

# INTERNAL REVENUE BULLETIN



## HIGHLIGHTS OF THIS ISSUE

**Bulletin No. 2016-46**  
**November 14, 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.

## EMPLOYEE PLANS

### **Notice 2016-61, page 722.**

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for October 2016 used under § 417(e)(3)(D), the 24-month average segment rates applicable for October 2016, and the 30-year Treasury rates. These rates reflect the application of § 430(h)(2)(C)(iv), which was added by the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141 (MAP-21) and amended by section 2003 of the Highway and Transportation Funding Act of 2014 (HATFA).

### **Notice 2016-62, page 725.**

Section 415 of the Internal Revenue Code (the Code) provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415(d) requires that the Secretary of the Treasury annually adjust these limits for cost of living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments under § 415. Under § 415(d), the adjustments are to be made under adjustment procedures similar to those used to adjust benefit amounts under § 215(i)(2)(A) of the Social Security Act.

## EXCISE TAX

### **Notice 2016-64, page 726.**

Sections 4375 and 4376, added to the Code by the Affordable Care Act, impose a fee on issuers of specified health insurance policies and plan sponsors of applicable self-insured health plans to help fund the Patient-Centered Outcomes Research Institute (PCORI). This notice provides that the adjusted applicable dollar amount that applies for determining the PCORI fee for policy years and plan years ending on or after October 1, 2016 and before October 1, 2017 is equal to \$2.26. This adjusted applicable dollar amount has been determined using

the percentage increase in the projected per capita amount of the National Health Expenditures published by HHS in July 2016.

## ADMINISTRATIVE

### **REG-134122-15, page 728.**

The proposed regulation changes the user fee for the Enrolled Agent Special Enrollment Examination from \$11 per part to \$81 per part, and withdraws the proposed regulation published on January 26, 2016.

# 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 III. Administrative, Procedural, and Miscellaneous

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

### Notice 2016–61

This notice provides guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under § 417(e)(3), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I).

#### YIELD CURVE AND SEGMENT RATES

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

that apply to single-employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan’s target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates (“segment rates”), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins.<sup>1</sup> However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

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

2016 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of September 2016 are, respectively, 1.47, 3.34, and 4.30.

The 24-month average segment rates determined under § 430(h)(2)(C)(i) through (iii) must be adjusted pursuant to § 430(h)(2)(C)(iv) to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates. For plan years beginning before 2021, the applicable minimum percentage is 90% and the applicable maximum percentage is 110%. The 25-year average segment rates for plan years beginning in 2015, 2016, and 2017 were published in Notice 2014–50, 2014–40 I.R.B. 590, Notice 2015–61, 2015–39 I.R.B. 408, and Notice 2016–54, 2016–40 I.R.B. 429, respectively.

#### 24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for October 2016 without adjustment for the 25-year average segment rate limits are as follows:

Applicable Month	First Segment	Second Segment	Third Segment
October 2016	1.52	3.78	4.76

Based on § 430(h)(2)(C)(iv), the 24-month averages applicable for October

2016 adjusted to be within the applicable minimum and maximum percentages of

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

For Plan Years Beginning In	Adjusted 24-Month Average Segment Rates				
	Applicable Month		First Segment	Second Segment	Third Segment
2015	October	2016	4.72	6.11	6.81
2016	October	2016	4.43	5.91	6.65
2017	October	2016	4.16	5.72	6.48

#### 30-YEAR TREASURY SECURITIES INTEREST RATES

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

full-funding limitation described in § 431(c)(6)(A), based on the plan’s current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest

on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88–73, 1988–2 C.B. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for September 2016 is 2.35 percent. The Service determined this

<sup>1</sup>Pursuant to § 433(h)(3)(A), the 3<sup>rd</sup> segment rate determined under § 430(h)(2)(C) is used to determine the current liability of a CSEC plan (which is used to calculate the minimum amount of the full funding limitation under § 433(c)(7)(C)).

rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in August 2046. For plan years

beginning in the month shown below, the weighted average of the rates of interest on 30-year Treasury securities and the permis-

sible range of rate used to calculate current liability are as follows:

For Plan Years Beginning in		30-Year Treasury Weighted Average	Permissible Range 90% to 105%	
<i>Month</i>	<i>Year</i>			
October	2016	2.94	2.64	3.08

**MINIMUM PRESENT VALUE SEGMENT RATES**

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

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

ment rates determined for September 2016 are as follows:

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First Segment	Second Segment	Third Segment
1.47	3.34	4.30

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**DRAFTING INFORMATION**

The principal author of this notice is Tom Morgan of the Office of the Associ-

ate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS participated in the development of this guidance. For further

information regarding this notice, contact Mr. Morgan at 202-317-6700 or Tony Montanaro at 202-317-8698 (not toll-free numbers).

**Table I**

Monthly Yield Curve for September 2016  
 Derived from September 2016 Data

<i>Maturity</i>	<i>Yield</i>								
0.5	0.90	20.5	4.04	40.5	4.33	60.5	4.43	80.5	4.48
1.0	1.09	21.0	4.05	41.0	4.33	61.0	4.43	81.0	4.48
1.5	1.26	21.5	4.06	41.5	4.33	61.5	4.43	81.5	4.49
2.0	1.39	22.0	4.07	42.0	4.34	62.0	4.44	82.0	4.49
2.5	1.49	22.5	4.09	42.5	4.34	62.5	4.44	82.5	4.49
3.0	1.56	23.0	4.10	43.0	4.35	63.0	4.44	83.0	4.49
3.5	1.63	23.5	4.11	43.5	4.35	63.5	4.44	83.5	4.49
4.0	1.70	24.0	4.12	44.0	4.35	64.0	4.44	84.0	4.49
4.5	1.78	24.5	4.13	44.5	4.36	64.5	4.44	84.5	4.49
5.0	1.88	25.0	4.13	45.0	4.36	65.0	4.45	85.0	4.49
5.5	1.99	25.5	4.14	45.5	4.36	65.5	4.45	85.5	4.49
6.0	2.11	26.0	4.15	46.0	4.36	66.0	4.45	86.0	4.49
6.5	2.24	26.5	4.16	46.5	4.37	66.5	4.45	86.5	4.49
7.0	2.37	27.0	4.17	47.0	4.37	67.0	4.45	87.0	4.50
7.5	2.50	27.5	4.18	47.5	4.37	67.5	4.45	87.5	4.50
8.0	2.63	28.0	4.19	48.0	4.38	68.0	4.45	88.0	4.50
8.5	2.76	28.5	4.19	48.5	4.38	68.5	4.46	88.5	4.50
9.0	2.88	29.0	4.20	49.0	4.38	69.0	4.46	89.0	4.50
9.5	3.00	29.5	4.21	49.5	4.38	69.5	4.46	89.5	4.50
10.0	3.11	30.0	4.22	50.0	4.39	70.0	4.46	90.0	4.50
10.5	3.21	30.5	4.22	50.5	4.39	70.5	4.46	90.5	4.50
11.0	3.30	31.0	4.23	51.0	4.39	71.0	4.46	91.0	4.50
11.5	3.39	31.5	4.24	51.5	4.39	71.5	4.46	91.5	4.50
12.0	3.46	32.0	4.24	52.0	4.40	72.0	4.46	92.0	4.50
12.5	3.53	32.5	4.25	52.5	4.40	72.5	4.47	92.5	4.50
13.0	3.60	33.0	4.25	53.0	4.40	73.0	4.47	93.0	4.51
13.5	3.65	33.5	4.26	53.5	4.40	73.5	4.47	93.5	4.51
14.0	3.70	34.0	4.27	54.0	4.41	74.0	4.47	94.0	4.51
14.5	3.75	34.5	4.27	54.5	4.41	74.5	4.47	94.5	4.51
15.0	3.79	35.0	4.28	55.0	4.41	75.0	4.47	95.0	4.51
15.5	3.83	35.5	4.28	55.5	4.41	75.5	4.47	95.5	4.51
16.0	3.86	36.0	4.29	56.0	4.41	76.0	4.47	96.0	4.51
16.5	3.89	36.5	4.29	56.5	4.42	76.5	4.48	96.5	4.51
17.0	3.91	37.0	4.30	57.0	4.42	77.0	4.48	97.0	4.51
17.5	3.93	37.5	4.30	57.5	4.42	77.5	4.48	97.5	4.51
18.0	3.96	38.0	4.31	58.0	4.42	78.0	4.48	98.0	4.51
18.5	3.97	38.5	4.31	58.5	4.42	78.5	4.48	98.5	4.51
19.0	3.99	39.0	4.31	59.0	4.43	79.0	4.48	99.0	4.51
19.5	4.01	39.5	4.32	59.5	4.43	79.5	4.48	99.5	4.51
20.0	4.02	40.0	4.32	60.0	4.43	80.0	4.48	100.0	4.51

## 2017 Limitations Adjusted As Provided in Section 415(d), etc.

### Notice 2016-62

Section 415 of the Internal Revenue Code (the Code) provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415(d) requires that the Secretary of the Treasury annually adjust these limits for cost-of-living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments under § 415. Under § 415(d), the adjustments are to be made under adjustment procedures similar to those used to adjust benefit amounts under § 215(i)(2)(A) of the Social Security Act.

#### Cost-of-Living Adjusted Limits for 2017

Effective January 1, 2017, the limitation on the annual benefit under a defined benefit plan under § 415(b)(1)(A) is increased from \$210,000 to \$215,000.

For a participant who separated from service before January 1, 2017, the participant's limitation under a defined benefit plan under § 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2016, by 1.0112.

The limitation for defined contribution plans under § 415(c)(1)(A) is increased in 2017 from \$53,000 to \$54,000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of § 415(b)(1)(A). After taking into account the applicable rounding rules, the amounts for 2017 are as follows:

The limitation under § 402(g)(1) on the exclusion for elective deferrals described in § 402(g)(3) remains unchanged at \$18,000.

The annual compensation limit under §§ 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii) is increased from \$265,000 to \$270,000.

The dollar limitation under § 416(i)(1)(A)(i) concerning the definition of "key

employee" in a top-heavy plan is increased from \$170,000 to \$175,000.

The dollar amount under § 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5-year distribution period is increased from \$1,070,000 to \$1,080,000, while the dollar amount used to determine the lengthening of the 5-year distribution period is increased from \$210,000 to \$215,000.

The limitation used in the definition of "highly compensated employee" under § 414(q)(1)(B) remains unchanged at \$120,000.

The dollar limitation under § 414(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in § 401(k)(11) or § 408(p) for individuals aged 50 or over remains unchanged at \$6,000. The dollar limitation under § 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in § 401(k)(11) or 408(p) for individuals aged 50 or over remains unchanged at \$3,000.

The annual compensation limitation under § 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost-of-living adjustments to the compensation limitation under the plan under § 401(a)(17) to be taken into account, is increased from \$395,000 to \$400,000.

The compensation amount under § 408(k)(2)(C) regarding simplified employee pensions (SEPs) remains unchanged at \$600.

The limitation under § 408(p)(2)(E) regarding SIMPLE retirement accounts remains unchanged at \$12,500.

The limitation on deferrals under § 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organizations remains unchanged at \$18,000.

The limitation under § 664(g)(7) concerning the qualified gratuitous transfer of qualified employer securities to an employee stock ownership plan remains unchanged at \$45,000.

The compensation amounts under § 1.61-21(f)(5)(i) of the Income Tax Regulations concerning the definition of "control employee" for fringe benefit valuation purposes remains unchanged at \$105,000. The compensation amount under § 1.61-21(f)(5)(iii) remains unchanged at \$215,000.

The dollar limitation on premiums paid with respect to a qualifying longevity annuity contract under § 1.401(a)(9)-6, A-17(b)(2)(i) of the Income Tax Regulations remains unchanged at \$125,000.

The Code provides that the \$1,000,000,000 threshold used to determine whether a multiemployer plan is a systemically important plan under § 432(e)(9)(H)(v)(III)(aa) is adjusted using the cost-of-living adjustment provided under § 432(e)(9)(H)(v)(III)(bb). After taking the applicable rounding rule into account, the threshold used to determine whether a multiemployer plan is a systemically important plan under § 432(e)(9)(H)(v)(III)(aa) remains unchanged at \$1,012,000,000.

The Code also provides that several retirement-related amounts are to be adjusted using the cost-of-living adjustment under § 1(f)(3). After taking the applicable rounding rules into account, the amounts for 2017 are as follows:

The adjusted gross income limitation under § 25B(b)(1)(A) for determining the retirement savings contributions credit for married taxpayers filing a joint return remains unchanged at \$37,000; the limitation under § 25B(b)(1)(B) remains unchanged at \$40,000; and the limitation under §§ 25B(b)(1)(C) and 25B(b)(1)(D) is increased from \$61,500 to \$62,000.

The adjusted gross income limitation under § 25B(b)(1)(A) for determining the retirement savings contributions credit for taxpayers filing as head of household remains unchanged at \$27,750; the limitation under § 25B(b)(1)(B) remains unchanged at \$30,000; and the limitation under §§ 25B(b)(1)(C) and 25B(b)(1)(D) is increased from \$46,125 to \$46,500.

The adjusted gross income limitation under § 25B(b)(1)(A) for determining the retirement savings contributions

credit for all other taxpayers remains unchanged at \$18,500; the limitation under § 25B(b)(1)(B) remains unchanged at \$20,000; and the limitation under §§ 25B(b)(1)(C) and 25B(b)(1)(D) is increased from \$30,750 to \$31,000.

The deductible amount under § 219(b)(5)(A) for an individual making qualified retirement contributions remains unchanged at \$5,500.

The applicable dollar amount under § 219(g)(3)(B)(i) for determining the deductible amount of an IRA contribution for taxpayers who are active participants in a qualified plan (or another retirement plan specified in § 219(g)(5)) filing a joint return or as a qualifying widow(er) is increased from \$98,000 to \$99,000. The applicable dollar amount under § 219(g)(3)(B)(ii) for all other taxpayers who are active participants (other than married taxpayers filing separate returns) is increased from \$61,000 to \$62,000. If an individual or the individual's spouse is an active participant, the applicable dollar amount under § 219(g)(3)(B)(iii) for a married individual filing a separate return is not subject to an annual cost-of-living adjustment and remains \$0. The applicable dollar amount under § 219(g)(7)(A) for a taxpayer who is not an active participant but whose spouse is an active participant is increased from \$184,000 to \$186,000.

Accordingly, under § 219(g)(2)(A), the deduction for taxpayers making contributions to a traditional IRA is phased out for single individuals and heads of household who are active participants in a qualified plan (or another retirement plan specified in § 219(g)(5)) and have adjusted gross incomes (as defined in § 219(g)(3)(A)) between \$62,000 and \$72,000, increased from between \$61,000 and \$71,000. For married couples filing jointly, if the spouse who makes the IRA contribution is an active participant, the income phase-out range is between \$99,000 and \$119,000, increased from between \$98,000 and \$118,000. For an IRA contributor who is not an active partic-

ipant and is married to someone who is an active participant, the deduction is phased out if the couple's income is between \$186,000 and \$196,000, increased from between \$184,000 and \$194,000. For a married individual filing a separate return who is an active participant, the phase-out range is not subject to an annual cost-of-living adjustment and remains \$0 to \$10,000.

The adjusted gross income limitation under § 408A(c)(3)(B)(ii)(I) for determining the maximum Roth IRA contribution for married taxpayers filing a joint return or for a taxpayer filing as a qualifying widow(er) is increased from \$184,000 to \$186,000. The adjusted gross income limitation under § 408A(c)(3)(B)(ii)(II) for all other taxpayers (other than married taxpayers filing separate returns) is increased from \$117,000 to \$118,000. The applicable dollar amount under § 408A(c)(3)(B)(ii)(III) for a married individual filing a separate return is not subject to an annual cost-of-living adjustment and remains \$0.

Accordingly, under § 408A(c)(3)(A), the adjusted gross income phase-out range for taxpayers making contributions to a Roth IRA is \$186,000 to \$196,000 for married couples filing jointly, increased from \$184,000 to \$194,000. For singles and heads of household, the income phase-out range is \$118,000 to \$133,000, increased from \$117,000 to \$132,000. For a married individual filing a separate return, the phase-out range is not subject to an annual cost-of-living adjustment and remains \$0 to \$10,000.

The dollar amount under § 430(c)(7)(D)(i)(II) used to determine excess employee compensation with respect to a single-employer defined benefit pension plan for which the special election under § 430(c)(2)(D) has been made is increased from \$1,106,000 to \$1,115,000.

### Drafting Information

The principal author of this notice is Tom Morgan of the Office of the Associate Chief Counsel (Tax Exempt and Gov-

ernment Entities). However, other personnel from the IRS participated in the development of this guidance. For further information regarding this notice, contact Mr. Morgan at 202-317-6700 or John Heil at 443-853-5519 (not toll-free numbers).

## Adjusted Applicable Dollar Amount for Fee Imposed by §§ 4375 and 4376

### Notice 2016-64

#### I. PURPOSE

This notice provides the adjusted applicable dollar amount to be multiplied by the average number of covered lives for purposes of the fee imposed by §§ 4375 and 4376 of the Internal Revenue Code for policy years and plan years that end on or after October 1, 2016, and before October 1, 2017.

#### II. BACKGROUND

Section 4375 imposes a fee on the issuer of a specified health insurance policy for each policy year ending after September 30, 2012, and before October 1, 2019. Section 4376 imposes a fee on the plan sponsor of an applicable self-insured health plan for each plan year ending after September 30, 2012, and before October 1, 2019. The fee imposed by §§ 4375 and 4376 helps to fund the Patient-Centered Outcomes Research Institute (PCORI) and is calculated using the average number of lives covered under the policy or plan and the applicable dollar amount for that policy year or plan year. Under §§ 4375(a) and 4376(a), the applicable dollar amount is \$2 for policy and plan years ending on or after October 1, 2013, and before October 1, 2014.<sup>1</sup> Treas. Reg. §§ 46.4375-1(c)(4) and 46.4376-1(c)(3).

Under §§ 4375(d) and 4376(d) and Treas. Reg. §§ 46.4375-1(c)(4) and 46.4376-1(c)(3), the applicable dollar amount for policy years and plan years ending in any Federal fiscal year beginning on or after October 1, 2014 is increased based on increases in the projected per capita amount of National Health Expenditures.

<sup>1</sup>The applicable dollar amount is \$1 for policy and plan years ending before October 1, 2013.

Specifically, the applicable dollar amount is the sum of –

- (i) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; plus
- (ii) The amount equal to the product of –
  - (A) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; and
  - (B) The percentage increase in the projected per capita amount of the National Health Expenditures most recently released by the Department of Health and Human Services (HHS) before the beginning of the Federal fiscal year.

Notice 2015–60, 2015–43, I.R.B. 604, provides that the adjusted applicable dollar amount for policy years and plan years

that end on or after October 1, 2015, and before October 1, 2016 is \$2.17.

### **III. ADJUSTED APPLICABLE DOLLAR AMOUNT**

The applicable dollar amount that must be used to calculate the fee imposed by §§ 4375 and 4376 for policy years and plan years that end on or after October 1, 2016, and before October 1, 2017, is \$2.26. The increase from the prior amount is calculated by multiplying the adjusted applicable dollar amount for policy years and plan years ending in the previous Federal fiscal year, \$2.17, by the percentage increase of the projected per capita amount of National Health Expenditures published by HHS on July 12, 2016. See [www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/Proj2015tables.zip](http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/Proj2015tables.zip), Table 3.

The percentage increase is calculated after adjustment to reflect updates to the data used to calculate the prior amount, \$2.17, which was based on the per capita amounts of National Health Expenditures for 2015 and 2016 published by HHS on July 22, 2015.

### **IV. EFFECTIVE DATE**

This notice is effective for policy years and plan years ending on or after October 1, 2016.

### **V. DRAFTING INFORMATION**

The principal author of this notice is Stephanie L. Caden of the Office of Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this notice, contact Ms. Caden at (202) 317-5500 (not a toll free number).

## Part IV. Items of General Interest

### Special Enrollment Examination User Fee for Enrolled Agents

**REG-134122-15**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Withdrawal of notice of proposed rulemaking, notice of proposed rulemaking, and notice of public hearing.

**SUMMARY:** This document withdraws a proposed regulation relating to the user fee for the special enrollment examination to become an enrolled agent. This document also proposes a new regulation to increase the user fee for the examination to recover the cost to the IRS of overseeing the administration of the examination. The withdrawal and proposal affect individuals taking the enrolled agent special enrollment examination. This document also contains a notice of public hearing on the new proposed regulation.

**DATES:** Written or electronic comments must be received by December 27, 2016. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for December 29, 2016, must be received by December 27, 2016.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-134122-15), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-134122-15), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, or sent via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-134122-15). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning this proposed regulation, Jonathan R. Black, (202) 317-6845 (not a toll-free number); concerning submissions of comments, the hearing, or to

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

#### SUPPLEMENTARY INFORMATION:

##### Background and Explanation of Provisions

###### A. Enrolled Agents and the Special Enrollment Examination

Section 330 of title 31 of the United States Code authorizes the Secretary of the Treasury to regulate the practice of representatives before the Treasury Department. Pursuant to 31 U.S.C. 330, the Secretary has published regulations governing practice before the IRS in 31 CFR part 10 and reprinted the regulations as Treasury Department Circular No. 230 (Circular 230).

Section 10.4(a) of Circular 230 authorizes the IRS to grant status as enrolled agents to individuals who demonstrate special competence in tax matters by passing a written examination (Enrolled Agent Special Enrollment Examination (EA-SEE)) administered by, or under the oversight of, the IRS and who have not engaged in any conduct that would justify suspension or disbarment under Circular 230. There were a total of 51,755 active enrolled agents as of September 1, 2016.

Starting in 2006, the IRS engaged the services of a third-party contractor to develop and administer the EA-SEE. The EA-SEE is composed of three parts, which are offered in a testing period that begins each May 1 and ends the last day of the following February. The EA-SEE is not available in March and April, during which period it is updated to reflect recent changes in the relevant law. More information on the EA-SEE, including content, scoring, and how to register, can be found on the IRS Web site at [www.irs.gov/tax-professionals/enrolled-agents](http://www.irs.gov/tax-professionals/enrolled-agents). The IRS Return Preparer Office (RPO) oversees the administration of the EA-SEE.

###### 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 (OMB Circular), 58 FR 38142 (July 15, 1993).

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 where 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 ser-

vice and therefore must fund the remaining cost of providing the service from other available funding sources. When the OMB grants an exception, 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. *The EA-SEE User Fee*

As discussed above, Circular 230 § 10.4(a) provides that the IRS will grant enrolled agent status to an applicant if the applicant, among other things, demonstrates special competence in tax matters by written examination. The EA-SEE is the written examination that tests special competence in tax matters for purposes of that provision, and an applicant must pass all parts of the EA-SEE to be granted enrolled agent status through written examination. The IRS confers a benefit on individuals who take the EA-SEE beyond those that accrue to the general public by providing them with an opportunity to demonstrate special competence in tax matters by passing a written examination and therefore satisfying one of the requirements for becoming an enrolled agent under Circular 230 § 10.4(a). Because the opportunity to take the EA-SEE is a special benefit, the IRS charges a user fee to take the examination.

Pursuant to the guidelines in the OMB Circular, the IRS has calculated its cost of providing examination services under the enrolled agent program. The proposed user fee will be implemented under the authority of the IOAA and the OMB Circular and will recover the full cost of overseeing the program. The current user fee is \$11 to take each part of the EA-SEE. The contractor who administers the EA-SEE also charges individuals taking the EA-SEE an additional fee for its services. For the May 2016 to February 2017 testing period, the contractor's fee is \$98 for each part of the EA-SEE. For the March 2017 to February 2019 testing periods, the contractor's fee will be \$100.94. For the March 2019 to February 2020 testing period, the contractor's fee will be \$103.97. The fee charged by the contrac-

tor is fixed by the current contract terms and therefore may not be reduced or renegotiated at this time. The contract will expire on February 29, 2020. The contract was subject to public procurement procedures, and there were no tenders that were more competitive.

The IRS has not increased the EA-SEE user fee since 2006, when it published the existing user fee regulation. Since that time, the costs incurred by the IRS to implement the EA-SEE program have increased. The IRS has recently gathered sufficient data to reliably estimate the IRS's current costs in implementing the EA-SEE program as described in the costing analysis contained in this preamble.

The increased costs require an increase in the EA-SEE user fee. The increased costs are primarily attributable to the following: (1) The cost for background checks required under Publication 4812, "Contractor Security Controls," for individuals working at the contractor's testing centers increased by \$289,000 per year; (2) the IRS estimates that the contractor will administer 12,000 fewer parts of the EA-SEE per year than the estimated 34,000 used to calculate the \$11 fee, and the total costs are therefore being recovered from fewer individuals; and (3) the IRS's costs of verifying the contractor's compliance with the information technology security requirements necessary to protect the personally identifiable information of individuals taking the EA-SEE have increased, because Publication 4812 has strengthened those requirements.

In addition, the scope of the work performed to oversee the contract has expanded beyond what it was in 2006. The proposed fee more accurately accounts for the time and personnel necessary to oversee the development and administration of the EA-SEE and to ensure the contractor complies with the terms of its contract. The IRS's costs for oversight now include costs associated with: (1) Review and approval of materials used by the contractor in developing the EA-SEE; (2) review of surveys of existing enrolled agents, which help to determine the topics to be covered in the EA-SEE; (3) composition of potential EA-SEE questions in coordination with the contractor's external tax law experts; (4) Office of Chief Counsel review and revision of the potential questions for

legal accuracy; and (5) analysis of the answers and raw scores of a testing population to determine what should be a passing score.

Further, the IRS's personnel ensure the contractor's compliance with its contract by reviewing the work of the contractor using an annual Work Breakdown Structure—a project management tool—and reviewing and verifying that the contractor is in compliance with its Quality Assurance Plan regarding customer satisfaction and accuracy. The IRS incurs additional costs associated with resolution of test-related issues such as cheating incidents, appeals regarding scores, refund requests, and customer service complaints that are not resolved at the contractor level.

Taking into account the full amount of these costs, the user fee for the EA-SEE is proposed to be increased to \$81 per part as of the testing period that begins on May 1, 2017. The IRS does not intend to subsidize any of the cost of making the EA-SEE available to examinees, and is not applying for an exception to the full-cost requirement from the OMB.

### D. *Previous EA-SEE NPRM Is Withdrawn*

On January 26, 2016, a notice of proposed rulemaking (REG-134122-15) proposing an increase to the EA-SEE user fee was published in the **Federal Register** (81 FR 4221). The January 26, 2016 notice of proposed rulemaking proposed to increase the EA-SEE user fee to \$99 per part. The IRS has redetermined the user fee and now proposes to increase the user fee to \$81 per part. The January 26, 2016 notice of proposed rulemaking is withdrawn.

### E. *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 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 the 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-full 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 costs per unit of time to determine the labor and benefits costs 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 organi-

zational unit's activities but are not specifically identifiable to a single activity.

These costs can include:

- General management and administrative services of sustaining and supporting 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	<u>65.85%</u>

## F. Calculation of the EA-SEE User Fee

### 1. Cost Estimate

The RPO is the only organization involved in overseeing the administration of the EA-SEE. The cost centers within the RPO support multiple programs and are not solely dedicated to the EA-SEE. The RPO, however, has a staff of only ten people who devote time to oversee the administration of the EA-SEE program. Because there are only a few individuals who directly handle oversight of the EA-SEE, the IRS projected the estimated costs of direct labor and benefits based on the

actual labor and benefits of these specific individuals reduced to reflect the percentage of time each individual spends overseeing the EA-SEE program. The RPO's managers are able to estimate the percentage of time these employees devote to overseeing the EA-SEE program based on their knowledge of actual program assignments. Of the ten people, eight devote seventy-five percent or more of their time to EA-SEE-related activities, and two devote approximately ten percent of their time to EA-SEE-related activities.

The baseline for the labor and benefits estimate was the actual labor and benefits for the ten personnel for Fiscal Year 2015.

From this baseline, the IRS estimated the direct labor and benefits costs over the next three years using an inflation factor for Fiscal Years 2016, 2017, and 2018. The IRS used a three year projection because the increase in future labor and benefits costs are reliably predictable representations of the actual costs that will be incurred by the RPO. These estimated direct labor and benefits costs were then reduced by the percentage of time each of the ten individuals devoted to the EA-SEE program and are set out in the following table:

<i>Year</i>	<i>Estimated direct labor and benefits costs</i>
2016	\$912,180
2017	\$921,302
2018	\$930,515
Total	<u>\$2,763,997</u>

The total estimated direct labor and benefits costs for the three years is \$2,763,997. After estimating the direct total labor and benefits, the IRS applied the Fiscal Year 2015 Corporate Overhead rate of 65.85 percent to the estimated direct labor and benefits to calculate indirect costs of \$1,820,092, for a total labor and benefits costs for the three year period of \$4,584,089.

The EA-SEE program incurs a cost for required background investigations performed on the employees of the contractor that administers the EA-SEE. The background investigations are not performed by the RPO, so the cost of the background investigations is not included in the direct labor and benefits costs calculated above for the ten RPO employees. The contractor administers the EA-SEE at approximately 260 domestic locations, and each employee at these locations must undergo a background investigation in order to administer the EA-SEE. The contractor's employees are typically short-term or seasonal workers, so the IRS must perform background investigations on new employees on a continuing basis. Where permissible, the IRS will piggyback on previously completed background investigations. Typically, the IRS may rely on another government agency's background investigation

for up to two years from the date the prior investigation was completed. However, investigations performed by other organizations for the contractor's employees generally cannot supplant the need for the IRS to perform its own investigations because the IRS's background investigations include, among other elements, federal tax compliance checks, which are not necessarily part of investigations performed by other organizations. The EA-SEE is the only exam that the contractor administers on behalf of the IRS, so the contractor's new hires typically have not undergone a background investigation performed by the IRS prior to being hired.

The IRS estimated the cost for background investigations using historical costs from the years 2012 through 2014. The IRS cannot forecast the future costs of background investigations with the same certainty as it can forecast labor and benefits, and it therefore used a historical three year average to estimate the background investigation costs. The IRS did not include the historical background investigation cost from 2015 in the historical average because 2014 was the most recent year for which information was available at the time the IRS initiated this project to update the user fee.

The cost for background investigations for the contractor was an average of \$289,000 per year for the years 2012 through 2014, calculated as follows: The costs of all background investigations incurred on behalf of the RPO were \$294,000, \$259,000, and \$409,000 in 2012, 2013, and 2014, respectively, for a \$321,000 yearly average. Ninety percent of these background investigations were for the contractor who administers the EA-SEE. The other ten percent of these background investigations did not relate to the EA-SEE, so the IRS multiplied the \$321,000 yearly average cost of background investigations by the ninety percent allocable to the contractor. The resulting average annual cost for EA-SEE background investigations for each year of the three year period was \$289,000, with a total cost of \$867,000. The IRS used the historical cost totals as the estimate of the 2016, 2017, and 2018 background investigations costs. Because background investigation costs may not increase as predictably as labor and benefits costs, the IRS did not apply an inflation factor.

The calculation of the total cost of the EA-SEE program for 2016 through 2018 is below:

Direct Labor and Benefits	\$2,763,997
Corporate Overhead at 65.85%	\$1,820,092
Subtotal	\$4,584,089
Background Checks	\$867,000
Total EA-SEE Cost	\$5,451,089

## 2. Volume of Examinations

The number of examinations provided during Fiscal Years 2012, 2013, and 2014 were 23,985, 23,110, and 20,180, respectively. As with the cost of background investigations, the number of examinations administered in 2015 was not avail-

able at the time this project was initiated, and the IRS therefore did not include it in the calculation. The total number of examinations for the three years was 67,275. The IRS used this historical three-year volume to estimate the number of examinations it expects to provide in 2016, 2017, and 2018.

## 3. Unit Cost Per Examination

The IRS divided the three year total EA-SEE program costs by the total volume of examinations expected over the same three year period to determine a unit cost per examination of \$81.

Total EA-SEE Cost	\$5,451,089
Volume	÷ 67,275
Unit Cost	\$81

## Special Analyses

Certain Treasury 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 this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. This certification is based on the information that follows. The user fee primarily affects individuals who take the enrolled agent examination, many of whom may not be classified as small entities under the Regulatory Flexibility Act. Therefore, a substantial number of small entities is not likely to be affected. Further, the economic impact on any small entities affected would be limited to paying the \$70 difference in cost per part between the proposed \$81 user fee and the existing \$11 user fee, which is unlikely to present a significant economic impact. Moreover, the total economic impact of this proposed regulation would be approximately \$1.57 million, which is the product of the approximately 22,425 parts of the EA-SEE administered annually and the \$70 increase in the fee. Accordingly, the proposed rule is not expected to have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not re-

quired. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been 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 this proposed regulation is adopted as a final regulation, consideration will be given to any comments that are submitted timely to the IRS as prescribed in the preamble under the ADDRESSES section. The Treasury Department and the IRS request comments on all aspects of the proposed regulation. All comments submitted will be made available at [www.regulations.gov](http://www.regulations.gov) or upon request.

A public hearing has been scheduled for December 29, 2016, beginning at 10:00 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. 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 or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by December 27, 2016. A period of 10 minutes will be allocated 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 this regulation is Jonathan R. Black of the Office of the Associate Chief Counsel (Procedure and Administration).

\* \* \* \* \*

## Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-134122-15) that was published in the **Federal Register** on January 26, 2016, (81 FR 4221) is withdrawn.

**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. Section 300.4 is amended by revising paragraphs (b) and (d) to read as follows:

*§ 300.4 Enrolled agent special enrollment examination fee.*

\* \* \* \* \*

(b) *Fee.* The fee for taking the enrolled agent special enrollment examination is \$81 per part, which is the cost to the government for overseeing the development and administration of the examination and does not include any fees charged by the administrator of the examination.

\* \* \* \* \*

(d) *Applicability date.* This section applies on and after the date of publication

of a Treasury decision adopting this rule as a final regulation in the **Federal Register**.

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

(Filed by the Office of the Federal Register on October 24, 2016, 8:45 a.m., and published in the issue of the Federal Register for October 25, 2016, 81 F.R. 73363)

# 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>

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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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