

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2018-7
February 12, 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.

Administrative, Income Tax, Special Announcement

Notice 2018-08, page 352.

This Notice announces that the Treasury Department and IRS are suspending withholding obligations under section 1446(f) with respect to certain publicly traded partnership interests pending further guidance. The notice further announces that the Treasury Department and IRS intend to issue future regulations or other guidance on how to withhold, deposit, and report the tax withheld under section 1446(f) with respect to a disposition of an interest in a publicly traded partnership.

Employment Tax

Notice 2018-14, page 353.

This notice (1) extends the effective period of Forms W-4 furnished for 2017 to claim exemption from income tax withholding under § 3402(n) for 2017 from February 15, 2018 until February 28, 2018 and temporarily permits employees to claim exemption from withholding under § 3402(n) for 2018 by using 2017 Form W-4, (2) suspends the requirement that employees must furnish their employers new Forms W-4 within 10 days of changes of status resulting in fewer withholding allowances, (3) provides that the optional withholding rate on supplemental wage payments is 22% for taxable years 2018 through 2025, and (4) provides that, for 2018, withholding on annuities or similar periodic payments where no withholding certificate is in effect is based on treating the payee as a married individual claiming three withholding allowances under § 3405(a)(4).

Exempt Organizations

Rev. Proc. 2018-10, page 355.

The Revenue Procedure modifies Revenue Procedure 2018-5 by applying the procedures for Exempt Organizations determination letters to new Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code.

Administrative

Rev. Proc. 2018-13, page 356.

The revenue procedure sets forth the unpaid loss discount factors for the 2017 accident year for purposes of section 846 of the Internal Revenue Code. The revenue procedure also prescribes the salvage discount factors for the 2017 accident year, which must be used to compute discounted estimated salvage recoverable under section 832 of the Internal Revenue Code.

The IRS Mission

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

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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Part III. Administrative, Procedural, and Miscellaneous

Revised Timeline and Other Guidance Regarding the Implementation of New Section 1446(f)

Notice 2018-08

SECTION 1. OVERVIEW

This notice announces that the Department of the Treasury (“Treasury Department”) and the Internal Revenue Service (“IRS”) are suspending the application of new section 1446(f) of the Internal Revenue Code (“Code”) in the case of a disposition of certain publicly traded partnership interests. New section 1446(f) was added by section 13501 of “An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018,” P.L. 115-97 (the “Act”), which was enacted on December 22, 2017. Section 13501 of the Act also added new section 864(c)(8). Section 2 of this notice provides background on new sections 864(c)(8) and 1446(f). Section 3 of this notice describes the revised timeline for the application of new section 1446(f) to a disposition of certain interests in publicly traded partnerships. Section 4 of this notice requests comments and provides contact information.

SECTION 2. BACKGROUND

In general, new section 864(c)(8) provides that a nonresident alien individual’s or foreign corporation’s gain or loss from the sale, exchange, or other disposition of a partnership interest is effectively connected with the conduct of a trade or business in the United States to the extent that the person would have had effectively connected gain or loss had the partnership sold all of its assets at fair market value. New section 864(c)(8) applies to sales, exchanges, or other dispositions occurring on or after November 27, 2017. See Revenue Ruling 91-32, 1991-1 C.B. 107, for the IRS’s position with respect to sales, exchanges, or other dispositions of an interest in a partnership occurring before November 27, 2017.

In general, new section 1446(f)(1) provides that if any portion of the gain on any disposition of an interest in a partnership would be treated under new section 864(c)(8) as effectively connected with the conduct of a trade or business within the United States (“effectively connected gain”), then the transferee must withhold a tax equal to 10 percent of the amount realized on the disposition. Under an exception in new section 1446(f)(2), however, withholding is generally not required if the transferor furnishes an affidavit to the transferee stating, among other things, that the transferor is not a foreign person.

New section 1446(f)(6) authorizes the Secretary to issue such regulations or other guidance as may be necessary to carry out the purposes of new section 1446(f), including regulations providing for exceptions from the provisions of new section 1446(f). Furthermore, new section 1446(g) authorizes regulations that are necessary to carry out the purposes of new section 1446 generally, including regulations providing for the application of new section 1446 in the case of publicly traded partnerships. New section 1446(f) applies to sales, exchanges, or other dispositions occurring after December 31, 2017.

SECTION 3. TIMING OF APPLICATION OF NEW SECTION 1446(f) TO DISPOSITIONS OF CERTAIN PUBLICLY TRADED PARTNERSHIP INTERESTS

Stakeholders have indicated that, in the case of a disposition of a publicly traded partnership interest, applying new section 1446(f) without guidance presents significant practical problems. For example, stakeholders stated that a transferee of an interest in a publicly traded partnership typically will not be able to determine whether the transferor partner is foreign or domestic or whether any portion of a transferor partner’s gain would be treated under new section 864(c)(8) as effectively connected gain. This may be the case because publicly traded partnership interests are generally held in street name by a broker and transferred through a clearinghouse. Moreover, a particular sale may be aggregated with other sales and purchases of partnership interests by other customers

of the same broker. As a result, it may be difficult for a transferee to determine whether it must withhold under new section 1446(f). Furthermore, although the Conference Report suggests the Treasury Department and the IRS provide guidance providing that in the case of a publicly traded partnership interest sold by a foreign partner through a broker, the broker may deduct and withhold on behalf of the transferee, H.R. Rep. No. 115-466, at 511 (2017), until guidance is provided and new withholding and reporting systems are developed, it would not be possible for brokers to perform any such withholding.

In consideration of these concerns and others raised by stakeholders, and to allow for an orderly implementation of the requirements of new section 1446(f), the Treasury Department and the IRS have determined that withholding under new section 1446(f) should not be required with respect to any disposition of an interest in a publicly traded partnership (within the meaning of section 7704(b)) until regulations or other guidance have been issued under new section 1446(f). This temporary suspension is limited to dispositions of interests that are publicly traded and does not extend to non-publicly traded interests. The Treasury Department and the IRS intend to issue future regulations or other guidance on how to withhold, deposit, and report the tax withheld under new section 1446(f) with respect to a disposition of an interest in a publicly traded partnership. Future guidance under new section 1446(f) with respect to a disposition of an interest in a publicly traded partnership will be prospective and will include transition rules to allow sufficient time to prepare systems and processes for compliance.

The rules described in this notice suspending withholding under new section 1446(f) do not extend to new section 864(c)(8), which remains applicable.

SECTION 4. REQUEST FOR COMMENTS AND CONTACT INFORMATION

The Treasury Department and the IRS request comments on the rules to be issued under new section 1446(f). Comments are specifically requested regard-

ing: (i) the application of new section 1446(f) to interests in publicly traded partnerships, including the role of brokers in collecting the tax; (ii) rules for determining the amount realized taking into account section 752(d); and (iii) procedures for requesting a reduced amount required to be withheld, including how to determine an appropriate reduced amount and whether such procedures should be automatic or require approval by the IRS. The Treasury Department and the IRS also request comments on whether a temporary suspension of new section 1446(f) for partnership interests that are not publicly traded partnership interests is needed and what additional guidance, or forms and instructions, may be needed to assist taxpayers in applying new sections 864(c)(8) and 1446(f).

Written comments may be submitted to the Office of Associate Chief Counsel (International), Attention: Ronald M. Gootzeit, Internal Revenue Service, IR-4569B, 1111 Constitution Avenue, NW, Washington, DC 20224. Alternatively, taxpayers may submit comments electronically to Notice.comments@irs.counsel.treas.gov. Comments will be available for public inspection and copying.

The principal author of this notice is Mr. Gootzeit of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact Mr. Gootzeit at (202) 317-6937 (not a toll-free number).

Guidance on Withholding Rules

Notice 2018-14

I. PURPOSE

This notice: (1) extends the effective period of Forms W-4, Employee's Withholding Allowance Certificate, furnished to claim exemption from income tax withholding under section 3402(n) of the Internal Revenue Code (Code) for 2017 until February 28, 2018, and permits employees to claim exemption from withholding for 2018 by temporarily using the 2017 Form W-4; (2) temporarily suspends

the requirement under section 3402(f)(2)(B)¹ that employees must furnish their employers new Forms W-4 within 10 days of changes in status that reduce the withholding allowances they are entitled to claim; (3) provides that the optional withholding rate on supplemental wage payments under Treas. Reg. § 31.3402(g)-1 is 22 percent for 2018 through 2025; and (4) provides that, for 2018, withholding under section 3405(a)(4) on periodic payments when no withholding certificate is in effect is based on treating the payee as a married individual claiming three withholding allowances.

Sections 11001 and 11041 of "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018," P.L. 115-97 (the "Act"), which was enacted on December 22, 2017, made significant changes to income tax rates, income tax deductions and credits, and federal income tax withholding. The Internal Revenue Service (IRS) is currently working on revising Form W-4 to reflect the changes made by the Act, such as changes in available itemized deductions, increases in the child tax credit, the new dependent credit, and the repeal of dependent exemptions. As a result, the 2018 Form W-4 may not be released until after February 15, 2018.

The Act does not mandate that employees furnish new Forms W-4 for 2018 and expressly permits the IRS to administer income tax withholding under section 3402 for 2018 without regard to the changes in the withholding rules and the suspension of personal exemptions. Accordingly, and in order to minimize burden on employees and employers, the IRS and the Department of the Treasury (Treasury Department) designed the 2018 withholding tables to work with the Forms W-4 that employees have already furnished their employers. *See* Notice 1036, Early Release Copies of the 2018 Percentage Method Tables for Income Tax Withholding, and Publication 15 (Circular E), Employer's Tax Guide, for use in 2018. For employees with simpler tax situations, the new tables are designed to produce the correct amount of tax withholding. The revisions are also aimed at avoiding over-

and under-withholding of tax as much as possible. The IRS is also working on revising the withholding calculator on www.irs.gov to reflect the changes made by the Act. When released, the modified calculator and 2018 Form W-4 can be used by employees who wish to update their withholding in response to the Act or changes in their personal circumstances in 2018. Until a new Form W-4 is issued, employees and employers should continue to use the 2017 Form W-4.

Section II of this notice extends the effective period of Forms W-4 furnished to claim exemption from income tax withholding for 2017 to February 28, 2018, and describes the procedures by which employees may claim exemption from withholding for 2018 under section 3402(n) using the 2017 Form W-4. These procedures expire 30 days after the 2018 Form W-4 is released. They may be relied upon for actions taken in 2017 with respect to the 2018 tax year. Section III of this notice temporarily suspends the requirement that employees must furnish employers new Forms W-4 within 10 days after a change in status that results in reduced withholding allowances under section 3402(f)(2)(B) and Treas. Reg. § 31.3402(f)(2)-1. Section IV of this notice clarifies that the optional withholding rate for supplemental wages is 22 percent for taxable years beginning after December 31, 2017 and before January 1, 2026. Section V of this notice provides that, for 2018, the rules for default withholding under section 3405(a)(4) parallel the rules for prior years and treat the payee as a married individual claiming three withholding allowances.

II. GUIDANCE FOR EMPLOYEES EXEMPT FROM WITHHOLDING

Under section 3402(n), an employee may claim exemption from income tax withholding if the employee certifies on Form W-4 that (1) the employee incurred no liability for income tax for the preceding taxable year; and (2) the employee anticipates that he or she will incur no liability for income tax for the current taxable year. *See also* Treas. Reg. §§ 31.3402(f)(4)-2 and 31.3402(n)-1.

¹All references to sections in this document are to Code sections unless specifically provided otherwise.

Under Treas. Reg. § 31.3402(f)(4)–2 (c), Forms W-4 furnished to the employer claiming exemption from withholding for a taxable year are effective up to and including February 15 of the following year, and an employer may continue to rely on employees' Forms W-4 claiming exemption from withholding until February 16 of the following year. Thus, the effective period of Forms W-4 furnished to claim exemption from withholding under section 3402(n) for 2017 is scheduled to expire on February 15, 2018. As noted above, due to changes in the Code made by the Act, the IRS may not release the 2018 Form W-4 until after February 15, 2018.

To provide additional time for employers and employees to implement the procedures in this notice, the Treasury Department and the IRS have determined that 2017 Forms W-4 claiming exemption from withholding under section 3402(n) for 2017 may be treated as effective through February 28, 2018. The 2017 Forms W-4 claiming exemption from withholding for 2017 are not effective for wage payments made after February 28, 2018.

With respect to any claim for exemption from withholding for 2018 (whether renewing a claim from 2017 or making a new claim), the IRS will allow employees to claim exemption using the 2017 Form W-4 until 30 days after the 2018 Form W-4 is released in one of the following ways: (1) modifying the 2017 Form W-4 by striking "2017" in the text on Line 7 of the Form W-4 and entering "2018" in its place and signing the form in 2018; (2) modifying the 2017 Form W-4 by entering "Exempt 2018" on Line 7 of the 2017 Form W-4 and signing the form in 2018; (3) using the 2017 Form W-4 without modification and signing the form in 2018, provided that the employer establishes and communicates to employees a procedure under which an employee signs and furnishes the 2017 Form W-4 in 2018 to certify both that the employee incurred no income tax liability for 2017 and that the employee anticipates that he or she will incur no income tax liability for 2018 and thus claims exemption from withholding for 2018; or (4) any method substantially similar to (1)–(3) that clearly conveys in

writing an employee's intent to certify his or her exemption from withholding for 2018.

Employers that have established electronic systems for furnishing withholding allowance certificates under Treas. Reg. § 31.3402(f)(5)–1(c) may make alterations to their electronic systems to substantially conform with options (1)–(4) above. An employer must keep records of all Forms W-4 furnished to the employer by its employees. *See* Treas. Reg. § 31.6001–5(a)(13). If an employer uses options (3) or (4) above, the employer must clearly identify 2017 Forms W-4 furnished by employees to claim exemption from withholding in 2017 and those furnished to claim exemption from withholding in 2018. Employees and employers may also rely on these procedures for 2017 Forms W-4 that employees signed and furnished in 2017 to claim exemption from withholding for 2018.

Employees are reminded to furnish employers Forms W-4 in good faith and claim exemption from withholding for 2018 only if they did not have tax liability in 2017 and do not anticipate any tax liability in 2018. Any alteration or unauthorized addition to a 2017 Form W-4, other than the ones described in this notice to indicate the certificate is for exemption in 2018, will cause the altered 2017 Form W-4 to be invalid. *See* Treas. Reg. § 31.3402(f)(2)–1(e). Moreover, any oral or written statement clearly indicating that an employee's Form W-4 is false that is made by the employee to the employer on or before the date on which the employee furnishes the Form W-4 also will cause the employee's Form W-4 to be invalid. *See* Treas. Reg. § 31.3402(f)(2)–1(e). Employees who claimed exemption from withholding for 2017 and are renewing claims for exemption from withholding for 2018 need to furnish their Forms W-4 claiming exemption from withholding for 2018 by February 28, 2018, under the revised rule of this notice. Employees who claim exemption from withholding for 2018 using the 2017 Form W-4 as permitted by this notice do not need to furnish a 2018 Form W-4 after the 2018 Form W-4 is released.

III. TEMPORARY SUSPENSION OF 10-DAY REQUIREMENT TO FURNISH NEW FORMS W-4 TO EMPLOYERS

Section 3402(f)(2)(B) and Treas. Reg. § 31.3402(f)(2)–1(b) provide that if a change in status occurs that reduces the number of withholding allowances to which employees are entitled, employees must, within 10 days, furnish the employer with a new Form W-4 claiming the proper number of withholding allowances.

The Treasury Department and the IRS have determined that employees experiencing a change in status that causes a reduction in the number of withholding allowances are not required to furnish employers new withholding allowance certificates until 30 days after the 2018 Form W-4 is released. Moreover, because the 2018 withholding tables are designed to work with the Forms W-4 that employees have already furnished their employers, employees who have a reduction in the number of withholding allowances solely due to the changes made by the Act are not required to furnish employers new withholding allowance certificates during 2018. However, employees may update their withholding at any time in response to the Act. Employees who choose to update their withholding may use the 2017 Form W-4 instead of the 2018 Form W-4 to report changes in withholding allowances until 30 days after the 2018 Form W-4 is released. Likewise, new hires may continue to claim allowances by using the 2017 Form W-4 until 30 days after the 2018 Form W-4 is released. Employees who furnish new Forms W-4 using a 2017 Form W-4 do not need to furnish a 2018 Form W-4 after the 2018 Form W-4 is released.

IV. OPTIONAL FLAT RATE FOR WITHHOLDING ON SUPPLEMENTAL WAGES

Under certain circumstances, employers may withhold income tax from supplemental wage payments at an optional flat rate. *See* Treas. Reg. § 31.3402(g)–1. Section 904(a) of the American Jobs Creation Act of 2004 (AJCA, P.L. 108–357), which is not included in the Code, provides that for purposes of optional flat rate

withholding, the “rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent (or the corresponding rate in effect under section 1(i)(2) of the Internal Revenue Code of 1986 for taxable years beginning in the calendar year in which the payment is made).” Accordingly, Treas. Reg. § 31.3402(g)–1(a)(7)(iii)(F) provides that employers using the optional flat rate withhold “[f]rom supplemental wages paid after December 31, 2004, by using a flat percentage rate of 28 percent (or the corresponding rate in effect under section 1(i)(2) for taxable years beginning in the calendar year in which the payment is made).” Under Treas. Reg. § 31.3402(g)–1(a)(7)(iii)(F), the optional withholding rate for supplemental wage payments made in 2005 through 2017 was 25 percent because that was “the corresponding rate in effect under section 1(i)(2).”²

The Act changed the income tax rate tables effective under section 1 by adding section 1(j) to the Code. Section 1(j)(1) provides that “[i]n the case of a taxable year beginning after December 31, 2017, and before January 1, 2026—(A) subsection (i) shall not apply, and (B) this section (other than subsection (i)) shall be applied as provided in paragraphs (2) through (6).” Section 1(j)(2) provides the income tax rate tables that are to be applied for taxable years beginning after December 31, 2017, and before January 1, 2026. Based on the change in the rate tables under added section 1(j), the optional flat rate changed from 25 percent to 22 percent for wages paid during 2018 and the remainder of the period to which section 1(j) of the Code applies. See Notice 1036.

Employers and other entities paying supplemental wages should implement the 22 percent optional flat rate for withholding on supplemental wages as soon as possible, but not later than February 15, 2018. Employers using optional flat rate withholding that withheld at a higher rate than 22 percent (for example, employers that withheld at the 2017 optional flat rate of 25 percent) may, but are not required to, correct such withholding on supplemental wages paid on or after January 1,

2018, and before February 15, 2018, under the rules applicable to corrections of overcollections of federal income tax. See Treas. Reg. §§ 31.6413(a)–1(b) and 31.6413(a)–2(c).

V. WITHHOLDING UNDER SECTION 3405 FOR PERIODIC PAYMENTS IF NO WITHHOLDING CERTIFICATE IS IN EFFECT

Under section 3405, the payor of certain periodic payments for pensions, annuities, and other deferred income generally is required to withhold from the payments as if they were wages unless an individual elects not to have withholding apply to the periodic payment. (The election is unavailable with respect to certain payments to be made outside of the United States or its possessions. See section 3405(e)(13).) The withholding election generally is made using Form W-4P, Withholding Certificate for Pension or Annuity Payments.

Under the law in effect before 2018, section 3405(a)(4) provided that, in the case of a payee entitled to periodic payments with respect to which a withholding certificate has not been furnished, the amount to be withheld from each such payment “shall be determined by treating the payee as a married individual claiming 3 withholding exemptions.” The Act amended section 3405(a)(4) to provide that the withholding rate when no withholding certificate is furnished “shall be determined under rules prescribed by the Secretary.” See section 11041(c)(2) (G) of the Act. For 2018, the rules for withholding when no withholding certificate is furnished with respect to periodic payments under section 3405(a) will parallel the rules for prior years and be based on treating the payee as a married individual claiming three withholding allowances.

DRAFTING INFORMATION

The principal authors of this notice are A.G. Kelley and Mikhail Zhidkov of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in its

development. For further information regarding this notice, contact Mikhail Zhidkov at (202) 317-4774 (not a toll-free number).

26 CFR 601.201: Rulings and determination letters.

Rev. Proc. 2018–10

SECTION 1. PURPOSE

This revenue procedure modifies Revenue Procedure 2018–5, 2018–1 I.R.B. 233, by applying the procedures for Exempt Organizations determination letters to new Form 1024-A, *Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code*.

SECTION 2. BACKGROUND

.01 Section 506, added to the Code on December 18, 2015, by the Protecting Americans from Tax Hikes Act of 2015 (Pub. L. No. 114–113, div. Q) (the PATH Act), requires a section 501(c)(4) organization, no later than 60 days after the organization is established, to notify the Commissioner that it is operating as a section 501(c)(4) organization. Section 506(f) provides that an organization may separately request a determination of its tax-exempt status. In discussing section 506(f), the Joint Committee on Taxation states that it is intended that such a request for a determination be submitted on a new form (separate from Form 1024, *Application for Recognition of Exemption Under Section 501(a)*) that clearly states that such a request is optional. See Staff of Joint Committee on Taxation, 114th Cong., 1st Sess., Technical Explanation of the Protecting Americans from Tax Hikes Act of 2015, House Amendment #2 to the Senate Amendment to H.R. 2029 (Rules Committee Print 114–40), at 241 (Dec. 17, 2015). In response, the IRS created new Form 1024-A, available at IRS.gov, for use by an organization choosing to apply for recognition of exempt status under section 501(a) as an organization described in section 501(c)(4).

.02 Form 1024 will continue to be used by an organization seeking recognition of exempt status under section 501(a) as an organization described in section

²Section 1(i)(2)(A) provides that the rate tables under sections 1(a), 1(b), 1(c), 1(d), and 1(e) shall be applied “by substituting ‘25%’ for ‘28%’ each place it appears”

501(c)(2), (5), (6), (7), (8), (9), (10), (12), (13), (15), (17), (19), or (25).

.03 Submitting Form 1024-A does not satisfy an organization's requirement to notify the Commissioner that it is operating under section 501(c)(4), as required by section 506. See IRS.gov for information on satisfying the notification requirement using Form 8976, *Notice of Intent to Operate Under Section 501(c)(4)*.

SECTION 3. MODIFICATIONS TO REVENUE PROCEDURE 2018-5

.01 The first paragraph of section 4.02(3) of Rev. Proc. 2018-5 is modified to read as follows:

(3) **Form 1024 application.** An organization seeking a determination letter from the Service recognizing exemption under § 501(c)(2), (5), (6), (7), (8), (9), (10), (12), (13), (15), (17), (19), or (25) must submit a completed Form 1024, *Application for Recognition of Exemption Under Section 501(a)*, along with Form 8718, *User Fee for Exempt Organization Determination Letter Request*.

.02 Section 4.02 of Rev. Proc. 2018-5 is modified by adding new paragraph (7) to read as follows:

(7) **Form 1024-A application.** An organization seeking a determination letter from the Service recognizing exemption under § 501(c)(4) must submit a completed Form 1024-A, *Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code*, along with Form 8718. In the case of an organization that provides credit counseling services and seeks recognition of exemption under § 501(c)(4), see § 501(q).

Section 501(c)(4) organizations may choose to seek a determination letter recognizing exemption under § 501(c)(4) by filing Form 1024-A, but are not required to do so except in certain cases (see, for example, § 6033(j)(2) regarding failures to file annual information returns or annual electronic notifications required under § 6033(a) or (i)).

.03 Section 4.04(3) of Rev. Proc. 2018-5 is renumbered to paragraph 4.04(4) and is modified to read as follows:

(4) **Authorized representatives for all other requests.** Except as provided in section 4.04(1), (2), and (3), to sign the request, or to appear before the Service in

connection with the request, the representative must be listed in Appendix B.

.04 Section 4.04 of Rev. Proc. 2018-5 is modified by adding new paragraph (3) to read as follows:

(3) **Individual or representative authorized to sign Form 1024-A.** In the case of a request for a determination letter made by filing Form 1024-A, an officer, a director, a trustee who is authorized to sign, or a representative authorized by a power of attorney (see section 4.05 of this revenue procedure), must sign the application.

.05 Section 4.06(1) of Rev. Proc. 2018-5 is modified to read as follows:

(1) **Penalty of perjury statement requirements for requests for determination letters made on Form 1023, 1023-EZ, 1024, 1024-A, or 8940.** The signature of an individual described in section 4.04(1), (2), or (3) of this revenue procedure meets the penalty of perjury statement signature requirements for requests on Form 1023, 1023-EZ, 1024, 1024-A, or 8940, as applicable.

.06 The third paragraph of section 4.06(2) of Rev. Proc. 2018-5 is modified to read as follows:

This declaration must be signed and dated by the taxpayer, not the taxpayer's representative authorized by a power of attorney. The signature of an individual described in section 4.04(1) is the signature of the taxpayer for purposes of the penalty of perjury statement. The signature of an authorized representative described in section 4.04(2), (3), or (4) will not meet the penalty of perjury statement requirements (except as otherwise provided in Appendix B). See the instructions to the relevant form for additional detail. Neither a stamped signature nor a faxed signature is permitted.

.07 Section 15.01(1)(a) of Rev. Proc. 2018-5 is modified to read as follows:

(a) applications for recognition of tax exemption on Form 1023, Form 1024, Form 1024-A, and Form 1028;

SECTION 4. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2018-5 is modified.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective January 16, 2018.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Chelsea Rubin of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For additional information, please contact Ms. Rubin at 202-317-5800 (not a toll-free number).

26 CFR 601.201: Rulings and determination letters. (Also: Part I, Sections 832, 846; 1.832-4, 1.846-1.)

Rev. Proc. 2018-13

SECTION 1. PURPOSE

This revenue procedure prescribes the unpaid loss discount factors and salvage discount factors for the 2017 accident year for use in taxable years beginning on or before December 31, 2017. These discount factors will be used to compute discounted unpaid losses under § 846 of the Internal Revenue Code and discounted estimated salvage recoverable under § 832, respectively.

This revenue procedure also alerts taxpayers to amendments made to § 846 by section 13523 of "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018" (H.R. 1, P.L. 115-97) (the "Act"). These amendments are effective for taxable years beginning after December 31, 2017.

SECTION 2. BACKGROUND

.01 Discounted Unpaid Losses

Section 846 provides that discounted unpaid losses must be separately determined for each accident year of each line of business by applying an interest rate determined under § 846(c) and the appropriate loss payment pattern to the amount of unpaid losses as measured at the end of the tax year.

Section 846(d) directs the Secretary to use the most recent aggregate loss payment data of property and casualty insurance companies to determine and publish a loss payment pattern for each line of business every five years. This payment pattern is used to discount unpaid losses for the accident year ending with a determination year and for each of the four succeeding accident years.

For taxable years beginning on or before December 31, 2017, § 846(e) allows a taxpayer to make an election in each determination year to use its own historical loss payment pattern instead of the pattern published by the Secretary. This election does not apply to any international insurance or reinsurance line of business.

Section 846(f)(4) defines the term “line of business” as a category for the reporting of loss payment patterns on the annual statement for fire and casualty companies approved by the National Association of Insurance Commissioners, except that the multiple peril lines shall be treated as a single line of business. Section 846(f)(5) states that the term “multiple peril lines” means the lines of business relating to farmowners multiple peril, homeowners multiple peril, commercial multiple peril, ocean marine, aircraft (all perils), and boiler and machinery.

.02 Discounted Estimated Salvage Recoverable

Section 832(b)(5)(A) requires that all estimated salvage recoverable (including that which cannot be treated as an asset for state accounting purposes) be taken into account in computing the deduction for losses incurred. Under § 832(b)(5)(A), paid losses are reduced by salvage and reinsurance recovered during the taxable year. This amount is adjusted to reflect changes in discounted unpaid losses on nonlife insurance contracts and in unpaid losses on life insurance contracts. An adjustment is then made to reflect any changes in discounted estimated salvage recoverable and in reinsurance recoverable.

Pursuant to § 832(b), the amount of estimated salvage is determined on a discounted basis in accordance with procedures established by the Secretary.

.03 Modification of Discounting Rules

Section 13523 of the Act amended § 846 for taxable years beginning after December 31, 2017. Section 13523 amended the annual rate under § 846(c) and the computational rules for loss payment patterns under § 846(d). Section

13523 also repealed the § 846(e) election to use the taxpayer’s own historical loss payment pattern instead of the pattern published by the Secretary. The transition rule set forth in section 13523 provides that, for the first taxable year beginning after December 31, 2017, the unpaid losses and the expenses unpaid (as defined in § 832(b)(5)(B) and (6)) at the end of the preceding taxable year, and the unpaid losses (as defined in §§ 805(a)(1) and 807(c)(2)) at the end of the preceding taxable year, shall be determined as if the amendments made by section 13523 had applied to such unpaid losses and expenses unpaid in the preceding taxable year and by using the interest rate and loss payment patterns applicable to accident years ending with calendar year 2018, and any adjustment shall be taken into account ratably in such first taxable year and the 7 succeeding taxable years. For subsequent taxable years, such amendments shall be applied with respect to unpaid losses and expenses unpaid for accident years ending with or before calendar year 2018 by using the interest rate and loss payment patterns applicable to accident years ending with calendar year 2018.

.04 Discount Factors for 2017

Pursuant to § 846(d), the Secretary has determined a loss payment pattern for each property and casualty line of business for the 2017 determination year for taxable years beginning on or before December 31, 2017. The loss payment patterns for the 2017 determination year are based on the aggregate loss payment information reported on the 2015 annual statements of property and casualty insurance companies and compiled by A.M. Best and Co. The lines of business for the 2017 determination year are the same as the lines of business for the 2012 determination year. See Rev. Proc. 2012–44, 2012–49 I.R.B. 645. Because section 13523 of the Act amended § 846(d), this revenue procedure provides only the 2017 discount factors for each property and casualty line of business for the 2017 accident year.

.05 Discount Factors for 2018 and Subsequent Years

In accordance with the transition rule provided by section 13523 of the Act, for purposes of taxable years beginning after December 31, 2017, the Department of Treasury and the Internal Revenue Service intend to publish for each property and casualty line of business a revised loss payment pattern and discount factors for the 2017 determination year.

SECTION 3. SCOPE

This revenue procedure applies to any taxpayer that is required to discount unpaid losses under § 846 for a line of business using the discount factors published by the Secretary, and applies to any taxpayer that is required to discount estimated salvage recoverable under § 832. This revenue procedure applies to taxable years beginning on or before December 31, 2017, with respect to losses incurred in the 2017 accident year.

SECTION 4. TABLE OF DISCOUNT FACTORS

The following table presents separately for each line of business the unpaid loss discount factor under § 846 for the 2017 accident year and the salvage recoverable discount factor under § 832 for the 2017 accident year for use in taxable years beginning on or before December 31, 2017. All the discount factors presented in this table were determined by using the applicable interest rate under § 846(c) for 2017, which is 1.46 percent.¹ All the unpaid loss discount factors presented in this table were determined by assuming all loss payments occur in the middle of the calendar year. All the salvage recoverable discount factors presented in this table were determined by assuming all estimated salvage is recovered in the middle of the calendar year. The salvage recoverable discount factors presented in this table must be used by taxpayers irrespective of whether they elected to discount unpaid losses using their own experience under § 846(e).

¹See Table 6 in Rev. Rul. 2016–27, 2016–49 I.R.B. 781. For taxable years beginning on or before December 31, 2017, the annual rate under § 846(c)(2) for 2017 was the average of the applicable Federal mid-term rates (as defined in § 1274(d) but based on annual compounding) effective as of the beginning of each of the calendar months in the 60-calendar-month period ending before the beginning of the 2017 calendar year. Section 13523 of the Act amended § 846(c)(2) for taxable years beginning after December 31, 2017. The annual rate under § 846(c)(2), as amended, will be a rate determined on the basis of the corporate bond yield curve (as defined in § 430(h)(2)(D)(i), determined by substituting ‘60-month period’ for ‘24-month period’ therein).

**Discount Factors for Unpaid Losses and Salvage Recoverable Accident Year 2017
For use in taxable years beginning on or before December 31, 2017**

Line of Business	Unpaid Losses Discount Factor (%)	Salvage Recoverable Discount Factor (%)
Accident and Health (Other Than Disability Income or Credit Disability Insurance)	99.2779	99.2779
Auto Physical Damage	99.1958	99.1075
Commercial Auto/Truck Liability/Medical	96.9625	97.7515
Composite	96.1465	96.8248
Fidelity/Surety	97.9805	97.8563
Financial Guaranty/Mortgage Guaranty	97.8609	97.2545
International (Composite)	96.1465	96.8248
Medical Professional Liability — Claims-Made	95.6819	96.4032
Medical Professional Liability — Occurrence	93.1551	95.7628
Miscellaneous Casualty	98.6848	98.8340
Multiple Peril Lines (Homeowners/Farmowners, Commercial Multiple Peril, and Special Liability (Ocean Marine, Aircraft (All Perils), Boiler and Machinery))	97.5977	97.6281
Other (Including Credit)	98.5437	97.9256
Other Liability — Claims-Made	95.2379	95.7937
Other Liability — Occurrence	94.2656	94.5979
Private Passenger Auto Liability/Medical	97.7896	98.1755
Products Liability — Claims-Made	93.1515	94.8192
Products Liability — Occurrence	93.2038	94.7412
Reinsurance — Nonproportional Assumed Property	97.2568	95.0813
Reinsurance — Nonproportional Assumed Liability	93.3252	92.8718
Reinsurance — Nonproportional Assumed Financial Lines	94.2908	92.6863
Special Property (Fire, Allied Lines, Inland Marine, Earthquake, Burglary and Theft)	98.7523	97.7029
Warranty	99.0973	99.2527
Workers' Compensation	93.6645	93.5726

SECTION 5. EFFECT ON OTHER DOCUMENTS

Table 6 of Rev. Rul. 2017-24, 2017-49 I.R.B. 556, is obsolete.²

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Kathryn M. Sneade of the Office of Associate Chief Counsel (Financial Insti-

tutions & Products). For further information regarding this revenue procedure contact Ms. Sneade at (202) 317-6995 (not a toll-free number).

Section 846.—Discounted unpaid losses defined.

26 C.F.R. 1.846-1: Application of discount factors. Applicable unpaid loss discount factors for the 2017 accident year for purposes of section 846. See Rev. Proc. 2018-13, page 356.

Section 832.—Insurance company taxable income.

26 C.F.R. 1.832-4: Gross income. Applicable salvage discount factors for the 2017 accident year, which must be used to compute discounted estimated salvage recoverable under section 832. See Rev. Proc. 2018-13, page 356.

²Table 6 of Rev. Rul. 2017-24 provides the applicable interest rate for 2018 for purposes of §§ 846 and 807; this rate was based on the applicable Federal mid-term rates. However, sections 13523 and 13517 of the Act changed the rates to be used for purposes of §§ 846 and 807 for taxable years beginning after December 31, 2017; the rates are no longer based on the applicable Federal mid-term rates.

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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¹A 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.

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¹A 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.

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