

# 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.

## INCOME TAX

### **Notice 2021-29, page 1149.**

This notice publishes the reference price under § 45K(d)(2)(C) of the Internal Revenue Code for calendar year 2020. 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 2021-30, page 1149.**

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 2021 is 15 percent. The format of the notice is identical to the format of notices previously published on this issue.

### **Rev. Proc. 2021-20, page 1150.**

This revenue procedure provides a safe harbor for certain taxpayers that received a loan pursuant to the Paycheck Protection Program (PPP) and, based on guidance

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**May 10, 2021**

issued by the Department of the Treasury and the Internal Revenue Service prior to the enactment of the COVID-related Tax Relief Act of 2020, enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021, Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020), did not deduct certain otherwise deductible expenses paid or incurred during the taxpayer's taxable year(s) ending after March 26, 2020, and on or before December 31, 2020 (2020 taxable year) that resulted in, or were expected to result in, forgiveness of the loan. Under the safe harbor, such taxpayers may elect to deduct these expenses on the taxpayer's timely filed original Federal income tax return or information return, as applicable, for the taxpayer's first taxable year following the taxpayer's 2020 taxable year rather than filing an amended return or administrative adjustment request for the taxpayer's 2020 taxable year.

### **Rev. Proc. 2021-23, page 1153.**

This procedure modifies and supersedes specific provisions of Rev. Proc. 2020-45 and Rev. Proc. 2020-36 for the 2021 inflation adjusted amounts relating to the Child Tax Credit, the Earned Income Credit and the Applicable Percentage Table for section 36B, to reflect statutory amendments made by the American Rescue Plan Act of 2021.

# The IRS Mission

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

## Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

### **Part I.—1986 Code.**

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

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

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

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

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

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

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

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

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# Part III

## 2020 Section 45K(d)(2)(C) Reference Price

### Notice 2021-29

#### SECTION 1. PURPOSE

This notice publishes the reference price under § 45K(d)(2)(C) of the Internal Revenue Code for calendar year 2020. 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 percent) 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 2020 is \$37.07.

#### 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).

## 2021 Marginal Production Rates

### Notice 2021-30

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 2021 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 2020 calendar year is \$37.07.

The following table contains the applicable percentages for marginal production for taxable years beginning in calendar years 1991 through 2021.

Notice 2021-30

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
2021	15 percent

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

*26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also: Part I. § 161)*

**Rev. Proc. 2021-20**

**SECTION 1. PURPOSE**

This revenue procedure provides a safe harbor for certain taxpayers that re-

ceived a loan pursuant to the Paycheck Protection Program (PPP) and, based on guidance issued by the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) prior to the enactment of the COVID-related Tax Relief Act of 2020 (COVID-related Tax Relief Act), enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021 (Appropriations Act), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020), did not deduct certain otherwise deductible expenses paid or incurred during the taxpayer’s taxable year(s) ending after March 26, 2020, and on or before December 31, 2020 (2020 taxable year) that resulted in, or were expected to result in, forgiveness of the loan. Under the safe harbor, such taxpayers may

elect to deduct these expenses on the taxpayer’s timely filed original Federal income tax return or information return, as applicable, for the taxpayer’s first taxable year following the taxpayer’s 2020 taxable year rather than filing an amended return or administrative adjustment request for the taxpayer’s 2020 taxable year.

**SECTION 2. BACKGROUND**

*.01 PPP Prior to Enactment of the Appropriations Act.*

(1) Sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281, 286-93 (Mar. 27, 2020), established the PPP as a loan program administered by the U.S. Small

Business Administration (SBA) as part of its “7(a) Loan Program” (15 U.S.C. 636(a)) to provide economic assistance to small businesses nationwide adversely impacted by the COVID-19 emergency. See Business Loan Program Temporary Changes; Paycheck Protection Program, 85 FR 20811 (Apr. 15, 2020). Under the PPP as it existed prior to enactment of the Appropriations Act, the SBA was permitted to guarantee the full principal amount of a covered loan, defined by § 1102(a)(2) of the CARES Act as a loan made under the PPP during the period beginning on February 15, 2020, and ending on December 31, 2020 (original PPP covered loan). See § 1102(a)(2) of the CARES Act; Paycheck Protection Program Flexibility Act of 2020, Public Law 116-142, 134 Stat. 641 (June 5, 2020).

(2) Prior to the enactment of the Appropriations Act, under § 1106(b) of the CARES Act, an individual or entity that was eligible to receive an original PPP covered loan (original eligible recipient) could receive forgiveness of the full principal amount of the loan up to an amount equal to the following costs incurred and payments made during the original PPP covered period: (1) payroll costs, (2) interest on a covered mortgage obligation, (3) any covered rent obligation payment, and (4) any covered utility payment (original eligible expenses).

(3) Prior to the enactment of the Appropriations Act, § 1106(i) of the CARES Act provided that, for purposes of the Internal Revenue Code (Code), “any amount which (but for this subsection) would be includible in gross income of the eligible recipient by reason of forgiveness described in subsection (b) shall be excluded from gross income.” Section 1106(i) of the CARES Act excluded the amount from gross income regardless of whether the amount would be (1) income from the discharge of indebtedness under § 61(a)(11) of the Code, or (2) otherwise includible in gross income under § 61.

.02 *Guidance Issued Prior to Enactment of the COVID-related Tax Relief Act.* On April 30, 2020, the Treasury Department and the IRS released Notice 2020-32, 2020-21 IRB 837 (May 18, 2020), which clarified that no deduction was allowed for an otherwise deductible expense if the payment of the expense

resulted in forgiveness of an original PPP covered loan. On November 18, 2020, the Treasury Department and the IRS released Rev. Rul. 2020-27, 2020-50 IRB 1552 (December 7, 2020), which held that a taxpayer that incurred otherwise deductible expenses in its 2020 taxable year could not deduct those expenses if, at the end of the taxpayer’s 2020 taxable year, the taxpayer had a reasonable expectation of reimbursement of the expenses in the form of covered loan forgiveness. Also on November 18, 2020, the Treasury Department and the IRS released Rev. Proc. 2020-51, 2020-50 IRB 1599 (December 7, 2020), which provided a safe harbor to address situations covered by Rev. Rul. 2020-27 when the taxpayer’s expectation of covered loan forgiveness was not realized in a subsequent taxable year.

.03 *Enactment of the COVID-related Tax Relief Act.*

(1) On December 27, 2020, the Appropriations Act was enacted. Section 304(b)(1)(A) of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act), which was enacted as Title III of Division N of the Appropriations Act, redesignated § 1106 of the CARES Act as § 7A of the Small Business Act, transferred the section to the Small Business Act (15 U.S.C. § 631 et seq.), and inserted that section so as to appear after § 7 of the Small Business Act (15 U.S.C. § 636)). Section 276(a)(1) of the COVID-related Tax Relief Act amended § 7A(i) of the Small Business Act to provide new rules regarding the Federal income tax consequences of forgiveness of original PPP covered loans. Specifically, § 7A(i) of the Small Business Act provides, in relevant part, that “no amount shall be included in the gross income of the eligible recipient by reason of forgiveness of indebtedness [on an original PPP covered loan],” and “no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of [that] exclusion from gross income.”

(2) Rev. Rul. 2021-2, 2021-4 IRB 495 (Jan. 25, 2021), which was released on January 6, 2021, obsoleted Notice 2020-32 and Rev. Rul. 2020-27 due to the enactment of § 276(a) of the COVID-related Tax Relief Act. Rev. Rul. 2021-2 provides

that, as of December 27, 2020, the conclusion stated in Notice 2020-32 and the holding stated in Rev. Rul. 2020-27 are no longer accurate statements of the law. Likewise, the legal premise underlying Rev. Proc. 2020-51 is no longer accurate and, as of December 27, 2020, taxpayers could not have complied with the requirements of section 3.01 or 3.02 of Rev. Proc. 2020-51.

### **SECTION 3. SAFE HARBOR TO DEDUCT ORIGINAL ELIGIBLE EXPENSES IN IMMEDIATELY SUBSEQUENT TAXABLE YEAR**

.01 *Safe Harbor.* Subject to the limitations described in section 3.05 of this revenue procedure, a taxpayer may elect to deduct otherwise deductible original eligible expenses on the taxpayer’s timely filed, including extensions, original Federal income tax return or information return, as applicable, for the taxpayer’s immediately subsequent taxable year, rather than on an amended return or administrative adjustment request for the taxpayer’s 2020 taxable year in which the expenses were paid or incurred, if the taxpayer--

(1) Is a “Covered Taxpayer,” as defined in section 3.02 of this revenue procedure; and

(2) Satisfies all of the requirements described in section 3.04 of this revenue procedure.

.02 *Covered Taxpayer.* A Covered Taxpayer is a taxpayer that satisfies all of the following:

(1) The taxpayer received an original PPP covered loan;

(2) The taxpayer paid or incurred original eligible expenses during the taxpayer’s 2020 taxable year;

(3) On or before December 27, 2020, the taxpayer timely filed, including extensions, a Federal income tax return or information return, as applicable, for the taxpayer’s 2020 taxable year; and

(4) On the taxpayer’s Federal income tax return or information return, as applicable, the taxpayer did not deduct the original eligible expenses because--

(a) The expenses resulted in forgiveness of the original PPP covered loan; or

(b) The taxpayer reasonably expected at the end of the 2020 taxable year that the expenses would result in such forgiveness.

.03 *Expenses Not Covered by the Safe Harbor.* This revenue procedure does not apply to expenses described in sections 3.03(1) or (2) of this revenue procedure.

(1) Section 304(b)(2) of the Economic Aid Act expanded the list of expenses for which an individual or entity that received an original PPP covered loan could receive forgiveness. *See* § 7A(a) of the Small Business Act (as amended by § 304(b)(2) of the Economic Aid Act). However, because those new expenses were not included as part of the original eligible expenses, those expenses are not eligible to be deducted through an election by a Covered Taxpayer to apply the safe harbor provided by section 3.01 of this revenue procedure.

(2) Section 311(a) of the Economic Aid Act amended § 7(a) of the Small Business Act to authorize Paycheck Protection Program Second Draw Loans (PPP Second Draw Loans) under the same terms, conditions, and processes as original PPP covered loans. *See* § 7(a)(37)(B) of the Small Business Act (as added by § 311(a) of the Economic Aid Act). PPP Second Draw Loans are not original PPP covered loans, and therefore eligible expenses that may result in forgiveness of such loans are not covered by this revenue procedure.

.04 *Time and Manner for Making Election to Apply Safe Harbor.* To make a valid election to apply the safe harbor provided by section 3.01 of this revenue procedure, a Covered Taxpayer must satisfy the following conditions:

(1) *Election deadline.* A Covered Taxpayer must make the election by attaching the statement described in section 3.04(2) of this revenue procedure to the Covered Taxpayer's timely filed, including extensions, Federal income tax return or information return, as applicable, for the Covered Taxpayer's first taxable year following the Covered Taxpayer's 2020 taxable year in which the original eligible expenses were paid or incurred.

(2) *Requirements for statement.* The statement required by section 3.04(1) of this revenue procedure must be titled "Revenue Procedure 2021-20 Statement" (and named *RevProc2021-20.pdf* for e-file attachments) and include the following information:

(a) The Covered Taxpayer's name, address, and social security number or taxpayer identification number;

(b) A statement that the Covered Taxpayer is applying the safe harbor provided by section 3.01 of this revenue procedure;

(c) The amount and date of disbursement of the taxpayer's original PPP covered loan; and

(d) A list, including descriptions and amounts, of the original eligible expenses paid or incurred by the Covered Taxpayer during the Covered Taxpayer's 2020 taxable year that are reported on the Federal income tax return or information return, as applicable, for the Covered Taxpayer's first taxable year following that 2020 taxable year.

.05 *Safe Harbor Limitations.* The safe harbor provided by section 3.01 of this revenue procedure does not preclude the IRS from--

(1) Examining any issues relating to the claimed deductions for original eligible expenses, including determining whether a taxpayer is a Covered Taxpayer under this revenue procedure, the amount of the deduction, and whether the Covered Taxpayer has substantiated the deduction claim; or

(2) Requesting additional information or documentation verifying any amounts described in the statement required by section 3.04(1) of this revenue procedure.

#### **SECTION 4. EFFECT ON OTHER DOCUMENTS**

Rev. Proc. 2020-51 is obsolete.

#### **SECTION 5. EFFECTIVE DATE**

This revenue procedure is effective for any taxable year ending in calendar year 2020 and for the immediately subsequent taxable year.

#### **SECTION 6. PAPERWORK REDUCTION ACT**

.01 This revenue procedure provides procedures by which Covered Taxpayers may apply the safe harbor provided by section 3.01 of this revenue procedure. To elect to apply that safe harbor, Covered Taxpayers must file a statement in

accordance with all of the requirements described in section 3.04(2) of this revenue procedure. The collection of information will be associated with the Federal income tax returns or information returns to which that statement will be attached. That collection of information has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507(c)) under--

(1) control number 1545-0123 for business filers (<https://www.federalregister.gov/documents/2018/10/09/2018-21846/proposed-collection-comment-request-for-forms-1065-1065-b-1066-1120-1120-c-1120-f-1120-h-1120-nd>); and

(2) control number 1545-074 for individual filers ([https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201808-1545-031](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201808-1545-031)).

.02 The information described in section 6.01 of this revenue procedure is required to be collected and retained for compliance purposes. Specifically, that information will be used by the IRS to (1) determine whether a Covered Taxpayer has elected to apply the safe harbor provided by section 3.01 of this revenue procedure, (2) determine that the amount claimed on the Federal income tax or information return filed by the Covered Taxpayer is correct, and (3) ensure that any future action that is inconsistent with the election by the Covered Taxpayer to apply the safe harbor provided by section 3.01 of this revenue procedure is properly addressed, including through the potential application of equitable estoppel or the doctrine of consistency.

.03 The Treasury Department and the IRS estimate that the maximum number of respondents under this revenue procedure would be 6,762,181. This number was determined by examining the PPP data for the total number of approved original PPP covered loans. *See* <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program/ppp-data>. This data is current through March 28, 2021. Because some taxpayers will not elect to apply the safe harbor provided by section 3.01 of this revenue procedure, the number of estimated respondents is on the high end of the estimate.

.04 The maximum estimated number of respondents under this revenue procedure is 6,762,181. The estimated annual burden per respondent or recordkeeper varies between 0 and 30 minutes, depending on individual circumstances, with an estimated average of 15 minutes. The estimated total annual reporting and/or recordkeeping burden is approximately 1,690,545 hours (6,762,181 respondents \* 15 minutes). The estimated annual cost burden to respondents is \$95 per hour. Accordingly, the Treasury Department and the IRS expect the total annual cost burden for the statements required by section 3.04(1) of this revenue procedure to be approximately \$160,601,799 (6,762,181 \* 0.25 \* \$95). The estimated annual frequency of responses is once because that statement must be filed only once.

## **SECTION 7. DRAFTING INFORMATION**

The principal authors of this revenue procedure are Sarah Daya and Charles Gorham of the Office of the Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, please contact Morgan Lawrence at (202) 317-7011 (not a toll-free number).

*26 CFR 601.602: Tax forms and instructions (Also: Part I, §§ 24, 32 and 36B)*

## **Rev. Proc. 2021-23**

### **SECTION 1. PURPOSE**

This revenue procedure supersedes sections 3.05 (Child Tax Credit) and 3.07 (Earned Income Credit) of Rev. Proc. 2020-45, 2020-46 I.R.B. 1016, and section 2.01 of Rev. Proc. 2020-36, 2020-32 I.R.B. 243 (Applicable Percentage Table for 2021), to reflect statutory amendments made by the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (ARP). Rev. Proc. 2020-45 sets forth inflation-adjusted items for 2021, for var-

ious provisions of the Internal Revenue Code of 1986 (Code). Rev. Proc. 2020-36 updates the applicable percentage table in § 36B(b)(3)(A)(i) of the Code (Applicable Percentage Table) used to calculate a taxpayer's premium tax credit (PTC) and the required contribution percentage used to determine whether an individual is eligible for employer-sponsored minimum essential coverage for calendar year 2021.

### **SECTION 2. CHANGES**

.01 Solely for taxable years beginning in 2021, section 9611 of the ARP increases the child tax credit under § 24 of the Code to \$3,000 for qualifying children who have attained age 6 but not 18 by the end of the 2021 taxable year, and \$3,600 for qualifying children who have not attained age 6.

.02 Solely for taxable years beginning in 2021, section 9621 of the ARP temporarily modifies the Earned Income Credit (EIC) under § 32 of the Code to provide special rules, including, for example, special rules for eligible individuals with no qualifying children and applicable phase-out amounts.

.03 For taxable years beginning in or after 2021, section 9624 of the ARP modifies § 32(i) of the Code to provide that the EIC is not available for taxpayers whose aggregate amount of disqualified income exceeds \$10,000. This amount will be adjusted for inflation for taxable years beginning after December 31, 2021.

.04 For taxable years beginning in 2021 and 2022, section 9661 of the ARP Act amends the Applicable Percentage Table in § 36B(b)(3)(A) of the Code to provide temporary percentages. Taxpayers use the applicable percentages in § 36B(b)(3)(A) to determine the amount of the PTC they may claim for a taxable year. Section 9661 does not amend the required contribution percentage that a taxpayer uses to determine whether the taxpayer and members of the taxpayer's family are eligible for employer-sponsored minimum essential coverage. See § 36B(c)(2)(C)(i)(II). Con-

sequently, the required contribution percentage of 9.83 percent for 2021 provided in section 2.02 of Rev. Proc. 2020-36 is unchanged.

### **SECTION 3. 2021 INCREASED REFUNDABLE CHILD TAX CREDIT**

For taxable years beginning in 2021, the child tax credit is refundable for certain taxpayers up to \$3,000 for each qualifying child age 6 or older and \$3,600 for each qualifying child who has not attained age 6. A taxpayer is eligible for the increased refundable amount only if the taxpayer, or the spouse of a taxpayer filing a joint return, had a main home in the United States for more than half of the taxable year beginning in 2021 or was a bona fide resident of Puerto Rico for the taxable year beginning in 2021. For all other taxpayers, the refundable portion of the credit is limited to \$1,400 under § 24(h)(5)(A).

### **SECTION 4. 2021 EARNED INCOME CREDIT AS MODIFIED AND SUPERSEDED**

#### *.01 Earned Income Credit*

(1) *In general.* For taxable years beginning in 2021, the following amounts are used to determine the EIC under § 32(b). The "earned income amount" is the amount of earned income at or above which the maximum amount of the earned income credit is allowed. The "threshold phaseout amount" is the amount of adjusted gross income (or, if greater, earned income) above which the maximum amount of the credit begins to phase out. The "completed phaseout amount" is the amount of adjusted gross income (or, if greater, earned income) at or above which no credit is allowed. The threshold phaseout amounts and the completed phaseout amounts shown in the table below for married taxpayers filing a joint return include the increase provided in § 32(b)(2)(B), as adjusted for inflation for taxable years beginning in 2021.

Item	Number of Qualifying Children			
	One	Two	Three or More	None
Earned Income Amount	\$10,640	\$14,950	\$14,950	\$9,820
Maximum Amount Of Credit	\$3,618	\$ 5,980	\$6,728	\$1,502
Threshold Phaseout Amount (Single, Surviving Spouse, or Head of Household)	\$19,520	\$19,520	\$19,520	\$11,610
Complete Phaseout Amount (Single, Surviving Spouse, or Head of Household)	\$42,158	\$47,915	\$51,464	\$21,430
Threshold Phaseout Amount (Married Filing Jointly)	\$25,470	\$25,470	\$25,470	\$17,560
Completed Phaseout Amount (Married Filing Jointly)	\$48,108	\$53,865	\$57,414	\$27,380

(2) *Excessive Investment Income.* For taxable years beginning in 2021, the EIC is not allowed if the aggregate amount of disqualified investment income exceeds \$10,000.

**SECTION 5. APPLICABLE PERCENTAGE TABLE FOR 2021 AS MODIFIED AND SUPERSEDED**

.01 *Applicable Percentage Table for*

2021. For taxable years beginning in 2021, the Applicable Percentage for purposes of § 36B(b)(3)(A)(i) and § 1.36B-3(g) of the Income Tax Regulations is:

Household income percentage of Federal poverty line:	Initial percentage	Final percentage
Less than 150%	0.00%	0.00%
At least 150% but less than 200%	0.00%	2.00%
At least 200% but less than 250%	2.00%	4.00%
At least 250% but less than 300%	4.00%	6.00%
At least 300% but less than 400%	6.00%	8.50%
At least 400% and higher	8.50%	8.50%

**SECTION 6. EFFECT ON OTHER DOCUMENTS**

This revenue procedure modifies and supersedes sections 3.05 and 3.07 of Rev. Proc. 2020-45, and section 2.01 of Rev. Proc. 2020-36.

**SECTION 7. EFFECTIVE DATE**

This revenue procedure applies to taxable years beginning in 2021.

**SECTION 8. DRAFTING INFORMATION**

The principal author of this revenue procedure is William Ruane of the Office

of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Mr. Ruane at (202) 317-4718 (not a toll free number).

# Definition of Terms

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

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

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

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

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

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

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

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

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

new ruling does more than restate the 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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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2020–27 through 2020–52 is in Internal Revenue Bulletin 2020–52, dated December 27, 2020.

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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2020-27 through 2020-52 is in Internal Revenue Bulletin 2020-52, dated December 27, 2020.

# **Internal Revenue Service**

## **Washington, DC 20224**

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## **INTERNAL REVENUE BULLETIN**

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at [www.irs.gov/irb/](http://www.irs.gov/irb/).

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