sales year.

After calculating the branded prescription drug sales for each Program, the IRS will calculate each covered entity's branded prescription drug sales taken into account for purposes of the ratio set forth in section 9008(b)(1). A covered entity's branded prescription drug sales taken into account for purposes of section 9008(b)(1)(A) will equal the sum of the covered entity's branded prescription drug sales for all Programs reduced by the appropriate percentages set forth in section 9008(b)(2). The IRS will then calculate the aggregate branded prescription drug sales of all covered entities taken into account for purposes of section 9008(b)(1)(B), which is the sum of all the covered entities branded prescription drug sales taken into account for purposes of section 9008(b)(1)(A).

To determine each covered entity's fee, the IRS will divide each covered entity's branded prescription drug sales taken into account for purposes of section 9008(b)(1)(A) by the aggregate branded prescription drug sales of all covered entities taken into account for purposes of section 9008(b)(1)(B) and multiply that fraction by the applicable amount for the appropriate year as set forth in section 9008(b)(4).

Part II — Preliminary Fee Calculation for 2011

The IRS will use the proposed methodology described in Part I to provide each

covered entity with a preliminary 2011 fee calculation. The notification of the preliminary fee calculation will include the following: (1) the covered entity's fee; (2) the covered entity's branded prescription drug sales, by NDC, for each Program; (3) the covered entity's branded prescription drug sales taken into account after application of section 9008(a)(2); and (4) the aggregate branded prescription drug sales taken into account for all covered entities.

To facilitate the preliminary 2011 fee calculation, Form 8947 should be submitted to the IRS by January 20, 2011. From the data on the Forms 8947, the IRS will compile a list of NDCs and provide that list to the Agencies by March 1, 2011. The IRS will use the data submitted on the Forms 8947 and the sales data provided by the Agencies to calculate the preliminary fee and will send to each covered entity notification of its preliminary fee calculation by May 2, 2011.

If the IRS and Treasury Department subsequently promulgate regulations that modify the methodology for calculating each covered entity's fee, the modified methodology will be adopted in determining the final fee amount for each covered entity for 2011. Thus, if the methodology changes, the amount of the final fee for 2011 may vary from the preliminary fee calculation. The IRS will send the final fee calculation to each covered entity by August 15, 2011.

Part III — Request for comments

The IRS and Treasury Department request comments on the procedures described in this notice for consideration when promulgating regulations setting forth procedures for 2011 and the following years. The deadline for submission of comments is June 2, 2011. This date will give covered entities the opportunity to consider the information received in their preliminary fee calculation when providing comments. All materials submitted will be available for public inspection and copying. Written comments should be submitted to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2010-71), Room 5203, Internal Revenue Service, PO 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 2010-71), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Comments may be transmitted electronically via the following e-mail address: *Notice.Comments@irs.counsel.treas.gov*. Please include "Notice 2010-71" in the subject line of any electronic communications.

Drafting Information

The principal author of this notice is Celia A. Gabrysh of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Celia A. Gabrysh at (202) 622-3130 (not a toll-free call). For further information regarding Form 8947, contact Lou Milano at (908) 301-2106 (not a toll-free call).

Build America Bonds and Other State and Local Bonds: Timing of Issuing Bonds

Notice 2010-81

SECTION 1. PURPOSE

This notice provides guidance on the determination of when State and local bonds (as defined in § 103(c)) of the Internal Revenue Code (the "Code") are considered "issued" for purposes of deadlines on issuing bonds. This notice provides guidance on the relevant distinction between the "issue date" of a "bond" versus the "issue date" of an "issue" for purposes of this determination. One instance, among others, in which this notice applies is in determining when Build America Bonds, structured as "draw-down" bonds or loans in which draws are funded at different times, are considered issued for purposes of statutory deadlines on issuing these bonds under § 54AA.

This notice does not apply for purposes of applying the qualified small issuer and *de minimis* exceptions to the tax-exempt carrying cost disallowance provision under § 265(b)(3) and § 265(b)(7) to draw-down loans.

SECTION 2. BACKGROUND

Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“ARRA”) added § 54AA to the Code, which authorizes State and local governments, at their option, to issue Build America Bonds as taxable governmental bonds and receive Federal subsidies for a portion of their borrowing costs. Sections 54AA(d), 54AA(g), and 6431 require that Build America Bonds be issued before January 1, 2011.

In a related provision, § 1401 of ARRA added §§ 1400U-1 through 1400U-3 to the Code, which authorizes two types of “Recovery Zone Bonds,” including a type of Build America Bond known as “Recovery Zone Economic Development Bonds” and a type of traditional tax-exempt bond known as “Recovery Zone Facility Bonds.” These Recovery Zone Bonds have bond volume limitations and a statutory deadline that requires the bonds to be issued before January 1, 2011.

Section 1503(a) of ARRA amended § 57(a)(5)(C) to add new clause (vi), which provides, in part, that for purposes of the alternative minimum tax preference for interest on certain tax-exempt private activity bonds under § 57(a)(5)(C)(i), the term “private activity bond” shall not include any bond issued after December 31, 2008, and before January 1, 2011. Section 1503(b) of ARRA amended § 56(g)(4)(B) to add new clause (iv), which provides that the adjusted current earnings (ACE) adjustment under § 56(g)(4)(B)(i) for interest on certain tax-exempt bonds shall not include any interest on certain bonds issued after December 31, 2008, and before January 1, 2011.

In addition, other statutory provisions impose statutory time periods for issuing State and local bonds in both targeted circumstances and in more general circumstances. Another selected example of a targeted bond program that imposes a statutory time period on issuing bonds is the Gulf Opportunity Zone Bond program under § 1400N. One general provision that imposes statutory time periods on issuing bonds is the annual State private activity bond volume cap under § 146, which generally limits the amount of tax-exempt private activity bonds that may be issued in a State in a particular year. Similarly, certain

types of qualified tax credit bonds under § 54A have volume caps and statutory time periods for issuing bonds. Another general provision is § 265(b)(3), which generally provides an exception to the carrying cost disallowance provision for financial institutions that purchase tax-exempt obligations from “qualified small issuers” that reasonably expect to issue no more than \$10 million in tax-exempt bonds in a calendar year. ARRA raises the amount of this exception to \$30 million for bonds issued in 2009 and 2010. Thus, the determination of when bonds are issued is relevant to the statutory limitations affecting Build America Bonds and many other State and local bond programs.

Recently, questions have arisen about which issue date rule applies for the statutory deadline on issuing Build America Bonds with respect to a financing structure known as “draw-down” loans in which funds are advanced at different times. The regulations provide issue date rules for “bonds” and for “issues” of bonds (with subsidiary special rules which treat bonds issued under draw-down loans or commercial paper programs as part of the same issue). Section 1.150-1(b) of the Income Tax Regulations includes a general definition for the “issue date” of a “bond,” that provides the issue date is the date on which the issuer receives the purchase price in exchange for that bond, provided that in no event is the issue date of a bond earlier than the first day on which interest begins to accrue on such bond for Federal income tax purposes. See also *Harbor Bancorp v. Commissioner*, 105 T.C. 260 (1995), aff’d 115 F.3d 722 (9th Cir. 1997) (citing regulatory predecessors to this general definition in interpreting statutory deadlines for issuing bonds under the Tax Reform Act of 1986).

Section 1.150-1(b) defines a “bond” to mean any “obligation” of a State or political subdivision thereof under § 103(c)(1). Section 1.150-1(b) also defines an “obligation” to mean any valid evidence of indebtedness under general Federal income tax principles.

By comparison, § 1.150-1(c) defines the broader term bond “issue” under a general definition and various special rules that may include bonds as part of the same issue even if they are issued at different times under a common tax plan. Section 1.150-1(b) defines the “issue date” of an

“issue” to mean the first date on which the issuer receives the purchase price in exchange for delivery of the evidence of indebtedness representing any bond included in the issue, provided that in no event is the issue date of an issue earlier than the first day on which interest begins to accrue on the first bond included in the issue for Federal income tax purposes. Section 1.150-1(c)(1) provides a general rule which treats bonds as part of the same issue if the bonds are sold (versus issued) at substantially the same time (meaning sold less than 15 days apart), the bonds are part of the same plan of financing, and the bonds are reasonably expected to be paid from the same source of funds.

Section 1.150-1(c)(4)(i) treats bonds issued pursuant to a “draw-down loan” as part of the same bond issue. This special rule further provides that the issue date of the issue is the first date on which the aggregate draws under the loan exceed the lesser of \$50,000 or five percent of the issue price. Section 1.150-1(c)(4)(ii) allows commercial paper issued pursuant to the same commercial paper program to be treated as part of the same issue. This special rule further provides that the issue date of the issue is the first date on which the aggregate amount of commercial paper issued under the program exceeds the lesser of \$50,000 or five percent of the issue price. This special rule generally allows commercial paper to be treated as part of the same issue if it is issued to finance or refinance the same governmental purposes pursuant to a single master legal document during an 18-month period or if it is issued to refinance such commercial paper for up to 30 years if there is no increase in the principal amount after the initial 18-month period. These special rules apply to the issue date of the issue. The regulations do not provide special issue date rules for the issue date of bonds issued as draws under draw-down loans or as commercial paper. In Rev. Rul. 89-70, 1989-1 C.B. 88, however, the IRS ruled that the entire stated principal amount of a draw-down loan was considered issued on the date on which more than a *de minimis* amount of the loan was first advanced.

SECTION 3. SCOPE

This notice applies for determining compliance with deadlines for issuing

State and local bonds such as Build America Bonds under §§ 54AA(d), 54AA(g) and 6431, and Recovery Zone Bonds under §§ 1400U-1 through 1400U-3. The analysis in this notice also applies for other deadlines for issuing bonds, such as, among others, the exceptions to the alternative minimum tax preferences and adjustments for interest on certain tax-exempt bonds under §§ 56(g)(4)(B)(iv) and 57(a)(5)(C)(vi), Gulf Opportunity Zone Bonds under § 1400N and various volume cap limitations on State and local bonds (as defined in § 103(c)).

This notice does not apply for purposes of applying the qualified small issuer and *de minimis* exceptions to the tax-exempt carrying cost disallowance provision under § 265(b)(3) and § 265(b)(7) to draw-down loans. For this purpose, Rev. Rul. 89-70 will continue in effect until further guidance is provided, which guidance will be prospective.

SECTION 4. GUIDANCE

In general, for determining compliance with deadlines on issuing bonds covered by this notice, a bond is considered issued on the “issue date” of the “bond” under § 1.150-1(b). Section 1.150-1(b) defines the “issue date” of a “bond” to mean the date on which the issuer receives the purchase price in exchange for that bond, provided that in no event is the issue date of a bond earlier than the first day on which interest begins to accrue on such bond for Federal income tax purposes.

By contrast, the issue date of an “issue” under § 1.150-1(b) is the first date on which the issuer receives the purchase price in exchange for delivery of the evidence of indebtedness representing any bond included in the issue, provided that in no event is the issue date of an issue earlier than the first day on which interest begins to accrue on the first bond included within the issue for Federal income tax purposes. Bonds may be issued at different times and nonetheless be treated as part of the same bond “issue” under the various special provisions for single issues under § 1.150-1(c). Thus, to ensure that an entire issue of bonds meets a statutory deadline on issuing bonds, all of the bonds that are part of the issue should be issued by the applicable statutory deadline.

In the particular case of a “draw-down” loan under § 1.150-1(c)(4)(i) or a commercial paper program under § 1.150-1(c)(4)(ii), in which a bond is issued as a draw or as commercial paper at different times and interest begins to accrue on each draw or commercial paper when it is funded, each draw or commercial paper constitutes a separate bond that is issued on the issue date of that draw or commercial paper when the issuer receives the purchase price, and interest begins to accrue, on that draw or commercial paper for Federal income tax purposes. Thus, for Build America Bonds structured as draw-down loans or commercial paper programs, only those draws or commercial paper that are funded before January 1, 2011, and for which interest begins to accrue for Federal income tax purposes before January 1, 2011, may qualify as Build America Bonds for purposes of the statutory time deadlines for issuing Build America Bonds.

SECTION 5. DRAFTING INFORMATION

The principal authors of this notice are Vicky Tsilas and Timothy L. Jones of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this notice, contact Vicky Tsilas at (202) 622-3980 (not a toll-free call).

Social Security Contribution and Benefit Base for 2011

Notice 2010-86

Under authority contained in the Social Security Act (Act), the Commissioner, Social Security Administration, has determined and announced (75 F.R. 65696, dated October 26, 2010) that the contribution and benefit base for remuneration paid in 2011, and self-employment income earned in taxable years beginning in 2011 is \$106,800.

“Old-Law” Contribution and Benefit Base

General

The “old-law” contribution and benefit base for 2011 is \$79,200. This is the

base that would have been effective under the Act without the enactment of the 1977 amendments.

Domestic Employee Coverage Threshold

General

The minimum amount a domestic worker must earn so that such earnings are covered under Social Security or Medicare is the domestic employee coverage threshold. For 2011, this threshold is \$1,700. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

Computation

Under the formula, the domestic employee coverage threshold amount for 2011 shall be equal to the 1995 amount of \$1,000 multiplied by the ratio of the national average wage index for 2009 to that for 1993. If the resulting amount is not a multiple of \$100, it shall be rounded to the next lower multiple of \$100.

Domestic Employee Coverage Threshold Amount

Multiplying the 1995 domestic employee coverage threshold amount (\$1,000) by the ratio of the national average wage index for 2009 (\$40,934.93) to that for 1993 (\$23,132.67) produces the amount of \$1,769.57. We then round this amount to \$1,700. Accordingly, the domestic employee coverage threshold amount is \$1,700 for 2011.

(Filed by the Office of the Federal Register on October 25, 2010, 8:45 a.m., and published in the issue of the Federal Register for October 26, 2010, 75 F.R. 65696)

26 CFR 601.602: Tax forms and instructions.
(Also: Part I, § 179.)

Rev. Proc. 2010-47

SECTION 1. PURPOSE

This revenue procedure modifies Rev. Proc. 2009-50, 2009-2 C.B. 617, as modified by Rev. Proc. 2010-24, 2010-25 I.R.B. 764, setting out the cost limitations for expensing property under § 179 of the Internal Revenue Code for taxable years

beginning in 2010. This modification reflects a statutory amendment enacted subsequent to the publication of Rev. Proc. 2010–24.

SECTION 2. BACKGROUND

Prior to the enactment of the Small Business Jobs Act of 2010, Pub. L. No. 111–240, 124 Stat. 2504 (2010) (the Small Business Jobs Act) and the Hiring Incentives to Restore Employment Act of 2010, Pub. L. No. 111–147, 124 Stat. 71 (2010) (the HIRE Act), § 179(b)(1) prescribed a \$125,000 limitation (the \$125,000 amount) on the aggregate cost of § 179 property that could be treated as an expense for taxable years beginning after 2006 and before 2011. For those same taxable years, § 179(b)(2) provided that the \$125,000 amount is reduced by the amount by which the cost of § 179 property placed in service during the taxable years exceeds \$500,000 (the \$500,000 amount). Both the \$125,000 amount and the \$500,000 amount were adjusted for inflation annually under § 179(b)(5). For taxable years beginning in 2010, section 3.20 of Rev. Proc. 2009–50 provides that the \$125,000 amount and the \$500,000 amount, adjusted for inflation, are \$134,000 and \$530,000, respectively.

Section 102 of the Economic Stimulus Act of 2008, Pub. L. No. 110–185, 122 Stat. 613 (2008), changed the \$125,000 amount and the \$500,000 amount to \$250,000 and \$800,000, respectively, for taxable years beginning in 2008. Section 1202 of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111–5, 123 Stat. 115 (2009), extended the \$250,000 amount and the \$800,000 amount to taxable years beginning in 2009.

Section 201 of the HIRE Act changed the \$125,000 amount and the \$500,000 amount to \$250,000 and \$800,000, respectively, for taxable years beginning in 2010. To reflect the HIRE Act changes, Rev. Proc. 2010–24 modified section 3.20 of Rev. Proc. 2009–50 to provide that the \$125,000 amount and the \$500,000 amount are \$250,000 and \$800,000, respectively, for taxable years beginning in 2010.

Subsequently, § 2021 of the Small Business Jobs Act extended and increased the \$250,000 amount and the \$800,000 amount to \$500,000 and \$2,000,000, re-

spectively, for taxable years beginning in 2010 and 2011.

SECTION 3. APPLICATION

To reflect the statutory changes made to § 179 by § 2021 of the Small Business Jobs Act, section 3.20 of Rev. Proc. 2009–50, as modified by Rev. Proc. 2010–24, is modified to read as follows:

.20 Election to Expense Certain Depreciable Assets. For taxable years beginning in 2010, under § 179(b)(1)(B) the aggregate cost of any § 179 property a taxpayer may elect to treat as an expense cannot exceed \$500,000. Under § 179(b)(2)(B), the \$500,000 limitation is reduced (but not below zero) by the amount by which the cost of § 179 property placed in service during the 2010 taxable year exceeds \$2,000,000.

SECTION 4. EFFECT ON OTHER DOCUMENTS

Section 3.20 of Rev. Proc. 2009–50, as modified and superseded by Rev. Proc. 2010–24, is modified and superseded. Rev. Proc. 2010–24 is superseded.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning in 2010.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Winston H. Douglas of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Winston H. Douglas at (202) 622–4930 (not a toll-free call).

26 CFR 601.201: Guidance on Pre-Approved Individual Retirement Arrangements (IRAs). (Also Part I, §§ 408, 408A.)

Rev. Proc. 2010–48

SECTION 1. PURPOSE

This revenue procedure provides guidance to drafters and users of pre-approved IRAs. Section 3 of this revenue procedure provides guidance to drafters and users of prototype IRAs, including rules for when

documents must be submitted to the Internal Revenue Service and new user fees for individual retirement annuities. Section 4 provides guidance to users of the Service’s model IRAs and describes the availability of new model individual retirement annuities.

SECTION 2. BACKGROUND AND GENERAL INFORMATION

.01 Rev. Proc. 87–50, 1987–2 C.B. 647, as modified by Rev. Proc. 97–29, 1997–1 C.B. 698, and Rev. Proc. 98–59, 1998–2 C.B. 727, provides the procedures for a sponsoring organization or a mass submitter (a “prototype sponsor”) to apply to the Service for an opinion letter on whether a prototype traditional, SIMPLE or Roth IRA meets the requirements of Internal Revenue Code § 408(a) or (b), § 408(p) or § 408A, respectively. Rev. Proc. 87–50 also contains procedures for employers and employee associations to apply for a ruling on a § 408(c) IRA.

.02 Rev. Proc. 2002–10, 2002–1 C.B. 401, provided guidance on updating IRAs for new regulations on required minimum distributions and for changes made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”), Pub. L. 107–16.

.03 Ann. 2007–55, 2007–1 C.B. 1384, provided guidance to sponsors of prototype Roth IRAs who wished to amend their documents to accept rollovers from designated Roth accounts described in § 402A.

.04 Notice 2009–82, 2009–41 I.R.B. 491, provides that IRAs do not have to be amended for new § 401(a)(9)(H) pending the issuance of further guidance.

.05 Model forms are available for taxpayers who want to use a pre-approved document to establish an IRA without using a prototype document. The model IRA forms are: Form 5305, *Traditional Individual Retirement Trust Account*; Form 5305–A, *Traditional Individual Retirement Custodial Account*; Form 5305–R, *Roth Individual Retirement Trust Account*; Form 5305–RA, *Roth Individual Retirement Custodial Account*; Form 5305–RB, *Roth Individual Retirement Annuity Endorsement*; Form 5305–S, *SIMPLE Individual Retirement Trust Account*; and Form 5305–SA, *SIMPLE Individual Retirement Custodial Account*. Also, two

new model forms will soon be available: Form 5305–TB, *Traditional Individual Retirement Annuity Endorsement*; and Form 5305–SB, *SIMPLE Individual Retirement Annuity Endorsement* (see Section 4.02 below).

.06 *Statutory changes since 2002.* The following statutory changes relating to the qualification of IRAs became effective after mandatory amendments were announced in Rev. Proc. 2002–10 and Ann. 2007–55:

(1) Section 201 of the Gulf Opportunity Zone Act of 2005 (“GOZA”), Pub. L. 109–135, provided that certain distributions from retirement plans made on account of Hurricane Katrina, Rita or Wilma may be repaid to an eligible retirement plan (as defined in Code § 402(c)(8)(B)).

(2) Section 512 of the Tax Increase Prevention and Reconciliation Act of 2005 (“TIPRA”), Pub. L. 109–222, eliminated the \$100,000 modified adjusted gross income limit and the joint filing requirement for individuals wanting to make qualified rollover contributions (other than from a designated Roth account or from a Roth IRA) to Roth IRAs, effective for distributions after 2009.

(3) Section 2 of the Heroes Earned Retirement Opportunities Act (“HERO Act”), Pub. L. 109–227, provided that compensation earned by members of the armed forces for service in a combat zone is taken into account for purposes of making IRA contributions, effective for taxable years beginning after 2003.

(4) Section 824 of the Pension Protection Act of 2006 (“PPA”), Pub. L. 109–280, as amended by WRERA (see Section 2.06(15) of this revenue procedure), provided that Roth IRAs can accept rollovers from any eligible retirement plan (as defined in Code § 402(c)(8)(B)), effective for distributions after 2007.

(5) Section 827 of PPA, as amended by WRERA (see item (15) below), provided that qualified reservist distributions (as defined in Code § 72(t)(2)(G)) may be repaid to an IRA, effective for individuals called to active duty after September 11, 2001.

(6) Section 829 of PPA, as amended by WRERA (see item (15) below), provided that a nonspouse beneficiary of a deceased participant’s accrued benefit in an eligible retirement plan, other than an IRA, can roll over any portion of the benefit in a direct trustee-to-trustee transfer to an IRA estab-

lished to receive such rollover, effective for distributions made after 2006.

(7) Section 831 of PPA provided that certain individuals who were participants in a § 401(k) plan maintained by certain indicted employers could make special catch-up contributions equal to three times the otherwise applicable IRA contribution limit, effective for taxable years beginning after 2006 and before 2010.

(8) Section 833 of PPA provided that the modified adjusted gross income limits for regular contributions to Roth IRAs are adjusted for inflation, effective for taxable years beginning after 2006.

(9) Section 105 of the Heroes Earnings Assistance and Relief Act of 2008 (“HEART Act”), Pub. L. 110–245, provides that compensation for purposes of making IRA contributions includes differential wage payments (as defined in Code § 3401(h)(2)), effective for years beginning after 2008.

(10) Section 107 of the HEART Act extended the application of the rules on qualified reservist distributions (see item (5) above).

(11) Section 109 of the HEART Act provided that certain military death gratuities are treated as qualified rollover contributions within the meaning of Code § 408A(e) and thus can be contributed to Roth IRAs, effective for deaths occurring after October 6, 2001.

(12) Section 15345 of the Food, Conservation, and Energy Act of 2008, Pub. L. 110–246, provided that certain distributions from retirement plans made on account of the Kansas May 4, 2007, severe storms and tornados may be repaid to an eligible retirement plan (as defined in Code § 402(c)(8)(B)).

(13) Section 504 of Division C of the Emergency Economic Stabilization Act of 2008 (“EESA”), Pub. L. 110–343, provides that certain amounts received in connection with the Exxon Valdez litigation may be contributed to an eligible retirement plan (as defined in Code § 402(c)(8)(B)).

(14) Section 702 of Division C of EESA provided that certain distributions from retirement plans made on account of severe storms, tornados and flooding that occurred in certain parts of the Midwest during May and June of 2008 may be repaid to an eligible retirement plan (as defined in Code § 402(c)(8)(B)).

(15) Section 108(d), (e) and (f) of the Worker, Retiree, and Employer Recovery Act of 2008 (“WRERA”), Pub. L. 110–458, made technical corrections to PPA §§ 824, 827 and 829, respectively. Section 2.06(4), (5) and (6) of this revenue procedure reflects these PPA sections as amended by WRERA.

(16) Section 125 of WRERA provided that certain bankruptcy payments made in settlement of claims against airline carriers are treated as qualified rollover contributions within the meaning of Code § 408A(e) and thus can be contributed to Roth IRAs, effective for contributions made after December 23, 2008, with respect to payments made any time.

(17) Section 201 of WRERA provided that required minimum distributions from IRAs are not required for 2009.

.07 Rev. Proc. 2010–8, 2010–1 I.R.B. 234, lists the user fees for opinion letters on prototype IRAs.

SECTION 3. OPINION LETTERS FOR IRAS

.01 *Amendment not required.* A prototype IRA may, but need not, be amended to reflect a statutory change listed in Section 2.06 of this revenue procedure in order for a trustee, custodian or issuer (hereinafter “trustee”) to take advantage of the change. Thus, a trustee may accept the additional IRA contributions listed in Section 2.06(1) through (16) of this revenue procedure and suspend 2009 required minimum distributions pursuant to Section 2.06(17) of this revenue procedure without specific authorizing language in the prototype IRA. Similarly, a § 408(c) IRA need not be amended.

.02 *Permissive amendment.* Prototype IRAs may be amended, solely to incorporate the statutory changes listed in Section 2.06 of this revenue procedure, without affecting reliance on a favorable opinion letter. Similarly, a § 408(c) IRA may be so amended without affecting reliance on a favorable ruling. Sample language for these changes is available on the Service’s Web Site (see Section 3.04 of this revenue procedure).

.03 *Application for new opinion letters.* A prototype sponsor may apply to the Service any time for an IRA opinion letter, including an opinion letter for an amendment solely to incorporate the statutory

changes listed in Section 2.06 of this revenue procedure. The IRA document must be submitted using the appropriate application form and following the instructions on that form. Form 5306, *Application for Approval of Prototype or Employer Sponsored Individual Retirement Arrangement (IRA)*, is used for prototype IRA submissions.

.04 *Sample language.* A Listing of Required Modifications, or LRMs, that the Service finds acceptable for prototype IRAs is available on the Service's Web Site at www.irs.gov. (Search for "LRMs".) In order to receive a favorable opinion letter, prototype documents must include language that addresses every issue addressed in the LRMs, unless clearly inapplicable. Identical language is not necessary, but issues addressed in an LRM may not be abbreviated by using references to Code sections or such phrases as "in accordance with the law."

.05 *Revised procedures and user fees for annuities.* Beginning with applications submitted after December 13, 2010, prototype sponsors of individual retirement annuities described in § 408(b) that use one IRA endorsement with one or more annuity contracts may submit only the IRA endorsement (and not the contracts) to the Service for approval. Sponsors that take advantage of this new procedure will be issued an opinion letter referencing the IRA endorsement, thereby reducing the number of opinion letters issued and, correspondingly, the applicable user fees. The Service recently issued a revised Form 5306, reflecting the new procedures. The IRA endorsement must include all IRA qualification rules and must provide that the terms of the IRA endorsement supersede any conflicting terms in the annuity contracts to which the IRA endorsement applies. Sponsors that use different IRA endorsements for each contract, that use no endorsements or that simply want an opinion letter for each contract may submit applications to the Service, including with such applications the document or documents that constitute the IRA.

.06 *Dual-purpose IRAs.* Rev. Proc. 98-59 required applicants for opinion letters on prototype documents designed to be used as either a traditional IRA or a

Roth IRA to write "Dual-purpose IRA" on Form 5306. Form 5306 has been revised to include a checkbox to identify a dual-purpose IRA application, so writing "Dual-purpose IRA" on the form will no longer be required.

SECTION 4. MODEL IRAS

.01 *Amendment not required.* Model IRAs need not be amended in order for trustees to operate in accordance with the statutory provisions listed in Section 2.06 above. The Service expects to issue revised model IRAs shortly, and although use of the new models is not required, the Service recommends adoption of the latest model IRAs.

.02 *New model IRAs.* The Service will issue two model IRAs for use by issuers and annuitants to establish a traditional individual retirement annuity or a SIMPLE individual retirement annuity. The forms — Form 5305-TB, *Traditional Individual Retirement Annuity Endorsement*; and Form 5305-SB, *SIMPLE Individual Retirement Annuity Endorsement* — are expected to be available shortly.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Procs. 87-50 and 98-59 are modified.

DRAFTING INFORMATION

The principal author of this revenue procedure is Roger Kuehnle of the Employee Plans, Tax Exempt and Government Entities Division. Questions regarding this revenue procedure may be sent via e-mail to RetirementPlanQuestions@irs.gov.

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

Rev. Proc. 2010-49

SECTION 1. PURPOSE

This revenue procedure prescribes the loss payment patterns and discount factors

for the 2010 accident year. These factors will be used for computing discounted unpaid losses under § 846 of the Internal Revenue Code. See Rev. Proc. 2008-10, 2008-1 C.B. 290, for background concerning the loss payment patterns and application of the discount factors.

SECTION 2. SCOPE

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

SECTION 3. TABLES OF DISCOUNT FACTORS

.01 The following tables present separately for each line of business the discount factors under § 846 for accident year 2010. All the discount factors presented in this section were determined using the applicable interest rate under § 846(c) for 2010, which is 3.81 percent, and by assuming all loss payments occur in the middle of the calendar year.

.02 If the groupings of individual lines of business on the annual statement change, taxpayers must discount the unpaid losses on the affected lines of business in accordance with the discounting patterns that would have applied to those unpaid losses based on their classification on the 2005 annual statement. See Rev. Proc. 2008-10, section 2, for additional background on discounting under § 846 and the use of the Secretary's tables.

.03 Section V of Notice 88-100, 1988-2 C.B. 439, sets forth a composite method for computing discounted unpaid losses for accident years that are not separately reported on the annual statement. The tables separately provide discount factors for taxpayers who elect to use the composite method of section V of Notice 88-100. See Rev. Proc. 2002-74, 2002-2 C.B. 980.

.04 Tables.

**Tables of Factors to be Used to Discount
Unpaid Losses Incurred in
Accident Year 2010**

(Interest rate: 3.81 percent)

Lines of Business

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

Taxpayers that do not use the composite method of Notice 88–100 should use 98.1478 percent to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the 2010 and later taxable years.

Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount all unpaid losses in this line of business that are outstanding at the end of the 2010 taxable year.

Auto Physical Damage

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	89.4096	89.4096	10.5904	10.3774	97.9889
2011	99.6848	10.2752	0.3152	0.3037	96.3467

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2012 and later years	0.1576	0.1576	0.1547	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2012 taxable year.

Commercial Auto/Truck Liability/Medical

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	23.6718	23.6718	76.3282	70.5406	92.4174
2011	47.5425	23.8708	52.4575	48.9069	93.2316
2012	66.6847	19.1421	33.3153	31.2669	93.8514
2013	81.5105	14.8258	18.4895	17.3526	93.8509
2014	90.0548	8.5443	9.9452	9.3062	93.5944
2015	94.7311	4.6763	5.2689	4.8983	92.9653
2016	97.0602	2.3292	2.9398	2.7118	92.2448
2017	98.1174	1.0572	1.8826	1.7379	92.3179
2018	98.8692	0.7518	1.1308	1.0382	91.8115
2019	99.1160	0.2467	0.8840	0.8263	93.4738

Commercial Auto/Truck Liability/Medical

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	0.2467	0.6373	0.6064	95.1568
2021	0.2467	0.3906	0.3782	96.8210
2022 and later years	0.2467	0.1439	0.1412	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 95.9976 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Composite

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	34.7004	34.7004	65.2996	59.6104	91.2876
2011	58.6076	23.9072	41.3924	37.5232	90.6525
2012	71.7608	13.1532	28.2392	25.5514	90.4822
2013	81.4987	9.7379	18.5013	16.6033	89.7412
2014	87.8488	6.3501	12.1512	10.7660	88.5998
2015	91.4226	3.5739	8.5774	7.5348	87.8456
2016	93.4057	1.9831	6.5943	5.8014	87.9763
2017	94.2280	0.8222	5.7720	5.1847	89.8241
2018	95.4875	1.2595	4.5125	4.0989	90.8346
2019	96.3560	0.8685	3.6440	3.3702	92.4859

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	0.8685	2.7754	2.6136	94.1702
2021	0.8685	1.9069	1.8283	95.8774
2022	0.8685	1.0383	1.0130	97.5588
2023 and later years	0.8685	0.1698	0.1666	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 96.2071 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Fidelity/Surety

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	25.2328	25.2328	74.7672	71.3063	95.3711
2011	61.1025	35.8698	38.8975	37.4764	96.3467

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2012 and later years	19.4487	19.4487	19.0885	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2012 taxable year.

Financial Guaranty/Mortgage Guaranty

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	7.7824	7.7824	92.2176	88.4888	95.9565
2011	62.1390	54.3565	37.8610	36.4778	96.3467

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2012 and later years	18.9305	18.9305	18.5799	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2012 taxable year.

International (Composite)

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	34.7004	34.7004	65.2996	59.6104	91.2876
2011	58.6076	23.9072	41.3924	37.5232	90.6525
2012	71.7608	13.1532	28.2392	25.5514	90.4822
2013	81.4987	9.7379	18.5013	16.6033	89.7412
2014	87.8488	6.3501	12.1512	10.7660	88.5998
2015	91.4226	3.5739	8.5774	7.5348	87.8456
2016	93.4057	1.9831	6.5943	5.8014	87.9763
2017	94.2280	0.8222	5.7720	5.1847	89.8241
2018	95.4875	1.2595	4.5125	4.0989	90.8346
2019	96.3560	0.8685	3.6440	3.3702	92.4859

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	0.8685	2.7754	2.6136	94.1702
2021	0.8685	1.9069	1.8283	95.8774
2022	0.8685	1.0383	1.0130	97.5588
2023 and later years	0.8685	0.1698	0.1666	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 96.2071 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Medical Malpractice — Claims-Made

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	4.9425	4.9425	95.0575	85.5860	90.0359
2011	19.9369	14.9944	80.0631	73.5694	91.8892
2012	44.3489	24.4120	55.6511	51.4996	92.5402
2013	64.8374	20.4885	35.1626	32.5867	92.6741
2014	80.2530	15.4156	19.7470	18.1217	91.7692
2015	85.7907	5.5377	14.2093	13.1699	92.6850
2016	91.2722	5.4815	8.7278	8.0867	92.6547
2017	93.3314	2.0593	6.6686	6.2967	94.4240
2018	96.1257	2.7942	3.8743	3.6897	95.2335
2019	97.6538	1.5281	2.3462	2.2733	96.8916

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020 and later years	1.5281	0.8182	0.8030	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Medical Malpractice — Occurrence

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	1.5878	1.5878	98.4122	83.0418	84.3816
2011	4.4720	2.8842	95.5280	82.2670	87.1650
2012	17.7738	13.3018	82.2262	72.8866	88.6416
2013	35.8814	18.1076	64.1186	57.2143	89.2320
2014	52.9447	17.0633	47.0553	42.0088	89.2755
2015	68.4348	15.4901	31.5652	27.8270	88.1571
2016	79.5616	11.1268	20.4384	17.5503	85.8696
2017	85.8198	6.2582	14.1802	11.8427	83.5160
2018	90.1267	4.3069	9.8733	7.9057	80.0721
2019	90.3701	0.2434	9.6299	7.9590	82.6486

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	0.2434	9.3865	8.0142	85.3803
2021	0.2434	9.1431	8.0716	88.2805
2022	0.2434	8.8998	8.1312	91.3639
2023	0.2434	8.6564	8.1930	94.6469
2024 and later years	0.2434	8.4130	8.2572	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 89.4537 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Miscellaneous Casualty

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	72.9064	72.9064	27.0936	26.2493	96.8838
2011	93.5836	20.6771	6.4164	6.1820	96.3467

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2012 and later years	3.2082	3.2082	3.1488	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2012 taxable year.

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

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	52.5880	52.5880	47.4120	44.4297	93.7097
2011	80.0449	27.4570	19.9551	18.1473	90.9409
2012	86.1625	6.1175	13.8375	12.6057	91.0982
2013	90.7452	4.5827	9.2548	8.4168	90.9453
2014	93.9006	3.1555	6.0994	5.5225	90.5422
2015	95.7613	1.8607	4.2387	3.8371	90.5259
2016	96.8755	1.1141	3.1245	2.8481	91.1536
2017	97.6715	0.7960	2.3285	2.1456	92.1445
2018	98.0329	0.3615	1.9671	1.8591	94.5101
2019	98.6810	0.6481	1.3190	1.2696	96.2555

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	0.6481	0.6709	0.6577	98.0252
2021 and later years	0.6481	0.0228	0.0224	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 98.0254 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Other (Including Credit)

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	67.9528	67.9528	32.0472	30.8911	96.3926
2011	89.4609	21.5081	10.5391	10.1541	96.3467

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2012 and later years	5.2695	5.2695	5.1719	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2012 taxable year.

Other Liability — Claims-Made

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	5.8796	5.8796	94.1204	83.8370	89.0742
2011	18.8735	12.9938	81.1265	73.7921	90.9593
2012	41.6840	22.8105	58.3160	53.3626	91.5059
2013	62.5322	20.8483	37.4678	34.1540	91.1557
2014	73.5207	10.9885	26.4793	24.2594	91.6166
2015	82.0036	8.4829	17.9964	16.5408	91.9114
2016	88.6279	6.6244	11.3721	10.4216	91.6420
2017	90.7107	2.0828	9.2893	8.6965	93.6193
2018	94.8439	4.1332	5.1561	4.8167	93.4178
2019	96.2689	1.4249	3.7311	3.5484	95.1017

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	1.4249	2.3062	2.2317	96.7713
2021 and later years	1.4249	0.8812	0.8649	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 97.1192 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Other Liability — Occurrence

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	13.6594	13.6594	86.3406	75.1929	87.0887
2011	24.8389	11.1795	75.1611	66.6672	88.6992
2012	41.7792	16.9403	58.2208	51.9473	89.2247
2013	58.4995	16.7203	41.5005	36.8907	88.8921
2014	69.5197	11.0203	30.4803	27.0680	88.8049
2015	77.7513	8.2316	22.2487	19.7123	88.6000
2016	84.2243	6.4730	15.7757	13.8682	87.9089
2017	83.2275	-0.9968	16.7725	15.4122	91.8899
2018	88.8524	5.6249	11.1476	10.2684	92.1130
2019	91.3852	2.5328	8.6148	8.0790	93.7807

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	2.5328	6.0820	5.8062	95.4658
2021	2.5328	3.5492	3.4468	97.1162
2022 and later years	2.5328	1.0164	0.9976	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 96.9123 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Private Passenger Auto Liability/Medical

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	42.6108	42.6108	57.3892	54.2420	94.5161
2011	71.5827	28.9719	28.4173	26.7900	94.2735
2012	84.6947	13.1120	15.3053	14.4512	94.4197
2013	92.3556	7.6610	7.6444	7.1963	94.1386
2014	96.2369	3.8812	3.7631	3.5160	93.4328
2015	97.9275	1.6907	2.0725	1.9274	92.9997
2016	98.7719	0.8444	1.2281	1.1405	92.8686
2017	99.2692	0.4973	0.7308	0.6773	92.6773
2018	99.5053	0.2361	0.4947	0.4625	93.4984
2019	99.6440	0.1387	0.3560	0.3389	95.1810

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	0.1387	0.2174	0.2105	96.8431
2021 and later years	0.1387	0.0787	0.0773	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 97.1586 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Products Liability — Claims-Made

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	1.0259	1.0259	98.9741	84.5737	85.4504
2011	11.7927	10.7667	88.2073	76.8261	87.0971
2012	29.3642	17.5716	70.6358	61.8499	87.5618
2013	55.1655	25.8012	44.8345	37.9183	84.5738
2014	83.4171	28.2516	16.5829	10.5782	63.7897
2015	64.8933	-18.5238	35.1067	29.8546	85.0396
2016	82.3346	17.4414	17.6654	13.2216	74.8445
2017	86.3986	4.0640	13.6014	9.5846	70.4680
2018	76.3310	-10.0676	23.6690	20.2074	85.3750
2019	78.7910	2.4600	21.2090	18.4709	87.0899

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	2.4600	18.7490	16.6682	88.9018
2021	2.4600	16.2890	14.7969	90.8395
2022	2.4600	13.8290	12.8542	92.9509
2023	2.4600	11.3691	10.8376	95.3250
2024 and later years	2.4600	8.9091	8.7441	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 91.2831 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Products Liability — Occurrence

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	5.0466	5.0466	94.9534	80.9549	85.2575
2011	13.6935	8.6469	86.3065	75.2292	87.1651
2012	28.2541	14.5606	71.7459	63.2600	88.1723
2013	41.3083	13.0542	58.6917	52.3697	89.2284
2014	59.3693	18.0610	40.6307	35.9631	88.5121
2015	73.0717	13.7024	26.9283	23.3723	86.7946
2016	74.6612	1.5895	25.3388	22.6433	89.3621
2017	78.9833	4.3221	21.0167	19.1024	90.8912
2018	86.1231	7.1398	13.8769	12.5556	90.4784
2019	88.6931	2.5700	11.3069	10.4155	92.1160

Products Liability — Occurrence

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	2.5700	8.7369	8.1938	93.7837
2021	2.5700	6.1669	5.8875	95.4689
2022	2.5700	3.5969	3.4933	97.1193
2023 and later years	2.5700	1.0269	1.0079	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 96.2670 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Reinsurance — Nonproportional Assumed Property

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	12.9458	12.9458	87.0542	81.1839	93.2567
2011	60.1796	47.2338	39.8204	36.1518	90.7872
2012	80.8225	20.6429	19.1775	16.4967	86.0213
2013	84.9430	4.1205	15.0570	12.9270	85.8537
2014	85.6680	0.7250	14.3320	12.6808	88.4791
2015	80.0452	-5.6229	19.9548	18.8929	94.6784
2016	86.7013	6.6561	13.2987	12.8310	96.4830
2017	97.2533	10.5520	2.7467	2.5688	93.5201
2018	97.6721	0.4188	2.3279	2.2399	96.2189
2019	98.8078	1.1357	1.1922	1.1680	97.9772

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020 and later years	1.1357	0.0564	0.0554	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.0716 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Reinsurance — Nonproportional Assumed Liability

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	32.5917	32.5917	67.4083	55.1981	81.8862
2011	33.3995	0.8078	66.6005	56.4781	84.8014
2012	35.4948	2.0953	64.5052	56.4951	87.5823
2013	44.0321	8.5373	55.9679	49.9492	89.2461
2014	64.8299	20.7979	35.1701	30.6619	87.1818
2015	66.4358	1.6059	33.5642	30.1939	89.9588
2016	77.8097	11.3738	22.1903	19.7558	89.0289
2017	82.4438	4.6341	17.5562	15.7869	89.9222
2018	84.1944	1.7507	15.8056	14.6047	92.4025
2019	87.9223	3.7279	12.0777	11.3629	94.0821

Reinsurance — Nonproportional Assumed Liability

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	3.7279	8.3498	7.9976	95.7823
2021	3.7279	4.6219	4.5041	97.4510
2022 and later years	3.7279	0.8940	0.8775	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 97.2504 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

Reinsurance — Nonproportional Assumed Financial Lines

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	8.4783	8.4783	91.5217	83.1236	90.8239
2011	28.0475	19.5693	71.9525	66.3521	92.2165
2012	60.4351	32.3875	39.5649	35.8813	90.6897
2013	82.4448	22.0097	17.5552	14.8233	84.4382
2014	90.2720	7.8271	9.7280	7.4132	76.2044
2015	85.3168	-4.9551	14.6831	12.7442	86.7951
2016	88.3777	3.0608	11.6223	10.1112	86.9983
2017	89.9934	1.6157	10.0066	8.8503	88.4442
2018	81.6664	-8.3269	18.3336	17.6716	96.3891
2019	91.0491	9.3827	8.9509	8.7851	98.1478

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020 and later years	—	—	—	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.0675 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

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

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	44.5756	44.5756	55.4244	53.6764	96.8407
2011	88.4263	41.8507	13.5737	13.0778	96.3467

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2012 and later years	6.7869	6.7869	6.6612	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2012 taxable year.

Workers' Compensation

Tax Year	Estimated Cumulative Losses Paid (%)	Estimated Losses Paid Each Year (%)	Unpaid Losses at Year End (%)	Discounted Unpaid Losses at Year End (%)	Discount Factors (%)
2010	19.0410	19.0410	80.9590	70.2208	86.7362
2011	40.2442	21.2032	59.7558	51.2928	85.8374
2012	57.1497	16.9055	42.8503	36.0225	84.0661
2013	67.8601	10.7104	32.1399	26.4825	82.3975
2014	75.5399	7.6797	24.4601	19.6668	80.4034
2015	80.1157	4.5758	19.8843	15.7539	79.2278
2016	82.1828	2.0672	17.8172	14.2480	79.9677
2017	84.4045	2.2217	15.5955	12.5272	80.3259
2018	85.5195	1.1150	14.4805	11.8685	81.9618
2019	86.2855	0.7661	13.7145	11.5402	84.1460

Taxpayers that do not use the composite method of Notice 88-100 should use the following factors to discount unpaid losses incurred in this line of business in the 2010 accident year and that are outstanding at the end of the tax year shown.

2020	0.7661	12.9484	11.1993	86.4920
2021	0.7661	12.1823	10.8455	89.0265
2022	0.7661	11.4163	10.4782	91.7830
2023	0.7661	10.6502	10.0969	94.8047
2024 and later years	0.7661	9.8842	9.7011	98.1478

Taxpayers that use the composite method of Notice 88-100 should use 89.9627 percent to discount unpaid losses incurred in this line of business in 2010 and prior years and that are outstanding at the end of the 2020 taxable year.

DRAFTING INFORMATION

The principal author of this revenue procedure is Sarah E. Swan of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue procedure, contact Ms. Swan at (202) 622-8443 (not a toll-free call).

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

Rev. Proc. 2010-50

SECTION 1. PURPOSE

This revenue procedure prescribes the salvage discount factors for the 2010 accident year. These factors must be used to compute discounted estimated salvage recoverable under § 832 of the Internal Revenue Code.

SECTION 2. BACKGROUND

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

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

SECTION 3. SCOPE

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

SECTION 4. APPLICATION

.01 The following tables present separately for each line of business the discount factors under § 832 for the 2010 accident year. All the discount factors presented in this section were determined using the applicable interest rate under § 846(c) for 2010, which is 3.81 percent, and by assuming all estimated salvage is recovered in the middle of each calendar year. See Rev. Proc. 2008-11, 2008-1 C.B. 301, for background regarding the tables.

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

.03 Section V of Notice 88-100, 1988-2 C.B. 439, provides a composite discount factor to be used in determining the discounted unpaid losses for accident years that are not separately reported on the annual statement approved by the National Association of Insurance Commissioners. The tables separately provide discount factors for taxpayers who elect to use the com-

posite method. Rev. Proc. 2002-74, 2002-2 C.B. 980, clarifies that for certain insurance companies subject to tax under § 831 the composite method for discounting unpaid losses set forth in Notice 88-100, section V, is permitted but not required. This revenue procedure further provides alternative methods for computing discounted unpaid losses that are permitted for insurance companies not using the composite method, and sets forth a procedure for insurance companies to obtain automatic consent of the Commissioner to change to one of the methods described in Rev. Proc. 2002-74. .04 Tables.

Tables of Factors to be Used to Discount Salvage Recoverable With Respect to Losses Incurred in Accident Year 2010

(Interest rate: 3.81 percent)

Lines of Business

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

Taxpayers that do not use the composite method of Notice 88-100 should use 98.1478 percent to discount salvage recoverable with respect to losses incurred in this line of business in the 2010 accident year as of the end of the 2010 and later taxable years.

Taxpayers that use the composite method of Notice 88-100 should use 98.1478 percent to discount all salvage recoverable in this line of business as of the end of the 2010 taxable year.

Auto Physical Damage

Tax Year	Discount Factors (%)
2010	97.3968
2011	96.3467

Auto Physical Damage

Taxpayers that do not use the composite method of Notice 88-100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2012 and later years	98.1478
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Taxpayers that use the composite method of Notice 88-100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2012 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Commercial Auto/Truck Liability/Medical

Tax Year	Discount Factors (%)
2010	92.7837
2011	92.7323
2012	93.0580
2013	93.3885
2014	94.0857
2015	93.8868
2016	92.4123
2017	93.2791
2018	96.4600
2019	98.1478

Taxpayers that do not use the composite method of Notice 88-100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years	98.1478
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Commercial Auto/Truck Liability/Medical

Taxpayers that use the composite method of Notice 88-100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Composite

Tax Year	Discount Factors (%)
2010	92.7966
2011	92.5582
2012	92.3906
2013	92.2259
2014	91.6392
2015	90.7679
2016	91.5729
2017	92.8475
2018	94.7606
2019	96.4814

Taxpayers that do not use the composite method of Notice 88-100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years	98.1478
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Taxpayers that use the composite method of Notice 88-100 should use 98.1394 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Fidelity/Surety

Tax Year	Discount Factors (%)
2010	94.0623
2011	96.3467

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2012 and later years	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2012 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Financial Guaranty/Mortgage Guaranty

Tax Year	Discount Factors (%)
2010	95.0489
2011	96.3467

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2012 and later years	98.1478
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Financial Guaranty/Mortgage Guaranty

Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2012 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

International (Composite)

Tax Year	Discount Factors (%)
2010	92.7966
2011	92.5582
2012	92.3906
2013	92.2259
2014	91.6392
2015	90.7679
2016	91.5729
2017	92.8475
2018	94.7606
2019	96.4814

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1394 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Medical Malpractice — Claims-Made

Tax Year	Discount Factors (%)
2010	93.0786
2011	94.0952
2012	92.5904
2013	93.1817
2014	92.5233
2015	88.3749
2016	85.2082
2017	90.8503
2018	96.6547
2019	98.1478

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Medical Malpractice — Occurrence

Tax Year	Discount Factors (%)
2010	86.3162
2011	90.4919
2012	92.7220
2013	85.1582
2014	95.0887
2015	91.9139
2016	93.4195
2017	96.1175
2018	97.2711
2019	98.1478

Medical Malpractice — Occurrence

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years 98.1478

Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Miscellaneous Casualty

Tax Year	Discount Factors (%)
2010	96.7847
2011	96.3467

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2012 and later years 98.1478

Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2012 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

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

Tax Year	Discount Factors (%)
2010	93.4004
2011	92.8257
2012	92.7508
2013	92.6906
2014	91.9254
2015	90.4434
2016	91.5362
2017	93.8270
2018	95.1497
2019	96.8145

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years 98.1478

Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Other (Including Credit)

Tax Year	Discount Factors (%)
2010	95.8998
2011	96.3467

Other (Including Credit)

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2012 and later years 98.1478

Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2012 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Other Liability — Claims-Made

Tax Year	Discount Factors (%)
2010	89.0574
2011	90.1163
2012	88.3414
2013	91.3936
2014	92.7947
2015	94.5684
2016	93.5605
2017	92.2516
2018	97.5182
2019	98.1478

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years 98.1478

Other Liability — Claims-Made

Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Other Liability — Occurrence

Tax Year	Discount Factors (%)
2010	87.8282
2011	88.8138
2012	91.0169
2013	91.7356
2014	91.2069
2015	91.3193
2016	90.8227
2017	93.4080
2018	96.0113
2019	97.7168

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Private Passenger Auto Liability/Medical

Tax Year	Discount Factors (%)
2010	94.8467
2011	94.8695
2012	94.6345
2013	93.8178
2014	93.2668
2015	92.5396
2016	93.3887
2017	94.8601
2018	94.9293
2019	96.6211

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Products Liability — Claims-Made

Tax Year	Discount Factors (%)
2010	89.5111
2011	53.8777
2012	56.2338
2013	91.2109
2014	81.2016
2015	91.8947
2016	61.7067
2017	91.0293
2018	92.1071
2019	93.1849

Products Liability — Claims-Made

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020	94.8773
2021	96.5773
2022 and later years	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 95.8305 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Products Liability — Occurrence

Tax Year	Discount Factors (%)
2010	88.3200
2011	90.2935
2012	92.0747
2013	92.8492
2014	93.2720
2015	90.9592
2016	91.5621
2017	94.3528
2018	94.6093
2019	96.3618

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years	98.1478
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Products Liability — Occurrence

Taxpayers that use the composite method of Notice 88–100 should use 98.1145 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Reinsurance — Nonproportional Assumed Property

Tax Year	Discount Factors (%)
2010	91.5967
2011	93.1520
2012	95.9361
2013	81.1923
2014	90.4025
2015	82.5156
2016	54.0401
2017	93.2324
2018	74.7782
2019	88.7685

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020	90.4287
2021	92.1524
2022	93.9603
2023	95.9026
2024 and later years	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 92.3206 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Reinsurance — Nonproportional Assumed Liability

Tax Year	Discount Factors (%)
2010	87.4907
2011	90.5937
2012	91.9716
2013	89.2639
2014	91.2258
2015	92.0480
2016	91.9513
2017	93.6177
2018	95.4465
2019	97.0969

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years	98.1478
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Taxpayers that use the composite method of Notice 88–100 should use 98.0840 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Reinsurance — Nonproportional Assumed Financial Lines

Tax Year	Discount Factors (%)
2010	87.8550
2011	86.6634
2012	90.4544
2013	79.6749
2014	90.7909
2015	81.3855
2016	90.9640
2017	91.3553
2018	97.6631
2019	98.1478

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2020 and later years	98.1478
----------------------	---------

Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

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

Tax Year	Discount Factors (%)
2010	95.1830
2011	96.3467

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

Taxpayers that do not use the composite method of Notice 88–100 should use the following factor to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

2012 and later years	98.1478
----------------------	---------

Taxpayers that use the composite method of Notice 88–100 should use 98.1478 percent to discount salvage recoverable as of the end of the 2012 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

Workers' Compensation

Tax Year	Discount Factors (%)
2010	89.0169
2011	90.9477
2012	91.7039
2013	91.6235
2014	90.2053
2015	88.8704
2016	89.4375
2017	89.1742
2018	91.2385
2019	92.9096

Taxpayers that do not use the composite method of Notice 88–100 should use the following factors to discount salvage recoverable as of the end of the tax year shown with respect to losses incurred in this line of business in the 2010 accident year.

Workers' Compensation

2020	94.6208
2021	96.3708
2022 and later years	98.1478

Taxpayers that use the composite method of Notice 88–100 should use 95.6888 percent to discount salvage recoverable as of the end of the 2020 taxable year with respect to losses incurred in this line of business in 2010 and prior years.

DRAFTING INFORMATION

The principal author of this revenue procedure is Sarah E. Swan of the Office of the Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue procedure, contact Ms. Swan at (202) 622–8443 (not a toll-free call).

Part IV. Items of General Interest

Revised Regulations Concerning Section 403(b) Tax-Sheltered Annuity Contracts; Correction

Announcement 2010-83

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (T.D. 9340, 2007-2 C.B. 487) that were published in the **Federal Register** on Thursday, July 26, 2007 (72 FR 41128) providing updated guidance on section 403(b) contracts of public schools and tax-exempt organizations described in section 501(c)(3). These regulations will affect sponsors of section 403(b) contracts, administrators, participants, and beneficiaries.

DATES: The correction is effective October 26, 2010, and is applicable on July 26, 2007.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, John Tolleris at (202) 622-6060; concerning the regulations as applied to church-related entities, Sherri Edelman or Jason Levine at (202) 283-9634 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 403(b) of the Internal Revenue Code.

Need for Correction

As published, final regulations (T.D. 9340) contain errors that may prove to be misleading and are in need of clarification.

* * * * *

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by the making following correcting amendments:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.403(b)-4 is amended by revising the third and fourth sentences of paragraph (c)(5) *Example 12*.(i) to read as follows:

§1.403(b)-4 Contribution limitations.

* * * * *

(c) * * *

(5) * * *

Example 12. (i) * * * However, the \$5,000 age 50 catch-up amount deferred in 2006 is disregarded for purposes of applying the limitation at paragraph (c)(3)(i)(C) of this section to determine the special section 403(b) catch-up amount. Thus, for 2007, only \$80,000 of section 403(b) elective deferrals are taken into account in applying the limitation at paragraph (c)(3)(i)(C) of this section. * * *

* * * * *

Par. 3. Section 1.403(b)-6 is amended by revising the last sentence of paragraph (e)(5) to read as follows:

§1.403-6 Timing of distributions and benefits.

* * * * *

(e) * * *

(5) * * * See also §1.403(b)-9(a)(5) for additional rules relating to annuities payable from a retirement income account.

* * * * *

Par. 4. Section 1.403(b)-7 is amended by revising the fourth sentence of paragraph (b)(1) to read as follows:

§1.403(b)-7 Taxation of distributions and benefits.

* * * * *

(b) * * *

(1) * * * Thus, to the extent that a portion of a distribution (including a distribution from a designated Roth account) would be excluded from gross income if it were not rolled over, if that portion of the distribution is to be rolled over into an eligible retirement plan that is not an IRA, the rollover must be accomplished through a direct rollover of the entire distribution to a plan qualified under section 401(a) or a section 403(b) plan and that plan must

agree to separately account for the amount not includible in income (so that a 60-day rollover to a plan qualified under section 401(a) or another section 403(b) plan is not available for this portion of the distribution). * * *

* * * * *

Par. 5. Section 1.403(b)-10 is amended by revising the heading of paragraph (b)(3) and adding a heading to paragraph (b)(3)(i) to read as follows:

(b)(3)(i) to read as follows:

§1.403(b)-10 Miscellaneous provisions.

* * * * *

(b) * * *

(3) *Requirements for plan-to-plan transfers—(i) In general.* * * *

* * * * *

LaNita Van Dyke,
Chief, Publications and
Regulations Branch,
Legal Processing Division,
Associate Chief Counsel
(Procedure and Administration).

(Filed by the Office of the Federal Register on October 25, 2010, 8:45 a.m., and published in the issue of the Federal Register for October 26, 2010, 75 F.R. 65566)

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

Announcement 2010-91

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 December 13, 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 hus-

band 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.

Debt Management Corporation
Orange Park, FL

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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