

# INTERNAL REVENUE BULLETIN



## HIGHLIGHTS OF THIS ISSUE

**Bulletin No. 2016-44**  
**October 31, 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

#### **REG-150992-13, page 537.**

These proposed regulations extend the period for making the election under section 165(i). The election under section 165(i) allows a taxpayer to deduct a loss attributable to a federally declared disaster for the taxable year prior to the year in which the disaster occurred. These proposed regulations generally provide that the due date for making the section 165(i) election is six months after the due date for filing the taxpayer's federal income tax return for the disaster year. The proposed regulations also authorize the issuance of sub-regulatory guidance on a going-forward basis to provide the IRS with flexibility in response to future disasters.

#### **Rev. Proc. 2016-53, page 530.**

This Revenue Procedure provides the procedures and requirements for making and revoking an election under § 165(i).

#### **T.D. 9789, page 527.**

These temporary regulations extend the period for making the election under section 165(i). The election under section 165(i) allows a taxpayer to deduct a loss attributable to a federally declared disaster for the taxable year prior to the year in which the disaster occurred. These regulations generally provide that the due date for making the section 165(i) election is six months after the due date for filing the taxpayer's federal income tax return for the disaster year. The regulations also authorize the issuance of sub-regulatory guidance on a going-forward basis to provide the IRS with flexibility in response to future disasters.

### ADMINISTRATIVE

#### **REG-108934-16, page 532.**

This document contains proposed amendments to the regulation that provides the user fee for processing offers in compromise. The proposed amendments affect taxpayers who wish to pay their liabilities through offers in compromise. This document also provides a notice of public hearing on these proposed amendments to the regulations.

# The IRS Mission

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

## Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

### **Part I.—1986 Code.**

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

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

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

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

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

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

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

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

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

T.D. 9789

## DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

### Election to take disaster loss deduction for preceding year

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the election to accelerate the timing of a loss sustained by a taxpayer attributable to a federally declared disaster. The text of the temporary regulations also serves as the text of the proposed regulations (REG-150992-13) set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Bulletin**.

DATES: *Effective Date*: The temporary regulations are effective October 13, 2016. *Applicability Dates*: For dates of applicability, see § 1.165-11T(i).

FOR FURTHER INFORMATION CONTACT: Daniel Cassano (202) 317-7011 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

#### Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under section 165(i) of the Internal Revenue Code (Code) regarding the election to deduct a loss attributable to a federally declared disaster for the taxable year prior to the year in which the disaster occurred.

Under section 165, a loss from a federally declared disaster is a form of casualty loss. A casualty loss is generally allowed as a deduction only for the taxable year in which the loss is sustained (disaster year). Section 165(i) provides an exception to the general timing rule by allowing a taxpayer to elect to treat an

allowable loss occurring in a disaster area and attributable to a federally declared disaster as sustained in the taxable year immediately prior to the taxable year in which the disaster occurred (preceding year).

Taxpayers make the election under section 165(i) by clearly indicating on an original return, an amended return, or a refund claim, that the election has been made. The existing regulations under section 165(i) provide that the original return, amended return, or refund claim must be filed on or before the later of: (1) the due date of the taxpayer's income tax return (determined without regard to any extension of time for filing the return) for the disaster year; or (2) the due date of the taxpayer's income tax return (determined with regard to any extension of time for filing the return) for the preceding year. Thus, taxpayers typically have until the unextended due date of the return for the disaster year to make the section 165(i) election.

Concerns have been raised that the due date for making the section 165(i) election may not always provide sufficient time for taxpayers affected by disasters to consider whether to make the election. These concerns led the Department of the Treasury (Treasury Department) and the IRS to issue notices postponing the due date in the wake of a number of federally declared disasters in the last ten years. Notice 2006-17, 2006-1 C.B. 559, postponed the due date for victims of Hurricanes Katrina, Rita, and Wilma to make a section 165(i) election for their disaster losses to October 16, 2006. Notice 2013-21, 2013-15 I.R.B. 903, postponed the due date for victims of Hurricane Sandy to make a section 165(i) election for their disaster losses to October 15, 2013. Notice 2014-20, 2014-16 I.R.B. 937, postponed the due date for victims of a major Colorado flooding event to make a section 165(i) election for their disaster losses to October 15, 2014.

#### Explanation of Provisions

##### 1. Definitions

These temporary regulations add a paragraph that defines the following terms

for purposes of the temporary regulations: federally declared disaster; federally declared disaster area; disaster loss; disaster year; and preceding year. A *federally declared disaster* means any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or a successor enactment. A *federally declared disaster area* is the area determined to be eligible for assistance pursuant to the Presidential declaration in paragraph (b)(1) of this section. A *disaster loss* is a loss occurring in a federally declared disaster area that is attributable to a federally declared disaster and that is otherwise allowable as a deduction for the disaster year under section 165(a) and §§ 1.165-1 through 1.165-10 of the Income Tax Regulations. The *disaster year* is defined as the taxable year in which a taxpayer sustains a loss attributable to a federally declared disaster. The *preceding year* is the taxable year immediately prior to the disaster year.

##### 2. Time and Manner of Making the Section 165(i) Election

These temporary regulations generally provide that the due date for making the section 165(i) election is six months after the due date for filing the taxpayer's federal income tax return for the disaster year (determined without regard to any extension of time to file). This amount of time is comparable to the length of the postponements of the due dates for making the election granted in the notices identified in the Background section of this preamble.

These temporary regulations also authorize the Treasury Department and the IRS to issue additional guidance regarding the time and manner for making the section 165(i) election. The authorization in these temporary regulations will permit the Treasury Department and the IRS to act quickly to adapt to both taxpayer needs and the needs of tax administration as future disasters occur.

Contemporaneously with these temporary regulations, the Treasury Department

and the IRS are issuing Rev. Proc. 2016–XX, I.R.B. 2015–XX], which specifies how a taxpayer makes a section 165(i) election and incorporates the due date for making the election provided in these temporary regulations.

### 3. Revocations of a Section 165(i) Election

These temporary regulations extend the period of time for revoking a section 165(i) election to ninety (90) days after the due date for making the election. This change conforms to the rule established by the United States Tax Court in *Matheson v. Commissioner*, 74 T.C. 836 (1980), *acq.*, AOD–1980–177. These temporary regulations also authorize the Treasury Department and the IRS to issue additional guidance regarding the time and manner of revoking the election. Rev. Proc. 2016–XX specifies how a taxpayer revokes a section 165(i) election and incorporates the due date for revoking the election provided in these temporary regulations.

### 4. Consistent Return Positions

These temporary regulations reflect rules established elsewhere in federal tax law that a taxpayer cannot deduct the same loss in more than one taxable year. Taxpayers must amend the return for the disaster year in order to make the section 165(i) election for a disaster loss if the taxpayer has deducted such loss for the disaster year. Similarly, taxpayers must amend the preceding year return to revoke a section 165(i) election before filing a return or amended return to deduct the loss in the disaster year. Rev. Proc. 2016–XX contains further guidance for taxpayers in amending returns and taking consistent return positions to minimize the administrative burden on the IRS in ensuring the prompt processing of refunds.

### 5. Immediate Effect

These temporary regulations are effective immediately because they provide relief to taxpayers who suffer casualty losses attributable to federally declared disasters and the Treasury Department and the IRS anticipate a significant num-

ber of casualty losses arising from recent instances of flooding in areas located throughout the United States, including Texas and Louisiana.

### Special Analyses

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Bulletin**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### Drafting Information

The principal authors of these regulations are Daniel Cassano and Christopher Wrobel of the Office of the Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the Treasury Department and the IRS participated in their development.

\* \* \* \* \*

### Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1— INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:  
Authority: 26 U.S.C. 7805 \* \* \*

Par. 2. Section 1.165–11 is amended by:

1. Revising paragraph (a) through (e).
2. Adding paragraphs (f) through (j).

The revisions and additions read as follows:

*§ 1.165–11 Election in respect of losses attributable to a disaster.*

(a) through (j) [Reserved]. For further guidance, see § 1.165–11T(a) through (j).

Par. 3. § 1.165–11T is added to read as follows:

*§ 1.165–11T Election to take disaster loss deduction for preceding year (temporary).*

(a) *In general.* Section 165(i) allows a taxpayer who has sustained a loss attributable to a federally declared disaster in a taxable year to elect to deduct that disaster loss in the preceding year. This section provides rules and procedures for making and revoking an election to claim a disaster loss in the preceding year.

(b) *Definitions.* The following definitions apply for purposes of this section:

(1) A *federally declared disaster* means any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or a successor enactment.

(2) A *federally declared disaster area* is the area determined to be eligible for assistance pursuant to the Presidential declaration in paragraph (b)(1) of this section.

(3) A *disaster loss* is a loss occurring in a federally declared disaster area that is attributable to a federally declared disaster and that is otherwise allowable as a deduction for the disaster year under section 165(a) and §§ 1.165–1 through 1.165–10 of the Income Tax Regulations.

(4) The *disaster year* is the taxable year in which a taxpayer sustains a loss attributable to a federally declared disaster.

(5) The *preceding year* is the taxable year immediately prior to the disaster year.

(c) *Scope and effect of election.* An election made pursuant to section 165(i) for a disaster loss attributable to a particular disaster applies to the entire loss sustained by the taxpayer from that disaster during the disaster year. If the taxpayer makes a section 165(i) election with respect to a particular disaster occurring during the disaster year, the disaster to which the election relates is deemed to

have occurred, and the disaster loss to which the election applies is deemed to have been sustained, in the preceding year.

(d) *Requirement to file consistent returns.* A taxpayer may not make a section 165(i) election for a disaster loss if the taxpayer claims a deduction (as a loss, as cost of goods sold, or otherwise) for the same loss for the disaster year. If a taxpayer has claimed a deduction for a disaster loss for the disaster year and the taxpayer wishes to make a section 165(i) election with respect to such loss, the taxpayer must file an amended return to remove the previously deducted loss on or before the date that the taxpayer makes the section 165(i) election for such loss. Similarly, if a taxpayer has claimed a deduction for a disaster loss for the preceding year based on a section 165(i) election and the taxpayer wishes to revoke that election, the taxpayer must file an amended return to remove the loss for the preceding year on or before the date the taxpayer files the return or amended return for the disaster year that includes the loss.

(e) *Manner of making election.* An election under section 165(i) to deduct a disaster loss for the preceding year is made on an original federal tax return for the preceding year or an amended federal tax return for the preceding year in the manner specified by guidance issued pursuant to these regulations. See paragraph (h) of this section.

(f) *Due date for making election.* The due date for making the section 165(i) election is six months after the due date for filing the taxpayer's federal income tax return for the disaster year (determined without regard to any extension of time to file).

(g) *Revocation.* Subject to the requirements in paragraph (d) of this section, a section 165(i) election may be revoked on or before the date that is ninety (90) days after the due date for making the election.

(h) *Additional guidance.* The time and manner for making and revoking a section 165(i) election under paragraphs (d), (e), (f), and (g) of this section may be modified through guidance published in the **Federal Register** or in the Internal Rev-

enue Bulletin (see § 601.601(d) of this chapter).

(i) *Effective/Applicability date.* This section is effective October 14, 2016 and applies to elections, revocations, and any other related actions that can be made or taken on or after October 14, 2016.

(j) *Expiration date.* The section expires October 13, 2019.

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

Approved: September 19, 2016.

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

(Filed by the Office of the Federal Register on October 13, 2016, 8:45 a.m., and published in the issue of the Federal Register for October 14, 2016, 81 F.R. 70938)

# Part III. Administrative, Procedural, and Miscellaneous

## Rev. Proc. 2016-53

### SECTION 1. PURPOSE

This revenue procedure contains rules and procedures regarding the election under § 165(i) of the Internal Revenue Code (Code) to deduct a disaster loss for the taxable year immediately preceding the taxable year in which the disaster occurred. Specifically, this revenue procedure provides the procedures and requirements for making and revoking an election under § 165(i).

### SECTION 2. BACKGROUND

.01 For purposes of § 165(i), a federally declared disaster is any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or a successor enactment. A disaster area is the area that is determined to be eligible for assistance pursuant to the Presidential declaration. See § 165(i)(5) and 42 U.S.C. § 5122.

.02 A loss from a federally declared disaster (disaster loss) is a form of casualty loss. See § 165. A casualty loss is generally allowed as a deduction only for the taxable year in which the loss is sustained (disaster year). Section 165(i) provides an exception to the general rule by allowing a taxpayer to elect to treat a disaster loss as having been sustained in the taxable year immediately preceding the disaster year (preceding year). The § 165(i) election applies to the entire loss sustained by the taxpayer from the disaster during the disaster year.

.03 Contemporaneously with this revenue procedure, the Department of the Treasury and the IRS are issuing temporary regulations that extend the date by which a taxpayer must make a § 165(i) election to six months after the due date of the taxpayer's federal income tax return for the disaster year (without regard to any extension of time to file). The temporary regulations also extend the time for revoking a § 165(i) election to ninety (90) days after the due date for making the election.

.04 Pursuant to § 1.165-11T(h) of the Income Tax Regulations, the Depart-

ment of the Treasury and the IRS are publishing this revenue procedure (See § 601.601(d)(2) of the Statement of Procedural Rules) regarding the requirements for making and revoking elections under § 165(i).

### SECTION 3. MANNER OF MAKING ELECTION

01. A taxpayer makes a § 165(i) election by deducting the disaster loss on either an original federal tax return or an amended federal tax return for the preceding year. A taxpayer must include with the original federal tax return or amended federal tax return, an election statement indicating the taxpayer is making a § 165(i) election.

.02 The election statement must contain the following information:

- (1) The name or a description of the disaster and date or dates of the disaster which gave rise to the loss.
- (2) The address, including the city, town, county, parish, State, and zip code, where the damaged or destroyed property was located at the time of the disaster.

.03 For an election made on an original federal tax return, a taxpayer must provide the information required by section 3.02 of this revenue procedure on Lines 1 or 19 (as applicable) of Form 4684 (Casualties and Thefts). A taxpayer filing an original federal tax return electronically may attach a statement as a PDF document if there is insufficient space on Lines 1 or 19 of the Form 4684 to provide the information required by section 3.02. For an election made on an amended federal tax return, a taxpayer may provide the information required by section 3.02 by any reasonable means. Reasonable means include, but are not limited to, writing the name or a description of the disaster, the State in which the damaged or destroyed property was located at the time of the disaster, and "Section 165(i) Election" on the top of the Form 4684 and providing the rest of the information required by section 3.02 in either the Explanation of Changes in Form 1040X (Amended U.S. Individual Income Tax Return), Form 1120X (Amended U.S. Corporation Income Tax Return), or other

appropriate form, or directly on the Form 4684, attaching a statement if there is insufficient room on the form.

### SECTION 4. PROCEDURES TO ENSURE CONSISTENCY IN PROCESSING DISASTER YEAR AND PRECEDING YEAR RETURNS

.01 A taxpayer may not make a § 165(i) election for a disaster loss if the loss is claimed as a deduction for the disaster year. If a taxpayer has claimed a deduction for a disaster loss in the disaster year and the taxpayer wishes to make a § 165(i) election with respect to such loss, the taxpayer must file an amended return to remove the previously deducted loss. The amended return must be filed on or before the date that the taxpayer files the return or amended return for the preceding year that includes the § 165(i) election.

02. Similarly, a taxpayer may not revoke a previously made § 165(i) election and deduct the loss in the disaster year unless the taxpayer files an amended return to remove the loss for the preceding year. The amended return removing the § 165(i) election must be filed on or before the date that the taxpayer files the return or amended return for the disaster year that includes the loss.

.03 A taxpayer that is required to file an amended return under this section must pay or make arrangements to pay any additional tax and interest due as a result of removing the duplicative disaster loss deduction on that amended return.

### SECTION 5. DUE DATE FOR ELECTION AND RELATED ACTIONS

.01 A taxpayer must make the § 165(i) election on an original federal tax return or an amended federal tax return for the preceding year. The original federal tax return or amended federal tax return must be filed on or before the date that is six months after the original due date for the taxpayer's federal tax return for the disaster year (determined without regard to any extension of time to file). See § 1.165-11T(f).

.02 The taxpayer need not request an extension of time to file the federal tax

return for the disaster year in order to benefit from the due date identified in the temporary regulations.

## **SECTION 6. REVOCATION OF ELECTION**

.01 A taxpayer may revoke a previously made § 165(i) election by filing an amended return for the preceding year that contains a revocation statement. The revocation statement must include the following information:

- (1) a statement clearly showing that the election is being revoked;
- (2) the name or a description of the disaster and date or dates of the disaster for which the election was originally claimed; and
- (3) the address, including the city, town, county, parish, State, and zip code, where the damaged or destroyed property was located at the time of the disaster and for which the taxpayer originally claimed the election.

.02 Subject to the requirements in section 4.02, a taxpayer may revoke the election on or before the date that is ninety (90) days after the due date for making the election. *See* § 1.165-11T(g).

.03 A taxpayer may provide the information required in section 6.01 in either

the Explanation of Changes in Form 1040X (Amended U.S. Individual Income Tax Return), Form 1120X (Amended U.S. Corporation Income Tax Return), or other appropriate form or on a statement attached to the amended return.

## **SECTION 7. EFFECTIVE/ APPLICABILITY DATE**

This revenue procedure applies to any § 165(i) elections, revocations, and other related actions that can be made or taken on or after October 13, 2016.

## **SECTION 8. COMMENTS**

The Department of the Treasury and the IRS request comments from the public on the rules and procedures contained in this revenue procedure. Comments must be submitted by January 11, 2017. Comments, identified by Rev. Proc. 2016-53, may be sent by one of the following methods:

- By Mail:  
Internal Revenue Service  
Attn: CC:PA:LPD:PR  
(Rev. Proc. 2016-53)  
Room 5203  
P.O. Box 7602  
Ben Franklin Station  
Washington, D.C. 20044

- By Hand or Courier Delivery: Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: Courier's Desk  
Internal Revenue Service  
Attn: CC:PA:LPD:PR  
(Rev. Proc. 2016-53)  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224
- Electronic: Alternatively, persons may submit comments electronically to [Notice.Comments@irs.counsel.treas.gov](mailto:Notice.Comments@irs.counsel.treas.gov). Please include "Rev. Proc. 2016-53" in the subject line of any electronic communications.

All submissions will be available for public inspection and copying in Room 1621, 1111 Constitution Avenue, N.W., Washington, D.C., from 9 a.m. to 4 p.m.

## **DRAFTING INFORMATION**

The principal authors of this revenue procedure are Daniel Cassano and Christopher Wrobel of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Mr. Cassano at (202) 317-7011 (not a toll-free number).

## Part IV. Items of General Interest

### User Fees for Offers in Compromise

#### REG-108934-16

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments to the regulations that provide user fees for offers in compromise. The proposed amendments affect taxpayers who wish to pay their liabilities through offers in compromise. The proposed effective date for these proposed amendments to the regulations is for offers in compromise submitted on or after February 27, 2017. This document also provides a notice of public hearing on these proposed amendments to the regulations.

DATES: Written or electronic comments must be received by November 28, 2016. Outlines of topics to be discussed at the public hearing scheduled for December 16, 2016 at 10:00 a.m. must be received November 28, 2016.

ADDRESSES: Send submissions to: Internal Revenue Service, CC:PA:LPD:PR (REG-108934-16), Room 5203, Post Office Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-108934-16), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (indicate IRS and REG-108934-16). The public hearing will be held in the Main IR Auditorium beginning at 10:00 am in the Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed amendments to the regulations, Maria Del Pilar Austin at (202) 317-5437; concerning submissions of comments, the hear-

ing, or to be placed on the building access list to attend the hearing, Regina Johnson, at (202) 317-6901; concerning cost methodology, Eva Williams, at (202) 803-9728 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains proposed regulations that would amend § 300.3 of the User Fee Regulations (26 CFR part 300), which provides for a user fee applicable to offers in compromise under section 7122 of the Internal Revenue Code (Code).

Section 7122(a) provides the Secretary the authority to compromise any civil or criminal case arising under the internal revenue laws, prior to the referral of that case to the Department of Justice. Section 7122(d)(1) requires the IRS to prescribe guidelines for officers and employees of the IRS to determine whether an offer in compromise is adequate and should be accepted to resolve a dispute. Those guidelines can generally be found in § 301.7122-1. Under those guidelines, an offer in compromise may be accepted if there is doubt as to liability, if there is doubt as to collectability, or if acceptance will promote effective tax administration. See § 301.7122-1(b).

When the IRS receives an offer in compromise, it initially determines whether the taxpayer submitting the offer is eligible for the offer in compromise program and, if the taxpayer is eligible, whether the offer submitted is otherwise processable. Currently, a taxpayer may be ineligible for the offer in compromise program for a number of reasons, including if the taxpayer is in bankruptcy or has not filed all required tax returns. The IRS will return an offer as nonprocessable if the taxpayer is ineligible or if the offer has not been properly submitted.

If the IRS determines the offer in compromise is processable, then except where the offer is made under section 7122(d)(3)(B) relating only to issues of liability and the case is processed without a financial investigation, the IRS investigates and verifies the taxpayer's financial information submitted with the offer to determine whether such a compromise is

appropriate before accepting the terms of the offer in compromise. If the IRS initially rejects a processable offer in compromise based on an investigation of the taxpayer's financial position, section 7122(e)(1) provides that the IRS must conduct an independent administrative review of that decision before communicating the rejection to the taxpayer. If the independent administrative review upholds the IRS's initial decision to reject a processable offer in compromise, section 7122(e)(2) provides that the taxpayer is notified of the rejection and has the right to appeal the rejection to the IRS's Appeals Office. When the IRS accepts an offer in compromise, the IRS processes the payments and monitors the taxpayer's compliance with the terms of the offer.

Under § 300.3, the IRS currently charges \$186 for processing an offer in compromise, which includes reviewing and monitoring the offer. Under § 300.3(b)(2)(i) and (ii), if a fee is charged and the offer is accepted to promote effective tax administration or accepted based on doubt as to collectability where the IRS has determined that collection of an amount greater than the amount offered would create economic hardship, then the user fee is applied against the amount to be paid under the offer unless the taxpayer requests that it be refunded. Section 300.3(b)(1)(i) and (ii) provide that no fee is charged if an offer is based solely on doubt as to liability, or made by a low-income taxpayer.

#### Explanation of Provisions

##### A. Overview

To bring the user fee rate for offers in compromise closer to the full cost to the IRS of providing this taxpayer specific service, the proposed regulations under § 300.3 would increase the user fee for an offer in compromise to \$300. The proposed regulations do not modify other portions of the User Fee Regulations regarding offers in compromise, such as § 300.3(b)(1)(i) and (ii) which waive the user fee for offers in compromise submitted by low-income taxpayers and offers in compromise based solely on doubt as to

liability. The increased user fee for offers in compromise is proposed to be effective for offers submitted on or after February 27, 2017.

### *B. User Fee Authority*

The Independent Offices Appropriations Act (IOAA) (31 U.S.C. 9701) authorizes each agency to promulgate regulations establishing the charge for services provided by the agency (user fees). The IOAA provides that these user fee regulations are subject to policies prescribed by the President and shall be as uniform as practicable. Those policies are currently set forth in the Office of Management and Budget (OMB) Circular A-25, 58 FR 38142 (July 15, 1993; OMB Circular).

The IOAA states that the services provided by an agency should be self-sustaining to the extent possible. 31 U.S.C. 9701(a). The OMB Circular states that agencies that provide services that confer special benefits on identifiable recipients beyond those accruing to the general public are to establish user fees that recover the full cost of providing those services. The OMB Circular requires that agencies identify all services that confer special benefits and determine whether user fees should be assessed for those services.

Agencies are to review user fees biennially and update them as necessary to reflect changes in the cost of providing the underlying services. During this biennial review, an agency must calculate the full cost of providing each service, taking into account all direct and indirect costs to any part of the U.S. government. The full cost of providing a service includes, but is not limited to, salaries, retirement benefits, rents, utilities, travel, and management costs, as well as an appropriate allocation of overhead and other support costs associated with providing the service.

An agency should set the user fee at an amount that recovers the full cost of providing the service unless the agency requests, and the OMB grants, an exception to the full cost requirement. The OMB may grant exceptions only where the cost of collecting the fees would represent an unduly large part of the fee for the activity or any other condition exists that, in the opinion of the agency head, justifies an

exception. When the OMB grants an exception, the agency does not collect the full cost of providing the service and therefore must fund the remaining cost of providing the service from other available funding sources. By doing so, the agency subsidizes the cost of the service to the recipients of reduced-fee services even though the service confers a special benefit on those recipients who should otherwise be required to pay the full costs of receiving that benefit as provided for by the IOAA and the OMB Circular.

### *C. Offer in Compromise Program User Fee*

The offer in compromise program confers a special benefit on identifiable recipients beyond those accruing to the general public. A taxpayer with an accepted offer in compromise receives the special benefit of resolving his or her tax liabilities for a compromised amount, provided the taxpayer complies with the terms of the offer, and the benefit of paying the compromised amount over a period not to exceed 24 months. Further, section 6331(k)(1) of the Code generally prohibits the IRS from levying to collect taxes while a request to enter into an offer in compromise is pending, for 30 days after a rejection, and, if a timely appeal of a rejection is filed, for the duration of the appeal. Because of these special benefits, the IOAA and the OMB Circular authorize the IRS to charge a user fee for the offer in compromise that reflects the full cost of providing the service of the offer in compromise program to the taxpayer.

The amount of the offer in compromise user fee was last changed in 2014. As required by the IOAA and the OMB Circular, the IRS completed its 2015 biennial review of the offer in compromise program and determined that the full cost of an offer in compromise is \$2,450.

In accordance with the OMB Circular, this proposed amendment to the regulations increases the offer in compromise fee to recover more of the costs associated with such offers. These proposed regulations propose to charge less than full cost. While agencies are generally required to charge full cost, the OMB Circular permits certain limited exceptions to this requirement. The IRS requested and the

OMB approved an exception to the full cost requirement. The proposed fee for processing an offer in compromise is \$300. In light of constraints on IRS resources for tax administration, the Treasury Department and the IRS have determined that it is necessary to recoup more of the costs of the offer in compromise program. The IRS will continue its practice of providing services subject to user fees at costs less than otherwise charged where there is a compelling tax administration reason to do so. Therefore, these proposed regulations do not modify the portions of the current regulations that except low-income taxpayers and offers based on doubt as to liability from the user fee. The proposed fee balances the need to recover more of the costs with the goal of encouraging offers in compromise.

As required under the OMB Circular, the IRS will review the user fee for offers in compromise during its 2017 biennial review. The IRS also plans to evaluate the impact of the current proposed fee increase on the offer in compromise program, and the IRS will take this impact into consideration when revising the offer in compromise user fee in the future.

### *D. Calculation of User Fees Generally*

User fee calculations begin by first determining the full cost for the service. The IRS follows the guidance provided by the OMB Circular to compute the full cost of the service, which includes all indirect and direct costs to any part of the U.S. government including but not limited to direct and indirect personnel costs, physical overhead, rents, utilities, travel, and management costs. The IRS's cost methodology is described below.

Once the total amount of direct and indirect costs associated with a service is determined, the IRS follows the guidance in the OMB Circular to determine the costs associated with providing the service to each recipient, which represents the average per unit cost of that service. This average per unit cost is the amount of the user fee that will recover the full cost of the service.

The IRS follows generally accepted accounting principles (GAAP), as established by the Federal Accounting Standards Advisory Board (FASAB) in

calculating the full cost of providing services. The FASAB Handbook of Accounting Standards and Other Pronouncements, as amended, which is available at [http://files.fasab.gov/pdf/files/2015\\_fasab\\_handbook.pdf](http://files.fasab.gov/pdf/files/2015_fasab_handbook.pdf), includes the Statement of Federal Financial Accounting Standards SF-FAS No. 4: Managerial Cost Accounting Concepts and Standards for the Federal Government (SFFAS No. 4). SFFAS No. 4 establishes internal costing standards under GAAP to accurately measure and manage the full cost of federal programs. The methodology described below is in accordance with SFFAS No. 4.

### 1. Cost center allocation

The IRS determines the cost of its services and the activities involved in producing them through a cost accounting system that tracks costs to organizational units. The lowest organizational unit in the IRS's cost accounting system is called a cost center. Cost centers are usually separate offices that are distinguished by subject-matter area of responsibility or geographic region. All costs of operating a cost center are recorded in the IRS's cost accounting system and allocated to that cost center. The costs allocated to a cost center are the direct costs for the cost center's activities as well as all indirect costs, including overhead, associated with that cost center. Each cost is recorded in only one cost center.

### 2. Determining the per unit cost

To establish the per unit cost, the total cost of providing the service is divided by the volume of services provided. The volume of services provided includes both services for which a fee is charged as well

as subsidized services. The subsidized services are those where OMB has approved an exception to the full cost requirement, for example, to charge a reduced fee to low-income taxpayers. The volume of subsidized services is included in the total volume of services provided to ensure that the IRS, and not those who are paying full cost, subsidizes the cost of the reduced-cost services.

### 3. Cost estimation of direct labor and benefits

Not all cost centers are fully devoted to only one service for which the IRS charges a user fee. Some cost centers work on a number of different services. In these cases, the IRS estimates the cost incurred in those cost centers attributable to the service for which a user fee is being calculated by measuring the time required to accomplish activities related to the service, and estimating the average time required to accomplish these activities. The average time required to accomplish these activities is multiplied by the relevant organizational unit's average labor and benefits cost per unit of time to determine the labor and benefits cost incurred to provide the service. To determine the full cost, the IRS then adds an appropriate overhead charge as discussed below.

### 4. Calculating Overhead

Overhead is an indirect cost of operating an organization that cannot be immediately associated with an activity that the organization performs. Overhead includes costs of resources that are jointly or commonly consumed by one or more organizational unit's activities but are not spe-

cifically identifiable to a single activity. These costs can include:

- General management and administrative services of sustaining and support organizations.
- Facilities management and ground maintenance services (security, rent, utilities, and building maintenance).
- Procurement and contracting services.
- Financial management and accounting services.
- Information technology services.
- Services to acquire and operate property, plants and equipment.
- Publication, reproduction, and graphics and video services.
- Research, analytical, and statistical services.
- Human resources/personnel services.
- Library and legal services.

To calculate the overhead allocable to a service, the IRS first calculates the Corporate Overhead rate and then multiplies the Corporate Overhead rate by the direct labor and benefits costs determined as discussed above. The IRS calculates the Corporate Overhead rate annually based on cost elements underlying the Statement of Net Cost included in the IRS Annual Financial Statements, which are audited by the Government Accountability Office. The Corporate Overhead rate is the ratio of the sum of the IRS's indirect labor and benefits costs from the supporting and sustaining organizational units—those that do not interact directly with taxpayers—and all non-labor costs to the IRS's labor and benefits costs of its organizational units that interact directly with taxpayers.

The Corporate Overhead rate of 65.85 percent for costs reviewed during FY 2015 was calculated based on FY 2014 costs as follows:

Indirect Labor and Benefits Costs	\$1,693,339,843
Non-Labor Costs	+ \$2,832,262,970
Total Indirect Costs	\$4,525,602,813
Direct Labor and Benefits Costs	÷ \$6,872,934,473
Corporate Overhead Rate	65.85%

### E. Calculation of Offer in Compromise User Fee

The IRS used data from cost centers dedicated to the offer in compromise program

and cost centers that work on the offer in compromise program, as well as other IRS programs, to determine the full cost of the offer in compromise program. The IRS used the most recent two years of data, in this

case FY 2013 and FY 2014, and averaged those costs in order to assure anomalies, such as short term increases or decreases in costs or numbers of offers in compromise, would not artificially impact the measured costs.

The offer in compromise program work is primarily performed by dedicated offices; therefore, the cost of most of the program can be determined through the costs recorded in the cost centers underlying the offices dedicated to the offer in

compromise program. The IRS identified the offices that provide 100 percent of their time to this program (Offer in Compromise Offices), determined the full costs of the Offer in Compromise Offices for FY 2013 and 2014, and averaged the costs

for those two years to determine the annual average costs of those offices. The average costs for the Offer in Compromise Offices were as follows:

<b>Offer in Compromise Offices</b>	<b>Average Costs</b>
Labor and Benefits	\$61,125,895
Non-Labor and Support Costs	\$90,730,487
<b>Offer in Compromise Offices Full Cost</b>	<b>\$151,856,382</b>

Because overhead and support costs are already included in the “Non-Labor and Support Costs” allocated to these cost centers, a Corporate Overhead factor has not been added to determine the full cost of the Offer in Compromise Offices.

There are three IRS organizations that perform work for the offer in compromise program, but that are not exclusively dedicated to the offer in compromise program (Non-OIC Dedicated Offices). Those organizations are:

- Office of Chief Counsel
- Small Business/Self-Employed (Examination)
- Office of Appeals

To calculate the average offer in compromise program costs attributable to these Non-OIC Dedicated Offices, the IRS obtained the time spent by each organization on the offer in compromise program for FY 2013 and 2014, calculated an annual average of that time for each office, and multiplied that annual average time

by the average hourly rates for that organization. After determining the total labor and benefits costs for the Non-OIC Dedicated Offices, the IRS added the Corporate Overhead costs allocable to these organizations to determine the full cost of the services provided by the Non-OIC Dedicated Offices. The costs are calculated as follows:

<b>Non-OIC Dedicated Offices</b>	
<b>Office of Chief Counsel</b>	
Average Hours	13,688
Average Salary and Benefits Rate	\$57.00
Chief Counsel Labor Cost	\$780,216
<b>Examination</b>	
Average Hours	3,723
Average Salary and Benefits Rate	\$52.72
Examination Labor Cost	\$196,277
<b>Office of Appeals</b>	
Average Hours	128,610
Average Salary and Benefits Rate	\$55.10
Examination Labor Cost	\$7,086,411
<b>Total Cost for Chief Counsel, Examination and Appeals</b>	
Total Labor and Benefits Cost	\$8,062,904
Corporate Overhead at 65.85%	\$5,309,422
<b>Total Non-OIC Dedicated Offices Cost</b>	<b>\$13,372,326</b>

To determine the full cost of the offer in compromise program, the IRS combined the Offer in Compromise Offices’ full cost and the Non-OIC Dedicated Offices’ full cost. The IRS calculated the unit cost by dividing the total offer in compromise program cost by the average of offer in compromise cases that were closed in

FY 2013 and in FY 2014. Closed offers are offers that have been issued an acceptance letter, closed as rejected or withdrawn/terminated, or returned. An offer may be returned either because the offer was not processable when received, or after the offer was initially determined to be processable circumstances occur that

cause the offer to no longer be processable or the Service is unable to proceed with the offer investigation. The IRS closed 70,622 offer in compromise cases in FY 2013 and 64,332 offer in compromise cases in FY 2014, for an average of offer in compromise cases closed in FY 2013 and FY 2014 of 67,477.

<b>Unit Cost for Offer in Compromise</b>	
Total Offer in Compromise Offices	\$151,856,382
Total Non-OIC Dedicated Offices	\$13,372,326
Offer in Compromise Program Full Cost	\$165,228,708
Average FY 2013 and 2014 Annual Volume of Closed Offers in Compromise	67,477
<b>Unit Cost</b>	<b>\$2,450</b>

### 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 is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the information that follows. The economic impact of these regulations on any small entity would result from the entity being required to pay a fee prescribed by these regulations in order to obtain a particular service. The dollar amount of the fee is not, however, substantial enough to have a significant economic impact on any entity subject to the fee because generally the fee is applied to offset an existing tax obligation that the entity owes the IRS. As such, the fee does not represent a payment of any amount greater than what a substantial number of entities owe the IRS. Low-income taxpayers and taxpayers making offers in compromise based on doubt as to liability will continue not to be charged a fee and therefore will not be impacted economically by these proposed regulations. Accordingly, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Comments and Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under

the “ADDRESSES” heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be available at [www.regulations.gov](http://www.regulations.gov) or upon request.

A public hearing has been scheduled for December 16, 2016, beginning at 10:00 am in the Main IR Auditorium of the Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC. 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the “FOR FURTHER INFORMATION CONTACT” section of this preamble.

The rules of 26 CFR § 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments or electronic comments by November 28, 2016 and submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (a signed original and 8 copies) by November 28, 2016. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### Drafting Information

The principal author of these regulations is Maria Del Pilar Austin of the Office of the Associate Chief Counsel

(Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in their development.

\* \* \* \* \*

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 300 is proposed to be amended as follows:

#### PART 300—USER FEES

Paragraph. 1. The authority citation for part 300 continues to read as follows:

Authority: 31 U.S.C. 9701\*\*\*

Par 2. In § 300.3, paragraphs (b)(1) introductory text and (d) are revised to read as follows:

§ 300.3 *Offer to compromise fee.*

\* \* \* \* \*

(b) *Fee*—(1) The fee for processing an offer to compromise submitted before February 27, 2017, is \$186. The fee for processing an offer to compromise submitted on or after February 27, 2017, is \$300. No fee will be charged if an offer is— \* \* \*

\* \* \* \* \*

(d) *Effective/applicability date.* This section is applicable beginning February 27, 2017.

John Dalrymple,  
Deputy Commissioner for  
Services and Enforcement.

(Filed by the Office of the Federal Register on October 12, 2016, 8:45 a.m., and published in the issue of the Federal Register for October 13, 2016, 81 F.R. 70654)

## REG-150992-13

### Election to take disaster loss deduction for preceding year

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Proposed Rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Bulletin**, the IRS is issuing temporary regulations under section 165(i) of the Internal Revenue Code (Code) relating to the election to take a disaster loss in the preceding year. The text of those temporary regulations also serves as the text of these proposed regulations. This document also invites comments from the public regarding these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by January 12, 2017.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-150992-13), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-150992-13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-150992-13).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Daniel Cassano at (202) 317-7011; concerning comments or a request for a public hearing, Oluwafunmilayo Taylor (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

Final and temporary regulations in the Rules and Regulations section of this issue of the **Bulletin** amend the Income Tax

Regulations (26 CFR part 1) relating to section 165(i) of the Code. The temporary regulations extend the due date by which a taxpayer may elect to treat an allowable loss occurring in a disaster area and attributable to a Federally declared disaster as sustained in the taxable year immediately prior to the taxable year in which the disaster occurred, as provided in section 165(i). The temporary regulations provide rules governing the time and manner of making a section 165(i) election, as well as the time and manner of revoking a section 165(i) election. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

#### Special Analyses

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the 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 Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The Department of the Treasury and the IRS request comments concerning the extension of the due date by which a taxpayer may make a section 165(i) election, as well as the time and manner in which a taxpayer may revoke a

section 165(i) election. All comments will be available for public inspection and copying.

A public hearing will be scheduled if requested in writing by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

#### Drafting Information

The principal authors of these regulations are Daniel Cassano and Christopher Wrobel of the Office of the Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the Department of the Treasury and the IRS participated in their development.

\* \* \* \* \*

#### Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:  
Authority: 26 U.S.C. 7805 \* \* \*

Par. 2. Section 1.165-11 is amended by:

1. Revising paragraph (a) through (e).
2. Adding paragraphs (f) through (i).

The revisions and additions read as follows:

*§ 1.165-11. Election in respect of losses attributable to a disaster.*

(a) through (i) [Reserved]. [The text of proposed § 1.165-11(a) through (i) is the same as the text of § 1.165-11T(a) through (i) published elsewhere in this issue of the **Bulletin**].

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

(Filed by the Office of the Federal Register on October 13, 2016, 8:45 a.m., and published in the issue of the Federal Register for October 14, 2016, 81 F.R. 70938)

# 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>

Bulletin 2016–27 through 2016–44

### Action on Decision:

2016-01, 2016-16 I.R.B. 580  
2016-02, 2016-31 I.R.B. 193  
2016-03, 2016-40 I.R.B. 424

### Announcements:

2016-21, 2016-27 I.R.B. 8  
2016-23, 2016-27 I.R.B. 10  
2016-24, 2016-30 I.R.B. 170  
2016-25, 2016-31 I.R.B. 205  
2016-26, 2016-38 I.R.B. 389  
2016-27, 2016-33 I.R.B. 238  
2016-28, 2016-34 I.R.B. 272  
2016-29, 2016-34 I.R.B. 272  
2016-30, 2016-37 I.R.B. 355  
2016-31, 2016-38 I.R.B. 392  
2016-32, 2016-40 I.R.B. 434  
2016-33, 2016-39 I.R.B. 422  
2016-34, 2016-39 I.R.B. 422  
2016-35, 2016-39 I.R.B. 423  
2016-36, 2016-39 I.R.B. 423  
2016-37, 2016-39 I.R.B. 423  
2016-38, 2016-43 I.R.B. 523

### Notices:

2016-40, 2016-27 I.R.B. 4  
2016-41, 2016-27 I.R.B. 5  
2016-42, 2016-29 I.R.B. 67  
2016-43, 2016-29 I.R.B. 132  
2016-44, 2016-29 I.R.B. 132  
2016-45, 2016-29 I.R.B. 135  
2016-46, 2016-31 I.R.B. 202  
2016-47, 2016-35 I.R.B. 276  
2016-48, 2016-33 I.R.B. 235  
2016-49, 2016-34 I.R.B. 265  
2016-50, 2016-38 I.R.B. 384  
2016-51, 2016-37 I.R.B. 344  
2016-52, 2016-40 I.R.B. 425  
2016-53, 2016-39 I.R.B. 421  
2016-54, 2016-40 I.R.B. 429  
2016-55, 2016-40 I.R.B. 432  
2016-57, 2016-40 I.R.B. 432  
2016-58, 2016-41 I.R.B. 438  
2016-59, 2016-42 I.R.B. 457  
2016-60, 2016-42 I.R.B. 458

### Proposed Regulations:

REG-163113-02, 2016-36 I.R.B. 329  
REG-147196-07, 2016-29 I.R.B. 32  
REG-123854-12, 2016-28 I.R.B. 15  
REG-150992-13, 2016-44 I.R.B. 537  
REG-131418-14, 2016-33 I.R.B. 248  
REG-102516-15, 2016-32 I.R.B. 231

## Proposed Regulations:—Continued

REG-109086-15, 2016-30 I.R.B. 171  
REG-134016-15, 2016-31 I.R.B. 205  
REG-101689-16, 2016-30 I.R.B. 170  
REG-103058-16, 2016-33 I.R.B. 238  
REG-105005-16, 2016-38 I.R.B. 380  
REG-108792-16, 2016-36 I.R.B. 320  
REG-108934-16, 2016-44 I.R.B. 532  
REG-123600-16, 2016-43 I.R.B. 523

### Revenue Procedures:

2016-37, 2016-29 I.R.B. 136  
2016-39, 2016-30 I.R.B. 164  
2016-40, 2016-32 I.R.B. 228  
2016-41, 2016-30 I.R.B. 165  
2016-42, 2016-34 I.R.B. 269  
2016-43, 2016-36 I.R.B. 316  
2016-44, 2016-36 I.R.B. 316  
2016-45, 2016-37 I.R.B. 344  
2016-46, 2016-37 I.R.B. 345  
2016-47, 2016-37 I.R.B. 346  
2016-48, 2016-37 I.R.B. 348  
2016-49, 2016-42 I.R.B. 462  
2016-50, 2016-43 I.R.B. 522  
2016-51, 2016-42 I.R.B. 465  
2016-52, 2016-42 I.R.B. 520  
2016-53, 2016-44 I.R.B. 530

### Revenue Rulings:

2016-17, 2016-27 I.R.B. 1  
2016-18, 2016-31 I.R.B. 194  
2016-19, 2016-35 I.R.B. 273  
2016-20, 2016-36 I.R.B. 279  
2016-23, 2016-39 I.R.B. 382  
2016-24, 2016-39 I.R.B. 395  
2016-25, 2016-41 I.R.B. 435

### Treasury Decisions:

9773, 2016-29 I.R.B. 56  
9774, 2016-30 I.R.B. 151  
9775, 2016-30 I.R.B. 159  
9776, 2016-32 I.R.B. 222  
9777, 2016-36 I.R.B. 282  
9778, 2016-31 I.R.B. 196  
9779, 2016-33 I.R.B. 233  
9781, 2016-35 I.R.B. 274  
9782, 2016-36 I.R.B. 301  
9783, 2016-39 I.R.B. 396  
9784, 2016-39 I.R.B. 402  
9785, 2016-38 I.R.B. 375  
9786, 2016-42 I.R.B. 442  
9789, 2016-44 I.R.B. 527

<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.

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

Bulletin 2016–27 through 2016–43

### **Notices:**

#### **2009-89**

Modified by  
Notice 2016-51, 2016-37 I.R.B. 344

#### **2012-54**

Obsoleted by  
Notice 2016-51, 2016-37 I.R.B. 344

#### **2013-1**

Modified by  
Notice 2016-41, 2016-27 I.R.B. 5

#### **2013-1**

Superseded by  
Notice 2016-41, 2016-27 I.R.B. 5

#### **2013-67**

Modified by  
Notice 2016-51, 2016-37 I.R.B. 344

#### **2015-63**

Superseded by  
Notice 2016-58, 2016-41 I.R.B. 438

### **Revenue Procedures:**

#### **2003-16**

Modified by  
Rev. Proc. 2016-47, 2016-37 I.R.B. 346

#### **2007-44**

Clarified by  
Rev. Proc. 2016-37, 2016-29 I.R.B. 136

#### **2007-44**

Modified by  
Rev. Proc. 2016-37, 2016-29 I.R.B. 136

#### **2007-44**

Superseded by  
Rev. Proc. 2016-37, 2016-29 I.R.B. 136

#### **2009-33**

Modified by  
Rev. Proc. 2016-48, 2016-37 I.R.B. 348

#### **2015-36**

Modified by  
Rev. Proc. 2016-37, 2016-29 I.R.B. 136

#### **2016-3**

Modified by  
Rev. Proc. 2016-40, 2016-32 I.R.B. 228

## **Revenue Procedures:—Continued**

#### **2016-3**

Modified by  
Rev. Proc. 2016-45, 2016-37 I.R.B. 228

#### **2016-3**

Supplemented by  
Rev. Proc. 2016-50, 2016-43 I.R.B. 522

#### **2016-29**

Modified by  
Rev. Proc. 2016-39, 2016-30 I.R.B. 164

### **Treasury Decisions:**

#### **2013-17**

Obsoleted by  
T.D. 9785 2016-38 I.R.B. 375

#### **2014-12**

Modified by  
T.D. 9776 2016-32 I.R.B. 222

<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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## **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.