

Internal Revenue bulletin

Bulletin No. 2012-7
February 13, 2012

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.

EXEMPT ORGANIZATIONS

Rev. Proc. 2012-11, page 368.

This procedure sets forth procedures for issuing determination letters and rulings on the exempt status of qualified nonprofit health insurance issuers described in section 501(c)(29) of the Code.

ADMINISTRATIVE

Rev. Proc. 2012-15, page 369.

This procedure updates Rev. Proc. 2011-13, 2011-3 I.R.B. 318, and identifies circumstances under which the disclosure on a taxpayer's income tax return with respect to an item or a position is adequate for the purpose of reducing the understatement of income tax under section 6662(d) of the Code and the purpose of avoiding the tax return preparer penalty under section 6694(a).

Announcement 2012-9, page 377.

This document contains a correction to Announcement 2011-63, 2011-41 I.R.B. 503, which contained an incorrect name in the Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code.

Announcements of Disbarments and Suspensions begin on page 373.
Finding Lists begin on page ii.



Department of the Treasury
Internal Revenue Service

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.

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Part III. Administrative, Procedural, and Miscellaneous

26 CFR 1.501(c)(29)-1T: CO-OP health insurance issuers (temporary).

Rev. Proc. 2012-11

SECTION 1. PURPOSE

This revenue procedure sets forth procedures for issuing determination letters and rulings on the exempt status of qualified nonprofit health insurance issuers (QNHIs) described in § 501(c)(29) of the Internal Revenue Code (Code).

SECTION 2. BACKGROUND

Section 501(c)(29) of the Code provides requirements for tax-exemption under § 501(a) for QNHIs. Section 501(c)(29) was added to the Code by § 1322(h)(1) of the Patient Protection and Affordable Care Act, Public Law 111-148 (March 23, 2010) (Affordable Care Act).

Section 1322 of the Affordable Care Act directs the Centers for Medicare and Medicaid Services (CMS) to establish the Consumer Operated and Oriented Plan program (CO-OP program). The purpose of the CO-OP program is to foster the creation of member-governed QNHIs that will operate with a strong consumer focus and offer qualified health plans in the individual and small group markets. CMS will provide loans and repayable grants (collectively loans) to organizations applying to become QNHIs to help cover start-up costs and meet any solvency requirements in States in which the organization is licensed to issue qualified health plans. A Funding Opportunity Announcement for the CO-OP program (CFDA Number 93.545), published by CMS on July 28, 2011 (and amended on September 16, 2011), provides that for each loan, the appropriate CMS official will issue a Notice of Award and Loan Agreement to the QNHII. In addition, the Chief Executive Officer of the QNHII, or an officer of the QNHII's Board of Directors, must sign and return the Loan Agreement to CMS. On December 13, 2011, CMS issued final regulations implementing the CO-OP program at 76 FR 77392.

The CMS final regulations define a QNHII as an entity that, within specified time frames, satisfies or can reasonably

be expected to satisfy the standards in § 1322(c) of the Affordable Care Act and in the CMS final regulations. The entity will constitute a QNHII until such time as CMS determines that the entity does not satisfy or cannot reasonably be expected to satisfy these standards.

Section 501(c)(29)(A) provides that a QNHII (within the meaning of § 1322(c) of the Affordable Care Act) which has received a loan or grant under the CO-OP program may be recognized as exempt from taxation under § 501(a), but only for periods for which the organization is in compliance with the requirements of § 1322 of the Affordable Care Act and of any loan agreement with the Secretary of Health and Human Services. Section 501(c)(29)(B) provides that a QNHII will not qualify for tax-exemption unless it meets four additional requirements, the first of which is that the organization must give notice to the Secretary of the Treasury, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of exemption as an organization described in § 501(c)(29). On February 7, 2012, the Treasury Department and the IRS issued temporary regulations at 77 FR 6005 authorizing the IRS to prescribe the procedures by which QNHIs may apply to the IRS for recognition of exemption from Federal income tax. The temporary regulations also authorize the IRS to recognize a QNHII as exempt effective as of the later of the date of the QNHII's formation or March 23, 2010 (the date of enactment of the Affordable Care Act), provided that the application is submitted in the manner and within the time prescribed by the IRS and the QNHII's prior purposes and activities were consistent with the requirements for exempt status under § 501(c)(29).

SECTION 3. RELATED REVENUE PROCEDURES

QNHIs seeking recognition of exemption under § 501(c)(29) should follow this revenue procedure and, to the extent not inconsistent with this revenue procedure, Rev. Proc. 2012-9, 2012-2 I.R.B. 261, or its successor revenue procedure. User fees for requests for a determination letter or ruling are set forth in Rev. Proc.

2012-8, 2012-1 I.R.B. 235, or its successor revenue procedure.

SECTION 4. WHAT ARE THE PROCEDURES FOR REQUESTING RECOGNITION OF EXEMPT STATUS UNDER § 501(c)(29)

.01 Letter application.

A QNHII seeking recognition of exemption under § 501(c)(29) must submit a letter application (rather than a form) with Form 8718, *User Fee for Exempt Organization Determination Letter Request*, and include the appropriate user fee. For more information on the user fee, see Rev. Proc. 2012-8, 2012-1 I.R.B. 235, or its successor revenue procedure. The request should be mailed to:

IRS-TEGE
P.O. Box 2508
Cincinnati, OH 45201

.02 Requirements for a substantially completed letter application.

A QNHII seeking recognition of exemption under § 501(c)(29) must comply with the requirements for a substantially completed letter application set forth in this section rather than the requirements set forth in § 3.08 of Rev. Proc. 2012-9, 2012-2 I.R.B. 261, or its successor revenue procedure.

A substantially completed letter application for recognition of exemption under § 501(c)(29) must be signed by an authorized individual and must be accompanied by the following declaration: "Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts relating to the request, and such facts are true, correct, and complete."

A substantially completed letter application also must include:

(1) the QNHII's Employer Identification Number (EIN).

(2) a statement of receipts and expenditures and a balance sheet for the current year and the three preceding years (or the years the QNHII was in existence, if less than four years). If the QNHII has

not yet commenced operations, or has not completed one accounting period, a substantially completed application generally must include a proposed budget for two full accounting periods and a current statement of assets and liabilities.

(3) a detailed narrative statement of the QNHII's past and proposed activities and a narrative description of the QNHII's actual and anticipated receipts and contemplated expenditures.

(4) a copy of the QNHII's organizing or enabling document that has been filed with and certified by an appropriate official of a State authority (e.g., stamped "Filed" and dated by the Secretary of State). Alternatively, if the QNHII is not required to file its organizing or enabling documents with a State authority, the organization may submit a copy of the organizing or enabling document that meets the requirements of a "conformed copy" as outlined in Rev. Proc. 68-14, 1968-1 C.B. 768.

(5) a current copy of the QNHII's by-laws, if applicable, or any similar governing documents.

(6) a copy of both the Notice of Award issued by CMS and the fully executed Loan Agreement with CMS.

(7) the following representations regarding the QNHII:

- Except to the extent allowed by § 1322(c)(4) of the Patient Protection and Affordable Care Act, no part of its net earnings inures to the benefit of any private shareholder or individual, or has so inured since the later of the date of formation or March 23, 2010;
- No substantial part of its activities constitutes, or has constituted since the later of the date of formation or March 23, 2010, carrying on propaganda, or otherwise attempting, to influence legislation; and
- It does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, nor has it so participated or intervened since the later of the date of formation or March 23, 2010.

(8) a subject line or other indicator on the first page of the request in bold, underlined, and/or all capitals font indi-

cating "**SECTION 501(c)(29) CO-OP HEALTH INSURANCE ISSUER.**"

(9) the correct user fee and Form 8718.

SECTION 5. EFFECT OF DETERMINATION LETTER OR RULING RECOGNIZING EXEMPTION

A determination letter or ruling recognizing exemption under § 501(c)(29) is usually effective as of the later of the date of the QNHII's formation or March 23, 2010 (the date of enactment of the Affordable Care Act) if:

- The QNHII's purposes and activities prior to the date of issuance of the determination letter or ruling were consistent with the requirements for exemption; and
- The QNHII submits a substantially completed letter application within 15 months of the date of its fully executed Loan Agreement with CMS.

If the Service requires the QNHII to alter its activities or make substantive amendments to its enabling instrument, exemption will be recognized effective as of the date specified in the determination letter or ruling. If the Service requires the QNHII to make a nonsubstantive amendment, exemption will ordinarily be recognized as of the later of the date of the QNHII's formation or March 23, 2010.

If a QNHII does not submit a substantially completed letter application within 15 months of the date of its fully executed Loan Agreement with CMS, it may not qualify for exempt status before the postmark date of the letter application.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective February 7, 2012.

SECTION 7. PAPERWORK REDUCTION ACT

The collection of information for a letter application under § 3.01 of this revenue procedure has been approved under OMB control number 1545-2080. See Rev. Proc. 2012-9, § 15.

DRAFTING INFORMATION

The principal author of this Revenue Procedure is Justin Lowe of the Exempt Organizations, Tax Exempt and Government Entities Division. For further information regarding this revenue procedure, contact Mr. Lowe at 202-283-9486 (not a toll-free call).

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

(Also: Part 1, §§ 6662, 6694, 1.6662-4, 1.6694-2.)

Rev. Proc. 2012-15

SECTION 1. PURPOSE

This revenue procedure updates Rev. Proc. 2011-13, 2011-3 I.R.B. 318, and identifies circumstances under which the disclosure on a taxpayer's income tax return with respect to an item or a position is adequate for the purpose of reducing the understatement of income tax under section 6662(d) of the Internal Revenue Code (relating to the substantial understatement aspect of the accuracy-related penalty), and for the purpose of avoiding the tax return preparer penalty under section 6694(a) (relating to understatements due to unreasonable positions) with respect to income tax returns. This revenue procedure does not apply with respect to any other penalty provisions (including the disregard provisions of the section 6662(b)(1) accuracy-related penalty, the section 6662(i) increased accuracy-related penalty in the case of nondisclosed noneconomic substance transactions, and the section 6662(j) increased accuracy-related penalty in the case of undisclosed foreign financial asset understatements).

This revenue procedure applies to any income tax return filed on 2011 tax forms for a taxable year beginning in 2011, and to any income tax return filed on 2011 tax forms in 2012 for short taxable years beginning in 2012.

SECTION 2. CHANGES FROM REV. PROC. 2011-13

.01 This revenue procedure has been updated to include reference to: (i) a correction to the reference to Schedule M-3

(Form 1120), Part III, and (ii) the employee-remuneration limitations under the amended section 162(m).

SECTION 3. BACKGROUND

.01 If section 6662 applies to any portion of an underpayment of tax required to be shown on a return, an amount equal to 20 percent of the portion of the underpayment to which the section applies is added to the tax (the penalty rate is 40 percent in the case of gross valuation misstatements under section 6662(h), nondisclosed noneconomic substance transactions under section 6662(i), or undisclosed foreign financial asset understatements under section 6662(j)). Section 6662(b)(2) applies to the portion of an underpayment of tax that is attributable to a substantial understatement of income tax.

.02 Section 6662(d)(1) provides that there is a substantial understatement of income tax if the amount of the understatement exceeds the greater of 10 percent of the amount of tax required to be shown on the return for the taxable year or \$5,000. Section 6662(d)(1)(B) provides a special rule for corporations. A corporation (other than an S corporation or a personal holding company) has a substantial understatement of income tax if the amount of the understatement exceeds the lesser of (i) 10 percent of the tax required to be shown on the return for a taxable year (or, if greater, \$10,000) or (ii) \$10,000,000. Section 6662(d)(2) defines an understatement as the excess of the amount of tax required to be shown on the return for the taxable year over the amount of the tax that is shown on the return reduced by any rebate.

.03 In the case of an item not attributable to a tax shelter, section 6662(d)(2)(B)(ii) provides that, if there is a reasonable basis for the tax treatment of the item by taxpayer, the amount of the understatement is reduced by the portion of the understatement attributable to any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

.04 Section 6694(a) imposes a penalty on a tax return preparer who prepares a return or claim for refund reflecting an understatement of liability due to an "unreasonable position" if the tax return preparer knew (or reasonably should have known)

of the position. A position (other than a position with respect to a tax shelter or a reportable transaction to which section 6662A applies) is generally treated as unreasonable unless (i) there is or was substantial authority for the position, or (ii) the position was properly disclosed in accordance with section 6662(d)(2)(B)(i)(I) and had a reasonable basis. If the position is with respect to a tax shelter (as defined in section 6662(d)(2)(C)(ii)) or a reportable transaction to which section 6662A applies, the position is treated as unreasonable unless it is reasonable to believe that the position would more likely than not be sustained on the merits. See Notice 2009-5, 2009-3 I.R.B. 309 (January 21, 2009) for interim penalty compliance rules for tax shelter transactions.

.05 In general, this revenue procedure provides guidance for determining when disclosure by return is adequate for purposes of section 6662(d)(2)(B)(ii) and section 6694(a)(2)(B). For purposes of this revenue procedure, the taxpayer must furnish all required information in accordance with the applicable forms and instructions, and the money amounts entered on these forms must be verifiable.

.06 Fiscal and short tax year returns. (a) In general. This revenue procedure may apply to a return for a fiscal tax year that begins in 2011 and ends in 2012. This revenue procedure may also apply to a short year return for a period beginning in 2012 if the return is to be filed before the 2012 forms are available. (Note that individuals are generally not put in this position as a decedent's final return for a fractional part of a year is due the fifteenth day of the fourth month following the close of the 12-month period which began with the first day of such fractional part of the year. See Treas. Reg. § 1.6072-1(b).) In the case of fiscal year and short year returns, the taxpayer must take into account any tax law changes that are effective for tax years beginning after December 31, 2011, even though these changes are not reflected on the form.

(b) Tax law changes effective after December 31, 2011. This document does not take into account the effect of tax law changes effective for tax years beginning after December 31, 2011. If a line referenced in this revenue procedure is affected by such a change and requires additional reporting, a taxpayer may have

to file Form 8275, *Disclosure Statement*, or Form 8275-R, *Regulation Disclosure Statement*, until the Service prescribes criteria for complying with the requirement.

.07 A complete and accurate disclosure of a tax position on the appropriate year's Schedule UTP, *Uncertain Tax Position Statement*, will be treated as if the corporation filed a Form 8275 or Form 8275-R regarding the tax position. The filing of a Form 8275 or Form 8275-R, however, will not be treated as if the corporation filed a Schedule UTP.

SECTION 4. PROCEDURE

.01 General

(1) Additional disclosure of facts relevant to, or positions taken with respect to, issues involving any of the items set forth below is unnecessary for purposes of reducing any understatement of income tax under section 6662(d) (except as otherwise provided in section 4.02(3) concerning Schedules M-1 and M-3), provided that the forms and attachments are completed in a clear manner and in accordance with their instructions.

(2) The money amounts entered on the forms must be verifiable, and the information on the return must be disclosed in the manner described below. For purposes of this revenue procedure, a number is verifiable if, on audit, the taxpayer can prove the origin of the amount (even if that number is not ultimately accepted by the Internal Revenue Service) and the taxpayer can show good faith in entering that number on the applicable form.

(3) The disclosure of an amount as provided in section 4.02 below is not adequate when the understatement arises from a transaction between related parties. If an entry may present a legal issue or controversy because of a related-party transaction, then that transaction and the relationship must be disclosed on a Form 8275 or Form 8275-R.

(4) When the amount of an item is shown on a line that does not have a preprinted description identifying that item (such as on an unnamed line under an "Other Expense" category), the taxpayer must clearly identify the item by including the description on that line. For example, to disclose a bad debt for a sole proprietorship, the words "bad debt" must be written or typed on the line of Schedule

C that shows the amount of the bad debt. Also, for Schedule M-3 (Form 1120), Part II, line 25, Other income (loss) items with differences, or Part III, line 37, Other expense/deduction items with differences, the entry must provide descriptive language; for example, "Cost of non-compete agreement deductible not capitalizable." If space limitations on a form do not allow for an adequate description, the description must be continued on an attachment.

(5) Although a taxpayer may literally meet the disclosure requirements of this revenue procedure, the disclosure will have no effect for purposes of the section 6662 accuracy-related penalty if the item or position on the return: (1) does not have a reasonable basis as defined in Treas. Reg. § 1.6662-3(b)(3); (2) is attributable to a tax shelter item as defined in section 6662(d)(2); or (3) is not properly substantiated or the taxpayer failed to keep adequate books and records with respect to the item or position.

(6) Disclosure also will have no effect for purposes of the section 6694(a) penalty as applicable to tax return preparers if the position is with respect to a tax shelter (as defined in section 6662(d)(2)(C)(ii)) or a reportable transaction to which section 6662A applies.

.02 Items

(1) Form 1040, Schedule A, *Itemized Deductions*:

(a) Medical and Dental Expenses: Complete lines 1 through 4, supplying all required information.

(b) Taxes: Complete lines 5 through 9, supplying all required information. Line 8 must list each type of tax and the amount paid.

(c) Interest Expenses: Complete lines 10 through 15, supplying all required information. This section 4.02(1)(c) does not apply to (i) amounts disallowed under section 163(d) unless Form 4952, *Investment Interest Expense Deduction*, is completed, or (ii) amounts disallowed under section 265.

(d) Contributions: Complete lines 16 through 19, supplying all required information. Enter the amount of the contribution reduced by the value of any substantial benefit (goods or services) provided by the donee organization in consideration, in whole or in part. Entering the value of the contribution unreduced by the value of the benefit received will not constitute

adequate disclosure. If a contribution of \$250 or more is made, this section will not apply unless a contemporaneous written acknowledgment, as required by section 170(f)(8), is obtained from the donee organization. If a contribution of cash of less than \$250 is made, this section will not apply unless a bank record or written communication from the donee, as required by section 170(f)(17), is obtained from the donee organization. If a contribution of property other than cash is made and the amount claimed as a deduction exceeds \$500, attach a properly completed Form 8283, *Noncash Charitable Contributions*, to the return. In addition to the Form 8283, if a contribution of a qualified motor vehicle, boat, or airplane has a value of more than \$500, this section will not apply unless a contemporaneous written acknowledgment, as required by section 170(f)(12), is obtained from the donee organization and attached to the return. An acknowledgment under section 170(f)(8) is not required if an acknowledgment under section 170(f)(12) is required.

(e) Casualty and Theft Losses: Complete Form 4684, *Casualties and Thefts*, and attach to the return. Each item or article for which a casualty or theft loss is claimed must be listed on Form 4684.

(2) Certain Trade or Business Expenses (including, for purposes of this section, the following six expenses as they relate to the rental of property):

(a) Casualty and Theft Losses: The procedure outlined in section 4.02(1)(e) must be followed.

(b) Legal Expenses: The amount claimed must be stated. This section does not apply, however, to amounts properly characterized as capital expenditures, personal expenses, or non-deductible lobbying or political expenditures, including amounts that are required to be (or that are) amortized over a period of years.

(c) Specific Bad Debt Charge-off: The amount written off must be stated.

(d) Reasonableness of Officers' Compensation: Form 1120, Schedule E, *Compensation of Officers*, must be completed when required by its instructions. The time devoted to business must be expressed as a percentage as opposed to "part" or "as needed." This section does not apply to "golden parachute" payments, as defined under section 280G. This section will not apply to the extent that remuneration paid

or incurred exceeds the employee-remuneration limitations under section 162(m), if applicable.

(e) Repair Expenses: The amount claimed must be stated. This section does not apply, however, to any repair expenses properly characterized as capital expenditures or personal expenses.

(f) Taxes (other than foreign taxes): The amount claimed must be stated.

(3) Differences in book and income tax reporting.

For Schedule M-1 and all Schedules M-3, including those listed in (a)-(f) below, the information provided must reasonably apprise the Service of the potential controversy concerning the tax treatment of the item. If the information provided does not so apprise the Service, a Form 8275 or Form 8275-R must be used to adequately disclose the item (see Part II of the instructions for those forms).

Note: An item reported on a line with a pre-printed description, shown on an attached schedule or "itemized" on Schedule M-1, may represent the aggregate amount of several transactions producing that item (*i.e.*, a group of similar items, such as amounts paid or incurred for supplies by a taxpayer engaged in business). In some instances, a potentially controversial item may involve a portion of the aggregate amount disclosed on the schedule. The Service will not be reasonably apprised of a potential controversy by the aggregate amount disclosed. In these instances, the taxpayer must use Form 8275 or Form 8275-R regarding that portion of the item.

Combining unlike items, whether on Schedule M-1 or Schedule M-3 (or on an attachment when directed by the instructions), will not constitute an adequate disclosure.

Additionally, for taxpayers that file the Schedule M-3 (Form 1120), the new Schedule B, *Additional Information for Schedule M-3 Filers*, must also be completed. For taxpayers that file the Schedule M-3 (Form 1065), the new Schedule C, *Additional Information for Schedule M-3 Filers*, must also be completed. When required, these new Schedules are necessary to constitute adequate disclosure.

(a) Form 1065. Schedule M-3 (Form 1065), *Net Income (Loss) Reconciliation for Certain Partnerships*: Column (a),

Income (Loss) per Income Statement, of Part II (reconciliation of income (loss) items) and Column (a), *Expense per Income Statement*, of Part III (reconciliation of expense/deduction items); Column (b), *Temporary Difference*, and Column (c), *Permanent Difference*, of Part II (reconciliation of income (loss) items) and Part III (reconciliation of expense/deduction items); and Column (d), *Income (Loss) per Tax Return*, of Part II (reconciliation of income (loss) items) and Column (d), *Deduction per Tax Return*, of Part III (reconciliation of expense/deduction items).

(b) Form 1120. (i) Schedule M-1, *Reconciliation of Income (Loss) per Books With Income per Return*.

(ii) Schedule M-3 (Form 1120), *Net Income (Loss) Reconciliation for Corporations with Total Assets of \$10 Million or More*: Column (a), *Income (Loss) per Income Statement*, of Part II (reconciliation of income (loss) items) and Column (a), *Expense per Income Statement*, of Part III (reconciliation of expense/deduction items); Column (b), *Temporary Difference*, and Column (c), *Permanent Difference*, of Part II (reconciliation of income (loss) items) and Part III (reconciliation of expense/deduction items) and Column (d), *Income (Loss) per Tax Return*, of Part II (reconciliation of income (loss) items); and Column (d), *Deduction per Tax Return*, of Part III (reconciliation of expense/deduction items).

(c) Form 1120-L. Schedule M-3 (Form 1120-L), *Net Income (Loss) Reconciliation for U.S. Life Insurance Companies With Total Assets of \$10 Million or More*: Column (a), *Income (Loss) per Income Statement*, of Part II (reconciliation of income (loss) items) and Column (a), *Expense per Income Statement*, of Part III (reconciliation of expense/deduction items); Column (b), *Temporary Difference*, and Column (c), *Permanent Difference*, of Part II (reconciliation of income (loss) items) and Part III (reconciliation of expense/deduction items); and Column (d), *Income (Loss) per Tax Return*, of Part II (reconciliation of income (loss) items) and Column (d), *Deduction per Tax Return*, of Part III (reconciliation of expense/deduction items).

(d) Form 1120-PC. Schedule M-3 (Form 1120-PC), *Net Income (Loss) Reconciliation for U.S. Property and Casualty Insurance Companies With Total Assets of \$10 Million or More*: Column (a), *Income (Loss) per Income Statement*, of Part II (reconciliation of income (loss) items) and Column (a), *Expense per Income Statement*, of Part III (reconciliation of expense/deduction items); Column (b), *Temporary Difference*, and Column (c), *Permanent Difference*, of Part II (reconciliation of income (loss) items) and Part III (reconciliation of expense/deduction items); and Column (d), *Income (Loss) per Tax Return*, of Part II (reconciliation of income (loss) items) and Column (d), *Deduction per Tax Return*, of Part III (reconciliation of expense/deduction items).

(e) Form 1120S. Schedule M-3 (Form 1120S), *Net Income (Loss) Reconciliation for S Corporations With Total Assets of \$10 Million or More*: Column (a), *Income (Loss) per Income Statement*, of Part II (reconciliation of income (loss) items) and Column (a), *Expense per Income Statement*, of Part III (reconciliation of expense/deduction items); Column (b), *Temporary Difference*, and Column (c), *Permanent Difference*, of Part II (reconciliation of income (loss) items) and Part III (reconciliation of expense/deduction items); and Column (d), *Income (Loss) per Tax Return*, of Part II (reconciliation of income (loss) items) and Column (d), *Deduction per Tax Return*, of Part III (reconciliation of expense/deduction items).

(f) Form 1120-F. Schedule M-3 (Form 1120-F), *Net Income (Loss) Reconciliation for Foreign Corporations With Total Assets of \$10 Million or More*: Column (b), *Temporary Difference*, Column (c), *Permanent Difference*, and Column (d), *Other Permanent Differences for Allocations to Non-ECI and ECI*, of Part II (reconciliation of income (loss) items) and Part III (reconciliation of expense/deduction items).

(4) Foreign Tax Items:

(a) International Boycott Transactions: Transactions disclosed on Form 5713, *International Boycott Report*; Schedule A, *International Boycott Factor (Section 999(c)(1))*; Schedule B, *Specifically*

Attributable Taxes and Income (Section 999(c)(2)); and Schedule C, *Tax Effect of the International Boycott Provisions*, must be completed when required by their instructions.

(b) Treaty-Based Return Position: Transactions and amounts under section 6114 or section 7701(b) as disclosed on Form 8833, *Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)*, must be completed when required by its instructions.

(5) Other:

(a) Moving Expenses: Complete Form 3903, *Moving Expenses*, and attach to the return.

(b) Employee Business Expenses: Complete Form 2106, *Employee Business Expenses*, or Form 2106-EZ, *Unreimbursed Employee Business Expenses*, and attach to the return. This section does not apply to club dues, or to travel expenses for any non-employee accompanying the taxpayer on the trip.

(c) Fuels Credit: Complete Form 4136, *Credit for Federal Tax Paid on Fuels*, and attach to the return.

(d) Investment Credit: Complete Form 3468, *Investment Credit*, and attach to the return.

SECTION 5. EFFECTIVE DATE

This revenue procedure applies to any income tax return filed on a 2011 tax form for a taxable year beginning in 2011, and to any income tax return filed on a 2011 tax form in 2012 for a short taxable year beginning in 2012.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Thomas W. Curteman, Jr. of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue procedure, contact Branch 2 of Procedure and Administration at (202) 622-4940 (not a toll-free call).

Part IV. Items of General Interest

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2012-8

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and appraisers. These individuals are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Part 10, and which are published in pamphlet form as Treasury Department Circular No. 230. The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations.

The disciplinary sanctions to be imposed for violation of the regulations are:

Disbarred from practice before the IRS—An individual who is disbarred is not eligible to represent taxpayers before the IRS.

Suspended from practice before the IRS—An individual who is suspended is not eligible to represent taxpayers before the IRS during the term of the suspension.

Censured in practice before the IRS—Censure is a public reprimand. Unlike disbarment or suspension, censure does not affect an individual's eligibility to represent taxpayers before the IRS, but OPR may subject the individual's future representations to conditions designed to promote high standards of conduct.

Monetary penalty—A monetary penalty may be imposed on an individual who engages in conduct subject to sanction or on an employer, firm, or entity if the individual was acting on its behalf and if it knew, or reasonably should have known, of the individual's conduct.

Disqualification of appraiser—An appraiser who is disqualified is barred from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or the IRS.

Under the regulations, attorneys, certified public accountants, enrolled agents, enrolled actuaries, and enrolled retirement

plan agents may not assist, or accept assistance from, individuals who are suspended or disbarred with respect to matters constituting practice (*i.e.*, representation) before the IRS, and they may not aid or abet suspended or disbarred individuals to practice before the IRS.

Disciplinary sanctions are described in these terms:

Disbarred by decision after hearing, Suspended by decision after hearing, Censured by decision after hearing, Monetary penalty imposed after hearing, and Disqualified after hearing—An administrative law judge (ALJ) conducted an evidentiary hearing upon OPR's complaint alleging violation of the regulations and issued a decision imposing one of these sanctions. After 30 days from the issuance of the decision, in the absence of an appeal, the ALJ's decision became the final agency decision.

Disbarred by default decision, Suspended by default decision, Censured by default decision, Monetary penalty imposed by default decision, and Disqualified by default decision—An ALJ, after finding that no answer to OPR's complaint had been filed, granted OPR's motion for a default judgment and issued a decision imposing one of these sanctions.

Disbarment by decision on appeal, Suspended by decision on appeal, Censured by decision on appeal, Monetary penalty imposed by decision on appeal, and Disqualified by decision on appeal—The decision of the ALJ was appealed to the agency appeal authority, acting as the delegate of the Secretary of the Treasury, and the appeal authority issued a decision imposing one of these sanctions.

Disbarred by consent, Suspended by consent, Censured by consent, Monetary penalty imposed by consent, and Disqualified by consent—In lieu of a disciplinary proceeding being instituted or continued, an individual offered a consent to one of these sanctions and OPR

accepted the offer. Typically, an offer of consent will provide for: suspension for an indefinite term; conditions that the individual must observe during the suspension; and the individual's opportunity, after a stated number of months, to file with OPR a petition for reinstatement affirming compliance with the terms of the consent and affirming current eligibility to practice (*i.e.*, an active professional license or active enrollment status). An enrolled agent or an enrolled retirement plan agent may also offer to resign in order to avoid a disciplinary proceeding.

Suspended by decision in expedited proceeding, Suspended by default decision in expedited proceeding, Suspended by consent in expedited proceeding—OPR instituted an expedited proceeding for suspension (based on certain limited grounds, including loss of a professional license and criminal convictions).

OPR has authority to disclose the grounds for disciplinary sanctions in these situations: (1) an ALJ or the Secretary's delegate on appeal has issued a decision on or after September 26, 2007, which was the effective date of amendments to the regulations that permit making such decisions publicly available; (2) the individual has settled a disciplinary case by signing OPR's "consent to sanction" form, which requires consenting individuals to admit to one or more violations of the regulations and to consent to the disclosure of the individual's own return information related to the admitted violations (for example, failure to file Federal income tax returns); or (3) OPR has issued a decision in an expedited proceeding for suspension.

Announcements of disciplinary sanctions appear in the Internal Revenue Bulletin at the earliest practicable date. The sanctions announced below are alphabetized first by the names of states and second by the last names of individuals. Unless otherwise indicated, section numbers (*e.g.*, §10.51) refer to the regulations.

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Arizona				
Fountain Hills	Heck, Donald O.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (attorney disbarment)	Indefinite from November 8, 2011
California				
W. Hollywood	Curcio, Gregory	Attorney	Suspended for breach of Deferred Disciplinary Agreement, which required timely filing of all required tax returns	Indefinite from August 30, 2011 but not less than 48 months
Mountain View	George, Robert D.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (attorney disbarment)	Indefinite from November 8, 2011
N. Hollywood	Glicker, Brian I.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (attorney disbarment)	Indefinite from November 8, 2011
Granada Hills	Hoover, Steven G.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (attorney disbarment)	Indefinite from November 8, 2011
Newark	Replogle, David K.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (suspension of attorney license)	Indefinite from November 8, 2011
Idaho				
Boise	Sandifer, Martha	CPA	Suspended by consent for admitted violation of §10.51 (failure to file Federal individual income tax return for tax years 2005, 2006, 2007, and 2008, failure to timely file U.S. Income Tax Returns for an S Corporation for tax years 2005, 2006, 2007 and 2008, failure to timely file a Quarterly Federal Employment Tax Returns for tax quarter 2005–09, and failure to timely pay employment tax balances for that quarter) and violation of §10.20 (failure to	Indefinite from October 25, 2011 but not less than 48 months

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
			respond to OPR's proper and lawful requests for information)	
Illinois				
Sugar Grove	Moscarello, Catherine A.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (suspension of attorney license)	Indefinite from November 8, 2011
Iowa				
Clive	Musin, Howard A.	Enrolled Agent	Suspended by decision in expedited proceeding under §10.82 (enjoined from acting as a tax preparer)	Indefinite from November 8, 2011
Ohio				
Columbiana	Kauffman, George B.	CPA	Suspended by default decision in expedited proceeding under §10.82 (revocation of CPA license)	Indefinite from November 14, 2011
Blacklick	Leither, Leon N.	CPA	Suspended by default decision in expedited proceeding under §10.82 (revocation of CPA license)	Indefinite from November 14, 2011
Columbus	Merrelli, Joseph J.	CPA	Suspended by default decision in expedited proceeding under §10.82 (revocation of CPA license)	Indefinite from November 14, 2011
Trenton	Moon, Bryan M.	CPA	Suspended by default decision in expedited proceeding under §10.82 (revocation of CPA license)	Indefinite from November 14, 2011
Chardon	Navatsyk, Donald A.	Attorney	Disbarred by ALJ decision for violation of 10.20 (failure to provide information requested by OPR) and 10.51 (submission of false or misleading information to OPR; failure to file income tax returns and pay the underlying taxes due thereon for five consecutive years)	Indefinite from November 5, 2010

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Ohio (Continued)				
Dayton	Quatman, John J.	CPA	Suspended by default decision in expedited proceeding under §10.82 (revocation of CPA license)	Indefinite from November 14, 2011
	Rossi, Philip D., See West Virginia			
Avon	Smith, Joseph H.	CPA	Suspended by default decision in expedited proceeding under §10.82 (revocation of CPA license)	Indefinite from October 11, 2011
Texas				
San Antonio	Arocha, Robert T.	CPA	Suspended by decision in expedited proceeding under §10.82 (revocation of CPA license)	Indefinite from October 11, 2011
Dallas	Bragg, Jeffrey M.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (attorney disbarment)	Indefinite from October 11, 2011
New Braunfels	Clark, Mark A.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (suspension of attorney license)	Indefinite from October 11, 2011
Longview	Gardner, William J.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (suspension of attorney license)	Indefinite from October 11, 2011
San Antonio	Goains, Michael D.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (suspension of attorney license)	Indefinite from October 11, 2011
Houston	Murff, David L.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (suspension of attorney license)	Indefinite from October 11, 2011

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Texas (Continued)				
Fort Worth	Smith, Donald T.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (suspension of attorney license)	Indefinite from November 14, 2011
Washington				
Richland	Preszler, Terry J.	Attorney	Suspended by default decision in expedited proceeding under §10.82 (suspension of attorney license)	Indefinite from November 14, 2011
West Virginia				
Beaver	Rossi, Philip D.	Public Accountant	Suspended by default decision in expedited proceeding under §10.82 (conviction under 18 U.S.C. §1341, mail fraud; revocation of public accountant registration in Ohio)	Indefinite from November 14, 2011

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

Announcement 2012-9

This document contains a correction to Announcement 2011-63, 2011-41

I.R.B. 503, which contained an incorrect name. The taxpayer name incorrectly read: "Allied Veterans Allied Veterans of the World Inc. & Affiliates."

The taxpayer name should have read: "Allied Veterans of the World Inc. & Affiliates Post #24 Inc."

FOR FURTHER INFORMATION CONTACT:

Flora J. McClain
MS 4920 DAL
1100 Commerce Street
Dallas, TX 75247

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

Bulletins 2012–1 through 2012–7

Announcements:

2012-1, 2012-1 I.R.B. 249
2012-2, 2012-2 I.R.B. 285
2012-3, 2012-4 I.R.B. 335
2012-4, 2012-4 I.R.B. 335
2012-5, 2012-5 I.R.B. 348
2012-6, 2012-6 I.R.B. 366
2012-7, 2012-6 I.R.B. 367
2012-8, 2012-7 I.R.B. 373
2012-9, 2012-7 I.R.B. 377

Notices:

2012-1, 2012-2 I.R.B. 260
2012-3, 2012-3 I.R.B. 289
2012-4, 2012-3 I.R.B. 290
2012-5, 2012-3 I.R.B. 291
2012-6, 2012-3 I.R.B. 293
2012-7, 2012-4 I.R.B. 308
2012-8, 2012-4 I.R.B. 309
2012-9, 2012-4 I.R.B. 315
2012-10, 2012-5 I.R.B. 343
2012-11, 2012-5 I.R.B. 346
2012-12, 2012-6 I.R.B. 365

Proposed Regulations:

REG-149625-10, 2012-2 I.R.B. 279
REG-102988-11, 2012-4 I.R.B. 326
REG-130777-11, 2012-5 I.R.B. 347

Revenue Procedures:

2012-1, 2012-1 I.R.B. 1
2012-2, 2012-1 I.R.B. 92
2012-3, 2012-1 I.R.B. 113
2012-4, 2012-1 I.R.B. 125
2012-5, 2012-1 I.R.B. 169
2012-6, 2012-1 I.R.B. 197
2012-7, 2012-1 I.R.B. 232
2012-8, 2012-1 I.R.B. 235
2012-9, 2012-2 I.R.B. 261
2012-10, 2012-2 I.R.B. 273
2012-11, 2012-7 I.R.B. 368
2012-12, 2012-2 I.R.B. 275
2012-13, 2012-3 I.R.B. 295
2012-14, 2012-3 I.R.B. 296
2012-15, 2012-7 I.R.B. 369

Revenue Rulings:

2012-1, 2012-2 I.R.B. 255
2012-2, 2012-3 I.R.B. 286
2012-5, 2012-5 I.R.B. 337
2012-6, 2012-6 I.R.B. 349
2012-7, 2012-6 I.R.B. 362

Treasury Decisions:

9559, 2012-2 I.R.B. 252
9560, 2012-4 I.R.B. 299
9561, 2012-5 I.R.B. 341
9562, 2012-5 I.R.B. 339
9563, 2012-6 I.R.B. 354

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2011–27 through 2011–52 is in Internal Revenue Bulletin 2011–52, dated December 27, 2011.

Finding List of Current Actions on Previously Published Items¹

Bulletins 2012–1 through 2012–7

Announcements:

2011-63

Corrected by
Ann. 2012-9, 2012-7 I.R.B. 377

Notices:

2010-88

As modified by Ann. 2011-40, is superseded by
Notice 2012-1, 2012-2 I.R.B. 260

2011-28

Superseded by
Notice 2012-9, 2012-4 I.R.B. 315

Revenue Procedures:

2003-61

Superseded by
Notice 2012-8, 2012-4 I.R.B. 309

2007-44

Modified by
Ann. 2012-3, 2012-4 I.R.B. 335

2011-1

Superseded by
Rev. Proc. 2012-1, 2012-1 I.R.B. 1

2011-2

Superseded by
Rev. Proc. 2012-2, 2012-1 I.R.B. 92

2011-3

Superseded by
Rev. Proc. 2012-3, 2012-1 I.R.B. 113

2011-4

Superseded by
Rev. Proc. 2012-4, 2012-1 I.R.B. 125

2011-5

Superseded by
Rev. Proc. 2012-5, 2012-1 I.R.B. 169

2011-6

Superseded by
Rev. Proc. 2012-6, 2012-1 I.R.B. 197

2011-7

Superseded by
Rev. Proc. 2012-7, 2012-1 I.R.B. 232

2011-8

Superseded by
Rev. Proc. 2012-8, 2012-1 I.R.B. 235

2011-9

Superseded by
Rev. Proc. 2012-9, 2012-2 I.R.B. 261

Revenue Procedures— Continued:

2011-10

Superseded by
Rev. Proc. 2012-10, 2012-2 I.R.B. 273

2011-40

Corrected by
Ann. 2012-6, 2012-6 I.R.B. 366

2011-49

Modified by
Ann. 2012-3, 2012-4 I.R.B. 335

2011-50

Corrected by
Ann. 2012-6, 2012-6 I.R.B. 366

2011-51

Corrected by
Ann. 2012-6, 2012-6 I.R.B. 366

2012-8

Corrected by
Ann. 2012-7, 2012-6 I.R.B. 367

Revenue Rulings:

92-19

Supplemented in part by
Rev. Rul. 2012-6, 2012-6 I.R.B. 349

2008-40

Modified by
Notice 2012-6, 2012-3 I.R.B. 293

2011-1

Modified by
Notice 2012-6, 2012-3 I.R.B. 293

Treasury Decision:

9517

Corrected by
Ann. 2012-4, 2012-4 I.R.B. 335
Ann. 2012-5, 2012-5 I.R.B. 348

¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2011–27 through 2011–52 is in Internal Revenue Bulletin 2011–52, dated December 27, 2011.



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