

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2019-12
March 18, 2019

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

Announcement 2019-02, page 910.

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

Notice 2019-17, page 907.

This notice provides a waiver of the addition to tax under section 6654 for underpayment of estimated income tax by qualifying farmers and fishermen for the 2018 tax year. This addition to tax is waived for any qualifying farmer or fisherman who files his or her 2018 federal income tax return with the proper waiver form and pays in full any tax due by April 15, 2019, or by April 17, 2019, for those taxpayers who live in Maine or Massachusetts.

INCOME TAX

Notice 2019-17, page 907.

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Notice 2019-19, page 907.

Resident populations of the 50 states, the District of Columbia, Puerto Rico, and the insular areas for purposes of determining the 2019 calendar year (1) state housing credit ceiling under section 42(h) of the Code, (2) private activity bond volume cap under section 146, and (3) private activity bond volume limit under section 142(k) are reproduced.

T.D. 9850, page 904.

These final regulations amend the utility allowance regulations concerning the low-income housing credit under section 42. These final regulations extend the principles of the current submetering rules to situations where the building owner independently generates and sells to tenants certain types of energy without the intervention of a local utility company.

The IRS Mission

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

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

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

26 CFR 1.42–10: Utility allowance submetering

T.D. 9850

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Utility Allowance Submetering

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that amend the utility allowance regulations concerning the low-income housing credit under section 42 of the Internal Revenue Code (Code). These final regulations extend the principles of the current submetering rules. The current rules address situations in which a building owner purchases a utility from a utility company and then separately charges the tenants for the utility. In those situations, if the utility costs paid by a tenant are based on actual consumption in the tenant's submetered, rent-restricted unit and if certain other requirements are satisfied, then the charges for the utility are treated as paid by the tenant directly to the utility company, even though the payment passes through the building owner. The final regulations extend these principles and apply to situations in which a building owner sells to tenants energy that is produced from a renewable source and that the owner did not purchase from or through a local utility company. The final regulations affect owners of low-income housing projects that claim the credit, the tenants in those low-income housing projects, and the State and local housing credit agencies that administer the credit.

DATES: *Effective Date:* These final regulations are effective on March 4, 2019.

Applicability Date: For dates of applicability, see § 1.42–12(a)(5).

FOR FURTHER INFORMATION CONTACT: Dillon Taylor, (202) 317-4137 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2016, the Department of the Treasury (Treasury Department) and the IRS published in the **Federal Register** (81 FR 11104) final and temporary regulations (TD 9755) that amended § 1.42–10 of the Income Tax Regulations. The final regulations in TD 9755 clarified the circumstances in which utility costs paid by a tenant based on actual consumption in a submetered, rent-restricted unit are treated as paid by the tenant directly to the utility company and not to the building owner. In such a case, for purposes of section 42, the tenant's payments to the owner for the utilities are not treated as payments of gross rent, and the rent that the owner might otherwise have collected for the unit is reduced by an amount that is called a "utility allowance." The temporary regulations extended the principles of those final regulations to situations in which a building owner sold to tenants energy that was produced from a renewable source and that the owner had not purchased from or through a local utility company.

In the same issue of the **Federal Register** (81 FR 11160), the Treasury Department and the IRS published a notice of proposed rulemaking (REG–123867–14) (the proposed regulations). The text of the proposed regulations incorporated by cross-reference the text of the temporary regulations. The Treasury Department and the IRS received written and electronic comments responding to the proposed regulations. No requests for a public hearing were made, and no public hearing was held.

After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury Decision.

Summary of Comments and Explanation of Provisions

The temporary regulations in TD 9755 applied the submetering principles to energy that the building owner sold to tenants if the energy was "produced from a renewable source" and if the owner had acquired it from the renewable source without the intervention of a local utility company. Qualification for this submetering treatment, however, depended on the charges to the tenants for this energy being comparable to local utility rates. That is, under the temporary regulations, to the extent that tenants consumed this energy, the rate charged by the building owner could not exceed the rate at which the local utility company would have charged the tenants if they had instead acquired the energy from that company.

A commenter requested that the final regulations clarify how a building owner may demonstrate that the rate that the owner charges tenants for renewable energy satisfies this requirement (the evidentiary issue). In addition, if there are multiple local utility rates that the tenants might have been charged (possibly from multiple utility companies), the commenter asked for clarification as to which rate or rates should be taken into account in determining whether the owner's charges to the tenants qualify (the reference-rate issue).

The final regulations resolve both of these issues. Addressing the reference-rate issue, the final regulations require that the rate that the owner charges must not exceed the highest rate at which the tenants might have obtained energy from a local utility company. This criterion has several advantages over alternatives. For example, it is easily administrable (as compared, for example, with a requirement that the owner's rate not exceed the "most typical rate" in the community). Also, the criterion protects an owner's qualifying rate from being disqualified by the introduction of new rates in the community (as might be the case, for example, if the reference for the criterion were the average or median of local rates).

Regarding the evidentiary issue, in determining the acceptability of the rate that a building owner charges tenants, the owner may rely on the rates published by local utility companies.

The temporary regulations in TD 9755 provide that, for purposes of qualifying for submetering treatment, energy is “produced from a renewable source” if it is energy that is produced from energy property described in section 48; energy that is produced from a facility described in section 45(d)(1), (2), (3), (4), (6), (9), or (11); or energy that is described in guidance published for this purpose in the Internal Revenue Bulletin. Sections 45 and 48 of the Code determine whether a taxpayer is entitled to certain energy-related credits. A commenter requested that the final regulations clarify the extent to which these cross-references to “energy property” and “facility” incorporate the various requirements for earning those credits.

The final regulations clarify that the building owner need not own the source from which the utility is produced and need not qualify for, or receive, any credit under section 45 or 48 associated with the source. Indeed, energy may qualify as “produced from a renewable resource” even if potential entitlement to credits under these Code sections has expired. Thus, the final regulations clarify that they refer to “energy property” and “facility” as a means of describing certain types of production of renewable energy but that they do not also incorporate any other criteria from those Code sections.

Under section 42(g)(1) and (2), a residential unit may qualify as a low-income unit only if it is “rent-restricted.” The amount that qualifies as restricted rent is determined based on the assumption that most utilities are generally covered by that rent. See H.R. Conf. Rep. 99–841, at II–94 (1986). For that reason, if the tenant pays for a utility directly, the rent that the owner may require from the tenant is reduced. The amount of this reduction is called a “utility allowance.” See section 42(g)(2)(B)(ii) and § 1.42–10(a). Language in the preamble of TD 9755 states that utility costs paid by a tenant based on actual consumption in a submetered, rent-restricted unit are treated as paid by the tenant directly to the utility and thus do not count against the maximum rent that

the building owner can charge. Referencing this language, one commenter requested that the final regulations clarify whether a building owner of a submetered building is required to reduce its maximum gross rents by the amount of a utility allowance. Because § 1.42–10(e) treats a tenant in a submetered, rent-restricted unit as having paid for a utility directly and not by or through the owner of the building, the proper treatment of the tenant’s submetered utility payments is the same as if the tenant had made those payments directly to the utility company—(1) Although the payments pass through the building owner, they are not treated for purposes of the rent restriction as if they were payments of rent; and (2) The amount of rent that the owner might otherwise have demanded from the tenant is reduced by the amount of an applicable utility allowance.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations. Therefore, a regulatory impact assessment is not required. It has also been determined that the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply because the regulations do not impose a collection of information on small entities. Pursuant to section 7805(f) of the Internal Revenue Code, this proposed rule preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business and no comments were received.

Drafting Information

The principal author of this regulation is James W. Rider, formerly of the Office of the Associate Chief Counsel (Pass-throughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in its development.

* * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for § 1.42–10T to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Sections 1.42–6, 1.42–8, 1.42–9, 1.42–10, 1.42–11, and 1.42–12, also issued under 26 U.S.C. 42(n).

Par. 2. Section 1.42–0T is amended by removing the entries for § 1.42–10T.

Par. 3. Section 1.42–10 is amended by:

1. Revising paragraph (e)(1)(i) introductory text.
2. Revising paragraph (e)(1)(i)(B).
3. Adding paragraphs (e)(1)(i)(C) and (D).
4. Revising paragraph (e)(1)(iv)(B).

The revisions and additions read as follows:

§ 1.42–10 Utility allowances.

* * * * *

(e) * * *

(1) * * *

(i) The utility consumed in the unit is described in paragraph (e)(1)(i)(A) or (e)(1)(i)(B) of this section;

* * * * *

(B) The utility is not purchased from or through a local utility company and is produced from a renewable source (within the meaning of paragraph (e)(1)(i)(C) of this section).

(C) For purposes of paragraph (e)(1)(i)(B) of this section, a utility is produced from a renewable source if—

(1) It is energy that is produced from energy property described in section 48;

(2) It is energy that is produced from a facility described in section 45(d)(1), (2), (3), (4), (6), (9), or (11); or

(3) It is a utility that is described in guidance published for this purpose in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii) of this chapter).

(D) Determinations under paragraph (e)(1)(i)(C)(1) and (2) of this section take into account only the manner in which the energy is produced and not who owns the energy property or the facility or whether

the applicability of relevant portions of sections 45 and 48 has expired.

* * * * *

(iv) * * *

(B) To the extent that the utility consumed is described in paragraph (e)(1)(i)(B) of this section, the utility rate charged to the tenants of the unit does not exceed the highest rate that the tenants would have paid if they had obtained the utility from a local utility company. In determining whether a rate satisfies the preceding sentence, a building owner may rely on the rates published by local utility companies.

* * * * *

§ 1.42–10T [Removed]

Par. 5. Section 1.42–10T is removed.

Par. 6. Section 1.42–12 is amended by:

1. Revising paragraph (a)(5)(i)(E).
2. Revising paragraph (a)(5)(ii).
3. Adding paragraph (a)(5)(iii).

The revisions and addition read as follows:

§ 1.42–12 *Effective dates and transitional rules.*

(a) * * *

(5) * * *

(i) * * *

(E) Section 1.42–10(e), except as provided in paragraph (a)(5)(iii) of this section.

(ii) Except as provided in paragraph (a)(5)(iii) of this section, a building owner may apply the provisions described in paragraph (a)(5)(i)(A)–(E) of this section to the building owner’s taxable years beginning before March 3, 2016. Otherwise, the utility allowance provisions that apply to those taxable years are contained in § 1.42–10, as contained in 26 CFR part 1, revised as of April 1, 2015.

(iii) The provisions in § 1.42–10(e)(1)(i) introductory text, (e)(1)(i)(B)–(D), and (e)(1)(iv)(B) apply to a building owner’s taxable years beginning on or after March 4, 2019. A building owner, how-

ever, may apply these provisions to earlier taxable years. Otherwise, the submetering provisions that apply to taxable years beginning after March 3, 2016, and before March 4, 2019 are contained in § 1.42–10 and § 1.42–10T as contained in 26 CFR part 1 revised as of April 1, 2016. In addition, a building owner may apply those submetering provisions to taxable years beginning before March 3, 2016.

Kirsten Wielobob,
Deputy Commissioner for Services and Enforcement.

Approved: February 26, 2019.

David J. Kautter,
Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on February 27, 2019, 4:15 p.m. and published in the issue of the Federal Register for March 4, 2019, 84 F.R. 7283)

Part III. Administrative, Procedural, and Miscellaneous

Relief from Addition to Tax for Underpayment of Estimated Income Tax by Individual Farmers and Fishermen

Notice 2019-17

SECTION 1. PURPOSE

This notice provides a waiver of the addition to tax under section 6654 of the Internal Revenue Code (Code) for underpayment of estimated income tax by qualifying individual farmers and fishermen.

SECTION 2. BACKGROUND

Generally, the Code requires taxpayers to pay federal income taxes as they earn income. To the extent these taxes are not withheld from wages, a taxpayer must pay estimated income tax on a quarterly basis.

Section 6654 provides that, in the case of an individual, estimated income tax is required to be paid in four installments each 25 percent of the required annual payment. Individual taxpayers who fail to make a sufficient and timely payment of estimated income tax are liable for an addition to tax under section 6654(a).

Qualifying farmers and fishermen are subject to special rules requiring them to make only one installment payment due on January 15 of the year following the taxable year. I.R.C. § 6654(i)(1)(A) & (B). A taxpayer qualifies as a farmer or fisherman for the 2018 tax year if at least two-thirds of the taxpayer's total gross income was from farming or fishing in either 2017 or 2018. *See* I.R.C. § 6654(i)(2). Qualifying farmers and fishermen who did not make the required estimated tax installment payment by January 15, 2019, are not subject to an addition to tax for failing to pay estimated income tax if they file their returns and pay the full amount of tax reported on the return as payable by March 1, 2019. *See* I.R.C. § 6654(i)(1)(D).

The Secretary is authorized to waive the section 6654 addition to tax for an

underpayment of estimated tax in unusual circumstances to the extent its imposition would be against equity and good conscience. I.R.C. § 6654(e)(3)(A).

Due to certain changes in the rules that affect farmers and fishermen, the Treasury Department and IRS anticipate that farmers and fishermen may have difficulty accurately determining and paying their tax liability for the 2018 taxable year by March 1, 2019. Accordingly, the IRS is providing relief to individual taxpayers who are farmers or fishermen by waiving certain penalties if the requirements set forth in section 3 of this notice are satisfied.

SECTION 3. WAIVER OF UNDERPAYMENT OF ESTIMATED INCOME TAX

Under the authority granted by section 6654(e)(3)(A), the addition to tax under section 6654 for failure to make an estimated tax payment for the 2018 tax year is waived for any qualifying farmer or fisherman who files his or her 2018 income tax return and pays in full any tax due by April 15, 2019, or by April 17, 2019, for those taxpayers who live in Maine or Massachusetts. Farmers and fishermen requesting this waiver of the addition to tax must attach Form 2210-F, *Underpayment of Estimated Tax by Farmers and Fishermen*, to their 2018 tax return. The form can be submitted electronically or on paper. The taxpayer's name and identifying number should be entered at the top of the form, and the waiver box (Part I, Box A) should be checked. The rest of the form should be left blank. Forms, instructions, and other tax assistance are available on IRS.gov. The IRS toll-free number for general tax questions is 1-800-829-1040.

SECTION 4. CONTACT INFORMATION

The principal author of this notice is Alexander Wu of the Office of the Associate Chief Counsel (Procedure and Administration). For further information,

please contact Mr. Wu at (202) 317-6845 (not a toll-free number).

2019 Calendar Year Resident Population Figures

Notice 2019-19

This notice advises State and local housing credit agencies that allocate low-income housing tax credits under § 42 of the Internal Revenue Code, and States and other issuers of tax-exempt private activity bonds under § 141, of the population figures to use in calculating: (1) the 2019 calendar year population-based component of the State housing credit ceiling (Credit Ceiling) under § 42(h)(3)(C)(ii); (2) the 2019 calendar year volume cap (Volume Cap) under § 146; and (3) the 2019 volume limit (Volume Limit) under § 142(k)(5).

Generally, § 146(j) requires determining the population figures for the population-based component of both the Credit Ceiling and the Volume Cap for any calendar year on the basis of the most recent census estimate of the resident population of a State (or issuing authority) released by the U.S. Census Bureau before the beginning of the calendar year. Similarly, § 142(k)(5) bases the Volume Limit on the State population.

Sections 42(h)(3)(H) and 146(d)(2) require adjusting for inflation the population-based component of the Credit Ceiling and the Volume Cap. The Credit Ceiling adjustment for the 2019 calendar year is in Rev. Proc. 2018-57, 2018-49 I.R.B. 827. Section 3.10 of Rev. Proc. 2018-57 provides that, for calendar year 2019, the amount for calculating the Credit Ceiling under § 42(h)(3)(C)(ii) is the greater of \$2.75625 multiplied by the State population, or \$3,166,875. Further, section 3.21 of Rev. Proc. 2018-57 provides that the amount for calculating the Volume Cap under § 146(d)(1) for calendar year 2019 is the greater of \$105 multiplied by the State population, or \$316,745,000.

For the 50 states, the District of Columbia, and Puerto Rico, the population figures for calculating the Credit Ceiling,

the Volume Cap, and the Volume Limit for the 2019 calendar year are the resident population estimates released electronically by the U.S. Census Bureau on December 19, 2018, and described in Press Release CB18-193. For American Sa-

moa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands, the population figures for the 2019 calendar year are the 2018 midyear population figures in the U.S. Census Bureau's International Data Base (IDB). The U.S. Census

Bureau electronically announced an update of the IDB on September 18, 2018, in Press Release CB18-TPS.45.

For convenience, these figures are reprinted below.

	<i>Resident Population Figures</i>
Alabama	4,887,871
Alaska	737,438
American Samoa	50,826
Arizona	7,171,646
Arkansas	3,013,825
California	39,557,045
Colorado	5,695,564
Connecticut	3,572,665
Delaware	967,171
District of Columbia	702,455
Florida	21,299,325
Georgia	10,519,475
Guam	167,772
Hawaii	1,420,491
Idaho	1,754,208
Illinois	12,741,080
Indiana	6,691,878
Iowa	3,156,145
Kansas	2,911,505
Kentucky	4,468,402
Louisiana	4,659,978
Maine	1,338,404
Maryland	6,042,718
Massachusetts	6,902,149
Michigan	9,995,915
Minnesota	5,611,179
Mississippi	2,986,530
Missouri	6,126,452
Montana	1,062,305
Nebraska	1,929,268
Nevada	3,034,392
New Hampshire	1,356,458
New Jersey	8,908,520
New Mexico	2,095,428
New York	19,542,209
North Carolina	10,383,620
North Dakota	760,077
Northern Mariana Islands	51,994
Ohio	11,689,442
Oklahoma	3,943,079

	<i>Resident Population Figures</i>
Oregon	4,190,713
Pennsylvania	12,807,060
Puerto Rico	3,195,153
Rhode Island	1,057,315
South Carolina	5,084,127
South Dakota	882,235
Tennessee	6,770,010
Texas	28,701,845
Utah	3,161,105
Vermont	626,299
Virginia	8,517,685
Virgin Islands, U.S.	106,977
Washington	7,535,591
West Virginia	1,805,832
Wisconsin	5,813,568
Wyoming	577,737

The principal authors of this notice are Michael J. Torruella Costa, Office of the Associate Chief Counsel (Passthroughs and Special Industries), and Timothy L.

Jones, Office of the Associate Chief Counsel (Financial Institutions and Products). For further information regarding this notice, please contact Mr. Torruella

Costa at (202) 317-4137 (not a toll-free number).

Part IV. Items of General Interest

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2019–02

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

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

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

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

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

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

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

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

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

Disciplinary sanctions are described in these terms:

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

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

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

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

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

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

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

A practitioner who has been disbarred or suspended under 31 C.F.R. § 10.60, or suspended under § 10.82, or a disqualified appraiser may petition for reinstatement before the IRS after the expiration of 5 years following such disbarment, suspension, or disqualification (or immediately following the expiration of the suspension or disqualification period if shorter than 5 years). Reinstatement will not be granted unless the IRS is satisfied that the petitioner is not likely to engage thereafter in conduct contrary to Circular 230, and that granting such reinstatement would not be contrary to the public interest.

Reinstatement decisions are published at the individual's request, and described in these terms:

Reinstated to practice before the IRS—The individual's petition for reinstatement has been granted. The individual is an attorney, certified public accountant, enrolled agent, enrolled actuary, or an enrolled retirement plan agent, and eligible to practice before the IRS, or in the case of an appraiser, the individual is no longer disqualified.

Reinstated to engage in limited practice before the IRS—The individual's petition for reinstatement has been granted. The individual is an unenrolled/unlicensed return preparer and eligible to engage in limited practice before the IRS.

OPR has authority to disclose the grounds for disciplinary sanctions in these situations: (1) an ALJ or the Secretary's delegate on appeal has issued a final decision; (2) the individual has settled a dis-

ciplinary case by signing OPR's "consent to sanction" agreement admitting to one or more violations of the regulations and consenting to the disclosure of the admitted violations (for example, failure to file Federal income tax returns, lack of due diligence, conflict of interest, etc.); (3) OPR has issued a decision in an expedited proceeding for indefinite suspension; or (4) OPR has made a final determination (including any decision on appeal) that an unenrolled/unlicensed return preparer is ineligible to represent any taxpayer before the IRS.

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

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Arkansas				
Springdale	Driskell, Gini	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 1, 2018
California				
Pasadena	Hart, Thomas E.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 12, 2018
Idaho				
Twin Falls	Roe, Janet	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 16, 2018
Maryland				
Germantown	Haymon, Gregory L.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 29, 2018
Massachusetts				
Milton	Tierney, Jr., Paul R.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from December 10, 2018
Missouri				
Lake Ozark	Hermann, Christopher	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 19, 2018
New York				
Little Neck	Ahern, Christopher J.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from December 10, 2018

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
North Carolina				
Kill Devil Hills	Sharp, Linda R.	CPA	Disbarred by ALJ default decision	September 7, 2018
Charlotte	Stampley, Margaret F.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 26, 2018
Oklahoma				
Tulsa	Auer, David B.	CPA		Reinstated to practice before the IRS, effective December 10, 2018
	Haymon, Gregory L., see Maryland			
Ohio				
Akron	Plesich, Gregory T.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 19, 2018
Texas				
Desoto	Walker, Vicki L.	Enrolled Agent	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 15, 2018
Houston	Hopkins, Andrew M.	CPA	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 14, 2018

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 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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¹A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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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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