

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 2023-12, page 450.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for January 2023 used under § 417(e)(3)(D), the 24-month average segment rates applicable for January 2023, and the 30-year Treasury rates, as reflected by the application of § 430(h)(2)(C)(iv).

EMPLOYMENT TAX

Notice 2023-13, page 454.

This guidance contains a notice of proposed revenue procedure establishing the Service Industry Tip Compliance Agreement (SITCA) program. SITCA is a voluntary tip reporting program between the Internal Revenue Service and employers in the service industry (excluding the gaming industry) that is designed to enhance tax compliance through the use of agreements instead of traditional audit techniques. The SITCA program is intended to replace the Tip Rate Determination Agreement (TRDA) program and the Tip Reporting Alternative Commitment (TRAC) program as set forth in Announcement 2001-1, 2001-2 I.R.B. 277, and replace the Employer-Designed Tip Reporting Program (EmTRAC) as set

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February 6, 2023

forth in Notice 2001-1, 2001-2 I.R.B. 261. The IRS is issuing this guidance in proposed form to provide an opportunity for public comment.

INCOME TAX

Rev. Proc. 2023-14, page 466.

This revenue procedure provides: (1) two tables of limitations on depreciation deductions for owners of passenger automobiles placed in service by the taxpayer during calendar year 2023; and (2) a table of dollar amounts that must be used to determine income inclusions by lessees of passenger automobiles with a lease term beginning in calendar year 2023. The tables detailing these depreciation limitations and amounts used to determine lessee income inclusions reflect the automobile price inflation adjustments required by section 280F(d)(7). For purposes of this revenue procedure, the term "passenger automobiles" includes trucks and vans.

Rev. Rul. 2023-3, page 448.

Federal rates; adjusted federal rates; adjusted federal long-term rate, and the long-term tax exempt rate. For purposes of sections 382, 1274, 1288, 7872 and other sections of the Code, tables set forth the rates for February 2023.

The IRS Mission

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

Introduction

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

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

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

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

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

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

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

Part II.—Treaties and Tax Legislation.

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

Part III.—Administrative, Procedural, and Miscellaneous.

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

Part IV.—Items of General Interest.

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

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

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Part I

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

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

Rev. Rul. 2023-3

This revenue ruling provides various prescribed rates for federal income tax

purposes for February 2023 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropri-

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

REV. RUL. 2023-3 TABLE 1
Applicable Federal Rates (AFR) for February 2023
Period for Compounding

	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
		<i>Short-term</i>		
AFR	4.47%	4.42%	4.40%	4.38%
110% AFR	4.92%	4.86%	4.83%	4.81%
120% AFR	5.37%	5.30%	5.27%	5.24%
130% AFR	5.83%	5.75%	5.71%	5.68%
		<i>Mid-term</i>		
AFR	3.82%	3.78%	3.76%	3.75%
110% AFR	4.20%	4.16%	4.14%	4.12%
120% AFR	4.59%	4.54%	4.51%	4.50%
130% AFR	4.97%	4.91%	4.88%	4.86%
150% AFR	5.75%	5.67%	5.63%	5.60%
175% AFR	6.73%	6.62%	6.57%	6.53%
		<i>Long-term</i>		
AFR	3.86%	3.82%	3.80%	3.79%
110% AFR	4.24%	4.20%	4.18%	4.16%
120% AFR	4.63%	4.58%	4.55%	4.54%
130% AFR	5.03%	4.97%	4.94%	4.92%

REV. RUL. 2023-3 TABLE 2
Adjusted AFR for February 2023
Period for Compounding

	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	3.39%	3.36%	3.35%	3.34%
Mid-term adjusted AFR	2.89%	2.87%	2.86%	2.85%
Long-term adjusted AFR	2.92%	2.90%	2.89%	2.88%

REV. RUL. 2023-3 TABLE 3
Rates Under Section 382 for February 2023

Adjusted federal long-term rate for the current month	2.92%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	3.29%

REV. RUL. 2023-3 TABLE 4
Appropriate Percentages Under Section 42(b)(1) for February 2023

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

Appropriate percentage for the 70% present value low-income housing credit	7.89%
Appropriate percentage for the 30% present value low-income housing credit	3.38%

REV. RUL. 2023-3 TABLE 5
Rate Under Section 7520 for February 2023

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	4.60%
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Section 42.—Low-Income Housing Credit

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

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

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

Section 483.—Interest on Certain Deferred Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

Section 280G.—Golden Parachute Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

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

The applicable federal short-term rates are set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

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

The adjusted applicable federal long-term rate is set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

Section 482.—Allocation of Income and Deductions Among Taxpayers

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

Section 7520.—Valuation Tables

The applicable federal mid-term rates are set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

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

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2023. See Rev. Rul. 2023-3, page 448.

Part III

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

Notice 2023-12

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 sin-

gle-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 December 2022 data is in Table 2022-12 at the end of this notice. The spot first, second, and third segment rates for the month of December 2022 are, respectively, 4.84, 5.15, and 4.85.

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 2021, 2022 and 2023 were published in Notice 2020-72, 2020-40 I.R.B. 789, Notice 2021-54, 2021-41 I.R.B. 457, and Notice 2022-40, 2022-40 I.R.B. 266, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for January 2023 without adjustment for the 25-year average segment rate limits are as follows:

Applicable Month	24-Month Average Segment Rates Without 25-Year Average Adjustment		
	First Segment	Second Segment	Third Segment
January 2023	2.13	3.62	3.93

Section 9706(a) of the American Rescue Plan Act of 2021, Pub. L. 117-2 (the ARP), which was enacted on March 11, 2021, changed the 25-year average segment rates and the applicable minimum and maximum percentages used under § 430(h)(2)(C)(iv) of the Code to adjust the 24-month average segment rates.² Prior to this change, the applicable minimum and maximum percentages were 85% and 115% for a plan year beginning in 2021, and 80% and 120% for a plan year be-

ginning in 2022, respectively. After this change, the applicable minimum and maximum percentages are 95% and 105% for a plan year beginning in 2021, 2022, or 2023. In addition, pursuant to this change, any 25-year average segment rate that is less than 5% is deemed to be 5%.³

Pursuant to § 9706(c)(1) of the ARP, these changes apply with respect to plan years beginning on or after January 1, 2020. However, § 9706(c)(2) of the ARP provides that a plan sponsor may elect not

to have these changes apply to any plan year beginning before January 1, 2022.⁴

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 the ARP. These adjusted 24-month average segment rates apply only for plan years for which an election under § 9706(c)(2) of the ARP is not in effect. For a plan year for which such an election does not apply, the 24-month averages applicable

¹ Pursuant to § 433(h)(3)(A), the third 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 Section 80602 of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, makes further changes to the time periods for which specified applicable minimum and maximum percentages apply.

³ Pursuant to this change, the 25-year averages of the first segment rate for 2021 and 2022 are increased to 5.00% because those 25-year averages as originally published are below 5.00%.

⁴ This election may be made either for all purposes for which the amendments under § 9706 of the ARP apply or solely for purposes of determining the adjusted funding target attainment percentage under § 436 of the Code for the plan year.

for January 2023, 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
2021	January 2023	4.75	5.36	6.11
2022	January 2023	4.75	5.18	5.92
2023	January 2023	4.75	5.00	5.74

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 the ARP. These adjusted 24-month average segment rates apply only for plan years for which an election under § 9706(c)(2) of the ARP is in effect. For a plan year for which such an election applies, the 24-month averages applicable for January 2023, 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
2021	January 2023	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) pro-

vides 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 December 2022 is 3.66 percent. The Service determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in November 2052. For plan years beginning in January 2023, the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rate 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%
January 2023	2.43	2.19 to 2.55

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 December 2022 are as follows:

<i>Minimum Present Value Segment Rates</i>			
Month	First Segment	Second Segment	Third Segment
December 2022	4.84	5.15	4.85

DRAFTING INFORMATION

The principal author of this notice is Tom Morgan of the Office of Associate

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 Tony Montanaro at 626-927-1475 not toll-free calls).

Table 2022-12
 Monthly Yield Curve for December 2022
 Derived from December 2022 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	4.96	20.5	5.11	40.5	4.82	60.5	4.74	80.5	4.69
1.0	4.94	21.0	5.10	41.0	4.82	61.0	4.74	81.0	4.69
1.5	4.92	21.5	5.08	41.5	4.82	61.5	4.73	81.5	4.69
2.0	4.89	22.0	5.07	42.0	4.82	62.0	4.73	82.0	4.69
2.5	4.85	22.5	5.05	42.5	4.81	62.5	4.73	82.5	4.69
3.0	4.81	23.0	5.04	43.0	4.81	63.0	4.73	83.0	4.69
3.5	4.77	23.5	5.03	43.5	4.81	63.5	4.73	83.5	4.69
4.0	4.75	24.0	5.02	44.0	4.80	64.0	4.73	84.0	4.69
4.5	4.75	24.5	5.01	44.5	4.80	64.5	4.73	84.5	4.69
5.0	4.75	25.0	4.99	45.0	4.80	65.0	4.73	85.0	4.69
5.5	4.78	25.5	4.98	45.5	4.80	65.5	4.72	85.5	4.69
6.0	4.81	26.0	4.98	46.0	4.79	66.0	4.72	86.0	4.69
6.5	4.85	26.5	4.97	46.5	4.79	66.5	4.72	86.5	4.68
7.0	4.90	27.0	4.96	47.0	4.79	67.0	4.72	87.0	4.68
7.5	4.95	27.5	4.95	47.5	4.79	67.5	4.72	87.5	4.68
8.0	5.00	28.0	4.94	48.0	4.78	68.0	4.72	88.0	4.68
8.5	5.05	28.5	4.94	48.5	4.78	68.5	4.72	88.5	4.68
9.0	5.10	29.0	4.93	49.0	4.78	69.0	4.72	89.0	4.68
9.5	5.14	29.5	4.92	49.5	4.78	69.5	4.71	89.5	4.68
10.0	5.17	30.0	4.92	50.0	4.77	70.0	4.71	90.0	4.68
10.5	5.20	30.5	4.91	50.5	4.77	70.5	4.71	90.5	4.68
11.0	5.23	31.0	4.91	51.0	4.77	71.0	4.71	91.0	4.68
11.5	5.25	31.5	4.90	51.5	4.77	71.5	4.71	91.5	4.68
12.0	5.27	32.0	4.89	52.0	4.77	72.0	4.71	92.0	4.68
12.5	5.28	32.5	4.89	52.5	4.76	72.5	4.71	92.5	4.68
13.0	5.28	33.0	4.88	53.0	4.76	73.0	4.71	93.0	4.68
13.5	5.29	33.5	4.88	53.5	4.76	73.5	4.71	93.5	4.68
14.0	5.29	34.0	4.87	54.0	4.76	74.0	4.71	94.0	4.67
14.5	5.28	34.5	4.87	54.5	4.76	74.5	4.70	94.5	4.67
15.0	5.27	35.0	4.87	55.0	4.76	75.0	4.70	95.0	4.67
15.5	5.26	35.5	4.86	55.5	4.75	75.5	4.70	95.5	4.67
16.0	5.25	36.0	4.86	56.0	4.75	76.0	4.70	96.0	4.67
16.5	5.24	36.5	4.85	56.5	4.75	76.5	4.70	96.5	4.67
17.0	5.22	37.0	4.85	57.0	4.75	77.0	4.70	97.0	4.67
17.5	5.21	37.5	4.85	57.5	4.75	77.5	4.70	97.5	4.67
18.0	5.19	38.0	4.84	58.0	4.75	78.0	4.70	98.0	4.67
18.5	5.18	38.5	4.84	58.5	4.74	78.5	4.70	98.5	4.67
19.0	5.16	39.0	4.83	59.0	4.74	79.0	4.70	99.0	4.67
19.5	5.14	39.5	4.83	59.5	4.74	79.5	4.70	99.5	4.67
20.0	5.13	40.0	4.83	60.0	4.74	80.0	4.69	100.0	4.67

Service Industry Tip Compliance Agreement Program

Notice 2023-13

PURPOSE

This notice sets forth a proposed revenue procedure that establishes the Service Industry Tip Compliance Agreement (SITCA) program, a voluntary tip reporting program offered by the Internal Revenue Service (IRS) to employers in the service industry (excluding gaming industry employers)¹. The SITCA program is intended to replace the Tip Reporting Alternative Commitment (TRAC) program and the Tip Rate Determination Agreement (TRDA) program, as set forth in Announcement 2001-1, 2001-2 I.R.B. 277, as well as the Employer-Designed Tip Reporting Program (EmTRAC), as set forth in Notice 2001-1, 2001-2 I.R.B. 261. The proposed revenue procedure provides that upon termination of the TRAC, TRDA, and EmTRAC programs, employers with existing tip reporting agreements in those programs will have a transition period during which their existing agreements will remain effective. The transition period will end upon the earliest of (1) the employer's acceptance into the SITCA program, (2) an IRS determination that the employer is noncompliant with the terms of the TRAC, TRDA, or EmTRAC agreement, or (3) the end of the first calendar year beginning after the date on which the final revenue procedure is published in the Internal Revenue Bulletin. The IRS is issuing this guidance in proposed form to provide an opportunity for public feedback.

BACKGROUND

The Tip Reporting Determination/Education Program (TRD/EP) was designed

by the IRS to enhance tax compliance through educational programs and the use of voluntary tip reporting agreements instead of traditional audit techniques. Since 1995, TRD/EP has offered employers in the food and beverage industry the opportunity to enter into TRAC agreements. In general, TRAC agreements require employers to establish an educational program for tipped employees and tip reporting procedures for cash and charged tips. In 1996, TRD/EP began offering employers in certain other industries the opportunity to enter into TRAC agreements and introduced the TRDA program, which is available to employers in a variety of tipping industries and requires the determination of minimum tip rates based on occupational categories that employees must use to report tips to the employer. The decision to enter into a TRAC or TRDA agreement has always been voluntary.

In 2000, the IRS simultaneously published a series of announcements requesting comments on proposed new and revised TRAC agreements and TRDAs for various industries.² Under the TRDA program, the IRS and the employer work together to arrive at a tip rate for the employer's various occupational categories, and employees enter into Tipped Employee Participation Agreements (TEPAs) with their employers to report tips at the agreed upon tip rates. The TRAC agreements do not require employers or employees to report at agreed upon tip rates but do require employers to (1) implement educational programs for their employees for reporting tips and (2) establish a procedure under which a written or electronic statement is prepared and processed on a regular basis (no less frequently than monthly), reflecting all tips for services attributable to each employee. At the same time, the IRS also published Notice 2000-21, 2000-1 C.B. 967, which set forth the requirements employers in the food and beverage industry must meet to participate in the new Em-

TRAC program. The EmTRAC program is similar to the TRAC program but was created for employers that wish to submit their own educational programs and tip reporting procedures for approval by the IRS. Notice 2000-21 requested comments on all aspects of the EmTRAC program, and specifically on what types of electronic tip reporting systems would meet the educational requirement.

Those proposed TRAC, TRDA, and EmTRAC programs all provided a commitment that the IRS would provide protection to the employer from section 3121(q) liability³ by not initiating any tip examinations of the employer for periods in which the agreements were in effect. The proposed TRDAs included a similar commitment for employers with respect to their employees who reported tips at or above the tip rate established for the employee. TRAC agreements did not specifically provide tip examination protection for employees, but the IRS stated, in the series of announcements concerning the TRAC program that were published in 2000, that employees who properly report tips would not be subject to challenge by the IRS. Notice 2000-21 was silent as to the tip examination impact on employees in the EmTRAC program.

In 2001, the IRS issued Announcement 2001-1, which finalized *pro forma* TRAC and TRDA agreements described in Announcements 2000-19 through 2000-23, and provided that the final versions would be available on <http://www.irs.gov>. In addition, the IRS issued Notice 2001-1 to supersede Notice 2000-21 and make several non-substantive clarifying changes to the EmTRAC program.

The TRAC, TRDA, and EmTRAC programs have continued largely unchanged and have had substantial participation. The TRAC agreements and TRDAs currently available on the Small Business/Self-Employed (SB/SE) Division webpage on <http://www.irs.gov> are similar to

¹ The Gaming Industry Tip Compliance Agreement (GITCA) program is available to employers in the gaming industry. Gaming industry employers are not eligible to participate in the SITCA program, even if they are not currently enrolled in the GITCA program. The GITCA program was established by Rev. Proc. 2003-35, 2003-20 I.R.B. 919, and was updated by Rev. Proc. 2007-32, 2007-22 I.R.B. 1322, with a new model GITCA. Revenue Procedure 2020-47, 2020-48 I.R.B. 1121 modified Rev. Proc. 2007-32 to provide that the term of a GITCA is generally five years.

² Announcement 2000-19, 2000-19 I.R.B. 973 (proposed TRAC for use in industries other than food and beverage, cosmetology and barber); Announcement 2000-20, 2000-19 I.R.B. 977 (proposed TRDA for use in industries other than food and beverage and gaming); Announcement 2000-21, 2000-19 I.R.B. 983 (proposed TRAC for cosmetology and barber industries); Announcement 2000-22, 2000-19 I.R.B. 987 (proposed revision for TRAC for use in food and beverage industry); and Announcement 2000-23, 2000-19 I.R.B. 992 (proposed revision for TRDA for use in food and beverage industry).

³ Protection from section 3121(q) liability ensures that the employer will not be liable for the employer share of FICA taxes on any tips that employees fail to report to the employer and will not be subject to notice and demand from the IRS for the employer share of FICA taxes on the unreported tips.

the agreements proposed in the series of announcements from 2000 and 2001. The EmTRAC program currently available on the SB/SE Division webpage on www.irs.gov is the program described in Notice 2001-1.

In Announcement 2012-25, 2012-26 I.R.B. 1054, the IRS stated that it planned to request public comment on possible changes to the existing TRD/EP. On April 29, 2013, the IRS issued Announcement 2013-29, 2013-18 I.R.B. 1024, soliciting comments on all aspects of TRACs and TRDAs and on ways to improve tip reporting compliance and utilize technological advancements to decrease the administrative burden on taxpayers and the IRS. In addition to providing a list of items to be updated, the IRS specifically solicited comments on the processes, computational methodologies, agreement language, and suggested topics for Frequently Asked Questions. Comments received by the IRS encouraged the use of a point-of-sale system (POS System) to track and improve tip reporting for both directly and indirectly tipped employees and requested that any changes to tip reporting compliance programs provide added flexibility to cover a wide range of business models. Commenters requested that any new agreement include incentives for employee participation and clarify when the IRS may retroactively revoke a tip reporting agreement. Some commenters suggested that minimum tip rates should be established, and that consolidated reporting be available for all establishments located in the same facility. Commenters also requested that any new agreement be released with an additional opportunity for public comment.

SUMMARY OF PROPOSED REVENUE PROCEDURE

The proposed revenue procedure describes the SITCA program, which is a new voluntary tip reporting program being proposed by the National Tip Reporting Compliance Program (NTRCP) to replace the TRAC, TRDA, and EmTRAC programs. NTRCP is part of the Small Business/Self-Employed Division of the IRS.

Under the proposed revenue procedure, the SITCA program is available to employers in all service industries (excluding gaming industry employers) with at least one business location, called a “Covered Establishment,” operating under the Employer Identification Number (EIN) of the employer. The SITCA program is designed to take advantage of advancements in POS Systems and time and attendance systems, as well as the use of electronic payment settlement methods to improve tip reporting compliance and to decrease taxpayer and IRS administrative burden. After acceptance into the SITCA program, an employer must annually establish that each of its participating Covered Establishments satisfies a minimum reported tips requirement with respect to its tipped employees in order for that Covered Establishment to continue with the program into the next year. If the employer cannot establish that a Covered Establishment meets this requirement with respect to a calendar year, the Covered Establishment will be removed from the program retroactively to the beginning of that calendar year and will not be eligible to participate in the SITCA program again for the immediately succeeding three completed calendar years or as otherwise provided by the IRS.

The proposed revenue procedure sets forth requirements for an employer to participate in the SITCA program. An eligible employer, called a “Service Industry Employer,” is generally an employer (excluding gaming industry employers) that (1) is in a service industry where employees perform services for customers and those services generate sales that are subject to tipping by customers, (2) has at least one Covered Establishment, and (3) is compliant with Federal, state, and local tax laws for the three completed calendar years immediately preceding the date the application is filed (the preceding period), plus the calendar quarters following the end of the preceding period through any calendar quarters during which the Service Industry Employer’s application is pending for some or all of the quarter.⁴ After acceptance, Service Industry Employers must continue to satisfy these requirements to

continue participating in the SITCA program.

The proposed revenue procedure also sets forth the requirements for each Covered Establishment to participate in the SITCA program. A Covered Establishment must have tipped employees who utilize a technology-based time and attendance system to report tips under section 6053(a). Each Covered Establishment must also utilize a POS System to record all sales subject to tipping, and that POS System must accept the same forms of electronic payment for tips as it does for sales. The IRS will accept employers and Covered Establishments into the SITCA program that meet the eligibility criteria if the IRS also determines, in its sole discretion, that acceptance is warranted by the facts and circumstances and is in the interest of sound tax administration.

Similar to the TRAC, TRDA, and EmTRAC programs, the proposed SITCA program will provide accepted employers with protection from section 3121(q) liability with respect to their Covered Establishments that remain in compliance with the program unless the liability is based on (1) tips received by a tipped employee where the asserted liability is based upon the final results of an audit or agreement of the tipped employee, or (2) the reporting of additional tip income by a tipped employee. The protection from section 3121(q) liability applies only to Service Industry Employers with Covered Establishments for the periods for which they have been approved to participate in the SITCA program. It does not apply to Service Industry Employers to the extent they have Covered Establishments that have been removed from the SITCA program, for the period of time between a Covered Establishment’s removal and reinstatement (if applicable), or to the extent a Service Industry Employer has other business locations, either with tipped employees or without, that are not approved to participate in the SITCA program.

Service Industry Employer compliance is measured, in part, by satisfying a minimum reported tips requirement with respect to total tips reported for a calendar year by tipped employees at each Cov-

⁴ For a SITCA applicant that was not operating as an employer in a service industry for all or part of the preceding period of three completed calendar years, a preceding period of less than three completed calendar years may be used upon approval by the IRS, but in no event may the preceding period be less than one completed calendar year.

ered Establishment. In order for the Service Industry Employer to be compliant with respect to a Covered Establishment participating in the SITCA program, the tips reported by tipped employees at each Covered Establishment must meet or exceed the sum of (1) all charge tips, as established by the Covered Establishment's POS System, plus (2) an estimation of all cash tips calculated using charge tips and other data from the POS System and applying a minimum charge tip rate as well as applying discount rates for both stiffing and the differential between cash and charge tipping (cash tipping is typically lower). In calculating the annual estimated amount of all cash tips, the Covered Establishment will use three rates established by the IRS: the SITCA Minimum Charge Tip Percentage, the Cash Differential, and the Stiff Rate. The IRS will calculate these rates using tipping data it collects from service industry establishments through the TRDA program (until those agreements have ended), the GITCA program (especially gaming-related food and beverage establishments that participate in this program), and the SITCA program itself, once data from this program becomes available. These three rates will be specified on www.irs.gov and updated annually.⁵

For each calendar year in which the accepted employer demonstrates that a Covered Establishment has satisfied these and the other requirements of the proposed revenue procedure, the Service Industry Employer will receive protection from liability under section 3121(q) and the Covered Establishment may continue to participate in the SITCA program through the Service Industry Employer into the next calendar year.

The proposed revenue procedure requires Service Industry Employers to demonstrate compliance with the SITCA program by submitting an annual report on behalf of each Covered Establishment after the close of the calendar year. If the Service Industry Employer cannot establish that a Covered Establishment satisfied the minimum reported tips requirements in its annual report, the Service Industry Employer will not receive protection

from liability under section 3121(q) with respect to that Covered Establishment for the calendar year to which the annual report applies and that Covered Establishment will be removed from the SITCA program. Once a Covered Establishment is removed from the SITCA program, it is generally eligible for reinstatement only after the Service Industry Employer can establish that it has satisfied the minimum reported tips requirement with respect to that Covered Establishment for three completed calendar years.

A study conducted by the Treasury Inspector General for Tax Administration (TIGTA) in 2018 concluded that the IRS was providing tip income audit protection to potentially noncompliant employers and employees.⁶ Using data from the TIGTA Data Center Warehouse's Business Returns Transaction File to review samples and analyze trends, TIGTA determined that 30 percent of the employers with tip reporting agreements that filed a Form 1120, *U.S. Corporation Income Tax Return*; Form 1120S, *U.S. Income Tax Return for an S Corporation*; or Form 1065, *U.S. Return of Partnership Income*, and Form 941, *Employer's Quarterly Federal Tax Return*, for the 2016 tax year had projected unreported tips totaling nearly \$1.66 billion. One of the problems identified by TIGTA is that the IRS rarely revokes tip reporting agreements, resulting in continued tip income audit protection for noncompliant employers, and in some cases, their employees. TIGTA recommended that the IRS train its employees on specific criteria for revoking tip reporting agreements with noncompliant taxpayers.

In response to these concerns, the proposed SITCA program has several features designed to result in increased tip reporting compliance. The proposed SITCA program streamlines both compliance with and enforcement of tip reporting requirements by eliminating employee participation and the corresponding employee tip income audit protection and providing for automatic removal of a Covered Establishment that fails to satisfy SITCA's minimum reported tip requirement in its

annual report. Unlike the GITCA and TRDA programs, the proposed SITCA program does not require any tax reporting commitment from employees. Employees are not required to report tips at an hourly rate, nor are employers required to provide educational or tip reporting training programs to their employees as is the case in the TRAC program. Employees have a responsibility to report actual tips received pursuant to section 6053(a), but employees do not sign participation agreements or otherwise agree to be monitored for compliance by their employers, as is the case in the GITCA and TRDA programs. Providing employee tip examination protection to employees without a measurable form of tip reporting compliance would not be in the interest of sound tax administration and would impose significant additional recordkeeping burdens on employers and the IRS to determine the eligibility of individual employees. Therefore, no tip examination protection is provided to employees under the proposed SITCA program. Because any Covered Establishments that do not meet the minimum reported tips requirement will be removed from the program, the IRS and Treasury view the SITCA program as providing employers with an incentive to train, educate, and implement procedures for employees to provide an accurate report of all tips received. More accurate tip reporting also benefits employees upon audit and can result in higher social security wages credited to them upon retirement.

The SITCA program is intended to serve as the sole tip reporting compliance program for employers in all service industries (excluding gaming industry employers). The proposed revenue procedure provides that for employers with existing agreements in the TRAC, TRDA and EmTRAC programs, there will be a transition period during which the existing agreements will remain in effect. The transition period will end upon the earliest of (1) the employer's acceptance into the SITCA program; (2) an IRS determination the employer is noncompliant with the terms of the TRAC, TRDA, or EmTRAC agree-

⁵Based on existing data, the IRS estimates that the current values for these rates, if the SITCA program were in operation presently, would be a 16 percent SITCA Minimum Charge Tip Percentage, a 2 percent Cash Differential, and a 5 percent Stiff Rate.

⁶TIGTA Rep't No. 2018-30-081, *Billions in Tip-Related Tax Noncompliance Are Not Fully Addressed and Tip Agreements Are Generally Not Enforced*.

ment; or (3) the end of the first calendar year beginning after the date on which the final revenue procedure is published in the Internal Revenue Bulletin. The proposed revenue procedure provides that employers participating in the TRAC, TRDA, and EmTRAC programs at the time the final revenue procedure is published in the Internal Revenue Bulletin will continue to have protection from section 3121(q) liability to the extent they are compliant with their existing tip reporting agreements prior to termination. Employees who have been receiving protection from tip income examination through their employer's participation in an existing TRAC, TRDA, or EmTRAC agreement will also continue to receive that protection for the return periods covered by their employer's agreement (including during the transition period) to the extent their employers remain compliant with the terms of their agreement.

REQUEST FOR COMMENTS

The IRS requests comments on all aspects of the proposed revenue procedure, and specifically requests comments on the following issues:

- How a technology-based time and attendance system may be used by tipped employees to report tips, including tips in cash and other forms of tipping made through elec-

tronic payments methods (other than a credit card), regardless of whether the tips are received directly from customers or through tip sharing arrangements;

- How tip sharing practices vary across service industries and how the SITCA program can support employer participation while accommodating potential differences in Federal, state, and local labor and employment law requirements;
- How employers of large food or beverage establishments participating in the SITCA program may meet their filing and reporting obligations under section 6053(c) and also satisfy the SITCA program requirements for compliance, while minimizing the administrative burdens on taxpayers and the IRS.

Comments must be received by May 7, 2023 and may be submitted in one of two ways:

- (1) *Mail*. Send paper submissions to CC:PA:LPD:PR (Notice 2023-13), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, D.C. 20044.
- (2) *Electronically*. Submit electronic submissions via the Federal eRulemaking Portal at www.regulations.gov (indicate IRS and Notice 2023-13) by following the online instructions for submitting comments. Once sub-

mitted to the Federal Rulemaking Portal, comments cannot be edited or withdrawn. Commenters are strongly encouraged to submit public comments electronically. The Treasury Department and the IRS will publish for public availability any comment submitted electronically, and to the extent practicable on paper, to its public docket.

CONTINUED APPLICATION OF ANNOUNCEMENT 2001-1 AND NOTICE 2001-1

Pending publication of the final revenue procedure in the Internal Revenue Bulletin, Announcement 2001-1 and Notice 2001-1 continue to apply with respect to participating employers. However, the IRS will not enter into any new TRAC, TRDA, or EmTRAC agreements with any employers that do not already have an agreement, as of March 8, 2023.

DRAFTING INFORMATION

The principal author of this notice is Stephanie Caden of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact Stephanie Caden at 202-317-4774 (not a toll-free number).

PROPOSED REVENUE PROCEDURE

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SECTION 1. PURPOSE

The purpose of this revenue procedure is to establish the Service Industry Tip Compliance Agreement (SITCA) program, a voluntary tip reporting program offered by the Internal Revenue Service (IRS) to employers in the service industry (excluding gaming industry employers). The SITCA program will replace the Tip Reporting Alternative Commitment (TRAC) program and the Tip Rate Determination Agreement (TRDA) program, as provided in Announcement 2001-1, 2001-2 I.R.B. 277, and the Employer-Designed Tip Reporting Program (EmTRAC), as provided in Notice 2001-1, 2001-2 I.R.B. 261. Upon termination of the TRAC, TRDA, and EmTRAC programs, this revenue procedure provides that a transition period will apply to employers with existing tip reporting agreements and their

employees. For such employers, the existing agreements will end upon the earliest of (1) the employer's acceptance into the SITCA program, (2) an IRS determination that the employer is noncompliant with the terms of the TRAC, TRDA, or EmTRAC agreement, or (3) the end of the first calendar year beginning after the date on which the final revenue procedure is published in the Internal Revenue Bulletin.

The SITCA program is part of the Tip Rate Determination/Education Program implemented by the National Tip Reporting Compliance Program (NTRCP). NTRCP is part of the Small Business/Self-Employed Division of the IRS. The SITCA program is designed to promote voluntary compliance by employers and employees with the provisions of the Internal Revenue Code (Code) related to the Federal taxation of tips, promote accurate tip reporting, and reduce disputes under

section 3121(q) of the Code while reducing taxpayer burden. Additionally, the SITCA program is intended to facilitate and promote the use of current financial information technology in the tip reporting process.

SECTION 2. BACKGROUND

Sections 3101 and 3111 impose Federal Insurance Contributions Act (FICA) taxes on employees and employers, respectively, equal to a percentage of the wages received by an individual with respect to employment. FICA taxes consist of two separate taxes, the Old Age, Survivors, and Disability Insurance (social security) tax and the Hospital Insurance (Medicare) tax. Sections 3101(a) and 3101(b) impose the employee portions of social security tax and the Medicare tax, respectively. Sections 3111(a) and 3111(b) impose the

employer portions of the social security tax and the Medicare tax, respectively. All wages are subject to Medicare tax; however, the amount of wages subject to social security tax is limited by an annual contribution and benefit base.

Section 3102(c) provides that the employer shall withhold the employee share of FICA taxes on the reported tips from the wages of the employee (generally excluding tips) or from other funds made available by the employee for this purpose.

Section 3121(a) defines “wages,” for FICA tax purposes, as all remuneration for employment, with certain exceptions. Section 3121(a)(12)(A) excludes, from the definition of wages, tips paid in any medium other than cash; section 3121(a)(12)(B) excludes cash tips received by an employee in any calendar month in the course of the employee’s employment by an employer unless the amount of the cash tips is \$20 or more.

Under section 3121(q), tips received by an employee in the course of the employee’s employment are considered remuneration for that employment and are deemed to have been paid by the employer for purposes of the employer portion of FICA taxes imposed by sections 3111(a) and (b). Generally, the remuneration is deemed to be paid when a written statement including the tips is furnished to the employer by the employee pursuant to section 6053(a), as discussed below.

Section 3111 imposes the employer portion of Medicare tax on the total amount of cash tips received by the employee. It also imposes the employer portion of social security tax on the amount of cash tips received by the employee up to (when combined with all other wages) the contribution and benefit base as determined under section 3121(a)(1). Special rules apply if the employee did not furnish the employer with the statement required by section 6053(a) or furnished an incomplete or otherwise inaccurate statement. In those cases, the employer’s liability in connection with taxes imposed by section 3111 with respect to tips is determined based on the amount of remuneration deemed to have been paid on the date on which notice and demand is made to the employer by the IRS. Section 3121(q).

Section 6053(a) requires every employee who, in the course of the employ-

ee’s employment by an employer, receives in any calendar month tips that are wages (as defined in section 3121(a) for FICA tax purposes or section 3401(a) for income tax withholding purposes) to report all those tips in one or more written statements furnished to the employer on or before the tenth day of the following month. The employee is to furnish the statements in the form and manner prescribed by the IRS. See § 31.6053-1(b) of the Employment Tax Regulations.

Under § 31.6053-1(b) the statement may be provided on paper or transmitted electronically and must be signed by the employee. The statement must disclose the name, address, and social security number of the employee and the name and address of the employer, and must specify the date of the report and the period that the report covers.

Section 6053(c)(3) states that employers of large food or beverage establishments must allocate tips among employees performing services who customarily receive tip income if the total tips reported are below eight percent of gross receipts.

The factors used to determine whether payments constitute tips or service charges (extra amounts automatically added to a bill for services rendered) are set forth in Rev. Rul. 2012-18, 2012-26 I.R.B. 1032. Q&A-1 of Rev. Rul. 2012-18 provides that the absence of any of the following factors creates a doubt as to whether a payment is a tip and indicates that the payment may be a service charge: (1) the payment must be made free from compulsion; (2) the customer must have the unrestricted right to determine the amount; (3) the payment should not be the subject of negotiation or dictated by employer policy; and (4) generally, the customer has the right to determine who receives the payment. All the surrounding facts and circumstances must be considered. Q&A-1 also provides an example illustrating that a fixed charge added to all bills for parties of six or more customers at a restaurant, which the restaurant distributes to waiters and bussers, is not a tip but a service charge. To the extent any portion of a service charge paid by a customer is distributed to an employee, it is included in the employee’s wages for FICA tax purposes and not separately required to be reported

as tips by the employee. See also Rev. Rul. 59-252, 1959-2 C.B. 215.

SECTION 3. DEFINITIONS

The following definitions apply for purposes of this revenue procedure.

.01 “Annual Report” is the yearly report submitted by a Service Industry Employer to the IRS on behalf of each Covered Establishment participating in the SITCA program.

.02 “Cash Differential” is the fixed percentage point reduction established by the IRS (to be updated annually) and applied to the SITCA Charge Tip Percentage that takes into account the different tipping practices customers utilize when paying tips in cash as compared to when they charge tips.

.03 “Cash Tip Percentage” is the percentage determined by reducing the SITCA Charge Tip Percentage by the Cash Differential. This percentage is then used to calculate Tips in Cash.

.04 “Compliance Review” is a review or other inspection of a Service Industry Employer’s books, records and filed federal tax and information returns related to a Service Industry Employer’s participation in the SITCA program. A Compliance Review is neither an examination nor an inspection of books for purposes of either section 7605(b) or the IRS’s policy and procedures for reopening cases closed after examination. In addition, a Compliance Review is not an audit for purposes of section 530 of the Revenue Act of 1978.

.05 “Covered Establishment” is a business location at which Service Industry Tipped Employees who report tips under section 6053(a) perform services and that operates under the Service Industry Employer or SITCA Applicant’s employer identification number (EIN). If a Service Industry Employer or SITCA Applicant has just a single business location, that Service Industry Employer or SITCA Applicant will be a Covered Establishment for purposes of all the provisions of this revenue procedure.

.06 “Covered Establishment Charge Tip Percentage” is the percentage of Tips by Charge made on Covered Establishment Sales Subject to Charge Tipping. This percentage is calculated for a Covered Establishment by dividing the total

Tips by Charge by total Covered Establishment Sales Subject to Charge Tipping for a calendar year.

.07 “Covered Establishment Sales Subject to Charge Tipping” are Sales Subject to Tipping for which Tips by Charge are included with the payment, as reflected in a Covered Establishment’s POS System.

.08 The “Employee Tips Report” or “ETR” is a report of the total tips received by a Service Industry Tipped Employee in the course of the employee’s employment by the Service Industry Employer at a Covered Establishment for a time period not greater than one calendar month. The ETR is generated by the Time and Attendance System utilized by the Service Industry Employer at a Covered Establishment and is based on information entered into the Time and Attendance System by the Service Industry Tipped Employee. The ETR must meet the requirements set forth in section 6053(a) and § 31.6053-1 for reporting tips by the employee to the employer, and must include categories for cash tips, credit and debit card tips, and tips paid out, as reported by the Service Industry Employee.

.09 “Large Food or Beverage Establishment” is a trade or business described in section 6053(c)(4) and § 31.6053-3(j) (7).

.10 “Minimum Reported Tips Requirement” is the SITCA program requirement that a Covered Establishment’s Reported Tips for the calendar year meet or exceed the sum of Tips by Charge and Tips in Cash.

.11 A “Point-of-Sale (POS) System” is a technology-based system utilized at a Covered Establishment to process and record the retail transactions taking place between the Service Industry Employer or SITCA Applicant and its customers, at the time that goods and services are purchased.

.12 “Reported Tips” are the total amount of tips reported by Service Industry Tipped Employees for the calendar year pursuant to section 6053(a), determined on a Covered Establishment-by-Covered Establishment basis and as reflected in the Covered Establishment’s Time and Attendance System.

.13 “Requisite Prior Period” is the period of three completed calendar years immediately preceding the date the SIT-

CA Applicant applies to participate in the SITCA program (these completed years are referred to as the preceding period), plus the completed calendar quarters between the end of the preceding period and the date of the SITCA Application. For a SITCA Applicant that was operating as an employer in a Service Industry for less than the preceding period of three completed calendar years, the Requisite Prior Period may include a preceding period of less than three completed calendar years upon approval by the IRS, but in no event may the preceding period be less than one completed calendar year.

.14 “Sales Adjustment for Stiffing” is a reduction in the amount of Sales Subject to Cash Tipping reflecting the Stiff Rate. This amount is calculated by multiplying the Sales Subject to Cash tipping by the Stiff Rate.

.15 “Sales Subject to Cash Tipping” is an amount calculated by subtracting the SITCA Sales Subject to Charge Tipping from Sales Subject to Tipping. This amount is used to calculate Tips in Cash.

.16 “Sales Subject to Tipping” are amounts from the sale of products and services for which Service Industry Tipped Employees may receive tips in the course of their employment, as reflected in a Covered Establishment’s POS System. When a tip is provided, Sales Subject to Tipping also include the retail value of complimentary products and services provided at or by a Covered Establishment and the receipts from carry-out or delivery sales. Sales Subject to Tipping do not include state or local taxes, nor do they include investment income, rental income, royalties, service fees, sales subject to service charges when no additional tip is paid, commissions, and income from the sale of products and services to customers that are not related to services provided by the Service Industry Tipped Employee.

.17 A “Service Industry” is an industry (excluding the gaming industry) in which employees are hired to perform services for customers and those services generate Sales Subject to Tipping.

.18 A “Service Industry Employer” is an employer (other than a gaming industry employer) in a Service Industry that is required to report tips under Subtitle F of the Code and has been accepted to participate in the SITCA program. A Service

Industry Employer may comprise a single Covered Establishment or have multiple Covered Establishments that all operate under the same EIN. For purposes of this revenue procedure, the entity for which an employee performs services (that is, the employer that operates the Covered Establishment) is considered the Service Industry Employer.

.19 A “Service Industry Tipped Employee” is an employee who receives tip income of \$20 or more in any calendar month in the course of the employee’s employment by the Service Industry Employer or SITCA Applicant at one or more Covered Establishments, including those who receive \$20 or more in any calendar month through tip-sharing arrangements.

.20 A “SITCA Applicant” is an employer that submits or has submitted (including through the services of a third party) an application to be a Service Industry Employer in the SITCA program in accordance with this revenue procedure, the instructions in the online application, and any subsequent applicable guidance. A SITCA Applicant remains a SITCA Applicant until the SITCA Applicant either receives a notice of acceptance into the SITCA program described in section 5.11 of this revenue procedure, withdraws its application pursuant to section 5.09 of this revenue procedure, or receives a notice of denial as described in section 5.10 of this revenue procedure. When a SITCA Applicant utilizes the service of a third party to submit the application, the SITCA Applicant must ensure that the third party has a valid Form 2848, *Power of Attorney and Declaration of Representative*, for the SITCA Applicant on file with the IRS.

.21 A “SITCA Application” is the online application to participate in the SITCA program in accordance with this revenue procedure, the instructions in the online application, and any subsequent applicable guidance.

.22 The “SITCA Charge Tip Percentage” is the greater of the Covered Establishment Charge Tip Percentage or the SITCA Minimum Charge Tip Percentage. It is used to calculate the Cash Tip Percentage.

.23 The “SITCA Minimum Charge Tip Percentage” is a fixed percentage established by the IRS and updated annually. It

is used as the SITCA Charge Tip Percentage if the Covered Establishment Charge Tip Percentage is lower than the SITCA Minimum Charge Tip Percentage.

.24 The “SITCA Sales Subject to Charge Tipping” is calculated by dividing the Tips by Charge by the SITCA Charge Tip Percentage. This amount will be the same as the Covered Establishment Sales Subject to Charge Tipping unless the Covered Establishment Charge Tip Percentage is below the SITCA Minimum Charge Tip Percentage. The SITCA Sales Subject to Charge Tipping is used to calculate Sales Subject to Cash Tipping.

.25 The “Stiff Rate” is the fixed percentage established by the IRS and updated annually to take into account that sometimes customers do not leave a tip on cash sales.

.26 A “Time and Attendance System” is a technology-based system utilized by an employer in a Service Industry for tipped employees to report all tips received at an establishment in the course of their employment.

.27 “Tips by Charge” are tips paid by credit card, debit card, gift card, or any other form of electronic settlement or mobile payment application (excluding virtual currency) that are reflected in a Covered Establishment’s POS System.

.28 “Tips in Cash” is an estimate of tips received that are not paid by credit card, debit card, gift card, or any form of electronic settlement or digital payment that are included in Tips by Charge. The Tips in Cash amount is an estimate of the total tips paid by coin, paper money cash and other forms of monetary settlement that are not reflected in the Covered Establishment’s POS System. Tips in Cash is calculated by reducing the Sales Subject to Cash Tipping by the Sales Adjustment for Stiffing and then multiplying the result by the Cash Tip Percentage.

SECTION 4. REQUIREMENTS FOR SITCA APPLICANTS

.01 To be eligible to participate in the SITCA program, a SITCA Applicant must meet the following requirements:

(1) *Length of time in operation.* A SITCA Applicant must have operated as an employer in a Service Industry for at least one completed calendar year immediately

preceding the date the SITCA Applicant applies to participate in the SITCA program.

(2) *Covered Establishments.* A SITCA Applicant must have one or more Covered Establishments. The Covered Establishments may all share the same Service Industry, or they may operate in a different Service Industry.

(3) *Compliance.* The SITCA Applicant must be in compliance with Federal, state, and local tax laws during the following periods, as applicable: (1) the Requisite Prior Period, (2) the period that a SITCA Application is pending, and (3) the period between acceptance into the SITCA Program and the start of the next calendar year, taking into consideration any applicable IRS relief provisions (collectively referred to as the applicable periods). The SITCA Applicant must timely and accurately file all Federal, state, and local tax and information returns (including Federal employment tax returns) and deposit and pay any applicable Federal, state, and local tax (including any Federal employment taxes), during the applicable periods. A SITCA Applicant that fails to satisfy this requirement may be considered in compliance if the failure to comply is determined to be due to reasonable cause and not due to willful neglect.

(4) *No fraud penalties.* The SITCA Applicant must not have been assessed any fraud penalties by the IRS or a state or local tax authority during the applicable periods.

(5) *Gaming Industry Tip Compliance Agreement (GITCA) program.* The SITCA Applicant must not be a participant in the GITCA program or a gaming industry employer that is eligible to participate in the GITCA program.

.02 *Eligibility of Covered Establishments.* A SITCA Applicant must establish that each Covered Establishment submitted with its SITCA Application individually satisfies the following requirements:

(1) *Time and Attendance System.* The Covered Establishment must utilize a Time and Attendance System for Service Industry Tipped Employees to report all tips received in the course of their employment, which includes tips paid in cash, by credit card, debit card, gift card, or by any other form of electronic settlement or digital payment.

(2) *POS System.* The Covered Establishment must utilize a POS System to record all Sales Subject to Tipping during the calendar year and must accept the same forms of payment for tips as it does for Sales Subject to Tipping. The POS System must be able to determine both the Tips by Charge and the Covered Establishment Sales Subject to Charge Tipping for the calendar year.

(3) *Minimum Reported Tips for Covered Establishment.* The Covered Establishment must satisfy the Minimum Reported Tips Requirement for the prior completed calendar year.

(4) *Employee Tips Report (ETR).* The Covered Establishment must provide an ETR to each Service Industry Tipped Employee showing the amount of tips reported by the Service Industry Tipped Employee as reflected in the Time and Attendance System for that Covered Establishment, no less frequently than every calendar month.

.03 *IRS Discretion.* The IRS has the discretion to determine whether acceptance of a SITCA Applicant and each of its Covered Establishments is in the interest of sound tax administration.

.04 *Suitability of Large Food or Beverage Establishment for SITCA program.* A Covered Establishment that is also a Large Food or Beverage Establishment generally will not be suitable for the SITCA program if it allocates tips to Service Industry Employees under section 6053(c).

SECTION 5: APPLYING TO PARTICIPATE IN THE SITCA PROGRAM

.01 *Method of submission.* A SITCA Applicant must electronically submit a properly completed and executed SITCA Application along with all accompanying forms and documentation required by this revenue procedure, the instructions in the online application, and any subsequent applicable guidance. A paper submission will be treated as an incomplete application as described in section 5.06 of this revenue procedure.

.02 *Required documents, representations and information.* As part of the SITCA Application, a SITCA Applicant must submit certain documents, representations, and information, as well as any

additional materials the IRS requests to determine a SITCA Applicant's suitability for the SITCA program.

(1) A SITCA Applicant must provide a representation that the SITCA Applicant is in compliance with Federal, state, and local tax laws for the Requisite Prior Period (taking into consideration any applicable IRS relief provisions). Any failure to comply must be determined to be due to reasonable cause and not due to willful neglect. Documentation must accompany the representation that demonstrates the timely and accurate filing of Federal, state, and local tax and information returns (including Federal employment tax returns), and the timely and accurate deposit and payment of all applicable Federal, state, and local taxes (including any Federal employment taxes). The SITCA Applicant must also provide a representation that it has not been assessed any fraud penalties by the IRS or a state or local tax authority for any period during the Requisite Prior Period. The SITCA Applicant must provide these representations and documentation for every subsequent calendar quarter during which its SITCA Application is pending for some or all of the quarter. These representations and documentation must be provided by the last day of the second month after the end of each such subsequent quarter, even if the SITCA Applicant receives a notice of acceptance before this deadline.

(2) If applicable, a SITCA Applicant must provide information relating to its participation in any other existing tip reporting programs (TRAC, TRDA, or Em-TRAC) with the IRS, including providing copies of tip reporting agreements, annual filing requirements, reports, tip rate reviews, and compliance reviews for the Requisite Prior Period. If participation in another tip reporting program has been for less than the full three-year Requisite Prior Period at the time the SITCA Application is submitted, the SITCA Applicant must provide the information described in this paragraph for the shorter period in which the tip reporting agreement was in effect. The SITCA Applicant must provide the information described in this paragraph for every subsequent calendar quarter during which its SITCA Application is pending for some or all of the quarter. This information must be provided by the last

day of the second month after the end of each subsequent quarter, even if the SITCA Applicant receives a notice of acceptance before this deadline.

(3) A SITCA Applicant must provide a statement of agreement signed by an individual authorized to sign on behalf of the SITCA Applicant that states, "On behalf of the SITCA applicant, I agree that the review of records and information under [Revenue Procedure XXXX-XX], including the instructions in the online application, and any subsequent applicable guidance does not constitute an inspection within the meaning of section 7605(b) of the Internal Revenue Code (Code) and will not preclude or impede (under section 7605(b) of the Code or any administrative provisions adopted by the Internal Revenue Service (IRS)) the IRS from later examining any return or inspecting any records of the SITCA Applicant or of the Service Industry Employer, should the SITCA Applicant be accepted into the SITCA program. I further agree that procedural restrictions, such as providing notice under section 7605(b) of the Code, do not apply to actions taken under [Revenue Procedure XXXX-XX], including the instructions in the online application, and any subsequent applicable guidance."

(4) A SITCA Applicant must provide a penalties of perjury statement signed by an individual authorized to sign on behalf of the SITCA Applicant that states, "Under penalties of perjury, I declare that I have examined this submission, including accompanying documents, and, to the best of my knowledge and belief, the facts presented in support of this submission are true, correct, and complete."

(5) If a SITCA Applicant utilizes the services of a third party to submit the SITCA Application, the SITCA Applicant must ensure that the third party has a valid Form 2848, *Power of Attorney and Declaration of Representative*, for the SITCA Applicant on file with the IRS.

.03 Participation of Covered Establishments. With its SITCA Application, the SITCA Applicant must provide information about each Covered Establishment it requests to participate in the SITCA program.

(1) *Covered Establishment identification number.* Each Covered Establishment shall have a unique identification number

that will be used in the SITCA Application and, if accepted, in the SITCA program. A Covered Establishment identification number shall be determined as follows:

(A) The first nine digits shall be the Service Industry Employer's EIN.

(B) The next digit shall identify the type of Covered Establishment, with the categories as follows:

(i) The number "1" signifies a Large Food or Beverage Establishment (subject to section 6053(c) reporting requirements); and

(ii) The number "2" signifies another type of Service Industry establishment, including a non-Large Food or Beverage Establishment.

(C) The last five digits are to differentiate between multiple Covered Establishments sharing the same EIN. For this purpose, the SITCA Applicant shall assign each Covered Establishment a unique five-digit number. For example, each Covered Establishment could be assigned a number beginning with "00001" and progressing in numerical sequence (i.e., "00002", "00003", "00004" "00005") until each Covered Establishment has been assigned a number.

(2) *Submission of additional information.* The SITCA Applicant must submit the information set forth in this paragraph (2) on behalf of each Covered Establishment for the Requisite Prior Period. Specifically, the SITCA Applicant must submit:

(A) The name and address of each Covered Establishment, and verification that each Covered Establishment operates under the EIN of the Service Industry Employer;

(B) A summary of the Covered Establishment's activities, including the sources of its receipts and the nature of its expenditures, as prescribed by the IRS in the SITCA Application;

(C) A description of the Covered Establishment's Time and Attendance System and its tip reporting capabilities, as well as reports that include all Reported Tips by Service Industry Tipped Employees at that Covered Establishment;

(D) A description of the Covered Establishment's POS System and reports that include all Sales Subject to Tipping and information describing what forms of payment (e.g. cash, credit card, debit card)

are accepted in the POS System for tips and Sales Subject to Tipping at that Covered Establishment;

(E) Payroll reports for all employees, including all Service Industry Tipped Employees, employed by the SITCA Applicant at that Covered Establishment;

(F) A representation and supporting documents that establish that the Reported Tips for that Covered Establishment meet or exceed the Minimum Reported Tips Requirement needed to participate in the SITCA program under this revenue procedure and any subsequent applicable guidance.

.04 *Time period to apply.* A SITCA Applicant must complete and submit the SITCA Application during the time period determined by the IRS and provided in the instructions in the online application.

.05 *Additional requirements for Large Food or Beverage Establishments.* For SITCA Applications that include a Covered Establishment that is a Large Food or Beverage Establishment, the SITCA Applicant must also submit the Forms 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips*, that were filed on behalf of that Large Food or Beverage Establishment for the Requisite Prior Period.

.06 *Incomplete or inaccurate application.* A SITCA Application must be complete and accurate. A SITCA Application is not complete or accurate if it is missing any item of information required by this revenue procedure, the instructions in the online application, and any subsequent applicable guidance. If an incomplete SITCA Application is submitted, the IRS generally will request from the SITCA Applicant the additional information needed for a completed SITCA Application. However, the IRS may deny an incomplete SITCA Application without requesting additional information.

.07 *Additional information may be required.* Even if a SITCA Application is complete, the IRS may request additional information or documentation if it determines that further information or documentation is necessary to evaluate a SITCA Applicant's or Covered Establishment's suitability to participate in the SITCA program. A SITCA Applicant should not send any additional information or documentation to the IRS unless the IRS requests the information. The IRS will not

consider any unrequested information or documentation received from the SITCA Applicant if the SITCA Application is otherwise complete unless the information pertains to a material change as provided in sections 5.08 and 6.05 of this revenue procedure, with respect to the accuracy of the SITCA Application.

.08 *SITCA Applicant must notify IRS of material changes relevant to its SITCA Application.* Within 30 days of its occurrence, a SITCA Applicant must notify the IRS of any change that materially affects the continuing accuracy of any information that was previously provided to the IRS as part of its SITCA Application. Examples of material changes include, but are not limited to, any change in the SITCA Applicant's tax compliance, changes to the information provided about the Covered Establishments under section 5.03 of this revenue procedure, or discovery of significant errors or new facts relevant to information the SITCA Applicant provided to the IRS.

.09 *SITCA Application may be withdrawn.* A SITCA Application may be withdrawn only upon the request of the SITCA Applicant in the manner prescribed by the IRS. When a SITCA Application is withdrawn, the IRS may retain and use for tax administration the SITCA Application, all supporting documents, and the information submitted in connection with the withdrawn request.

.10 *Denial of SITCA Application.* The IRS may deny a SITCA Application when the SITCA Applicant fails to satisfy the requirements of this revenue procedure, the instructions accompanying the online application, and any subsequent applicable guidance. Denial of the SITCA Application means that no Covered Establishments that the SITCA Applicant has requested to participate have been approved to participate in the SITCA program. The IRS may also determine that a SITCA Applicant is not suitable for the SITCA program or that its participation is not warranted based on the facts and circumstances, including that its participation is not in the interest of sound tax administration. If the IRS denies a SITCA Application, it will issue electronically a notice of denial to the SITCA Applicant, which will provide further contact information for the SITCA Applicant, and the

reason for the denial. The notice of denial will not include an opportunity for review. Denial of a SITCA Application does not preclude an employer from reapplying to participate in the SITCA program in accordance with the provisions of this revenue procedure, the instructions accompanying the online application, and any subsequent applicable guidance.

.11 *Acceptance into SITCA program.* The IRS may accept a SITCA Applicant to participate in the SITCA program as a Service Industry Employer if the SITCA Applicant satisfies the requirements of this revenue procedure, the instructions accompanying the online application, and any subsequent applicable guidance. Upon acceptance into the SITCA program, the IRS will electronically issue a notice of acceptance to the SITCA Applicant. The notice of acceptance will include a list of the specific Covered Establishments that have been approved to participate in the SITCA program. While participation in the SITCA program will typically begin on the first day of the calendar year following a Service Industry Employer's acceptance into the SITCA program, participation may begin on a different date as determined by the IRS and provided in the notice of acceptance.

SECTION 6: MAINTAINING COMPLIANCE WITH THE SITCA PROGRAM

.01 *In general.* To maintain compliance with the SITCA program for each calendar year, a Service Industry Employer and its Covered Establishments must continue to satisfy the eligibility requirements described in this section and sections 4.01 and 4.02 of this revenue procedure for the period that the Service Industry Employer participates in the SITCA program. This includes maintaining compliance with Federal, state, and local tax laws (taking into consideration any applicable IRS relief provisions). A Service Industry Employer that fails to satisfy this requirement will be considered to be in compliance if the failure to comply is determined to be due to reasonable cause and not due to willful neglect. The Service Industry Employer must also not have been assessed any fraud penalties by the IRS or a state or local tax authority during the period that a

Service Industry Employer participates in the SITCA program.

.02 *Method of Submission.* Except as otherwise provided in this revenue procedure or other subsequent applicable guidance, the information and documents required in this section must be submitted electronically. A Service Industry Employer may utilize the services of a third party to submit the information and documents required under this section if the third party has a valid Form 2848, *Power of Attorney and Declaration of Representative*, for the Service Industry Employer on file with the IRS.

.03 *Annual Report.* The Service Industry Employer must electronically submit a properly completed and executed Annual Report for the calendar year with respect to each Covered Establishment participating in the SITCA program. The due date for submitting the Annual Report is March 31 following the end of the calendar year.

.04 *Prescribed form.* The Annual Report required by this revenue procedure shall be made in the manner and form prescribed by the IRS. The form required for the Annual Report and the accompanying instructions will be specified on www.irs.gov.

.05 *Reporting of material changes.* The Service Industry Employer must notify the IRS of any change that materially affects the continuing accuracy of any information provided to the IRS (material change) that is relevant to its compliance with the SITCA program, including both a modification to information that was previously provided as part of its SITCA Application and new information. The Service Industry Employer must notify the IRS of a material change no later than 30 days after the date of the material change. Material changes that must be reported in this section 6.05 include, but are not limited to:

(1) Any change to the information previously provided by the Service Industry Employer as part of its initial SITCA Application or subsequent requests for Covered Establishments to participate in the SITCA program that relates to business name or organization, EIN, address, or background information;

(2) Any change to the tax compliance information previously provided by the Service Industry Employer (1) as part of its initial SITCA Application, (2) for the

period that a SITCA Application was pending, (3) for the period between acceptance into the SITCA program and the start of the next calendar year, and (4) for any year that the Service Industry Employer is a participant in the SITCA program, including the discovery of any failure by the Service Industry Employer to timely and accurately file Federal, state, and local tax and information returns (including Federal employment tax returns) or deposit and pay any applicable Federal, state, and local taxes (including any Federal employment taxes);

(3) The assessment of fraud penalties by the IRS or a state or local tax authority against the Service Industry Employer for any year that the Service Industry Employer is a participant in the SITCA program, and during the Requisite Prior Period and the period in between acceptance into the SITCA program and the start of the next calendar year when a Service Industry Employer becomes a participant in the SITCA program;

(4) The discovery by the Service Industry Employer of tax fraud or criminal activity in the Service Industry Employer's business that is in violation of Federal, state, or local laws;

(5) The commencement of an active IRS criminal investigation of the Service Industry Employer, or an entity that is a member of a controlled group that includes the Service Industry Employer, or a responsible individual as described in § 301.7705-1(b)(13) (substituting Service Industry Employer for CPEO everywhere it appears in § 301.7705-1(b)(13)). For purposes of this revenue procedure, a controlled group has the meaning given to such term by sections 414(b) and (c), § 1.414(b)-1, and §§ 1.414(c)-1 through 1.414(c)-(6). Additionally, entities that, but for their status as disregarded entities would separately be members of a controlled group that includes the Service Industry Employer, are treated as members of a controlled group that includes the Service Industry Employer; and

(6) The sale, transfer, or disposition of all or substantially all of the Service Industry Employer's business, or the reorganization, spinoff or similar division, liquidation, dissolution, or closure of the Service Industry Employer business entity, directly or indirectly, regardless of whether the event is taxable or tax free.

SECTION 7: ANNUAL FILING REQUIREMENT FOR SERVICE INDUSTRY EMPLOYERS WITH LARGE FOOD OR BEVERAGE ESTABLISHMENTS

Participation in the SITCA program does not change the reporting requirements described in section 6053(c). Namely, it does not change the requirement that an employer must file a separate information return for each calendar year with respect to each Large Food or Beverage Establishment for which the employer's employees perform services. Accordingly, a Service Industry Employer that has one or more Large Food or Beverage Establishments participating in the SITCA program must file a Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips* (and Form 8027-T, *Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips*, if applicable) with respect to each of the Covered Establishments that is a Large Food or Beverage Establishment in order to remain in compliance with the SITCA program.

SECTION 8: ADDING COVERED ESTABLISHMENTS AFTER ACCEPTANCE IN THE SITCA PROGRAM

.01 *In general.* A Service Industry Employer may request that an additional Covered Establishment participate in the SITCA program after its SITCA Application has been approved. The request must be made electronically in the form prescribed by the IRS and in the time period specified on www.irs.gov.

.02 *Approval.* The IRS may approve a Covered Establishment's participation in the SITCA program through the Service Industry Employer if the Covered Establishment meets the requirements of section 4.02 of this revenue procedure, and any subsequent applicable guidance, and the IRS determines that the Covered Establishment's participation in the SITCA program is in the interest of sound tax administration. Upon approval of a Covered Establishment's participation in the SITCA program, the IRS will notify the Service Industry Employer elec-

tronically. A Covered Establishment's participation in the SITCA program will generally begin on the first day of the calendar year to which the approved request applies. If a Covered Establishment that is approved to participate in the SITCA program pursuant to this paragraph is subsequently removed for the same calendar year pursuant to section 9 of this revenue procedure, the provisions of section 9 will control when the removal will be effective for purposes of that Covered Establishment participating in the SITCA program.

.03 *Requesting reinstatement after removal.* A Service Industry Employer may request that a Covered Establishment that has been removed from the SITCA program pursuant to section 9.01 or 9.02 of this revenue procedure be reinstated after demonstrating compliance with section 4.02 of this revenue procedure, or any subsequent applicable guidance, for the three completed calendar years preceding the date of its request for reinstatement or another time frame as determined by the IRS. The IRS discretion under section 4.03 of this revenue procedure to determine whether the acceptance of a Covered Establishment into the SITCA program is in the interest of sound tax administration applies to any request to reinstate a Covered Establishment after removal from the SITCA program. The request for reinstatement shall be made electronically in the form prescribed by the IRS and specified on irs.gov.

SECTION 9: REMOVAL OF COVERED ESTABLISHMENTS

.01 *Removal by Service Industry Employer.* A Service Industry Employer may voluntarily remove a Covered Establishment from the SITCA program for any reason by providing an electronic notice of removal to the IRS in the form prescribed by the IRS and specified on irs.gov. The removal will be effective retroactive to the first day of the calendar year in which the notice of removal is received. A Covered Establishment that is removed by the Service Industry Employer may not participate in the SITCA program unless and until the Service Industry Employer requests to reinstate a Covered Establishment pursuant to section 8.03 of this rev-

enue procedure, or any subsequent applicable guidance, and the IRS approves the request.

.02 *Removal by IRS.* The IRS will remove a Covered Establishment from the SITCA program if, for the calendar year, the Covered Establishment fails to meet the requirements of sections 4.02 or 6 of this revenue procedure or any subsequent applicable guidance, or the IRS determines that the Covered Establishment's continued participation in the SITCA program is no longer in the interest of sound tax administration. The IRS will notify the Service Industry Employer of the removal electronically. Determination of whether a Covered Establishment has met the requirements of section 4.02 of this revenue procedure for a calendar year will be made after the Service Industry Employer submits its Annual Report under section 6 of this revenue procedure for that calendar year. If a Service Industry Employer fails to submit its Annual Report under section 6 of this revenue procedure with respect to any Covered Establishment for the calendar year, the IRS may remove the Covered Establishment from the SITCA program at any time after the Annual Report was due without regard to whether the participation requirements of section 4.02 of this revenue procedure or any subsequent applicable guidance have been met. The removal will be effective retroactive to the first day of the calendar year to which the Annual Report applies or would have applied if no Annual Report is submitted. A Covered Establishment that is removed from the SITCA program by the IRS may not participate in the SITCA program unless and until the Service Industry Employer seeks to reinstate a Covered Establishment pursuant to section 8.03 of this revenue procedure, or any subsequent applicable guidance, and the IRS approves the request.

SECTION 10: WITHDRAWING FROM OR TERMINATING PARTICIPATION IN THE SITCA PROGRAM

.01. *Withdrawal by Service Industry Employer.* The Service Industry Employer may voluntarily withdraw from the SITCA program for any reason by providing

an electronic notice of withdrawal to the IRS in the form prescribed by the IRS. The withdrawal will be effective on the first day of the calendar year in which the notice of withdrawal is received. Upon a Service Industry Employer's withdrawal from the SITCA program, all the Covered Establishments participating in the SITCA program through the withdrawn Service Industry Employer will also be removed from the SITCA program, effective on the same first day of the calendar year in which the notice of withdrawal is received.

.02 *Termination by the IRS.* The IRS may terminate a Service Industry Employer from the SITCA program if any of the following conditions are met:

(1) The Service Industry Employer notifies the IRS pursuant to section 6.05 of this revenue procedure that it is going out of existence;

(2) The IRS determines that the Service Industry Employer is no longer eligible under section 4 of this revenue procedure, or any subsequent applicable guidance;

(3) The Service Industry Employer fails to submit the Annual Report for the calendar year required under section 6 of this revenue procedure, or any subsequent applicable guidance;

(4) The Service Industry Employer utilizes a third-party payer to report and pay Federal employment taxes that is not a Covered Establishment and that treats itself as the employer for Federal employment tax purposes with respect to all or more than 50 percent of the Service Industry Employer's Service Industry Tipped Employees for a period in excess of 12 months;

(5) All the Covered Establishments included in the SITCA program through the Service Industry Employer have been removed;

(6) The Service Industry Employer otherwise fails to meet the requirements of this revenue procedure, or any subsequent applicable guidance;

(7) The IRS determines that the Service Industry Employer's continuation in the SITCA program is no longer warranted by the facts and circumstances, or is no longer in the interest of sound tax administration; or

(8) The IRS discontinues the SITCA program.

SECTION 11: EMPLOYER PROTECTION FROM SECTION 3121(q) LIABILITY

For a Service Industry Employer that satisfies sections 4 and 6 of this revenue procedure with respect to a Covered Establishment participating in the SITCA program, the IRS will not assert liability pursuant to section 3121(q) with respect to that Covered Establishment unless the liability is based on (1) tips received by a Service Industry Tipped Employee where the asserted liability is based upon the final results of an audit or agreement of the Service Industry Tipped Employee, or (2) the reporting of additional tip income by a Service Industry Tipped employee. The protection from section 3121(q) liability provided under this section applies only to Service Industry Employers with Covered Establishments for the periods for which they have been approved to participate in the SITCA program pursuant to section 5.11 or section 8.02 of this revenue procedure. It does not apply to Service Industry Employers to the extent they have Covered Establishments that have been removed from the SITCA program pursuant to section 9.01 or 9.02 of this revenue procedure, for the period of time between a Covered Establishment's removal and reinstatement (if applicable), or to the extent a Service Industry Employer has other business locations, either with tipped employees or without, that are not approved to participate in the SITCA program.

SECTION 12. COMPLIANCE REVIEWS

The IRS may conduct a Compliance Review to evaluate (1) a Covered Establishment's continued participation in the SITCA program through a Service Industry Employer, or (2) a Service Industry Employer's continued participation in the SITCA program. A Compliance Review may be conducted no more than once per calendar year.

SECTION 13. EFFECT OF THIS REVENUE PROCEDURE ON OTHER TIP REPORTING PROGRAMS

01. *Effect on TRAC, TRDA, and EmTRAC programs.* This revenue procedure

terminates the TRAC and TRDA programs by superseding Announcement 2001-1. This revenue procedure also terminates the EmTRAC program by superseding Notice 2001-1, which set forth the requirements for employers in the food and beverage industry to participate in the EmTRAC program.

.02 *Transition period for employers with existing agreements.* For employers with existing agreements in the TRAC, TRDA, and EmTRAC programs, there will be a transition period during which the existing agreements will remain in effect after the publication of this revenue procedure terminating those programs. The transition period is the period from the date of the publication of the final revenue procedure in the Internal Revenue Bulletin until the earliest of (1) the employer's acceptance into the SITCA program, (2) an IRS determination that the employer is noncompliant with the terms of the TRAC, TRDA, or EmTRAC agreement, or (3) the end of the first calendar year beginning after the date of the publication of the final revenue procedure in the Internal Revenue Bulletin. An employer's existing agreement in the TRAC, TRDA, or EmTRAC program is terminated for all periods after the end of its transition period.

.03 *Continued employer protection for years covered by agreement.* After the transition period described in section 13.02 has ended and an existing TRAC, TRDA, or EmTRAC agreement has terminated, employers with existing TRAC, TRDA, and EmTRAC agreements who are compliant with the terms of their agreements will continue to have protection from section 3121(q) liability for all prior return periods covered by their agreement (including during the transition period described in section 13.02 of this revenue procedure). No employer with an existing TRAC, TRDA, or EmTRAC agreement will have protection from section 3121(q) liability after the conclusion of the transition period described in section 13.02.

.04 *Employee protection from tip income examination.* After the transition period described in section 13.02 has ended and an existing TRAC, TRDA, or EmTRAC agreement has terminated, employees who have been receiving protection from tip income examination through

their employer's participation in an existing TRAC, TRDA, or EmTRAC agreement will continue to receive that protection for the prior return periods covered by their employer's agreement (including during the transition period described in section 13.02 of this revenue procedure) to the extent their employers remain compliant with the terms of their agreement. No employee will have protection from tip income examination through their employer's participation in a TRAC, TRDA, or EmTRAC agreement after the conclusion of the transition period described in section 13.02.

SECTION 14. EFFECTIVE DATE

This revenue procedure is effective on the date of the publication of the final revenue procedure in the Internal Revenue Bulletin.

*26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also Part I, §§ 280F; 1.280F-7.)*

Rev. Proc. 2023-14

SECTION 1. PURPOSE

This revenue procedure provides: (1) two tables of limitations on depreciation deductions for owners of passenger automobiles placed in service by the taxpayer during calendar year 2023; and (2) a table of dollar amounts that must be used to determine income inclusions by lessees of passenger automobiles with a lease term beginning in calendar year 2023. These tables reflect the automobile price inflation adjustments required by § 280F(d)(7) of the Internal Revenue Code. For purposes of this revenue procedure, the term "passenger automobiles" includes trucks and vans.

SECTION 2. BACKGROUND

.01 For owners of passenger automobiles, § 280F(a) imposes dollar limitations on the depreciation deduction for the year the taxpayer places the passenger automobile in service and for each succeeding year. For passenger automobiles placed in

service after 2018, § 280F(d)(7) requires the Internal Revenue Service to increase the amounts allowable as depreciation deductions by a price inflation adjustment amount that is determined using the automobile component of the Chained Consumer Price Index for all Urban Consumers published by the Department of Labor (C-CPI-U).

.02 Section 168(k)(1) provides that, in the case of qualified property, the depreciation deduction allowed under § 167(a) for the taxable year in which the property is placed in service includes an allowance equal to the applicable percentage of the property's adjusted basis, referred to as "§ 168(k) additional first year depreciation deduction" hereinafter. Pursuant to § 168(k)(6)(A), the applicable percentage is 100 percent for qualified property acquired and placed in service after September 27, 2017, and placed in service before January 1, 2023, and is phased down 20 percent each year for property placed in service through December 31, 2026. Accordingly, the applicable percentage for qualified property acquired after September 27, 2017, and placed in service after December 31, 2022, and before January 1, 2024, is 80 percent. Pursuant to § 168(k)(8)(D)(i), no § 168(k) additional first year depreciation deduction is allowed or allowable for qualified property acquired by the taxpayer before September 28, 2017, and placed in service by the taxpayer after 2019. For qualified property acquired and placed in service after September 27, 2017, § 168(k)(2)(F)(i) increases the first-year depreciation allowed under § 280F(a)(1)(A)(i) by \$8,000.

.03 Tables 1 and 2 of this revenue procedure provide depreciation limitations for passenger automobiles placed in service by the taxpayer during calendar year 2023. Table 1 provides depreciation limitations for passenger automobiles acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer during calendar year 2023, for which the § 168(k) additional first year depreciation deduction applies. Table 2 provides depreciation limitations for passenger automobiles placed in service by the taxpayer during calendar year 2023 for which no § 168(k) additional first year depreciation deduction applies. The § 168(k) additional first year depreciation deduction does not

apply for 2023 if the taxpayer: (1) did not use the passenger automobile during 2023 more than 50 percent for business purposes; (2) elected out of the § 168(k) additional first year depreciation deduction pursuant to § 168(k)(7) for the class of property that includes passenger automobiles; (3) acquired the passenger automobile used and the acquisition of such property did not meet the acquisition requirements in § 168(k)(2)(E)(ii) and § 1.168(k)-2(b)(3)(iii) of the Income Tax Regulations; or (4) acquired the passenger automobile before September 28, 2017, and placed it in service after 2019.

.04 Section 280F(c)(2) requires a reduction to the amount allowable as a deduction to the lessee of a leased passenger automobile. Pursuant to § 280F(c)(3), the reduction must be substantially equivalent to the limitations on the depreciation deductions imposed on owners of passenger automobiles. Under § 1.280F-7(a), this reduction is accomplished by requiring the lessee to include in gross income an amount determined by applying a formula to a dollar amount obtained from a table.

.05 Table 3 of this revenue procedure provides the dollar amount used by lessees of passenger automobiles with a lease term beginning in 2023 to determine the income inclusion amount for those passenger automobiles. The table provides dollar amounts for a range of fair market values.

SECTION 3. SCOPE

.01 The limitations on depreciation deductions in Tables 1 and 2 in section 4.01(2) of this revenue procedure apply to passenger automobiles, other than leased passenger automobiles, that are placed in service by the taxpayer in calendar year 2023, and continue to apply for each taxable year that the passenger automobile remains in service.

.02 The dollar amount in Table 3 of this revenue procedure applies to leased passenger automobiles with a lease term beginning in calendar year 2023, and continues to apply for each taxable year during the lease.

.03 See Rev. Proc. 2018-25, 2018-18 I.R.B. 543, for passenger automobiles placed in service or leased during calendar year 2018; Rev. Proc. 2019-26, 2019-

24 I.R.B. 1323, for passenger automobiles placed in service or leased during calendar year 2019; Rev. Proc. 2020-37, 2020-33 I.R.B. 381, for passenger automobiles placed in service or leased during calendar year 2020; Rev. Proc. 2021-31, 2021-34 I.R.B. 324, for passenger automobiles placed in service or leased during calendar year 2021; and Rev. Proc. 2022-17, 2022-13 I.R.B. 930, for passenger automobiles placed in service or leased during calendar year 2022.

SECTION 4. APPLICATION

.01 *Limitations on Depreciation Deductions for Certain Automobiles.*

(1) *Amount of the inflation adjustment.* Under § 280F(d)(7)(B)(i), the automobile price inflation adjustment for any calendar year is the percentage (if any) by which the C-CPI-U automobile component for October of the preceding calendar year exceeds the automobile component of the CPI (as defined in § 1(f)(4)) for October of 2017, multiplied by the amount determined under § 1(f)(3)(B). The amount determined under § 1(f)(3)(B) is the amount obtained by dividing the new vehicle component of the C-CPI-U for calendar year 2016 by the new vehicle component of the CPI for calendar year 2016, where the C-CPI-U and the CPI for calendar year 2016 means the average of such amounts as of the close of the 12-month period ending on August 31, 2016. Section 280F(d)(7)(B)(ii) defines the term "C-CPI-U automobile component" as the automobile component of the Chained Consumer Price Index for All Urban Consumers as described in § 1(f)(6). The product of the October 2017 CPI new vehicle component (144.868) and the amount determined under § 1(f)(3)(B) (0.694370319) is 100.592. The new vehicle component of the C-CPI-U released in November 2022 was 122.399 for October 2022. The October 2022 C-CPI-U new vehicle component exceeded the product of the October 2017 CPI new vehicle component and the amount determined under § 1(f)(3)(B) by 21.807 (122.399 - 100.592). The percentage by which the C-CPI-U new vehicle component for October 2022 exceeds the product of the new vehicle component of the CPI for October of 2017 and the amount determined under § 1(f)(3)(B) is 21.679

percent ($21.807/100.592 \times 100\%$), the automobile price inflation adjustment for 2023 for passenger automobiles. The dollar limitations in § 280F(a) are therefore multiplied by a factor of 0.21679, and the resulting increases, after rounding to the nearest \$100, are added to the 2018 limitations to give the depreciation limitations applicable to passenger automobiles for

calendar year 2023. This adjustment applies to all passenger automobiles that are placed in service in calendar year 2023.

(2) *Amount of the limitation.* Tables 1 and 2 of this revenue procedure contain the depreciation limitation for each taxable year for passenger automobiles a taxpayer placed in service during calendar year 2023. Use Table 1 for a passen-

ger automobile to which the § 168(k) additional first year depreciation deduction applies that is acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer during calendar year 2023; use Table 2 for a passenger automobile for which no § 168(k) additional first year depreciation deduction applies.

REV. PROC. 2023-14 TABLE 1

DEPRECIATION LIMITATIONS FOR PASSENGER AUTOMOBILES ACQUIRED AFTER SEPTEMBER 27, 2017, AND PLACED IN SERVICE DURING CALENDAR YEAR 2023, FOR WHICH THE § 168(k) ADDITIONAL FIRST YEAR DEPRECIATION DEDUCTION APPLIES

Tax Year	Amount
1st Tax Year	\$ 20,200
2nd Tax Year	\$ 19,500
3rd Tax Year	\$ 11,700
Each Succeeding Year	\$ 6,960

REV. PROC. 2023-14 TABLE 2

DEPRECIATION LIMITATIONS FOR PASSENGER AUTOMOBILES PLACED IN SERVICE DURING CALENDAR YEAR 2023 FOR WHICH NO § 168(k) ADDITIONAL FIRST YEAR DEPRECIATION DEDUCTION APPLIES

Tax Year	Amount
1st Tax Year	\$ 12,200
2nd Tax Year	\$ 19,500
3rd Tax Year	\$ 11,700
Each Succeeding Year	\$ 6,960

.02 *Inclusions in Income of Lessees of Passenger Automobiles.*

A taxpayer must follow the procedures in § 1.280F-7(a) for determining

the inclusion amounts for passenger automobiles with a lease term beginning in calendar year 2023. In applying these procedures, lessees of passenger automo-

biles should use Table 3 of this revenue procedure.

REV. PROC. 2023-14 TABLE 3

DOLLAR AMOUNTS FOR PASSENGER AUTOMOBILES
WITH A LEASE TERM BEGINNING IN CALENDAR YEAR 2023

Fair Market Value of Passenger Automobile Over	Fair Market Value of Passenger Automobile Not Over	1 st Tax Year During Lease	2 nd Tax Year During Lease	3 rd Tax Year During Lease	4 th Tax Year During Lease	5 th Tax Year During Lease & later
\$60,000	\$62,000	0	0	1	3	5
62,000	64,000	13	29	43	54	63
64,000	66,000	26	57	86	104	122
66,000	68,000	39	86	128	154	181
68,000	70,000	52	114	170	206	239
70,000	72,000	65	143	212	256	297
72,000	74,000	78	171	255	306	356
74,000	76,000	91	200	296	358	414
76,000	78,000	104	228	339	408	473
78,000	80,000	117	257	381	459	531
80,000	85,000	140	306	455	548	634
85,000	90,000	172	378	560	674	780
90,000	95,000	204	449	666	801	926
95,000	100,000	237	520	772	927	1,073
100,000	110,000	286	627	930	1,117	1,292
110,000	120,000	350	769	1,142	1,371	1,584
120,000	130,000	415	912	1,353	1,623	1,877
130,000	140,000	480	1,054	1,564	1,877	2,169
140,000	150,000	545	1,196	1,776	2,130	2,462
150,000	160,000	610	1,339	1,986	2,384	2,754
160,000	170,000	675	1,481	2,198	2,637	3,046
170,000	180,000	740	1,623	2,409	2,891	3,338
180,000	190,000	805	1,766	2,620	3,143	3,632
190,000	200,000	870	1,908	2,831	3,397	3,924
200,000	210,000	935	2,050	3,043	3,650	4,216
210,000	220,000	999	2,193	3,254	3,903	4,509
220,000	230,000	1,064	2,335	3,465	4,157	4,801
230,000	240,000	1,129	2,478	3,676	4,410	5,094
240,000	and over	1,194	2,620	3,887	4,664	5,386

SECTION 5. EFFECTIVE DATE

This revenue procedure applies to passenger automobiles placed in service during calendar year 2023 or with a lease term beginning in calendar year 2023.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Bernard P. Harvey of the Office of Associate Chief Counsel (Income

Tax & Accounting). For further information regarding this revenue procedure, contact Mr. Harvey at (202) 317-4640 (not a toll-free number).

Definition of Terms

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

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

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

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

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

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

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

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

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

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.

ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
FR—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.

PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2022–27 through 2022–52 is in Internal Revenue Bulletin 2022–52, dated December 27, 2022.

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Internal Revenue Service

Washington, DC 20224

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Penalty for Private Use, \$300

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/.

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