

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.

EMPLOYEE PLANS

Notice 2021-54, page 457.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for September 2021 used under § 417(e)(3)(D), the 24-month average segment rates applicable for September 2021, and the 30-year Treasury rates, as reflected by the application of § 430(h)(2)(C)(iv).

ESTATE TAX

T.D. 9957, page 452.

This guidance contains final regulations establishing a new user fee for persons requesting the issuance of IRS Letter 627, also referred to as an estate tax closing letter. Pursuant to the guidelines in OMB Circular A-25, the IRS has calculated its cost of providing the estate tax closing letter to be \$67.

Bulletin No. 2021-41
October 12, 2021

INCOME TAX

Notice 2021-55, page 461.

This notice explains the circumstances under which the four-year replacement period under section 1033(e)(2) is extended for livestock sold on account of drought. The Appendix to this notice contains a list of counties that experienced exceptional, extreme, or severe drought conditions during the 12-month period ending August 31, 2021. Taxpayers may use this list to determine if any extension is available.

T.D. 9956, page 449.

These final regulations under sections 250 and 951A address the calculation of qualified business asset investment for qualified improvement property under the alternative depreciation system. These final regulations also contain transition rules relating to the impact on loss accounts of net operating loss carrybacks allowed by reason of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act").

The IRS Mission

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

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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

Part I

T.D. 9956

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Guidance on the Treatment of Qualified Improvement Property under Sections 250(b) and 951A(d) and Guidance Related to the Foreign Tax Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under sections 250 and 951A addressing the calculation of qualified business asset investment (“QBAI”) for qualified improvement property (“QIP”) under the alternative depreciation system (“ADS”). This document also contains final regulations with transition rules relating to the impact on loss accounts of net operating loss (NOL) carrybacks allowed by reason of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”). The final regulations affect United States shareholders of controlled foreign corporations, domestic corporations eligible for the section 250 deduction, and taxpayers that claim credits or deductions for foreign income taxes.

DATES: *Effective date:* These regulations are effective on September 24, 2021.

Applicability dates: For dates of applicability, see §§1.250-1(b), 1.904(f)-12(j)(7), and 1.951A-7(a).

FOR FURTHER INFORMATION CONTACT: Concerning §§1.250(b)-1(b)(2) and 1.250(b)-2(e)(2), Lorraine Rodriguez at (202) 317-6726; concerning §1.904(f)-12, Jeffrey L. Parry at (202) 317-4916; concerning §1.951A-3(e)(2),

Jorge M. Oben at (202) 317-6934 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

I. Treatment of QIP Under Sections 250 and 951A

On January 15, 2021, the Department of the Treasury (“Treasury Department”) and the IRS published proposed regulations (REG-111950-20) under sections 250, 951A, 1297, and 1298 in the **Federal Register** (86 FR 4582, as corrected at 86 FR 12886) (the “2021 proposed regulations”). The provisions in the 2021 proposed regulations under sections 250 and 951A, which were added to the Code in the Tax Cuts and Jobs Act, Public Law 115-97, 131 Stat. 2234 (2017), addressed the treatment of QIP under the ADS for purposes of calculating QBAI.

The Treasury Department and the IRS received no written comments with respect to the proposed rules under sections 250 and 951A. A public hearing on the 2021 proposed regulations was not held because there were no requests to speak.

This rulemaking finalizes the portion of the 2021 proposed regulations under sections 250 and 951A, but does not finalize the portions of the 2021 proposed regulations under sections 1297 and 1298 (determining whether a foreign corporation is treated as a passive foreign investment company and the treatment of income and assets of a qualifying insurance corporation that is engaged in the active conduct of an insurance business). The Treasury Department and the IRS intend to finalize those portions of the 2021 proposed regulations separately.

II. Treatment of Net Operating Losses Incurred in Post-2017 Taxable Years that are Carried Back to Pre-2018 Taxable Years

On November 12, 2020, the Treasury Department and the IRS published pro-

posed regulations (REG-101657-20) in the **Federal Register** (85 FR 72078) (the “2020 FTC proposed regulations”), which included revisions to the transition rules for post-2017 NOL carrybacks to pre-2018 taxable years.

The Treasury Department and the IRS received no written comments with respect to the proposed revisions to the transition rules that address post-2017 NOL carrybacks to pre-2018 taxable years. A public hearing on the 2020 FTC proposed regulations was held on April 7, 2021.

This rulemaking finalizes the portion of the 2020 FTC proposed regulations that addresses the transition rules for post-2017 NOL carrybacks to pre-2018 taxable years. This rulemaking does not finalize any other portions of the 2020 FTC proposed regulations. The Treasury Department and the IRS intend to finalize those portions of the 2020 FTC proposed regulations separately.

Summary of Comments and Explanation of Revisions

The Treasury Department and the IRS received no written comments with respect to the proposed rules under sections 250 and 951A or the transition rules that address post-2017 NOL carrybacks to pre-2018 taxable years. Therefore, those portions of the proposed regulations are being finalized without substantive change.

Special Analyses

I. Regulatory Planning and Review – Economic Analysis

These regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) generally requires

that a federal agency obtain the approval of the OMB before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit.

There are no information collection requirements associated with these final regulations.

III. Regulatory Flexibility Act

It is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

A. Regulations regarding the treatment of QIP under sections 250 and 951A

The economic impact of the regulations regarding the treatment of QIP under sections 250 and 951A is not

likely to be significant because these regulations merely clarify that the technical amendment to section 168 enacted in section 2307(a) of the CARES Act applies to determine the adjusted basis of property under section 951A(d) (3) as if it had originally been part of section 13204 of the Act. The clarification resolves an ambiguity and adopts the interpretation that does not require duplicative recordkeeping for the basis in this property. Therefore, this rule should reduce recordkeeping and compliance burdens that might otherwise apply. In addition, the regulations do not impose a collection of information burden on any person, including small entities. Accordingly, it is hereby certified that the regulations regarding the treatment of QIP under sections 250 and 951A will not have a significant economic impact on a substantial number of small entities.

B. Foreign tax credit transition rules addressing post-2017 NOL carrybacks to pre-2018 taxable years

The foreign tax credit transition rules addressing post-2017 NOL carrybacks to pre-2018 taxable years provide guidance needed to comply with statutory changes and affect individuals and corporations claiming foreign tax credits. Adequate data are not available at this time to certify that a substantial number of small entities would be unaffected. However, the Treasury Department and the IRS have determined that the regulations will not have a significant economic impact on domestic small business entities. Based on information from the Statistics of Income 2017 Corporate File, foreign tax credits as a percentage of three different tax-related measures of annual receipts (see Table for variables) by corporations are substantially less than the 3 to 5 percent threshold for significant economic impact.

Size (by Business Receipts)	under \$500,000	\$500,000 under \$1,000,000	\$1,000,000 under \$5,000,000	\$5,000,000 under \$10,000,000	\$10,000,000 under \$50,000,000	\$50,000,000 under \$100,000,000	\$100,000,000 under \$250,000,000	\$250,000,000 or more
FTC/Total Receipts	0.12%	0.00%	0.00%	0.00%	0.01%	0.01%	0.02%	0.28%
FTC/(Total Receipts-Total Deductions)	0.61%	0.03%	0.09%	0.05%	0.35%	0.71%	1.38%	9.89%
FTC/Business Receipts	0.84%	0.00%	0.00%	0.00%	0.01%	0.01%	0.02%	0.05%

Source: Statistics of Income (2017) Form 1120

In addition, these final regulations do not impose a collection of information burden on any person, including small entities. Accordingly, it is hereby certified that the foreign tax credit transition rules addressing post-2017 NOL carrybacks to pre-2018 taxable years will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f) of the Internal Revenue Code, the notices of proposed rulemaking preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on their impact on small business, and no comments were received.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. These regulations do not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or

by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. These regulations do not have federalism implications and do not impose

substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Drafting Information

The principal authors of these regulations are Jorge M. Oben, Jeffrey L. Parry, and Larry R. Pounders of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, Notices, and other guidance cited in this document are published in the Internal Revenue Bulletin and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and record-keeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:
Authority: 26 U.S.C. 7805.

Par. 2. Section 1.250-1 is amended by revising the first sentence of paragraph (b) and adding a sentence at the end of the paragraph to read as follows:

§1.250-1 Introduction.

(b) *** Except as otherwise provided in this paragraph (b), §§1.250(a)-1 and 1.250(b)-1 through 1.250(b)-6 apply to taxable years beginning on or after January 1, 2021. *** The last sentence in §1.250(b)-2(e)(2) applies to taxable years beginning after December 31, 2017.

Par. 3. Section 1.250(b)-2 is amended by adding a sentence at the end of paragraph (e)(2) to read as follows:

§1.250(b)-2 Qualified business asset investment (QBAI).

(e) ***

(2) *** For purposes of applying section 250(b)(2)(B) and this paragraph (e), the technical amendment to section 168(g) (to provide a recovery period of 20 years for qualified improvement property for purposes of the alternative depreciation system) enacted in section 2307(a) of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136 (2020) is treated as enacted on December 22, 2017.

§1.904-2 [Amended]

Par. 4. Section 1.904-2(j)(1)(iii)(D) is amended by removing the language “§1.904(f)-12(j)(5)” and adding the language “§1.904(f)-12(j)(6)” in its place.

Par. 5. Section 1.904(f)-12 is amended by:

1. Removing paragraph (j)(6);
2. Redesignating paragraph (j)(5) as paragraph (j)(6); and
3. Adding a new paragraph (j)(5) and paragraph (j)(7);

The additions read as follows:

§1.904(f)-12 Transition rules.

(j) ***

(5) *Treatment of net operating losses incurred in post-2017 taxable years that are carried back to pre-2018 taxable years*—(i) *In general.* Except as provided in paragraph (j)(5)(ii) of this section, a net operating loss incurred in a taxable year beginning after December 31, 2017 (a “post-2017 taxable year”), which is carried back, pursuant to section 172, to a taxable year beginning before January 1, 2018 (a “pre-2018 carryback year”), will be carried back under the rules of §1.904(g)-3(b). For purposes of applying the rules of §1.904(g)-3(b), income in a pre-2018 separate category in the taxable year to which the net operating loss is carried back is treated as if it included only

income that would be assigned to the post-2017 general category. Therefore, any separate limitation loss created by reason of a passive category component of a net operating loss from a post-2017 taxable year that is carried back to offset general category income in a pre-2018 carryback year will be recaptured in post-2017 taxable years as general category income, and not as a combination of general, foreign branch, and section 951A category income.

(ii) *Foreign source losses in the post-2017 separate categories for foreign branch category income and section 951A category income.* Net operating losses attributable to a foreign source loss in the post-2017 separate categories for foreign branch category income and section 951A category income are treated as first offsetting general category income in a pre-2018 carryback year to the extent available to be offset by the net operating loss carryback. If the sum of foreign source losses in the taxpayer’s separate categories for foreign branch category income and section 951A category income in the year the net operating loss is incurred exceeds the amount of general category income that is available to be offset in the carryback year, then the amount of foreign source loss in each of the foreign branch and section 951A categories that is treated as offsetting general category income under this paragraph (j)(5)(ii), is determined on a proportionate basis. General category income in the pre-2018 carryback year is first offset by foreign source loss in the taxpayer’s post-2017 separate category for general category income in the year the net operating loss is incurred before any foreign source loss in that year in the separate categories for foreign branch category income and section 951A category income is carried back to reduce general category income. To the extent a foreign source loss in a post-2017 separate category for foreign branch category income or section 951A category income offsets general category income in a pre-2018 taxable year under the rules of this paragraph (j)(5)(ii), no separate limitation loss account is created.

(7) *Applicability date.* Except as otherwise provided in this paragraph (j)(7), this paragraph (j) applies to taxable years ending on or after December 31, 2017. Para-

graph (j)(5) of this section applies to carrybacks of net operating losses incurred in taxable years beginning on or after January 1, 2018.

Par. 6. Section 1.951A-3 is amended by adding a sentence at the end of paragraph (e)(2) to read as follows:

§1.951A-3 Qualified business asset investment.

* * * * *

(e) * * *

(2) * * * For purposes of applying section 951A(d)(3) and this paragraph (e), the technical amendment to section 168(g) (to provide a recovery period of 20 years for qualified improvement property for purposes of the alternative depreciation system) enacted in section 2307(a) of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136 (2020) is treated as enacted on December 22, 2017.

* * * * *

Douglas W. O'Donnell
*Deputy Commissioner for Services
and Enforcement.*

Approved: September 10, 2021.

Mark J. Mazur
*Acting Assistant Secretary of the
Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on September 21, 2021, 4:15 p.m., and published in the issue of the Federal Register for September 24, 2021, 86 FR 52971)

T.D. 9957

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 300

User Fee for Estate Tax Closing Letter

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations that establish a new user fee of \$67 for persons requesting the issuance of IRS Letter 627, also referred to as an estate tax closing letter. The final regulations affect persons who may request an estate tax closing letter.

DATES: *Effective Date:* These regulations are effective **October 28, 2021**.

Applicability Date: For date of applicability, see §300.13(d).

FOR FURTHER INFORMATION CONTACT: Juli Ro Kim at (202) 317-6859 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends the User Fee Regulations (26 CFR part 300) to establish a user fee applicable to requests for estate tax closing letters issued by the IRS (currently, IRS Letter 627).

A. Authority to Charge User Fees

The Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 9701) authorizes each agency to promulgate regulations establishing the charge for services provided by the agency (user fees). The IOAA provides that these user fee regulations are subject to policies prescribed by the President. The policies currently are set forth in the Office of Management and Budget (OMB) Circular A-25, 58 FR 38142 (July 15, 1993; OMB Circular). The OMB Circular requires agencies providing services that confer special benefits on identifiable recipients beyond those accruing to the general public to identify those services, to determine whether user fees should be assessed for those services, and if so, to establish user fees that recover the full cost of providing those services, unless the agency requests, and the OMB grants, an exception to the full cost requirement.

B. Notice of Proposed Rulemaking

On December 31, 2020, the Department of the Treasury (Treasury Department) and the IRS published in the **Federal Register** (85 FR 86871) a notice of proposed rulemaking (REG-114615-16) proposing amendments to the User Fee Regulations in part 300 of title 26 of the Code of Federal Regulations (proposed regulations). Specifically, the proposed regulations proposed the addition of new §300.13 to the User Fee Regulations to establish a \$67 user fee for issuing an estate tax closing letter for an estate.

The preamble to the proposed regulations identifies the issuance of an estate tax closing letter as the provision of a service that confers special benefits, beyond those accruing to the general public, to an estate or other person properly authorized under section 6103 of the Internal Revenue Code (Code) to receive an estate tax closing letter. Accordingly, the preamble to the proposed regulations concludes that the IRS is authorized, pursuant to the IOAA and the OMB Circular, to charge a user fee for the issuance of an estate tax closing letter that reflects the full cost of providing this service. Additionally, the preamble to the proposed regulations explains the special benefits conferred by the issuance of estate tax closing letters and analyzes how the IRS has computed that the full cost of issuing an estate tax closing letter is \$67. Finally, the preamble to the proposed regulations states that the Treasury Department and the IRS expect to implement a web-based procedure that will improve convenience and reduce burden for persons requesting estate tax closing letters as compared to the current procedure in place for making such requests.¹

Summary of Comments

A. Overview

The IRS received a total of five written public comments in response to the proposed regulations, some addressing multiple aspects of the proposed regulations. These comments are available at <https://www.regulations.gov> or upon request. No public

¹ For an overview of the procedure applicable to a request for an estate tax closing letter before **October 28, 2021**, see **part D of the Background and Explanation of Provisions** of the proposed regulations.

hearing on the proposed regulations was requested and accordingly no public hearing was held. After careful consideration of the comments received, the Treasury Department and the IRS adopt the proposed regulations without significant change. Accordingly, new §300.13 establishes a \$67 user fee for issuing an estate tax closing letter.

B. Comments Regarding the Imposition of a User Fee

1. Establishment and Amount of User Fee

One commenter opposed the establishment of a user fee to request an estate tax closing letter and suggested that the IRS return to issuing estate tax closing letters for every estate tax return filed, without the need for making a request or paying a user fee, as was the practice prior to June 2015.² Another commenter suggested that the user fee be reduced so that all estates desiring an estate tax closing letter can afford to pay the user fee and request the estate tax closing letter. A third commenter stated that the proposed \$67 user fee is both reasonable and appropriate given the impact of returns filed solely to elect portability under section 2010 of the Code and the fact that estate tax returns are most often filed in the context of decedents with substantial gross estates.

As described in the preamble to the proposed regulations, the issuance of an estate tax closing letter, and the return information and procedural and substantive explanations such letters provide, constitutes the provision of a service that confers special benefits on identifiable recipients beyond those accruing to the general public. Because of these special benefits, the IOAA and the OMB Circular require the imposition of a user fee for the issuance of an estate tax closing letter to reflect the full cost of providing the service unless the IRS requests, and the OMB grants, an exception to the full cost requirement. The IRS has not requested an exception to the full cost requirement, for the following reasons. First, the IRS views the \$67 user fee as not onerous or excessive, but reasonable in relation to the service provided. Second, as also discussed in the

preamble to the proposed regulations, an account transcript is a free alternative to the estate tax closing letter that provides certain return information comparable to that found in an estate tax closing letter. Account transcripts can be used to confirm that the examination of an estate tax return has been completed and the IRS file has been closed, which most often is identified as the primary purpose for requesting an estate tax closing letter. See Notice 2017-12, I.R.B. 2017-5 742 (describing the utility of the account transcript in lieu of the estate tax closing letter and its availability at no charge). Thus, if affording the user fee for the issuance of an estate tax closing letter presents a challenge, an estate instead can request an account transcript free of charge. The suggestions of the commenters to reduce or eliminate the user fee, therefore, are not adopted.

2. Comments Regarding a Single User Fee When Multiple Letters Are Issued

The Treasury Department and the IRS note that the preamble to the proposed regulations incorrectly states that the estate tax closing letter is issued to each executor. Instead, regardless of who requests an estate tax closing letter, the letter generally is issued to only one of multiple executors. Generally, the executor to whom the estate tax closing letter is issued is the executor identified on line 6a of Part 1 of the Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*; the address of such executor that is entered on line 6b becomes the estate's address of record (unless subsequently updated using Form 8822, *Change of Address (For Individual, Gift, Estate, or Generation-Skipping Transfer Tax Returns)*). Currently, estate tax closing letters also are sent to the recognized representative identified in Part 4 of the Form 706 and up to two representatives listed on Form 2848, *Power of Attorney and Declaration of Representative*. Therefore, in almost all cases, each request and corresponding \$67 user fee will generate the issuance of an estate tax closing letter to three or four persons.

One commenter referred to the costing analysis in the preamble of the proposed

regulations and sought an explanation of the decision to charge the same user fee per request, regardless of the number of estate tax closing letters to be issued in response to that single request. The commenter noted the incremental cost impact that occurs with the need to issue multiple letters in response to a single request, and contended that requests requiring the issuance of only one letter will subsidize the user fee cost of such requests requiring the issuance of multiple letters.

The costing analysis described in **part H of the Background and Explanation of Provisions** of the proposed regulations is based in large part on the number of requests for estate tax closing letters, rather than the total number of letters issued. The fact that one request generates, on average, three issued letters has only a marginal impact on the calculated user fee. The number of letters factors into the costing analysis in two places: request processing and quality assurance review.

For request processing costs, the costing analysis in the proposed regulations provides for 0.65 staff hours to review the return, create the estate tax closing letters, and prepare the letters for mailing. Although a detailed description of what each of these tasks entails and a breakdown of the time required for each task is not provided in the proposed regulations, the bulk of the time in processing the request is attributable to the research and analysis of IRS records by qualified personnel and not to the issuance of additional letters to additional persons. Thus, the incremental request processing cost of issuing the same estate tax closing letter at the same time to multiple persons is minimal.

For quality assurance review costs, the costing analysis in the proposed regulations provides that five out of every 100 estate tax closing letters are reviewed for quality assurance. While the issuance of multiple letters per request increases the number of letters reviewed for quality assurance and, therefore, increases the cost estimate for quality assurance review, the impact on the full costing is relatively small, only \$3 per letter.

Notwithstanding the marginal impact of issuing multiple letters per request on the calculation of the user fee, a variable

² See **part B of the Background and Explanation of Provisions** of the preamble of the proposed regulations for a full discussion of the June 2015 change to the prior IRS practice of issuing estate tax closing letters for every estate tax return filed.

user fee structure raises significant administrability concerns. Incorrect payments of the user fee are likely to occur in the event of a variable fee because persons that request the issuance of an estate tax closing letter may not have sufficient information regarding the estate's account to accurately identify the number of persons currently authorized under IRS procedures to receive an estate tax closing letter; the determination of the number of letters to be issued sometimes depends on more information than is shown on the estate tax return. Thus, varying the user fee based on the number of letters to be issued would require the IRS to modify the request processing procedures to add procedures for overpayments and underpayments of the user fee and likely would cause administrative delays as the personnel processing the requests take necessary steps and wait for correction of the payment before issuing letters. The changes to the request processing procedures necessary to accommodate a variable fee in place of a fixed fee would increase the request processing costs that factor into the overall cost estimate for the user fee; it is possible that the increase caused by the changes to the request processing procedures could exceed the marginal increase of issuing multiple letters per request under a fixed fee.

Based on all of these considerations, and recognizing that most requests for estate tax closing letters will require the issuance of multiple letters, the Treasury Department and the IRS have determined that the most economical and least complex approach is to have a fixed user fee based on the average number of letters issued per request. Thus, no change to the costing analysis is required and the proposed user fee of \$67 is adopted without change.

C. Comments Regarding Procedural Aspects of Requesting Estate Tax Closing Letters and Paying the User Fee

1. Making the Request and Paying the User Fee with the Estate Tax Return

Two commenters suggested amending the estate tax return or using a separate form to allow an estate to request the estate tax closing letter and pay the user

fee with the filing of the estate tax return. The commenters sought to further reduce or eliminate the administrative burden on both the estate and the IRS by removing the need for a separate web-based process. Under this suggestion, an estate would not be required to make a separate request subsequent to filing the estate tax return. The commenters stated that this suggestion would allow for efficient administration of the estate and provide the IRS with immediate notice of the request.

The Treasury Department and the IRS concur that the ability to pay the user fee and make the request for an estate tax closing letter at the time of filing the estate tax return would reduce or eliminate the burden on estates intending to make such requests. However, estate tax closing letters are not issued by the same IRS personnel who are involved in the examination of, and the decision to close the IRS file on, the estate tax return. Personnel issuing estate tax closing letters are alerted to begin that process only after the examination of the estate tax return has been completed and the IRS file has been closed. Thus, implementing such a change to current IRS procedures and return processing systems would substantially increase the burden on the IRS and would require increases in budget, staffing, and resources not currently available. In addition, as discussed elsewhere in this preamble, the procedure to be put in place for paying the user fee and requesting the estate tax closing letter is a convenient and not unduly burdensome alternative that balances the administrability concerns of both the IRS and the estates making requests for estate tax closing letters. For these reasons, this suggestion is not adopted.

2. Additional User Fee for Requests Related to Supplemental Estate Tax Returns

One commenter requested further clarification of whether an additional user fee is required for estate tax closing letters after the filing of a supplemental estate tax return. Specifically, the commenter references Rev. Proc. 81-27, 1981-2 C.B. 547, and identifies supplemental estate tax returns filed in relation to elections made under section 6166 of the Code as creating an undue burden on such estates if an

additional user fee is required for a new estate tax closing letter after each subsequent filing of a supplemental estate tax return. The commenter suggests that only one user fee should be imposed per estate, regardless of how many estate tax returns are filed.

As directed by the OMB Circular, the cost analysis described in the proposed regulations is based on the number of estate tax closing letters requested over a specified period of time, whether related to an initial estate tax return or to a supplemental estate tax return, and the labor and benefits costs of campus employees required to process the requests. Each request requires the same amount of IRS resources to issue the estate tax closing letter, whether the request is related to the initial estate tax return or a supplemental estate tax return. In particular, each such request necessitates research and analysis of IRS records, which makes up a significant part of the cost of the user fee. Therefore, accommodating the commenter's suggestion likely would increase the cost of a single request, and such increase would be borne equally by all estates requesting estate tax closing letters, including simpler estates filing only an initial estate tax return. Further, an estate filing a supplemental estate tax return is not required to request an estate tax closing letter in relation to both the initial estate tax return and the supplemental estate tax return, and presumably will request multiple estate tax closing letters only if the estate determines that the benefits of receiving a second estate tax closing letter merit the payment of the additional user fee. Accordingly, the suggestion is not adopted and each request for an estate tax closing letter will require a separate user fee.

3. Procedures for the Request and Issuance of Estate Tax Closing Letters

Several commenters requested clarification on some of the procedural aspects of requesting estate tax closing letters. For example, commenters sought information on who is permitted to make the request, when the request can be made, how many letters will be issued in response to a single request, and who will be the recipients of the estate tax closing letters.

The procedure for requesting the estate tax closing letter and paying the user fee utilizes <https://www.pay.gov>. In this web-based procedure, a request for the estate tax closing letter and the payment of the user fee will be accomplished by a single request, thus eliminating the potential under the current procedure for multiple requests and necessary duplicative follow-up.

As noted in the preamble to the proposed regulations, specific procedures for requesting an estate tax closing letter and paying the associated user fee for that request are not provided in these regulations. Such procedures change from time to time and therefore are best addressed and kept current in subregulatory guidance. It is clear that, while any person with sufficient information about the estate may request the issuance of a closing letter and pay the user fee, the closing letter will be provided only to certain authorized persons, a category that might not include the person making the request (for example, an employee of the attorney, certified public accountant, or enrolled agent for the estate). Information about who will receive an estate tax closing letter in response to a request, together with specific instructions for requesting the estate tax closing letter and paying the user fee, will be available on <https://www.pay.gov> (and on the IRS website at <https://www.irs.gov>) on or before **October 28, 2021**. To the extent possible, the procedures will reflect the comments and questions from these commenters, and the instructions and information are expected to address the issues these commenters raised.

In identifying the person liable for the fee for the estate tax closing letter, §300.13(c) of the proposed regulations includes persons properly authorized under section 6103 of the Code to request and receive the estate tax closing letter with respect to the estate. Consistent with the decision to exclude the relevant procedural guidance for requesting estate tax closing letters from these regulations, §300.13 is revised in the final regulations by removing the reference to section 6103, which governs the disclosure of return information but does not necessarily govern who would be liable for payment of the user fee for requesting the estate tax closing letter.

4. *Recommended Changes to Account Transcripts*

One commenter stated that, although the account transcript is a free alternative to the estate tax closing letter, the account transcript does not provide all of the information needed by an estate, including potentially the amount of net estate tax and the amount of generation-skipping transfer tax (information that an estate tax closing letter provides). The commenter suggested that the IRS should modify the account transcript to include additional detailed information.

As discussed in Notice 2017-12, an account transcript may be an acceptable substitute for an estate tax closing letter, even though the information provided by each is not identical. As discussed earlier in this preamble, both documents can be relied upon for confirmation that the IRS examination of the estate tax return has been closed, which most often is identified as the primary purpose for requesting an estate tax closing letter. The commenter's suggestion to change the information provided in the account transcript to include additional information also included in the estate tax closing letter is consistent with the determination that the issuance of an estate tax closing letter confers special benefits on identifiable recipients. Making changes to the account transcript as the commenter suggests would require costly programming changes and, moreover, is beyond the scope of this rulemaking. Accordingly, the commenter's suggestion is not adopted.

Special Analyses

These regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. The regulations, which prescribe a fee to obtain a particular service, affect decedents' estates, which generally are not "small en-

ties" as defined under 5 U.S.C. 601(6). In addition, the dollar amount of the fee (\$67 as currently determined) is not substantial enough to have a significant economic impact on any entities (including small entities) that could be affected by establishing such a fee. Accordingly, the Secretary of the Treasury's delegate certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f) of the Code, the proposed regulations (85 FR 86871) preceding these regulations were submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on their impact on small business. No comments on the proposed regulations were received from the Chief Counsel for the Office of Advocacy of the Small Business Administration.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, Notices, and other guidance cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Drafting Information

The principal author of these regulations is Juli Ro Kim of the Office of Associate Chief Counsel (Passthroughs and Special Industries). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 300

Estate taxes, Excise taxes, Gift taxes, Income taxes, Reporting and recordkeeping requirements, User fees.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 300 is 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 300.0 is amended by adding paragraph (b)(13) to read as follows:

§300.0 User fees; in general.

* * * * *

(b) * * *

(13) Requesting an estate tax closing letter.

Par. 3. Section 300.13 is added to read as follows:

§300.13 Fee for estate tax closing letter.

(a) *Applicability.* This section applies to the request by a person described in paragraph (c) of this section for an estate tax closing letter from the IRS.

(b) *Fee.* The fee for issuing an estate tax closing letter is \$67.

(c) *Person liable for the fee.* The person liable for the fee is the estate of the decedent or other person requesting, in accordance with applicable procedures and policies, an estate tax closing letter to be issued with respect to the estate.

(d) *Applicability date.* This section applies to requests for estate tax closing

letters received by the IRS on or after **October 28, 2021**.

Douglas W. O'Donnell,
*Deputy Commissioner for
Services and Enforcement.*

Approved: September 22, 2021

Mark J. Mazur,
*Acting Assistant Secretary of the
Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on September 27, 2021, 8:45 a.m., and published in the issue of the Federal Register for September 28, 2021, 86 FR 53539)

Part III

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

Notice 2021-54

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 August 2021 data is in Table 2021-8 at the end of this notice. The spot first, second, and third segment rates for the month of Au-

gust 2021 are, respectively, 0.66, 2.50, and 3.12.

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.

The 25-year average segment rates for plan years beginning in 2020 and 2021 were published Notice 2019-51, 2019-41 I.R.B. 866, and Notice 2020-72, 2020-40 I.R.B. 789, respectively. For plan years beginning in 2022, based on the segment rates applicable for October 1996 to September 2021, the 25-year averages for the period ending September 30, 2021, of the first, second, and third segment rates are 3.69, 5.45, and 6.23 percent, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for September 2021 without adjustment for the 25-year average segment rate limits are as follows:

<i>24-Month Average Segment Rates Without 25-Year Average Adjustment</i>			
Applicable Month	First Segment	Second Segment	Third Segment
September 2021	1.07	2.68	3.36

25-YEAR AVERAGE SEGMENT RATES

Section 9706(a) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (ARP), which was enacted on March 11, 2021, changes the 25-year average segment rates and the applicable minimum and maximum percentages used under § 430(h)(3)(C)(iv) of the Code to adjust the 24-month average segment rates. Prior to this change, the applicable minimum

and maximum percentages were 90% and 110% for a plan year beginning in 2020, and 85% and 115% for a plan year beginning in 2021, respectively. After this change, the applicable minimum and maximum percentages are 95% and 105% for a plan year beginning in 2020, 2021, or 2022. In addition, pursuant to this change, any 25-year average segment rate that is less than 5% is deemed to be 5%.²

Pursuant to § 9706(c)(1) of ARP, these changes apply with respect to plan years

beginning on or after January 1, 2020. However, § 9706(c)(2) of ARP provides that a plan sponsor may elect not to have these changes apply to any plan year beginning before January 1, 2022.³

The adjusted 24-month average segment rates set forth in the chart below reflect § 430(h)(2)(C)(iv) of the Code as amended by § 9706(a) of ARP. These adjusted 24-month average segment rates apply only for plan years for which an election under § 9706(c)(2) of ARP is not

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)).

² Pursuant to this change, the 25-year averages of the first segment rate for 2020, 2021, and 2022 are increased to 5.00% because those 25-year averages as originally published are below 5.00%.

³ This election may be made either for all purposes for which the amendments under § 9706 of ARP apply or solely for purposes of determining the adjusted funding target attainment percentage under § 436 of the Code for the plan year.

in effect. For a plan year for which such an election does not apply, the 24-month averages applicable for August 2021, adjusted

to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates

in accordance with § 430(h)(2)(C)(iv) of the Code, are as follows:

<i>Adjusted 24-Month Average Segment Rates</i>				
For Plan Years Beginning In	Applicable Month	First Segment	Second Segment	Third Segment
2020	September 2021	4.75	5.50	6.27
2021	September 2021	4.75	5.36	6.11
2022	September 2021	4.75	5.18	5.92

The adjusted 24-month average segment rates set forth in the chart below do not reflect the changes to § 430(h)(2)(C)(iv) of the Code made by § 9706(a) of ARP. These adjusted 24-month average

segment rates apply only for plan years for which an election under § 9706(c)(2) of ARP is in effect. For a plan year for which such an election applies, the 24-month averages applicable for September 2021,

adjusted to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates in accordance with § 430(h)(2)(C)(iv) of the Code, are as follows:

<i>Pre-ARP Adjusted 24-Month Average Segment Rates</i>				
For Plan Years Beginning In	Applicable Month	First Segment	Second Segment	Third Segment
2020	September 2021	3.64	5.21	5.94
2021	September 2021	3.32	4.79	5.47

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. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for August 2021 is 1.92 percent. The Service determined this rate as the average of the daily determinations

of yield on the 30-year Treasury bond maturing in May 2051 determined each day through August 11, 2021 and the yield on the 30-year Treasury bond maturing in August 2051 determined each day for the balance of the month. For plan years beginning in September 2021, 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%
September 2021	2.19	1.97 to 2.30

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 August 2021 are as follows:

<i>Minimum Present Value Segment Rates</i>			
Month	First Segment	Second Segment	Third Segment
August 2021	0.66	2.50	3.12

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 2021-8
 Monthly Yield Curve for August 2021
 Derived from August 2021 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	0.13	20.5	3.01	40.5	3.13	60.5	3.18	80.5	3.21
1.0	0.26	21.0	3.01	41.0	3.14	61.0	3.19	81.0	3.21
1.5	0.38	21.5	3.02	41.5	3.14	61.5	3.19	81.5	3.21
2.0	0.50	22.0	3.02	42.0	3.14	62.0	3.19	82.0	3.21
2.5	0.61	22.5	3.02	42.5	3.14	62.5	3.19	82.5	3.21
3.0	0.72	23.0	3.03	43.0	3.14	63.0	3.19	83.0	3.21
3.5	0.83	23.5	3.03	43.5	3.14	63.5	3.19	83.5	3.21
4.0	0.94	24.0	3.04	44.0	3.15	64.0	3.19	84.0	3.21
4.5	1.06	24.5	3.04	44.5	3.15	64.5	3.19	84.5	3.21
5.0	1.18	25.0	3.04	45.0	3.15	65.0	3.19	85.0	3.21
5.5	1.31	25.5	3.05	45.5	3.15	65.5	3.19	85.5	3.21
6.0	1.44	26.0	3.05	46.0	3.15	66.0	3.19	86.0	3.22
6.5	1.57	26.5	3.05	46.5	3.15	66.5	3.19	86.5	3.22
7.0	1.70	27.0	3.06	47.0	3.15	67.0	3.19	87.0	3.22
7.5	1.82	27.5	3.06	47.5	3.16	67.5	3.20	87.5	3.22
8.0	1.94	28.0	3.07	48.0	3.16	68.0	3.20	88.0	3.22
8.5	2.06	28.5	3.07	48.5	3.16	68.5	3.20	88.5	3.22
9.0	2.16	29.0	3.07	49.0	3.16	69.0	3.20	89.0	3.22
9.5	2.26	29.5	3.08	49.5	3.16	69.5	3.20	89.5	3.22
10.0	2.35	30.0	3.08	50.0	3.16	70.0	3.20	90.0	3.22
10.5	2.43	30.5	3.08	50.5	3.16	70.5	3.20	90.5	3.22
11.0	2.51	31.0	3.09	51.0	3.17	71.0	3.20	91.0	3.22
11.5	2.58	31.5	3.09	51.5	3.17	71.5	3.20	91.5	3.22
12.0	2.64	32.0	3.09	52.0	3.17	72.0	3.20	92.0	3.22
12.5	2.69	32.5	3.10	52.5	3.17	72.5	3.20	92.5	3.22
13.0	2.74	33.0	3.10	53.0	3.17	73.0	3.20	93.0	3.22
13.5	2.78	33.5	3.10	53.5	3.17	73.5	3.20	93.5	3.22
14.0	2.81	34.0	3.10	54.0	3.17	74.0	3.20	94.0	3.22
14.5	2.85	34.5	3.11	54.5	3.17	74.5	3.20	94.5	3.22
15.0	2.87	35.0	3.11	55.0	3.17	75.0	3.20	95.0	3.22
15.5	2.90	35.5	3.11	55.5	3.18	75.5	3.20	95.5	3.22
16.0	2.91	36.0	3.11	56.0	3.18	76.0	3.21	96.0	3.22
16.5	2.93	36.5	3.12	56.5	3.18	76.5	3.21	96.5	3.22
17.0	2.95	37.0	3.12	57.0	3.18	77.0	3.21	97.0	3.22
17.5	2.96	37.5	3.12	57.5	3.18	77.5	3.21	97.5	3.22
18.0	2.97	38.0	3.12	58.0	3.18	78.0	3.21	98.0	3.22
18.5	2.98	38.5	3.13	58.5	3.18	78.5	3.21	98.5	3.22
19.0	2.99	39.0	3.13	59.0	3.18	79.0	3.21	99.0	3.22
19.5	2.99	39.5	3.13	59.5	3.18	79.5	3.21	99.5	3.22
20.0	3.00	40.0	3.13	60.0	3.18	80.0	3.21	100.0	3.23

Extension of Replacement Period for Livestock Sold on Account of Drought

Notice 2021-55

SECTION 1. PURPOSE

This notice provides guidance regarding an extension of the replacement period under § 1033(e) of the Internal Revenue Code for livestock sold on account of drought in specified counties.

SECTION 2. BACKGROUND

.01 *Nonrecognition of Gain on Involuntary Conversion of Livestock.* Section 1033(a) generally provides for nonrecognition of gain when property is involuntarily converted and replaced with property that is similar or related in service or use. Section 1033(e)(1) provides that a sale or exchange of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy purposes in excess of the number that would be sold following the taxpayer's usual business practices is treated as an involuntary conversion if the livestock is sold or exchanged solely on account of drought, flood, or other weather-related conditions.

.02 *Replacement Period.* Section 1033(a)(2)(A) generally provides that gain from an involuntary conversion is recognized only to the extent the amount realized on the conversion exceeds the cost of replacement property purchased during the replacement period. If a sale or exchange of livestock is treated as an involuntary conversion under § 1033(e)(1) and is solely on account of drought, flood, or other weather-related conditions that result in the area being designated as eligible for assistance by the federal government, § 1033(e)(2)(A) provides that the replacement period ends four years after the close of the first taxable year in which any part of the gain from the conversion is realized. Section 1033(e)(2)(B) provides that the Secretary may extend this replacement period on a regional basis for

such additional time as the Secretary determines appropriate if the weather-related conditions that resulted in the area being designated as eligible for assistance by the federal government continue for more than three years. Section 1033(e)(2) is effective for any taxable year with respect to which the due date (without regard to extensions) for a taxpayer's return is after December 31, 2002.

SECTION 3. EXTENSION OF REPLACEMENT PERIOD UNDER § 1033(e)(2)(B)

Notice 2006-82, 2006-2 C.B. 529, provides for extensions of the replacement period under § 1033(e)(2)(B). If a sale or exchange of livestock is treated as an involuntary conversion on account of drought and the taxpayer's replacement period is determined under § 1033(e)(2)(A), the replacement period will be extended under § 1033(e)(2)(B) and Notice 2006-82 until the end of the taxpayer's first taxable year ending after the first drought-free year for the applicable region. For this purpose, the first drought-free year for the applicable region is the first 12-month period that (1) ends August 31; (2) ends in or after the last year of the taxpayer's four-year replacement period determined under § 1033(e)(2)(A); and (3) does not include any weekly period for which exceptional, extreme, or severe drought is reported for any location in the applicable region. The applicable region is the county that experienced the drought conditions on account of which the livestock was sold or exchanged and all counties that are contiguous to that county.

A taxpayer may determine whether exceptional, extreme, or severe drought is reported for any location in the applicable region by reference to U.S. Drought Monitor maps that are produced on a weekly basis by the National Drought Mitigation Center. U.S. Drought Monitor maps are archived at <http://droughtmonitor.unl.edu/Maps/MapArchive.aspx>.

In addition, Notice 2006-82 provides that the Internal Revenue Service will publish in September of each year a list of counties¹ for which exceptional, extreme,

or severe drought was reported during the preceding 12 months. Taxpayers may use this list instead of U.S. Drought Monitor maps to determine whether exceptional, extreme, or severe drought has been reported for any location in the applicable region.

The Appendix to this notice contains the list of counties for which exceptional, extreme, or severe drought was reported during the 12-month period ending August 31, 2021. Under Notice 2006-82, the 12-month period ended on August 31, 2021, is not a drought-free year for an applicable region that includes any county on this list. Accordingly, for a taxpayer who qualified for a four-year replacement period for livestock sold or exchanged on account of drought and whose replacement period is scheduled to expire at the end of 2021 (or, in the case of a fiscal year taxpayer, at the end of the taxable year that includes August 31, 2021), the replacement period will be extended under § 1033(e)(2) and Notice 2006-82 if the applicable region includes any county on this list. This extension will continue until the end of the taxpayer's first taxable year ending after a drought-free year for the applicable region.

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Lewis Saideman of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, please contact Mr. Saideman at (202) 317-7006 (not a toll-free number).

APPENDIX

Arizona

Counties of Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Maricopa, Mohave, Navajo, Pima, Pinal, Santa Cruz, Yavapai, and Yuma.

Arkansas

Counties of Benton, Carroll, Madison, and Washington.

¹The term "counties" in this notice includes boroughs, census areas, counties, islands, municipalities, or parishes.

California

Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, and Yuba.

Colorado

Counties of Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Broomfield, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, and Yuma.

Connecticut

Counties of Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, and Windham.

Hawaii

Counties of Hawaii, Honolulu, Kalawao, Kauai, and Maui.

Idaho

Counties of Ada, Adams, Bannock, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Bonneville, Boundary, Butte, Camas, Canyon, Caribou, Cassia, Clark, Clearwater, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Idaho, Jefferson, Jerome, Kootenai, Latah, Lemhi, Lewis,

Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Twin Falls, Valley, and Washington.

Illinois

Counties of Boone, Christian, Cook, DeKalb, De Witt, DuPage, Jo Daviess, Kane, Lake, Logan, McHenry, Macon, Menard, Ogle, Piatt, Sangamon, Stephenson, and Winnebago.

Iowa

Counties of Adair, Adams, Allamakee, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cerro Gordo, Cherokee, Chickasaw, Clay, Clayton, Crawford, Dallas, Delaware, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Howard, Humboldt, Ida, Iowa, Jasper, Johnson, Keokuk, Kossuth, Linn, Lyon, Madison, Mahaska, Marshall, Mills, Mitchell, Monona, Montgomery, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Polk, Pottawattamie, Poweshiek, Sac, Shelby, Sioux, Story, Tama, Warren, Webster, Winnebago, Winneshiek, Woodbury, Worth, and Wright.

Kansas

Counties of Brown, Cheyenne, Clark, Clay, Cloud, Comanche, Decatur, Dickinson, Geary, Gove, Graham, Grant, Greeley, Hamilton, Jackson, Jewell, Kearny, Lincoln, Logan, Marshall, Meade, Mitchell, Morton, Nemaha, Norton, Ottawa, Phillips, Pottawatomie, Rawlins, Republic, Riley, Scott, Seward, Sheridan, Sherman, Smith, Stanton, Stevens, Thomas, Wabaunsee, Wallace, Washington, and Wichita.

Maine

Counties of Androscoggin, Aroostook, Cumberland, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo, Washington, and York.

Massachusetts

Counties of Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester.

Michigan

County of Alcona, Allegan, Arenac, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Gladwin, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Leelanau, Livingston, Manistee, Mason, Mecosta, Midland, Montcalm, Muskegon, Newaygo, Ogemaw, Ottawa, Saginaw, Saint Clair, Saint Joseph, Sanilac, Shiawassee, Tuscola, Van Buren, Washtenaw, and Wexford.

Minnesota

County of Aitkin, Anoka, Becker, Beltrami, Benton, Big Stone, Blue Earth, Brown, Carlton, Carver, Cass, Chippewa, Chisago, Clay, Clearwater, Cook, Cottonwood, Crow Wing, Dakota, Douglas, Faribault, Fillmore, Freeborn, Goodhue, Grant, Hennepin, Houston, Hubbard, Isanti, Itasca, Jackson, Kanabec, Kandiyohi, Kittson, Koochiching, Lac qui Parle, Lake, Lake of the Woods, Le Sueur, Lincoln, Lyon, McLeod, Mahnomon, Marshall, Martin, Meeker, Mille Lacs, Morrison, Mower, Murray, Nicollet, Nobles, Norman, Otter Tail, Pennington, Pine, Pipestone, Polk, Pope, Ramsey, Red Lake, Redwood, Renville, Rice, Rock, Roseau, Saint Louis, Scott, Sherburne, Sibley, Stearns, Steele, Stevens, Swift, Todd, Traverse, Wadena, Waseca, Washington, Watonwan, Wilkin, Wright, and Yellow Medicine.

Mississippi

Counties of Grenada, Leflore, Quitman, Tallahatchie, and Yalobusha.

Missouri

Counties of Atchison, Barry, Barton, Cedar, Christian, Dade, Douglas, Greene, Holt, Jasper, Lawrence, McDonald, Newton, Polk, Stone, Taney, Vernon, and Webster.

Montana

Counties of Beaverhead, Big Horn, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Flathead, Gallatin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, McCone, Madison, Meagher, Mineral, Missoula, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Prairie, Ravalli, Richland, Roosevelt, Rosebud, Sanders, Sheridan, Silver Bow, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, and Yellowstone.

Nebraska

Counties of Adams, Antelope, Arthur, Banner, Box Butte, Boyd, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cuming, Custer, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, McPherson, Madison, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Red Willow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Sheridan, Sherman, Sioux, Stanton, Thayer, Thurston, Valley, Washington, Wayne, Webster, and Wheeler.

Nevada

City of Carson City. Counties of Churchill, Clark, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Storey, Washoe, and White Pine.

New Hampshire

Counties of Belknap, Carroll, Cheshire, Coos, Grafton, Hillsborough, Merrimack, Rockingham, Strafford, and Sullivan.

New Mexico

Counties of Bernalillo, Catron, Chaves, Cibola, Colfax, Curry, DeBaca, Dona

Ana, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, and Valencia.

New York

Counties of Allegany, Cattaraugus, Hamilton, Herkimer, Jefferson, Lewis, Oneida, Saint Lawrence, and Suffolk.

North Carolina

Counties of Bladen, Brunswick, Columbus, Duplin, New Hanover, Onslow, Pender, Robeson, Sampson, and Scotland.

North Dakota

Counties of Adams, Barnes, Benson, Billings, Bottineau, Bowman, Burke, Burleigh, Cass, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grand Forks, Grant, Griggs, Hettinger, Kidder, LaMoure, Logan, McHenry, McIntosh, McKenzie, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Sioux, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, and Williams.

Oklahoma

Counties of Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Choctaw, Cimarron, Coal, Custer, Dewey, Ellis, Grady, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kiowa, Love, Major, Marshall, Murray, Roger Mills, Texas, Tillman, Washita, Woods, and Woodward.

Oregon

Counties of Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Wheeler, and Yamhill.

Pennsylvania

Counties of Blair, Cambria, Cameron, Centre, Clearfield, Clinton, Huntingdon, Lycoming, McKean, Potter, Tioga, and Union.

Rhode Island

Counties of Bristol, Kent, Newport, Providence, and Washington.

South Carolina

Counties of Calhoun, Chesterfield, Clarendon, Darlington, Dillon, Florence, Georgetown, Horry, Kershaw, Lee, Lexington, Marion, Marlboro, Orangeburg, Richland, Sumter, and Williamsburg.

South Dakota

Counties of Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerould, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Marshall, Meade, Mellette, Miner, Minnehaha, Moody, Oglala Lakota, Pennington, Perkins, Potter, Roberts, Sanborn, Spink, Stanley, Sully, Todd, Tripp, Turner, Union, Walworth, Yankton, and Ziebach.

Texas

Counties of Andrews, Angelina, Aransas, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Carson, Castro, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fayette, Fisher, Floyd, Foard, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gon-

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er, Ward, Washington, Webb, Wheeler, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Yoakum, Young, Zapata, and Zavala.

Utah

Counties of Beaver, Box Elder, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, and Weber.

Vermont

Counties of Addison, Caledonia, Essex, Orange, Orleans, Rutland, Washington, Windham, and Windsor.

Washington

Counties of Adams, Asotin, Benton, Chelan, Clark, Columbia, Cowlitz, Douglas, Ferry, Franklin, Garfield, Grant, Island, Kittitas, Klickitat, Lincoln, Okanogan,

Pend Oreille, San Juan, Skagit, Skamania, Spokane, Stevens, Wahkiakum, Walla Walla, Whatcom, Whitman, and Yakima.

Wisconsin

Counties of Burnett, Crawford, Dane, Dodge, Grant, Green, Jefferson, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Ozaukee, Pierce, Polk, Racine, Richland, Rock, Saint Croix, Vernon, Walworth, Washington, and Waukesha.

Wyoming

Counties of Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Lincoln, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, and Weston.

United States Virgin Islands

Islands of Saint Croix, Saint John, and Saint Thomas.

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 2021-27 through 2021-52 is in Internal Revenue Bulletin 2021-52, dated December 27, 2021.

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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.