

# INTERNAL REVENUE BULLETIN



## HIGHLIGHTS OF THIS ISSUE

**Bulletin No. 2016-19**  
**May 9, 2016**

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

## INCOME TAX

### **Rev. Rul. 2016-11, page 717.**

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 May 2016.

## EMPLOYEE PLANS

### **Rev. Proc. 2016-27, page 725.**

This revenue procedure contains revised procedures for applications for a suspension of benefits under a multiemployer defined benefit pension plan that is in critical and declining status under § 432(e)(9).

## EXEMPT ORGANIZATIONS

### **Announcement 2016-18, page 741.**

Correction to Announcement 2016-04, Revocation of IRC 501(c)(3) Organizations for failure to meet the code section requirements. Contributions made to the organizations by individual donors are no longer deductible under IRC 170(b)(1)(A).

### **Announcement 2016-19, page 741.**

Correction to Announcement 2016-05, Disposition of Declaratory Judgment Proceedings under Section 7428.

### **T.D. 9762, page 718.**

These final regulations provide guidance to private foundations on program-related investments. The final regulations provide a series of examples illustrating investments that qualify as program-related investments.

## EXCISE TAX

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# 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

## 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. 2016-11

This revenue ruling provides various prescribed rates for federal income tax

purposes for May 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. 2016-11 TABLE 1  
Applicable Federal Rates (AFR) for May 2016  
*Period for Compounding*

	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
		<i>Short-term</i>		
AFR	.67%	.67%	.67%	.67%
110% AFR	.74%	.74%	.74%	.74%
120% AFR	.80%	.80%	.80%	.80%
130% AFR	.87%	.87%	.87%	.87%
		<i>Mid-term</i>		
AFR	1.43%	1.42%	1.42%	1.42%
110% AFR	1.57%	1.56%	1.56%	1.55%
120% AFR	1.71%	1.70%	1.70%	1.69%
130% AFR	1.86%	1.85%	1.85%	1.84%
150% AFR	2.14%	2.13%	2.12%	2.12%
175% AFR	2.51%	2.49%	2.48%	2.48%
		<i>Long-term</i>		
AFR	2.24%	2.23%	2.22%	2.22%
110% AFR	2.47%	2.45%	2.44%	2.44%
120% AFR	2.70%	2.68%	2.67%	2.67%
130% AFR	2.92%	2.90%	2.89%	2.88%

REV. RUL. 2016-11 TABLE 2  
Adjusted AFR for May 2016  
*Period for Compounding*

	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.63%	.63%	.63%	.63%
Mid-term adjusted AFR	1.26%	1.26%	1.26%	1.26%
Long-term adjusted AFR	2.24%	2.23%	2.22%	2.22%

REV. RUL. 2016–11 TABLE 3  
Rates Under Section 382 for May 2016

Adjusted federal long-term rate for the current month	2.24%
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.)	2.27%

REV. RUL. 2016–11 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for May 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. 2016–11 TABLE 5  
Rate Under Section 7520 for May 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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## T.D. 9762

### DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 53

#### Examples of Program-Related Investments

AGENCY: Internal Revenue Service (IRS),  
Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance to private foundations on program-related investments. The final regulations provide a series of examples illustrating investments that qualify as program-related investments. In addition to private foundations, these final regulations affect foundation managers who participate in the making of program-related investments.

DATES: *Effective Date:* These regulations are effective April 25, 2016.

FOR FURTHER INFORMATION  
CONTACT: Robin Ehrenberg at (202)  
317-4086 (not a toll-free number)

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains amendments to 26 CFR part 53 under section 4944(a) of the Internal Revenue Code (Code). Section 4944(a) imposes an excise tax on a private foundation that makes an investment that jeopardizes the carrying out of its exempt purposes (a “jeopardizing investment”). Section 4944(c) provides that investments that are program-related investments (“PRIs”) are not jeopardizing investments. Section 4944(c) defines a PRI as an investment: (1) the primary purpose of which is to accomplish one or more of the purposes described in section 170(c)(2)(B); and (2) no significant purpose of which is the production of income or the appreciation of property.<sup>1</sup> The regulations under section 4944(c) provide that an investment is made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B) (referred to in this preamble as “exempt purposes”) if it significantly furthers the accomplishment

of the private foundation’s exempt activities and would not have been made but for the relationship between the investment and the accomplishment of those exempt activities. Section 53.4944–3(a)(2)(i). In determining whether no significant purpose of an investment is the production of income or the appreciation of property, § 53.4944–3(a)(2)(iii) provides that it shall be relevant whether investors who are engaged in the investment solely for the production of income would be likely to make the investment on the same terms as the private foundation. Section 53.4944–3(a)(2)(iii) further provides that the fact that an investment produces significant income or capital appreciation shall not, in the absence of other factors, be conclusive evidence of a significant purpose involving the production of income or the appreciation of property.

Since 1972, § 53.4944–3(b) has contained nine examples illustrating investments that qualify as PRIs and one example of an investment that does not qualify as a PRI. These long-standing examples focus on domestic situations principally involving economically disadvantaged individuals and deteriorated urban areas.

On April 19, 2012, a notice of proposed rulemaking (REG –144267–11) re-

<sup>1</sup>The regulations under section 4944(c) further provide that no purpose of a PRI may be to accomplish one or more of the purposes described in section 170(c)(2)(D) (attempting to influence legislation or participating in or intervening in any political campaign). Treas. Reg. § 53.4944–3(a)(1)(iii).

lating to PRIs was published in the **Federal Register** (77 FR 23429). The notice of proposed rulemaking (NPRM) contained proposed regulations that would add nine new examples to § 53.4944-3(b). The proposed examples demonstrated that PRIs may accomplish a variety of exempt purposes (and are not limited to situations involving economically disadvantaged individuals and deteriorated urban areas), may fund activities in one or more foreign countries, and may earn a high potential rate of return. The proposed examples also illustrated that a PRI may take the form of an equity position in conjunction with making a loan, and that a private foundation's provision of credit enhancements can qualify as a PRI. In addition, the examples illustrated that loans and capital may be provided to individuals or entities that are not within a charitable class themselves, if the recipients are the instruments through which the private foundation accomplishes its exempt activities.

No public hearing on the NPRM was requested or held; however, 15 comments from the public were received. All comments are available at [www.regulations.gov](http://www.regulations.gov) or upon request. After consideration of the comments, the proposed regulations are adopted as amended by this Treasury decision.

## Summary of Comments and Explanation of Revisions

### 1. Recommended Changes to Proposed Examples

While commenters generally lauded the issuance of the proposed regulations and supported issuing them as final regulations, some commenters suggested a few modifications to the examples contained in the proposed regulations.

One commenter suggested amending Example 11, which involved a private foundation's investment in a subsidiary of a drug company for the development of a vaccine to prevent a disease that predominantly affects poor individuals in developing countries. Under the investment agreement described in the Example, the subsidiary is required to distribute the vaccine to the poor individuals in developing countries at a price that is affordable to the affected population and to

promptly publish its research results. The commenter recommended that the example be modified to make it clear that the subsidiary can also sell the vaccine to those who can afford it at fair market value prices. The final regulations amend Example 11 to adopt this clarification, which is appropriate given that the Example also specifies that Y's primary purpose in making the investment is to fund scientific research in the public interest and no significant purpose of the investment involves the production of income or the appreciation of property.

The commenter also recommended removing the publication requirement described in Example 11, contending that the provision of the vaccine to the poor at affordable prices without more furthers the accomplishment of exempt purposes. Example 11 illustrated a known fact pattern that was presented in a private letter ruling issued by the IRS. Although it is not possible for the regulations to provide examples illustrating every conceivable fact pattern, the Treasury Department and the IRS note that other fact patterns that do not contain all of the same elements as those illustrated by Example 11 may nonetheless further an exempt purpose if the requirements of the regulations are otherwise satisfied. Accordingly, the final regulations do not adopt this comment.

One commenter suggested modifying Example 13, which involved a private foundation that accepts common stock in a business enterprise as part of a loan to the business and that plans to liquidate the stock as soon as the business becomes profitable or it is established that the business will never become profitable. The commenter requested that the sentence in the example regarding the liquidation of the stock be removed or amended to clarify whether a foundation must sell its stock in a business that becomes profitable for the investment in that stock to be a PRI. In response to the comment, this sentence has been removed from the example. The Treasury Department and the IRS note, however, that the establishment, at the outset of an investment, of an exit condition that is tied to the foundation's exempt purpose in making the investment can be an important indication that a foundation's primary purpose in undertaking

the investment is in fact accomplishment of the exempt purpose.

Two commenters suggested modifying Example 15, which involved loans by a private foundation to two poor individuals living in a developing country where a natural disaster has occurred. One commenter noted that loans that enable poor persons to become economically self-sufficient by starting a small business qualify as PRIs without the necessity for a natural disaster to have occurred. In response to this comment, the final regulations amend Example 15 to eliminate the reference to a natural disaster. Another commenter suggested modifying Example 15 to refer to a "foreign country" rather than a "developing country," noting that providing disaster relief to a foreign country, whether or not it is a developing country, furthers the accomplishment of exempt purposes. As noted in the preamble to the NPRM, several examples in the proposed regulations illustrated the principle that an activity conducted in a foreign country furthers an exempt purpose if the same activity would further an exempt purpose if conducted in the United States. This principle applies equally to all foreign countries. However, the final regulations do not change the reference to a developing country in Example 15, because the example illustrates PRIs in the context of microloans, which are currently more common in developing countries. In addition, because organizations making microloans often provide loans to many individuals, the final regulations modify the example to reference loans to a group of individuals, rather than two specific individuals with identified business endeavors.

One commenter suggested modifying Example 16, which described a loan to a limited liability company (LLC), to describe an equity investment in an LLC. When a private foundation makes an equity investment in an LLC (or other entity) treated as a partnership for federal tax purposes, the activities of the LLC are attributed to the foundation for purposes of determining both whether the foundation operates exclusively for exempt purposes (and therefore continues to qualify for exemption under section 501(c)(3)) and whether the foundation has engaged in an unrelated trade or business described

in section 511. See Rev. Rul. 2004–51 (2004–1 CB 974). As a result, investments in partnership interests by section 501(c)(3) organizations raise a host of issues that are not raised by loans or by investments in stock of corporations. These issues necessitate consideration and analysis of a variety of facts and circumstances that are difficult to summarize in examples in regulations, and hence investments by section 501(c)(3) organizations in partnership interests have been addressed primarily through revenue rulings. See Rev. Rul. 2004–51, Rev. Rul. 98–15 (1998–1 CB 718). Accordingly, the Treasury Department and the IRS do not adopt this comment but are considering whether to address PRIs in the form of investments in partnership interests through the issuance of a revenue ruling.

Finally, one commenter recommended that the examples be amended to demonstrate the ability of a foundation to set PRI terms at above the prime rate. The examples in the proposed regulations generally referred to the interest rate or rate of return on a PRI as being less than the expected “market rate” for an investment of comparable risk and did not contain any suggestion that the rate of return of a PRI must fall below an absolute percentage threshold, such as the prime rate, to demonstrate no significant purpose involving the production of income or the appreciation of property. In addition, one example, Example 12, referred to the potential for a high rate of return if the recipient business is successful. Thus, the final regulations do not adopt this comment to expressly state in an example that the rate of return on a PRI may exceed the prime rate.

## 2. Principles Illustrated in the Examples

The preamble to the NPRM noted that the additional PRI examples in the proposed regulations illustrated that: (1) An activity conducted in a foreign country furthers an exempt purpose if the same activity would further an exempt purpose if conducted in the United States; (2) the exempt purposes served by a PRI are not limited to situations involving economically disadvantaged individuals and deteriorated urban areas; (3) the recipients of PRIs need not be within a charitable class if they are the instruments for furthering

an exempt purpose; (4) a potentially high rate of return does not automatically prevent an investment from qualifying as a PRI; (5) PRIs can be achieved through a variety of investments, including loans to individuals, tax-exempt organizations and for-profit organizations, and equity investments in for-profit organizations; (6) a credit enhancement arrangement may qualify as a PRI; and (7) a private foundation’s acceptance of an equity position in conjunction with making a loan does not necessarily prevent the investment from qualifying as a PRI.

One commenter recommended that this statement of principles (which it called “extremely helpful guidance”) be included in the text of the final regulations so that the principles are readily accessible to grantmaking organizations. The principles helped identify areas in which clarification through examples would be helpful. The Treasury Department and the IRS believe that each of these seven principles is adequately reflected in the new examples themselves. Accordingly, the final regulations do not adopt this comment. Alternatively, the commenter suggested that the principles be preserved in another readily accessible place, like the IRS’ website. In response to this comment, the IRS intends to post the principles on its website.

## 3. Recommendations for Additional Examples

A number of commenters suggested additional examples to be added to the final regulations. For example, two commenters recommended including examples involving PRIs to support news media or mixed-income housing or to lessen the burdens of government, while another commenter suggested examples involving economic development through the promotion of technology-based enterprises. The proposed regulations contained nine new examples involving many different exempt purposes, such as scientific research in the public interest, combating environmental deterioration, and education. The Treasury Department and the IRS believe these additional examples adequately illustrate the principle that a PRI may accomplish a variety of exempt purposes. These regulations under section

4944 are not intended to provide an example of every exempt purpose, and there are many examples of exempt purposes in both regulations and sub-regulatory guidance under section 501(c)(3). Therefore, additional examples of exempt purposes are not provided in these regulations. However, if commenters or other organizations believe additional guidance is needed under section 501(c)(3) regarding whether particular activities further charitable purposes, private letter rulings or guidance of general applicability may be requested. Accordingly, the final regulations do not adopt these comments.

One commenter recommended including an additional example of a foundation assuming certain risks to catalyze the entry of private investment capital. The proposed regulations already included two examples of a foundation assuming certain risks (specifically, in the form of a deposit agreement and a guarantee) to catalyze the entry of private investment capital. Thus, the Treasury Department and the IRS do not believe that additional examples are necessary to illustrate this possibility and the final regulations do not adopt this comment.

Two commenters requested examples involving investments in low-profit limited liability companies (L3Cs) or benefit corporations. On the other hand, one commenter approved of the lack of any examples suggesting the need for a recipient of a PRI to be an L3C or benefit corporation, noting that the IRS has not recognized L3C or benefit corporation status as relevant to the determination of whether an investment is a PRI and also noting potential concerns with and lack of universal endorsement of the L3C model. The proposed regulations included one example involving a loan to an LLC; the results of that example would be the same if the limited liability company described in the example were an L3C. Similarly, the results of examples in which the PRI recipient is a corporation would apply equally if the recipient were a benefit corporation. The Treasury Department and the IRS see no need to amend the examples to refer more narrowly to an L3C or benefit corporation when such status is not determinative of the examples’ conclusions. Accordingly, the final regulations do not adopt these comments.

One commenter noted that the example in the proposed regulations of a PRI financing medical research involved a disease that predominantly affects developing countries and requested another example involving a disease that affects developed countries (but with respect to which a lack of sufficient market incentives exist for research and development of new treatments). Scientific research carried on for the purpose of discovering a cure for a disease need not involve a disease predominantly affecting developing countries to accomplish an exempt purpose described in section 501(c)(3). However, as previously noted, the PRI examples are intended to illustrate types of investments that qualify as PRIs and are not intended to address every circumstance that constitutes an exempt purpose, and thus the final regulations do not adopt this comment.

Finally, one commenter requested additional guidance regarding the circumstances under which PRIs may result in impermissible private benefit and specifically requested an example of a PRI that has the primary purpose of benefitting indigent members of a charitable class but that also benefits non-indigent individuals (other than the recipient of the PRI itself). This commenter appeared to be requesting guidance on the circumstances under which private benefit conferred by an investment might affect an organization's exempt status under section 501(c)(3) rather than under which the private benefit might affect the investment's status as a PRI, and as such would be outside of the scope of these final regulations. The effect of private benefit on exempt status is addressed in examples in regulations under section 501(c)(3) as well as a number of revenue rulings. See § 1.501(c)(3)-1(d)(1)(iii); Rev. Rul. 76-206, 1976-1 CB 154; Rev. Rul. 74-587, 1974-2 CB 162; Rev. Rul. 70-186, 1970-1 CB 128. To the degree the commenter was requesting guidance on the effect of private benefit on an investment's status as a PRI, the substantial majority of examples in the existing and proposed regulations involve some private benefit to one or more persons that are not members of a charitable class (often including the recipient of the PRI itself) that is incidental to the investment's primary purpose of accomplishing

an exempt purpose. As a result, the Treasury Department and the IRS do not believe that additional examples on this issue are necessary, and the final regulations do not adopt this comment.

#### *4. Procedures for the IRS to Rule on PRIs*

A number of commenters requested that the IRS adopt procedures that would allow private foundations considering a PRI to obtain determinations or guidance from the IRS regarding the PRI in ways that are more expeditious and less costly than the private letter ruling process.

One commenter proposed that the IRS create a process similar to the one established under section 4945(g) for approving procedures for making grants to individuals. Under § 53.4945-4(d)(3), if a foundation that properly submits a request for approval of grant procedures has not been notified by the IRS that its procedures are not acceptable by the 45th day after the submission, the procedures will be considered as approved from the date of submission until receipt of actual notice from the IRS that such procedures do not meet the necessary requirements. Section 4945(g) specifically requires that procedures for making grants to individuals be approved by the IRS to avoid an excise tax being applied to such grants. Section 4944 contains no such requirement of advance approval of PRIs and hence is not analogous to section 4945(g). Accordingly, the final regulations do not adopt this comment.

One commenter recommended allowing private foundations to request determinations that their investments are PRIs using Form 8940, *Request for Miscellaneous Determination*, and also to request expedited review of such requests when the closing of financing of a PRI is scheduled four months or six months from the date the request is submitted. Determination requests that are submitted to Exempt Organizations Determinations using Form 8940 are listed in section 7.04 of Rev. Proc. 2015-4 (2015-1 IRB 144). Allowing determination requests regarding PRIs to be submitted to Exempt Organizations Determinations using Form 8940 (as well as expedited review of such requests) would require amendments to Rev. Proc.

2015-4, not the proposed regulations, and would require changes to tax administration programs. Hence it is outside the scope of these final regulations.

Two commenters recommended allowing IRS private letter rulings (PLRs) regarding PRIs to be relied on by other private foundations, so that each private foundation investing in one project that qualifies as a PRI does not have to obtain its own PLR. We note that a PLR is not necessary for an investment to qualify as a PRI. Furthermore, allowing a private foundation to rely on a letter ruling issued to another taxpayer would require amendments to section 11 of Rev. Proc. 2015-1 (2015-1 IRB 1), not the proposed regulations, and raises tax administration issues. Hence it is outside the scope of these final regulations.

In addition to the changes noted above, the final regulations also correct the reference to section 4942 in § 53.4944-3(a)(2)(ii) to reflect prior changes to that statute.

#### **Statement of Availability of IRS Documents**

IRS Revenue Procedures, Revenue Rulings, notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS website 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 been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the NPRM preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its

impact on business and no comments were received.

## Drafting Information

The principal author of these regulations is Robin Ehrenberg, Office of the Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

\* \* \* \*

## Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 53 is amended as follows:

### Part 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 1. The authority citation for part 53 continues to read in part as follows:

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

Par. 2. Section 53.4944-3 is amended by:

1. Amending paragraph (a)(2)(ii) by removing the language “section 4942(j)(5)(B)” and replacing it with “section 4942(j)(4)(B)”.
2. Amending paragraph (b) by adding *Examples 11 through 19*.
3. Adding paragraph (c).

The revisions and addition read as follows:

#### § 53.4944-3 *Exception for program-related investments.*

\* \* \* \* \*

(b) \* \* \*

*Example 11.* X is a business enterprise that researches and develops new drugs. X’s research demonstrates that a vaccine can be developed within ten years to prevent a disease that predominantly affects poor individuals in developing countries. However, neither X nor other commercial enterprises like X will devote their resources to develop the vaccine because the potential return on investment is significantly less than required by X or other commercial enterprises to undertake a project to develop new drugs. Y, a private foundation, enters into an investment agreement with X in order to induce X to develop the vaccine. Pursuant to the investment agreement, Y purchases shares of the common stock of S, a subsidiary corporation that X establishes to research and develop the vaccine. The agreement requires S to distribute the vaccine to poor individuals in developing countries at a price that is affordable to the affected population, although, the agree-

ment does not preclude S from selling the vaccine to other individuals at a market rate. The agreement also requires S to publish the research results, disclosing substantially all information about the results that would be useful to the interested public. S agrees that the publication of its research results will be made as promptly after the completion of the research as is reasonably possible without jeopardizing S’s right to secure patents necessary to protect its ownership or control of the results of the research. The expected rate of return on Y’s investment in S is less than the expected market rate of return for an investment of similar risk. Y’s primary purpose in making the investment is to fund scientific research in the public interest. No significant purpose of the investment involves the production of income or the appreciation of property. The investment significantly furthers the accomplishment of Y’s exempt activities and would not have been made but for such relationship between the investment and Y’s exempt activities. Accordingly, Y’s purchase of the common stock of S is a program-related investment.

*Example 12.* Q, a developing country, produces a substantial amount of recyclable solid waste materials that are currently disposed of in landfills and by incineration, contributing significantly to environmental deterioration in Q. X is a new business enterprise located in Q. X’s only activity will be collecting recyclable solid waste materials in Q and delivering those materials to recycling centers that are inaccessible to a majority of the population. If successful, the recycling collection business would prevent pollution in Q caused by the usual disposition of solid waste materials. X has obtained funding from only a few commercial investors who are concerned about the environmental impact of solid waste disposal. Although X made substantial efforts to procure additional funding, X has not been able to obtain sufficient funding because the expected rate of return is significantly less than the acceptable rate of return on an investment of this type. Because X has been unable to attract additional investors on the same terms as the initial investors, Y, a private foundation, enters into an investment agreement with X to purchase shares of X’s common stock on the same terms as X’s initial investors. Although there is a high risk associated with the investment in X, there is also the potential for a high rate of return if X is successful in the recycling business in Q. Y’s primary purpose in making the investment is to combat environmental deterioration. No significant purpose of the investment involves the production of income or the appreciation of property. The investment significantly furthers the accomplishment of Y’s exempt activities and would not have been made but for such relationship between the investment and Y’s exempt activities. Accordingly, Y’s purchase of the X common stock is a program-related investment.

*Example 13.* Assume the facts as stated in *Example 12*, except that X offers Y shares of X’s common stock in order to induce Y to make a below-market rate loan to X. X previously made the same offer to a number of commercial investors. These investors were unwilling to provide loans to X on such terms because the expected return on the combined package of stock and debt was below the expected market return for such a package based on the level of risk involved, and they were also unwill-

ing to provide loans on other terms X considers economically feasible. Y accepts the stock and makes the loan on the same terms that X offered to the commercial investors. Y’s primary purpose in making the investment is to combat environmental deterioration. No significant purpose of the investment involves the production of income or the appreciation of property. The investment significantly furthers the accomplishment of Y’s exempt activities and would not have been made but for such relationship between the investment and Y’s exempt activities. Accordingly, the loan accompanied by the acceptance of common stock is a program-related investment.

*Example 14.* X is a business enterprise located in V, a rural area in State Z. X employs a large number of poor individuals in V. A natural disaster occurs in V, causing significant damage to the area. The business operations of X are harmed because of damage to X’s equipment and buildings. X has insufficient funds to continue its business operations and conventional sources of funds are unwilling or unable to provide loans to X on terms it considers economically feasible. In order to enable X to continue its business operations, Y, a private foundation, makes a loan to X bearing interest below the market rate for commercial loans of comparable risk. Y’s primary purpose in making the loan is to provide relief to the poor and distressed. No significant purpose of the loan involves the production of income or the appreciation of property. The loan significantly furthers the accomplishment of Y’s exempt activities and would not have been made but for such relationship between the loan and Y’s exempt activities. Accordingly, the loan is a program-related investment.

*Example 15.* Y, a private foundation, makes loans bearing interest below the market rate for commercial loans of comparable risk to poor individuals who live in W, a developing country, to enable them to start small businesses such as a roadside fruit stand. Conventional sources of funds were unwilling or unable to provide such loans on terms they consider economically feasible. Y’s primary purpose in making the loans is to provide relief to the poor and distressed. No significant purpose of the loans involves the production of income or the appreciation of property. The loans significantly further the accomplishment of Y’s exempt activities and would not have been made but for such relationship between the loans and Y’s exempt activities. Accordingly, the loans to the poor individuals who live in W are program-related investments.

*Example 16.* X is a limited liability company treated as a partnership for federal income tax purposes. X purchases coffee from poor farmers residing in a developing country, either directly or through farmer-owned cooperatives. To fund the provision of efficient water management, crop cultivation, pest management, and farm management training to the poor farmers by X, Y, a private foundation, makes a loan to X bearing interest below the market rate for commercial loans of comparable risk. The loan agreement requires X to use the proceeds from the loan to provide the training to the poor farmers. X would not provide such training to the poor farmers absent the loan. Y’s primary purpose in making the loan is to educate poor farmers about advanced agricultural methods. No significant

purpose of the loan involves the production of income or the appreciation of property. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities. Accordingly, the loan is a program-related investment.

*Example 17.* X is a social welfare organization that is recognized as an organization described in section 501(c)(4). X was formed to develop and encourage interest in painting, sculpture, and other art forms by, among other things, conducting weekly community art exhibits. X needs to purchase a large exhibition space to accommodate the demand for exhibition space within the community. Conventional sources of funds are unwilling or unable to provide funds to X on terms it considers economically feasible. Y, a private foundation, makes a loan to X at an interest rate below the market rate for commercial loans of comparable risk to fund the purchase of the new space. Y's primary purpose in making the loan is to promote the arts. No significant purpose of the loan involves the production of income or the appreciation of property. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities. Accordingly, the loan is a program-related investment.

*Example 18.* X is a non-profit corporation that provides child care services in a low-income neighborhood, enabling many residents of the neighborhood to be gainfully employed. X meets the requirements of section 501(k) and is recognized as an organization described in section 501(c)(3). X's current child care facility has reached capacity and has a long waiting list. X has determined that the demand for its services warrants the construction of a new child care facility in the same neighborhood. X is unable to obtain a loan from conventional sources of funds including B, a commercial bank because of X's credit record. Pursuant to a deposit agreement, Y, a private foundation, deposits \$h in B, and B lends an identical amount to X to construct the new child care facility. The deposit agreement requires Y to keep \$h on deposit with B during the term of X's loan and provides that if X defaults on the loan, B may deduct the amount of the default from the deposit. To facilitate B's access to the funds in the event of default, the agreement requires that the funds be invested in instruments that allow B to access them readily. The deposit agreement also provides that Y will earn interest at a rate of t% on the deposit. The t% rate is substantially less than Y could otherwise earn on this sum of money, if Y invested it elsewhere. The loan agreement between B and X requires X to use the proceeds from the loan to construct the new child care facility. Y's primary purpose in making the deposit is to further its educational purposes by enabling X to provide child care services within the meaning of section 501(k). No significant purpose of the deposit involves the production of income or the appreciation of property. The deposit significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the deposit and Y's exempt activities. Accordingly, the deposit is a program-related investment.

*Example 19.* Assume the same facts as stated in *Example 18*, except that instead of making a deposit of \$h into B, Y enters into a guarantee agreement with B. The guarantee agreement provides that if X defaults on the loan, Y will repay the balance due on the loan to B. B was unwilling to make the loan to X in the absence of Y's guarantee. X must use the proceeds from the loan to construct the new child care facility. At the same time, X and Y enter into a reimbursement agreement whereby X agrees to reimburse Y for any and all amounts paid to B under the guarantee agreement. The signed guarantee and reimbursement agreements together constitute a "guarantee and reimbursement arrangement." Y's primary purpose in entering into the guarantee and reimbursement arrangement is to further Y's educational purposes. No significant purpose of the guarantee and reimbursement arrangement involves the production of income or the appreciation of property. The guarantee and reimbursement arrangement significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the guarantee and reimbursement arrangement and Y's exempt activities. Accordingly, the guarantee and reimbursement arrangement is a program-related investment.

(c) *Effective/applicability date.* Paragraphs (a)(2)(ii), and (b), *Examples 11 through 19* of this section, apply on or after April 25, 2016.

John Dalrymple,  
*Deputy Commissioner for  
Services and Enforcement.*

Approved: April 5, 2016.

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

(Filed by the Office of the federal Register on April 21, 2016, 4:15 p.m., and published in the issue of the Federal Register for April 25, 2016, 81 F.R. 24014)

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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 May 2016. See Rev. Rul. 2016–11, page 717.

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## Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2016. See Rev. Rul. 2016–11, page 717.

## 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 May 2016. See Rev. Rul. 2016–11, page 717.

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## Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2016. See Rev. Rul. 2016–11, page 717.

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## 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 May 2016. See Rev. Rul. 2016–11, page 717.

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## 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 May 2016. See Rev. Rul. 2016–11, page 717.

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## 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 May 2016. See Rev. Rul. 2016–11, page 717.

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## 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 May 2016. See Rev. Rul. 2016–11, page 717.

## **Section 642.—Special Rules for Credits and Deductions**

Federal short-term, mid-term, and long-term rates are set forth for the month of May 2016. See Rev. Rul. 2016–11, page 717.

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## **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 May 2016. See Rev. Rul. 2016–11, page 717.

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## **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 May 2016. See Rev. Rul. 2016–11, page 717.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2016. See Rev. Rul. 2016–11, page 717.

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## **Section 7520.—Valuation Tables**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2016. See Rev. Rul. 2016–11, page 717.

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## **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 May 2016. See Rev. Rul. 2016–11, page 717.

# Part III. Administrative, Procedural, and Miscellaneous

*Application Procedures for Approval of Benefit Suspensions for Certain Multiemployer Defined Benefit Pension Plans under § 432(e)(9)*

## Rev. Proc. 2016–27

This revenue procedure contains revised procedures for applications for a suspension of benefits under a multiemployer defined benefit pension plan that is in critical and declining status under § 432(e)(9). These procedures replace the procedures set forth in Rev. Proc. 2015–34, 2015–27 I.R.B. 1218. The procedures set forth in this revenue procedure must be followed for applications submitted on or after April 26, 2016.

### SECTION 1. BACKGROUND AND PURPOSE

Section 201 of the Multiemployer Pension Reform Act of 2014, Division O of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 (128 Stat. 2130 (2014)) (MPRA), amended the Internal Revenue Code (Code) and the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA), to permit the sponsor of a multiemployer defined benefit plan in critical and declining status to suspend benefits in certain situations.

In particular, MPRA amended § 432(e)(9) of the Code and section 305(e)(9) of ERISA to permit the sponsor of a multiemployer defined benefit plan in critical and declining status to submit to the Secretary of the Treasury (Secretary) a proposal to suspend benefits in certain situations. MPRA requires the Secretary to approve a plan sponsor's proposed suspension if the plan is eligible for the proposed suspension and the proposed suspension satisfies § 432(e)(9)(C) through (F).<sup>1</sup>

On June 19, 2015, the Treasury Department and the IRS published temporary regulations (TD 9723) and proposed regulations (REG–102648–15) under § 432(e)(9) (the

June 2015 regulations) in the Federal Register at 80 FR 35207 and 80 FR 35262, respectively. The IRS issued Rev. Proc. 2015–34 contemporaneously with the June 2015 regulations. Rev. Proc. 2015–34 prescribed the application process for approval of a proposed benefit suspension in accordance with § 432(e)(9)(G) and provided a model notice that a plan sponsor proposing a benefit suspension could use to satisfy the content and readability requirements of § 432(e)(9)(F)(ii) and (iii)(II).

On September 2, 2015, the Treasury Department and IRS published temporary regulations (TD 9735) and proposed regulations (REG–123640–15) on the voting provisions under § 432(e)(9)(H) in the Federal Register at 80 FR 52972 and 80 FR 53068, respectively. On February 11, 2016, the Treasury Department and the IRS published proposed regulations (REG–101701–16) on the application of § 432(e)(9)(D)(vii) in the Federal Register at 81 FR 7253.

On April 28, 2016, the Treasury Department and IRS published final regulations under § 432(e)(9) in the Federal Register. Those final regulations finalize the two proposed regulations under § 432(e)(9) that were proposed during 2015 and reserve a paragraph for the proposed regulations published in February of 2016.

This revenue procedure supersedes Rev. Proc. 2015–34 and applies to submissions made on or after April 26, 2016. Therefore, plan sponsors should follow the application process prescribed in this revenue procedure for approval of a proposed benefit suspension submitted on or after that date. The model notice in Appendix A of this revenue procedure replaces the model notice attached to Rev. Proc. 2015–34 for notices with respect to applications submitted under this revenue procedure. Applications submitted under Rev. Proc. 2015–34 were required to comply with the applicable provisions of the June 2015 regulations. As noted in Rev. Proc. 2015–34, plan sponsors that submit

an application under that revenue procedure may need to revise the proposed suspension or supplement the application to take into account the final regulations and this revenue procedure.

### SECTION 2. APPLICATION PROCEDURES

This section prescribes procedures for applying for approval of a proposed suspension of benefits, including information that must be included in the application. A plan sponsor may be required to provide additional information with respect to any application after it is submitted. For example, the plan sponsor may be required to provide individual participant data that would permit the Secretary to confirm that the sample and actuarial calculations provided in the application, such as those provided for purposes of section 4 of this revenue procedure, are accurate and applied in a consistent manner.

.01 *Who may submit an application.* An application for approval of a proposed benefit suspension under § 432(e)(9) must be submitted by the plan sponsor as defined in § 432(j)(9) (generally, the joint board of trustees of the plan) or by an authorized representative of the plan sponsor. The application must be signed and dated by an authorized trustee who is a current member of the board of trustees or by an authorized representative of the plan sponsor who is described in section 7.01(13) of Rev. Proc. 2016–1, 2016–1 I.R.B. 1.<sup>2</sup>

.02 *Terms of proposed benefit suspension.* The application must include a description of the proposed benefit suspension. The description must include the following information:

- (1) The effective date of the proposed suspension.
- (2) If the proposed suspension will expire by its own terms, the expiration date.
- (3) If the proposed suspension does not provide for different treatment of partici-

<sup>1</sup>Section 201 of MPRA made amendments to section 305 of ERISA that are parallel to § 432(e)(9), and the Department of the Treasury has interpretive jurisdiction over the subject matter of these provisions under ERISA as well as under the Code. See also section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713). Accordingly, the provisions of this revenue procedure pertaining to § 432(e)(9) of the Code apply also for purposes of the corresponding provisions of section 305(e)(9) of ERISA. Furthermore, the Secretary's approval of a proposed suspension would apply for purposes of section 305(e)(9) of ERISA, as well for purposes of § 432(e)(9) of the Code.

<sup>2</sup>Section 7.01(13) of Rev. Proc. 2016–1 provides that the following parties may be authorized representatives if appropriately accredited or authorized: attorney, certified public accountant, enrolled agent, enrolled actuary, and enrolled retirement plan agent.

pants and beneficiaries (other than as a result of application of the individual limitations of § 432(e)(9)(D)(i), (ii) and (iii) (the “individual limitations”), a statement to that effect.

(4) If the proposed suspension provides for different treatment of participants and beneficiaries (other than as a result of application of the individual limitations), the categories or groups of individuals for which the proposed suspension provides for different treatment (other than as a result of application of the individual limitations) and how those categories or groups are defined. The description must describe the differences in treatment, including the formula used to calculate the amount of the proposed benefit suspension for individuals in each category or group. Although any benefit suspension must take into account the individual limitations on a benefit suspension, for ease of presentation and understanding the amount of the proposed benefit suspension described in this section 2.02 for an individual must be calculated as if the individual limitations did not apply to that individual. (Note that the application of those limitations must be described pursuant to section 4.01 of this revenue procedure, below.)

.03 *Penalties of perjury.* The following statement signed by an authorized trustee on behalf of the board of trustees that the application is submitted under penalties of perjury: “Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts relating to the request, and such facts are true, correct, and complete.”

.04 *Public disclosure.* A statement signed by an authorized trustee on behalf of the board of trustees acknowledging that, pursuant to § 432(e)(9)(G)(ii), the application for approval of the proposed suspension of benefits, and the application’s supporting material, will be publicly disclosed through publication on the Treasury Department website.

.05 *Where to submit an application.* An application must be submitted to: [www.treasury.gov/mpira](http://www.treasury.gov/mpira)

.06 *Signature.* Any signature required by this revenue procedure must be submitted electronically in Portable Document

Format as part of the application. A stamped signature is not permitted.

.07 *Duty to correct.* If, after submission of an application for a suspension of benefits, any error in that application is discovered, the plan sponsor must provide prompt notice to the Treasury Department.

.08 *Resubmission review.* If the application for a suspension is submitted under the resubmission review process pursuant to § 1.432(e)(9)–1(g)(3), see section 8 for special procedures that apply.

### **SECTION 3. DEMONSTRATION THAT PLAN IS ELIGIBLE FOR SUSPENSION**

The application must include the following information providing support for the plan sponsor’s method of satisfying the benefit suspension criteria under § 432(e)(9), including the plan’s eligibility for the suspension:

.01 *Plan actuary’s certification of critical and declining status.* The plan actuary’s certification required under § 432(b)(3)(A) that the plan is in critical and declining status as defined in § 432(b)(6) for the plan year in which the application is submitted. Documentation supporting the actuarial certification of status must be included with the certification, including a plan-year-by-plan-year projection of the available resources as defined in § 418E(b)(3) and the benefits under the plan, demonstrating that the plan is projected to become insolvent during the period described in § 432(b)(6) that applies to the plan. The documentation must include a description of each of the assumptions used, including the new entrant profile, the total contribution base units, and the average contribution rates. The plan-year-by-plan-year projection must separately identify the market value of assets as of the beginning and end of each plan year in the relevant period and the following cash-flow items for each of those years:

- (1) Contributions.
- (2) Withdrawal liability payments.
- (3) Benefit payments, separately identifying benefit payments with respect to current retirees and beneficiaries, terminated vested participants who are not currently receiving benefits, currently active participants, and future new entrants.

(4) Administrative expenses.

(5) Investment returns.

.02 *Plan actuary’s certification that the plan is projected to avoid insolvency.* The plan actuary’s certification to the plan sponsor under § 432(e)(9)(C)(i) that the plan is projected to avoid insolvency within the meaning of § 418E, taking into account the proposed benefit suspension (and, if applicable, a proposed partition of the plan under section 4233 of ERISA) and assuming that the proposed suspension continues until it expires by its own terms or, if no such expiration date is set, indefinitely. Documentation supporting the actuarial certification under § 432(e)(9)(C)(i) must be included with the certification, including a plan-year-by-plan-year projection of the available resources within the meaning of § 418E(b)(3) and the benefits under the plan demonstrating the avoidance of insolvency of the plan over the extended period described in § 1.432(e)(9)–1(d)(5)(ii)(C). The documentation must include a description of each of the assumptions used, including the new entrant profile, the total contribution base units and average contribution rates. The plan-year-by-plan-year projection must separately identify the market value of assets as of the beginning and end of the initial period and each subsequent plan year in the extended period and the following cash-flow items for the initial period and each of those plan years:

- (1) Contributions.
- (2) Withdrawal liability payments.
- (3) Benefit payments, separately identifying benefit payments with respect to current retirees and beneficiaries, terminated vested participants who are not currently receiving benefits, currently active participants, and future new entrants.
- (4) Administrative expenses.
- (5) Investment returns.

For this purpose, the initial period begins on the first day of the calendar quarter in which the application is submitted and ends with the last day of the plan year that includes that first day.

.03 *Plan sponsor’s determination of projected insolvency.* The plan sponsor’s determination under § 432(e)(9)(C)(ii) that the plan would not be projected to avoid insolvency if no suspension of benefits were applied under the plan, even though all reasonable measures to avoid

insolvency have been taken. The determination must include the documentation set forth in section 5 of this revenue procedure.

#### **SECTION 4. DEMONSTRATION THAT THE PROPOSED SUSPENSION SATISFIES THE STATUTORY REQUIREMENTS**

The application must include the following information to demonstrate that certain statutory limitations and notice requirements are satisfied with respect to the proposed suspension of benefits:

.01 *Demonstration that limitations on individual suspensions are satisfied.* A demonstration of how the proposed suspension satisfies the individual limitations.<sup>3</sup> The demonstration must include:

(1) A sample calculation applying the guarantee-based limitation under § 432(e)(9)(D)(i) for an individual in each category or group identified in accordance with section 2.02(4) of this revenue procedure. Each sample calculation must identify how the monthly benefit that would be guaranteed under section 4022A of ERISA is calculated (assuming, for this purpose, that no portion of the individual's benefit under the plan is subject to permitted forfeiture under § 411(a), due, for example, to a failure to vest in accordance with the vesting schedule specified under the plan). The calculation must identify the extent, if any, to which the monthly guaranteed benefit calculated under section 4022A is reduced on account of any of the following limitations or exclusions:

(a) The section 4022A(a) exclusion of certain forfeitable benefits (for example, increased benefits that have not become part of the accrued benefit).

(b) The section 4022A(b)(1)(A) exclusion of certain benefits and benefit increases in effect for less than 60 months.

(c) The limitations contained in the section 4022A(c)(2) definition of the accrual rate used for calculating the monthly guaranteed benefit (the accrual rate must be based on a benefit that is no greater than the monthly benefit payable under the plan at normal retirement age in the form of a single life annuity (for example, if the benefit reflected an actuarial in-

crease related to delayed retirement or is paid in the form of a social security level income option) and must be calculated without regard to any reduction under § 411(a)(3)(E), divided by years of credited service (credited service cannot exceed 1 year for any year of participation)).

(d) The section 4022A(d) limitation that the guaranteed benefit will not exceed the benefit calculated under the plan as reduced under § 411(a)(3)(E).

(e) The section 4022A(e) exclusion, pursuant to section 4022(b)(6), of benefits that would not be guaranteed if paid under a single-employer plan (benefits paid from a plan that does not satisfy the requirements of § 401(a) or § 404(a)(2)).

(2) If the plan provides for benefits based on disability (as defined under the plan):

(a) A description of each benefit based on disability, as defined under the plan, that is paid to an individual under the plan (including disability benefits that are not available to newly disabled participants), and

(b) A sample calculation applying the disability-based limitation under § 432(e)(9)(D)(iii) for an individual in each category or group identified in accordance with section 2.02(4) of this revenue procedure for each type of benefit based on disability that shows how the plan determines the extent to which any retirement benefit paid with respect to a participant who commenced benefits as a result of disability is, or is not, treated as a benefit based on disability. If the plan provides to a disabled individual a benefit that is not described in the plan as a disability benefit (for example, a retirement benefit paid at normal retirement age that is greater than a disability benefit paid before normal retirement age), then the calculation must show the extent to which the retirement benefit is, or is not, a benefit based on disability.

(3) A sample calculation applying the age-based limitation under § 432(e)(9)(D)(ii) for an individual in each category or group identified in accordance with section 2.02(4) of this revenue procedure. Each sample calculation must show how the proposed suspension satisfies the age-based limitations taking into account the

guarantee-based limitation. If the plan provides for benefits based on disability, then each sample calculation must show how the proposed suspension satisfies the age-based limitations taking into account both the guarantee-based limitation and the disability-based limitation.

.02 *Demonstration that the proposed suspension is reasonably estimated to enable the plan to avoid insolvency.* A demonstration that, in accordance with § 432(e)(9)(D)(iv), the proposed benefit suspension (considered, if applicable, in combination with a proposed partition of the plan under section 4233 of ERISA) is reasonably estimated to enable the plan to avoid insolvency. The demonstration must include:

(1) An illustration, prepared on a deterministic basis, showing that:

(a) For each plan year during the extended period described in § 1.432(e)(9)-1(d)(5)(ii)(C), the plan's solvency ratio – the ratio of the plan's available resources (as defined in § 418E(b)(3)) to the scheduled benefit payments under the plan for the plan year – is projected on a deterministic basis to be at least 1.0.

(b) If the plan's projected funded percentage at the end of the extended period is less than or equal to 100 percent, then neither the plan's solvency ratio nor its available resources are projected to decrease in any of the last five plan years of the extended period.

(2) An illustration, using stochastic projections that reflect variance in investment return, that the probability the plan will avoid insolvency throughout the extended period as a result of the proposed suspension is greater than 50 percent. (The plan sponsor of a plan that is not required to appoint a retiree representative is not required to provide this illustration, unless the plan sponsor chooses to use stochastic projections to demonstrate that the plan will avoid insolvency.)

(3) A description of each of the assumptions used, including:

(a) If an actuarial assumption used for the deterministic projections under section 4.02(1) of this revenue procedure differs from that used under section 3.01 of this revenue procedure, an explanation of the

<sup>3</sup>The sample calculations submitted pursuant to this section 4.01 must not include personally identifiable information relating to any individual.

information and analysis that led to the selection of that assumption.

(b) With respect to the stochastic projections described in section 4.02(2) of this revenue procedure, the assumed mix of assets (and how it compares with the current mix of assets), the distribution of returns for each asset class, and the correlation among those rates of returns and any other economic variables in the projections.

(c) If an actuarial assumption used for stochastic projections described in section 4.02(2) of this revenue procedure differs from that used for deterministic projections described in section 4.02(1) of this revenue procedure, an explanation of the information and analysis that led to the selection of that assumption.

*.03 Demonstration that the proposed suspension is reasonably estimated to not materially exceed the level necessary to avoid insolvency.* In the case of a plan that is not applying for a partition in combination with a suspension, a demonstration that, in accordance with § 432(e)(9)(D)(iv), the proposed benefit suspension is reasonably estimated to not materially exceed the level necessary to enable the plan to avoid insolvency. For this purpose, the assumptions used must be the same as those used for purposes of 4.02 of this revenue procedure. The demonstration must include an illustration, prepared on a deterministic basis, of the plan's available resources and solvency ratio as described in section 4.02(1) of this revenue procedure (and, if applicable to the plan, an illustration of the probability that the plan will avoid insolvency prepared using stochastic projections, as described in section 4.02(2) of this revenue procedure) showing that the proposed suspension would not reasonably be estimated to enable the plan to avoid insolvency if the dollar amount of the proposed suspension for each participant and beneficiary were reduced (but not below zero) by the greater of—

(1) Five percent of the reduction in the periodic payment proposed for that participant or beneficiary; or

(2) Two percent of the participant's or beneficiary's periodic payment determined without regard to the reduction proposed in the application.

*.04 Demonstration that the proposed benefit suspension is distributed equitably.* A demonstration that, in accordance with § 432(e)(9)(D)(vi), the proposed benefit suspension is distributed in an equitable manner across the participant and beneficiary population.

(1) For the plan in the aggregate, the application must include the following:

(a) A statement of the number of participants, beneficiaries, and alternate payees; the average monthly benefit before the suspension; the average monthly benefit after the suspension (determined taking into account the individual limitations); and the aggregate present value of the reduction in benefits for all individuals.

(b) A demonstration of the distribution of the benefit suspension. This demonstration may be expressed as a count of individuals whose benefits are not reduced, and a count of individuals whose benefits are reduced by a percentage that falls within a series of ranges that do not exceed 10 percent. For example, the distribution could show a count of the individuals who have no reduction, a reduction of 10 percent or less, a reduction of 20 percent or less but more than 10 percent, etc.

(2) If, as described in section 2.02(4) of this revenue procedure, the proposed suspension provides for different treatment for different categories or groups (other than as a result of application of the individual limitations), the application must include the following:

(A) The information described in section 4.04(1)(A) and (B) of this revenue procedure for each such category or group.

(B) With respect to the demonstration that the proposed benefit suspension is distributed in an equitable manner across the participant and beneficiary population, the application must identify the factors (for example, those listed in section § 432(e)(9)(D)(vi)(I) through (XI)) that were taken into account in designing the proposed suspension.

(C) If none of the factors listed in § 432(e)(9)(D)(vi)(I) through (XI) were taken into account, then the application must explain why none of them were

taken into account in designing the proposed suspension.

(D) For each factor identified under paragraph 4.04(2)(B) of this revenue procedure that is not one of the factors listed in § 432(e)(9)(D)(vi)(I) through (XI), an explanation of why the factor is relevant.

(E) An explanation of how the differences in treatment under the proposed suspension among the categories or groups identified result from a reasonable application of the relevant factors.

*.05 Notice.* A description of the plan sponsor's method for satisfying the notice requirements under § 432(e)(9)(F), including the following information:

(1) A copy of each type of actual notice<sup>4</sup> that has been or will be given to participants, beneficiaries, employers that have an obligation to contribute within the meaning of section 4212(a) of ERISA, and each employee organization representing participants under the plan. If there is more than one category or group of individuals described in section 2.02(4) of this revenue procedure, a copy of each type of actual notice that has been given or will be given to an individual in each category or group. (This is required even if the plan sponsor uses the model notice in Appendix A.)

(2) A description of the efforts that are being made to contact participants, beneficiaries and alternate payees.

(3) A description of the steps the plan sponsor has taken to ensure that any electronically delivered notices are reasonably accessible to the recipients.

(4) A list of:

(a) Each employer that has an obligation to contribute within the meaning of section 4212(a) of ERISA, and

(b) Each employee organization representing participants under the plan.

## **SECTION 5. PLAN SPONSOR DETERMINATION RELATING TO REASONABLE MEASURES TAKEN TO AVOID INSOLVENCY**

With respect to the plan sponsor's determination required under section 3.03 of this revenue procedure that the plan is projected to become insolvent unless benefits are suspended, the application must include the following information:

<sup>4</sup>The copy of the notice(s) attached to the application must not include personally identifiable information with respect to any individual, such as a name or social security number.

.01 *Measures taken to avoid insolvency.* A detailed description of measures taken in order to avoid insolvency over the past 10 plan years immediately preceding the plan year in which the application is submitted.

.02 *Plan factors.* In accordance with § 432(e)(9)(C)(ii), the following specific information with respect to the plan:

(1) For the past 10 plan years immediately preceding the plan year in which the application is submitted:

(a) Contribution levels.

(b) Levels of benefit accruals, including any prior reductions in the rate of benefit accruals.

(c) Prior reductions, if any, of adjustable benefits under § 432(e)(8).

(d) Any prior suspension of benefits under § 432(e)(9).

(e) Measures undertaken by the plan sponsor to retain or attract contributing employers.

(2) The impact on plan solvency of the subsidies and ancillary benefits, if any, available to active participants.

(3) Compensation levels of active participants relative to employees in the participants' industry generally.

(4) Competitive and other economic factors facing contributing employers.

.03 *How plan factors were taken into account.* For each of the factors listed under section 5.02 of this revenue procedure and the factors described in § 432(e)(9)(C)(ii)(VIII) (the impact of benefit and contribution levels on retaining active participants and bargaining groups under the plan) and § 432(e)(9)(C)(ii)(IX) (the impact of past and anticipated contribution increases under the plan on employer attrition and retention levels), the application must describe how that factor was taken into account (or why that factor was not taken into account) in the plan sponsor's determination that all reasonable measures have been taken to avoid insolvency.

.04 *Other factors considered.* If the plan sponsor took into account any other factors in its determination that all reasonable measures have been taken to avoid insolvency, then the application must discuss why those factors were relevant and how they were taken into account.

## SECTION 6. OTHER REQUIRED INFORMATION

The application must also include the following information:

.01 *Ballot.* A proposed ballot intended to satisfy the requirements of § 432(e)(9)(H)(iii). However, the proposed ballot should not include the information described in § 1.432(e)(9)-1(h)(3)(i)(E), (L) or (M) (regarding the statement in opposition to the proposed benefit suspension described, the individualized estimate that was provided as part of the notice, and the voting procedures (including the deadline for voting)).

.02 *Partition.* Whether the plan sponsor is requesting approval from the Pension Benefit Guaranty Corporation (PBGC) of a proposed partition under section 4233 of ERISA. If the plan sponsor is requesting approval of a proposed partition, then the application for the proposed benefit suspension must include the proposed effective date of the partition and a plan-year-by-plan-year projection of the amount of the reduction in benefit payments (that is, the guaranteed amounts covered by financial assistance under the successor plan for each year) attributable to the partition.

.03 *Ten-year experience for certain critical assumptions.* With respect to each of the 10 plan years immediately preceding the plan year in which the application is submitted, a disclosure that separately identifies:

- (1) Total contributions.
- (2) Total contribution base units.
- (3) Average contribution rates.
- (4) Withdrawal liability payments.
- (5) Rate of return on plan assets.

.04 *Demonstration of sensitivity of projections.* The application must include deterministic projections of the sensitivity of the plan's solvency ratio throughout the extended period to certain key assumptions. For this purpose, the application must include the following separate projections calculated using the same assumptions as those used under section 4.02(1) of this revenue procedure, except that:

(1) The assumed rate of return is reduced by 1 percentage point.

(2) The assumed rate of return is reduced by 2 percentage points.

(3) Future contribution base units increase or decrease at a rate equal to the average annual rate of increase or decrease that the plan experienced over the period of years described in section 6.03 of this revenue procedure.

(4) Future contribution base units increase or decrease at a rate equal to the rate described in section 6.04(3) of this revenue procedure reduced by 1 percentage point.

The projections described in (3) and (4) may be made without reflecting any adjustments to the projected benefit payments that result from the alternative assumptions regarding future contribution base units.

.05 *Projection of funded percentage.* The plan sponsor must include an illustration, prepared on a deterministic basis, of the projected value of plan assets, the accrued liability of the plan (calculated using the unit credit funding method) and the funded percentage for each year in the extended period.

.06 *Plan sponsor certifications relating to plan amendments.* The plan sponsor must certify that if it receives final authorization to implement the suspension as described in § 432(e)(9)(H)(vi) and chooses to implement the authorized suspension, then, in addition to the plan amendment implementing the suspension, the following plan amendments will be timely adopted and not modified at any time thereafter before the suspension of benefits expires:

(1) A plan amendment providing that in accordance with § 432(e)(9)(C)(ii) the benefit suspension will cease as of the first day of the first plan year following the plan year in which the plan sponsor fails to maintain a written record of its determination that both:

(a) All reasonable measures to avoid insolvency continue to be taken during the period of the benefit suspension.

(b) The plan would not be projected to avoid insolvency if no suspension of benefits were applied under the plan.

(2) A plan amendment providing that any future benefit improvements must satisfy the requirements of § 432(e)(9)(E).

.07 *Whether a plan is described in § 432(e)(9)(D)(vii).* Whether the plan is a plan described in § 432(e)(9)(D)(vii) and, if so,

how the provisions of § 432(e)(9)(D)(vii) are reflected in the proposed benefit suspension.

.08 *Optional additional information.* The plan sponsor may include other information about the plan, such as a narrative statement of the reasons the plan is in critical and declining status.

## **SECTION 7. IDENTIFICATION AND BACKGROUND INFORMATION ON THE PLAN**

The application must include the following identification and background information:

.01 *Plan sponsor.* Name, contact information (for example, address, telephone number, email address and fax number) and employer identification number (EIN) of the plan sponsor.

.02 *Plan identification.* Name of the plan, plan number and plan EIN (if different from the plan sponsor EIN) for which the application is submitted.

.03 *Retiree representative.* If applicable, name and contact information of the retiree representative for the plan described in § 432(e)(9)(B)(v).

.04 *Plan's enrolled actuary.* Name, enrollment number, and contact information of the plan's enrolled actuary within the meaning of § 7701(a)(35).

.05 *Power of Attorney.* A designation of power of attorney for each authorized representative who will represent the plan sponsor in connection with the application. See Appendix B.

.06 *Plan documents.* With respect to the plan document, the most recent plan document, including all amendments adopted since the last restatement<sup>5</sup> as well as the following documents related to that plan document:

(1) The most recent summary plan description as defined under section 102 of ERISA and any subsequent summaries of material modification.

(2) The most recent determination letter issued to the plan.

.07 *Collective bargaining and side agreements.* Excerpts from collective bargaining agreements and side agreements (such as participation agreements or reciprocity agreements) pursuant to which the

plan is maintained. The plan sponsor must not submit the entire collective bargaining or side agreement. The required excerpts are:

(1) Language from any portions of a collective bargaining agreement that are relevant to the plan or the proposed suspension, and

(2) Language from any portions of a side agreement that is relevant to the plan or the proposed suspension.

.08 *Annual return.* Excerpts from the most recently filed Form 5500, Annual Return/Report of Employee Benefit Plan. The required excerpts are:

(1) Pages 1 and 2 of the Form 5500, without attachments or schedules.

(2) The Schedule MB, including attachments, and

(3) The Schedule R, including attachments.

.09 *Rehabilitation plan.* The rehabilitation plan described in § 432(e)(3) as most recently updated. If the rehabilitation plan includes more than one contribution or benefit schedule, then the application must specify the extent to which each schedule applies (either pursuant to collective bargaining or, with respect to the designated default schedule, as imposed on an employer), expressed as a percentage of the total contributions for the most recent year for which the information is available.

.10 *Valuation reports.* The two most recent actuarial valuation reports for the plan.

.11 *Completed checklist.* A completed checklist of information required to be included in the application. See Appendix C.

## **SECTION 8. RESUBMISSION REVIEW**

If the application for a suspension is submitted for resubmission review procedure pursuant to § 1.432(e)(9)-1(g)(3), the application must include:

.01 All of the information required under this revenue procedure for an original application, except that, with respect to information that has not changed, the application should cross-reference that information in the prior application rather than provide the information again.

.02 A statement that the application is being submitted for resubmission review

and the date on which the Treasury Department gave approval to submit an application for resubmission review.

## **SECTION 9. EFFECT ON OTHER REVENUE PROCEDURES**

Rev. Proc. 2015-34 is modified and superseded.

## **SECTION 10. PAPERWORK REDUCTION ACT**

The collections of information contained in this revenue procedure have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(c)) under control number 1545-2260.

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

The collections of information in this revenue procedure appear in Appendix B (sample Power of Attorney form) and Appendix C (checklist for completeness of the application). Burden estimates with respect to information described in sections 2, 3, 4, 5, 6 and 7 of this revenue procedure are reported in the preamble to the proposed regulations under § 1.432(e)(9)-1.

We estimate the total number of respondents to be 28.

We estimate it will take 2 hours to comply. The estimated total annual and/or recordkeeping burden is 56 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

## **CONTACT INFORMATION**

For general information regarding this revenue procedure, please contact the Treasury Department MPRA guidance information line at (202) 622-1559 (not a toll-free number). For information regarding a specific application for benefit suspension, please contact the Treasury Department at (202) 622-1534 (not a toll-free number).

<sup>5</sup>Submission of the plan document and amendments to the Treasury Department as part of the application for approval of a proposed suspension under this revenue procedure will not be treated as a request to the IRS for a favorable determination on the qualified status of the plan under § 401 or the exempt status of the related trust under § 501(a). For procedures governing an application to the IRS for a favorable determination under §§ 401 and 501(a), see Rev. Proc. 2016-6, 2016-1 I.R.B. 200, and Rev. Proc. 2007-44, 2007-2 C.B. 54, as modified.

## Appendix A

### MODEL NOTICE OF APPLICATION FOR APPROVAL OF A PROPOSED REDUCTION OF BENEFITS

*[This is a model notice that can be used to satisfy the requirements of § 432(e)(9)(F) and the related regulations. The notice, including any inserts and additional material, must be written in a manner so as to be understood by the average plan participant.]*

*[If the plan sponsor applies for a partition of the Plan under section 4322 of ERISA, then this notice can be combined with the notice required under section 4322 assuming all other requirements, such as the timing of providing each notice, are satisfied.]*

#### NOTICE OF A PROPOSED REDUCTION OF YOUR PENSION BENEFITS

On *[insert date]*, the Board of Trustees of the *[insert Plan name]* (“Plan”) *[insert submitted/will submit]* an application to the U.S. Treasury Department for approval to reduce benefits under the Plan. This type of benefit reduction is allowed by the Federal law called the Multiemployer Pension Reform Act of 2014.

You are getting this notice because you have a pension benefit under the Plan. **The end of this notice describes the proposed reduction of your monthly payments.**<sup>6</sup> This notice will also answer the following questions for you—

1. Why is the Board of Trustees proposing to reduce benefits?
2. What will happen if the Plan runs out of money?
3. How did the Board of Trustees decide whose benefits to reduce and by how much?
4. What are the proposed reductions in benefits?
5. What comes next?

#### 1. Why is the Board of Trustees proposing to reduce benefits?

The Plan’s actuary estimated that, unless benefits are reduced, the Plan will not have enough money to pay benefits in the year *[insert year]*. This estimate is based on how much money the actuary expects the Plan to receive and to pay out each year. The Plan’s actuary estimated that, with the reduction of benefits that the Board of Trustees has proposed, the plan should not run out of money.

#### 2. What will happen if the Plan runs out of money?

If the Plan does not have enough money to pay benefits, then only the amount guaranteed by the Pension Benefit Guaranty Corporation (“PBGC”) will be paid. You can find the amount of your benefit that is guaranteed by PBGC at the end of this notice.

#### 3. How did the Board of Trustees decide whose benefits to reduce and by how much?

Under Federal law, the Board of Trustees must apply the following rules to the proposed reduction—

- The total reduction in everybody’s benefits must be estimated to be large enough to keep the plan from running out of money but not larger than needed to do that.
- Your monthly benefit and the benefit of your beneficiary cannot be reduced below 110% of the amount guaranteed by PBGC.
- Disability benefits (as defined under the Plan) cannot be reduced.
- The benefits of people who are at least 80 years old on *[insert date that is the last day of the month during which the suspension is proposed to take effect]* and their beneficiaries cannot be reduced.
- The benefits of people who are at least 75 years old on *[insert date that is the last day of the month during which the suspension is proposed to take effect]* and their beneficiaries are partially protected, and the closer the person is to age 80 the less the benefits can be reduced.
- The reduction of benefits must be spread fairly among the people who have a pension benefit under the plan.

In deciding whether the proposed reduction is spread fairly, the Board of Trustees took into account the following: *[List the factors the Board of Trustees took into account in designing the proposed suspension of benefits. This list may include (but is not limited to) factors found in § 432(e)(9)(D)(vi).]*

#### 4. What are the proposed reductions in benefits?

The Board of Trustees proposes the following reduction of benefits: *[Describe the proposed suspension of benefits and its effect. Describe each category or group of individuals for which the proposed suspension provides for different treatment (other than as a result of application of the individual limitations) and how those categories or groups are defined; describe the formula used to determine how the amount of the proposed suspension is determined for individuals in each category or group; specify whether the*

<sup>6</sup>A version of this notice that does not include the estimate of the effect on your benefit is being sent to unions that represent Plan participants and to all contributing employers.

*proposed suspension will remain in effect indefinitely or will expire by its own terms (and if so, when it will expire); describe any proposed phase-in of the suspension; and describe the effect of the proposed suspension on the plan's projected insolvency.]*

## **5. What comes next?**

### *Approval or denial of the application by the Treasury Department*

The Treasury Department will review the application to see whether it meets all of the legal requirements under Federal law. If the application meets all of those requirements, the Treasury Department is required to approve the application. If the application does not meet the legal requirements, the Treasury Department will deny the application. The Treasury Department will have until *[insert date 225 days after the application is submitted]* to make a decision.

### *You can get information from the Treasury Department*

More information about the proposed benefit reductions and a copy of the application is available at [www.treasury.gov/mpra](http://www.treasury.gov/mpra).

The application will be available on that website within 30 days after the Treasury Department receives it. The application includes more information about the proposed reduction, including details about: 1) the Plan actuary's certification that the Plan will run out of money (that is, that the plan is in "critical and declining status"); 2) how the proposed reduction would satisfy the requirement that it be large enough so that the Plan is estimated not to run out of money, while not being larger than needed; and 3) the sensitivity of these estimates to the assumptions used.

The application describes the steps the Board of Trustees has already taken to keep the Plan from running out of money and why the Board of Trustees believes that a benefit reduction is the only remaining option to keep the plan from running out of money. In addition, the application explains why the Board of Trustees believes that the proposed reduction is spread fairly among the people who have a pension benefit under the plan.

The Treasury Department website will also provide updated information on the application, such as whether the application has been updated or withdrawn.

For further information and assistance you can also write to the Treasury Department at the following address:

Department of the Treasury  
Attn: MPRA Office, Room 1001  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

### *You can comment on the application to reduce benefits*

You can submit a comment on the application by going to [www.treasury.gov/mpra](http://www.treasury.gov/mpra). Comments may also be mailed to the Department of the Treasury, at the address listed above. All interested parties can make comments, and the comments will be publicly available.

### *Retiree Representative*

If a plan has 10,000 or more participants, the Board of Trustees must select a retiree representative to advocate for the interests of retirees, beneficiaries, and deferred vested participants as part of this process. A plan is required to pay the reasonable expenses of the retiree representative.

*[If the selection of the retiree representative was required under § 432(e)(9)(B)(v)(I), insert the following]*

On *[insert date]*, the Board of Trustees selected *[insert name]* to be the retiree representative. *[He/She]* is a retiree currently receiving benefits under the Plan and *[is also/is not]* a member of the Board of Trustees. Participants and beneficiaries may contact *[insert name of retiree representative]* at *[insert phone number, address, and e-mail address]*.

*[If the Board of Trustees has selected a retiree representative under § 432(e)(9)(B)(v)(I), even though it was not required, insert the following]*

Even though the Plan has fewer than 10,000 participants, the Board of Trustees selected *[insert name]* to be the retiree representative on *[insert date]*. *[He/She]* is a retiree currently receiving benefits under the Plan and *[is also/is not]* a member of the Board of Trustees. Participants and beneficiaries may contact *[insert name of retiree representative]* at *[insert phone number, address, and e-mail address]*.

*[If the Board of Trustees has not selected a retiree representative, insert the following]*

The Board of Trustees is not required to select a retiree representative, because the Plan has fewer than 10,000 participants. The Board of Trustees has not chosen to select a retiree representative.

*Vote on the proposed benefit reduction*

If the application for the proposed reduction of benefits is approved by the Treasury Department, then you will have the opportunity to vote on the proposed reduction. Unless a majority of all participants and beneficiaries of the Plan vote to reject the reduction, the Treasury Department must allow the reduction of benefits to take effect. This means that not voting counts the same as a vote to approve the reduction.

*[If the Board of Trustees believes that PBGC will or may determine that the Plan is a systemically important plan (a plan with a present value of projected PBGC financial assistance payments that exceeds \$1 billion), insert the following]*

Even if a majority votes to reject the proposed reduction of benefits, Federal law requires the Treasury Department to allow the proposed benefit reduction (or a modified version) to take effect if the cost to PBGC to provide guaranteed benefits is particularly large. This rule applies if the value of payments from PBGC if the plan runs out of money is expected to be more than \$1 billion. Before the Treasury Department permits a reduction in this circumstance, PBGC's Participant and Plan Sponsor Advocate may recommend possible modifications to the proposed reduction.

You may contact PBGC's Participant and Plan Sponsor Advocate by mail at Pension Benefit Guaranty Corporation, Attn: Participant and Plan Sponsor Advocate, 1200 K St., NW, Washington DC 20005; by telephone at (202) 326-4448; or by e-mail at [advocate@PBGC.gov](mailto:advocate@PBGC.gov).

*Your right to see Plan documents*

You may want to review Plan documents to help you understand your rights and the proposed reduction to your benefits. The Plan administrator must respond to your request for the following documents within 30 days:

- The Plan document (including any amendments adopted to reflect an authorized reduction of benefits), trust agreement, and other documents governing the Plan (such as collective bargaining agreements).
- The Plan's most recent summary plan description (SPD or plan brochure) and any summary of material modifications.
- The Plan's Form 5500 annual reports, including audited financial statements, filed with the U.S. Department of Labor during the last six years.
- The annual funding notices furnished by the Plan during the last six years.
- Actuarial reports, including reports prepared in anticipation of the benefit reduction, furnished to the Plan within the last six years.
- The Plan's current rehabilitation plan, including contribution schedules and annual plan-sponsor determinations that all reasonable measures to avoid running out of money continue to be taken and that the Plan would run out of money if there were no benefit reductions.
- Any quarterly, semi-annual or annual financial reports prepared for the Plan by an investment manager, fiduciary or other advisor and furnished to the Plan within the last six years.

The Plan administrator may charge you the cost per page to the Plan for the cheapest way of copying documents, but cannot charge more than 25 cents per page. The Plan's Form 5500 Annual Return/Report of Employee Benefit Plan is also available free of charge at [www.dol.gov/ebsa/5500main.html](http://www.dol.gov/ebsa/5500main.html). Some of the documents also may be available for examination, without charge, at the Plan administrator's office, your worksite or union hall.

*Your right to challenge incorrect calculations*

If you think the Plan miscalculated the reduction to your benefits, then you have the right to submit a claim to the Plan to have the calculation corrected. The Plan's summary plan description ("SPD") tells you how to submit a claim. The SPD also describes your right to have a court review the Plan's final decision on your claim.

If you believe the information used to calculate your estimate at the end of this notice is wrong, please contact the Plan office at *[insert phone number, address, and e-mail address]*.

*[The following may be on a separate page at the end of the notice.]*

## **HOW YOUR MONTHLY PAYMENTS WILL BE AFFECTED**

*[Distribute this estimate to the affected individual]*

This estimate of the effect of the proposed reduction of benefits has been prepared for:

[Affected Individual's Name]  
[Address]  
[Town, State, Zip]

[Choose (a), (b), (c) or (d), as appropriate for an affected individual. Affected individuals include a participant (including a retiree), a beneficiary of a deceased participant, or an alternate payee. If (a), (b) or (c) is chosen, then insert a narrative description of the effect of the suspension if it is not possible to estimate its effect quantitatively (on an annual or monthly basis), such as in the case of a suspension that affects the payment of any future cost of living adjustment.]

[(a) For an affected individual who is in pay status and who has a proposed suspension]

Your current monthly benefit is [insert current monthly benefit]. Under the proposed reduction your monthly benefit will be reduced to [insert monthly benefit reflecting proposed suspension] beginning on [insert effective date of the proposed suspension].

[(b) For an affected individual who has a proposed suspension, is not yet in pay status, and is below the participant's normal retirement age]

If you start receiving your benefit on [insert participant's normal retirement date] in the form of a [insert normal form of benefit], your monthly benefit without the proposed reduction would be [insert monthly benefits earned as of proposed effective date of suspension]. Under the proposed reduction your monthly benefit in the same form would be reduced to [insert monthly benefit reflecting proposed suspension].<sup>7</sup>

[(c) For an affected individual who has a proposed suspension, is not yet in pay status, and is above the participant's normal retirement age]

Your benefit without the proposed reduction as of [insert date] in the form of a [insert normal form of benefit] is [insert monthly benefit as of proposed effective date of suspension]. Under the proposed reduction your monthly benefit in the same form will be reduced to [insert monthly benefit reflecting proposed suspension].<sup>8</sup>

[(d) For an affected individual whose benefits are not proposed to be suspended]

Your monthly benefit would not change under the proposed reduction.

[If the proposed suspension is permanent, insert the following for all affected individuals who have a benefit suspension]

The proposed reduction is permanent.

[If the proposed suspension is temporary, insert the following for all affected individuals who have a benefit suspension]

The proposed reduction in your payments will last until [insert date]. Under the proposed reduction, after that date your monthly benefit will increase to the unreduced amount.

[The following text is for all individuals.]

This is an estimate of the effect of the proposed reduction on your benefit under the Plan. It is not a final benefit calculation. This was done assuming that the proposed benefit reduction starts on [insert proposed effective date]. If the benefit reduction starts later, the effect of the proposed reduction on your benefit might be different.

This estimate is based on the following information from Plan records:

- You have [insert total years and months of credited service or total years and months of credited service as of the service calculation date, as applicable] of credited service under the Plan.
- You will be [insert age in years and months] as of [insert last day of the month of that includes the effective date of proposed suspension].
- The portion of your benefit that is based on disability is [insert amount].

[Add additional bullets for other data that is used to estimate the effect of proposed suspension on the individual's benefit.]

### **PBGC Guaranteed Benefits**

If the Plan does not have enough money to pay benefits, your monthly benefit would be no larger than the amount guaranteed by PBGC. The amount of your monthly benefit guaranteed by PBGC is estimated to be [insert \$xxxx.xx].

<sup>7</sup>These numbers are just estimates. The actual amount you receive will depend on things like how long you work and when you begin receiving payments. For more information, see [insert cross-reference].

<sup>8</sup>These amounts will be different if you take your benefit in a different form. For example, if you elect [insert other form of benefit available under the plan], your reduced monthly benefit will be [insert monthly benefit reflecting proposed suspension].

## Appendix B

### POWER OF ATTORNEY AND DECLARATION OF REPRESENTATIVE BEFORE THE DEPARTMENT OF THE TREASURY

**Applicant information [include name of plan, address, plan number, employer identification number, name of contact, title of contact, telephone number, email address, and fax number]:**

Applicant hereby appoints the following representative(s) as attorney(s)-in-fact to represent the taxpayer before the Department of the Treasury and perform acts related to the attached application dated \_\_\_\_\_ for suspension of benefits under § 432(e)(9) of the Internal Revenue Code of 1986, as amended.

**Representative information: [include name, address, employer identification number, telephone number, email address, and fax number]:**

Send copies of notices and communications to representative [answer yes or no]

With the exception of the acts described below, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the attached application dated \_\_\_\_\_ for suspension of benefits under § 432(e)(9). For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents.

Specific acts not authorized: [If the representative is not authorized to perform any act described above, describe the act that the representative is not authorized to perform.]

#### Signature of Applicant and Date

This power of attorney must be signed and dated by an authorized trustee who is a current member of the board of trustees.

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#### Declaration of Representative

Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice before the Internal Revenue Service;
- I am authorized to represent the Applicant for the matter(s) specified in this Power of Attorney and Declaration of Representative; and
- I am one of the following:
  - a** Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
  - b** Certified Public Accountant—duly qualified to practice as a certified public accountant in the jurisdiction shown below.
  - c** Enrolled Agent
  - d** Officer—a bona fide officer of the Applicant.
  - e** Full-Time Employee—a full-time employee of the Applicant.
  - f** Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230).
  - g** Enrolled Retirement Plan Agent

Required information for Representative [include the appropriate designation of a through g above. In addition, an officer or full-time employee of the Applicant must include the title or position with the Applicant, and other Representatives must include the licensing jurisdiction if applicable, and the bar, license, certification, registration, or enrollment number as applicable.]:

**Signature of Representative and date:**

---

## APPENDIX C

### CHECKLIST - IS THE SUBMISSION COMPLETE?

**Instructions.** The application must include a completed checklist placed on top of the application. This will help ensure that the application is complete. Answer each question in the checklist by circling Y for yes, N for no or N/A for not applicable, as appropriate, in the blank next to the item. Also insert in the appropriate blank next to each item the page number or numbers where the item appears in the application.

#### APPLICATION FOR APPROVAL OF BENEFIT SUSPENSION FOR [INSERT NAME OF PLAN]

Response	Item number	Description of item	Page number in application
Yes No N/A	1.	Does the application include an original signature of the plan sponsor or an authorized representative of the plan sponsor? See section 2.01.	
Yes No N/A	2.	Does the application include a description of the proposed benefit suspension - calculated as if no other limitations apply - that includes: <ul style="list-style-type: none"> <li>• the suspension’s effective date (and its expiration date, if applicable),</li> <li>• whether the suspension provides for different treatment of participants and beneficiaries,</li> <li>• a description of the different categories or groups of individuals affected, and</li> <li>• how the suspension affects these individuals differently?</li> </ul> See section 2.02.	
Yes No N/A	3.	Does the application include a penalties-of-perjury statement signed by an authorized trustee on behalf of the board of trustees? See Section 2.03.	
Yes No N/A	4.	Does the application include a statement, signed by an authorized trustee on behalf of the board of trustees, acknowledging that the application and the application’s supporting material will be publicly disclosed on the Treasury Department’s website? See section 2.04.	
Yes No N/A	5.	Does the application include the plan actuary’s certification of critical and declining status and the supporting illustrations, including: <ul style="list-style-type: none"> <li>• the plan-year-by-plan-year projections demonstrating projected insolvency during the relevant period, and</li> <li>• separately identifying the available resources (and the market value of assets and changes in cash flow) during each of those years?</li> </ul> See section 3.01.	
Yes No N/A	6.	Does the application describe the assumptions used, including the new entrant profile, the total contribution base units, and the average contribution rates? See section 3.01.	
Yes No N/A	7.	Does the application include the plan actuary’s certification that the plan is projected to avoid insolvency if the suspension takes effect and the supporting illustrations, including: <ul style="list-style-type: none"> <li>• the plan-year-by-plan-year projections demonstrating projected solvency during the relevant period,</li> <li>• a description of the assumptions used, including the new entrant profile, the total contribution base units, and the average contribution rates, and</li> <li>• separately identifying the available resources (and the market value of assets and changes in cash flow) during each of those years?</li> </ul> See section 3.02.	

<b>Response</b>	<b>Item number</b>	<b>Description of item</b>	<b>Page number in application</b>
Yes No N/A	8.	Does the application include the plan sponsor's determination of projected insolvency that includes the documentation set forth in section 5 of the revenue procedure? See section 3.03.	
Yes No N/A	9.	Does the application include a demonstration that the limitations on individual suspensions are satisfied, including calculations regarding: <ul style="list-style-type: none"> <li>• the guarantee-based limitation,</li> <li>• the disability-based limitation, and</li> <li>• the age-based limitation?</li> </ul> See section 4.01.	
Yes No N/A	10.	Does the application include a demonstration that the proposed suspension is reasonably estimated to achieve the level necessary to avoid insolvency for the extended period, including illustrations regarding the plan's solvency ratio and available resources? See section 4.02(1).	
Yes No N/A	11.	Does the application include the required illustration utilizing stochastic projections? (This illustration is not required if the plan is not required to appoint a retiree representative under § 432(e)(9)(B)(v)(I) and stochastic projections were not used in making the required determination.) See section 4.02(2).	
Yes No N/A	12.	Does the application include a demonstration that the proposed suspension is not projected to materially exceed the level necessary to avoid insolvency, including illustrations regarding the plan's solvency ratio and available resources? See section 4.03.	
Yes No N/A	13.	Does the application include a demonstration that the proposed suspension is equitably distributed, including: <ul style="list-style-type: none"> <li>• information on the effect of the suspension on the plan in the aggregate,</li> <li>• information on the effect of the suspension for different categories or groups,</li> <li>• a list of the factors taken into account,</li> <li>• an explanation of why none of the factors listed in § 432(e)(9)(D)(vi) were taken into account (if applicable),</li> <li>• for each factor taken into account that is not one of the factors listed in § 432(e)(9)(D)(vi), an explanation why the factor is relevant, and</li> <li>• how any difference in treatment among categories or groups of individuals results from a reasonable application of the relevant factors?</li> </ul> See section 4.04.	
Yes No N/A	14.	Does the application include a copy of the notices (excluding personally identifiable information) that meet the requirements under § 432(e)(9)(F)? See section 4.05(1).	
Yes No N/A	15.	Does the application include a description of the efforts that are being taken to contact participants, beneficiaries in pay status, and alternate payees? See section 4.05(2).	
Yes No N/A	16.	Does the application describe the steps the plan sponsor has taken to ensure that notices delivered electronically are reasonably accessible to the recipients? See section 4.05(3)	

<b>Response</b>	<b>Item number</b>	<b>Description of item</b>	<b>Page number in application</b>
Yes No N/A	17.	Does the application include a list of each employer who has an obligation to contribute under the Plan and each employee organization representing participants under the Plan? See section 4.05(4).	
Yes No N/A	18.	Does the application include information on past and current measures taken to avoid insolvency? See section 5.01.	
Yes No N/A	19.	Does the application include the plan information required by section 5.02?	
Yes No N/A	20.	Does the application describe how the plan sponsor took into account – or did not take into account – the factors listed in section 5.02 in the determination that all reasonable measures were taken to avoid insolvency? See section 5.03.	
Yes No N/A	21.	Does the application describe how the plan sponsor took into account - or did not take into account - in the determination that all reasonable measures have been taken to avoid insolvency the impact of: <ul style="list-style-type: none"> <li>• benefit and contribution levels on retaining active participants and bargaining groups under the plan, and</li> <li>• past and anticipated contribution increases under the plan on employer attrition and retention levels?</li> </ul> See section 5.03.	
Yes No N/A	22.	Does the application include a discussion of any other factors the plan sponsor took into account including how and why those factors were taken into account? See section 5.04.	
Yes No N/A	23.	Does the application include a copy of the proposed ballot, excluding the information regarding the statement in opposition, the individualized estimate, and the voting procedures? See section 6.01.	
Yes No N/A	24.	Does the application indicate whether the plan sponsor is requesting approval from PBGC of a proposed partition under section 4233 of ERISA? See section 6.02.	
Yes No N/A	25.	If the answer to item 24 is yes, does the application specify the effective date of the proposed partition and include a plan-year-by-plan-year projection of the amount of the reduction in benefit payments attributable to the partition? See section 6.02.	
Yes No N/A	26.	Does the application describe the plan's experience with certain critical assumptions, including a disclosure for each of the 10 plan years immediately preceding the application that separately identifies: <ul style="list-style-type: none"> <li>• total contributions,</li> <li>• total contribution base units,</li> <li>• average contribution rates,</li> <li>• withdrawal liability payments, and</li> <li>• the rate of return on plan assets?</li> </ul> See section 6.03.	

<b>Response</b>	<b>Item number</b>	<b>Description of item</b>	<b>Page number in application</b>
Yes No N/A	27.	Does the application include deterministic projections of the sensitivity of the plan's solvency ratio throughout the extended period by taking into account the more conservative assumptions of investment experience and future contribution base units than assumed elsewhere in the application? See section 6.04.	
Yes No N/A	28.	Does the plan include deterministic projections for each year in the extended period of: <ul style="list-style-type: none"> <li>• the value of plan assets,</li> <li>• the plan's accrued liability, and</li> <li>• the plan's funded percentage?</li> </ul> See section 6.05.	
Yes No N/A	29.	Does the application include the plan sponsor's representation that, if it receives the Treasury Department's final authorization to suspend and then chooses to implement the suspension, it will also amend the plan: <ul style="list-style-type: none"> <li>• to indicate that the suspension will cease upon the plan sponsor's failure to determine that both all reasonable measures continue to be taken to avoid insolvency and that the plan would not be projected to avoid insolvency without a suspension,</li> <li>• to require that any future benefit improvements must satisfy § 432(e)(9)(E), and</li> <li>• to specify that the plan sponsor will not modify these amendments, notwithstanding any other provision of the plan document?</li> </ul> See section 6.06.	
Yes No N/A	30.	Does the application indicate whether the plan is a plan described in § 432(e)(9)(D)(vii) and, if so, how is that fact reflected in the proposed benefit suspension? See section 6.07.	
Yes No N/A	31.	Does the application include the required plan sponsor information, including <ul style="list-style-type: none"> <li>• name</li> <li>• address</li> <li>• telephone number</li> <li>• email address</li> <li>• fax number</li> <li>• employer identification number (EIN) and</li> <li>• 3-digit plan number (PN)?</li> </ul> See section 7.01.	
Yes No N/A	32.	Does the application include the required plan identification information? See section 7.02.	
Yes No N/A	33.	Does the application include the required retiree representative information (if applicable)? See section 7.03.	
Yes No N/A	34.	Does the application include the required enrolled actuary information? See section 7.04.	
Yes No N/A	35.	Does the application include a designation of power of attorney for each authorized representative who will represent the plan sponsor in connection with the application? See section 7.05 and Appendix B.	

<b>Response</b>	<b>Item number</b>	<b>Description of item</b>	<b>Page number in application</b>
Yes No N/A	36.	Does the application include: <ul style="list-style-type: none"> <li>• the required plan documents,</li> <li>• any recent amendments,</li> <li>• the summary plan description (SPD),</li> <li>• the summary of material modifications, and</li> <li>• the most recent determination letter?</li> </ul> See section 7.06.	
Yes No N/A	37.	Does the application include the required excerpts from the relevant collective bargaining agreements and side agreements? See section 7.07.	
Yes No N/A	38.	Does the application include the required excerpts from the most recently filed Form 5500? See section 7.08.	
Yes No N/A	39.	Does the application include the most recently updated rehabilitation plan? See section 7.09.	
Yes No N/A	40.	Does the application include this checklist, completed and placed on top of the application? See section 7.10.	
Yes No N/A	41.	If the application is being submitted for resubmission review, does the application include: <ul style="list-style-type: none"> <li>• a statement that the application is being submitted for resubmission review, and</li> <li>• the date on which the Treasury Department gave approval to submit an application for resubmission review?</li> </ul> See section 8.	

**Signature**

**Date**

**Title or Authority**

**Typed or printed name of person signing checklist**

## Part IV. Items of General Interest

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

#### Announcement 2016-18 Correction to Announcement 2016-04

##### Table of Contents

The information contained in Announcement 2016-04, 2016-06 IRB 313, is incorrect and that Announcement is hereby revoked. The correct information is contained in this announcement.

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1954 are listed below.

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the IRS will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the IRS is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part

responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on May 9, 2016 and would end on the date the court first determines the organization is not described in section 170(c)(2) as more particularly set for in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

NAME OF ORGANIZATION	Effective Date of Revocation	LOCATION
The Ameridream Inc.	February 5, 1999	Bethesda, MD
The Pencil Project	January 1, 2009	Austin, TX
Estes Family Educational and Charitable Foundation	January 1, 2010	Lufkin, TX
American Friends of Yeshiva Shaare Chaim, Inc.	May 1, 2008	Cleveland Heights, OH
Arseny and Olga Kovshar Private Charitable Memorial Foundation	April 30, 2004	San Francisco, CA
World Wide Water Foundation, Ltd.	January 1, 2011	Dahlonega, GA
Community Alliance for the Ethical Treatment of Youth, Inc.	January 1, 2012	Portland, OR
Birmingham Business Development Initiative, Inc.	June 1, 2010	Birmingham, AL
Yes I Can Ministry	January 1, 2013	Rialto, CA

### Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

#### Announcement 2016-19 Correction to Announcement 2016-05

The information contained in Announcement 2016-05, 2016-08 IRB 356, is incorrect and that Announcement is hereby revoked. The correct informa-

tion is contained in this announcement. This announcement serves notice to potential donors that the organization listed below has recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section 170(c)(2), as more particularly set forth in section 7428(c)(1).

In the case of individual contributors, the maximum amount of contributions

protected during this period is limited to \$1,000.00, with a husband and wife being treated as one contributor. This protection is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for the revocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

Name of Organization	Date Suit Filed	Effective Date of Revocation	Location
Estes Family Educational and Charitable Foundation	12/22/2015	1/1/2010	Lufkin, TX
American Friends of Yeshiva Shaare Chaim Inc.	9/2/2015	5/1/2008	Cleveland Heights, OH
Arseny and Olga Kovshar Private Charitable Memorial Foundation	11/25/2015	4/30/2004	San Francisco, CA

# 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.

## Numerical Finding List<sup>1</sup>

Bulletins 2016–1 through 2016–19

### Announcements:

2016-1, 2016-3 I.R.B. 283  
2016-2, 2016-3 I.R.B. 283  
2016-3, 2016-4 I.R.B. 294  
2016-4, 2016-6 I.R.B. 313  
2016-5, 2016-8 I.R.B. 356  
2016-6, 2016-10 I.R.B. 409  
2016-7, 2016-8 I.R.B. 356  
2016-8, 2016-9 I.R.B. 367  
2016-9, 2016-9 I.R.B. 367  
2016-10, 2016-9 I.R.B. 367  
2016-11, 2016-10 I.R.B. 411  
2016-12, 2016-16 I.R.B. 589  
2016-13, 2016-13 I.R.B. 514  
2016-14, 2016-14 I.R.B. 535  
2016-15, 2016-17 I.R.B. 636  
2016-16, 2016-18 I.R.B. 697  
2016-18, 2016-19 I.R.B. 741  
2016-19, 2016-19 I.R.B. 741

### Notices:

2016-1, 2016-2 I.R.B. 265  
2016-2, 2016-2 I.R.B. 265  
2016-3, 2016-3 I.R.B. 278  
2016-4, 2016-3 I.R.B. 279  
2016-5, 2016-6 I.R.B. 302  
2016-6, 2016-4 I.R.B. 287  
2016-7, 2016-5 I.R.B. 296  
2016-8, 2016-6 I.R.B. 304  
2016-9, 2016-6 I.R.B. 306  
2016-10, 2016-6 I.R.B. 307  
2016-11, 2016-6 I.R.B. 312  
2016-12, 2016-6 I.R.B. 312  
2016-13, 2016-7 I.R.B. 314  
2016-14, 2016-7 I.R.B. 315  
2016-15, 2016-13 I.R.B. 486  
2016-16, 2016-7 I.R.B. 318  
2016-17, 2016-9 I.R.B. 358  
2016-18, 2016-9 I.R.B. 359  
2016-19, 2016-9 I.R.B. 362  
2016-20, 2016-9 I.R.B. 362  
2016-21, 2016-12 I.R.B. 465  
2016-22, 2016-13 I.R.B. 488  
2016-23, 2016-13 I.R.B. 490  
2016-24, 2016-13 I.R.B. 492  
2016-25, 2016-13 I.R.B. 493  
2016-26, 2016-14 I.R.B. 533  
2016-27, 2016-15 I.R.B. 576  
2016-28, 2016-15 I.R.B. 576  
2016-29, 2016-18 I.R.B. 673  
2016-30, 2016-18 I.R.B. 676

### Proposed Regulations:

REG-103380-05, 2016-16 I.R.B. 614  
REG-118867-10, 2016-10 I.R.B. 411  
REG-147310-12, 2016-7 I.R.B. 336  
REG-150349-12, 2016-11 I.R.B. 440  
REG-138344-13, 2016-4 I.R.B. 294  
REG-123867-14, 2016-12 I.R.B. 484  
REG-125761-14, 2016-7 I.R.B. 322  
REG-135734-14, 2016-18 I.R.B. 712  
REG-100861-15, 2016-8 I.R.B. 356  
REG-108060-15, 2016-17 I.R.B. 636  
REG-109822-15, 2016-14 I.R.B. 535  
REG-127923-15, 2016-12 I.R.B. 473  
REG-129067-15, 2016-10 I.R.B. 421  
REG-133673-15, 2016-18 I.R.B. 697  
REG-134122-15, 2016-7 I.R.B. 334  
REG-101701-16, 2016-9 I.R.B. 368

### Revenue Procedures:

2016-1, 2016-1 I.R.B. 1  
2016-2, 2016-1 I.R.B. 102  
2016-3, 2016-1 I.R.B. 126  
2016-4, 2016-1 I.R.B. 142  
2016-5, 2016-1 I.R.B. 188  
2016-6, 2016-1 I.R.B. 200  
2016-7, 2016-1 I.R.B. 239  
2016-8, 2016-1 I.R.B. 243  
2016-10, 2016-2 I.R.B. 270  
2016-11, 2016-2 I.R.B. 274  
2016-13, 2016-4 I.R.B. 290  
2016-14, 2016-9 I.R.B. 365  
2016-15, 2016-11 I.R.B. 435  
2016-16, 2016-10 I.R.B. 394  
2016-17, 2016-11 I.R.B. 436  
2016-18, 2016-17 I.R.B. 635  
2016-19, 2016-13 I.R.B. 497  
2016-20, 2016-13 I.R.B. 499  
2016-21, 2016-14 I.R.B. 533  
2016-22, 2016-15 I.R.B. 577  
2016-23, 2016-16 I.R.B. 581  
2016-24, 2016-18 I.R.B. 677  
2016-25, 2016-18 I.R.B. 678  
2016-27, 2016-19 I.R.B. 725

### Revenue Rulings:

2016-1, 2016-2 I.R.B. 262  
2016-2, 2016-4 I.R.B. 284  
2016-3, 2016-3 I.R.B. 282  
2016-4, 2016-6 I.R.B. 299  
2016-5, 2016-8 I.R.B. 344  
2016-6, 2016-14 I.R.B. 519  
2016-7, 2016-10 I.R.B. 391  
2016-8, 2016-11 I.R.B. 426  
2016-9, 2016-14 I.R.B. 530  
2016-10, 2016-15 I.R.B. 545  
2016-11, 2016-19 I.R.B. 717

### Treasury Decisions:

9745, 2016-2 I.R.B. 256  
9746, 2016-14 I.R.B. 515  
9748, 2016-8 I.R.B. 347  
9749, 2016-10 I.R.B. 373  
9750, 2016-10 I.R.B. 374  
9751, 2016-10 I.R.B. 379  
9752, 2016-10 I.R.B. 385  
9753, 2016-11 I.R.B. 426  
9754, 2016-11 I.R.B. 432  
9755, 2016-12 I.R.B. 442  
9756, 2016-12 I.R.B. 450  
9757, 2016-12 I.R.B. 462  
9759, 2016-15 I.R.B. 545  
9760, 2016-15 I.R.B. 564  
9762, 2016-19 I.R.B. 718

<sup>1</sup>A 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.

## **Finding List of Current Actions on Previously Published Items<sup>1</sup>**

Bulletins 2016–1 through 2016–19

### **Announcements:**

#### **2007-21**

Modified by  
Ann. 2016-1, 2016-3 I.R.B. 283

### **Notices:**

#### **2005-50**

Modified by  
Notice 2016-2, 2016-2 I.R.B. 265

#### **2007-59**

Revoked by  
Notice 2016-16, 2016-7 I.R.B. 318

#### **2013-54**

Supplemented by  
Notice 2016-17, 2016-9 I.R.B. 358

#### **2014-79**

Superseded by  
Notice 2016-1, 2016-2 I.R.B. 265

#### **2015-52**

Supplemented by  
Notice 2016-17, 2016-9 I.R.B. 358

#### **2015-87**

Supplemented by  
Notice 2016-17, 2016-9 I.R.B. 358

### **Revenue Procedures:**

#### **1987-24**

Superseded by  
Rev. Proc. 2016-22, 2016-15 I.R.B. 577

#### **2003-36**

Superseded by  
Rev. Proc. 2016-19, 2016-13 I.R.B. 497

#### **2014-56**

Superseded by  
Rev. Proc. 2016-20, 2016-13 I.R.B. 499

#### **2014-64**

Supplemented by  
Rev. Proc. 2016-18, 2016-17 I.R.B. 635

#### **2015-1**

Superseded by  
Rev. Proc. 2016-2, 2016-1 I.R.B. 1

#### **2015-2**

Superseded by  
Rev. Proc. 2016-2, 2016-1 I.R.B. 102

## **Revenue Procedures:—Continued**

#### **2015-3**

Superseded by  
Rev. Proc. 2016-3, 2016-1 I.R.B. 126

#### **2015-5**

Superseded by  
Rev. Proc. 2016-5, 2016-1 I.R.B. 142

#### **2015-7**

Superseded by  
Rev. Proc. 2016-7, 2016-1 I.R.B. 188

#### **2015-8**

Superseded by  
Rev. Proc. 2016-8, 2016-1 I.R.B. 200

#### **2015-9**

Superseded by  
Rev. Proc. 2016-5, 2016-1 I.R.B. 239

#### **2015-10**

Superseded by  
Rev. Proc. 2016-10, 2016-2 I.R.B. 270

#### **2015-19**

Amplified by  
Rev. Proc. 2016-23, 2016-16 I.R.B. 581

#### **2015-19**

Modified by  
Rev. Proc. 2016-23, 2016-16 I.R.B. 581

#### **2015-22**

Superseded by  
Rev. Proc. 2016-8, 2016-01 I.R.B. 243

#### **2015-34**

Modified by  
Rev. Proc. 2016-27, 2016-19 I.R.B. 725

#### **2015-34**

Supplemented by  
Rev. Proc. 2016-27, 2016-19 I.R.B. 725

#### **2015-50**

Supplemented by  
Rev. Proc. 2016-18, 2016-17 I.R.B. 635

#### **2015-53**

Modified by  
Rev. Proc. 2016-11, 2016-2 I.R.B. 274

### **Revenue Rulings:**

#### **2005-3**

Modified by  
Rev. Rul. 2016-8, 2016-11 I.R.B. 426

#### **2008-15**

Revoked by  
Rev. Rul. 2016-3, 2016-3 I.R.B. 282

<sup>1</sup>A 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.

# **Internal Revenue Service**

## **Washington, DC 20224**

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## **INTERNAL REVENUE BULLETIN**

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

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## **We Welcome Comments About the Internal Revenue Bulletin**

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page (*www.irs.gov*) or write to the Internal Revenue Service, Publishing Division, IRB Publishing Program Desk, 1111 Constitution Ave. NW, IR-6230 Washington, DC 20224.