

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 2012-15, page 975.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for June 2012.

T.D. 9588, page 969.

Final regulations under section 163 of the Code provide rules on allocating prepaid qualified mortgage insurance premiums to determine the amount of the prepaid premium that is treated as qualified residence interest each taxable year.

T.D. 9589, page 971.

REG-107548-11, page 977.

Final, temporary, and proposed regulations under section 956 of the Code provide that certain obligations of United States persons arising from upfront payments made by controlled foreign corporations pursuant to contracts that are cleared by a derivatives clearing organization or clearing agency do not constitute United States property.

REG-119632-11, page 978.

Proposed regulations under section 6103 of the Code was enacted under the Patent Protection and Affordable Care Act, Public Law 111-48 (124 Stat. 119 (2010)) to permit the disclosure of return information in order to determine a taxpayer's eligibility in certain health insurance affordability programs. In addition to items specifically enumerated in the statute, section 6103(1)(21)(A)(iv) permits the disclosure of items prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for a tax credit under section 36B of the Code, or a cost-sharing reduction under section 1402 of the Affordable Act. The regulation contains detailing items of return

information that may be disclosed under section 6101(1)(21). A public hearing is scheduled for August 31, 2012.

ESTATE TAX

REG-119632-11, page 978.

Proposed regulations under section 6103 of the Code was enacted under the Patent Protection and Affordable Care Act, Public Law 111-48 (124 Stat. 119 (2010)) to permit the disclosure of return information in order to determine a taxpayer's eligibility in certain health insurance affordability programs. In addition to items specifically enumerated in the statute, section 6103(1)(21)(A)(iv) permits the disclosure of items prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for a tax credit under section 36B of the Code, or a cost-sharing reduction under section 1402 of the Affordable Act. The regulation contains detailing items of return information that may be disclosed under section 6101(1)(21). A public hearing is scheduled for August 31, 2012.

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Announcements of Disbarments and Suspensions begin on page 982.
Finding Lists begin on page ii.



GIFT TAX

REG-119632-11, page 978.

Proposed regulations under section 6103 of the Code was enacted under the Patent Protection and Affordable Care Act, Public Law 111-48 (124 Stat. 119 (2010)) to permit the disclosure of return information in order to determine a taxpayer's eligibility in certain health insurance affordability programs. In addition to items specifically enumerated in the statute, section 6103(1)(21)(A)(iv) permits the disclosure of items prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for a tax credit under section 36B of the Code, or a cost-sharing reduction under section 1402 of the Affordable Act. The regulation contains detailing items of return information that may be disclosed under section 6101(1)(21). A public hearing is scheduled for August 31, 2012.

ADMINISTRATIVE

REG-119632-11, page 978.

Proposed regulations under section 6103 of the Code was enacted under the Patent Protection and Affordable Care Act, Public Law 111-48 (124 Stat. 119 (2010)) to permit the disclosure of return information in order to determine a taxpayer's eligibility in certain health insurance affordability programs. In addition to items specifically enumerated in the statute, section 6103(1)(21)(A)(iv) permits the disclosure of items prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for a tax credit under section 36B of the Code, or a cost-sharing reduction under section 1402 of the Affordable Act. The regulation contains detailing items of return information that may be disclosed under section 6101(1)(21). A public hearing is scheduled for August 31, 2012.

EMPLOYMENT TAX

REG-119632-11, page 978.

Proposed regulations under section 6103 of the Code was enacted under the Patent Protection and Affordable Care Act, Public Law 111-48 (124 Stat. 119 (2010)) to permit the disclosure of return information in order to determine a taxpayer's eligibility in certain health insurance affordability programs. In addition to items specifically enumerated in the statute, section 6103(1)(21)(A)(iv) permits the disclosure of items prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for a tax credit under section 36B of the Code, or a cost-sharing reduction under section 1402 of the Affordable Act. The regulation contains detailing items of return information that may be disclosed under section 6101(1)(21). A public hearing is scheduled for August 31, 2012.

EXCISE TAX

REG-119632-11, page 978.

Proposed regulations under section 6103 of the Code was enacted under the Patent Protection and Affordable Care Act, Public Law 111-48 (124 Stat. 119 (2010)) to permit the disclosure of return information in order to determine a taxpayer's eligibility in certain health insurance affordability programs. In addition to items specifically enumerated in the statute, section 6103(1)(21)(A)(iv) permits the disclosure of items prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for a tax credit under section 36B of the Code, or a cost-sharing reduction under section 1402 of the Affordable Act. The regulation contains detailing items of return information that may be disclosed under section 6101(1)(21). A public hearing is scheduled for August 31, 2012.

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force the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are compiled semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations,

court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Section 163.—Interest

26 CFR 1.163-11: Allocation of certain prepaid qualified mortgage insurance premiums.

T.D. 9588

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Allocation of Mortgage Insurance Premiums

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that explain how to allocate prepaid qualified mortgage insurance premiums to determine the amount of the prepaid premium that is treated as qualified residence interest each taxable year. The final regulations reflect changes to the law made by the Tax Relief and Health Care Act of 2006, the Mortgage Forgiveness Debt Relief Act of 2007, and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. The regulations affect taxpayers who pay prepaid qualified mortgage insurance premiums.

DATES: *Effective Date:* These regulations are effective on May 4, 2012.

Applicability Dates: For dates of applicability, see §1.163-11(d).

FOR FURTHER INFORMATION CONTACT: Charles Kim, (202) 622-5020 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1. On May 7, 2009, the Treasury Department and IRS published temporary regulations (T.D. 9449, 2009-22 I.R.B. 1044) under section 163 of the Internal Revenue Code (Code) in the **Federal Register** (74 FR 21256) that explain how to allocate prepaid qualified mortgage insurance premiums to determine the amount of the prepaid premium that is treated as qualified residence interest each taxable year. On the same day, the Treasury Department and IRS published a notice of proposed rulemaking (REG-107271-08, 2009-22 I.R.B. 1051) cross-referencing the temporary regulations in the **Federal Register** (74 FR 21295). No public hearing was requested or held. No comments responding to the notice of proposed rulemaking were received. The proposed regulations under section 163 are adopted as amended by this Treasury decision, and the corresponding temporary regulations under section 163 are removed.

T.D. 9449 also contained temporary regulations under section 6050H(h) that require persons who receive premiums, including prepaid premiums, for mortgage insurance to make a return setting forth the amount of premiums received. A notice of proposed rulemaking (REG-107271-08) cross-referencing the temporary regulations was published in the **Federal Register** on the same day (74 FR 21295). Because the deduction for mortgage insurance premiums currently does not apply to amounts paid or accrued after December 31, 2011, the Treasury Department and the IRS are not taking any action at this time with respect to the temporary regulations or the proposed regulations under section 6050H(h). The temporary regulations will expire on May 4, 2012.

Section 419 of the Tax Relief and Health Care Act of 2006, Public Law 109-432 (120 Stat. 2967) (2006), added

sections 163(h)(3)(E), (h)(4)(E), and (h)(4)(F) to the Code. Section 3 of the Mortgage Forgiveness Debt Relief Act of 2007, Public Law 110-142 (121 Stat. 1803) (2007), amended section 163(h)(3)(E)(iv). Section 759(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312 (124 Stat. 3296) (2010), further amended section 163(h)(3)(E)(iv). In general, these new provisions treat certain qualified mortgage insurance premiums as qualified residence interest. This treatment only applies to certain qualified mortgage insurance premiums paid or accrued on or after January 1, 2007, and on or before December 31, 2011, on mortgage insurance contracts issued on or after January 1, 2007.

Section 163(h)(3)(E)(i) provides that premiums paid or accrued for qualified mortgage insurance in connection with acquisition indebtedness for a qualified residence are treated as qualified residence interest for purposes of section 163. Section 163(h)(4)(E) defines *qualified mortgage insurance* as (i) mortgage insurance provided by the Veterans Administration (VA), the Federal Housing Administration (FHA), or the Rural Housing Administration (Rural Housing),¹ and (ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901) as in effect on December 20, 2006). The amount treated as qualified residence interest may be reduced or eliminated under section 163(h)(3)(E)(ii), which provides that the amount allowed as a deduction is phased out ratably by 10 percent for each \$1,000 (\$500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income exceeds \$100,000 (\$50,000 in the case of a married individual filing a separate return).

Section 163(h)(4)(F) states that any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are af-

¹ References in section 163(h)(4)(E)(i) to the Veterans Administration and Rural Housing Administration are interpreted to mean their respective successors, the Department of Veterans Affairs and Rural Housing Service.

ter the close of the taxable year in which the amount is paid shall be chargeable to capital account and shall be treated as paid in the periods to which the amount is allocated. No deduction shall be allowed for the unamortized balance of the account if the mortgage is satisfied before the end of its term. Section 163(h)(4)(F) provides that the allocation rules under section 163(h)(4)(F) do not apply to amounts paid for qualified mortgage insurance provided by the VA or Rural Housing. Additionally, section 163(h)(3)(E)(iv)(II) disallows a deduction for amounts allocable to any period after December 31, 2011.

Explanation of Provisions

These final regulations provide rules regarding the allocation of prepaid qualified mortgage insurance premiums to determine the amount of the prepaid premium that is treated as qualified residence interest each taxable year under section 163(h)(4)(F).

These final regulations apply to prepaid qualified mortgage insurance premiums paid or accrued on or after January 1, 2011. The treatment of mortgage insurance premiums as interest described in these final regulations is limited to prepaid qualified mortgage insurance premiums that are paid or accrued on or after January 1, 2011, and during periods to which section 163(h)(3)(E) is applicable. The temporary regulations are applicable to prepaid qualified mortgage insurance premiums paid or accrued on or after January 1, 2008, and on or before December 31, 2010.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. 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 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 preceding these regulations was submitted to the Chief Counsel

for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is Charles Kim, Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.163–11 is added to read as follows:

§1.163–11 Allocation of certain prepaid qualified mortgage insurance premiums.

(a) *Allocation*—(1) *In general.* As provided in section 163(h)(3)(E), premiums paid or accrued for qualified mortgage insurance during the taxable year in connection with acquisition indebtedness with respect to a qualified residence (as defined in section 163(h)(4)(A)) of the taxpayer shall be treated as qualified residence interest (as defined in section 163(h)(3)(A)). If an individual taxpayer pays such a premium that is properly allocable to a mortgage the payment of which extends to periods beyond the close of the taxable year in which the premium is paid, the taxpayer must allocate the premium to determine the amount treated as qualified residence interest for each taxable year. The premium must be allocated ratably over the shorter of—

- (i) The stated term of the mortgage; or
- (ii) A period of 84 months, beginning with the month in which the insurance was obtained.

(2) *Limitation.* If a mortgage is satisfied before the end of its stated term, no deduction as qualified residence interest shall

be allowed for any amount of the premium that is allocable to periods after the mortgage is satisfied.

(b) *Scope.* The allocation requirement in paragraph (a) of this section applies only to mortgage insurance provided by the Federal Housing Administration or private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901) as in effect on December 20, 2006). It does not apply to mortgage insurance provided by the Department of Veterans Affairs or the Rural Housing Service. Paragraph (a) of this section applies whether the qualified mortgage insurance premiums are paid in cash or are financed, without regard to source.

(c) *Limitation on the treatment of mortgage insurance premiums as interest.* This section applies to prepaid qualified mortgage insurance premiums described in paragraph (a) of this section that are paid or accrued on or after January 1, 2011, and during periods to which section 163(h)(3)(E) is applicable. This section does not apply to any amount of prepaid qualified mortgage insurance premiums that are allocable to any periods to which section 163(h)(3)(E) is not applicable.

(d) *Effective/applicability date.* This section is applicable on and after January 1, 2011. For regulations applicable before January 1, 2011, see §1.163–11T in effect prior to January 1, 2011 (§1.163–11T as contained in 26 CFR part 1 edition revised as of April 1, 2011).

§1.163–11T [Removed]

Par. 3. Section 1.163–11T is removed.

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

Approved April 24, 2012.

Emily S. McMahon,
*Acting Assistant Secretary
of the Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on May 4, 2012, 8:45 a.m., and published in the issue of the Federal Register for May 7, 2012, 77 F.R. 26698)

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

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

The adjusted applicable federal long-term rates is set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Section 956.—Investment of Earnings in United States Property

26 CFR 1.956-2: Definition of United States property.

T.D. 9589

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Modifications to Definition of United States Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the treatment of upfront payments made pursuant to certain notional principal contracts for U.S. federal income tax purposes. The temporary regulations provide that certain obligations of United States persons arising from upfront payments made by controlled foreign corporations pursuant to contracts that are cleared by a derivatives clearing organization or clearing agency do not constitute United States property. These regulations affect United

States shareholders of controlled foreign corporations that make such payments. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking (REG-107548-11) on this subject in this issue of the Bulletin.

DATES: Effective Date: These regulations are effective on May 11, 2012.

Applicability Date: These regulations apply to payments described in §1.956-2T(b)(1)(xi) made on or after May 11, 2012.

FOR FURTHER INFORMATION CONTACT: Kristine A. Crabtree at (202) 622-3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

A. Section 956

Section 956 was enacted to require an income inclusion by United States shareholders (as defined in section 951(b)) of a controlled foreign corporation (as defined in section 957(a)) that invests certain earnings and profits in United States property (U.S. property) “on the grounds that [the investment] is substantially the equivalent of a dividend being paid to them.” S. Rep. No. 87-1881, 1962-3 C.B. 703, 794 (1962). Under section 951(a)(1)(B), each United States shareholder (U.S. shareholder) of a controlled foreign corporation (CFC) is generally required to currently include in its gross income the amount determined under section 956 with respect to such shareholder.

The amount determined under section 956 with respect to a U.S. shareholder of a CFC for any taxable year is the lesser of: (1) the excess, if any, of the shareholder’s *pro rata* share of the average of the amounts of U.S. property held (directly or indirectly) by the CFC as of the close of each quarter of such taxable year, over the amount of earnings and profits of the CFC described in section 959(c)(1)(A) with respect to such shareholder; or (2) the shareholder’s *pro rata* share of the applicable earnings of the CFC. In general, the amount taken into account with respect to any U.S. property for this purpose is the adjusted basis of such

property as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject. Earnings and profits described in section 959(c)(1)(A) are attributable to amounts previously included in gross income by the U.S. shareholder under section 951(a)(1)(B) (or which would have been included except for section 959(a)(2)).

Section 956(c)(1) defines U.S. property to generally include stock of a domestic corporation and an obligation of a United States person (U.S. person). Section 956(c)(2), however, generally excludes from the definition of U.S. property the stock or obligations of a domestic corporation that is neither a U.S. shareholder of the CFC nor a domestic corporation, 25 percent or more of the total combined voting power of which, immediately after the CFC's acquisition of stock in such domestic corporation, is owned, or is considered as being owned, by U.S. shareholders of the CFC. Under §1.956-2T(d)(2), subject to certain exceptions not relevant here, the term "obligation" includes any bond, note, debenture, certificate, bill receivable, account receivable, note receivable, open account, or other indebtedness, whether or not issued at a discount and whether or not bearing interest.

B. NPCs with Nonperiodic (Upfront) Payments

When a notional principal contract (within the meaning of §1.446-3(c)(1)) (NPC) includes a significant nonperiodic payment, the contract is generally treated as two separate transactions. One transaction is an on-market, level payment swap; the other is a loan. For purposes of section 956, the Commissioner may treat any nonperiodic payment in connection with an NPC, whether or not it is significant, as one or more loans. See §1.446-3(g)(4). If a party to an NPC makes below-market periodic payments or receives above-market periodic payments under the terms of the contract, typically that party will make a nonperiodic payment, such as an upfront payment, to the counterparty in order to compensate for the off-market coupon payments specified in the contract.

For example, if A and B enter into an off-market interest rate swap the terms of which require A to make periodic below-

market fixed rate payments to B and require B to make periodic on-market floating rate payments to A, then A typically will compensate B (for receiving the below-market fixed rate payments) by making a nonperiodic payment at the outset of the interest rate swap (henceforth, an upfront payment) so that the present value of the fixed rate leg of the swap will equal the present value of the floating rate leg of the swap.

Recently, certain contracts (cleared contracts), including some credit default swaps and interest rate swaps, have begun to be cleared through U.S.-registered derivatives clearing organizations or clearing agencies (collectively, U.S.-registered clearinghouses). Contracts cleared through a U.S.-registered clearinghouse generally are required to have standardized terms. For example, credit default swaps that are cleared through a U.S.-registered clearinghouse have common documentation and standardized coupons (currently 100 or 500 basis points). Consequently, except for the rare instance when the market coupon rate for a particular credit default swap is exactly 100 or 500 basis points, a credit default swap with a standardized coupon will be off-market and will require an upfront payment to equalize the present value of the payment obligations under the contract.

The volume of contracts cleared by U.S.-registered clearinghouses is expected to increase substantially as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law No. 111-203, 124 Stat. 1376 (the Dodd-Frank Act). Title VII of the Dodd-Frank Act, among other things: (1) provides for the registration and comprehensive regulation of swap dealers and major swap participants; (2) imposes clearing and trade execution requirements on many swap contracts; and (3) creates rigorous recordkeeping and real-time reporting regimes.

C. Clearinghouse Margin Requirements to Manage Credit Risk

U.S.-registered clearinghouses manage credit risk (the risk of counterparty default) in part by requiring that each party to a cleared contract provide various types of margin, including initial variation margin and daily variation margin (both of which

are discussed in this section of the preamble). Cash margin payments (as well as other payments made pursuant to the terms of a cleared contract) to and from a U.S.-registered clearinghouse are made to or through a clearing member (that is, a futures commission merchant, broker, or dealer who is a member of the clearinghouse) which, in turn, makes corresponding payments to or receives corresponding payments from a counterparty.

(1) Initial Variation Margin Required to Offset Upfront Payment

The party that makes an upfront payment pursuant to a cleared contract (the first party) has credit risk with respect to that payment because, if the clearinghouse (or the first party's clearing member) were to default, the first party would not receive the full benefit it paid for (the benefit of making below-market fixed rate payments or receiving above-market payments for the term of the contract). When the U.S.-registered clearinghouse makes the upfront payment to the other party to the cleared contract (the second party), the U.S.-registered clearinghouse similarly has credit risk with respect to that second party (or its clearing member). The second party (the ultimate recipient of the upfront payment) is thus required to make a payment in the nature of variation margin (initial variation margin) to the U.S.-registered clearinghouse, generally no later than the end of the business day on which the upfront payment is made, in an amount that is equal to the upfront payment.

In some instances, the total amount of margin posted by the second party on the day that it is required to post initial variation margin may not equal the amount of the first party's upfront payment, due to either: (1) the netting of the second party's notional exposure to the first party, or to the clearinghouse, as a result of other transactions; or (2) changes in the value of the contract between the time the contract is entered into and the time when the required margin is paid, requiring daily variation margin to be added to or subtracted from the second party's initial variation margin payment, as the case may be. However, on a transaction-by-transaction basis, the payment of initial variation margin by the second party should equal the first party's

upfront payment when any daily variation margin is treated as separate from the initial variation margin posted on that day.

After receiving the second party's initial variation margin payment, the U.S.-registered clearinghouse will pay the same amount to the first party. In each case, unless the first party and the second party are clearing members of the U.S.-registered clearinghouse, the payment will be made to or through each party's clearing member, which may be an affiliate of that party.

Assume that D (a dealer under section 475) and C (a customer) enter into a contract that is accepted for clearing by a U.S.-registered clearinghouse, the terms of which require D to make below-market periodic payments to C. D is required under the contract to make an upfront payment of \$25,000 to compensate C for the below-market coupon payments that C will receive. D (not a clearing member) makes that upfront payment to its clearing member, who then pays the U.S.-registered clearinghouse an identical amount. The U.S.-registered clearinghouse in turn pays that amount to the clearing member for C, which makes the upfront payment to C. C, on the same business day, makes an initial variation margin payment of \$25,000 to its clearing member, who then pays that amount to the U.S.-registered clearinghouse; the U.S.-registered clearinghouse makes the initial variation margin payment to D's clearing member; and D's clearing member makes the payment to D. Thus, the upfront payment from D is immediately offset by an initial variation margin payment in the same amount from C.

(2) Daily Variation Margin Required to Account for Daily Market Fluctuation

In addition to initial variation margin, U.S.-registered clearinghouses manage credit risk by requiring that each party to a cleared contract provide daily variation margin (also referred to as mark-to-market or maintenance margin). Daily variation margin is a cash margin payment made on a daily or intraday basis between the counterparties to a contract to protect against the risk of counterparty default. The rules of U.S.-registered clearinghouses generally require that daily variation margin be paid in an amount equal to the change in the fair market value of the contract.

Explanation of Provisions

The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in this issue of the Bulletin. These temporary regulations establish an exception to the definition of U.S. property for obligations of U.S. persons arising from upfront payments made with respect to certain cleared contracts that are properly classified as NPCs. The temporary regulations provide that obligations of U.S. persons arising from such upfront payments by a CFC that is a dealer in securities or commodities (within the meaning of section 475) do not constitute U.S. property for purposes of section 956(a).

To qualify for this exception: (1) the upfront payment must be required under a contract that is cleared by a derivatives clearing organization (as such term is defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) or a clearing agency (as such term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered as a derivatives clearing organization under the Commodity Exchange Act or as a clearing agency under the Securities Exchange Act of 1934, respectively; (2) the CFC must make the upfront payment to or through a United States person that is a clearing member of the derivatives clearing organization or clearing agency, or directly to the derivatives clearing organization or clearing agency if the CFC is a clearing member of such derivatives clearing organization or clearing agency; (3) the upfront payment must be made, directly or indirectly, to the counterparty to the contract; (4) the counterparty to the contract must be required to make a payment in the nature of initial variation margin that is equal (before taking into account any change in the value of the contract between the time the contract is entered into and the time at which the payment is made) to the amount of the upfront payment made by the CFC; and (5) such payment in the nature of initial variation margin must be paid, directly or indirectly, to the CFC.

The IRS and the Treasury Department do not believe that an obligation of a U.S. person created by an upfront payment resulting from a cleared contract that satisfies the requirements listed in this regu-

lation is the type of transaction intended to be covered by section 956, whether or not the payment is treated as a loan under the NPC rules under section 446. While the section 956 exception in these temporary regulations currently is limited to cleared contracts, the IRS and the Treasury Department continue to study, and request comments on, whether and under what circumstances it would be appropriate to extend the exception to contracts that are not cleared by a U.S.-registered clearinghouse, but that would otherwise meet the criteria set forth in these temporary regulations.

Effective/Applicability Date

These regulations apply to payments described in §1.956-2T(b)(1)(xi) made on or after May 11, 2012. However, taxpayers may apply the rules of these regulations retroactively to payments made prior to May 11, 2012.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It 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. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the cross-reference notice of proposed rulemaking published in the proposed rules section in this issue of the Bulletin. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small entities.

Drafting Information

The principal author of these regulations is Kristine A. Crabtree of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

* * * * *

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 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.956-2T(b)(1)(xi) also issued under 26 U.S.C. 956(e). * * *

Par. 2. Section 1.956-2 is amended by adding a new paragraph (b)(1)(xi) to read as follows:

§1.956-2 Definition of United States property.

* * * * *

(b) * * *

(1) * * *

(xi) [Reserved]. For further guidance, see §1.956-2T(b)(1)(xi).

* * * * *

Par. 3. Section 1.956-2T is amended by:

1. Revising paragraphs (a) through (d)(1).

2. Adding new paragraphs (f) and (g).

The revisions and additions read as follows:

§1.956-2T Definition of United States property (temporary).

(a) through (b)(1)(x) [Reserved]. For further guidance, see §1.956-2(a) through (b)(1)(x).

(xi) An obligation of a United States person arising from an upfront payment by a controlled foreign corporation (within the meaning of section 957(a)) with respect to a notional principal contract (within the meaning of §1.446-3(c)(1)) where the following conditions are satisfied—

(A) The controlled foreign corporation that makes the upfront payment is a dealer in securities or commodities (within the meaning of section 475(c)(1) or (e)(1));

(B) The upfront payment is required under a contract that is cleared by a derivatives clearing organization (as such term is defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) or a clearing agency (as such term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) that is registered as a derivatives clearing organization under the

Commodity Exchange Act or as a clearing agency under the Securities Exchange Act of 1934, respectively;

(C) The controlled foreign corporation makes the upfront payment:

(1) To or through a United States person that is a clearing member of a derivatives clearing organization or clearing agency, or

(2) Directly to the derivatives clearing organization or clearing agency if the controlled foreign corporation is a clearing member of such derivatives clearing organization or clearing agency;

(D) The upfront payment is made by the derivatives clearing organization or clearing agency, directly or indirectly, to the original counterparty to the contract;

(E) The original counterparty to the contract that receives the upfront payment, as described in paragraph (b)(1)(xi)(D) of this section, is required by the derivatives clearing organization or clearing agency to make, by the end of the business day on which the upfront payment is made by the controlled foreign corporation, a payment in the nature of initial variation margin that is equal (before taking into account any change in the value of the contract between the time the contract is entered into and the time at which the payment is made) to the amount of the upfront payment and such payment is made, directly or indirectly, to the derivatives clearing organization or clearing agency; and

(F) The payment in the nature of initial variation margin is paid by the derivatives clearing organization or clearing agency, directly or indirectly, to the controlled foreign corporation.

(G) Examples. The following examples illustrate the application of this paragraph (b)(1)(xi):

Example 1. CFC is a controlled foreign corporation that is wholly owned by USP, a domestic corporation. CFC is a dealer in securities under section 475(c)(1). CFC enters into a credit default swap (that it treats as a notional principal contract for U.S. federal income tax purposes) with unrelated counterparty B. The credit default swap is accepted for clearing by a U.S.-registered derivatives clearing organization (DCO). CFC is not a member of DCO. CFC uses a U.S. affiliate (CM), which is a member of DCO, as its clearing member to submit the credit default swap to be cleared. CM is a domestic corporation that is wholly owned by USP. The standardized terms of the credit default swap provide that, for a term of X years, CFC will pay B a fixed coupon

of 100 basis points per year on a notional amount of \$Y. At the time CFC and B enter into the credit default swap, the market coupon for similar credit default swaps is 175 basis points per year. To compensate B for the below-market annual coupon payments that B will receive, the contract requires CFC to make an upfront payment through CM to DCO. DCO then makes the upfront payment to B through B's clearing member. DCO also requires B to post initial variation margin in an amount equal to the upfront payment. B pays the initial variation margin through its clearing member to DCO. DCO then pays the initial variation margin through CM to CFC. Because the conditions set out in this paragraph (b)(1)(xi) are satisfied, the obligation of CM arising from the upfront payment by CFC does not constitute United States property for purposes of section 956.

Example 2. Assume the same facts as in Example 1, except that counterparty B is, like CM, a domestic corporation that is wholly owned by USP. Because the conditions set out in this paragraph (b)(1)(xi) are satisfied, the obligations of CM and B arising from the upfront payment by CFC do not constitute United States property for purposes of section 956.

Example 3. Assume the same facts as in Example 2, except that CFC uses an unrelated person as its clearing member. Because the conditions set out in this paragraph (b)(1)(xi) are satisfied, the obligation of B arising from the upfront payment by CFC does not constitute United States property for purposes of section 956.

(b)(2) through (d)(1) [Reserved]. For further guidance, see §1.956-2(b)(2) through (d)(1).

* * * * *

(f) Effective/applicability date. Paragraph (b)(1)(xi) applies to payments described in §1.956-2T(b)(1)(xi) made on or after May 11, 2012. Taxpayers may apply the rules of paragraph (b)(1)(xi) to payments described in §1.956-2T(b)(1)(xi) made prior to May 11, 2012.

(g) Expiration date. The applicability of paragraph (b)(1)(xi) expires on May 8, 2015.

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

Approved May 1, 2012.

Emily S. McMahon,
Acting Assistant Secretary
of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on May 10, 2012, 8:45 a.m., and published in the issue of the Federal Register for May 11, 2012, 77 F.R. 27612)

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

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

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for June 2012.

Rev. Rul. 2012-15

This revenue ruling provides various prescribed rates for federal income tax pur-

poses for June 2012 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current month. However, under

section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2012-15 TABLE 1				
Applicable Federal Rates (AFR) for June 2012				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	.23%	.23%	.23%	.23%
110% AFR	.25%	.25%	.25%	.25%
120% AFR	.28%	.28%	.28%	.28%
130% AFR	.30%	.30%	.30%	.30%
<i>Mid-term</i>				
AFR	1.07%	1.07%	1.07%	1.07%
110% AFR	1.18%	1.18%	1.18%	1.18%
120% AFR	1.28%	1.28%	1.28%	1.28%
130% AFR	1.39%	1.39%	1.39%	1.39%
150% AFR	1.62%	1.61%	1.61%	1.60%
175% AFR	1.88%	1.87%	1.87%	1.86%
<i>Long-term</i>				
AFR	2.64%	2.62%	2.61%	2.61%
110% AFR	2.90%	2.88%	2.87%	2.86%
120% AFR	3.16%	3.14%	3.13%	3.12%
130% AFR	3.44%	3.41%	3.40%	3.39%

REV. RUL. 2012-15 TABLE 2				
Adjusted AFR for June 2012				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.26%	.26%	.26%	.26%
Mid-term adjusted AFR	1.16%	1.16%	1.16%	1.16%
Long-term adjusted AFR	3.06%	3.04%	3.03%	3.02%

REV. RUL. 2012-15 TABLE 3
Rates Under Section 382 for June 2012

Adjusted federal long-term rate for the current month	3.06%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	3.26%

REV. RUL. 2012-15 TABLE 4
Appropriate Percentages Under Section 42(b)(1) for June 2012

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

Appropriate percentage for the 70% present value low-income housing credit	7.43%
Appropriate percentage for the 30% present value low-income housing credit	3.18%

REV. RUL. 2012-15 TABLE 5
Rate Under Section 7520 for June 2012

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	1.2%
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Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of June 2012. See Rev. Rul. 2012-15, page 975.

Part IV. Items of General Interest

Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations

Modifications to Definition of United States Property

REG-107548-11

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In this issue of the Bulletin, the IRS and the Treasury Department are issuing temporary regulations (T.D. 9589) relating to the treatment of upfront payments made pursuant to certain notional principal contracts. The temporary regulations provide that certain obligations of United States persons arising from upfront payments made by controlled foreign corporations pursuant to contracts that are cleared by a derivatives clearing organization or clearing agency do not constitute United States property. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by August 9, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-107548-11), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-107548-11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-107548-11).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Kristine A. Crabtree, (202)

622-3840; concerning submissions of comments or a request for a public hearing, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The temporary regulations published in this issue of the Bulletin establish an exception to the definition of United States property (within the meaning of section 956(c)) for obligations of United States persons arising from certain upfront payments made with respect to certain contracts that are properly classified as notional principal contracts for U.S. Federal income tax purposes and that are cleared by a derivatives clearing organization or clearing agency. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It 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 these 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 Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in

this preamble under "Addresses." In addition to the specific requests for comments made elsewhere in this preamble or the preamble to the temporary regulations, the IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person who timely submitted written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Kristine A. Crabtree of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

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Proposed Amendment to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.956-2(b)(1)(xi) also issued under 26 U.S.C. 956(e).* * *

Par. 2. Section 1.956-2 is amended by adding new paragraphs (b)(1)(xi) and (f) to read as follows:

§1.956-2 Definition of United States property.

* * * * *

(b)(1)(xi) [The text of this proposed amendment is the same as the text of §1.956-2T(b)(1)(xi) published elsewhere in this issue of the Bulletin].

* * * * *

(f) [The text of this proposed amendment is the same as the text of §1.956-2T(f) published elsewhere in this issue of the Bulletin].

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

(Filed by the Office of the Federal Register on April 27, 2012, 8:45 a.m., and published in the issue of the Federal Register for April 30, 2012, 77 F.R. 25378)

Notice of Proposed Rulemaking and Notice of Public Hearing

Regulations Pertaining to the Disclosure of Return Information to Carry Out Eligibility Requirements for Health Insurance Affordability Programs

REG-119632-11

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations relating to the disclosure of return information under section 6103(l)(21) of the Internal Revenue Code, as enacted by the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010. The regulations define certain terms and prescribe certain items of return information in addition to those items prescribed by statute that will be disclosed, upon written request, under section 6103(l)(21) of the Internal Revenue Code.

DATES: Written (including electronic) comments must be received by July 30, 2012. Outlines of topics to be discussed at the public hearing scheduled for Friday, August 31, 2012, must be received by July 30, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-119632-11), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-119632-11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW,

Washington, DC, or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-119632-11). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Steven Karon, (202) 622-4570; concerning the submission of comments, the public hearing, and to be placed on the building access list to attend the public hearing, Olumafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Beginning in 2014, under the Patient Protection and Affordable Care Act, Public Law 111-148 (124 Stat. 119 (2010)), and the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act), Affordable Insurance Exchanges (Exchanges) will provide competitive marketplaces for individuals and small employers to directly compare available private health insurance options (qualified health plans, or QHPs) on the basis of price, quality, and other factors, and to purchase such coverage. A Federally-facilitated Exchange will operate on behalf of States electing not to pursue a State-based Exchange. In general, a QHP is a health plan offered by a health insurance issuer that meets minimum standards in the law and set by an Exchange.

Qualified individuals and small employers will be able to purchase private health insurance through Exchanges. Certain individuals who choose to obtain coverage through an Exchange will be eligible to qualify for a new premium tax credit and/or cost-sharing reductions established to help make the purchase of insurance more affordable.

Section 1401 of the Affordable Care Act amended the Internal Revenue Code to add section 36B, providing for the premium tax credit to help eligible individuals and families afford health insurance coverage. Section 1402 of the Affordable Care Act provides reduced cost-sharing for certain individuals enrolled in qualified health

plans through the Exchange, decreasing the individual's out-of-pocket limits, deductibles, co-insurance, and co-payments in certain situations.

Section 1411(a) of the Affordable Care Act directs the Secretary of the Department of Health and Human Services (HHS) to establish a program under which Exchanges will determine whether individuals are eligible to enroll in QHPs through the Exchange, and whether they are eligible for advance payments of the premium tax credit and cost-sharing reductions. Section 1412 of the Affordable Care Act directs the Secretary of HHS to establish a program for determining eligibility for advance payments of the premium tax credit and cost-sharing reductions that may be paid directly to an insurance company on behalf of a taxpayer. Eligibility for advance payments, like eligibility for the premium tax credit itself, is based in part on the household income of the individual who will claim the credit. Household income is defined in section 36B(d)(2) as the total of the modified adjusted gross incomes (MAGI) of the taxpayer claiming the premium tax credit and those other individuals for whom the taxpayer was allowed a deduction under section 151 and who were required to file a tax return.

Section 1413(a) of the Affordable Care Act directs the Secretary of HHS to establish a system under which an individual may submit a single, streamlined application to apply for specified insurance affordability programs (that is, the premium tax credit under section 36B, cost-sharing reductions under section 1402 of the Affordable Care Act, Medicaid, the Children's Health Insurance Program (CHIP), and a State's basic health program, if applicable, under section 1331 of the Affordable Care Act). The system must be compatible with the processes set up to determine eligibility for advance payments of the premium tax credit and cost-sharing reductions. Where an individual seeking eligibility for any of these insurance affordability programs is found to be eligible for Medicaid or CHIP, the individual is enrolled in that program. If an individual is not eligible for one of these programs, the Exchange will make the determination (or provide for HHS to make the determination) as to the individual's eligibility for advance payments of the premium tax

credit under section 36B and for cost-sharing reductions, and the amount of any advance payments. Under section 1412(c)(2) of the Affordable Care Act, advance payments are made monthly (or on another periodic basis as HHS may provide) directly to the issuer of the qualified health plan in which the individual enrolls.

Section 1411(b)(3) of the Affordable Care Act requires that individuals seeking an eligibility determination for advance payments of the premium tax credit or for cost-sharing reductions provide the Exchange with information regarding their household income and family size to demonstrate that they meet the income-based eligibility requirements. However, section 1411(c)(4)(B) of the Affordable Care Act grants the Secretary of HHS authority to modify the methods used for the verification of information if the Secretary of HHS determines those modifications would reduce the administrative costs and burdens on individuals seeking coverage through an Exchange. The section explicitly gives the Secretary of HHS authority to change the manner in which Exchanges determine eligibility for advance payments of the premium tax credit or for cost-sharing reductions, so long as any applicable requirements under section 6103 of the Internal Revenue Code with respect to the confidentiality, disclosure, maintenance and use of return information would still be met. Section 1411(g) of the Affordable Care Act further provides that individuals will be required to provide only the minimum amount of information needed to authenticate an individual's identity and to determine the individual's eligibility for, and amount of, advance payments of the premium tax credit or cost-sharing reductions.

In proposing regulations in the **Federal Register** on August 17, 2011, the Secretary of HHS concluded that a less burdensome and more reasonable eligibility process would not require an individual to provide an Exchange with specific income-related information, such as the individual's MAGI (76 FR 51202 at 51214). Accordingly, the Secretary of HHS promulgated final regulations published in the **Federal Register** on March 27, 2012 (77 FR 18310), limiting the information an individual needs to provide to an Exchange for purposes of income verification and allowing the

Exchange to solicit information from the IRS through HHS with respect to the individual and his family members whose names and social security numbers, or adoption taxpayer identification numbers, are provided. The regulations also provide guidance on the eligibility determination process for enrollment in a QHP, advance payments of the premium tax credit and cost-sharing reductions, and other insurance affordability programs. Additionally, the Secretary of HHS promulgated final regulations published in the **Federal Register** on March 23, 2012 (77 FR 17144) that provide revised eligibility rules for Medicaid. The Treasury Department and the IRS proposed regulations in the **Federal Register** on August 17, 2011 (76 FR 51202) to implement the new premium tax credit.

Section 6103(l)(21) permits the disclosure of return information to assist Exchanges in performing certain functions set forth in section 1311 of the Affordable Care Act for which income verification is required (including determinations of eligibility for the insurance affordability programs described in the Affordable Care Act), as well as to assist State agencies administering a State Medicaid program under title XIX of the Social Security Act, CHIP under title XXI of the Social Security Act, or a basic health program under section 1331 of the Affordable Care Act (if applicable). Section 6103(l)(21) identifies specific items of return information that will be disclosed and permits the disclosure of such other items prescribed by regulation that might indicate whether an individual is eligible for the premium tax credit under section 36B or cost-sharing reductions under section 1402, and the amount thereof. After an individual submits an application for financial assistance in obtaining health coverage provided pursuant to Title I, subtitle E, of the Affordable Care Act ("the application") to an Exchange or State agency, the IRS will disclose the available items of return information described under section 6103(l)(21)(A) to HHS. Pursuant to section 6103(l)(21)(B), HHS will then disclose the information to the Exchange or State agency that is processing the application.

As a condition for receiving return information under section 6103(l)(21)(A)

and (B), each receiving entity (that is, HHS, the Exchanges, and State agencies that administer Medicaid, CHIP, or basic health plans, and their respective contractors) is required to adhere to the safeguards established under section 6103(p)(4). Final HHS regulations published in the **Federal Register** on March 27, 2012 (77 FR at 18446, 18450) state that to be certified by HHS an Exchange must demonstrate readiness to meet the section 6103 confidentiality requirements with respect to the items of return information the Exchange will receive. As described in section 6103(l)(21)(C), each receiving entity may then use the return information received under sections 6103(l)(21)(A) and (B) only for the purposes of, and to the extent necessary in, establishing eligibility for participation in the Exchange, verifying the appropriate amount of any advance payments of the premium tax credit or cost-sharing reductions, and determining eligibility for participation in a State Medicaid program, CHIP, or basic health program under section 1331 of the Affordable Care Act.

Under section 6103(l)(21)(A), the IRS will disclose to HHS (including its contractor(s)) certain items of return information, as enumerated in the statute or by regulation, for any relevant taxpayer. For purposes of these regulations, a relevant taxpayer is defined to be any individual listed, by name and social security number or adoption taxpayer identification number ("taxpayer identity information"), on the application whose income may bear upon a determination of the eligibility of an individual for an insurance affordability program. For each relevant taxpayer, section 6103(l)(21) explicitly authorizes the disclosure of the following items of return information from the reference tax year: taxpayer identity information, filing status, the number of individuals for which a deduction under section 151 was allowed ("family size"), MAGI, and the taxable year to which any such information relates or, alternatively, that such information is not available. The "reference tax year" is the first calendar year or, where no return information is available in that year the second calendar year, prior to the submission of the application. MAGI is defined under section 36B as the taxpayer's adjusted gross income defined under section 62, increased by three components:

(1) any amount excluded from gross income under section 911, (2) any amount of interest received or accrued by the taxpayer during the taxable year that is exempt from tax, and (3) the amount of social security benefits of the taxpayer excluded from gross income under section 86 for the tax year.

In some situations, the IRS will be unable to calculate MAGI. While uncommon, for certain relevant taxpayers who receive nontaxable social security benefits, the IRS may not have complete information from which to determine the amount of those benefits. If the IRS has information indicating that a relevant taxpayer received nontaxable social security benefits, but is unable to determine the amount of those benefits, the IRS will provide the aggregate amount of the other components used to calculate the relevant taxpayer's MAGI, as well as information indicating that the amount of nontaxable social security benefits must still be taken into account to determine MAGI. Similarly, where MAGI is not available, the IRS will disclose the adjusted gross income, as well as information indicating that the other components of MAGI must still be taken into account to determine MAGI. Because the Affordable Care Act and HHS's final regulations (77 FR at 18456–18458) require that Exchanges use alternative means to verify income where information is not available from the IRS, these explanatory items may assist an Exchange in determining an individual's eligibility for, and amount of, any advance payment of the premium tax credit or cost-sharing reductions.

The proposed regulations further provide that, in certain instances, where some or all of the items of return information prescribed by statute or regulation is unavailable, the IRS will provide information indicating why the particular item of return information is not available. Where an individual jointly filed with a spouse who is not a relevant taxpayer (that is, that spouse is not included on the application), the IRS will not disclose MAGI from the joint return because it cannot be appropriately allocated between the two spouses. Instead, the IRS will disclose that a joint return had been filed. This additional information may help individuals correct any errors or understand why they need to pursue

alternative routes to verify their income. This information, therefore, also can assist Exchanges in determining whether an individual is eligible for advance payments of the premium tax credit or cost-sharing reductions.

Additionally, the IRS may have information in its records indicating that a relevant taxpayer had been a victim of identity theft or that a relevant taxpayer has been reported as deceased. The proposed regulations provide that the IRS will disclose that, although a return for that taxpayer is on file, the information described under section 6103(l)(21) is not being provided because IRS records suggest that the Exchange should take additional steps to authenticate the identities of the relevant taxpayers and may need to use alternate means for income verification.

Where an individual who is listed as a dependent on the application (for the tax year in which the premium tax credit will be claimed) filed a return in the reference tax year but did not have a tax filing requirement for that year (based upon the return filed), the IRS will provide information indicating the dependent listed did not have a filing requirement because the information is relevant to the Exchange's computation of household income.

The final regulations issued by HHS provide that advance payments of the premium tax credit will not be permitted where the relevant taxpayer has received advance payments in the reference tax year and failed to file a return reconciling the advance payments with the actual premium tax credit. (77 FR at 18453). Therefore, these proposed regulations provide that the IRS will disclose to HHS that a relevant taxpayer who received an advance payment of a premium tax credit in the reference tax year did not file a return reconciling the advance payments with any premium tax credit available.

Special Analyses

It has been determined that this Notice of Proposed Rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that, because the regulations proposed 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, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

The Treasury Department and the IRS request comments on all aspects of the proposed rules. A public hearing has been scheduled for August 31, 2012, at 10:00 a.m., in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by July 30, 2012. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of the regulations is Steven L. Karon of the Office of the Associate Chief Counsel, Procedure and Administration.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301 — PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding the entry for §301.6103(l)(21) to read in part as follows:

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

Section 301.6103(l)(21)–(1) also issued under 26 U.S.C. 6103(l)(21) and 6103(q). * * * * *

Par. 2. Add §301.6103(l)(21)–1 to read as follows:

§301.6103(l)(21)–1 Disclosure of return information to the Department of Health and Human Services to carry out eligibility requirements for health insurance affordability programs.

(a) *General rule.* Pursuant to the provisions of section 6103(l)(21)(A) of the Internal Revenue Code, officers and employees of the Internal Revenue Service will disclose, upon written request, for each relevant taxpayer on a single application those items of return information that are described under section 6103(l)(21)(A) and paragraphs (a)(1) through (6) of this section, for the reference tax year, as applicable, to officers, employees and contractors of the Department of Health and Human Services, solely for purposes of, and to the extent necessary in, establishing an individual's eligibility for participation in an Exchange established under the Patient Protection and Affordable Care Act, including eligibility for, and determining the appropriate amount of, any premium tax credit under section 36B or cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act, or determining eligibility for the State programs described in section 6103(l)(21)(A).

(1) With respect to each relevant taxpayer for the reference tax year where the amount of social security benefits not included in gross income under section 86 of the Internal Revenue Code of that relevant taxpayer is unavailable:

(i) The aggregate amount of the following items of return information —

(A) Adjusted gross income, as defined by section 62 of the Internal Revenue Code;

(B) Any amount excluded from gross income under section 911 of the Internal Revenue Code; and

(C) Any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

(ii) Information indicating that the amount of social security benefits not included in gross income under section 86 of the Internal Revenue Code is unavailable.

(2) Adjusted gross income, as defined by section 62 of the Internal Revenue Code, of a relevant taxpayer for the reference tax year, in circumstances where the modified adjusted gross income (MAGI), as defined by section 36B(d)(2)(B) of the Internal Revenue Code, of that relevant taxpayer is unavailable, as well as information indicating that the components of MAGI other than adjusted gross income must be taken into account to determine MAGI;

(3) Information indicating that certain return information of a relevant taxpayer is unavailable for the reference tax year because the relevant taxpayer jointly filed a U.S. Individual Income Tax Return for that year with a spouse who is not a relevant taxpayer listed on the same application;

(4) Information indicating that, although a return for an individual identified on the application as a relevant taxpayer for the reference tax year is available, return information is not being provided because of possible authentication issues with respect to the identity of the relevant taxpayer;

(5) Information indicating that a relevant taxpayer who is identified as a dependent for the tax year in which the premium tax credit under section 36B of the Internal Revenue Code would be claimed, did not have a filing requirement for the reference tax year based upon the U.S. Individual Income Tax Return the relevant taxpayer filed for the reference tax year; and

(6) Information indicating that a relevant taxpayer who received advance payments of the premium tax credit in the reference tax year did not file a tax return for the reference tax year reconciling the advance payments of the premium tax credit with any premium tax credit under section 36B of the Internal Revenue Code available for that year.

(b) *Relevant taxpayer defined.* For purposes of paragraph (a) of this section, a relevant taxpayer is defined to be any individual listed, by name and social security number or adoption taxpayer identification number, on an application submitted pursuant to Title I, Subtitle E, of the Patient Protection and Affordable Care Act, whose income may bear upon a determination of any advance payment of any premium tax credit under section 36B of the Internal Revenue Code, cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act, or eligibility for any program described in section 6103(l)(21)(A) of the Internal Revenue Code.

(c) *Reference tax year defined.* For purposes of section 6103(l)(21)(A) of the Internal Revenue Code and this section, the reference tax year is the first calendar year or, where no return information is available in that year, the second calendar year, prior to the submission of an application pursuant to Title I, Subtitle E, of the Patient Protection and Affordable Care Act.

(d) *Effective/applicability date.* This section applies to disclosures to the Department of Health and Human Services on or after these proposed regulations are published as final regulations in the **Federal Register**.

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

(Filed by the Office of the Federal Register on April 27, 2012, 8:45 a.m., and published in the issue of the Federal Register for April 30, 2012, 77 F.R. 25378)

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2012-24

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 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 enrolled agent 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)
Colorado				
Castle Rock	Baca, Cesar A.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from December 6, 2011
Florida				
Miami	Freeman, Lewis B.	CPA	Suspended by decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1349, conspiracy to commit mail fraud)	Indefinite from January 29, 2012
Massachusetts				
Dover	Barrett, Donal B.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from December 13, 2011
Lynn	Beato, Pedro L.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from December 13, 2011
Michigan				
Detroit	Ross, Mark E.	Attorney	suspended by decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from December 6, 2011
Missouri				
	Baca, Cesar A., See Colorado			
New Jersey				
Hamilton	Carlin, Kevin J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from December 13, 2011
Howell	Mueller, Erik	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from December 13, 2011

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
New Jersey (Continued)				
Scotch Plains	Schetelich, Timothy	CPA	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7206(2), preparation of false income tax returns)	Indefinite from December 13, 2011
Woodbury	Williams, Richard F.	CPA	Suspended by consent for admitted violation of § 10.51 (willfully counseled or suggested to clients to violate Federal tax law)	Indefinite from November 29, 2011
New York				
	Barrett, Donal B., See Massachusetts			
Halesite	Donner, Andrew S.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from December 13, 2011
Buffalo	Goods, Robert R.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment and conviction under 18 U.S.C. § 1344, scheme to defraud a bank)	Indefinite from December 13, 2011
	Mueller, Erik, See New Jersey			
West Hampton Beach	Price, Peter R.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from December 13, 2011
New York	Starr, Kenneth I.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1343, wire fraud, conviction under 18 U.S.C. § 1956, money laundering and under 15 U.S.C. § 80b-6, investment advisor fraud)	Indefinite from December 13, 2011

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
New York (Continued)				
Staten Island	Vago, David	CPA	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 371, conspiracy to commit immigration fraud and make false statements)	Indefinite from December 13, 2011
Binghamton	Whiting III, Kenneth P.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7203, willful failure to file an income tax return)	Indefinite from December 13, 2011
North Carolina				
Fayetteville	Chestnut, A. Johnson	CPA		Reinstated to practice before the IRS, December 8, 2011
Tennessee				
Hixson	Miller, Herbert A.	CPA		Reinstated to practice before the IRS, December 14, 2011

Definition of Terms

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

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

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

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

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A

and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

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

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

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance

of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

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

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

Abbreviations

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

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.

ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.

PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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