

INTERNAL REVENUE BULLETIN



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.

SPECIAL ANNOUNCEMENT

Notice 2016–26, page 533.

The Department of Treasury and Internal Revenue Service invite public comment on recommendations for items that should be included on the 2016–2017 Priority Guidance Plan.

INCOME TAX

REG–109822–15, page 535.

These proposed regulations provide guidance on the information required to be reported for country-by-country (CbC) reporting. The proposed regulations generally require United States persons (other than individuals) that are the ultimate parent of a U.S. multinational enterprise (MNE) group earning annual revenues of \$850,000,000 or more to report certain financial information on a tax jurisdiction-by-tax jurisdiction basis. The regulations require the U.S. ultimate parent to list the U.S. MNE group's business entities indicating each entity's tax jurisdiction (if any), country of organization, tax identification number (if any), and main business activity, as well as CbC financial information for each tax jurisdiction in which the U.S. MNE does business. The CbC financial information includes income, profits, income taxes, stated capital, accumulated earnings, number of employees, and tangible assets other than cash.

Rev. Rul. 2016–06, page 519.

Interest rates: underpayment and overpayments. The rates for interest determined under section 6621 of the code for the calendar quarter beginning April 1, 2016, will be 4 percent for overpayments (3 percent in the case of a corporation), 4 percent for the underpayments, and 6 percent for large corporation underpayments. The rate of interest paid on the portion of a corporation overpayment exceeding \$10,000 will be 1.5 percent.

Bulletin No. 2016–14
April 4, 2016

Rev. Rul. 2016–09, page 530.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for April 2016.

Rev. Proc. 2016–21, page 533.

Guidance is provided to individuals who fail to meet the eligibility requirements of section 911(d)(1) of the Internal Revenue Code because adverse conditions in a foreign country preclude the individual from meeting those requirements. Revenue Procedure 2016–21 provides a country for tax year 2015 and the date that country is subject to the section 911(d)(4) waiver.

EXEMPT ORGANIZATIONS

T.D. 9746, page 515.

This document contains final regulations regarding the distribution requirement for non-functionally integrated Type III supporting organizations. The regulations reflect changes to the law made by the Pension Protection Act of 2006. The regulations will affect non-functionally integrated Type III supporting organizations and their supported organizations.

(Continued on the next page)

ADMINISTRATIVE

Announcement 2016–14, page 535.

Announcement 2016–14 informs taxpayers and practitioners that the IRS has revised Form 3115, Application for Change in Accounting Method, and its instructions. The Form 3115 (Rev. December 2015) replaces the December 2009 version. The announcement also provides a transition period and transition guidance.

Notice 2016–26, page 533.

The Department of Treasury and Internal Revenue Service invite public comment on recommendations for items that should be included on the 2016–2017 Priority Guidance Plan.

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.

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

T.D. 9746

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Payout Requirements for Type III Supporting Organizations That Are Not Functionally Integrated

AGENCY: Internal Revenue Service (IRS),
Treasury.

ACTION: Final regulations and removal
of temporary regulations.

SUMMARY: This document contains final regulations regarding the distribution requirement for non-functionally integrated Type III supporting organizations. The regulations reflect changes to the law made by the Pension Protection Act of 2006. The regulations will affect non-functionally integrated Type III supporting organizations and their supported organizations.

DATES: *Effective Date:* These regulations are effective on December 21, 2015.

FOR FURTHER INFORMATION

CONTACT: Jonathan Carter at (202) 317-4394 or Mike Repass at (202) 317-6176 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

1. Overview

This document contains amendments to the Income Tax Regulations (26 CFR part 1) regarding organizations described in section 509(a)(3) of the Internal Revenue Code (Code). An organization described in section 501(c)(3) is classified as either a private foundation or a public charity. To be classified as a public charity, an organization must be described in section 509(a)(1), (2), or (3). Organizations described in section 509(a)(3) are known as “supporting organizations.”

Supporting organizations achieve their public charity status by supporting one or more organizations described in section 509(a)(1) or (2), which in this context are referred to as “supported organizations.”

To be described in section 509(a)(3), an organization must satisfy (1) an organizational test, (2) an operational test, (3) a relationship test, and (4) a disqualified person control test. The organizational and operational tests require that a supporting organization be organized and at all times thereafter operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more supported organizations. The relationship test requires a supporting organization to establish one of three types of relationships with one or more supported organizations. Finally, the disqualified person control test requires that a supporting organization not be controlled directly or indirectly by certain disqualified persons.

Each of the described tests is a necessary requirement for an organization to establish that it qualifies as a supporting organization. These final regulations, however, focus primarily on the relationship test for supporting organizations that are “operated in connection with” their supporting organization(s), otherwise known as “Type III” supporting organizations. Specifically, the final regulations reflect statutory changes enacted by the Pension Protection Act of 2006, P.L. 109–280 (120 Stat. 780 (2006) (PPA)). Section 1241(d)(1) of the PPA directed the Secretary of the Treasury to promulgate regulations under section 509 that establish a new distribution requirement for Type III supporting organizations that are not “functionally integrated” to ensure that a “significant amount” is paid to supported organizations. For this purpose, the term “functionally integrated” means a Type III supporting organization that is not required under Treasury regulations to make payments to supported organizations because the supporting organization engages in activities that relate to performing the functions of, or carrying out the purposes of, its supported organization(s). These final regulations address the

amount that a Type III supporting organization that is not functionally integrated (a non-functionally integrated (NFI) Type III supporting organization) must annually distribute to its supported organization(s).

2. Prior Rulemaking

On August 2, 2007, the Treasury Department and the IRS published in the **Federal Register** (72 FR 42335) an advance notice of proposed rulemaking (ANPRM) (REG–155929–06) in response to the PPA. The ANPRM described proposed rules to implement the changes made by the PPA to the Type III supporting organization requirements and solicited comments regarding those proposed rules.

On September 24, 2009, the Treasury Department and the IRS published in the **Federal Register** (74 FR 48672) a notice of proposed rulemaking (the 2009 NPRM) (REG–155929–06). The 2009 NPRM contained proposed regulations (the 2009 proposed regulations) setting forth the requirements to qualify as a Type III supporting organization under the PPA.

On December 28, 2012, the Treasury Department and the IRS published in the **Federal Register** (77 FR 76382) a Treasury decision (TD 9605) containing final and temporary regulations (the 2012 TD) regarding the requirements to qualify as a Type III supporting organization. Based on the comments received, the 2012 TD made certain changes to the rules proposed in the 2009 NPRM, included in the temporary regulations significant changes to the distribution requirement, and reserved certain topics for further consideration. The 2012 TD was effective and applicable on December 28, 2012. The applicability of the temporary regulations expires on or before December 21, 2015. On December 28, 2012, the Treasury Department and the IRS also published in the **Federal Register** (77 FR 76426) a notice of proposed rulemaking (the 2012 NPRM) (REG–155929–06) that incorporated the text of the temporary regulations in the 2012 TD by cross-reference. The IRS received five comments on the 2012 NPRM. The comments were considered in devel-

oping these final regulations and are available for public inspection at www.regulations.gov or upon request. No public hearing was requested.

Under the 2012 TD, an NFI Type III supporting organization must annually distribute to or for the use of one or more supported organizations an amount equaling or exceeding the supporting organization's "distributable amount" for the taxable year. See § 1.509(a)-4(i)(5)(ii). The temporary regulations contained in the 2012 TD defined an NFI Type III supporting organization's "distributable amount" as equal to the greater of (1) 85 percent of the supporting organization's adjusted net income or (2) its "minimum asset amount," in each case for the immediately preceding taxable year. The temporary regulations defined "minimum asset amount" as 3.5 percent of the excess of the aggregate fair market value of the supporting organization's non-exempt-use assets over the acquisition indebtedness with respect to such non-exempt use assets. Additionally, the temporary regulations provided that the determination of the aggregate fair market value of an NFI Type III supporting organization's non-exempt-use assets would be made using the valuation methods generally applicable to private foundations under § 53.4942(a)-2(c). The temporary regulations also provided that, consistent with the private foundation rules, the "non-exempt use" assets of a supporting organization do not include certain investment assets described in § 53.4942(a)-2(c)(2) or assets used (or held for use) to carry out the exempt purposes of the supported organization(s) (as determined by applying the principles described in § 53.4942(a)-2(c)(3)).

After consideration of all the comments received in response to the 2012 NPRM, this Treasury decision adopts the 2012 NPRM without change, except to (1) conform the provision regarding the valuation of non-exempt-use assets to the section 4942 regulation provision that it cross-references (§ 53.4942(a)-2(c)(2)), and (2) replace references in § 1.509(a)-4 to the temporary regulations with references to these final regulations. Thus, other than the change conforming the provision in the final regulations regarding the valuation of non-exempt-use assets to the provision in the section 4942 regulations, these final regulations are the same

as the temporary regulations that have been applicable to Type III supporting organizations since December 28, 2012. Additionally, this Treasury decision removes the temporary regulations.

The Treasury Department and the IRS intend to publish a notice of proposed rulemaking for Type III supporting organizations in the near future. Among other proposals, the new proposed regulations would make one change to these final regulations. Specifically, the new proposed regulations will propose removal of the provision in these final regulations that reduces the distributable amount by the amount of taxes subtitle A of the Code imposes on a supporting organization during the immediately preceding taxable year. In addition, the new proposed regulations will propose specific rules regarding the requirements for Type III supporting organizations that support governmental supported organizations to be treated as functionally integrated Type III supporting organizations. In addition, the new proposed regulations would provide transition relief beyond the period provided in Notice 2014-4, 2014-2 IRB 274. Supporting organizations may continue to rely on the transitional rule described in Section 3.01 of Notice 2014-4 until the date that the notice of proposed rulemaking prescribing the new proposed regulations under § 1.509(a)-4(i)(4)(iv) is published in the Federal Register. In the notice of proposed rulemaking publishing the new proposed regulations, the Treasury Department and the IRS will request comments on all proposed changes.

Explanation of Provisions and Summary of Comments

This section discusses the comments received in response to the 2012 NPRM.

1. Distributable Amount

The PPA directed the promulgation of Treasury regulations requiring NFI Type III supporting organizations to make distributions of a percentage of either income or assets to their supported organizations to ensure that a significant amount is paid to those supported organizations. Under the Treasury regulations in effect when PPA was enacted, certain Type III supporting organizations were required to distribute "substantially all" of their in-

come to one or more publicly supported organizations. For this purpose, "substantially all" had the same meaning of 85 percent or more that it had in § 53.4942(b)-1(c) (defining "substantially all" for purposes of the income test for private operating foundations). See Rev. Rul. 76-208, 1976-1 C.B. 161.

The 2009 NPRM had proposed to replace the income-based distribution requirement with an asset-based distribution requirement of 5 percent of the fair market value of an organization's non-exempt-use assets. In response to comments, the 2012 NPRM instead proposed to keep the historic income-based distribution requirement, and proposed to combine it with a reduced percentage-of-assets distribution requirement. Therefore, the temporary and proposed distributable amount for NFI Type III supporting organizations was the greater of 85 percent of adjusted net income or 3.5 percent of the net fair market value of non-exempt-use assets, in each case as determined for the immediately preceding taxable year.

One commenter stated that a distribution requirement based on 3.5 percent of assets is sufficient to achieve the goals of Congress and that the distribution requirement based on 85 percent of income should be removed. The commenter stated that a distribution requirement based on income would prevent a supporting organization from smoothing its returns in high-earning years with low-earning years, and could result in organizations shifting investments away from income-producing assets toward appreciating assets to avoid erosion of an endowment even if that investment strategy results in forgoing higher returns. The commenter also said that having two tests increases administrative costs for a supporting organization by requiring it to make two calculations rather than one to determine its distributable amount, thus reducing the amount distributed for true charitable purposes. Another commenter suggested that organizations that were not previously identified as avoiding the prior substantially-all-of-income distribution requirement should be exempted from the asset-based distribution requirement because it potentially harms entities that are invested primarily in non-liquid assets.

The Treasury Department and the IRS believe that a distribution requirement equal to the greater of 85 percent of adjusted net income or 3.5 percent of the net fair market value of an organization's non-exempt-use assets strikes an appropriate balance. It ensures that NFI Type III supporting organizations distribute significant amounts to their supported organizations, as Congress directed in the PPA. Further, the 85 percent of income test will make it more likely that supported organizations will timely benefit from higher returns received by their supporting organizations. Conversely, in years with lower returns or for organizations that invest in assets that produce largely appreciation rather than income, a 3.5-percent of assets distribution requirement will apply, which is less than the 5-percent of assets distribution requirement that applies to private non-operating foundations. With respect to the suggestion that certain organizations be permitted to comply only with the income-based distribution requirement, the Treasury Department and the IRS believe it would be inequitable and administratively difficult to apply one requirement to some NFI Type III supporting organizations but another requirement to others.

Therefore, the final regulations adopt the annual distributable amount rule of the 2012 NPRM without changes.

2. Income from Distributions from Subsidiary

The 2012 NPRM provided that, for purposes of the calculation of the annual distributable amount, a supporting organization's adjusted net income would be determined using the principles of section 4942(f) and § 53.4942(a)-2(d). These provisions apply the principles of subtitle A of the Code.

One commenter requested that the definition of adjusted net income exclude dividend income resulting from a distribution of long-term capital gain property to a supporting organization by a corporate subsidiary. The commenter noted that without this exclusion, the receipt of distributed property could result in a much higher distribution requirement for that one year, but without producing any liquid

assets to satisfy the higher distribution requirement.

The 2012 NPRM provided that adjusted net income be determined by applying the principles that apply in calculating the adjusted net income of private operating foundations under sections 4942(d) and 4942(j)(3) and are generally based on long-standing principles under subtitle A of the Code. The Treasury Department and the IRS believe that the rules for calculating adjusted net income should be applied consistently for all taxpayers and do not believe that there is a justification for the rules to be altered solely for supporting organizations. Therefore, the final regulations do not adopt this comment.

3. Real Property Valuations

The 2012 NPRM provided that for purposes of determining the distributable amount for a taxable year, non-exempt-use assets would be valued using the principles generally applicable to private foundations under § 53.4942(a)-2(c). One commenter suggested allowing the use of state property tax valuations for purposes of valuing real property under § 53.4942(a)-2(c).

Section 53.4942(a)-2(c) applies the principles of regulations under section 2031, which generally apply for estate tax purposes, to the valuation of real property. Section 20.2031-1(b) provides that the value at which property is assessed for local tax purposes may be considered only if that value represents the fair market value as of the valuation date. Section 20.2031-3 further provides that if real property is leased or otherwise used in a business, special valuation rules may apply. The Treasury Department and the IRS continue to believe that the same valuation principles that apply to private foundations should apply to NFI Type III supporting organizations. Therefore, the final regulations do not adopt this comment.

Effective Date

These regulations are effective on December 21, 2015.

Statement of Availability of IRS Documents

The IRS Notice 2014-4 cited in this preamble is published in the Internal Revenue Bulletin and is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS Web site at <http://www.irs.gov>.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the temporary and proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business, and no comments were received.

Drafting Information

The principal authors of these regulations are Mike Repass and Jonathan Carter, Office of Associate Chief Counsel (Tax-Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and record-keeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.509(a)-4 is amended by:

1. Amending the second sentence of paragraph (i)(4)(ii)(C) to remove the language “§ 1.509(a)-4T(i)(8)(ii)” and adding “paragraph (i)(8)(ii) of this section” in its place.
2. Amending paragraph (i)(5)(ii)(A) to remove the language “§ 1.509(a)-4T(i)(5)(ii)(B)” and adding “paragraph (i)(5)(ii)(B) of this section” in its place.
3. Revising paragraph (i)(5)(ii)(B).
4. Revising paragraph (i)(5)(ii)(C).
5. Amending the last sentence of paragraph (i)(5)(ii)(D) to remove the language “§ 1.509(a)-4T(i)(5)(ii)(B)” and adding “paragraph (i)(5)(ii)(B) of this section” in its place.
6. Amending the first sentence of *Example 1* of paragraph (i)(5)(iii)(D) to remove the language “§ 1.509(a)-4T(i)(5)(ii)(B)” and adding “paragraph (i)(5)(ii)(B) of this section” in its place.
7. Amending the first sentence of *Example 2* of paragraph (i)(5)(iii)(D) to remove the language “§ 1.509(a)-4T(i)(5)(ii)(B)” and adding “paragraph (i)(5)(ii)(B) of this section” in its place.
8. Amending the third sentence of *Example 3* of paragraph (i)(5)(iii)(D) to remove the language “§ 1.509(a)-4T(i)(5)(ii)(B)” and adding “paragraph (i)(5)(ii)(B) of this section” in its place.
9. Amending the fourth sentence of *Example 4* of paragraph (i)(5)(iii)(D) to remove the language “§ 1.509(a)-4T(i)(5)(ii)(B)” and adding “paragraph (i)(5)(ii)(B) of this section” in its place.
10. Amending paragraph (i)(6)(iv) to remove the language “§ 1.509(a)-4T(i)(8)(ii)” and adding “paragraph (i)(8)(ii) of this section” in its place.
11. Amending paragraph (i)(7)(ii) to remove the language “§ 1.509(a)-4T(i)(5)(ii)(B)” and adding “paragraph (i)(5)(ii)(B) of this section” in its place.
12. Revising paragraph (i)(8).
13. Revising paragraph (l).

The revisions and additions read as follows:

§ 1.509(a)-4 *Supporting organizations.*

* * * * *

(i) * * *

(5) * * *

(ii) * * *

(B) *Distributable amount.* Except as provided in paragraphs (i)(5)(ii)(D) and (E) of this section, the distributable amount for a taxable year is an amount equal to the greater of 85 percent of the supporting organization’s adjusted net income (as determined by applying the principles of section 4942(f) and § 53.4942(a)-2(d) of this chapter) for the taxable year immediately preceding the taxable year of the required distribution (immediately preceding taxable year) or its minimum asset amount (as defined in paragraph (i)(5)(ii)(C) of this section) for the immediately preceding taxable year, reduced by the amount of taxes imposed on the supporting organization under subtitle A of the Internal Revenue Code during the immediately preceding taxable year.

(C) *Minimum asset amount.* For purposes of this paragraph (i)(5), a supporting organization’s minimum asset amount for the immediately preceding taxable year is 3.5 percent of the excess of the aggregate fair market value of all of the supporting organization’s non-exempt-use assets (determined under paragraph (i)(8) of this section) in that immediately preceding taxable year over the acquisition indebtedness with respect to such non-exempt-use assets (determined under section 514(c)(1) without regard to the taxable year in which the indebtedness was incurred), increased by—

(1) Amounts received or accrued during the immediately preceding taxable year as repayments of amounts which were taken into account by the organization to meet the distribution requirement imposed in this paragraph (i)(5)(ii) for any taxable year;

(2) Amounts received or accrued during the immediately preceding taxable year from the sale or other disposition of property to the extent that the acquisition of such property was taken into account by the organization to meet the distribution requirement imposed in this paragraph (i)(5)(ii) for any taxable year; and

(3) Any amount set aside under paragraph (i)(6)(v) of this section to the extent it is determined during the immediately preceding taxable year that such amount is not necessary for the purposes for which it was set aside and such amount was taken into account by the organization to meet

the distribution requirement imposed in this paragraph (i)(5)(ii) for any taxable year.

* * * * *

(8) *Valuation of non-exempt-use assets.* For purposes of determining its distributable amount for a taxable year, a supporting organization determines its minimum asset amount, as defined in paragraph (i)(5)(ii)(C) of this section, by determining the aggregate fair market value of all of its non-exempt-use assets in the immediately preceding taxable year. For these purposes, the determination of the aggregate fair market value of all non-exempt-use assets shall be made using the valuation methods described in § 53.4942(a)-2(c) of this chapter. The aggregate fair market value of the supporting organization’s non-exempt-use assets shall not be reduced by any amount that is set aside under paragraph (i)(6)(v) of this section. For these purposes, the non-exempt use assets of the supporting organization are all assets of the supporting organization other than—

(i) Assets described in § 53.4942(a)-2(c)(2)(i) through (iv) of this chapter (with the term “supporting organization” being substituted for “foundation” or “private foundation” and the date “August 17, 2006” being substituted for “December 31, 1969”); and

(ii) Exempt-use assets, which are assets that are used (or held for use) directly in carrying out the exempt purposes of the supporting organization’s supported organization(s) (determined by applying the principles described in § 53.4942(a)-2(c)(3) of this chapter) by either—

(A) The supporting organization; or

(B) One or more supported organizations, but only if the supporting organization makes the asset available to the supported organization(s) at no cost (or nominal rent) to the supported organization(s).

* * * * *

(l) *Effective/applicability dates.* Paragraphs (a)(6), (f)(5), (i)(1) through (i)(4)(ii)(B), (i)(4)(ii)(D) through (i)(5)(i), (i)(5)(ii)(E) through (i)(5)(iii)(C), (i)(6)(i) through (iii), (i)(6)(v) through (i)(7)(i), and (i)(9) through (11) of this section are applicable on December 28, 2012. Paragraphs (i)(4)(ii)(C), (i)(5)(ii)(A) through (i)(5)(ii)(D), (i)(5)(iii)(D), (i)(6)(iv),

(i)(7)(ii) and (i)(8) of this section are applicable on December 21, 2015. See paragraphs (i)(5)(ii)(B), (i)(5)(ii)(C), and (i)(8) of § 1.509(a)-4T contained in 26 CFR part 1, revised as of April 1, 2015, for certain rules regarding non-functionally integrated Type III supporting organizations effective before December 21, 2015.

* * * * *

Section 1.509(a)-4T [Removed].

Par. 3. Section 1.509(a)-4T is removed.

John Dalrymple
*Deputy Commissioner for
Services and Enforcement.*

Approved: December 14, 2015.

Mark J. Mazur
*Assistant Secretary of the
Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on December 21, 2015, 4:15 p.m., and published in the issue of the Federal Register for December 23, 2015, 80 F.R. 79684)

**Section 6621.—
Determination of Rate of
Interest**

26 CFR 301.6621-1: Interest rate.

Rev. Rul. 2016-06

Rev. Rul. 2016-06

Section 6621 of the Internal Revenue Code establishes the interest rates on overpayments and underpayments of tax. Under section 6621(a)(1), the overpayment rate is the sum of the federal short-term rate plus 3 percentage points (2 percentage points in the case of a corporation), except the rate for the portion of a corporate overpayment of tax exceeding \$10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point. Under section

6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under section 6601 on any large corporate underpayment, the underpayment rate under section 6621(a)(2) is determined by substituting “5 percentage points” for “3 percentage points.”

See section 6621(c) and section 301.6621-3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable date. Section 6621(c) and section 301.6621-3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal short-term rate for the first month in each calendar quarter. Section 6621(b)(2)(A) provides that the federal short-term rate determined under section 6621(b)(1) for any month applies during the first calendar quarter beginning after that month. Section 6621(b)(2)(B) provides that in determining the addition to tax under section 6654 for failure to pay estimated tax for any taxable year, the federal short-term rate that applies during the third month following the taxable year also applies during the first 15 days of the 4th month following the taxable year. Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during that month by the Secretary in accordance with section 1274(d), rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, the rate is increased to the next highest full percent).

Notice 88-59, 1988-1 C.B. 546, announced that in determining the quarterly interest rates to be used for overpayments and underpayments of tax under section 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with section 6621 which,

pursuant to section 6622, is subject to daily compounding.

The federal short-term rate determined in accordance with section 1274(d) during January 2016 is the rate published in Revenue Ruling 2016-4, 2016-6 IRB 299 to take effect beginning February 1, 2016. The federal short-term rate, rounded to the nearest full percent, based on daily compounding determined during the month of April 2016 is 1 percent. Accordingly, an overpayment rate of 4 percent (3 percent in the case of a corporation) and an underpayment rate of 4 percent are established for the calendar quarter beginning April 1, 2016. The overpayment rate for the portion of a corporate overpayment exceeding \$10,000 for the calendar quarter beginning April 1, 2016 is 1.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning April 1, 2016, is 6 percent. These rates apply to amounts bearing interest during that calendar quarter.

Under section 6621(b)(2)(B), the 3 percent rate that applies to estimated tax underpayments for the first calendar quarter in 2016, as provided in Rev. Rul. 2015-23, 2015-52 I.R.B., dated Dec. 28, 2015, also applies to such underpayments for the first 15 days in April 2016.

Interest factors for daily compound interest for annual rates of 1.5 percent, 3 percent, 4 percent and 6 percent are published in Tables 56, 59, 61, and 65 of Rev. Proc. 95-17, 1995-1 C.B. 610, 613, 615, and 619.

Annual interest rates to be compounded daily pursuant to section 6622 that apply for prior periods are set forth in the tables accompanying this revenue ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Deborah Colbert-James of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue ruling, contact Ms. Colbert-James at (202) 317-3400 (not a toll-free number).

TABLE OF INTEREST RATES
PERIODS BEFORE JUL. 1, 1975 — PERIODS ENDING DEC. 31, 1986
OVERPAYMENTS AND UNDERPAYMENTS

PERIOD	RATE	In 1995-1 C.B. DAILY RATE TABLE
Before Jul. 1, 1975	6%	Table 2, pg. 557
Jul. 1, 1975—Jan. 31, 1976	9%	Table 4, pg. 559
Feb. 1, 1976—Jan. 31, 1978	7%	Table 3, pg. 558
Feb. 1, 1978—Jan. 31, 1980	6%	Table 2, pg. 557
Feb. 1, 1980—Jan. 31, 1982	12%	Table 5, pg. 560
Feb. 1, 1982—Dec. 31, 1982	20%	Table 6, pg. 560
Jan. 1, 1983—Jun. 30, 1983	16%	Table 37, pg. 591
Jul. 1, 1983—Dec. 31, 1983	11%	Table 27, pg. 581
Jan. 1, 1984—Jun. 30, 1984	11%	Table 75, pg. 629
Jul. 1, 1984—Dec. 31, 1984	11%	Table 75, pg. 629
Jan. 1, 1985—Jun. 30, 1985	13%	Table 31, pg. 585
Jul. 1, 1985—Dec. 31, 1985	11%	Table 27, pg. 581
Jan. 1, 1986—Jun. 30, 1986	10%	Table 25, pg. 579
Jul. 1, 1986—Dec. 31, 1986	9%	Table 23, pg. 577

TABLE OF INTEREST RATES
FROM JAN. 1, 1987 — DEC. 31, 1998

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995-1 C.B. TABLE	PG	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1987—Mar. 31, 1987	8%	21	575	9%	23	577
Apr. 1, 1987—Jun. 30, 1987	8%	21	575	9%	23	577
Jul. 1, 1987—Sep. 30, 1987	8%	21	575	9%	23	577
Oct. 1, 1987—Dec. 31, 1987	9%	23	577	10%	25	579
Jan. 1, 1988—Mar. 31, 1988	10%	73	627	11%	75	629
Apr. 1, 1988—Jun. 30, 1988	9%	71	625	10%	73	627
Jul. 1, 1988—Sep. 30, 1988	9%	71	625	10%	73	627
Oct. 1, 1988—Dec. 31, 1988	10%	73	627	11%	75	629
Jan. 1, 1989—Mar. 31, 1989	10%	25	579	11%	27	581
Apr. 1, 1989—Jun. 30, 1989	11%	27	581	12%	29	583
Jul. 1, 1989—Sep. 30, 1989	11%	27	581	12%	29	583
Oct. 1, 1989—Dec. 31, 1989	10%	25	579	11%	27	581
Jan. 1, 1990—Mar. 31, 1990	10%	25	579	11%	27	581
Apr. 1, 1990—Jun. 30, 1990	10%	25	579	11%	27	581
Jul. 1, 1990—Sep. 30, 1990	10%	25	579	11%	27	581
Oct. 1, 1990—Dec. 31, 1990	10%	25	579	11%	27	581
Jan. 1, 1991—Mar. 31, 1991	10%	25	579	11%	27	581
Apr. 1, 1991—Jun. 30, 1991	9%	23	577	10%	25	579
Jul. 1, 1991—Sep. 30, 1991	9%	23	577	10%	25	579
Oct. 1, 1991—Dec. 31, 1991	9%	23	577	10%	25	579
Jan. 1, 1992—Mar. 31, 1992	8%	69	623	9%	71	625
Apr. 1, 1992—Jun. 30, 1992	7%	67	621	8%	69	623

TABLE OF INTEREST RATES
FROM JAN. 1, 1987 — DEC. 31, 1998

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995-1 C.B. TABLE	PG	RATE	1995-1 C.B. TABLE	PG
Jul. 1, 1992—Sep. 30, 1992	7%	67	621	8%	69	623
Oct. 1, 1992—Dec. 31, 1992	6%	65	619	7%	67	621
Jan. 1, 1993—Mar. 31, 1993	6%	17	571	7%	19	573
Apr. 1, 1993—Jun. 30, 1993	6%	17	571	7%	19	573
Jul. 1, 1993—Sep. 30, 1993	6%	17	571	7%	19	573
Oct. 1, 1993—Dec. 31, 1993	6%	17	571	7%	19	573
Jan. 1, 1994—Mar. 31, 1994	6%	17	571	7%	19	573
Apr. 1, 1994—Jun. 30, 1994	6%	17	571	7%	19	573
Jul. 1, 1994—Sep. 30, 1994	7%	19	573	8%	21	575
Oct. 1, 1994—Dec. 31, 1994	8%	21	575	9%	23	577
Jan. 1, 1995—Mar. 31, 1995	8%	21	575	9%	23	577
Apr. 1, 1995—Jun. 30, 1995	9%	23	577	10%	25	579
Jul. 1, 1995—Sep. 30, 1995	8%	21	575	9%	23	577
Oct. 1, 1995—Dec. 31, 1995	8%	21	575	9%	23	577
Jan. 1, 1996—Mar. 31, 1996	8%	69	623	9%	71	625
Apr. 1, 1996—Jun. 30, 1996	7%	67	621	8%	69	623
Jul. 1, 1996—Sep. 30, 1996	8%	69	623	9%	71	625
Oct. 1, 1996—Dec. 31, 1996	8%	69	623	9%	71	625
Jan. 1, 1997—Mar. 31, 1997	8%	21	575	9%	23	577
Apr. 1, 1997—Jun. 30, 1997	8%	21	575	9%	23	577
Jul. 1, 1997—Sep. 30, 1997	8%	21	575	9%	23	577
Oct. 1, 1997—Dec. 31, 1997	8%	21	575	9%	23	577
Jan. 1, 1998—Mar. 31, 1998	8%	21	575	9%	23	577
Apr. 1, 1998—Jun. 30, 1998	7%	19	573	8%	21	575
Jul. 1, 1998—Sep. 30, 1998	7%	19	573	8%	21	575
Oct. 1, 1998—Dec. 31, 1998	7%	19	573	8%	21	575

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT

NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	RATE	1995-1 C.B. TABLE	PAGE
Jan. 1, 1999—Mar. 31, 1999	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	9%	23	577

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT
NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	RATE	1995-1 C.B. TABLE	PAGE
Apr. 1, 2001—Jun. 30, 2001	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	6%	17	571
Apr. 1, 2002—Jun. 30, 2002	6%	17	571
Jul. 1, 2002—Sep. 30, 2002	6%	17	571
Oct. 1, 2002—Dec. 31, 2002	6%	17	571
Jan. 1, 2003—Mar. 31, 2003	5%	15	569
Apr. 1, 2003—Jun. 30, 2003	5%	15	569
Jul. 1, 2003—Sep. 30, 2003	5%	15	569
Oct. 1, 2003—Dec. 31, 2003	4%	13	567
Jan. 1, 2004—Mar. 31, 2004	4%	61	615
Apr. 1, 2004—Jun. 30, 2004	5%	63	617
Jul. 1, 2004—Sep. 30, 2004	4%	61	615
Oct. 1, 2004—Dec. 31, 2004	5%	63	617
Jan. 1, 2005—Mar. 31, 2005	5%	15	569
Apr. 1, 2005—Jun. 30, 2005	6%	17	571
Jul. 1, 2005—Sep. 30, 2005	6%	17	571
Oct. 1, 2005—Dec. 31, 2005	7%	19	573
Jan. 1, 2006—Mar. 31, 2006	7%	19	573
Apr. 1, 2006—Jun. 30, 2006	7%	19	573
Jul. 1, 2006—Sep. 30, 2006	8%	21	575
Oct. 1, 2006—Dec. 31, 2006	8%	21	575
Jan. 1, 2007—Mar. 31, 2007	8%	21	575
Apr. 1, 2007—Jun. 30, 2007	8%	21	575
Jul. 1, 2007—Sep. 30, 2007	8%	21	575
Oct. 1, 2007—Dec. 31, 2007	8%	21	575
Jan. 1, 2008—Mar. 31, 2008	7%	67	621
Apr. 1, 2008—Jun. 30, 2008	6%	65	619
Jul. 1, 2008—Sep. 30, 2008	5%	63	617
Oct. 1, 2008—Dec. 31, 2008	6%	65	619
Jan. 1, 2009—Mar. 31, 2009	5%	15	569
Apr. 1, 2009—Jun. 30, 2009	4%	13	567
Jul. 1, 2009—Sep. 30, 2009	4%	13	567
Oct. 1, 2009—Dec. 31, 2009	4%	13	567
Jan. 1, 2010—Mar. 31, 2010	4%	13	567
Apr. 1, 2010—Jun. 30, 2010	4%	13	567
Jul. 1, 2010—Sep. 30, 2010	4%	13	567
Oct. 1, 2010—Dec. 31, 2010	4%	13	567
Jan. 1, 2011—Mar. 31, 2011	3%	11	565
Apr. 1, 2011—Jun. 30, 2011	4%	13	567
Jul. 1, 2011—Sep. 30, 2011	4%	13	567

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT
NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	RATE	1995-1 C.B. TABLE	PAGE
Oct. 1, 2011—Dec. 31, 2011	3%	11	565
Jan. 1, 2012—Mar. 31, 2012	3%	59	613
Apr. 1, 2012—Jun. 30, 2012	3%	59	613
Jul. 1, 2012—Sep. 30, 2012	3%	59	613
Oct. 1, 2012—Dec. 31, 2012	3%	59	613
Jan. 1, 2013—Mar. 31, 2013	3%	11	565
Apr. 1, 2013—Jun. 30, 2013	3%	11	565
Jul. 1, 2013—Sep. 30, 2013	3%	11	565
Oct. 1, 2013—Dec. 31, 2013	3%	11	565
Jan. 1, 2014—Mar. 31, 2014	3%	11	565
Apr. 1, 2014—Jun. 30, 2014	3%	11	565
Jul. 1, 2014—Sep. 30, 2014	3%	11	565
Oct. 1, 2014—Dec. 31, 2014	3%	11	565
Jan. 1, 2015—Mar. 31, 2015	3%	11	565
Apr. 1, 2015—Jun. 30, 2015	3%	11	565
Jul. 1, 2015—Sep. 30, 2015	3%	11	565
Oct. 1, 2015—Dec. 31, 2015	3%	11	565
Jan. 1, 2016—Mar. 31, 2016	3%	59	613
Apr. 1, 2016—Jun. 30, 2016	4%	61	615

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995-1 C.B. TABLE	PG	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1999—Mar. 31, 1999	6%	17	571	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	7%	19	573	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	7%	19	573	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	7%	19	573	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	7%	67	621	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	8%	69	623	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	8%	69	623	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	8%	69	623	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	8%	21	575	9%	23	577
Apr. 1, 2001—Jun. 30, 2001	7%	19	573	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	6%	17	571	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	6%	17	571	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	5%	15	569	6%	17	571
Apr. 1, 2002—Jun. 30, 2002	5%	15	569	6%	17	571
Jul. 1, 2002—Sep. 30, 2002	5%	15	569	6%	17	571

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995-1 C.B. TABLE	PG	RATE	1995-1 C.B. TABLE	PG
Oct. 1, 2002—Dec. 31, 2002	5%	15	569	6%	17	571
Jan. 1, 2003—Mar. 31, 2003	4%	13	567	5%	15	569
Apr. 1, 2003—Jun. 30, 2003	4%	13	567	5%	15	569
Jul. 1, 2003—Sep. 30, 2003	4%	13	567	5%	15	569
Oct. 1, 2003—Dec. 31, 2003	3%	11	565	4%	13	567
Jan. 1, 2004—Mar. 31, 2004	3%	59	613	4%	61	615
Apr. 1, 2004—Jun. 30, 2004	4%	61	615	5%	63	617
Jul. 1, 2004—Sep. 30, 2004	3%	59	613	4%	61	615
Oct. 1, 2004—Dec. 31, 2004	4%	61	615	5%	63	617
Jan. 1, 2005—Mar. 31, 2005	4%	13	567	5%	15	569
Apr. 1, 2005—Jun. 30, 2005	5%	15	569	6%	17	571
Jul. 1, 2005—Sep. 30, 2005	5%	15	569	6%	17	571
Oct. 1, 2005—Dec. 31, 2005	6%	17	571	7%	19	573
Jan. 1, 2006—Mar. 31, 2006	6%	17	571	7%	19	573
Apr. 1, 2006—Jun. 30, 2006	6%	17	571	7%	19	573
Jul. 1, 2006—Sep. 30, 2006	7%	19	573	8%	21	575
Oct. 1, 2006—Dec. 31, 2006	7%	19	573	8%	21	575
Jan. 1, 2007—Mar. 31, 2007	7%	19	573	8%	21	575
Apr. 1, 2007—Jun. 30, 2007	7%	19	573	8%	21	575
Jul. 1, 2007—Sep. 30, 2007	7%	19	573	8%	21	575
Oct. 1, 2007—Dec. 31, 2007	7%	19	573	8%	21	575
Jan. 1, 2008—Mar. 31, 2008	6%	65	619	7%	67	621
Apr. 1, 2008—Jun. 30, 2008	5%	63	617	6%	65	619
Jul. 1, 2008—Sep. 30, 2008	4%	61	615	5%	63	617
Oct. 1, 2008—Dec. 31, 2008	5%	63	617	6%	65	619
Jan. 1, 2009—Mar. 31, 2009	4%	13	567	5%	15	569
Apr. 1, 2009—Jun. 30, 2009	3%	11	565	4%	13	567
Jul. 1, 2009—Sep. 30, 2009	3%	11	565	4%	13	567
Oct. 1, 2009—Dec. 31, 2009	3%	11	565	4%	13	567
Jan. 1, 2010—Mar. 31, 2010	3%	11	565	4%	13	567
Apr. 1, 2010—Jun. 30, 2010	3%	11	565	4%	13	567
Jul. 1, 2010—Sep. 30, 2010	3%	11	565	4%	13	567
Oct. 1, 2010—Dec. 31, 2010	3%	11	565	4%	13	567
Jan. 1, 2011—Mar. 31, 2011	2%	9	563	3%	11	565
Apr. 1, 2011—Jun. 30, 2011	3%	11	565	4%	13	567
Jul. 1, 2011—Sep. 30, 2011	3%	11	565	4%	13	567
Oct. 1, 2011—Dec. 31, 2011	2%	9	563	3%	11	565
Jan. 1, 2012—Mar. 31, 2012	2%	57	611	3%	59	613
Apr. 1, 2012—Jun. 30, 2012	2%	57	611	3%	59	613
Jul. 1, 2012—Sep. 30, 2012	2%	57	611	3%	59	613
Oct. 1, 2012—Dec. 31, 2012	2%	57	611	3%	59	613

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995-1 C.B. TABLE	PG	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 2013—Mar. 31, 2013	2%	9	563	3%	11	565
Apr. 1, 2013—Jun. 30, 2013	2%	9	563	3%	11	565
Jul. 1, 2013—Sep. 30, 2013	2%	9	563	3%	11	565
Oct. 1, 2013—Dec. 31, 2013	2%	9	563	3%	11	565
Jan. 1, 2014—Mar. 31, 2014	2%	9	563	3%	11	565
Apr. 1, 2014—Jun. 30, 2014	2%	9	563	3%	11	565
Jul. 1, 2014—Sep. 30, 2014	2%	9	563	3%	11	565
Oct. 1, 2014—Dec. 31, 2014	2%	9	563	3%	11	565
Jan. 1, 2015—Mar. 31, 2015	2%	9	563	3%	11	565
Apr. 1, 2015—Jun. 30, 2015	2%	9	563	3%	11	565
Jul. 1, 2015—Sep. 30, 2015	2%	9	563	3%	11	565
Oct. 1, 2015—Dec. 31, 2015	2%	9	563	3%	11	565
Jan. 1, 2016—Mar. 31, 2016	2%	57	611	3%	59	613
Apr. 1, 2016—Jun. 30, 2016	3%	59	613	4%	61	615

TABLE OF INTEREST RATES FOR LARGE CORPORATE UNDERPAYMENTS
FROM JANUARY 1, 1991 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1991—Mar. 31, 1991	13%	31	585
Apr. 1, 1991—Jun. 30, 1991	12%	29	583
Jul. 1, 1991—Sep. 30, 1991	12%	29	583
Oct. 1, 1991—Dec. 31, 1991	12%	29	583
Jan. 1, 1992—Mar. 31, 1992	11%	75	629
Apr. 1, 1992—Jun. 30, 1992	10%	73	627
Jul. 1, 1992—Sep. 30, 1992	10%	73	627
Oct. 1, 1992—Dec. 31, 1992	9%	71	625
Jan. 1, 1993—Mar. 31, 1993	9%	23	577
Apr. 1, 1993—Jun. 30, 1993	9%	23	577
Jul. 1, 1993—Sep. 30, 1993	9%	23	577
Oct. 1, 1993—Dec. 31, 1993	9%	23	577
Jan. 1, 1994—Mar. 31, 1994	9%	23	577
Apr. 1, 1994—Jun. 30, 1994	9%	23	577
Jul. 1, 1994—Sep. 30, 1994	10%	25	579
Oct. 1, 1994—Dec. 31, 1994	11%	27	581
Jan. 1, 1995—Mar. 31, 1995	11%	27	581
Apr. 1, 1995—Jun. 30, 1995	12%	29	583
Jul. 1, 1995—Sep. 30, 1995	11%	27	581
Oct. 1, 1995—Dec. 31, 1995	11%	27	581
Jan. 1, 1996—Mar. 31, 1996	11%	75	629

TABLE OF INTEREST RATES FOR LARGE CORPORATE UNDERPAYMENTS
FROM JANUARY 1, 1991 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Apr. 1, 1996—Jun. 30, 1996	10%	73	627
Jul. 1, 1996—Sep. 30, 1996	11%	75	629
Oct. 1, 1996—Dec. 31, 1996	11%	75	629
Jan. 1, 1997—Mar. 31, 1997	11%	27	581
Apr. 1, 1997—Jun. 30, 1997	11%	27	581
Jul. 1, 1997—Sep. 30, 1997	11%	27	581
Oct. 1, 1997—Dec. 31, 1997	11%	27	581
Jan. 1, 1998—Mar. 31, 1998	11%	27	581
Apr. 1, 1998—Jun. 30, 1998	10%	25	579
Jul. 1, 1998—Sep. 30, 1998	10%	25	579
Oct. 1, 1998—Dec. 31, 1998	10%	25	579
Jan. 1, 1999—Mar. 31, 1999	9%	23	577
Apr. 1, 1999—Jun. 30, 1999	10%	25	579
Jul. 1, 1999—Sep. 30, 1999	10%	25	579
Oct. 1, 1999—Dec. 31, 1999	10%	25	579
Jan. 1, 2000—Mar. 31, 2000	10%	73	627
Apr. 1, 2000—Jun. 30, 2000	11%	75	629
Jul. 1, 2000—Sep. 30, 2000	11%	75	629
Oct. 1, 2000—Dec. 31, 2000	11%	75	629
Jan. 1, 2001—Mar. 31, 2001	11%	27	581
Apr. 1, 2001—Jun. 30, 2001	10%	25	579
Jul. 1, 2001—Sep. 30, 2001	9%	23	577
Oct. 1, 2001—Dec. 31, 2001	9%	23	577
Jan. 1, 2002—Mar. 31, 2002	8%	21	575
Apr. 1, 2002—Jun. 30, 2002	8%	21	575
Jul. 1, 2002—Sep. 30, 2002	8%	21	575
Oct. 1, 2002—Dec. 31, 2002	8%	21	575
Jan. 1, 2003—Mar. 31, 2003	7%	19	573
Apr. 1, 2003—Jun. 30, 2003	7%	19	573
Jul. 1, 2003—Sep. 30, 2003	7%	19	573
Oct. 1, 2003—Dec. 31, 2003	6%	17	571
Jan. 1, 2004—Mar. 31, 2004	6%	65	619
Apr. 1, 2004—Jun. 30, 2004	7%	67	621
Jul. 1, 2004—Sep. 30, 2004	6%	65	619
Oct. 1, 2004—Dec. 31, 2004	7%	67	621
Jan. 1, 2005—Mar. 31, 2005	7%	19	573
Apr. 1, 2005—Jun. 30, 2005	8%	21	575
Jul. 1, 2005—Sep. 30, 2005	8%	21	575
Oct. 1, 2005—Dec. 31, 2005	9%	23	577
Jan. 1, 2006—Mar. 31, 2006	9%	23	577
Apr. 1, 2006—Jun. 30, 2006	9%	23	577
Jul. 1, 2006—Sep. 30, 2006	10%	25	579
Oct. 1, 2006—Dec. 31, 2006	10%	25	579
Jan. 1, 2007—Mar. 31, 2007	10%	25	579

TABLE OF INTEREST RATES FOR LARGE CORPORATE UNDERPAYMENTS
FROM JANUARY 1, 1991 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Apr. 1, 2007—Jun. 30, 2007	10%	25	579
Jul. 1, 2007—Sep. 30, 2007	10%	25	579
Oct. 1, 2007—Dec. 31, 2007	10%	25	579
Jan. 1, 2008—Mar. 31, 2008	9%	71	625
Apr. 1, 2008—Jun. 30, 2008	8%	69	623
Jul. 1, 2008—Sep. 30, 2008	7%	67	621
Oct. 1, 2008—Dec. 31, 2008	8%	69	623
Jan. 1, 2009—Mar. 31, 2009	7%	19	573
Apr. 1, 2009—Jun. 30, 2009	6%	17	571
Jul. 1, 2009—Sep. 30, 2009	6%	17	571
Oct. 1, 2009—Dec. 31, 2009	6%	17	571
Jan. 1, 2010—Mar. 31, 2010	6%	17	571
Apr. 1, 2010—Jun. 30, 2010	6%	17	571
Jul. 1, 2010—Sep. 30, 2010	6%	17	571
Oct. 1, 2010—Dec. 31, 2010	6%	17	571
Jan. 1, 2011—Mar. 31, 2011	5%	15	569
Apr. 1, 2011—Jun. 30, 2011	6%	17	571
Jul. 1, 2011—Sep. 30, 2011	6%	17	571
Oct. 1, 2011—Dec. 31, 2011	5%	15	569
Jan. 1, 2012—Mar. 31, 2012	5%	63	617
Apr. 1, 2012—Jun. 30, 2012	5%	63	617
Jul. 1, 2012—Sep. 30, 2012	5%	63	617
Oct. 1, 2012—Dec. 31, 2012	5%	63	617
Jan. 1, 2013—Mar. 31, 2013	5%	15	569
Apr. 1, 2013—Jun. 30, 2013	5%	15	569
Jul. 1, 2013—Sep. 30, 2013	5%	15	569
Oct. 1, 2013—Dec. 31, 2013	5%	15	569
Jan. 1, 2014—Mar. 31, 2014	5%	15	569
Apr. 1, 2014—Jun. 30, 2014	5%	15	569
Jul. 1, 2014—Sep. 30, 2014	5%	15	569
Oct. 1, 2014—Dec. 31, 2014	5%	15	569
Jan. 1, 2015—Mar. 31, 2015	5%	15	569
Apr. 1, 2015—Jun. 30, 2015	5%	15	569
Jul. 1, 2015—Sep. 30, 2015	5%	15	569
Oct. 1, 2015—Dec. 31, 2015	5%	15	569
Jan. 1, 2016—Mar. 31, 2016	5%	63	617
Apr. 1, 2016—Jun. 30, 2016	6%	65	619

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING \$10,000
FROM JANUARY 1, 1995 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1995—Mar. 31, 1995	6.5%	18	572
Apr. 1, 1995—Jun. 30, 1995	7.5%	20	574
Jul. 1, 1995—Sep. 30, 1995	6.5%	18	572
Oct. 1, 1995—Dec. 31, 1995	6.5%	18	572
Jan. 1, 1996—Mar. 31, 1996	6.5%	66	620
Apr. 1, 1996—Jun. 30, 1996	5.5%	64	618
Jul. 1, 1996—Sep. 30, 1996	6.5%	66	620
Oct. 1, 1996—Dec. 31, 1996	6.5%	66	620
Jan. 1, 1997—Mar. 31, 1997	6.5%	18	572
Apr. 1, 1997—Jun. 30, 1997	6.5%	18	572
Jul. 1, 1997—Sep. 30, 1997	6.5%	18	572
Oct. 1, 1997—Dec. 31, 1997	6.5%	18	572
Jan. 1, 1998—Mar. 31, 1998	6.5%	18	572
Apr. 1, 1998—Jun. 30, 1998	5.5%	16	570
Jul. 1, 1998—Sep. 30, 1998	5.5%	16	570
Oct. 1, 1998—Dec. 31, 1998	5.5%	16	570
Jan. 1, 1999—Mar. 31, 1999	4.5%	14	568
Apr. 1, 1999—Jun. 30, 1999	5.5%	16	570
Jul. 1, 1999—Sep. 30, 1999	5.5%	16	570
Oct. 1, 1999—Dec. 31, 1999	5.5%	16	570
Jan. 1, 2000—Mar. 31, 2000	5.5%	64	618
Apr. 1, 2000—Jun. 30, 2000	6.5%	66	620
Jul. 1, 2000—Sep. 30, 2000	6.5%	66	620
Oct. 1, 2000—Dec. 31, 2000	6.5%	66	620
Jan. 1, 2001—Mar. 31, 2001	6.5%	18	572
Apr. 1, 2001—Jun. 30, 2001	5.5%	16	570
Jul. 1, 2001—Sep. 30, 2001	4.5%	14	568
Oct. 1, 2001—Dec. 31, 2001	4.5%	14	568
Jan. 1, 2002—Mar. 31, 2002	3.5%	12	566
Apr. 1, 2002—Jun. 30, 2002	3.5%	12	566
Jul. 1, 2002—Sep. 30, 2002	3.5%	12	566
Oct. 1, 2002—Dec. 31, 2002	3.5%	12	566
Jan. 1, 2003—Mar. 31, 2003	2.5%	10	564
Apr. 1, 2003—Jun. 30, 2003	2.5%	10	564
Jul. 1, 2003—Sep. 30, 2003	2.5%	10	564
Oct. 1, 2003—Dec. 31, 2003	1.5%	8	562
Jan. 1, 2004—Mar. 31, 2004	1.5%	56	610
Apr. 1, 2004—Jun. 30, 2004	2.5%	58	612
Jul. 1, 2004—Sep. 30, 2004	1.5%	56	610
Oct. 1, 2004—Dec. 31, 2004	2.5%	58	612
Jan. 1, 2005—Mar. 31, 2005	2.5%	10	564
Apr. 1, 2005—Jun. 30, 2005	3.5%	12	566
Jul. 1, 2005—Sep. 30, 2005	3.5%	12	566

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING \$10,000
FROM JANUARY 1, 1995 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Oct. 1, 2005—Dec. 31, 2005	4.5%	14	568
Jan. 1, 2006—Mar. 31, 2006	4.5%	14	568
Apr. 1, 2006—Jun. 30, 2006	4.5%	14	568
Jul. 1, 2006—Sep. 30, 2006	5.5%	16	570
Oct. 1, 2006—Dec. 31, 2006	5.5%	16	570
Jan. 1, 2007—Mar. 31, 2007	5.5%	16	570
Apr. 1, 2007—Jun. 30, 2007	5.5%	16	570
Jul. 1, 2007—Sep. 30, 2007	5.5%	16	570
Oct. 1, 2007—Dec. 31, 2007	5.5%	16	570
Jan. 1, 2008—Mar. 31, 2008	4.5%	62	616
Apr. 1, 2008—Jun. 30, 2008	3.5%	60	614
Jul. 1, 2008—Sep. 30, 2008	2.5%	58	612
Oct. 1, 2008—Dec. 31, 2008	3.5%	60	614
Jan. 1, 2009—Mar. 31, 2009	2.5%	10	564
Apr. 1, 2009—Jun. 30, 2009	1.5%	8	562
Jul. 1, 2009—Sep. 30, 2009	1.5%	8	562
Oct. 1, 2009—Dec. 31, 2009	1.5%	8	562
Jan. 1, 2010—Mar. 31, 2010	1.5%	8	562
Apr. 1, 2010—Jun. 30, 2010	1.5%	8	562
Jul. 1, 2010—Sep. 30, 2010	1.5%	8	562
Oct. 1, 2010—Dec. 31, 2010	1.5%	8	562
Jan. 1, 2011—Mar. 31, 2011	0.5%*		
Apr. 1, 2011—Jun. 30, 2011	1.5%	8	562
Jul. 1, 2011—Sep. 30, 2011	1.5%	8	562
Oct. 1, 2011—Dec. 31, 2011	0.5%*		
Jan. 1, 2012—Mar. 31, 2012	0.5%*		
Apr. 1, 2012—Jun. 30, 2012	0.5%*		
Jul. 1, 2012—Sep. 30, 2012	0.5%*		
Oct. 1, 2012—Dec. 31, 2012	0.5%*		
Jan. 1, 2013—Mar. 31, 2013	0.5%*		
Apr. 1, 2013—Jun. 30, 2013	0.5%*		
Jul. 1, 2013—Sep. 30, 2013	0.5%*		
Oct. 1, 2013—Dec. 31, 2013	0.5%*		
Jan. 1, 2014—Mar. 31, 2014	0.5%*		
Apr. 1, 2014—Jun. 30, 2014	0.5%*		
Jul. 1, 2014—Sep. 30, 2014	0.5%*		
Oct. 1, 2014—Dec. 31, 2014	0.5%*		
Jan. 1, 2015—Mar. 31, 2015	0.5%*		
Apr. 1, 2015—Jun. 30, 2015	0.5%*		
Jul. 1, 2015—Sep. 30, 2015	0.5%*		
Oct. 1, 2015—Dec. 31, 2015	0.5%*		

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING \$10,000
FROM JANUARY 1, 1995 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 2016—Mar. 31, 2016	0.5%*		
Apr. 1, 2016—Jun. 30, 2016	1.5%		

* The asterisk reflects the interest factors for daily compound interest for annual rates of 0.5 percent, which are published in Appendix A of Rev. Rul. 2015-23, 2015-52 I.R.B., dated Dec. 28, 2015.

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

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

Rev. Rul. 2016-09

This revenue ruling provides various prescribed rates for federal income tax

purposes for April 2016 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate

percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2016-09 TABLE 1
Applicable Federal Rates (AFR) for April 2016

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
	<i>Short-term</i>			
AFR	.70%	.70%	.70%	.70%
110% AFR	.77%	.77%	.77%	.77%
120% AFR	.84%	.84%	.84%	.84%
130% AFR	.91%	.91%	.91%	.91%
	<i>Mid-term</i>			
AFR	1.45%	1.44%	1.44%	1.44%
110% AFR	1.59%	1.58%	1.58%	1.57%
120% AFR	1.74%	1.73%	1.73%	1.72%
130% AFR	1.88%	1.87%	1.87%	1.86%
150% AFR	2.17%	2.16%	2.15%	2.15%
175% AFR	2.54%	2.52%	2.51%	2.51%
	<i>Long-term</i>			
AFR	2.25%	2.24%	2.23%	2.23%
110% AFR	2.48%	2.46%	2.45%	2.45%
120% AFR	2.71%	2.69%	2.68%	2.68%
130% AFR	2.93%	2.91%	2.90%	2.89%

REV. RUL. 2016-09 TABLE 2

Adjusted AFR for April 2016

Period for Compounding

	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.46%	.46%	.46%	.46%
Mid-term adjusted AFR	1.12%	1.12%	1.12%	1.12%
Long-term adjusted AFR	2.25%	2.24%	2.23%	2.23%

REV. RUL. 2016-09 TABLE 3

Rates Under Section 382 for April 2016

Adjusted federal long-term rate for the current month	2.25%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	2.53%

REV. RUL. 2016-09 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for April 2016

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

Appropriate percentage for the 70% present value low-income housing credit	7.42%
Appropriate percentage for the 30% present value low-income housing credit	3.18%

REV. RUL. 2016-09 TABLE 5

Rate Under Section 7520 for April 2016

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	1.8%
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Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016-09, page 530.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016-09, page 530.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016-09, page 530.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016-09, page 530.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016-09, page 530.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016-09, page 530.

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

The adjusted applicable federal long-term rate is set forth for the month of April 2016. See Rev. Rul. 2016-09, page 530.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016-09, page 530.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016-09, page 530.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016–09, page 530.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016–09, page 530.

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016–09, page 530.

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016–09, page 530.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2016. See Rev. Rul. 2016–09, page 530.

Part III. Administrative, Procedural, and Miscellaneous

Public Comment Invited on Recommendations for 2016–2017 Priority Guidance Plan

Notice 2016–26

The Department of Treasury and Internal Revenue Service (Service) invite public comment on recommendations for items that should be included on the 2016–2017 Priority Guidance Plan.

The Treasury Department's Office of Tax Policy and the Service use the Priority Guidance Plan each year to identify and prioritize the tax issues that should be addressed through regulations, revenue rulings, revenue procedures, notices, and other published administrative guidance. The 2016–2017 Priority Guidance Plan will identify guidance projects that the Treasury Department and the Service intend to work on as priorities during the period from July 1, 2016, through June 30, 2017. The Treasury Department and the Service recognize the importance of public input in formulating a Priority Guidance Plan that focuses resources on guidance items that are most important to taxpayers and tax administration. Published guidance plays an important role in increasing voluntary compliance by helping to clarify ambiguous areas of the tax law. The published guidance process is most successful if the Treasury Department and the Service have the benefit of the experience and knowledge of taxpayers and practitioners who must apply the rules implementing the internal revenue laws.

As is the case whenever significant legislation is enacted, the Treasury Department and the Service have continued to dedicate substantial resources during the current plan year to published guidance projects necessary to implement the provisions of various tax legislative acts that have been enacted over the past several years. The Treasury Department and the Service will continue to evaluate the priority of each guidance project taking into account this tax legislation, as well as other developments occurring during the 2016–2017 plan year.

In reviewing recommendations and selecting projects for inclusion on the 2016–2017 Priority Guidance Plan, the Treasury Department and the Service will consider the following:

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

Please submit recommendations by May 16, 2016, for possible inclusion on the original 2016–2017 Priority Guidance Plan. Taxpayers may, however, submit recommendations for guidance at any time during the year. The Treasury Department and the Service may update the 2016–2017 Priority Guidance Plan periodically to reflect additional guidance that the Treasury Department and the Service intend to publish during the plan year. The periodic updates allow the Treasury Department and the Service to respond to the need for additional guidance that may arise during the plan year.

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

for guidance in the form of petitions for rulemaking will be considered with other recommendations for guidance in accordance with the considerations described in this notice.

Taxpayers may mail comments to:

Internal Revenue Service
Attn: CC:PA:LDP:PR (Notice 2016–26)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

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

Courier's Desk
Internal Revenue Service
Attn: CC:PA:LDP:PR (Notice 2016–26)
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at www.regulations.gov (type IRS–2016–0012 in the search field on the [regulations.gov](http://www.regulations.gov) homepage to find this notice and submit comments). All recommendations for guidance submitted by the public in response to this notice will be available for public inspection and copying in their entirety.

For further information regarding this notice, contact Charles A. Hall of the Office of Associate Chief Counsel (Procedure and Administration) at (202) 317-3400 (not a toll-free number).

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also: Part I, §§ 911; 1.911–1.)

Rev. Proc. 2016–21

SECTION 1. PURPOSE

.01 This revenue procedure provides information to any individual who failed to meet the eligibility requirements of section 911(d)(1) of the Internal Revenue Code because adverse conditions in a foreign country precluded the individual from meeting those requirements for taxable year 2015.

.02 This revenue procedure lists the countries for which the eligibility requirements of section 911(d)(1) are waived for taxable year 2015.

SECTION 2. BACKGROUND

.01 Sections 911(a) and (c)(4) of the Code allow a “qualified individual,” as defined in section 911(d), to exempt from taxation the individual’s foreign earned income and the housing cost amount.

.02 Section 911(d)(1) of the Code defines the term “qualified individual” as an individual whose tax home is in a foreign country and who is (A) a citizen of the United States and establishes to the satisfaction of the Secretary of the Treasury that the individual has been a *bona fide* resident of a foreign country or countries for an uninterrupted period that includes an entire taxable year, or (B) a citizen or resident of the United States who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days.

.03 Section 911(d)(4) of the Code provides an exception to the eligibility requirements of section 911(d)(1). An individual will be treated as a qualified individual with respect to a period in which the individual was a *bona fide* resident of, or was present in, a foreign country if the individual left the country during a period for which the Secretary of the Treasury, after consultation with the Sec-

retary of State, determines that individuals were required to leave because of war, civil unrest, or similar adverse conditions that precluded the normal conduct of business. An individual must establish that but for those conditions the individual could reasonably have been expected to meet the eligibility requirements

SECTION 3. APPLICATION

.01 For 2015, the Secretary of the Treasury, in consultation with the Secretary of State, has determined that war, civil unrest, or similar adverse conditions precluded the normal conduct of business in the following country beginning on the specified date:

<i>Country</i>	<i>Date of Departure On or After</i>
Burundi	May 14, 2015

Accordingly, for purposes of section 911 of the Code, an individual who left the Burundi on or after May 14, 2015, will be treated as a qualified individual with respect to the period during which that individual was present in, or was a *bona fide* resident of, Burundi if the individual establishes a reasonable expectation of meeting the requirements of section 911(d) but for those conditions.

.02 To qualify for relief under section 911(d)(4) of the Code, an individual must have established residency, or have been

physically present, in the foreign country on or prior to the date that the Secretary of the Treasury determines that individuals were required to leave the foreign country. Individuals who establish residency, or are first physically present, in the foreign country after the date that the Secretary prescribes will not be treated as qualified individuals under section 911(d)(4) of the Code. For example, individuals who were first physically present or established residency in Burundi after May 14, 2015, are not eligible to qualify for the exception provided in section 911(d)(4) of the Code for taxable year 2015.

SECTION 4. INQUIRIES

A taxpayer who needs assistance on how to claim this exclusion, or on how to file an amended return, should contact a local IRS Office or consult the section under the heading **How to Get Tax Help** at <https://www.irs.gov/Individuals/International-Taxpayers/U.S.-Citizens-and-Resident-Aliens-Abroad>.

SECTION 4. DRAFTING INFORMATION

The principal author of this revenue procedure is Kate Y. Hwa of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure contact Kate Y. Hwa on (202) 317-5001 (not a toll-free number).

Part IV. Items of General Interest

December 2015 Revision of Form 3115

Announcement 2016-14

The Internal Revenue Service (IRS) has revised Form 3115, *Application for Change in Accounting Method*, and its instructions. The Form 3115 (Rev. December 2015) is the *current* Form 3115 and replaces the December 2009 version of the Form 3115. Ordinarily, a taxpayer applies for consent to change a method of accounting for federal income tax purposes by completing and filing a *current* Form 3115. Treas. Reg. § 1.446-1(e)(3)(i).

To allow a reasonable transition to the December 2015 Form 3115, the IRS will accept either the December 2015 Form 3115 or the December 2009 Form 3115 filed on or before April 19, 2016, except where the use of the December 2015 Form 3115 is specifically required in guidance published in the Internal Revenue Bulletin. Taxpayers filing Forms 3115 after April 19, 2016, must use the December 2015 Form 3115. The IRS encourages taxpayers to use the December 2015 Form 3115 prior to April 20, 2016. Regardless of the form used, taxpayers must provide all the information required by Rev. Proc. 2015-13 (or Rev. Proc. 2011-14, 2011-4 I.R.B. 330, if the taxpayer is making a change under the transition rule in section 15.02(1)(a)(ii) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, as modified by Rev. Proc. 2015-33, 2015-24 I.R.B. 1067). See sections 6.02 and 14 of Rev. Proc. 2015-13 or sections 6 and 11 of Rev. Proc. 2011-14.

Section 6.03(1)(a)(i) of Rev. Proc. 2015-13 requires a taxpayer filing a request for an automatic change to file its original Form 3115 with its return and a duplicate of that Form 3115 with the IRS in Ogden, Utah. Beginning in January 2016, the duplicate copy of Form 3115 for an automatic change request is filed with the IRS in Covington, Kentucky. See Rev. Proc. 2016-1, 2016-1 I.R.B. 1, section 9.05(2). The address of the IRS office in Covington, Kentucky, is:

Internal Revenue Service
201 West Rivercenter Blvd.
PIN Team Mail Stop 97
Covington, KY 41011-1424

If prior to April 20, 2016, a taxpayer filed its duplicate copy of Form 3115 with the IRS in either Ogden, Utah, or Covington, Kentucky, using the December 2009 Form 3115, the taxpayer may file its original Form 3115 with its return on either the December 2009 Form 3115 or the December 2015 Form 3115.

Taxpayers may download the December 2015 Form 3115 and its instructions from the IRS website, www.irs.gov/formspubs, or order them from the IRS website www.irs.gov/orderforms.

The principal author of this announcement is Charles Magee of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this announcement contact Mr. Magee at (202) 317-7005 (not a toll-free number).

Notice of Proposed Rulemaking Country-by-Country Reporting REG-109822-15

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that would require annual country-by-country reporting by United States persons (U.S. persons) that are the ultimate parent entity of a multinational enterprise (MNE) group. These proposed regulations affect U.S. persons that are the ultimate parent entity of an MNE group that has annual revenue for the preceding annual accounting period of \$850,000,000 or more. This document invites comments from the public on all aspects of the proposed rules and provides the opportunity for the public to request a public hearing.

DATES: Written or electronic comments and requests for a public hearing must be received by March 22, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-109822-15), Room

5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-109822-15), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (indicate IRS REG-109822-15).

FOR FURTHER INFORMATION

CONTACT: Concerning the proposed regulations, Melinda E. Harvey, (202) 317-6934; concerning submissions of comments or requests for a public hearing, Oluwafunmilayo (Funmi) Taylor, (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

1. Objectives of Proposed Regulatory Action

Pursuant to the authority granted under sections 6001, 6011, 6012, 6031, 6038, and 7805, these proposed regulations describe a new requirement for certain U.S. persons that are the ultimate parent entity of an MNE group (U.S. MNE group) earning substantial annual revenue to file an annual report (U.S. CbC report) containing information on a country-by-country basis related to the MNE group's income and taxes paid, together with certain indicators of the location of economic activity within the MNE group. Because the reporting form is currently under development by the IRS and yet to be officially numbered, it is referred to in this preamble and the proposed regulations as Form XXXX, *Country-by-Country Report*. The categories of information required to be reported on the U.S. CbC report were developed in coordination with other member countries of the Group of Twenty (G20) and the Organisation for Economic Co-operation and Development (OECD). As discussed later in this preamble, the Treasury Department and the IRS have determined that the information required under these proposed regulations will assist in better enforcement of U.S. tax laws.

The G20 and OECD members, in coordination with other countries, developed a model template for the collection of country-by-country information from large MNE groups. The model template is intended to promote consistent and effective implementation of country-by-country reporting across tax jurisdictions (including countries and jurisdictions that are not countries but that have fiscal autonomy). The Treasury Department and the IRS anticipate that other tax jurisdictions will adopt information reporting requirements based on the model template that will mandate the filing of a country-by-country report (foreign CbC report) by MNE groups with an ultimate parent entity that is not a U.S. person (foreign MNE groups) that have substantial revenues. In developing these proposed regulations, the Treasury Department and the IRS determined that it is appropriate to use the model template as a guide because the model template was developed taking into account extensive consultations with stakeholders, including in particular U.S. MNE groups, in order to appropriately balance the benefits to tax administrations of collecting the information about an MNE group's global operations against the compliance costs and burdens imposed on MNE groups. These consultations significantly affected both the scope of the information included in the model template as well as the flexibility afforded to MNE groups in determining how to compile that information in light of their different system capabilities. In addition, the model template reflects an agreed international standard for reporting by MNE groups that will promote consistency of reporting obligations across tax jurisdictions and reduce the risk that other countries will depart from the agreed standard by imposing inconsistent and overlapping reporting obligations on U.S. MNE groups. In this respect, the Treasury Department and the IRS note that clear and widely adopted documentation rules for MNE groups also help to reduce compliance costs. While the proposed regulations generally are consistent with the international standard, the proposed regulations also are tailored to be consistent with the preexisting information reporting requirements applicable to U.S.

persons under sections 6001, 6011, 6012, 6031, and 6038.

The Treasury Department and the IRS have determined that the information required under these proposed regulations will assist in better enforcement of the federal income tax laws by providing the IRS with greater transparency regarding the operations and tax positions taken by U.S. MNE groups. In addition to this direct benefit expected from collecting U.S. CbC reports, as discussed in Part 2 of this preamble, pursuant to income tax conventions and other conventions and bilateral agreements relating to the exchange of tax information (collectively, information exchange agreements), a U.S. CbC report filed with the IRS may be exchanged by the United States with other tax jurisdictions in which the U.S. MNE group operates that have agreed to provide the IRS with foreign CbC reports filed in their jurisdiction by foreign MNE groups that have operations in the United States. Foreign CbC reports will provide the IRS with information that will assist the IRS in performing risk assessment of foreign MNE groups operating in the United States.

In particular, it is expected that CbC reports filed by both U.S. MNE groups and foreign MNE groups (collectively CbC reports) will help the IRS perform high-level transfer pricing risk identification and assessment. The information in a CbC report will not itself constitute conclusive evidence that transfer pricing practices are or are not consistent with the arm's length standard. Accordingly, the information in a CbC report will not be used as a substitute for an appropriate transfer pricing determination based on a best method analysis (including a full comparability analysis of factors such as functions performed, resources employed, and risks assumed) as required by the arm's length standard set forth in the regulations under section 482, and transfer pricing adjustments will not be based solely on a CbC report. However, a CbC report may be used as the basis for making further inquiries into transfer pricing practices or other tax matters in the course of an examination of a member of an MNE group, and adjustments may be based on additional information developed through

those inquiries in accordance with applicable law.

2. Exchange of Information, Confidentiality, and Improper Use of Information

Information reported pursuant to these proposed regulations is return information under section 6103. Section 6103 imposes strict confidentiality rules with respect to all return information. Moreover, section 6103(k)(4) allows the IRS to exchange return information with a competent authority of a tax jurisdiction only to the extent provided in, and subject to the terms and conditions of, an information exchange agreement. It is expected that the U.S. competent authority will enter into competent authority arrangements for the automatic exchange of CbC reports under the authority of information exchange agreements to which the United States is a party.

Consistent with established international standards, all of the information exchange agreements to which the United States is a party require the information exchanged to be treated as confidential by both parties, and disclosure and use of the information must be in accordance with the terms of the relevant information exchange agreement. Information exchange agreements generally prohibit the parties from using any information received for any purpose other than for the administration of taxes (e.g., assessment or collection of, or enforcement or prosecution in respect of, the taxes covered by the information exchange agreement). Accordingly, under the terms of information exchange agreements, neither tax jurisdiction is permitted to disclose the information received under the information exchange agreement or use such information for any non-tax purpose. Under the contemplated competent authority arrangements for the exchange of CbC reports, the competent authorities of the United States and other tax jurisdictions intend to further limit the permissible uses of exchanged CbC reports to assessing high-level transfer pricing and other tax risks and, where appropriate, for economic and statistical analysis.

Prior to entering into an information exchange agreement with another tax

jurisdiction, the Treasury Department and the IRS closely review the tax jurisdiction's legal framework for maintaining confidentiality of taxpayer information and its track record of complying with that legal framework. In order to conclude an information exchange agreement with another tax jurisdiction, the Treasury Department and the IRS must be satisfied that the tax jurisdiction has the necessary legal safeguards in place to protect exchanged information, such protections are enforced, and adequate penalties apply to any breach of that confidentiality. Moreover, even when these conditions have been met and an information exchange agreement is in effect, the U.S. competent authority will not enter into a reciprocal automatic exchange of information relationship with a tax jurisdiction unless it has reviewed the tax jurisdiction's policies and procedures regarding confidentiality protections and has determined that such an exchange relationship is appropriate.

If the United States determines that a tax jurisdiction is not in compliance with confidentiality requirements, data safeguards, and the appropriate use standards provided for under the information exchange agreement or the competent authority arrangement, the United States will pause automatic exchange of CbC reports with that tax jurisdiction until such time as the United States is satisfied that the tax jurisdiction is meeting its obligations under the applicable information exchange or competent authority agreement or arrangement.

Explanation of Provisions

1. U.S. Persons Required to File Form XXXX, *Country-by-Country Report*

The proposed regulations generally require a U.S. business entity that is the ultimate parent entity of a U.S. MNE group to file Form XXXX, *Country-by-Country Report*. However, proposed § 1.6038-4(h) provides an exception from filing by a U.S. MNE group for an annual accounting period if the U.S. MNE group had revenues of less than \$850,000,000 for the preceding annual accounting period. Generally, an ultimate parent entity of a U.S. MNE group is a U.S. business entity that controls a group of business entities, at least one of which

is organized or tax resident outside of the United States, that are required to consolidate their accounts for financial reporting purposes under U.S. generally accepted accounting principles (GAAP), or that would be required to consolidate their accounts if equity interests in the U.S. business entity were publicly traded on a U.S. securities exchange. For purposes of the proposed regulations, the term business entity means a person as defined in section 7701(a) that is not an individual, as well as a permanent establishment that prepares financial statements separate from those of its owner for financial reporting, regulatory, tax reporting, or internal management control purposes.

Under proposed § 1.6038-4(b)(6), a business entity generally is considered resident in a tax jurisdiction if, under the laws of that tax jurisdiction, the business entity is liable to tax therein based on place of management, place of organization, or another similar criterion. However, a business entity will not be considered resident in a tax jurisdiction if it is liable to tax in such jurisdiction solely with respect to income from sources in such jurisdiction, or capital situated in such jurisdiction. The proposed regulations also provide rules for determining the tax jurisdiction of residence of a business entity that is resident in more than one tax jurisdiction or that is a permanent establishment.

Proposed § 1.6038-4(b)(4) defines a U.S. MNE group as a group of business entities, including the U.S. business entity that is the ultimate parent entity, that are required to consolidate their accounts under U.S. GAAP, or would be required to consolidate their accounts if equity interests in the ultimate parent entity were publicly traded on a U.S. securities exchange. Generally, under U.S. GAAP, if an entity owns a majority voting interest in another legal entity, the majority owner must combine the financial statements of the majority-owned entity with its own financial statements in consolidated financial statements. Financial Accounting Standards Board, *Accounting Standards Codification 810-10-15*, "Consolidation – Overall – Scope and Scope Exceptions." A U.S. MNE group does not include business entities that are accounted for under the equity method (because those entities

do not consolidate their accounts with the equity owner), notwithstanding that the equity owner's proportionate share of the business income of such entities is included in the equity owner's consolidated financial statements. The ultimate parent entity of a U.S. MNE group that is required to file Form XXXX, *Country-by-Country Report*, may be required to consolidate under U.S. GAAP one or more affiliated groups as defined in section 1504(a) that file a consolidated income tax return even though the ultimate parent entity is not an includible corporation as defined under section 1504(b) with respect to any of such consolidated groups. In such cases, the ultimate parent entity would report country-by-country information with respect to all such affiliated group entities (and any other business entities in the U.S. MNE group) on Form XXXX, *Country-by-Country Report*, and the parent corporations of the respective consolidated groups would not file a Form XXXX, *Country-by-Country Report*.

The Treasury Department and the IRS request comments on whether additional guidance is needed for determining which U.S. persons must file Form XXXX, *Country-by-Country Report*, or which entities are considered constituent entities of the filer. Specifically, the Treasury Department and the IRS request comments on whether additional guidance on the definition of U.S. MNE group is necessary to address situations where U.S. GAAP or regulations governing securities publicly traded on a U.S. securities exchange (U.S. securities regulations) permit or require consolidated financial accounting for reasons other than majority ownership and situations, if any, where U.S. GAAP or U.S. securities regulations permit separate financial accounting of majority-owned enterprises. Additionally, consideration has been given to the possible need for an exception to filing some or all of the information required on Form XXXX, *Country-by-Country Report*, for national security reasons. Requests by a U.S. person otherwise subject to the requirements to file Form XXXX, *Country-by-Country Report*, for an exception would require the Treasury Department and affected U.S. persons to coordinate with other federal agencies, such as the Department of Defense, to determine whether such an ex-

ception is warranted. The Treasury Department and the IRS request comments with respect to the procedures that a U.S. person should be required to follow in order to demonstrate a national security reason to receive an exception from filing some or all of the information otherwise required by Form XXXX, *Country-by-Country Report*.

Generally, a constituent entity will have a tax jurisdiction of residence as determined under proposed § 1.6038-4(b)(6). However, a business entity that is treated as a partnership in the tax jurisdiction in which it is organized and that does not own or create a permanent establishment in another tax jurisdiction generally will have no tax jurisdiction of residence under the definition in proposed § 1.6038-4(b)(6) (other than for purposes of determining the ultimate parent entity of a U.S. MNE group). In these cases, it is expected that the partners will report their share of the partnership's items in the partners' respective tax jurisdictions of residence in order to determine the aggregate amounts reported on Form XXXX, *Country-by-Country Report*, regardless of whether the partnership has elected to be treated as an association for U.S. federal tax purposes. The Treasury Department and the IRS continue to consider whether a different rule is needed in the case of entities that are not treated as fiscally transparent in the owner or owners' tax jurisdiction(s) of residence but are treated as fiscally transparent in the entity's country of organization. The Treasury Department and the IRS request comments on the treatment of such entities in the CbC Report. In the case of a permanent establishment owned or created by a business entity that is treated as a partnership in the tax jurisdiction in which it is organized, the tax jurisdiction of residence of the permanent establishment for purposes of Form XXXX, *Country-by-Country Report*, is the location of the permanent establishment regardless of whether the permanent establishment is treated as a permanent establishment of the partnership or of the partners of the partnership by the tax jurisdiction in which the permanent establishment is located.

2. Information Required on Form XXXX, *Country-by-Country Report*

A. Constituent entity information.

Proposed § 1.6038-4(d)(1) describes the information that Form XXXX, *Country-by-Country Report*, may require with respect to each constituent entity of the U.S. MNE group. Generally, each business entity of a U.S. MNE group is considered a separate constituent entity of that U.S. MNE group; however, the term constituent entity does not include a foreign corporation or foreign partnership for which the ultimate parent entity is not required to furnish information under section 6038(a), determined without regard to § 1.6038-2(j) and § 1.6038-3(c) (exceptions to information reporting for certain constructive owners and when more than one person otherwise would be required to submit the same information), or any permanent establishment of such foreign corporation or foreign partnership. For example, if none of the constituent entities owned by the ultimate parent entity directly, indirectly, or constructively owns enough stock in a foreign corporation to be considered a United States shareholder of a controlled foreign corporation, the foreign corporation is not a constituent entity. However, if the ultimate parent entity of a U.S. MNE group constructively owns more than 50 percent of the voting stock of a foreign corporation because a wholly-owned domestic subsidiary directly owns such stock and the domestic subsidiary reports information with respect to the foreign corporation pursuant to section 6038(a), the foreign corporation is a constituent entity of the U.S. MNE group notwithstanding that under § 1.6038-2(j)(2) the ultimate parent entity itself is not required to report information under section 6038(a). The IRS requests comments on whether additional guidance is needed regarding which business entities of a U.S. MNE group are considered constituent entities, particularly with respect to the exclusion of foreign corporations and partnerships for which an ultimate parent entity would not be required to furnish information under section 6038(a) without regard to §§ 1.6038-2(j) and 1.6038-3(c).

The information required with respect to each constituent entity includes identi-

fication of the tax jurisdiction, if any, in which the constituent entity is resident for tax purposes, the tax jurisdiction in which the constituent entity is organized or incorporated (if different from the tax jurisdiction of residence), and the main business activity or activities of the constituent entity. The tax identification number of each constituent entity used by the tax administration in its jurisdiction of tax residence also will be reported on Form XXXX, *Country-by-Country Report*.

B. Financial and employee information.

Proposed § 1.6038-4(d)(2) requires certain information to be reported for each tax jurisdiction in which one or more constituent entities of the MNE group is resident. The information for each tax jurisdiction must be presented on Form XXXX, *Country-by-Country Report*, as an aggregate of the requested information from all of the constituent entities that are resident in the tax jurisdiction. In addition, proposed § 1.6038-4(d)(3)(i) provides that the information must be reported, in the aggregate, for any constituent entity or entities of a U.S. MNE group that have no tax jurisdiction of residence.

Specifically, the information required to be reported for each tax jurisdiction includes: (i) revenues generated from transactions with other constituent entities of the U.S. MNE group; (ii) revenues not generated from transactions with other constituent entities of the U.S. MNE group; (iii) profit (or loss) before income tax; (iv) income tax paid on a cash basis to all tax jurisdictions, including any taxes withheld on payments received; (v) accrued tax expense recorded on taxable profits (or losses), reflecting only the operations in the relevant annual accounting period and excluding deferred taxes or provisions for uncertain tax positions; (vi) stated capital; (vii) accumulated earnings; (viii) number of employees on a full-time equivalent basis in the relevant tax jurisdiction; and (ix) net book value of tangible assets other than cash or cash equivalents.

The Treasury Department and the IRS have sought to minimize deviations from the model template that was developed by G20 and OECD member countries based on extensive consultations with stakeholders. Nonetheless, the Treasury Depart-

ment and the IRS understand that there may be areas where further clarification or refinement is warranted to take into account the purpose of these proposed regulations to collect relevant information for high-level risk assessment while minimizing the burdens imposed. For example, the report seeks information on the taxes paid or accrued by MNE groups and their constituent entities on taxable income earned in the relevant accounting period. The Treasury Department and the IRS specifically solicit comments on the manner in which the proposed regulations request that information. The Treasury Department and the IRS also request comments on whether any of the other items should be further refined or whether additional guidance is needed with respect to how to determine any of the items in proposed § 1.6038-4(d)(2)(i)-(ix).

Proposed § 1.6038-4(d)(3)(iii) provides that the number of employees on a full-time equivalent basis may be determined as of the end of the accounting period, on the basis of average employment levels for the annual accounting period, or on any other reasonable basis, and that independent contractors that participate in the ordinary operating activities of a constituent entity may be considered employees of such constituent entity for this purpose. The number of full-time equivalent employees in a tax jurisdiction of residence should be determined by reference to the employees that perform their activities for the U.S. MNE group within such tax jurisdiction of residence. U.S. MNE groups should use a reasonable ba-

sis to determine the tax jurisdiction of residence for which to report employees that perform activities for the U.S. MNE group in more than one tax jurisdiction or in a tax jurisdiction in which none of the constituent entities of the U.S. MNE group is resident. For example, a reasonable basis may be to report a travelling employee as part of the home office jurisdiction, as part of the tax jurisdiction in which the travelling employee spends the majority of his or her time, or as a fraction of one full-time equivalent employee in multiple tax jurisdictions based on the employee's time spent working in those jurisdictions. The Treasury Department and the IRS request comments on whether guidance is needed regarding the treatment of other employment situations. The number of employees that a U.S. MNE group has in a particular tax jurisdiction should be determined on a consistent basis across entities, tax jurisdictions in which the U.S. MNE operates, and from year to year. It is not expected that the basis on which a U.S. MNE group determines the number of employees in a tax jurisdiction of residence will change from year to year. However, it is expected that Form XXXX, *Country-by-Country Report*, will provide a section for additional information that the ultimate parent entity of the U.S. MNE group will use to explain, among other things, any new approach adopted to determine the number of employees and why it was necessary or appropriate.

Proposed § 1.6038-4(e)(2) provides that the financial information reported on

Form XXXX, *Country-by-Country Report*, may be based on certified financial statements, books and records maintained with respect to each constituent entity, or records used for tax reporting purposes. It is not necessary to reconcile the revenue, profit, and tax reported in the aggregate or with respect to a specific tax jurisdiction on Form XXXX, *Country-by-Country Report*, to the consolidated financial statements of the U.S. MNE group or to the tax returns filed in any particular tax jurisdiction. Additionally, there is no need to make adjustments for differences in accounting principles applied from tax jurisdiction to tax jurisdiction. It is expected that Form XXXX, *Country-by-Country Report*, will include a section to provide additional information, including a brief description of the sources of data used in preparing the form, and, if a change is made in the source of data used from year to year, an explanation of the reasons for the change and its consequences. Permission to change the accounting principles, to make new or different adjustments for differences in accounting principles, or to change the source of data used in preparing Form XXXX, *Country-by-Country Report*, is not required.

C. Template for Form XXXX, *Country-by-Country Report*.

The template on which Form XXXX, *Country-by-Country Report*, will be based is provided below.

Name of the MNE group: Fiscal year concerned:															
Tax	Constitute	Tax	Main business activity(ies)												
Jurisdiction	Entities resident in the Tax Jurisdiction	Jurisdiction of organization or incorporation if different from Tax Jurisdiction of Residence	Research and Development	Holding or Managing intellectual property	Purchasing or Procurement	Manufacturing or Production	Sales, Marketing, or Distribution	Administrative, Management or Support Services	Provision of Services to unrelated parties	Internal Group Finance	Regulated Financial Services	Insurance	Holding shares or other equity instruments	Dormant	Other**
	1.														
	2.														
	3.														
	1.														
	2.														
	3.														

*Please specify the nature of the activity of the constituent entity in the “Additional Information” section.

Name of the MNE group: Fiscal year concerned: Currency used:										
Tax Jurisdiction	Revenues			Profit (Loss) Before Income Tax	Income Tax Paid (on cash basis)	Income Tax Accrued – Current Year	Stated Capital	Accumulated Earnings	Number of Employees	Tangible Assets other than Cash and Cash Equivalents
	Unrelated Party	Related Party	Total							

Name of the MNE group:

Fiscal year concerned:

Additional Information. Please include any further brief information or explanation you consider necessary or that would facilitate the understanding of the compulsory information provided in the Country-by-Country Report.

3. Manner of Filing and Maintenance of Records for Form XXXX, Country-by-Country Report.

Proposed § 1.6038-4(f) requires that Form XXXX, *Country-by-Country Report*, be filed with the ultimate parent entity's timely-filed income tax return (with extensions). The proposed regulations do not require any U.S. business entity to provide notification that it is a constituent entity of a U.S. MNE group that is required to file a Form XXXX, *Country-by-Country Report*.

While a U.S. business entity is not required to reconcile information reported on Form XXXX, *Country-by-Country Report*, with its financial statements or income tax returns, proposed § 1.6038-4(g) provides that a U.S. person required to file as an ultimate parent entity of a U.S. MNE group must maintain records to support the information provided on Form XXXX, *Country-by-Country Report*.

Proposed Effective/Applicability Date

These regulations are proposed to be applicable to taxable years of ultimate parent entities of US MNE groups that begin on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register** and that include annual accounting periods determined under section 6038(e)(4) of all foreign constituent entities and taxable years of all domestic constituent entities beginning on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It also has been deter-

mined that section 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

The IRS intends that the information collection requirements in these proposed regulations will be satisfied by submitting a new reporting form with an income tax return. The new reporting form has not yet been numbered and is referred to as Form XXXX, *Country-by-Country Report*, in this Preamble and the proposed regulations. For purposes of the Paperwork Reduction Act, the reporting burden associated with the collection of information in these proposed regulations will be reflected in the OMB Form 83-1, *Paperwork Reduction Act Submission*, associated with Form XXXX, *Country-by-Country Report*.

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6). Accordingly, a regulatory flexibility analysis is not required. This certification is based on the fact that these regulations will only affect U.S. corporations, partnerships, and trusts that have foreign operations when the combined annual revenue of the business entities owned by the U.S. person meets or exceeds \$850,000,000. Pursuant to section 7805(f), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for 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 Treasury Department and

the IRS request comments on aspects of the proposed rules for which additional guidance is desired. 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, then notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

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

* * * * *

Proposed Amendments 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 the following entry in numerical order to read in part as follows:

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

Section 1.6038-4 also issued under 26 U.S.C. 6038.

* * * * *

Par. 2. Section 1.6038-4 is added to read as follows:

§ 1.6038-4 Information returns required of certain United States persons with respect to such person's U.S. multinational enterprise group.

(a) *Requirement of return.* Except as provided in paragraph (h) of this section, every United States person (U.S. person) that is an ultimate parent entity of a U.S.

multinational enterprise (MNE) group as defined in paragraph (b)(1) of this section must make an annual return on Form XXXX, *Country-by-Country Report*, setting forth the information described in this section and any other information required by Form XXXX, *Country-by-Country Report*, with respect to each annual accounting period described in paragraph (c) of this section.

(b) *Definitions*—(1) *Ultimate parent entity of a U.S. MNE group*. An ultimate parent entity of a U.S. MNE group is a U.S. business entity that:

(i) Owns directly or indirectly a sufficient interest in one or more other business entities, at least one of which is organized or tax resident in a tax jurisdiction other than the United States, such that the U.S. business entity is required to consolidate the accounts of the other business entities with its own accounts under U.S. generally accepted accounting principles, or would be so required if equity interests in the U.S. business entity were publicly traded on a U.S. securities exchange; and

(ii) Is not owned directly or indirectly by another business entity that consolidates the accounts of such U.S. business entity with its own accounts under generally accepted accounting principles in the other business entity's tax jurisdiction of residence, or would be so required if equity interests in the other business entity were traded on a public securities exchange in its tax jurisdiction of residence.

(2) *Business entity*. For purposes of this section, a business entity is a person as defined in section 7701(a)(1) that is not an individual, and includes any entity that has a single owner and that is disregarded as a separate entity from its owner under § 301.7701-3 of this chapter. Also for purposes of this section, the term business entity includes a business establishment in a jurisdiction that is treated as a permanent establishment under an income tax convention to which that jurisdiction is a party or that would be treated as a permanent establishment under the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention on Income and on Capital 2014 and that prepares financial statements separate from those of its owner for financial reporting, regulatory, tax reporting, or internal management control purposes.

(3) *U.S. business entity*. A U.S. business entity is a business entity that is organized or has its tax jurisdiction of residence in the United States.

(4) *U.S. MNE group*. A U.S. MNE group comprises the ultimate parent entity of a U.S. MNE group as defined in paragraph (b)(1) of this section and all of the business entities required to consolidate their accounts with the ultimate parent entity's accounts under U.S. generally accepted accounting principles, or that would be so required if equity interests in the ultimate parent entity were publicly traded on a U.S. securities exchange, regardless of whether any such business entities could be excluded from consolidation solely on size or materiality grounds.

(5) *Constituent entity*. With respect to a U.S. MNE group, a constituent entity is any separate business entity of such U.S. MNE group, except that the term constituent entity does not include a foreign corporation or foreign partnership for which the ultimate parent entity is not required to furnish information under section 6038(a) (determined without regard to § 1.6038-2(j) and § 1.6038-3(c)) or any permanent establishment of such foreign corporation or foreign partnership.

(6) *Tax jurisdiction of residence*. For purposes of this section, a tax jurisdiction is a country or a jurisdiction that is not a country but that has fiscal autonomy. A business entity is considered a resident in a tax jurisdiction if, under the laws of that tax jurisdiction, the business entity is liable to tax therein based on place of management, place of organization, or another similar criterion. However, a business entity will not be considered a resident in a tax jurisdiction if such business entity is liable to tax in such tax jurisdiction solely with respect to income from sources in such tax jurisdiction, or capital situated in such tax jurisdiction. If a business entity is resident in more than one tax jurisdiction, then the applicable income tax convention rules, if any, should be applied to determine the business entity's tax jurisdiction of residence. If a business entity is resident in more than one tax jurisdiction and no applicable income tax convention exists between those tax jurisdictions, or if the applicable income tax convention provides that the determination of residence is based on a determination by the com-

petent authorities of the relevant tax jurisdictions and no such determination has been made, the business entity's tax jurisdiction of residence is the tax jurisdiction of the business entity's place of effective management determined in accordance with Article 4 of the OECD Model Tax Convention on Income and on Capital 2014. The tax jurisdiction of residence of a permanent establishment is the jurisdiction in which the permanent establishment is located. If a business entity does not have a tax jurisdiction of residence, then solely for purposes of paragraph (b)(1) of this section, the tax jurisdiction of residence is the business entity's country of organization.

(7) *Applicable financial statements*. An applicable financial statement is a certified audited financial statement that is accompanied by a report of an independent certified public accountant or similarly qualified independent professional that is used for purposes of reporting to shareholders, partners, or similar persons; for purposes of reporting to creditors in connection with securing or maintaining financing; or for any other substantial non-tax purpose.

(c) *Period covered by return*. The information required under paragraph (d) of this section with respect to a U.S. MNE group must be furnished for the annual accounting period with respect to which the ultimate parent entity prepares its applicable financial statements ending with or within the ultimate parent entity's taxable year for which the Form XXXX, *Country-by-Country Report*, is filed. However, if the ultimate parent entity does not prepare applicable financial statements that consolidate the accounts of all constituent entities, the ultimate parent entity may provide the information required under paragraph (d) of this section based on applicable financial statements of constituent entities for their accounting period or periods that end with or within the ultimate parent entity's taxable year.

(d) *Contents of return*—(1) *Constituent entity information*. The return on Form XXXX, *Country-by-Country Report*, must contain so much of the following information with respect to each constituent entity, and in such form or manner, as the form prescribes:

(i) The tax jurisdiction, if any, in which the constituent entity is resident for tax purposes;

(ii) The tax jurisdiction in which the constituent entity is organized or incorporated (if different from the tax jurisdiction of residence);

(iii) The tax identification number, if any, used for the constituent entity by the tax administration of the constituent entity's tax jurisdiction of residence; and

(iv) The main business activity or activities of the constituent entity.

(2) *Tax jurisdiction of residence information.* The return on Form XXXX, *Country-by-Country Report*, will contain so much of the following information with respect to each tax jurisdiction in which one or more constituent entities of a U.S. MNE group is resident, and in such form or manner, as the form prescribes:

(i) Revenues generated from transactions with other constituent entities;

(ii) Revenues not generated from transactions with other constituent entities;

(iii) Profit or loss before income tax;

(iv) Total income tax paid on a cash basis to all tax jurisdictions, and any taxes withheld on payments received by the constituent entities;

(v) Total accrued tax expense recorded on taxable profits or losses, reflecting only operations in the relevant annual accounting period and excluding deferred taxes or provisions for uncertain tax liabilities;

(vi) Stated capital of all the constituent entities, except that the stated capital of a permanent establishment must be reported by the legal entity of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes;

(vii) Total accumulated earnings, except that accumulated earnings of a permanent establishment must be reported by the legal entity of which it is a permanent establishment;

(viii) Total number of employees on a full-time equivalent basis in the relevant tax jurisdiction; and

(ix) Net book value of tangible assets other than cash or cash equivalents.

(3) *Special rules*—(i) *Constituent entity with no tax jurisdiction of residence.*

The information listed in paragraph (d)(2) of this section also must be provided, in the aggregate, for any constituent entity or entities that have no tax jurisdiction of residence.

(ii) *Definition of revenue.* For purposes of this section, the term revenue includes all amounts of revenue, including revenue from sales of inventory and property, services, royalties, interest, and premiums. The term revenue does not include payments received from other constituent entities that are treated as dividends in the payor's tax jurisdiction of residence.

(iii) *Number of employees.* For purposes of this section, the number of employees on a full-time equivalent basis may be reported as of the end of the accounting period, on the basis of average employment levels for the annual accounting period, or on any other reasonable basis consistently applied across tax jurisdictions and from year to year. Independent contractors participating in the ordinary operating activities of a constituent entity may be reported as employees of such constituent entity. Reasonable rounding or approximation of the number of employees is permissible, provided that such rounding or approximation does not materially distort the relative distribution of employees across the various tax jurisdictions. Consistent approaches should be applied from year to year and across entities.

(iv) *Income tax paid and accrued tax expense of permanent establishment.* In the case of a constituent entity that is a permanent establishment, the amount of income tax paid and the amount of accrued tax expense referred to in paragraphs (d)(2)(iv) and (v) of this section should not include the income tax paid or tax expense accrued by the business entity of which the permanent establishment would be a part but for the second sentence of paragraph (b)(2) of this section in that business entity's tax jurisdiction of residence on the income derived by the permanent establishment.

(v) *Certain transportation income.* If a constituent entity of a U.S. MNE group derives income from international transportation or transportation in inland waterways that is covered by income tax convention provisions that are specific to

such income and under which the taxing rights on such income are allocated exclusively to one tax jurisdiction, then the U.S. MNE group should report the information required under paragraph (d)(2) of this section with respect to such income for the tax jurisdiction to which the relevant income tax convention provisions allocate these taxing rights.

(e) *Reporting of financial amounts.*—(1) *Reporting in U.S. dollars required.* All amounts furnished under paragraph (d)(2) of this section, other than paragraph (d)(2)(viii) of this section, must be expressed in U.S. dollars. If an exchange rate is used other than in accordance with U.S. generally accepted accounting principles for conversion to U.S. dollars, the exchange rate must be indicated.

(2) *Sources of financial amounts.* All amounts furnished under paragraph (d)(2) of this section, other than paragraph (d)(2)(viii) of this section, should be based on applicable financial statements, books and records maintained with respect to the constituent entity, or records used for tax reporting purposes.

(f) *Time and manner for filing.* Returns on Form XXXX, *Country-by-Country Report*, required under paragraph (a) of this section for a taxable year will be filed with the ultimate parent entity's income tax return for the taxable year on or before the due date (including extensions) for filing that person's income tax return.

(g) *Maintenance of records.* The U.S. person filing Form XXXX, *Country-by-Country Report*, as an ultimate parent entity of a U.S. MNE group must maintain records to support the information provided on Form XXXX, *Country-by-Country Report*. However, the U.S. person is not required to have or maintain records that reconcile the amounts provided on Form XXXX, *Country-by-Country Report*, with the tax returns of any tax jurisdiction or applicable financial statements.

(h) *Exceptions to furnishing information.* A U.S. person that is an ultimate parent entity of a U.S. MNE group is not required to report information under this section for an annual accounting period described in paragraph (c) of this section if the annual revenue of the U.S. MNE group for the immediately preceding an-

nual accounting period was less than \$850,000,000.

(j) *Effective/applicability dates.* The rules of this section apply to taxable years of ultimate parent entities of U.S. MNE groups that begin on or after the date of publication of the Treasury decision adopting these rules as final regulations in

the **Federal Register** and that include annual accounting periods determined under section 6038(e)(4) of all foreign constituent entities and taxable years of all domestic constituent entities beginning on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

John Dalrymple,
Deputy Commissioner for Services and Enforcement.

(Filed by the Office of the Federal Register on December 21, 2015, 4:15 p.m., and published in the issue of the Federal Register for December 23, 2015, 80 F.R. 79795)

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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¹A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2015–27 through 2015–52 is in Internal Revenue Bulletin 2015–52, dated December 28, 2015.

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