

# INTERNAL REVENUE BULLETIN



## HIGHLIGHTS OF THIS ISSUE

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

**Bulletin No. 2016-27**  
**July 5, 2016**

## INCOME TAX

### **Rev. Rul. 2016-17, page 1.**

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, 7872, and other sections of the Code, tables set forth the rates for July 2016.

### **Announcement 2016-21, page 8.**

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and appraisers. These individuals are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Part 10, and which are published in pamphlet form as Treasury Department Circular No. 230. The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations.

### **Notice 2016-40, page 4.**

This notice provides additional transition relief for employers claiming the Work Opportunity Tax Credit (WOTC) under §§ 51 and 3111(e) of the Internal Revenue Code (Code), as extended and amended by the Protecting Americans from Tax Hikes Act of 2015, Pub. L. No. 114-113, div. Q (the PATH Act). Specifically, this notice expands and extends by three months the transition relief provided in Notice 2016-22 (2016-13 IRB 488) for meeting the 28-day deadline in § 51(d)(13)(A)(ii) of the Code. This notice applies to employers that (1) hire members of targeted groups (other than qualified long-term unemployment recipients) on or after January 1, 2015, and on or before August 31, 2016, or (2) hire members of the new targeted

group of qualified long-term unemployment recipients on or after January 1, 2016, and on or before August 31, 2016. This notice does not otherwise modify or add to the guidance provided under Notice 2016-22.

### **Notice 2016-41, page 5.**

This notice updates the appendix to Notice 2013-1, which lists the Indian tribes who have settled tribal trust cases against the United States. Notice 2012-60 originally was published in IRB 2012-41 (October 9, 2012). Notice 2012-60 was superceded by Notice 2013-1 IRB 2013-3, and the appendix to Notice 2013-1 was superceded by Notice 2013-16 (IRB 2013-14), then Notice 2013-36, then Notice 2013-55, then Notice 2014-22, Notice 2014-38, then Notice 2014-61, and then Notice 2015-20. However, four additional tribes have settled cases against the United States since the publication of Notice 2015-20, so we are seeking to publish an updated appendix to Notice 2013-1. This notice supersedes Notice 2015-20.

## EXEMPT ORGANIZATIONS

### **Announcement 2016-23, page 10.**

Serves notice to potential donors of a stipulated decision by the United States Tax Court in declaratory judgment proceedings under Section 7428.

**(Continued on the next page)**

## **EMPLOYMENT TAX**

### **Notice 2016–40, page 4.**

This notice provides additional transition relief for employers claiming the Work Opportunity Tax Credit (WOTC) under §§ 51 and 3111(e) of the Internal Revenue Code (Code), as extended and amended by the Protecting Americans from Tax Hikes Act of 2015, Pub. L. No. 114–113, div. Q (the PATH Act). Specifically, this notice expands and extends by three months the transition relief provided in Notice 2016–22 (2016–13 IRB 488) for meeting the 28-day deadline in § 51(d)(13)(A)(ii) of the Code. This notice applies to employers that (1) hire members of targeted groups (other than qualified long-term unemployment recipients) on or after January 1, 2015, and on or before August 31, 2016, or (2) hire members of the new targeted group of qualified long-term unemployment recipients on or after January 1, 2016, and on or before August 31, 2016. This notice does not otherwise modify or add to the guidance provided under Notice 2016–22.

## **ADMINISTRATIVE**

### **Notice 2016–40, page 4.**

This notice provides additional transition relief for employers claiming the Work Opportunity Tax Credit (WOTC) under §§ 51 and 3111(e) of the Internal Revenue Code (Code), as extended and amended by the Protecting Americans from Tax Hikes Act of 2015, Pub. L. No. 114–113, div. Q (the PATH Act). Specifically, this notice expands and extends by three months the transition relief provided in Notice 2016–22 (2016–13 IRB 488) for meeting the 28-day deadline in § 51(d)(13)(A)(ii) of the Code. This notice applies to employers that (1) hire members of targeted groups (other than qualified long-term unemployment recipients) on or after January 1, 2015, and on or before August 31, 2016, or (2) hire members of the new targeted group of qualified long-term unemployment recipients on or after January 1, 2016, and on or before August 31, 2016. This notice does not otherwise modify or add to the guidance provided under Notice 2016–22.

# The IRS Mission

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

## Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

### **Part I.—1986 Code.**

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

### **Part II.—Treaties and Tax Legislation.**

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

### **Part III.—Administrative, Procedural, and Miscellaneous.**

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

### **Part IV.—Items of General Interest.**

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

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

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

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

## Section 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. 2016-17

This revenue ruling provides various prescribed rates for federal income tax

purposes for July 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%. 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. Finally, Table 6 contains the blended annual rate for 2016 for purposes of section 7872.

REV. RUL. 2016-17 TABLE 1  
Applicable Federal Rates (AFR) for July 2016

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	.71%	.71%	.71%	.71%
110% AFR	.78%	.78%	.78%	.78%
120% AFR	.85%	.85%	.85%	.85%
130% AFR	.92%	.92%	.92%	.92%
<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	2.18%	2.17%	2.16%	2.16%
110% AFR	2.40%	2.39%	2.38%	2.38%
120% AFR	2.62%	2.60%	2.59%	2.59%
130% AFR	2.84%	2.82%	2.81%	2.80%

REV. RUL. 2016-17 TABLE 2  
Adjusted AFR for July 2016

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.65%	.65%	.65%	.65%
Mid-term adjusted AFR	1.16%	1.16%	1.16%	1.16%
Long-term adjusted AFR	2.08%	2.07%	2.06%	2.06%

REV. RUL. 2016-17 TABLE 3  
Rates Under Section 382 for July 2016

Adjusted federal long-term rate for the current month	2.08%
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.)	2.24%

REV. RUL. 2016-17 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for February 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	7.41%
Appropriate percentage for the 30% present value low-income housing credit	3.18%

REV. RUL. 2016-17 TABLE 5  
Rate Under Section 7520 for July 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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REV. RUL. 2016-17 TABLE 6  
Blended Annual Rate for 2016

Section 7872(e)(2) blended annual rate for 2016	.73%
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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 July 2016. See Rev. Rul. 2016-17, page 1.

### Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of July 2016. See Rev. Rul. 2016-17, page 1.

### 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 July 2016. See Rev. Rul. 2016-17, page 1.

### Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of July 2016. See Rev. Rul. 2016-17, page 1.

### 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 July 2016. See Rev. Rul. 2016-17, page 1.

### 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 July 2016. See Rev. Rul. 2016-17, page 1.

### 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 July 2016. See Rev. Rul. 2016-17, page 1.

### 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 July 2016. See Rev. Rul. 2016-17, page 1.

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

Federal short-term, mid-term, and long-term rates are set forth for the month of July 2016. See Rev. Rul. 2016-17, page 1.

## **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 July 2016. See Rev. Rul. 2016-17, page 1.

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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 July 2016. See Rev. Rul. 2016-17, page 1.

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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 July 2016. See Rev. Rul. 2016-17, page 1.

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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 July 2016. See Rev. Rul. 2016-17, page 1.

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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 July 2016. See Rev. Rul. 2016-17, page 1.

# Part III. Administrative, Procedural, and Miscellaneous

## Work Opportunity Tax Credit (WOTC) Additional Transition Relief

### Notice 2016–40

#### I. PURPOSE

This notice provides additional transition relief for employers claiming the Work Opportunity Tax Credit (WOTC) under §§ 51 and 3111(e) of the Internal Revenue Code (Code), as extended and amended by the Protecting Americans from Tax Hikes Act of 2015, Pub. L. No. 114–113, *div. Q* (the PATH Act). Specifically, this notice expands and extends by three months the transition relief provided in Notice 2016–22 (2016–13 IRB 488) for meeting the 28-day deadline in § 51(d)(13)(A)(ii) of the Code. This notice applies to employers that (1) hire members of targeted groups (other than qualified long-term unemployment recipients) on or after January 1, 2015, and on or before August 31, 2016, or (2) hire members of the new targeted group of qualified long-term unemployment recipients on or after January 1, 2016, and on or before August 31, 2016. This notice does not otherwise modify or add to the guidance provided under Notice 2016–22.

#### II. BACKGROUND

Section 51(a) of the Code provides the WOTC to employers based on a percentage of qualified wages paid during the taxable year. Section 51(b) of the Code defines qualified wages as wages paid or incurred by an employer during the taxable year to an individual who is a member of a targeted group. Section 51(d)(1) of the Code lists the targeted groups.

The PATH Act amends § 51(d)(1) of the Code to add qualified long-term unemployment recipients to the list of targeted groups, effective as of January 1, 2016. The PATH Act also extends the WOTC through December 31, 2019 for taxable employers that hire members of a targeted group and for qualified tax-exempt organizations described in § 501(c) of the Code that hire qualified veterans. For more information about the

definition of qualified long-term unemployment recipients, and other information concerning the PATH Act extension of the WOTC, see Notice 2016–22.

Pursuant to § 51(d)(13)(A) of the Code, an individual is not treated as a member of a targeted group unless (1) on or before the day the individual begins work, the employer obtains certification from the designated local agency (DLA) that the individual is a member of a targeted group; or (2) the employer completes a pre-screening notice on or before the day the individual is offered employment and submits such notice to the DLA to request certification not later than 28 days after the individual begins work. To request certification from a DLA, an employer submits IRS Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity Credit (IRS Form 8850)*, to the DLA no later than the 28th day after the day an individual who is a member of a targeted group begins work for the employer. As recognized in Notice 2016–22, the PATH Act amendments and expansion of the targeted groups described in § 51(d)(1) of the Code to include long-term unemployment recipients will require changes to forms for employers to request certification for qualified long-term unemployment recipients hired on or after January 1, 2016.

In recognition of the new forms and instructions, as well as the retroactive nature of the extension of the WOTC to certain targeted groups, Notice 2016–22 grants employers with transition relief for submitting IRS Form 8850 to the DLAs. Depending on the particular target group, that transition relief applied to individuals hired on or before May 31, 2016 and on or after either January 1, 2015 or January 1, 2016.

The IRS Form 8850 has been updated. The new targeted group, qualified long-term unemployment recipients, was added to the list of targeted groups. The updated IRS Form 8850 and instructions were made available for filers in March 2016 and may be found at <https://www.irs.gov/uac/form-8850-pre-screening-notice-and-certification-request-for-the-work-opportunity-credit>.

The Department of Labor, Employment and Training Administration (ETA) requires employers to submit ETA Form 9061 (Individual Characteristics Form) or 9062 (Conditional Certification) to the DLA as part of the employer's certification request. To reduce burdens and the likelihood of processing delays, employers generally are encouraged to submit to DLAs the IRS Form 8850 and ETA Forms 9061 or 9062 together in the same submission. The ETA has informed the IRS that it intends to release the updated ETA forms and processing instructions for the DLAs coincident with the release of this notice.

#### III. ADDITIONAL TRANSITION RELIEF

The Treasury Department and the IRS, along with the Department of Labor, have been made aware that due to the timeframe under which the relevant forms and instructions, and processing instructions, have been released, employers need additional time to comply with the certification requirements of § 51(d)(13)(A)(ii) of the Code for employees in the targeted groups. For these reasons, the transition relief provided in Notice 2016–22 to file IRS Form 8850 with the DLAs is extended, so that:

- (1) An employer that hired or hires an individual who is a member of a targeted group described in § 51(d)(1)(A) through (d)(1)(I) of the Code and who began or begins work for that employer on or after January 1, 2015, and on or before **August 31, 2016**, will be considered to have satisfied the requirements of § 51(d)(13)(A)(ii) of the Code if the employer submits the completed IRS Form 8850 to the DLA to request certification no later than **September 28, 2016**; and
- (2) An employer that hired or hires an individual who is a long-term unemployment recipient, described in § 51(d)(1)(J) of the Code and Notice 2016–22, and who began or begins work for that employer on or after January 1, 2016, and on or before **August 31, 2016**, will be considered to have satisfied the requirements of

§ 51(d)(13)(A)(ii) of the Code if the employer submits the completed IRS Form 8850 to the DLA to request certification no later than **September 28, 2016**.

An employer that hires a member of a targeted group described in § 51(d)(1)(A) through (d)(1)(J) of the Code, including a long-term unemployment recipient, who begins work for that employer on or after September 1, 2016, is not eligible for the transition relief described in this notice with respect to any such new hire.

#### **IV. EFFECT ON OTHER DOCUMENTS**

The notice modifies the transition relief provided in section IV.B of Notice 2016–22, only by extending the period of that transition relief as indicated in section III of this notice. In all other respects, this notice does not modify the guidance provided in Notice 2016–22, or provide ad-

ditional guidance to the guidance provided in Notice 2016–22.

#### **V. DRAFTING INFORMATION**

The principal author of this notice is R. Lisa Mojiri-Azad of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding the WOTC, contact Ms. Mojiri-Azad at (202) 317-5500 (not a toll-free number).

### **Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases**

#### **Notice 2016–41**

##### **BACKGROUND**

Notice 2013–1, 2013–3 IRB 281, provides guidance on the federal tax treat-

ment of per capita payments that members of Indian tribes receive from proceeds of certain settlements of tribal trust cases between the United States and those Indian tribes. Additional tribes have settled tribal trust cases against the United States since publication of Notice 2013–1. This notice provides an updated Appendix that reflects the additional settlement agreements.

##### **EFFECT ON OTHER DOCUMENTS**

Notice 2013–1 Appendix is modified and superseded.

##### **FURTHER INFORMATION**

For further information regarding this notice, please contact Telly Meier at phone number (202) 317-8494 (not a toll-free number).

#### **Appendix**

##### **Tribes That Have Entered into Settlement Agreements of Tribal Trust Cases**

1. Assiniboine and Sioux Tribes of the Fort Peck Reservation
2. Bad River Band of Lake Superior Chippewa Indians
3. Blackfeet Tribe of the Blackfeet Indian Reservation
4. Bois Forte Band of Chippewa
5. Cachil Dehe Band of Wintun Indians of the Colusa Rancheria
6. Chippewa Cree Tribe of the Rocky Boy's Reservation
7. Coeur d'Alene Tribe
8. Confederated Salish and Kootenai Tribes
9. Confederated Tribes of Siletz Indians
10. Confederated Tribes of the Colville Reservation
11. Confederated Tribes of the Goshute Reservation
12. Crow Creek Sioux Tribe
13. Eastern Shawnee Tribe of Oklahoma
14. Hualapai Indian Tribe
15. Iowa Tribe of Kansas and Nebraska
16. Kaibab Band of Paiute Indians of Arizona
17. Kickapoo Tribe of Kansas
18. Lac Courte Oreilles Band of Lake Superior Chippewa Indians
19. Lac du Flambeau Band of Lake Superior Chippewa Indians
20. Leech Lake Band of Ojibwe
21. Lower Brule Sioux Tribe
22. Makah Indian Tribe of the Makah Reservation
23. Mescalero Apache Tribe
24. Minnesota Chippewa Tribe
25. Nez Perce Tribe

## Appendix

### Tribes That Have Entered into Settlement Agreements of Tribal Trust Cases

26. Nooksack Indian Tribe
27. Northern Cheyenne Tribe of Indians
28. Omaha Tribe of Nebraska
29. Passamaquoddy Tribe of Maine
30. Pawnee Nation
31. Prairie Band of Potawatomi Nation
32. Pueblo of Zia
33. Quechan Tribe of the Fort Yuma Reservation
34. Red Cliff Band of Lake Superior Chippewa Indians
35. Rincon Luiseño Band of Indians
36. Rosebud Sioux Tribe
37. Round Valley Indian Tribes
38. Salt River Pima-Maricopa Indian Community
39. Santee Sioux Tribe of Nebraska
40. Sault Ste. Marie Tribe
41. Shoshone-Bannock Tribes of the Fort Hall Reservation
42. Soboba Band of Luiseno Indians
43. Spirit Lake Dakota Nation
44. Spokane Tribe of Indians
45. Standing Rock Sioux Tribe
46. Stillaguamish Tribe of Indians
47. Summit Lake Paiute Tribe
48. Swinomish Indian Tribal Community
49. Te-Moak Tribe of Western Shoshone Indians
50. Tohono O'odham Nation
51. Tulalip Tribes
52. Tule River Indian Tribe
53. Ute Indian Tribe of the Uintah and Ouray Reservation
54. Ute Mountain Ute Tribe
55. Winnebago Tribe of Nebraska
56. Qawalangin Tribe of Unalaska
57. Tlingit & Haida Tribes of Alaska
58. Northwestern Band of Shoshone Indians
59. Hoopa Valley Tribe
60. Ak-Chin Indian Community
61. Oglala Sioux Tribe
62. Yoruk Tribe
63. Cheyenne River Sioux Tribe
64. Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony
65. Seminole Nation of Oklahoma
66. Otoe-Missouria Tribe of Oklahoma
67. Samish Indian Nation
68. Tonkawa Tribe of Indians of Oklahoma
69. Yakama Nation
70. Miami Tribe of Oklahoma
71. Shoshone Indian Tribe and the Northern Arapahoe Indian Tribe of the Wind River Reservation

## **Appendix**

### **Tribes That Have Entered into Settlement Agreements of Tribal Trust Cases**

72. Pueblo of Laguna
73. Navajo Nation
74. Caddo Nation of Oklahoma
75. Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation
76. Chickasaw Nation
77. Choctaw Nation
78. Klamath Tribe
79. Skokomish Indian Tribe

## Part IV. Items of General Interest

### Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

#### Announcement 2016–21

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, appraisers, and unenrolled/unlicensed return preparers (individuals who are not enrolled to practice and are not licensed as attorneys or certified public accountants). Licensed or enrolled practitioners are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Subtitle A, Part 10, and which are released as Treasury Department Circular No. 230. The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations. Unenrolled/unlicensed return preparers are subject to Revenue Procedure 81–38 and superseding guidance in Revenue Procedure 2014–42, which govern a preparer’s eligibility to represent taxpayers before the IRS in examinations of tax returns the preparer both prepared for the taxpayer and signed as the preparer. Additionally, unenrolled/unlicensed return preparers who voluntarily participate in the Annual Filing Season Program under Revenue Procedure 2014–42 agree to be subject to the duties and restrictions in Circular 230, including the restrictions on incompetent or disreputable conduct.

The disciplinary sanctions to be imposed for violation of the applicable standards are:

**Disbarred from practice before the IRS**—An individual who is disbarred is not eligible to practice before the IRS as defined at 31 C.F.R. § 10.2(a)(4) for a minimum period of five (5) years.

**Suspended from practice before the IRS**—An individual who is suspended is not eligible to practice before the IRS as

defined at 31 C.F.R. § 10.2(a)(4) during the term of the suspension.

**Censured in practice before the IRS**—Censure is a public reprimand. Unlike disbarment or suspension, censure does not affect an individual’s eligibility to practice before the IRS, but OPR may subject the individual’s future practice rights to conditions designed to promote high standards of conduct.

**Monetary penalty**—A monetary penalty may be imposed on an individual who engages in conduct subject to sanction, or on an employer, firm, or entity if the individual was acting on its behalf and it knew, or reasonably should have known, of the individual’s conduct.

**Disqualification of appraiser**—An appraiser who is disqualified is barred from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or the IRS.

**Ineligible for limited practice**—An unenrolled/unlicensed return preparer who fails to comply with the requirements in Revenue Procedure 81–38 or to comply with Circular 230 as required by Revenue Procedure 2014–42 may be determined ineligible to engage in limited practice as a representative of any taxpayer. Under the regulations, individuals subject to Circular 230 may not assist, or accept assistance from, individuals who are suspended or disbarred with respect to matters constituting practice (*i.e.*, representation) before the IRS, and they may not aid or abet suspended or disbarred individuals to practice before the IRS.

Disciplinary sanctions are described in these terms:

**Disbarred by decision, Suspended by decision, Censured by decision, Monetary penalty imposed by decision, and Disqualified after hearing**—An administrative law judge (ALJ) issued a decision imposing one of these sanctions after the ALJ either (1) granted the government’s summary judgment motion or (2) conducted an evidentiary hearing upon OPR’s complaint alleging violation of the regulations. After 30 days from the issuance of the decision, in the absence of an appeal, the ALJ’s decision becomes the final agency decision.

**Disbarred by default decision, Suspended by default decision, Censured by default decision, Monetary penalty imposed by default decision, and Disqualified by default decision**—An ALJ, after finding that no answer to OPR’s complaint was filed, granted OPR’s motion for a default judgment and issued a decision imposing one of these sanctions.

**Disbarment by decision on appeal, Suspended by decision on appeal, Censured by decision on appeal, Monetary penalty imposed by decision on appeal, and Disqualified by decision on appeal**—The decision of the ALJ was appealed to the agency appeal authority, acting as the delegate of the Secretary of the Treasury, and the appeal authority issued a decision imposing one of these sanctions.

**Disbarred by consent, Suspended by consent, Censured by consent, Monetary penalty imposed by consent, and Disqualified by consent**—In lieu of a disciplinary proceeding being instituted or continued, an individual offered a consent to one of these sanctions and OPR accepted the offer. Typically, an offer of consent will provide for: suspension for an indefinite term; conditions that the individual must observe during the suspension; and the individual’s opportunity, after a stated number of months, to file with OPR a petition for reinstatement affirming compliance with the terms of the consent and affirming current fitness and eligibility to practice (*i.e.*, an active professional license or active enrollment status, with no intervening violations of the regulations).

**Suspended indefinitely by decision in expedited proceeding, Suspended indefinitely by default decision in expedited proceeding, Suspended by consent in expedited proceeding**—OPR instituted an expedited proceeding for suspension (based on certain limited grounds, including loss of a professional license for cause, and criminal convictions).

**Determined ineligible for limited practice**—There has been a final determination that an unenrolled/unlicensed return preparer is not eligible for limited representation of any taxpayer because the preparer violated standards of conduct or

failed to comply with any of the requirements to act as a representative.

OPR has authority to disclose the grounds for disciplinary sanctions in these situations: (1) an ALJ or the Secretary's delegate on appeal has issued a final decision; (2) the individual has settled a disciplinary case by signing OPR's "consent to sanction" agreement admitting to one

or more violations of the regulations and consenting to the disclosure of the admitted violations (for example, failure to file Federal income tax returns, lack of due diligence, conflict of interest, etc.); (3) OPR has issued a decision in an expedited proceeding for indefinite suspension; or (4) OPR has made a final determination (including any decision on appeal) that an

unenrolled/unlicensed return preparer is ineligible to represent any taxpayer before the IRS.

Announcements of disciplinary sanctions appear in the Internal Revenue Bulletin at the earliest practicable date. The sanctions announced below are alphabetized first by state and second by the last names of the sanctioned individuals.

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
<b>California</b>				
Los Angeles	Aka, Wilfred I.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from February 19, 2016
	Miller, Daniel R., see Oregon			
<b>Florida</b>				
Davie	Cottone, Robert C.	CPA	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from March 23, 2016
<b>Illinois</b>				
Morton Grove	Zubkoff, Ronald	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from January 11, 2016
<b>Kansas</b>				
Liberal	Mahler, Carol L.	CPA	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from February 4, 2016
<b>Maryland</b>				
Ellicott City	Broida, Charles J.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from February 4, 2016
<b>Minnesota</b>				
Waseca	Goetz, Jr., Roger H.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from January 21, 2016
<b>New York</b>				
Rhinebeck	McCaffrey, Sean	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from March 4, 2016
New York	Mandel, S. Sidney	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from February 9, 2016
New York	Kornblatt, Daniel	Attorney	Suspended by consent under 31 C.F.R. §§ 10.51(a)(1) and 10.51(a)(10)	Indefinite from January 14, 2016
<b>Oregon</b>				
Klamath Falls	Miller, Daniel R.	CPA	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from March 16, 2016

<b>City &amp; State</b>	<b>Name</b>	<b>Professional Designation</b>	<b>Disciplinary Sanction</b>	<b>Effective Date(s)</b>
<b>Tennessee</b> Nashville	Parrott, George M.	CPA		Reinstated to practice before the IRS March 17, 2016
<b>Wisconsin</b> Eau Claire	Schroeder, Cathy J.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from February 4, 2016

## **Notice of Disposition of Declaratory Judgment Proceedings under Section 7428**

### **Announcement 2016-23**

This announcement serves notice to donors that on February 26, 2016, the United States Tax Court entered a stipulated decision that, effective January 15, 2016, the organization listed below is not qualified as an organization described in section 501(c)(3), is not exempt from taxation under section 501(a), and is not an organization described in section 170(c)(2).

Arseny and Olga Kovshar  
Private Charitable Foundation  
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.

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<sup>1</sup>A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2016–01 through 2016–26 is in Internal Revenue Bulletin 2016–26, dated June 27, 2016.

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<sup>1</sup>A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2016–01 through 2016–26 is in Internal Revenue Bulletin 2016–26, dated June 27, 2016.

# **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.