

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

T.D. 9597, page 258.

Final regulations under section 274(e)(2) and (9) of the Code provide rules relating to the disallowance of deductions for expenses for the use of business aircraft for entertainment of specified individuals.

REG-101812-07, page 311.

Proposed regulations under section 274(e)(3) of the Code provide rules relating to the exception for reimbursed expenses to the limitations on deductions for expenses for meals and entertainment.

Rev. Proc. 2012-32, page 267.

This procedure provides the requirements for completing and submitting Form 8655, *Reporting Agent Authorization*. Rev. Proc. 2007-38 modified and superseded.

Rev. Proc. 2012-33, page 272.

This procedure updates the rules for using the EFTPS to remit federal taxes to the Service. Rev. Proc. 98-32 modified and superseded.

EMPLOYMENT TAX

Rev. Proc. 2012-32, page 267.

This procedure provides the requirements for completing and submitting Form 8655, *Reporting Agent Authorization*. Rev. Proc. 2007-38 modified and superseded.

Rev. Proc. 2012-33, page 272.

This procedure updates the rules for using the EFTPS to remit federal taxes to the Service. Rev. Proc. 98-32 modified and superseded.

TAX CONVENTIONS

Announcement 2012-30, page 314.

This document provides a copy of the Competent Authority Agreement entered into by the competent authorities of the United States and Belgium providing that additional taxes established by Belgian municipalities and conurbations on the Belgian income tax are covered under Article 2 (Taxes Covered) of the Convention Between the Government of the United States of America and the Government of the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at Brussels on November 27, 2006.

Announcement 2012-31, page 315.

This document provides a copy of the Competent Authority Agreement entered into by the competent authorities of the United States and Canada regarding application of the principles set forth in the Organisation for Economic Cooperation and Development Report on the Attribution of Profits to Permanent Establishments in the interpretation of Article VII (Business Profits) of the Convention between Canada and the United States of America with Respect to Taxes on Income and on Capital done at Washington on September 26, 1980, as amended by the Protocols done on June 14, 1983, March 28, 1994, March 17, 1995, July 29, 1997, and September 17, 2007.

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Finding Lists begin on page ii.



ADMINISTRATIVE

Rev. Proc. 2012-32, page 267.

This procedure provides the requirements for completing and submitting Form 8655, *Reporting Agent Authorization*. Rev. Proc. 2007-38 modified and superseded.

Rev. Proc. 2012-33, page 272.

This procedure updates the rules for using the EFTPS to remit federal taxes to the Service. Rev. Proc. 98-32 modified and superseded.

Rev. Proc. 2012-34, page 280.

This procedure provides changes to Publication 4810, *Specifications for Filing Form 8955-SSA, Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits, Electronically*.

The IRS Mission

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

force the law with integrity and fairness to all.

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

Section 61.—Gross Income Defined

26 CFR 1.61-21: *Taxation of fringe benefits.*

Final regulations provide rules relating to the valuation for income inclusion purposes of the entertainment use of business aircraft by specified individuals. See T.D. 9597, page 258.

Section 274.—Disallowance of Certain Entertainment, etc., Expenses

26 CFR 1.274-9: *Entertainment provided to specified individuals.*

T.D. 9597

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Deductions for Entertainment Use of Business Aircraft

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the use of business aircraft for entertainment. These final regulations affect taxpayers that deduct expenses for entertainment, amusement, or recreation provided to specified individuals. The final regulations reflect statutory amendments under the American Jobs Creation Act of 2004 (AJCA) and the Gulf Opportunity Zone Act of 2005 (GOZA).

DATES: *Effective Date:* These regulations are effective August 1, 2012.

Applicability Date: For dates of applicability, see §§1.61-21(g)(14)(iii), 1.274-9(e), and 1.274-10(g).

FOR FURTHER INFORMATION CONTACT: Michael Nixon (section 274), (202) 622-4930; or Lynne A. Camillo (section 61), (202) 622-6040 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains final amendments to the Income Tax Regulations, 26 CFR part 1, relating to the disallowance under section 274 of the Internal Revenue Code (Code) of deductions for the use of business aircraft for entertainment.

On June 15, 2007, a notice of proposed rulemaking (REG-147171-05, 2007-2 C.B. 334) regarding the use of business aircraft for entertainment was published in the **Federal Register** (72 FR 33169). Written and electronic comments responding to the notice of proposed rulemaking were received. A public hearing on the proposed regulations was held on October 25, 2007. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision. The comments and revisions are discussed in the preamble.

Explanation of Provisions and Summary of Comments

1. *Determination of Costs*

a. *Application of disallowance to fixed costs*

The proposed regulations provide that expenses subject to disallowance under section 274(a) include variable costs such as fuel and landing fees, and fixed costs such as depreciation, hangar fees, pilot salaries, and other items not directly related to an individual flight. Commentators suggested that the final regulations should limit expenses subject to disallowance to the direct or variable costs of a flight and exclude fixed costs. The final regulations do not adopt this comment because section 274(e)(2) does not explicitly differentiate between fixed and variable expenses and because such an interpretation is contrary to Congressional intent.

b. *Charter rate safe harbor*

The proposed regulations requested comments on whether, as an alternative

to determining actual expenses, the final regulations should allow taxpayers to determine the amount of expenses paid or incurred for entertainment flights by reference to charter rates. The proposed regulations asked for specific comments on the availability of substantiated actual, published, undiscounted charter rates charged to the general public by companies that meet certain requirements.

Commentators generally endorsed the inclusion of a charter rate safe harbor in the final regulations. They suggested that the IRS establish rates either by conducting a survey of average charter rates by region or by authorizing representatives of the industry to create a charter rate reporting system. One commentator suggested that if the IRS does not establish charter rates, individual taxpayers should be allowed to determine charter rates. Commentators also stated that a charter rate safe harbor should include rates for rentals of small piston aircraft, which taxpayers use extensively for business but normally are not chartered.

The difficulty of determining accurate and reliable charter rates continues to be an impediment to establishing a charter rate safe harbor. Accordingly, the final regulations do not include these rules. However, the final regulations authorize the IRS to adopt charter rate or other safe harbors in future published guidance, see §601.601(d).

c. *Depreciation*

The proposed regulations permit a taxpayer to elect to compute depreciation expenses on a straight-line basis for all of the taxpayer's aircraft and all taxable years for purposes of calculating expenses subject to disallowance, even if the taxpayer uses another method to compute depreciation for other purposes. The proposed regulations provide a transition rule for applying the straight-line election to aircraft placed in service in taxable years preceding the election, which requires the taxpayer to apply the straight-line method as if it had been applied from the year the aircraft was placed in service.

A commentator requested that the final regulations allow a separate election for each aircraft. The final regulations do not allow an aircraft-by-aircraft election. Requiring taxpayers to make the election for all aircraft appropriately balances the policies of promoting business investment through the allowance of additional first-year depreciation and denying a tax benefit for entertainment use of business aircraft.

The commentator also suggested that changing depreciation methods under the transition rule may result in disallowing more than 100 percent of the cost of the aircraft. In response to the comment, the final regulations clarify that, in any taxable year, the depreciation disallowance does not exceed the amount of otherwise allowable depreciation. Thus, the sum of the allowable depreciation and the depreciation disallowed will not exceed 100 percent of basis, regardless of the taxable year a taxpayer makes the straight-line election.

The final regulations provide examples illustrating how taxpayers determine depreciation and basis under the election.

d. *Interest expense*

A commentator asked for clarification on whether interest is an expense that is subject to disallowance. In response to this comment, the final regulations clarify that interest is subject to disallowance if the underlying debt is secured by or properly allocable to an aircraft used for entertainment.

e. *Aircraft aggregation*

The proposed regulations provide that a taxpayer may aggregate expenses for aircraft of similar cost profiles to calculate expenses subject to disallowance. The proposed regulations require that aircraft have the same engine type and number and suggest other factors relevant to whether aircraft are of a similar cost profile.

A commentator requested that the final regulations make the aircraft aggregation rules less restrictive. The commentator opined that taxpayers should be allowed to aggregate the expenses of all aircraft to alleviate the administrative burden of computing and allocating expenses to entertainment use of the aircraft. The commentator stated that, alternatively, the rules inappropriately require similar cost profiles

to include the same number of engines and require an unduly detailed analysis of the aircraft characteristics.

The final regulations retain the aircraft aggregation rules. Aggregating the expenses of all aircraft regardless of cost characteristics would create unacceptable distortions in the amount of expenses allocated to the use of each aircraft. The rules are sufficiently broad and flexible for taxpayers to easily apply them.

2. *Allocation of Costs to Flights*

a. *Primary purpose test*

The proposed regulations provide two alternative methods for allocating the costs associated with the use of an aircraft to provide entertainment to specified individuals. The occupied seat hours or miles allocation method divides the total expenses for the year by the number of occupied seat hours or occupied seat miles to determine a per seat or per mile rate, and it applies the rate to the number of hours or miles of entertainment use. The flight-by-flight method allocates expenses to a flight and then to the passengers on the flight according to the entertainment or nonentertainment character of the travel.

Commentators suggested that the final regulations adopt a primary purpose test for identifying disallowed expenses. Under a primary purpose test, the primary purpose of a flight would determine whether any costs associated with specified individuals traveling for entertainment on that flight are disallowed. Generally, if the primary purpose of a flight is business, no more than the additional or incidental costs associated with specified individuals traveling for entertainment aboard that flight would be disallowed. Some commentators suggested that if the primary purpose of a flight is business, no costs should be allocated to entertainment. One commentator advocated that the final regulations include a primary purpose test as a safe harbor for smaller aircraft.

The final regulations do not adopt a primary purpose test. Section 274(e)(2) applies if a taxpayer provides entertainment, amusement, or recreation to a specified individual and does not depend on either the reason the taxpayer provides the entertainment or the overall use of the aircraft. Disregarding entertainment use by a specified

individual is contrary to Congressional intent in amending section 274(e)(2) to disallow expenses allocable to entertainment use of aircraft by specified individuals.

b. *Effect of allocation rules*

Commentators suggested the passenger-by-passenger allocation of costs in the proposed regulations imposes an undue administrative burden on taxpayers. One commentator stated that the regulations result in excess disallowance and are unworkable due to their inconsistency with the primary purpose test. Another commentator said that determination of the character of each passenger's use could be difficult and asked for more examples illustrating when a use is entertainment.

The final regulations retain the occupied seat hours or miles and flight-by-flight allocation rules. Before the amendment of section 274(e)(2), taxpayers were required to maintain records of the character of the use of aircraft by employees to comply with the income inclusion rules of section 61 and §1.61-21. Any additional administrative burden resulting from the requirement to identify, and allocate expenses to, entertainment use of aircraft is limited and is inherent in the statutory requirement to allocate expenses to entertainment use. The final regulations do not include additional examples of entertainment use because entertainment use is defined for purposes of section 274 in §1.274-2(b)(1) and is therefore beyond the scope of this regulation.

3. *Allocation of Disallowance to Expenses*

The proposed regulations provide that the disallowance provisions are applied on a *pro rata* basis to all disallowed expenses. A commentator requested clarification of how an amount that is treated as compensation to or reimbursed by a specified individual is allocated to disallowed expenses. The commentator noted that it is necessary to determine the amount of disallowed expenses that represents depreciation to properly adjust an aircraft's basis.

In response to this comment, the final regulations clarify that any amounts disallowed and any amounts reimbursed or treated as compensation are applied to total expenses subject to disallowance on a *pro*

rata basis. The final regulations include an example illustrating this rule.

4. *Bona Fide Security Concerns*

The proposed regulations do not exempt expenses for entertainment travel from disallowance under section 274 when there is a business need to use the aircraft to provide security pursuant to §1.132-5(m). A commentator argued that the final regulations should provide that the excess cost of using a private aircraft for *bona fide* security concerns should not be subject to disallowance. Section 1.132-5(m) reduces the amount of income inclusion for the fringe benefit under circumstances in which a *bona fide* security concern exists, but does not convert an entertainment flight into a business flight. Because section 274(e) does not provide an exception to disallowance for expenses related to the use of a private aircraft for *bona fide* security concerns, the final regulations do not adopt this comment.

5. *Aircraft as Entertainment Facilities*

The proposed regulations do not address the use of aircraft as entertainment facilities, but requested comments on whether additional guidance on this question should be issued. Commentators suggested that the same rules in the proposed regulations should apply to the use of aircraft as entertainment facilities and requested that the final regulations clarify when and how the rules apply to entertainment facilities.

These regulations interpret section 274(e)(2). Section 274(e)(2) is an exception to the disallowance provisions of section 274(a). Expenses for entertainment facilities are disallowed under section 274(a)(1)(B). Therefore, the final regulations clarify that section 274(e)(2) and the associated regulations apply to expenses for entertainment facilities as well as entertainment activities. However, the final regulations do not include specific rules for the use of aircraft as entertainment facilities, which are addressed elsewhere in the section 274 regulations.

6. *Deadhead Flights*

The proposed regulations provide that an aircraft flying without passengers en

route to pick up, or after having discharged, passengers (deadhead flight) is generally treated as having the same number and character of passengers as the leg of the trip on which passengers are on board. A commentator suggested that the final regulations allow any reasonable method to determine expenses related to deadhead flights. The final regulations do not adopt this rule because it would be difficult to administer.

Another commentator asked that the final regulations provide examples including mathematical computations for expenses for deadhead flights. In response to this comment, the final regulations include examples illustrating the computation of expenses for a deadhead flight.

7. *Leases to Third Parties*

The proposed regulations provide that expenses allocable to a lease or charter of an aircraft to an unrelated third party in a *bona-fide* business transaction for the charter period are not subject to the expense disallowance. A commentator suggested that the rules for leases and charters to third parties should clarify that “charter period” includes “lease period,” that not only expenses but also flight hours or miles attributable to a charter period are removed from the seat/hour or seat/mile calculation, and that a taxpayer may use any reasonable method to allocate expenses to a charter period.

The seat hour or seat mile calculation is a method of allocating expenses to entertainment use. If expenses are not subject to the expense disallowance, then no allocation is required, and seat hours or miles attributable to a charter period are not included in that calculation. The final regulations change the term *charter period* to the term *lease or charter period*. The final regulations also clarify that whether a third party is unrelated to the taxpayer is determined under section 267(b) or 707(b).

8. *Section 274(e)(8) Exception*

A commentator asked for clarification on whether the proposed regulations modify the section 274(e)(8) exception for “entertainment sold to customers.” Another commentator asked for clarification on what constitutes “adequate and full

consideration” for purposes of the section 274(e)(8) exception.

The proposed and final regulations, which provide guidance on the section 274(e)(2) exception, state that the section 274(a) disallowance for the use of a taxpayer-provided aircraft for entertainment does not apply to expenses that meet the exceptions of section 274(e). As stated in §1.274-2(f)(2)(ix), section 274(e)(8) applies only to taxpayers that are in the trade or business of providing entertainment to customers, and only to entertainment sold to customers. However, the final regulations do not provide additional rules on the section 274(e)(8) exception, which is outside the scope of the regulations.

9. *Travel on Regularly Scheduled Commercial Airlines*

A commentator requested that the final regulations include an exception for entertainment flights by employees of commercial passenger or cargo airlines on flights operated by their employers. The commentator also noted that identifying entertainment use by specified individuals on these flights and allocating expenses to this use would be extremely burdensome. While the final regulations do not provide a general exception to the disallowance rules for taxpayers that are commercial passenger or cargo airlines because a general exception is not supported by the statute, the final regulations provide a special rule for specified individuals on regularly scheduled flights of taxpayers that are commercial passenger airlines. This rule treats expenses of entertainment flights by specified individuals in the same manner as expenses of entertainment flights by non-specified individuals under certain circumstances.

10. *Charitable Contribution Deduction*

A commentator suggested that the final regulations should include rules on charitable contribution deductions for the fixed costs of using aircraft for charitable purposes. These rules are outside the scope of the regulations; therefore, the final regulations do not adopt this comment.

11. *Income Inclusion and Compensation*

Section 274(e)(2) and the proposed regulations provide, in general, that expenses

are not disallowed to the extent of the amount a taxpayer treats as compensation to, or includes in the income of, a specified individual. A commentator requested that the final regulations include a “safe harbor deduction” of the amount of compensation claimed for the specified individual. The final regulations do not adopt this comment because section 274(e)(2) already operates as a safe harbor deduction to the extent of amounts treated as compensation and income, up to the amount of expenses properly allocable to that entertainment use.

The proposed regulations additionally provide, in effect, that expenses are not disallowed to the extent of the amount a specified individual reimburses the taxpayer. A commentator asked that the final regulations include examples of how these rules apply when an employee pays for a flight and that the regulations specify that the taxpayer has income in that circumstance. The final regulations retain examples from the proposed regulations that illustrate the amount of expenses disallowed when amounts are treated as compensation or when an employee reimburses the taxpayer. The circumstances under which the taxpayer has income from reimbursements is beyond the scope of these regulations.

Effective/Applicability Date

The final regulations apply to taxable years beginning after August 1, 2012.

Effect on Other Documents

Notice 2005–45, 2005–1 C.B. 1228, is obsolete as of August 1, 2012.

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. Section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. 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 that preceded these final 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 authors of these regulations are Michael Nixon of the Office of Associate Chief Counsel (Income Tax and Accounting) and Lynne A. Camillo of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.274–9 also issued under 26 U.S.C. 274(o).* * *

Section 1.274–10 also issued under 26 U.S.C. 274(o).* * *

Par. 2. Section 1.61–21 is amended by revising paragraphs (g)(14)(i) and (ii) and adding paragraph (g)(14)(iii) to read as follows:

§1.61–21 *Taxation of fringe benefits.*

* * * * *

(g) * * *

* * * * *

(14) * * *

(i) *Use by employer.* Except as otherwise provided in paragraph (g)(13) or paragraph (g)(14)(iii) of this section or in §1.132–5(m)(4), if the non-commercial flight valuation rule of this paragraph (g) is used by an employer to value any flight provided in a calendar year, the rule must be used to value all flights provided to all employees in the calendar year.

(ii) *Use by employee.* Except as otherwise provided in paragraph (g)(13) or (g)(14)(iii) of this section or in §1.132–5(m)(4), if the non-commercial

flight valuation rule of this paragraph (g) is used by an employee to value a flight provided by an employer in a calendar year, the rule must be used to value all flights provided to the employee by that employer in the calendar year.

(iii) *Exception for entertainment flights provided to specified individuals after October 22, 2004.* Notwithstanding the provisions of paragraph (g)(14)(i) of this section, an employer may use the general valuation rules of paragraph (b) of this section to value the entertainment use of an aircraft provided after October 22, 2004, to a specified individual. An employer who uses the general valuation rules of paragraph (b) of this section to value any entertainment use of an aircraft by a specified individual in a calendar year must use the general valuation rules of paragraph (b) of this section to value all entertainment use of aircraft provided to all specified individuals during that calendar year.

(A) *Specified individuals defined.* For purposes of paragraph (g)(14)(iii) of this section, *specified individual* is defined in section 274(e)(2)(B) and §1.274–9(b).

(B) *Entertainment defined.* For purposes of paragraph (g)(14)(iii) of this section, *entertainment* is defined in §1.274–2(b)(1).

* * * * *

Par. 3. Section 1.274–9 is added to read as follows:

§1.274–9 *Entertainment provided to specified individuals.*

(a) *In general.* Paragraphs (e)(2) and (e)(9) of section 274 provide exceptions to the disallowance of section 274(a) for expenses for entertainment, amusement, or recreation activities, or for an entertainment facility. In the case of a specified individual (as defined in paragraph (b) of this section), the exceptions of paragraphs (e)(2) and (e)(9) of section 274 apply only to the extent that the expenses do not exceed the amount of the expenses treated as compensation (under section 274(e)(2)) or as income (under section 274(e)(9)) to the specified individual. The amount disallowed is reduced by any amount that the specified individual reimburses a taxpayer for the entertainment.

(b) *Specified individual defined.* (1) A specified individual is an individual who is subject to section 16(a) of the Securities

Act of 1934 in relation to the taxpayer, or an individual who would be subject to section 16(a) if the taxpayer were an issuer of equity securities referred to in that section. Thus, for example, a specified individual is an officer, director, or more than 10 percent owner of a corporation taxed under subchapter C or subchapter S or a personal service corporation. A specified individual includes every individual who—

(i) Is the direct or indirect beneficial owner of more than 10 percent of any class of any registered equity (other than an exempted security);

(ii) Is a director or officer of the issuer of the security;

(iii) Would be the direct or indirect beneficial owner of more than 10 percent of any class of a registered security if the taxpayer were an issuer of equity securities; or

(iv) Is comparable to an officer or director of an issuer of equity securities.

(2) For partnership purposes, a specified individual includes any partner that holds more than a 10 percent equity interest in the partnership, or any general partner, officer, or managing partner of a partnership.

(3) For purposes of this section, *officer* has the same meaning as in 17 CFR §240.16a-1(f).

(4) A specified individual includes a director or officer of a tax-exempt entity.

(5) A specified individual of a taxpayer includes a specified individual of a party related to the taxpayer within the meaning of section 267(b) or section 707(b).

(c) *Specified individual treated as recipient of entertainment provided to others.* For purposes of section 274(a), a specified individual is treated as the recipient of entertainment provided to another individual because of the relationship of the other individual to the specified individual if the entertainment is a fringe benefit to the specified individual under section 61(a)(1) (without regard to any exclusions from gross income). Thus, expenses allocable to entertainment provided to the other individual are attributed to the specified individual for purposes of determining the amount of disallowed expenses.

(d) *Entertainment use of aircraft by specified individuals.* For rules relating to entertainment use of aircraft by specified individuals, see §1.274-10.

(e) *Effective/applicability date.* This section applies to taxable years beginning after August 1, 2012.

Par. 4. Section 1.274-10 is added to read as follows:

§1.274-10 Special rules for aircraft used for entertainment.

(a) *Use of an aircraft for entertainment—(1) In general.* Section 274(a) disallows a deduction for certain expenses for entertainment, amusement, or recreation activities, or for an entertainment facility. Under section 274(a) and this section, no deduction otherwise allowable under chapter 1 is allowed for expenses for the use of a taxpayer-provided aircraft for entertainment, except as provided in paragraph (a)(2) of this section.

(2) *Exceptions—(i) In general.* Paragraph (a)(1) of this section does not apply to deductions for expenses for business entertainment air travel or to deductions for expenses that meet the exceptions of section 274(e), §1.274-2(f), and this section. Section 274(e)(2) and (e)(9) provides certain exceptions to the disallowance of section 274(a) for expenses for goods, services, and facilities for entertainment, recreation, or amusement.

(ii) *Expenses treated as compensation—(A) Employees who are not specified individuals.* Section 274(a), §1.274-2(a) through (d), and paragraph (a)(1) of this section, in accordance with section 274(e)(2)(A), do not apply to expenses for entertainment air travel provided to an employee who is not a specified individual to the extent that a taxpayer—

(1) Properly treats the expenses relating to the recipient of entertainment as compensation to an employee under chapter 1 and as wages to the employee for purposes of chapter 24; and

(2) Treats the proper amount as compensation to the employee under §1.61-21.

(B) *Persons who are not employees and are not specified individuals.* Section 274(a), §1.274-2(a) through (d), and paragraph (a)(1) of this section, in accordance with section 274(e)(9), do not apply to expenses for entertainment air travel provided to a person who is not an employee and is not a specified individual to the extent that the expenses are includible in the income of that person. This exception

does not apply to any amount paid or incurred by the taxpayer that is required to be included in any information return filed by the taxpayer under part III of subchapter A of chapter 61 and is not so included.

(C) *Specified individuals.* Section 274(a), §1.274-2(a) through (d), and paragraph (a)(1) of this section, in accordance with section 274(e)(2)(B), do not apply to expenses for entertainment air travel of a specified individual to the extent that the amount of the expenses do not exceed the sum of—

(1) The amount treated as compensation to or included in the income of the specified individual in the manner specified under paragraph (a)(2)(ii)(A)(1) of this section (if the specified individual is an employee) or under paragraph (a)(2)(ii)(B) of this section (if the specified individual is not an employee); and

(2) Any amount the specified individual reimburses the taxpayer.

(iii) *Travel on regularly scheduled commercial airlines.* Section 274(a), §1.274-2(a) through (d), and paragraph (a)(1) of this section do not apply to expenses for entertainment air travel that a taxpayer that is a commercial passenger airline provides to specified individuals of the taxpayer on the taxpayer's regularly scheduled flights on which at least 90 percent of the seats are available for sale to the public to the extent the expenses are includible in the income of the recipient of the entertainment in the manner specified under paragraph (a)(2)(ii)(A)(1) of this section (if the specified individual is an employee) or under paragraph (a)(2)(ii)(B) of this section (if the specified individual is not an employee).

(b) *Definitions.* The definitions in this paragraph (b) apply for purposes of this section.

(1) *Entertainment.* For the definition of *entertainment* for purposes of this section, see §1.274-2(b)(1). Entertainment does not include personal travel that is not for entertainment purposes. For example, travel to attend a family member's funeral is not entertainment.

(2) *Entertainment air travel.* *Entertainment air travel* is any travel aboard a taxpayer-provided aircraft for entertainment purposes.

(3) *Business entertainment air travel.* *Business entertainment air travel* is any entertainment air travel aboard a tax-

payer-provided aircraft that is directly related to the active conduct of the taxpayer's trade or business or related to an expenditure directly preceding or following a substantial and *bona fide* business discussion and associated with the active conduct of the taxpayer's trade or business. See §1.274-2(a)(1)(i) and (ii). Air travel is not business entertainment air travel merely because a taxpayer-provided aircraft is used for the travel as a result of a *bona fide* security concern under §1.132-5(m).

(4) *Taxpayer-provided aircraft.* A taxpayer-provided aircraft is any aircraft owned by, leased to, or chartered to, a taxpayer or any party related to the taxpayer (within the meaning of section 267(b) or section 707(b)).

(5) *Specified individual.* For rules relating to the definition of a specified individual, see §1.274-9.

(c) *Amount disallowed.* Except as otherwise provided, the amount disallowed under this section for an entertainment flight by a specified individual is the amount of expenses allocable to the entertainment flight of the specified individual under paragraph (e)(2), (e)(3), or (f)(3) of this section, reduced (but not below zero) by the amount the taxpayer treats as compensation or reports as income under paragraph (a)(2)(ii)(C)(1) of this section to the specified individual, plus any amount the specified individual reimburses the taxpayer.

(d) *Expenses subject to disallowance under this section—(1) Definition of expenses.* In determining the amount of expenses subject to disallowance under this section, a taxpayer must include all of the expenses of operating the aircraft, including all fixed and variable expenses the taxpayer deducts in the taxable year. These expenses include, but are not limited to, salaries for pilots, maintenance personnel, and other personnel assigned to the aircraft; meal and lodging expenses of flight personnel; take-off and landing fees; costs for maintenance flights; costs of on-board refreshments, amenities and gifts; hangar fees (at home or away); management fees; costs of fuel, tires, maintenance, insurance, registration, certificate of title, inspection, and depreciation; interest on debt secured by or properly allocated (within the meaning of §1.163-8T) to an aircraft;

and all costs paid or incurred for aircraft leased or chartered to the taxpayer.

(2) *Leases or charters to third parties.* Expenses allocable to a lease or charter of a taxpayer's aircraft to an unrelated (as determined under section 267(b) or 707(b)) third-party in a *bona-fide* business transaction for adequate and full consideration are excluded from the definition of expenses in paragraph (d)(1) of this section. Only expenses allocable to the lease or charter period are excluded under this paragraph (d)(2).

(3) *Straight-line method permitted for determining depreciation disallowance under this section—(i) In general.* In lieu of the amount of depreciation deducted in the taxable year, solely for purposes of paragraph (d)(1) of this section, a taxpayer may elect to treat as its depreciation deduction the amount that would result from using the straight-line method of depreciation over the class life (as defined by section 168(i)(1) and using the applicable convention under section 168(d)) of an aircraft, even if the taxpayer uses a different methodology to calculate depreciation for the aircraft under other sections of the Internal Revenue Code (for example, section 168). If the property qualifies for the additional first-year depreciation deduction provided by, for example, section 168(k), 168(n), 1400L(b), or 1400N(d), depreciation for purposes of this straight-line election is determined on the unadjusted depreciable basis (as defined in §1.168(b)-1(a)(3)) of the property. However, the amount of depreciation disallowed as a result of this paragraph (d)(3) for any taxable year cannot exceed a taxpayer's allowable depreciation for that taxable year. For purposes of this section, a taxpayer that elects to use the straight-line method and class life under this paragraph (d)(3) for any aircraft it operates must use that methodology for all depreciable aircraft it operates and must continue to use the methodology for the entire period the taxpayer uses any depreciable aircraft.

(ii) *Aircraft placed in service in earlier taxable years.* The amount of depreciation for purposes of this paragraph (d)(3) for aircraft placed in service in taxable years before the taxable year of the election is determined by applying the straight-line method of depreciation to the unadjusted depreciable basis (or, for property acquired

in an exchange to which section 1031 applies, the basis of the aircraft as determined under section 1031(d)) and over the class life (using the applicable convention under section 168(d)) of the aircraft as though the taxpayer used that methodology from the year the aircraft was placed in service.

(iii) *Manner of making and revoking election.* A taxpayer makes the election under this paragraph (d)(3) by filing an income tax return for the taxable year that determines the taxpayer's expenses for purposes of paragraph (d)(1) of this section by computing depreciation under this paragraph (d)(3). A taxpayer may revoke an election only for compelling circumstances upon consent of the Commissioner by private letter ruling.

(4) *Aggregation of aircraft—(i) In general.* A taxpayer may aggregate the expenses of aircraft of similar cost profiles for purposes of calculating disallowed expenses under paragraph (c) of this section.

(ii) *Similar cost profiles.* Aircraft are of similar cost profiles if their operating costs per mile or per hour of flight are comparable. Aircraft must have the same engine type (jet or propeller) and the same number of engines to have similar cost profiles. Other factors to be considered in determining whether aircraft have similar cost profiles include, but are not limited to, maximum take-off weight, payload, passenger capacity, fuel consumption rate, age, maintenance costs, and depreciable basis.

(5) *Authority for establishing safe harbors for determining expenses.* The Commissioner may establish in published guidance, see §601.601(d)(2) of this chapter, one or more safe harbor methods under which a taxpayer may determine the amount of expenses paid or incurred for entertainment flights.

(e) *Allocation of expenses—(1) General rule.* For purposes of determining the expenses allocated to entertainment air travel of a specified individual under paragraph (a)(2)(ii)(C) of this section, a taxpayer must use either the occupied seat hours or miles method of paragraph (e)(2) of this section or the flight-by-flight method of paragraph (e)(3) of this section. A taxpayer must use the chosen method for all flights of all aircraft for the taxable year.

(2) *Occupied seat hours or miles method—(i) In general.* The occupied seat hours or miles method determines

the amount of expenses allocated to a particular entertainment flight of a specified individual based on the occupied seat hours or miles for an aircraft for the taxable year. Under this method, a taxpayer may choose to use either occupied seat hours or miles for the taxable year to determine the amount of expenses allocated to entertainment flights of specified individuals, but must use occupied seat hours or miles consistently for all flights of all aircraft for the taxable year.

(ii) *Computation under the occupied seat hours or miles method.* The amount of expenses allocated to an entertainment flight taken by a specified individual is computed under the occupied seat hours or miles method by determining—

(A) The total expenses for the year under paragraph (d) of this section for the aircraft or group of aircraft (if aggregated under paragraph (d)(4) of this section), as applicable;

(B) The number of occupied seat hours or miles for the taxable year for the aircraft or group of aircraft by totaling the occupied seat hours or miles of all flights in the taxable year flown by the aircraft or group of aircraft, as applicable. The occupied seat hours or miles for a flight is the number of hours or miles flown for the flight multiplied by the number of seats occupied on that flight. For example, a flight of 6 hours with three passengers results in 18 occupied seat hours;

(C) The cost per occupied seat hour or mile for the aircraft or group of aircraft, as applicable, by dividing the total expenses under paragraph (e)(2)(ii)(A) of this section by the total number of occupied seat hours or miles under paragraph (e)(2)(ii)(B) of this section; and

(D) The amount of expenses allocated to an entertainment flight taken by a specified individual by multiplying the number of hours or miles of the flight by the cost per occupied hour or mile for that aircraft or group of aircraft, as applicable, as determined under paragraph (e)(2)(ii)(C) of this section.

(iii) *Allocation of expenses of multi-leg trips involving both business and entertainment legs.* A taxpayer that uses the occupied seat hours or miles allocation method must allocate the expenses of a trip by a specified individual that involves at least one segment for business and

one segment for entertainment between the business travel and the entertainment travel unless none of the expenses for the entertainment segment are disallowed. The entertainment cost of a multi-leg trip is the total cost of the flights (by occupied seat hours or miles) minus the cost of the flights that would have been taken without the entertainment segment or segments.

(iv) *Examples.* The following examples illustrate the provisions of this paragraph (e)(2):

Example 1. (i) A taxpayer-provided aircraft is used for Flights 1, 2, and 3, of 5 hours, 5 hours, and 4 hours, respectively, during the Taxpayer's taxable year. Each flight carries four passengers. On Flight 1, none of the passengers is a specified individual. On Flight 2, passengers A and B are specified individuals traveling for entertainment purposes and passengers C and D are not specified individuals. For Flight 2, Taxpayer treats \$1,200 as compensation to A, and B reimburses Taxpayer \$500. On Flight 3, all four passengers (A, B, E, and F) are specified individuals traveling for entertainment purposes. For Flight 3, Taxpayer treats \$1,300 each as compensation to A, B, E, and F. Taxpayer incurs \$56,000 in expenses for the operation of the aircraft for the taxable year. The aircraft is operated for 56 occupied seat hours for the period (four passengers times 5 hours (20 occupied seat hours) for Flight 1, plus four passengers times 5 hours (20 occupied seat hours) for Flight 2, plus four passengers times 4 hours (16 occupied seat hours) for Flight 3). The cost per occupied seat hour is \$1,000 (\$56,000/56 hours).

(ii) For purposes of determining the amount disallowed (to the extent not treated as compensation or reimbursed) for entertainment provided to specified individuals, \$5,000 (\$1,000 X 5 hours) each is allocable to A and B for Flight 2, and \$4,000 (\$1,000 X 4 hours) each is allocable to A, B, E, and F for Flight 3.

(iii) For Flight 2, because Taxpayer treats \$1,200 as compensation to A, and B reimburses Taxpayer \$500, Taxpayer may deduct \$1,700 of the cost of Flight 2 allocable to A and B. The deduction for the remaining \$8,300 cost allocable to entertainment provided to A and B on Flight 2 is disallowed (for A, \$5,000 less the \$1,200 treated as compensation, and for B, \$5,000 less the \$500 reimbursed).

(iv) For Flight 3, because Taxpayer treats \$1,300 each as compensation to A, B, E, and F, Taxpayer may deduct \$5,200 of the cost of Flight 3. The deduction for the remaining \$10,800 cost allocable to entertainment provided to A, B, E, and F on Flight 3 is disallowed (\$4,000 less the \$1,300 treated as compensation to each specified individual).

Example 2. (i) G, a specified individual, is the sole passenger on an aircraft that makes three flights. First, G travels on a two-hour flight from City A to City B for business purposes. G then travels on a three-hour flight from City B to City C for entertainment purposes, and returns from City C to City A on a four-hour flight. G's flights have resulted in nine occupied seat hours (two for the first segment, plus three for the second segment, plus four for the third segment). If G had returned directly to City A from City B, the flights would have resulted in four occupied seat hours.

(ii) Under paragraph (e)(2)(iii) of this section, five occupied seat hours are allocable to G's entertainment (nine total occupied seat hours minus the four occupied seat hours that would have resulted if the travel had been a roundtrip business trip without the entertainment segment). If Taxpayer's cost per occupied seat hour for the year is \$1,000, \$5,000 is allocated to G's entertainment use of the aircraft (\$1,000 X five occupied seat hours). The amount disallowed is \$5,000 minus the total of any amount the Taxpayer treats as compensation to G plus any amount that G reimburses Taxpayer.

(3) *Flight-by-flight method—(i) In general.* The flight-by-flight method determines the amount of expenses allocated to a particular entertainment flight of a specified individual on a flight-by-flight basis by allocating expenses to individual flights and then to a specified individual traveling for entertainment purposes on that flight.

(ii) *Allocation of expenses.* A taxpayer using the flight-by-flight method must combine all expenses (as defined in paragraph (d)(1) of this section) for the taxable year for the aircraft or group of aircraft (if aggregated under paragraph (d)(4) of this section), as applicable, and divide the total amount of expenses by the number of flight hours or miles for the taxable year for that aircraft or group of aircraft, as applicable, to determine the cost per hour or mile. Expenses are allocated to each flight by multiplying the number of miles for the flight by the cost per mile or the number of hours for the flight by the cost per hour. The expenses for the flight then are allocated to the passengers on the flight per capita. Thus, if five passengers are traveling on a flight, and the total expense allocated to the flight is \$10,000, the expense allocable to each passenger is \$2,000.

(f) *Special rules—(1) Determination of basis.* (i) If any deduction for depreciation is disallowed under this section, the rules of § 1.274-7 apply. In that case, the basis of an aircraft is not reduced for the amount of depreciation disallowed under this section.

(ii) The provisions of this paragraph (f)(1) are illustrated by the following examples:

Example 1. (i) B Co. is a calendar-year taxpayer that owns an aircraft not used in commercial or contract carrying of passengers or freight. The aircraft is placed in service on July 1 of Year 1 and has an unadjusted depreciable basis of \$1,000,000. The class life of the aircraft for depreciation purposes is 6 years. For determining depreciation under section 168, B Co. uses the optional depreciation table that corresponds with the general depreciation system, the 200 percent declining balance method of dep-

preciation, a 5-year recovery period, and the half-year convention. For determining the depreciation disallowance for each year under paragraph (d)(3) of this section, B Co. elects to use the straight-line method of depreciation and the class life of 6 years and, there-

fore, uses the optional depreciation table for purposes of section 168 that corresponds with the straight-line method of depreciation, a recovery period of 6 years, and the half-year convention. In each year, the air-

craft entertainment use subject to disallowance under this section is 10 percent of the total use.

(ii) B Co. calculates the depreciation and basis of the aircraft as follows:

	200 Percent Declining Balance Depreciation Amount	Straight Line Depreciation Amount	Depreciation Disallowance Under Section 274	Depreciation Deduction	§1.274-7 Basis of Aircraft	Suspended Basis
Year 1	200,000	83,300	8,330 (.10 X 83,300)	191,670 (200,000 minus 8,330)	808,330 (1,000,000 minus 191,670)	8,330
Year 2	320,000	166,700	16,670 (.10 X 166,700)	303,330 (320,000 minus 16,670)	505,000 (808,330 minus 303,330)	25,000 (8,300 plus 16,670)
Year 3	192,000	166,700	16,670 (.10 X 166,700)	175,330 (192,000 minus 16,670)	329,670 (505,000 minus 175,330)	41,670 (25,000 plus 16,670)
Year 4	115,200	166,700	16,670 (.10 X 166,700)	98,530 (115,200 minus 16,670)	231,140 (329,670 minus 98,530)	58,340 (41,670 plus 16,670)
Year 5	115,200	166,600	16,660 (.10 X 166,600)	98,540 (115,200 minus 16,660)	132,600 (231,140 minus 98,540)	75,000 (58,340 plus 16,660)
Year 6	57,600	166,700	16,670 (.10 X 166,700)	40,930 (57,600 minus 16,670)	91,670 (132,600 minus 40,930)	91,670 (75,000 plus 16,670)
Year 7		83,300	8,330 (.10 X 83,300)		91,670	91,670

(iii) In Year 7, there is no further deduction for depreciation of the aircraft, therefore, under paragraph (d)(3) of this section, no depreciation expense is disallowed. Under §1.274-7 and this paragraph (f)(1), basis is not reduced for disallowed depreciation. Therefore, at the end of Year 7, the basis of the

aircraft for purposes of §1.274-7 is \$91,670, which is the total amount of disallowed depreciation in Years 1 through 6. B Co.'s deductions for depreciation total \$908,330, which added to \$91,670 equals \$1,000,000.

Example 2. (i) The facts are the same as in *Example 1*, except that B Co. does not elect to use the straight-line method of depreciation under paragraph (d)(3) of this section until Year 3.

(ii) B Co. calculates the depreciation and basis of the aircraft as follows:

	200 Percent Declining Balance Depreciation Amount	Straight Line Depreciation Amount	Depreciation Disallowance Under Section 274	Depreciation Deduction	§1.274-7 Basis of Aircraft	Suspended Basis
Year 1	200,000		20,000 (.10 X 200,000)	180,000	820,000 (1,000,000 minus 180,000)	20,000
Year 2	320,000		32,000 (.10 X 320,000)	288,000 (320,000 minus 32,000)	532,000 (820,000 minus 288,000)	52,000 (20,000 plus 32,000)
Year 3	192,000	166,700	16,670 (.10 X 166,700)	175,330 (192,000 minus 16,670)	356,670 (532,000 minus 175,330)	68,670 (52,000 plus 16,670)
Year 4	115,200	166,700	16,670 (.10 X 166,700)	98,530 (115,200 minus 16,670)	258,140 (356,670 minus 98,530)	85,340 (68,670 plus 16,670)
Year 5	115,200	166,600	16,660 (.10 X 166,600)	98,540 (115,200 minus 16,660)	159,600 (258,140 minus 98,540)	102,000 (85,340 plus 16,660)
Year 6	57,600	166,700	16,670 (.10 X 166,700)	40,930 (57,600 minus 16,670)	118,670 (159,600 minus 40,930)	118,670 (102,000 plus 16,670)
Year 7		83,300	8,330 (.10 X 83,300)	0	118,670	118,670

(iii) In Year 7, there is no further deduction for depreciation of the aircraft, therefore, under paragraph (d)(3) of this section, no depreciation expense is disallowed. Under §1.274-7 and this paragraph (f)(1), basis is not reduced for disallowed depreciation. Therefore, at the end of Year 7, the basis of the aircraft for purposes of §1.274-7 is \$118,670, which is the total amount of disallowed depreciation in Years 1 through 6. B Co.'s deductions for depreciation total \$881,330, which added to \$118,670 equals \$1,000,000.

(2) *Pro rata disallowance.* (i) The amount of disallowed expenses, and any amounts reimbursed or treated as compensation, under this section are applied on a *pro rata* basis to all of the categories of expenses subject to disallowance under this section.

(ii) The provisions of this paragraph (f)(2) are illustrated by the following example:

Example. (i) C Co. owns an aircraft that it uses for business and other purposes. The expenses of operating the aircraft in the current year total \$1,000,000. This amount includes \$250,000 for depreciation (25 percent of total expenses).

(ii) In the same year, the aircraft entertainment use subject to disallowance under this section is 20 percent of the total use and C Co. treats \$80,000 as compensation to specified individuals. Thus, the amount of the disallowance under this section is \$120,000 (\$1,000,000 X 20 percent (\$200,000) less \$80,000).

(iii) Under paragraph (f)(2) of this section, C Co. may calculate the amount by which a category of expense, such as depreciation, is disallowed by multiplying the total disallowance of \$120,000 by the ratio of the amount of the expense to total expenses. Thus, \$30,000 of the \$120,000 total disallowed expenses is depreciation ($\$250,000/\$1,000,000$ (25 percent) X \$120,000).

(iv) The result is the same if C Co. separately calculates the amount of depreciation in total disallowed expenses and in the amount treated as compensation and nets the result. Depreciation is 25 percent of total expenses, thus, the amount of depreciation in disallowed expenses is \$50,000 (25 percent X \$200,000 total disallowed expenses) and the amount of depreciation treated as compensation is \$20,000 (25 percent X \$80,000). Disallowed depreciation is \$50,000 less \$20,000, or \$30,000.

(3) *Deadhead flights.* (i) For purposes of this section, an aircraft returning without passengers after discharging passengers or flying without passengers to pick up passengers (deadheading) is treated as having the same number and character of passengers as the leg of the trip on which passengers are aboard for purposes of allocating expenses under paragraphs (e)(2) or (e)(3) of this section. For example, when an aircraft travels from point A to point B and then back to point A, and one of the legs is a deadhead flight, for determination of disallowed expenses, the aircraft is treated as having made both legs of the trip with the same passengers aboard for the same purposes.

(ii) When a deadhead flight does not occur within a roundtrip flight, but occurs between two unrelated flights involving more than two destinations (such as an occupied flight from point A to point B, followed by a deadhead flight from point

B to point C, and then an occupied flight from point C to point A), the allocation of passengers and expenses to the deadhead flight occurring between the two occupied trips must be based solely on the number of passengers on board for the two occupied legs of the flight, the character of the travel of the passengers on board (entertainment or nonentertainment) and the length in hours or miles of the two occupied legs of the flight.

(iii) The provisions of this paragraph (f)(3) are illustrated by the following examples:

Example 1. (i) Aircraft flies from City A to City B, a 6-hour trip, with 12 passengers aboard. Eight of the passengers are traveling for business and four of the passengers are specified individuals traveling for entertainment purposes. The aircraft flies empty (deadheads) from City B to City C, a 4-hour trip. At City C it picks up 12 passengers, six of whom are traveling for business and six of whom are specified individuals traveling for entertainment purposes, for a 2-hour trip to City A. The taxpayer uses the occupied seat hour method of allocating expenses.

(ii) The two legs of the trip on which the aircraft is occupied comprise 96 occupied seat hours (12 passengers X 6 hours (72) for the first leg plus 12 passengers X 2 hours (24) for the third leg). Sixty occupied seat hours are for business (8 passengers X 6 hours (48) for the first leg plus 6 passengers X 2 (12) hours for the third leg) and 36 occupied seat hours are for entertainment purposes (4 passengers X 6 hours (24) for the first leg plus 6 passengers X 2 (12) hours for the third leg). Dividing the 36 occupied seat entertainment hours by 96 total occupied seat hours, 37.5 percent of the total occupied seat hours of the two occupied flights are for entertainment.

(iii) The 4-hour deadhead leg comprises one-third of the total flight time of 12 hours. Therefore, the deadhead flight is deemed to have provided one-third of the total 96 occupied seat hours, or 32 occupied seat hours ($96 \times 1/3 = 32$). Of the 32 deemed occu-

pied seat hours, 37.5 percent, or 12 deemed occupied seat hours, are treated as entertainment under paragraph (f)(3)(ii) of this section. The 32 deemed occupied seat hours for the deadhead flight are included in the calculation under paragraph (e)(2)(ii)(B) of this section and expenses are allocated under paragraph (e)(2)(ii)(D) of this section to the 12 deemed occupied seat hours treated as entertainment.

Example 2. (i) The facts are the same as for *Example 1*, but the taxpayer uses the flight-by-flight method of allocation.

(ii) Of the 24 passengers on the occupied flights, 10 passengers, or 41.7 percent, are traveling for entertainment purposes. If the annual cost per flight hour calculated under paragraph (e)(3)(ii) of this section is \$1,000, \$4,000 is allocated to the 4-hour deadhead leg. Under paragraph (f)(3)(ii) of this section, 41.7 percent of the \$4,000, or \$1,667, is treated as an expense for entertainment. The calculation of the cost per mile or hour for the year under paragraph (e)(3)(ii) of this section includes the expenses and number of miles or hours flown for the deadhead leg.

(g) *Effective/applicability date.* This section applies to taxable years beginning after August 1, 2012.

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

Approved July 25, 2012.

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

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Part III. Administrative, Procedural, and Miscellaneous

26 CFR 601.602: Tax Forms and instructions.

(Also Part 1, §§ 6011, 6061, 6302, 31.6011(a)–7, 31.6061–1, 31.6302–1.)

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SECTION 1. PURPOSE

.01 This revenue procedure provides the requirements for completing and submitting Form 8655, *Reporting Agent Authorization* (Authorization). An Authorization allows a taxpayer to designate a Reporting Agent to perform the following acts on behalf of a taxpayer:

(1) Sign and electronically file Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*; Form 941, *Employer's QUARTERLY Federal Tax Return*; and those forms set forth in section 4.02(1) of this revenue procedure.

(2) Sign and file on paper (to the extent the IRS does not require filing electronically) the forms set forth in section 4.02(2) of this revenue procedure.

(3) Make federal tax deposits (FTDs) and other federal tax payments (FTPs) electronically via the Electronic Federal Tax Payment System (EFTPS) or the Federal Tax Application (FTA) and submit FTD information and FTP information electronically as described in section 4.02(3) of this revenue procedure.

(4) Receive duplicate copies of official notices, correspondence, deposit requirements, transcripts, or other information as described in section 4.02(4) of this revenue procedure.

(5) Receive duplicate copies of official notices, correspondence, deposit requirements, transcripts, or other information with respect to FTDs and FTPs as described in section 4.02(5) of this revenue procedure.

.02 The technical specifications for filing Authorization information are published separately in Publication 1474, *Technical Specifications Guide For Reporting Agent Authorization and Federal Tax Depositors*.

SECTION 2. BACKGROUND

.01 Section 1.6011–1 of the Income Tax Regulations and § 31.6011(a)–7 of the Employment Taxes and Collection of Income Tax at Source Regulations (Employment Tax Regulations) provide that each return required under the regulations, together with any prescribed copies or supporting data, must be filled in and disposed of in accordance with applicable forms, instructions, and regulations. Sec-

tion 31.6011(a)–7 provides that the return may be made by an agent authorized by the person required to make the return.

.02 Section 31.6061–1 of the Employment Tax Regulations provides that a return may be signed for the taxpayer by an agent duly authorized in accordance with § 31.6011(a)–7 to make the return. Section 1.6061–1 of the Income Tax Regulations provides that a return may be signed by an agent who is duly authorized under § 1.6012–1(a)(5) or (b) to make the return.

.03 Section 31.6302–1 of the Employment Tax Regulations provides the rules for depositing employment taxes. Section 31.6302–1(h) implements § 6302(h) of the Internal Revenue Code, which requires the use of an electronic fund transfer system for the collection of federal depository taxes. The EFTPS is the electronic fund transfer system developed to collect these taxes. Rev. Proc. 97–33, 1997–2 C.B. 371, provides general information about EFTPS, and Rev. Proc. 2012–33, 2012–34 I.R.B. 272, provides information about EFTPS programs for Reporting Agents making FTDs and FTPs on behalf of multiple taxpayers.

.04 The Internal Revenue Service (Service) has prescribed Form 8655 as the appropriate authorization form for a taxpayer to use to designate a Reporting Agent to perform the actions set forth in section 4.02 of this revenue procedure.

.05 All references in this revenue procedure to forms and publications include all future revisions and successor forms and publications.

SECTION 3. SIGNIFICANT CHANGES TO REV. PROC. 2007–38

.01 This revenue procedure modifies and supersedes Rev. Proc. 2007–38, 2007–1 C.B. 1442, by making the following changes to Rev. Proc. 2007–38:

(1) Section 5.02(3) has been revised to state that whenever Reporting Agents make FTDs or FTPs for client taxpayers, the Reporting Agents must use the EFTPS or FTA. Since a taxpayer enrolled in the EFTPS can view FTDs and FTPs made on its behalf by Reporting Agents, a taxpayer will be able to verify that a Reporting Agent has, in a timely manner, made those FTDs and FTPs. Sections 1.01(3), 4.02(3), 5.02(3), and 5.05 have been revised to re-

flect expanded use of the EFTPS for FTDs and FTPs.

(2) Section 5.04 has been revised to state that although a new Authorization must be submitted to the Service for any increase or decrease in the authority of a Reporting Agent to act for its client, the preceding Authorization remains in effect except as modified by the new one.

(3) Section 5.05 has been revised to require Reporting Agents to notify taxpayers in writing on at least a quarterly basis that an Authorization does not eliminate the taxpayer’s liability for the failure to file employment tax returns or remit employment taxes.

(4) Section 13 updates the list of other related documents.

SECTION 4. DEFINITIONS

.01 *Reporting Agent.* A Reporting Agent is an accounting service, franchiser, bank, service bureau, or other entity authorized to perform on behalf of a taxpayer one or more of the acts described in this revenue procedure.

.02 *Authorization.* An Authorization allows a taxpayer to designate a Reporting Agent to:

(1) Sign and file electronically Form 940, Form 941, the forms set forth on Form 8655, and amended or any successor forms.

(2) Sign and file on paper (to the extent the IRS does not require filing electronically) the following forms: amended returns on Form 940, *Employer’s Annual Federal Unemployment (FUTA) Tax Return*; Forma 940-PR, *Planilla para la Declaración Anual del Patrono de la Contribución Federal para el Desempleo (FUTA)*; Forma 941-PR, *Planilla para la Declaración Federal TRIMESTRAL del Patrono*; Form 941-SS, *Employer’s QUARTERLY Federal Tax Return (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands)*; Form 941-X, *Adjusted Employer’s QUARTERLY Federal Tax Return or Claim for Refund*; Form 943, *Employer’s Annual Federal Tax Return for Agricultural Employees*; Forma 943-PR, *Planilla para la Declaración Anual de la Contribución Federal del Patrono de Empleados Agrícolas*; Form 943-X, *Adjusted Employer’s Annual Federal Tax Return for Agricultural Employees or Claim*

for Refund; Form 944, *Employer’s Annual Federal Tax Return*; Forma 944(SP), *Declaración Federal ANUAL de Impuestos del Patrono o Empleador*; Form 944-X, *Adjusted Employer’s ANNUAL Federal Tax Return or Claim for Refund*; Form 945, *Annual Return of Withheld Federal Income Tax*; Form 945-X, *Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund*; Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*; Form CT–1, *Employer’s Annual Railroad Retirement Tax Return*; Form CT–1 X, *Adjusted Employer’s Annual Railroad Retirement Tax Return or Claim for Refund*, any other forms set forth on Form 8655 but not listed in this section 4.02, and any amended or successor forms.

(3) Make FTDs and FTPs electronically via the EFTPS or FTA and submit FTD information and FTP information electronically for the taxes deposited and the payments reported on applicable returns set forth on Form 8655. A more complete definition of the FTA “same-day” system can be found at section 3.07 of Rev. Proc. 97–33, 1997–2 C.B. 371 (under the name “electronic tax application”); the Treasury Department’s www.eftps.gov site also provides information regarding these same-day payments.

(4) Receive duplicate copies of official notices, correspondence, deposit requirements, transcripts, or other information with respect to the tax returns described in section 4.02(1) or (2) of this revenue procedure.

(5) Receive duplicate copies of official notices, correspondence, deposit requirements, transcripts, or other information with respect to FTDs and FTPs.

.03 *Reporting Agent’s List.* A Reporting Agent’s List (Agent’s List) identifies all taxpayers for whom a Reporting Agent will file tax returns, make FTDs and FTPs, or submit FTD information and FTP information electronically. A separate Authorization must be submitted for each taxpayer on the Agent’s List.

SECTION 5. SCOPE OF REPORTING AGENT AUTHORIZATION

.01 The scope of an Authorization for filing the returns listed on Form 8655 is as follows:

(1) A taxpayer may authorize a Reporting Agent to sign and file on the taxpayer's behalf any or all of the returns listed on Form 8655 and any amended and successor forms. A Form 8655 that authorizes a Reporting Agent to sign and file a Form 941, Form 941-SS, Form 941-PR, Form 944, or Form 944(SP) also authorizes the Reporting Agent to sign and file any other form in the Form 941 or 944 series of returns.

(2) A taxpayer may authorize a Reporting Agent to receive duplicate copies of notices, correspondence, deposit requirements, transcripts, or other information with respect to the returns filed by the Reporting Agent.

(3) A taxpayer may authorize a Reporting Agent to receive confidential taxpayer information from the Service to assist in responding to notices relating to the Form W-2 or Form 1099 series of information returns, or the Form 3921 or Form 3922 information returns.

(4) An Authorization that permits a Reporting Agent to make returns also permits a Reporting Agent to request information from the Service or submit information to the Service about the returns filed by the Reporting Agent. This authority extends to any information concerning penalties that may arise from the returns, including information that may assist the Service in determining whether it would be appropriate to grant relief from any penalties arising from the returns. This authority continues regardless of a change in filing requirements. For instance, if a Reporting Agent, pursuant to an Authorization, made and filed a Form 941 on behalf of a taxpayer prior to the Service notifying the taxpayer that the taxpayer's filing requirement was changed from Form 941 to Form 944, the Reporting Agent has authority to continue to request information from the Service or submit information to the Service about the previously-filed Form 941, assuming the Reporting Agent's Authorization remains in effect.

(5) An Authorization, however, does not permit the Reporting Agent to request the abatement of any penalties that may arise from the returns filed by the Reporting Agent or to perform in any other way any acts that constitute representation of the taxpayer within the meaning of § 601.501(b)(13) of the Statement of Procedural Rules.

.02 The scope of an Authorization for making FTDs and FTPs and submitting FTD information and FTP information is as follows:

(1) A taxpayer may authorize a Reporting Agent to make FTDs and FTPs for any taxes reported on any of the returns listed on Form 8655 and to submit FTD information and FTP information on the taxpayer's behalf. A Form 8655 that authorizes a Reporting Agent to prepare and make FTDs and FTPs on Form 990-C, *Farmers' Cooperative Association Income Tax Return*, also authorizes a Reporting Agent to prepare and make FTDs and FTPs on Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*.

(2) A taxpayer may authorize a Reporting Agent to receive duplicate copies of notices and correspondence for FTDs and FTPs made by the Reporting Agent for the taxpayer.

(3) A Reporting Agent that makes FTDs or FTPs for a taxpayer must do so through the EFTPS or FTA, regardless of the method the taxpayer specifies for such deposits and payments, and regardless of whether the taxpayer must make deposits, payments, or information submissions electronically.

(4) An Authorization that permits a Reporting Agent to make FTDs and FTPs also permits the Reporting Agent to request information from the Service or submit information to the Service on the FTDs and FTPs submitted by the Reporting Agent. It further permits the Reporting Agent to submit any information concerning penalties that may arise from the returns, including information that may assist the Service in determining whether it would be appropriate to grant relief from penalties. This authority continues regardless of a change in forms. For instance, if a Reporting Agent had authority to make FTDs and FTPs in connection with Form 990-C and did so, and the Service later replaces Form 990-C with Form 1120-C, absent a change to the Authorization, the Reporting Agent has authority to make FTDs and FTPs on behalf of the taxpayer in connection with Form 1120-C. The Reporting Agent also retains authority to request information from the Service or submit information to the Service about the FTDs and FTPs relating to Form 990-C.

(5) An Authorization does not permit the Reporting Agent to request the abatement of any penalties that may arise from the FTDs or FTPs made by the Reporting Agent or to perform in any other way any acts that constitute representation of the taxpayer within the meaning of § 601.501(b)(13) of the Statement of Procedural Rules.

.03 An Authorization becomes effective for the tax period(s) designated by the Reporting Agent and taxpayer and remains in effect for subsequent periods until revoked by the taxpayer or terminated by the Reporting Agent or the Service, subject to the following:

(1) The Service must accept the Authorization and Agent's List before the Reporting Agent may file a return on behalf of a taxpayer.

(2) The Reporting Agent must observe the rules of Rev. Proc. 2012-33, 2012-34 I.R.B. 272 and any successor published guidance, or instructions posted on www.irs.gov or www.eftps.gov in making electronic FTDs or FTPs on behalf of a taxpayer, or submitting FTD information or FTP information electronically.

(3) See section 13 of this revenue procedure for a list of other applicable guidance.

.04 Unless the instructions to the Form 8655 or any successor form provide otherwise, a new Authorization must be submitted to the Service for any increase or decrease in the scope of the authority of a Reporting Agent to act on behalf of the taxpayer, but the preceding Authorization regarding the taxpayer and the Reporting Agent shall remain in effect except as modified by the new Authorization. Unless the instructions to the Form 8655 or any successor form provide otherwise, a new Authorization must also be submitted to the Service if a taxpayer appoints a new Reporting Agent. Receipt by the Service of an Authorization designating a new Reporting Agent terminates the authority of the prior Reporting Agent for all purposes for tax periods beginning on or after the effective date of the new Authorization. An Authorization designating a new Reporting Agent also terminates the authority of the prior Reporting Agent to receive duplicate copies of notices. For the tax periods beginning before the effective date of the new Authorization, the prior Reporting Agent retains the authority specified in the

prior Authorization unless the taxpayer explicitly revokes the prior Authorization.

.05 An Authorization does not relieve the taxpayer of the responsibility (or from liability for failing) to ensure that all tax returns are filed timely and that all FTDs and FTPs are made timely.

A Reporting Agent must provide the taxpayer with a written statement that (a) advises the taxpayer of taxpayer's responsibility to timely file the returns listed on the Form 8655 and make FTDs and FTPs, (b) advises the taxpayer that authorizing a Reporting Agent to perform any of these obligations does not relieve the taxpayer from any liabilities resulting from the Reporting Agent's failure to perform these obligations, (c) recommends that the taxpayer enroll in and use the EFTPS to ascertain whether the Reporting Agent has, on a timely basis, made all required FTDs and FTPs, and (d) advises the taxpayer that state-level tax verification programs may also be available. The Reporting Agent must provide the taxpayer with this statement when it enters into a contract for services with the taxpayer and on at least a quarterly basis for as long as the Reporting Agent provides services to the taxpayer. The statement described in this section 5.05 shall consist of the following or similar language:

Please be aware that you are responsible for the timely filing of employment tax returns and the timely payment of employment taxes for your employees, even if you have authorized a third party to file the returns and make the payments. Therefore, the Internal Revenue Service recommends that you enroll in the U.S. Treasury Department's Electronic Federal Tax Payment System (EFTPS) to monitor your account and ensure that timely tax payments are being made for you. You may enroll in the EFTPS online at www.eftps.gov, or call (800) 555-4477 for an enrollment form.

State tax authorities generally offer similar means to verify tax payments. Contact the appropriate state offices directly for details.

The statement described in this subsection may be provided to the taxpayer in the form of an electronic mail message. This statement (whether on paper or electronic) may be provided either as a stand-alone communication or as a conspicuous ele-

ment of other communications. If provided as an element of other communications, the notice should have its own heading or caption, or otherwise be set apart from other text, and should be labeled as "important tax information" or wording to that effect.

.06 A Reporting Agent may use an Authorization to file paper returns listed on Form 8655 on behalf of a taxpayer only if:

(1) The late receipt of payroll information from a taxpayer has jeopardized the timely electronic filing of the taxpayer's return;

(2) The paper return amends Form 940 filed under the electronic filing programs referenced in section 13 of this revenue procedure;

(3) The Service's rejection of an electronic filing has jeopardized the timely filing of the taxpayer's return;

(4) The returns are listed in section 4.02(2) of this revenue procedure;

(5) The Service's electronic return program administrator for a Reporting Agent participating in an electronic filing program referenced in section 13 of this revenue procedure has requested paper returns; or

(6) The Service's systems do not accommodate electronic filing of an attachment required to be filed with the return.

.07 A Reporting Agent authorized by Form 8655 may prepare a paper tax return for the taxpayer's signature.

.08 Each paper tax return must be signed by the taxpayer, by the taxpayer's authorized representative, or by a Reporting Agent permitted in section 5.06 of this revenue procedure to file paper returns on behalf of the taxpayer.

.09 The Reporting Agent must provide the taxpayer with a complete copy of any returns filed by the Reporting Agent. This information may be provided on a replica of an official form or in any other format that provides all of the return information and references the line numbers of the official form.

.10 A Reporting Agent must keep a copy of each Authorization designating that Reporting Agent as an agent for a taxpayer at the Reporting Agent's principal place of business and make it available for inspection by the Service until the period of limitations for assessment of tax for the last return filed pursuant to the Authorization expires.

SECTION 6. COMPLETING A REPORTING AGENT AUTHORIZATION

.01 An Authorization must be provided on Form 8655 with a revision date of May 2005 or later or on an approved substitute form as described in Publication 1167, *General Rules and Specifications for Substitute Forms and Schedules*. When completing Form 8655, a taxpayer may strike out any non-applicable portions of the form. Once completed, a Reporting Agent may fax the Authorization to the Service.

.02 An Authorization must be signed by the taxpayer or an authorized representative holding a power of attorney that specifically authorizes the representative to sign returns on behalf of the taxpayer. If the Authorization provides that the Reporting Agent is authorized to receive tax return notices, correspondence, deposit requirements, and transcripts from the Service, or discuss taxpayer account information with Service representatives and is signed by a person other than the taxpayer, the authorized representative must be authorized both to receive, and to designate others to receive, tax return information (as defined in § 6103(b)(2)) of the taxpayer. The Authorization shall be completed and submitted in accordance with the instructions to the Form 8655 and any other written procedures promulgated by the Service.

.03 Except to the extent provided in section 6.04 of this revenue procedure, an Authorization will remain in effect until the Service receives a revocation of the Authorization or a new Authorization or a Reporting Agent is suspended.

.04 A new Authorization is not required to replace an Authorization made on Form 8655 with a revision date before October 1995 (or made on an equivalent substitute) that was previously submitted to the Service by a Reporting Agent if the Authorization places no restriction on the medium for filing Forms 940 or 941 and the Reporting Agent advises the taxpayer that its Forms 940 and 941 may be filed electronically and that the taxpayer has the option to reject electronic filing. A Reporting Agent may use whatever method the Reporting Agent deems the most efficient and timely method to convey the advice. A taxpayer's rejection of electronic

filing of Forms 940 or 941 must be submitted in writing to the Reporting Agent, and upon receipt the Reporting Agent must immediately remove the taxpayer from the Agent's List or database of taxpayers for which the Reporting Agent files returns electronically.

SECTION 7. SUBMITTING A REPORTING AGENT AUTHORIZATION

.01 A Reporting Agent that intends to use an Authorization to file Forms 940 or 941 must formally apply to the Service for electronic filing privileges because Reporting Agents (with the limited exceptions noted in section 5.06 of this revenue procedure) must file such forms electronically. A Reporting Agent that intends to use an Authorization to make FTDs or FTPs (and submit related information), or to file Form 944 electronically, must formally apply to the Service for those privileges. The application process for permission to electronically file Forms 940, 941, and 944 and for participation in EFTPS is contained in the documents (or their successors) listed in section 13 of this revenue procedure. Applications must be accompanied by individual Authorizations, signed as provided in section 6.02 of this revenue procedure, and an Agent's List (if required by the applicable guidance document).

.02 An Agent's List must contain each taxpayer's employer identification number. Agent's Lists may be filed electronically, as appropriate, but if the number of taxpayers/clients exceeds 100, the Agent's List must be filed electronically. For specific information concerning the requirements for filing and updating Agent's Lists, see Publication 1474 and the documents listed in section 13 of this revenue procedure. The Service contacts listed in section 12 of this revenue procedure may also be contacted for this information.

SECTION 8. SUSPENSION

.01 The Service reserves the right to suspend a Reporting Agent from the Reporting Agent program for the following reasons (this list is not all-inclusive):

(1) Failing to perform the acts described in sections 4.02 or 5.05 of this revenue procedure or Publication 1474.

(2) Submitting payment information on behalf of taxpayers for which the Reporting Agent did not receive Authorizations.

(3) Failing to comply with the requirements of any regulation, revenue procedure, or other published guidance applicable to Reporting Agents.

(4) Failing to cooperate with the Service's efforts to monitor Reporting Agents and investigate abuse in the Reporting Agent program.

(5) Receiving significant complaints about the Reporting Agent's performance in the Reporting Agent program.

.02 If the Service informs a Reporting Agent that a certain action is a reason for suspension and the action continues, the Service may send the Reporting Agent a notice proposing suspension of the Reporting Agent from the Reporting Agent program. A notice proposing suspension, however, may be sent without a warning if the Reporting Agent's actions indicate an intentional disregard of the rules. A notice proposing suspension will describe the reasons for the proposed suspension, the length of the suspension, and the conditions that need to be met before the suspension will terminate.

SECTION 9. ADMINISTRATIVE REVIEW PROCESS FOR PROPOSED SUSPENSION

.01 A Reporting Agent that receives a notice proposing suspension from the Reporting Agent program, as described in section 8.02 of this revenue procedure, may request an administrative review prior to the suspension taking effect.

.02 The request for an administrative review must be in writing and contain detailed reasons, with supporting documentation, for withdrawal of the proposed suspension.

.03 The written request for an administrative review and a copy of the notice proposing suspension must be delivered to the address designated in the notice within 30 days of the effective date of the notice.

.04 If a written request for administrative review is timely submitted, the Service will, after consideration of the request, either issue a suspension letter or notify the Reporting Agent in writing that the proposed suspension is withdrawn.

.05 Failure to submit a timely written request for an administrative review irre-

vocably terminates the Reporting Agent's right to an administrative review of the proposed suspension, and the Service will issue a suspension letter.

SECTION 10. EFFECT OF SUSPENSION

.01 The Reporting Agent's suspension will continue for the length of time specified in the suspension letter, or until the conditions for terminating the suspension have been met, whichever is later. If a Reporting Agent is suspended, the Service's subsequent determination of whether a reason for suspension has been corrected is not subject to administrative review or appeal.

.02 After suspension, a Reporting Agent may not perform the acts described in this revenue procedure. As an exception, a Reporting Agent may submit an FTD if the FTD is due not more than 30 days after the effective date on the suspension letter. A Reporting Agent, however, cannot submit FTPs during the suspension period.

.03 A Reporting Agent must provide written notification of a suspension from the Reporting Agent program to each taxpayer in the program within 10 days from the date on the suspension letter. This notification must be provided irrespective of the length of the suspension or how quickly the Reporting Agent believes it may meet the conditions for terminating the suspension.

.04 A Reporting Agent will be able to perform the acts described in section 4.02 of this revenue procedure without re-registering in the Reporting Agent program after the stated suspension period expires and the reason(s) for suspension are corrected.

SECTION 11. APPEAL OF SUSPENSION

.01 If a Reporting Agent receives a suspension letter from the Service, the Reporting Agent is entitled to appeal, by written protest, to the Service. The written protest must be delivered to the address designated on the suspension letter. During the appeals process, the suspension remains in effect.

.02 The written protest must be received by the Service within 30 days of the effec-

tive date on the suspension letter. The written protest must contain detailed reasons, with supporting documentation, for withdrawal of the suspension.

.03 Failure to appeal within the 30-day period described in section 11.02 of this revenue procedure irrevocably terminates the Reporting Agent's right to appeal the suspension under section 11.01.

SECTION 12. INTERNAL REVENUE SERVICE CONTACTS

Publication 1474 and Publication 1167 may be obtained electronically via the Service's website at www.irs.gov or through the mail by calling (800) 829-3676 to request a copy. In addition, requests for Publication 1474 and questions regarding this revenue procedure may be addressed to the Service at:

Internal Revenue Service
Accounts Management Service Center
MS 6748 RAF Team
1973 North Rulon White Blvd.
Ogden, UT 84201

Questions regarding Publication 1167 may be directed to substituteforms@irs.gov.

SECTION 13. OTHER RELATED DOCUMENTS

These documents describe programs that require an Authorization as a prerequisite to participation:

(1) For rules regarding Form 944, see §§ 31.6011(a)-1T, 31.6011(a)-4T and

*26 CFR 601.602: Tax forms and instructions.
(Also Part 1, §§ 6001, 6302, 6651, 6655, 6656, 31.6302-1.)*

Rev. Proc. 2012-33

31.6302-1T of the Employment Tax Regulations, and Rev. Proc. 2009-51, 2009-45 I.R.B. 625.

(2) For electronic filing of Forms 940, 941, and 944, see Rev. Proc. 2007-40, 2007-1 C.B. 1488.

(3) For participation in EFTPS, see Rev. Proc. 2012-33, 2012-34 I.R.B. 272.

(4) For the Service's e-file program generally, see Publication 3112, *IRS e-file Application and Participation*.

(5) For rules on preparation and submission of Form 8655, see Publication 1474, *Technical Specifications Guide for Reporting Agent Authorization and Federal Tax Depositors*.

SECTION 14. EFFECT ON OTHER DOCUMENTS

This revenue procedure modifies and supersedes Rev. Proc. 2007-38, 2007-1 C.B. 1442.

SECTION 15. EFFECTIVE DATE

This revenue procedure is effective November 19, 2012.

SECTION 16. PAPERWORK REDUCTION ACT

The collection of information in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1058.

An agency may not conduct or sponsor, and a person is not required to respond

to, a collection of information unless the collection of information displays a valid control number.

The collection of information in this revenue procedure is in section 5.05. This information is required to inform clients of reporting agents that the clients remain liable for the taxes the agents must remit. The information is also required to advise the clients to enroll in the EFTPS. The collection of information is mandatory. The likely respondents are business or other for-profit institutions.

The estimated total annual recordkeeping and third-party disclosure burden will be 12,750 hours. The estimated annual burden per recordkeeper is three hours. The estimated number of recordkeepers is 4,250.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 17. DRAFTING INFORMATION

The principal author of this revenue procedure is Nathan Rosen of the Office of Associate Chief Counsel (Procedure and Administration). Mr. Rosen may be contacted at (202) 622-3630 (not a toll-free number).

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SECTION 1. PURPOSE

This revenue procedure provides information about the Electronic Federal Tax Payment System (EFTPS) programs for Batch Providers and Bulk Providers (Providers). EFTPS is an electronic remittance processing system for making federal tax deposits (FTDs) and federal tax payments (FTPs). The Batch Provider and Bulk Provider programs are used by Providers for electronically submitting enrollments, FTDs, and FTPs on behalf of multiple taxpayers.

SECTION 2. BACKGROUND

.01 Section 6302(c) of the Internal Revenue Code provides that the Secretary of the Treasury (Secretary) may authorize Federal Reserve banks, and incorporated banks and other financial institutions that are depositories or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such

conditions as the Secretary may prescribe. Section 6302(c) also provides that the Secretary shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and other financial institutions is to be treated as a payment of such tax to the Secretary. Beginning January 1, 2011, Treasury Decision 9507 requires that a taxpayer must deposit all depository taxes (such as employment tax, excise tax, and corporate income tax) electronically by electronic funds transfer (EFT). Paper coupons (*i.e.*, Forms 8109 and 8109-B, *Federal Tax Deposit Coupon*) can no longer be used to make deposits at a bank or other financial institution.

.02 Section 6302(h) requires the Secretary to establish an EFT system to collect FTDs. EFTPS is the EFT system developed by the Secretary to collect FTDs and FTPs. See § 31.6302-1(h)(4)(i) of the Employment Taxes and Collection of Income Tax at Source Regulations, and Rev. Proc. 97-33, 1997-2 C.B. 371.

.03 Some taxpayers are required by the regulations issued under § 6302(h) to make FTDs and FTPs using EFT. See § 31.6302-1(h)(2). Taxpayers not required to make FTDs using EFT may choose to do so voluntarily. Taxpayers also may choose to make FTPs using EFT.

Whenever a “Reporting Agent,” as that term is defined in Rev. Proc. 2012-32, 2012-34 I.R.B. 267, or any successor published guidance, remits FTDs or FTPs on behalf of a taxpayer, the Reporting Agent must use EFTPS, regardless of whether the taxpayer is required to use EFTPS. As noted in Rev. Proc. 2012-32, 2012-34 I.R.B. 267, the Reporting Agent may also use the Federal Tax Application (FTA) system in remitting FTDs or FTPs on behalf of a taxpayer.

.04 All Providers using the Batch Provider or Bulk Provider programs must comply with this revenue procedure, and with the User Manual for EFTPS Batch Providers, or the Implementation Guide

for EFTPS Bulk Providers, whichever applies.

.05 The two primary remittance methods in EFTPS are an Automated Clearing House (ACH) debit entry and an ACH credit entry. Providers may also use an FTA transaction. These remittance methods are defined in section 3 and described in sections 8, 9, and 10 of this revenue procedure.

.06 Providers participating in EFTPS must ensure that taxpayers' funds are remitted on a timely basis. See § 31.6302-1(h)(8) for rules regarding when an FTD remitted by EFTPS is deemed made. For FTDs and FTPs remitted by EFTPS, see § 31.6302-1(h)(9) for rules regarding when the tax is deemed paid.

.07 If a taxpayer is a voluntary participant in EFTPS (that is, a participant not required by regulations or other guidance from the Internal Revenue Service (Service) to make an FTD by EFTPS) and the Provider is unable, for any reason, to make an FTD using EFTPS or chooses not to use EFTPS to make an FTD, the Provider may, to the extent permitted by regulations under § 6302, remit the deposit with the tax return to which the deposit relates.

.08 EFTPS does not change the computation of tax liability, interest or penalties, or FTD or FTP due dates.

SECTION 3. DEFINITIONS

.01 The definitions provided in this section will be used for the Batch Provider and Bulk Provider programs.

.02 *Administrative FRB Head Office Local Zone Time.* "FRB Head Office Local Zone Time" is the local zone time of the Administrative Federal Reserve Bank head office through which a financial institution, or its authorized correspondent bank, sends a Same-Day Payment.

.03 *Authorization.* An "Authorization" is an instrument used by a taxpayer to designate a Provider as the taxpayer's reporting agent for submitting enrollments and for making FTDs or FTPs. See Rev. Proc. 2012-32, 2012-34 I.R.B. 267 for additional detail on Authorizations.

.04 *Automated Clearing House (ACH).* "Automated Clearing House" is a funds transfer system, governed by the ACH Rules (the Operating Rules and the Operating Guidelines published by National

Automated Clearing House Association (NACHA)) that provides for the interbank clearing of electronic entries for participating financial institutions.

.05 *ACH credit entry.* An "ACH credit entry" is a transaction in which a financial institution, upon instructions from a Provider, originates an FTD or FTP to the appropriate Treasury Department account through the ACH system. An ACH credit entry is a transfer of funds representing one FTD or FTP. There are no "bulk" ACH credit entries. See section 9 of this revenue procedure for information on an ACH credit entry.

.06 *ACH debit entry.* An "ACH debit entry" is a transaction in which the Financial Agent, upon instructions from a Provider, instructs the financial institution of the Provider or the taxpayer to withdraw funds from a designated account for an FTD or FTP and to route the FTD or FTP to the appropriate Treasury Department account through the ACH system. A single ACH debit entry is a transfer of funds representing one FTD or FTP. A bulk ACH debit entry (a remittance method available only in the Bulk Provider program) is a transfer of funds representing multiple FTDs or FTPs. See section 8 of this revenue procedure for information on an ACH debit entry.

.07 *Batch Provider.* A Batch Provider is a Provider that is registered under the Batch Provider program. A Batch Provider submits multiple electronic enrollment files at one time and uses a personal computer or telephone for making FTDs or FTPs.

.08 *Bulk Provider.* A Bulk Provider is a Provider that is registered under the Bulk Provider program. A Bulk Provider uses Electronic Data Interchange (EDI) files to transmit and receive enrollment or payment information. A Bulk Provider also has additional remittance methods (bulk ACH debit entries and bulk FTA entries).

.09 *Federal tax application (FTA) transaction.* An "FTA transaction" (also referred to as "Same-Day Payment") is an electronic transfer of funds that receives, processes, and transmits an FTD or FTP and the related tax payment information for Same-Day Payments. A single FTA transaction is a transfer of funds representing one FTD or FTP. A bulk FTA transaction (a remittance method available only in the Bulk Provider program) is a

transfer of funds representing multiple FTDs or FTPs. See section 10 of this revenue procedure, section 3.07 of Rev. Proc. 97-33 (under the name "electronic tax application"), and www.eftps.gov for further information on an FTA transaction.

.10 *Employer identification number (EIN).* An "EIN" is a unique nine digit taxpayer identifying number issued by the Service to business taxpayers for the purpose of reporting tax related information.

.11 *Federal Reserve Bank (FRB).* The "FRB" is the U.S. Government's fiscal agent. The FRB also processes ACH transactions to a commercial financial institution account or to a Treasury Department account.

.12 *Financial Agent.* For purposes of EFTPS, a "Financial Agent" (also referred to as a "Treasury Financial Agent") is a financial institution that is designated as an agent of the Treasury Department. The Secretary has designated Bank of America to be the Financial Agent for EFTPS. The Financial Agent processes Batch Provider and Bulk Provider registrations, processes taxpayer enrollments, receives payment information, originates ACH debit entries upon instructions from taxpayers or Providers, and provides customer service assistance for EFTPS enrollment and payment information.

.13 *IRS individual taxpayer identification number (ITIN).* An "ITIN" is a taxpayer identifying number issued by the Service to an alien individual who is ineligible to receive a social security number (SSN) for the purpose of reporting tax related information.

.14 *Prenotification ACH credit.* "Prenotification ACH credit" is a process whereby a financial institution verifies the appropriate Treasury Routing Transit Number (RTN), the Treasury Department's account number, and the taxpayer's taxpayer identification number (TIN).

.15 *Prenotification ACH debit.* "Prenotification ACH debit" is a process whereby the appropriate Financial Agent verifies the RTN of the financial institution, the account number, and the account type.

.16 *Provider.* A "Provider" is a person making FTDs or FTPs on behalf of multiple taxpayers in the Batch Provider or Bulk Provider program. Each Provider must be either the taxpayer or a person authorized to act on behalf of the taxpayer.

.17 *Social security number.* A “SSN” is a taxpayer identifying number assigned to an individual or estate by the Social Security Administration.

.18 *Taxpayer identification number (TIN).* A “TIN” is the identifying number assigned to a person under § 6109. A TIN includes an EIN, ITIN, or SSN.

SECTION 4. GENERAL PROCEDURES

Providers must follow the following procedures to participate in the Batch Provider or Bulk Provider programs:

(1) register as a Provider with the Financial Agent (see section 5 of this revenue procedure);

(2) obtain an Authorization from each taxpayer for which the Provider will be submitting enrollments and making FTDs or FTPs, and submit these Authorizations to the Service in accordance with the instructions to Form 8655, *Reporting Agent Authorization*, or any successor form (see section 6 of this revenue procedure); and

(3) enroll each of those taxpayers with the Financial Agent (see section 7 of this revenue procedure).

SECTION 5. REGISTRATION

.01 A Provider may register for the Batch Provider or Bulk Provider program if the Provider anticipates making FTDs or FTPs for multiple taxpayers.

.02 The Batch Provider program is recommended for Providers who anticipate submitting 50 or more enrollments. Additional information for Batch Providers is furnished in the Implementation Guide for EFTPS Batch Providers. A copy of this implementation guide may be obtained from EFTPS Customer Service (see section 21 of this revenue procedure).

.03 The Bulk Provider program is recommended for Providers who anticipate making 750 or more FTDs or FTPs on a peak day. Additional information for Bulk Providers is furnished in the Implementation Guide for EFTPS Bulk Providers. A copy of this implementation guide may be obtained from EFTPS Customer Service (see section 21 of this revenue procedure).

.04 A Provider wanting to participate in either the Batch Provider or Bulk Provider program must submit the appropriate registration letter (also referred to as an “Agreement”) in accordance with

the instructions in the *EFTPS.gov* website. Some Bulk Providers may wish to use the Batch Provider program as a backup. To participate in both programs, a Provider must submit a Batch Provider registration letter and a Bulk Provider registration letter. Blank registration letter(s) may be obtained by contacting the Financial Agent.

.05 A Provider must submit the registration letter to the address designated in the instructions accompanying the registration letter.

.06 If an unregistered entity acquires a registered Provider, a new registration letter must be submitted by the unregistered entity if it wants to participate in either the Batch Provider or Bulk Provider program.

.07 A Provider should notify the Financial Agent if the Provider chooses to withdraw from either the Batch Provider or Bulk Provider program. A Provider that is inactive in the Batch Provider or Bulk Provider program (that is, the Provider has submitted no enrollments, FTDs, or FTPs in that program) for six months or more is treated as having withdrawn from that program. If a Bulk Provider uses the Batch Provider program as a backup, the Provider must submit an FTD or FTP through the Batch Provider program at least once every six months to prevent the Provider from being treated as having withdrawn from the Batch Provider program. If a Provider withdraws (or is treated as having withdrawn) from a program, the Provider must re-register to participate in that program.

SECTION 6. AUTHORIZATIONS

.01 If a Provider is not the taxpayer, the Provider must obtain the taxpayer’s Authorization before submitting the taxpayer’s enrollment to the Financial Agent.

.02 Except as provided under the grandfather rule in section 23.02 of this revenue procedure, an Authorization must be prepared on Form 8655, *Reporting Agent Authorization*, or any other instrument that complies with Rev. Proc. 96–17, 1996–1 C.B. 633 and Rev. Proc. 2012–32, 2012–34 I.R.B. 267, or any successor published guidance. The Authorization must be maintained and provided to the Service in accordance with the instructions to the Form 8655 or any successor form.

.03 A Provider that acquires all or some of the clients of another Provider must obtain new Authorizations from those clients. The new Authorizations must be maintained and provided to the Service in accordance with the instructions to the Form 8655 or any successor form before the Provider makes FTDs and FTPs on behalf of those clients.

.04 An Authorization permits a Provider to submit enrollments and to make FTDs or FTPs on behalf of a taxpayer. An Authorization may also permit the Provider to receive certain tax information on behalf of the taxpayer. Although EFTPS is designed for the payment of various types of tax, the Authorization may limit the types of tax information the Provider is permitted to receive. For example, a Provider may make FTDs and FTPs on behalf of the taxpayer, but may be authorized to receive only notices regarding FTDs for Form 941, *Employer’s QUARTERLY Federal Tax Return*, and Form 940, *Employer’s Annual Federal Unemployment (FUTA) Tax Return*.

.05 Except as provided in section 6.07 of this revenue procedure, a Provider submitting Authorizations to the Service for the Batch Provider and Bulk Provider programs on or after April 27, 1998, must include a list of all taxpayers for whom the Provider is submitting Authorizations. The list must include each taxpayer’s complete name (for example, business name on file with Service), address (including zip code), and TINs, EINs, SSNs, and ITINs should each be grouped separately. Within each group, the taxpayers must be listed in TIN number sequence.

.06 Except as provided in section 6.07 of this revenue procedure and the instructions to the Form 8655 or any successor form, the Authorizations and the accompanying list must be submitted to:

Internal Revenue Service
Accounts Management Service Center
MS 6748 RAF Team
1973 North Rulon White Blvd.
Ogden, UT 84404

or faxed to the Reporting Agents File (RAF) Team at (801) 620–4142 (not a toll-free number), or submitted or faxed as set forth in published guidance, publications or on www.irs.gov.

.07 If a Provider has submitted Authorizations to the Service for the Form 941 e-file program, as described in Rev. Proc. 2007-40, 2007-1 C.B. 1488, or the former Form 941 or Form 940 Mag Tape Programs, as described in Rev. Proc. 96-18, 1996-1 C.B. 637, and these Authorizations allow the Provider to make payments on behalf of the taxpayer, the Provider is not required to resubmit the Authorizations or to submit a list containing those Authorizations to the Service. Similarly, if a Provider has submitted Authorizations to the Service for the magnetic tape FTD program, as described in Rev. Proc. 96-17, 1996-1 C.B. 633, the Provider is not required to resubmit the Authorizations or to submit a list containing those Authorizations to the Service.

.08 To delete Authorizations that a Provider previously submitted to the Service, the Provider must submit a list of the taxpayers to be deleted to the RAF Team. The list must be submitted in the format prescribed in section 6.05 of this revenue procedure and to the address (or fax number) provided in section 6.06 of this revenue procedure.

SECTION 7. ENROLLMENT

.01 A Provider must submit electronic taxpayer enrollments to the Financial Agent in accordance with the applicable implementation guide. As part of completing each taxpayer enrollment, the Provider may choose to use the ACH debit entry or ACH credit entry remittance method on a taxpayer-by-taxpayer basis. In both the Batch Provider and the Bulk Provider programs, enrollment of a taxpayer in the ACH debit remittance method will automatically enroll the taxpayer in the ACH credit remittance method. In the Bulk Provider program, enrollment of a taxpayer in the ACH credit remittance method will automatically enroll the taxpayer in the ACH debit remittance method. However, in the Batch Provider program, enrollment of a taxpayer in the ACH credit remittance method will *not* automatically enroll the taxpayer in the ACH debit remittance method.

.02 The Financial Agent will verify the accuracy of the enrollment information for each taxpayer and enter the verified enrollment information in its enrollment record database. As part of the verifica-

tion process for an ACH debit entry in the Batch Provider program, the Financial Agent will originate a prenotification ACH debit, if requested by the Batch Provider. In the Bulk Provider program, prenotification ACH debits are not available. When a prenotification ACH debit is not made, the Provider assumes responsibility for the accuracy of the information, including the RTN of the financial institution.

.03 When the enrollment process for a taxpayer is completed, the Financial Agent will provide the Provider with an enrollment response record that either accepts or rejects the taxpayer's enrollment. A rejected enrollment will identify necessary corrections. Any necessary corrections must be submitted by the Provider as a new enrollment of that taxpayer.

.04 If a Provider attempts to make an FTD or FTP through EFTPS before a taxpayer is enrolled, the FTD or FTP generally will be rejected and the taxpayer may be subject to a penalty for a late FTD or FTP.

SECTION 8. ACH DEBIT ENTRY

.01 For an FTD or FTP to be timely, a Provider must complete the initiation of an ACH debit entry with the Financial Agent at least one business day prior to the FTD or FTP due date.

.02 A Provider may hold an ACH debit entry for a business taxpayer by arranging for the entry up to 30 days in advance of the due date. A Provider may warehouse an ACH debit entry for an individual taxpayer by arranging for the entry up to 105 days in advance of the due date.

.03 After a Batch Provider or a Bulk Provider initiates a single ACH debit entry, the Financial Agent will validate the taxpayer's payment information and issue an acknowledgment number to the Provider. The acknowledgment number verifies when the necessary payment information was received by the Financial Agent but does not constitute proof of payment. See section 11 of this revenue procedure regarding proof of payment.

.04 After a Bulk Provider initiates a bulk ACH debit entry, the Financial Agent will validate the taxpayer's payment information and issue acknowledgment numbers to the Provider for accepted payments. The Bulk Provider will receive an acknowledgment number for the bulk

ACH debit entry and separate acknowledgment numbers for each accepted FTD or FTP included in the bulk ACH debit entry. The acknowledgment numbers verify when the necessary payment information was received by the Financial Agent but do not constitute proof of payment. See section 11 of this revenue procedure regarding proof of payment.

.05 In a bulk FTA debit entry, any rejected payment will be returned to the Bulk Provider without an acknowledgment number and subtracted from the bulk ACH debit entry, as specified in the Implementation Guide for EFTPS Bulk Providers. The Bulk Provider assumes responsibility for reinitiating any rejected payments.

.06 Pursuant to the Provider's instructions, the Financial Agent, on the date designated by the Provider, will originate the transfer of funds from the taxpayer's or Provider's account to the appropriate Treasury Department account. The Financial Agent also will transmit the related payment information, supplied by the Provider, to the Service for posting to the tax account(s) of the taxpayer(s).

.07 The Service will deem an FTD or FTP made by an ACH debit entry to have been made at the time of the debit.

.08 When a timely ACH debit entry cannot be made, a Provider may instruct the Financial Agent to complete the transaction at the next opportunity to submit an ACH debit entry. The Provider may also use an ACH credit entry or an FTA transaction. If a taxpayer is not required to use EFT for FTDs, the Provider may, to the extent permitted by regulations under § 6302, remit the payment with the tax return to which the payment relates. To avoid penalties, the FTD or FTP must be received by an appropriate means on or before the FTD or FTP due date.

.09 The ACH Rules will govern ACH debit entry returns and reversals.

SECTION 9. ACH CREDIT ENTRY

.01 If a Provider chooses the ACH credit entry remittance method to make an FTD or FTP, the Provider may use any financial institution capable of originating an ACH credit entry.

.02 For each TIN used in making ACH credit entries through a financial institution, the Provider may request that the fi-

financial institution originate a prenotification ACH credit.

.03 To initiate a timely ACH credit entry, a Provider must take into account the financial institution's deadline for originating an ACH credit entry.

.04 When a timely ACH credit entry cannot be made, a Provider may instruct the financial institution to complete the transaction at the next opportunity to submit an ACH credit entry. The Provider may also use an FTA transaction. A Bulk Provider may initiate an ACH debit entry. However, a Batch Provider may initiate an ACH credit entry only if the taxpayer is enrolled for the ACH debit remittance method. If a taxpayer is not required to use EFT for FTDs, the Provider may, to the extent permitted by regulations under § 6302, remit the payment with the tax return to which the payment relates. To avoid penalties, the FTD or FTP must be received by an appropriate means on or before the FTD or FTP due date.

.05 The Financial Agent will receive and process the ACH credit entry payment information. The Financial Agent will compare the payment information for the transaction with the taxpayer's enrollment record. If they match, the Financial Agent will send the payment information to the Service for posting to the taxpayer's tax account.

.06 If the Financial Agent cannot identify the taxpayer, the ACH credit entry will be returned to the originating financial institution.

.07 Failure to provide correct, complete, and properly formatted payment information may cause an ACH credit entry to be returned. In the event of a return, a Provider may instruct the financial institution to submit a corrected ACH credit entry at the next opportunity to submit an ACH credit entry. The Provider may also use an FTA transaction. A Bulk Provider may initiate an ACH debit entry. However, a Batch Provider may initiate an ACH debit entry only if the taxpayer is enrolled for the ACH debit remittance method. If a taxpayer is not required to use EFTPS for FTDs, the Provider may, to the extent permitted by regulations under § 6302, remit the payment with the tax return to which the payment relates. To avoid penalties, the FTD or FTP must be

received by an appropriate means on or before the FTD or FTP due date.

.08 An ACH credit entry that is not returned or reversed will be deemed made at the time that the funds are paid into the appropriate Treasury Department account.

.09 The ACH Rules will govern ACH credit entry returns and reversals.

SECTION 10. FEDERAL TAX APPLICATION TRANSACTION

.01 A Provider may use an FTA transaction to make an FTD or FTP. The Provider should contact the financial institution through which the FTA payment will be made to determine if the financial institution is capable of making an FTA payment.

.02 A Bulk Provider may use a bulk FTA transaction to make FTDs or FTPs. The Bulk Provider should contact the financial institution through which the bulk FTA payment will be made to determine if the financial institution is capable of making a bulk FTA payment.

.03 If a Provider uses a single FTA transaction, the transfer of funds and the transmission of the related payment information occur together. If a Bulk Provider uses a bulk FTA transaction, the transmission of the payment information precedes the related transfer of funds, both of which occur on the same day.

.04 The Service generally will deem an FTA payment to have been made on the date the payment is received by the FRB. A Provider should contact the financial institution through which the FTA payment will be made to determine the deadline for initiating FTA payments for a particular day. FTA payments received by the FRB after the deadline set forth in the Treasury Financial Manual, Volume IV (IV TFM), will not be accepted. Currently, the deadline in IV TFM is 2:00 p.m. Administrative FRB Head Office Local Zone Time. If a payment is not accepted, the Provider must reoriginate the payment using an FTA transaction or any other permissible remittance method.

.05 Additional FTA information may be found in the sections on Same-Day Payments in the Implementation Guide for EFTPS Bulk Providers and the EFTPS Payment Instruction Booklets for businesses and on www.eftps.gov.

SECTION 11. PROOF OF PAYMENT

.01 For an ACH debit or credit entry posted to the taxpayer's account in a financial institution, a statement prepared by that financial institution showing a transfer (that is, a decrease to the taxpayer's account balance) will be accepted as proof of payment if the statement:

(1) shows the amount and the date of the transfer; and

(2) identifies the U.S. Government as the payee (for example, "USA tax").

.02 For an FTA payment posted to the taxpayer's account in a financial institution, a taxpayer may request that its financial institution obtain a statement from the FRB that executed the transfer. This statement will be accepted as proof of payment if the statement:

(1) shows the amount and the date of the transfer; and

(2) identifies the U.S. Government as the payee (for example, "USA tax").

.03 For purposes of this section, statements prepared by a financial institution include statements prepared by a third party that is contractually obligated to prepare statements for the financial institution.

.04 A taxpayer's payment to a Provider (including a subsidiary's payment to its parent) is not a payment of tax by the taxpayer. Therefore, a statement prepared by the taxpayer's financial institution showing a transfer from the taxpayer's account to the Provider as payee is not proof of payment. Further, a statement prepared by the Provider's financial institution showing a transfer of funds from the Provider's account to the U.S. Government is not proof of payment because the payment may not have been made on behalf of the taxpayer. The taxpayer will need the acknowledgement number for an FTD or FTP made from the Provider's account to establish that the FTD or FTP was made on behalf of the taxpayer. The acknowledgement number allows the Service to trace the payment. The Provider has the acknowledgement number or may obtain it from the Financial Agent.

SECTION 12. REFUNDS

No refunds of FTDs or FTPs will be made through EFTPS. However, a refund request may be made using existing tax re-

fund procedures. If a taxpayer's error results in a substantial hardship, the taxpayer may contact the Service at (800) 829-1040 for assistance.

SECTION 13. DISASTER PROCEDURES

.01 A taxpayer's ability to make FTDs and FTPs timely may be affected by the time, severity, and extent of a major disaster. In such circumstances, the Service provides relief through the nonassertion or abatement of certain penalties. The Service publicizes the relief for a particular disaster area through the publication of a News Release, Notice, or Announcement. Generally, the Service identifies the taxpayers who qualify for this disaster relief.

.02 If a disaster affects a Provider, the Provider should provide the Service with the information necessary to identify those FTDs and FTPs of taxpayers outside the disaster area that were or will be late due to the disaster. The Service will then determine if the nonassertion or abatement of certain penalties or interest is appropriate.

.03 In addition, if a Bulk Provider's primary processing system is affected by a disaster and the Bulk Provider's backup processing system fails, the Bulk Provider may use an emergency bulk FTA transaction under which the transfer of funds occurs before the transmission of the related payment information.

SECTION 14. RESPONSIBILITIES OF A PROVIDER

.01 Each Provider must:

(1) comply with this revenue procedure and the applicable implementation guide (Implementation Guide for EFTPS Batch Providers or Implementation Guide for EFTPS Bulk Providers);

(2) maintain a high degree of integrity, compliance, and accuracy;

(3) ensure that FTDs and FTPs are accurately and timely made;

(4) ensure the security of all transmitted information; and

(5) ensure that after a disabling event the Provider is able to operate its Batch Provider or Bulk Provider programs with minimal interruption (generally, less than 24 hours).

.02 A Provider that is not the taxpayer must:

(1) retain copies of each Authorization and each enrollment at its principal place of business for 4 years after the prescribed due date of the last return to which the FTD or FTP relates, unless the Provider is otherwise notified by the Service or unless the instructions to the Form 8655 or any successor form provide otherwise;

(2) retain any payment information (including acknowledgement numbers) at its principal place of business for 4 years after the prescribed due date of the return to which the FTD or FTP relates, unless the Provider is otherwise notified by the Service. A shorter retention period for payment information may be substituted for this "4-year" retention period, provided the Provider notifies the taxpayer in writing that the Provider will not be retaining the payment information after the shorter retention period and the Provider gives such information to the taxpayer. The shorter retention period must be at least 90 days; and

(3) advise the taxpayer to enroll itself separately in EFTPS. If the Provider is not authorized to make all the taxpayer's required FTDs and FTPs, the taxpayer's separate enrollment will allow the taxpayer to make its own FTDs and FTPs through EFTPS. To enroll separately, a taxpayer must submit a completed Form 9779, *EFTPS Business Enrollment Form*, or Form 9783, *EFTPS Individual Enrollment Form*, to the EFTPS Enrollment Processing Center at the address provided in the applicable form's instructions. See Rev. Proc. 97-33 and www.eftps.gov for more information.

.03 A Provider that is the taxpayer must:

(1) absent a specific retention period prescribed by regulations, retain the payment information and any supporting material at its principal place of business for as long as the contents thereof may become material in the administration of any internal revenue law; and

(2) retain copies of each enrollment at its principal place of business for 4 years after the prescribed due date of the return to which the last FTD or FTP relates, unless otherwise notified by the Service.

SECTION 15. ADVERTISING STANDARDS

.01 A Provider must comply with the advertising and solicitation provisions of

31 C.F.R. Part 10 (Treasury Department Circular No. 230). Circular 230 prohibits participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim.

.02 A Provider must adhere to all relevant federal, state, and local consumer protection laws that relate to advertising and soliciting.

.03 A Provider must not use the Service's name, "Internal Revenue Service" or "IRS," within a firm's name.

.04 A Provider must not use improper or misleading advertising in relation to EFTPS.

.05 Advertising materials must not carry the Service, FMS, or other Treasury Seals.

.06 If a Provider uses radio or television broadcasting to advertise, the broadcast must be pre-recorded. The Provider must keep a copy of the pre-recorded advertisement for a period of at least 36 months from the date of the last transmission or use.

.07 If a Provider uses direct mail, e-mail, or fax communications to advertise, the Provider must retain a copy of the actual mailing, e-mail, or fax, along with a list or other description of the firms, organizations, or individuals to whom the communication was mailed, faxed, or otherwise distributed for a period of at least 36 months from the date of the last mailing, fax, or distribution.

.08 If a Provider uses a Web site or print media (including newspapers, magazines, or yellow pages) to advertise, the Provider must retain a copy of the advertising for a period of at least 36 months from the date of the last posting or publication.

.09 Acceptance in the Batch Provider or Bulk Provider programs is not an endorsement by the Service, FMS, or the Treasury Department of the quality of the services provided by the Provider.

SECTION 16. REASONS FOR SUSPENSION

.01 The Service reserves the right to suspend a Provider from the Batch Provider or Bulk Provider programs for the following reasons (this list is not all-inclusive):

(1) failing to submit payment information in accordance with this revenue procedure and the applicable implementation guides;

(2) failing to maintain and make available the required records for the period specified in section 14 of this revenue procedure;

(3) submitting payment information on behalf of taxpayers for which the Service did not receive Authorizations;

(4) failing to abide by the advertising standards in section 15 of this revenue procedure;

(5) failing to cooperate with the Service's efforts to monitor Providers and investigate abuse in the Batch Provider or Bulk Provider programs; or

(6) generating significant complaints about the Provider's performance in the Batch Provider or Bulk Provider programs.

.02 If the Service informs a Provider that a certain action is a reason for suspension and the action continues, the Service may send the Provider a notice proposing suspension of the Provider from the Batch Provider or Bulk Provider program. However, a notice proposing suspension may be sent without a warning if the Provider's action indicates an intentional disregard of rules. A notice proposing suspension will describe the reason(s) for the proposed suspension, and indicate the length of the suspension and the conditions that need to be met before the suspension will terminate.

SECTION 17. ADMINISTRATIVE REVIEW PROCESS FOR PROPOSED SUSPENSION

.01 A Provider that receives a notice proposing suspension from the Batch Provider or Bulk Provider program, as described in section 16.02 of this revenue procedure, may request an administrative review prior to the proposed suspension taking effect.

.02 The request for an administrative review must be in writing and contain detailed reasons, with supporting documentation, for withdrawal of the proposed suspension.

.03 The written request for an administrative review and a copy of the notice proposing suspension must be delivered to

the address designated in the notice within 30 days of the effective date on the notice.

.04 After consideration of the written request for an administrative review, the Service will either issue a suspension letter or notify the Provider in writing that the proposed suspension is withdrawn.

.05 If a Provider receives a suspension letter, the Service's subsequent determination of whether a reason for suspension has been corrected is not subject to administrative review or appeal.

.06 Failure to submit a written request for an administrative review within the 30-day period described in section 17.03 of this revenue procedure irrevocably terminates the Provider's right to an administrative review of the proposed suspension, and the Service will issue a suspension letter.

SECTION 18. EFFECT OF SUSPENSION

.01 The Provider's suspension will continue for the length of time specified in the suspension letter, or until the conditions for terminating the suspension have been met, whichever is later.

.02 After suspension, a Provider may submit an FTD under the Batch Provider or Bulk Provider program only if the FTD is due not more than 30 days after the effective date on the suspension letter. No FTPs may be submitted by the Provider under the Batch Provider or Bulk Provider programs during the suspension period.

.03 A Provider must provide written notification of a suspension from the Batch Provider or Bulk Provider programs to each taxpayer in the program(s) within 10 days from the date on the suspension letter. This notification must be provided even though the Provider may believe that the Provider will be able to meet the conditions for terminating the suspension within the 30-day period provided in section 19.02 of this revenue procedure.

.04 A Provider will be able to submit payment information under the Batch Provider or Bulk Provider programs without re-registering for those programs after:

(1) the stated suspension period expires; and

(2) the reason(s) for suspension is corrected.

SECTION 19. APPEAL OF SUSPENSION

.01 If a Provider receives a suspension letter from the Service, the Provider is entitled to appeal, by written protest, to the Service. The written protest must be delivered to the address designated on the suspension letter. During the appeals process, the suspension remains in effect.

.02 The written protest must be received by the Service within 30 days of the effective date on the suspension letter. The written protest must contain detailed reasons, with supporting documentation, for withdrawal of the suspension.

.03 Failure to appeal within the 30-day period described in section 19.02 of this revenue procedure irrevocably terminates the Provider's right to appeal the suspension under section 19.01 of this revenue procedure.

SECTION 20. ADDITIONS TO TAX AND PENALTIES

.01 Section 6656 imposes a failure-to-deposit penalty if a taxpayer does not make a timely FTD, unless such failure is due to reasonable cause and not due to willful neglect. See Rev. Rul. 94-46, 1994-2 C.B. 278. Absent reasonable cause, a taxpayer that is required to deposit federal taxes by EFT is subject to the failure-to-deposit penalty if FTDs are made by means other than EFT (for example, submitting a paper check with a return). See Rev. Rul. 95-68, 1995-2 C.B. 272.

.02 Section 6655 imposes an addition to tax for underpayments of estimated tax by a corporation, private foundation, tax-exempt organization, or qualified settlement fund.

.03 Section 6651 imposes an addition to tax for failure to pay if a taxpayer does not make a timely FTP, unless such failure is due to reasonable cause and not due to willful neglect.

SECTION 21. FORMS, PUBLICATIONS, IMPLEMENTATION GUIDES, AND ADDITIONAL INFORMATION

.01 A Provider may obtain copies of this revenue procedure, enrollment forms (Forms 9779 and 9783), implementation

guides, payment instruction booklets, registration letters, and additional information on EFTPS by calling EFTPS Customer Service at (800) 555-4477.

.02 A Provider may obtain enrollment forms and Authorizations (Forms 8655) by calling the IRS Distribution Center at (800) TAX-FORM ((800) 829-3676).

.03 A Provider may obtain information on the submission of Authorizations by accessing the Reporting Agents File webpage at *www.irs.gov*.

SECTION 22. EFFECT ON OTHER DOCUMENTS

This revenue procedure modifies and supersedes Rev. Proc. 98-32, 1998-1 C.B. 935.

SECTION 23. EFFECTIVE DATE

.01 *In general.* This revenue procedure is effective November 19, 2012.

.02 *Grandfather rule.* A power of attorney on Form 2848, *Power of Attorney and Declaration of Representative*, or other document that satisfies the requirements

of § 601.503(a) of the Statement of Procedural Rules, that was submitted to the Service on or before April 27, 1998, will be treated as an Authorization for purposes of this revenue procedure, even though it does not comply with section 6.02 of this revenue procedure.

SECTION 24. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1601.

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

The collections of information in this revenue procedure are in sections 5, 6, 7, 8, 11, 13, 14, and 15 of this revenue procedure. This information is required to implement EFTPS, and verify that tax-

payers have met their obligations to pay their taxes and make FTDs by EFT. This information will be used to identify persons paying taxes and making FTDs on behalf of taxpayers and to credit taxpayers' tax accounts for FTDs and FTPs made through EFT. The collections of information are mandatory. The likely respondents are business or other for-profit institutions.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 25. DRAFTING INFORMATION

The principal author of this revenue procedure is Nathan Rosen of the Office of Associate Chief Counsel (Procedure and Administration). For assistance regarding matters described in this revenue procedure, please call EFTPS Customer Service at (800) 555-4477.

Use this Revenue Procedure to prepare Tax Year 2012 and prior year information returns for submission to Internal Revenue Service (IRS) using electronic filing.

Caution to filers:

This Revenue Procedure may not be revised every year. Updates will be printed as needed in the Internal Revenue Bulletin. General Instructions for Form 8955-SSA are revised every year. Be sure to consult current instructions when preparing Form 8955-SSA.

Please read this publication carefully. Persons or businesses required to file information returns electronically may be subject to penalties for failure to file or include correct information if the instructions in this Revenue Procedure are not followed.

IMPORTANT NOTES:

The IRS internet connection for filing information returns electronically is *http://fire.irs.gov*. The Filing Information Returns Electronically (FIRE) system and the test system will be down from 6 p.m. ET Dec. 14, 2012, through Jan. 02, 2013 for yearly updates. In addition, the FIRE system may be down every Wednesday from 2:00 a.m. to 5:00 a.m. ET for programming updates. The FIRE system will not be available for submissions during these times.

Form 4419, *Application for Filing Information Returns Electronically (FIRE)*, is subject to review before the approval to transmit electronically is granted. IRS may require additional documentation. If a determination is made concerning the validity of the documents transmitted electronically, IRS has the authority to revoke the Transmitter Control Code (TCC) and terminate the release of the files.

The FIRE system does not provide fill-in forms for filing information returns.

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SEC. 5. END OF TRANSMISSION "F" RECORD 309

Part A. General

Revenue Procedures are generally revised periodically to reflect legislative and form changes. Comments concerning this Revenue Procedure, or suggestions for making it more helpful, can be addressed to:

Internal Revenue Service
Attn: Information Returns Branch

Sec. 1. Purpose

.01 The purpose of this Revenue Procedure is to provide the specifications for filing Form 8955-SSA, *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits*, with Internal Revenue Service/Information Returns Branch (IRS/IRB) electronically through the Filing Information Returns Electronically (FIRE) system. This Revenue Procedure must be used to prepare current and prior year information returns filed beginning January 1, 2013, and received through FIRE by December 31, 2013.

.02 Electronic reporting of Form 8955-SSA eliminates the need for electronic filers to submit paper documents to the IRS. Do not send copies of the paper forms to IRS for any forms filed electronically. This will result in duplicate filing.

.03 Generally, the boxes on the paper Form 8955-SSA correspond with the fields used to file electronically; however, if discrepancies occur, the instructions in this Revenue Procedure govern.

.04 Refer to Part A, Sec. 7, for definitions of terms used in this publication.

.05 The following instructions and publications provide more detailed filing procedures for certain information returns:

- (a) Instructions for Form 8955-SSA, *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits*
- (b) Publication 3609, *Filing Information Returns Electronically (FIRE)*

Sec. 2. What's New for Tax Year 2012

.01 Form 4419, *Application for Filing Information Returns Electronically (FIRE)*, must be submitted at least 45 days before the due date of the return(s) to allow IRS the minimum amount of time necessary to process and respond to applications.

.02 Amended returns instructions in Part A, Section 6 have been modified to include information about the amended return indicator.

.03 Any file processed *after January 2, 2013*, that receives a "Good, Not Released" status will be held for ten calendar days. The file will automatically be released after ten calendar days unless the filer contacts IRS within this timeframe. File status descriptions in Part B, Section 7 have been revised and expanded.

.04 Reporting criteria for Separated Participants, positions 552–559, and Voluntary Separated Participants, positions 560–567, in the 'S' record have been clarified.

.05 Instructions for reporting Participant's Annuity Type Code, position 100, and Participant Payment Frequency Code, positions 101, in the 'P' record have changed.

Reminders

.01 Editorial changes have been made throughout this publication. Please read the entire publication carefully.

.02 In this publication, all pertinent changes for Tax Year 2012 are emphasized by the use of *italics*. Portions of text that require special attention are in boldface text.

Sec. 3. Where To File and How to Contact the IRS, Information Returns Branch (IRB)

.01 All information returns filed electronically are processed at IRS. General inquiries concerning the filing of Forms 8955-SSA should be sent to the following address:

Internal Revenue Service
Information Returns Branch
Attn: 8955-SSA Reporting
230 Murall Drive, Mail Stop 4360
Kearneysville, WV 25430

.02 To request an extension to file Form 8955-SSA, submit a Form 5558, *Application for Extension of Time to File Certain Employee Plan Returns*, before the due date of the Form 8955-SSA to the following address:

Internal Revenue Service Center
Ogden, UT 84201–0024

.03 The telephone numbers and web addresses for electronic filing inquiries are:

Information Returns Branch
1-866-455-7438
Outside the U.S. 1-304-263-8700
email at mccirp@irs.gov

Telecommunication Device for the Deaf (TDD)
1-304-579-4827

Fax
Within the U.S. 1-877-477-0572
Outside the U.S. 1-304-579-4105

Electronic Filing – FIRE system
Production URL— <http://fire.irs.gov>
Test URL— <http://fire.test.irs.gov>

Tax Exempt/Government Entities (TE/GE) Helpline
1-877-829-5500

To Obtain Forms
By phone — 1-800-TAX-FORM (1-800-829-3676)
[IRS.gov](http://www.irs.gov) — Online Ordering for Information Returns and Employer Returns
<http://www.irs.gov/businesses/page/0,,id=23108,00.html>

.04 The current instructions for Form 8955-SSA have been included in Publication 4810 for the convenience of filers.

.05 Requests for paper Forms 8955-SSA should be made by calling the IRS at **1-800-TAX-FORM (1-800-829-3676)** or by the IRS Web Site at **IRS.gov/formspubs**. File paper forms, schedules, statements, and attachments by sending them to the following address:

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201-0027

.06 Filers should not contact IRB if they have received a penalty notice. Instead, filers that have questions about the penalty or that wish to request an abatement of the penalty should follow the instructions provided in the penalty notice. Penalty notices contain either an IRS representative's name and/or telephone number for contact purposes, or an address to which filers may contact the IRS in writing. IRB does not issue penalty notices and does not have the authority to abate penalties. For additional penalty information, refer to the Penalty section of the current Instructions for Form 8955-SSA.

.07 Electronic Products and Services Support, Information Returns Branch, Customer Service Section (IRB/CSS), answers electronic, paper filing, and tax law questions from the payer community relating to the correct preparation and filing of business information returns (Forms 1096, 1097, 1098, 1099, 5498, 8027, and W-2G). IRB/CSS also answers questions relating to the electronic filing of Forms 8955-SSA. Call 1-866-455-7438 for specific information on 8955-SSA filing. Filers with inquiries regarding tax law issues and paper filing of Form 8955-SSA should call the TE/GE Help Line at 877-829-5500. Assistance is available year-round to payers, transmitters, and employers nationwide, Monday through Friday, 8:30 a.m. to 4:30 p.m. Eastern Time, by calling 1-866-455-7438 or by email at mccirp@irs.gov. Do not include social security numbers (SSNs) or Employer identification numbers (EINs) in email correspondence. Electronic mail is not secure and the information could be compromised. The Telecommunications Device for the Deaf (TDD) toll number is 304-579-4827. Call as soon as questions arise to avoid the busy filing seasons at the end of January, February, and March.

Sec. 4. Form 4419, Application for Filing Information Returns Electronically (FIRE)

.01 Transmitters (See Part A, Section 7 for definition) are required to submit Form 4419, *Application for Filing Information Returns Electronically (FIRE)*, to request authorization to file Form 8955-SSA with IRS. A single Form 4419 may be filed. IRS encourages transmitters who file for multiple plan administrators to submit one application and to use the assigned Transmitter Control Code (TCC) for all. Form 4419 may be faxed to IRS within the U.S. at 877-477-0572 or outside the U.S. at 304-579-4105. Plan administrators may also choose to submit Form 8955-SSA on paper. IRS may require additional documentation. If a determination is made concerning the validity of the documents transmitted electronically, IRS has the authority to revoke the Transmitter Control Code (TCC) and terminate the release of the files.

Note: In order to file additional form types, a different TCC must be assigned. Submit another Form 4419 for filing Forms 1097, 1098, 1099, 3921, 3922, 5498 and W-2G, Form 1042-S, and Form 8027. See the back of Form 4419 for detailed instructions.

.02 Form 4419 may be submitted anytime during the year; however, it must be submitted to IRS at least 45 days before the due date of the return(s) for current year processing. This will allow IRS the minimum amount of time necessary to process and respond to applications.

.03 Electronically filed returns may not be submitted to IRS until the application has been approved. Please read the instructions on the back of Form 4419 carefully. A Form 4419 is included in Publication 4810 for the filer's use. This form may be photocopied. Additional forms may be obtained by calling 1-800-TAX-FORM (1-800-829-3676). The form is also available at IRS.gov.

.04 Upon approval, a five-character alphanumeric Transmitter Control Code (TCC) beginning with the digit "6", to be used only for Form 8955-SSA, will be assigned and included in an approval letter. The TCC must be coded in the Transmitter "T" Record. If a transmitter uses more than one TCC to file, each TCC must be reported on a separate electronic transmission.

.05 If any of the information (name, TIN or address) on the Form 4419 changes, please notify IRS in writing so the IRS database can be updated. The transmitter should include the TCC in all correspondence.

.06 Please make sure electronic files are submitted using the correct TCC. The FIRE system creates a filename that includes the TCC and a four-digit sequence number. All files submitted through the FIRE system will have a unique filename assigned.

.07 If a plan administrator's files are prepared by a service bureau, it may not be necessary to submit an application to obtain a TCC. Some service bureaus will produce files, code their own TCC on the file, and send it to IRS for the plan administrator. Other service bureaus will prepare electronic files for a plan administrator to submit directly to IRS. These service bureaus may require the plan administrators to obtain a TCC to be coded in the Transmitter "T" Record. The plan administrator should contact their service bureaus for further information.

.08 Once a transmitter is approved to file electronically, it is not necessary to reapply each year unless:

- (a) The plan administrator has discontinued filing electronically for two consecutive years. The TCC may have been reassigned by IRS. Plan administrators who are aware that the TCC assigned will no longer be used are requested to notify IRS so these numbers may be reassigned; or
- (b) The plan administrator's electronic files were transmitted in the past by a service bureau using the service bureau's TCC, but now the plan administrator has computer equipment compatible with that of IRS and wishes to prepare their own files. The plan administrator must request a TCC by filing Form 4419.

.09 Submit one Form 4419 per TIN. If a single transmitter needs to transmit more than 9,999 files in a single calendar year, contact IRS toll-free at 866-455-7438. Only one TCC will be issued per TIN unless the filer has checked the application for the following forms in addition to the Form 8955-SSA: Forms 1097, 1098, 1099, 3921, 3922, 5498, W-2G, 8027 and 1042-S. A separate TCC will be assigned for these forms.

.10 Approval to file does not imply endorsement by IRS of any computer software or of the quality of tax preparation services provided by a service bureau or software vendor.

Sec. 5. Due Dates

.01 The due dates for filing paper returns with IRS also apply to electronic filing of Form 8955-SSA.

.02 Form 8955-SSA filed electronically must be submitted to IRS on or before the due date. The due date for Form 8955-SSA is the end of the 7th month after the end of the plan year.

.03 An extension may be requested by filing Form 5558 before the due date of the Form 8955-SSA. Mail Form 5558 to:

Internal Revenue Service Center
Ogden, UT 84201-0024

.04 See the instructions to Form 5558 for specific guidance.

.05 If any due date falls on a Saturday, Sunday or legal holiday, the return or statement is considered timely if filed or furnished on the next day that is not a Saturday, Sunday, or legal holiday.

Sec. 6. Amended Returns

.01 If a Form 8955-SSA was filed with the IRS and an error was discovered with the file after IRS accepted the file; an amended Form 8955-SSA must be sent.

.02 Amended returns should be filed as soon as possible. *An amended return should only be submitted to correct a file that previously received a "Good" status (see Part B, Section 7 for a description of file status.)* When a record is incorrect, all fields on that record must be completed with the correct information. Resubmit the entire file again with the erroneous information corrected as an amended return. Enter a "1" (*Amended Return Indicator*) in position 34 of the Sponsor "S" record to identify the submission as an amended submission.

.03 Prior year data, original and amended returns, must be filed according to the requirements of this Revenue Procedure. If submitting prior year amended returns, use the record format for the current year and submit in a separate transmission. However, use

the actual year designation of the amended return in Field Positions 2–5 of the “T” Record. A separate electronic transmission must be made for each plan year.

.04 All paper returns, whether original or amended, must be filed with:

Department of the Treasury Service Center
Internal Revenue Service
Ogden, UT 84201–0024

Sec. 7. Definition of Terms

Element	Description
Amended Return	An amended return is an information return submitted by the transmitter to amend an information return that was previously submitted and processed by IRS, but contained erroneous information.
Employer Identification Number (EIN)	A nine-digit number assigned by IRS for Federal tax reporting purposes.
Electronic Filing	Submission of information returns electronically by the Internet. See Part B of this publication for specific information on electronic filing.
File	For purposes of this Revenue Procedure, a file consists of one Transmitter “T” Record at the beginning of the file, a Sponsor “S” Record, followed by the Administrator “A” Record, and Participant “P” Record (s) ending with the last record on the file, and the End of Transmission “F” Record. Nothing should be reported after the End of Transmission “F” Record.
Filer	Person (may be plan administrator, plan sponsor and/or transmitter) submitting information returns to IRS.
Information Return	The vehicle for a plan administrator to submit required information to IRS concerning recipients.
Participant	Generally, for these purposes, any individual entitled to receive benefits under a plan.
Plan Administrator	The person designated by the plan, or in the absence of a designation, as either (1) the employer (in the case of the plan maintained by a single employer) or (2) the association, committee, or joint board of trustees who maintain the plan (in case of a plan maintained by more than one employer).
Record	A record contains specific information for the filing of Form 8955-SSA. Records include the Transmitter “T” Record, the Sponsor “S” Record, the plan Administrator “A” Record, the Participant “P” Record and the “F” End of Transmission Record. All records are a fixed length of 750 positions.
Service Bureau	Person or organization with whom the plan administrator has a contract to prepare and/or submit information return files to IRS. A parent company submitting data for a subsidiary is not considered a service bureau.
Social Security Number (SSN)	A nine-digit number assigned by Social Security Administration to an individual for wage and tax reporting purposes.
Special Character	Any character that is not a numeric, an alpha, or a blank.
Sponsor	Refers to the sponsor of the plan, generally one of the following (1) the employer (in case of a plan maintained by a single employer), (2) the employee organization (in case of a plan maintained by an employee organization), or (3) the association, committee, or joint board of trustees of the parties who maintain the plan (in the case of a plan maintained jointly by one or more employers and one or more employee organizations, or by two or more employers).
Taxpayer Identification Number (TIN)	Refers to either an employer identification number (EIN) or a social security number (SSN).
Transmitter	Refers to the person or organization submitting file(s) electronically. The transmitter may be the plan administrator or agent of the plan administrator.

Element	Description
Transmitter Control Code (TCC)	A five-character alphanumeric number assigned by IRS to the transmitter prior to filing electronically. An application Form 4419 must be filed with IRS to receive this number. This number is inserted in the Transmitter "T" Record (field positions 16–20) of the file and must be present before the file can be processed. Transmitter Control Codes assigned to Form 8955-SSA transmitters will always begin with "6".
Vendor	Vendors include service bureaus that produce information return files electronically for plan administrators. Vendors also include companies that provide software for those who wish to produce their own electronic files.

Sec. 8. State Abbreviations

.01 The following table provides state and U.S. territory abbreviations that are to be used when developing the state code portion of address fields.

Table 1: State & U.S. Territory Abbreviations

State	Code	State	Code	State	Code
Alabama	AL	Louisiana	LA	Oklahoma	OK
Alaska	AK	Maine	ME	Oregon	OR
American Samoa	AS	Maryland	MD	Pennsylvania	PA
Arizona	AZ	Massachusetts	MA	Puerto Rico	PR
Arkansas	AR	Michigan	MI	Rhode Island	RI
California	CA	Minnesota	MN	South Carolina	SC
Colorado	CO	Mississippi	MS	South Dakota	SD
Connecticut	CT	Missouri	MO	Tennessee	TN
Delaware	DE	Montana	MT	Texas	TX
District of Columbia	DC	Nebraska	NE	Utah	UT
Florida	FL	Nevada	NV	Vermont	VT
Georgia	GA	New Hampshire	NH	Virginia	VA
Guam	GU	New Jersey	NJ	U.S. Virgin Islands	VI
Hawaii	HI	New Mexico	NM	Washington	WA
Idaho	ID	New York	NY	West Virginia	WV
Illinois	IL	North Carolina	NC	Wisconsin	WI
Indiana	IN	North Dakota	ND	Wyoming	WY
Iowa	IA	No. Mariana Islands	MP		
Kansas	KS	Ohio	OH		
Kentucky	KY				

.02 When reporting APO/FPO addresses use the following format:

EXAMPLE:

Recipient Name	PVT Willard J. Doe
Mailing Address	Company F, PSC Box 100 167 Infantry REGT
Recipient City	APO (or FPO)
Recipient State	AE, AA, or AP*
Recipient ZIP Code	098010100

*AE is the designation for ZIP codes beginning with 090–098, AA for ZIP code 340, and AP for ZIP codes 962–966.

Sec. 9. Foreign Country Codes

.01 The following table provides the Foreign Country Codes that are to be used when developing the country code portion of address fields.

Table 2: Foreign Country Codes

State	Code	State	Code	State	Code
AF	Afghanistan	GZ	Gaza Strip	NE	Niue
AL	Albania	GG	Georgia	NF	Norfolk Island
AG	Algeria	GM	Germany	CQ	Northern Mariana Island
AQ	American Samoa	GH	Ghana	NO	Norway
AN	Andorra	GI	Gibraltar	MU	Oman
AO	Angola	GO	Glorioso Islands	OC	Other Countries
AV	Anguilla	GR	Greece	PK	Pakistan
AY	Antarctica	GL	Greenland	LQ	Palmyra Atoll
AC	Antigua and Barbuda	GJ	Grenada	PS	Palau
AR	Argentina	GP	Guadeloupe	PM	Panama
AM	Armenia	GQ	Guam	PP	Papua-New Guinea
AA	Aruba	GT	Guatemala	PF	Paracel Islands
AT	Ashmore and Cartier Islands	GK	Guernsey	PA	Paraguay
AS	Australia	GV	Guinea	PE	Peru
AU	Austria	PU	Guinea-Bissau	RP	Philippines
AJ	Azerbaijan	GY	Guyana	PC	Pitcairn Islands
BF	Bahamas	HA	Haiti	PL	Poland
BA	Bahrain	HM	Heard Island and McDonald Islands	PO	Portugal
FQ	Baker Islands	HO	Honduras	RQ	Puerto Rico
BG	Bangladesh	HK	Hong Kong	QA	Qatar
BB	Barbados	HQ	Howland Island	RE	Reunion
BS	Bassas da India	HU	Hungary	RO	Romania
BO	Belarus	IC	Iceland	RS	Russia
BE	Belgium	IN	India	RW	Rwanda
BH	Belize	ID	Indonesia	WS	Samoa and Western Samoa
BN	Benin	IR	Iran	SM	San Marino
BD	Bermuda	IZ	Iraq	TP	Sao Tome and Principe
BT	Bhutan	EI	Ireland	SA	Saudi Arabia
BL	Bolivia	IS	Israel	SG	Senegal
BK	Bosnia-Herzegovina	IT	Italy	SE	Seychelles
BC	Botswana	JM	Jamaica	SL	Sierra Leone
BV	Bouvet Island	JN	Jan Mayen	SN	Singapore
BR	Brazil	JA	Japan	LO	Slovakia
IO	British Indian Ocean Territory	DQ	Jarvis Island	SI	Slovenia
VI	British Virgin Islands	JE	Jersey	BP	Solomon Islands
BX	Brunei	JQ	Johnston Atoll	SO	Somalia
BU	Bulgaria	JO	Jordan	SF	South Africa
UV	Burkina Faso	JU	Juan de Nova Island	SX	South Georgia and the South Sandwich Islands
BM	Burma	KZ	Kazakhstan	SP	Spain
BY	Burundi	KE	Kenya	PG	Spratly Islands
CB	Cambodia	KQ	Kingman Reef	CE	Sri Lanka
CM	Cameroon	KR	Kiribati	SH	St. Helena
CA	Canada	KN	Korea, Democratic People's Republic of (North)	SC	St. Kitts and Nevis

Table 2: Foreign Country Codes

State	Code	State	Code	State	Code
CV	Cape Verde	KS	Korea, Republic of (South)	ST	St. Lucia Island
CJ	Cayman Islands	KU	Kuwait	SB	St. Pierre and Miquelon
CT	Central African Republic	KG	Kyrgyzstan	VC	St. Vincent and the Grenadines
CD	Chad	LA	Laos	SU	Sudan
CI	Chile	LG	Latvia	NS	Suriname
CH	China	LE	Lebanon	SV	Svalbard
KT	Christmas Island	LT	Lesotho	WZ	Swaziland
IP	Clipperton Island	LI	Liberia	SW	Sweden
CK	Cocos (Keeling) Islands	LY	Libya	SZ	Switzerland
CO	Colombia	LS	Liechtenstein	SY	Syria
CN	Comoros	LH	Lithuania	TW	Taiwan
CF	Congo (Democratic Republic)	LU	Luxembourg	TI	Tajikistin
CW	Cook Islands	MC	Macau	TZ	Tanzania
CR	Coral Sea Islands	MK	Macedonia	TH	Thailand
VP	Corsica	MA	Madagascar	TO	Togo
CS	Costa Rica	MI	Malawi	TL	Tokelau
IV	Cote D'Ivoire (Ivory Coast)	MY	Malaysia	TN	Tonga
HR	Croatia	MV	Maldives	TD	Trinidad and Tobago
CU	Cuba	ML	Mali	TE	Tromelin Island
CY	Cyprus	MT	Malta	TS	Tunisia
EZ	Czech Republic	IM	Man, Isle of	TU	Turkey
DA	Denmark	RM	Marshall Islands	TX	Turkmenistan
DJ	Djibouti	MB	Martinique	TK	Turks and Caicos Islands
DO	Dominica	MR	Mauritania	TV	Tuvalu
DR	Dominican Republic	MP	Mauritius	UG	Uganda
TT	East Timor	MF	Mayotte	UP	Ukraine
EC	Ecuador	MX	Mexico	TC	United Arab Emirates
					United Kingdom (England, Northern Ireland, Scotland, and Wales)
EG	Egypt	MQ	Midway Islands	UK	
ES	El Salvador	MD	Moldova	UC	Unknown Country
EK	Equatorial Guinea	MN	Monaco	UY	Uruguay
ER	Eritrea	MG	Mongolia	UZ	Uzbekistan
EN	Estonia	MH	Montserrat	NH	Vanuatu
ET	Ethiopia	MO	Morocco	VT	Vatican City
EU	Europa Island	MZ	Mozambique	VE	Venezuela
FK	Falkland Islands (Islas Malvinas)	WA	Namibia	VM	Vietnam
FO	Faroe Islands	NR	Nauru	VQ	Virgin Islands
FM	Federated States of Micronesia	BQ	Navassa Island	WQ	Wake Island
FJ	Fiji	NP	Nepal	WF	Wallis and Futuna
FI	Finland	NL	Netherlands	WE	West Bank
FR	France	NT	Netherlands Antilles	WI	Western Sahara
FG	French Guinea	NC	New Caledonia	YM	Yemen (Aden)
FP	French Polynesia	NZ	New Zealand	YO	Yugoslavia
FS	French Southern and Antarctic Lands	NU	Nicaragua	ZA	Zambia

Table 2: Foreign Country Codes

State	Code	State	Code	State	Code
GB	Gabon	NG	Niger	ZI	Zimbabwe
GA	The Gambia	NI	Nigeria		

Part B. Electronic Filing Specifications

Note 1: The FIRE system does not provide fill-in forms. Filers must program files according to the Record Layout Specifications contained in this publication. *For a list of software providers, log on to [IRS.gov](http://irs.gov) and type “Form 8955-SSA Resources” in the search box and then select the “Approved Software Vendors Form 8955-SSA.”*

Note 2: *The FIRE system may be down every Wednesday from 2:00 a.m. to 5:00 a.m. ET for programming updates and will be down for approximately two weeks at the end of December for annual updates. The FIRE system will not be available for submissions during these times.*

Sec. 1. General

.01 Filing Forms 8955-SSA through the FIRE (Filing Information Returns Electronically) system (originals and amended) is the method of filing for plan administrators who wish to file electronically instead of filing on paper.

.02 All electronic filing of information returns are received at IRS by the FIRE system. To connect to the FIRE system, point the browser to <http://fire.irs.gov>. The system is designed to support the electronic filing of information returns only.

.03 The electronic filing of information returns is not affiliated with any other IRS electronic filing programs. Filers must obtain separate approval to participate in each program. Only inquiries concerning electronic filing of information returns should be directed to IRB.

.04 Files submitted to IRS electronically must be in standard ASCII code. Do not send paper forms with the same information as electronically submitted files. This would create duplicate reporting.

.05 Current and prior year data must be submitted in separate electronic transmissions. Each plan year must be a separate electronic file.

.06 Filers who have prepared their information returns in advance of the due date can submit their file any time after the plan year ends.

.07 Plan administrators should retain a copy of the information returns filed with IRS or have the ability to reconstruct the data for at least three years after the due date of the returns.

.08 See Part C, Record Format Specifications and Record Layouts for the proper record format.

Sec. 2. Electronic Filing Approval Procedure

.01 Filers must obtain a Transmitter Control Code (TCC) prior to submitting files electronically. Refer to Part A, Sec. 4, for information on how to obtain a TCC.

.02 Once a TCC is obtained, electronic filers create their own User ID, password and PIN (Personal Identification Number) and do not need prior or special approval. See Part B, Sec. 5, for more information about PIN requirements.

.03 If a filer is submitting files for more than one TCC, it is not necessary to create a separate User ID and password for each TCC.

.04 For all passwords, it is the user’s responsibility to remember the password and not allow the password to be compromised. Passwords are user created at first logon and must be eight alphanumeric characters containing at least one uppercase, one lowercase, and one numeric. However, filers who forget their password or PIN, can call 1-866-455-7438 for assistance. *The FIRE system requires users to change passwords every 90 days or at the first logon attempt after that time period. Users can change passwords at any time from the Main Menu. The previous 24 passwords cannot be used.*

Sec. 3. Test Files

.01 Filers are not required to submit a test file; however, the submission of a test file is encouraged for all new electronic filers to test hardware and software. Generally, testing is available between November 1 and February 15. To connect to the FIRE test system, point the browser to <http://fire.test.irs.gov>.

.02 IRS encourages first time electronic filers to submit a test.

.03 The test file must consist of a sample of each type of record:

- (a) Transmitter “T” Record (all fields marked required must include transmitter information)
- (b) Sponsor “S” Record
- (c) Administrator “A” Record
- (d) Multiple Participant “P” Records (at least 11 “P” Records per each “T” Record)

(e) End of Transmission “F” Record (See Part C for record formats.)

.04 Use the Test Indicator “T” in Field Position 28 of the “T” Record to show this is a test file.

.05 IRS will check the file to ensure it meets the specifications of this Revenue Procedure. For current filers, sending a test file will provide the opportunity to ensure software reflects any programming changes.

.06 Filers who encounter problems while transmitting the electronic test file can contact IRS at 1-866-455-7438 for assistance.

.07 Within five days after a file has been submitted, filers will be notified by email as to the acceptability of the file if a valid email address is provided on the “Verify Your Filing Information” screen. If using email filtering software, configure software to accept email from fire@irs.gov and irs.e-helpmail@irs.gov. If the file is bad, the filer must return to <http://fire.test.irs.gov> to determine what errors are in the file by clicking on CHECK FILE STATUS.

If the results indicate:

(a) “Good” — The test file is good for Federal reporting.

(b) “Bad” — The test file contained errors. Click on the filename for a list of the errors. If sending another test file, send it as a test (not as an original or amended).

(c) “Not Yet Processed” — The file has been received, but results are not available. Please check back in a few days.

Sec. 4. Electronic Submissions

.01 Electronically filed information may be submitted to IRS 24 hours a day, seven days a week. Technical assistance is available Monday through Friday between 8:30 a.m. and 4:30 p.m. ET by calling: 1-866-455-7438.

.02 *The FIRE system will be down from 6 p.m. ET December 14, 2012, through January 2, 2013.* This allows IRS to update its system to reflect current year changes. In addition, the FIRE system may be down every Wednesday from 2:00 a.m. to 5:00 a.m. ET for programming updates.

.03 If sending files larger than 10,000 records electronically, data compression is encouraged. The file size can not exceed 2.5 million records. WinZip and PKZIP are the only acceptable compression packages. IRS cannot accept self-extracting zip files or compressed files containing multiple files. The time required to transmit information returns electronically will vary depending upon the type of connection to the Internet and if data compression is used. The time required to transmit a file can be reduced up to 95 percent by using compression. *If filers are having trouble transmitting files with a scripting process, they should contact IRS at 1-866-455-7438 for assistance.*

.04 Transmitters may create files using self assigned filename(s). Files submitted electronically will be assigned a new unique filename by the FIRE system. The filename assigned by the FIRE system will consist of submission type (TEST, ORIG [original], and AMEN [amended]), the filer’s TCC and a four-digit sequence number. The sequence number will be incremental for every file sent. For example, if sending the first original file for the calendar year and the TCC is 66666, the IRS assigned filename would be ORIG.66666.0001. Record the file name. If assistance is required, the file name will be needed by the IRS to identify the file.

.05 If a file submitted timely is bad, the filer will have up to 60 days from the day the file was transmitted to submit an acceptable original file. If an acceptable original file is not received within 60 days, the plan administrator could be subject to late filing or incomplete return penalties.

Sec. 5. PIN Requirements

.01 The user will be prompted to create a PIN consisting of ten (10) numeric characters when establishing the initial User ID name and password.

.02 The PIN is required each time an ORIGINAL or AMENDED file is sent electronically and serves as permission to release the file. It is not needed for a TEST file. Authorized agents may enter their PIN; however, the plan administrator is responsible for the accuracy of the returns. The plan administrator will be liable for penalties for failure to comply with filing requirements. If there is a problem with the PIN, filers should call 1-866-455-7438 for assistance.

.03 If the file is good, it is released for mainline processing. If the file is bad, follow amended file procedures.

Sec. 6. Electronic Filing Specifications

.01 The FIRE system is designed exclusively for the filing of Forms 8955-SSA, 1042-S, 1097, 1098, 1099, 3921, 3922, 5498, 8027, 8935 and W-2G.

.02 A transmitter must have a TCC (see Part A, Sec. 4) before a file can be transmitted.

.03 After five business days, a filer will be notified via email as to the acceptability of the file, if, an accurate email address was provided on the “Verify Your Filing Information” screen. If using email filtering software, configure the software to accept email from fire@irs.gov and irs.e-helpmail@irs.gov. If after receiving the email it indicates that the file is bad, filers must log into the FIRE system and go to the CHECK FILE STATUS area to determine the errors in the file.

Sec. 7. Connecting to the FIRE System

- .01 Have the TCC and TIN available before connecting.
- .02 Turn off pop-up blocking software before transmitting files.
- .03 Make sure the browser supports the security standards listed below.
- .04 Set the browser to receive “cookies.” Cookies are used to preserve the User ID status.
- .05 Point the browser to <http://fire.irs.gov> to connect to the FIRE system or to <http://fire.test.irs.gov> to connect to the FIRE test system (Nov. 1 through Feb. 15).
- .06 FIRE Internet Security Technical Standards are:

HTTP 1.1 Specification (<http://www.w3.org/Protocols/rfc2616/rfc2616.txt>).

SSL 3.0 or TLS 1.0. SSL and TLS are implemented using SHA and RSA 1024 bits during the asymmetric handshake.

The filer can use one of the following encryption algorithms, listed in order of priority, using SSL or TLS:

AES 256-bit (FIPS-197)

AES 128-bit (FIPS-197)

TDES 168-bit (FIPS-46-3)

.07 First time connection to The FIRE System (If there has been a previous logon, skip to “Subsequent Connections to the FIRE system.”)

- Click “*Create New Account.*”
- Fill out the registration form and click “*Submit.*”
- Create *User ID*.
- Create and verify *password* (The password is user created and must be eight alphanumeric characters, containing at least one uppercase, one lowercase and one numeric and cannot contain the User ID). The FIRE system requires passwords to be changed every 90 days or at the first logon attempt after 90 days. The previous 24 passwords cannot be used.)
- Click “*Create.*”
- If the message “**Account Created,**” is received click “*OK.*”
- Create and verify the ten-digit self-assigned PIN (Personal Identification Number).
- Click “*Submit.*”
- If the message “**Your PIN has been successfully created!**” is received, click “*OK.*”
- Read the bulletin(s) and/or “**Click here to continue.**”

.08 Subsequent connections to the FIRE system

- Click “*Log On.*”
- Enter the *User ID*.
- Enter the *password* (the password is case sensitive).
- Read the bulletin(s) and/or “**Click here to continue.**”

.09 Uploading a file to the FIRE system

- At the Menu Options:
 - Click “*Send Information Returns.*”
 - Enter the *TCC*.
 - Enter the *TIN*.
 - Click “*Submit.*”

The system will then display the company name, address, city, state, ZIP code, telephone number, contact and email address. This information will be used to email the transmitter regarding the transmission. Update as appropriate and/or Click “*Accept.*”

.09 Uploading a file to the FIRE system

Note: Please ensure that the email address is accurate so that the correct person receives the email and it does not return to IRS as undeliverable. If SPAM filtering software is being used, configure it to allow an email from fire@irs.gov and irs.e-helpmail@irs.gov.

— Click one of the following:

Original File

Amended File

Test File (*This option will only be available from November 1 through February 15 at <http://fire.test.irs.gov>.)*

— Enter the ten-digit PIN (If sending a test file, there is no prompt for this.)

— Click **“Submit.”**

— Click **“Browse”** to locate the file and open it.

— Click **“Upload.”**

When the upload is complete, the screen will display the total bytes received and the IRS assigned filename for the file. If this information is not displayed on the screen, IRS may not have received the file. To verify, go to the “CHECK FILE STATUS” option on the Main menu. If the filename is displayed, the count is equal to “0,” and the results indicate “not yet processed,” IRS received the file. If the filename is not displayed, send the file again.

If there are more files to upload for that TCC:

Click **“File Another?”** otherwise,

Click **“Main Menu.”**

It is the filer’s responsibility to check the acceptability of submitted files. Be sure to check back into the system using the CHECK FILE STATUS option.

.10 Checking the FILE STATUS

If the correct email address was provided on the “Verify Your Filing Information” screen when the file was sent, an email will be sent regarding the FILE STATUS. If the results in the email indicate “Good, Released” and the “Count of Participants” is correct, the filer is finished with this file. If any other results are indicated, follow the instructions below.

— At the Main Menu:

Click **“Check File Status.”**

Enter the **TCC**.

Enter the **TIN**.

Click **“Search.”**

— If the results indicate:

“Good, Not Released” — If the participant count is correct, the filer is finished with this file. The file will automatically be released after ten calendar days unless the filer contacts IRS within this timeframe.

“Good, Released” — The file has been released to mainline processing.

“Good, Released with Errors” — A bad file has been released. This result will be assigned when a bad file with minor errors has not been replaced within the 60 day criteria.

“Bad” — Click on the filename to view the error message(s). Correct the errors and timely resubmit the file as the same type of file originally submitted (Original or Amended.) Replacement files are not applicable to Form 8955-SSA submissions.

“Not yet processed” — The file has been received, but results are not available. Please check back in a few days.

“Superseded” — This status is assigned to a bad file when it is replaced by a new submission of the same type. The superseded status is also assigned to a good file when an amended file is submitted to correct errors in the good file.

- Click on the desired file for a detailed report of the transmission.
- When finished, click on **Main Menu**.
Click **“Log Out.”**
Click **“Close Web Browser.”**

Sec. 8. Common Submission Errors and Problems

IRS encourages filers to verify the format and content of each type of record to ensure the accuracy of the data. This may be important for those filers who have either had their files prepared by a service bureau or who have purchased software packages. Filers who engage a service bureau to transmit files on their behalf should be careful not to report duplicate data. This section lists some of the problems most frequently encountered with electronic files submitted to IRS. These problems may result in IRS rejecting files as “Bad”.

.01 The electronic file appears to be incomplete. The count of participant records in the P-RECORD-COUNT field of the End of Transmission “F” Record does not equal the number of Participant “P” records in the file.

.02 The electronic file appears to be incomplete. The count of all records in the FILE-RECORD-COUNT field of the End of Transmission “F” Record does not equal the number of records in the file.

.03 A test file was submitted to the production system. If the file submitted wasn’t a test file, please correct the TEST-FILE-IND in the Transmitter “T” Record. If a test file is submitted to the production system in error, no action is needed; the file will be deleted if a corrected file isn’t received in 60 days.

.04 The file was submitted with more than one Transmitter “T” Record. Each file submitted through the FIRE system can contain only one Transmitter “T” Record.

.05 The file was submitted with more than one Sponsor “S” Record. Each file submitted through the FIRE system can contain only one Sponsor “S” Record.

.06 The file was submitted with more than one Administrator “A” Record. Each file submitted through the FIRE system can contain only one Administrator “A” Record.

.07 The file was submitted with more than one End of Transmission “F” Record. Each file submitted through the FIRE system can contain only one End of Transmission “F” Record.

.08 The file was submitted with records which appear to be from different filings. (The Plan Year Begin Date, Plan Year End Date, Sponsor EIN, and Plan Number are not the same on every record in the file.)

.09 The file contained too many participants to be submitted in a single file. It was included in multiple FIRE files and one of these files had an error. All of the files related to this single filing must be corrected and resubmitted (even if there was an error in only one of the files).

.10 The file did not include a Sponsor EIN in positions 18–26 of the Sponsor “S” Record.

.11 The file included a non-numeric Sponsor EIN in positions 18–26 of the Sponsor “S” Record.

.12 The file did not include a Sponsor Name in positions 74–143 of the Sponsor “S” Record.

.13 The file did not include a Sponsor Address in positions 249–400 of the Sponsor “S” Record.

.14 The file included a non-numeric Plan Number in positions 27–29 of the Sponsor “S” Record. The Plan Number should be 001–999.

.15 The file did not include a Plan Name in positions 411–550 of the Sponsor “S” Record.

.16 IRS has already received a file with the same Sponsor EIN, Plan Number, and Plan Year Ending Date. If a file was submitted to correct a previous error but is being submitted more than 60 days after notification of the error, or if this file was meant to amend a previously submitted file, please make sure that it is identified as an amended return (AMENDED-IND = “1” (one) in position 34 of the Sponsor “S” Record.) If the file was submitted in error (it was a duplicate file), or if this is not a duplicate file and was not previously submitted with the same Sponsor EIN, Plan Number, and Plan Year Ending Date, please contact IRS at 866–455–7438.

.17 The count of total participants reported in positions 568–575 of the Sponsor “S” Record does not equal the count of Participants with an entry code of A in field position 42 of the participant “P” record. If the file was too large to be submitted in a single FIRE file, this should be the total reported in all of the associated FIRE files.

.18 The file did not include an Administrator EIN in positions 35–43 of the Administrator “A” Record.

.19 The file included a non-numeric Administrator EIN in positions 35–43 of the Administrator “A” Record.

.20 The file did not include an Administrator Address in positions 149–300 of the Administrator “A” Record.

.21 The file had plan participant record(s) which contained data but did not have a valid entry code.

.22 The file had plan participant record(s) in which an Entry Code of “A” or “B” was indicated in box 7a, however all of the remaining data for Lines 7(b) through 7(g) was not provided in positions 44–131 of the Participant “P” record.

.23 The file had plan participant record(s) in which an Entry Code of “D” was indicated, however all of the remaining data for Lines 7(b) and 7(c) was not provided in positions 44–99 of the Participant “P” record.

.24 The file had plan participant record(s) in which an Entry Code of “C” was indicated, however all of the remaining data for Lines 7(b) was not provided (positions 44–52), 7(c) (positions 53–99), 7(h) (positions 132–140), and 7(i) (positions 141–143) in the Participant “P” Record.

.25 SPAM filters are not set to receive email from fire@irs.gov and irs.e-helpmail@irs.gov. To receive emails concerning files, processing results, reminders and notices, set the SPAM filter to receive email from fire@irs.gov and irs.e-helpmail@irs.gov.

.26 An incorrect email address was provided. When the “Verify Your Filing Information” screen is displayed, make sure the correct email address is listed. If not, please update with the correct email address.

.27 The transmitter does not check the FIRE system to determine why the file is bad. The results of a file transfer are posted to the FIRE system within five business days. If the correct email address was provided on the “Verify Your Filing Information” screen when the file was sent, an email will be sent regarding the FILE STATUS. If any other results are received, follow the instructions in the Check File Status option. If the file contains errors, get an online listing of the errors. The date received and number of payee records are also displayed.

.28 The transmitter compresses several files into one. Compress only one file at a time. For example, if there are ten uncompressed files to send, compress each file separately and send ten separate compressed files.

.29 The file is formatted as EBCDIC. All files submitted electronically must be in standard ASCII.

.30 An incorrect file is not replaced timely. If the file is bad, correct the file and timely resubmit as an original.

.31 The transmitter sends a file and CHECK FILE STATUS indicates that the file is good, but the transmitter wants to send an amended file to replace the original file. Once a file has been transmitted, do not send another file unless the CHECK FILE STATUS indicates the file is bad five business days after the file was transmitted. If a file should not be processed, contact IRS at 1–866–455–7438 to see if this is a possibility.

Part C. Record Format Specifications and Record Layouts

Sec. 1. Transmitter “T” Record

.01 This record identifies the entity preparing and transmitting the file. The transmitter and the plan administrator may be the same, but they need not be.

.02 The first record of a file **must** be a Transmitter “T” Record. The “T” Record must appear on each electronic file; otherwise, the file will be rejected.

.03 The “T” Record is a fixed length of 750 positions.

.04 All alpha characters entered in the “T” Record must be upper case.

Note: For all fields marked “**Required,**” the transmitter must provide the information described under Description and Remarks. If required fields are not completed in accordance with these instructions, IRS will contact the transmitter to request a new file. For those fields not marked “Required,” a transmitter must allow for the field, but may be instructed to enter blanks or zeros in the indicated field position(s) and for the indicated length. All records have a fixed length of 750 positions. Refer to the instructions for Form 8955-SSA for additional filing information.

Record Name: Transmitter “T” Record

Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter “T.”
2–5	Plan Year	4	Required. Enter the plan year formatted as YYYY (e.g. 2010, 2011, 2012, etc.).
6	Blank	1	Enter a blank.
7–15	Transmitter’s TIN	9	Required. Enter the nine-digit Taxpayer Identification Number of the transmitter. Do not enter blanks, hyphens, or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable.

Record Name: Transmitter “T” Record (Continued)

Field Position	Field Title	Length	Description and Remarks
16–20	Transmitter Control Code (TCC)	5	Required. Enter the five-character alphanumeric Transmitter Control Code assigned by IRS.
21–27	Reserved	7	Enter blanks.
28	Test File Indicator	1	Required for test files only. Enter a “T” if this is a test file; otherwise, enter blank.
29	Foreign Entity Indicator	1	Enter a “1” (one) if the transmitter is a foreign entity; otherwise, enter a blank.
30–69	Transmitter’s Name	40	Required. Enter the name of the transmitter in the manner in which it is used in normal business. Left justify the information and fill unused positions with blanks.
70–109	Transmitter’s Name (Continued)	40	Required. Enter any additional information that may be part of the name. Left justify the information and fill unused positions with blanks.
110–149	Company Name	40	Required. Enter the name of the company to be associated with the address where correspondence should be sent. Left justify the information and fill unused positions with blanks.
150–189	Company Name (Continued)	40	Enter any additional information that may be part of the name. Left justify the information and fill unused positions with blanks.
190–229	Company Mailing Address	40	Required. Enter the mailing address where correspondence should be sent. Left justify the information and fill unused positions with blanks.
<p>For U.S. addresses, the administrator’s city, state, and ZIP Code must be reported as a 40, 2, and 9-position field, respectively. Filers must adhere to the correct format for the city, state, and ZIP Code.</p> <p>For foreign addresses, filers may use the administrator’s city, state, and ZIP Code as a continuous 51-position field. Enter information in the following order: city, province or state, postal code, and the name of the country. When reporting a foreign address, the Foreign Entity Indicator in position 29 must contain a “1” (one).</p>			
230–269	Company City	40	Required. Enter the city, town, or post office where correspondence should be sent. Left justify the information and fill unused positions with blanks.
270–271	Company State Code	2	Required. Enter the valid U.S. Postal Service state code abbreviation. See Part A, Sec. 8.
272–280	Company ZIP Code	9	Required. Enter the valid nine-digit ZIP Code assigned by the U.S. Postal Service. If only the first five digits are known, left justify the information and fill unused positions with blanks.
281–303	Reserved	23	Enter blanks.
304–343	Contact Name	40	Required. Enter the name of the person to be contacted if IRS encounters problems with the file or transmission. Left justify the information and fill unused positions with blanks.
344–358	Contact Telephone Number	15	Enter the telephone number of the person to contact regarding electronic files. Omit hyphens. If no extension is available, left justify the information and fill unused positions with blanks. For example, the IRS Customer Service Section phone number of 866–455–7438 with an extension of 52345 would be 866455743852345.
359–408	Contact Email Address	50	Required if available. Enter the email address the person to contact regarding electronic files. Left justify the information. If no email address is available, enter blanks.
409–517	Reserved	109	Enter blanks.

Record Name: Transmitter "T" Record (Continued)

Field Position	Field Title	Length	Description and Remarks						
518	Vendor Indicator	1	<p>Required. Enter the appropriate code from the table below to indicate if the software used was provided by a vendor or produced in-house.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 30%;"><u>Indicator</u></th> <th style="text-align: left;"><u>Usage</u></th> </tr> </thead> <tbody> <tr> <td>V</td> <td>Software was purchased from a vendor or other source.</td> </tr> <tr> <td>I</td> <td>Software was produced by in-house programmers.</td> </tr> </tbody> </table>	<u>Indicator</u>	<u>Usage</u>	V	Software was purchased from a vendor or other source.	I	Software was produced by in-house programmers.
<u>Indicator</u>	<u>Usage</u>								
V	Software was purchased from a vendor or other source.								
I	Software was produced by in-house programmers.								
<p>Note: An in-house programmer is defined as an employee or a hired contract programmer. If the software is produced in-house, the following vendor information fields are not required.</p>									
519–558	Vendor Name	40	<p>Required. Enter the name of the company from whom the software was purchased. Left justify the information and fill unused positions with blanks.</p>						
<p>For U.S. addresses, the vendor city, state, and ZIP Code must be reported as a 40, 2, and 9–position field, respectively. Filers must adhere to the correct format for the administrator’s city, state, and ZIP Code.</p> <p>For foreign addresses, filers may use the administrator’s city, state, and ZIP Code as a continuous 51–position field. Enter information in the following order: city, province or state, postal code, and the name of the country.</p>									
559–598	Vendor Mailing Address	40	<p>Required. When vendor indicator position 518 of the “T” record is V, enter the mailing address. Left justify the information and fill unused positions with blanks.</p>						
599–638	Vendor City	40	<p>Required. When vendor indicator position 518 of the “T” record is V, enter the city, town, or post office. Left justify the information and fill unused positions with blanks.</p>						
639–640	Vendor State	2	<p>Required. When vendor indicator position 518 of the “T” record is V, enter the valid U.S. Postal Service state abbreviation. Refer to the chart of valid state codes in Part A, Sec. 8.</p>						
641–649	Vendor ZIP Code	9	<p>Required. When vendor indicator position 518 of the “T” record is V, enter the valid nine-digit ZIP Code assigned by the U.S. Postal Service. If only the first five-digits are known, left justify the information and fill unused positions with blanks.</p>						
650–689	Vendor Contact Name	40	<p>Required. When vendor indicator position 518 of the “T” record is V, enter the name of the person who can be contacted concerning any software questions.</p>						
690–704	Vendor Contact Phone Number & Extension	15	<p>Required. When vendor indicator position 518 of the “T” record is V, enter the telephone number of the person to contact concerning software questions. Omit hyphens. If no extension is available, left justify the information and fill unused positions with blanks.</p>						
705–739	Reserved	35	Enter blanks.						
740	Vendor Foreign Entity Indicator	1	Enter a “1” (one) if the vendor is a foreign entity. Otherwise, enter a blank.						

Record Name: Transmitter "T" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
741-748	Record Sequence Number	8	Required. Enter the number of the record as it appears within the file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on the file and the file can have only one "T" record. Each record, thereafter, must be incremental by one in ascending numerical sequence, that is, 2, 3, 4, etc. Right-justify numbers with leading zeros in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the "S" record would be "00000002", the "A" record, "00000003", the "P" record, "00000004" and so on until the final record of the file, the "F" record.
749-750	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed (CR/LF) characters.

Transmitter "T" Record Layout

Record Type	Plan Year	Blank	Transmitter's TIN	Transmitter Control Code (TCC)	Reserved	Test File Indicator
1	2-5	6	7-15	16-20	21-27	28
Foreign Entity Indicator	Transmitter's Name	Transmitter's Name (Continued)	Company Name	Company Name (Continued)	Company Mailing Address	Company City
29	30-69	70-109	110-149	150-189	190-229	230-269
Company State Code	Company ZIP Code	Reserved	Contact Name	Contact Telephone Number	Contact Email Address	Reserved
270-271	272-280	281-303	304-343	344-358	359-408	409-517
Vendor Indicator	Vendor Name	Vendor Mailing Address	Vendor City	Vendor State	Vendor ZIP Code	Vendor Contact Name
518	519-558	559-598	599-638	639-640	641-649	650-689
Vendor Contact Phone Number & Extension	Reserved	Vendor Foreign Entity Indicator	Record Sequence Number	Blank or Carriage Return Line Feed		
690-704	705-739	740	741-748	749-750		

Sec. 2. Sponsor "S" Record

- .01 The "S" Record identifies the Sponsor record.
- .02 Enter an "S" Record after the "T" Record on the file. There is only one "S" Record per file.
- .03 The "S" Record is a fixed length of 750 positions.
- .04 All alpha characters entered in the "S" Record must be uppercase.

Note: For all fields marked “**Required**”, the transmitter must provide the information described under Description and Remarks. If required fields are not completed in accordance with these instructions, the file may not process correctly. For those fields not marked “Required”, a transmitter must allow for the field, but may be instructed to enter blanks or zeros in the indicated field position(s) and for the indicated length. All records have a fixed length of 750 positions. Refer to the Instructions for Form 8955-SSA for additional filing information.

Record Name: Sponsor “S” Record			
Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter “S.”
2–9	Plan Year Begin Date	8	Required. Enter the Plan Year Begin Date in the following format YYYYMMDD.
10–17	Plan Year End Date	8	Required. Enter the Plan Year End Date in the following format YYYYMMDD.
18–26	Sponsor’s EIN	9	Required. Enter the nine-digit Employer Identification Number of the Sponsor. Do not enter blanks, hyphens or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable.
27–29	Plan Number	3	Required. Enter the plan number. Right-justify the information with leading zeros.
30	FIRE Continuation Indicator	1	Required. Enter a “0” (zero) unless this is a continuation of a Form 8955-SSA. Enter a continuation indicator of “1” (one) only when reporting the second or subsequent in a series of files exceeding 2.5 million records.
31–33	FIRE Continuation Sequence Number	3	Required. Enter the sequence number of the Form 8955-SSA continuation file. Set to 001 if the FIRE Forms SSA Continuation Indicator is zero. Right-justify the information and fill with leading zeros.
34	Amended Indicator	1	Required. Enter a “1” (one) if this is an amended return; otherwise, enter a zero.
35	5558 Extension Filed Indicator	1	Required. Enter a “1” (one) if a Form 5558 extension was filed for this plan; otherwise, enter a zero.
36	Automatic Extension Indicator	1	Required. Enter “1” (one) if a business tax return extension other than a Form 5558 was filed for this year; otherwise, enter a zero.
37	Blank	1	Enter blank.
38	Special Extension Indicator	1	Required. Enter a “1” (one) if this file is being submitted under a special extension (for example, a disaster declaration); otherwise, enter a zero.
39–73	Special Extension Description	35	If the Special Extension Indicator equals ‘1’, enter either Disaster Relief Extension or Combat Zone Extension which ever is appropriate. Left justify the information and fill unused positions with blanks.
74–143	Sponsor’s Name	70	Required. Enter the sponsor’s name. Left justify the information and fill unused positions with blanks.
144–213	Sponsor’s DBA Name	70	Enter the sponsor’s Doing Business As (DBA), if applicable. Left justify the information and fill unused positions with blanks.
214–248	Sponsor’s In Care Of Name	35	Enter the name if using an In Care Of Name. Left justify the information and fill unused positions with blanks.

Record Name: Sponsor "S" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
249–283	Sponsor's Mailing Address Line 1	35	Required. Enter the mailing address of the sponsor. Street address should include number, street, apartment or suite number, or PO Box if mail is not delivered to street address. Left justify the information and fill unused positions with blanks.
284–318	Sponsor's Mailing Address Line 2	35	Enter any additional address information if necessary.
319–340	Sponsor's City	22	Required. Enter the city, town or post office. Left justify the information and fill the unused positions with blanks. Enter APO or FPO if applicable.
341–342	Sponsor's State	2	Required. If a U.S. address, enter the valid U.S. Postal Service state abbreviation for the state or the appropriate postal identifier (AA, AE, or AP) described in Part A, Sec. 8; otherwise, enter blanks.
343–354	Sponsor's ZIP Code	12	Required. If a U.S. address, enter the valid ZIP Code assigned by the U.S. Postal Service. If only the first five-digits are known, left justify the information and fill the unused positions with blanks. Do not enter hyphens or blanks between numbers.
355–376	Sponsor's Foreign Province or State name	22	If the sponsor has a foreign address, enter the province or state name. Left justify the information and fill unused positions with blanks.
377–378	Sponsor's Foreign Country Code	2	If the sponsor has a foreign address, enter the appropriate country code from the table in Part A, Sec. 9; otherwise, enter blanks.
379–400	Sponsor's Foreign Mailing Routing Code	22	If the sponsor has a foreign address, enter the routing code; otherwise, enter blanks.
401–410	Sponsor's Telephone Number	10	If known, enter the sponsor's 10-digit telephone number; otherwise, enter blanks. Do not enter dashes.
411–550	Plan Name	140	Required. Enter the plan name. Left justify the information and fill unused positions with blanks.
551	Voluntary Filing Indicator	1	Required. Enter a 1 if this is a voluntary filing for a Government, Church or Other Plan; otherwise, enter a zero.
552–559	Code A Separated Participants Required To be Reported for SSA Count	8	Required. Enter the total number of plan participants entitled to deferred vested benefits with entry code A in field position 42 of the participant "P" record who are required to be reported for this year. If this is a continuation form with a 1 in position 30 of this record, enter the combined total of all records. For example, if the first record of the submission contains 1,000 participants and the second record contains 2,000, then enter 3,000 in this field. Information should be right-justified with leading zeros; otherwise, fill with leading zeros.
560–567	Code A Separated Participants Voluntarily Reported for SSA Count	8	Required. Enter the total number of plan participants entitled to deferred vested benefits with entry code A in field position 42 of the participant "P" record who are voluntarily reported for this year. If this is a continuation form with a 1 in position 30 of this record, enter the combined total of all records. For example, if the first record of the submission contains 1,000 participants and the second record contains 2,000, then enter 3,000 in this field. Information should be right-justified with leading zeros; otherwise, fill with leading zeros.

Record Name: Sponsor "S" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
568-575	Total Participants Reported on SSA Count	8	Required. Enter the total number of participants entered in the fields for Separated Participants and Voluntarily Separated Participants. Information should be right-justified with leading zeros; otherwise, fill with leading zeros.
NOTE: This amount will reflect the total of all Participants with an entry code of A in field position 42 of the participant "P" record. Do not include any participants who were previously reported on a Form 8955-SSA or a Schedule SSA (Form 5500.)			
576	Participant Statement Indicator	1	Required. Enter a "1" (one) if the plan administrator provided an individual statement to each participant required to receive a statement; otherwise, enter a zero.
577-585	Last Report Sponsor EIN	9	If present, enter the nine-digit Employer Identification Number of the Sponsor. Do not enter blanks, hyphens or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable. If the EIN is not available, entering blanks is acceptable.
586-588	Last Report Plan Number	3	Enter the 3-digit plan number, if available. Information should be right-justified with leading zeros.
589-658	Last Report Sponsor Name	70	Enter the plan sponsor name, if available. Left justify the information, fill unused positions with blanks.
659-693	Typed Sponsor Signature Name	35	Enter the name of the person responsible for signing the tax form. Left justify the information, fill unused positions with blanks.
694-701	Sponsor Signature Date	8	Enter the date the tax form was signed in YYYYMMDD format.
702-740	Reserved	39	Required. Enter blanks.
741-748	Record Sequence Number	8	Required. Enter the number of the record as it appears within the file. The record sequence number for the "S" record will always be "2" (two), since it is the second record on a file. Each record, thereafter, must be incremental by one in ascending numerical sequence, that is, 3, 4, etc. Right-justify numbers with leading zeros in the field. For example, the "T" record sequence number would appear as "0000001" in the field, the "S" record would be "0000002", the "A" record, "0000003", the "P" record, "0000004" and so on until the final record of the file, the "F" record.
749-750	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed (CR/LF) characters.

Sponsor "S" Record Layout

Record Type	Plan Year Begin Date	Plan Year End Date	Sponsor EIN	Sponsor Plan Number	FIRE Continuation Indicator	FIRE Continuation Sequence Number
1	2-9	10-17	18-26	27-29	30	31-33
Amended Indicator	5558 Extension Filed Indicator	Automatic Extension Indicator	Blank	Special Extension Indicator	Special Extension Description	Sponsor's Name
34	35	36	37	38	39-73	74-143

Sponsor's DBA Name	Sponsor's In Care of Name	Sponsor's Mailing Address Line 1	Sponsor's Mailing Address Line 2	Sponsor's City	Sponsor's State	Sponsor's ZIP Code
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144-213 214-248 249-283 284-318 319-340 341-342 343-354

Sponsor's Foreign Province or State Name	Sponsor's Foreign Country Code	Sponsor's Foreign Mailing Routing Code	Sponsor's Telephone Number	Plan Name	Voluntary Filing Indicator	Separated Participants Required for SSA Count
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355-376 377-378 379-400 401-410 411-550 551 552-559

Voluntary Separated Participants Required for SSA Count	Total Participants Reported on SSA Count	Participant Statement Indicator	Last Report Sponsor's EIN	Last Report Plan Number	Last Report Sponsor's Name	Typed Sponsor Signature Name
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560-567 568-575 576 577-585 586-588 589-658 659-693

Sponsor Signature Date	Reserved	Record Sequence Number	Blank or Carriage Return Line Feed
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694-701 702-740 741-748 749-750

Sec. 3. Administrator "A" Record

.01 The "A" Record contains the name and address information of the Plan Administrator. There should only be one "A" Record per file.

.02 All alpha characters entered in the "A" Record must be uppercase.

.03 The "A" Record is a fixed length of 750 positions.

Note: For all fields marked "**Required**," the transmitter must provide the information described under Description and Remarks. If required fields are not completed in accordance with these instructions, IRS will contact the transmitter to request a new file. For those fields not marked "Required," a transmitter must allow for the field, but may be instructed to enter blanks or zeros in the indicated field position(s) and for the indicated length. All records have a fixed length of 750 positions. Refer to the Instructions for Form 8955-SSA for additional filing information.

Record Name: Administrator "A" Record

Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter "A."
2-9	Plan Year Begin Date	8	Required. Enter the Plan Year Begin Date in the following format YYYYMMDD.
10-17	Plan Year End Date	8	Required. Enter the Plan Year End Date in the following format YYYYMMDD.
18-26	Sponsor's EIN	9	Required. Enter the nine-digit Employer Identification Number of the sponsor. Do not enter blanks, hyphens or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable.
27-29	Plan Number	3	Required. Enter the plan number. Right-justify the information and fill with leading zeros.
30	FIRE Continuation Indicator	1	Required. Enter a "0" (zero) unless this is a continuation of a Form 8955-SSA. Enter a continuation indicator of "1" (one) only when reporting the second or subsequent in a series of files exceeding 2.5 million records.
31-33	FIRE Continuation Sequence Number	3	Required. Enter the sequence number of the Form 8955-SSA continuation number. Set to 001 if the FIRE Forms SSA Continuation Indicator is zero. Right-justify the information and fill with leading zeros.
34	Administrator Same as Sponsor Indicator	1	Required. Enter a "1" (one) if the plan administrator is the same as the sponsor; otherwise, enter a zero. NOTE: If a "1" is entered, A Record positions 35-310 can be blank.
35-43	Administrator's EIN	9	Required. Enter the nine-digit employer identification number of the administrator. Do not enter blanks, hyphens or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable.
44-113	Administrator's Name	70	Required. Enter the name of the plan administrator. Left justify the information and fill unused positions with blanks.
114-148	Administrator In Care of Name	35	Enter the in care of name if available; otherwise, enter blanks. Left justify the information and fill unused positions with blanks.
149-183	Administrator's Mailing Address Line 1	35	Required. Enter the mailing address of the payee. The street address should include number, street, apartment or suite number, or PO Box if mail is not delivered to a street address. Left justify the information and fill unused positions with blanks.
184-218	Administrator's Mailing Address Line 2	35	Enter any additional address information. Left justify the information and fill unused positions with blanks.
219-240	Administrator's City	22	Required. Enter the Administrator's city. Left justify the information and fill unused positions with blanks.
241-242	Administrator's State Code	2	Required. Enter the valid U.S. Postal Service state abbreviation for the state or the appropriate postal identifier (AA, AE, or AP) described in Part A, Sec. 8.
243-254	Administrator's ZIP Code	12	Required for U.S. addresses. Enter the valid ZIP Code (nine, five, or twelve-digit) assigned by the U.S. Postal Service. If only the first five-digits are known, left justify the information and fill the unused positions with blanks.

Record Name: Administrator "A" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
255–276	Administrator's Foreign Province or State	22	Required for a foreign address. Enter the name of the Administrator's Province or State. Left justify the information and fill unused positions with blanks. Leave blank for U.S. addresses.
277–278	Administrator's Foreign Address Country Code	2	Required for a foreign address. Enter the name of the Administrator's Foreign Country Code from the table in Part A, Sec. 9. Leave blank for U.S. addresses.
279–300	Administrator's Foreign Address Postal Routing Code	22	Required for a foreign address. Enter the name of the Administrator's Foreign Country Postal Routing Code. Left justify the information and fill unused positions with blanks. Leave blank for U.S. addresses.
301–310	Administrator's Telephone Number	10	Enter the Administrator's telephone number if available. The number must be exactly ten numeric characters; otherwise, leave blank.
311–319	Last Report Administrator's EIN	9	Enter the nine-digit employer identification number of the administrator, if available. Do not enter blanks, hyphens or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable. If the EIN is not available, entering blanks is acceptable.
320–389	Last Report Administrator's Name	70	Enter the administrator's name, if available. Left justify the information and fill unused positions with blanks; otherwise, leave blank.
390–424	Typed Administrator's Signature Name	35	Enter the name of the administrator who signs the tax form; otherwise, leave blank. Left justify the information and fill unused positions with blanks.
425–432	Administrator's Signature Date	8	Enter the date the administrator signed the tax form in YYYYMMDD format; otherwise, leave blank.
433–740	Reserved	308	Enter blanks.
741–748	Record Sequence Number	8	Required. Enter the number of the record as it appears within the file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on a file and the file can have only one "T" record. Each record, thereafter, must be incremental by one in ascending numerical sequence, that is, 2, 3, 4, etc. Right-justify the information numbers with leading zeros in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the "S" record would be "00000002", the "A" record, "00000003", the "P" record, "00000004" and so on until the final record of the file, the "F" record.
749–750	Blank or Carriage Return Line Feed (CR/LF)	2	Enter blanks or carriage return line feed (CR/LF) characters.

Administrator "A" Record Layout

Record Type	Plan Year Begin Date	Plan Year End Date	Sponsor EIN	Plan Number	FIRE Continuation Indicator
1	2–9	10–17	18–26	27–29	30

FIRE Continuation Sequence Number	Administrator Same as Sponsor Indicator	Administrator EIN	Administrator Name	Administrator In Care Of Name	Administrator Address Line 1
31-33	34	35-43	44-113	114-148	149-183

Administrator Address Line 2	Administrator City	Administrator State Code	Administrator ZIP Code	Administrator Foreign Province or State Name	Administrator Foreign Address Country Code
184-218	219-240	241-242	243-254	255-276	277-278

Administrator Foreign Address Routing Code	Administrator Telephone Number	Last Report Administrator EIN	Last Report Administrator Name	Typed Administrator Signature Name	Administrator Signature Date
279-300	301-310	311-319	320-389	390-424	425-432

Reserved	Record Sequence Number	Blank or Carriage Return Line Feed
433-740	741-748	749-750

Sec. 4. Participant "P" Record

.01 The "P" Record is a fixed record length of 750 positions and all positions listed are required.

.02 All alpha characters entered in the "P" Record must be upper case.

Note: For all fields marked "**Required**," the transmitter must provide the information described under Description and Remarks. If required fields are not completed in accordance with these instructions, IRS will contact the transmitter to request a new file. For those fields not marked "Required," a transmitter must allow for the field, but may be instructed to enter blanks or zeros in the indicated field position(s) and for the indicated length. All records have a fixed length of 750 positions. Refer to the Instructions for Form 8955-SSA for additional filing information.

Record Name: Participant "P" Record

Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter "P."
2-9	Plan Year Begin Date	8	Required. Enter the date the plan began in the following format YYYYMMDD.
10-17	Plan Year End Date	8	Required. Enter the date the plan ended in the following format YYYYMMDD.
18-26	Sponsor EIN	9	Required. Enter the nine-digit employer identification number of the sponsor. Do not enter blanks, hyphens or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable.
27-29	Plan Number	3	Required. Enter the plan number. Right-justify the information and fill with leading zeros.

Record Name: Participant "P" Record (Continued)

Field Position	Field Title	Length	Description and Remarks										
30	FIRE Continuation Indicator	1	Required. Enter a "0" (zero) unless this is a continuation of a Form 8955-SSA. Enter a continuation indicator of "1" (one) only when reporting the second or subsequent in a series of files exceeding 2.5 million records.										
31–33	FIRE Continuation Sequence Number	3	Required. Enter the sequence number of the Form 8955-SSA continuation number. Set to 001 if the FIRE Forms SSA Continuation Indicator is zero. Right-justify the information and fill with leading zeros.										
34–41	Participant Sequence Number	8	Required. For the first participant enter 00000001. Increase by 1 for each additional participant reported in the file.										
42	Entry Code	1	<p>Required. Enter the appropriate code from the table below:</p> <table border="1"> <thead> <tr> <th><u>Indicator</u></th> <th><u>Usage</u></th> </tr> </thead> <tbody> <tr> <td>A</td> <td>Participant not previously reported</td> </tr> <tr> <td>B</td> <td>Participant previously reported under the plan number shown on this schedule to modify some of the previously reported information.</td> </tr> <tr> <td>C</td> <td>Participant previously reported under another plan number who will now be receiving his/her benefits from the plan reported on this schedule.</td> </tr> <tr> <td>D</td> <td>Participant previously reported under the plan number shown on this schedule whose benefits have been paid out or who is no longer entitled to those deferred vested benefits.</td> </tr> </tbody> </table>	<u>Indicator</u>	<u>Usage</u>	A	Participant not previously reported	B	Participant previously reported under the plan number shown on this schedule to modify some of the previously reported information.	C	Participant previously reported under another plan number who will now be receiving his/her benefits from the plan reported on this schedule.	D	Participant previously reported under the plan number shown on this schedule whose benefits have been paid out or who is no longer entitled to those deferred vested benefits.
<u>Indicator</u>	<u>Usage</u>												
A	Participant not previously reported												
B	Participant previously reported under the plan number shown on this schedule to modify some of the previously reported information.												
C	Participant previously reported under another plan number who will now be receiving his/her benefits from the plan reported on this schedule.												
D	Participant previously reported under the plan number shown on this schedule whose benefits have been paid out or who is no longer entitled to those deferred vested benefits.												
43	Foreign Participant Without SSN Indicator	1	Required. Enter a "1" (one) if the participant is a foreign national employed outside the United States who does not have an SSN; otherwise, enter a zero.										
44–52	Participant SSN	9	Required unless a foreign national. Enter the nine-digit social security number (SSN) of the participant. Do not enter blanks, hyphens or alpha characters. An SSN consisting of all the same digits (e.g., 111111111) is not acceptable. If the SSN is not required, entering blanks is acceptable.										
53–63	Participant's First Name	11	Required. Enter the first name of the participant if known; otherwise, enter blanks. Left justify the information and fill unused positions with blanks.										
64	Participant's Middle Initial	1	Enter the middle initial of the participant if known; otherwise, enter a blank.										
65–99	Participant's Last Name	35	Required. Enter the surname of the participant if known; otherwise, enter blanks. Left justify the information and fill unused positions with blanks.										

Record Name: Participant "P" Record (Continued)

Field Position	Field Title	Length	Description and Remarks																		
100	Participant's Annuity Type Code	1	<p>Required if Entry Code (Field Position 42) is A or B. Enter the appropriate code from the table below:</p> <table border="1"> <thead> <tr> <th><u>Indicator</u></th> <th><u>Usage</u></th> </tr> </thead> <tbody> <tr> <td>A</td> <td>Single Sum</td> </tr> <tr> <td>B</td> <td>Annuity payable over a fixed number of years</td> </tr> <tr> <td>C</td> <td>Life annuity</td> </tr> <tr> <td>D</td> <td>Life annuity with period certain</td> </tr> <tr> <td>E</td> <td>Cash refund life annuity</td> </tr> <tr> <td>F</td> <td>Modified cash refund life annuity</td> </tr> <tr> <td>G</td> <td>Joint and last survivor life annuity</td> </tr> <tr> <td>M</td> <td>Other</td> </tr> </tbody> </table> <p>Note: If a code is not required enter a blank.</p>	<u>Indicator</u>	<u>Usage</u>	A	Single Sum	B	Annuity payable over a fixed number of years	C	Life annuity	D	Life annuity with period certain	E	Cash refund life annuity	F	Modified cash refund life annuity	G	Joint and last survivor life annuity	M	Other
<u>Indicator</u>	<u>Usage</u>																				
A	Single Sum																				
B	Annuity payable over a fixed number of years																				
C	Life annuity																				
D	Life annuity with period certain																				
E	Cash refund life annuity																				
F	Modified cash refund life annuity																				
G	Joint and last survivor life annuity																				
M	Other																				
101	Participant Payment Frequency Code	1	<p>Required if Entry Code (Field Position 42) is A or B. Enter the appropriate code from the table below:</p> <table border="1"> <thead> <tr> <th><u>Indicator</u></th> <th><u>Usage</u></th> </tr> </thead> <tbody> <tr> <td>A</td> <td>Lump sum</td> </tr> <tr> <td>B</td> <td>Annually</td> </tr> <tr> <td>C</td> <td>Semiannually</td> </tr> <tr> <td>D</td> <td>Quarterly</td> </tr> <tr> <td>E</td> <td>Monthly</td> </tr> <tr> <td>M</td> <td>Other</td> </tr> </tbody> </table> <p>Note: If a code is not required enter a blank.</p>	<u>Indicator</u>	<u>Usage</u>	A	Lump sum	B	Annually	C	Semiannually	D	Quarterly	E	Monthly	M	Other				
<u>Indicator</u>	<u>Usage</u>																				
A	Lump sum																				
B	Annually																				
C	Semiannually																				
D	Quarterly																				
E	Monthly																				
M	Other																				
102–116	Participant's Vested Benefit Amount	15	<p>Required for Defined Benefit plan if Entry Code is A or B. This field must contain 15 numeric characters. Each payment amount must contain U.S. dollars and cents. Do not enter dollar signs, commas or decimal points. The right-most two positions represent cents in the payment amount fields. For example, report \$600.25 as 000000000060025. Right-justify and fill unused positions with zeros.</p> <p>NOTE: Filers may round off cents to whole dollars. If rounding, round all amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next highest dollar. When rounding the entries, both positions 115 and 116 must be 0 (zero) representing cents.</p>																		

Record Name: Participant "P" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
117-131	Participant's Total Account Value Amount NOTE: Filers may round off cents to whole dollars. If rounding, round all amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next highest dollar. When rounding the entries, both positions 130 and 131 must be 0 (zero) representing cents.	15	Required for Defined Contribution plan if Entry Code is A or B. This field must contain 15 numeric characters. Each payment amount must contain U.S. dollars and cents. Do not enter dollar signs, commas or decimal points. The right-most two positions represent cents in the payment amount fields. For example, report \$600.25 as 00000000060025. Right-justify and fill unused positions with zeros.
132-140	Participant's Prior Sponsor's EIN	9	Required if Entry Code is C. Enter the nine-digit employer identification number of the participant's prior sponsor. Do not enter blanks, hyphens or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable. If this is not a required entry, entering blanks is acceptable.
141-143	Participant's Prior Plan Number	3	Required if Entry Code is C. Enter the participant's prior plan number; otherwise, enter zeros.
144	Incomplete Information Indicator	1	Enter a one if the information being reported is based on incomplete records.
145-740	Reserved	596	Enter blanks.
741-748	Record Sequence Number	8	Required. Enter the number of the record as it appears within the file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on a file and a file can have only one "T" record. Each record, thereafter, must be incremental by one in ascending numerical sequence, that is, 2, 3, 4, etc. Right-justify numbers with leading zeros in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the "S" record would be "00000002", the "A" record, "00000003", the "P" record, "00000004" and so on until the final record of the file, the "F" record.
749-750	Blank or Carriage Return Line Feed (CR/LF)	2	Enter blanks or carriage return line feed (CR/LF) characters.

Participant "P" Record Layout

Record Type	Plan Year Begin Date	Plan Year End Date	Sponsor EIN	Plan Number	FIRE Continuation Indicator
1	2-9	10-17	18-26	27-29	30
FIRE Continuation Sequence Number	Participant's Sequence Number	Entry Code	Foreign Participant Without SSN Indicator	Participant SSN	Participant's First Name
31-33	34-41	42	43	44-52	53-63
Participant's Middle Name	Participant's Last Name	Participant's Annuity Type Code	Participant's Payment Frequency Code	Participant's Vested Benefit Amount	Participant's Total Account Value Amount
64	65-99	100	101	102-116	117-131
Participant's Prior Sponsor EIN	Participant's Prior Plan Number	Incomplete Information Indicator	Reserved	Record Sequence Number	Blank or Carriage Return Line Feed
132-140	141-143	144	145-740	741-748	749-750

Sec. 5. End of Transmission "F" Record

.01 The "F" Record is a fixed record length of 750 positions and all positions listed are required. The "F" Record is a summary of the number of all records in the entire file. There is only one "F" Record per file.

.02 This record will be written after the last "P" Record of the entire file. End the file with an End of Transmission "F" Record. No data will be read after the "F" Record.

.03 All alpha characters entered in the "F" Record must be upper case.

Note: For all fields marked "**Required**," the transmitter must provide the information described under Description and Remarks. If required fields are not completed in accordance with these instructions, IRS will contact the transmitter to request a new file. For those fields not marked to "Required," a transmitter must allow for the field, but may be instructed to enter blanks or zeros in the indicated field position(s) and for the indicated length. All records have a fixed length of 750 positions.

Record Name: End of Transmission "F" Record			
Field Position	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter "F"
2-9	Sponsor Record Count	8	Required. Enter the total number of Sponsor Records on this file. This count must be the same as the total number of "S" records. Right-justify the information and fill with leading zeros.
10-17	Administrator Record Count	8	Required. Enter the total number of Administrator Records on this file. This count must be the same as the total number of "A" records. Right-justify the information and fill with leading zeros.

Record Name: End of Transmission "F" Record (Continued)

Field Position	Field Title	Length	Description and Remarks
18-25	Participant Record Count	8	Required. Enter the total number of Participant Records on this file. This count must be the same as the total number of "P" records. Right-justify the information and fill with leading zeros.
26-33	File Record Count	8	Required. Enter the total number of all records in the file, including the Transmitter "T" Record, the Sponsor "S" Record, the Administrator "A" Record, the Participant "P" Records, and End of Transmission "F" Record. Right-justify the information and fill with leading zeros.
34-740	Reserved	707	Enter blanks.
741-748	Record Sequence Number	8	Required. Enter the number of the record as it appears within the file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on a file and the file can have only one "T" record. Each record, thereafter, must be incremental by one in ascending numerical sequence, that is, 2, 3, 4, etc. Right-justify numbers with leading zeros in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the "S" record would be "00000002", the "A" record, "00000003", the "P" record, "00000004" and so on until the final record of the file, the "F" record.
749-750	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed (CR/LF) characters.

End of Transmission "F" Record Layout

Record Type	Sponsor Record Count	Administrator Record Count	Participant Record Count	File Record Count	Reserved
1	2-9	10-17	18-25	26-33	34-740
	Record Sequence Number			Blank or Carriage Return Line Feed	
	741-748			749-750	

Part IV. Items of General Interest

Notice of Proposed Rulemaking

Reimbursed Entertainment Expenses

REG-101812-07

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations explaining the exception to the deduction limitations on certain expenditures paid or incurred under reimbursement or other expense allowance arrangements. These proposed regulations affect taxpayers that pay or receive advances, allowances, or reimbursements under reimbursement or other expense allowance arrangements. These proposed regulations clarify the rules for these arrangements.

DATES: Comments or a request for a public hearing must be received by October 30, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-101812-07), 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-101812-07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC, or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-101812-07).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Patrick Clinton, (202) 622-4930; concerning submissions of comments and/or requests for a public hearing, Oluwafunmilayo (Funmi) Taylor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) explaining the exception to the section 274(a) and (n) deduction limitations on certain expenditures paid or incurred under reimbursement or other expense allowance arrangements. The proposed regulations clarify the definition of reimbursement or other expense allowance arrangements for purposes of section 274(a) and (n) and how the deduction limitations apply to reimbursement arrangements between three parties, as addressed in *Transport Labor Contract/Leasing, Inc. v. Commissioner*, 461 F.3d 1030 (8th Cir. 2006), *rev'g* 123 T.C. 154 (2004) (*TLC*), and Rev. Rul. 2008-23, 2008-1 C.B. 852.

Section 274(a)(1) limits deductions for certain expenses for entertainment, amusement, or recreation activities and for facilities used in connection with entertainment, amusement, or recreation activities. Section 274(n)(1) generally limits the amount allowable as a deduction for any expense for food, beverages, entertainment activities, or entertainment facilities to 50 percent of the amount otherwise allowable. However, the limitations of sections 274(a)(1) and 274(n)(1) do not apply to an expense described in section 274(e)(3).

In general, section 274(e)(3) excepts from the limitations of section 274(a) expenses a taxpayer pays or incurs in performing services for another person under a reimbursement or other expense allowance arrangement with the other person. The exception applies if the taxpayer is an employee performing services for an employer and the employer does not treat the reimbursement for the expenses as compensation and wages to the taxpayer (section 274(e)(3)(A)). In that case, the employee is not treated as having additional compensation and has no deduction for the expense. The employer bears and deducts the expense and is subject to the deduction limitations. See §1.274-2(f)(2)(iv)(b) of the Income Tax Regulations.

If the employer treats the reimbursement as compensation and wages, the employee may be able to deduct the expense as an employee business expense. The employee bears the expense and is subject to the deduction limitations. Section 1.274-2(f)(2)(iv)(b)(1). The employer deducts an expense for compensation, which is not subject to the deduction limitations under section 274. Section 1.274-2(f)(2)(iv)(b)(2); see also section 162.

The section 274(e)(3) exception also applies if the taxpayer performs services for a person other than an employer and the taxpayer accounts (substantiates, as required by section 274(d)) to that person. Section 274(e)(3)(B). Therefore, in a reimbursement or other expense allowance arrangement in which a client or customer reimburses the expenses of an independent contractor, the deduction limitations do not apply to the independent contractor to the extent the independent contractor accounts to the client by substantiating the expenses as required by section 274(d). If the independent contractor is subject to the deduction limitations, the limitations do not apply to the client. See §1.274-2(f)(2)(iv)(a).

TLC applied these rules to a reimbursement arrangement involving three parties in the trucking industry. In some cases, truck drivers are paid wages and a *per diem* meals allowance by a company that leases the drivers to a client trucking company. The client trucking company pays the leasing company for the driver's expenses plus an additional fee, and the parties deduct their respective expenses. Under section 274(e)(3), if the parties have a reimbursement or other expense allowance arrangement, the section 274(n) limitation applies to only one party.

TLC was a leasing company that paid truck drivers a *per diem* allowance that it did not treat as compensation. *TLC* billed the client leasing the drivers for the drivers' wages and *per diem* allowances, and the client paid *TLC*. The Tax Court applied the section 274(n) limitation to *TLC* as the drivers' common law employer subject to section 274(e)(3)(A).

The Eighth Circuit stated that the Tax Court should have considered the sec-

tion 274(e)(3)(B) exception between TLC and the client. TLC was providing services to its clients under a reimbursement or other expense allowance arrangement and accounted to the client. Therefore, TLC qualified for the exception in section 274(e)(3)(B) and the incidence of the section 274(n) limitation was on the client that bore the *per diem* expense.

Rev. Rul. 2008–23 acquiesces in the result in *TLC* and similarly holds that the party that ultimately bears the expense in a three-party reimbursement arrangement is subject to the section 274(n) limitation. The revenue ruling clarifies that a party's status as a common law employer is not relevant to the section 274(n) analysis, which the Eighth Circuit's opinion could be read to imply.

Rev. Rul. 2008–23 clarifies another issue raised by the *TLC* opinion. To define the term *reimbursement or other expense allowance arrangement* for purposes of section 274(e)(3), the Eighth Circuit looked to §1.274–2(f)(2)(iv)(a), which provides that the term *reimbursement or other expense allowance arrangement* in section 274(e)(3) has the same meaning as in section 62(2)(A) (dealing with employee business expenses, later renumbered 62(a)(2)(A)), but without regard to whether the taxpayer is an employee of the person for whom the taxpayer provides services. Thus, *TLC* defined reimbursement or other expense allowance arrangement for purposes of section 274(e)(3) by reference to section 62(a)(2)(A) and the regulations at §1.62–2, which provide the rules for the *employee* reimbursement arrangements called accountable plans. The *TLC* court's definition is inaccurate to the extent it relies on the accountable plan rules, which cover *employee* reimbursement arrangements only, in determining the existence of a reimbursement or other expense allowance arrangement for purposes of identifying who bears the expense under section 274(e)(3)(B).

Rev. Rul. 2008–23 clarifies that the §1.274–2(f)(2)(iv)(a) reference to section 62(2)(A) predates the enactment of section 62(c), which addresses certain arrangements not treated as reimbursement arrangements, and the accountable plan regulations, which govern employer-employee reimbursement arrangements and their employment tax consequences.

Therefore, Rev. Rul. 2008–23 holds that the section 274(e)(3) exception may apply to an expense reimbursement arrangement without regard to whether it is an accountable plan.

Explanation of Provisions

1. Definition of Reimbursement or Other Expense Allowance Arrangement

The focus of the accountable plan rules under section 62(c) and the applicable regulations is the taxability of reimbursements and allowances paid to employees and their treatment for employment tax purposes. The purpose of the rules under section 274(e)(3) is to provide an exception to the section 274(a) and (n) deduction limitations. Given these different purposes, the proposed regulations amend §1.274–2(f)(2)(iv)(a) to provide an express definition of *reimbursement or other expense allowance arrangement* for purposes of section 274(e)(3) independent of the definition in section 62(c).

Under the proposed regulations, a reimbursement or other expense allowance arrangement involving employees is an arrangement under which an employee receives an advance, allowance, or reimbursement from a payor (the employer, its agent, or a third party) for expenses the employee pays or incurs in performing services as an employee. A reimbursement or other expense allowance arrangement involving persons that are not employees is an arrangement under which an independent contractor receives an advance, allowance, or reimbursement from a client or customer for expenses the independent contractor pays or incurs in performing services if either (1) a written agreement between the parties expressly provides that the client or customer will reimburse the independent contractor for expenses that are subject to the deduction limitations, or (2) a written agreement between the parties expressly identifies the party that is subject to the limitations under §1.274–2(a) — (e) and section 274(n). Specific comments are requested on the definition of reimbursement or other expense allowance arrangement and on alternative definitions or approaches that would ensure that the deduction limitations apply to one of the parties to an expense reimbursement arrangement.

2. Two-Party Reimbursement Arrangements

The proposed regulations clarify that the rules for applying the exceptions to the section 274(a) and (n) deduction limitations apply to reimbursement or other expense allowance arrangements with employees, whether or not a payor is an employer. Under the proposed regulations, a payor includes an employer, an agent of the employer, or a third party. For example, either an independent contractor or a client or customer may be a payor of a reimbursement arrangement. Thus, any party that reimburses an employee is a payor and bears the expense if the payment is not treated as compensation and wages to the employee.

In the case of a reimbursement or other expense allowance arrangement between an independent contractor and a client or customer that includes an agreement expressly providing that the client or customer will reimburse the independent contractor for expenses that are subject to the deduction limitations, the deduction limitations do not apply to an independent contractor that accounts to the client within the meaning of section 274(d) and the associated regulations, but they do apply to the independent contractor and not to the client if the independent contractor fails to account to the client. Alternatively, the parties may enter into an express agreement identifying the party that is subject to the deduction limitations.

3. Multiple-Party Reimbursement Arrangements

The proposed regulations include an example illustrating how the rules apply to multiple-party reimbursement arrangements. Multiple-party reimbursement arrangements are separately analyzed as a series of two-party reimbursement arrangements. Thus, for example, an arrangement in which (1) an employee pays or incurs an expense subject to limitation, (2) the employee is reimbursed for that expense by another party (the initial payor), and (3) a third party reimburses the initial payor's payment to the employee, is analyzed as two two-party reimbursement arrangements: one arrangement between the employee and the initial payor, and another arrangement between the initial

payor and the third party. Examples illustrate that the limitations apply to the party that receives an accounting and that ultimately bears the expense.

Effective/Applicability Date

The regulations are proposed to apply to expenses paid or incurred in taxable years beginning on or after the date these regulations are published as final regulations in the **Federal Register**. However, taxpayers may apply these regulations for taxable years beginning before the date these regulations are published as final regulations in the **Federal Register** for which the period of limitations under section 6511 has not expired.

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 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, 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 business.

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 the "Addresses" heading. The IRS and 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 that timely submits written comments. If a public hearing is scheduled, notice of the

date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Jeffrey T. Rodrick and Patrick Clinton of the Office of Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

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 as follows:

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

Section 1.274–2 also issued under 26 U.S.C. 274(o). * * *

Par. 2. Section 1.274–2 is amended by revising paragraph (f)(2)(iv) to read as follows:

§1.274–2 Disallowance of deductions for certain expenses for entertainment, amusement, recreation, or travel.

* * * * *

(f) * * *

(2) * * *

(iv) *Reimbursed entertainment, food, or beverage expenses—(A) Introduction.*

In the case of any expenditure for entertainment, amusement, recreation, food, or beverages made by one person in performing services for another person (whether or not the other person is an employer) under a reimbursement or other expense allowance arrangement, the limitations on deductions in paragraphs (a) through (e) of this section and section 274(n)(1) apply either to the person who makes the expenditure or to the person who actually bears the expense, but not to both. If an expenditure of a type described in this paragraph (f)(2)(iv) properly constitutes a dividend paid to a shareholder, unreasonable compensation paid to an employee, a personal expense, or other nondeductible expense,

nothing in this exception prevents disallowance of the expenditure to the taxpayer under other provisions of the Code.

(B) *Reimbursement arrangements involving employees.* In the case of an employee's expenditure for entertainment, amusement, recreation, food, or beverages in performing services as an employee under a reimbursement or other expense allowance arrangement with a payor (the employer, its agent, or a third party), the limitations on deductions in paragraphs (a) through (e) of this section and section 274(n)(1) apply—

(I) To the employee to the extent the employer treats the reimbursement or other payment of the expense on the employer's income tax return as originally filed as compensation paid to the employee and as wages to the employee for purposes of withholding under chapter 24 (relating to collection of income tax at source on wages); and

(2) To the payor to the extent the reimbursement or other payment of the expense is not treated as compensation and wages paid to the employee in the manner provided in paragraph (f)(2)(iv)(B)(I) of this section (however, see paragraph (f)(2)(iv)(C) of this section if the payor receives a payment from a third party that may be treated as a reimbursement arrangement under that paragraph).

(C) *Reimbursement arrangements involving persons that are not employees.* In the case of an expense for entertainment, amusement, recreation, food, or beverages of a person who is not an employee (referred to as an independent contractor) in performing services for another person (a client or customer) under a reimbursement or other expense allowance arrangement with the person, the limitations on deductions in paragraphs (a) through (e) of this section and section 274(n)(1) apply to the party expressly identified in an agreement between the parties as subject to the limitations. If an agreement between the parties does not expressly identify the party subject to the limitations, the limitations apply—

(I) To the independent contractor (which may be a payor described in paragraph (f)(2)(iv)(B) of this section) to the extent the independent contractor does not account to the client or customer within the meaning of section 274(d) and the associated regulations; and

(2) To the client or customer if the independent contractor accounts to the client or customer within the meaning of section 274(d) and the associated regulations. See also §1.274-5.

(D) *Reimbursement or other expense allowance arrangement.* The term *reimbursement or other expense allowance arrangement* means—

(1) For purposes of paragraph (f)(2)(iv)(B) of this section, an arrangement under which an employee receives an advance, allowance, or reimbursement from a payor (the employer, its agent, or a third party) for expenses the employee pays or incurs; and

(2) For purposes of paragraph (f)(2)(iv)(C) of this section, an arrangement under which an independent contractor receives an advance, allowance, or reimbursement from a client or customer for expenses the independent contractor pays or incurs if either—

(a) A written agreement between the parties expressly states that the client or customer will reimburse the independent contractor for expenses that are subject to the limitations on deductions in paragraphs (a) through (e) of this section and section 274(n)(1); or

(b) A written agreement between the parties expressly identifies the party subject to the limitations.

(E) *Examples.* The following examples illustrate the application of this paragraph (f)(2)(iv).

Example 1. (i) Y, an employee, performs services under an arrangement in which L, an employee leasing company, pays Y a *per diem* allowance of \$10x for each day that Y performs services for L's client, C, while traveling away from home. The *per diem* allowance is a reimbursement of travel expenses for food and beverages that Y pays in performing services as an employee. L enters into a written agreement with C under which C agrees to reimburse L for any substantiated reimbursements for travel expenses, including meals, that L pays to Y. The agreement does not expressly identify the party that is subject to the deduction limitations. Y performs services for C while traveling away from home for 10 days and provides L with substantiation that satisfies the requirements of section 274(d) of \$100x of meal expenses incurred by Y while traveling away from home. L pays Y \$100x to reimburse those expenses pursuant to their arrangement. L delivers a copy of Y's substantiation to C. C pays L \$300x, which includes \$200x compensation for services and \$100x as reimbursement of L's payment of Y's travel expenses for meals. Neither L nor C treats the \$100x paid to Y as compensation or wages.

(ii) Under paragraph (f)(2)(iv)(D)(1) of this section, Y and L have established a reimbursement or

other expense allowance arrangement for purposes of paragraph (f)(2)(iv)(B) of this section. Because the reimbursement payment is not treated as compensation and wages paid to Y, under section 274(e)(3)(A) and paragraph (f)(2)(iv)(B)(1) of this section, Y is not subject to the section 274 deduction limitations. Instead, under paragraph (f)(2)(iv)(B)(2) of this section, L, the payor, is subject to the section 274 deduction limitations unless L can meet the requirements of section 274(e)(3)(B) and paragraph (f)(2)(iv)(C) of this section.

(iii) Because the agreement between L and C expressly states that C will reimburse L for expenses for meals incurred by employees while traveling away from home, under paragraph (f)(2)(iv)(D)(2)(a) of this section, L and C have established a reimbursement or other expense allowance arrangement for purposes of paragraph (f)(2)(iv)(C) of this section. L accounts to C for C's reimbursement in the manner required by section 274(d) by delivering to C a copy of the substantiation L received from Y. Therefore, under section 274(e)(3)(B) and paragraph (f)(2)(iv)(C)(2) of this section, C and not L is subject to the section 274 deduction limitations.

Example 2. (i) The facts are the same as in *Example 1* except that, under the arrangements between Y and L and between L and C, Y provides the substantiation of the expenses directly to C, and C pays the *per diem* directly to Y.

(ii) Under paragraph (f)(2)(iv)(D)(1) of this section, Y and C have established a reimbursement or other expense allowance arrangement for purposes of paragraph (f)(2)(iv)(C) of this section. Because Y substantiates directly to C and the reimbursement payment was not treated as compensation and wages paid to Y, under section 274(e)(3)(A) and paragraph (f)(2)(iv)(C)(1) of this section Y is not subject to the section 274 deduction limitations. Under paragraph (f)(2)(iv)(C)(2) of this section, C, the payor, is subject to the section 274 deduction limitations.

Example 3. (i) The facts are the same as in *Example 1*, except that the written agreement between L and C expressly provides that the limitations of this section will apply to C.

(ii) Under paragraph (f)(2)(iv)(D)(2)(b) of this section, L and C have established a reimbursement or other expense allowance arrangement for purposes of paragraph (f)(2)(iv)(C) of this section. Because the agreement provides that the 274 deduction limitations apply to C, under section 274(e)(3)(B) and paragraph (f)(2)(iv)(C) of this section, C and not L is subject to the section 274 deduction limitations.

Example 4. (i) The facts are the same as in *Example 1*, except that the agreement between L and C does not provide that C will reimburse L for travel expenses.

(ii) The arrangement between L and C is not a reimbursement or other expense allowance arrangement within the meaning of section 274(e)(3)(B) and paragraph (f)(2)(iv)(D)(2) of this section. Therefore, even though L accounts to C for the expenses, L is subject to the section 274 deduction limitations.

(F) *Effective/applicability date.* This paragraph (f)(2)(iv) applies to expenses paid or incurred in taxable years beginning after the date these regulations are published as final regulations in the **Federal Register**.

* * * * *

Par. 3. Section 1.274-8 is revised to read as follows:

§1.274-8 *Effective/applicability date.*

Except as provided in §§1.274-2(a), 1.274-2(e), 1.274-2(f)(2)(iv)(F) and 1.274-5, §§1.274-1 through 1.274-7 apply to taxable years ending after December 31, 1962.

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

(Filed by the Office of the Federal Register on July 31, 2012, 8:45 a.m., and published in the issue of the Federal Register for August 1, 2012, 77 F.R. 45220)

U.S.-Belgium Agreement Regarding Taxes Imposed by Belgian Municipalities

Announcement 2012-30

The following is a copy of the Competent Authority Agreement entered into by the competent authorities of the United States and Belgium providing that additional taxes established by Belgian municipalities and conurbations on the Belgian income tax are covered under Article 2 (Taxes Covered) of the Convention Between the Government of the United States of America and the Government of the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at Brussels on November 27, 2006.

The text of the Competent Authority Agreement is as follows:

COMPETENT AUTHORITY MUTUAL AGREEMENT

The competent authorities of the United States and Belgium hereby enter into the following agreement ("the Agreement") regarding the taxes on income imposed on behalf of the political subdivisions or local authorities of either Contracting State covered under Article 2 (Taxes Covered) of the Convention Between the Government of the United States of America and of the Kingdom of Belgium for the Avoidance of

Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at Brussels on November 27, 2006 (the "Convention"). The Agreement is entered into under paragraph 3 of Article 24 (Mutual Agreement Procedure).

Paragraph 3 of Article 2 (Taxes Covered) of the Convention provides:

The existing taxes to which this Convention shall apply are:

- a) in the case of Belgium:
 - i) the individual income tax;
 - ii) the corporate income tax;
 - iii) the income tax on legal entities; and
 - iv) the income tax on non-residents;

including the prepayments and the surcharges on these taxes and prepayments;

- b) in the case of the United States:
 - i) the Federal income taxes imposed by the Internal Revenue Code (but excluding social security taxes); and
 - ii) the Federal excise taxes imposed with respect to private foundations.

The competent authorities agree that, in the case of Belgium, the taxes covered under subparagraph 3(a) of Article 2

(Taxes Covered) of the Convention include the additional taxes established by Belgian municipalities and conurbations on the income tax.

Agreed to by the undersigned competent authorities on:

Michael Danilack
United States Competent Authority
Date: April 28, 2011

Sandra Knaepen
Belgian Competent Authority
Date: May 2, 2011

U.S.-Canada Agreement Regarding OECD Report on the Attribution of Profits to Permanent Establishments

Announcement 2012-31

The following is a copy of the Competent Authority Agreement entered into by the competent authorities of the United States and Canada regarding application of the principles set forth in the Organisation for Economic Cooperation and Development Report on the Attribution of Profits to Permanent Establishments in the interpretation of Article VII (Business Profits) of the Convention between Canada and the United States of America with Respect to Taxes on Income and on Capital done at Washington on September 26, 1980, as amended by the Protocols done on June 14, 1983, March 28, 1994, March 17, 1995, July 29, 1997, and September 17, 2007.

The text of the Competent Authority Agreement is as follows:

COMPETENT AUTHORITY MUTUAL AGREEMENT

The competent authorities of the United States and Canada hereby enter into the

following agreement regarding the application of Article VII (Business Profits) of the Convention between Canada and the United States of America with Respect to Taxes on Income and on Capital done at Washington on September 26, 1980, as amended by the Protocols done on June 14, 1983, March 28, 1994, March 17, 1995, July 29, 1997, and September 17, 2007 (the "Convention") in view of the agreed understanding set out in paragraph 9 of the Second Exchange of Notes to the Fifth Protocol to the Convention and annexed to the Convention as Annex B. This agreement is entered into under paragraph 3 of Article XXVI (Mutual Agreement Procedure) of the Convention.

With reference to Article VII of the Convention, paragraph 9 of Annex B of the Convention refers to the applicability of the Organisation for Economic Cooperation and Development (the "OECD") Transfer Pricing Guidelines, by analogy, for the purposes of determining the business profits attributable to a permanent establishment. The OECD Report on the Attribution of Profits to Permanent Establishments (the "Report") was finalized in 2008 and revised in 2010 without change to the conclusions of the Report (the "authorized OECD approach" ("full AOA")). The competent authorities of the United States and Canada understand that para-

graph 9 of Annex B of the Convention indicates that the principles of the full AOA as set out in the Report would apply without waiting for the Report to be finalized.

The competent authorities of the United States and Canada therefore agree that, under paragraph 9 of Annex B of the Convention, Article VII of the Convention is to be interpreted in a manner entirely consistent with the full AOA as set out in the Report. All other provisions of the Convention that require a determination of whether an asset or amount is effectively connected or attributable to a permanent establishment are also to be interpreted in a manner entirely consistent with the full AOA as set out in the Report. Further explanation of paragraph 9 and its effects on the interpretation and application of Article VII(2) and (3) of the Convention is found in the U.S. Treasury Department's Technical Explanation of the Fifth Protocol to the Convention, the contents with respect to which the Government of Canada subscribes.

The competent authorities understand that relief of double taxation continues to be subject to the provisions and limitations of each country's domestic law, as provided in Article XXIV (Elimination of Double Taxation).

This agreement generally applies to taxable years that begin on or after January 1, 2012; however, a taxpayer may choose to

apply the entirety of this agreement in both Contracting States for all taxable years beginning after December 31, 2008.

Agreed:

Michael Danilack
United States Competent Authority
Deputy Commissioner (International)
Large Business & International Division
Date: June 18, 2012

Costa Dimitrakopoulos
Canadian Competent Authority
Director General
Legislative Policy Directorate
Date: June 26, 2012

Definition of Terms

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

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

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

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

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

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

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

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

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

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

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

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

Abbreviations

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

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

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

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

Numerical Finding List¹

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