

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

T.D. 9522, page 780.

Final regulations under section 1563 of the Code, that apply to a controlled group of corporations, clarify that a corporation that satisfies the controlled group rules for stock ownership and qualification is a member of such group, without regard to its status as a component member.

Notice 2011-37, page 785.

This notice extends to taxable years that begin before the date that final regulations under regulations section 1.67-4 are published in the Federal Register, the interim guidance provided in Notice 2010-32, 2010-16 I.R.B. 594, Notice 2008-166, 2008-52 I.R.B. 1372, and Notice 2008-32, 2008-11 I.R.B. 593, on the treatment under section 67 of the Code of investment advisory costs and other costs subject to the 2-percent floor under section 67(a) that are integrated as part of one commission or fee paid to the trustee or executor and are incurred by a trust other than a grantor trust or an estate. Notice 2010-32 modified and superseded.

Announcement 2011-30, page 791.

This announcement contains a rescheduled notice of public hearing on proposed regulations (REG-146097-09, 2011-8 I.R.B. 516) providing guidance on the reporting requirements for interest on deposits maintained at U.S. offices of certain financial institutions and paid to nonresident alien individuals. A public hearing is rescheduled for May 18, 2011.

EXCISE TAX

Rev. Proc. 2011-24, page 787.

This revenue procedure establishes a dispute resolution process for the preliminary fee calculation for the 2011 annual fee imposed on covered entities engaged in the business of manufacturing or importing branded prescription drugs. The fee was enacted by section 9008 of the Patient Protection and Affordable Care Act, as amended by section 1404 of the Health Care and Reconciliation Act of 2010. The procedure describes the information necessary to assert a fee error, describes how the information must be formatted and submitted, identifies who may submit the information, and provides the date by which the information must be provided.

ADMINISTRATIVE

T.D. 9523, page 781.

Final regulations under Part 300 of the Code amend the regulations relating to the imposition of user fees for enrolled agents and enrolled retirement plan agents.

Notice 2011-38, page 785.

This notice announces an extension to calendar years 2011 and 2012 and modification of the pilot program announced in Notice 2009-93, 2009-51 I.R.B. 863. Notice 2009-93 authorized filers of certain information returns to truncate an individual payee's nine-digit identifying number on specified paper payee statements furnished for calendar years 2009-2010, if the filers met certain requirements. Notice 2009-93 modified.

(Continued on the next page)

Finding Lists begin on page ii.



Notice 2011-39, page 786.

The Department of Treasury and the Service invite public comment on recommendations for items that should be included on the 2011-2012 Guidance Priority List. Taxpayers may submit recommendations for guidance at any time during the year. Please submit recommendations by June 1, 2011, for possible inclusion on the original 2011-2012 Guidance Priority List. Recommendations received after June 1, 2011, will be reviewed for inclusion in the next periodic update.

The IRS Mission

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.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

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

Section 1563.—Definitions and Special Rules

26 CFR 1.1563-1: Definition of controlled group of corporations and component members and related concepts.

T.D. 9522

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Clarification of Controlled Group Qualification Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains a final regulation that applies to a controlled group of corporations. The regulation clarifies that a corporation that satisfies the controlled group rules for stock ownership and qualification is a member of such group, without regard to its status as a component member.

DATES: *Effective Date:* This regulation is effective on April 11, 2011.

Applicability Date: For date of applicability, see §1.1563-1(e).

FOR FURTHER INFORMATION CONTACT: Grid Glycer (202) 622-7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains an amendment to 26 CFR Part 1. On September 29, 2009, a notice of proposed rulemaking (NPRM) regarding the controlled group qualification rules under §1.1563-1 was published in the **Federal Register** (REG-135005-07, 2009-47 I.R.B. 681 [74 FR 49829]). The NPRM proposed to amend §1.1563-1 to clarify that a

corporation described in section 1563(b) as an excluded member of a controlled group of corporations is nevertheless a member of the group. The NPRM further proposed to add an example demonstrating that a controlled group of corporations can consist solely of excluded members.

One comment was received and no public hearing was requested or held. The public comment concerned the treatment of gross receipts between members of a controlled group of corporations for purposes of section 41, which provides a tax credit to taxpayers for increasing their research activities. In particular, the comment refers to CCA 200233011, dated May 1, 2002. In that CCA, the IRS Office of Chief Counsel concluded first that a domestic corporation and its majority-owned foreign subsidiaries should be treated as a single taxpayer for purposes of sections 41(f)(1)(A)(i), 41(f)(5) and 1563(a) because they were members of the same controlled group of corporations even though the foreign subsidiaries were treated as excluded members of the group.

Second, the IRS Office of Chief Counsel concluded that, given the particular facts and circumstances of that case, the taxpayer should exclude sales to its majority-owned foreign subsidiaries when computing gross receipts for purposes of determining its base amount under section 41(c). The commenter requested guidance on the facts and circumstances that caused the IRS Office of Chief Counsel to exclude such sales in computing gross receipts. The IRS and the Treasury Department believe that the requested guidance is outside the scope of the NPRM, which only involves the first issue addressed in the CCA, and is consistent with the conclusion of the CCA on that issue.

However, the final regulation makes one clarifying change. Paragraph (a)(1)(ii) of the proposed regulation states that in determining whether a corporation is included in a controlled group of corporations, section 1563(b) shall not be taken into account. Section 1563(b) defines a component member, including an excluded member and an additional member. Paragraph (a)(1)(ii) as now revised

will also provide that the underlying regulation, §1.1563-1(b), which defines a component member, shall not be taken into account in determining the members of a controlled group.

Special Analyses

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

Drafting Information

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

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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 * * *

Par. 2. Section 1.1563-1 is amended by:

1. Redesignating paragraph (a)(1)(ii) as paragraph (a)(1)(iii) and adding new paragraph (a)(1)(ii).

2. Adding *Example 4* to paragraph (b)(4).

3. Adding a sentence at the end of paragraph (e).

The additions read as follows:

§1.1563-1 Definition of controlled group of corporations and component members and related concepts.

- (a) * * *
- (1) * * *

(ii) *Special rules.* In determining whether a corporation is included in a controlled group of corporations, section 1563(b) and paragraph (b) of this section shall not be taken into account. For rules defining a component member of a controlled group of corporations, including rules defining an excluded member and an additional member, see section 1563(b) and paragraph (b) of this section.

* * * * *

- (b) * * *
- (4) * * *

Example 4. Individual A owns all of the stock of corporations X, Y and Z. Each of these corporations is an S corporation. X, Y, and Z are each members of a brother-sister controlled group, even though each such corporation is treated as an excluded member of such group. See §1.1563-1(b)(2)(ii)(C).

* * * * *

(e) *Effective/Applicability date.* * * * Paragraph (a)(1)(ii) of this section applies to taxable years beginning on or after April 11, 2011.

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

Approved April 4, 2011.

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

(Filed by the Office of the Federal Register on April 8, 2011, 8:45 a.m., and published in the issue of the Federal Register for April 11, 2011, 76 F.R. 19907)

Section 9701.—Definitions of General Applicability

26 CFR 300.0: User fees; in general.

T.D. 9523

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 300

User Fees Relating to Enrolled Agents and Enrolled Retirement Plan Agents

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the regulations relating to the imposition of user fees for enrolled agents and enrolled retirement plan agents. The final regulations lower the initial enrollment and renewal of enrollment user fees for enrolled agents and enrolled retirement plan agents and separate the enrolled retirement plan agent user fees from the enrolled agent user fees. The final regulations affect individuals who are, or apply to become, enrolled agents or enrolled retirement plan agents.

DATES: *Effective Date:* These regulations are effective on April 19, 2011.

Applicability Date: For dates of applicability, see §§300.5(d), 300.6(d), 300.9(d), 300.10(d), and 300.11(d).

FOR FURTHER INFORMATION CONTACT: Concerning the final regulations, Emily M. Lesniak at (202) 622-4570, or concerning cost methodology, Eva J. Williams at (202) 435-5514 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations relating to the initial enrollment and renewal of enrollment for enrolled agents and enrolled retirement plan agents. The Independent Offices Appropriations Act of 1952, which is codified at 31 U.S.C.

9701, authorizes agencies to prescribe regulations establishing user fees for services provided by the agency. Regulations prescribing user fees are subject to the policies of the President, which are currently set forth in the Office of Management and Budget Circular A-25 (the OMB Circular), 58 FR 38142 (July 15, 1993). The OMB Circular requires agencies seeking to impose user fees for providing special benefits to identifiable recipients to calculate the full cost of providing those benefits.

Section 330 of title 31 of the United States Code authorizes the Secretary of the Treasury to regulate the practice of representatives before the Treasury Department. Pursuant to section 330 of title 31, the Secretary has published regulations governing practice before the IRS in 31 CFR part 10 and reprinted the regulations as Treasury Department Circular No. 230 (Circular 230). Section 10.4 of Circular 230 authorizes the Commissioner of Internal Revenue to grant status as an enrolled agent or enrolled retirement plan agent to applicants who demonstrate special competence in tax matters.

To become an enrolled agent or enrolled retirement plan agent, an applicant generally must pass a special enrollment examination and file an application for enrollment with the IRS. An individual granted status as an enrolled agent or enrolled retirement plan agent as provided in §10.6(d) of Circular 230 must renew enrollment every three years to maintain active enrollment and be able to practice before the IRS.

On December 10, 2010, the Treasury Department and the IRS published in the **Federal Register** (75 FR 76940) a notice of proposed rulemaking proposing amendments to part 300 of title 26 of the Code of Federal Regulations. The regulations proposed to reduce the initial enrollment and renewal of enrollment user fees for enrolled agents and enrolled retirement plan agents to \$30 from \$125. The reduction in user fees is necessary to account for the reallocation of portions of the enrolled agent and enrolled retirement plan agent renewal processes to the preparer tax identification number (PTIN) application and renewal process. The costs to the government for the reallocated portions of the enrolled agent and enrolled retirement plan

agents initial enrollment and renewal of enrollment processes are now recovered by the user fee to apply for or renew a PTIN (T.D. 9503, 2010–47 I.R.B. 706 [75 FR 60316]). Additionally, these regulations proposed to separate the enrolled retirement plan agent user fees from the enrolled agent user fees.

A public hearing was scheduled for January 14, 2011. The IRS did not receive any requests to testify at the public hearing, and the hearing was cancelled.

The IRS received written comments in response to the proposed regulations. After careful consideration of the public comments, the Treasury Department and the IRS decided to adopt without substantive modification the proposed regulations reducing the enrolled agent and enrolled retirement plan agent initial enrollment and renewal of enrollment user fees to \$30 and separating the enrolled retirement plan agent user fees from the enrolled agent user fees.

Summary of Comments

The IRS received five comments in response to the notice of proposed rule-making. The comments were considered and are available for public inspection at www.regulations.gov or upon request. The comments related to the reduced enrolled agent user fees; Announcement 2010–81, 2010–45 I.R.B. 638, which delayed the renewal period for enrolled agents whose social security or tax identification number ends in 4, 5, or 6; the recently published final regulations under section 6109 (T.D. 9501, 2010–46 I.R.B. 651 [75 FR 60309]), which require tax return preparers who prepare all or substantially all of a tax return or claim for refund for compensation to have a PTIN; the final regulations implementing a \$50 user fee to the IRS to apply for or renew a PTIN; and the proposed amendments to Circular 230 (75 FR 51713). The IRS did not receive any comments regarding the separation of the enrolled retirement plan agent user fees from the enrolled agent user fees.

The comments relating to the proposed regulations reducing the enrolled agent and enrolled retirement plan agent user fees are summarized in this preamble. To the extent that the comments raised issues regarding other Treasury Department guidance, the Treasury Department and

the IRS have considered or will consider the comments in connection with the relevant guidance.

The IRS received two comments regarding the amount of the user fees in the proposed regulations. One comment supported reducing the initial enrollment and renewal of enrollment user fees for enrolled agents to \$30. Another comment requested that the reduction in the user fee to renew enrollment as an enrolled agent be made retroactive.

The Treasury Department and the IRS took steps to prevent duplication of costs for enrolled agents whose enrollment renewal period was scheduled to begin after the effective date of the user fee to apply for or renew of PTIN, but before the enrolled agent user fees are reduced. As previously discussed, the enrolled agent and enrolled retirement plan agent user fees are being reduced to account for the reallocation of part of the enrollment processes to the PTIN application and renewal process. On October 14, 2010, the Treasury Department and the IRS issued Announcement 2010–81, which delayed the renewal period for enrolled agents who were scheduled to renew their enrollment between November 1, 2010, and January 31, 2011. Thus, the announcement delayed the renewal period for those enrolled agents required to both renew their enrollment and obtain a PTIN between September 28, 2010 and January 31, 2011 until guidance reducing the renewal of enrollment user fees could be finalized.

Further, the OMB Circular provides that Federal agencies should recover the full cost of providing a special benefit to an identifiable recipient. Designation as an enrolled agent is a special benefit that is conferred upon a specific individual, and under the OMB Circular, the IRS should recover the full cost of providing this benefit. Prior to the implementation of the user fee to apply for or renew a PTIN, the cost to the government to process an initial enrollment or renewal of enrollment application for an enrolled agent or enrolled retirement plan agent was \$125. Thus, the reduced \$30 user fee would not recover the entire cost to the government to process applications submitted before the effective date of the regulations implementing the user fee to apply for or renew a PTIN.

After considering the public comments, the Treasury Department and the IRS have decided to adopt the proposed regulations without substantive modification.

Effective/Applicability Date

The Administrative Procedure Act provides that substantive rules will not be effective until thirty days after the final regulations are published in the **Federal Register** (5 U.S.C. 553(d)). Final regulations may be effective prior to thirty days after publication if the publishing agency finds that there is good cause for an earlier effective date.

The Treasury Department and the IRS finalized regulations that require all tax return preparers who prepare all or substantially all of a tax return or claim for refund for compensation to use a PTIN as their identifying number and to pay a \$64.25 fee, which includes the amount paid to the vendor, to apply for or renew a PTIN. Tax return preparers who prepare all or substantially all of a tax return or claim for refund must obtain or renew their PTIN for the 2011 tax season.

Circular 230 requires that, to maintain active enrollment to practice before the IRS, enrolled agents must renew enrollment every third year after initial enrollment is granted. Under Circular 230, enrolled agents with social security numbers or tax identification numbers ending in 4, 5, or 6 were scheduled to renew their enrollment between November 1, 2010 and January 31, 2011. To enable these enrolled agents to renew their enrollment at the reduced fee, the IRS issued Announcement 2010–81 on October 14, 2010, which delayed the renewal period for enrolled agents with social security numbers or tax identification numbers ending in 4, 5, or 6. The renewal process cannot be reinstated until these regulations are finalized; otherwise, these enrolled agents will pay twice for the IRS to perform compliance and suitability checks. To minimize the disruption to the enrolled agent program caused by the delay of renewal, the renewal process must be reinstated as quickly as possible. Thus, the Treasury Department and the IRS find that there is good cause for these regulations to be effective upon the publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866. It is hereby certified that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This certification is based upon the information that follows. The regulations do not place an additional filing requirement on enrolled agents or enrolled retirement plan agents and decrease the enrollment costs already in effect. Thus, the regulations should reduce the economic impact imposed by the current enrolled agent and enrolled retirement plan agent user fees.

It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. The Chief Counsel for Advocacy did not submit comments on the notice of proposed rulemaking.

Drafting Information

The principal author of these regulations is Emily M. Lesniak, Office of the Associate Chief Counsel (Procedure and Administration).

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 300 is amended as follows:

PART 300—USER FEES

Paragraph 1. The authority citation for part 300 continues to read in part as follows:

Authority: 31 U.S.C. 9701.

Par. 2. Section 300.0 is amended by:

1. Redesignating paragraph (b)(9) as paragraph (b)(12).
2. Adding new paragraph (b)(9).

3. Adding paragraphs (b)(10) and (b)(11).

The additions and revisions read as follows.

§300.0 User fees; in general.

* * * * *

(b) * * *

(9) Taking the special enrollment examination to become an enrolled retirement plan agent.

(10) Enrolling an enrolled retirement plan agent.

(11) Renewing the enrollment of an enrolled retirement plan agent.

* * * * *

Par. 3. Section 300.4 is amended by revising the heading to read as follows:

§300.4 Enrolled agent special enrollment examination fee.

* * * * *

Par. 4. Section 300.5 is amended by revising paragraphs (b) and (d) to read as follows:

§300.5 Enrollment of enrolled agent fee.

* * * * *

(b) *Fee.* The fee for initially enrolling as an enrolled agent with the IRS is \$30.

* * * * *

(d) *Effective/applicability date.* This section is applicable beginning April 19, 2011.

Par. 5. Section 300.6 is amended by revising paragraphs (b) and (d) to read as follows:

§300.6 Renewal of enrollment of enrolled agent fee.

* * * * *

(b) *Fee.* The fee for renewal of enrollment as an enrolled agent with the IRS is \$30.

* * * * *

(d) *Effective/applicability date.* This section is applicable beginning April 19, 2011.

Par. 6. Redesignate §300.9 as §300.12.

§300.9 [Redesignated as §300.12]

Par. 7. Add new §300.9 to read as follows:

§300.9 Enrolled retirement plan agent special enrollment examination fee.

(a) *Applicability.* This section applies to the special enrollment examination to become an enrolled retirement plan agent pursuant to 31 CFR 10.4(b).

(b) *Fee.* The fee for taking the enrolled retirement plan agent special enrollment examination is \$11 per part, which is the cost to the government for overseeing the examination and does not include any fees charged by the administrator of the examination.

(c) *Person liable for the fee.* The person liable for the enrolled retirement plan agent special enrollment examination fee is the applicant taking the examination.

(d) *Effective/applicability date.* This section is applicable beginning April 19, 2011.

Par. 8. Section 300.10 is added to read as follows:

§300.10 Enrollment of enrolled retirement plan agent fee.

(a) *Applicability.* This section applies to the initial enrollment of enrolled retirement plan agents with the IRS pursuant to 31 CFR 10.5(b).

(b) *Fee.* The fee for initially enrolling as an enrolled retirement plan agent with the IRS is \$30.

(c) *Person liable for the fee.* The person liable for the enrollment fee is the applicant filing for enrollment as an enrolled retirement plan agent with the IRS.

(d) *Effective/applicability date.* This section is applicable beginning April 19, 2011.

Par. 9. Section 300.11 is added to read as follows:

§300.11 Renewal of enrollment of enrolled retirement plan agent fee.

(a) *Applicability.* This section applies to the renewal of enrollment of enrolled retirement plan agents with the IRS pursuant to 31 CFR 10.5(b).

(b) *Fee.* The fee for renewal of enrollment as an enrolled retirement plan agent with the IRS is \$30.

(c) *Person liable for the fee.* The person liable for the renewal of enrollment fee is the person renewing enrollment as an enrolled retirement plan agent with the IRS.

(d) *Effective/applicability date.* This section is applicable beginning April 19, 2011.

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

Approved April 13, 2011.

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

(Filed by the Office of the Federal Register on April 14, 2011, 4:15 p.m., and published in the issue of the Federal Register for April 19, 2011, 76 F.R. 21805)

Part III. Administrative, Procedural, and Miscellaneous

Extension of Interim Guidance on Section 67 Limitations on Estates or Trusts

Notice 2011-37

PURPOSE

This notice extends to taxable years that begin before the date that final regulations under § 1.67-4 of the Income Tax Regulations are published in the **Federal Register**, the interim guidance provided in Notice 2010-32, 2010-16 I.R.B. 594, Notice 2008-116, 2008-52 I.R.B. 1372, and Notice 2008-32, 2008-11 I.R.B. 593, on the treatment under § 67 of the Internal Revenue Code of investment advisory costs and other costs subject to the 2-percent floor under § 67(a) that are integrated as part of one commission or fee paid to a trustee or executor (“Bundled Fiduciary Fee”) and are incurred by a trust other than a grantor trust (nongrantor trust) or an estate. Notice 2010-32 is modified and superseded.

BACKGROUND

On January 16, 2008, the Supreme Court of the United States issued its decision in *Michael J. Knight, Trustee of William L. Rudkin Testamentary Trust v. Commissioner*, 552 U.S. 181, 128 S. Ct. 782 (2008), holding that costs paid to an investment advisor by a nongrantor trust or estate generally are subject to the 2-percent floor for miscellaneous itemized deductions under § 67(a). The IRS and the Treasury Department expect to issue regulations under § 1.67-4 consistent with the Supreme Court’s holding in *Knight*. The regulations also will address the issue raised when a nongrantor trust or estate pays a Bundled Fiduciary Fee for costs incurred in-house by the fiduciary, some of which are subject to the 2-percent floor and some of which are fully deductible without regard to the 2-percent floor. The IRS and Treasury Department intend that final regulations will not be applicable to taxable years that begin before the date that final regulations are published in the **Federal Register**.

Notice 2008-32 provided interim guidance that specifically addressed the treat-

ment of a Bundled Fiduciary Fee. In short, Notice 2008-32 provided that taxpayers would not be required to determine the portion of a Bundled Fiduciary Fee that is subject to the 2-percent floor under § 67 for any taxable year beginning before January 1, 2008. Notice 2008-116 extended the interim guidance provided in Notice 2008-32 to any taxable years beginning before January 1, 2009, and Notice 2010-32 extended the interim guidance provided in Notice 2008-116 and Notice 2008-32 to taxable years beginning before January 1, 2010.

EXTENSION OF INTERIM GUIDANCE

Taxpayers will not be required to determine the portion of a Bundled Fiduciary Fee that is subject to the 2-percent floor under § 67 for any taxable year beginning before the date that final regulations are published in the **Federal Register**. Instead, for each such taxable year, taxpayers may deduct the full amount of the Bundled Fiduciary Fee without regard to the 2-percent floor. Payments by the fiduciary to third parties for expenses subject to the 2-percent floor are readily identifiable and must be treated separately from the otherwise Bundled Fiduciary Fee.

EFFECT ON OTHER DOCUMENTS

Notice 2010-32 is modified and superseded.

CONTACT INFORMATION

The principal author of this notice is Jennifer N. Keeney of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Jennifer N. Keeney at (202) 622-3060.

Truncating Social Security Numbers on Paper Payee Statements

Notice 2011-38

SECTION 1. PURPOSE

This notice announces an extension and modification of the pilot program

announced in Notice 2009-93, 2009-51 I.R.B. 863, which authorized filers of certain information returns to truncate an individual payee’s nine-digit identifying number on specified paper payee statements furnished for calendar years 2009 and 2010, if the filers met certain requirements. This notice extends the pilot program as to paper payee statements furnished for calendar years 2011 and 2012, in order to allow more time for the IRS and taxpayers to evaluate the program. This notice also modifies the requirements announced in Notice 2009-93 by excluding Form 1098-C, *Contributions of Motor Vehicles, Boats, and Airplanes*, from the pilot program as it is an “acknowledgment” required by section 170(f)(12), rather than a payee statement. Therefore it is not included in the scope of this pilot program.

SECTION 2. BACKGROUND

An information return is a return, statement, form, or other document that must be filed with the IRS to report certain payments or distributions to a payee or amounts received from a payee in a calendar year. See section 6724(d)(1); Treas. Reg. § 301.6721-1(g)(1). A filer is any person required to file an information return. See Treas. Reg. § 301.6721-1(g)(6). A payee is any person who is required to receive a copy of the information set forth on an information return by the filer of the return. See Treas. Reg. § 301.6721-1(g)(5). A filer generally must also furnish a payee statement to each payee that contains the same information as the information return for that payee. See section 6724(d)(2); Treas. Reg. § 301.6722-1(d)(2). Generally, filers are required to furnish payee statements to payees on or before January 31st of the year following the calendar year for which the information return is made. See, e.g., sections 6041(d) and 6042(c). Filers may be subject to penalties for failure to file correct information returns or furnish correct payee statements. See sections 6721 and 6722.

Regulations, forms, or instructions to forms typically require that the payee statement include the identifying number of the payee. The three types of identi-

ifying numbers applicable to individuals are social security numbers, IRS individual taxpayer identification numbers, and IRS adoption taxpayer identification numbers. All three of these identifying numbers are nine-digit numbers taking the form 000-00-0000. Treas. Reg. § 301.6109-1(a)(1)(i).

A person's identifying number is sensitive personal information. A risk exists that this information could be misappropriated from a paper payee statement and misused in various ways, such as to facilitate identity theft.

SECTION 3. SCOPE

This notice applies only to paper payee statements in the Form 1098 series (excluding Form 1098-C, *Contributions of Motor Vehicles, Boats, and Airplanes*), Form 1099 series, and Form 5498 series. Substitute and composite substitute statements (within the meaning of Treas. Reg. § 301.6722-1(a)(1)) that meet the requirements of this notice are also included. See Rev. Proc. 2009-49, 2009-51 I.R.B. 879.

This notice does not apply to any information return filed with the IRS, any payee statement furnished electronically, or any payee statement not specified in this notice.

During this extended pilot program, truncation will be permitted only for individual identifying numbers on the paper payee statements specified in this section. Truncation of payee employer identification numbers (EINs) or filer identifying numbers is not permitted. Truncation of identifying numbers is not permitted on information returns filed with the IRS or on any payee statements furnished electronically.

SECTION 4. REQUIREMENTS

A filer must satisfy the requirements set forth in this section to be authorized to truncate identifying numbers for individuals on the paper payee statements for calendar years 2011 and 2012. The IRS will treat a filer as having satisfied any requirement in Treasury and IRS guidance, whether in a regulation, form, or form instructions, to include a payee's identifying number on a paper payee statement if the following requirements are met:

.01 The identifying number is a social security number, IRS individual taxpayer

identification number, or IRS adoption taxpayer identification number;

.02 The identifying number is truncated by replacing the first five digits of the nine-digit number with asterisks or Xs (for example, a social security number 123-45-6789 would appear on the paper payee statement as ***-**-6789 or XXX-XX-6789); and

.03 The truncated identifying number appears on a paper payee statement (including substitute and composite substitute statements) in the Form 1098 series (excluding Form 1098-C, *Contributions of Motor Vehicles, Boats, and Airplanes*), Form 1099 series, or Form 5498 series for calendar years 2011 and 2012.

Truncation of an identifying number on a paper payee statement in the manner set forth in this Section 4 is authorized notwithstanding calendar year 2011 form instructions that state that the pilot program announced in Notice 2009-93 has expired.

SECTION 5. EFFECTIVE DATE

This notice is effective upon release.

SECTION 6. REQUEST FOR COMMENTS

The IRS invites the public to submit comments on this notice by July 29, 2011, and is particularly interested in comments from payors that furnished paper payee statements with truncated identifying numbers under the original pilot program as well as comments from payees that received paper payee statements with truncated identifying numbers for either calendar year 2009 or 2010. The IRS is interested in learning about issues encountered by payors and payees alike. The IRS also welcomes comments on whether payors should be allowed to truncate a payee's EIN, whether truncation should be permitted on additional types of payee statements, and whether payors should be allowed to truncate a payee's identifying number on electronically furnished payee statements.

Comments should be submitted to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2011-38), Room 5203, P.O. Box 7604, Ben Franklin Station, N.W., Washington, D.C. 20044. Alternatively, comments may be hand delivered between the

hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, to CC:PA:LPD:PR (Notice 2011-38), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. Comments may also be transmitted electronically via the following e-mail address: Notice.Comments@irs.counsel.treas.gov. Please include "Notice 2011-38" in the subject line of any electronic communications. All comments will be available for public inspection and copying.

SECTION 7. DRAFTING INFORMATION

The principal author of this notice is Tammie A. Geier of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, please contact Tammie A. Geier at (202) 622-4940 (not a toll-free call).

Public Comment Invited on Recommendations for 2011-2012 Guidance Priority List

Notice 2011-39

The Department of Treasury and Internal Revenue Service invite public comment on recommendations for items that should be included on the 2011-2012 Guidance Priority List.

The Treasury Department's Office of Tax Policy and the Service use the Guidance Priority List each year to identify and prioritize the tax issues that should be addressed through regulations, revenue rulings, revenue procedures, notices, and other published administrative guidance. The 2011-2012 Guidance Priority List will establish the guidance that the Treasury Department and the Service intend to issue from July 1, 2011, through June 30, 2012. The Treasury Department and the Service recognize the importance of public input to formulate a Guidance Priority List that focuses resources on guidance items that are most important to taxpayers and tax administration. Published guidance plays an important role in increasing voluntary compliance by helping to clarify ambiguous areas of the tax law.

As is the case whenever significant legislation is enacted, the Treasury Department and the Service have continued to dedicate substantial resources during the current plan year to published guidance projects necessary to implement the provisions of the multitude of tax Acts that have been enacted over the past several years including, but not limited to, the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111–5, 123 Stat. 115, which was enacted on February 17, 2009; the Hiring Incentives to Restore Employment Act, Pub. L. No. 111–147, 124 Stat. 71, which was enacted on March 18, 2010; the Patient Protection and Affordable Care Act, Pub. L. No. 111–148, 124 Stat. 119, which was enacted on March 23, 2010; the Health Care and Education Reconciliation Act, Pub. L. 111–152, 124 Stat. 1029, which was enacted on March 30, 2010; and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111–312, 124 Stat. 3296, which was enacted on December 17, 2010. The Treasury Department and the Service will continue to evaluate the priority of each guidance project in light of the above-mentioned tax legislation and other developments occurring during the 2011–2012 plan year.

In reviewing recommendations and selecting projects for inclusion on the 2011–2012 Guidance Priority List, the Treasury Department and the Service will consider the following:

1. Whether the recommended guidance resolves significant issues relevant to many taxpayers;
2. Whether the recommended guidance promotes sound tax administration;
3. Whether the recommended guidance can be drafted in a manner that will enable taxpayers to easily understand and apply the guidance;
4. Whether the recommended guidance involves regulations that are outmoded, ineffective, insufficient, or excessively burdensome and that should be modified, streamlined, expanded, or repealed;
5. Whether the Service can administer the recommended guidance on a uniform basis; and

6. Whether the recommended guidance reduces controversy and lessens the burden on taxpayers or the Service.

Taxpayers may submit recommendations for guidance at any time during the year. Please submit recommendations by June 1, 2011, for possible inclusion on the original 2011–2012 Guidance Priority List. The Treasury Department and the Service may update the 2011–2012 Guidance Priority List periodically to reflect additional guidance that the Treasury Department and the Service intend to publish during the plan year. The periodic updates allow the Treasury Department and the Service to respond to the need for additional guidance that may arise during the plan year. Recommendations for guidance received after June 1, 2011, will be reviewed for inclusion in the next periodic update.

Taxpayers are not required to submit recommendations for guidance in any particular format. Taxpayers should, however, briefly describe the recommended guidance and explain the need for the guidance. In addition, taxpayers may include an analysis of how the issue should be resolved. It would be helpful if taxpayers suggesting more than one guidance project prioritize the projects by order of importance. If a large number of projects are being suggested, it also would be helpful if the projects were grouped in terms of high, medium or low priority.

Taxpayers should send written comments to:

Internal Revenue Service
Attn: CC:PA:LPD:PR
(Notice 2011–39)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

or hand deliver comments Monday through Friday between the hours of 8 a.m. and 4 p.m. to:

Courier’s Desk
Internal Revenue Service
Attn: CC:PA:LPD:PR
(Notice 2011–39)
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Alternatively, taxpayers may submit comments electronically via

e-mail to the following address: Notice.Comments@irs.counsel.treas.gov. Taxpayers should include “Notice 2011–39” in the subject line. All comments submitted by the public will be available for public inspection and copying in their entirety.

For further information regarding this notice, contact Henry Schneiderman of the Office of Associate Chief Counsel (Procedure and Administration) at (202) 622–3400 (not a toll-free call).

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.

Rev. Proc. 2011–24

SECTION 1. PURPOSE

This revenue procedure establishes a dispute resolution process for the preliminary fee calculation for the 2011 annual fee imposed on covered entities engaged in the business of manufacturing or importing branded prescription drugs. The fee was enacted 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 revenue procedure to section 9008 are references to section 9008 of the ACA, as amended by section 1404 of HCERA.

SECTION 2. BACKGROUND

.01 Section 9008 imposes an annual fee on each covered entity with gross receipts of over \$5 million from branded prescription drug sales to any specified government program or pursuant to coverage under such program (branded prescription drug sales). A covered entity is generally any manufacturer or importer with gross receipts from branded prescription drug sales. Multiple related manufacturers or importers may be treated as a single covered entity under certain circumstances. See §9008(d)(2) and Part 1 of Notice 2011–9, 2011–6 I.R.B. 459. The specified government programs are the Medicare Part D program, the Medicare Part B

program, the Medicaid program, and any program under which branded prescription drugs are procured by the Department of Veterans Affairs (VA), Department of Defense (DOD), and DOD's TRICARE retail pharmacy program (the Programs). Fees collected under section 9008 are credited to the Medicare Part B trust fund.

.02 Section 9008 sets the aggregate annual fee for all covered entities. For 2011, the aggregate fee is \$2.5 billion. This aggregate fee is apportioned among the covered entities for each year based on each covered entity's proportionate share of branded prescription drug sales that are taken into account during the previous calendar year. The Secretary of the Treasury is to establish an annual payment date that is no later than September 30 of each year.

.03 Special rules in section 9008 exclude sales of certain orphan drugs from "branded prescription drug sales"; provide that a covered entity's branded prescription drug sales between \$5 million and \$400 million will only partially be taken into account in determining a covered entity's proportionate share of sales; and provide a controlled group rule so that all persons that are treated as a single employer under certain provisions of the Internal Revenue Code (Code) will be treated as a single covered entity.

.04 Section 9008 requires the Secretary of Health and Human Services, the Secretary of Veterans Affairs, and the Secretary of Defense (the Agencies) to report to the Secretary of the Treasury, at such time and in such manner as the Secretary of the Treasury prescribes, the total branded prescription drug sales under each Secretary's jurisdiction. The provision includes the detailed information to be included in the reports by the respective Secretaries for each specified government program.

.05 In Notice 2011-9, the Treasury Department and the Internal Revenue Service (IRS) described a proposed methodology for calculating the section 9008 fee and the approach that the IRS will use to perform a preliminary 2011 fee calculation for each covered entity. The IRS will mail each covered entity notification of its preliminary fee calculation for 2011 by May 16, 2011. (The IRS requested that comments on this notice be submitted by June 15, 2011.) Under that methodology, the IRS will calculate each covered entity's fee for 2011 using data from the

2009 sales year. As set forth in Notice 2011-9, the IRS asked covered entities to submit a Form 8947, *Report of Branded Prescription Drug Information*, to the IRS by February 11, 2011, to provide data on branded prescription drugs, orphan drugs, and rebates. In addition, any controlled group treated as a single covered entity under section 9008(d)(2) was asked to identify on Form 8947 a single person as the "designated entity" to act for the controlled group with respect to the section 9008 fee.

.06 From the data on the Forms 8947, the IRS compiled a list of National Drug Codes (NDCs) for branded prescription drugs sold to the Programs and, after appropriate due diligence, provided that list to the Agencies. The Agencies provided sales data to the IRS on the branded prescription drug sales for the 2009 sales year by Program and NDC.

.07 After receiving the sales data from the Agencies, the IRS will make adjustments for orphan drug sales and rebates, and then calculate each covered entity's branded prescription drug sales taken into account for purposes of the ratio set forth in section 9008(b)(1). The IRS will then provide a preliminary fee calculation for 2011 for each covered entity by dividing each covered entity's branded prescription drug sales taken into account under section 9008(b)(2) by the aggregate branded prescription drug sales taken into account for all covered entities and multiplying that fraction by the applicable amount for the year as set forth in section 9008(b)(4). The IRS will mail each covered entity notification of its preliminary fee calculation for 2011 by May 16, 2011.

.08 The notification of the preliminary fee calculation for 2011 will include: (1) the covered entity's preliminary fee calculation; (2) the covered entity's branded prescription drug sales for 2009, by NDC, for each Program; (3) the covered entity's branded prescription drug sales for 2009 taken into account after application of section 9008(b)(2); and (4) the aggregate branded prescription drug sales for 2009 taken into account for all covered entities. Covered entities will be able to review this information before the June 15, 2011, deadline for commenting on the methodology proposal in Notice 2011-9.

.09 The IRS will mail a final fee calculation for 2011 to each covered entity by August 15, 2011, and payment of the fee

from each covered entity will be due no later than September 30, 2011.

SECTION 3. SCOPE

This revenue procedure provides the process a covered entity may use to dispute what it believes are errors in its 2011 preliminary fee calculation. This is the exclusive process available to covered entities to dispute the preliminary fee calculation and obtain any change to data that would be reflected in the final fee calculation mailed by the IRS by August 15, 2011.

SECTION 4. PROCEDURES FOR DISPUTING A 2011 PRELIMINARY FEE CALCULATION

.01 *Submission of claimed error(s) to the IRS*

Upon receipt of the notification that contains its 2011 preliminary fee calculation from the IRS, a covered entity should review the data contained in the notification. If the covered entity believes that the notification contains one or more errors in the mathematical calculation of the fee, the orphan drug or rebate data, the Program drug sales data, or any other error, the covered entity must provide a written error report to the IRS postmarked by June 1, 2011, in order for a correction to the claimed error(s) to be considered by the IRS. If a designated entity filed a Form 8947 on behalf of the covered entity, the designated entity must also file any error report for the covered entity.

.02 *Program drug sales data errors*

If a covered entity asserts that there has been one or more errors in drug sales data, the entity must submit a separate error report for each Program with its asserted errors. Each report must include the following information:

(1) Entity name, entity number (if applicable, from Part I(a) of the Form 8947), address, and Employer Identification Number (EIN) as previously reported on the Form 8947.

(2) The name, telephone number, and e-mail address (if available) of one or more employees or representatives of the entity with whom the Agencies may discuss the claimed errors. If the representative is not an employee of the entity, a Form 2848, *Power of Attorney and Declaration of Rep-*

representative, must be filed with the error report.

(3) The name of the Program that reported the data, the NDC, the specific amount of sales data disputed, the proposed corrected amount, an explanation of why the Agency should use the proposed corrected data instead, and documentation of any Program drug sales data or other information used to establish the existence of any errors.

.03 Errors other than Program drug sales errors

If a covered entity asserts that there has been one or more errors in the mathematical calculation of the fee, the rebate data, the listing of an NDC for an orphan drug, or any other error (other than Program drug sales data errors), the entity must submit one error report, separated into sections by type of error, and must include the following information:

(1) Entity name, entity number (if applicable, from Part I(a) of the Form 8947), address, and Employer Identification Number (EIN) as previously reported on the Form 8947.

(2) The name, telephone number, and e-mail address (if available) of one or more employees or representatives of the entity with whom the IRS and/or the Agencies may discuss the claimed errors. If the representative is not an employee of the entity, a Form 2848, *Power of Attorney and Declaration of Representative*, must be filed with the error report.

(3) For a mathematical calculation error, the specific calculation element(s) that the entity disputes and its proposed corrected calculation.

(4) For a rebate data error, the NDC for the drug to which it relates; a discussion of whether the data used in the preliminary fee calculation matches previously reported Form 8947 data on rebates; and if the data used in the preliminary fee calculation does match the Form 8947 data, an explanation of why the Form 8947 data was erroneous and why the IRS should use the proposed corrected data instead.

(5) For the listing of an NDC for an orphan drug, the name and NDC of the orphan drug; a discussion of whether the data used in the preliminary fee calculation matches previously reported Form 8947 data on orphan drugs; and if the data used in the preliminary fee calculation does match the Form 8947 data, an expla-

nation of why the Form 8947 data was erroneous and why the IRS should use the proposed corrected data instead.

(6) For any other asserted error, an explanation of the nature of the error, how the error affects the fee calculation, an explanation of how the entity established that an error occurred, the proposed correction to the error, and an explanation of why the IRS or Agency should use the proposed corrected data instead.

(7) If an entity is using data to establish the existence of an error and that data was not reported on Form 8947 or contained in the notification of the preliminary fee calculation, a description of what the data is, how the entity acquired the data, and who maintains it.

(8) Documentation of any rebate and orphan drug data, or other information used to establish the existence of any errors.

.04 Form and manner of submission

(1) Each covered entity must submit its error report(s) in the following format and manner:

(a) All error reports and the supporting documentation must be submitted on a single CD-ROM.

(b) A separate folder must be created for each Program with asserted drug sales data errors and the corresponding files for each Program placed in the Program folder. (For example, a Microsoft Excel spreadsheet file with drug sales data errors for the Medicaid program must be separate from a Microsoft Excel spreadsheet file with drug sales data errors for the Medicare Part D program). The folder and file names of the Microsoft Excel, Word, or Adobe files must include the name of the Program to which the asserted errors will be communicated. Asserted errors in Program drug sales data must be presented in a Microsoft Excel spreadsheet file (no version newer than 2007) in a format consistent with the data format from Attachment 2 of the Preliminary Fee Calculation Letter (the IRS will mail these letters (Letter 4657) by May 16, 2011) showing the amount reported by the Program and the corresponding amount asserted by the covered entity, with the difference between the two.

(c) Asserted errors in mathematical calculations, rebate data, an NDC listing for an orphan drug, or any other asserted errors must be submitted on a separate Microsoft Excel spreadsheet file (no version newer

than 2007). This spreadsheet file must be placed in a folder separate from the Program sales data folder(s). The folder and file names must distinguish these items from the Program sales data folder and files. These folders must also contain the corresponding files for the asserted errors.

(d) A separate narrative for each Microsoft Excel spreadsheet file must be submitted and must be in Microsoft Word format (no version newer than 2007).

(e) Supporting documentation for each Microsoft Excel spreadsheet file must be in Adobe Portable Document Format (no version newer than 8.0), if not available in Microsoft Word or Excel format.

(2) A covered entity must also provide an additional copy of its error report(s) and supporting documentation in a separate folder labeled "IRS Comprehensive Error Report."

.05 Alternative Formats

Formats for submission other than Microsoft Word or Excel, or Adobe Portable Document format may be arranged on a case-by-case basis, if necessary, by contacting the first IRS representative listed in Section 6 of this revenue procedure.

.06 Address for submission

Error reports and all supporting documentation must be mailed to:

Department of the Treasury
Internal Revenue Service
1973 N. Rulon White Boulevard,
Mail Stop 4916
Ogden, UT 84404

SECTION 5. REVIEW OF CLAIMED ERROR(S)

.01 In general

If a claimed error involves a mathematical calculation or a correction to orphan drug or rebate data, the IRS will review the information and determine whether to make a correction. If a claimed error involves drug sales data provided by a Program, the IRS will provide the information sent by the covered entity to the Agency with jurisdiction over the appropriate Program to determine whether to make a correction. For any other claimed error, the IRS will review the information and determine whether the IRS or an Agency should determine whether to make a correction.

.02 Period of review of error reports and notification of final determinations

(1) The IRS and the Agencies will review the error reports to determine whether to make the proposed corrections to the covered entity's preliminary fee calculation for 2011. The IRS will rely exclusively on the Agencies to make determinations with respect to any proposed corrections to the Program drug sales data. The IRS will notify the covered entity in writing of the final determination with respect to error reports when the IRS sends the covered entity the final fee calculation no later than August 15, 2011.

(2) The IRS will base a covered entity's final fee determination solely on the data used for the preliminary fee calculation together with any adjustments to that data made as a result of the dispute resolution process described in this revenue procedure. To the extent any covered entity's preliminary fee calculation is changed as a result of the dispute resolution process, the final fee calculation for one or more covered entities may differ from the preliminary fee calculations those entities previously received. Any such changes will be reflected in the covered entity's final fee calculation for 2011.

SECTION 6. CONTACT INFORMATION

For questions regarding this dispute resolution process, contact Lou Milano at (908) 301-2118 (not a toll-free call). For all other questions regarding this revenue procedure, contact Celia Gabrysh at (202) 622-3130 (not a toll-free call).

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective May 2, 2011.

SECTION 8. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-2209.

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

The collections of information in this revenue procedure are in section 4.

This information is required to evaluate whether an error report regarding a preliminary fee calculation is valid and justifies an adjustment to the preliminary fee calculation. The likely respondents are businesses.

The estimated total annual reporting and/or recordkeeping burden of this revenue procedure is 4,760 hours.

The estimated annual burden per respondent/recordkeeper varies from 8 hours to 64 hours, depending on individual circumstances, with an estimated average burden of 40 hours. The estimated number of respondents and/or record keepers is 119.

The estimated frequency of responses is annual.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of the branded prescription drug fee and any related internal revenue law. Generally, this information is confidential, as required by 26 U.S.C. § 6103.

Part IV. Items of General Interest

Guidance on Reporting Interest Paid to Nonresident Aliens; Hearing

Announcement 2011–30

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document contains a rescheduled notice of public hearing on a notice of proposed rulemaking (REG–146097–09, 2011–8 I.R.B. 516) that was published in the **Federal Register** on Friday, January 7, 2011 (76 FR 1105) providing guidance on the reporting requirements for interest on deposits maintained at U.S. offices of certain financial institutions and paid to nonresident alien individuals.

DATES: The public hearing is being rescheduled from Monday, April 25, 2011 to Wednesday, May 18, 2011, at 10 a.m.

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–146097–09), 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–146097–09), 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, Kathryn Holman at (202) 622–3840; 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 in the notice of proposed rulemaking (REG–146097–09) that was published in the **Federal Register** on Friday, January 7, 2011 (76 FR 1105).

Persons, who wish to present oral comments at the hearing that submitted written comments, must have submitted 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 Friday, April 8, 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 April 19, 2011, 8:45 a.m., and published in the issue of the Federal Register for April 20, 2011, 76 F.R. 22064)

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 List¹

Bulletin 2011–1 through 2011–20

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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.

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