INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2026–6
February 2, 2026

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.

ADMINISTRATIVE

Announcement 2026-4, page 533.

This announcement contains a correction to Announcement 2000-80, 2000-40 I.R.B. 320-321, which contains an outdated phone number. This announcement corrects that error. In the section labelled TOLL-FREE NUMBER FOR THE APPEALS OFFICER (CUSTOMER SERVICE/OUTREACH) PROGRAM, a customer service phone number is provided for Appeals. That number is outdated and no longer in use. The current phone number is (855) 865-3401.

EMPLOYEE PLANS

Notice 2026-12, page 496.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for December 2025 used under § 417(e)(3)(D), the 24-month average segment rates applicable for January 2026, and the 30-year Treasury rates, as reflected by the application of § 430(h)(2)(C)(iv).

Notice 2026-13, page 499.

This notice provides two safe harbor explanations that retirement plans may use to satisfy the requirement under section 402(f) to provide certain information to recipients of eligible rollover distributions. One safe harbor explanation describes the rollover rules for distributions that are not from a designated Roth account, and the other safe harbor explanation describes the rollover rules for distributions from a designated Roth account. The safe harbor explanations in the notice modify the two safe harbor explanations provided in Notice 2020-62 to reflect certain legislative changes related to the SECURE 2.0 Act and improve readability and usefulness for recipients.

INCOME TAX

Notice 2026-11, page 491.

This notice announces that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations (forthcoming proposed regulations) that would implement the additional first year depreciation deduction under § 168(k) of the Internal Revenue Code (Code), as amended by §§ 70301 and 70434(g) of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), including proposed regulations that would modify § 1.168(k)-2 to include applicable qualified sound recording productions commencing in taxable years ending after July 4, 2025. The Treasury Department and IRS expect the forthcoming proposed regulations to be consistent with the interim guidance provided in sections 3 through 5 of this notice.

Rev. Rul. 2026-3, page 485.

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 2026.

Rev. Rul. 2026-4, page 487.

This revenue ruling concludes that, under section 149(c)(2)(C)(ii), bonds issued by the Railroad Corporation, a public corporation of a State, to finance the construction, acquisition, and improvement of certain property are not required to satisfy the rules in sections 141 through 147 to qualify as tax-exempt bonds under section 103(a). However, such bonds are required to satisfy the rules in sections 148, 149, and 150 to qualify as tax-exempt bonds under section 103(a).

Finding Lists begin on page ii.

TAX CONVENTIONS

Announcement 2026-3, page 518.
The competent authorities of the United States of America and the Kingdom of Spain have entered into an arrangement regarding the implementation of the arbitration process provided for in paragraphs 5 and 6 of Article 26 of the Convention between the Kingdom of Spain and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income.

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.

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, 7702, 7872.)

Rev. Rul. 2026-3

This revenue ruling provides various prescribed rates for federal income tax purposes for February 2026 (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 appropriate 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. 2026-3 TABLE 1
Applicable Federal Rates (AFR) for February 2026
Period for Compounding

	Annual	*Semiannual*	*Quarterly*	*Monthly*
		Short-term		
AFR	3.56%	3.53%	3.51%	3.50%
110% AFR	3.92%	3.88%	3.86%	3.85%
120% AFR	4.28%	4.24%	4.22%	4.20%
130% AFR	4.64%	4.59%	4.56%	4.55%
		Mid-term		
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%
150% AFR	5.81%	5.73%	5.69%	5.66%
175% AFR	6.80%	6.69%	6.63%	6.60%
		Long-term		
AFR	4.70%	4.65%	4.62%	4.61%
110% AFR	5.19%	5.12%	5.09%	5.07%
120% AFR	5.66%	5.58%	5.54%	5.52%
130% AFR	6.14%	6.05%	6.00%	5.98%

REV. RUL. 2026-3 TABLE 2
Adjusted AFR for February 2026
Period for Compounding

	Annual	*Semiannual*	*Quarterly*	*Monthly*
Short-term adjusted AFR	2.70%	2.68%	2.67%	2.67%
Mid-term adjusted AFR	2.92%	2.90%	2.89%	2.88%
Long-term adjusted AFR	3.56%	3.53%	3.51%	3.50%

REV. RUL. 2026-3 TABLE 3 Rates Under Section 382 for February 2026	
Adjusted federal long-term rate for the current month	3.56%
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.)	3.56%

REV. RUL. 2026-3 TABLE 4 Appropriate Percentages Under Section 42(b)(1) for February 2026	
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	7.99%
Appropriate percentage for the 30% present value low-income housing credit	3.43%

REV. RUL. 2026-3 TABLE 5 Rate Under Section 7520 for February 2026	
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	4.6%

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 2026. See Rev. Rul. 2026-3, page 485.

Section 280G.—Golden Parachute Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of February 2026. See Rev. Rul. 2026-3, page 485.

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 2026. See Rev. Rul. 2026-3, page 485.

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 2026. See Rev. Rul. 2026-3, page 485.

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 2026. See Rev. Rul. 2026-3, page 485.

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 2026. See Rev. Rul. 2026-3, page 485.

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 2026. See Rev. Rul. 2026-3, page 485.

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 2026. See Rev. Rul. 2026-3, page 485.

Section 7520.—Valuation Tables

The applicable federal mid-term rates are set forth for the month of February 2026. See Rev. Rul. 2026-3, page 485.

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 2026. See Rev. Rul. 2026-3, page 485.

Section 149.—Bonds Must Be Registered To Be Tax Exempt; Other Requirements

(Also §§ 103, 141-148, 150)

Rev. Rul. 2026-4

ISSUE

Whether bonds issued by the Alaska Railroad Corporation (Railroad Corporation) to finance the construction, acquisition, and improvement of certain property are required to satisfy the rules in §§ 141 through 147 of the Internal Revenue Code of 1986 (Code)[1] to qualify as tax-exempt bonds under § 103(a)?

FACTS

The Federal government built a railroad in the State of Alaska (State) to serve the transportation and development needs of the State and later transferred the assets of that railroad (State Railroad) to the State pursuant to the Alaska Railroad Transfer Act of 1982, Title VI of Public Law 97-468, 96 Stat. 2543, 2556 (1983) (Railroad Act). The Railroad Act contemplates that the State continue to operate the railroad as a rail carrier after the transfer. By statute, the State established the Railroad Corporation as a public corporation to operate the State Railroad.

In connection with a project in the State to extract, process, liquify, and transport natural gas (LNG Project), the Railroad Corporation intends to issue bonds to finance the construction, acquisition, and improvement of facilities and other property that are located within the State and that are directly related to the LNG Project. Such facilities and other property are collectively referred to in this revenue ruling as the "Property" and consist of:

- The facilities and other related project infrastructure described in Section I, *Background and Proposal*, of the *Order Granting Authorization Under Section 3 of the Natural Gas Act* issued by the Federal Energy Regulatory Commission on May 21, 2020, *see* 171 FERC ¶ 61,134 (2020);
- Railroad tracks and embankment, rail sidings, rail extensions, rail terminal yards, locomotives and rail cars to transport materials and equipment necessary for pipeline construction and project operations, as well as trains equipped to carry liquified natural gas (LNG);
- Port facilities to import pipe and transport construction materials (including supplies, fuel, and equipment), and infrastructure equipped to store LNG, to serve LNG carrier ships, to transfer LNG to carrier ships, to transfer LNG from carrier ships to LNG storage, and to regasify LNG;
- Airports and helicopter pads;
- Roads, highways, causeways, bridges;
- Power generation facilities;
- Communications infrastructure;
- Construction-related housing; and
- Other facilities directly related to the LNG Project.

For the avoidance of doubt, a facility or property does not qualify as Property solely because it uses natural gas produced by the LNG Project.

LAW

Internal Revenue Code of 1986

Section 103(a) generally provides that, except as otherwise provided in § 103(b), gross income does not include interest on any State or local bond. Section 103(b) provides that § 103(a) does not apply to any private activity bond that is not a qualified bond (within the meaning of § 141), to any arbitrage bond (within the meaning of § 148), or to any bond that does not meet the applicable requirements of § 149. Section 103(c)(1) defines a "State or local bond" as an obligation of a State or political subdivision thereof.

Section 141(a) defines the term "private activity bond" as any bond issued as part of an issue that meets the private business use test of § 141(b)(1) and the private security or payment test of § 141(b)(2) or that meets the private loan financing test of § 141(c).

Section 141(b)(1) provides that, except as provided in that subsection, an issue meets the private business use test if more than 10 percent of the proceeds of the issue are to be used for any private business use. Under § 141(b)(6)(A), the term "private business use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit, although use as a member of the general public is not taken into account. Under § 141(b)(6)(B), any activity carried on by a person other than a natural person is treated as a trade or business.

Section 141(c) provides that an issue meets the private loan financing test if the amount of the proceeds of the issue that are to be used (directly or indirectly) to make or finance loans (other than certain loans described in paragraph (c)(2)) to persons other than governmental units exceeds the lesser of five percent of such proceeds or $5,000,000.

Section 141(e) defines a "qualified bond" as any private activity bond if such bond is: an exempt facility bond as defined in § 142, a qualified mortgage bond as defined in § 143(a), a qualified veterans' mortgage bond as defined in § 143(b), a qualified small issue bond as defined in § 144(a), a qualified student loan bond as defined in § 144(b), a qualified redevelopment bond as defined in § 144(c), or a qualified 501(c)(3) bond as defined in § 145. A qualified bond must also meet the requirements of § 146 relating to volume cap and certain other requirements in § 147.

Under § 148(a), the term "arbitrage bond" means any bond issued as part of an issue any portion of the proceeds of which are reasonably expected at the time of issuance to be used (or is intentionally used after issuance) to acquire higher yielding investments or to replace funds that were used directly or indirectly to acquire higher yielding investments. Under § 148(b), "higher yielding investments" means investment property with a yield that is materially higher than the yield on the issue of which the bond is a part.

[1] Unless otherwise specified, all "Section" or "§" references are to sections of the Code.

Section 149 generally enumerates certain additional requirements for a bond to qualify as tax-exempt under § 103(a). Section 149(b) generally provides that, subject to certain exceptions, § 103(a) does not apply to any State or local bond if such bond is federally guaranteed. For this purpose, a bond is federally guaranteed if: (A) the payment of principal or interest with respect to such bond is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof); (B) such bond is issued as part of an issue and five percent or more of the proceeds of such issue is to be (i) used in making loans the payment of principal or interest with respect to which is to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or (ii) invested (directly or indirectly) in federally insured deposits or accounts; or (C) the payment of principal or interest on such bond is otherwise indirectly guaranteed (in whole or in part) by the United States (or an agency or instrumentality thereof).

Section 149(c)(1) provides that, except as provided in paragraph (c)(2), no interest on any bond shall be exempt from taxation under the Code unless such interest is exempt from taxation under the Code without regard to any provision of law that is not contained in the Code and that is not contained in a revenue Act.

Section 149(c)(2)(A) provides that for purposes of the Code, notwithstanding any provision of §§ 141 through 150, any bond the interest on which is exempt from taxation under the Code by reason of any provision of law (other than a provision of the Code) that is in effect on January 6, 1983, shall be treated as a bond described in § 103(a).

Section 149(c)(2)(B) provides that paragraph (c)(2)(A) shall not apply to a bond (not described in paragraph (c)(2)(C)) issued after 1983 if the appropriate requirements of §§ 141 through 150 (or the corresponding provisions of prior law) are not met with respect to such bond.

Section 149(c)(2)(C) provides that bonds issued under or pursuant to three specific statutory provisions are treated as described in section 149(c)(2)(A). Section 149(c)(2)(C)(ii) provides that a bond is described in paragraph (c)(2)(C) (and treated as described in paragraph (c)(2)(A)) if such bond is issued pursuant to § 608(a)(6)(A) of the Railroad Act, as in effect on October 22, 1986, the date of the enactment of the Tax Reform Act of 1986, Public Law 99-514, 100 Stat. 2085 (1986).

Section 150 contains definitions and special rules that are used for purposes of applying the requirements of §§ 103 and 141 through 149.

The Railroad Act as in Effect on October 22, 1986

Section 602(4) of the Railroad Act, as in effect on October 22, 1986,[2] states that the transfer of the railroad and provision for its operation by the State in the manner contemplated by §§ 601 through 616 of the Railroad Act is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States.

Section 608(a)(1) of the Railroad Act provides in part that, after the date of transfer to the State pursuant to § 604 of the Railroad Act, the "State-owned railroad" shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter. Section 603(14) of the Railroad Act defines "State-owned railroad" as the authority, agency, corporation or other entity which the State designates or contracts with to own, operate or manage the rail properties of the railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity.

Section 608(a)(2) of the Railroad Act provides in part that the transfer to the State authorized by § 604 of the Railroad Act and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to § 608(a)(1) of the Railroad Act are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads.

Section 608(a)(6)(A) of the Railroad Act states:

> After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

Section 609(a) of the Railroad Act provides that the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the State-owned railroad may have access across federal lands for transportation and related purposes.

Section 610(b) of the Railroad Act provides that, if the State discontinues use of any land within the right-of-way (defined as an area extending a certain distance on both sides of the center line of any main line or branch line of the railroad), the State's interest in such land shall revert to the United States. For this purpose, the State shall be considered to have discontinued use when, among other circumstances, the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes.

Internal Revenue Code of 1954

Section 103(a)(1) of the Internal Revenue Code of 1954 (1954 Code), as in effect from the date of enactment of the Railroad Act until the date of enactment of the Tax Reform Act of 1986, provided that gross income does not include interest

[2] References to the Railroad Act in the balance of this notice are to the Railroad Act as in effect on October 22, 1986.

on the obligations of a State, a Territory, or possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia.

Section 103(b)(2) of the 1954 Code, as in effect from the date of enactment of the Railroad Act until the date of enactment of the Tax Reform Act of 1986, defined an "industrial development bond" as any obligation (A) which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person, and (B) the payment of the principal or interest on which (under the terms of such obligation or any underlying arrangement) is, in whole or in major part, (i) secured by any interest in property used or to be used in a trade or business or in payments in respect of such property, or (ii) to be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

Section 103 of the 1954 Code, as in effect immediately prior to the date of enactment of the Tax Reform Act of 1986, imposed additional requirements on tax-exempt bonds, including rules in § 103(c) of the 1954 Code related to arbitrage bonds and rules in § 103(h) of the 1954 Code related to federally guaranteed bonds.

Under the Tax Reform Act of 1986, §§ 103 and 103A of the 1954 Code were recodified into §§ 103 and 141 through 150 of the Code. Section 103(a)(1) of the 1954 Code was recodified into § 103(a) of the Code. Section 103(b) of the 1954 Code (defining and governing industrial development bonds) was recodified into §§ 141 through 147 of the Code (defining and governing private activity bonds). Section 103(c) of the 1954 Code (defining and governing arbitrage bonds) was recodified into § 148 of the Code. Section 103(h) of the 1954 Code (defining and governing federally guaranteed bonds) was recodified into § 149(b) of the Code.

ANALYSIS

Under § 149(c)(1), except as provided in § 149(c)(2)(A), a bond is not tax-exempt unless the exemption is derived from the Code without regard to any provision of law that is not contained in the Code and that is not contained in a revenue act (Non-Code Provision). Under § 149(c)(2)(A), a bond that is tax-exempt by reason of a Non-Code Provision in effect on January 6, 1983, is treated as a State or local bond that is tax-exempt under § 103(a). Under § 149(c)(2)(B), the beneficial treatment provided in § 149(c)(2)(A) generally does not apply to a bond issued after 1983, unless the bond is described in § 149(c)(2)(C). Bonds "issued pursuant to section 608(a)(6)(A)" of the Railroad Act, a Non-Code Provision enacted after January 6, 1983, are described in § 149(c)(2)(C)(ii) and thus are treated as described in § 149(c)(2)(A). Consequently, § 149(c)(2)(C)(ii) makes clear that even though the Railroad Act was enacted after January 6, 1983, bonds issued pursuant to § 608(a)(6)(A) of the Railroad Act are nonetheless covered by § 149(c)(2)(A) and not subject to the issue date limitation in § 149(c)(2)(B).

The phrase "pursuant to" in § 149(c)(2)(C)(ii) signals that the content of § 608(a)(6)(A) of the Railroad Act circumscribes the nature of bonds to which § 149(c)(2)(C)(ii) applies. Under § 608(a)(6)(A) of the Railroad Act, bonds issued by "a public corporation, authority or other agency of the State" that is engaged in "the continued operation of the [State Railroad]" are "obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2))."

The Railroad Corporation is a public corporation formed by State statute to operate the State Railroad. The Railroad Act contemplates that operation of the State Railroad entails operating as "a rail carrier engaged in interstate and foreign commerce" (§ 608(a)(1) of the Railroad Act), engaging in "all business opportunities available to comparable railroads" (§ 608(a)(2) of the Railroad Act), deploying the State Railroad's assets for "transportation and related purposes" (§ 609(a) of the Railroad Act), and for "transportation, communication, or transmission purposes" (§ 610(b) of the Railroad Act). To the extent the Railroad Corporation engages in activities consistent with and related to the operation of the State Railroad as contemplated by the Railroad Act, the Railroad Corporation is an entity described in § 608(a)(6)(A) of the Railroad Act.

Therefore, under § 608(a)(6)(A) of the Railroad Act, bonds issued by the Railroad Corporation for purposes consistent with and related to the operation of the State Railroad as contemplated by the Railroad Act (Railroad-Related Bonds) are obligations of the State for purposes of § 103(a)(1) of the 1954 Code and are not industrial development bonds under § 103(b)(2) of the 1954 Code or private activity bonds under § 141(a) of the Code. Railroad-Related Bonds are also "issued pursuant to section 608(a)(6)(A)" of the Railroad Act within the meaning of § 149(c)(2)(C)(ii) and, therefore, under § 149(c)(2)(A), are treated as tax-exempt under § 103(a), notwithstanding any failure to comply with the rules in §§ 141 through 147 governing private activity bonds. Because § 608(a)(6)(A) of the Railroad Act exempts Railroad-Related Bonds only from the rules in §§ 141 through 147 governing private activity bonds, Railroad-Related Bonds must still satisfy the rules in §§ 148, 149, and 150 to qualify as tax-exempt bonds under § 103(a).

In connection with the LNG Project, the Railroad Corporation intends to engage in activities to finance the construction, acquisition, and improvement of the Property. Because the Railroad Corporation's engagement in these activities is consistent with and related to the operation of the State Railroad as contemplated by the Railroad Act, the bonds issued by the Railroad Corporation to finance the construction, acquisition, and improvement of the Property are Railroad-Related Bonds and are not required to satisfy the rules in §§ 141 through 147 to qualify as tax-exempt bonds under § 103(a). This conclusion is limited to bonds issued by the Railroad Corporation to finance the construction, acquisition, and improvement of the Property, all of which must be located within the State and directly related to the LNG Project. For example, this conclusion would not apply if the Railroad Corporation were to issue bonds to finance construction of a facility that uses natural gas generated by the LNG Project but has no other relationship to the LNG Project because such a facility does not qualify as Property.

HOLDING

Because financing the construction, acquisition, and improvement of the Property constitutes an activity consistent with and related to the operation of the State Railroad as contemplated by the Railroad Act, bonds issued by the Railroad Corporation to finance the construction, acquisition, and improvement of the Property are not required to satisfy the rules in §§ 141 through 147 to qualify as tax-exempt bonds under § 103(a). However, such bonds are required to satisfy the rules in §§ 148, 149, and 150 to qualify as tax-exempt bonds under § 103(a).

DRAFTING INFORMATION

The principal author of this revenue ruling is the Office of the Associate Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling, call (202) 317-3900 (not a toll-free number).

Part III

Interim Guidance on Additional First Year Depreciation Deduction under § 168(k)

Notice 2026-11

SECTION 1. OVERVIEW

This notice announces that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations (forthcoming proposed regulations) that would implement the additional first year depreciation deduction under § 168(k) of the Internal Revenue Code (Code)[1], as amended by §§ 70301 and 70434(g) of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), including proposed regulations that would modify § 1.168(k)-2 to include applicable qualified sound recording productions commencing in taxable years ending after July 4, 2025. The Treasury Department and IRS expect the forthcoming proposed regulations to be consistent with the interim guidance provided in sections 3 through 5 of this notice. Section 3 of this notice addresses property eligible for the additional first year depreciation deduction under § 168(k) as amended by the OBBBA. Section 4 of this notice addresses the elections under § 168(k)(5) and (10). Section 5 of this notice addresses the addition of qualified sound recording productions to qualified property under § 168(k)(2) for productions commencing in taxable years ending after July 4, 2025. Section 6 of this notice addresses the expected applicability date of the forthcoming proposed regulations and the ability of taxpayers to rely on the interim guidance provided in this notice for property placed in service in taxable years beginning before the date the forthcoming proposed regulations are published in the *Federal Register*.

SECTION 2. BACKGROUND

.01 *Section 168(k) prior to amendment by the OBBBA*. Section 168(k)(1), as in effect after amendment by § 13201 of Public Law 115-97, 131 Stat. 2054 (Dec. 22, 2017), commonly known as the Tax Cuts and Jobs Act (TCJA) (TCJA § 168(k)), allows an additional first year depreciation deduction, based on the applicable percentage under TCJA § 168(k)(6) for qualified property acquired after September 27, 2017, and placed in service before January 1, 2027 (January 1, 2028, for certain property having longer production periods and certain aircraft), and for specified plants planted or grafted after September 27, 2017, and before January 1, 2027, for which a section 168(k)(5) election is made. The applicable percentage under TCJA § 168(k)(6) was 100 percent for qualified property placed in service, or specified plants planted or grafted, after September 27, 2017, and before January 1, 2023, and has phased down by 20 percentage points annually beginning with qualified property acquired after September 27, 2017, and placed in service after December 31, 2022 (December 31, 2023, for certain property having longer production periods or certain aircraft), and specified plants planted or grafted after December 31, 2022. Pursuant to TCJA § 168(k)(6), the applicable percentage is (i) 40 percent for qualified property placed in service during 2025 (60 percent for certain property having longer production periods or certain aircraft) and (ii) 40 percent for specified plants planted or grafted during 2025.

.02 *Amendments made by the OBBBA*.

(1) *Amendments to § 168(k) by § 70301 of the OBBBA*. Section 70301 of the OBBBA (OBBBA § 70301) made several amendments to § 168(k) to provide taxpayers with a permanent 100 percent additional first year depreciation deduction for qualified property acquired and placed in service, and specified plants planted or grafted, after January 19, 2025. Specifically, OBBBA § 70301: (i) removed the general requirement that qualified property must be placed in service, and specified plants must be planted or grafted, before January 1, 2027, (ii) removed the requirement that certain property having longer production periods or certain aircraft must be placed in service before January 1, 2028, and acquired before January 1, 2027, (iii) removed the provision specifying that the requirement that certain property having longer production periods and certain aircraft be acquired before January 1, 2027 is treated as met if the taxpayer begins manufacturing, constructing, or producing self-constructed property before January 1, 2027, and (iv) replaced the annual phasedown of the applicable percentage for the § 168(k) additional first year depreciation deduction with a permanent 100 percent additional first year depreciation deduction for qualified property acquired, or specified plants planted or grafted, after January 19, 2025. Additionally, OBBBA § 70301 amended § 168(k)(10) to allow taxpayers to elect to deduct 40 percent (60 percent for certain property having longer production periods or certain aircraft), instead of 100 percent, additional first year depreciation for qualified property placed in service, or specified plants planted or grafted, during the first taxable year ending after January 19, 2025.

OBBBA § 70301(c) provides that, except as otherwise provided in that subsection, the amendments made by OBBBA § 70301 apply to property acquired, or specified plants planted or grafted, after January 19, 2025. OBBBA § 70301(c)(4) contains language similar to § 13201(h)(1) of the TCJA, stating that for purposes of the effective date in OBBBA § 70301(c)(1), property is not treated as acquired after the date a written binding contract is entered into for such acquisition.

(2) *Amendments to §§ 181 and 168(k) made by § 70434 of the OBBBA*.

(a) *Amendments to § 181(a) made by § 70434 of the OBBBA*. Section 181, as in effect prior to amendment by § 70434 of the OBBBA (OBBBA § 70434), allows taxpayers to elect to deduct up to $15 million of the aggregate production costs of

[1] Unless otherwise specified, all "section" or "§" references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

any qualified film, television or live theatrical production commencing before January 1, 2026, but did not allow a deduction for sound recording productions. OBBBA § 70434(a) and (b) amended § 181(a) and (g) (redesignated as § 181(h)) to allow taxpayers to deduct the cost of any qualified sound recording production, subject to a cap on the aggregate cost of any qualified sound recording production, or on the aggregate, cumulative cost of all such qualified sound recording productions in the taxable year, of $150,000, for productions commencing before January 1, 2026, in taxable years ending after July 4, 2025. Following the amendments by OBBBA § 70434(e), § 181(f) defines "qualified sound recording production" as a sound recording, as defined in 17 U.S.C. 101, produced and recorded in the United States.

(b) *OBBBA § 70434(g) amendments to § 168(k)*. OBBBA § 70434(g) amended § 168(k) by expanding the definition of qualified property in § 168(k)(2) to include qualified sound recording productions for which a deduction would have been allowable under § 181, without regard to § 181(a)(2) and (h) (respectively, the limitation on deductible aggregate production costs and the termination date for § 181) or § 168(k). OBBBA § 70434(g)(2) amended § 168(k)(2)(H) to provide that a qualified sound recording production is considered placed in service at the time of the initial release or broadcast.

(c) *Effective date of OBBBA § 70434 amendments*. OBBBA § 70434(i) provides that the amendments to § 168(k) and § 181 made by OBBBA § 70434 apply to sound recording productions commencing in taxable years ending after July 4, 2025, the date of enactment of the OBBBA.

.03 *Existing regulations under § 168(k)*.

(1) *In general*. Section 1.168(k)-2, published in the *Federal Register* as T.D. 9874 (84 FR 50108) on September 24, 2019, and amended by T.D. 9916 (85 FR 71734) on November 10, 2020, provides rules for determining whether certain depreciable property is qualified property eligible for the additional first year depreciation deduction under TCJA § 168(k). Section 1.168(k)-2(h)(1) provides that, in general, the rules in § 1.168(k)-2 apply to (i) depreciable property acquired after September 27, 2017, and placed in service during or after the taxpayer's taxable year that begins on or after January 1, 2021, (ii) specified plants planted, or grafted to a plant that was previously planted, during or after the taxpayer's taxable year that begins on or after January 1, 2021, for which an election under § 168(k)(5) was made, and (iii) components of eligible larger self-constructed property that are acquired or self-constructed after September 27, 2017, and placed in service by the taxpayer during or after the taxpayer's taxable year that begins on or after January 1, 2021. Section 1.1502-68 provides rules governing the availability of the additional first year depreciation deduction allowable under TCJA § 168(k) for depreciable property acquired and placed in service after September 27, 2017, by a member of a consolidated group. Except as otherwise provided in § 1.1502-68(c), the rules in § 1.168(k)-2 apply to depreciable property acquired by members of a consolidated group in addition to the rules in § 1.1502-68.

(2) *Section 1.168(k)-2(b)(5) acquisition date requirement.*

(a) *In general*. Section 1.168(k)-2(b)(5) provides rules for the acquisition date requirement in § 13201(h) of the TCJA, which provides that the amendments made by § 13201 of the TCJA apply to property which is acquired, or planted or grafted, after September 27, 2017, and is placed in service after such date. Under § 13201(h) of the TCJA, property is not treated as acquired after the date on which a written binding contract is entered into for such acquisition. Section 1.168(k)-2(b)(5) states that these rules apply to all depreciable property, including self-constructed property, certain property having longer production periods, and certain aircraft.

Pursuant to § 1.168(k)-2(b)(5)(ii)(A), except for qualified film, television, or live theater productions, depreciable property will meet the acquisition date requirement if the property is acquired by the taxpayer after September 27, 2017, or is acquired by the taxpayer pursuant to a written binding contract entered into by the taxpayer after September 27, 2017.

(b) *Written binding contracts*. Section 1.168(k)-2(b)(5)(ii)(B) provides that the acquisition date of property that the taxpayer acquired pursuant to a written binding contract is the later of: (i) the date the contract was entered into; (ii) the date the contract is enforceable under State law; (iii) if the contract has one or more cancellation periods, the date all cancellation periods end; or (iv) if the contract has one or more contingency clauses, the date all conditions subject to such clauses are satisfied.

Section 1.168(k)-2(b)(5)(iii) defines a written binding contract for purposes of § 1.168(k)-2(b)(5) as a contract enforceable under State law against the taxpayer or a predecessor that does not limit damages to a specified amount (for example, by use of a liquidated damages provision). Additionally, property that is manufactured, constructed, or produced for the taxpayer by another person pursuant to a written binding contract that is entered into prior to the manufacture, construction or production of the property for use by the taxpayer in its trade or business or for its production of income is considered to be self-constructed property subject to the written binding contract rules provided in § 1.168(k)-2(b)(5)(iv).

(c) *Self-constructed property*. Section 1.168(k)-2(b)(5)(iv) provides rules to determine the acquisition date for self-constructed property for purposes of § 1.168(k)-2(b)(5). In general, self-constructed property meets the acquisition date requirement in § 1.168(k)-2(b)(5)(ii) if the taxpayer (or third party) begins manufacture, construction, or production after September 27, 2017.

Section 1.168(k)-2(b)(5)(iv)(B) provides that manufacture, construction, or production of property begins when physical work of a significant nature begins. The determination of when physical work of a significant nature begins depends on the facts and circumstances. Section 1.168(k)-2(b)(5)(iv)(B)(2) provides a safe harbor allowing physical work of a significant nature to begin at the time the taxpayer incurs (in the case of an accrual basis taxpayer) or pays (in the case of a cash basis taxpayer) more than 10 percent of the total cost of the property, excluding the cost of any land and preliminary activities such as planning or designing, securing financing, exploring, or researching.

(d) *Property acquired pursuant to a non-binding contract*. Section 1.168(k)-2(b)(5)(v) provides the rules

for determining the acquisition date for property acquired pursuant to a non-binding contract. In general, the acquisition date for property acquired pursuant to a non-binding contract (and property constructed for the taxpayer by another person under a non-binding contract) is the date the taxpayer paid or incurred more than 10 percent of the total cost of the property, excluding the cost of any land and preliminary activities.

(e) *Acquisition date requirement for qualified film, television, or live theatrical productions*. Section 1.168(k)-2(b)(5)(vi) provides that, for purposes of § 13201(h) of the TCJA: (i) a qualified film or television production is treated as acquired on the date principal photography commences, and (ii) a qualified live theatrical production is treated as acquired on the date when all the necessary elements for producing the live theatrical production are secured.

(f) *Specified plants*. Section 1.168(k)-2(b)(5)(vii) provides that a specified plant meets the acquisition date requirement of § 1.168(k)-2(b)(5)(ii) if it is planted or grafted after September 27, 2017, by the taxpayer in the ordinary course of the taxpayer's farming business (as defined in § 263A(e)(4)).

(3) *Component election*. Section 1.168(k)-2(c)(1) allows a taxpayer to make an election to treat any acquired or self-constructed component, as described in § 1.168(k)-2(c)(3), of larger self-constructed property, as described in § 1.168(k)-2(c)(2), for which the taxpayer begins the manufacture, construction, or production before September 28, 2017, as being eligible for the additional first year depreciation deduction, if the component is qualified property under § 168(k)(2) and § 1.168(k)-2, and the taxpayer either acquires or begins the manufacture, construction, or production of the component after September 27, 2017. The rules and procedures for making the component election are set forth in § 1.168(k)-2(c)(6) and provide that the taxpayer must attach a statement to the timely filed return (including extensions) for the taxable year in which the taxpayer placed in service the larger self-constructed property indicating: (i) that the taxpayer is making the election in § 1.168(k)-2(c), and (ii) whether the taxpayer is making the election for all or some of the components described in § 1.168(k)-2(c)(3).

.04 *Section 168(k)(5) election*.

(1) *TCJA § 168(k)(5)*. TCJA § 168(k)(5)(A) allows a taxpayer to make an election to deduct additional first year depreciation for one or more specified plants planted by January 1, 2027, or grafted before such date to a plant that has already been planted by the taxpayer in the ordinary course of the taxpayer's farming business (as defined in § 263A(e)(4) (TCJA § 168(k)(5) election). If a taxpayer makes the TCJA § 168(k)(5) election, the additional first year depreciation deduction is allowable for the specified plant in the taxable year in which that plant was planted or grafted, subject to the applicable percentage phase down requirements in TCJA § 168(k)(6)(C). The rules and procedures for making the TCJA § 168(k)(5) election are set forth in § 1.168(k)-2(f)(2) and provide that the taxpayer makes the election in the manner prescribed on Form 4562, "Depreciation and Amortization," and its instructions. The instructions to the current Form 4562 provide generally that a taxpayer makes the election by attaching a statement to the timely filed Federal tax return (including extensions) for the taxable year the taxpayer planted or grafted the specified plant to which the election applies indicating the taxpayer is electing to apply TCJA § 168(k)(5) and identifying the specified plant(s) for which the taxpayer is making the election.

(2) *OBBBA § 70301 amendments to § 168(k)(5)*. For specified plants planted or grafted after January 19, 2025, OBBBA § 70301(a)(4) and (b) removed the applicable percentage phase down in § 168(k)(6) and amended § 168(k)(5) by (i) eliminating the date by which a specified plant must be planted or grafted by the taxpayer under § 168(k)(5)(A), and (ii) adding a permanent 100 percent additional first year depreciation deduction for specified plants for which the taxpayer makes a § 168(k)(5) election for the taxable year.

.05 *Section 168(k)(7) election*. Section 168(k)(7) (which the OBBBA does not amend) allows a taxpayer to make an election not to deduct additional first year depreciation for any class of property (a term defined in § 1.168(k)-2(f)(1)(ii)) that is qualified property placed in service during the taxable year. The rules and procedures for making the election not to deduct additional first year depreciation are set forth in § 1.168(k)-2(f)(1) and provide that the taxpayer makes the election in the manner prescribed on Form 4562, "Depreciation and Amortization," and its instructions. The instructions to the current Form 4562 generally provide that the taxpayer makes the election by attaching a statement to its timely filed Federal tax return (including extensions) for the taxable year in which the property at issue is placed in service indicating the class of property for which the taxpayer is making the election and that, for such class, the taxpayer is not claiming the additional first year depreciation.

.06 *Section 168(k)(10) election*.

(1) *TCJA § 168(k)(10)*. TCJA § 168(k)(10) allowed taxpayers to elect to deduct 50 percent, instead of 100 percent, additional first year depreciation for (i) all qualified property acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer in its taxable year that includes September 28, 2017, and (ii) all specified plants that are planted, or grafted to a plant that has already been planted, after September 27, 2017, by the taxpayer in the ordinary course of the of the taxpayer's farming business during its taxable year that includes September 28, 2017 (TCJA § 168(k)(10) election). The rules and procedures for making the TCJA § 168(k)(10) election are set forth in § 1.168(k)-2(f)(3), which provides that the taxpayer makes the election in the manner prescribed on the 2017 Form 4562, "Depreciation and Amortization," and its instructions. Those instructions provide that the taxpayer makes the election by attaching a statement to the timely filed Federal tax return (including extensions) for the taxable year that includes September 28, 2017, indicating the taxpayer is electing to apply TCJA § 168(k)(10).

(2) *OBBBA § 70301 amendments to § 168(k)(10)*. OBBBA § 70301(b)(3) amended § 168(k)(10) to allow taxpayers to elect to deduct 40 percent (60 percent for certain property having longer production periods or certain aircraft), instead of 100 percent, for qualified property placed in service or plants planted or grafted, as applicable, by the taxpayer during its first taxable ending after January 19, 2025.

SECTION 3. INTERIM GUIDANCE

.01 *Purpose*. This section 3 provides interim guidance for determining whether depreciable property is qualified property eligible for the additional first year depreciation deduction under § 168(k), as amended by the OBBBA, and for determining the additional first year depreciation deduction allowable under § 168(k), as amended by the OBBBA. The Treasury Department and IRS intend to issue forthcoming proposed regulations consistent with the interim guidance provided in this section 3.

.02 *In general*. Except as otherwise provided in this notice, to determine whether depreciable property is qualified property eligible for the § 168(k) additional first year depreciation deduction for property acquired, or specified plants planted or grafted, after January 19, 2025, and to determine the associated § 168(k) additional first year depreciation deduction, a taxpayer applies rules consistent with the rules contained in §§ 1.168(k)-2 and 1.1502-68, with the substitutions and modifications described in this notice.

.03 *Acquisition date requirement in OBBBA § 70301(c)*. In determining whether depreciable property is acquired after January 19, 2025, for purposes of OBBBA § 70301(c), taxpayers apply rules consistent with § 1.168(k)-2(b)(5) and 1.1502-68(a) through (d), by substituting "January 19, 2025" for "September 27, 2017" each place it appears, and by substituting "January 20, 2025" for "September 28, 2017" each place it appears.

.04 *Property described in § 168(k)(2)(B) or (C)*. Because OBBBA § 70301(a)(2)(A) removed the requirement under TCJA § 168(k)(2)(B)(i)(III) and (C)(i) that certain long production period property must be acquired by the taxpayer (or acquired pursuant to a written binding contract entered into) before January 1, 2027, in order to be qualified property, § 1.168(k)-2(d) (providing rules for determining if such qualified property is acquired before January 1, 2027) does not apply in determining whether such property is qualified property under § 168(k), as amended by the OBBBA.

.05 *Certain components of larger self-constructed property*.

(1) *In general*. A taxpayer may make an election under rules consistent with § 1.168(k)-2(c), by substituting "January 19, 2025" and "January 20, 2025" for "September 27, 2017" and "September 28, 2017", respectively, to treat an eligible component of an eligible larger self-constructed property as eligible for the additional first year depreciation deduction under § 168(k), as amended by the OBBBA (component election). The eligible component must satisfy all the requirements set forth in § 1.168(k)-2(c).

(2) *Making the component election*. A taxpayer makes the component election provided in section 3.05(1) of this notice by following rules and procedures consistent with those described in § 1.168(k)-2(c)(6).

.06 *Placed in service date requirement*. Because OBBBA § 70301(a) removed the § 168(k)(2)(A)(iii), (B)(i)(II), (C)(i) and (k)(5)(A) requirements that qualified property must be placed in service before January 1, 2027 (January 1, 2028, for certain property having longer production periods and certain aircraft), and a specified plant must be planted, or grafted to a plant that has already been planted, before January 1, 2027, § 1.168(k)-2(b)(4) (relating to placed-in-service dates) does not apply for purposes of determining whether depreciable property acquired, or plants planted or grafted (for which the taxpayer made the § 168(k)(5) election), after January 19, 2025, is qualified property under § 168(k).

.07 *Applicable percentage*. In applying § 168(k) to qualified property acquired, and specified plants planted or grafted (for which the taxpayer made the § 168(k)(5) election), after January 19, 2025, substitute "100 percent" for "the applicable percentage" each place it appears in § 1.168(k)-2, except for the examples provided in § 1.168(k)-2(g)(2)(iv).

SECTION 4. SECTION 168(k)(5) AND (10) ELECTIONS

.01 *Purpose*. This section 4 provides interim guidance for making the elections provided in § 168(k)(5) and (10), for qualified property placed in service or plants planted or grafted, as applicable, after January 19, 2025, the effective date for the amendments to § 168(k) by OBBBA § 70301. The Treasury Department and IRS intend to issue forthcoming proposed regulations consistent with the interim guidance provided in this section 4.

.02 *Section 168(k)(5) election*. A taxpayer makes the § 168(k)(5) election by following rules and procedures consistent with the rules and procedures in § 1.168(k)-2(f)(2).

.03 *Section 168(k)(10) election*. A taxpayer makes the § 168(k)(10) election by following rules and procedures consistent with the rules and procedures in § 1.168(k)-2(f)(3), with the following modifications: (a) substitute "January 19, 2025" for "September 27, 2017" each place it appears, (b) substitute "January 20, 2025" for "September 28, 2017" each place it appears, (c) substitute "40 percent" ("60 percent" in the case of qualified property described in § 168(k)(2)(B) or (C)) for "50 percent" each place it appears, and (d) substitute "applicable Form 4562, *Depreciation and Amortization*," for "2017 Form 4562, "Depreciation and Amortization,"."

SECTION 5. QUALIFIED SOUND RECORDING PRODUCTIONS

.01 *Purpose*. This section 5 provides interim guidance relating to certain treatment of qualified sound recording productions under § 168(k) following the amendments made by OBBBA § 70434. The Treasury Department and IRS intend to issue forthcoming proposed regulations consistent with the interim guidance provided in this section 5.

.02 *Qualified sound recording productions as qualified property*.

(1) *Qualified sound recording production acquired before January 20, 2025*. In applying § 168(k) to a qualified sound recording production acquired before January 20, 2025, and in a taxable year ending after July 4, 2025, a taxpayer applies § 1.168(k)-2 by adding to the list of qualified property described in § 1.168(k)-2(b)(2)(i) "a qualified sound recording production (as defined in § 181(f)) for which a deduction would have been allowable under § 181 without regard to § 181(a)(2) or (h) or § 168(k))."

(2) *Qualified sound recording productions acquired after January 19, 2025*. A qualified sound recording production

described in § 168(k)(2)(A)(i)(VI), commencing in a taxable year ending after July 4, 2025, and acquired, as determined under section 5.03(1) of this notice, after January 19, 2025, is qualified property eligible for the additional first year depreciation deduction under § 168(k), as amended by the OBBBA.

.03 *Acquisition date requirement and placed in service date for qualified sound recordings*.

(1) *Acquisition date requirement in OBBBA § 70301(c)*. In determining when a qualified sound recording production is acquired for purposes of the effective date rules in OBBBA § 70301(c), a qualified sound recording production is treated as acquired on the date that principal recording commences.

(2) *Placed in service date*. For purposes of determining the additional first year depreciation deduction for a qualified sound recording production under § 168(k), a qualified sound recording production is considered placed in service at the time of its initial release or broadcast under § 168(k)(2)(H)(iii).

.04 *Election not to deduct additional first year depreciation for a qualified sound recording production*. A taxpayer may make an election under § 168(k)(7) not to deduct additional first year depreciation for a qualified sound recording production using rules and procedures consistent with the rules and procedures in § 1.168(k)-2(f)(1), with the modification that the definition of class of property in § 1.168(k)-2(f)(1)(ii) is expanded to include each separate production, defined using rules consistent with § 1.181-3(b), of a qualified sound recording production.

SECTION 6. APPLICABILITY DATE AND RELIANCE

.01 *Applicability date*. It is anticipated that the forthcoming proposed regulations will propose rules consistent with the rules described in sections 3 through 5 of this notice for property:

(a) that is placed in service in a taxable year beginning on or after the date the final regulations are published in the *Federal Register*, and

(b) that is (i) depreciable property acquired by the taxpayer after January 19, 2025 (or, in the case of a qualified sound recording production, a production commencing in a taxable year ending after July 4, 2025), (ii) specified plants for which taxpayers properly made the § 168(k)(5) election that are planted, or grafted to a plant that was previously planted, after January 19, 2025, and (iii) components acquired or self-constructed after January 19, 2025, of larger self-constructed property described in § 1.168(k)-2(c)(2), with the substituted dates in section 3.05 of this notice.

.02 *Reliance on this notice*. A taxpayer may rely on the guidance provided in sections 3 through 5 of this notice for the property described in section 6.01(b) of this notice that is placed in service in a taxable year beginning before the date the forthcoming proposed regulations are published in the *Federal Register*, provided that the taxpayer follows the guidance provided in sections 3 through 5 of this notice in its entirety for all eligible property placed in service in such taxable years, beginning with the first taxable year with respect to which the taxpayer relies on the guidance provided in sections 3 through 5 of this notice.

SECTION 7. PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

The collections of information in this notice are in sections 3.02, 3.05, 4.02, and 4.03 of this notice.

The collection in section 3.02 of this notice is an election under § 1.1502-68(c)(4) that a taxpayer may make to not claim the additional first year depreciation deduction for qualified property, and which § 1.1502-68(c)(1) or (2) would otherwise require the taxpayer to claim such deduction when a member of a consolidated group acquires from another member property eligible for the additional first year depreciation deduction (or stock of a third member holding such property), and the acquirer member (and acquired member, if applicable) then leaves the consolidated group. The corporation makes the election by attaching a statement to its timely filed Federal income tax return (including extensions) for the taxable year that begins after the date on which it leaves the consolidated group. The likely respondents are corporations.

The collection in section 3.02 of this notice also allows a taxpayer to make a § 168(k)(7) election not to deduct additional first year depreciation for a qualified sound recording production under § 168(k)(7). A taxpayer makes the election by following the rules in § 1.168(k)-2(f)(1), which requires that the election be made by the due date, including extensions, of the Federal tax return for the taxable year in which the qualified property is placed in service by the taxpayer in the instructions for Form 4562. The likely respondents are businesses and individuals.

The collection in section 3.05 of this notice is an election that allows a taxpayer to treat one or more components acquired or self-constructed after January 19, 2025, of certain larger self-constructed property as being eligible for the 100 percent additional first year depreciation deduction under § 168(k). See § 1.168(k)-2(c)(6). The election is made by attaching a statement to a Federal income tax return indicating that the taxpayer is making the election under § 1.168(k)-2(c) and whether the election is for all or some of the components. The likely respondents are businesses and individuals.

The collection in section 4.02 of this notice is an election in § 168(k)(5) that allows a taxpayer to deduct additional first year depreciation for one or more specified plants which is planted or grafted after January 19, 2025. A taxpayer makes the election by following § 1.168(k)-2(f)(2), which requires a statement to be attached to the timely filed Federal tax return (including extensions) for the taxable year the taxpayer planted or grafted the specified plant, and follow the manner of making the election in the instructions

for Form 4562, *Depreciation and Amortization (Including Information on Listed Property)*. The likely respondents are businesses and individuals.

The collection in section 4.03 of this notice allows a taxpayer to make a § 168(k)(10) election to deduct 40 percent (60 percent for certain property having longer production periods or certain aircraft), instead of 100 percent, additional first year depreciation for all qualified property acquired by the taxpayer after January 19, 2025, (or, in the case of specified plants, grafted or planted) and placed in service by the taxpayer in its taxable year that includes January 20, 2025. A taxpayer makes the § 168(k)(10) election by following the rules in § 1.168(k)-2(f)(3), which requires a statement attached to the timely filed Federal tax return (including extensions) for the taxable year that includes January 20, 2025, and in the manner provided in the instructions for Form 4562. The likely respondents are businesses and individuals.

This information requested in sections 3.02, 3.05, 4.02, and 4.03 of this notice will be used by the IRS to identify the taxpayer, taxable year, the subject of the election (such as, transaction (section 3.02 of the notice) or components (section 3.05 of the notice), and property subject to the election (such as specified plant(s) (section 4.02 of this notice) or class of property (section 4.03 of this notice).

The burden associated with these information collections will be included within OMB control numbers 1545-0047 for tax-exempt filers, 1545-0074 for individual filers, 1545-0092 for trust and estate filers, and 1545-0123 for business filers in accordance with the PRA procedures under 5 CFR 1320.10.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 8. DRAFTING AND CONTACT INFORMATION

The principal author of this notice is Christian Lagorio of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Mr. Lagorio at (202) 317-7005 (not a toll-free number).

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

Notice 2026-12

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

Section 1.430(h)(2)-1(d) provides rules for determining the monthly corporate bond yield curve,[2] and § 1.430(h)(2)-1(c) provides rules for determining 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 § 1.430(h)(2)-1(d), the monthly corporate bond yield curve derived from December 2025 data is in Table 2025-12 at the end of this notice. The spot first, second, and third segment rates for the month of December 2025 are, respectively, 4.03, 5.17, and 6.11.

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. Those percentages are 95% and 105% for plan years beginning in 2024, 2025 and 2026. For this purpose, any 25-year average segment rate that is less than 5% is deemed to be 5%. The 25-year average segment rates for plan years beginning in 2024, 2025 and 2026 were published in Notice 2023-66, 2023-40 I.R.B. 992, Notice 2024-67, 2024-41 I.R.B. 726 and Notice 2025-47, 2025-40 I.R.B. 441, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for January 2026 without adjustment for the 25-year average segment rate limits are as follows:

---

[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] For months before February 2024, the monthly corporate bond yield curve was determined in accordance with Notice 2007-81, 2007-44 I.R.B. 899. Section 1.430(h)(2)-1(d) generally adopts the methodology for determining the monthly corporate bond yield curve under Notice 2007-81 but includes two enhancements to take into account subsequent changes in the bond market. Those enhancements are described in the preamble to TD 9986 (89 FR 2127).

24-Month Average Segment Rates Without 25-Year Average Adjustment			
Applicable Month	**First Segment**	**Second Segment**	**Third Segment**
January 2026	4.57	5.26	5.74

The adjusted 24-month average segment rates set forth in the chart below reflect § 430(h)(2)(C)(iv) of the Code. The 24-month averages applicable for January 2026, 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), are as follows:

Adjusted 24-Month Average Segment Rates				
For Plan Years Beginning In	**Applicable Month**	**First Segment**	**Second Segment**	**Third Segment**
2024	January 2026	4.75	5.26	5.74
2025	January 2026	4.75	5.26	5.74
2026	January 2026	4.75	5.25	5.74

30-YEAR TREASURY SECURITIES INTEREST RATES

Section 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount for the full-funding limitation described in § 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88-73, 1988-2 C.B. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for December 2025 is 4.80 percent. The Service determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in November 2055. For plan years beginning in January 2026, the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rates used to calculate current liability are as follows:

Treasury Weighted Average Rates		
For Plan Years Beginning In	**30-Year Treasury Weighted Average**	**Permissible Range 90% to 105%**
January 2026	4.36	3.93 to 4.58

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. Section 1.417(e)-1(d)(3) provides guidelines for determining the minimum present value segment rates. Pursuant to that section, the minimum present value segment rates determined for December 2025 are as follows:

Minimum Present Value Segment Rates			
Month	**First Segment**	**Second Segment**	**Third Segment**
December 2025	4.03	5.17	6.11

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 2025-12
Monthly Yield Curve for December 2025
Derived from December 2025 Data

Maturity	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*
0.5	3.86	20.5	5.77	40.5	6.15	60.5	6.30	80.5	6.37
1.0	3.89	21.0	5.79	41.0	6.16	61.0	6.30	81.0	6.37
1.5	3.92	21.5	5.80	41.5	6.16	61.5	6.30	81.5	6.37
2.0	3.95	22.0	5.82	42.0	6.17	62.0	6.31	82.0	6.38
2.5	3.99	22.5	5.84	42.5	6.17	62.5	6.31	82.5	6.38
3.0	4.03	23.0	5.85	43.0	6.18	63.0	6.31	83.0	6.38
3.5	4.09	23.5	5.87	43.5	6.18	63.5	6.31	83.5	6.38
4.0	4.14	24.0	5.88	44.0	6.19	64.0	6.31	84.0	6.38
4.5	4.20	24.5	5.89	44.5	6.19	64.5	6.32	84.5	6.38
5.0	4.27	25.0	5.90	45.0	6.20	65.0	6.32	85.0	6.38
5.5	4.34	25.5	5.91	45.5	6.20	65.5	6.32	85.5	6.38
6.0	4.41	26.0	5.92	46.0	6.21	66.0	6.32	86.0	6.39
6.5	4.48	26.5	5.93	46.5	6.21	66.5	6.33	86.5	6.39
7.0	4.55	27.0	5.94	47.0	6.21	67.0	6.33	87.0	6.39
7.5	4.62	27.5	5.95	47.5	6.22	67.5	6.33	87.5	6.39
8.0	4.69	28.0	5.96	48.0	6.22	68.0	6.33	88.0	6.39
8.5	4.76	28.5	5.97	48.5	6.23	68.5	6.33	88.5	6.39
9.0	4.83	29.0	5.98	49.0	6.23	69.0	6.34	89.0	6.39
9.5	4.89	29.5	5.99	49.5	6.23	69.5	6.34	89.5	6.39
10.0	4.95	30.0	6.00	50.0	6.24	70.0	6.34	90.0	6.40
10.5	5.01	30.5	6.01	50.5	6.24	70.5	6.34	90.5	6.40
11.0	5.07	31.0	6.02	51.0	6.24	71.0	6.34	91.0	6.40
11.5	5.13	31.5	6.03	51.5	6.25	71.5	6.34	91.5	6.40
12.0	5.18	32.0	6.04	52.0	6.25	72.0	6.35	92.0	6.40
12.5	5.23	32.5	6.04	52.5	6.25	72.5	6.35	92.5	6.40
13.0	5.28	33.0	6.05	53.0	6.26	73.0	6.35	93.0	6.40
13.5	5.32	33.5	6.06	53.5	6.26	73.5	6.35	93.5	6.40
14.0	5.37	34.0	6.07	54.0	6.26	74.0	6.35	94.0	6.40
14.5	5.41	34.5	6.08	54.5	6.27	74.5	6.35	94.5	6.40
15.0	5.45	35.0	6.08	55.0	6.27	75.0	6.36	95.0	6.41
15.5	5.49	35.5	6.09	55.5	6.27	75.5	6.36	95.5	6.41
16.0	5.52	36.0	6.10	56.0	6.27	76.0	6.36	96.0	6.41
16.5	5.55	36.5	6.10	56.5	6.28	76.5	6.36	96.5	6.41
17.0	5.59	37.0	6.11	57.0	6.28	77.0	6.36	97.0	6.41
17.5	5.62	37.5	6.12	57.5	6.28	77.5	6.36	97.5	6.41
18.0	5.65	38.0	6.12	58.0	6.29	78.0	6.36	98.0	6.41
18.5	5.67	38.5	6.13	58.5	6.29	78.5	6.37	98.5	6.41
19.0	5.70	39.0	6.14	59.0	6.29	79.0	6.37	99.0	6.41
19.5	5.72	39.5	6.14	59.5	6.29	79.5	6.37	99.5	6.41
20.0	5.75	40.0	6.15	60.0	6.30	80.0	6.37	100.0	6.41

Safe Harbor Explanations – Eligible Rollover Distributions

Notice 2026-13

I. PURPOSE

This notice provides two safe harbor explanations that plan administrators may use to satisfy the requirement under section 402(f) of the Internal Revenue Code (Code) to provide certain information to recipients of eligible rollover distributions. One safe harbor explanation is for distributions that are not from a designated Roth account, and the other safe harbor explanation is for distributions from a designated Roth account. These safe harbor explanations modify the two safe harbor explanations provided in Notice 2020-62, 2020-35 IRB 476. The modifications to the safe harbor explanations take into consideration certain legislative changes made by Division T of the Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 4459 (2022), known as the SECURE 2.0 Act of 2022 (SECURE 2.0 Act), and implement a recommendation from the U.S. Government Accountability Office (GAO).

II. BACKGROUND

A. Section 402(f)

Section 402(f) requires the plan administrator of a plan qualified under section 401(a) to provide the written explanation described in section 402(f)(1) (section 402(f) notice) to any recipient of an eligible rollover distribution, as defined in section 402(c)(4). In addition, section 403(a)(4)(B) requires the plan administrator of a section 403(a) plan to provide the section 402(f) notice to any recipient of an eligible rollover distribution, section 457(e)(16)(B) requires the plan administrator of a governmental section 457(b) plan[1] to provide the section 402(f) notice to any recipient of an eligible rollover distribution, and section 403(b)(8)(B) requires a payor under a section 403(b) plan to provide the section 402(f) notice to any recipient of an eligible rollover distribution.

Section 1.402(f)-1, Q&A-1(a), provides that the plan administrator of a qualified plan is required, within a reasonable period of time before making an eligible rollover distribution, to provide the distributee with the section 402(f) notice.

Notice 2020-62 sets forth two safe harbor explanations that may be used to satisfy the requirements for a section 402(f) notice based on the relevant law as of August 6, 2020: one safe harbor explanation is for payments not from a designated Roth account and the other safe harbor explanation is for payments from a designated Roth account. Notice 2020-62 provides, however, that those two safe harbor explanations will not satisfy section 402(f) to the extent the explanations are no longer accurate because of a change in the relevant law occurring after August 6, 2020.

B. Recent Statutory Changes Related to Distributions

1. Section 72(t)

Section 72(t)(1) generally provides for a 10% additional tax on the portion of a distribution from a qualified retirement plan (as defined in section 4974(c)) that is includible in gross income, unless the distribution qualifies for one of the exceptions in section 72(t)(2).

a. Distributions for Emergency Personal Expenses

Section 115 of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding section 72(t)(2)(I), which provides a new exception to the 10% additional tax for a distribution from an applicable eligible retirement plan to an individual for emergency personal expenses. For a description of the rules relating to the exception to the 10% additional tax for emergency personal expense distributions and the optional adoption of emergency personal expense distribution provisions, see Notice 2024-55, 2024-28 IRB 31.

Section 72(t)(2)(I)(viii) generally provides that the special rules in section 72(t)(2)(H)(vi)(II) (for qualified birth or adoption distributions) also apply for emergency personal expense distributions. Thus, an emergency personal expense distribution is not treated as an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), or the mandatory withholding rules under section 3405.

b. Certain Distributions to Qualified Public Safety Employees and Private-Sector Firefighters

Prior to the enactment of the SECURE 2.0 Act, section 72(t)(10)(A) of the Code provided that, in the case of a distribution to a qualified public safety employee (as defined in section 72(t)(10)(B)) from a governmental plan (as defined in section 414(d)), the exception to the 10% additional tax in section 72(t)(2)(A)(v) (relating to separation from service) is applied by substituting age 50 for age 55. The SECURE 2.0 Act made changes to the exception to the 10% additional tax for qualified public safety employees in section 72(t)(10). Sections 308 and 329 of the SECURE 2.0 Act modified the exception to the 10% additional tax under section 72(t)(10) of the Code by providing that the exception applies to a distribution either from a governmental plan to a qualified public safety employee or from a qualified plan, section 403(a) annuity, or section 403(b) plan to a private-sector employee who provides firefighting services, if the distribution is received after the employee's separation from service and the earlier of the attainment of age 50 or 25 years of service under the plan. In addition, section 330 of the SECURE 2.0 Act amended section 72(t)(10)(B)(i) of the Code by adding State or local correction officers and forensic security employees providing for the care, custody, and control of forensic patients to the definition of qualified public safety employee.

[1] A governmental section 457(b) plan is an eligible section 457(b) plan maintained by a governmental employer described in section 457(e)(1)(A).

c. Distributions to Domestic Abuse Victims

Section 314 of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding section 72(t)(2)(K), which provides a new exception to the 10% additional tax for an eligible distribution to a domestic abuse victim (domestic abuse victim distribution). For a description of the rules relating to the exception to the 10% additional tax for domestic abuse victim distributions and the optional adoption of domestic abuse victim distribution provisions, see Notice 2024-55. Section 72(t)(2)(K)(vi)(II) provides that a domestic abuse victim distribution is not treated as an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), or the mandatory withholding rules under section 3405.

d. Distributions to Terminally Ill Individuals

Section 326 of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding a new exception to the 10% additional tax for distributions made to a terminally ill individual. Section 72(t)(2)(L) provides that an employee who is a terminally ill individual and receives a distribution (terminally ill individual distribution) on or after the date on which the employee has been certified by a physician as having a terminal illness will not be subject to the 10% additional tax with respect to the distribution. For a description of the rules relating to the exception to the 10% additional tax for terminally ill individual distributions, see Part F of Notice 2024-2, 2024-2 IRB 316. A terminally ill individual distribution is an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), and the mandatory withholding rules under section 3405.

Although section 72(t)(2)(L) provides an exception to the 10% additional tax, it does not provide an exception from the distribution restriction requirements in sections 401(k)(2)(B)(i), 403(b)(7)(A)(i), and 403(b)(11). Therefore, a plan that is subject to these distribution restriction requirements may only make a terminally ill individual distribution to an employee who is otherwise eligible for a permissible distribution. For example, a section 401(k) plan may distribute a terminally ill individual distribution to an employee who is otherwise eligible for a permissible distribution and meets the requirements of that permissible distribution, such as a distribution after the employee separates from service, without violating the distribution restriction requirements under section 401(k)(2)(B)(i). For the distribution to also meet the requirements of a terminally ill individual distribution, the distribution must meet the applicable requirements in Notice 2024-2, for a terminally ill individual distribution, including the content requirement for the certification described in Q&A F-6, the timing requirement for the certification described in Q&A F-7, and the documentation requirement described in Q&A F-13 of Notice 2024-2. In the example above, when distributing the terminally ill individual distribution, the plan administrator of the section 401(k) plan would need to provide a section 402(f) notice for the separated employee requesting a terminally ill individual distribution.

e. Qualified Disaster Recovery Distributions

Section 331 of the SECURE 2.0 Act amended section 72(t) of the Code by (1) adding section 72(t)(2)(M), which provides a new exception to the 10% additional tax for any qualified disaster recovery distribution, and (2) adding section 72(t)(11), which provides additional rules related to qualified disaster recovery distributions. Section 72(t)(11)(A) and (B) permits an individual whose principal place of abode at any time during the incident period of a qualified disaster is located in the qualified disaster area and who has sustained an economic loss by reason of the qualified disaster to receive a distribution of up to $22,000 (a qualified disaster recovery distribution) on or after the first day of the incident period of the qualified disaster and before the date that is 180 days after the applicable date with respect to the disaster. A *qualified disaster* is defined in section 72(t)(11)(E) as any disaster with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100-707, 102 Stat. 4689 (1988), after December 27, 2020. The term *applicable date* is defined in section 72(t)(11)(F)(iii) as the latest of December 29, 2022 (the date of enactment of section 72(t)(11)(F)), the first day of the incident period (as specified by the Federal Emergency Management Agency) with respect to the qualified disaster, or the date of the disaster declaration with respect to the qualified disaster. Section 72(t)(11)(G)(i) provides that a qualified disaster recovery distribution is not treated as an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), or the mandatory withholding rules under section 3405.

For a description of the rules relating to the exception to the 10% additional tax for qualified disaster recovery distributions and the optional adoption of qualified disaster recovery distribution provisions, see IRS Fact Sheet 2024-19, *Disaster relief frequently asked questions: Retirement plans and IRAs under the SECURE 2.0 Act of 2022* (IR-2024-132, May 3, 2024).

f. Distributions from Pension-Linked Emergency Savings Accounts

Section 127(e)(2) of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding section 72(t)(2)(J), which provides that the 10% additional tax does not apply to distributions from a pension-linked emergency savings account (PLESA) pursuant to section 402A(e). See section II.B.3.c of this notice for a general description of PLESAs, including the application of section 402(f) notice requirements to PLESA distributions.

g. Qualified Long-Term Care Distributions

Section 334 of the SECURE 2.0 Act amended section 72(t)(2) of the Code by adding section 72(t)(2)(N) to provide a new exception to the 10% additional tax

for qualified long-term care distributions, which are generally distributions made to an employee during the taxable year to pay for certified long-term care insurance for the employee or the employee's spouse. Section 334 of the SECURE 2.0 Act also added section 401(a)(39) of the Code, which provides that a trust forming part of a qualified defined contribution plan will not be treated as failing to constitute a qualified trust solely because the plan permits qualified long-term care distributions, if certain requirements are met.[2] Section 334 of the SECURE 2.0 Act is effective for distributions made after December 29, 2025.

Section 72(t)(2)(N)(iii) provides that a qualified long-term care distribution is not treated as an eligible rollover distribution for purposes of the direct rollover rules of section 401(a)(31), the notice requirement under section 402(f), or the mandatory withholding rules under section 3405.

2. Required Minimum Distributions

Section 401(a)(9) establishes a mandatory date, known as the "required beginning date," by which required minimum distributions to a plan participant must start. Under section 402(c)(4)(B), required minimum distributions are not eligible rollover distributions.

a. Applicable Ages for Required Minimum Distributions

Section 107 of the SECURE 2.0 Act amended section 401(a)(9) of the Code to increase the ages at which required minimum distributions must begin. Section 401(a)(9)(C)(i) provides that the required beginning date for required minimum distributions is April 1 of the calendar year following the later of (I) the calendar year in which the employee attains the applicable age, or (II) the calendar year in which the employee retires. Section 401(a)(9)(C)(v) provides that, (I) in the case of an individual who attains age 72 after December 31, 2022, and age 73 before January 1, 2033, the applicable age is 73, and (II) in the case of an individual who attains age 74 after December 31, 2032, the applicable age is 75.

b. Required Minimum Distributions Not Required from Designated Roth Account in a Plan

Section 325 of the SECURE 2.0 Act amended section 402A(d) of the Code by adding section 402A(d)(5), which provides that neither required minimum distributions under section 401(a)(9)(A) nor the incidental death benefit requirements of section 401(a) apply to any designated Roth account in a plan.

c. Surviving Spouse Election to Be Treated as Employee

Section 327 of the SECURE 2.0 Act amended the special rule for the surviving spouse of an employee under section 401(a)(9)(B)(iv) of the Code. Under section 401(a)(9)(B)(iv), if the designated beneficiary in section 401(a)(9)(B)(iii)(I) is the surviving spouse of the employee and the surviving spouse will be taking annual distributions over a period of longer than 10 years, then those distributions are not required to start until the year in which the employee would have attained the applicable age. If the surviving spouse dies before required minimum distributions to the surviving spouse begin, favorable required minimum distribution rules in section 401(a)(9)(B)(iii) would apply as if the surviving spouse is the employee.

In addition, a surviving spouse may elect to be treated as if the surviving spouse were the employee for purposes of determining the amount of each required minimum distribution. If this election is made, then the surviving spouse may take distributions over a longer number of years than the surviving spouse's remaining life expectancy. If this election is not made, required minimum distributions will be made over the life of the surviving spouse (or over a period not extending beyond the life expectancy of the surviving spouse).

3. Other Statutory and Regulatory Changes Related to Distributions

a. Mandatory Distributions

Section 304 of the SECURE 2.0 Act increased from $5,000 to $7,000 the dollar thresholds related to distributions under sections 411(a)(11) and 401(a)(31)(B) of the Code. Section 411(a)(11) generally permits plans qualified under section 401(a) to include provisions allowing for the immediate distribution of a separating participant's benefit without such participant's consent if the present value of the nonforfeitable accrued benefit does not exceed $7,000 (mandatory distributions). Plans may provide that amounts attributable to previous rollovers into the plan are excluded for purposes of determining whether the present value of the nonforfeitable accrued benefit does not exceed $7,000.

If a distributee does not make an affirmative election to have a mandatory distribution of more than $1,000 paid from a plan qualified under section 401(a)[3] in a direct rollover to an eligible retirement plan or to receive the distribution directly, section 401(a)(31)(B) requires that such mandatory distribution be paid in a direct rollover to an individual retirement plan, i.e., an individual retirement account as described in section 408(a) or an individual retirement annuity described in section 408(b) (IRA), of a designated trustee or issuer. Section 401(a)(31)(B)(i) requires that the plan administrator notify the distributee in writing (either separately or as part of the section 402(f) notice) that the distribution may be paid in a direct rollover to an IRA.

b. Distributions from Governmental Plans to Eligible Retired Public Safety Officers for Health and Long-Term Care Insurance

Section 402(l) provides special rules regarding distributions from governmental plans to eligible retired public safety officers for health and long-term care insur-

[2] Qualified long-term care distributions are also permitted from section 401(k) plans pursuant to section 401(k)(2)(B)(i)(VII), qualified annuity contracts pursuant to section 403(a)(6), section 403(b) custodial accounts pursuant to section 403(b)(7)(A)(i)(VII), section 403(b) annuity contracts pursuant to section 403(b)(11)(E), and governmental section 457(b) plans pursuant to section 457(d)(1)(A)(v).

[3] The mandatory distribution rules in section 401(a)(31)(B) also apply to 403(b) plans pursuant to section 403(b)(10) and governmental section 457(b) plans pursuant to section 457(d)(1)(C).

ance. Section 402(l)(1) provides that, in general, in the case of an employee who is an eligible retired public safety officer and who makes an election under section 402(l)(6) with respect to any taxable year, the employee's gross income for that taxable year does not include any distribution from an eligible retirement plan to the extent that the aggregate amount of the distributions does not exceed the amount paid by the employee for qualified health insurance premiums for the taxable year. Section 402(l)(2) limits the amount that may be excluded from gross income for the taxable year under section 402(l)(1) to $3,000.

Prior to the enactment of the SECURE 2.0 Act, section 402(l)(5)(A) of the Code provided that insurance premiums may be excluded from gross income only if the payment of the premiums is made directly to the provider of the accident or health plan or qualified long-term insurance contract by deduction from a distribution from the retirement plan (the direct payment requirement). As amended by section 328 of the SECURE 2.0 Act, section 402(l)(5)(A)(i) of the Code eliminates the direct payment requirement. Instead, section 402(l)(5)(A)(i) provides that the tax treatment under section 402(l)(1) applies to a distribution without regard to whether payment of the premiums is made directly to the provider of the accident or health plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan, or is made to the employee.

c. Pension-Linked Emergency Savings Accounts

Section 127 of the SECURE 2.0 Act amended title I of the Employee Retirement Income Security Act of 1974 (ERISA) and section 402A of the Code to provide that certain retirement plans may include PLESAs. In general, PLESAs are short-term savings accounts established and maintained in connection with a defined contribution plan and are treated as a type of designated Roth account.

Section 402A(e)(10)(A) provides that distributions from PLESAs generally are not treated as eligible rollover distributions for purposes of section 402(f), except as provided in section 402A(e)(10)(B). Pursuant to section 402A(e)(10)(B), in the case of termination of employment of the participant or termination of the PLESA by the plan sponsor, a distribution may be transferred under section 402A(e)(8)(A)(i)[4] to another designated Roth account in the defined contribution plan, and, if so transferred, the distribution from the PLESA is treated as an eligible rollover distribution for purposes of section 402(f).

d. Collectibles

On July 19, 2024, the Treasury Department and the Internal Revenue Service (IRS) published TD 10001 (89 FR 58886), which sets forth final regulations under section 401(a)(9) that, among other things, updated the list of distributions and deemed distributions that are not eligible rollover distributions. Specifically, § 1.402(c)-2(c)(3)(x) provides that amounts treated as distributed as a result of the purchase of a collectible pursuant to section 408(m) are not eligible rollover distributions.

C. Government Accountability Office Report

On May 22, 2024, the GAO released a report, titled *401(k) Retirement Plan Tax Notices: Federal Actions Can Help Participants Understand Their Distribution Options*, GAO-24-107167 (GAO Report). The GAO Report examines the effectiveness of section 402(f) notices in helping participants understand their distribution options and associated tax consequences.

The GAO Report made several recommendations to the Department of the Treasury (Treasury Department) to mitigate the challenges section 401(k) plan participants face regarding section 402(f) notices. The GAO Report recommended that the section 402(f) notices provide clearer and more concise information about each of the following four distribution options and their associated tax consequences: (1) leave their savings in their former employer's plan, (2) roll over their savings into a plan sponsored by their new employer in a plan-to-plan rollover, (3) roll over their savings into an IRA, or (4) take a lump-sum distribution.

The GAO Report also recommended that the Treasury Department address the timing requirements for plans to provide the section 402(f) notice to ensure the section 402(f) notice is provided to participants when they leave their jobs and become eligible to take distributions. The GAO Report acknowledged that the Treasury Department informed the GAO that there is no statutory authority to require a section 402(f) notice to a participant upon separation from service.

Under § 1.402(f)-1, Q&A-2(b), a plan administrator may provide a participant with a section 402(f) notice earlier than is required (for example, upon a participant's separation from service). Then, rather than providing the full section 402(f) notice a second time within the required section 402(f) notice timeframe, a plan administrator would be permitted to provide the participant with a summary of the section 402(f) notice within that timeframe. However, if the participant requests the full section 402(f) notice after receiving the summary, the plan administrator would need to provide the section 402(f) notice without charge.

The Treasury Department and the IRS encourage plan administrators to consider implementing the GAO Report's recommendation to provide the section 402(f) notice in connection with a participant's separation from service under the options described in § 1.402(f)-1, Q&A-2(b), in order to provide the participant with information about distribution options at the point in time when the participant is facing an important decision about retirement savings.

III. MODIFICATIONS TO THE SAFE HARBOR EXPLANATIONS

Two updated safe harbor explanations are appended to this notice (see the Appendix). The safe harbor explanations modify the safe harbor explanations in Notice 2020-62 to reflect certain legislative changes made after August 6, 2020, including: (1) various changes relating to the exceptions under section 72(t)(2) to the 10% additional tax under sec-

[4] Under section 402A(e)(8)(A)(i), a participant may elect to transfer the PLESA account balance, in whole or in part, into another designated Roth account of the participant under the defined contribution plan.

tion 72(t)(1), (2) changes relating to the required minimum distribution rules for surviving spouses, (3) the increased age for determining required beginning dates for required minimum distributions under section 401(a)(9), (4) the elimination of required minimum distributions with respect to designated Roth accounts in a plan, (5) the increased dollar thresholds related to small lump-sum distributions under sections 411(a)(11) and 401(a)(31)(B), (6) changes to the rules relating to distributions from governmental plans for health and long-term care insurance, and (7) rules relating to PLESA distributions.

The safe harbor explanations also include a paragraph setting forth the options generally available to plan participants receiving eligible rollover distributions. As noted in the GAO Report, providing clear and concise information will allow notice recipients to fully consider the implications of their distribution options before they make decisions about their plan savings. Finally, the safe harbor explanations include other minor modifications to improve clarity, including a limitation on rollovers to SIMPLE IRA plans under section 408(p)(1)(B) and a table of contents to help a recipient easily identify information and topics that are relevant to the recipient's decision.

The updated safe harbor explanations provided in this notice may be used by plan administrators and payors to satisfy section 402(f). The updated safe harbor explanations will not, however, satisfy section 402(f) to the extent the explanations are no longer accurate because of a change in the relevant law occurring after January 15, 2026. The IRS anticipates updating the safe harbor explanations to reflect relevant future changes, including provisions of the SECURE 2.0 Act that are not effective until taxable years beginning after December 31, 2026.[5]

The first safe harbor explanation reflects the rules relating to distributions not from a designated Roth account. Thus, the first safe harbor explanation should be used only if the participant is eligible to receive an eligible rollover distribution that is not from a designated Roth account. The second safe harbor explanation reflects the rules relating to distributions from a designated Roth account. Thus, the second safe harbor explanation should be used only if the participant is eligible to receive an eligible rollover distribution from a designated Roth account. Both explanations should be provided to a participant if the participant is eligible to receive eligible rollover distributions from both a designated Roth account and an account other than a designated Roth account.

The safe harbor explanation in this notice for distributions not from a designated Roth account meets the requirements of section 402(f) for an eligible rollover distribution that is not from a designated Roth account if it is provided to the recipient of the eligible rollover distribution within a reasonable period of time before the distribution is made. Similarly, the safe harbor explanation in this notice for distributions from a designated Roth account meets the requirements of section 402(f) for an eligible rollover distribution from a designated Roth account if it is provided to the recipient of the eligible rollover distribution within a reasonable period of time before the distribution is made.

Section 1.402(f)-1, Q&A-2, currently provides, in general, that a reasonable period of time for providing an explanation is no less than 30 days (subject to waiver by the distributee) and no more than 90 days before the date on which the distribution is made. However, proposed § 1.402(f)-1, Q&A-2(a), pursuant to section 1102(a)(1)(B) of the Pension Protection Act of 2006, Pub. L. 109-280, 120 Stat. 780, provides that a notice required to be provided under section 402(f) may be provided to a participant as much as 180 days before the date on which the distribution is made (or the annuity starting date). The proposed regulations further provide that, with respect to the extended period for notices, plans may rely on the proposed regulations for notices provided during the period beginning on the first day of the first plan year beginning on or after January 1, 2007, and ending on the effective date of final regulations. Thus, the section 402(f) notice may be provided as many as 180 days before the date on which the distribution is made (or the annuity starting date).

A plan administrator or payor may customize a safe harbor explanation by omitting any information that does not apply to the plan, and the Treasury Department and IRS encourage that customization. For example, if the plan does not hold after-tax employee contributions, it would be appropriate to eliminate the section "If your payment includes after-tax contributions" in the explanation for payments not from a designated Roth account. Similarly, if the plan does not provide for distributions of employer stock or other employer securities, it would be appropriate to eliminate the section "If your payment includes employer stock that you do not roll over." Other information that may not be relevant to a particular plan includes, for example, the sections "If your payment is from a governmental section 457(b) plan" and "If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance." In addition, the plan administrator or payor may provide additional information with a safe harbor explanation if the information is not inconsistent with section 402(f).

Alternatively, a plan administrator or payor may satisfy section 402(f) by providing an explanation that is different from a safe harbor explanation provided in this notice. To satisfy section 402(f), an explanation must include the information required by section 402(f) and must be written in a manner designed to be easily understood.

IV. EFFECT ON OTHER DOCUMENTS

Notice 2020-62 is superseded.

DRAFTING INFORMATION

The principal authors of this notice are Jordan D. Kohl and Christina M. Cerasale of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact Ms. Kohl at (312) 292-2170 (not a toll-free number).

[5] The SECURE 2.0 Act includes the following provisions that are not effective until taxable years beginning after December 31, 2026: section 103 (adding Code section 6433, which provides for Saver's Match contributions) and section 309 (adding Code section 139C, which provides for the exclusion from income of certain disability-related qualified first responder retirement payments).

Appendix

For Payments Not From a
Designated Roth Account

YOUR OPTIONS FOR ELIGIBLE ROLLOVER DISTRIBUTIONS

You are receiving this notice because you are eligible to receive a payment from the [INSERT NAME OF PLAN] (the "Plan") that you can transfer (roll over) to an IRA or another employer plan. This notice is intended to help you decide whether to roll over the payment (or some portion of it).

CONTENTS

GENERAL INFORMATION ABOUT ROLLOVERS

This notice describes the rollover rules that apply to payments from the Plan that are *not* from a designated Roth account (a type of account in some employer plans that is subject to special tax rules). If you also receive a payment from a designated Roth account in the Plan, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a plan are described in this "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section, including rules if your Plan is a governmental section 457(b) plan, you have after-tax contributions, or your benefit doesn't exceed $7,000.

What can I do with an amount that is eligible for rollover?

When an amount payable (that is, an amount you are eligible to take as a payment from the Plan) is eligible for rollover, you generally may choose some combination of the following:

- Leave it in the Plan, that is, do not take the payment,
- Roll it over into another employer plan,
- Roll it over into an IRA, or
- Take it, don't roll it over, and pay any required taxes.

Whether these options are available to you depends on your circumstances and the terms of the Plan. For example, you may be required to take a payment (and not roll it over) based on your age or if your benefit is below a certain threshold.

How can a payment affect my taxes?

If you don't do a rollover, you will be taxed on a payment from the Plan, and, if you are under age 59½, you will also have to pay a 10% additional tax (unless an exception applies).

How can a rollover affect my taxes?

If you do a rollover, you won't have to pay tax until you receive payments later.

What types of retirement accounts and plans may accept my rollover?

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an employer plan (a tax-qualified plan (such as a section 401(k) plan), a section 403(b) plan, or a governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer plan that receives the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, IRAs aren't subject to spousal consent rules, and IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan. For additional information on IRAs, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*.

How do I do a rollover?

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

If you do a direct rollover, the Plan will make the payment directly to your IRA or an employer plan. You should contact the IRA provider or the administrator of the employer plan for information on how to do a direct rollover.

If you do a 60-day rollover, you will receive a payment from the Plan and then make a deposit into an IRA or eligible employer plan that will accept it. Generally, you will have 60 days after you receive the payment to make the deposit. If you don't do a direct rollover, the Plan is required to withhold 20% of the payment for federal income taxes (up to the amount of cash and property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover, you must use other funds to make up for the amount withheld. If you don't roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional tax on early distributions if you are under age 59½ (unless an exception applies).

How much may I roll over?

You may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary);
- Required minimum distributions;
- Hardship distributions;
- Payments of employee stock ownership plan (ESOP) dividends;
- Corrective distributions of contributions that exceeded tax law limitations;
- Loans treated as deemed distributions (for example, loans in default due to missed payments before your employment ends);
- Cost of life insurance paid by the Plan;
- Payments of certain automatic enrollment contributions that you request to withdraw within 90 days of your first contribution;
- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP;
- Distributions used to pay certain premiums for health and accident insurance; and
- Amounts treated as distributed as a result of the purchase of a collectible.

The Plan administrator or the payor can tell you what portion of a payment is eligible for rollover.

If I don't do a rollover, will I have to pay the 10% additional tax on distributions before age 59½?

If you are under age 59½, you will have to pay the 10% additional tax on early distributions for any payment from the Plan (including amounts withheld for income tax) that you don't roll over, unless one of the exceptions listed below applies. This tax applies to the part of the distribution that you must include in income and is in addition to the regular income tax on the payment not rolled over.

The 10% additional tax doesn't apply to the following payments from the Plan:

- Payments made after you separate from service if you are at least age 55 in the year of the separation;
- Payments that start after you separate from service if paid at least annually in substantially equal amounts over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary);
- Payments from a governmental plan made after you separate from service as a qualified public safety employee and, in the year of separation, have reached age 50 or 25 years of service under the Plan;
- Payments from a private-sector plan made after you separate from service as a private-sector firefighter and, in the year of separation, have reached age 50 or 25 years of service under the Plan;
- Payments made due to disability;
- Payments made after your death;
- Payments of ESOP dividends;
- Corrective distributions of contributions that exceed tax law limitations;
- Cost of life insurance paid by the Plan;
- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under a qualified domestic relations order (QDRO);
- Payments from a defined contribution plan that are qualified birth or adoption distributions;
- Payments from a defined contribution plan for purposes of meeting unforeseeable or immediate financial needs relating to personal or family emergency expenses (emergency personal expense distributions);
- Payments to a victim of domestic abuse from a defined contribution plan that isn't subject to the qualified joint survivor annuity or qualified preretirement survivor annuity rules (domestic abuse victim distributions);
- Payments after you receive a certification from a physician that you have a terminal illness (terminal illness distributions);
- Payments that are qualified disaster recovery distributions;
- Payments made from a defined contribution plan that are qualified long-term care distributions;
- Payments up to the amount of your deductible medical expenses (without regard to whether you itemize deductions for the taxable year);
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001, for more than 179 days;
- Payments of certain automatic enrollment contributions that you request to withdraw within 90 days of your first contribution;
- Phased retirement payments made to federal employees; and
- Payments from a pension-linked emergency savings account.

For more information about the 10% additional tax and the exceptions to the 10% additional tax, see IRS Publication 575, *Pension and Annuity Income*, under the heading *Tax on Early Distributions*. For information on how to claim an exception, see the Instructions for IRS Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts.*

If I do a rollover to an IRA, will the 10% additional tax apply to a later distribution from the IRA before age 59½?

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional tax on early distributions on the part of the payment that you must include in income, unless an exception applies. In general, the exceptions to the 10% additional tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. However, there are a few differences for payments from an IRA, including:

- The exception for payments from a plan made after you separate from service if you are at least age 55 in the year of the separation (or the earlier of age 50 or attainment of 25 years of service under the Plan for qualified public safety employees and private-sector firefighters) doesn't apply to payments from an IRA;
- The exception for payments made pursuant to a QDRO under a plan doesn't apply to an IRA (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse); and

- The exception for substantially equal periodic payments from a plan also applies to payments from an IRA but without regard to whether you have had a separation from service.

Also, there are exceptions to the 10% additional tax that do not apply to payments from a plan but that do apply to payments from an IRA, including:

- Payments for qualified higher education expenses;
- Payments up to $10,000 used in a qualified first-time home purchase; and
- Payments for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

For more general information about the 10% additional tax and the exceptions to the 10% additional tax on payments from an IRA, see the Instructions to IRS Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts.* See also, IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs),* under the heading *Early Distributions*.

Will I owe state income taxes?

This notice doesn't address any state or local income tax rules (including withholding rules).

SPECIAL RULES AND OPTIONS

If your payment includes after-tax contributions

After-tax contributions included in a payment aren't taxed. If you receive a partial payment of your total benefit, an allocable portion of your after-tax contributions is included in the payment, so you can't take a payment of only after-tax contributions. However, if you have pre-1987 after-tax contributions maintained in a separate account, a special rule may apply to determine whether the after-tax contributions are included in the payment. In addition, special rules apply when you do a rollover, as described below.

You may roll over to an IRA a payment that includes after-tax contributions through either a direct rollover or a 60-day rollover. You must keep track of the aggregate amount of the after-tax contributions in all of your IRAs (in order to determine your taxable income for later payments from the IRAs). If you do a direct rollover of only a portion of the amount paid from the Plan and at the same time the rest is paid to you, the portion rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are receiving a payment of $12,000, of which $2,000 is after-tax contributions. In this case, if you directly roll over $10,000 to an IRA that isn't a Roth IRA, no amount is taxable because the $2,000 amount not rolled over is treated as being after-tax contributions. If you do a direct rollover of the entire amount paid from the Plan to two or more destinations at the same time, you can choose which destination receives the after-tax contributions.

Similarly, if you do a 60-day rollover to an IRA of only a portion of a payment made to you, the portion rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are receiving a payment of $12,000, of which $2,000 is after-tax contributions, and no part of the payment is directly rolled over. In this case, if you roll over $10,000 to an IRA that isn't a Roth IRA in a 60-day rollover, no amount is taxable because the $2,000 amount not rolled over is treated as being after-tax contributions.

You may roll over to an employer plan all of a payment that includes after-tax contributions, but only through a direct rollover (and only if the receiving plan separately accounts for after-tax contributions and isn't a governmental section 457(b) plan). You can do a 60-day rollover to an employer plan of part of a payment that includes after-tax contributions, but only up to the amount of the payment that would be taxable if not rolled over.

If you miss the 60-day rollover deadline

Generally, the 60-day rollover deadline can't be extended. However, the IRS has authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. Under certain circumstances, you may claim eligibility for a waiver of the 60-day rollover deadline by making a written self-certification. Otherwise, to apply for a waiver from the IRS, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, under the heading *Rollovers*.

If your payment includes employer stock that you don't roll over

If you don't do a rollover, you can apply a special rule to payments of employer stock (or other employer securities) that are either attributable to after-tax contributions or paid in a lump sum after separation from service (or after age 59½, disability, or the participant's death). Under the special rule, the net unrealized appreciation on the stock won't be taxed when distributed from the Plan and will be taxed at capital gain rates when you sell the stock. Net unrealized appreciation is generally the increase in the value of employer stock after it was acquired by the Plan. If you do a rollover to an IRA or an employer plan for a payment that includes employer stock (for example, by selling the stock and rolling over the proceeds within 60 days of the payment), the special rule relating to the distributed employer stock won't apply to any later payments from the IRA or, generally, the plan. The Plan administrator can tell you the amount of any net unrealized appreciation.

If you have an outstanding loan that is being offset

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan (offset amount), typically when your employment ends. The offset amount is treated as a distribution to you at the time of the offset, even though you will not receive the offset amount. Generally, you may roll over all or any portion of the offset amount using other funds. Any offset amount that isn't rolled over will be taxed (including the 10% additional tax on early distributions, unless an exception applies). You may roll over offset amounts to an IRA or an employer plan (if the terms of the employer plan permit the plan to receive plan loan offset rollovers).

How long you have to complete the rollover depends on what kind of plan loan offset you have. If you have a qualified plan loan offset, you will have until your tax return due date (including extensions) for the tax year during which the offset occurs to complete your rollover. A qualified plan loan offset occurs when a plan loan in good standing is offset because your employer plan terminates, or because you separate from service. If your plan loan offset occurs for any other reason (such as a failure to make level loan repayments that results in a deemed distribution), then you have 60 days from the date the offset occurs to complete your rollover.

If you receive a payment and you were born on or before January 1, 1936

If you were born on or before January 1, 1936, and receive a lump sum payment that you don't roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, *Pension and Annuity Income*.

If your payment is from a governmental section 457(b) plan

If the Plan is a governmental section 457(b) plan, the same rules described elsewhere in this notice generally apply, allowing you to roll over the payment to an IRA or an employer plan that accepts rollovers. One difference is that, if you don't do a rollover, you won't have to pay the 10% additional tax on early distributions from the Plan even if you are under age 59½ (unless the payment is from a separate account holding rollover contributions that were made to the Plan from a tax-qualified plan, a section 403(b) plan, or an IRA). However, if you do a rollover to an IRA or to an employer plan that isn't a governmental section 457(b) plan, a later distribution made before age 59½ will be subject to the 10% additional tax on early distributions (unless an exception applies). Other differences include that you can't do a rollover if the payment is an "unforeseeable emergency" distribution, and that the special rules under the sections "If your payment includes employer stock that you don't roll over" and "If you were born on or before January 1, 1936" don't apply.

If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance

If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income, not to exceed $3,000, the amounts, (1) that were paid by the Plan directly to an insurer of health coverage or qualified long-term care insurance or (2) that were received by you from the Plan and used to pay for premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

If you roll over your payment to a SIMPLE IRA

You can only roll over a payment from the Plan to a SIMPLE IRA plan after the end of the 2-year period beginning on the date you first participated in the SIMPLE IRA plan.

If you roll over your payment to a Roth IRA

If you roll over a payment from the Plan to a Roth IRA (which, for purposes of this explanation, includes a Roth SIMPLE IRA), a special rule applies under which the amount of the payment rolled over, reduced by any after-tax amounts, will be taxed. In general, the 10% additional tax on early distributions won't apply. However, if you take the amount rolled over out of the Roth IRA within the 5-year period that begins on January 1 of the year of the rollover, the 10% additional tax will apply on the amount includible in gross income (unless an exception applies).

If you roll over the payment to a Roth IRA, you won't have to take required minimum distributions from the Roth IRA during your lifetime. Later payments from the Roth IRA that are qualified distributions won't be taxed, including earnings after the rollover. A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to $10,000) and after you have had a Roth IRA for at least 5 years. In applying this 5-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that aren't qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional tax on early distributions (unless an exception applies). For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs).*

If you roll over your payment to a designated Roth account in the Plan

You can't roll over a payment to a designated Roth account in another employer's plan. However, you can roll the payment over into a designated Roth account in the distributing Plan. If you roll over a payment from the Plan to a designated Roth account in the Plan, the amount of the payment rolled over, reduced by any after-tax amounts directly rolled over, will be taxed. In general, the 10% additional tax on early distributions won't apply. However, if you take the amount rolled over out of the designated Roth account within the 5-year period that begins on January 1 of the year of the rollover, the 10% additional tax will apply on the amount includible in gross income (unless an exception applies).

If you roll over the payment to a designated Roth account in the Plan, you won't have to take required minimum distributions from the designated Roth account during your lifetime. Later payments from the designated Roth account that are qualified distributions won't be taxed, including earnings after the rollover. A qualified distribution from a designated Roth account is a payment made both after you are age 59½ (or after your death or disability) and after you have had a designated Roth account in the Plan for at least 5 years. In applying this 5-year rule, you count from January 1 of the year of the first contribution to your designated Roth account. However, if you made a direct rollover to a designated Roth account in the Plan from a designated Roth account in a plan of another employer, the 5-year period begins on January 1 of the year you made the first contribution to the designated Roth account in the Plan or, if earlier, to the designated Roth account in the plan of the other employer. Payments from the designated Roth account that aren't qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional tax on early distributions (unless an exception applies).

If you aren't a Plan participant

Payments after death of the participant. If you receive a payment after the participant's death that you don't roll over, the payment generally will be taxed in the same manner described elsewhere in this notice. However, the 10% additional tax on early distributions and the special rules for public safety officers don't apply, and the special rule described under the section "If you were born on or before January 1, 1936" applies only if the deceased participant was born on or before January 1, 1936.

If you are a surviving spouse. If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA either as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59½ will be subject to the 10% additional tax on early distributions (unless an exception applies) and required minimum distributions from your IRA will be based on your age.

If you treat the IRA as an inherited IRA, payments from the IRA won't be subject to the 10% additional tax on early distributions. However, if the participant had started taking required minimum distributions from the Plan, required minimum distributions must continue to be made from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, distributions from the inherited IRA must begin when the participant would have been required to begin required minimum distributions.

If you are a surviving beneficiary other than a spouse. If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. Payments from the inherited IRA won't be subject to the 10% additional tax on early distributions. You will have to take required minimum distributions from the inherited IRA.

For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*.

Payments under a qualified domestic relations order (QDRO). If you are the spouse or former spouse of the participant who receives a payment from the Plan under a QDRO, you generally have the same options and the same tax treatment that the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). However, payments under the QDRO won't be subject to the 10% additional tax on early distributions.

For more information, see IRS Publication 504, *Divorced or Separated Individuals*.

If you are a nonresident alien

If you are a nonresident alien and you don't do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Plan is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing IRS Form 1040NR, *U.S. Nonresident Alien Income Tax Return,* and attaching your IRS Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*. See IRS Form W-8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals),* for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, *U.S. Tax Guide for Aliens*, and IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

Other special rules

If a payment is one in a series of payments for less than 10 years, your choice whether to do a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).

If your payments for the year are less than $200, not including payments from a designated Roth account in the Plan, the Plan isn't required to allow you to do a direct rollover and isn't required to withhold federal income taxes. However, you may do a 60-day rollover.

Unless you elect otherwise, a mandatory cashout of more than $1,000, not including payments from a designated Roth account in the Plan, will be directly rolled over to an IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) without the participant's consent. Generally, a mandatory cashout is only allowed if the participant's benefit doesn't exceed $7,000.

You may have the ability to repay certain distributions from your retirement plan. If you took a qualified reservist distribution, a qualified disaster recovery distribution, a qualified birth or adoption distribution, an emergency personal expense distribution, a domestic abuse victim distribution, or a terminal illness distribution, you generally may repay that distribution to an eligible retirement plan within a certain time period. For more information on repayments of qualified reservist distributions, see IRS Publication 3, *Armed Forces' Tax Guide*. For more information on other repayments, see IRS Publication 575, *Pension and Annuity Income*, or consult a professional tax advisor.

FOR MORE INFORMATION

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, *Pension and Annuity Income*; IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*; IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*; and IRS Publication 571, *Tax-Sheltered Annuity Plans (403(b) Plans)*. These publications are available from a local IRS office, on the web at www.irs.gov, or by calling 1-800-TAX-FORM.

YOUR OPTIONS FOR ELIGIBLE ROLLOVER DISTRIBUTIONS

You are receiving this notice because you are eligible to receive a payment from the [INSERT NAME OF PLAN] (the "Plan") that you can transfer (roll over) to a Roth IRA or designated Roth account in an employer plan. This notice is intended to help you decide whether to roll over the payment (or some portion of it).

CONTENTS

GENERAL INFORMATION ABOUT ROLLOVERS

This notice describes the rollover rules that apply to payments from the Plan that are from a designated Roth account. If you also receive a payment from the Plan that isn't from a designated Roth account, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a designated Roth account are described in this "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section, including rules if your Plan is a governmental section 457(b) plan, you have after-tax contributions, or your benefit doesn't exceed $7,000.

What can I do with an amount that is eligible for rollover?

When an amount payable (that is, an amount you are eligible to take as a payment from the Plan) is eligible for rollover, you generally may choose some combination of the following:

- Leave it in the Plan, that is, do not take the payment,
- Roll it over into a designated Roth account in another plan,
- Roll it over into a Roth IRA, or
- Take it, don't roll it over, and pay any required taxes.

Whether these options are available to you depends on your circumstances and the terms of the Plan. For example, you may be required to take a payment (and not roll it over) based on your age or if your benefit is below a certain threshold.

How can a payment affect my taxes?

After-tax contributions included in a payment from a designated Roth account aren't taxed, but earnings might be taxed. The tax treatment of earnings included in the payment depends on whether the payment is a qualified distribution. If a payment is only part of your designated Roth account, the payment will include an allocable portion of the earnings in your designated Roth account.

If the payment from the Plan isn't a qualified distribution and you don't do a rollover to a Roth IRA or a designated Roth account in an employer plan, you will be taxed on the portion of the payment that is earnings. If you are under age 59½, a 10% additional tax on early distributions (generally, distributions made before age 59½) will also apply to the earnings (unless an exception applies).

If the payment from the Plan is a qualified distribution, you won't be taxed on any part of the payment even if you don't do a rollover. A qualified distribution from a designated Roth account in the Plan is a payment made after you are age 59½ (or after your death or disability) and after you have had a designated Roth account in the Plan for at least 5 years. In applying the 5-year rule, you count from January 1 of the year the first contribution was made to the designated Roth account. However, if you did a direct rollover to a designated Roth account in the Plan from a designated Roth account in another employer plan, your participation will count from January 1 of the year the first contribution was made to the designated Roth account in the Plan or, if earlier, to the designated Roth account in the other employer plan.

How can a rollover affect my taxes?

If the payment isn't a qualified distribution and you do a rollover, you won't have to pay taxes currently on the earnings and you won't have to pay taxes later on payments that are qualified distributions. If the payment is a qualified distribution and you do a rollover, you won't be taxed on the amount you roll over and any earnings on the amount you roll over won't be taxed when paid later.

What types of retirement accounts and plans may accept my rollover?

You may roll over the payment to either a Roth IRA (a Roth individual retirement account or Roth individual retirement annuity) or a designated Roth account in an employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the Roth IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the Roth IRA or employer plan (for example, Roth IRAs cannot provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the Roth IRA or the designated Roth account in the employer plan. In general, these tax rules are similar to those described elsewhere in this notice, but differences include:

- If you do a rollover to a Roth IRA, all of your Roth IRAs will be considered for purposes of determining whether you have satisfied the 5-year rule (counting from January 1 of the year for which your first contribution was made to any of your Roth IRAs).
- If you do a rollover to a Roth IRA, you must keep track of the aggregate amount of the after-tax contributions in all of your Roth IRAs (in order to determine your taxable income for later Roth IRA payments that aren't qualified distributions).
- Eligible rollover distributions from a Roth IRA can only be rolled over to another Roth IRA.

How do I do a rollover?

There are two ways to do a rollover. You can either do a direct rollover or a 60-day rollover.

If you do a direct rollover, the Plan will make the payment directly to your Roth IRA or designated Roth account in an employer plan. You should contact the Roth IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do a direct rollover of only a portion of the amount paid from the Plan and a portion is paid to you at the same time, the portion directly rolled over consists first of earnings. For example, assume you are receiving a nonqualified distribution of $12,000, of which $2,000 is earnings. In this case, if you directly roll over $10,000 to an IRA that is a Roth IRA, no amount is taxable because the $10,000 amount rolled over includes the $2,000 in earnings and the remaining $2,000 paid to you is attributable to after-tax contributions.

If you do a 60-day rollover, you will receive a payment from the Plan and then make a deposit (generally within 60 days) into a Roth IRA, whether the payment is a qualified or nonqualified distribution. In addition, you can do a rollover by making a deposit within 60

days into a designated Roth account in an employer plan if the payment is a nonqualified distribution and the rollover doesn't exceed the amount of the earnings in the payment. You can't do a 60-day rollover to an employer plan of any part of a qualified distribution.

If you do a 60-day rollover and the payment isn't a qualified distribution, the Plan is required to withhold 20% of the earnings for federal income taxes (up to the amount of cash and property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover to a Roth IRA, you must use other funds to make up for the amount withheld.

How much may I roll over?

You may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary);
- Required minimum distributions to a beneficiary;
- Hardship distributions;
- Payments of employee stock ownership plan (ESOP) dividends;
- Corrective distributions of contributions that exceeded tax law limitations;
- Loans treated as deemed distributions (for example, loans in default due to missed payments before your employment ends);
- Cost of life insurance paid by the Plan;
- Payments of certain automatic enrollment contributions that you request to withdraw within 90 days of your first contribution;
- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP;
- Distributions used to pay certain premiums for health and accident insurance; and
- Amounts treated as distributed as a result of the purchase of a collectible.

The Plan administrator or the payor can tell you what portion of a payment is eligible for rollover.

If I don't do a rollover, will I have to pay the 10% additional tax on distributions before age 59½?

If a payment isn't a qualified distribution and you are under age 59½, you will have to pay the 10% additional tax on early distributions with respect to the earnings allocated to the payment that you don't roll over (including amounts withheld for income tax), unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the earnings not rolled over.

The 10% additional tax doesn't apply to the following payments from the Plan:

- Payments made after you separate from service if you are at least age 55 in the year of the separation;
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the joint lives or joint life expectancies of you and your beneficiary);
- Payments from a governmental plan made after you separate from service as a qualified public safety employee and, in the year of separation, have reached age 50 or 25 years of service under the Plan;
- Payments from a private-sector plan made after you separate from service as a private-sector firefighter and, in the year of separation, have reached age 50 or 25 years of service under the Plan;
- Payments made due to disability;
- Payments made after your death;
- Payments of ESOP dividends;
- Corrective distributions of contributions that exceed tax law limitations;
- Cost of life insurance paid by the Plan;
- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under a qualified domestic relations order (QDRO);
- Payments from a defined contribution plan that are qualified birth or adoption distributions;
- Payments from a defined contribution plan for purposes of meeting unforeseeable or immediate financial needs relating to personal or family emergency expenses (emergency personal expense distributions);
- Payments to a victim of domestic abuse from a defined contribution plan that isn't subject to the qualified joint survivor annuity or qualified preretirement survivor annuity rules (domestic abuse victim distributions);
- Payments after you receive a certification from a physician that you have a terminal illness (terminal illness distributions);
- Payments that are qualified disaster recovery distributions;
- Payments made from a defined contribution plan that are qualified long-term care distributions;

- Payments up to the amount of your deductible medical expenses (without regard to whether you itemize deductions for the taxable year);
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001, for more than 179 days;
- Payments of certain automatic enrollment contributions that you request to withdraw within 90 days of your first contribution; and
- Payments from a pension-linked emergency savings account.

For more information about the 10% additional tax and the exceptions to the 10% additional tax, see IRS Publication 575, *Pension and Annuity Income*, under the heading *Tax on Early Distributions*. For information on how to claim an exception, see the Instructions for IRS Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts.*

If I do a rollover to a Roth IRA, will the 10% additional tax apply to a later distribution from the Roth IRA before age 59½?

If you receive a payment from a Roth IRA when you are under age 59½, you will have to pay the 10% additional tax on early distributions on the earnings paid from the Roth IRA, unless an exception applies or the payment is a qualified distribution. In general, the exceptions to the 10% additional tax for early distributions from a Roth IRA listed above are the same as the exceptions for early distributions from a designated Roth account in an employer plan. However, there are a few differences for payments from a Roth IRA, including:

- The exception for payments from a plan made after you separate from service if you are at least age 55 in the year of the separation (or the earlier of age 50 or attainment of 25 years of service under the Plan for qualified public safety employees and private-sector firefighters) doesn't apply to payments from an IRA;
- The exception for payments made pursuant to a QDRO under a plan doesn't apply to an IRA (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to a Roth IRA of a spouse or former spouse); and
- The exception for substantially equal periodic payments from a plan also applies to payments from an IRA but without regard to whether you have had a separation from service.

Also, there are exceptions to the 10% additional tax that do not apply to payments from a plan but that do apply to payments from a Roth IRA, including:

- Payments for qualified higher education expenses;
- Payments up to $10,000 used in a qualified first-time home purchase; and
- Payments for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

For more general information about the 10% additional tax and the exceptions to the 10% additional tax on payments from an IRA, see the Instructions to IRS Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts.* See also, IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs),* under the heading *Early Distributions*.

Will I owe state income taxes?

This notice doesn't address any state or local income tax rules (including withholding rules).

SPECIAL RULES AND OPTIONS

If you miss the 60-day rollover deadline

Generally, the 60-day rollover deadline can't be extended. However, the IRS has authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. Under certain circumstances, you may claim eligibility for a waiver of the 60-day rollover deadline by making a written self-certification. Otherwise, to apply for a waiver from the IRS, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs),* under the heading *Rollovers*.

If your payment includes employer stock that you don't roll over

If you receive a payment that isn't a qualified distribution and you don't roll it over, you can apply a special rule to payments of employer stock (or other employer securities) that are paid in a lump sum after separation from service (or after age 59½, disability, or the participant's death). Under the special rule, the net unrealized appreciation on the stock included in the earnings in the payment won't be taxed when distributed to you from the Plan and will be taxed at capital gain rates when you sell the stock. If you do a rollover to a Roth IRA or a designated Roth account in another employer plan for a nonqualified distribution that includes employer stock (for example, by selling the stock and rolling over the proceeds within 60 days of the distribution), you won't have any taxable income and the special rule relating to the distributed employer stock won't apply to any later payments from the Roth IRA or, generally, the plan. Net unrealized appreciation is generally the increase in the value of the employer stock after it was acquired by the Plan. The Plan administrator can tell you the amount of any net unrealized appreciation.

If you receive a payment that is a qualified distribution that includes employer stock and you don't roll it over, your basis in the stock (used to determine gain or loss when you later sell the stock) will equal the fair market value of the stock at the time of the payment from the Plan.

If you have an outstanding loan that is being offset

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the outstanding amount of the loan (offset amount), typically when your employment ends. The offset amount is treated as a distribution to you at the time of the offset. Generally, you may roll over all or any portion of the offset amount. If the distribution attributable to the offset isn't a qualified distribution and you don't roll over the offset amount, you will be taxed on any earnings included in the distribution (including the 10% additional tax on early distributions, unless an exception applies). You may roll over the earnings included in the loan offset to a Roth IRA or designated Roth account in an employer plan (if the terms of the employer plan permit the plan to receive plan loan offset rollovers). You may also roll over the full amount of the offset to a Roth IRA.

How long you have to complete the rollover depends on what kind of plan loan offset you have. If you have a qualified plan loan offset, you will have until your tax return due date (including extensions) for the tax year during which the offset occurs to complete your rollover. A qualified plan loan offset occurs when a plan loan in good standing is offset because your employer plan terminates, or because you separate from service. If your plan loan offset occurs for any other reason (such as a failure to make level repayments that results in a deemed distribution), then you have 60 days from the date the offset occurs to complete your rollover.

If you receive a payment and you were born on or before January 1, 1936

If you were born on or before January 1, 1936, and receive a lump sum payment that isn't a qualified distribution and that you don't roll over, special rules for calculating the amount of the tax on the earnings in the payment might apply to you. For more information, see IRS Publication 575, *Pension and Annuity Income*.

If your payment is from a governmental section 457(b) plan

If the Plan is a governmental section 457(b) plan, the same rules described elsewhere in this notice generally apply, allowing you to roll over the payment to a Roth IRA or a designated Roth account in an employer plan that accepts rollovers. One difference is that, if you receive a payment that isn't a qualified distribution and you don't roll it over, you won't have to pay the 10% additional tax on early distributions with respect to the earnings allocated to the payment that you don't roll over, even if you are under age 59½ (unless the payment is from a separate account holding rollover contributions that were made to the Plan from a tax-qualified plan, a section 403(b) plan, or an IRA). However, if you do a rollover to a Roth IRA or to a designated Roth account in an employer plan that isn't a governmental section 457(b) plan, a later distribution that isn't a qualified distribution made before age 59½ will be subject to the 10% additional tax on earnings allocated to the payment (unless an exception applies). Other differences include that you can't do a rollover if the payment is an "unforeseeable emergency" distribution and that the special rules under the sections "If your payment includes employer stock that you don't roll over" and "If you receive a nonqualified distribution and you were born on or before January 1, 1936" don't apply.

If you are an eligible retired public safety officer and your payment is used to pay for health coverage or qualified long-term care insurance

If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income, up to a maximum of $3,000 annually, nonqualified distributions

(1) that were paid by the Plan directly to an insurer of health coverage or qualified long-term care insurance or (2) that were received by you from the Plan and used to pay for premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

If you roll over your payment to a Roth SIMPLE IRA

You can only roll over a payment from the Plan to a Roth SIMPLE IRA plan after the end of the 2-year period beginning on the date you first participated in the Roth SIMPLE IRA plan.

If you aren't a Plan participant

Payments after death of the participant. If you receive a payment after the participant's death that you don't roll over, the payment generally will be taxed in the same manner described elsewhere in this notice. However, whether the payment is a qualified distribution generally depends on when the participant first made a contribution to the designated Roth account in the Plan. Also, the 10% additional tax on early distributions and the special rules for public safety officers don't apply, and the special rule described under the section "If you receive a nonqualified distribution and you were born on or before January 1, 1936" applies only if the deceased participant was born on or before January 1, 1936.

If you are a surviving spouse. If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to a Roth IRA, you may treat the Roth IRA either as your own or as an inherited Roth IRA.

A Roth IRA you treat as your own is treated like any other Roth IRA of yours, so that you won't have to take any required minimum distributions during your lifetime and earnings paid to you in a nonqualified distribution before you are age 59½ will be subject to the 10% additional tax on early distributions unless an exception applies.

If you treat the Roth IRA as an inherited Roth IRA, payments from the Roth IRA won't be subject to the 10% additional tax on early distributions. An inherited Roth IRA is subject to required minimum distributions.

If you are a surviving beneficiary other than a spouse. If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited Roth IRA. Payments from the inherited Roth IRA, even if made in a nonqualified distribution, won't be subject to the 10% additional tax on early distributions. You will have to take required minimum distributions from the inherited Roth IRA.

For more information, see IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, and IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*.

Payments under a qualified domestic relations order (QDRO). If you are the spouse or a former spouse of the participant who receives a payment from the Plan under a QDRO, you generally have the same options and the same tax treatment that the participant would have (for example, you may roll over the payment to your own Roth IRA or to a designated Roth account in an eligible employer plan that will accept it).

For more information, see IRS Publication 504, *Divorced or Separated Individuals*.

If you are a nonresident alien

If you are a nonresident alien, the payment isn't a qualified distribution, and you don't do a direct rollover to a U.S. Roth IRA or designated Roth account in a U.S. employer plan, the Plan is generally required to withhold 30% (instead of withholding 20%) of the earnings for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing IRS Form 1040NR, *U.S. Nonresident Alien Income Tax Return,* and attaching your IRS Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*. See IRS Form W-8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals),* for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, *U.S. Tax Guide for Aliens*, and IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

If you receive a payment from a pension-linked emergency savings account

In general, if you receive a payment from a pension-linked emergency savings account (PLESA), the rules for other payments from a designated Roth account apply. However, several special rules apply to payments from PLESAs. First, all payments from PLESAs are treated as qualified distributions, even if, for example, the payment is made before you reach age 59½ and before you have had a PLESA for at least 5 years. Second, if you terminate employment or your employer terminates your PLESA, you may elect, in addition to your usual rollover options, to roll over all or part of your PLESA into another designated Roth account in the Plan.

Other special rules

If a payment is one in a series of payments for less than 10 years, your choice whether to do a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).

If your payments for the year (only including payments from the designated Roth account in the Plan) are less than $200, the Plan isn't required to allow you to do a direct rollover and isn't required to withhold federal income taxes. However, you can do a 60-day rollover.

Unless you elect otherwise, a mandatory cashout from the designated Roth account in the Plan of more than $1,000 will be directly rolled over to a Roth IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) without the participant's consent. Generally, a mandatory cashout is only allowed if the participant's benefit doesn't exceed $7,000.

You may have the ability to repay certain distributions from your retirement plan. If you took a qualified reservist distribution, a qualified disaster recovery distribution, a qualified birth or adoption distribution, an emergency personal expense distribution, a domestic abuse victim distribution, or a terminal illness distribution, you generally may repay that distribution to an eligible retirement plan within a certain time period. For more information on repayments of qualified reservist distributions, see IRS Publication 3, *Armed Forces' Tax Guide*. For more information on other repayments, see IRS Publication 575, *Pension and Annuity Income*, or consult a professional tax advisor.

FOR MORE INFORMATION

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, *Pension and Annuity Income*; IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*; IRS Publication 590-B, *Distributions from Individual Retirement Arrangements (IRAs)*; and IRS Publication 571, *Tax-Sheltered Annuity Plans (403(b) Plans)*. These publications are available from a local IRS office, on the web at www.irs.gov, or by calling 1-800-TAX-FORM.

Part IV

U.S.-Spain Competent Authority Arrangement Regarding Treaty Arbitration Clause

Announcement 2026-3

The following is a copy of the Competent Authority Arrangement entered into by the competent authorities of the United States of America and the Kingdom of Spain, with respect to the implementation of the arbitration process provided for in paragraphs 5 and 6 of Article 26 of the Convention between the Kingdom of Spain and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, and its Protocol, signed at Madrid on February 22, 1990 ("the Convention" and "the Protocol"), as amended by the Protocol signed January 14, 2013 ("the 2013 Protocol") and the Memorandum of Understanding accompanying the 2013 Protocol.

The text of the Competent Authority Arrangement is as follows:

IMPLEMENTING ARRANGEMENT REGARDING PARAGRAPHS 5 AND 6 OF ARTICLE 26 OF THE CONVENTION BETWEEN THE KINGDOM OF SPAIN AND THE UNITED STATES OF AMERICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, AND ITS PROTOCOL, SIGNED AT MADRID ON FEBRUARY 22, 1990 AS AMENDED BY THE PROTOCOL SIGNED JANUARY 14, 2013 AND THE MEMORANDUM OF UNDERSTANDING ACCOMPANYING THE 2013 PROTOCOL WHICH FORMS AN INTEGRAL PART OF THE CONVENTION

The competent authorities of Spain and the United States of America have established this arrangement (hereinafter referred to as the "Arrangement") to implement the arbitration process provided for in paragraphs 5 and 6 of Article 26 of the Convention between the Kingdom of Spain and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, and its Protocol, signed at Madrid on February 22, 1990 (hereinafter referred to as "the Convention" and "the Protocol"), as amended by the Protocol signed January 14, 2013 (hereinafter referred to as "the 2013 Protocol") and the Memorandum of Understanding accompanying the 2013 Protocol which forms an integral part of the Convention.

Subject to certain exceptions described in paragraph III, this arbitration process applies to cases that the competent authorities of Spain and the United States have determined are suitable for assistance under the mutual agreement procedure of Article 26 of the Convention in accordance with published guidance, in the case of Spain, Royal Decree 1794/2008 of 3 November, or any amendment or successor provisions thereof, and in the case of the United States, Revenue Procedure 2015-40, or any amendment or successor provisions thereof.

This Arrangement is adopted in accordance with subparagraph (g) of paragraph 6 of Article 26 of the Convention.

Both competent authorities intend to follow the procedures in this Arrangement in good faith, and ensure that the presenter of the case and the arbitrators follow the procedures in this Arrangement in good faith.

I. Definitions and General Matters

A. "MAP" is the abbreviation for the Mutual Agreement Procedure proceedings, which are proceedings of the competent authorities under Article 26 of the Convention.
B. The term "Concerned Person" means the presenter of a case to a competent authority for consideration under Article 26 of the Convention and all other persons, if any, whose tax liability to either Contracting State may be directly affected by a mutual agreement arising from that consideration.
C. The "Commencement Date" for a case is the earliest date on which the information necessary to undertake substantive consideration for a mutual agreement has been received by both competent authorities. The Commencement Date should be determined in accordance with paragraph IV.

II. Cases Eligible for Arbitration

A. According to paragraphs 5 and 6 of Article 26 of the Convention, arbitration should be available where:
   1. the case has been presented to the competent authority of the Contracting State of which the presenter is a resident or national on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of the Convention, and the competent authorities have endeavoured but are unable to reach an agreement to resolve the case; and
   2. all the requirements prescribed in paragraphs 5 and 6 of Article 26 of the Convention and in this Arrangement are satisfied.
B. In determining whether arbitration is available for a case, it is understood that:
   1. for the purpose of paragraph 5 of Article 26 of the Convention, an action of either Contracting State that has resulted in taxation not in accordance with the provisions of the Convention includes a Notice of Proposed Adjustment, a Notification of the Administrative Act of Assessment, or in the case of taxes at source, a payment or withholding of tax;
   2. the fact that tax collection procedures may have been suspended during MAP should not affect a determination that taxation not in accordance with the provisions of the Convention has resulted

from the actions of one or both Contracting States; and

3. the fact that there have been discussions between the competent authorities regarding tax years of a Concerned Person in connection with a request for an Advance Pricing Agreement should not preclude a MAP proceeding under Article 26 of the Convention, including the possible application of paragraphs 5 and 6, following a Notice of Proposed Adjustment, a Notification of the Administrative Act of Assessment, or in the case of taxes at source, a payment or withholding of tax, regarding those tax years.

III. Cases Not Eligible for Arbitration

According to paragraphs 5 and 6 of Article 26 of the Convention, arbitration should not be available:

A. for non-taxpayer specific cases;
B. for a case for which both competent authorities have decided that the case is not suitable for resolution through arbitration and have notified the presenter of the case of such decision before the date on which arbitration proceedings would otherwise have begun;
C. for a case if a decision with respect to such case has been rendered by a court or administrative tribunal of either Contracting State;
D. for a case concerning the application of paragraph 3 of Article 4 (Residence) of the Convention; or
E. for the elimination of double taxation in cases not provided for in the Convention.

IV. Commencement Date

A. The term "information necessary to undertake substantive consideration for a mutual agreement" in subparagraph (b) of paragraph 6 of Article 26 of the Convention means:
   1. in the United States, the information required to be submitted to the Internal Revenue Service under section 3 (Procedures for Filing Competent Authority Requests) of Revenue Procedure 2015-40 (or any applicable subsequent guidance); and
   2. in Spain, the information is that which would be required under Article 9 of the Royal Decree 1794/2008 of 3 November (or any applicable subsequent guidance).

B. Both competent authorities should confirm to each other the date on which all the information referred to in this paragraph was received by both competent authorities, i.e., the Commencement Date of a case.
C. Once the Commencement Date of a case has been confirmed by both competent authorities under subparagraph B, the competent authority to whom that case has been presented under paragraph 1 of Article 26 of the Convention should notify the presenter of the case of that date.

V. Request for Submission of Case to Arbitration

A. An arbitration proceeding with respect to a case should begin on a date (hereinafter referred to as the "Date Arbitration Proceedings Begin") as identified according to subparagraph (c) of paragraph 6 of Article 26 of the Convention. The Date Arbitration Proceedings Begin with respect to a case is the latest of:
   1. two years after the Commencement Date of that case, unless both competent authorities have decided on a different date and notified the presenter of the case (as provided in subparagraphs E and F);
   2. the date upon which the presenter of the case to a competent authority of a Contracting State has submitted a written request to that competent authority for a resolution of the case through arbitration, in the format specified in subparagraph B;
   3. the date upon which all Concerned Persons and their authorized representatives or agents agree in writing not to disclose to any other person any information received during the course of the arbitration proceeding from either Contracting State or the arbitration panel, other than the determination of such panel, as provided for in subparagraph C; and
   4. the date on which all legal actions or suits pending before the courts of either Contracting State concerning any issue involved in the case are suspended or withdrawn as applicable under the laws of the Contracting State in which such legal actions or suits are pending.

B. A request for arbitration must be made in writing and accompanied by the documents described in subparagraph C. Any request for arbitration made prior to the date established in clause 1 of subparagraph A should not be accepted.
C. The request for arbitration must be accompanied by:
   1. sufficient information to identify the case;
   2. a written confirmation that no decision with respect to such case has already been rendered by a court or administrative tribunal of either Contracting State;
   3. written statements regarding confidentiality as required in clause 3 of subparagraph A from all the Concerned Persons and their authorized representatives or agents according to the formats specified by both competent authorities; and
   4. written agreements from all Concerned Persons authorizing the release of information relating to the case to non-tax administration personnel insofar as is necessary to reach and implement the arbitration panel determination according to the formats specified by the competent authorities.

D. After the receipt of the request for arbitration, the competent authority who received it should immediately inform the other competent authority of the fact that the request was submitted and send a copy of the request and the accompanying information and statements within 10 days to the other competent authority.

E. According to clause (i) of subparagraph (c) of paragraph 6 of Article 26 of the Convention, both competent authorities may decide in appropriate situations that the Date Arbitration Proceedings Begin with respect to a case should be earlier or later than what it would have been without such decision. Such appropriate situations could be, for example, where the competent authorities are close to reaching a mutual agreement to resolve the case or where they are certain they cannot reach an agreement, where there has been a delay by a Concerned Person in providing information in the MAP of the case, where MAP is suspended by a request from the presenter of the case, or where a Concerned Person has provided significant new information after the Commencement Date of the case. Unless otherwise decided between the competent authorities, the competent authorities should make the decision by the later date of:
   1. two years after the Commencement Date of the case; or
   2. the date when the request for arbitration is received by at least one competent authority.

F. If both competent authorities decide the Date Arbitration Proceedings Begin with respect to a case under subparagraph E, then the competent authority to whom that case has been presented should immediately notify the presenter of the case of the date so decided.

G. If both competent authorities determine that the case is not suitable for resolution through arbitration, the competent authority to whom that case has been presented should immediately notify the presenter of the case of that determination.

VI. Confidentiality

According to subparagraph (e) of paragraph 5 and clause (iii) of subparagraph (c) of paragraph 6 and subparagraphs (e) and (f) of paragraph 6 of Article 26 of the Convention, the confidentiality of a case is expected to be maintained in the following manner:

A. All Concerned Persons and their authorized representatives or agents must agree, when the request for arbitration is submitted, not to disclose to any other person (except other Concerned Persons) any information received during the course of the arbitration proceeding from either competent authority or the arbitration panel, other than the determination of the panel.

B. For purposes of an arbitration proceeding under paragraphs 5 and 6 of Article 26 of the Convention, the members of the arbitration panel (hereinafter referred to as "arbitrators") and their staffs should be considered to be "persons or authorities" to whom information may be disclosed under Article 27 of the Convention.

C. No information relating to an arbitration proceeding (including the determination of the arbitration panel) may be disclosed by the competent authorities, except as permitted by the Convention and the domestic laws of the Contracting States. In addition, all material prepared in the course of, or relating to, an arbitration proceeding should be considered to be information exchanged between the competent authorities pursuant to Article 27 of the Convention.

D. Both competent authorities should ensure that all arbitrators (and any of their staff which are expected to assist them in carrying on the arbitration), prior to their acting in an arbitration proceeding, agree in the form(s) specified by both competent authorities not to disclose any information relating to an arbitration proceeding (including the determination of the arbitration panel), and to abide by and be subject to the confidentiality and nondisclosure provisions of Article 27 of the Convention and similar provisions of relevant domestic laws of the Contracting States. However, the arbitrators or their staff are expected to disclose the determination of the arbitration panel to the competent authorities. In the event those provisions conflict, the most restrictive condition should apply.

VII. Eligibility of Arbitrators

A. According to subparagraph (a) of paragraph 21 of the Protocol, in order for an individual to be eligible as an arbitrator:
   1. the individual is not an employee nor has been an employee within the twelve-month period prior to the Date Arbitration Proceedings Begin of the tax administration, the Treasury Department, or Ministry of Finance of the Contracting State which identifies him or her;
   2. the individual does not have any prior involvement with the specific matters at issue in the arbitration proceeding for which he or she is being considered as an arbitrator; and
   3. in addition, the individual who is expected to serve as the chair of the arbitration panel (hereinafter "the Chair") is not a national, citizen or lawful permanent resident of either Contracting State.

B. Both competent authorities should each prepare and exchange a list of individuals who may be eligible and are willing to serve as the Chair. The competent authorities should prepare and exchange such list every two years or more often as necessary.

C. Both competent authorities should ensure that the staff person of an arbitrator meets the same requirements described in subparagraph A.

VIII. Appointment of Arbitrators

A. According to subparagraph (a) of paragraph 21 of the Protocol, the arbitration panel should consist of three individual members.

B. Each competent authority should select one arbitrator to the arbitration panel by sending a copy of the form(s) identified in subparagraph D of paragraph VI, signed by the arbitrator, to the other competent authority within 60 days after the Date Arbitration Proceedings Begin.

C. In the event that the competent authority fails to make such selection in the manner and within the time period in subparagraph B, the other compe-

tent authority should, within 90 days after the Date Arbitration Proceedings Begin, select a second arbitrator from the list of possible Chair persons prepared in accordance with subparagraph B of paragraph VII.

D. The procedure in subparagraph C should not apply, where the failure of such selection within the time period in subparagraph B is due to the fact that an individual who had agreed to serve as an arbitrator becomes unable to serve because of circumstances outside of his or her control (for example, death, serious illness or natural disaster). Both competent authorities should determine the appropriate time period for the selection of an arbitrator in such a case.

E. Within 60 days after the latter appointment of the two initial arbitrators who were selected by the competent authorities under subparagraphs B, C, and D (hereinafter referred to as "two initial arbitrators"), the two initial arbitrators so appointed should select a third arbitrator, who should serve as the Chair. The two initial arbitrators should contact each other to discuss the selection of the third arbitrator who should serve as Chair within 5 business days after the latter appointment of the two initial arbitrators. The third arbitrator so selected should inform both competent authorities of his or her appointment as soon as possible. In order to help the two initial arbitrators make that selection, the competent authorities should provide the two initial arbitrators with a consensus list of individuals derived from the list described in subparagraph B of paragraph VII (that is, candidates to be the Chair) who appear to be best qualified to decide the case under consideration.

F. If the two initial arbitrators fail to select the third arbitrator in the manner and within the time period in subparagraph E, the two initial arbitrators should be dismissed, and each competent authority should select a new arbitrator of the arbitration panel.

G. The procedure in subparagraph F should not apply, where the failure of such selection within the time period in subparagraph E is due to the fact that the individual selected to serve as Chair becomes unable to serve because of circumstances outside of his or her control (for example, death, serious illness or natural disaster). In such a case, unless otherwise decided, both competent authorities should provide the two initial arbitrators with a revised consensus list of candidates to be Chair within 20 days after the end of the period in subparagraph E. The two initial arbitrators should select a third arbitrator from among the candidates so proposed within 10 days after the receipt of the list of candidates.

H. The arbitrators should be selected from individuals who:
   1. satisfy the eligibility requirements identified in subparagraph A of paragraph VII at the time of accepting an appointment to serve, and are reasonably expected to remain so during the entire Arbitration Proceeding and for a reasonable time thereafter; and
   2. have significant experience in international tax matters (he or she need not, however, have experience as either a judge or arbitrator).

I. An arbitrator should be deemed appointed on the date on which he or she signs the agreements required by subparagraph D of paragraph VI.

J. Where one of the two initial arbitrators becomes ineligible for service as an arbitrator or for any other reason it is necessary to replace an arbitrator after the arbitrator was appointed, the competent authority who had selected that individual should select a replacement as soon as possible and no later than 60 days after the position becomes vacant.

K. Where the third arbitrator (the Chair) becomes ineligible for service as an arbitrator or for any other reason it is necessary to replace the Chair after he or she was appointed, the two initial arbitrators should select a replacement as soon as possible and no later than 30 days after the position becomes vacant.

L. If any arbitrator is unable to fulfill his or her duties, the competent authorities should consult with the remaining panel members to determine a new timetable, if necessary.

M. Should it come to light that an arbitrator (including the Chair) has a conflict of interest which would prevent that arbitrator's original appointment, the arbitrator must recuse himself or herself from consideration of the case and inform both competent authorities. In such cases if an arbitrator has not already recused himself or herself, the competent authority who had selected the individual may remove him or her, informing the other competent authority and the Chair. If it is the Chair who has not recused himself or herself, he or she can be removed by decision of both competent authorities, informing the two initial arbitrators.

IX. Procedures and Terms of Reference

A. As soon as possible after the Date Arbitration Proceedings Begin, both competent authorities should develop a brief Statement of Information which should identify the Concerned Persons and contain a general description of the proposed adjustments or similar issues to be resolved in a case. The competent authority, or an arbitrator appointed by the competent authority, may disclose the Statement of Information, if the confidentiality of the information is ensured by first obtaining a Nondisclosure Statement of Candidate to be an Arbitrator (see, e.g., Attachment 5 to this Arrangement) and such disclosure is permitted by the law of the Contracting State, to a potential arbitrator of the case to check whether that person satisfies the eligibility requirements identified in subparagraph A of paragraph VII.

B. Both competent authorities should undertake to develop, within sixty (60) days after the Date Arbitration Proceedings Begin, a mutually decided "Terms of Reference" for a case to include:
   1. a description of the relevant business activities of the Concerned Persons;
   2. a description of the adjustments or similar issues in dispute in the case;

3. a description of the matters to be considered for the resolution of the case, including identification of all matters in the case previously decided between the competent authorities; and
4. a description of the final position taken by each competent authority in the negotiation of the unresolved matters which prevent the mutual agreement between the competent authorities.

The competent authorities may also provide logistical or procedural information in the Terms of Reference.

C. The Terms of Reference should be communicated to the Chair on the date his or her appointment is communicated to both competent authorities, or as soon thereafter as possible.

D. If the Terms of Reference has not been completed by the date for submission of the proposed resolutions and position papers, both competent authorities should send to each other and to the Chair their most recent written proposals for the Terms of Reference along with their proposed resolutions and position papers. All the matters identified as unresolved in these draft Terms of References should be treated as unresolved for the purpose of the subsequent proceedings.

E. According to subparagraph (c) of paragraph 21 of the Protocol, each of the competent authorities should be permitted to submit a proposed resolution, not to exceed five pages, addressing each adjustment or similar issue raised in a case. Such proposed resolution should be a resolution of the entire case, and should reflect, without modification, all matters in the case previously decided between both competent authorities. Such proposed resolution should be limited to a disposition of specific monetary amounts (for example, income, profit, gain or expense) or, where specified, the maximum rate of tax charged pursuant to the Convention, for each adjustment or similar issue in the case, based on the application of the Convention to the case. Each of the competent authorities should also be permitted to submit a supporting position paper, not to exceed 30 pages plus annexes, for consideration by the arbitration panel.

F. The submission of a proposed resolution and supporting position paper by the competent authority should be made by posting it (or similarly sending via express delivery service) to the Chair within 60 days after the appointment of the Chair. Unless alternative arrangements are made, the Chair should in turn send a copy of each competent authority's proposed resolution and supporting position paper to the other panel members and the other competent authority within 5 days after the receipt of the later submission by the panel. If the competent authority submits a proposed resolution (and supporting position paper) within the allotted time and chooses to submit a translation of the proposed resolution (and supporting position paper) in the official language of the other Contracting State, the submission of the translation should be made by posting it to the Chair within 90 days after the appointment of the Chair.

G. In the event that only one of the competent authorities submits a proposed resolution within the allotted time, then that proposed resolution should be deemed to be the determination of the arbitration panel in that case.

H. According to subparagraph (f) of paragraph 21 of the Protocol, each of the competent authorities should be permitted to submit a reply submission, not to exceed 10 pages, plus annexes, to the arbitration panel in order to address any points raised by the proposed resolution or supporting position paper submitted by the other competent authority. In this reply submission, the competent authority may also comment upon any Presenter Position Paper submitted under the provisions of paragraph X. If the competent authority exercises its option to also comment upon a Presenter Position Paper, its reply submission should not exceed 20 pages, plus annexes. The submission of a reply submission by the competent authority should be made by posting it (or similarly sending it via express delivery service) to the Chair within 120 days of appointment of the Chair. Unless alternative arrangements are made, the Chair should send a copy of each competent authority's reply submission paper to the other panel members and the other competent authority within 5 days of receipt of the later reply by the panel. If the competent authority submits a reply submission within the allotted time and chooses to submit a translation of the reply submission in the official language of the other Contracting State, the submission of the translation should be made by posting it to the Chair within 150 days after the appointment of the Chair.

I. In a particular case, both competent authorities may decide to use a different presentation or page limitation for the proposed resolutions, supporting position papers or reply submissions, such as is provided in paragraphs XV and XVI.

J. Any annex to a supporting position paper or reply submission must be a document previously made available for both competent authorities to use in negotiation. Any factual information used in a supporting position paper or reply submission must be what was contained in a document previously made available for both competent authorities to use in negotiation, or otherwise reflect information widely available to the general public.

K. Except with respect to the final position taken by the other competent authority as described in clause 4 of subparagraph B of paragraph IX, the competent authority should only be permitted to refer to a proposal for resolution made by either competent authority during negotiations if that proposal is submitted to the arbitration panel for consideration as a proposed resolution.

L. Within 90 days after receipt of the proposed resolutions from both competent authorities, the arbitration panel may ask both competent authorities in writing for additional information. Such additional information may be submitted to the arbitration panel only at its request, and should be provided

within 90 days after the request. If the competent authority submits additional information within the allotted time and chooses to submit a translation of the additional information in the official language of the other Contracting State, the submission of the translation should be provided within 90 days after the request. Copies of the arbitration panel's request and the competent authority's response should be provided to the other competent authority on the date on which the request or the response is submitted. If the panel requests information or analyses that have not previously been available or considered for purposes of the negotiation, the competent authorities should consult with each other to determine how to respond to the panel's request. The panel should not request additional information from the presenter of the case.

M. Unless otherwise decided between both competent authorities and the Chair, the competent authorities should send to the Chair four copies of each document submitted to the arbitration panel, for distribution to the other panel members and other competent authority.

N. Unless otherwise decided between both competent authorities, any information (including any information provided by the presenter of a case or his or her authorized representatives or agents in writing or orally) that was not available to both competent authorities before the Date Arbitration Proceedings Begin should not be taken into account for purposes of the arbitration decision. Furthermore, any reply submission or any additional information that was provided to the panel after the deadlines specified in subparagraphs H and L respectively should not be taken into account for purposes of the arbitration decision.

O. To the extent needed, the arbitration panel may adopt any additional procedures necessary for the conduct of its business, provided that the procedures are not inconsistent with any provision of Article 26 of the Convention, paragraphs 18 and 21 of the Protocol or this Arrangement or any other procedural rules decided between both competent authorities. If the arbitration panel adopts any additional procedures, the Chair should provide a written copy of them to the competent authorities.

X. Participation of the Person Who Requested the Arbitration

A. According to subparagraph (g) of paragraph 21 of the Protocol, the presenter of a case is permitted to submit for consideration by the arbitration panel a paper setting forth its analysis and views of the case (a "Presenter Position Paper") by transmitting it to the competent authority of which the presenter is resident within 30 days after a request for arbitration made in conformance with the provisions of paragraph V.

B. Both competent authorities should advise the presenter that the Presenter Position Paper should not exceed 30 pages, plus annexes. The information, positions, arguments, or analyses contained in the Presenter Position Paper must have been previously presented, and any annexes must be documents previously made available, to both competent authorities for their consideration prior to the beginning of arbitration. The competent authorities may decide a specific format, on a case-by-case basis, for the Presenter Position Paper.

C. The competent authority which receives the Presenter Position Paper should coordinate distribution of the copies with the Chair and other the competent authority immediately. That competent authority may ask the presenter of the case to submit additional copies as necessary.

XI. Communication

A. Before the Chair is appointed, both competent authorities should send any correspondence concurrently to both arbitrators. After the Chair is appointed, unless otherwise decided between the Chair and competent authorities, the competent authorities should send any correspondence to the Chair. Similarly, the Chair should send any correspondence concurrently to the competent authorities.

B. Except for administrative or logistical matters, no competent authority should have any *ex parte* communications with an arbitrator.

C. All communication, except for logistical matters, between both competent authorities and the arbitration panel should be in writing. Written communication by facsimile or email is allowed, however, no information that may identify the taxpayer(s) may be included in an email unless other security precautions to protect taxpayer information are decided upon by both competent authorities. Express mail or air mail should be used for all correspondence other than that sent via facsimile or email.

D. The arbitrators may communicate by telephone, videoconference, facsimile or face-to-face meetings. Arbitrators may communicate by email; however, they must not include any taxpayer information in the email.

E. No substantive discussion should be done, unless all arbitrators are present (physically or remotely).

F. No arbitrator should have communications regarding the issues or matters before the arbitration panel with the presenter of the case, the taxpayers involved in the case, or their representatives during or subsequent to the arbitration process.

XII. Costs and Logistical Arrangements

A. According to subparagraph (j) of paragraph 21 of the Protocol, the fees and expenses of the arbitrators, as well as any costs incurred in connection with the proceeding by the Contracting States, should be borne equitably by the Contracting States in the following manner:

1. each competent authority of the Contracting States should bear the cost of its selected arbitrator and its own expenses, and
2. the cost of the Chair and other expenses associated with the conduct of the proceedings should be borne by the competent authorities in equal shares. The

term "other expenses associated with the conduct of the proceedings" does not include indirect costs incurred for any logistical arrangements described in subparagraph D.

B. The fees and expenses of members of the arbitration panel should be set in accordance with the International Centre for Settlement of Investment Disputes (ICSID) Schedule of Fees for arbitrators, as in effect on the Date Arbitration Proceedings Begin. This applies in particular for hotel, meals, travel expenses, and incidental costs.

C. Neither competent authority should charge any Concerned Person for costs associated with arbitration.

D. Unless otherwise decided by both competent authorities, the competent authority to which a case giving rise to the arbitration was initially presented should be responsible for the logistical arrangements for any face-to-face meetings of the arbitration panel and should provide the administrative personnel necessary for the support of such meetings. The administrative personnel so provided should report only to the Chair concerning any matter related to that process. In the event that both competent authorities have received a MAP request, the competent authority the actions of which resulted in taxation not in accordance with the provisions of the Convention should carry out the logistical arrangements described in this subparagraph. The competent authority responsible for the logistical arrangements may arrange meeting facilities in a location that minimizes the panel's travel time and expenses. Each competent authority may arrange a meeting in the other's meeting facilities, as needed.

E. In general, each arbitrator should be compensated for no more than seven days of work on the arbitration (e.g., five days of preparation and for two meeting days). If the arbitrators feel they require additional time to properly consider the case, the Chair should contact both competent authorities to request additional time. Both competent authorities anticipate that panel members should be able to perform their duties without the use of staff. Both competent authorities should not compensate a staff member of an arbitrator.

F. As a general rule, both competent authorities should encourage the arbitration panel to complete their joint consideration of the case through telecommunications. The Chair must obtain approval from both competent authorities prior to incurring any expenses relating to a face-to-face meeting.

XIII. Arbitration Panel Determination

A. Within 180 days after the appointment of the Chair (or, where subparagraph J or K of paragraph VIII applies, unless otherwise decided by both competent authorities, within 180 days after the appointment of the new arbitrator), the Chair should transmit the written determination of the arbitration panel, concurrently to each competent authority. This period may be extended up to 270 days where subparagraph L of paragraph IX applies. As soon as possible after the receipt of the determination, the competent authority to which the request for arbitration was submitted should write to the presenter of the case to request whether that person accepts the determination.

B. In the event that the determination has not been communicated to both competent authorities within the period provided for in subparagraph A, the competent authorities should consult to determine whether to extend the period for the arbitration panel to transmit a determination, or to dismiss the panel and appoint new arbitrators in accordance with paragraph VIII.

C. Issues should be decided by the arbitrators in accordance with the Convention and applicable rules of international law.

D. According to subparagraph (d) of paragraph 6 of Article 26 of the Convention, unless the presenter of the case does not accept the determination of the arbitration panel, such determination should constitute a resolution by mutual agreement of the entire case under Article 26 of the Convention at the time it is timely accepted by the presenter and be binding on both Contracting States.

E. A mutual agreement that results from the determination of an arbitration panel should be implemented notwithstanding any time limits or procedural limitations in the law of the Contracting States, concluded through an exchange of letters, and implemented as expeditiously as possible in the same manner as a mutual agreement that results from a negotiated mutual agreement.

F. The determination of the arbitration panel should be decided on the basis of a majority vote.

G. The arbitration panel should not determine the treatment of any associated interest or penalties; rather that treatment should be determined under the respective taxation laws of the Contracting States.

H. According to subparagraph (h) of paragraph 21 of the Protocol:
   1. The arbitration panel should deliver a determination in writing to both competent authorities.
   2. The determination of the arbitration panel should be limited to one of the proposed resolutions submitted by the competent authorities for each adjustment or similar issue and any threshold questions, and should not include a rationale or any other explanation of the determination.
   3. The determination of the arbitration panel has no precedential value with respect to the application of the Convention in any other case.

I. According to subparagraph (i) of paragraph 21 of the Protocol:
   1. Unless both competent authorities decide to provide a longer time period, the presenter of the case should have 45 days after receiving the determination of the arbitration panel to notify, in writing, the competent authority to whom the case was presented, of his or her acceptance of the determination.

2. If the presenter of the case fails to so advise the relevant competent authority, the determination should be considered not to be accepted.
3. In the event the case is pending in litigation or appeal, the determination of the arbitration panel should be considered not to be accepted by the presenter of the case if any Concerned Person who is a party to the litigation or appeal does not withdraw from consideration by the relevant court or administrative tribunal, within the same timeframe described above, the issues resolved in the arbitration proceeding.
4. Where the determination of the arbitration panel is not accepted, the case should be closed and should not be eligible for any subsequent further consideration by the competent authorities.

XIV. Terminating Proceedings

A. According to subparagraph (b) of paragraph 21 of the Protocol, the arbitration proceeding and MAP with respect to a case should terminate if at any time before the arbitration panel delivers a determination to the competent authorities:
   1. the competent authorities reach a mutual agreement to resolve the case;
   2. the presenter of the case withdraws the request for arbitration;
   3. any Concerned Person, or any of their representatives or agents, wilfully violates the written statement of nondisclosure referred to in clause (iii) of subparagraph (c) of paragraph 6 of Article 26 of the Convention, and both competent authorities decide that such violation should result in the termination of the arbitration proceeding; or
   4. any Concerned Person initiates a legal action or suit before the courts of either Contracting State concerning any issue involved in the case, unless such legal action or suit is suspended according to the applicable laws of the Contracting State.

B. If the arbitration proceeding and MAP with respect to the case is terminated under clauses 2, 3 or 4 of subparagraph A, both competent authorities should exchange letters to close the MAP case unagreed.

C. If a taxpayer terminates an arbitration proceeding by withdrawing its request for assistance, the taxpayer should not be allowed access to the competent authority procedures for the same matter and same years.

D. At the termination of any proceeding each arbitrator must immediately destroy all documents or other information received from either competent authority, or that otherwise reflect the considerations or discussions of the arbitration panel, and delete all information that may be stored on any computer, personal data assistant or other electronic device or media.

XV. Multiple Adjustments

A. According to subparagraph (e) of paragraph 21 of the Protocol, where an arbitration proceeding concerns a case comprising multiple adjustments or similar issues each requiring a disposition of specific monetary amounts (for example, of income, profit, gains or expense) or where specified, the maximum rate of tax charged pursuant to the Convention, the proposed resolution may propose a separate disposition for each adjustment or similar issue.

B. Unless both competent authorities decide upon a different presentation to the arbitration panel, the proposed resolution and supporting position paper in such a case should address each adjustment separately, within the overall page limitation.

C. The arbitration panel should make a determination on each adjustment or similar issue separately. Thus, the final determination of the arbitration panel may be comprised of a proposed resolution from the competent authority on one adjustment and a proposed resolution from the other competent authority on another adjustment.

XVI. Permanent Establishment, Residency, and Other Threshold Questions

A. According to subparagraph (d) of paragraph 21 of the Protocol, in the case of an arbitration proceeding concerning:
   1. the taxation of an individual with respect to whom the competent authorities have been unable to reach a mutual agreement regarding the Contracting State of which the individual is a resident;
   2. the taxation of the business profits of an enterprise with respect to which the competent authorities have been unable to reach a mutual agreement on whether a permanent establishment exists; or
   3. such other issues the determination of which are contingent on resolution of similar threshold questions;

   the competent authorities may submit proposed resolutions separately addressing the relevant threshold questions as described in clause 1, 2 or 3 above (for example, the question of whether a permanent establishment exists), and the contingent determinations (for example, the determination of the amount of profit attributable to such permanent establishment).

B. In such a case, the competent authority is allowed to submit a proposed resolution and supporting position paper which addresses each issue separately, taking alternative positions as appropriate. For example, the competent authority is allowed to take a position that no permanent establishment exists in one proposed resolution, and to propose an amount of business profit to be attributable to a permanent establishment in another proposed resolution in case the arbitration panel determines that a permanent establishment exists.

C. The arbitration panel should make a determination on the threshold question and the contingent determination separately.

XVII. Timeframes

A. Notwithstanding the above paragraphs, in an exceptional case both competent authorities may decide to utilize different procedural periods.
B. Both competent authorities should confirm the period so extended and notify the Concerned Person in each Contracting State of that extended period in writing.

XVIII: Miscellaneous

A. In computing the days necessary for an action in this Arrangement, the day when the event beginning this computation occurred should not be counted.
B. Any due date that falls upon a weekend or holiday for either competent authority should be extended to the next calendar day which is a business day for both competent authorities.

XIX. Coordination with Protocol Entry into Force

A. As provided in section 3 of Article XV of the 2013 Protocol, "paragraphs 5 and 6 of Article 26 (Mutual Agreement Procedure) of the Convention shall not have effect with respect to cases that are under consideration by the competent authorities of the Contracting States on the date on which this Protocol enters into force [i.e., on or before November 27, 2019]. With respect to cases that come under consideration by the competent authorities after the date on which this Protocol enters into force [i.e., November 27, 2019], the provisions of paragraphs 5 and 6 of Article 26 of the Convention, as amended by this Protocol, shall have effect on the date on which the competent authorities agree in writing on a mode of application pursuant to subparagraph (g) of paragraph 6 of Article 26. For cases that come under consideration by the competent authorities of the Contracting States after entry into force of this Protocol [i.e., November 27, 2019], but before such provisions have effect, the [C]ommencement [D]ate shall be the date on which the competent authorities have agreed in writing on a mode of application."
B. Both competent authorities may modify or supplement this Arrangement by an exchange of letters between them.

For the Competent Authority of
the United States of America:

_____
for Holly O. Paz
Commissioner, Large Business and
International Division,
Internal Revenue Service

November 20, 2025

_____
Date:

For the Competent Authority of
the Kingdom of Spain:

_____
Maria José Garde Garde
Director-General of
Taxation at the Ministry of Finance

December 12, 2025

_____
Date:

Attachment 1

TAXPAYER [REQUEST AND][1] NONDISCLOSURE STATEMENT FOR MAP ARBITRATION

_____

NAME OF TAXPAYER

_____

ADDRESS

_____

CITY STATE COUNTRY POSTAL CODE (ZIP CODE)

The above-named taxpayer hereby [requests and] consents to the competent authorities of the United States and Spain undertaking an arbitration proceeding described in paragraphs 5 and 6 of Article 26 (Mutual Agreement Procedure) of the Convention Between the Kingdom of Spain and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and its Protocol signed at Madrid, on February 22, 1990, as amended by the Protocol signed January 14, 2013 and the Memorandum of Understanding accompanying the 2013 Protocol, as necessary in order to reach a mutual agreement under Article 26 regarding the request filed with the [United States/Spain] Competent Authority on __[date]__.

This consent and nondisclosure statement also covers the following concerned persons[2] that the taxpayer has the legal authority to bind:

[Enter name and address of each such concerned person. If none, enter "Not Applicable."]

The following concerned persons, if any, are not covered by this consent and nondisclosure statement (and therefore must submit a separate consent and nondisclosure statement on their own behalf):

[Enter name and address of each such concerned person. If none, enter "Not Applicable."]

In making this consent, the taxpayer and, if applicable, each of the concerned persons covered by this consent and nondisclosure statement, agrees not to disclose to any person (other than the taxpayer's authorized representative or agent, another concerned person, its authorized representative or agent, or one of the competent authorities or its authorized representative[3]) any information received during the course of the arbitration proceeding from either Contracting State or the arbitration panel, other than the determination of such panel.

The following persons are all of the representatives or agents of the taxpayer or, if applicable, the specified concerned person, who have been authorized to assist the taxpayer or specified concerned person in the mutual agreement procedure to which this consent and nondisclosure statement applies. Attached to this consent and nondisclosure statement are the nondisclosure statements of each of these representatives and agents, as is required by paragraph 6 of Article 26 of the above-mentioned Convention.

[Enter name and address of each such representative or agent and the concerned person(s) for which each is acting. If none, enter "Not Applicable."]

The information, positions, arguments, or analyses contained in any position paper submitted for consideration of the arbitration panel will be previously presented, and any annexes to such position paper will be documents previously made available, to both competent authorities for their consideration during negotiations prior to the beginning of arbitration.

[1] A taxpayer may make a request for MAP arbitration in a separate letter, but must make its nondisclosure statement in this form.

[2] As defined in the relevant treaty provisions, the term "concerned person" means the taxpayer requesting mutual agreement procedure assistance from a competent authority under Article 26 and any other person whose tax liability to either the United States or Spain may be directly affected by the mutual agreement arising from that request. A concerned person that has the legal authority to bind any other concerned person(s) on this matter may do so in a comprehensive statement.

[3] The U.S. Competent Authority has authorized the International Centre for Dispute Resolution (ICDR), a division of the American Arbitration Association, to act on its behalf with respect to certain designated matters concerning the arbitration proceeding.

[Under penalties of perjury,][4] I declare that I have examined this consent and nondisclosure statement and any accompanying attachments and to the best of my knowledge and belief, they are true, correct, and complete. Furthermore, I certify that I have the legal authority to execute this consent and nondisclosure statement on behalf of each concerned person covered by it and to bind each concerned person to its terms.

_____

Date Signature

_____

Printed Name

_____

Position

[4] Only in the United States.

Attachment 2

NONDISCLOSURE STATEMENT OF TAXPAYER'S AUTHORIZED REPRESENTATIVE

I hereby agree that neither I nor any member of my firm's office staff nor any other person who may assist me or the firm in the mutual agreement proceeding requested in the letter of __[date]__ submitted by __[name of taxpayer]__ to the competent authorities of the United States and Spain will disclose to any person (other than the taxpayer, another concerned person,[1] its authorized representative or agent, or one of the competent authorities or its authorized representative[2]) any information received during the course of the arbitration proceeding from either Contracting State or the arbitration panel, other than the determination of such panel.

_____

Date Signature

_____

Printed Name

_____

Position

[1] As defined in the relevant treaty provisions, the term "concerned person" means the taxpayer requesting mutual agreement procedure assistance from a competent authority under the Article 26 of the Convention Between the Kingdom of Spain and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and its Protocol signed at Madrid, on February 22, 1990, as amended by the Protocol signed January 14, 2013 and the Memorandum of Understanding accompanying the 2013 Protocol, and any other person whose tax liability to either the United States or Spain may be directly affected by the mutual agreement arising from that request.

[2] The U.S. Competent Authority has authorized the International Centre for Dispute Resolution (ICDR), a division of the American Arbitration Association to act on its behalf with respect to certain designated matters concerning the arbitration proceeding.

Attachment 3

TAXPAYER AUTHORIZATION TO DISCLOSE TAX INFORMATION FOR PURPOSES OF TREATY MAP ARBITRATION PROCEEDINGS

_____

NAME OF TAXPAYER

_____

ADDRESS

_____

CITY STATE COUNTRY POSTAL CODE (ZIP CODE)

The above-named taxpayer, in accordance with its request of [date] that the competent authorities of the United States and Spain undertake an arbitration proceeding described in paragraphs 5 and 6 of Article 26 of the Convention Between the Kingdom of Spain and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and its Protocol signed at Madrid, on February 22, 1990, as amended by the Protocol signed January 14, 2013 and the Memorandum of Understanding accompanying the 2013 Protocol, consents to the disclosure by the competent authorities of Spain and the United States of any and all returns and return information with respect to the taxpayer's mutual agreement procedure (MAP) request submitted to the competent authorities on [date], to the individuals appointed (or identified for potential appointment pending clearance) by the respective competent authorities to arbitrate the MAP case, the individual appointed (or identified for potential appointment pending clearance) as the Chair of the arbitration panel, and the following representatives, if any, of the respective competent authorities who are authorized by the competent authority to act on its behalf with respect to certain designated matters concerning the arbitration proceeding:

In the case of the United States: *International Centre for Dispute Resolution (ICDR), a division of the American Arbitration Association*

In the case of Spain: _____.

In the case of a consolidated group of U.S. corporations, this consent is made in regard to all such information concerning the following members of the consolidated group, who are the subjects of the mutual agreement request:

[Enter name and address of each consolidated group member, if any, who is a concerned person.[1] If none, enter "Not Applicable."]

I certify that I have the legal authority to execute a request for or consent to disclose a return or return information to disclose information to third parties (as described in Treas. Reg. §301.6103(c)-1(e)(4)) and I hereby make this consent on behalf of the taxpayer, including each of the members of the consolidated group listed above.[2]

_____

Date Signature

_____

Printed Name

_____

Position

[1] As defined in the relevant treaty provisions, the term "concerned person" means the taxpayer requesting mutual agreement procedure assistance from a competent authority under Article 26 and any other person whose tax liability to either the United States or Spain may be directly affected by the mutual agreement arising from that request.

[2] *Each taxpayer or concerned person* (as defined in footnote 1) whose U.S. tax liability may be directly affected by the mutual agreement procedure request *must sign a consent*. In the case of a consolidated group (as defined in Treas. Reg. 1.1502-1(h)), a person authorized by law to act for the common parent should execute the consent on behalf of the group. See Treas. Reg. §1.1502-77(a).

Attachment 4

DECLARATION OF ARBITRATOR

In the matter of the Mutual Agreement Procedure case under Article 26 of the Convention Between the Kingdom of Spain and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and its Protocol signed at Madrid, on February 22, 1990 as amended by the Protocol signed January 14, 2013 (Convention) and the Memorandum of Understanding accompanying the 2013 Protocol involving the following Concerned Persons:

[Names and Addresses of taxpayers that will be directly affected by the decision]

Paragraphs 5 and 6 of Article 26 (Mutual Agreement Procedure) of the Convention, paragraphs 18 and 21 of the Protocol to that Convention, and the Implementing Arrangement between the Competent Authorities of Spain and the United States (Implementing Arrangement) provide rules and procedures under which the Spain – U.S. arbitration process (the Proceeding) will operate.

I certify that I can serve impartially in this case, meet the conditions of paragraph VII.A of the Implementing Arrangement at this time, and shall remain independent of the Contracting States and Concerned Persons during the entire arbitration proceeding and for a reasonable period of time thereafter.

Past or existing facts or circumstances that might be likely to give rise to justifiable doubts as to my impartiality or independence, if any, are identified in an Attachment to this Declaration.

Notwithstanding such relationships and interests, if any, I believe that I can be impartial and can exercise independent judgment in making my decisions in the Proceeding and thus to the best of my knowledge and belief, there is no reason why I should not serve as an Arbitrator with respect to the above-noted case. *If, at any stage during the Proceeding, any new fact or circumstance arises that might give rise to such doubts, I shall promptly disclose such fact or circumstance to both competent authorities.*

I understand that with regard to any information received from International Centre for Dispute Resolution, a division of the American Arbitration Association, the Spanish administration, and the U.S. Internal Revenue Service in connection with the Proceeding, I and my staff, if any, are considered to be among the "persons or authorities" involved in the administration of taxes covered by Article 27 (Exchange of Information) of the Convention. I and my staff agree to abide by and be subject to the confidentiality and nondisclosure provisions of Articles 26 [MAP] and 27 [EOI] of the Convention and the applicable domestic laws of Spain and the United States concerning the confidentiality of tax information. In the event those provisions conflict, the most restrictive condition shall apply. I confirm that I have the legal authority to bind my staff in this matter and will ensure they are aware of their obligations regarding confidentiality and non-disclosure. In particular, I agree that I may not disclose any information relating to the Proceeding, except as permitted by the Convention and the domestic laws of Spain and the United States. In addition, all material received and prepared in the course of, or relating to the Proceeding shall be considered to be information exchanged between the Spain and the United States and shall be destroyed in accordance with paragraph XIV.D of the Implementing Arrangement referenced above.

[Under penalties of perjury][1] I hereby accept appointment as an Arbitrator in this case, and will fairly decide the matters in controversy between the Competent Authorities of Spain and the United States in accordance with the Convention and the related agreements referred to above. I declare that these statements and any accompanying attachments are, to the best of my knowledge and belief, true, correct, and complete.

_____

Date Signature

_____

Printed Name

_____

Address

Sworn before me this _____ day of _____, 20___

[1] Only in the United States.

Attachment 5

NONDISCLOSURE STATEMENT OF CANDIDATE TO BE AN ARBITRATOR

This nondisclosure statement is provided in order to consider the acceptance of an appointment as an arbitrator in the matter of the Mutual Agreement Procedure case number # (hereinafter referred to as the Proceeding) under Article 26 of the Convention between the Kingdom of Spain and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and its Protocol signed at Madrid, on February 22, 1990 as amended by the Protocol signed January 14, 2013 (Convention) and the Memorandum of Understanding accompanying the 2013 Protocol.

I hereby agree that I will not disclose to any person (other than the other appointed arbitrators or one of the competent authorities) any information received with respect to the Proceeding in order to verify whether I satisfy the eligibility requirements of arbitrators and to certify that I can serve impartially in this case, meeting the conditions of paragraph VII.A of the Implementing Arrangement between the Competent Authorities of Spain and the United States.

I agree to abide by and be subject to the confidentiality and nondisclosure provisions in the applicable domestic laws of Spain and the United States concerning the confidentiality of tax information. In the event those provisions conflict, the most restrictive condition shall apply. In particular, I agree that I may not disclose any information relating to the Proceeding, except as permitted by the Convention and the domestic laws of Spain and the United States. In addition, all material received and prepared in the course of, or relating to the Proceeding shall be considered to be information exchanged between Spain and the United States and shall be destroyed in accordance with paragraph XIV.D of the Implementing Arrangement referenced above.

I declare that these statements and any accompanying attachments are, to the best of my knowledge and belief, true, correct, and complete.

_____

Date Signature

_____

Printed Name

_____

Position

Correction to Announcement 2000-80, 2000-40 I.R.B. 320-321

Announcement 2026-4

Announcement 2000-80, 2000-40 I.R.B. 320-321 provides an outdated and incorrect phone number in the section labelled TOLL-FREE NUMBER FOR THE APPEALS OFFICER (CUSTOMER SERVICE/OUTREACH) PROGRAM. This phone number is for Customer Service/Outreach. The current IRS Independent Office of Appeals customer service phone number is (855) 865-3401.

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.
F.R.—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.

Numerical Finding List[1]

Bulletin 2026–6

Announcements:

Notices:

Proposed Regulations:

Revenue Procedures:

Revenue Rulings:

Treasury Decisions:

[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2025–27 through 2025–52 is in Internal Revenue Bulletin 2024–52, dated December 22, 2024.

Finding List of Current Actions on Previously Published Items[1]

Bulletin 2026–6

[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2025–27 through 2025–52 is in Internal Revenue Bulletin 2024–52, dated December 22, 2024.

Internal Revenue Service
Washington, DC 20224

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/.*

We Welcome Comments About the Internal Revenue Bulletin

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