

Internal Revenue bulletin

Bulletin No. 2015–9
March 2, 2015

HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Proc. 2015–20, page 694.

Revenue Procedure 2015–20 permits small business taxpayers to make certain tangible property changes in methods of accounting with an adjustment under § 481(a) of the Internal Revenue Code that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014. In addition, for their first taxable year that begins on or after January 1, 2014, small business taxpayers are permitted to make certain tangible property changes without filing a Form 3115. This revenue procedure also requests written comments by April 21, 2015, on whether it is appropriate to increase the de minimis safe harbor limit provided in § 1.263(a)–1(f)(1)(ii)(D) of the Income Tax Regulations for a taxpayer without an applicable financial statement to an amount greater than \$500, and, if so, what amount.

EMPLOYEE PLANS

Notice 2015–19, page 690.

This notice provides guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under § 417(e)(3), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I). The rates in this notice reflect the application of § 430(h)(2)(C)(iv), which was added by the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141 (MAP-21) and amended by section 2003 of the Highway and Transportation Funding Act of 2014, Public Law 113–159 (HATFA).

EMPLOYMENT TAX

Announcement 2015–8, page 698.

The Announcement addresses the application of the government's win in *United States v. Quality Stores, Inc.*, 134 S.Ct. 1395 (2014), to claims for refund of employment taxes. The primary intent of the Announcement is to inform taxpayers that the Service will take no further action on appeal requests that were suspended pending the resolution of *Quality Stores*. The Announcement tells taxpayers who to contact if the appeal request included an additional or different basis for the claim for refund, or if the claim for refund concerned payments that satisfied Revenue Ruling 90–72. The Announcement also informs taxpayers that the Service will continue to disallow claims for refund of Federal Insurance Contributions Act (FICA), Railroad Retirement Tax Act (RRTA), and Federal Unemployment Tax Act (FUTA) taxes paid with respect to severance payments that are not otherwise excluded from such taxes pursuant to Revenue Ruling 90–72.

Notice 2015–15, page 687.

This notice contains a proposed revenue procedure providing guidance to employers on employee consents used to support a claim for refund under § 6402 of the Internal Revenue Code and § 31.6402(a)–2 of the Employment Tax Regulations for overpaid taxes under the Federal Insurance Contributions Act (FICA) and the Railroad Retirement Tax Act (RRTA).

Finding Lists begin on page ii.



The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

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

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

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

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

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

Section 162.—Trade or business expenses

Procedures are provided permitting small business taxpayers to make certain tangible property changes in methods of accounting with an adjustment under § 481(a) of the Internal Revenue Code that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014. In addition, for their first taxable year that begins on or after January 1, 2014, small business taxpayers are permitted to make certain tangible property changes without filing a Form 3115. See Rev. Proc. 2015–20, page 694.

Section 263.—Capital expenditures

Procedures are provided permitting small business taxpayers to make certain tangible property changes in methods of accounting with an adjust-

ment under § 481(a) of the Internal Revenue Code that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014. In addition, for their first taxable year that begins on or after January 1, 2014, small business taxpayers are permitted to make certain tangible property changes without filing a Form 3115. See Rev. Proc. 2015–20, page 694.

Section 263A.—Capitalization and inclusion in inventory costs of certain expenses

Procedures are provided permitting small business taxpayers to make certain tangible property changes in methods of accounting with an adjustment under § 481(a) of the Internal Revenue Code that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning

on or after January 1, 2014. In addition, for their first taxable year that begins on or after January 1, 2014, small business taxpayers are permitted to make certain tangible property changes without filing a Form 3115. See Rev. Proc. 2015–20, page 694.

Section 481.—Adjustments required by changes in method of accounting

Procedures are provided permitting small business taxpayers to make certain tangible property changes in methods of accounting with an adjustment under § 481(a) of the Internal Revenue Code that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014. In addition, for their first taxable year that begins on or after January 1, 2014, small business taxpayers are permitted to make certain tangible property changes without filing a Form 3115. See Rev. Proc. 2015–20, page 694.

Part III. Administrative, Procedural, and Miscellaneous

Employee Consents

Notice 2015–15

PURPOSE AND SCOPE

This notice contains a proposed revenue procedure providing guidance to employers on employee consents used to support a claim for refund under § 6402 of the Internal Revenue Code and § 31.6402(a)–2 of the Employment Tax Regulations for overpaid taxes under the Federal Insurance Contributions Act (FICA) and the Railroad Retirement Tax Act (RRTA).

Questions have arisen concerning what information must be provided in an employee consent and whether an employee consent may be requested, furnished, and retained in an electronic format. The proposed revenue procedure clarifies that, in addition to providing the relevant name, address, and taxpayer identification number, a valid employee consent must identify the basis of the claim for refund and be signed by the employee under penalties of perjury. The proposed revenue procedure also provides guidance as to what constitutes “reasonable efforts” to secure an employee consent when a consent is not obtained.

The proposed revenue procedure permits, but does not require, the employee consent to be requested, furnished, and retained in an electronic format, as an alternative to a paper format. The proposed revenue procedure is not intended to require employers to solicit new employee consents for those requested prior to the date of publication of the final revenue procedure in the Internal Revenue Bulletin. However, an employer may rely on this proposed revenue procedure for employee consents requested before the date that the final revenue procedure is published.

REQUEST FOR COMMENTS

The IRS requests comments on this revenue procedure. In particular, the IRS requests comments regarding the specific requirements for a request for a consent and for the employee consent itself, the requirements for electronic employee consents, and the steps that will constitute

“reasonable efforts” to obtain an employee consent. In particular, comments are requested on ways to formulate requirements that advance the goal of making the process more efficient while protecting the interests of employees.

Comments may be submitted on or before May 31, 2015 to: Internal Revenue Service, CC:PA:LDP:PR (Notice 2015–15), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20224. Comments may also be hand-delivered Monday through Friday between the hours of 8:00 a.m. to 4:00 p.m. to the Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Attn: CC:PA:LDP:PR (Notice 2015–15). Comments may also be submitted electronically via the following email address: Notice.Comments@irs.counsel.treas.gov. Please include “Notice 2015–15” in the subject line of any electronic submission.

DRAFTING INFORMATION

For further information regarding this notice contact Cynthia McGreevy of the Office of the Associate Chief Counsel (Tax Exempt and Government Entities). Mrs. McGreevy may be contacted at 202-317-4774 (not a toll-free call).

PROPOSED REVENUE PROCEDURE

SECTION 1. PURPOSE

.01 The purpose of this revenue procedure is to provide guidance to employers on the requirements for employee consents used by an employer to support a claim for refund of overpaid taxes under the Federal Insurance Contributions Act (FICA) and the Railroad Retirement Tax Act (RRTA) pursuant to § 6402 of the Internal Revenue Code and § 31.6402(a)–2 of the Employment Tax Regulations. FICA taxes include the old-age, survivors, and disability insurance taxes imposed on employees under § 3101(a) and on employers under § 3111(a), also known as social security taxes, and the hospital insurance tax imposed on employees under § 3101(b) and on employers under § 3111(b), also known as Medicare taxes. Under RRTA, railroad employment is subject to a system of taxes separate and distinct

from the taxes imposed under FICA, which covers most other employees. Tier 1 RRTA taxes, imposed under §§ 3201(a), 3211(a), and 3221(a), provide benefits equivalent to social security and Medicare benefits.

.02 This revenue procedure clarifies the basic requirements for a request for a consent and for the employee consent itself, including the requirement that an employee consent must include the basis for the claim for refund and be signed by the employee under penalties of perjury. In addition, this revenue procedure permits an employee consent to be requested, furnished, and retained in an electronic format as an alternative to a paper format. It also contains guidance concerning what constitutes “reasonable efforts” if an employee consent is not secured in order to permit the employer to claim a refund of the employer share of overpaid FICA or RRTA taxes.

SECTION 2. SCOPE

.01 This revenue procedure applies to employee consents that are used by an employer to support a claim for refund of overpaid FICA or RRTA taxes. Section 31.6402(a)–2 provides rules under which a refund claim for an overpayment of FICA or RRTA tax may be made. For ease of reading, the remainder of the revenue procedure will discuss FICA taxes but this revenue procedure applies equally to RRTA taxes.

.02 Any references to Medicare tax or FICA tax in this revenue procedure do not include Additional Medicare Tax imposed by § 3101(b)(2). Under § 3102(f), an employer is responsible for withholding the 0.9% Additional Medicare Tax from the wages it pays to an employee in excess of \$200,000 in a calendar year. However, under § 31.6402(a)–2(a)(1)(iii), employers may claim a refund of overpaid Additional Medicare Tax only if the employer did not withhold the overpaid Additional Medicare Tax from the employee’s wages. An employee may claim a refund of overpaid Additional Medicare Tax on Form 1040, U.S. Individual Income Tax Return, or, if the employee has filed Form 1040, on Form 1040X, Amended U.S. In-

dividual Income Tax Return. Thus, the rules for employee consents are not applicable to overpayments of Additional Medicare Tax.

SECTION 3. TERMS

For purposes of this revenue procedure—

.01 “Written statement” means a statement required by § 31.6402(a)–2(a)(2)(ii) with respect to amounts collected in a year prior to the calendar year in which the credit or refund is claimed, certifying that the employee has not made any previous claims (or the claims were rejected) and will not make any future claims for refund or credit of the amount of the overcollection.

.02 “Email address” refers to any employee email address on a secure employer-provided email network provided to its employee in the regular course of business. To the extent that a personal email address is used in lieu of, or in addition to, an employee email address, an email address includes only the most recent personal email address provided by the employee to the employer that is maintained in an employer’s personnel records in the regular course of business. It does not include an email address obtained from a third-party source other than one obtained from an authorized representative of the employee.

.03 “Employee” includes both current and former employees.

.04 “Last known address” means the employee’s address of record in the employer’s personnel records, or as updated by any notification of change of address from the United States Postal Service.

.05 “Signature” includes an original, facsimile (fax), or other electronic signature. A fax signature may be transmitted either online or telephonically (*i.e.*, delivered via traditional fax machine). An electronic signature must meet the requirements stated in section 6 of this revenue procedure, as modified by any subsequently published guidance.

SECTION 4. BACKGROUND

.01 In general, employers may choose to correct FICA tax overpayment errors by either making an interest-free adjustment or filing a claim for refund. Section 31.6402(a)–2 provides rules under which

a refund claim for an overpayment of FICA tax may be made. The claim must be filed on the form prescribed by the IRS and must designate the return period to which the claim relates, explain in detail the grounds and facts relied upon to support the claim, and set forth such other information as may be required by § 31.6402(a)–2 and by the instructions relating to the form used to make the claim. Employers use the employment tax “X” form (*e.g.*, Form 941–X, Adjusted Employer’s QUARTERLY Federal Tax Return or Claim for Refund) corresponding to the employment tax return filed (*e.g.*, Form 941, Employer’s QUARTERLY Federal Tax Return) to claim refunds. For examples showing how the claim for refund process operates, see Rev. Rul. 2009–39, 2009–52 I.R.B. 951, which applies the regulations to different situations.

.02 An employer may not receive a refund of the employer share of overpaid FICA tax without making reasonable efforts to protect its employee’s interests. See § 31.6402(a)–2; Rev. Rul. 81–310, 1981–2 C.B. 241; *Atlantic Department Stores, Inc. v. United States*, 557 F.2d 957 (2d Cir. 1977). An employer has a duty to make reasonable efforts to protect its employees’ interests in any employee share of the refund. Section 31.6402(a)–2(a)(1)(ii) specifically provides that no refund for the employer share of the overpaid FICA taxes will be allowed unless the employer has first repaid or reimbursed its employee or has secured the employee’s consent to the allowance of the claim for refund and includes a claim for the refund of such employee tax. Section 31.6402(a)–2(a)(2) generally requires the employer to certify, as part of the claim process, that the employer has repaid or reimbursed the employee share of the overpayment of FICA tax to the employee or has secured the written consent of the employee to allowance of the refund or credit. For refund claims for employee tax overcollected in prior years, the employer must also certify that it has obtained the employee’s written statement confirming that the employee has not made any previous claims (or the claims were rejected) and will not make any future claims for refund or credit of the amount of the overcollection. However,

these requirements do not apply to the extent that the taxes were not withheld from the employee. Nor do these requirements apply if, after the employer’s reasonable efforts to obtain the employee’s consent (including any required written statement), the employer cannot locate the employee or the employee does not furnish either the employee consent or a response indicating that the employee is not authorizing the employer to claim a refund of FICA taxes on his or her behalf. In these cases, the employer may claim a refund of the overpaid employer share of the tax but may not obtain a refund of the employee share. Under *Chicago Milwaukee Corp. v. United States*, 40 F.3d 373, 375 (Fed. Cir. 1994), an employer need not repay or reimburse its employees or obtain the employees’ consents for the filing of a refund claim prior to filing the claim in order for the claim to be valid. However, the employer must repay or reimburse its employees or obtain the employees’ consents before the IRS can grant the claim.

.03 If an employer files a claim for refund based on a certification that consents were secured from the employees, and the IRS grants the refund, the IRS will refund the taxes (including any applicable interest paid pursuant to § 6611) to the employer, which will then give each employee his or her share.

.04 Under § 31.6402(a)–2(a)(2)(i), the employer must retain the employee consent (including any required written statement) as part of the employer’s records.

.05 Section 6061 provides that any return, statement, or other document required to be made under any provision of the Code or regulations be signed in accordance with forms or regulations prescribed by the Secretary. Section 6065 requires that, except as otherwise provided by the Secretary, any such document must contain or be verified by a written declaration that it is made under the penalties of perjury. To facilitate taxpayers’ compliance with the verification requirement of § 6065, the IRS has long provided that an acceptable “penalties of perjury statement” should be located immediately above the required signature and include substantially the following language: “I declare, under penalties of perjury, that I have examined the above

statements and information and to the best of my knowledge and belief they are true, correct, and complete.”

.06 Under § 31.6001-1 and § 31.6001-2, an employer that claims a refund must retain a complete and detailed record with respect to the tax to which the claim relates, including a copy of any statement or other documents, for as long as the contents may become material in the administration of any internal revenue law, but not less than four years after the date the claim is filed.

SECTION 5. REQUIREMENTS FOR A REQUEST FOR A CONSENT AND REQUIREMENTS FOR AN EMPLOYEE CONSENT

.01 In general, a request for a consent may be solicited on paper or in an electronic format. The request must clearly inform the employee of the purpose of the employee consent. It must provide a name and contact information for any questions by the employee and must give a reasonable period of time to respond, which period shall not be less than 45 days from the date of the request. A request for a consent may include an express presumption that if an employee’s response has not been received by the employer during this time period, the employee will be considered to have refused to provide the employee consent. In no case, however, may a failure to respond be deemed consent. A request for consent may also include a request that the employee keep the employer informed about any change in mailing address or email address. Finally, it must clearly state that the employee will be repaid or reimbursed the employee share of the overpayment (plus any interest allocable to the employee share) to the extent it is refunded by the IRS.

.02 The employer may furnish a paper request for a consent by personal delivery or by mail to the employee’s last known address by the United States Postal Service or a designated delivery service under § 7502(f). An electronic request for a consent may be sent to the employee’s email address in accordance with section 6 of this revenue procedure.

.03 An employee consent must meet the following requirements:

(1) Contain the name, address, and social security number of the employee;

(2) Contain the name, address, and employer identification number of the employer;

(3) Contain the tax period(s), type of tax (*e.g.*, social security and Medicare taxes), and the amount of tax for which the employee consent is provided;

(4) Affirmatively state that the employee authorizes the employer to claim a refund for the overpayment of the employee share of tax;

(5) For amounts collected in a prior year, include the employee’s written statement;

(6) Identify the basis of the claim (*e.g.*, request for refund of the social security and Medicare taxes withheld with regard to excess transit benefits provided in 2014 due to a retroactive legislative change); and

(7) Be dated and contain the employee’s signature under penalties of perjury. The penalties of perjury statement should be located immediately above the required signature.

.04 The request for a consent and the employee consent itself (including any required written statement), or the employee’s response indicating that the employee does not authorize the employer to claim a refund of FICA taxes on his or her behalf, must be retained as long as their contents may be material in the administration of any internal revenue law, but not less than four years after the date the claim is filed. Copies must be submitted to the IRS if requested.

SECTION 6. ELECTRONIC COMMUNICATIONS, EMPLOYEE CONSENTS, AND RECORD RETENTION PERMITTED

.01 This revenue procedure permits an employer to establish an electronic system to request, furnish, and retain employee consents, including permitting employees to submit an employee consent by fax. It also permits the retention in an electronic format of requests and employee consents submitted in a paper format. The rules for furnishing and retaining employee consents also apply to an employee’s response indicating that the employee does not authorize the employer to claim a refund of FICA taxes on his or her behalf. Electronic information obtained under this revenue procedure is subject to the basic

requirements that the IRS considers to be essential for record retention set forth in Rev. Proc. 97-22, 1997-1 C.B. 652, Rev. Proc. 98-25, 1998-1 C.B. 689, and any subsequently published guidance.

.02 The electronic system must be reasonably accessible to the employee and must be reasonably designed to preclude anyone other than the employee from giving the employee consent. It must provide the electronic request for a consent to the employee in a manner no less understandable than a written paper document.

.03 Electronic records and signatures are given the same legal effect as their paper counterparts. Any signature should be located immediately below the required penalties of perjury statement. Until further guidance is published, an electronic signature is acceptable as provided below:

(1) A person (*i.e.*, the signer) must use an acceptable electronic form of signature; for purposes of this revenue procedure, this includes a typed name that is within or at the end of an electronic record, such as typed into a signature block or other acceptable electronic form, or as otherwise identified in IRS published guidance, publications, forms, instructions, or on the irs.gov website;

(2) The electronic form of signature must be executed by a person with the intent to sign the electronic record (*e.g.*, to indicate a person’s approval of the information contained in the electronic record);

(3) The electronic form of signature must be attached to or associated with the electronic record being signed;

(4) There must be a means to identify and authenticate a particular person as the signer; and

(5) There must be a means to preserve the integrity of the signed record.

.04 No employee may be required to provide an employee consent in an electronic format. Thus, the employee must be given the option to provide the employee consent in a paper format. Upon request, the employer must provide a paper copy of any electronic communications to the employee, including the request for a consent.

.05 Any electronic system used for purposes of obtaining employee consents must inform the employee that he or she must make the declaration contained in

the penalties of perjury statement and that the declaration is made by signing the employee consent.

.06 Upon request by the IRS, the employer must supply a hard copy of the electronic employee consent or a response indicating that the employee was not authorizing the employer to claim a refund of FICA taxes on his or her behalf. The employer must include a statement that, to the best of the employer's knowledge and belief, the electronic employee consent or response was furnished by the named employee.

SECTION 7. REASONABLE EFFORTS

.01 Generally, if the employer has not repaid or reimbursed an employee, a refund for the employer share of the overpaid FICA taxes will not be allowed unless the employer has secured the employee's consent and included a claim for the refund of such employee tax. However, these requirements do not apply if, after the employer's reasonable efforts to obtain the employee's consent, the employer cannot locate the employee or the employee does not furnish either the employee consent or a response indicating that the employee is not authorizing the employer to claim a refund of FICA taxes on his or her behalf.

.02 The employer will be deemed to have made reasonable efforts with respect to a request for a consent if:

(1) The employer properly requests a consent of the employee as provided in this revenue procedure;

(2) A request for a consent sent electronically provides for an acknowledgement of receipt of the email message. The request must specifically ask the employee to acknowledge receipt of the request for a consent (*e.g.*, by clicking on a voting button (YES) or by sending a reply message to the employer). A read-receipt message is not sufficient;

(3) The employer retains a record of mailing the request for a consent, record of emailing the request for a consent (including acknowledgement of receipt of the email message), or record of personal delivery to the employee who does not furnish an employee consent, or a response indicating that the employee was not authorizing the employer to claim a refund of FICA taxes on his or her behalf;

(4) In the event the mailing is undeliverable, the employer makes an effort to determine the employee's current address and, if a new address is discovered, the employer delivers a request for a consent in a paper format to the new address or delivers a request for a consent by email or by personal delivery, giving the employee not less than 45 days from the date of the request to reply to the subsequent request; and

(5) In the event of an email delivery failure (*e.g.*, the employer is notified that the message the employer tried to send did not reach the employee because of a problem with the email address) or in the event that the employee does not acknowledge receipt of the email message, the employer mails a request for a consent in a paper format to the employee's last known address or provides a request for a consent to the employee by personal delivery giving the employee not less than 45 days from the date of the request to reply to the subsequent request.

SECTION 8. EFFECTIVE DATE

This revenue procedure applies to employee consents requested on or after [the date of publication of the final revenue procedure in the Internal Revenue Bulletin]. This revenue procedure will not affect the validity of any employee consent received pursuant to a request made prior to [the date of publication of the final revenue procedure in the Internal Revenue Bulletin].

SECTION 9. PAPERWORK REDUCTION ACT

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 Office of Management and Budget (OMB) control number. This revenue procedure does not impose any new information collection burden. The collection of information contained in this revenue procedure is in § 31.6402(a)-2 of the regulations which has been previously approved by the OMB under control number 1545-2097 and in the existing claim forms (*e.g.*, Forms 941-X, 941-X(PR), 943-X, 943-X(PR), 944-X, 944-X(PR), 944-X(SP), and CT-1X).

The collection of information is required to obtain a refund of FICA taxes. The likely respondents are employers and employees. 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, but, not less than four years after the date the claim is filed. Generally, tax returns and tax return information are confidential, as required by § 6103.

SECTION 10. DRAFTING INFORMATION

For further information regarding this revenue procedure, contact Cynthia McGreevy of the Office of the Associate Chief Counsel (Tax Exempt and Government Entities) at 202-317-4774 (not a toll-free number).

Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates

Notice 2015-19

This notice provides guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under § 417(e)(3), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I). The rates in this notice reflect the application of § 430(h)(2)(C)(iv), which was added by the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141 (MAP-21) and amended by section 2003 of the Highway and Transportation Funding Act of 2014, Public Law 113-159 (HATFA).

YIELD CURVE AND SEGMENT RATES

Generally, except for certain plans under sections 104 and 105 of the Pension Protection Act of 2006 and CSEC plans under § 414(y), § 430 of the Code specifies the minimum funding requirements

that apply to single-employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins. However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Notice 2007-81, 2007-44 I.R.B. 899, provides guidelines for determining the monthly corporate bond yield curve, and the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. In accordance with the methodology specified in Notice 2007-81, the monthly corporate bond yield curve derived from January

2015 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of January 2015 are, respectively, 1.33, 3.46, and 4.40.

The 24-month average segment rates determined under § 430(h)(2)(C)(i) through (iii) must be adjusted pursuant to § 430(h)(2)(C)(iv) by the applicable percentage of the corresponding 25-year average segment rates. Section 2003(a) of HATFA amended the applicable percentages under § 430(h)(2)(C)(iv). This change generally applies to plan years beginning on or after January 1, 2013. However, pursuant to section 2003(e)(2) of HATFA, a plan sponsor can elect not to have the amendments made to the applicable percentages by section 2003 of HATFA apply to any plan year beginning in 2013. These elections can be made either for all purposes or, alternatively, for purposes of determining the adjusted funding target attainment percentage under § 436. The 25-year average segment rates for plan years beginning in 2012, 2013, 2014 and 2015 were published in Notice 2012-55, 2012-36 I.R.B. 332, Notice 2013-11, 2013-11 I.R.B. 610, Notice

2013-58, 2013-40 I.R.B. 294, and Notice 2014-50, 2014-40 I.R.B. 590, respectively.

For plan years beginning in years 2012 through 2017, pursuant to the changes made by HATFA, the applicable minimum percentage is 90% and the applicable maximum percentage is 110%. These applicable percentages are referred to as HATFA applicable percentages. As described in the preceding paragraph, a special election is available for any plan year beginning in 2013 under which this change made by HATFA can be disregarded for all purposes or for limited purposes. To the extent such an election is made, the applicable minimum percentage for a plan year beginning in 2013 is 85% and the applicable maximum percentage for that plan year is 115%. These applicable percentages are referred to as MAP-21 applicable percentages.

The three 24-month average corporate bond segment rates applicable for February 2015 without adjustment for the 25-year average segment rate limits are as follows:

Applicable Month	First Segment	Second Segment	Third Segment
February 2015	1.23	4.10	5.18

Based on § 430(h)(2)(C)(iv) as amended by section 2003 of HATFA, the 24-month

averages applicable for February 2015 adjusted for the HATFA applicable percent-

ages of the corresponding 25-year average segment rates, are as follows:

For Plan Years Beginning In	Adjusted 24-Month Average Segment Rates, Based on the HATFA Applicable Percentage of 25-Year Average Rates				
	Applicable Month		First Segment	Second Segment	Third Segment
2014	February	2015	4.99	6.32	6.99
2015	February	2015	4.72	6.11	6.81

30-YEAR TREASURY SECURITIES INTEREST RATES

Generally for plan years beginning after 2007, § 431 specifies the minimum funding requirements that apply to multi-employer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount for the full-funding limitation de-

scribed in section 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury se-

curities during the four-year period ending on the last day before the beginning of the plan year. Notice 88-73, 1988-2 C.B. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for January 2015 is 2.46 percent. The Service has determined this rate as

the average of the daily determinations of yield on the 30-year Treasury bond maturing in November 2044. The following

rates were determined for plan years beginning in the month shown below.

For Plan Years Beginning in		30-Year Treasury Weighted Average	Permissible Range		
<i>Month</i>	<i>Year</i>		90%	to	105%
February	2015	3.31	2.98		3.47

MINIMUM PRESENT VALUE SEGMENT RATES

In general, the applicable interest rates under § 417(e)(3)(D) are segment rates

computed without regard to a 24-month average. Notice 2007–81 provides guidelines for determining the minimum present value segment rates. Pursuant to that notice, the minimum present value seg-

ment rates determined for January 2015 are as follows:

First Segment	Second Segment	Third Segment
1.33	3.46	4.40

DRAFTING INFORMATION

The principal author of this notice is Tony Montanaro of the Employee Plans, Tax Exempt and Government Entities Division. Mr. Montanaro may be e-mailed at RetirementPlanQuestions@irs.gov.

Table I
 Monthly Yield Curve for January 2015
 Derived from January 2015 Data

<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>
0.5	0.31	20.5	4.10	40.5	4.44	60.5	4.56	80.5	4.61
1.0	0.61	21.0	4.11	41.0	4.44	61.0	4.56	81.0	4.62
1.5	0.88	21.5	4.13	41.5	4.45	61.5	4.56	81.5	4.62
2.0	1.12	22.0	4.14	42.0	4.45	62.0	4.56	82.0	4.62
2.5	1.33	22.5	4.16	42.5	4.45	62.5	4.56	82.5	4.62
3.0	1.51	23.0	4.17	43.0	4.46	63.0	4.56	83.0	4.62
3.5	1.67	23.5	4.18	43.5	4.46	63.5	4.57	83.5	4.62
4.0	1.83	24.0	4.20	44.0	4.47	64.0	4.57	84.0	4.62
4.5	1.97	24.5	4.21	44.5	4.47	64.5	4.57	84.5	4.62
5.0	2.11	25.0	4.22	45.0	4.47	65.0	4.57	85.0	4.62
5.5	2.25	25.5	4.23	45.5	4.48	65.5	4.57	85.5	4.63
6.0	2.38	26.0	4.24	46.0	4.48	66.0	4.58	86.0	4.63
6.5	2.51	26.5	4.25	46.5	4.48	66.5	4.58	86.5	4.63
7.0	2.64	27.0	4.26	47.0	4.49	67.0	4.58	87.0	4.63
7.5	2.76	27.5	4.27	47.5	4.49	67.5	4.58	87.5	4.63
8.0	2.87	28.0	4.28	48.0	4.49	68.0	4.58	88.0	4.63
8.5	2.98	28.5	4.29	48.5	4.50	68.5	4.58	88.5	4.63
9.0	3.08	29.0	4.30	49.0	4.50	69.0	4.58	89.0	4.63
9.5	3.17	29.5	4.31	49.5	4.50	69.5	4.59	89.5	4.63
10.0	3.26	30.0	4.31	50.0	4.51	70.0	4.59	90.0	4.63
10.5	3.34	30.5	4.32	50.5	4.51	70.5	4.59	90.5	4.63
11.0	3.42	31.0	4.33	51.0	4.51	71.0	4.59	91.0	4.64
11.5	3.48	31.5	4.34	51.5	4.51	71.5	4.59	91.5	4.64
12.0	3.55	32.0	4.34	52.0	4.52	72.0	4.59	92.0	4.64
12.5	3.61	32.5	4.35	52.5	4.52	72.5	4.59	92.5	4.64
13.0	3.66	33.0	4.36	53.0	4.52	73.0	4.60	93.0	4.64
13.5	3.71	33.5	4.36	53.5	4.52	73.5	4.60	93.5	4.64
14.0	3.76	34.0	4.37	54.0	4.53	74.0	4.60	94.0	4.64
14.5	3.80	34.5	4.38	54.5	4.53	74.5	4.60	94.5	4.64
15.0	3.83	35.0	4.38	55.0	4.53	75.0	4.60	95.0	4.64
15.5	3.87	35.5	4.39	55.5	4.53	75.5	4.60	95.5	4.64
16.0	3.90	36.0	4.39	56.0	4.54	76.0	4.60	96.0	4.64
16.5	3.93	36.5	4.40	56.5	4.54	76.5	4.61	96.5	4.64
17.0	3.96	37.0	4.40	57.0	4.54	77.0	4.61	97.0	4.65
17.5	3.98	37.5	4.41	57.5	4.54	77.5	4.61	97.5	4.65
18.0	4.00	38.0	4.41	58.0	4.55	78.0	4.61	98.0	4.65
18.5	4.02	38.5	4.42	58.5	4.55	78.5	4.61	98.5	4.65
19.0	4.04	39.0	4.42	59.0	4.55	79.0	4.61	99.0	4.65
19.5	4.06	39.5	4.43	59.5	4.55	79.5	4.61	99.5	4.65
20.0	4.08	40.0	4.43	60.0	4.55	80.0	4.61	100.0	4.65

Rev. Proc. 2015-20

SECTION 1. PURPOSE

This revenue procedure modifies Rev. Proc. 2015-14, 2015-5 I.R.B. 450, to permit a small business taxpayer, defined as a business with total assets of less than \$10 million or average annual gross receipts of \$10 million or less for the prior three taxable years, to make certain tangible property changes in methods of accounting with an adjustment under § 481(a) of the Internal Revenue Code (the Code) that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014. In addition, for their first taxable year that begins on or after January 1, 2014, small business taxpayers are permitted to make certain tangible property changes without filing a Form 3115. This revenue procedure also requests comments on whether it is appropriate to increase the de minimis safe harbor limit provided in § 1.263(a)-1(f)(1)(ii)(D) of the Income Tax Regulations for a taxpayer without an applicable financial statement (AFS) to an amount greater than \$500, and, if so, what amount should be used and the justification for considering that amount appropriate.

SECTION 2. BACKGROUND

.01 The Treasury Department and the Internal Revenue Service (IRS) recently issued final regulations under §§ 1.162-3, 1.162-4, 1.168(i)-1, 1.168(i)-7, 1.168(i)-8, 1.263(a)-1, 1.263(a)-2, and 1.263(a)-3 (T.D. 9636, 2013-43 I.R.B. 331, 78 Fed. Reg. 57686; T.D. 9689, 2014-36 I.R.B. 456, 79 Fed. Reg. 48661) (the final tangible property regulations), along with corresponding revenue procedures on related changes in method of accounting. See Rev. Proc. 2014-16, 2014-9 I.R.B. 606; Rev. Proc. 2014-54, 2014-41 I.R.B. 675, (amplified, clarified, or modified by sections 6.37, 6.38, 6.39, and 10.11 of Rev. Proc. 2015-14). The final tangible property regulations generally apply to taxable years beginning on or after January 1, 2014, but also permit a taxpayer to choose

to apply them to taxable years beginning on or after January 1, 2012.

.02 Since the final tangible property regulations and the accompanying method change procedures were published, the Treasury Department and the IRS have received numerous requests to further simplify the process for small businesses to start applying the final tangible property regulations. In particular, the Treasury Department and the IRS have been asked to permit small businesses to make changes in methods of accounting using a cut-off basis and without filing a Form 3115.

.03 Except as otherwise expressly provided in the Code and the regulations thereunder, § 446(e) and § 1.446-1(e)(2) require a taxpayer to secure the consent of the Commissioner before changing a method of accounting for federal tax purposes. Section 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions necessary for a taxpayer to obtain consent to change a method of accounting. A taxpayer that changes a method of accounting must apply the provisions of § 481, which accounts for how the taxpayer treated the items being changed in prior years to avoid duplication of deductions or omission of income. To avoid duplication or omission, taxpayers must follow the rules of § 446(e) and § 481 when applying the final tangible property regulations.

.04 The final tangible property regulations and the method change procedures were issued following a lengthy development process that considered and addressed the prior concerns communicated by small businesses and their representatives. In particular, to simplify the transition to the final tangible property regulations, the Treasury Department and the IRS provided taxpayers with automatic consent to change their methods of accounting to utilize the final tangible property regulations and reduced filing requirements for small taxpayers. The final tangible property regulations also contain several simplifying provisions that are elective and prospective in application (for example, the election to apply the de minimis safe harbor in § 1.263(a)-1(f); the election to utilize the safe harbor for small taxpayers in § 1.263(a)-3(h); and the election to capitalize repair and main-

tenance costs in § 1.263(a)-3(n)). These annual elections do not require a taxpayer to change its method of accounting.

.05 To further ease the administrative burden faced by small business taxpayers in prospectively applying the final tangible property regulations beginning in 2014, this revenue procedure modifies certain procedures provided in Rev. Proc. 2015-14 to permit small business taxpayers to make changes in methods of accounting with a § 481(a) adjustment that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014. This modification means that, effectively, small business taxpayers making these changes in method of accounting for the first taxable year that begins on or after January 1, 2014, may elect to make the change on a cut-off basis.

.06 While some small business taxpayers may choose to file a Form 3115 in order to retain a clear record of a change in method of accounting or to make permissible concurrent automatic changes on the same form, other small business taxpayers may prefer the administrative convenience of being able to comply with the final tangible property regulations in their first taxable year that begins on or after January 1, 2014, solely through the filing of a federal tax return. Accordingly, for the first taxable year that begins on or after January 1, 2014, small business taxpayers that choose to prospectively apply the tangible property regulations to amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014, have the option of making certain tangible property changes in method of accounting on the federal tax return without including a separate Form 3115 or separate statement.

.07 Under section 6.02 of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, ordinarily a taxpayer must submit a separate Form 3115 for each automatic change. In some cases, however, Rev. Proc. 2015-14 describes particular changes in method of accounting that a taxpayer is required or permitted to request on a single Form 3115 (concurrent changes). If, as provided by this revenue procedure, a taxpayer chooses to make certain tangible property changes in method of accounting on a federal tax return without filing a Form

3115, concurrent automatic changes, other than those specifically addressed in section 5 of this revenue procedure, are not permitted to be made without completing a Form 3115.

.08 A small business taxpayer choosing the option of calculating a § 481(a) adjustment that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015–13 (or any successor) for taxable years beginning prior to January 1, 2014.

.09 Section 5.02 of this revenue procedure provides small business taxpayers with the option of choosing to make a change to a tangible property method of accounting specified in Rev. Proc. 2015–14, section 10.11(3)(a), with a § 481(a) adjustment that does not take into account amounts paid or incurred in taxable years beginning before January 1, 2014. If a small business taxpayer chooses to make a § 481(a) adjustment that does not take into account amounts paid or incurred in taxable years beginning before January 1, 2014, then the taxpayer also must choose to make a § 481(a) adjustment that does not take into account dispositions in taxable years beginning before January 1, 2014, for certain changes made under sections 6.37, 6.38, and 6.39 of Rev. Proc. 2015–14. Because taxable years beginning before January 1, 2014, are not taken into account by a small business taxpayer choosing this option, audit protection as provided in section 8 of Rev. Proc. 2015–13 (or any successor) applies only to amounts subject to a change made under section 10.11(3)(a) of Rev. Proc. 2015–14 that are paid or incurred (and dispositions subject to a change made under sections 6.37, 6.38, and 6.39 of Rev. Proc. 2015–14) in taxable years beginning on or after January 1, 2014.

.10 Sections 5.03 through 5.05 of this revenue procedure provide a similar option for dispositions, permitting small business taxpayers to choose to make certain tangible property disposition changes with a § 481(a) adjustment that does not take into account dispositions in taxable years beginning before January 1, 2014. Specifically, sections 5.03 through 5.05 of this revenue procedure modify sections 6.37, 6.38, and 6.39 of Rev. Proc.

2015–14 and provide that if a small business taxpayer chooses to make a § 481(a) adjustment that does not take into account dispositions in taxable years beginning before January 1, 2014, then the taxpayer must consistently apply this treatment to all dispositions (other than dispositions of assets in general asset accounts) covered by sections 6.37–6.39 of Rev. Proc. 2015–14. In addition, the taxpayer also must choose to make a § 481(a) adjustment that does not take into account amounts paid or incurred in taxable years beginning before January 1, 2014, for any change made under section 10.11(3)(a) of Rev. Proc. 2015–14. Further, because taxable years beginning before January 1, 2014, are not taken into account by a taxpayer choosing this option, audit protection as provided in section 8 of Rev. Proc. 2015–13 (or any successor) applies only to dispositions subject to a change made under sections 6.37, 6.38, and 6.39 of Rev. Proc. 2015–14 (and amounts subject to a change made under section 10.11(3)(a) of Rev. Proc. 2015–14 that are paid or incurred) in taxable years beginning on or after January 1, 2014.

.11 For a small business taxpayer that chooses to make a tangible property disposition change that only takes into account dispositions in 2014 and succeeding taxable years, it is unnecessary and inappropriate to permit a late partial disposition election, which would permit partial dispositions for taxable years beginning prior to January 1, 2014. Accordingly, section 5.06 of this revenue procedure provides that the late partial disposition election in section 6.33 of Rev. Proc. 2015–14 is inapplicable to a small business taxpayer that, under the provisions of this revenue procedure, changed to a method of accounting and calculated a § 481(a) adjustment that took into account only dispositions in taxable years beginning on or after January 1, 2014.

.12 Section 8 of this revenue procedure provides a transition rule for a taxpayer within the scope of this revenue procedure that has previously filed its federal tax return for its first taxable year beginning on or after January 1, 2014, permitting withdrawal of the filed Form 3115 through the filing of an amended return on or before the due date of the taxpayer's timely filed (including any extension)

original federal income tax return for the requested year of change.

SECTION 3. REQUEST FOR COMMENT ON DE MINIMIS SAFE HARBOR LIMIT

.01 Under § 1.263(a)–1(f)(3)(iv), an amount paid for property to which a taxpayer properly applies the de minimis safe harbor is not treated as a capital expenditure or material or supply and may be deducted under § 162, provided the amount otherwise constitutes an ordinary and necessary business expense. Under § 1.263(a)–1(f)(1)(ii)(D), a taxpayer without an AFS may elect to apply the de minimis safe harbor if, among other things, the amount paid for the property subject to the de minimis safe harbor does not exceed \$500 per invoice (or per item as substantiated by the invoice) or other amount as identified in published guidance issued by the Treasury Department and the IRS.

.02 The de minimis safe harbor provided in the final tangible property regulations is intended as a new administrative convenience whereby taxpayers are permitted to deduct small dollar expenditures for the acquisition or production of new property or for the improvement of existing property, which otherwise must be capitalized under the Code. The de minimis safe harbor does not limit a taxpayer's ability to deduct otherwise deductible repair or maintenance costs that exceed the amount subject to the safe harbor. The safe harbor merely establishes a minimum threshold below which all qualifying amounts are considered deductible. Consistent with longstanding law, a taxpayer may continue to deduct all otherwise deductible repair or maintenance costs, regardless of amount. In addition, the existence of the de minimis safe harbor does not mean that a taxpayer cannot establish a de minimis deduction threshold in excess of the safe harbor amount, provided the taxpayer can demonstrate that a higher threshold clearly reflects the taxpayer's income. In conjunction with section 179, which also allows small business taxpayers to immediately expense certain otherwise capital expenditures, the de minimis safe harbor provides significant tax simplification to small businesses.

.03 The Treasury Department and the IRS request written comments by April 21, 2015 on whether it is appropriate to increase the de minimis safe harbor limit provided in § 1.263(a)-1(f)(1)(ii)(D) for a taxpayer without an AFS to an amount greater than \$500, and, if so, what amount should be used and what is the justification for that amount. Comments should refer to Rev. Proc. 2015-20, and should be submitted to:

Internal Revenue Service
Attn: CC:PA:LPD:PR
(Rev. Proc. 2015-20), Room 5203
P. O. Box 7604
Ben Franklin Station
Washington, DC 20044

Comments also may be hand delivered Monday through Friday between the hours of 8 am and 4 pm to CC:PA:LPD:PR (Rev. Proc. 2015-20) Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W. Washington, D.C. Alternatively, comments may be submitted electronically directly to the IRS via the following e-mail address:

Notice.Comments@irs.counsel.treas.gov.

Please include "Rev. Proc. 2015-20" in the subject line of any electronic communication. All comments will be available for public inspection and copying.

SECTION 4. SCOPE

.01 *Applicability.* This revenue procedure applies to a taxpayer with one or more separate and distinct trade(s) or business(es), within the meaning of § 1.446-1(d) that has—

(a) total assets of less than \$10 million as of the first day of the taxable year for which a change in method of accounting under the final tangible property regulations and corresponding procedures regarding related changes in method of accounting is effective; or

(b) average annual gross receipts of \$10 million or less for the prior three taxable years, as determined under § 1.263(a)-3(h)(3) (substituting "separate and distinct trade or business" for "taxpayer").

.02 *Inapplicability.* This revenue procedure does not apply to a taxpayer's separate and distinct trade or business if that trade or business does not meet one (or both) of the criteria in section 4.01(a) and (b) of this revenue procedure.

SECTION 5. PROCEDURE

.01 A taxpayer with a separate and distinct trade or business that meets the applicability requirements of section 4.01 of this revenue procedure ("taxpayer") may change a method of accounting for that trade or business to an accounting method described in section 6.37(3)(a)(iv), (a)(v), (a)(vii), (a)(viii), 6.38, 6.39, or 10.11(3)(a) of Rev. Proc. 2015-14, as modified by this revenue procedure, with an adjustment under section § 481(a) that takes into account only amounts paid or incurred, and dispositions, by that trade or business in taxable years beginning on or after January 1, 2014. If the taxpayer calculates the § 481(a) adjustment in such manner for that applicable trade or business, the requirement in section 6.03(1) of Rev. Proc. 2015-13 (or any successor) to complete and file a Form 3115 for the applicable trade or business is waived for the taxpayer's first taxable year beginning on or after January 1, 2014, for a change in method of accounting made under section 6.37(3)(a)(iv), (a)(v), (a)(vii), (a)(viii), 6.38, 6.39, or 10.11(3)(a) of Rev. Proc. 2015-14, as modified by this revenue procedure. Accordingly, the taxpayer is permitted to make these changes on its federal tax return for such taxable year without including a separate Form 3115 or separate statement for its applicable trades or businesses.

.02 Section 10.11 of Rev. Proc. 2015-14 is modified by adding a new paragraph (6)(b)(iii) to read as follows:

(iii) *Small business exception.* A taxpayer meeting the scope requirements of Rev. Proc. 2015-20, 2015-09 I.R.B. 694, and changing its method of accounting under this section 10.11(3)(a) may calculate a § 481(a) adjustment as of the first day of the taxpayer's year of change that takes into account only amounts paid or incurred in taxable years beginning on or after January 1, 2014. However, a taxpayer using this option must also calculate the § 481(a) adjustment as of the first day of the taxpayer's year of change that takes into account only dispositions in taxable years beginning on or after January 1, 2014, for any change made under section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii), section 6.38, or section 6.39 of this revenue procedure. In addition, a taxpayer calculating a § 481(a) adjustment under this paragraph (6)(b)(iii) that takes into account only amounts paid or incurred in

taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015-13 for amounts subject to a change under this section 10.11(3)(a) that are paid or incurred in taxable years beginning before January 1, 2014. The requirement in section 6.03(1) of Rev. Proc. 2015-13 to complete and file a Form 3115 is waived for a taxpayer's first taxable year that begins on or after January 1, 2014, for a change in method of accounting made under this section 10.11(3)(a) if the taxpayer calculates a § 481(a) adjustment under this paragraph (6)(b)(iii) that takes into account only amounts paid or incurred in taxable years beginning on or after January 1, 2014.

.03 Section 6.37 of Rev. Proc. 2015-14 is modified by adding a new paragraph (4)(f):

(f) A taxpayer meeting the scope requirements of Rev. Proc. 2015-20, 2015-09 I.R.B. 694, and changing its method of accounting under this section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) may calculate a § 481(a) adjustment as of the first day of the taxpayer's year of change that takes into account only dispositions in taxable years beginning on or after January 1, 2014. However, a taxpayer using this option must also use sections 6.38(7)(b) and 6.39(6)(b) of this revenue procedure to calculate a § 481(a) adjustment for any change made under section 6.38 or 6.39 of this revenue procedure and must use section 10.11(6)(b)(iii) of this revenue procedure to calculate a § 481(a) adjustment for any change made under section 10.11(3)(a) of this revenue procedure. In addition, a taxpayer calculating a § 481(a) adjustment under this paragraph (4)(f) that takes into account only dispositions in taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015-13 (or any successor) for dispositions subject to a change under this section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) in taxable years beginning before January 1, 2014. The requirement in section 6.03(1) of Rev. Proc. 2015-13 (or any successor) to complete and file a Form 3115 is waived for a taxpayer's first taxable year that begins on or after January 1, 2014, for a change in method of accounting made under this section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) if the taxpayer calculates a § 481(a) ad-

justment pursuant to this paragraph (4)(f) that takes into account only dispositions in taxable years beginning on or after January 1, 2014.

.04 Section 6.38 of Rev. Proc. 2015–14 is modified by replacing paragraph 7 (Section 481(a) adjustment) with the following:

(7) Section 481(a) adjustment.

(a) A taxpayer changing its method of accounting under this section 6.38 may use statistical sampling in determining the § 481(a) adjustment by following the guidance provided in Rev. Proc. 2011–42, 2011–37 I.R.B. 318.

(b) A taxpayer meeting the scope requirements of Rev. Proc. 2015–20, 2015–09 I.R.B. 694, and changing its method of accounting under this section 6.38 may calculate a § 481(a) adjustment as of the first day of the taxpayer’s year of change that takes into account only dispositions in taxable years beginning on or after January 1, 2014. However, a taxpayer using this option must also use sections 6.37(4)(f) and 6.39(6)(b) of this revenue procedure to calculate a § 481(a) adjustment for any change made under section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) or section 6.39 of this revenue procedure and must use section 10.11(6)(b)(iii) of this revenue procedure to calculate a § 481(a) adjustment for any change made under section 10.11(3)(a) of this revenue procedure. In addition, a taxpayer calculating a § 481(a) adjustment under this paragraph (7)(b) that takes into account only dispositions in taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015–13 for dispositions subject to a change under this section 6.38 in taxable years beginning before January 1, 2014. The requirement in section 6.03(1) of Rev. Proc. 2015–13 to complete and file a Form 3115 is waived for a taxpayer’s first taxable year that begins on or after January 1, 2014, for a change in method of accounting made under this section 6.38 if the taxpayer calculates a § 481(a) adjustment pursuant to this paragraph (7)(b) that takes into account only dispositions in taxable years beginning on or after January 1, 2014.

.05 Section 6.39 of Rev. Proc. 2015–14 is modified by replacing paragraph 6 (Section 481(a) adjustment) with the following:

(6) Section 481(a) adjustment.

(a) A taxpayer changing its method of accounting under this section 6.39 may use statistical sampling in determining the § 481(a) adjustment by following the guidance provided in Rev. Proc. 2011–42, 2011–37 I.R.B. 318.

(b) A taxpayer meeting the scope requirements of Rev. Proc. 2015–20, 2015–09 I.R.B. 694, and changing its method of accounting under this section 6.39 may calculate a § 481(a) adjustment as of the first day of the taxpayer’s year of change that takes into account only dispositions in taxable years beginning on or after January 1, 2014. However, a taxpayer using this option also must use sections 6.37(4)(f) and 6.38(7)(b) of this revenue procedure to calculate a § 481(a) adjustment for any change made under section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) or section 6.38 of this revenue procedure and must use section 10.11(6)(b)(iii) of this revenue procedure to calculate a § 481(a) adjustment for any change made under section 10.11(3)(a) of this revenue procedure. In addition, a taxpayer calculating a § 481(a) adjustment pursuant to this paragraph (6)(b) that takes into account only dispositions in taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015–13 for dispositions subject to a change under this section 6.39 in taxable years beginning prior to January 1, 2014. The requirement in section 6.03(1) of Rev. Proc. 2015–13 to complete and file a Form 3115 is waived for a taxpayer’s first taxable year that begins on or after January 1, 2014, for a change in method of accounting made under this section 6.39 if the taxpayer calculates a § 481(a) adjustment pursuant to this paragraph (6)(b) that takes into account only dispositions in taxable years beginning on or after January 1, 2014.

.06 Section 6.33(1)(b) of Rev. Proc. 2015–14 is modified by deleting “or” at the end of paragraph (iii), replacing “.” with “;or” at the end of paragraph (iv), and adding new paragraphs (v) and (vi):

(v) A taxpayer within the scope requirements of Rev. Proc. 2015–20, 2015–09 I.R.B. 694, and that calculated a § 481(a) adjustment as of the first day of the taxpayer’s year of change that took into account only dispositions in taxable years beginning on or after January 1, 2014, for any change in method of accounting provided in section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii),

section 6.38, or section 6.39 of this revenue procedure; or

(vi) A taxpayer within the scope requirements of Rev. Proc. 2015–20, 2015–09 I.R.B. 694, and that calculated a § 481(a) adjustment as of the first day of the taxpayer’s year of change that took into account only amounts paid or incurred in taxable years beginning on or after January 1, 2014, for any change of method of accounting provided in section 10.11(3)(a) of this revenue procedure.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Revenue Procedure 2015–14 is modified.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning on or after January 1, 2014.

SECTION 8. TRANSITION RULE

A taxpayer that (a) meets the scope requirements of this revenue procedure, (b) wants to use this revenue procedure for its first taxable year beginning on or after January 1, 2014, and (c) previously filed its federal tax return for that taxable year with a Form 3115 to change to a method of accounting specified in this revenue procedure may withdraw its Form 3115 by filing an amended federal tax return using this revenue procedure. The amended federal tax return must be filed on or before the due date of the taxpayer’s federal tax return for its first taxable year beginning on or after January 1, 2014, including extensions. The withdrawn Form 3115 will not be taken into account for purposes of applying section 5.05 of Rev. Proc. 2015–13.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Merrill Feldstein of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Merrill Feldstein of the Office of Associate Chief Counsel (Income Tax & Accounting) at (202) 317-5100 (not a toll free number).

Part IV. Items of General Interest

Application of Quality Stores Supreme Court Decision to Claims for Refund of Employment Taxes

Announcement 2015–8

PURPOSE

The purpose of this announcement is to provide guidance on the application of the decision in *United States v. Quality Stores, Inc.*, 134 S. Ct. 1395 (2014), to claims for refund of employment taxes paid with respect to severance payments.

BACKGROUND

On March 25, 2014, in *Quality Stores*, the Supreme Court held in a unanimous 8–0 decision that the severance payments at issue in the case were wages subject to Federal Insurance Contributions Act (FICA) tax. The United States Court of Appeals for the Sixth Circuit had previously held that the payments were not wages for FICA purposes. *In re Quality Stores, Inc.*, 693 F.3d 605, 616 (6th Cir. 2012). The Supreme Court’s decision was consistent with the conclusion reached by the Federal Circuit in *CSX Corp. v. United States*, 518 F.3d 1328 (Fed. Cir. 2008), which held that severance payments were both wages for FICA tax purposes and compensation for Railroad Retirement Tax Act (RRTA) tax purposes.

In the years leading up to the Supreme Court’s decision, the Internal Revenue Service (Service) received claims for refund of FICA, RRTA, and Federal Unemployment Tax Act (FUTA) taxes paid with respect to severance payments from over 3,000 taxpayers. Consistent with its position in the litigation, the Service disallowed all such claims for refund from taxpayers located outside of the jurisdiction of the Sixth Circuit. Many of these taxpayers submitted a request to appeal the disallowed claim for refund to the IRS Office of Appeals. The Service suspended action on these appeal requests pending the resolution of the *Quality Stores* litigation.

The Service also suspended action on the claims for refund filed by taxpayers located within the Sixth Circuit’s jurisdiction pending the resolution of the *Quality Stores* litigation.

Under Revenue Ruling 90–72, supplemental unemployment compensation benefits that are linked to the receipt of state unemployment compensation and satisfy certain other requirements are excludable from wages for FICA, FUTA, and income tax withholding purposes, and are excludable from compensation for RRTA tax purposes. In *Quality Stores*, the parties agreed that the payments at issue did not satisfy the requirements for the narrow exclusion from FICA tax contained in Revenue Ruling 90–72. Accordingly, the Supreme Court did not address whether the exclusion from FICA taxes set forth in Revenue Ruling 90–72 for certain payments linked to state unemployment benefits is “consistent with the broad definition of wages under FICA.” *Quality Stores*, 134 S. Ct. at 1405. Revenue Ruling 90–72 continues to be in effect.

APPLICATION OF *QUALITY STORES* SUPREME COURT DECISION

Claims for refund of FICA, RRTA, or FUTA taxes paid with respect to severance payments that do not satisfy Revenue Ruling 90–72.

As a result of the Supreme Court’s holding in *Quality Stores* and the consistent position of the Federal Circuit in *CSX*, the Service will disallow all claims for refund of FICA or RRTA taxes paid with respect to severance payments that do not satisfy the narrow exclusion contained in Revenue Ruling 90–72. This includes all claims for refund that were held in suspense pending the resolution of *Quality Stores* and claims filed by taxpayers located within the Sixth Circuit’s jurisdiction. Since the definition of wages contained in section 3121(a) of the Internal Revenue Code is generally the same as the definition of wages in section 3306(b) with respect to the FUTA, the Service will also continue to disallow claims for refund of FUTA taxes paid with respect to such severance payments.

Appeal requests relating to disallowed claims for refund of FICA, RRTA, or FUTA taxes.

The Service will take no further action on the appeal requests that were suspended pending the resolution of *Quality Stores*. The Service fully disallowed the claims for refund that are the subject of these appeal requests. Following the Supreme Court’s unanimous ruling that the severance payments at issue were wages for FICA purposes, there is no basis for taxpayers to appeal the disallowance to the IRS Office of Appeals with respect to that issue.

APPEAL REQUESTS RELATING TO OTHER ISSUES

If a taxpayer’s claim for refund for which an appeal was requested included an additional or different basis for the claim for refund (such as a claim for refund of FICA tax paid on certain fringe benefits) or concerned payments that satisfied the requirements of Revenue Ruling 90–72, the taxpayer should contact Laird MacMillan at (651) 726-1473 (not a toll-free number) for information regarding how to proceed with the appeal request for that portion of the disallowed claim. If the taxpayer does not contact the Service, the Service will take no further action on the appeal request. As stated in the disallowance letter sent to taxpayers claiming a refund, the two-year period during which the taxpayer may file suit in a United States district court or the United States Court of Federal Claims began on the date the disallowance letter was mailed by certified or registered mail. The filing of an appeal request did not suspend that time period for filing suit.

DRAFTING INFORMATION

The principal author of this announcement is Melissa L. Duce of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this announcement, contact Melissa L. Duce at (202) 317-6798 (not a toll-free number).

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 sub-

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

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

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

Abbreviations

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

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

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

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

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Internal Revenue Service

Washington, DC 20224

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INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at www.irs.gov/irb/.

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