

# 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 2022-6, page 460.**

This notice updates the life expectancy and mortality tables used to determine substantially equal periodic payments under the methods set forth in Rev. Rul. 2002-62 and provides a 5 percent floor on the maximum interest rates that may be used to calculate annuity payments under the fixed amortization and annuitization methods. This notice also modifies the guidance in Notice 2004-15 to apply these changes for purposes of section 72(q).

**Bulletin No. 2022-5  
January 31, 2022**

### INCOME TAX

#### **Notice 2022-5, page 457.**

Because of the Coronavirus Disease 2019 (COVID-19) pandemic, the Department of the Treasury and the Internal Revenue Service issued Notice 2021-12, 2021-6 I.R.B. 828, as clarified by Notice 2021-17, 2021-14 I.R.B. 984, to provide temporary relief from certain requirements under § 42 of the Internal Revenue Code (Code) for qualified low-income housing projects and under §§ 142(d) and 147(d) of the Code for qualified residential rental projects. In response to the continuing presence of the pandemic and precautions necessitated by new disease variants, this notice provides certain new relief and extends that temporary relief for certain requirements addressed in Notice 2021-12.

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## 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

## Notice 2022-5

### I. PURPOSE

Because of the Coronavirus Disease 2019 (COVID-19) pandemic, the Department of the Treasury and the Internal Revenue Service issued Notice 2021-12, 2021-6 I.R.B. 828, as clarified by Notice 2021-17, 2021-14 I.R.B. 984, to provide temporary relief from certain requirements under § 42 of the Internal Revenue Code (Code) for qualified low-income housing projects and under §§ 142(d) and 147(d) of the Code for qualified residential rental projects. In response to the continuing presence of the pandemic and precautions necessitated by new disease variants, this notice provides certain new relief and extends the temporary relief for certain requirements addressed in Notice 2021-12. Section III of this notice describes the persons eligible for the relief granted in sections IV through VI of this notice.

### II. BACKGROUND

#### A. Qualified low-income housing projects

In this notice, the terms “Agency,” and “Owner” have the same meanings as described in section 5 of Rev. Proc. 2014-49, 2014-37 I.R.B. 535.

For background on the requirements under § 42 that are receiving an extension under this notice of the relief provided under Notice 2021-12, refer to Section II.A of Notice 2021-12.

An additional requirement under § 42 relating to an Agency’s inspection of low-income units as provided in § 1.42-5(c)(2)(iii)(C)(2) of the Income Tax Regulations is the 15-day reasonable notice requirement described in § 1.42-5(c)(2)(iii)(C)(3). Section 1.42-5(c)(2)(iii)(C)(2) provides that an Agency must select the low-income units to inspect and low-income certifications to review in a manner that does not give advance no-

tice that a particular low-income unit (or low-income certifications for a particular low-income unit) will or will not be inspected (or reviewed) for a particular year. The Agency may notify the owner of the low-income units for on-site inspection only on the day of inspection. However, the Agency may give an owner reasonable notice that there will be an inspection of the project and of not-yet-identified low-income units or a review of low-income certifications of not-yet-identified low-income units. The notice serves to enable the owner to assemble needed documentation for low-income certifications for review and to notify tenants of the possibility of physical inspection of their units. Section 1.42-5(c)(2)(iii)(C)(3) provides that reasonable notice is generally no more than 15 days.

Under § 42(m)(1)(A)(i), an Agency’s qualified allocation plan (QAP) must have been approved by the governmental unit of which the Agency is a part. This approval is to be made in accordance with rules similar to certain rules in § 147(f)(2), other than § 147(f)(2)(B)(ii). Because approval under § 147(f)(2)(B)(i) involves a public hearing, such a hearing is also required for purposes of § 42(m)(1)(A)(i). In response to the COVID-19 pandemic, hearings under § 147 were permitted to be conducted telephonically. *See* Rev. Proc. 2021-39, 2021-38 I.R.B. 426. In addition, Notice 2021-12 permitted hearings under § 42(m)(1)(A)(i) to be conducted telephonically.

#### B. Qualified residential rental projects financed by bonds

In this notice, the terms “Issuer” and “Operator” have the same meanings as described in section 4 of Rev. Proc. 2014-50, 2014-37 I.R.B. 540.

For background on the requirements under §§ 142(d) and 147(d) that are receiving an extension under this notice of the relief provided under Notice 2021-12, refer to Section II.B of Notice 2021-12.

#### C. Postponement of certain deadlines by reason of Presidentially declared disasters

On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121 et seq., in response to the ongoing COVID-19 pandemic (Emergency Declaration).<sup>1</sup> The Emergency Declaration instructed the Secretary of the Treasury “to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency, as appropriate, pursuant to 26 U.S.C. 7508A(a).” Subsequent to the Emergency Declaration, the President issued major disaster declarations under the authority of the Stafford Act with respect to all 50 States, the District of Columbia, and 5 territories (Major Disaster Declarations).<sup>2</sup> In addition, under § 1.42-13(a), the Secretary of the Treasury or her delegate has the general authority to issue guidance and provide relief to carry out the purposes of § 42.

In the context of a Presidentially-declared Major Disaster, Rev. Proc. 2014-49 provides temporary relief from certain requirements of § 42 for Agencies and Owners of low-income housing projects. Under section 8 of Rev. Proc. 2014-49, in the case of a casualty loss suffered due to a Major Disaster that has reduced a low-income building’s qualified basis, the Agency that has jurisdiction over the building must determine what constitutes a reasonable restoration period. The reasonable restoration period established by the Agency must not extend beyond the end of the 25th month following the close of the month of the Major Disaster declaration (25-month reasonable restoration period). Until the restoration is completed, to determine the credit amount allowable during the reasonable restoration period for a building described in section 8 of Rev. Proc. 2014-49, an Owner must use the building’s qualified basis at the end of the taxable year immediately preceding the first day of the incident period for the Major Disaster.

<sup>1</sup> See <https://www.fema.gov/news-release/20200514/president-donald-j-trump-directs-fema-support-under-emergency-declaration>.

<sup>2</sup> See <https://www.fema.gov/coronavirus/disaster-declarations>.

Rev. Proc. 2014-49 also provides emergency housing relief for individuals who are displaced by a Major Disaster from their principal residences in certain Major Disaster Areas. See Rev. Proc. 2014-49, sections 12-14. In the context of a Presidentially-declared Major Disaster, Rev. Proc. 2014-50 provides temporary relief from certain requirements under § 142(d) for qualified residential rental projects financed with exempt facility bonds issued by State and local governments under § 142. Rev. Proc. 2014-50 also provides emergency housing relief for individuals who are displaced by a Major Disaster from their principal residences in certain Major Disaster Areas. See Rev. Proc. 2014-50, sections 5-7.

Notice 2020-23, 2020-18 I.R.B. 742, published on April 27, 2020, provided certain relief to affected taxpayers and postponed due dates until July 15, 2020, with respect to certain tax filings and payments, certain time-sensitive government actions, and all time-sensitive actions listed in Rev. Proc. 2018-58, 2018-50 I.R.B. 990 (Dec. 10, 2018), that were due to be performed on or after April 1, 2020, and before July 15, 2020, including certain actions under § 42 for qualified low-income housing projects.

Notice 2020-53, 2020-30 I.R.B. 151, published on July 20, 2020, extended until December 31, 2020, the relief provided in Notice 2020-23 for § 42 qualified low-income housing projects, as well as providing until December 31, 2020, additional relief under § 42 and under §§ 142(d) and 147(d) for qualified residential rental projects.

Notice 2021-12, published on February 8, 2021, extended the temporary relief provided in Notice 2020-53, and also provided temporary relief from additional § 42 requirements not previously addressed in Notice 2020-53.

Notice 2021-17, published on April 5, 2021, clarified Notice 2021-12 by providing a more precise citation in Section IV.E of that notice.

### **III. SCOPE OF THE RELIEF GRANTED IN THIS NOTICE**

Sections IV.A through F of this notice apply to certain deadlines related to low-income housing projects under

§ 42. Sections V.A through D apply to relief involving operational waivers for low-income housing projects, and Section V.E applies to relief involving operational waivers both for those projects and for qualified rental projects under § 142(d). Sections VI.A and B apply to private activity bonds that are issued for the acquisition of buildings intended to be qualified residential rental projects and that are qualified bonds (as defined in § 141(e)) if the applicable requirements of §§ 142(d) and 147(d)(2) are satisfied. All of the provisions in Sections IV through VI also apply to Agencies, Owners, Issuers, and Operators that have responsibilities with respect to those projects and bonds.

### **IV. GRANT OF RELIEF FOR DEADLINES RELATED TO THE LOW-INCOME HOUSING CREDIT**

In this Section IV, “original deadline” means the deadline without regard to any extension under Notice 2020-23, Notice 2020-53, or Notice 2021-12 (as clarified by Notice 2021-17).

#### **A. THE 10-PERCENT TEST FOR CARRYOVER ALLOCATIONS**

- For purposes of § 42(h)(1)(E)(ii), if the original deadline for an Owner of a building with a carryover allocation to meet the 10-percent test is on or after April 1, 2020, and on or before December 31, 2020, the deadline is extended to the original deadline plus two years.
- If the original deadline is on or after January 1, 2021, and before December 31, 2022, the deadline is extended to December 31, 2022.

#### **B. THE § 42(e) 24-MONTH MINIMUM REHABILITATION EXPENDITURE PERIOD**

- For purposes of § 42(e)(3)(A)(ii), if the original deadline for the 24-month minimum rehabilitation expenditure period for a building originally is on or after April 1, 2020, and is on or before December 31, 2021, then that deadline is extended to the original date plus 18 months.

- If the original deadline for this requirement is on or after January 1, 2022, and on or before June 30, 2022, then that deadline is extended to June 30, 2023.
- If the original deadline for this requirement is on or after July 1, 2022, and on or before December 31, 2022, then that deadline is extended to the original date plus 12 months.
- If the original deadline for this requirement is on or after January 1, 2023, and on or before December 30, 2023, then that deadline is extended to December 31, 2023.

#### **C. PLACED IN SERVICE DEADLINE**

- For purposes of § 42(h)(1)(E)(i), if the original deadline for a low-income building to be placed in service is the close of calendar year 2020, the new deadline is the close of calendar year 2022 (that is, December 31, 2022).
- If the original placed-in-service deadline is the close of calendar year 2021 and the original deadline for the 10-percent test in § 42(h)(1)(E)(ii) was before April 1, 2020, the new placed-in-service deadline is the close of calendar year 2022 (that is, December 31, 2022).
- If the original placed-in-service deadline is the close of calendar year 2021 and the original deadline for the 10-percent test in § 42(h)(1)(E)(ii) was on or after April 1, 2020, and on or before December 31, 2020, then the new placed-in-service deadline is the close of calendar year 2023 (that is, December 31, 2023).
- If the original placed-in-service deadline is the close of calendar year 2022 (and thus the original deadline for the 10-percent test was in 2021), then the new placed-in-service deadline is the close of calendar year 2023 (that is, December 31, 2023).

#### **D. REASONABLE PERIOD FOR RESTORATION OR REPLACEMENT IN THE EVENT OF CASUALTY LOSS**

For purposes of § 42(j)(4)(E) both in the case of a casualty loss not due to a pre-COVID-19-pandemic Major Disaster and in situations governed by section 8.02 of

Rev. Proc. 2014-49 in the case of a casualty loss due to a pre-COVID-19-pandemic Major Disaster, if a low-income building's qualified basis is reduced by reason of the casualty loss and the reasonable period to restore the loss by reconstruction or replacement that was originally set by the HCA (original Reasonable Restoration Period) ends on or after April 1, 2020, then the last day of the Reasonable Restoration Period is postponed by eighteen months but not beyond December 31, 2022. Notwithstanding the preceding sentence, the Agency may require a shorter extension, or no extension at all.

For purposes of determining the credit amount allowable under § 42(a) in the case of a credit year that ends on or after April 1, 2020, and not later than the end of the Reasonable Restoration Period (taking into account any extension under the preceding paragraph), if the Owner restores the building by the end of that extended Reasonable Restoration Period, then for taxable years ending after the first day of the casualty and before the completion of the restoration, the Owner must use the building's qualified basis at the end of the taxable year immediately preceding the first day of the casualty as the building's qualified basis for that credit year.

#### **E. EXTENSION TO SATISFY OCCUPANCY OBLIGATIONS**

If the close of the first year of the credit period with respect to a building is on or after April 1, 2020, and on or before December 31, 2022, then, for purposes of § 42(f)(3)(A)(ii), the qualified basis for the building for the first year of the credit period is calculated by taking into account any increase in the number of low-income units by the close of the 6-month period following the close of that first year.

#### **F. CORRECTION PERIOD**

For purposes of § 1.42-5, if a correction period that was set by the Agency ends on or after April 1, 2020, and before December 31, 2021, then the end of the correction period (including as already extended, if applicable) is extended by a

year, but not beyond December 31, 2022. If the correction period originally set by the Agency ends during 2022, the end of the period is extended to December 31, 2022. Notwithstanding the preceding sentences, the Agency may require a shorter extension, or no extension at all.

### **V. GRANT OF RELIEF FOR OPERATIONAL PROVISIONS**

#### **A. COMPLIANCE-MONITORING—REVIEW OF TENANT FILES**

For purposes of § 1.42-5, an Agency is not required to review tenant files in the period beginning on April 1, 2020, and ending on December 31, 2021. The Agency must have resumed tenant-file review as due under § 1.42-5 as of January 1, 2022.

For purposes of § 1.42-5(c)(2)(iii)(C) (3), between April 1, 2020, and the end of 2022, when the Agency gives an Owner reasonable notice that it will review low-income certifications of not-yet-identified low-income units, it may treat reasonable notice as being up to 30 days. Beginning on January 1, 2023, for this purpose reasonable notice again is generally no more than 15 days.

#### **B. COMPLIANCE-MONITORING—PHYSICAL INSPECTIONS**

For purposes of § 1.42-5, an Agency is not required to conduct compliance-monitoring physical inspections in the period beginning on April 1, 2020, and ending on June 30, 2022. Because of high State-to-State and intra-State variability of COVID-19 transmission, an Agency, in consultation with public health experts, may extend the waiver in the preceding sentence if the level of transmission makes such an extension appropriate. Depending on varying rates of transmission, the extension may be State-wide, may be limited to specific locales, or may be on a project-by-project basis. No such extension may go beyond December 31, 2022. The Agency must resume compliance-monitoring reviews as due under § 1.42-5 once the waiver expires.

For purposes of § 1.42-5(c)(2)(iii)(C) (3), between April 1, 2020, and the end of 2022 only, when the Agency gives an Owner reasonable notice that it will physically inspect not-yet-identified low-income units, it may treat reasonable notice as being up to 30 days. Beginning on January 1, 2023, for this purpose reasonable notice again is generally no more than 15 days.

#### **C. COMMON AREAS AND AMENITIES**

A temporary full or partial unavailability or closure of an amenity or common area in a low-income building or project does not result in a reduction of eligible basis of the affected building if the unavailability or closure is during some or all of the period from April 1, 2020, to December 31, 2022, and is in response to the COVID-19 pandemic and not because of other noncompliance with § 42. During the above period, an Agency may deny any application of the above waiver or, based on public health criteria, may limit the waiver to partial closure, or to limited or conditional access of an amenity or common area. (For example, the Agency may apply the waiver to access an amenity or common area that is limited to persons wearing masks or to persons fully vaccinated against COVID-19.)

#### **D. PERMISSION FOR AGENCIES TO CONDUCT HEARINGS IN THE SAME MANNER AND UNDER THE SAME PROCEDURES AS PRIVATE-ACTIVITY-BOND HEARINGS**

Beginning on April 1, 2020, for the purposes of QAP approval under § 42(m)(1)(A), if a public hearing is conducted in a manner and under procedures such that § 1.147(f)-1(d) would be satisfied, taking into account the date on which the hearing is held, then the manner and procedures of the hearing are acceptable for QAP approval under § 42(m)(1)(A).<sup>3</sup> Continued application of the preceding sentence is not dependent on the continuation of the COVID-19 pandemic.

<sup>3</sup>For example, while Rev. Proc. 2021-39 is in effect, satisfying the hearing procedures in that revenue procedure satisfies the procedural requirements for QAP hearings.

## E. EMERGENCY HOUSING FOR MEDICAL PERSONNEL AND OTHER ESSENTIAL WORKERS

If individuals are medical personnel or other essential workers (as defined by State or local governments) that provide services during the COVID-19 pandemic, then, for purposes of providing emergency housing from April 1, 2020, to December 31, 2022, under Rev. Proc. 2014-49 or under Rev. Proc. 2014-50, Agencies, Issuers, Owners, and Operators of low-income housing projects may treat these individuals as if they were Displaced Individuals (defined under section 5.02 of Rev. Proc. 2014-49 or section 4.04 of Rev. Proc. 2014-50, as applicable). That is, Agencies, Issuers, Owners, and Operators may provide emergency housing for these individuals pursuant to the provisions of the applicable revenue procedure. See sections 12, 13, and 14 of Rev. Proc. 2014-49 and sections 5, 6, and 7 of Rev. Proc. 2014-50.

## VI. GRANT OF RELIEF FOR DEADLINES ASSOCIATED WITH QUALIFIED RESIDENTIAL RENTAL PROJECTS

In this Section VI, “originally” means without regard to any extension under Notice 2020-23, Notice 2020-53, or Notice 2021-12 (as clarified by Notice 2021-17).

### A. THE 12-MONTH TRANSITION PERIOD TO MEET SET-ASIDES FOR QUALIFIED RESIDENTIAL RENTAL PROJECTS

For purposes of section 5.02 of Rev. Proc. 2004-39, if the last day of a 12-month transition period for a qualified residential rental project originally was on or after April 1, 2020, and before December 31, 2022, then that last day is postponed to December 31, 2022.

### B. THE § 147(d) 2-YEAR REHABILITATION EXPENDITURE PERIOD FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS

If a bond is used to provide a qualified residential rental project and if the last day of the § 147(d) 2-year rehabilitation

expenditure period for the bond originally was on or after April 1, 2020, and before December 31, 2023, then that last day is postponed to the earlier of eighteen months from the original due date or December 31, 2023.

## VII. EFFECT ON OTHER DOCUMENTS

Notice 2020-23, Notice 2020-53, Notice 2021-12, Notice 2021-17, Rev. Proc. 2004-39, Rev. Proc. 2014-49, and Rev. Proc. 2014-50 are amplified.

## VIII. DRAFTING INFORMATION

The principal authors of this notice are Dillon Taylor and Michael Torruella Costa, Office of Associate Chief Counsel (Passthroughs & Special Industries) and David White, Office of the Associate Chief Counsel (Financial Institutions and Products). For further information regarding this notice relating to the low-income housing credit, please contact Dillon Taylor or Michael Torruella Costa at (202) 317-4137 (not a toll-free call); for further information regarding this notice relating to qualified residential rental projects, please contact David White at (202) 317-4562 (not a toll-free number).

## Determination of Substantially Equal Periodic Payments

### Notice 2022-6

#### SECTION 1. PURPOSE

.01 This notice provides guidance on whether a series of payments from an individual account under a qualified retirement plan is considered a series of substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) of the Internal Revenue Code. This guidance also applies for purposes of determining whether a distribution from a non-qualified annuity contract is part of a series of substantially equal periodic payments within the meaning of section 72(q)(2)(D). This notice modifies and supersedes

Rev. Rul. 2002-62, 2002-2 CB 710, and Notice 2004-15, 2004-1 CB 526.

#### SECTION 2. BACKGROUND

.01 Section 72(t) provides for an additional income tax on early withdrawals (which generally applies to withdrawals before age 59½) from qualified retirement plans (as defined in section 4974(c)). Section 4974(c) provides, in part, that the term “qualified retirement plan” means (1) a plan described in section 401 (including a trust exempt from tax under section 501(a)), (2) an annuity plan described in section 403(a), (3) a tax-sheltered annuity arrangement described in section 403(b), (4) an individual retirement account described in section 408(a), or (5) an individual retirement annuity described in section 408(b).

.02 Section 72(t)(1) provides that if a taxpayer receives any amount from a qualified retirement plan, the taxpayer’s income tax is increased by an amount equal to 10% of the amount received from the qualified retirement plan that is includible in gross income. Section 72(t)(2) sets forth exceptions to this 10% additional tax. Under section 72(t)(2)(A)(iv), one of the exceptions to the 10% additional tax is for distributions that are part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and designated beneficiary.

.03 Pursuant to section 72(t)(5), the term “employee” includes any participant, and in the case of distributions from an individual retirement account or annuity (IRA), the IRA owner is treated as an employee for purposes of applying section 72(t).

.04 Section 72(t)(4) provides that if a distribution is excepted from the 10% additional tax because the distribution is part of a series of substantially equal periodic payments as described in section 72(t)(2)(A)(iv) and that series of payments is subsequently modified (other than by reason of death, disability, or a distribution to which section 72(t)(10) applies) before the end of the 5-year period beginning on the date of the first payment, or before the employee attains age 59½, the employee’s tax for the first year of the modification is

increased by an amount equal to the tax that, but for the exception in section 72(t)(2)(A)(iv), would have been imposed, plus interest for the deferral period.

.05 Q&A-12 of Notice 89-25, 1989-1 CB 662, provides that payments are considered to be substantially equal periodic payments under section 72(t)(2)(A)(iv) if they are made in accordance with one of the following three methods: (1) the required minimum distribution method; (2) the fixed amortization method; or (3) the fixed annuitization method.

.06 Rev. Rul. 2002-62 restates the rule that payments are considered substantially equal periodic payments if they are made in accordance with one of the three methods provided in Q&A-12 of Notice 89-25. Section 2.02(c) of Rev. Rul. 2002-62 modifies the application of the fixed amortization method and the fixed annuitization method by providing that the interest rate that may be used to apply the fixed amortization method or the fixed annuitization method is any interest rate that is not greater than 120% of the federal mid-term rate (determined in accordance with section 1274(d) for either of the two months immediately preceding the month in which the distribution begins). In addition, section 2.01(c) of Rev. Rul. 2002-62 modifies the application of the fixed annuitization method by specifying the mortality table that must be used to apply that method.

.07 Section 72(q)(1) provides that if a taxpayer receives any amount under a non-qualified annuity contract, the taxpayer's income tax is increased by an amount equal to 10% of the amount received from the non-qualified annuity contract that is includible in gross income. Section 72(q)(2) sets forth exceptions to this 10% additional tax. Under section 72(q)(2)(D), one of the exceptions to the 10% additional tax is for a distribution that is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of the taxpayer and designated beneficiary. Section 72(q)(3) provides rules that are generally parallel to the rules in section 72(t)(4) and apply if a distribution is excepted from the 10% additional tax because the distribution is part of a series of substantially equal peri-

odic payments and that series of payments is subsequently modified.

.08 Notice 2004-15 provides that taxpayers may use one of the methods set forth in Notice 89-25, as modified by Rev. Rul. 2002-62, to determine whether a distribution from a non-qualified annuity contract is part of a series of substantially equal periodic payments under section 72(q)(2)(D).

.09 Final regulations under section 401(a)(9) issued in 2020 provide new life expectancy tables for determining required minimum distributions that apply for distribution calendar years beginning on or after January 1, 2022. See Treas. Reg. § 1.401(a)(9)-9, issued in T.D. 9930, 85 FR 72427 (Nov. 12, 2020).

### SECTION 3. METHODS

.01 *General rule.* Payments in a series are considered substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) if they are determined in accordance with one of the three methods described in section 3.01(a) through (c) of this notice (which are based on the three methods described in Rev. Rul. 2002-62).

(a) *The required minimum distribution method.* The annual payment for each distribution year is determined by dividing the account balance for that distribution year by the number of years from the chosen life expectancy table in section 3.02(a) of this notice for that distribution year. Under this method, the account balance, the number of years from the chosen life expectancy table, and the resulting annual payments are redetermined for each distribution year. This redetermination of the annual payment is not considered a modification of the series of substantially equal periodic payments, provided that the required minimum distribution method continues to be used and the same life expectancy tables continue to be used, except to the extent required in section 3.02(b) of this notice.

(b) *The fixed amortization method.* The annual payment for each distribution year is determined as the amount that will result in the level amortization of the account balance over a specified number of years determined using the chosen life expectancy table under section 3.02(a) of this notice and an interest rate that is

permitted pursuant to section 3.02(c) of this notice. Under this method, once the account balance, the number of years from the chosen life expectancy table, and the resulting annual payment are determined for the first distribution year, the annual payment is the same amount in each succeeding distribution year.

(c) *The fixed annuitization method.* The annual payment for each distribution year is determined by dividing the account balance by an annuity factor that is the present value of an annuity of \$1 per year beginning at the employee's age and continuing for the life of the employee (or the joint lives of the employee and designated beneficiary). The annuity factor is derived using the mortality rates in § 1.401(a)(9)-9(e) and an interest rate that is permitted pursuant to section 3.02(c) of this notice. Under this method, once the account balance, the annuity factor, and the resulting annual payment are determined for the first distribution year, the annual payment is the same amount in each succeeding distribution year.

.02 *Other rules.* The following rules apply for purposes of this section 3.

(a) *Life expectancy tables.* The life expectancy tables that can be used to determine distribution periods under the required minimum distribution and fixed amortization methods are: (1) the Uniform Lifetime Table in Appendix A of this notice; (2) the Single Life Table in § 1.401(a)(9)-9(b); or (3) the Joint and Last Survivor Table in § 1.401(a)(9)-9(d) (which can be used even if the designated beneficiary is not the spouse). The number of years that is used for the required minimum distribution method for a distribution year is the entry from the table for the employee's age on the employee's birthday in that distribution year. If the Joint and Last Survivor Table is used, the age of the designated beneficiary on the designated beneficiary's birthday in the distribution year is also used. In the case of the required minimum distribution method, except as provided section 3.02(b) or section 4 of this notice, the same life expectancy table that is used for the first distribution year must be used in each following distribution year. Thus, if the employee uses the Single Life Table to apply the required minimum distribution method in the first distribution year, the Single Life Table

must be used in subsequent distribution years. The number of years that is used to apply the fixed amortization method is the entry from the table for the employee's age on the employee's birthday in the first distribution year (and, if applicable, the designated beneficiary's age on the designated beneficiary's birthday in that year).

(b) *Designated beneficiary under the Joint and Last Survivor Table.* If the Joint and Last Survivor Table in § 1.401(a)(9)-9(d) is used to apply the required minimum distribution method or the fixed amortization method (or if the fixed annuitization method is applied using an annuity factor determined for the joint lives of the employee and designated beneficiary), then the beneficiary whose life expectancy or expected mortality is used must be the actual designated beneficiary of the employee with respect to the account for the year of the determination. If the employee has more than one beneficiary, the identity and age of the designated beneficiary used for purposes of each of the methods described in section 3.01 of this notice are determined under the rules for determining the designated beneficiary for purposes of section 401(a)(9). The designated beneficiary is determined for a distribution year as of January 1 of the distribution year, without regard to changes in the designated beneficiary later in that distribution year or designated beneficiary determinations in prior distribution years. For example, if an IRA owner starts distributions from an IRA in 2023 at age 50, and applies either the required minimum distribution method or fixed amortization method using the Joint and Last Survivor Table for the IRA owner and the designated beneficiary, and the beneficiaries on January 1, 2023 are 25 and 55 years old, the number of years used to calculate the payment for 2023 would be 40.2 (the entry from the Joint and Last Survivor Table for ages 50 and 55), even if later in 2023 the 55-year-old is eliminated as a designated beneficiary. However, under the required minimum distribution method, if the 55-year-old beneficiary is eliminated or dies in 2023, that individual would not be taken into account in future distribution years (and if there is no designated beneficiary in a future year, the Single Life Table in § 1.401(a)(9)-9(b) is used for that distribution year).

(c) *Interest rates.* The interest rate that may be used to apply the fixed amortization method or the fixed annuitization method is any interest rate that is not more than the greater of (i) 5% or (ii) 120% of the federal mid-term rate (determined in accordance with section 1274(d) for either of the two months immediately preceding the month in which the distribution begins). The revenue rulings that include the section 1274(d) federal mid-term rates may be found at <https://apps.irs.gov/app/picklist/list/federalRates.html>.

(d) *Account balance.* For purposes of applying the required minimum distribution method, the account balance for a distribution year is determined under § 1.401(a)(9)-5. For the fixed amortization and fixed annuitization methods, the account balance must be determined in a reasonable manner based on the facts and circumstances. The account balance will be treated as determined in a reasonable manner if it is the account balance on any date within the period that begins on December 31 of the year prior to the date of the first distribution and ends on the date of the first distribution.

(e) *Changes to account balance.* Under all three methods, substantially equal periodic payments are first calculated with respect to an account balance as of the first valuation date selected as described in section 3.02(d) of this notice. A modification to the series of payments will occur if, after such date, there is (1) any addition to the account balance other than by reason of investment experience, (2) any transfer of a portion of the account balance to another retirement plan, or (3) a rollover of the amount received by the employee.

(f) *Distributions from an IRA.* In the case of distributions from an IRA, the IRA owner is treated as an employee for purposes of applying this notice.

.03 *Special rules.* The following special rules may apply.

(a) *Complete depletion of assets.* If, as a result of following a method of determining substantially equal periodic payments that qualifies for the exception of section 72(t)(2)(A)(iv), an individual's assets in an individual account plan or an IRA are exhausted, any resulting reduction in the amount of the final payment (and the subsequent cessation of payments) is not

a modification within the meaning of section 72(t)(4). Accordingly, the recapture tax described in section 72(t)(4)(A) will not apply in this case.

(b) *One-time change from fixed amortization method or fixed annuitization method to required minimum distribution method.* An individual who begins distributions using either the fixed amortization method or the fixed annuitization method is permitted in any subsequent distribution year to switch to the required minimum distribution method to determine the payment for the distribution year of the switch and all subsequent distribution years, and this change in method will not be treated as a modification within the meaning of section 72(t)(4). Once a change is made under this paragraph, any subsequent change from the required minimum distribution method will be a modification for purposes of section 72(t)(4).

.04 *Application to section 72(q).* Taxpayers may use one of the methods set forth in section 3.01 of this notice (applying the rules in section 3.02 of this notice) to determine whether a distribution from a non-qualified annuity contract is part of a series of substantially equal periodic payments under section 72(q)(2)(D). Taxpayers may use the principles of section 3.03 of this notice to determine whether a change in substantially equal periodic payments will be treated as a modification under section 72(q)(3).

## SECTION 4. EFFECTIVE DATE AND TRANSITION RULES

The guidance in this notice replaces the guidance in Rev. Rul. 2002-62 and Notice 2004-15 for any series of payments commencing on or after January 1, 2023, and it may be used for a series of payments commencing in 2022. In the case of a series of payments commencing in a year prior to 2023 using the required minimum distribution method, if the payments in the series are calculated by substituting the Single Life Table, the Joint and Last Survivor Table, or the Uniform Lifetime Table described in section 3.02(a) of this notice for the corresponding table that was used under Rev. Rul. 2002-62, then the substitution will not be treated as a modification within the meaning of section 72(t)(4) or section 72(q)(3).



**SECTION 5. EFFECT ON OTHER DOCUMENTS**

Rev. Rul. 2002-62 and Notice 2004-15 are modified and superseded.

**DRAFTING INFORMATION**

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Appendix A to Notice 2022-6  
Uniform Lifetime Table

Taxpayer's Age	Life Expectancy
10	88.2
11	87.2
12	86.2
13	85.2
14	84.2
15	83.2
16	82.2
17	81.2
18	80.2
19	79.2
20	78.2
21	77.2
22	76.2
23	75.2
24	74.2
25	73.3
26	72.3
27	71.3
28	70.3
29	69.3
30	68.3
31	67.3
32	66.3
33	65.3
34	64.3
35	63.3
36	62.3
37	61.3
38	60.3
39	59.4
40	58.4
41	57.4
42	56.4
43	55.4
44	54.4
45	53.4
46	52.4

Taxpayer's Age	Life Expectancy
47	51.5
48	50.5
49	49.5
50	48.5
51	47.5
52	46.5
53	45.6
54	44.6
55	43.6
56	42.6
57	41.6
58	40.7
59	39.7
60	38.7
61	37.7
62	36.8
63	35.8
64	34.9
65	33.9
66	33.0
67	32.0
68	31.1
69	30.1
70	29.2
71	28.3
72	27.4
73	26.5
74	25.5
75	24.6
76	23.7
77	22.9
78	22.0
79	21.1
80	20.2
81	19.4
82	18.5
83	17.7
84	16.8
85	16.0
86	15.2
87	14.4
88	13.7
89	12.9
90	12.2

Taxpayer's Age	Life Expectancy
91	11.5
92	10.8
93	10.1
94	9.5
95	8.9
96	8.4
97	7.8
98	7.3
99	6.8
100	6.4
101	6.0
102	5.6
103	5.2
104	4.9
105	4.6
106	4.3
107	4.1
108	3.9
109	3.7
110	3.5
111	3.4
112	3.3
113	3.1
114	3.0
115	2.9
116	2.8
117	2.7
118	2.5
119	2.3
120+	2.0

# 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, 2021.

## **Finding List of Current Actions on Previously Published Items<sup>1</sup>**

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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, 2021.

# **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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