

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

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.

Bulletin No. 2020-19
May 4, 2020

ADMINISTRATIVE

REG-117138-17, page 796.

This guidance contains proposed amendments to the regulations relating to the imposition of certain user fees on tax return preparers. Pursuant to the guidelines in OMB Circular A-25, the IRS has recalculated its cost of providing PTINs and has determined that the full cost of administering the PTIN program going forward has been reduced. Therefore, the regulations propose to reduce the amount of the user fee to obtain or renew a PTIN from \$33 to \$21, plus \$14.95 payable directly to a third-party contractor.

Rev. Rul. 2020-8, page 775.

This item is a revenue ruling that suspends Rev. Rul. 71-533 entirely and also suspends Rev. Rul. 68-150 in part. The revenue rulings are suspended pending reconsideration by the Department of the Treasury and the Internal Revenue Service of whether the ten-year limitations period provided by section 6511(d)(3)(A) of the Internal Revenue Code applies to claims for refund or credit of an overpayment resulting from a foreign tax credit carryback arising as a result of a net operating loss carryback from a subsequent year.

ADMINISTRATIVE, INCOME TAX

Rev. Proc. 2020-28, page 792.

This revenue procedure provides tax return filing procedures for certain eligible individuals who are not otherwise required to file 2019 Federal income tax returns to facilitate their receipt of the allowed economic impact payments provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281, 334-7 (March 27, 2020).

EMPLOYEE PLANS

Notice 2020-27, page 778.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for April 2020 used under § 417(e)(3)(D), the 24-month average segment rates applicable for April 2020, and the 30-year Treasury rates, as reflected by the application of § 430(h)(2)(C)(iv).

INCOME TAX

Announcement 2020-5, page 796.

The Announcement provides clarity to Connecticut homeowners who receive financial assistance from the Connecticut Foundation Solutions Indemnity Company, Inc. for the repair of premature deterioration of the concrete foundations of their homes due to the mineral pyrrhotite.

Notice 2020-28, page 781.

This notice publishes the reference price under section 45K(d)(2)(C) of the Internal Revenue Code for calendar year 2019. The reference price applies in determining the amount of the enhanced oil recovery credit under § 43, the marginal well production credit for qualified crude oil production under § 45I, and the applicable percentage under § 613A to be used in determining percentage depletion in the case of oil and natural gas produced from marginal properties.

Notice 2020-30, page 781.

The notice announces that under § 613A(c)(6)(C) of the Internal Revenue Code, the applicable percentage for purposes of determining percentage depletion on marginal properties for calendar year 2020 is 15 percent. The format of the notice is identical to the format of notices previously published on this issue.

Notice 2020-31, page 783.

The notice announces the inflation adjustment factor and phase-out amount for the enhanced oil recovery credit for taxable years beginning in the 2020 calendar year. The notice concludes that because the reference price for the 2019 calendar year (\$55.55) exceeds \$28 multiplied by the inflation adjustment factor for the 2019 calendar year (\$28 multiplied by 1.7640 = \$49.392) by \$6.16, the enhanced oil recovery credit for qualified costs paid or incurred in 2020 is phased out completely.

Rev. Rul. 2020-11, page 776.

Federal rates; adjusted federal rates; adjusted federal long-term rate, the long-term exempt rate, and the blended annu-

al rate. For purposes of sections 382, 1274, 1288, 7872 and other sections of the Code, tables set forth the rates for May 2020.

Rev. Proc. 2020-25, page 785.

This revenue procedure provides guidance allowing a taxpayer to change its depreciation under section 168 for certain qualified improvement property. This revenue procedure also allows a taxpayer to make a late election, or to revoke or withdraw an election, under § 168(g)(7), (k)(5), (k)(7) or (k)(10) of the Code for certain years.

The IRS Mission

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

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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Part I

Section 6511.—Limitations on Credit or Refund

26 CFR 301.6511(d)-3: Special rules applicable to credit against income tax for foreign taxes

Rev. Rul. 2020-8

This revenue ruling suspends Rev. Rul. 71-533, 1971-2 C.B. 413, pending reconsideration by the Department of the Treasury (Treasury Department) and the Internal Revenue Service (Service) of whether the ten-year limitations period provided by section 6511(d)(3)(A) of the Internal Revenue Code (Code) applies to claims for refund or credit of an overpayment resulting from a foreign tax credit (FTC) carryback arising as a result of a net operating loss (NOL) carryback from a subsequent year. As part of the reconsideration of Rev. Rul. 71-533, Rev. Rul. 68-150, 1968-1 C.B. 564, is also being reconsidered and is suspended in part as discussed in the “ANALYSIS” section of this ruling.

REVENUE RULING

In Rev. Rul. 71-533, the Service considered whether the special ten-year period of limitations provided by section 6511(d)(3)(A) can apply to claims for refund or credit of an overpayment resulting from an FTC carryback that arose as a result of an NOL carryback from a subsequent year. The taxpayer incurred an NOL in 1969 that it carried back to 1966, eliminating the taxpayer’s entire taxable income for 1966. In its original 1966 return, the taxpayer had claimed an FTC for the foreign taxes it had paid that year. There was no change to the computation or amount of the creditable foreign taxes reported as paid in 1966. When the NOL carryback eliminated the taxpayer’s taxable income for 1966, the entire amount of taxes it paid to foreign countries for that year exceeded the amount allowable as an FTC for 1966. As a result, the taxpayer carried the excess FTC back from 1966 to 1964, which generated an overpayment in that year for which the taxpayer filed a claim for refund. The ruling held that the refund claim was subject to the limitations period provided by section 6511(d)(3)(A).

In Rev. Rul. 68-150, the Service addressed the scope of section 6511(d)(3)(A) and concluded, in relevant part, that it applied to “claims for credit or refund based on the correction of mathematical errors in the computation of taxes subject to the provisions of that section... or *any other adjustments to the size of the foreign tax credit*, including those due to the payment of additional foreign taxes” (emphasis added).

LAW

Section 6511(d)(3)(A) provides, in part, that when “the claim for credit or refund relates to an overpayment attributable to any taxes paid or accrued to any foreign country,” the limitations period is ten years from the due date of the return for the year in which the foreign taxes were paid or accrued.

Section 6511(d)(2)(A) provides, in part, that when “the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback or a capital loss carryback,” the limitations period is three years from the due date of the return for the year of the net operating loss or net capital loss that results in such carryback.

ANALYSIS

The Treasury Department and the Service are reconsidering whether the ten-year limitations period provided by section 6511(d)(3)(A) applies to the refund claim at issue in Rev. Rul. 71-533. Under the facts of Rev. Rul. 71-533, there would not have been any excess FTC available to be carried back from 1966 to generate an overpayment in 1964 if the taxpayer had not first carried the NOL back from 1969 to 1966. As is the case with FTCs, claims for credit or refund that relate to overpayments attributable to NOL carrybacks have a special limitations provision in section 6511(d)(2)(A) of the Code. The 1964 overpayment resulted from the interaction of the NOL carryback from 1969 and FTC carryback from 1966, but Rev. Rul. 71-533 does not consider whether the three-year limitations period provided by section 6511(d)(2)(A) of the Code should apply to the refund. Whether sec-

tion 6511(d)(2)(A) should apply to the refund claim at issue in Rev. Rul. 71-533 instead of section 6511(d)(3) is an issue that is being reconsidered by the Treasury Department and the Service.

Accordingly, Rev. Rul. 71-533 is suspended pending reconsideration by the Treasury Department and the Service.

As part of its reconsideration of Rev. Rul. 71-533, the Treasury Department and Service are also reconsidering the portion of Rev. Rul. 68-150, 1968-1 C.B. 564, that refers to “the correction of mathematical errors in the computation of taxes subject to the provisions of that section... or any other adjustments to the size of the foreign tax credit.” Therefore, this portion of Rev. Rul. 68-150 is suspended, with respect to adjustments that arise from a change to the FTC limitation, including as the result of the correction of mathematical errors or the application of an NOL carryback.

PROSPECTIVE APPLICATION

While the Treasury Department and Service are reconsidering whether section 6511(d)(3)(A) applies to claims for refund or credit of an overpayment resulting from an FTC carryback arising as a result of an NOL carryback from a subsequent year, the suspension of Rev. Rul. 71-533 and the partial suspension of Rev. Rul. 68-150 will not be applied adversely to a taxpayer that filed or files a claim for credit or refund within the limitations period of section 6511(d)(3) of the Code in accordance with Rev. Rul. 71-533 and Rev. Rul. 68-150.

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 71-533 is suspended, and Rev. Rul. 68-150 is suspended in part.

DRAFTING INFORMATION

The principal author of this revenue ruling is Marshall French of the Office of the Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue ruling, contact Marshall French at (202) 317-6845 (not a toll-free number).

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

(Also Sections 42, 280G, 382, 467, 468, 482, 483, 1288, 7520, 7872.)

Rev. Rul. 2020-11

This revenue ruling provides various prescribed rates for federal income

tax purposes for May 2020 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropri-

ate percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2020-11 TABLE 1
Applicable Federal Rates (AFR) for May 2020
Period for Compounding

| | <i>Annual</i> | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
|----------|---------------|-------------------|------------------|----------------|
| | | <i>Short-term</i> | | |
| AFR | 0.25% | 0.25% | 0.25% | 0.25% |
| 110% AFR | 0.28% | 0.28% | 0.28% | 0.28% |
| 120% AFR | 0.30% | 0.30% | 0.30% | 0.30% |
| 130% AFR | 0.33% | 0.33% | 0.33% | 0.33% |
| | | <i>Mid-term</i> | | |
| AFR | 0.58% | 0.58% | 0.58% | 0.58% |
| 110% AFR | 0.64% | 0.64% | 0.64% | 0.64% |
| 120% AFR | 0.70% | 0.70% | 0.70% | 0.70% |
| 130% AFR | 0.75% | 0.75% | 0.75% | 0.75% |
| 150% AFR | 0.87% | 0.87% | 0.87% | 0.87% |
| 175% AFR | 1.02% | 1.02% | 1.02% | 1.02% |
| | | <i>Long-term</i> | | |
| AFR | 1.15% | 1.15% | 1.15% | 1.15% |
| 110% AFR | 1.27% | 1.27% | 1.27% | 1.27% |
| 120% AFR | 1.38% | 1.38% | 1.38% | 1.38% |
| 130% AFR | 1.51% | 1.50% | 1.50% | 1.50% |

REV. RUL. 2020-11 TABLE 2
Adjusted AFR for May 2020
Period for Compounding

| | <i>Annual</i> | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
|-------------------------|---------------|-------------------|------------------|----------------|
| Short-term adjusted AFR | 0.19% | 0.19% | 0.19% | 0.19% |
| Mid-term adjusted AFR | 0.44% | 0.44% | 0.44% | 0.44% |
| Long-term adjusted AFR | 0.87% | 0.87% | 0.87% | 0.87% |

REV. RUL. 2020-11 TABLE 3
Rates Under Section 382 for May 2020

| | |
|--|-------|
| Adjusted federal long-term rate for the current month | .87% |
| Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.) | 1.47% |

REV. RUL. 2020-11 TABLE 4
Appropriate Percentages Under Section 42(b)(1) for May 2020

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

| | |
|--|-------|
| Appropriate percentage for the 70% present value low-income housing credit | 7.20% |
| Appropriate percentage for the 30% present value low-income housing credit | 3.08% |

REV. RUL. 2020-11 TABLE 5
Rate Under Section 7520 for May 2020

| | |
|---|-----|
| Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest | .8% |
|---|-----|

Section 42.—Low-Income Housing Credit

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

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

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

Section 483.—Interest on Certain Deferred Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

Section 280G.—Golden Parachute Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

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

The applicable federal short-term rates are set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

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

The adjusted applicable federal long-term rate is set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

Section 482.—Allocation of Income and Deductions Among Taxpayers

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

Section 7520.—Valuation Tables

The applicable federal mid-term rates are set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

Section 7872.—Treatment of Loans With Below-Market Interest Rates

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of May 2020. See Rev. Rul. 2020-11, page 776.

Part III

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

Notice 2020-27

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

YIELD CURVE AND SEGMENT RATES

Section 430 specifies the minimum funding requirements that apply to single-employer plans (except for CSEC

plans under § 414(y)) pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins.¹ However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Notice 2007-81, 2007-44 I.R.B. 899, provides guidelines for determining the monthly corporate bond yield curve, and the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. Consistent with the methodology specified in Notice 2007-81, the monthly corporate bond yield curve derived from March 2020 data

is in Table 2020-3 at the end of this notice. The spot first, second, and third segment rates for the month of March 2020 are, respectively, 2.22, 3.08, and 3.73

The 24-month average segment rates determined under § 430(h)(2)(C)(i) through (iii) must be adjusted pursuant to § 430(h)(2)(C)(iv) to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates. For plan years beginning before 2021, the applicable minimum percentage is 90% and the applicable maximum percentage is 110%. The 25-year average segment rates for plan years beginning in 2019 and 2020 were published in Notice 2018-73, 2018-40 I.R.B. 526, and Notice 2019-51, 2019-41 I.R.B. 866, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for April 2020 without adjustment for the 25-year average segment rate limits are as follows:

| Applicable Month | 24-Month Average Segment Rates Without 25-Year Average Adjustment | | |
|------------------|---|----------------|---------------|
| | First Segment | Second Segment | Third Segment |
| April 2020 | 2.68 | 3.71 | 4.19 |

Based on § 430(h)(2)(C)(iv), the 24-month averages applicable for April 2020, adjusted to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates, are as follows:

| Adjusted 24-Month Average Segment Rates | | | | |
|---|------------------|---------------|----------------|---------------|
| For Plan Years Beginning In | Applicable Month | First Segment | Second Segment | Third Segment |
| 2019 | April 2020 | 3.74 | 5.35 | 6.11 |
| 2020 | April 2020 | 3.64 | 5.21 | 5.94 |

30-YEAR TREASURY SECURITIES INTEREST RATES

Section 431 specifies the minimum funding requirements that apply to multi-employer plans pursuant to § 412. Section

431(c)(6)(B) specifies a minimum amount for the full-funding limitation described in § 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be

no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88-73, 1988-2 C.B.

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

383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for March 2020 is 1.46 percent. The

Service determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in February 2050. For plan years beginning in April

2020, the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rates used to calculate current liability are as follows:

| <i>Treasury Weighted Average Rates</i> | | |
|--|--|--------------------------------------|
| For Plan Years Beginning In | 30-Year Treasury Weighted Average | Permissible Range 90% to 105% |
| April 2020 | 2.70 | 2.43 to 2.83 |

MINIMUM PRESENT VALUE SEGMENT RATES

In general, the applicable interest rates

under § 417(e)(3)(D) are segment rates computed without regard to a 24-month average. Notice 2007-81 provides guidelines for determining the minimum pres-

ent value segment rates. Pursuant to that notice, the minimum present value segment rates determined for March 2020 are as follows:

| <i>Minimum Present Value Segment Rates</i> | | | |
|--|----------------------|-----------------------|----------------------|
| Month | First Segment | Second Segment | Third Segment |
| March 2020 | 2.22 | 3.08 | 3.73 |

DRAFTING INFORMATION

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

ciate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the IRS participated in the development

of this guidance. For further information regarding this notice, contact Mr. Morgan at 202-317-6700 or Paul Stern at 202-317-8702 (not toll-free numbers).

Table 2020-3
Monthly Yield Curve for March 2020
Derived from March 2020 Data

| <i>Maturity</i> | <i>Yield</i> | <i>Maturity</i> | <i>Yield</i> | <i>Maturity</i> | <i>Yield</i> | <i>Maturity</i> | <i>Yield</i> | <i>Maturity</i> | <i>Yield</i> |
|-----------------|--------------|-----------------|--------------|-----------------|--------------|-----------------|--------------|-----------------|--------------|
| 0.5 | 2.15 | 20.5 | 3.51 | 40.5 | 3.76 | 60.5 | 3.84 | 80.5 | 3.88 |
| 1.0 | 2.17 | 21.0 | 3.53 | 41.0 | 3.76 | 61.0 | 3.84 | 81.0 | 3.89 |
| 1.5 | 2.19 | 21.5 | 3.54 | 41.5 | 3.76 | 61.5 | 3.84 | 81.5 | 3.89 |
| 2.0 | 2.20 | 22.0 | 3.55 | 42.0 | 3.77 | 62.0 | 3.85 | 82.0 | 3.89 |
| 2.5 | 2.21 | 22.5 | 3.56 | 42.5 | 3.77 | 62.5 | 3.85 | 82.5 | 3.89 |
| 3.0 | 2.22 | 23.0 | 3.57 | 43.0 | 3.77 | 63.0 | 3.85 | 83.0 | 3.89 |
| 3.5 | 2.22 | 23.5 | 3.57 | 43.5 | 3.78 | 63.5 | 3.85 | 83.5 | 3.89 |
| 4.0 | 2.24 | 24.0 | 3.58 | 44.0 | 3.78 | 64.0 | 3.85 | 84.0 | 3.89 |
| 4.5 | 2.27 | 24.5 | 3.59 | 44.5 | 3.78 | 64.5 | 3.85 | 84.5 | 3.89 |
| 5.0 | 2.31 | 25.0 | 3.60 | 45.0 | 3.78 | 65.0 | 3.85 | 85.0 | 3.89 |
| 5.5 | 2.36 | 25.5 | 3.61 | 45.5 | 3.79 | 65.5 | 3.86 | 85.5 | 3.89 |
| 6.0 | 2.41 | 26.0 | 3.62 | 46.0 | 3.79 | 66.0 | 3.86 | 86.0 | 3.89 |
| 6.5 | 2.47 | 26.5 | 3.62 | 46.5 | 3.79 | 66.5 | 3.86 | 86.5 | 3.89 |
| 7.0 | 2.54 | 27.0 | 3.63 | 47.0 | 3.79 | 67.0 | 3.86 | 87.0 | 3.89 |
| 7.5 | 2.60 | 27.5 | 3.64 | 47.5 | 3.80 | 67.5 | 3.86 | 87.5 | 3.89 |
| 8.0 | 2.67 | 28.0 | 3.64 | 48.0 | 3.80 | 68.0 | 3.86 | 88.0 | 3.90 |
| 8.5 | 2.74 | 28.5 | 3.65 | 48.5 | 3.80 | 68.5 | 3.86 | 88.5 | 3.90 |
| 9.0 | 2.80 | 29.0 | 3.66 | 49.0 | 3.80 | 69.0 | 3.86 | 89.0 | 3.90 |
| 9.5 | 2.86 | 29.5 | 3.66 | 49.5 | 3.80 | 69.5 | 3.86 | 89.5 | 3.90 |
| 10.0 | 2.92 | 30.0 | 3.67 | 50.0 | 3.81 | 70.0 | 3.87 | 90.0 | 3.90 |
| 10.5 | 2.98 | 30.5 | 3.67 | 50.5 | 3.81 | 70.5 | 3.87 | 90.5 | 3.90 |
| 11.0 | 3.03 | 31.0 | 3.68 | 51.0 | 3.81 | 71.0 | 3.87 | 91.0 | 3.90 |
| 11.5 | 3.08 | 31.5 | 3.68 | 51.5 | 3.81 | 71.5 | 3.87 | 91.5 | 3.90 |
| 12.0 | 3.12 | 32.0 | 3.69 | 52.0 | 3.81 | 72.0 | 3.87 | 92.0 | 3.90 |
| 12.5 | 3.16 | 32.5 | 3.69 | 52.5 | 3.82 | 72.5 | 3.87 | 92.5 | 3.90 |
| 13.0 | 3.20 | 33.0 | 3.70 | 53.0 | 3.82 | 73.0 | 3.87 | 93.0 | 3.90 |
| 13.5 | 3.24 | 33.5 | 3.70 | 53.5 | 3.82 | 73.5 | 3.87 | 93.5 | 3.90 |
| 14.0 | 3.27 | 34.0 | 3.71 | 54.0 | 3.82 | 74.0 | 3.87 | 94.0 | 3.90 |
| 14.5 | 3.30 | 34.5 | 3.71 | 54.5 | 3.82 | 74.5 | 3.87 | 94.5 | 3.90 |
| 15.0 | 3.32 | 35.0 | 3.72 | 55.0 | 3.82 | 75.0 | 3.88 | 95.0 | 3.90 |
| 15.5 | 3.35 | 35.5 | 3.72 | 55.5 | 3.83 | 75.5 | 3.88 | 95.5 | 3.90 |
| 16.0 | 3.37 | 36.0 | 3.73 | 56.0 | 3.83 | 76.0 | 3.88 | 96.0 | 3.91 |
| 16.5 | 3.39 | 36.5 | 3.73 | 56.5 | 3.83 | 76.5 | 3.88 | 96.5 | 3.91 |
| 17.0 | 3.41 | 37.0 | 3.73 | 57.0 | 3.83 | 77.0 | 3.88 | 97.0 | 3.91 |
| 17.5 | 3.43 | 37.5 | 3.74 | 57.5 | 3.83 | 77.5 | 3.88 | 97.5 | 3.91 |
| 18.0 | 3.44 | 38.0 | 3.74 | 58.0 | 3.83 | 78.0 | 3.88 | 98.0 | 3.91 |
| 18.5 | 3.46 | 38.5 | 3.74 | 58.5 | 3.84 | 78.5 | 3.88 | 98.5 | 3.91 |
| 19.0 | 3.47 | 39.0 | 3.75 | 59.0 | 3.84 | 79.0 | 3.88 | 99.0 | 3.91 |
| 19.5 | 3.49 | 39.5 | 3.75 | 59.5 | 3.84 | 79.5 | 3.88 | 99.5 | 3.91 |
| 20.0 | 3.50 | 40.0 | 3.75 | 60.0 | 3.84 | 80.0 | 3.88 | 100.0 | 3.91 |

2019 Section 45K(d)(2)(C) Reference Price

Notice 2020-28

SECTION 1. PURPOSE

This notice publishes the reference price under § 45K(d)(2)(C) of the Internal Revenue Code for calendar year 2019. The credit period for the nonconventional source production credit under § 45K ended on December 31, 2013, for facilities producing coke or coke gas (other than from petroleum based products). However, the reference price continues to apply in determining the amount of the enhanced oil recovery credit under § 43, the marginal well production credit for qualified crude oil production under § 45I, and the applicable percentage under § 613A to be used in determining percentage depletion in the case of oil and natural gas produced from marginal properties.

SECTION 2. BACKGROUND

Section 45K(d)(2)(C) provides that the term “reference price” means, with respect to a calendar year, the Secretary’s estimate of the annual average wellhead price per barrel for all domestic crude oil the price of which is not subject to regulation by the United States.

Section 43(a) provides that, for purposes of § 38, the enhanced oil recovery credit for any taxable year is an amount equal to 15 percent of the taxpayer’s qualified enhanced oil recovery costs for such taxable year.

Section 43(b)(1) provides that the amount of enhanced oil recovery credit for any taxable year shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as - (A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds \$28, bears to (B) \$6. Section 43(b)(2) provides that the term

“reference price” means, with respect to any calendar year, the reference price determined for such calendar year under § 45K(d)(2)(C).

Section 45I(a) provides that, for purposes of § 38, the marginal well production credit for any taxable year is an amount equal to the product of the credit amount and the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

Section 45I(b)(1) provides that for crude oil production, the amount of the marginal well production credit is \$3 per barrel of qualified crude oil production.

Section 45I(b)(2) provides that the \$3 amount under § 45I(b)(1) shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as - (i) the excess (if any) of the applicable reference price over \$15, bears to (ii) \$3. The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

Section 45I(b)(2)(C) provides that for qualified crude oil production the term “reference price” means, with respect to any calendar year, the reference price determined under § 45K(d)(2)(C).

Section 613A(c)(6)(A) provides, in general, that the allowance for depletion under § 611 shall be computed in accordance with § 613 with respect to - (i) so much of the taxpayer’s average daily marginal production of domestic crude oil as does not exceed the taxpayer’s depletable oil quantity (determined without regard to paragraph (3)(A)(ii)), and (ii) so much of the taxpayer’s average daily marginal production of domestic natural gas as does not exceed the taxpayer’s depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii)), and the applicable percentage shall be deemed to be specified in subsection (b) of § 613 for purposes of subsection (a) of that section.

Section 613A(c)(6)(C) provides that the term “applicable percentage” means the percentage (not greater than 25 per-

cent) equal to the sum of - (i) 15 percent, plus (ii) 1 percentage point for each whole dollar by which \$20 exceeds the reference price for crude oil for the calendar year preceding the calendar year in which the taxable year begins. For purposes of this paragraph, the term “reference price” means, with respect to any calendar year, the reference price determined for such calendar year under § 45K(d)(2)(C).

SECTION 3. REFERENCE PRICE

The reference price under § 45K(d)(2)(C) for calendar year 2019 is \$55.55.

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Christopher F. Price of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Mr. Price on (202) 317-6853 (not a toll-free number).

2020 Marginal Production Rates

Notice 2020-30

This notice announces the applicable percentage under § 613A of the Internal Revenue Code to be used in determining percentage depletion for marginal properties for the 2020 calendar year.

Section 613A(c)(6)(C) defines the term “applicable percentage” for purposes of determining percentage depletion for oil and gas produced from marginal properties. The applicable percentage is the percentage (not greater than 25 percent) equal to the sum of 15 percent, plus one percentage point for each whole dollar by which \$20 exceeds the reference price (determined under § 45K(d)(2)(C)) for crude oil for the calendar year preceding the calendar year in which the taxable year begins. The reference price determined

under § 45K(d)(2)(C) for the 2019 calendar year is \$55.55.

The following table contains the applicable percentages for marginal production

for taxable years beginning in calendar years 1991 through 2020.

Notice 2020-30

APPLICABLE PERCENTAGE FOR MARGINAL PRODUCTION

| <i>Calendar Year</i> | <i>Applicable Percentage</i> |
|----------------------|------------------------------|
| 1991 | 15 percent |
| 1992 | 18 percent |
| 1993 | 19 percent |
| 1994 | 20 percent |
| 1995 | 21 percent |
| 1996 | 20 percent |
| 1997 | 16 percent |
| 1998 | 17 percent |
| 1999 | 24 percent |
| 2000 | 19 percent |
| 2001 | 15 percent |
| 2002 | 15 percent |
| 2003 | 15 percent |
| 2004 | 15 percent |
| 2005 | 15 percent |
| 2006 | 15 percent |
| 2007 | 15 percent |
| 2008 | 15 percent |
| 2009 | 15 percent |
| 2010 | 15 percent |
| 2011 | 15 percent |
| 2012 | 15 percent |
| 2013 | 15 percent |
| 2014 | 15 percent |
| 2015 | 15 percent |
| 2016 | 15 percent |
| 2017 | 15 percent |
| 2018 | 15 percent |
| 2019 | 15 percent |
| 2020 | 15 percent |

The principal author of this notice is Brendan P. Coppinger of the Office of Associate Chief Counsel (Passthroughs

and Special Industries). For further information regarding this notice contact Mr.

Coppinger at (202) 317-6853 (not a toll-free number).

2020 Section 43 Inflation Adjustment

Notice 2020-31

Section 43(a) provides that for purposes of section 38, the enhanced oil recovery credit for any taxable year is an amount equal to 15 percent of the taxpayer's qualified enhanced oil recovery costs for such taxable year.

Section 43(b)(1) provides that the amount of the credit determined under subsection (a) for any taxable year shall be reduced by an amount which bears the same ratio to the amount of such credit

(determined without regard to this paragraph) as – (A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds \$28, bears to (B) \$6.

Section 43(b)(3)(B) of the Internal Revenue Code requires the Secretary to publish an inflation adjustment factor. The enhanced oil recovery credit under § 43 for any taxable year is reduced if the “reference price,” determined under § 45K(d)(2)(C), for the calendar year preceding the calendar year in which the taxable year begins is greater than \$28 multiplied by the inflation adjustment factor for that year.

The term “inflation adjustment factor” means, with respect to any calendar year,

a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990.

Because the reference price for the 2019 calendar year (\$55.55) exceeds \$28 multiplied by the inflation adjustment factor for the 2019 calendar year (\$28 multiplied by 1.7640 = \$49.392) by \$6.16, the enhanced oil recovery credit for qualified costs paid or incurred in 2020 is phased out completely.

Table 1 contains the GNP implicit price deflator used for the 2020 calendar year, as well as the previously published GNP implicit price deflators used for the 1991 through 2019 calendar years.

Notice 2020-31 TABLE 1
GNP IMPLICIT PRICE DEFLATORS

| <i>Calendar Year</i> | <i>GNP Implicit Price Deflator</i> | |
|----------------------|------------------------------------|----------------------|
| 1990 | 112.9 | (used for 1991) |
| 1991 | 117.0 | (used for 1992) |
| 1992 | 120.9 | (used for 1993) |
| 1993 | 124.1 | (used for 1994) |
| 1994 | 126.0 | (used for 1995)* |
| 1995 | 107.5 | (used for 1996) |
| 1996 | 109.7 | (used for 1997)** |
| 1997 | 112.35 | (used for 1998) |
| 1998 | 112.64 | (used for 1999)*** |
| 1999 | 104.59 | (used for 2000) |
| 2000 | 106.89 | (used for 2001) |
| 2001 | 109.31 | (used for 2002) |
| 2002 | 110.63 | (used for 2003) |
| 2003 | 105.67 | (used for 2004)**** |
| 2004 | 108.23 | (used for 2005) |
| 2005 | 112.129 | (used for 2006) |
| 2006 | 116.036 | (used for 2007) |
| 2007 | 119.656 | (used for 2008) |
| 2008 | 122.407 | (used for 2009) |
| 2009 | 109.764 | (used for 2010)***** |
| 2010 | 110.654 | (used for 2011) |
| 2011 | 113.347 | (used for 2012)***** |
| 2012 | 115.387 | (used for 2013) |
| 2013 | 106.710 | (used for 2014)***** |

| | | |
|------|---------|----------------------|
| 2014 | 108.407 | (used for 2015)***** |
| 2015 | 109.868 | (used for 2016) |
| 2016 | 111.528 | (used for 2017) |
| 2017 | 113.500 | (used for 2018) |
| 2018 | 110.308 | (used for 2019)***** |
| 2019 | 112.257 | (used for 2020) |

* Beginning in 1995, the GNP implicit price deflator was rebased relative to 1992. The 1990 GNP implicit price deflator used to compute the 1996 § 43 inflation adjustment factor is 93.6.

** Beginning in 1997, two digits follow the decimal point in the GNP implicit price deflator. The 1990 GNP price deflator used to compute the 1998 § 43 inflation adjustment factor is 93.63.

*** Beginning in 1999, the GNP implicit price deflator was rebased relative to 1996. The 1990 GNP implicit price deflator used to compute the 2000 § 43 inflation adjustment factor is 86.53.

**** Beginning in 2003, the GNP implicit price deflator was rebased, and the 1990 GNP implicit price deflator used to compute the 2004 § 43 inflation adjustment factor is 81.589.

***** Beginning in 2009, the GNP implicit price deflator was rebased, and the 1990 GNP implicit price deflator used to compute the 2010 § 43 inflation adjustment factor is 72.199.

***** Beginning in 2011, the 1990 GNP implicit price deflator used to compute the 2012 § 43 inflation adjustment factor is 72.260.

***** Beginning in 2013, the GNP implicit price deflator was rebased, and the 1990 GNP implicit price deflator used to compute the 2014 § 43 inflation adjustment factor is 66.803.

***** Beginning in 2014, the 1990 GNP implicit price deflator used to compute the 2015 § 43 inflation adjustment factor is 66.732.

***** Beginning in 2018, the 1990 GNP implicit price deflator used to compute the 2019 § 43 inflation adjustment factor is 63.637.

Table 2 contains the inflation adjustment factor and the phase-out amount for taxable years beginning in the 2020 calendar year as well as the previously published inflation adjustment factors and phase-out amounts for taxable years beginning in the 1991 through 2019 calendar years.

Notice 2020-31 TABLE 2
INFLATION ADJUSTMENT FACTORS AND
PHASE-OUT AMOUNTS

| <i>Calendar Year</i> | <i>Inflation Adjustment Factor</i> | <i>Phase-out Amount</i> |
|----------------------|------------------------------------|-------------------------|
| 1991 | 1.0000 | 0 |
| 1992 | 1.0363 | 0 |
| 1993 | 1.0708 | 0 |
| 1994 | 1.0992 | 0 |
| 1995 | 1.1160 | 0 |
| 1996 | 1.1485 | 0 |
| 1997 | 1.1720 | 0 |
| 1998 | 1.1999 | 0 |
| 1999 | 1.2030 | 0 |
| 2000 | 1.2087 | 0 |
| 2001 | 1.2353 | 0 |
| 2002 | 1.2633 | 0 |
| 2003 | 1.2785 | 0 |
| 2004 | 1.2952 | 0 |
| 2005 | 1.3266 | 0 |

| | | |
|------|--------|---------------|
| 2006 | 1.3743 | 100 percent |
| 2007 | 1.4222 | 100 percent |
| 2008 | 1.4666 | 100 percent |
| 2009 | 1.5003 | 100 percent |
| 2010 | 1.5203 | 100 percent |
| 2011 | 1.5326 | 100 percent |
| 2012 | 1.5686 | 100 percent |
| 2013 | 1.5968 | 100 percent |
| 2014 | 1.5974 | 100 percent |
| 2015 | 1.6245 | 100 percent |
| 2016 | 1.6464 | 0 |
| 2017 | 1.6713 | 0 |
| 2018 | 1.7008 | 1.069 percent |
| 2019 | 1.7334 | 100 percent |
| 2020 | 1.7640 | 100 percent |

DRAFTING INFORMATION

The principal author of this notice is Brendan P. Coppinger of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact Mr. Coppinger at (202) 317-6853 (not a toll-free number).

26 CFR 1.168(k)-2: Additional first year depreciation deduction for property acquired and placed in service after September 27, 2017.
(Also Part I, §§ 168, 446; 1.446-1)

Rev. Proc. 2020-25

SECTION 1. PURPOSE

This revenue procedure provides guidance allowing a taxpayer to change its depreciation under § 168 of the Internal Revenue Code (Code) for qualified improvement property placed in service by the taxpayer after December 31, 2017, in its taxable year ending in 2018 (2018 taxable year), 2019 (2019 taxable year), or 2020 (2020 taxable year). This revenue procedure also allows a taxpayer to make a late election, or to revoke or withdraw an election, under § 168(g)(7), (k)(5), (k)(7), or (k)(10) of the Code for the taxpayer's 2018 taxable year, 2019 taxable year, or 2020 taxable year.

SECTION 2. BACKGROUND

.01 *Qualified Improvement Property.*

(1) Section 13204 of Public Law 115-97, 131 Stat. 2054, 2109 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA), amended § 168(b)(3), (e), and (k) effective for property placed in service after December 31, 2017. *See* TCJA § 13204(h)(1). Section 168(b)(3), as amended by § 13204(a)(2) of the TCJA, provides that qualified improvement property as described in § 168(e)(6) is depreciated by using the straight-line method of depreciation for purposes of the general depreciation system under § 168(a) (GDS). Section 168(e)(6), as added by § 13204(a)(4)(B)(i) the TCJA, provides the definition of qualified improvement property. Section 168(k)(2)(A)(i)(IV) and (k)(3), which had provided that qualified improvement property was a separate class of property eligible for the additional first year depreciation deduction under § 168(k) prior to amendment by the TCJA, were repealed by § 13204(a)(4)(A)(iii) and (B)(ii) of the TCJA, respectively. Because the amendments made by §§ 12001(b)(13), 13201(a), (b)(1), (2)(B)–(g), 13203(a), (b), 13205(a), and 13504(b)(1) of the TCJA also did not specify a class of property under § 168(e) for qualified improvement property placed in service after December 31, 2017, such property was classified as nonresidential

real property under § 168(e)(2)(B) and, consequently, not eligible for the additional first year depreciation deduction under § 168(k).

(2) Section 2307 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136, 134 Stat. 281 (March 27, 2020) (CARES Act) amended § 168(e)(3)(E), (e)(6), and (g)(3)(B). Section 2307(a)(1)(A) of the CARES Act added a new clause (vii) to the end of § 168(e)(3)(E) to provide that qualified improvement property is classified as 15-year property. Section 2307(a)(1)(B) of the CARES Act amended the definition of qualified improvement property in § 168(e)(6) by providing that the improvement must be “made by the taxpayer.” In addition, section 2307(a)(2) of the CARES Act amended the table in § 168(g)(3)(B) to provide a recovery period of 20 years for qualified improvement property for purposes of the alternative depreciation system under § 168(g) (ADS). These amendments to § 168(e) and (g) are effective as if included in § 13204 of the TCJA. (Hereinafter, all references in this revenue procedure to qualified improvement property are references to qualified improvement property as defined in § 168(e)(6) as amended by the CARES Act unless otherwise indicated.)

(3) As a result of the amendments to § 168(e) and (g) made by § 2307 of the

CARES Act, the depreciation of qualified improvement property placed in service by the taxpayer after December 31, 2017, has changed. Such property is depreciated under the GDS using the straight-line method of depreciation, a 15-year recovery period, and the half-year or mid-quarter convention, as applicable, pursuant to § 168(b)(3), (c), and (d), and is depreciated under the ADS using the straight-line method of depreciation, a 20-year recovery period, and the half-year or mid-quarter convention, as applicable, pursuant to § 168(g)(2) and (3)(B). Further, assuming all requirements of § 168(k) and § 1.168(k)-2 of the Income Tax Regulations are met, qualified improvement property acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer after December 31, 2017, is eligible for the additional first year depreciation deduction under § 168(k), as amended by the TCJA. Similarly, assuming all requirements of § 168(k), prior to amendment by the TCJA, and § 1.168(k)-1 are met, qualified improvement property, as defined in § 168(k)(3) as in effect prior to amendment by the TCJA, acquired by the taxpayer before September 28, 2017, and placed in service by the taxpayer after December 31, 2017, is eligible for the additional first year depreciation deduction under § 168(k) as in effect prior to amendment by the TCJA.

.02 Elections under § 168(g)(7) and (k).

(1) Section 168(g)(7) allows a taxpayer to make an election to depreciate under the ADS any class of property placed in service by the taxpayer during the taxable year (§ 168(g)(7) election). If the § 168(g)(7) election is made, the election applies to all property that is in the same class of property and placed in service in the same taxable year. However, for nonresidential real property and residential rental property, the election may be made separately for each property. Once made, the § 168(g)(7) election is irrevocable. *See* § 168(g)(7)(B). Section 301.9100-7T(a)(2) and (3) of the Procedure and Administration Regulations provide the time and manner of making the § 168(g)(7) election. Such election is made by the due date, including extensions, of the Federal income tax return or Form 1065, *U.S. Return of Partnership Income*, for the taxable year

in which the property is placed in service by the taxpayer, and is made by attaching a statement to such return. The instructions to Form 4562, *Depreciation and Amortization*, provide that the § 168(g)(7) election is made by completing line 20 of Form 4562.

(2) Section 168(k)(5)(A) allows a taxpayer to make an election to apply the special rules of § 168(k)(5) to one or more specified plants that are planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of its farming business, as defined in § 263A(e) (4) (§ 168(k)(5) election). The rules and procedures for making the § 168(k)(5) election are set forth in § 1.168(k)-2(f)(2). Pursuant to § 1.168(k)-2(f)(2)(ii), the § 168(k)(5) election is made by the due date, including extensions, of the Federal income tax return or Form 1065 for the taxable year in which the taxpayer planted or grafted the specified plant to which the § 168(k)(5) election applies, and is made in the manner prescribed on Form 4562 and its instructions. For specified plants planted, or grafted to a plant that was previously planted, by the taxpayer before the applicability date set forth in § 1.168(k)-2(h) for § 1.168(k)-2, section 4.05 of Rev. Proc. 2017-33, 2017-19 I.R.B. 1236, provides the time and manner for making the § 168(k)(5) election and such procedures are the same as in § 1.168(k)-2(f)(2)(ii). Further, if a taxpayer timely filed its Federal income tax return or Form 1065 for the taxpayer's taxable year beginning in 2017 and ending on or after September 28, 2017, sections 4.01(2) and 4.02 of Rev. Proc. 2019-33, 2019-34 I.R.B. 662, provide special procedures to allow the taxpayer to make a deemed § 168(k)(5) election or a late § 168(k)(5) election for a specified plant planted, or grafted to a plant that was previously planted, by the taxpayer after September 27, 2017.

(3) Section 168(k)(7) allows a taxpayer to make an election not to deduct the additional first year depreciation for any class of property that is qualified property placed in service during the taxable year (§ 168(k)(7) election). The rules and procedures for making the § 168(k)(7) election are set forth in § 1.168(k)-2(f)(1). Section 1.168(k)-2(f)(1)(ii) defines "class of property" for purposes of the § 168(k)(7) election. Under § 1.168(k)-2(f)

(1)(ii), qualified improvement property is included in the 15-year property class and is not a separate class of property. However, qualified improvement property, as defined in § 168(k)(3) as in effect prior to amendment by the TCJA, acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer before January 1, 2018, is a separate class of property under § 1.168(k)-2(f)(1)(ii)(D). Pursuant to § 1.168(k)-2(f)(1)(iii), the § 168(k)(7) election is made by the due date, including extensions, of the Federal income tax return or Form 1065 for the taxable year in which the qualified property is placed in service by the taxpayer, and is made in the manner prescribed on Form 4562 and its instructions. For qualified property placed in service by the taxpayer before the applicability date set forth in § 1.168(k)-2(h) for § 1.168(k)-2, section 4.04 of Rev. Proc. 2017-33 provides the time and manner for making the § 168(k)(7) election and such procedures are the same as in § 1.168(k)-2(f)(1)(iii). Further, if a taxpayer timely filed its Federal income tax return or Form 1065 for the taxpayer's taxable year beginning in 2017 and ending on or after September 28, 2017, sections 5.02(2) and 5.03 of Rev. Proc. 2019-33 provide special procedures to allow the taxpayer to make a deemed § 168(k)(7) election or a late § 168(k)(7) election for a class of property that is qualified property acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer during such taxable year.

(4) Section 168(k)(10) allows a taxpayer to make an election to deduct 50 percent, instead of 100 percent, additional first year depreciation for: (a) all qualified property acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer during its taxable year that includes September 28, 2017; and (b) all specified plants that are planted, or grafted to a plant that has already been planted, after September 27, 2017, by the taxpayer in the ordinary course of the taxpayer's farming business during its taxable year that includes September 28, 2017, if the taxpayer makes the § 168(k)(5) election for that taxable year (§ 168(k)(10) election). The rules and procedures for making the § 168(k)(10) election are set forth in § 1.168(k)-2(f)(3). Pursuant to §

1.168(k)-2(f)(3)(ii), the § 168(k)(10) election is made by the due date, including extensions, of the Federal income tax return or Form 1065 for the taxpayer's taxable year that includes September 28, 2017, and is made in the manner prescribed on the 2017 Form 4562 and its instructions. For qualified property placed in service, and specified plants planted, or grafted to a plant that was previously planted, by the taxpayer before the applicability date set forth in § 1.168(k)-2(h) for § 1.168(k)-2, section 6.02 of Rev. Proc. 2019-33 provides the time and manner for making the § 168(k)(10) election and such procedures are the same as in § 1.168(k)-2(f)(3)(ii). Further, if a taxpayer timely filed its Federal income tax return or Form 1065 for the taxpayer's taxable year beginning in 2017 and ending on or after September 28, 2017, sections 6.03(2) and 6.04 of Rev. Proc. 2019-33 provide special procedures to allow the taxpayer to make a deemed § 168(k)(10) election or a late § 168(k)(10) election for all qualified property acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer during such taxable year, or for all specified plants planted, or grafted to a plant that was previously planted, by the taxpayer after September 27, 2017.

(5) Section 1.168(k)-2(f)(5) provides that, in general, the § 168(k)(5) election, § 168(k)(7) election, and § 168(k)(10) election, once made, may be revoked only by filing a request for a private letter ruling and obtaining the written consent of the Commissioner of Internal Revenue (Commissioner) to revoke the election. Further, if a taxpayer timely filed its Federal income tax return or Form 1065 for the taxpayer's taxable year beginning in 2017 and ending on or after September 28, 2017, sections 4.03, 5.04, and 6.05 of Rev. Proc. 2019-33 provide special procedures to allow the taxpayer to revoke its § 168(k)(5) election, § 168(k)(7) election, and § 168(k)(10) election, respectively, made for such taxable year. As noted in section 2.02(1) of this revenue procedure, section 168(g)(7)(B) provides that the § 168(g)(7) election, once made, is irrevocable.

.03 Method of accounting.

(1) Section 446(e) and § 1.446-1(e)(2) require a taxpayer to secure the consent of the Commissioner before changing a

method of accounting for Federal income tax purposes. Section 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions necessary to permit a taxpayer to obtain consent to change a method of accounting.

(2) Section 2.05 of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, 425, provides that a taxpayer may not request, or otherwise make, a retroactive change in method of accounting, unless specifically authorized by the Commissioner or by statute.

(3) Section 1.446-1(e)(2)(ii)(d)(3)(iii) provides that the making of a late depreciation election or the revocation of a timely valid depreciation election is not a change in method of accounting, except as otherwise expressly provided by the Code, the regulations under the Code, or other guidance published in the Internal Revenue Bulletin.

(4) With the enactment of the CARES Act, immediate guidance is needed under § 168 for taxpayers who are affected by the various amendments to the Code, including, for example, the retroactive changes made to § 168(e) and (g) for qualified improvement property. Accordingly, this revenue procedure permits certain taxpayers to file an amended return, administrative adjustment request under section 6227 (AAR), or a Form 3115, *Application for Change in Accounting Method*, to change their depreciation of qualified improvement property placed in service after December 31, 2017, in the taxpayers' 2018, 2019, or 2020 taxable year. See section 3 of this revenue procedure for the procedures for changing the depreciation of qualified improvement property. Further, this revenue procedure permits taxpayers to make a late election under § 168(g)(7), (k)(5), (k)(7), or (k)(10), to revoke an election under § 168(k)(5), (k)(7), or (k)(10), or to withdraw an election under § 168(g)(7), for property placed in service by the taxpayer during its 2018, 2019, or 2020 taxable year, for a limited period of time. Because of the administrative burden of filing amended returns and AARs, the Department of the Treasury and the Internal Revenue Service (IRS) also have determined that it is appropriate to treat the making of a late election under § 168(g)(7), (k)(5), (k)(7), or (k)(10), or the revocation of the revo-

cable election under § 168(k)(5), (k)(7), or (k)(10), for property placed in service by taxpayers during their 2018, 2019, or 2020 taxable years, as a change in method of accounting with a § 481(a) adjustment for a limited period of time. See sections 4 and 5 of this revenue procedure for the procedures to make these late elections, to revoke these elections, or to withdraw the irrevocable election under § 168(g)(7).

SECTION 3. QUALIFIED IMPROVEMENT PROPERTY

.01 Scope. This section 3 applies to qualified improvement property placed in service by the taxpayer after December 31, 2017, in the taxpayer's 2018, 2019, or 2020 taxable year. However, this section 3 does not apply to:

(1) Qualified improvement property placed in service after December 31, 2017, by a taxpayer that made a late election, or withdrew an election, under § 163(j)(7)(B) (electing real property trade or business) or § 163(j)(7)(C) (electing farming business) for the taxable year in which the qualified improvement property is placed in service by the taxpayer, in accordance with Rev. Proc. 2020-22, 2020-18 I.R.B. 745 (April 27, 2020), released on www.irs.gov on April 10, 2020. Any changes to depreciation for such qualified improvement property, or other depreciable property, affected by the late election or withdrawn election under § 163(j)(7)(B) or 163(j)(7)(C) are made in accordance with sections 4.02 and 4.03, or 5.02 of Rev. Proc. 2020-22, as applicable; or

(2) Qualified improvement property for which the taxpayer deducted or deducts the cost or other basis of such property as an expense.

.02 Impermissible method to permissible method of determining depreciation.

(1) *In general.* A taxpayer changing the depreciation of qualified improvement property within the scope of this section 3 to the depreciation method, recovery period, and convention described in section 2.01(3) of this revenue procedure is changing from an impermissible method of accounting to a permissible method of accounting. Similarly, a change from not claiming to claiming the additional first year depreciation deduction under § 168(k) for qualified improvement proper-

ty that is within the scope of this section 3 and is eligible for the additional first year depreciation deduction is a change from an impermissible method of accounting to a permissible method of accounting.

(2) *One-year qualified improvement property.* For qualified improvement property that is within the scope of this section 3 and is placed in service by the taxpayer in the taxable year immediately preceding the year of change, as defined in section 3.19 of Rev. Proc. 2015-13 (1-year QIP), the taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation for the 1-year QIP by filing a Form 3115 for this change in accordance with section 3.02(3)(b) of this revenue procedure, provided the § 481(a) adjustment reported on the Form 3115 includes the amount of any adjustment attributable to all property, including the 1-year QIP, subject to the Form 3115. Alternatively, the taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation for the 1-year QIP by filing an amended return or AAR in accordance with section 3.02(3)(a) of this revenue procedure.

(3) *Changing to the permissible method of determining depreciation.* The taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation for qualified improvement property within the scope of this section 3 by filing either:

(a) Except as provided in Rev. Proc. 2020-23, 2020-18 I.R.B. 749, (April 27, 2020), released on www.irs.gov on April 8, 2020, regarding the time to file amended returns by a partnership subject to the centralized partnership audit regime enacted as part of the Bipartisan Budget Act of 2015 (BBA partnership) for taxable years beginning in 2018 and 2019, a Federal amended income tax return or amended Form 1065 for the placed-in-service year of the qualified improvement property on or before October 15, 2021, but in no event later than the applicable period of limitations on assessment for the taxable year for which the amended return is being filed. In the case of a BBA partnership that chooses not to file an amended Form 1065 as permitted under Rev. Proc. 2020-

23 or that cannot file an amended Form 1065 because the placed-in-service year of the qualified improvement property is a taxable year that is not within the scope of Rev. Proc. 2020-23, the BBA partnership may file an AAR for the placed-in-service year of the qualified improvement property on or before October 15, 2021, but in no event later than the applicable period of limitations on making adjustments under § 6235 for the reviewed year as defined in § 301.6241-1(a)(8). This amended return or AAR must include the adjustment to taxable income for the change in determining depreciation of the qualified improvement property and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on original or amended Federal returns or AARs for any affected succeeding taxable years; or

(b) A Form 3115 with the taxpayer's timely filed Federal income tax return or Form 1065 under the automatic change procedures in Rev. Proc. 2015-13. See section 6.03(1) of this revenue procedure for the procedures for making this change in method of accounting.

SECTION 4. AUTOMATIC EXTENSION OF TIME TO FILE CERTAIN ELECTIONS UNDER SECTION 168

.01 *Scope.* This section 4 applies to:

(1) A taxpayer that (a) placed in service depreciable property during its 2018, 2019, or 2020 taxable year, (b) timely filed its Federal income tax return or Form 1065 for the placed-in-service year of such depreciable property and such return was filed on or before April 17, 2020, (c) wants to make a § 168(g)(7) election, § 168(k)(5) election, or § 168(k)(7) election for such depreciable property, and (d) did not previously revoke or withdraw such election(s) in accordance with section 5.02 of this revenue procedure. The taxpayer makes the § 168(g)(7) election, § 168(k)(5) election, or § 168(k)(7) election in accordance with section 2.02(1), (2), or (3), respectively, of this revenue procedure or under section 4.02 of this revenue procedure; or

(2) A taxpayer that (a) timely filed its Federal income tax return or Form 1065 for the taxpayer's taxable year that includes September 28, 2017, (b) wants

to make a § 168(k)(10) election for such taxable year, and (c) did not previously revoke a § 168(k)(10) election for such taxable year in accordance with section 5.02 of this revenue procedure. The taxpayer makes the § 168(k)(10) in accordance with section 2.02(4) of this revenue procedure or under section 4.02 of this revenue procedure.

.02 *Time and manner of making a late § 168(g)(7), (k)(5), (k)(7), or (k)(10) election.* A taxpayer within the scope of this section 4 may make the late § 168(g)(7), (k)(5), (k)(7), or (k)(10) election by filing either:

(1) Except as provided in Rev. Proc. 2020-23 regarding the time to file amended returns by BBA partnerships for taxable years beginning in 2018 and 2019, a Federal amended income tax return or amended Form 1065 for the placed-in-service year of the property on or before October 15, 2021, but in no event later than the applicable period of limitations on assessment for the taxable year for which the amended return is being filed. In the case of a BBA partnership that chooses not to file an amended Form 1065 as permitted under Rev. Proc. 2020-23 or that cannot file an amended Form 1065 because the placed-in-service year of the property is a taxable year that is not within the scope of Rev. Proc. 2020-23, the BBA partnership may file an AAR for the placed-in-service year of the property on or before October 15, 2021, but in no event later than the applicable period of limitations on making adjustments under § 6235 for the reviewed year as defined in § 301.6241-1(a)(8). This amended return or AAR must include the adjustment to taxable income for the late election and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on original or amended Federal returns or AARs for any affected succeeding taxable years; or

(2) A Form 3115 with the taxpayer's timely filed original Federal income tax return or Form 1065 (a) for the taxpayer's first or second taxable year succeeding the taxable year in which the taxpayer placed in service the property, or (b) that is filed on or after April 17, 2020, and on or before October 15, 2021. The late § 168(g)(7), (k)(5), (k)(7), or (k)(10) election under this section 4.02(2)

will be treated as a change in method of accounting with a § 481(a) adjustment only during this limited period of time. The time and manner of making this late election are described in section 6.03(2) of this revenue procedure.

SECTION 5. CONSENT TO REVOKE OR WITHDRAW CERTAIN ELECTIONS UNDER SECTION 168

.01 *Scope.* This section 5 applies to:

(1) A taxpayer that (a) placed in service depreciable property during its 2018, 2019, or 2020 taxable year, (b) made a § 168(k)(5) election or § 168(k)(7) election on its timely filed original Federal income tax return or Form 1065 for the placed-in-service year of such depreciable property and such return was filed on or before April 17, 2020, or made a § 168(k)(5) election or § 168(k)(7) election in accordance with section 4 or 5 of Rev. Proc. 2019-33, respectively, for the placed-in-service year of such depreciable property on or before April 17, 2020, and (c) wants to revoke such election. If the taxpayer revokes the § 168(k)(7) election in accordance with section 5.02(2) of this revenue procedure, the revocation applies to all property included in the class of property and placed in service during the same taxable year;

(2) A taxpayer that made a § 168(k)(10) election on its timely filed original Federal income tax return or Form 1065 for the taxpayer's taxable year that includes September 28, 2017, and such return was filed on or before April 17, 2020, or made a § 168(k)(10) election in accordance with section 6 of Rev. Proc. 2019-33 for the taxpayer's taxable year that includes September 28, 2017, on or before April 17, 2020, and that wants to revoke the § 168(k)(10) election. If the taxpayer revokes the § 168(k)(10) election in accordance with section 5.02(2) of this revenue procedure, the revocation applies to (a) all qualified property acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer during its taxable year that includes September 28, 2017, and (b) all specified plants that are planted, or grafted to a plant that has already been planted, after September 27, 2017, by the taxpayer in the ordinary course of the

taxpayer's farming business during its taxable year that includes September 28, 2017, if the taxpayer made the § 168(k)(5) election for that taxable year; or

(3) A taxpayer that (a) placed in service depreciable property during its 2018, 2019, or 2020 taxable year, (b) made a § 168(g)(7) election on its timely filed original Federal income tax return or Form 1065 for the placed-in-service year of such depreciable property and such return was filed on or before April 17, 2020, and (c) wants to withdraw such election. If the taxpayer withdraws the § 168(g)(7) election in accordance with section 5.02(3) of this revenue procedure, the taxpayer will be treated as if the election was never made for all property included in the class of property and placed in service during the same taxable year. However, if the taxpayer withdraws the § 168(g)(7) election for an item of nonresidential real property or residential rental property in accordance with section 5.02(3) of this revenue procedure, the taxpayer will be treated as if the election was not made for that specific item of nonresidential real property or residential rental property.

.02 *Consent granted to revoke or withdraw election.*

(1) *In general.* The Commissioner grants a taxpayer within the scope of this section 5 consent to revoke its § 168(k)(5) election, § 168(k)(7) election, or § 168(k)(10) election, or consent to withdraw its § 168(g)(7) election, provided the taxpayer makes this revocation or withdrawal, as applicable, in the time and manner described in this section 5.02.

(2) *Revocation of § 168(k)(5), (7), or (10) election.* A taxpayer within the scope of this section 5 may revoke its § 168(k)(5) election, § 168(k)(7) election, or § 168(k)(10) election by filing either:

(a) Except as provided in Rev. Proc. 2020-23 regarding the time to file amended returns by BBA partnerships for taxable years beginning in 2018 and 2019, a Federal amended income tax return or amended Form 1065 for the placed-in-service year of the property on or before October 15, 2021, but in no event later than the applicable period of limitations on assessment for the taxable year for which the amended return is being filed. In the case of a BBA partnership that chooses not to

file an amended Form 1065 as permitted under Rev. Proc. 2020-23 or that cannot file an amended Form 1065 because the placed-in-service year of the property is a taxable year that is not within the scope of Rev. Proc. 2020-23, the BBA partnership may file an AAR for the placed-in-service year of the property on or before October 15, 2021, but in no event later than the applicable period of limitations on making adjustments under § 6235 for the reviewed year as defined in § 301.6241-1(a)(8). This amended return or AAR must include the adjustment to taxable income for the revocation of the § 168(k)(5), (k)(7), or (k)(10) election and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on original or amended Federal returns or AARs for any affected succeeding taxable years; or

(b) A Form 3115 with the taxpayer's timely filed original Federal income tax return or Form 1065 (i) for the taxpayer's first or second taxable year succeeding the taxable year in which the taxpayer placed in service the property, or (ii) that is filed on or after April 17, 2020, and on or before October 15, 2021. The revocation of the § 168(k)(5), (k)(7), or (k)(10) election under this section 5.02(2)(b) will be treated as a change in method of accounting with a § 481(a) adjustment only during this limited period of time. The time and manner of making this revocation are described in section 6.03(2) of this revenue procedure.

(3) *Withdrawal of § 168(g)(7) election.* A taxpayer within the scope of this section 5 may withdraw a § 168(g)(7) election by filing an amended Federal income tax return, amended Form 1065, or AAR, as applicable. Except as provided in Rev. Proc. 2020-23 regarding the time to file amended returns by BBA partnerships for taxable years beginning in 2018 and 2019, the Federal amended income tax return or amended Form 1065 for the placed-in-service year of the property must be filed on or before October 15, 2021, but in no event later than the applicable period of limitations on assessment for the taxable year for which the amended return is being filed. In the case of a BBA partnership that chooses not to file an amended Form 1065 as permitted under Rev. Proc. 2020-23 or that cannot file an amended Form 1065 because the placed-in-service year

of the property is a taxable year that is not within the scope of Rev. Proc. 2020-23, the BBA partnership may file an AAR for the placed-in-service year of the property on or before October 15, 2021, but in no event later than the applicable period of limitations on making adjustments under § 6235 for the reviewed year as defined in § 301.6241-1(a)(8). This amended return or AAR must include the adjustment to taxable income for the withdrawal of the § 168(g)(7) election and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on original or amended Federal returns or AARs for any affected succeeding taxable years.

SECTION 6. CHANGE IN METHOD OF ACCOUNTING

.01 *In general.* The making of a late election, or the revocation of an election, under sections 4.02(2) and 5.02(2)(b) of this revenue procedure is treated as a change in method of accounting for a limited period of time to which §§ 446(e) and 481, and the corresponding regulations, apply. A taxpayer that wants to make a late election, or revoke an election, under sections 4.02(2) and 5.02(2)(b) of this revenue procedure must use the automatic change procedures in Rev. Proc. 2015-13 or its successor.

.02 *Modifications to existing automatic changes.*

(1) Section 6.01(1)(c) of Rev. Proc. 2019-43, 2019-48 I.R.B. 1107, is modified by:

(a) At the end of section 6.01(1)(c)(xv), deleting “or”;

(b) At the end of section 6.01(1)(c)(xvi), deleting the period and adding “;” in its place;

(c) Adding new sections 6.01(1)(c)(xvii) and (xviii) to read as follows:

(xvii) any qualified improvement property, as defined in § 168(e)(6), placed in service by the taxpayer after December 31, 2017, to which section 6.19 of this revenue procedure applies; or

(xviii) any property to which section 4 or 5 of Rev. Proc. 2020-22, 2020-18 I.R.B. 745, applies. (See sections 4.02 and 4.03, or 5.02 of Rev. Proc. 2020-22, as applicable, for making any changes to depreciation for such property.)

(2) Section 6.04 of Rev. Proc. 2019-43 is modified by revising 6.04(1) to read as follows:

(1) *Description of change.*

(a) *Applicability.* This change applies to a taxpayer that wants to change the method of accounting for general asset account treatment of MACRS property (as defined in § 1.168(b)-1(a)(2)) to the method of accounting provided in § 1.168(i)-1(c)(2)(ii)(I) or § 1.168(i)-1(h)(2), which applies when there is a change in the use of MACRS property pursuant to § 1.168(i)-4(d).

(b) *Inapplicability.* The changes described in section 6.04(1)(a) of this revenue procedure do not apply to any property to which section 4 or 5 of Rev. Proc. 2020-22, 2020-18 I.R.B. 745, applies. (See sections 4.02 and 4.03, or 5.02 of Rev. Proc. 2020-22, as applicable, for making such changes for such property.)

(3) Section 6.05 of Rev. Proc. 2019-43 is modified by revising 6.05(1) to read as follows:

(1) *Description of change.*

(a) *Applicability.* This change applies to a taxpayer that wants to (i) change the method of accounting for depreciation of MACRS property (as defined in § 1.168(b)-1(a)(2)) to the method of accounting for depreciation provided in § 1.168(i)-4, which applies when there is a change in the use of MACRS property, or (ii) revoke the election provided in § 1.168(i)-4(d)(3)(ii) to disregard a change in the use of MACRS property. See § 1.168(i)-4(g)(2).

(b) *Inapplicability.* The change described in section 6.05(1)(a)(i) of this revenue procedure does not apply to any property to which section 4 or 5 of Rev. Proc. 2020-22, 2020-18 I.R.B. 745, applies. (See sections 4.02 and 4.03, or 5.02 of Rev. Proc. 2020-22, as applicable, for making such change for such property.)

.03 *New automatic changes.*

(1) Rev. Proc. 2019-43 is modified to add new section 6.19 to read as follows:

6.19 *Qualified improvement property placed in service after December 31, 2017.*

(1) *Description of change.*

(a) *Applicability.* This change applies to a taxpayer that wants to change from an impermissible to a permissible method

of accounting for depreciation of any item of qualified improvement property, as defined in § 168(e)(6):

(i) that is placed in service by the taxpayer after December 31, 2017;

(ii) for which the taxpayer used the impermissible method of accounting in at least two taxable years immediately preceding the year of change (but see section 6.19(1)(b) of this revenue procedure for qualified improvement property placed in service in the taxable year immediately preceding the year of change); and

(iii) that is owned by the taxpayer at the beginning of the year of change (but see section 6.07 of this revenue procedure for property disposed of before the year of change).

(b) *Taxpayer has not adopted a method of accounting for the qualified improvement property.* If a taxpayer does not satisfy section 6.19(1)(a)(ii) of this revenue procedure for an item of qualified improvement property because the item of qualified improvement property is placed in service by the taxpayer in the taxable year immediately preceding the year of change (1-year QIP), the taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation for the 1-year QIP by filing a Form 3115 for this change, provided the § 481(a) adjustment reported on the Form 3115 includes the amount that is attributable to all property (including the 1-year QIP) subject to the Form 3115. Alternatively, the taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation for the 1-year QIP by filing an amended Federal income tax return, or an administrative adjustment request under section 6227 (AAR), for the property's placed-in-service year prior to the date the taxpayer files its Federal income tax return or Form 1065, as applicable, for the taxable year succeeding the placed-in-service year. In addition, if the 1-year QIP is within the scope of section 3 of Rev. Proc. 2020-25, 2020-19 I.R.B. 785, the taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation for the 1-year QIP by filing a Federal amended income tax return,

amended Form 1065, or AAR, as applicable, in accordance with section 3.02(3) (a) of Rev. Proc. 2020-25.

(c) *Inapplicability.* This change does not apply to:

(i) any qualified improvement property placed in service by a taxpayer that made a late election, or withdrew an election, under § 163(j)(7)(B) (electing real property trade or business) or § 163(j)(7)(C) (electing farming business) for the taxable year in which the qualified improvement property is placed in service by the taxpayer, in accordance with Rev. Proc. 2020-22, 2020-18 I.R.B. 745. Any changes to depreciation for such qualified improvement property, or other depreciable property, affected by the late election or withdrawn election under § 163(j)(7)(B) or (C) are made in accordance with sections 4.02 and 4.03, or 5.02 of Rev. Proc. 2020-22, as applicable;

(ii) any qualified improvement property for which the taxpayer is changing from deducting the cost or other basis as an expense to capitalizing and depreciating the cost or other basis, or *vice versa*; or

(iii) any qualified improvement property for which the taxpayer is changing its method of accounting for depreciation to the method of accounting for depreciation provided in § 1.168(i)-4, which applies when there is a change in use of the property (but see section 6.04 or 6.05 of this revenue procedure for making this change).

(2) *Certain eligibility rules temporarily inapplicable.* For an item of qualified improvement property placed in service by the taxpayer after December 31, 2017, in its taxable year ending in 2018, 2019, or 2020, the eligibility rules in section 5.01(1)(d) and (f) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, do not apply to this change for the taxpayer's first or second taxable year succeeding the taxable year in which the item of qualified improvement property is placed in service by the taxpayer or, if later, for any taxable year for which the taxpayer timely files an original Federal income tax return or Form 1065, as applicable, on or after April 17, 2020, and on or before October 15, 2021.

(3) *Reduced filing requirement.* A taxpayer making a change under this section 6.19 is required to complete only

the following information on Form 3115 (Rev. December 2018):

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

(c) Part I;

(d) Part II, all lines except lines 11, 12, 13, 15, 16, 17, and 19;

(e) Part IV, all lines; and

(f) Schedule E, all lines except lines 1, 4b, 5, and 6.

(4) *Concurrent automatic change.*

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115.

(b) A taxpayer making this change and the change in section 6.01 or 6.20 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015-13 for information on making concurrent changes.

(5) *Designated automatic accounting method change number.* The designated automatic accounting method change number for a change to the method of accounting under this section 6.19 is "244."

(6) *Contact information.* For further information regarding a change under this section, contact Elizabeth R. Binder at (202) 317-7005 (not a toll-free number).

(2) Rev. Proc. 2019-43 is modified to add new section 6.20 to read as follows:

6.20 *Late elections under § 168(g)(7), (k)(5), (k)(7), and (k)(10) or revocation of elections under § 168(k)(5), (k)(7), and (k)(10).*

(1) *Description of change.*

(a) *Applicability.* This change applies to a taxpayer within the scope of section 4 of Rev. Proc. 2020-25, 2020-19 I.R.B. 785, that wants to make a late election provided in section 4.02(2) of Rev. Proc. 2020-25 under § 168(g)(7), (k)(5), (k)(7), or (k)(10). This change also applies to a taxpayer within the scope of section 5 of Rev. Proc. 2020-25 that wants to revoke an election provided in section 5.02(2)(b) of Rev. Proc. 2020-25 under § 168(k)(5), (k)(7), or (k)(10).

(b) *Inapplicability.* The IRS will treat the making of a late election provided in section 4 of Rev. Proc. 2020-25 under § 168(g)(7), (k)(5), (k)(7), and (k)(10), or the revocation of an election provided in section 5 of Rev. Proc. 2020-25 under § 168(k)(5), (k)(7), and (k)(10), as a change in method of accounting with a § 481(a) adjustment only for the taxable years specified in section 6.20(2) of this revenue procedure. This treatment does not apply to a taxpayer that makes these late elections or revocations before or after the time specified in section 6.20(2) of this revenue procedure, and any such late election or revocation is not a change in method of accounting pursuant to § 1.446-1(e)(2)(ii)(d)(3)(iii).

(2) *Time for making the change.* The change under this section 6.20 must be made for (a) the taxpayer's first or second taxable year succeeding the taxable year in which the taxpayer placed in service the property affected by the late election under § 168(g)(7), (k)(5), (k)(7), or (k)(10), as applicable, or revocation of the election under § 168(k)(5), (k)(7), or (k)(10), as applicable, or, if later, (b) any taxable year for which the taxpayer timely files an original Federal income tax return or Form 1065, as applicable, on or after April 17, 2020, and on or before October 15, 2021.

(3) *Certain eligibility rules inapplicable.* The eligibility rules in section 5.01(1)(d) and (f) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, do not apply to this change for the taxpayer's first or second taxable year succeeding the taxable year in which the taxpayer placed in service the property affected by the late election under § 168(g)(7), (k)(5), (k)(7), or (k)(10), as applicable, or revocation of the election under § 168(k)(5), (k)(7), or (k)(10), as applicable, or, if later, for any taxable year for which the taxpayer timely files an original Federal income tax return or Form 1065, as applicable, on or after April 17, 2020, and on or before October 15, 2021.

(4) *Reduced filing requirement.* A taxpayer making a change under this section 6.20 is required to complete only the following information on Form 3115 (Rev. December 2018):

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

- (c) Part I;
- (d) Part II, all lines except lines 11, 12, 13, 15, 16, 17, and 19;
- (e) Part IV, all lines; and
- (f) Schedule E, all lines except lines 1, 4b, 5, and 6.

(5) *Concurrent automatic change.*

(a) A taxpayer making one or more late elections, and/or revoking one or more elections, under sections 4 and 5 of Rev. Proc. 2020-25 for the same year of change should file a single Form 3115 for all such changes. The single Form 3115 must provide a single net § 481(a) adjustment for all such changes.

(b) A taxpayer making this change and the change in section 6.01 or 6.19 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015-13 for information on making concurrent changes.

(6) *Designated automatic accounting method change number.* The designated automatic accounting method change number for a change to the method of accounting under this section 6.20 is “245.”

(7) *Contact information.* For further information regarding a change under this section 6.20, contact Elizabeth R. Binder at (202) 317-7005 (not a toll-free number).

SECTION 7. REMODEL-REFRESH SAFE HARBOR

.01 Section 5.02(3)(b)(ii) of Rev. Proc. 2015-56, 2015-49 I.R.B. 827, is modified to read as follows:

(ii) *Classification under § 168(e).* For purposes of determining the appropriate classification under § 168(e) for property placed in service by the taxpayer after December 31, 2017, the capital expenditure portion is treated as qualified improvement property (as defined in § 168(e)(6)) under § 168(e)(3)(E)(vii), only to the extent that the taxpayer can substantiate that the capital expenditure portion is qualified improvement property. For property placed in service by the taxpayer before January 1, 2018, the capital expenditure portion is treated as qualified leasehold improvement property (as defined in § 168(e)(6)) prior to amendment by Public Law 115-97, 131

Stat. 2054 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA)) under § 168(e)(3)(E)(iv) prior to amendment by the TCJA, as qualified restaurant property (as defined in § 168(e)(7)) prior to amendment by the TCJA) under § 168(e)(3)(E)(v) prior to amendment by the TCJA, or as qualified retail improvement property (as defined in § 168(e)(8)) prior to amendment by the TCJA) under § 168(e)(3)(E)(ix) prior to amendment by the TCJA, as applicable, only to the extent that the taxpayer can substantiate that the capital expenditure portion is qualified leasehold improvement property, qualified restaurant property, or qualified retail improvement property, as applicable. The remaining capital expenditure portion is classified as nonresidential real property under § 168(e)(2)(B). Also, if § 168(e)(3)(E)(iv), (v), or (ix) (prior to amendment by the TCJA), or § 168(e)(3)(E)(vii), as applicable, is not in effect when the taxpayer places in service the capital expenditure portion, the capital expenditure portion is classified as nonresidential real property under § 168(e)(2)(B).

SECTION 8. EFFECT ON OTHER DOCUMENTS

.01 Section 5.02(3)(b)(ii) of Rev. Proc. 2015-56 is modified.

.02 Section 6 of Rev. Proc. 2019-43 is modified to include the modifications provided in section 6.02 of this revenue procedure and the accounting method changes provided in section 6.03 of this revenue procedure.

SECTION 9. EFFECTIVE DATE

This revenue procedure is effective April 17, 2020.

SECTION 10. DRAFTING INFORMATION

The principal authors of this revenue procedure are Kathleen Reed and Elizabeth Binder of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Ms. Binder at (202) 317-4869 (not a toll-free call) or Ms. Reed at (202) 317-4660 (not a toll-free number).

26 CFR 1.6012-1: Individuals required to make returns of income.
(Also: Part I, §1.6017-1)

Rev. Proc. 2020-28

SECTION 1. PURPOSE

.01 This revenue procedure provides procedures for eligible individuals who are not otherwise required to file Federal income tax returns for taxable year 2019 to receive economic impact payments under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281 (March 27, 2020).

.02 Eligible individuals who voluntarily wish to file a Federal income tax return only to receive allowed economic impact payments can use the simplified return filing procedure set forth in section 3 of this revenue procedure to file their Federal income tax return for taxable year 2019 and will receive their allowed economic impact payment after following the simplified filing procedure. These eligible individuals are encouraged to use the “Non-Filers: Enter Payment Info Here” tool, available at www.irs.gov/coronavirus, to submit information to the Internal Revenue Service (IRS) to receive their allowed economic impact payment much more quickly than if they filed a paper return. To ensure that allowed economic impact payments are made to the maximum number of eligible individuals, such eligible individuals who do not wish to use the “Non-Filers: Enter Payment Info Here” tool can alternatively file their return for taxable year 2019 using alternative tax return preparation software or paper returns that follow the simplified return filing procedure in section 3 of this revenue procedure.

.03 The Department of the Treasury (Treasury Department) and the IRS are aware that individuals otherwise not required by law to file Federal income tax returns may prepare income tax returns for State or local governments (for purposes such as establishing qualification for State or local government benefits) using tax return preparation software that can concurrently prepare both Federal and State or local tax returns. The IRS is also aware that individuals having an adjusted gross income (AGI) of zero (as opposed

to AGI of \$1 or more) are not able to file Federal income tax returns electronically to receive allowed economic impact payments due to tax return preparation software and return processing parameters. Section 4 of this revenue procedure provides a special procedure for eligible individuals with zero AGI who voluntarily wish to file a complete Federal income tax return electronically for taxable year 2019 to receive allowed economic impact payments. The special procedure in section 4 of this revenue procedure does not apply to a return filed on paper, which should be filed in accordance with the applicable instructions.

.04 An eligible individual who has already filed a Federal income tax return for taxable year 2019 will not need to file any additional forms or otherwise contact the IRS to receive their economic impact payment automatically. *See* § 6428(f)(1) and (3). An eligible individual who filed a Federal income tax return for 2018 will also not need to file any additional forms or otherwise contact the IRS to receive their allowed economic impact payment automatically, unless the individual had a change in circumstances in 2019 that would increase the amount of their economic impact payment or a change of address or direct deposit information. *See* § 6428(f)(5). Likewise, a social security, railroad retirement, or other Federal beneficiary to whom an automatic economic impact payment may be made—who is not otherwise required to file a Federal income tax return for taxable years 2018 and 2019, who does not have any qualifying children, and whose spouse, if any, also received these benefits—will not need to file any additional forms or otherwise contact the IRS to receive their allowed economic impact payment automatically. *See, for example*, Treasury Department Press Release, “Social Security Recipients Will Automatically Receive Economic Impact Payments,” dated April 1, 2020, available at <https://home.treasury.gov/news/press-releases/sm967>.

SECTION 2. BACKGROUND

.01 Section 2201(a) of the CARES Act added § 6428 to the Internal Revenue Code (Code). Section 6428(a) provides an eligible individual a refundable

tax credit against the individual’s Federal income tax liability (as imposed by subtitle A of the Code) for the first taxable year beginning in 2020. In general, the amount of that credit equals the sum of (1) \$1,200 (\$2,400 in the case of two eligible individuals filing a joint return), plus (2) an amount equal to the product of \$500 multiplied by the number of qualifying children (within the meaning of § 24(c) of the Code) of the eligible individual. *But see* § 6428(c) (providing graduated reductions of the total credit amount based on the eligible individual’s AGI).

.02 Section 6428(d) defines the term “eligible individual” for purposes of § 6428 to mean any individual other than (1) a nonresident alien individual, (2) an individual who can be claimed as a dependent for a deduction under § 151 of the Code for the taxable year, or (3) an estate or trust. Section 6428(g) provides that an eligible individual must have a social security number (SSN) that is valid for employment (or have filed a joint return with an individual who has an SSN that is valid for employment if one of the joint return filers is a member of the Armed Forces of the United States at any time during the taxable year) to qualify for the credit. For the purpose of determining the credit amount under § 6428(a), a child must be under the age of 17 and have an SSN that is valid for employment or an adoption taxpayer identification number (ATIN).

.03 Section 6428(f) addresses the payment of advanced refunds and credits (that is, economic impact payments) during calendar year 2020. In general, § 6428(f)(1) provides that each individual who was an eligible individual for taxable year 2019 is treated as having made a payment against the Federal income tax for taxable year 2019 in an amount equal to the economic impact payment amount. Section 6428(f)(2) provides that this economic impact payment amount is the amount that would have been allowed as a credit under § 6428 for taxable year 2019 if § 6428 (other than subsections (e) and (f) of § 6428) had applied to taxable year 2019.

.04 Section 6428(f)(5) permits the Secretary of the Treasury or his delegate (Secretary) to provide economic impact payments to eligible individuals who have not filed a Federal income tax return for tax-

able year 2019. Specifically, § 6428(f)(5)(A) provides that, if an eligible individual has not filed a Federal income tax return for taxable year 2019, the Secretary may determine the amount of the economic impact payment based on information reported on the eligible individual’s Federal income tax return filed for taxable year 2018. If that eligible individual has not filed such a return for taxable year 2018, § 6428(f)(5)(B) provides that the Secretary may use information with respect to that eligible individual for calendar year 2019 provided in (1) Form SSA-1099, *Social Security Benefit Statement*, or (2) Form RRB-1099, *Social Security Equivalent Benefit Statement*.

.05 Section 6428(h) requires the Secretary to prescribe such guidance as may be necessary to carry out the purposes of § 6428, which include the purpose set forth in § 6428(f)(3)(A) of providing economic impact payments “as rapidly as possible.”

.06 Because the IRS has not received the returns or forms described in § 6428(f)(1) and (5) for eligible individuals described in section 3.02 or 4.02 of this revenue procedure, the IRS currently lacks necessary information to make the allowed economic impact payments in calendar year 2020 to such eligible individuals. Accordingly, pursuant to § 6428(h)—

(1) Section 3 of this revenue procedure provides a simplified Federal income tax return filing procedure for eligible individuals who are not required to file a Federal income tax return for taxable year 2019; and

(2) Section 4 of this revenue procedure provides a special procedure for eligible individuals who are not required to file a Federal income tax return for taxable year 2019 and have zero AGI for that taxable year to file a complete Federal income tax return electronically.

.07 The procedure described in section 4 accommodates zero AGI filers (as defined in section 4.02 of this revenue procedure) who (i) need to provide more detail in filing State or local tax returns than that allowed by the simplified procedure provided by section 3, or (ii) utilize tax return preparation software that does not permit filing under the simplified procedure provided by section 3. Otherwise, taxpayers should use the simplified procedure described in section 3.

.08 Eligible individuals described in section 3.02 or 4.02 of this revenue procedure will receive an economic impact payment after following the Federal income tax return filing procedures provided in sections 3 or 4 of this revenue procedure, as applicable. The economic impact payment will be offset for past-due child support under § 6402(c) of the Code.

SECTION 3. SIMPLIFIED PROCEDURE FOR FILING PAPER OR ELECTRONIC TAX RETURN IF ELIGIBLE INDIVIDUAL IS NOT REQUIRED TO FILE A FEDERAL INCOME TAX RETURN FOR TAXABLE YEAR 2019

.01 *Federal income tax return filed by mail or electronically.* A simplified return filer (as defined in section 3.02 of this revenue procedure) will receive an economic impact payment if the simplified return filer files a Federal income tax return on Form 1040, *U.S. Individual Income Tax Return*, or Form 1040-SR, *U.S. Tax Return for Seniors*, for taxable year 2019, on paper or electronically, pursuant to the simplified procedure set forth in this section 3.

.02 *Definition of simplified return filer.* For purposes of this section 3, a “simplified return filer” is an eligible individual described in section 2.02 of this revenue procedure who is not required to file a Federal income tax return for taxable year 2019 and has not filed a Federal income tax return for that taxable year. In addition, a simplified return filer must have an SSN that is valid for employment or file a joint return with an individual who has an SSN that is valid for employment if one of the joint return filers is a member of the Armed Forces of the United States at any time during taxable year 2019.

.03 *Filing deadline.* As soon as possible but not later than October 15, 2020, a simplified return filer following the procedure set forth in this section 3 must file a Federal income tax return. This filing deadline ensures that the IRS will have sufficient time to process all Federal income tax returns filed under section 3 of this revenue procedure and make all resulting economic impact payments before December 31, 2020, the last day economic impact pay-

ments may be made under § 6428(f)(3) (A). Simplified return filers are encouraged to file their tax returns electronically to speed the issuance of their economic impact payments.

.04 Simplified filing method.

(1) *Overview.* In the case of a simplified return filer, the IRS will process the simplified return filer’s Form 1040 or Form 1040-SR for taxable year 2019 to provide an economic impact payment, if the form is prepared in the manner required in this section 3.04. The Form 1040 or Form 1040-SR should include only the information described in this section 3.04.

(2) *Write “EIP2020” on form.* A simplified return filer must designate “EIP2020” on Form 1040 or Form 1040-SR.

(a) If filing the Federal income tax return by mail, this text must be placed above the printed material at the top of page 1 of the Form 1040 or Form 1040-SR.

(b) If electronically filing the Federal income tax return, this text must be placed in the correct spot of the electronic filing record.

(3) *Filing status.* A simplified return filer must select their filing status as of the end of taxable year 2019 at the top of Form 1040 or Form 1040-SR.

(4) *Required general information.* A simplified return filer must enter their name, mailing address, and SSN, and the name and SSN of their spouse if filing a joint return, on the appropriate lines of Form 1040 or Form 1040-SR. If a simplified return filer and their spouse file a joint return and either the simplified return filer or the spouse is a member of the Armed Forces of the United States at any time during taxable year 2019, then an SSN for one spouse and either an SSN or an IRS individual taxpayer identification number (that is, an ITIN) for the other spouse must be entered on the appropriate lines of Form 1040 or Form 1040-SR.

(5) *Individuals who could be claimed as dependents by other taxpayers.* A simplified return filer must check all applicable boxes under the address lines for each individual who could be claimed as a dependent by any other taxpayer for taxable year 2019.

(6) *General information regarding dependents.* If applicable, a simplified return filer should provide information regarding

each dependent who was under the age of 17 at the end of taxable year 2019 on the appropriate lines of Form 1040 or Form 1040-SR. For each dependent, a simplified return filer must provide the name, SSN or ATIN, and relationship to the individual. Column (4) of each line on the form must be left blank.

(7) *Limited information to provide in lines 1 through 24.* Except as provided in this section 3.04(7), a simplified return filer should leave blank lines 1 through 24 of Form 1040 or Form 1040-SR, even if the values for these lines are in fact not zero.

(a) *Lines 2b, 7b, and 8b.* A simplified return filer who files their Federal income tax return electronically must enter \$1.00 on lines 2b, 7b, and 8b.

(b) *Line 9.* A simplified return filer who files their Federal income tax return electronically must enter the applicable standard deduction amount for their filing status on line 9.

(c) *Line 11b.* A simplified return filer must enter \$0.00 on line 11b.

(d) *Line 21a.* A simplified return filer must not check the box on line 21a because the economic impact payment may not be divided among multiple accounts.

(e) *Lines 21b through 21d.* A simplified return filer may request the direct deposit of their economic impact payment into their account at a bank or other financial institution by entering their direct deposit information on lines 21b through 21d. A simplified return filer must not request their economic impact payment to be deposited into an account that is not in the name of that simplified return filer (for example, a simplified return filer must not request a direct deposit of their economic impact payment into their tax return preparer’s account).

.05. *Signature.* A simplified return filer must provide their identity protection personal identification number (that is, their IP PIN), if applicable, and sign the return under penalties of perjury. In addition, a simplified return filer may enter their identifying information of any third-party designee, if applicable, at the bottom of page 2 of Form 1040 or Form 1040-SR. A simplified return filer who has been assigned an IP PIN, but has misplaced it, may retrieve the IP PIN at <https://www.irs.gov/identity-theft-fraud-scams/retrieve-your-ip-pin>.

.06 Computation of economic impact payment. Based on the information provided by a simplified return filer on Form 1040 or Form 1040-SR for taxable year 2019, the IRS will compute the amount of the economic impact payment that will be paid to the simplified return filer in calendar year 2020.

.07 Accuracy of return. The IRS will not challenge the accuracy of the items of income reported on a Federal income tax return filed by a simplified return filer in accordance with this section 3.

SECTION 4. SPECIAL PROCEDURE FOR FILING ELECTRONIC TAX RETURN IF ELIGIBLE INDIVIDUAL HAS NO TAXABLE YEAR 2019 ADJUSTED GROSS INCOME

.01 Federal income tax return filed electronically. A zero AGI filer (as defined in section 4.02 of this revenue procedure) will receive an economic impact payment if the zero AGI filer electronically files a Federal income tax return on Form 1040 or Form 1040-SR for taxable year 2019 pursuant to the requirements set forth in sections 4.03 through 4.06 of this revenue procedure. The special procedure set forth in this section 4 applies only to an electronically filed return and does not apply to a return filed on paper.

.02 Definition of zero AGI filer. For purposes of this section 4, a “zero AGI filer” is an eligible individual described in section 2.02 of this revenue procedure who has zero AGI for taxable year 2019 (that is, the eligible individual has zero AGI for taxable year 2019 reportable on

line 8b of Form 1040 or Form 1040-SR) and has not yet filed a Federal income tax return for taxable year 2019. In addition, a zero AGI filer must have an SSN that is valid for employment or file a joint return with an individual who has an SSN that is valid for employment if one of the joint return filers is a member of the Armed Forces of the United States at any time during taxable year 2019.

.03 Filing deadline. As soon as possible but not later than October 15, 2020, a zero AGI filer must electronically file their Federal income tax return under the procedure set forth in this section 4. This filing deadline ensures that the IRS will have sufficient time to process all Federal income tax returns filed under section 4 of this revenue procedure and make all resulting economic impact payments before December 31, 2020, the last day economic impact payments may be made under § 6428(f)(3)(A).

.04 Required information. In addition to all other information required to be entered on Form 1040 or Form 1040-SR, a zero AGI filer must enter the following:

- (1) \$1.00 as taxable interest on line 2b of the form;
- (2) \$1.00 as total income on line 7b of the form; and
- (3) \$1.00 as AGI on line 8b of the form.

.05 Signature. A zero AGI filer must provide their identity protection personal identification number (that is, their IP PIN), if applicable, and sign the return under penalties of perjury. In addition, a zero AGI filer may enter the identifying information of any third-party designee, if applicable, at the bottom of page 2 of Form 1040 or Form 1040-SR. A zero AGI filer

who has been assigned an IP PIN, but has misplaced it, may retrieve the IP PIN at <https://www.irs.gov/identity-theft-fraud-scams/retrieve-your-ip-pin>.

.06 Computation of economic impact payment. Based on the information provided by the zero AGI filer on Form 1040 or Form 1040-SR for taxable year 2019, the IRS will compute the amount of the economic impact payment that will be paid to the zero AGI filer in calendar year 2020.

.07 Accuracy of return. The IRS will not challenge the accuracy of the items of income reported on a Federal income tax return filed by a zero AGI filer for taxable year 2019 in accordance with this section 4.

SECTION 5. “GET MY PAYMENT” AND “NON-FILERS: ENTER PAYMENT INFO HERE” TOOLS

Visit www.irs.gov/coronavirus for additional details about economic impact payments. The “Get My Payment” tool provides the most up-to-date information regarding the status of an eligible individual’s economic impact payment. The “Non-Filers: Enter Payment Info Here” tool permits simplified return filers to submit information to the IRS pursuant to the simplified procedure set forth in section 3 of this revenue procedure.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is the Office of Associate Chief Counsel (Procedure and Administration).

Part IV

Tax Treatment of Payments Made on Behalf of, and Reimbursements Received by, Connecticut Homeowners Affected by Deteriorating Concrete Foundations Containing the Mineral Pyrrhotite

Announcement 2020-5

This announcement addresses the Federal income tax treatment of financial assistance provided to Connecticut homeowners for the repair of deteriorating concrete foundations due to pyrrhotite. Pyrrhotite is a mineral that oxidizes in the presence of water and oxygen, leading to the formation of expansive mineral products. Pyrrhotite is naturally found in certain stone aggregates used to produce concrete and can cause concrete to deteriorate prematurely in certain cases.

In August 2015, agencies of the State of Connecticut began investigating numerous complaints by homeowners concerning the premature deterioration of the concrete foundations of their homes. These agencies concluded that the premature deterioration of the concrete foundations was due to the presence of pyrrhotite in the concrete mixture used to pour the foundations (deteriorating concrete foundations).

In response to the agencies' investigation, the State of Connecticut enacted legislation to allow a Connecticut resident owning a home with a concrete foundation the option to request a reassessment of the assessed value of the home based on a written evaluation from a licensed engineer indicating the home had a deteriorating concrete foundation.

In 2017, the State of Connecticut mandated the establishment and funding of an entity, the Connecticut Foundation Solutions Indemnity Company, Inc. (CFSIC), to assist homeowners with the expeditious repair of the most severe cases of deteriorating concrete foundations. In addition to establishing the CFSIC, the State of Connecticut authorized the CFSIC to raise

funds and augment the monies bonded by the state to remedy the issue of deteriorating concrete foundations.

In January 2019, the CFSIC began accepting applications from homeowners seeking financial assistance to repair their deteriorating concrete foundations. All claims require a contract between the homeowner and a contractor for repair or replacement of the foundation. The contract must set forth the total cost of repair. The CFSIC pays the lesser of: (1) the expenses pertaining to the repair of the crumbling foundation to a structurally safe level, or (2) \$175,000, per residential building. There are two types of claims that homeowners can make. The first type of claim requests that the CFSIC pay the contractor directly, on behalf of the homeowner, for eligible expenses before and during the performance of the repair work. The second type of claim requests that the CFSIC reimburse the homeowner directly for eligible expenses previously paid to the contractor. Payments under both types of claims commenced in 2019.

Guidance published in 2017 and 2018 by the Department of the Treasury and the Internal Revenue Service (IRS) provided a safe harbor that allows a homeowner, under certain conditions, to treat amounts paid to repair damage to a personal residence with a deteriorating concrete foundation as a casualty loss under section 165 of the Internal Revenue Code (Code) so long as the taxpayer was not fully reimbursed by insurance or otherwise before filing a Federal income tax return for the year the loss was sustained. *See* Revenue Procedure 2017-60, 2017-50 I.R.B. 559; Revenue Procedure 2018-14, 2018-9 I.R.B. 378.

If a Connecticut homeowner who paid amounts to repair damage to a personal residence with a deteriorating concrete foundation has claimed a deduction under the safe harbor or otherwise on an original or amended Federal income tax return for an earlier taxable year, then payments received by the homeowner from the CFSIC in a subsequent taxable year must be included in the homeowner's gross income in the Federal income tax return for the subsequent taxable year to the extent the deduction claimed for the earlier

taxable year resulted in a Federal income tax benefit. *See* section 111 of the Code. For example, if a homeowner claimed a deduction of \$125,000 for such amounts in an earlier taxable year and the entire deduction resulted in a reduction in Federal income tax from the tax that would apply without the deduction, a \$125,000 recovery must be included as gross income in the homeowner's Federal income tax return for the subsequent taxable year.

Existing guidance does not specifically address the Federal income tax treatment of a payment made by the CFSIC to a Connecticut homeowner who has not claimed a Federal income tax deduction for amounts paid to repair damage to a personal residence with a deteriorating concrete foundation.

If a Connecticut homeowner has not claimed a Federal income tax deduction for amounts paid to repair damage to a principal residence under the safe harbor or otherwise, or to the extent such a deduction did not result in a Federal income tax benefit, payments from the CFSIC to contractors (on behalf of the homeowner) or reimbursements paid to the homeowner will not be treated as includible in gross income of the homeowner in the year the payment or reimbursement is paid. Reimbursed repair costs cannot be deducted or included in the basis of a home.

For further information regarding this announcement, contact Martin Osborne of the Office of Associate Chief Counsel (Income Tax & Accounting) at (202) 317-7006 (not a toll-free number).

Notice of Proposed Rulemaking

Preparer Tax Identification Number (PTIN) User Fee Update

REG-117138-17

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations relating to the imposition of certain user fees on tax return preparers. The proposed regulations reduce the amount of the user fee to apply for or renew a preparer tax identification number (PTIN) and affect individuals who apply for or renew a PTIN. The Independent Offices Appropriations Act of 1952 authorizes the charging of user fees.

DATES: Written or electronic comments and requests for a public hearing must be received by May 18, 2020. Requests for a public hearing must be submitted as prescribed in the “**Comments and Requests for a Public Hearing**” section.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at www.regulations.gov (indicate IRS and REG-117138-17) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The IRS expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically, and to the extent practicable on paper, to its public docket. Send paper submissions to: CC:PA:LPD:PR (REG-117138-17), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Michael A. Franklin at (202) 317-6844; concerning cost methodology, Michael A. Weber at (202) 803-9738; concerning submissions of comments and/or requests for a public hearing, Regina Johnson, (202) 317-5177 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains proposed amendments to 26 CFR part 300 regarding user fees.

Regulations require a tax return preparer who prepares all or substantially all of a tax return or claim for refund to provide a PTIN as their identifying number on any tax return or claim for refund prepared for compensation. To account for its costs of providing PTIN application and renewal services, the IRS charges a user fee to apply for or renew a PTIN. This proposal would reduce the user fee from \$33 per application or renewal to \$21.

A. User Fee Authority

The Independent Offices Appropriations Act of 1952 (IOAA), which is codified at 31 U.S.C. 9701, authorizes agencies to prescribe regulations that establish user fees for services provided by the agency. The IOAA provides that regulations implementing user fees are subject to policies prescribed by the President; these policies are set forth in the Office of Management and Budget (OMB) Circular A-25, 58 FR 38142 (July 15, 1993) (OMB Circular A-25).

Under OMB Circular A-25, federal agencies that provide services that confer benefits on identifiable recipients are to establish user fees that recover the full cost of providing the service. An agency that seeks to impose a user fee for government-provided services must calculate the full cost of providing those services. In general, a user fee should be set at an amount that allows the agency to recover the direct and indirect costs of providing the service, unless the OMB grants an exception. OMB Circular A-25 provides that agencies are to review user fees biennially and update them as necessary.

B. PTIN Requirement

Section 6109(a)(4) of the Internal Revenue Code authorizes the Secretary of the Treasury or his delegate to prescribe regulations for the inclusion of a tax return preparer's identifying number

on a return, statement, or other document required to be filed with the IRS. On September 30, 2010, the Treasury Department and the IRS published final regulations under section 6109 (REG-134235-08) in the **Federal Register** (TD 9501) (75 FR 60315) (PTIN regulations) to provide that, for returns or claims for refund filed after December 31, 2010, the identifying number of a tax return preparer is the individual's PTIN or such other number prescribed by the IRS in forms, instructions, or other appropriate guidance. The PTIN regulations require a tax return preparer who prepares or who assists in preparing all or substantially all of a tax return or claim for refund after December 31, 2010 to have a PTIN.

The PTIN regulations also state that the IRS will set forth in forms, instructions, or other appropriate guidance PTIN application and renewal procedures, including the requirement to pay a user fee to obtain or renew a PTIN. Pursuant to the authority granted in section 6109(c) and in accordance with §1.6109-2(d) of the PTIN regulations, the IRS has set forth application and renewal procedures in Form W-12, *IRS Paid Preparer Tax Identification Number (PTIN) Application and Renewal*, and the Form W-12 Instructions. Individuals may also apply for or renew a PTIN and pay the user fee online at irs.gov/ptin. The annual PTIN application and renewal period generally begins in the fall of the year preceding the filing season to which the PTIN relates.

Section 1.6109-2(d) states that only individuals authorized to practice before the IRS under 31 U.S.C. 330 are eligible to obtain a PTIN. Under §1.6109-2(h), the IRS may prescribe in forms, instructions, or other appropriate guidance exceptions to the requirements of the PTIN regulations, including the requirement that an individual must be authorized to practice before the IRS to be eligible to receive a PTIN. On December 30, 2010, the Treasury Department and the IRS released Notice 2011-6 (2011-3 IRB 315 (Jan. 17, 2011)), which stated that, until December 31, 2013, a provisional PTIN could be renewed upon proper application and payment of the applicable user fee, even if the individual holding the provisional PTIN was not authorized to practice before the IRS.

On June 3, 2011, the Treasury Department and the IRS published in the **Federal Register** (76 FR 32286) amendments to Treasury Department Circular No. 230 (31 CFR part 10), to regulate all tax return preparers under 31 U.S.C. 330. In *Loving v. IRS*, 917 F.Supp.2d 67 (D.D.C. 2013), the district court concluded that the Treasury Department and the IRS lacked statutory authority to regulate tax return preparation as practice before the IRS under 31 U.S.C. 330 and enjoined the Treasury Department and the IRS from enforcing the regulations issued under that section. The district court subsequently modified its order to clarify that the IRS's authority to require that tax return preparers obtain a PTIN is unaffected by the injunction. *Loving v. IRS*, 920 F.Supp.2d 108, 109 (D.D.C. 2013) (stating "Congress has specifically authorized the PTIN scheme by statute . . . [and that] scheme, therefore, does not fall within the scope of the injunction and may proceed as promulgated."). The United States Court of Appeals for the District of Columbia Circuit affirmed the district court's decision and order for injunction. *Loving v. IRS*, 742 F.3d 1013 (D.C. Cir. 2014).

C. PTIN User Fee

Final regulations (REG-139343-08) published in the **Federal Register** (TD 9503) (75 FR 60316) (initial PTIN user fee regulations) on September 30, 2010, established a \$50 user fee to apply for or renew a PTIN, in addition to a portion payable directly to the contractor, which was \$14.25 for new applications and \$13 for renewal applications. The \$50 user fee was based on an annual PTIN renewal period and an estimate that 1.2 million individuals would be applying for or renewing a PTIN each year.

The Treasury Department and the IRS determined that a \$50 user fee to apply for or renew a PTIN would recover the full direct and indirect costs that the government would incur to administer the PTIN application and renewal process. As explained in the preamble to the initial PTIN user fee regulations, the projected costs included the development and maintenance of the IRS information technology system that would interface

with a third-party contractor, the development and maintenance of internal applications that would have the capacity to process and administer the anticipated increase in PTIN applications, and customer service support activities, which included website development and maintenance and call center staffing to respond to questions regarding PTIN usage and renewal. The \$50 user fee was also determined to recover costs for personnel, administrative, and management support needed to evaluate and address tax compliance issues of individuals applying for and renewing a PTIN, to investigate and address conduct and suitability issues, and otherwise support and enforce the programs that required an individual to apply for and renew a PTIN.

Pursuant to the guidelines in OMB Circular A-25, the IRS re-calculated its costs associated with providing PTINs in 2015. The IRS determined that the full cost of administering the PTIN program going forward was reduced from \$50 to \$33 per application or renewal, plus a \$17 fee per application or renewal payable directly to a third-party contractor. Final regulations (REG-121496-15) published in the **Federal Register** (TD 9781) (81 FR 52766) (2016 PTIN user fee regulations) on August 10, 2016, superseded and adopted temporary regulations (TD 9742) (80 FR 66794) and established the \$33 annual user fee to apply for or renew a PTIN, plus \$17 per application or renewal payable directly to a third-party contractor. The reduction in the fee amount was attributable to several factors, which included the reduced number of PTIN holders (approximately 700,000) from the number originally projected (1.2 million) in 2010, which reduced associated costs; the absorption of certain development costs in the early years of the program; and the fact that certain activities that would have been conducted in relation to registered tax return preparers would not be performed. In particular, the determination of the user fee no longer included expenses for personnel who performed functions primarily related to continuing education and testing for registered tax return preparers. Additionally, expenses related to personnel who performed continuing education and testing for enrolled agents

and enrolled retirement plan agents were removed from the user fee.

In 2017, the IRS again conducted a biennial review of the PTIN user fee and determined that the amount of the fee going forward should be reduced to \$31 per application or renewal, plus an amount payable directly to a third-party contractor. The reduction was primarily attributable to reductions in contract support costs and salary and benefits. On June 1, 2017, before a notice of proposed rulemaking proposing to reduce the amount of the fee was issued, the IRS was enjoined from charging a PTIN user fee. In *Steele v. United States*, 260 F. Supp. 3d 52 (D.D.C. 2017), the United States District Court for the District of Columbia concluded that the Treasury Department and the IRS lacked the statutory authority to charge a PTIN user fee and enjoined the IRS from charging a PTIN user fee. The government filed an appeal and on March 1, 2019, the United States Court of Appeals for the District of Columbia Circuit reversed the district court's decision and lifted the injunction against charging the PTIN user fee. See *Montrois v. United States*, 916 F.3d 1056 (D.C. Cir. 2019) (holding that a PTIN provides tax return preparers a specific benefit by allowing them to provide an identifying number that is not a social security number on returns they prepare and stating that the permissible amount of the fee would be the same regardless of whether the specific benefit was instead the ability to prepare tax returns for compensation). The case is currently on remand in the United States District Court for the District of Columbia regarding the amount of the fee. *Id.* at 1068.

Pursuant to the guidelines in OMB Circular A-25, the IRS has re-calculated its cost of providing PTINs. The IRS has determined that the full cost of administering the PTIN program going forward has been reduced to \$21 per application or renewal, plus \$14.95 payable directly to a third-party contractor. The government is authorized to charge a PTIN user fee under the IOAA because, in exchange for the fee, it provides a service by issuing and maintaining PTINs, which provide tax return preparers a specific benefit by allowing them to provide an identifying

number that is not a social security number on returns and to prepare returns for compensation.

D. Calculation of User Fees Generally

The IRS follows generally accepted accounting principles (GAAP) in calculating the full cost of administering PTIN applications and renewals. The Federal Accounting Standards Advisory Board (FASAB) is the body that establishes GAAP that apply for federal reporting entities, such as the IRS. FASAB publishes the FASAB Handbook of Accounting Standards and Other Pronouncements, as Amended (Current Handbook), available at https://files.fasab.gov/pdf/2019_fasab-handbook.pdf. Current Handbook includes the *Statement of Federal Financial Accounting Standards (SFFAS) No. 4: Managerial Cost Accounting Concepts and Standards for the Federal Government*. SFFAS No. 4 establishes internal costing standards to accurately measure and manage the full cost of federal programs, and the methodology below is in accordance with SFFAS No. 4.

1. Cost Center Allocation

The IRS determines the cost of its services and the activities involved in producing them through a cost-accounting system that tracks costs to organizational units. The lowest organizational unit in the IRS's cost-accounting system is a cost center. Cost centers are usually separate offices that are distinguished by subject-matter area of responsibility or geographic region. All costs of operating a cost center are recorded in the IRS's cost-accounting system. The costs charged to a cost center are the direct costs for the cost center's activities in addition to allocated overhead. Some cost centers work on different services across the IRS and are not fully devoted to the services for which the IRS charges user fees.

2. Cost Estimation of Direct Costs

The IRS uses various cost-measurement techniques to estimate the cost attributable to the program. These techniques include using various timekeeping systems to

measure the time required to accomplish activities, or using information provided by subject-matter experts on the time devoted to a program. To determine the labor and benefits cost incurred to provide the service of providing a PTIN, the IRS estimated the number of full-time employees required to conduct activities related to the costs of issuing and renewing PTINs. The number of full-time employees is based on both current employment numbers and future hiring estimates. Other direct costs associated with administering the PTIN program include contract costs and travel, training, supplies, printing, and other miscellaneous costs.

3. Overhead

When the indirect cost of a service or activity is not specifically identified from the cost-accounting system, an overhead rate is added to the identifiable direct cost to arrive at full cost. Overhead is an indirect cost of operating an organization that is not specifically identifiable with an activity. Overhead includes costs of resources that are jointly or commonly consumed by one or more organizational unit's activities but are not specifically identifiable to a single activity.

These costs can include:

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

To calculate the overhead allocable to a service, the IRS multiplies an overhead rate by the estimated direct costs. The IRS calculates the overhead rate annually based on the Statement of Net Cost included in the IRS annual financial state-

ments. The financial statements are audited by the Government Accountability Office. The overhead rate is the ratio of the IRS's indirect costs divided by direct costs of its organizational units. Indirect costs are labor, benefits, and non-labor costs (excluding IT related to taxpayer services, enforcement, and business system modernization) from the supporting and sustaining organizational units. Direct costs are labor, benefits, and non-labor costs for the IRS's organizational units that interact directly with taxpayers.

For the PTIN user fee review, an overhead rate of 57.58 percent was used. The rate was calculated based on the FY 2019 Statement of Net Cost as follows:

| | |
|----------------------|-------------------|
| Total Indirect Costs | \$4,006,706,430 |
| Total Direct Costs | ÷ \$6,957,940,668 |
| Overhead Rate | <u>57.58%</u> |

E. Calculation of PTIN User Fee

The IRS projected the direct costs associated with the PTIN program for fiscal years 2020 through 2022. Direct costs are incurred by the Return Preparer Office (RPO) and include staffing and other direct costs related to administering the PTIN program. Staffing costs relate to conducting certain suitability checks, foreign preparer processing, handling compliance and complaint activities, information technology and contract-related support, communications, budgeting and finance, and program oversight and support. The labor and benefits for the work performed related to the PTIN program is projected to be \$30,816,935 in total over fiscal years 2020 through 2022. Other direct costs associated with administering the PTIN program include contract costs and travel, training, supplies, printing, and other miscellaneous costs. The total amount of these other direct costs over fiscal years 2020 through 2022 is projected to be \$463,750. Total direct costs for fiscal years 2020 through 2022 are therefore projected to be \$31,280,685. Adding overhead expenses to the total direct costs results in total costs of \$49,292,103 as shown below:

| | |
|---------------------------------|----------------------|
| Total Direct Costs | \$ 31,280,685 |
| Overhead (57.58%) | <u>\$ 18,011,418</u> |
| Total Direct Costs and Overhead | \$ 49,292,103 |

The number of users annually is estimated to be 800,000, based on numbers of PTIN holders in prior fiscal years. Dividing the total cost by the projected population of users for fiscal years 2020 through 2022 results in a cost per application of \$21 as shown below:

| | |
|------------------------|---------------|
| Total Costs | \$ 49,292,103 |
| Number of Applications | ÷ 2,400,000 |
| Cost Per Application | <u>\$ 21</u> |

Taking into account the full amount of these costs, the amount of the PTIN user fee per application or renewal is \$21. The revised amount takes into account a reduction in contract support costs, a reduction in the cost of salary and benefits, and the current fiscal year overhead rate.

A third-party contractor performs certain functions, including processing applications to obtain or renew a PTIN and operating a call center, and charges a reasonable fee, which will be set at \$14.95 per application or renewal, in addition to the amount charged by the government. The third-party contractor was chosen through a competitive bidding process. The amount of the contractor portion may change in 2021 when the contract expires and will be re-computed.

Special Analyses

The OMB's Office of Information and Regulatory Analysis has determined that this regulation is significant and subject to review under section 6(b) of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The proposed regulations affect all individuals who prepare or assist in preparing all or substantially all of a tax return or claim for refund for compensation. Only individuals, not businesses, can have a PTIN. Thus, the economic impact of these regulations on any small entity generally will be a result of an individual tax return preparer who is required to have a PTIN owning a small business or a small business otherwise employing an individual

tax return preparer who is required to have a PTIN. The Treasury Department and the IRS estimate that approximately 800,000 individuals will apply annually for an initial or renewal PTIN. Although the final regulations will likely affect a substantial number of small entities, the economic impact on those entities is not significant. The final regulations will establish a \$21 fee per application or renewal (plus \$14.95 payable directly to the contractor), which is a reduction from the previously established fee of \$33 (plus \$17 payable directly to the contractor) per application or renewal and will not have a significant economic impact on a small entity. Accordingly, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the "ADDRESSES" section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any electronic comments submitted, and to the extent practicable any paper comments submitted, will be made available at www.regulations.gov or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**. Announcement 2020-4, 2020-17 IRB 1, provides that until further notice, public hearings conducted by the IRS will be

held telephonically. Any telephonic hearing will be made accessible to people with disabilities.

Drafting Information

The principal author of these regulations is Michael A. Franklin, Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Proposed Amendments to the Regulations

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

PART 300 – USER FEES

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

Authority: 31 U.S.C. 9701.

Par. 2. Section 300.12 is amended by revising paragraphs (b) and (d) to read as follows:

§300.13 Fee for obtaining a preparer tax identification number.

* * * * *

(b) *Fee.* The fee to apply for or renew a preparer tax identification number is \$21 per year and is in addition to the fee charged by the contractor.

* * * * *

(d) *Applicability date.* This section applies to applications for or renewal of a preparer tax identification number filed on or after [the date that is 30 days after these regulations are published as final regulations in the **Federal Register**].

Sunita Lough,
Deputy Commissioner for Services
and Enforcement.

(Filed by the Office of the Federal Register on April 15, 2020, 8:45 a.m., and published in the issue of the Federal Register for April 16, 2020, 85 F.R. 21126)

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 substance 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.
FR—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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¹ A 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/.

We Welcome Comments About the Internal Revenue Bulletin

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