

# INTERNAL REVENUE BULLETIN



## HIGHLIGHTS OF THIS ISSUE

**Bulletin No. 2018-2**  
**January 8, 2018**

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 2018-02, page 281.**

This notice sets forth the updated mortality improvement rates and static mortality tables that are used for purposes of determining minimum funding requirements under § 430(h)(3) for 2019 and minimum present value under § 417(e)(3) for distributions with annuity starting dates that occur during stability periods beginning in the 2019 calendar year.

## INCOME TAX

### **Notice 2018-03, page 285.**

This notice provides the optional 2018 standard mileage rates for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. This notice also provides the amount taxpayers must use in calculating reductions to basis for depreciation taken under the business standard mileage rate, and the maximum standard automobile cost that may be used in computing the allowance under a fixed and variable rate (FAVR) plan.

### **Rev. Proc. 2018-08, page 286.**

This revenue procedure provides safe harbor methods that individual taxpayers may use in determining the amount of their casualty and theft losses for their personal-use residential real property and personal belongings. This revenue procedure provides additional safe harbor methods that may be used in the case of casualty and theft losses occurring as a result of any Federally declared disaster.

### **Rev. Proc. 2018-09, page 290.**

In addition to the safe harbor methods available in Rev. Proc. 2018-08, this revenue procedure provides a cost index safe harbor method that individual taxpayers may use in determin-

ing the amount of their casualty losses for their personal-use residential real property occurring as a result of the 2017 hurricanes.

### **Rev. Rul. 2018-01, page 275.**

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for January 2018. Table 6, however, contains the deemed rate for transfers to new pooled income funds during 2018.

### **Rev. Rul. 2018-03, page 278.**

This revenue ruling clarifies that a package of films licensed to customers in the normal course of business may be an item under Treas. Reg. § 1.199-3(d)(1)(i) for determining the domestic production activities deduction under IRC § 199.

## EXCISE TAX

### **Rev. Rul. 2018-02, page 277.**

This notice clarifies the Services' position that mixtures of gasoline and butane are not alternative fuel mixtures and thus do not qualify for the alternative fuel mixture credit under § 6426(e).

# The IRS Mission

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

## Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

### **Part I.—1986 Code.**

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

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

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

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

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

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

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

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

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

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

(Also: Sections 42, 280G, 382, 467, 468, 482, 483, 642, 1288, 7520.)

### Rev. Rul. 2018-01

This revenue ruling provides various prescribed rates for federal income tax purposes for January 2018 (the current month). Table 1 contains the short-term,

mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current month. However, under section

42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%. Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520. Finally, Table 6 contains the deemed rate of return for transfers made during calendar year 2018 to pooled income funds described in section 642(c)(5) that have been in existence for less than 3 taxable years immediately preceding the taxable year in which the transfer was made.

REV. RUL. 2018-01 TABLE 1				
Applicable Federal Rates (AFR) for January 2018				
<i>Period for Compounding</i>				
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	1.68%	1.67%	1.67%	1.66%
110% AFR	1.85%	1.84%	1.84%	1.83%
120% AFR	2.01%	2.00%	2.00%	1.99%
130% AFR	2.18%	2.17%	2.16%	2.16%
<i>Mid-term</i>				
AFR	2.18%	2.17%	2.16%	2.16%
110% AFR	2.40%	2.39%	2.38%	2.38%
120% AFR	2.62%	2.60%	2.59%	2.59%
130% AFR	2.84%	2.82%	2.81%	2.80%
150% AFR	3.29%	3.26%	3.25%	3.24%
175% AFR	3.84%	3.80%	3.78%	3.77%
<i>Long-term</i>				
AFR	2.59%	2.57%	2.56%	2.56%
110% AFR	2.85%	2.83%	2.82%	2.81%
120% AFR	3.10%	3.08%	3.07%	3.06%
130% AFR	3.37%	3.34%	3.33%	3.32%

REV. RUL. 2018-01 TABLE 2				
Adjusted AFR for January 2018				
<i>Period for Compounding</i>				
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	1.24%	1.24%	1.24%	1.24%
Mid-term adjusted AFR	1.62%	1.61%	1.61%	1.60%
Long-term adjusted AFR	1.92%	1.91%	1.91%	1.90%

REV. RUL. 2018-01 TABLE 3

Rates Under Section 382 for January 2018

Adjusted federal long-term rate for the current month	1.92%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	1.96%

REV. RUL. 2018-01 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for January 2018

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

Appropriate percentage for the 70% present value low-income housing credit	7.55%
Appropriate percentage for the 30% present value low-income housing credit	3.24%

REV. RUL. 2018-01 TABLE 5

Rate Under Section 7520 for January 2018

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	2.6%
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REV. RUL. 2018-01 TABLE 6

Deemed Rate for Transfers to New Pooled Income Funds During 2018

Deemed rate of return for transfers during 2018 to pooled income funds that have been in existence for less than 3 taxable years	1.4%
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## Section 42.—Low-Income Housing Credit

The appropriate percentages under section 42(b)(1) are set forth for the month of January 2018. See Rev. Rul. 2018-01, page 275.

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

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2018. See Rev. Rul. 2018-01, page 275.

## Section 483.—Interest on Certain Deferred Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2018. See Rev. Rul. 2018-01, page 275.

## Section 280G.—Golden Parachute Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2018. See Rev. Rul. 2018-01, page 275.

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

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2018. See Rev. Rul. 2018-01, page 275.

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

The deemed rate for transfers to new pooled income funds during 2018 is set forth. See Rev. Rul. 2018-01, page 275.

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

The adjusted applicable federal long-term rate is set forth for the month of January 2018. See Rev. Rul. 2018-01, page 275.

## Section 482.—Allocation of Income and Deductions Among Taxpayers

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2018. See Rev. Rul. 2018-01, page 275.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of January 2018. See Rev. Rul. 2018-01, page 275.

## Section 7520.—Valuation Tables

The applicable federal rate under section 7520 is set forth for the month of January 2018. See Rev. Rul. 2018-01, page 275.

## Rev. Rul. 2018-02

### ISSUE

Is a mixture of butane and gasoline an alternative fuel mixture that qualifies for the alternative fuel mixture credit under § 6426(e) of the Internal Revenue Code (Code)?

### FACTS

A claimant (Producer) mixes gasoline and butane and sells it for use as a fuel. Producer claims the alternative fuel mixture credit under § 6426(e) for an open tax period ending on or before December 31, 2016, on the premise that the gasoline in the mixture is a taxable fuel and the butane in the mixture is a form of liquefied petroleum gas (LPG), an alternative fuel. Producer indicates in its claim that the basis for its position that butane is a form of LPG is the language in Chapter One of IRS Publication 510, “Excise Taxes (Including Fuel Tax Credits and Refunds),” which provides, in the “Other Fuels (Including Alternative Fuels)” section, that “[I]iquefied petroleum gas includes propane, butane, pentane, or mixtures of those products.”

### LAW

Section 4081(a)(1)(A) imposes a tax on certain removals, entries, and sales of taxable fuel.

Section 4083(a)(1) provides that the term “taxable fuel” means gasoline, diesel fuel, and kerosene.

Section 4083(a)(2)(B) provides that the term “gasoline” includes, to the extent prescribed in the regulations, (i) any gasoline blend stock, and (ii) any product commonly used as an additive in gasoline (other than alcohol), and that for purposes of § 4083(a)(2)(B)(i), the term “gasoline blend stock” means any petroleum product component of gasoline.

Section 48.4081-1(b) of the Manufacturers and Retailers Excise Tax Regulations provides that “gasoline” means finished gasoline and gasoline blendstocks.

Section 48.4081-1(b) also provides that “finished gasoline” means all products that are commonly or commercially

known or sold as gasoline and are suitable for use as a motor fuel, other than products that have an American Society for Testing and Materials (ASTM) octane number of less than 75 as determined by the motor method.

Section 48.4081-1(c)(3)(i) provides that, except as provided in § 48.4081-1(c)(3)(ii), “gasoline blendstocks” means (A) alkylate; (B) butane; (C) butene; (D) catalytically cracked gasoline; (E) coker gasoline; (F) ethyl tertiary butyl ether (ETBE); (G) hexane; (H) hydrocrackate; (I) isomerate; (J) methyl tertiary butyl ether (MTBE); (K) mixed xylene (not including any separated isomer of xylene); (L) natural gasoline; (M) pentane; (N) pentane mixture; (O) polymer gasoline; (P) raffinate; (Q) reformat; (R) straight-run gasoline; (S) straight-run naphtha; (T) tertiary amyl methyl ether (TAME); (U) tertiary butyl alcohol (gasoline grade) (TBA); (V) thermally cracked gasoline; (W) toluene; and (X) transmix containing gasoline.

Section 48.4081-1(c)(3)(ii) provides that the term “gasoline blendstocks” does not include any product that cannot, without further processing, be used in the production of finished gasoline.

Section 6426(a)(1) and (e)(1) allows a \$0.50 credit against a claimant’s § 4081 tax liability for each gallon of alternative fuel used by the taxpayer to produce an alternative fuel mixture for sale or use in the taxpayer’s trade or business.

Section 6426(e)(2) provides that for purposes of § 6426, the term “alternative fuel mixture” means a mixture of alternative fuel and taxable fuel (as defined in § 4083(a)(1)(A), (B), or (C)) that is sold by the taxpayer producing such mixture to any person for use as a fuel, or used as a fuel by the taxpayer producing such mixture.

Section 6426(d)(2)(A) provides that the term “alternative fuel” includes LPG.

Section 2(b) of Notice 2006-92, 2006-2 C.B. 774, provides that an alternative fuel mixture requires a mixture of alternative fuel and at least 0.1 percent (by volume) of taxable fuel.

Section 6(a)(1) of Notice 2006-92 provides that a liquid alternative fuel is a liquid other than gas oil, fuel oil, or taxable fuel and is subject to the tax imposed by § 4041(a)(2) when it is sold for use or

used as fuel in a motor vehicle or motorboat.

Section 4041(a) generally imposes a tax on the sale or use of certain liquids, including LPG. The tax does not apply to any liquid taxed under § 4081.

Section 48.4041-8(f)(1)(i) provides that the term “special motor fuel” includes “[a]ny [LPG] (such as propane, butane, pentane, or mixtures of the same).”

Section 48.4041-8(f)(2) further provides that the term “special motor fuel” does not include any product taxable under the provisions of § 4081.

### ANALYSIS

Every gallon of gasoline sold in the United States contains butane. Gasoline contains some butane naturally from the typical refining process. Butane is also commonly blended with gasoline to achieve correct vapor pressure properties depending on where and when the gasoline will be used.

Under the facts presented, Producer blended butane with gasoline and contends that the mixture qualifies for the alternative fuel mixture credit under § 6426(e) because the gasoline in the mixture is a taxable fuel and the butane in the mixture is LPG, an alternative fuel.

Section 4083(a)(1) provides that gasoline is a taxable fuel. Section 4083(a)(2)(B) provides that, to the extent prescribed in regulations, gasoline includes any gasoline blendstock, and that for purposes of § 4083(a)(2)(B)(i), a gasoline blendstock includes any petroleum product component of gasoline. Section 48.4081-1(c)(3)(i), which was issued in 1996, states that butane is a gasoline blendstock. *See* T.D. 8659, 1996-1 C.B. 264. Accordingly, butane is and has been a taxable fuel since before the enactment of § 6426(d) and (e) in 2005 as part of the Safe, Accountable, Flexible, Efficient Transportation Equity Act. *See* 119 Stat. 1144, P.L. 109-59 (2005). A mixture of butane, a taxable fuel, with gasoline, a taxable fuel, is a mixture of two taxable fuels, not a mixture of a taxable fuel and an alternative fuel, as required by § 6426(e)(2). Therefore, Producer may not claim the alternative fuel mixture credit under § 6426(e) for

the mixture of butane and gasoline. *See* Notice 2006–92.

Producer nevertheless cites to IRS Publication 510 to support its contention that the gasoline in its mixture is a taxable fuel and the butane is LPG, which is an alternative fuel. The term “liquefied petroleum gas” as used in § 6426(d)(2)(A) is not defined in the Code or the regulations. Section 48.4041–8(f)(1)(i) provides that the term “special motor fuel” includes any LPG, “such as propane, butane, pentane, or mixtures of the same.” However, the following subsection, § 48.4041–8(f)(2), provides that the term “special motor fuel” does not include any product taxable under the provisions of § 4081. Thus, the language in § 48.4041–8(f) that suggests that butane is a type of LPG also contains an express exception for products taxable under § 4081. IRS Publication 510, although not authoritative guidance, is consistent with this conclusion because it lists butane as a type of LPG in the section called “Other Fuels (Including Alternative Fuels)” but also provides that the term “other fuels,” which include alternative fuels, “means any liquid *except* gas oil, fuel oil, or any product taxable under § 4081” (emphasis added).

Since Producer used butane in the production of finished gasoline, the butane is a gasoline blendstock. *See* § 48.4081–1(c)(3)(i) and (ii). Because gasoline blendstocks are taxable under § 4081, Producer’s butane is a taxable fuel and not an alternative fuel. *See* Notice 2006–92; *see also* § 4041(a)(2). Producer’s mixture is not an alternative fuel mixture for purposes of § 6426(e) because Producer blended two taxable fuels, not a taxable fuel and an alternative fuel. This conclusion is supported by §§ 6426(e), 4081(a), 4083(a), 48.4081–1(b), and 48.4081–1(c)(3), as well as the language in § 48.4041–8(f). Moreover, to view butane as an alternative fuel within the meaning of section 6426(d)(2)(A) would mean that Congress intended to allow a mixture of gasoline (a taxable fuel) and a gasoline blendstock, i.e., butane (a taxable fuel) to qualify for the alternative fuel mixture credit.

## HOLDING

A mixture of butane (or other gasoline blendstock as defined in § 48.4081–1(c)(3)(i)) and gasoline is a mixture of

two taxable fuels. Therefore, it is not an alternative fuel mixture and does not qualify for the alternative fuel mixture credit under § 6426(e) of the Code.

## DRAFTING INFORMATION

The principal author of this revenue ruling is Amanda F. Dunlap of the Office of the Associate Chief Counsel (Passthroughs & Special Industries). For further information about this revenue ruling, please contact Branch 7 of Passthroughs & Special Industries at (202) 317-6855 (not a toll-free number).

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*26 CFR 1.199–3: Domestic production gross receipts.*

## Rev. Rul. 2018–03

### ISSUE

May a package of films licensed to customers in the normal course of business be an item under § 1.199–3(d)(1)(i) of the Income Tax Regulations for determining the domestic production activities deduction under § 199 of the Internal Revenue Code (Code)?

### FACTS

X Corporation (X) licenses a package of films (for example, a television channel) to customers for a fee in the normal course of its business. X’s package contains films licensed to X by unrelated third parties and films produced by X. X pays license fees for distribution rights of the licensed films.

### LAW AND ANALYSIS

Under § 199(c)(4)(A)(i)(II) and § 1.199–3(a)(1)(ii), domestic production gross receipts (DPGR) are the gross receipts of the taxpayer that are derived from any lease, rental, license, sale, exchange, or other disposition (collectively, “disposition”) of any qualified film produced by the taxpayer.

Under § 1.199–3(d)(1), for purposes of §§ 1.199–1 through 1.199–9, a taxpayer may use any reasonable method satisfactory to the Secretary based on all facts and circumstances to determine whether gross receipts qualify as DPGR on an item-by-item basis (and not, for example, on a division-

by-division, product line-by-product line, or transaction-by-transaction basis).

Section 1.199–3(d)(1)(i) provides that the term “item” means the property offered by the taxpayer in the normal course of the taxpayer’s business for disposition to customers, if the gross receipts from the disposition of such property qualify as DPGR.

Section 1.199–3(d)(1)(ii) provides that, if § 1.199–3(d)(1)(i) does not apply to the property, then any component of the property described in § 1.199–3(d)(1)(i) is treated as the item, provided that the gross receipts from the disposition of the property described in § 1.199–3(d)(1)(i) that are attributable to such component qualify as DPGR. Each component that meets the requirements of § 1.199–3(d)(1)(ii) must be treated as a separate item and may not be combined with a component that does not meet these requirements.

Section 1.199–3(d)(2)(i) provides that, for purposes of § 1.199–3(d)(1)(i), in no event may a single item consist of two or more properties unless those properties are offered for disposition, in the normal course of the taxpayer’s business, as a single item (regardless of how the properties are packaged).

Together, § 199(c)(6) and § 1.199–3(k)(1) and (9) provide that the term “qualified film” means any motion picture film or video tape under § 168(f)(3), or live or delayed television programming (film), if not less than 50 percent of the total compensation relating to the production of such film is compensation for services performed in the United States by actors, production personnel, directors, and producers. A qualified film does not include property with respect to which records are required to be maintained under 18 U.S.C. § 2257.

Section 1.199–3 provides guidance on the determination of DPGR with specific rules for qualified film provided in § 1.199–3(k).

Section 1.199–3(k)(4) provides, for purposes of § 1.199–3(k), the term “compensation for services” means all payments for services performed by actors, production personnel, directors, and producers relating to the production of the film, including participations and residuals. Payments for services include all elements of compensation as provided in

§ 1.263A-1(e)(2)(i)(B) and (3)(ii)(D). Compensation for services is not limited to W-2 wages and includes compensation paid to independent contractors.

Section 1.199-3(k)(6) provides the general rule for determining whether a qualified film will be treated as produced by the taxpayer for purposes of § 199(c)(4)(A)(i)(II). A taxpayer meets this requirement if the film production activity performed by the taxpayer is substantial in nature within the meaning of § 1.199-3(g)(2). For purposes of § 1.199-3(g)(2), the relative value added by affixing trademarks or trade names as defined in § 1.197-2(b)(10)(i) will be treated as zero and is not a factor for determining whether a taxpayer's film production activity is substantial in nature.

Section 1.199-3(k)(7) provides a safe harbor under which film is treated as qualified film under § 1.199-3(k)(1) and as produced by the taxpayer under § 1.199-3(k)(6) if the taxpayer meets the requirements of § 1.199-3(k)(7)(i) and (ii). A taxpayer that chooses to use this safe harbor must apply all the provisions of § 1.199-3(k)(7).

Generally, § 1.199-3(k)(7)(i) provides that a film will be treated as a qualified film produced by the taxpayer if not less than 50 percent of the total compensation for services paid by the taxpayer is compensation for services performed in the United States and the taxpayer satisfies the safe harbor in § 1.199-3(g)(3). Section 1.199-3(k)(7)(ii) provides that the not-less-than-50-percent-of-the-total-compensation requirement under § 1.199-3(k)(7)(i) is calculated using a fraction, the numerator of which is the compensation for services paid by the taxpayer for services performed in the United States and the denominator is the total compensation for services paid by the taxpayer regardless of where the production activities are performed.

In the situation described above, the package of films is property offered in the normal course of X's business for disposition to customers. Thus, the package of films can be an item under § 1.199-3(d)(1)(i) if the gross receipts that X derives from licensing the package of films qualify as DPGR.

The gross receipts that X derives from licensing the package of films may qualify as DPGR under § 199(c)(4)(A)(i)(II) and

§ 1.199-3(a)(1)(ii) if X establishes that the package of films meets the criteria established under the general rules in § 1.199-3(k)(1) and § 1.199-3(k)(6) or, alternatively, under the safe harbor in § 1.199-3(k)(7) (including the safe harbor in § 1.199-3(g)(3)).

If X relies on the safe harbor in § 1.199-3(k)(7), the "not-less-than-50-percent-of-the-total-compensation" requirement in § 1.199-3(k)(7)(i) is a fraction where the numerator is the compensation X paid to actors, production personnel, directors, and producers for services performed in the United States that are directly related to the films in X's package and the denominator is such compensation regardless of where the film production activities were performed. Furthermore, to satisfy the safe harbor in § 1.199-3(g)(3), X's direct labor and overhead for the package of films must be 20 percent or more of X's unadjusted depreciable basis in the package of films, or 20 percent or more of X's cost of goods sold (CGS) of the package of films if X has CGS for the package of films. Direct labor and overhead include the costs for any films that are treated as self-produced by X, and do not include license fees of the licensed films. Under § 1.199-3(g)(3)(ii), "unadjusted depreciable basis" includes the costs that create basis under § 1012 and adjusted basis under § 1011 without regard to any adjustments described in § 1016(a)(2) or (3). This means that all costs that X paid or incurred for the package of films, including any fees X paid to unrelated third parties to license films included in the package, are included in unadjusted depreciable basis. Thus, X's unadjusted depreciable basis includes costs of self-produced films plus license fees X paid to acquire distribution rights in the licensed films (CGS would also include these costs, in a transaction with CGS). Costs reasonably attributable to transmission and distribution activities should not be included in X's direct labor, overhead, or unadjusted depreciable basis (or CGS, in a transaction with CGS).

X's films are treated as self-produced if X engaged in the film production activities, or if the films were produced pursuant to a contract with an unrelated party

and X had the benefits and burdens of ownership as required under § 1.199-3(k)(8) and § 1.199-3(g)(4). X's film production activities include the following activities carried out by actors, production personnel, directors, and producers engaged in film: (1) pre-production (ideation, planning, and scripting); (2) production (shooting and recording images and sounds); and (3) post-production (film editing, scene sequencing, and the addition of audio/visual effects for self-produced films). X's transmission and distribution activities are not film production activities. Transmission and distribution activities include, for example: formatting the channel feed; assembly and transmission of the channel signal by collecting films by satellite, fiber optic cable, tape, and other means; decoding; reviewing; assessing; performing quality control for incoming and outgoing signals; converting to/from high definition and for viewing on mobile and other platforms; compressing and encoding signals for distribution; transmitting signals to customers; creating a seamless viewing format; adding overlay of special features and digital technologies; and inserting transition material.

If the gross receipts do not qualify as DPGR, then § 1.199-3(d)(1)(ii) applies, and X can treat any individual film included in the package of films as an item, provided the gross receipts attributable to the individual film qualify as DPGR. X cannot combine films that meet the requirements under § 1.199-3(d)(1)(ii) with films that do not meet the requirements.

## HOLDING

A package of films licensed to customers in the normal course of business may be an item under § 1.199-3(d)(1)(i) for determining the domestic production activities deduction under § 199.

This holding does not affect the characterization of the property at issue for any other purpose of the Code. For example, this holding does not mean that the package of films is described in § 168(f)(3) or constitutes one motion picture film or video tape for purposes of § 168(f)(3).

**DRAFTING INFORMATION**

The principal authors of this revenue ruling are James A. Holmes and James W.

Rider of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding

this revenue ruling, contact Mr. Rider at (202) 317-4137 (not a toll-free number).

# Part III. Administrative, Procedural, and Miscellaneous

## Updated Mortality Improvement Rates and Static Mortality Tables for Defined Benefit Pension Plans for 2019

### Notice 2018-02

#### PURPOSE

This notice specifies updated mortality improvement rates and static mortality tables to be used for defined benefit pension plans under § 430(h)(3)(A) of the Internal Revenue Code (Code) and section 303(h)(3)(A) of the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, as amended (ERISA). These updated mortality improvement rates and static tables, which are being issued pursuant to the regulations under § 430(h)(3)(A), apply for purposes of calculating the funding target and other items for valuation dates occurring during calendar year 2019.

This notice also includes a modified unisex version of the mortality tables for use in determining minimum present value under § 417(e)(3) of the Code and section 205(g)(3) of ERISA for distributions with annuity starting dates that occur during stability periods beginning in the 2019 calendar year.

#### BACKGROUND

Section 412 of the Code provides minimum funding requirements that generally apply for defined benefit plans. Section 412(a)(2) provides that § 430 specifies the minimum funding requirements that generally apply to defined benefit plans that are not multiemployer plans. Section 430(a) defines the minimum required contribution for such a plan by reference to the plan's funding target for the plan year. Under § 430(d)(1), a plan's funding target for a plan year generally is the present value of all benefits accrued or earned under the plan as of the first day of that plan year.

Section 430(h)(3) provides rules regarding the mortality tables that are generally used under § 430. Under § 430(h)(3)(A), except as provided in § 430(h)(3)

(C) or (D), the Secretary is to prescribe by regulation mortality tables to be used in determining any present value or making any computation under § 430. Those tables are to be based on the actual experience of pension plans and projected trends in that experience. Section 430(h)(3)(B) requires the Secretary to revise any table in effect under § 430(h)(3)(A) at least every 10 years to reflect the actual experience of pension plans and projected trends in that experience.

Section 430(h)(3)(C) provides that, upon request by a plan sponsor and approval by the Secretary, substitute mortality tables that meet the applicable requirements may be used in lieu of the standard mortality tables provided under § 430(h)(3)(A). Section 430(h)(3)(D) provides for the use of separate mortality tables with respect to certain individuals who are entitled to benefits on account of disability.

#### *Mortality Tables for Purposes of § 430*

On October 5, 2017, the Treasury Department and the Internal Revenue Service amended § 1.430(h)(3)-1 to revise the mortality tables used under § 430(h)(3)(A) for plan years beginning on or after January 1, 2018. T.D. 9826, 82 F.R. 46388. The mortality tables used under § 430(h)(3)(A) are based on the tables in the RP-2014 Mortality Tables Report,<sup>1</sup> adjusted for mortality improvement. Section 1.430(h)(3)-1 sets forth base mortality tables with a base year of 2006.

Section 1.430(h)(3)-1(a) permits plan sponsors to apply the projection of mortality improvement in either of two ways: through use of static tables that are updated annually to reflect expected improvements in mortality, or through use of generational tables. Section 1.430(h)(3)-1(a)(2)(i)(C) provides that, for valuation dates occurring in years after 2018, updated mortality improvement rates that take into account new data for mortality improvement trends of the general population, along with static mortality tables that reflect those updated mortality improvement rates, will be provided through guidance published in the Internal Revenue Bulletin.

#### *Application of These Tables for Other Funding Rules*

Section 1.431(c)(6)-1 provides that the same mortality assumptions that apply for purposes of § 430(h)(3)(A) and § 1.430(h)(3)-1(a)(2) are used to determine a multiemployer plan's current liability for purposes of applying the full-funding rules of § 431(c)(6). For this purpose, a multiemployer plan may apply either the static mortality tables or the generational mortality tables (as updated pursuant to § 1.430(h)(3)-1(a)(2)(i)(C) and (a)(3)).

Section 433 provides the minimum funding standards for CSEC plans, which are described in section 414(y). Section 433(h)(3)(B)(i) provides that the Secretary may by regulation prescribe mortality tables to be used in determining current liability for purposes of § 433(c)(7)(C). Section 1.433(h)(3)-1(a) provides that the mortality tables described in § 430(h)(3)(A) are to be used to determine current liability under § 433(c)(7)(C).

#### *Application of Mortality Tables for Minimum Present Value Requirements under § 417(e)(3)*

Section 417(e)(3) generally provides that the present value of certain accelerated forms of benefit under a qualified pension plan (including single-sum distributions) must not be less than the present value of the accrued benefit using applicable interest rates and the applicable mortality table. Section 417(e)(3)(B) defines the term "applicable mortality table" as the mortality table specified for the plan year under § 430(h)(3)(A) (without regard to § 430(h)(3)(C) or (D)), modified as appropriate by the Secretary.

Rev. Rul. 2007-67, 2007-2 CB 1047, provides that, except as otherwise stated in future guidance, the applicable mortality table under § 417(e)(3) is a static mortality table set forth in published guidance that is developed based on a fixed blend of 50 percent of the static male combined mortality rates and 50 percent of the static female combined mortality rates used under § 1.430(h)(3)-1. Rev. Rul. 2007-67

<sup>1</sup>The RP-2014 Mortality Tables Report, as revised November 2014, is available at [www.soa.org/Research/Experience-Study/pension/research-2014-tp.aspx](http://www.soa.org/Research/Experience-Study/pension/research-2014-tp.aspx).

also provides that the applicable mortality table for a calendar year applies to distributions with annuity starting dates that occur during stability periods that begin during that calendar year.

**MORTALITY IMPROVEMENT RATES FOR 2019**

The mortality improvement rates for valuation dates occurring during 2019 are the mortality improvement rates in the Mortality Improvement Scale MP-2017 Report (issued by the Retirement Plans Experience Committee (RPEC) of the Society of Actuaries and available at <http://www.soa.org/Files/Research/Exp-Study/mortality-improvement-scale-mp-2017.pdf>).

**STATIC MORTALITY TABLES FOR 2019**

The static mortality tables that apply under § 430(h)(3)(A) for valuation dates occurring during 2019 are set forth in the appendix to this notice. The mortality rates in these tables have been developed from the base mortality rates and methodology set forth in § 1.430(h)(3)-1(c) and (d) using the mortality improvement rates specified in this notice.

The static mortality table that applies under § 417(e)(3) for distributions with annuity starting dates occurring during stability periods beginning in 2019 is set forth in the appendix to this notice in the column labeled “Unisex.” The mortality

rates in this table are derived from the mortality tables specified under § 430(h)(3)(A) for 2019 in accordance with the procedures set forth in Rev. Rul. 2007-67.

**Drafting Information**

The principal authors of this notice are Arslan Malik and Linda S. F. Marshall of the Office of the Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Arslan Malik or Linda Marshall at (202) 317-6700 (not a toll-free number).

**APPENDIX**

**Mortality Tables for 2019**

**Valuation Dates Occurring During 2019 and Distributions Subject to § 417(e)(3) with Annuity Starting Dates During Stability Periods Beginning in 2019**

Age	MALE 2019 Non-Annuitant Table	MALE 2019 Annuitant Table	MALE 2019 Optional Combined Table for Small Plans	FEMALE 2019 Non-Annuitant Table	FEMALE 2019 Annuitant Table	FEMALE 2019 Optional Combined Table for Small Plans	UNISEX 2019 Table for Distributions Subject to § 417(e)(3)
0	0.002709	0.002709	0.002709	0.002489	0.002489	0.002489	0.002599
1	0.000159	0.000159	0.000159	0.000156	0.000156	0.000156	0.000158
2	0.000108	0.000108	0.000108	0.000103	0.000103	0.000103	0.000106
3	0.000091	0.000091	0.000091	0.000078	0.000078	0.000078	0.000085
4	0.000071	0.000071	0.000071	0.000059	0.000059	0.000059	0.000065
5	0.000063	0.000063	0.000063	0.000054	0.000054	0.000054	0.000059
6	0.000057	0.000057	0.000057	0.000050	0.000050	0.000050	0.000054
7	0.000051	0.000051	0.000051	0.000047	0.000047	0.000047	0.000049
8	0.000044	0.000044	0.000044	0.000043	0.000043	0.000043	0.000044
9	0.000036	0.000036	0.000036	0.000041	0.000041	0.000041	0.000039
10	0.000030	0.000030	0.000030	0.000039	0.000039	0.000039	0.000035
11	0.000032	0.000032	0.000032	0.000040	0.000040	0.000040	0.000036
12	0.000049	0.000049	0.000049	0.000047	0.000047	0.000047	0.000048
13	0.000065	0.000065	0.000065	0.000053	0.000053	0.000053	0.000059
14	0.000081	0.000081	0.000081	0.000059	0.000059	0.000059	0.000070
15	0.000097	0.000097	0.000097	0.000066	0.000066	0.000066	0.000082
16	0.000114	0.000114	0.000114	0.000071	0.000071	0.000071	0.000093
17	0.000132	0.000132	0.000132	0.000076	0.000076	0.000076	0.000104
18	0.000151	0.000151	0.000151	0.000080	0.000080	0.000080	0.000116
19	0.000171	0.000171	0.000171	0.000084	0.000084	0.000084	0.000128
20	0.000190	0.000190	0.000190	0.000084	0.000084	0.000084	0.000137
21	0.000215	0.000215	0.000215	0.000087	0.000087	0.000087	0.000151

Age	MALE 2019 Non-Annuitant Table	MALE 2019 Annuitant Table	MALE 2019 Optional Combined Table for Small Plans	FEMALE 2019 Non-Annuitant Table	FEMALE 2019 Annuitant Table	FEMALE 2019 Optional Combined Table for Small Plans	UNISEX 2019 Table for Distributions Subject to § 417(e)(3)
22	0.000240	0.000240	0.000240	0.000089	0.000089	0.000089	0.000165
23	0.000257	0.000257	0.000257	0.000093	0.000093	0.000093	0.000175
24	0.000269	0.000269	0.000269	0.000096	0.000096	0.000096	0.000183
25	0.000260	0.000260	0.000260	0.000100	0.000100	0.000100	0.000180
26	0.000256	0.000256	0.000256	0.000104	0.000104	0.000104	0.000180
27	0.000256	0.000256	0.000256	0.000109	0.000109	0.000109	0.000183
28	0.000261	0.000261	0.000261	0.000115	0.000115	0.000115	0.000188
29	0.000271	0.000271	0.000271	0.000122	0.000122	0.000122	0.000197
30	0.000284	0.000284	0.000284	0.000132	0.000132	0.000132	0.000208
31	0.000300	0.000300	0.000300	0.000144	0.000144	0.000144	0.000222
32	0.000317	0.000317	0.000317	0.000156	0.000156	0.000156	0.000237
33	0.000336	0.000336	0.000336	0.000170	0.000170	0.000170	0.000253
34	0.000352	0.000352	0.000352	0.000185	0.000185	0.000185	0.000269
35	0.000368	0.000368	0.000368	0.000200	0.000200	0.000200	0.000284
36	0.000382	0.000382	0.000382	0.000214	0.000214	0.000214	0.000298
37	0.000396	0.000396	0.000396	0.000232	0.000232	0.000232	0.000314
38	0.000413	0.000413	0.000413	0.000250	0.000250	0.000250	0.000332
39	0.000433	0.000433	0.000433	0.000271	0.000271	0.000271	0.000352
40	0.000457	0.000457	0.000457	0.000294	0.000294	0.000294	0.000376
41	0.000485	0.000491	0.000485	0.000318	0.000316	0.000318	0.000402
42	0.000520	0.000566	0.000520	0.000346	0.000366	0.000346	0.000433
43	0.000565	0.000683	0.000567	0.000378	0.000443	0.000378	0.000473
44	0.000618	0.000841	0.000622	0.000415	0.000547	0.000415	0.000519
45	0.000682	0.001043	0.000690	0.000456	0.000680	0.000458	0.000574
46	0.000757	0.001289	0.000771	0.000504	0.000846	0.000510	0.000641
47	0.000843	0.001585	0.000867	0.000558	0.001047	0.000570	0.000719
48	0.000940	0.001936	0.000976	0.000617	0.001287	0.000639	0.000808
49	0.001050	0.002348	0.001103	0.000682	0.001569	0.000719	0.000911
50	0.001173	0.002827	0.001248	0.000756	0.001898	0.000813	0.001031
51	0.001310	0.003069	0.001398	0.000837	0.002016	0.000906	0.001152
52	0.001465	0.003330	0.001593	0.000929	0.002160	0.001021	0.001307
53	0.001629	0.003587	0.001816	0.001032	0.002330	0.001155	0.001486
54	0.001812	0.003859	0.002076	0.001148	0.002529	0.001312	0.001694
55	0.002018	0.004151	0.002459	0.001274	0.002758	0.001556	0.002008
56	0.002258	0.004472	0.002961	0.001412	0.003018	0.001871	0.002416
57	0.002539	0.004828	0.003404	0.001560	0.003310	0.002156	0.002780
58	0.002871	0.005224	0.003907	0.001718	0.003633	0.002461	0.003184
59	0.003260	0.005665	0.004459	0.001885	0.003992	0.002804	0.003632
60	0.003715	0.006157	0.005091	0.002061	0.004382	0.003211	0.004151
61	0.004238	0.006700	0.005798	0.002250	0.004807	0.003734	0.004766
62	0.004836	0.007298	0.006585	0.002452	0.005270	0.004311	0.005448
63	0.005513	0.007956	0.007443	0.002671	0.005769	0.005001	0.006222
64	0.006267	0.008673	0.008277	0.002909	0.006310	0.005644	0.006961

Age	MALE 2019 Non-Annuitant Table	MALE 2019 Annuitant Table	MALE 2019 Optional Combined Table for Small Plans	FEMALE 2019 Non-Annuitant Table	FEMALE 2019 Annuitant Table	FEMALE 2019 Optional Combined Table for Small Plans	UNISEX 2019 Table for Distributions Subject to § 417(e)(3)
65	0.007108	0.009458	0.009184	0.003171	0.006904	0.006363	0.007774
66	0.007948	0.010323	0.010162	0.003526	0.007562	0.007206	0.008684
67	0.008870	0.011277	0.011159	0.003924	0.008298	0.008021	0.009590
68	0.009892	0.012341	0.012253	0.004370	0.009123	0.008896	0.010575
69	0.011025	0.013534	0.013462	0.004874	0.010052	0.009859	0.011661
70	0.012289	0.014875	0.014808	0.005441	0.011098	0.010906	0.012857
71	0.013703	0.016385	0.016322	0.006083	0.012277	0.012088	0.014205
72	0.015289	0.018089	0.018031	0.006810	0.013609	0.013425	0.015728
73	0.017063	0.020008	0.019954	0.007637	0.015116	0.014939	0.017447
74	0.019059	0.022182	0.022133	0.008570	0.016809	0.016642	0.019388
75	0.021299	0.024640	0.024597	0.009636	0.018736	0.018581	0.021589
76	0.023809	0.027425	0.027387	0.010850	0.020932	0.020795	0.024091
77	0.026632	0.030598	0.030567	0.012238	0.023449	0.023335	0.026951
78	0.029797	0.034205	0.034182	0.013816	0.026334	0.026249	0.030216
79	0.033337	0.038308	0.038295	0.015613	0.029650	0.029602	0.033949
80	0.037328	0.043013	0.043013	0.017661	0.033482	0.033482	0.038248
81	0.039221	0.048107	0.048107	0.019407	0.037671	0.037671	0.042889
82	0.042793	0.053899	0.053899	0.022779	0.042472	0.042472	0.048186
83	0.048109	0.060505	0.060505	0.027801	0.047965	0.047965	0.054235
84	0.055203	0.068037	0.068037	0.034499	0.054212	0.054212	0.061125
85	0.064088	0.076506	0.076506	0.042936	0.061316	0.061316	0.068911
86	0.074920	0.086158	0.086158	0.053154	0.069382	0.069382	0.077770
87	0.087644	0.097001	0.097001	0.065156	0.078446	0.078446	0.087724
88	0.102308	0.109110	0.109110	0.078988	0.088548	0.088548	0.098829
89	0.118962	0.122618	0.122618	0.094649	0.099731	0.099731	0.111175
90	0.137544	0.137544	0.137544	0.112167	0.112167	0.112167	0.124856
91	0.153292	0.153292	0.153292	0.125600	0.125600	0.125600	0.139446
92	0.169507	0.169507	0.169507	0.139864	0.139864	0.139864	0.154686
93	0.185842	0.185842	0.185842	0.154780	0.154780	0.154780	0.170311
94	0.202075	0.202075	0.202075	0.170211	0.170211	0.170211	0.186143
95	0.218007	0.218007	0.218007	0.186103	0.186103	0.186103	0.202055
96	0.236576	0.236576	0.236576	0.203654	0.203654	0.203654	0.220115
97	0.255535	0.255535	0.255535	0.221920	0.221920	0.221920	0.238728
98	0.275230	0.275230	0.275230	0.241013	0.241013	0.241013	0.258122
99	0.295476	0.295476	0.295476	0.260772	0.260772	0.260772	0.278124
100	0.316169	0.316169	0.316169	0.281029	0.281029	0.281029	0.298599
101	0.337103	0.337103	0.337103	0.301563	0.301563	0.301563	0.319333
102	0.357825	0.357825	0.357825	0.322285	0.322285	0.322285	0.340055
103	0.378197	0.378197	0.378197	0.342997	0.342997	0.342997	0.360597
104	0.398127	0.398127	0.398127	0.363294	0.363294	0.363294	0.380711
105	0.416745	0.416745	0.416745	0.383279	0.383279	0.383279	0.400012
106	0.434629	0.434629	0.434629	0.402808	0.402808	0.402808	0.418719
107	0.451641	0.451641	0.451641	0.421196	0.421196	0.421196	0.436419

Age	MALE 2019 Non-Annuitant Table	MALE 2019 Annuitant Table	MALE 2019 Optional Combined Table for Small Plans	FEMALE 2019 Non-Annuitant Table	FEMALE 2019 Annuitant Table	FEMALE 2019 Optional Combined Table for Small Plans	UNISEX 2019 Table for Distributions Subject to § 417(e)(3)
108	0.467699	0.467699	0.467699	0.438540	0.438540	0.438540	0.453120
109	0.482755	0.482755	0.482755	0.454881	0.454881	0.454881	0.468818
110	0.496722	0.496722	0.496722	0.470279	0.470279	0.470279	0.483501
111	0.501914	0.501914	0.501914	0.484597	0.484597	0.484597	0.493256
112	0.501408	0.501408	0.501408	0.497856	0.497856	0.497856	0.499632
113	0.501004	0.501004	0.501004	0.503015	0.503015	0.503015	0.502010
114	0.500451	0.500451	0.500451	0.501403	0.501403	0.501403	0.500927
115	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000
116	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000
117	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000
118	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000
119	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000	0.500000
120	1.000000	1.000000	1.000000	1.000000	1.000000	1.000000	1.000000

## 2018 Standard Mileage Rates

### Notice 2018-03

#### SECTION 1. PURPOSE

This notice provides the optional 2018 standard mileage rates for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. This notice also provides the amount taxpayers must use in calculating reductions to basis for depreciation taken under the business standard mileage rate, and the maximum standard automobile cost that may be used in computing the allowance under a fixed and variable rate (FAVR) plan.

#### SECTION 2. BACKGROUND

Rev. Proc. 2010-51, 2010-51 I.R.B. 883, provides rules for computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes, and for substantiating, under § 274(d) of the Internal Revenue Code and § 1.274-5 of the Income Tax Regulations, the amount of ordinary and necessary business expenses of local transportation or travel away from home. Taxpayers using the standard mileage

rates must comply with Rev. Proc. 2010-51. However, a taxpayer is not required to use the substantiation methods described in Rev. Proc. 2010-51, but instead may substantiate using actual allowable expense amounts if the taxpayer maintains adequate records or other sufficient evidence.

An independent contractor conducts an annual study for the Internal Revenue Service of the fixed and variable costs of operating an automobile to determine the standard mileage rates for business, medical, and moving use reflected in this notice. The standard mileage rate for charitable use is set by § 170(i).

#### SECTION 3. STANDARD MILEAGE RATES

The standard mileage rate for transportation or travel expenses is 54.5 cents per mile for all miles of business use (business standard mileage rate). See section 4 of Rev. Proc. 2010-51.

The standard mileage rate is 14 cents per mile for use of an automobile in rendering gratuitous services to a charitable organization under § 170. See section 5 of Rev. Proc. 2010-51.

The standard mileage rate is 18 cents per mile for use of an automobile (1) for medical care described in § 213, or (2) as part of a move for which the expenses are

deductible under § 217. See section 5 of Rev. Proc. 2010-51.

#### SECTION 4. BASIS REDUCTION AMOUNT

For automobiles a taxpayer uses for business purposes, the portion of the business standard mileage rate treated as depreciation is 22 cents per mile for 2014, 24 cents per mile for 2015, 24 cents per mile for 2016, 25 cents per mile for 2017, and 25 cents per mile for 2018. See section 4.04 of Rev. Proc. 2010-51.

#### SECTION 5. MAXIMUM STANDARD AUTOMOBILE COST

For purposes of computing the allowance under a FAVR plan, the standard automobile cost may not exceed \$27,300 for automobiles (excluding trucks and vans) or \$31,000 for trucks and vans. See section 6.02(6) of Rev. Proc. 2010-51.

#### SECTION 6. EFFECTIVE DATE

This notice is effective for (1) deductible transportation expenses paid or incurred on or after January 1, 2018, and (2) mileage allowances or reimbursements paid to an employee or to a charitable volunteer (a) on or after January 1, 2018, and (b) for transportation expenses the

employee or charitable volunteer pays or incurs on or after January 1, 2018.

## SECTION 7. EFFECT ON OTHER DOCUMENTS

Notice 2016-79 is superseded.

26 CFR 601.105. *Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.*  
(Also: Part I, §§ 165; 1.165-1(c)(4), 1.165-1(d)(2)(iii), 1.165-7(a)(2), 1.165-7(b), 1.165-8(c).)

## DRAFTING INFORMATION

The principal author of this notice is Bernard P. Harvey of the Office of Associate Chief Counsel (Income Tax and Ac-

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# Rev. Proc. 2018-08

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## SECTION 1. PURPOSE

.01 This revenue procedure provides safe harbor methods that individual taxpayers may use in determining the amount of their casualty and theft losses pursuant to § 165 of the Internal Revenue Code for their personal-use residential real property (as defined in section 3.02 of this revenue procedure) and personal belongings (as defined in section 3.03 of this revenue procedure). This revenue procedure provides additional safe harbor methods that may be used in the case of casualty and theft losses occurring as a result of any Federally declared disaster (as defined in section 2.06 of this revenue procedure).

.02 The Internal Revenue Service (IRS) will not challenge an individual's determination of the decrease in fair market value of personal-use residential real property if the individual qualifies for and uses one of the safe harbor methods described in section 4 of this revenue procedure. The IRS will not challenge an individual's determination of the decrease in fair market value of personal belongings if the individual qualifies for and uses one of the safe harbor methods described in section 5 of this revenue procedure.

.03 If an individual uses a safe harbor method described in this revenue procedure, the individual also must take into account the value of any no-cost repairs as

described in section 6 of this revenue procedure.

.04 Use of a safe harbor method described in this revenue procedure is not mandatory. An individual may, instead, use the actual reduction in the fair market value of personal-use residential real property or personal belongings, pursuant to § 1.165-7(a)(2) of the Income Tax Regulations, if the individual has proper substantiation.

.05 The safe harbor methods provided in this revenue procedure apply only to the circumstances within the scope of this revenue procedure and may not be used in any other circumstances.

## SECTION 2. BACKGROUND

.01 Section 165(a) generally provides that a taxpayer may deduct any loss sustained during the taxable year and not compensated for by insurance or otherwise. With respect to property not connected with a trade or business or a transaction entered into for profit, § 165(c)(3) limits an individual taxpayer's deduction to losses arising from fire, storm, shipwreck, or other casualty, or from theft.

.02 Section 165(h) imposes two limitations on casualty and theft loss deductions for property not connected with a trade or business or transaction entered into for profit. Section 165(h)(1) provides that any loss to an individual described in § 165(c)(3) shall be allowed only to the extent that the amount of the loss arising from each casualty, or from each theft, exceeds \$100. Section 165(h)(2) provides that if personal casualty and theft losses for any taxable year exceed personal casualty and theft gains for the taxable year, the losses are allowed only to the extent of the sum of the amount of the gains, plus so much of the excess as exceeds ten percent of the adjusted gross income of the individual.

.03 Section 165(h)(4)(E) provides that to the extent an individual's casualty or theft loss is covered by insurance, such loss shall be taken into account only if the individual files a timely insurance claim with respect to such loss.

.04 Section 165(i)(1) allows an individual who suffered a loss occurring in a disaster area and attributable to a Federally declared disaster to take the loss into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

.05 Section 165(i)(4) authorizes the Treasury Department and the IRS to prescribe guidance under which an appraisal for the purpose of obtaining a loan of Federal funds or a loan guarantee from the Federal Government as a result of a Federally declared disaster may be used to establish the amount of any loss described in § 165(i)(1) or (2).

.06 Section 165(i)(5)(A) defines "Federally declared disaster" as 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. Section 165(i)(5)(B) defines "disaster area" as the area so determined to warrant such assistance. For areas with respect to which Federally declared disasters have been determined, see [www.fema.gov/disasters](http://www.fema.gov/disasters).

.07 Section 1.165-1(c)(4) provides that in determining the amount of loss sustained, adjustments must be made for any insurance or other compensation received.

.08 Section 1.165-1(d)(2)(iii) provides that if a taxpayer deducted a loss and in a subsequent taxable year receives reimbursement for such loss, the taxpayer does not recompute the tax for the taxable year in which the deduction was taken but includes the amount of such reimbursement in gross income for the taxable year in which received, subject to the provisions of section 111, relating to recovery of amounts previously deducted.

.09 Section 1.165-7(b) provides that the amount of a casualty loss is the lesser of (1) the difference between the fair market value of the property immediately before the casualty and the fair market value immediately after the casualty, or (2) the adjusted basis of the property. Section 1012 and § 1.1012-1(a) provide that the basis of property generally is its cost. Section 1016(a)(1) and § 1.1016-2(a) provide that the basis of property is adjusted for any expenditure, receipt, loss, or other item, properly chargeable to capital account, including the cost of improvements and betterments made to the property.

.10 Section 1.165-7(a)(2)(i) provides that to determine the amount of the deductible loss under section 165(a), the fair market value of the property immediately before and immediately after the casualty generally shall be ascertained by competent appraisal. Section 1.165-7(a)(2)(ii) provides that the cost of repairs to the property damaged is acceptable as evidence of the decrease in value of the property if the taxpayer shows that: (1) the repairs are necessary to restore the property to its condition immediately before the casualty; (2) the amount spent for such repairs is not excessive; (3) the repairs do not care for more than the damage suffered; and (4) the value of the property after the repairs does not, as a result of the repairs, exceed the value of the property immediately before the casualty. In order

to use the cost-of-repairs method to determine the decrease in fair market value, the taxpayer must actually make the repairs rather than rely on estimates of repairs that will be performed in the future or not at all. See *Lamphere v. Commissioner*, 70 T.C. 391, 396 (1978), *acq.*, 1978-2 C.B. 2; *Farber v. Commissioner*, 57 T.C. 714, 719 (1972), *acq.*, 1972-2 C.B. 2.

.11 Section 1.165-8(c) provides that the amount deductible in the case of a theft loss is determined consistently with the manner described in § 1.165-7 for determining the amount of a casualty loss. The fair market value of the property immediately after the theft is considered to be zero.

.12 Section 1.165-7(b)(2)(ii) provides that in determining a casualty loss involving real property and improvements thereon not used in a trade or business or in any transaction entered into for profit, the improvements (such as buildings and ornamental trees and shrubbery) to the property damaged or destroyed are considered an integral part of the property, and no separate basis need be apportioned to the improvements.

.13 Following certain disasters, Congress may modify the rules of § 165 as applied to casualty and theft losses occurring in a specified disaster area. For example, § 504(b) of the Disaster Tax Relief and Airport and Airway Extension Act of 2017, Pub. L. No. 115-63, 131 Stat. 1168, 1182-1183 (Sept. 29, 2017), modifies the § 165(h) loss limitations and other provisions of § 165 as applied to casualty and theft losses occurring in certain areas affected by Hurricanes Harvey, Irma, and Maria.

.14 Taxpayers report gains and losses from casualties and theft on Form 4684 according to the Form 4684 instructions, as updated at [www.irs.gov/form4684](http://www.irs.gov/form4684). See special instructions at [www.irs.gov/form4684](http://www.irs.gov/form4684) for taxpayers electing under § 165(i) to report their casualty and theft losses calculated under this revenue procedure on an original or amended 2016 tax return.

.15 The Treasury Department and the IRS are aware that taxpayers often have difficulty determining the amount of their losses under the methods provided in § 1.165-7(a)(2), which has resulted in time-consuming and expensive litigation. In order to provide certainty to both taxpayers and the IRS, this revenue procedure

cedure provides safe harbor methods that individuals may use under § 1.165-7(a)(2) to measure the decrease in the fair market value of their personal-use residential real property following a casualty and to determine the pre-casualty or theft fair market value of personal belongings.

The Treasury Department and the IRS also are aware of the unique circumstances surrounding a Federally declared disaster area and the difficulties individuals encounter in determining the amount of their losses in those areas. Accordingly, this revenue procedure provides those individuals with additional safe harbor methods to use in determining the amount of their casualty and theft losses for property damaged, destroyed, or stolen as a result of any Federally declared disaster.

### SECTION 3. SCOPE

.01 *In general.* An individual who suffered a casualty loss to the individual's personal-use residential real property may use the safe harbor methods provided in sections 4.02, 4.03, or 4.04 of this revenue procedure in determining the amount of the individual's casualty loss under § 165. An individual who suffered a casualty loss to the individual's personal-use residential real property due to a Federally declared disaster may use any of the safe harbor methods provided in section 4 of this revenue procedure in determining the amount of the individual's casualty loss under § 165. An individual who suffered a casualty or theft loss to the individual's personal belongings may use the safe harbor method provided in section 5.01 of this revenue procedure in determining the amount of the individual's casualty and theft loss under § 165. An individual who suffered a casualty or theft loss to the individual's personal belongings due to a Federally declared disaster may use either of the safe harbor methods provided in section 5 of this revenue procedure in determining the amount of the individual's casualty and theft loss under § 165.

.02 *Definition of personal-use residential real property and personal residence.* For purposes of this revenue procedure, personal-use residential real property is real property, including improvements (such as buildings and ornamental trees and shrubbery), that is owned by the individual who suffered a casualty loss and

that contains at least one personal residence. Personal-use residential real property does not include a personal residence if any part of the personal residence is used as rental property or contains a home office used in a trade or business or transaction entered into for profit. For purposes of this revenue procedure, a personal residence is a single family residence, or a single unit within a contiguous group of attached residential units (for example, a townhouse or duplex), owned by the individual who suffered a casualty loss, and includes any structures attached to the residence or single unit. For purposes of this revenue procedure, a personal residence does not include a condominium or cooperative unit, or any other property for which the individual who suffered the casualty loss does not own the structural components of the building (such as the foundation, walls, and roof), or owns only a fractional interest in all of the structural components of the building, or a mobile home or trailer.

.03 *Definition of personal belongings.* For purposes of this revenue procedure, a personal belonging is an item of tangible personal property that is owned by the individual who suffered a casualty or theft loss and that is not used in a trade or business or in a transaction entered into for profit. For purposes of this revenue procedure, personal belongings do not include a boat, aircraft, mobile home, trailer, or vehicle (as defined in section 5.02(2) of this revenue procedure), or an antique or other asset that maintains or increases its value over time.

.04 *Taking into account no-cost repairs.* An individual using a safe harbor method described in this revenue procedure must take into account the value of any no-cost repairs as described in section 6 of this revenue procedure.

.05 *Limited use of safe harbor methods.* The safe harbor methods described in sections 4 and 5 are available only in the circumstances described in this revenue procedure.

### SECTION 4. PERSONAL-USE RESIDENTIAL REAL PROPERTY SAFE HARBOR METHODS

.01 *In general.* An individual within the scope of this revenue procedure may use one of the safe harbor methods de-

scribed in this section 4. If an individual owns two or more parcels of personal-use residential real property, the use of a safe harbor method for one parcel does not require the individual to use the same safe harbor method, or any safe harbor method, for any other parcel.

.02 *Estimated Repair Cost Safe Harbor Method.* Under the Estimated Repair Cost Safe Harbor Method, to determine the decrease in the fair market value of the individual's personal-use residential real property, an individual may use the lesser of two repair estimates prepared by two separate and independent contractors, licensed or registered in accordance with State or local regulations. The two repair estimates must set forth the itemized costs to restore the individual's personal-use residential real property to the condition existing immediately prior to the casualty. However, the costs of any improvements or additions that increase the value of the personal-use residential real property above its pre-casualty value, such as the cost to elevate the personal residence to meet new construction requirements, must be excluded from the estimate for purposes of this safe harbor. The Estimated Repair Cost Safe Harbor Method is available for casualty losses of \$20,000 or less, prior to application of the limitations under § 165(h).

.03 *De Minimis Safe Harbor Method.* Under the De Minimis Safe Harbor Method, to determine the decrease in the fair market value of the individual's personal-use residential real property, an individual may estimate the cost of repairs required to restore the individual's personal-use residential real property to the condition existing immediately prior to the casualty. However, the costs of any improvements or additions that increase the value of the personal-use residential real property above its pre-casualty value, such as the cost to elevate the personal residence to meet new construction requirements, must be excluded from the estimate for purposes of this safe harbor. An individual's estimate must be a good-faith estimate, and the individual must maintain records detailing the methodology used for estimating the loss. The De Minimis Safe Harbor Method is available for casualty losses of \$5,000 or less, prior to application of the limitations under § 165(h).

.04 *Insurance Safe Harbor Method.* Under the Insurance Safe Harbor Method,

to determine the decrease in the fair market value of the individual's personal-use residential real property, an individual may use the estimated loss determined in reports prepared by the individual's homeowners' or flood insurance company setting forth the estimated loss the individual sustained as a result of the damage to or destruction of the individual's personal-use residential real property.

.05 *Safe harbor methods for Federally declared disasters.* An individual who suffered a casualty loss to personal-use residential real property in a disaster area and due to a Federally declared disaster may use one of the following safe harbor methods in determining the amount of the individual's casualty loss under § 165.

(1) *Contractor Safe Harbor Method.* Under the Contractor Safe Harbor Method, to determine the decrease in the fair market value of the individual's personal-use residential real property, an individual may use the contract price for the repairs specified in a contract prepared by an independent contractor, licensed or registered in accordance with State or local regulations, setting forth the itemized costs to restore the individual's personal-use residential real property to the condition existing immediately prior to the Federally declared disaster. However, the costs of any improvements or additions that increase the value of the personal-use residential real property above its pre-disaster value, such as the cost to elevate the personal residence to meet new construction

requirements, must be excluded from the contract price for purposes of this safe harbor. To use the Contractor Safe Harbor Method, the contract must be a binding contract signed by the individual and the contractor.

(2) *Disaster Loan Appraisal Safe Harbor Method.* Under the Disaster Loan Appraisal Safe Harbor Method, to determine the decrease in fair market value of the individual's personal-use residential real property, an individual may use an appraisal prepared for the purpose of obtaining a loan of Federal funds or a loan guarantee from the Federal Government setting forth the estimated loss the individual sustained as a result of the damage to or destruction of the individual's personal-use residential real property from a Federally declared disaster.

**SECTION 5. PERSONAL BELONGINGS SAFE HARBOR METHODS**

.01 *De Minimis Safe Harbor Method.* Under the De Minimis Safe Harbor Method, an individual may make a good faith estimate of the decrease in the fair market value of the individual's personal belongings. An individual using the De Minimis Safe Harbor Method must maintain records describing the personal belongings affected and detailing the methodology used for estimating the loss. The De Minimis Safe Harbor Method is avail-

able for casualty or theft losses of \$5,000 or less, prior to application of the limitations under § 165(h).

.02 *Safe harbor method for Federally declared disasters.*

(1) *Replacement Cost Safe Harbor Method.* Except as provided in section 5.02(2) of this revenue procedure, an individual may use the safe harbor method in this section 5.02(1) to determine the fair market value of the individual's personal belongings located in a disaster area immediately before a Federally declared disaster in order to compute the amount of a casualty or theft loss. If an individual chooses to use the Replacement Cost Safe Harbor Method for a Federally declared disaster, the individual must apply that method to all personal belongings for which a loss is claimed under § 165 for that Federally declared disaster, except those specifically excluded in section 5.02(2) of this revenue procedure.

To use this safe harbor method, an individual must first determine the current cost to replace the personal belonging with a new one and reduce that amount by 10% for each year the individual owned the personal belonging using the percentages in the Personal Belongings Valuation Table below. If the personal belonging was owned by the individual for nine or more years, the pre-disaster fair market value is 10% of the current replacement cost under this safe harbor method.

Personal Belongings Valuation Table	
Year	Percentage of Replacement Cost to Use
1	90%
2	80%
3	70%
4	60%
5	50%
6	40%
7	30%
8	20%
9+	10%

To determine the amount of a casualty or theft loss for personal belongings that were damaged, destroyed, or stolen:

(a) Determine the decrease in the fair market value of each personal belonging by subtracting the fair market value of the per-

sonal belonging immediately after the Federally declared disaster from the fair market value of the personal belonging immediately before the Federally declared disaster, determined as described above. If a personal belonging was destroyed or stolen as a result

of a Federally declared disaster, its fair market value after the disaster is zero.

(b) Determine the basis of each personal belonging (generally its cost).

(c) Compare the decrease in fair market value (from step (a)) with the basis of the

personal belonging (from step (b)). From the lesser of the basis or decrease in fair market value, subtract any insurance or other reimbursements the individual receives or expects to receive for the personal belonging.

(2) *Exclusions.* An individual may not use the Replacement Cost Safe Harbor Method for Federally declared disasters for a boat, aircraft, mobile home, trailer, vehicle, or an antique or other asset that maintains or increases its value over time. For purposes of this revenue procedure, a vehicle is an automobile, motorcycle, motor home, recreational vehicle, sport utility vehicle, off-road vehicle, van, or truck.

An individual may determine the pre-disaster value of a boat, aircraft, mobile home, trailer, or vehicle by consulting established pricing sources. *See* Rev. Rul. 2002-67, 2002-2 C.B. 873; Publication 561, *Determining the Value of Donated Property.*

(3) *Example.* An individual's personal belongings included a couch destroyed by a hurricane in a Federally declared disaster area. The individual purchased the couch for \$700 four years prior to the hurricane. The cost to replace the couch with a new couch is \$1,000. The couch is not insured.

Using the Replacement Cost Safe Harbor Method for Federally declared disaster areas, the individual computes the fair market value of the couch immediately before the hurricane by multiplying the current replacement cost of the couch,

\$1,000, by the applicable percentage of replacement cost from the Personal Belongings Valuation table, 60%:

$$\$1,000 \times 60\% = \$600$$

The individual determines the decrease in the fair market value of the couch by subtracting \$0, the fair market value of the couch immediately after the hurricane, from \$600, the fair market value of the couch immediately before the hurricane.

$$\$600 - 0 = \$600$$

The individual compares the basis of \$700 with the decrease in fair market value of \$600. Since the decrease in fair market value is less than the basis, the amount of the individual's casualty loss is \$600.

### SECTION 6. REDUCTION FOR NO-COST REPAIRS

Under § 165(a), a casualty loss must be reduced by insurance or other amounts received, such as amounts given to an individual to repair the damage to the individual's property due to the casualty. This includes the value of repairs to, or rebuilding of, the individual's personal-use residential real property provided by another party at no cost to the individual ("no-cost repairs"), such as the repair or rebuilding of an individual's personal residence by volunteers. No-cost repairs include repairs made for a de minimis or token cost, donation, or gratuity.

An individual who uses any safe harbor method provided in this revenue pro-

cedure to determine the decrease in the fair market value of or the amount of loss to the individual's personal-use residential real property or personal belongings must reduce the loss by the value of any no-cost repairs.

### SECTION 7. EFFECTIVE DATE

This revenue procedure is effective December 13, 2017.

### SECTION 8. PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-0074. Please refer to the Paperwork Reduction Act statement accompanying Form 1040, *U.S. Individual Income Tax Return*, for further information.

### SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Joanna L. Trebat of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Ms. Trebat at 202-317-7003 (not a toll-free number).

26 CFR 601.105. *Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.* (Also: Part I, §§ 165; 1.165-1(c)(4), 1.165-1(d)(2)(iii), 1.165-7(a)(2), 1.165-7(b).)

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**SECTION 1. PURPOSE**

.01 This revenue procedure provides the Cost Indexes Safe Harbor Method that individual taxpayers may use in determining the amount of their casualty losses pursuant to § 165 of the Internal Revenue Code for their personal-use residential real property (as defined in section 3.02 of this revenue procedure) damaged or destroyed as a result of Hurricane and Tropical Storm Harvey, Hurricane Irma, and Hurricane Maria (the “2017 Hurricanes”). Specifically, this revenue procedure provides a safe harbor method that individuals may use to determine the decrease in fair market value of their personal-use residential real property on their U.S. income tax returns filed with the Internal Revenue Service (IRS).

.02 The IRS will not challenge an individual’s determination of the decrease in fair market value of personal-use residential real property attributable to one of the 2017 Hurricanes if the individual qualifies for and uses the safe harbor method described in section 4 of this revenue procedure.

.03 If an individual uses the safe harbor method described in section 4 of this revenue procedure, the individual also must take into account the value of any no-cost repairs as described in section 6 of this revenue procedure.

.04 Use of the safe harbor method described in this revenue procedure is not mandatory. An individual may, instead, use a safe harbor method described in Rev. Proc. 2018–08, 2018–02 I.R.B.

286, or the actual reduction in the fair market value of the personal-use residential real property, pursuant to § 1.165–7(a)(2) of the Income Tax Regulations, if the individual has proper substantiation.

.05 The safe harbor method provided in this revenue procedure applies only to the circumstances within the scope of this revenue procedure and may not be used in any other circumstances.

**SECTION 2. BACKGROUND**

.01 Section 165(a) generally provides that a taxpayer may deduct any loss sustained during the taxable year and not compensated for by insurance or otherwise. With respect to property not connected with a trade or business or a transaction entered into for profit, § 165(c)(3) limits an individual’s deductions to losses arising from fire, storm, shipwreck, or other casualty, or from theft.

.02 Section 165(h) imposes two limitations on casualty and theft loss deductions for property not connected with a trade or business or transaction entered into for profit. Section 165(h)(1) provides that any loss to an individual described in § 165(c)(3) shall be allowed only to the extent that the amount of the loss arising from each casualty, or from each theft, exceeds \$100. Section 165(h)(2) provides that if personal casualty and theft losses for any taxable year exceed personal casualty and theft gains for the taxable year, the losses are allowed only to the extent of the sum

of the amount of the gains, plus so much of the excess as exceeds ten percent of the adjusted gross income of the individual.

.03 Section 165(h)(4)(E) provides that to the extent an individual’s casualty loss is covered by insurance, such loss shall be taken into account only if the individual files a timely insurance claim with respect to such loss.

.04 Section 165(i)(1) allows an individual who suffered a loss occurring in a disaster area and attributable to a Federally declared disaster to take the loss into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

.05 Section 165(i)(5)(A) defines “Federally declared disaster” as 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 (“Stafford Act”). Section 165(i)(5)(B) defines “disaster area” as the area so determined to warrant such assistance.

.06 The Disaster Tax Relief and Airport and Airway Extension Act of 2017 (“Disaster Tax Relief Act”), Pub. L. No. 115–63, 131 Stat. 1168, 1182–1183 (Sept. 29, 2017), modifies some of the general rules under § 165 for losses in certain geographic areas. Section 504(b) of the Disaster Tax Relief Act increases the § 165(h)(1) dollar limitation from \$100 to \$500, waives the § 165(h)(2) ten percent

of adjusted gross income limitation, increases the § 63 standard deduction, and provides that such increase in the standard deduction is allowed in computing the alternative minimum tax. Section 504(b) of the Disaster Tax Relief Act applies only to net disaster losses, which are the excess of losses attributable to Hurricanes Harvey, Irma, and Maria and that arose in the Hurricane Harvey disaster area, Hurricane Irma disaster area, or Hurricane Maria disaster area after particular dates, over personal casualty gains.

.07 Under § 501(a)(2) of the Disaster Tax Relief Act, “Hurricane Harvey disaster area,” “Hurricane Irma disaster area,” and “Hurricane Maria disaster area” are areas with respect to which a major disaster has been declared by the President under § 401 of the Stafford Act by reason of Hurricane Harvey, Hurricane Irma, and Hurricane Maria, respectively. For areas with respect to which a major disaster has been declared by the President under § 401 of the Stafford Act, see [www.fema.gov/disasters](http://www.fema.gov/disasters).

.08 Section 1.165-1(c)(4) provides that in determining the amount of loss sustained, adjustments must be made for any insurance or other compensation received.

.09 Section 1.165-1(d)(2)(iii) provides that if a taxpayer deducted a loss and in a subsequent taxable year receives reimbursement for such loss, the taxpayer does not recompute the tax for the taxable year in which the deduction was taken but includes the amount of such reimbursement in gross income for the taxable year in which received, subject to the provisions of section 111, relating to recovery of amounts previously deducted.

.10 Section 1.165-7(b) provides that the amount of a casualty loss is the lesser of (1) the difference between the fair market value of the property immediately before the casualty and the fair market value immediately after the casualty, or (2) the adjusted basis of the property. Section 1012 and § 1.1012-1(a) provide that the basis of property generally is its cost. Section 1016(a)(1) and § 1.1016-2(a) provide that the basis of property is adjusted for any expenditure, receipt, loss, or other item, properly chargeable to capital account, including the cost of improvements and betterments made to the property.

.11 Section 1.165-7(a)(2)(i) provides that to determine the amount of the de-

ductible loss under section 165(a), the fair market value of the property immediately before and immediately after the casualty generally shall be ascertained by competent appraisal. Section 1.165-7(a)(2)(ii) provides that the cost of repairs to the property damaged is acceptable as evidence of the decrease in value of the property if the taxpayer shows that: (1) the repairs are necessary to restore the property to its condition immediately before the casualty; (2) the amount spent for such repairs is not excessive; (3) the repairs do not care for more than the damage suffered; and (4) the value of the property after the repairs does not, as a result of the repairs, exceed the value of the property immediately before the casualty. In order to use the cost-of-repairs method to determine the decrease in fair market value, the taxpayer must actually make the repairs rather than rely on estimates of repairs that will be performed in the future or not at all. See *Lamphere v. Commissioner*, 70 T.C. 391, 396 (1978), *acq.*, 1978-2 C.B. 2; *Farber v. Commissioner*, 57 T.C. 714, 719 (1972), *acq.*, 1972-2 C.B. 2. *But see* § 4.02 of Rev. Proc. 2018-08 (providing an estimated repair cost safe harbor method).

.12 Section 1.165-7(b)(2)(ii) provides that in determining a casualty loss involving real property and improvements thereon not used in a trade or business or in any transaction entered into for profit, the improvements (such as buildings and ornamental trees and shrubbery) to the property damaged or destroyed are considered an integral part of the property, and no separate basis need be apportioned to the improvements.

.13 Taxpayers report gains and losses from casualties on Form 4684 according to the Form 4684 instructions, as updated at [www.irs.gov/form4684](http://www.irs.gov/form4684). See special instructions at [www.irs.gov/form4684](http://www.irs.gov/form4684) for taxpayers electing under § 165(i) to report their casualty losses calculated under this revenue procedure on an original or amended 2016 tax return.

.14 Rev. Proc. 2018-08, provides safe harbor methods that individuals may use in determining the amount of their casualty and theft losses under § 165 for personal-use residential real property and personal belongings. Due to the widespread devastation from the 2017 Hurricanes, the Treasury Department and the

IRS are providing an additional safe harbor method that individuals may use under § 1.165-7(a)(2) to measure the decrease in the fair market value of their personal-use residential real property that was damaged or destroyed as a result of the 2017 Hurricanes.

### SECTION 3. SCOPE

.01 *In general.* An individual with a U.S. income tax filing requirement who suffered a casualty loss to the individual’s personal-use residential real property located in the 2017 Disaster Area as a result of the 2017 Hurricanes may use the safe harbor method provided in this revenue procedure in determining the amount of the individual’s casualty loss under § 165. The term “2017 Disaster Area” means the entire states of Texas, Louisiana, Florida, Georgia, and South Carolina, the Commonwealth of Puerto Rico, and the territory of the U.S. Virgin Islands. This revenue procedure applies to bona fide residents of Puerto Rico and the U.S. Virgin Islands only where these individuals otherwise have a U.S. income tax filing requirement.

.02 *Definition of personal-use residential real property and personal residence.* For purposes of this revenue procedure, personal-use residential real property is real property, including improvements (such as buildings and ornamental trees and shrubbery), that is owned by the individual who suffered a casualty loss and that contains at least one personal residence. Personal-use residential real property does not include a personal residence if any part of the personal residence is used as rental property or contains a home office used in a trade or business or transaction entered into for profit. For purposes of this revenue procedure, a personal residence is a single family residence, or a single unit within a contiguous group of attached residential units (for example, a townhouse or duplex), owned by the individual who suffered a casualty loss, and consists of the total enclosed square footage of the residence or single unit, including any enclosed structures attached to the residence or single unit. For example, a personal residence includes a basement and an attached garage, but does not include a deck or screened-in porch. For purposes of this revenue procedure, a personal residence does not include a condo-

minium or cooperative unit, or any other property for which the individual who suffered the casualty loss does not own the structural components of the building (such as the foundation, walls, and roof), or owns only a fractional interest in all of the structural components of the building, or a mobile home or trailer.

*.03 Use of Cost Indexes Safe Harbor Method.* An individual described in section 3.01 of this revenue procedure may use the Cost Indexes Safe Harbor Method if the individual's personal-use residential real property has suffered, in the circumstances described below, (1) a total loss of a personal residence, (2) a near total loss of a personal residence, (3) interior flooding over 1 foot of a personal residence, (4) structural damage from wind, rain, or debris to a personal residence, (5) roof covering damage from wind, rain, or debris to a personal residence, (6) damage to a detached structure, or (7) damage to decking:

(1) *Total loss.* A total loss of a personal residence occurs if, as a result of one of the 2017 Hurricanes, any one of the following occurred:

(a) The personal residence either collapsed or is structurally unsound (for example, the structural connections in the personal residence, such as nails and anchor bolts, have corroded as a result of prolonged exposure to water over an extended period of time to the extent that they compromise the structural integrity of the personal residence);

(b) The state or local government or any political subdivision thereof has ordered that the personal residence be demolished or relocated;

(c) The individual has sold the personal residence to an unrelated party for a price that reflects the fair market value solely of the land on which the personal residence is situated; or

(d) The personal residence sustained damage that satisfies the definition of near total loss, as described in section 3.03(2) of this revenue procedure, and the individual has demolished the personal residence.

(2) *Near total loss.* The near total loss of a personal residence occurs if, as a result of one or more of the 2017 Hurricanes, the personal residence sustained severe damage necessitating the removal and disposal of substantially all interior wall frame cover-

ings (including drywall and other wall frame coverings), floorings, electrical lines, ducts, plumbing, and other fixtures. For a personal residence sustaining near total loss, only the wood frame, rafters, and outside façade of the personal residence remain structurally sound and reusable.

(3) *Interior flooding over 1 foot.* Interior flooding over 1 foot occurs if a personal residence was flooded with water to a height of more than 1 foot as a result of one or more of the 2017 Hurricanes, but did not sustain damage that falls within the definition of total loss or near total loss, as described in sections 3.03(1) and (2) of this revenue procedure.

(4) *Structural damage from wind, rain, or debris.* Structural damage from wind, rain, or debris occurs if a personal residence sustained major structural damage to the roof and/or outside wall(s) as a result of wind or windblown debris from one or more of the 2017 Hurricanes that exposed part or all of the interior of the personal residence to rain or debris, requiring substantial renovation of the damaged areas. Substantial renovation requires the removal and replacement of drywall or other wall frame coverings, replacement of trim, and repair and painting of the damaged interior areas of the personal residence.

(5) *Roof covering damage from wind, rain, or debris.* Roof covering damage from wind, rain, or debris occurs if a personal residence sustains damage from wind, rain, or windblown debris to roofing felt, shingles, flashings, fascia, or soffit as a result of one or more of the 2017 Hurricanes.

(6) *Damage to a detached structure.* Damage to a detached structure occurs if, as a result of one or more of the 2017 Hurricanes, the detached structure requires either complete or major rebuilding. A detached structure is an enclosed structure of wood-frame construction that has some electrical capabilities, but little or no interior finishing. A detached structure is located on personal-use residential real property and includes a shed, shop, or detached garage that is not used in connection with a trade or business and that is not equipped with heating or air conditioning.

(7) *Damage to decking.* Damage to decking occurs if, as a result of one or more of the 2017 Hurricanes, the decking attached to a personal residence was damaged or destroyed.

*.04 Taking into account no-cost repairs.* An individual using the Cost Indexes Safe Harbor Method described in section 4 of this revenue procedure must take into account the value of any no-cost repairs as described in section 6 of this revenue procedure.

*.05 Limited use of safe harbor method.* The safe harbor method described in section 4 is available only in the circumstances described in this revenue procedure.

## **SECTION 4. COST INDEXES SAFE HARBOR METHOD**

*.01 In general.* An individual within the scope of this revenue procedure may use the safe harbor method described in this section 4. If an individual owns two or more parcels of personal-use residential real property, the use of the Cost Indexes Safe Harbor Method for one parcel does not require the individual to use the Cost Indexes Safe Harbor Method, or any safe harbor method, for any other parcel.

Under the Cost Indexes Safe Harbor Method, an individual may use one or more of the cost indexes, as applicable, provided in this section 4 to determine the decrease in the fair market value of personal-use residential real property, including the personal residence, detached structures, and decking. Cost indexes are provided for three size categories of personal residences based on the square footage of the personal residence and for seven geographic areas.

In computing the decrease in fair market value under the Cost Indexes Safe Harbor Method, an individual must take into account the value of any no-cost repairs as described in section 6 of this revenue procedure.

If the Cost Indexes Safe Harbor Method described in this section 4 is used, the amount determined is the full amount of the decrease in fair market value of that personal-use residential real property and may not be increased by amounts related to items such as landscaping, debris removal, demolition, etc.

The Cost Indexes Safe Harbor Method applies only to the following three types of improvements on an individual's personal-use residential real property: a personal residence (as described in section 3.02 of this revenue procedure), a detached structure (as described in section 3.03(6) of this reve-

nue procedure), and a deck (as described in section 3.03(7) of this revenue procedure). If there is any other type of improvement on an individual's personal-use residential real property that is not described in sections 3.02, 3.03(6), and 3.03(7) of this revenue procedure, the individual may use the Cost Indexes Safe Harbor Method to determine the decrease in fair market value of the personal-use residential real property, but may not add any amount for the other type of improvements. The decrease in fair market value of the other type of improvement may be determined by another applicable method. For example, under the Cost Indexes Safe Harbor Method, no amount may be added to the decrease in fair market value of the personal-use residential real property for a residence that contains a home office, a residence in a structure that contains five or more residential units,

or a detached structure equipped with heating or air conditioning.

*.02 Special Rules.*

(1) A personal residence may not be subject to more than one of the following tables: Table 1 (Total Loss); Table 2 (Near Total Loss); or Table 3 (Interior Flooding Over 1 Foot).

(2) A personal residence subject to Table 3 (Interior Flooding Over 1 Foot) also may be subject to Table 4 (Structural Damage From Wind, Rain, or Debris), but the square footage flooded may not be included in the square footage used for Table 4 (Structural Damage From Wind, Rain, or Debris).

(3) A personal residence subject to Table 3 (Interior Flooding Over 1 Foot) or Table 4 (Structural Damage From Wind, Rain, or Debris) also may be subject to Table 5 (Roof Covering Damage from Wind, Rain, or Debris).

(4) Table 6 (Damage to a Detached Structure) and Table 7 (Damage to Decking) may apply to any personal-use residential real property without regard to whether Table 1 (Total Loss), Table 2 (Near Total Loss), Table 3 (Interior Flooding Over 1 Foot), Table 4 (Structural Damage From Wind, Rain, or Debris), or Table 5 (Roof Covering Damage From Wind, Rain, or Debris) apply to a personal residence located on such property.

(5) If an individual's personal-use residential real property contains more than one personal residence and the individual uses the Cost Indexes Safe Harbor Method, the individual must apply the applicable table, or combination of tables, to each personal residence.

*.03 Tables.* The following tables set forth the cost indexes for each corresponding category described in section 3.03 of this revenue procedure:

Table 1 – Total Loss

Personal Residence Size and Location	Total Loss – Cost Index Per Square Foot						
	Texas	Louisiana	Florida	Georgia	South Carolina	Puerto Rico	U.S. Virgin Islands
Small Personal Residence (Personal residence is less than 1,500 square feet)	\$231	\$231	\$235	\$231	\$231	\$231	\$293
Medium Personal Residence (Personal residence is between 1,500 and 3,000 square feet)	\$195	\$195	\$208	\$195	\$195	\$195	\$248
Large Personal Residence (Personal residence is greater than 3,000 square feet)	\$174	\$175	\$193	\$174	\$175	\$175	\$222

For a personal residence that falls within the description of a total loss in section 3.03(1) of this revenue procedure, use Table 1 as follows:

(1) Determine the total square footage of the personal residence.

(2) Determine the size of the personal residence based on the total square footage described in Table 1.

(3) Determine which column applies based on the geographic location of the personal residence.

(4) Multiply the total square footage of the personal residence (from step 1) by the applicable cost index based on the appropriate column of Table 1.

Table 2 – Near Total Loss

Personal Residence Size and Location	Near Total Loss – Cost Index Per Square Foot						
	Texas	Louisiana	Florida	Georgia	South Carolina	Puerto Rico	U.S. Virgin Islands
Small Personal Residence (Personal residence is less than 1,500 square feet)	\$185	\$187	\$190	\$185	\$187	\$187	\$237
Medium Personal Residence (Personal residence is between 1,500 and 3,000 square feet)	\$156	\$158	\$166	\$156	\$158	\$158	\$201
Large Personal Residence (Personal residence is greater than 3,000 square feet)	\$139	\$141	\$154	\$139	\$141	\$141	\$179

For a personal residence that falls within the description of a near total loss in section 3.03(2) of this revenue procedure, use Table 2 as follows:

(1) Determine the total square footage of the personal residence.

(2) Determine the size of the personal residence based on the total square footage described in Table 2.

(3) Determine which column applies based on the geographic location of the personal residence.

(4) Multiply the total square footage of the personal residence (from step 1) by the applicable cost index based on the appropriate column of Table 2.

Personal Residence Size and Location	Texas	Louisiana	Florida	Georgia	South Carolina	Puerto Rico	U.S. Virgin Islands
Small Personal Residence (Personal residence is less than 1,500 square feet)	\$139	\$143	\$146	\$139	\$143	\$143	\$182
Medium Personal Residence (Personal residence is between 1,500 and 3,000 square feet)	\$117	\$121	\$125	\$117	\$121	\$121	\$154
Large Personal Residence (Personal residence is greater than 3,000 square feet)	\$104	\$108	\$116	\$104	\$108	\$108	\$137

The cost indexes in Table 3 are applied only to the square footage of the personal residence that was flooded, rather than the total square footage.

For a personal residence that was flooded to a height of greater than 1 foot, as described in section 3.03(3) of this revenue procedure, and does not fall within the description of a total loss or near total loss in sections 3.03(1) and (2) of this

revenue procedure, use Table 3 as follows:

(1) Determine the total square footage of the personal residence.

(2) Determine the size of the personal residence based on the total square footage described in Table 3.

(3) Determine the square footage of the flooded area of the personal residence.

(4) Determine which column applies based on the geographic location of the personal residence.

(5) Multiply the flooded square footage (from step 3) by the applicable cost index based on the appropriate column of Table 3.

Percent Damaged and Location	Texas	Louisiana	Florida	Georgia	South Carolina	Puerto Rico	U.S. Virgin Islands
15% to 25%	\$189	\$189	\$202	\$189	\$189	\$189	\$240
26% to 50%	\$174	\$174	\$186	\$174	\$174	\$174	\$221
51% to 100%	\$157	\$157	\$168	\$157	\$157	\$157	\$199

The cost indexes in Table 4 apply only to the square footage of the damaged area of the personal residence, rather than the total square footage. Personal residences that sustained 100% wind, rain, or debris damage are those that sustained major structural damage throughout the entire personal residence necessitating substantial renovation (as defined in section 3.03(4) of this revenue procedure) of all of the rooms in the personal residence.

For a personal residence that sustained structural damage from wind, rain, or debris, use Table 4 as follows:

(1) Determine the total square footage of the personal residence.

(2) Determine the square footage of the damaged portion of the personal residence by adding the square footage of each room needing substantial renovation.

(3) Determine the percent of square footage of the personal residence that was

damaged by dividing the square footage that was damaged (from step 2) by the total square footage (from step 1).

(4) Determine which column applies based on the geographic location of the personal residence.

(5) Multiply the square footage of the damaged area (from step 2) by the applicable cost index based on the appropriate column of Table 4 (based on the percent of damage range in column 1 of Table 4).

**Table 5 – Roof Covering Damage From Wind, Rain, or Debris**  
**Roof Covering Damage From Wind, Rain, or Debris – Cost Index Per Square Foot**

Personal Residence Size and Location	Texas	Louisiana	Florida	Georgia	South Carolina	Puerto Rico	U.S. Virgin Islands
Small Personal Residence (Personal residence is less than 1,500 square feet)	\$8	\$8	\$8	\$8	\$8	\$8	\$10
Medium Personal Residence (Personal residence is between 1,500 and 3,000 square feet)	\$8	\$8	\$8	\$8	\$8	\$8	\$10
Large Personal Residence (Personal residence is greater than 3,000 square feet)	\$7	\$7	\$7	\$7	\$7	\$7	\$9

If the personal residence sustained roof covering damage from wind, rain, or debris as described in section 3.03(5) of this revenue procedure, apply the applicable cost index in Table 5 to the total square footage under the roof (including the porch, patios, and overhangs).

For a personal residence that sustained roof covering damage from wind, rain, or debris, as described in section 3.03(5) of

this revenue procedure, use Table 5 as follows:

(1) Determine the total square footage of the ground floor of the personal residence.

(2) Add to the total square footage of the ground floor (from step 1) the square footage of any area of the roof that extends beyond the ground floor, such as porches and attached carports, to deter-

mine the total square footage under the roof.

(3) Determine the applicable cost index in Table 5 based on the total square footage and the geographic location of the personal residence.

(4) Multiply the total square footage under the roof (from step 2) by the applicable cost index based on the appropriate column of Table 5.

**Table 6 – Damage to a Detached Structure**  
**Damage to a Detached Structure – Cost Index Per Square Foot**

Detached Structure Size and Location	Texas	Louisiana	Florida	Georgia	South Carolina	Puerto Rico	U.S. Virgin Islands
Up to 200 square feet	\$63	\$65	\$71	\$63	\$65	\$65	\$81
Over 200 and up to 400 square feet	\$50	\$51	\$56	\$50	\$51	\$51	\$64
Over 400 square feet	\$44	\$46	\$50	\$44	\$46	\$46	\$58

For a detached structure on personal-use residential real property, as described in section 3.03(6) of this revenue procedure, apply the applicable cost index in Table 6 as follows:

(1) Determine the total square footage of the detached structure.

(2) Determine the size of the detached structure based on the total square footage described in column 1 of Table 6.

(3) Determine which column applies based on the geographic location of the personal residence.

(4) Multiply the total square footage of the detached structure (from step 1) by the applicable cost index based on the appropriate column of Table 6.

**Table 7 – Damage to Decking**  
**Damage to Decking – Cost Index Per Square Foot**

Location	Texas	Louisiana	Florida	Georgia	South Carolina	Puerto Rico	U.S. Virgin Islands
Use for all types of decking	\$27	\$27	\$29	\$27	\$27	\$27	\$33

For decking attached to a personal residence, as described in section 3.03(7) of this revenue procedure, apply the cost index in Table 7 as follows:

(1) Determine the square footage of the damaged area of the deck.

(2) Multiply the square footage of the damaged area of the deck (from step 1) by

the applicable cost index based on the appropriate column of Table 7.

**SECTION 5. EXAMPLES**

The following examples illustrate the application of the Cost Indexes Safe Harbor Method described in section 4 of this revenue procedure.

*Example 1.* Prior to Hurricane Irma, an individual purchased a personal residence in Florida for \$500,000. The personal residence is 2,000 square feet and the personal-use residential real property does not contain any decking or detached structures. The personal residence was flooded for over three weeks, causing the structural connections in the personal residence to corrode to the extent they must be replaced. The personal residence is located in the 2017 Disaster Area. Insurance and other reimburse-

ments total \$100,000. The individual chooses to use the Cost Indexes Safe Harbor Method. Because the corrosion damage to the personal residence falls within the definition of total loss, as defined in section 3.03(1) of this revenue procedure, the individual uses Table 1 of the Cost Indexes Safe Harbor Method to determine the decrease in fair market value of the personal-use residential real property. The individual multiplies the square footage of the personal residence by the cost index for a Medium Personal Residence in Florida in Table 1, as follows:

$$2,000 \text{ sq. ft.} \times \$208/\text{sq. ft.} = \$416,000$$

The individual compares the decrease in fair market value, \$416,000, with the basis in the personal-use residential real property, \$500,000, and from the smaller of these two amounts, \$416,000, subtracts the insurance and other reimbursements of \$100,000. The amount of the individual's casualty loss is \$316,000 (\$416,000 - \$100,000).

*Example 2.* Assume the same facts in *Example 1*, except that the individual purchased the personal-use residential real property twenty years ago for \$120,000 and paid no additional amounts for improvements or remodeling. The individual compares the decrease in fair market value, calculated using the Cost Indexes Safe Harbor Method in *Example 1*, with the basis of the personal-use residential real property. Since the basis of \$120,000 is less than the decrease in fair market value, \$416,000, the individual's casualty loss is limited to the basis of \$120,000. After subtracting insurance and other reimbursements of \$100,000 from the basis of \$120,000, the amount of the individual's casualty loss is \$20,000 (\$120,000 - \$100,000 = \$20,000).

*Example 3.* An individual's personal residence in Puerto Rico is substantially damaged by a storm surge from Hurricane Maria. The individual is not a bona fide resident of Puerto Rico. The individual's personal-use residential real property is located in the 2017 Disaster Area. The damage falls within the definition of near total loss, as defined in section 3.03(2) of this revenue procedure, since all of the drywall, floorings, electrical lines, ducts, plumbing, and other fixtures need to be replaced. Prior to Hurricane Maria, the individual purchased the personal-use residential real property for \$190,000 and spent \$10,000 for improvements to remodel the residence. Immediately prior to Hurricane Maria, the adjusted basis of the property was \$200,000 (\$190,000 cost + \$10,000 improvements). The personal residence is 2,000 square feet and the personal-use residential real property does not contain any decking or detached structures. The individual paid \$5,000 to have debris cleared from the personal-use residential real property. Insurance and other reimbursements total \$100,000.

Because the damage to the personal residence falls within the definition of near total loss, the individual uses Table 2 of the Cost Indexes Safe Harbor Method to determine the decrease in fair market value of the personal-use residential real property. Using Table 2 of the Cost Indexes Safe Harbor Method, the decrease in fair market value of the personal-use residential real property is determined by multiplying the square footage of the personal residence by the cost index for a Medium Personal Residence in Puerto Rico as follows:

$$2,000 \text{ sq. ft.} \times \$158/\text{sq. ft.} = \$316,000$$

Because the individual chooses to use the Cost Indexes Safe Harbor Method for determining the decrease in fair market value, the \$5,000 debris removal costs are not added to the safe harbor amount of \$316,000. The individual compares the adjusted basis of the personal-use residential real property to the decrease in fair market value determined by using the Cost Indexes Safe Harbor Method. Since the adjusted basis of \$200,000 is less than the decrease in fair market value, \$316,000, the individual's casualty loss is limited to the adjusted basis of \$200,000. After subtracting \$100,000, the amount of insurance and other reimbursements received, from the adjusted basis of \$200,000, the amount of the individual's casualty loss is \$100,000 (\$200,000 - \$100,000 = \$100,000).

*Example 4.* The first floor of an individual's personal residence in Texas was flooded with 3 feet of water during Hurricane Harvey. As a result of the flooding, all of the flooring and drywall on the first floor needs to be replaced. The second floor of the personal residence is not damaged. While the personal residence sustained flooding of more than 1 foot, it did not sustain damage that falls within the definition of total loss or near total loss in sections 3.03(1) and (2) of this revenue procedure. Therefore, the personal residence sustained interior flooding over 1 foot as described in section 3.03(3) of this revenue procedure. In addition, the deck attached to the personal residence was completely destroyed by Hurricane Harvey. The personal-use residential real property is located in the 2017 Disaster Area. The personal residence is 2,000 square feet and the personal-use residential real property does not contain any detached structures. The total square footage of the flooded rooms on the first floor is 1,000 square feet. Prior to Hurricane Harvey, the individual purchased the personal-use residential real property for \$200,000. Insurance and other reimbursements total \$90,000. The individual chooses to use the Cost Indexes Safe Harbor Method.

To calculate the decrease in fair market value of the personal-use residential real property, the individual uses the first column of Table 3 to determine the size of the personal residence based on the total square footage of the personal residence. The individual multiplies the flooded square footage of the personal residence, 1,000 square feet, by \$117, the cost index for a Medium Personal Residence in Texas, in Table 3.

$$1,000 \text{ sq. ft.} \times \$117/\text{sq. ft.} = \$117,000$$

The deck is 200 square feet.

Using Table 7, the individual multiplies the square footage of the damaged area of the deck, 200 square feet, by the cost index of \$27 for Texas in Table 7.

$$200 \text{ sq. ft.} \times \$27/\text{sq. ft.} = \$5,400$$

To determine the total decrease in fair market value of the personal-use residential real property the individual adds \$5,400 to \$117,000.

$$\$5,400 + \$117,000 = \$122,400$$

The individual then compares the basis of the personal-use residential real property, \$200,000, to the decrease in fair market value determined by using the Cost Indexes Safe Harbor Method, \$122,400. Since the decrease in fair market value

of \$122,400 is less than the basis of \$200,000, the individual's casualty loss is limited to \$122,400. After subtracting \$90,000, the amount of insurance and other reimbursements, from \$122,400, the amount of the individual's casualty loss is \$32,400 (\$122,400 - \$90,000 = \$32,400).

*Example 5.* Prior to Hurricane Irma, an individual purchased personal-use residential real property for \$200,000 in Georgia and spent \$5,000 for improvements to the personal-use residential real property. Two trees fell onto the individual's personal residence during Hurricane Irma, destroying a portion of the roof. Rain from the hurricane soaked the walls and flooring of two bedrooms and the living room, necessitating removal and replacement of drywall and wood paneling, roof panels, trusses, and flooring. The rest of the personal residence remains undamaged. The personal residence was not flooded. Therefore, the damage constitutes structural damage from wind, rain, or debris, as described in section 3.03(4) of this revenue procedure. The individual's personal-use residential real property is located in the 2017 Disaster Area. The personal residence is 2,000 square feet and the personal-use residential real property does not contain any decking or detached structures. The damaged two bedrooms and living room total 1,000 square feet. Insurance and other reimbursements total \$100,000.

The individual chooses to use the Cost Indexes Safe Harbor Method. Using Table 4, the percentage of square footage of the personal residence that was damaged by the hurricane is determined by dividing the total square footage of the personal residence by the square footage of the personal residence that was damaged as follows:

$1,000 \text{ sq. ft.}/2,000 \text{ sq. ft.} = 0.50$  or 50% of the total square footage was damaged. The individual uses the cost index in the column for Georgia of Table 4 for 26% to 50% damage and multiplies it by the number of square feet that were damaged.

$$\$174/\text{sq. ft.} \times 1,000 \text{ sq. ft.} = \$174,000$$

The roof covering also sustained damage that necessitated replacement of all roof shingles, felt lining, and flashings. The total square footage of the ground floor of the personal residence is 2,000 square feet. The total square footage under the roof, including porches, patios, and overhangs, is 2,200 square feet. The individual multiplies the cost index for a Medium Personal Residence in Georgia in Table 5 by 2,200 square feet, the total square footage under the roof.

$$2,200 \text{ sq. ft.} \times \$8/\text{sq. ft.} = \$17,600$$

The individual adds \$17,600 to \$174,000 to determine the total decrease in fair market value of the personal-use residential real property.

$$\$17,600 + \$174,000 = \$191,600$$

The individual compares the decrease in fair market value, \$191,600, with the adjusted basis, \$205,000, and from the smaller of these two amounts, \$191,600, subtracts insurance and other reimbursements of \$100,000. The amount of the individual's casualty loss is \$91,600 (\$191,600 - \$100,000 = \$91,600).

*Example 6.* Winds from Hurricane Maria caused a tree to fall across a detached garage located on an individual's personal-use residential real property in the U.S. Virgin Islands. The individual is not a bona

fide resident of the U.S. Virgin Islands. Prior to Hurricane Maria, the individual purchased the personal-use residential real property for \$200,000. The personal residence is located in the 2017 Disaster Area. The personal residence is not damaged by Hurricane Maria. The personal-use residential real property does not contain any decking or other detached structures. The garage suffered significant damage and requires major rebuilding. The total square footage of the garage is 400 square feet. The garage was not insured.

The individual chooses to use the Cost Indexes Safe Harbor Method. Because the garage is a detached structure, as described in section 3.03(6) of this revenue procedure, the individual uses Table 6 to determine the decrease in fair market value of the personal-use residential real property. Using Table 6, the individual multiplies the total square footage of the garage, 400 square feet, by the cost index of \$64 in the column for the U.S. Virgin Islands of Table 6.

$$400 \text{ sq. ft.} \times \$64/\text{sq. ft.} = \$25,600$$

The individual's basis in the personal-use residential real property is \$200,000. The individual compares the decrease in fair market value, \$25,600, with the basis, \$200,000. Since the decrease in fair market value is less than the basis, the amount of the individual's casualty loss is \$25,600.

*Example 7.* Winds from Tropical Storm Harvey blew down a pine tree that destroyed part of a deck attached to the back of an individual's personal residence in Louisiana. The personal-use residential real property is located in the 2017 Disaster Area. The individual's basis in the personal-use residential real property is \$200,000. Neither the personal residence nor any detached structure was damaged by the fallen tree. The deck is 450 square feet. It is necessary to rebuild one-half of the deck. The remaining half of the deck is not damaged and remains structurally sound.

The individual chooses to use the Cost Indexes Safe Harbor Method for the damage described in section 3.03(7) of this revenue procedure and uses Table 7 to determine the decrease in fair market value of the personal-use residential real property.

The square footage of the damaged area of the deck is one-half of 450 square feet, which is 225

square feet. Using Table 7, the individual multiplies the square footage of the damaged area of the deck, 225 square feet, by the cost index of \$27 in the column for Louisiana in Table 7.

$$225 \text{ sq. ft.} \times \$27/\text{sq. ft.} = \$6,075$$

The individual compares the decrease in fair market value, \$6,075, with the basis, \$200,000. Since the decrease in fair market value is less than the basis, the amount of the individual's casualty loss is \$6,075.

## **SECTION 6. REDUCTION FOR NO-COST REPAIRS**

Under § 165(a), a casualty loss must be reduced by insurance or other amounts received, such as amounts given to an individual to repair the damage to the individual's property due to the casualty. This includes the value of repairs to, or rebuilding of, the individual's personal-use residential real property provided by another party at no cost to the individual ("no-cost repairs"), such as the repair or rebuilding of an individual's personal residence by volunteers. No-cost repairs include repairs made for a de minimis or token cost, donation, or gratuity.

An individual who uses the Cost Indexes Safe Harbor Method provided in section 4 of this revenue procedure to determine the decrease in the fair market value of the individual's personal-use residential real property must reduce the loss, determined using the Cost Indexes Safe Harbor Method, by the value of any no-cost repairs. For this purpose, the value of a no-cost repair is based upon the total square footage completely repaired at no cost to the individual. The total square

footage completely repaired at no cost to the individual is multiplied by the same cost index the individual used to determine the decrease in the fair market value of the individual's personal-use residential real property. This amount is then subtracted from the loss determined under the Cost Indexes Safe Harbor Method.

## **SECTION 7. EFFECTIVE DATE**

This revenue procedure is effective for losses that are attributable to the 2017 Hurricanes and that arose in the 2017 Disaster Area after August 22, 2017.

## **SECTION 8. PAPERWORK REDUCTION ACT**

The collection of information contained in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-0074. Please refer to the Paperwork Reduction Act statement accompanying Form 1040, *U.S. Individual Income Tax Return*, for further information.

## **SECTION 9. DRAFTING INFORMATION**

The principal author of this revenue procedure is Joanna L. Trebat of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Ms. Trebat at (202) 317-7003 (not a toll-free number).

# Definition of Terms

*Revenue rulings and revenue procedures (hereinafter referred to as “rulings”) that have an effect on previous rulings use the following defined terms to describe the effect:*

*Amplified* describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

*Clarified* is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

*Distinguished* describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

*Modified* is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A

and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

*Obsoleted* describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

*Revoked* describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

*Superseded* describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the sub-

stance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

*Supplemented* is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

*Suspended* is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

## Abbreviations

*The following abbreviations in current use and formerly used will appear in material published in the Bulletin.*

A—Individual.  
Acq.—Acquiescence.  
B—Individual.  
BE—Beneficiary.  
BK—Bank.  
B.T.A.—Board of Tax Appeals.  
C—Individual.  
C.B.—Cumulative Bulletin.  
CFR—Code of Federal Regulations.  
CI—City.  
COOP—Cooperative.  
Ct.D.—Court Decision.  
CY—County.  
D—Decedent.  
DC—Dummy Corporation.  
DE—Donee.  
Del. Order—Delegation Order.  
DISC—Domestic International Sales Corporation.  
DR—Donor.  
E—Estate.  
EE—Employee.  
E.O.—Executive Order.  
ER—Employer.

ERISA—Employee Retirement Income Security Act.  
EX—Executor.  
F—Fiduciary.  
FC—Foreign Country.  
FICA—Federal Insurance Contributions Act.  
FISC—Foreign International Sales Company.  
FPH—Foreign Personal Holding Company.  
F.R.—Federal Register.  
FUTA—Federal Unemployment Tax Act.  
FX—Foreign corporation.  
G.C.M.—Chief Counsel’s Memorandum.  
GE—Grantee.  
GP—General Partner.  
GR—Grantor.  
IC—Insurance Company.  
I.R.B.—Internal Revenue Bulletin.  
LE—Lessee.  
LP—Limited Partner.  
LR—Lessor.  
M—Minor.  
Nonacq.—Nonacquiescence.  
O—Organization.  
P—Parent Corporation.  
PHC—Personal Holding Company.  
PO—Possession of the U.S.  
PR—Partner.  
PRS—Partnership.

PTE—Prohibited Transaction Exemption.  
Pub. L.—Public Law.  
REIT—Real Estate Investment Trust.  
Rev. Proc.—Revenue Procedure.  
Rev. Rul.—Revenue Ruling.  
S—Subsidiary.  
S.P.R.—Statement of Procedural Rules.  
Stat.—Statutes at Large.  
T—Target Corporation.  
T.C.—Tax Court.  
T.D.—Treasury Decision.  
TFE—Transferee.  
TFR—Transferor.  
T.I.R.—Technical Information Release.  
TP—Taxpayer.  
TR—Trust.  
TT—Trustee.  
U.S.C.—United States Code.  
X—Corporation.  
Y—Corporation.  
Z—Corporation.

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<sup>1</sup>A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2017–27 through 2017–52 is in Internal Revenue Bulletin 2017–52, dated December 27, 2017.

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

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<sup>1</sup>A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2017-27 through 2017-52 is in Internal Revenue Bulletin 2017-52, dated December 27, 2017.

# **Internal Revenue Service**

## **Washington, DC 20224**

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## **INTERNAL REVENUE BULLETIN**

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

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

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