Internal Revenue
bulletin

Bulletin No. 2011-14
April 4, 2011

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. 2011–10, page 597.

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 April 2011.

T.D. 9515, page 599.

Final and temporary regulations under section 1502 of the Code relate to the redetermination of intercompany gain as excluded from gross income. Temporary regulations under section 1.1502–13T are reissued.

REG–153338–09, page 606.

Proposed regulations under section 6103(c) of the Code extends the period for submission to the IRS of taxpayer authorizations permitting disclosure of returns and return information to third-party designees. A public hearing is scheduled for June 9, 2011.

Notice 2011–24, page 603.

Guidance for Phase II of the qualifying advanced coal program under Section 48A and the qualifying gasification program under Section 48B. This notice updates the rules regarding the separation and sequestration of carbon dioxide emissions for Phase II of the qualifying advanced coal program under section 48A of the Code and the qualifying gasification program under section 48B. Specifically, the notice provides for the annual measurement of separated and sequestered carbon dioxide and applies the recapture rules of section 50(a) in the event that a taxpayer fails to attain or maintain the carbon dioxide separation and sequestration requirements of section 48A or section 48B. Notices 2009–23 and 2009–24 modified.

Notice 2011–25, page 604.

Credit for carbon dioxide sequestration; modification of Notice 2009–83. This notice modifies Notice 2009–83 by removing section 4.07, which provided that for purposes of section 45Q of the Code, qualified carbon dioxide (CO_2) does not include CO_2 that is captured and sequestered in a project as required under the qualifying advanced coal project program of section 48A or the qualifying gasification project program of section 48B. Notice 2009–83 modified.

EXEMPT ORGANIZATIONS

Announcement 2011–25, page 608.

The IRS has revoked its determination that Bennafield Enterprises, Inc., of Canton, OH; Challenge 2000, Inc., of Clackamas, OR; Christ Temple Breaking Free Ministry of Itta Bena, MS; Consumerwiz of Connecticut, Inc., of Groton, CT; Dakota Academy Charter School of Burnsville, MN; Human Shelter Innovation Institute, formerly Human Shelter Research Institute, of St. Louis, MO; LBOH, Inc., of Gainesville, FL; Larry T. Herrig Charitable Foundation of Dubuque, IA; National Spending & Credit Counseling Center of Spring Valley, CA; and S.H.O.C. Enterprise, Inc., of Corona, CA, qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Code.

(Continued on the next page)

Finding Lists begin on page ii.

Department of the Treasury
Internal Revenue Service

ADMINISTRATIVE

Announcement 2011–26, page 608.
This document provides notice of a public hearing on proposed regulations (REG–149335–08, 2011–6 I.R.B. 468) relating to the capitalization and allocation of royalties that are incurred only upon the sale of property produced or property acquired for resale (sales-based royalties) and adjusting the cost of merchandise inventory for an allowance, discount, or price rebated based on merchandise sales (sales-based vendor allowances). The regulations modify the simplified production method and the simplified resale method. A public hearing is scheduled for April 13, 2011.

The IRS Mission

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

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

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 April 2011. See Rev. Rul. 2011-10, page 597.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of April 2011. See Rev. Rul. 2011-10, page 597.

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 April 2011. See Rev. Rul. 2011-10, page 597.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2011. See Rev. Rul. 2011-10, page 597.

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 April 2011. See Rev. Rul. 2011-10, page 597.

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 April 2011. See Rev. Rul. 2011-10, page 597.

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 April 2011. See Rev. Rul. 2011-10, page 597.

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 April 2011. See Rev. Rul. 2011-10, page 597.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of April 2011. See Rev. Rul. 2011-10, page 597.

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 April 2011. See Rev. Rul. 2011-10, page 597.

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 April 2011. See Rev. Rul. 2011-10, page 597.

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 April 2011.

Rev. Rul. 2011–10

This revenue ruling provides various prescribed rates for federal income tax purposes for April 2011 (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%. Finally, 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.

REV. RUL. 2011–10 TABLE 1

Applicable Federal Rates (AFR) for April 2011

	Period for Compounding			
	Annual	*Semiannual*	*Quarterly*	*Monthly*
Short-term				
AFR	.55%	.55%	.55%	.55%
110% AFR	.61%	.61%	.61%	.61%
120% AFR	.66%	.66%	.66%	.66%
130% AFR	.72%	.72%	.72%	.72%
Mid-term				
AFR	2.49%	2.47%	2.46%	2.46%
110% AFR	2.74%	2.72%	2.71%	2.70%
120% AFR	2.98%	2.96%	2.95%	2.94%
130% AFR	3.24%	3.21%	3.20%	3.19%
150% AFR	3.74%	3.71%	3.69%	3.68%
175% AFR	4.37%	4.32%	4.30%	4.28%
Long-term				
AFR	4.25%	4.21%	4.19%	4.17%
110% AFR	4.68%	4.63%	4.60%	4.59%
120% AFR	5.11%	5.05%	5.02%	5.00%
130% AFR	5.54%	5.47%	5.43%	5.41%

REV. RUL. 2011–10 TABLE 2

Adjusted AFR for April 2011

	Period for Compounding			
	Annual	*Semiannual*	*Quarterly*	*Monthly*
Short-term adjusted AFR	.87%	.87%	.87%	.87%
Mid-term adjusted AFR	2.09%	2.08%	2.07%	2.07%
Long-term adjusted AFR	4.30%	4.25%	4.23%	4.21%

REV. RUL. 2011–10 TABLE 3

Rates Under Section 382 for April 2011

Adjusted federal long-term rate for the current month	4.30%
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.)	4.55%

REV. RUL. 2011–10 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for April 2011

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	7.78%
Appropriate percentage for the 30% present value low-income housing credit	3.33%

REV. RUL. 2011–10 TABLE 5

Rate Under Section 7520 for April 2011

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	3.0%

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 April 2011. See Rev. Rul. 2011-10, page 597.

Section 1502.—Regulations.

26 CFR 1.1502–13: Intercompany transactions.

T.D. 9515

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1

Guidance Under Section 1502; Amendment of Matching Rule for Certain Gains on Member Stock

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations concerning the treatment of certain intercompany gain with respect to stock owned by members of a consolidated group. These regulations provide for the redetermination of intercompany gain as excluded from gross income in certain transactions involving stock transfers between members of a consolidated group. The temporary regulations contained in this document are solely for the purpose of retaining the portion of the existing temporary regulations that were in the same temporary regulation section but that are not being promulgated as final regulations at this time. These regulations affect corporations filing consolidated returns.

DATES: *Effective Date:* These regulations are effective on March 4, 2011.

Applicability Date: Section 1.1502–13(c)(6)(ii)(C), (c)(6)(ii)(D), and (c)(7)(ii), *Examples 16* and *17* apply with respect to items taken into account on or after March 4, 2011.

FOR FURTHER INFORMATION CONTACT: John F. Tarrant (202) 622–7790 or Lawrence M. Axelrod, (202) 622–7713 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2008, the IRS and the Treasury Department published temporary regulations §1.1502–13T. See T.D. 9383, 2008–1 C.B. 738 (73 FR 12265–01). Also on March 7, 2008, the IRS and the Treasury Department published a notice of proposed rulemaking cross-referencing those temporary regulations. See REG–137573–07, 2008–1 C.B. 750 (73 FR 12312–01).

The IRS and the Treasury Department did not receive written comments from the public during the prescribed comment period and no public hearing was requested or held. This Treasury decision adopts the proposed regulation (REG–137573–07) with the changes discussed in this preamble. In addition, this Treasury decision revises the temporary regulation, §1.1502–13T.

Summary of Comments and Explanation of Revisions

Finalization of 2008 temporary regulations.

The 2008 temporary regulations concern the treatment of certain intercompany gain with respect to consolidated group member stock. Section 1.1502–13 provides rules governing the timing and characterization of items resulting from transactions between consolidated group members. Section 1.1502–13(c) provides general rules under which the timing and character of those items can be deferred or recharacterized to clearly reflect the taxable income (and tax liability) of the group as a whole. These rules generally apply a "matching" principle under which the timing of inclusion of gain on the sale of property by the seller (S) is linked to the buyer's (B) recovery of its basis in the property and S and B's characterization are subject to redetermination in order to treat S and B as divisions of a single corporation.

The proposed regulations provide that intercompany gain with respect to member stock may be permanently excluded from gross income following certain stock basis elimination transactions (for example,

tax-free spin-offs and liquidations). The IRS and the Treasury Department have reconsidered the requirement of the proposed regulations that, immediately before intercompany gain would otherwise be taken into account, the common parent (P) must be the member that holds the member stock with respect to which the intercompany gain was realized, and that the gain must be P's intercompany item. Given the other requirements of the regulation, namely that (i) the group has not and will not derive any Federal income tax benefit from the intercompany transaction; and (ii) the excluded gain will not be treated as tax-exempt income for purposes of the investment adjustment regulations–it is appropriate to provide relief where a member other than the common parent holds the subject stock. Accordingly, these final regulations allow the exclusion of gain where a member holds the target member stock with respect to which the intercompany gain was realized, and the holding member is either (i) B or S, as a successor to the other party (either B or S); or (ii) a third member that is the successor to both B and S.

The preamble to the proposed regulations requested comments as to whether the "Commissioner's Discretionary Rule" (§1.1502–13(c)(6)(ii)(D)) should be retained. The preamble also stated that the IRS and Treasury Department were considering eliminating the Commissioner's Discretionary Rule. Upon further consideration, the IRS and Treasury Department believe there may be circumstances where application of such discretion is warranted. Thus, for example, the final regulations do not provide automatic relief for transactions involving property other than member stock (such as the stock of non-members), but relief may be available after review by the IRS under the Commissioner's Discretionary Rule. Accordingly, the final regulations retain the Commissioner's Discretionary Rule in a form revised to describe the conditions to be satisfied for that discretion to be exercised, and to indicate that relief is available only through a request for a letter ruling.

Finally, the final regulations also expressly provide that the excluded gain is not treated as tax exempt income for purposes of §1.1502–32 and does not increase earnings and profits.

Reordering of Regulation.

On September 4, 2009, amendments to §1.1502–13T were published in the **Federal Register** to modify the election under which a consolidated group can avoid immediately taking into account an intercompany item after the liquidation of a target corporation (the 2009 temporary regulations). A minor correction to the 2009 temporary regulations concerning the expiration date of the 2009 temporary regulations was published in the **Federal Register** on January 13, 2010. The changes made by the 2009 temporary regulations inadvertently appear in the wrong location in the official **Federal Register** version of §1.1502–13T. Some tax services have these provisions in their intended places. In order to take into account the finalization of the 2008 temporary regulations, as described in this preamble, and to avoid confusion concerning the location of the amendments made by the 2009 temporary regulations, this document revises §1.1502–13T and places the 2009 temporary regulations in the proper location. No substantive change is intended by this revision.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that this regulation primarily affects members of consolidated groups which tend to be large corporations. Accordingly, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of this regulation is John F. Tarrant, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and the Treasury Department participated in its development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

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. * * *

Section 1.1502–13 is also issued under 26 U.S.C. 1502.

Par. 2. Section 1.1502–13 is amended as follows:

1. Entries for *Examples 16* and *17* are added to the table of examples for §1.1502–13(c)(7)(ii) in paragraph (a)(6)(ii).

2. Paragraphs (c)(6)(ii)(C), (c)(6)(ii)(D) are revised and *Examples 16* and *17* are added to paragraph (c)(7)(ii).

3. Paragraph (c)(7)(iii) is added.

4. Paragraph (f)(7)(i) *Examples 8* and *9* and paragraph (f)(7)(ii) are removed.

5. Paragraph (f)(7)(i) is redesignated as (f)(7).

The revisions and additions read as follows:

§1.1502–13 Intercompany transactions.

(a) * * *

(6) * * *

(ii) * * *

Matching rule (§1.1502–13(c)(7)(ii))

* * * * *

Example 16. Intercompany stock distribution followed by section 332 liquidation.

Example 17. Intercompany stock sale followed by section 355 distribution.

* * * * *

(c) * * *

(6) * * *

(ii) * * *

(C) *Certain intercompany gains on stock—(1) In general.* Notwithstanding paragraph (c)(6)(ii)(A)(*1*) of this section,

intercompany gain with respect to a member's stock that was created by reason of an intercompany transfer of the stock, and that would not otherwise be taken into account upon a subsequent elimination of the stock's basis but for the transfer, is redetermined to be excluded from gross income if—

(*i*) B or S becomes a successor (as defined in paragraph (j)(2) of this section) to the other party (either B or S), or a third member becomes a successor to both B and S;

(*ii*) Immediately before the intercompany gain would be taken into account, the successor member holds the member's stock with respect to which the intercompany gain was realized;

(*iii*) The successor member's basis in the member's stock that reflects the intercompany gain that is taken into account is eliminated without the recognition of gain or loss (and such eliminated basis is not further reflected in the basis of any successor asset);

(*iv*) The effects of the intercompany transaction have not previously been reflected, directly or indirectly, on the group's consolidated return; and

(*v*) The group has not derived, and no taxpayer will derive, any Federal income tax benefit from the intercompany transaction that gave rise to the intercompany gain or the redetermination of the intercompany gain (including any adjustment to basis in member stock under §1.1502–32). For this purpose, the redetermination of the intercompany gain is not itself considered a Federal income tax benefit.

(*2*) *Effect on earnings and profits and investment adjustments.* Any amount excluded from gross income under paragraph (c)(6)(ii)(C)(*1*) of this section shall not be taken into account as earnings and profits of any member and shall not be treated as tax-exempt income under §1.1502–32(b)(2)(ii).

(D) *Other amounts.* (*1*) The Commissioner may determine that treating S's intercompany item as excluded from gross income is consistent with the purposes of this section and other applicable provisions of the Internal Revenue Code, regulations, and published guidance, if the following conditions are met, depending on whether the intercompany item is an item of income or an item of gain:

(*i*) In the case of an intercompany item of income, the corresponding item is permanently disallowed; or

(*ii*) If the intercompany item constitutes gain, the conditions described in paragraphs (c)(6)(ii)(C)(*1*)(*iv*) and (c)(6)(ii)(C)(*1*)(*v*) of this section are satisfied.

(*2*) A determination by the Commissioner may be obtained only through a letter ruling request.

(7) * * *

(ii) * * *

* * * * *

Example 16. Intercompany stock distribution followed by section 332 liquidation. (a) *Facts*. P owns all of the stock of S, S owns all the stock of T, a member of the P group, and T owns all of the stock of T1, also a member of the P group. On January 1 of Year 1, S distributes all of the T stock to P in a distribution to which section 301 applies. At the time of this distribution, the value of the T stock is $100 and S has a $40 basis in the T stock. Under section 311(b), the distribution creates $60 of intercompany gain to S. Under section 301(d), P's basis in the T stock is $100. S will take its $60 intercompany gain into account under the matching rule. On January 1 of Year 4, in an independent transaction, S distributes all of its assets to P in a complete liquidation to which section 332 applies, and, under paragraph (j)(2) of this section, P succeeds to S's $60 gain. On January 1 of Year 7, T distributes all of its T1 stock to P in a transaction to which section 355 applies. At the time of this distribution, P has a basis in the T stock of $100, the value of the T stock (without regard to T1) is $75, and the value of the T1 stock is $25. Under section 358, P allocates $25 of its $100 basis in the T stock to the T1 stock, and, under paragraph (j)(1) of this section, the T1 stock becomes a successor asset to the T stock. On January 1 of Year 9, in an independent transaction, T distributes all of its assets to P in a complete liquidation to which section 332 applies.

(b) *Analysis*. Under paragraphs (b)(1) and (f)(2) of this section, S's distribution in Year 1 of the T stock to P is an intercompany transaction, S is the selling member, and P is the buying member. In Year 9 when T liquidates, P has no gain or loss under section 332. Under paragraph (b)(3)(ii) of this section, P's $0 gain or loss with respect to the T stock under section 332 is a corresponding item. P takes $45 (75/100 x $60) of its intercompany gain into account under the matching rule in Year 9 to reflect the difference between P's $0 of unrecognized gain and P's $45 of recomputed unrecognized gain. (If P and S were divisions of a single corporation, P would have had a $40 basis in the T stock, and, after the Year 7 distribution of the T1 stock, would have held the T stock with a $30 basis.) However, paragraph (c)(6) of this section does not prevent the redetermination of P's intercompany gain as excluded from gross income provided P succeeds to S's intercompany item; P and S are a single entity; P's basis in the T stock that reflects the $45 intercompany gain taken into account is eliminated without the recognition of gain or loss (and this eliminated basis is not further reflected in the basis of any successor asset); the group has not derived and no taxpayer will derive any Federal income tax benefit from the basis in the T stock and will not derive any Federal income tax benefit from a redetermination of this portion of the gain; and the effects of the intercompany transaction have not previously been reflected, directly or indirectly, on the P group's consolidated return. (See paragraph (c)(6)(ii)(C) of this section.) Accordingly, under paragraph (c)(6)(ii)(C) of this section, the $45 intercompany gain that P takes into account is redetermined to be excluded from gross income. P's basis in its T1 stock continues to reflect $15 of intercompany gain.

Example 17. Intercompany stock sale followed by section 355 distribution. (a) *Facts*. The facts are the same as *Example 16*, except that T does not distribute the stock of T1, instead, in Year 7, T makes a distribution of $50 to P in a transaction to which section 301 applies. Under §1.1502–32, P's basis in its T stock is reduced by $50 and, under paragraph (f)(2)(ii) of this section, the intercompany distribution is excluded from P's gross income. Further, in Year 9, instead of liquidating T, P distributes the T stock to its shareholders in a transaction to which section 355 applies.

(b) *Analysis*. On the distribution of the T stock in Year 9, P has $0 of unrecognized gain under section 355(c). Under paragraph (b)(3)(ii) of this section, P's $0 of unrecognized gain or loss with respect to the T stock under section 355(c) is a corresponding item. P takes its $60 intercompany gain into account under the matching rule in Year 9 to reflect the difference between P's $0 of unrecognized gain and P's $60 of recomputed gain ($50 unrecognized gain and $10 recognized gain). (If P and S were divisions of a single corporation, P would have had a $40 basis in the T stock, and, after the Year 7 distribution, would have held the T stock with a $10 excess loss account.) See paragraph (f)(7), *Example* 2 of this section. Paragraph (c)(6) of this section does not prevent the redetermination of P's intercompany gain as excluded from gross income provided P succeeds to S's intercompany item; P and S are a single entity; P's basis in the T stock that reflects the $60 intercompany gain taken into account is eliminated without the recognition of gain or loss (and this eliminated basis is not further reflected in any successor asset); the group has not derived any Federal income tax benefit from the basis in the T stock and will not derive any Federal income tax benefit from a redetermination of this portion of the gain; and the effects of the intercompany transaction have not previously been reflected, directly or indirectly, on the P group's consolidated return. (See paragraph (c)(6)(ii)(C) of this section.) The intercompany transaction with respect to the T stock resulted in an increase in the basis of the T stock, and this increase in the basis of the T stock prevented P from holding the T stock with a $10 excess loss account (as a result of the Year 7 distribution) at the time of the section 355 distribution. Accordingly, the group derived a Federal income tax benefit from the intercompany transaction to the extent of $10 and, under paragraph (c)(6)(ii)(C) of this section, only $50 of the $60 intercompany gain that P takes into account is redetermined to be excluded from gross income.

(c) *Application of section 355(e).* If it were determined that section 355(e) applied to P's distribution of the T stock, P would recognize $0 of gain and derive a Federal income tax benefit to the extent of the

full $60 increase in the basis of the T stock. Therefore, no portion of P's intercompany gain would be redetermined to be excluded from gross income under paragraph (c)(6)(ii)(C) of this section.

(iii) *Effective/applicability date*—(A) *In general*. Paragraphs (c)(6)(ii)(C), (c)(6)(ii)(D), and (c)(7)(ii) *Examples 16* and *17* of this section apply with respect to items taken into account on or after April 4, 2011.

(B) *Prior periods*. For items taken into account on or after March 7, 2008, and before April 4, 2011, see §1.1502–13T(c)(6)(ii)(C) and (f)(7), *Examples 7* and *8* as contained in 26 CFR part 1 in effect on April 1, 2009. For items taken into account before March 7, 2008, see §1.1502–13 as contained in 26 CFR part 1 in effect on April 1, 2007.

* * * * *

Par. 3. Section 1.1502–13T is revised to read as follows:

§1.1502–13T Intercompany transactions (temporary).

(a) through (f)(5)(ii)(A) [Reserved]. For further guidance, see §1.1502–13(a) through (f)(5)(ii)(A).

(B) *Section 332*—(*1*) *In general*. If section 332 would otherwise apply to T's (old T's) liquidation into B, and B transfers substantially all of old T's assets to a new member (new T), and if a direct transfer of substantially all of old T's assets to new T would qualify as a reorganization described in section 368(a), then, for all Federal income tax purposes, T's liquidation into B and B's transfer of substantially all of old T's assets to new T will be disregarded and instead, the transaction will be treated as if old T transferred substantially all of its assets to new T in exchange for new T stock and the assumption of T's liabilities in a reorganization described in section 368(a). (Under §1.1502–13(j)(1), B's stock in new T would be a successor asset to B's stock in old T, and S's gain would be taken into account based on the new T stock.)

(*2*) *Time limitation and adjustments*. The transfer of old T's assets to new T qualifies under paragraph (f)(5)(ii)(B)(*1*) of this section only if B has entered into a written plan, on or before the due date of the group's consolidated income tax return (including extensions), to transfer the T assets to new T, and the statement described in paragraph (f)(5)(ii)(E) of this section is included on or with a timely filed consolidated tax return for the tax year that includes the date of the liquidation (including extensions). However, see paragraph (f)(5)(ii)(F) of this section for certain situations in which the plan may be entered into after the due date of the return and the statement described in paragraph (f)(5)(ii)(E) of this section may be included on either an original tax return or an amended tax return filed after the due date of the return. In either case, the transfer of substantially all of T's assets to new T must be completed within 12 months of the filing of the return. Appropriate adjustments are made to reflect any events occurring before the formation of new T and to reflect any assets not transferred to new T, or liabilities not assumed by new T. For example, if B retains an asset of old T, the asset is treated under §1.1502–13(f)(3) as acquired by new T but distributed to B immediately after the reorganization.

(f)(5)(ii)(B)(*3*) through (f)(5)(ii)(E) [Reserved]. For further guidance, see §1.1502–13(f)(5)(ii)(B)(*3*) through (f)(5)(ii)(E).

(F) *Effective/Applicability dates*—(*1*) *General rule*. Paragraphs (f)(5)(ii)(B)(*1*) and (f)(5)(ii)(B)(*2*) of this section apply to transactions in which old T's liquidation into B occurs on or after October 25, 2007.

(*2*) *Prior periods*. For transactions in which old T's liquidation into B occurs before October 25, 2007, see §1.1502–13(f)(5)(ii)(B)(*1*) and (f)(5)(ii)(B)(*2*) in effect prior to October 25, 2007 as contained in 26 CFR part 1, revised April 1, 2009.

(*3*) *Special rule for tax returns filed before November 3, 2009*. In the case of a liquidation on or after October 25, 2007, by a taxpayer whose original tax return for the year of liquidation was filed on or before November 3, 2009, then, notwithstanding paragraph (f)(5)(ii)(B)(*2*) of this section and §1.1502–13(f)(5)(ii)(E), the election to apply paragraph (f)(5)(ii)(B) of this section may be made by entering into the written plan described in paragraph (f)(5)(ii)(B) of this section on or before November 3, 2009, including the statement described in §1.1502–13(f)(5)(ii)(E) on or with an original tax return or an amended tax return for the tax year that includes the liquidation filed on or before November 3, 2009, and transferring substantially all of T's assets to new T within 12 months of the filing of such original or amended return.

(G) *Expiration date*. These temporary regulations will expire on September 3, 2012.

Steven T. Miller,
Deputy Commissioner for Services and Enforcement.

Approved February 24, 2011.

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

(Filed by the Office of the Federal Register on March 3, 2011, 8:45 a.m., and published in the issue of the Federal Register for March 4, 2011, 76 F.R. 11956)

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2011. See Rev. Rul. 2011-10, page 597.

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 April 2011. See Rev. Rul. 2011-10, page 597.

Part III. Administrative, Procedural, and Miscellaneous

Guidance for Phase II of the Qualifying Advanced Coal Program Under Section 48A and the Qualifying Gasification Program Under Section 48B

Notice 2011–24

SECTION 1. PURPOSE

This notice updates the rules relating to the qualifying advanced coal project program under § 48A and the qualifying gasification project program under § 48B of the Internal Revenue Code. Specifically, this notice applies to any qualifying project that includes equipment that separates and sequesters such project's total carbon dioxide emissions. Except as specifically provided in this notice, the qualifying advanced coal project program and the qualifying gasification project program will be conducted in the manner and under the procedures provided in Notice 2009–24, 2009–16 I.R.B. 817, and Notice 2009–23, 2009–16 I.R.B. 802.

SECTION 2. BACKGROUND

.01 Section 46 provides that the amount of the investment credit for any taxable year is the sum of the credits listed in § 46. That list includes the qualifying advanced coal project credit under § 48A and the qualifying gasification project credit under § 48B.

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

.03 Section 48A(d)(3)(B)(iii), as added by section 111 of the Energy Improvement and Extension Act of 2008, Pub. L. No. 110–343, 122 Stat. 3765 (October 3, 2008), provides for a second phase of the qualifying advanced coal project program and authorizes the Secretary to certify $1.25 billion of additional credits for advanced coal-based generation technology projects ("the Phase II advanced coal program" and "the Phase II advanced coal projects.")

.04 Under § 48A(e)(1)(G), any project the application for which is submitted under the Phase II advanced coal program must include equipment that separates and sequesters—

(1) At least 65 percent of such project's total carbon dioxide ("CO_2") emissions in the case of an application other than an application for reallocated credits under § 48A(d)(4); and

(2) At least 70 percent of such project's total CO_2 emissions in the case of an application for reallocated credits under § 48A(d)(4).

.05 On April 20, 2009, the Internal Revenue Service ("Service") issued Notice 2009–24 to announce procedures for the allocation of credits under the Phase II advanced coal program.

.06 Section 48B(a) allows a qualifying gasification project credit for a taxable year in an amount equal to 20 percent (30 percent in the case of projects for which credits are allocated under § 48B(d)(1)(B)) of the qualified investment for such taxable year.

.07 Section 48B(d)(1)(B), as added by section 112 of the Energy Improvement and Extension Act of 2008 provides for a second phase of the qualifying gasification project program and authorizes the Secretary to certify an additional $250 million of credits to qualifying projects that include equipment that separates and sequesters at least 75 percent of such project's total CO_2 emissions ("Phase II gasification program" and "Phase II gasification projects.")

.08 On April 20, 2009, the Service issued Notice 2009–23 to announce procedures for the allocation of credit under the Phase II gasification program.

.09 On September 27, 2010, the Service issued Announcement 2010–56, 2010–39 I.R.B. 398, setting forth the results of the first round of allocations under the Phase II advanced coal program and the Phase II gasification program.

SECTION 3. RULE RELATED TO SEPARATION AND SEQUESTRATION OF CARBON DIOXIDE EMISSIONS.

.01 *In General.* Section 48A(i) requires a recapture of the qualifying advanced coal project credit with respect to any project that fails to attain or maintain the separation and sequestration requirements of § 48A(e)(1)(G). Section 7.04 of Notice 2009–24 states that the § 48A credit allocated to a Phase II advanced coal project will be recaptured if, at any time during the applicable recovery period (as defined in § 168(c)) for such project, the project fails to attain or maintain the separation and sequestration requirements for such project under § 48A(e)(1)(G).

Similarly, § 48B(f) requires a recapture of the qualifying gasification project credit with respect to any project that fails to attain or maintain the separation and sequestration requirements for such project under § 48B(d)(1)(B). Section 6.04 of Notice 2009–23 provides that the § 48B credit allocated to a Phase II gasification project will be recaptured if, at any time during the applicable recovery period (as defined in § 168(c)) for such project, the project fails to attain or maintain the separation and sequestration requirements for such project under § 48B(d)(1)(B).

Additionally, credits allowed under § 48A and § 48B are subject to the recapture rules of § 50(a) as provided under section 2.12 of Notice 2009–24 and section 2.07 of Notice 2009–23, respectively. Section 50(a)(1) provides, generally, for recapture of the investment credit if, during any taxable year, investment tax credit property is disposed of or otherwise ceases to be investment credit property with respect to the taxpayer before the close of the recapture period. The recapture period under § 50(a) is the 5-year period beginning on the date the property is placed in service.

.02 *Applicability of the Recapture Rule of § 50(a).* The Service recognizes that § 168(c) provides a wide range of recovery periods that apply to Phase II advanced coal projects or Phase II gasification projects. This may create uncertainty for taxpayers regarding which recovery period to use if a project fails to attain or

maintain the separation and sequestration requirements of § 48A and § 48B.

Moreover, different recapture periods provided under § 168(c) and § 50(a) may create further confusion and difficulty to taxpayers and to the Service. Therefore, the Service has determined that the recapture rules under § 50(a) will apply for all events that trigger recapture of the credits allowed under § 48A or § 48B, including a failure to attain or maintain the separation and sequestration requirements of § 48A(e)(1)(G) or § 48B(d)(1)(B).

.03 *Annual Basis During Normal Plant Operations*. For purposes of determining whether a project meets the requirements of § 48A(e)(1)(G) or § 48B(d)(1)(B), the amount of the project's total CO_2 emissions and the amount of CO_2 separated and sequestered will be measured on an annual basis during normal plant operations. An annual period other than the taxpayer's taxable year may be used for these purposes if the same period is consistently used. If a period other than the taxable year is used, any failure to meet the requirements of § 48A(e)(1)(G) or § 48B(d)(1)(B) will be treated as occurring in the taxable year that includes the last day of the annual period in which the failure occurs. The term "normal plant operations" is defined as operations other than during periods of initial plant certification, plant startup, plant shutdown, integrated gasifier shutdown for gasification system maintenance, or interruption of the coal supply to the project resulting from an event of force majeure (including an act of God, war, strike, or other similar event beyond the control of the taxpayer).

SECTION 4. EFFECT ON OTHER DOCUMENTS

Notice 2009–23 and Notice 2009–24 are modified.

SECTION 5. EFFECTIVE DATE

This notice is effective for all projects that receive either § 48A credits under the Phase II advanced coal program or § 48B credits under the Phase II gasification program.

SECTION 6. DRAFTING INFORMATION

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

Credit for Carbon Dioxide Sequestration; Modification of Notice 2009–83

Notice 2011–25

This notice modifies Notice 2009–83, 2009–44 I.R.B. 588, by removing section 4.07 of the Notice. Section 4.07 provided that for purposes of § 45Q of the Internal Revenue Code, qualified carbon dioxide (CO_2) does not include CO_2 that is captured and sequestered in a project as required under an agreement entered into in connection with the qualifying advanced coal project program of § 48A or the qualifying gasification project program of § 48B.

SECTION 1. BACKGROUND

Section 45Q was enacted by § 115 of the Energy Improvement and Extension Act of 2008, Pub. L. No. 110–343, 122 Stat. 3829 (October 3, 2008), as amended by section 1131 of the American Recovery and Reinvestment Tax Act of 2009, Division B of Pub. L. 111–5, 123 Stat 115 (Feb. 17, 2009). Section 45Q(a) provides that a credit for CO_2 sequestration is generally available to a taxpayer that captures qualified CO_2 at a qualified facility and disposes of qualified CO_2 in secure geological storage within the United States, effective for CO_2 captured after October 3, 2008.

Section 45Q(b)(1) defines qualified CO_2 as CO_2 from an industrial source which (A) would otherwise be released into the atmosphere as industrial emission of greenhouse gas, and (B) is measured at the source of capture and verified at the point of disposal or injection.

On November 2, 2009, the Internal Revenue Service (Service) issued Notice 2009–83, providing guidance on determining eligibility for the credit and the amount of the credit, as well as rules regarding adequate security measures for secure geological storage of CO_2. Section 4.07 of Notice 2009–83 provides that "qualified CO_2 for purposes of the § 45Q credit does not include CO_2 that is captured and sequestered in a project to the extent required under an agreement executed with the Service under the qualifying advanced coal project program of § 48A or the qualifying gasification project program of § 48B."

Since the issuance of Notice 2009–83, several commenters asserted that the interpretation of § 45Q(b)(1) in section 4.07 is too restrictive and is inconsistent with the tax and energy policy underlying the § 45Q credit, the § 48A program, and the § 48B program. According to these commenters, the intent of § 45Q(b)(1) is not to exclude CO_2 that has been captured and sequestered under the § 48A program or the § 48B program, but to ensure merely that the § 45Q credit is limited to CO_2 captured from an industrial source that, but for the physical act of capture, would otherwise be released into the atmosphere as an industrial emission of greenhouse gas.

SECTION 2. MODIFICATION OF NOTICE 2009–83

This notice removes section 4.07 of Notice 2009–83. Accordingly, qualified CO_2, as defined under § 45Q(b)(1), does not exclude CO_2 that is required to be captured and sequestered under the § 48A program or the § 48B program.

SECTION 3. EFFECT ON OTHER DOCUMENTS

Notice 2009–83 is modified as provided in this notice. Except as explicitly provided, this notice does not otherwise affect the guidance provided in Notice 2009–83.

SECTION 4. EFFECTIVE DATE

This notice is effective November 2, 2009, the effective date of Notice 2009–83.

SECTION 5. DRAFTING INFORMATION

The principal author of this notice is Jennifer C. Bernardini of the Office of

Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Jennifer C. Bernardini at (202) 622–3110 (not a toll-free call).

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

Disclosure of Returns and Return Information to Designee of Taxpayer

REG–153338–09

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains a proposed regulation pertaining to the period for submission to the IRS of taxpayer authorizations permitting disclosure of returns and return information to third-party designees. Specifically, the proposed regulation extends from 60 days to 120 days the period within which a signed and dated authorization must be received by the IRS (or an agent or contractor of the IRS) in order for it to be effective. The proposed regulation extends the period as some institutions charged with assisting taxpayers in their financial dealings have encountered difficulty in obtaining written authorizations and submitting the authorizations within the 60-day period allowed by the existing regulations. The proposed regulation will affect taxpayers who submit authorizations permitting disclosure of returns and return information to third-party designees. This document also provides notice of a public hearing on the proposed regulation.

DATES: Written or electronic comments must be received by May 17, 2011. Outlines of topics to be discussed at the public hearing scheduled for Thursday, June 9, 2011 at 10 a.m. must be received by Wednesday, May 18, 2011.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–153338–09), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–153338–09), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–153338–09). The public hearing will be held in Auditorium, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulation, contact Amy Mielke, (202) 622–4570; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, Oluwafunmilayo Taylor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this proposed regulation has been previously approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1816.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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

Background

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301). Section 6103(c) of the Internal Revenue Code (Code) authorizes the IRS (or an agent or contractor of the IRS) to disclose returns and return information to such person or persons as the taxpayer may designate in a request for or consent to disclosure. The proposed regulation amends §301.6103(c)–1 by extending the period for submission to the IRS of taxpayer authorizations permitting disclosure of returns and return information to designees of a taxpayer. Specifically, the proposed regulation extends from 60 days to 120 days the period within which a signed and dated authorization must be received by the IRS (or an agent or contractor of the IRS) in order for it to be effective.

On December 18, 2009, the IRS published Notice 2010–8, 2010–3 I.R.B. 297, which announced an intention to amend the regulation under §301.6103(c)–1 to expand the time frame for submission of section 6103(c) authorizations. The notice additionally announced interim rules extending from 60 days to 120 days the period within which section 6103(c) authorizations must be received in order to be effective. The interim rules apply to authorizations signed and dated on or after October 19, 2009. Per Notice 2010–8, the interim rules remain in effect until promulgation of a final regulation under section 6103(c). See §601.601(d)(2)(ii)(*d*).

Explanation of Provisions

The IRS recognizes the importance of limiting the effective period of authorizations provided pursuant to section 6103(c). Reasonable limitation on the effective period of written authorizations helps ensure the currency of the authorization and protects taxpayer privacy. The 60-day period allowed by the existing regulation, however, has proven problematic. Some institutions charged with assisting taxpayers in their financial dealings have encountered difficulty in obtaining written authorizations and submitting the authorizations to the IRS within the 60 days allowed by the existing regulation. To reduce the burden on taxpayers and the institutions and professionals assisting them, the IRS proposes amending the regulation under section 6103(c) to extend from 60 days to 120 days the period within which taxpayer-provided authorizations must be received by the IRS (or an agent or contractor of the IRS) in order to be effective.

Proposed Effective Date

This regulation, as proposed, will be effective upon publication in the **Federal Register** of a Treasury decision adopting

this rule as a final regulation. The regulation, once effective, will apply to section 6103(c) authorizations signed on or after October 19, 2009.

Effect on Other Documents

Notice 2010–8, 2010–3 I.R.B. 297, will be obsolete upon publication in the **Federal Register** of a Treasury decision adopting this rule as a final regulation.

Special Analyses

It has been determined that this proposed regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (5 U.S.C. chapter 6), requires the agency to "prepare and make available for public comment an initial regulatory flexibility analysis" that will "describe the impact of the proposed rule on small entities." (5 U.S.C. 603(a)). Section 605 of the RFA provides an exception to this requirement if the agency certifies that the proposed rulemaking will not have a significant economic impact on a substantial number of small entities. It is hereby certified that the collection of information in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that any burden on taxpayers is minimal, since the regulation only applies to taxpayers which request or consent to the disclosure of returns or return information, and since the information collected is only that necessary to carry out the disclosure of returns or return information requested or consented to by the taxpayer (such as the name and taxpayer identification number of the taxpayer, the return or return information to be disclosed, and the identity of the designee). Moreover, it is based upon the fact that the regulation reduces the burden imposed upon taxpayers by the prior regulation by extending the period in which consents may be received by the IRS. Accordingly, a Regulatory Flexibility Analysis is not required.

Comments and Public Hearing

Before this proposed regulation is adopted as a final regulation, consideration will be given to any written comments (a signed original and eight (8) copies) and electronic comments that are timely submitted to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

The public hearing is scheduled for Thursday, June 9, 2011 at 10 a.m., and will be held in Auditorium, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. All visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the section of this preamble titled "FOR FURTHER INFORMATION CONTACT."

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by Wednesday, May 18, 2011. A period of 10 minutes will be allotted to each person for the making of comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of this proposed regulation is Amy Mielke, Office of the Associate Chief Counsel (Procedure and Administration).

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read as follows:

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

Par. 2. Section 301.6103(c)–1 is amended by revising paragraphs (b)(2), (f) and adding paragraph (g) to read as follows:

§301.6103(c)–1 Disclosure of returns and return information to designee of taxpayer.

* * * * *

(b) * * *

(2) *Requirement that request or consent be received within one hundred twenty days of when signed and dated.* The disclosure of a return or return information authorized by a written request for or written consent to the disclosure shall not be made unless the request or consent is received by the Internal Revenue Service (or an agent or contractor of the Internal Revenue Service) within 120 days following the date upon which the request or consent was signed and dated by the taxpayer.

* * * * *

(f) *Applicability date*. This section is applicable to section 6103(c) authorizations signed on or after October 19, 2009.

(g) *Effective date*. This section is effective on the date that the final regulations are published in the **Federal Register**.

Steven T. Miller,
Deputy Commissioner for Services and Enforcement.

(Filed by the Office of the Federal Register on March 17, 2011, 8:45 a.m., and published in the issue of the Federal Register for March 18, 2011, 76 F.R. 14827)

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

Announcement 2011–25

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

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on April 4, 2011 and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is $1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Bennafield Enterprises, Inc.
Canton, OH
Challenge 2000, Inc.
Clackamas, OR
Christ Temple Breaking Free Ministry
Itta Bena, MS
Consumerwiz of Connecticut, Inc.
Groton, CT
Dakota Academy Charter School
Burnsville, MN
Human Shelter Innovation Institute
formerly Human Shelter Research Institute
St. Louis, MO
LBOH, INC
Gainesville, FL
Larry T. Herrig Charitable Foundation
Dubuque, IA
National Spending & Credit Counseling Center
Spring Valley, CA
S.H.O.C. Enterprise, Inc.
Corona, CA

Sales-Based Royalties and Vendor Allowances; Hearing

Announcement 2011–26

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on a notice of proposed rulemaking (REG–149335–08, 2011–6 I.R.B. 468) relating to the capitalization and allocation of royalties that are incurred only upon the sale of property produced or property acquired for resale (sales-based royalties) and adjusting the cost of merchandise inventory for an allowance, discount, or price rebated based on merchandise sales (sales-based vendor allowances). The regulations modify the simplified production method and the simplified resale method of allocating capitalized costs between ending inventory and cost of goods sold. The regulations affect taxpayers that incur capitalizable sales-based royalties and earn sales-based vendor allowances.

DATES: The public hearing is being held on Wednesday, April 13, 2011, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by Monday, March 28, 2011.

ADDRESSES: The public hearing is being held in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Send submissions to: CC:PA:LPD:PR (REG–149335–08), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–149335–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit electronic outlines of oral comments via the Federal eRulemaking Portal at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, John Roman Faron at (202) 622–4930; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard A. Hurst at *Richard.A.Hurst@irscounsel.treas.gov* or (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–149335–08) that was published in the **Federal Register** on Friday, December 17, 2010 (75 FR 78940).

Persons, who wish to present oral comments at the hearing that submitted written comments, must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by Monday, March 28, 2011.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue NW entrance, 1111 Constitution Avenue, NW, Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the FOR FURTHER INFORMATION CONTACT section of this document.

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 March 21, 2011, 8:45 a.m., and published in the issue of the Federal Register for March 22, 2011, 76 F.R. 15887)

Definition of Terms

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

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

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

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

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

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

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

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

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

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

Abbreviations

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

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D. —Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z —Corporation.

Numerical Finding List[1]

Bulletin 2011–1 through 2011–14

Announcements:

Notices:

Proposed Regulations:

Revenue Procedures:

Revenue Rulings:

Treasury Decisions:

Treasury Decisions— Continued:

[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2010–27 through 2010–52 is in Internal Revenue Bulletin 2010–52, dated December 27, 2010.

Finding List of Current Actions on Previously Published Items[1]

Bulletin 2011–1 through 2011–14

Announcements:

85-88
Obsoleted by
Rev. Proc. 2011-10, 2011-2 I.R.B. *294*

2008-11
Modified by
Ann. 2011-6, 2011-4 I.R.B. *433*

2009-62
Obsoleted by
Rev. Proc. 2011-10, 2011-2 I.R.B. *294*

Notices:

2006-87
Superseded by
Notice 2011-8, 2011-8 I.R.B. *503*

2007-25
Superseded by
Notice 2011-8, 2011-8 I.R.B. *503*

2007-77
Superseded by
Notice 2011-8, 2011-8 I.R.B. *503*

2008-107
Superseded by
Notice 2011-8, 2011-8 I.R.B. *503*

2009-23
Modified by
Notice 2011-24, 2011-14 I.R.B. *603*

2009-24
Modified by
Notice 2011-24, 2011-14 I.R.B. *603*

2009-83
Modified by
Notice 2011-25, 2011-14 I.R.B. *604*

2010-27
Superseded by
Notice 2011-8, 2011-8 I.R.B. *503*

2010-59
Modified by
Notice 2011-5, 2011-3 I.R.B. *314*

2010-71
Modified and superseded by
Notice 2011-9, 2011-6 I.R.B. *459*

2010-79
Clarified and modified by
Notice 2011-4, 2011-2 I.R.B. *282*

Proposed Regulations:

REG-132554-08
Corrected by
Ann. 2011-11, 2011-7 I.R.B. *500*

REG-149335-08
Hearing scheduled by
Ann. 2011-26, 2011-14 I.R.B. *608*

Revenue Procedures:

72-50
Modified and superseded by
Rev. Proc. 2011-10, 2011-2 I.R.B. *294*

76-34
Modified and supersed by
Rev. Proc. 2011-10, 2011-2 I.R.B. *294*

83-23
Modified and superseded by
Rev. Proc. 2011-15, 2011-3 I.R.B. *322*

94-17
Modified and superseded by
Rev. Proc. 2011-15, 2011-3 I.R.B. *322*

97-27
Clarified and modified by
Rev. Proc. 2011-4, 2011-1 I.R.B. *330*

2001-10
Modified by
Rev. Proc. 2011-4, 2011-4 I.R.B. *330*

2002-28
Modified by
Rev. Proc. 2011-4, 2011-4 I.R.B. *330*

2003-21
Modified and superseded by
Rev. Proc. 2011-15, 2011-3 I.R.B. *322*

2004-34
Modified by
Rev. Proc. 2011-14, 2011-4 I.R.B. *330*
Modified and clarified by
Rev. Proc. 2011-18, 2011-5 I.R.B. *443*

2006-44
Modified by
Ann. 2011-6, 2011-4 I.R.B. *433*

2006-56
Modified by
Rev. Proc. 2011-14, 2011-4 I.R.B. *330*

2008-52
Modified by
Notice 2011-4, 2011-2 I.R.B. *282*
Rev. Proc. 2011-17, 2011-5 I.R.B. *441*
Superseded in part by
Rev. Proc. 2011-14, 2011-4 I.R.B. *330*

Revenue Procedures— Continued:

2009-39
Superseded in part by
Rev. Proc. 2011-14, 2011-4 I.R.B. *330*

2009-44
Modified by
Ann. 2011-6, 2011-4 I.R.B. *433*

2010-1
Superseded by
Rev. Proc. 2011-1, 2011-1 I.R.B. *1*

2010-2
Superseded by
Rev. Proc. 2011-2, 2011-1 I.R.B. *283*

2010-3
Superseded by
Rev. Proc. 2011-3, 2011-1 I.R.B. *111*

2010-4
Superseded by
Rev. Proc. 2011-4, 2011-1 I.R.B. *123*

2010-5
Superseded by
Rev. Proc. 2011-5, 2011-1 I.R.B. *167*

2010-6
Superseded by
Rev. Proc. 2011-6, 2011-1 I.R.B. *195*

2010-7
Superseded by
Rev. Proc. 2011-7, 2011-1 I.R.B. *233*

2010-8
Superseded by
Rev. Proc. 2011-8, 2011-1 I.R.B. *237*

2010-9
Superseded by
Rev. Proc. 2011-9, 2011-2 I.R.B. *283*

2010-15
Updated by
Rev. Proc. 2011-13, 2011-3 I.R.B. *318*

2010-18
Amplified and modified by
Rev. Proc. 2011-21, 2011-12 I.R.B. *560*

2011-1
Corrected by
Ann. 2011-7, 2011-5 I.R.B. *446*

2011-8
Corrected by
Ann. 2011-8, 2011-5 I.R.B. *446*

2011-11
Corrected by
Ann. 2011-9, 2011-7 I.R.B. *499*

[1] A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2010–27 through 2010–52 is in Internal Revenue Bulletin 2010–52, dated December 27, 2010.

Revenue Rulings:

81-100
Modified by
Rev. Rul. 2011-1, 2011-2 I.R.B. *251*

2004-67
Modified by
Rev. Rul. 2011-1, 2011-2 I.R.B. *251*

2008-40
Modified by
Rev. Rul. 2011-1, 2011-2 I.R.B. *251*

2011-3
Corrected by
Ann. 2011-16, 2011-7 I.R.B. *500*

Treasury Decisions:

9391
Corrected by
Ann. 2011-12, 2011-9 I.R.B. *532*

9505
Corrected by
Ann. 2011-10, 2011-7 I.R.B. *499*

U.S. GOVERNMENT PRINTING OFFICE
KEEPING AMERICA INFORMED

Order Processing Code: 3465

Easy Secure Internet: bookstore.gpo.gov

Internal Revenue Cumulative Bulletins Publications and Subscription Order Form

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

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

Publications

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

Subscriptions

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

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

Standing Order Service*

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

Qty.	Standing Order	Title
	ZIRSC	Internal Revenue Cumulative Bulletins

Authorization

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

❑ VISA ❑ MasterCard ❑ Discover/NOVUS ❑ American Express

❑ Superintendent of Documents (SOD) Deposit Account

Authorizing signature (Standing orders not valid unless signed.)

_____

Please print or type your name.

Daytime phone number (_____) _____

SuDocs Deposit Account

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

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

Check method of payment:

❑ Check payable to Superintendent of Documents

❑ SOD Deposit Account ☐☐☐☐☐☐☐ – ☐

❑ VISA ❑ MasterCard ❑ Discover/Novus ❑ American Express

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (expiration date)

Thank you for your Order!

Authorizing signature 06/06

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, Zip Code

E-mail address

Daytime phone including area code

Purchase order number (optional)

*Standing Order Service

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

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

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

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

INTERNAL REVENUE BULLETIN

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

CUMULATIVE BULLETINS

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

ACCESS THE INTERNAL REVENUE BULLETIN ON THE INTERNET

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

INTERNAL REVENUE BULLETINS ON CD-ROM

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

HOW TO ORDER

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

WE WELCOME COMMENTS ABOUT THE INTERNAL REVENUE BULLETIN

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

Internal Revenue Service
Washington, DC 20224

Official Business
Penalty for Private Use, $300