

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 97-13, page 4.

Special use value; farms; interest rates. The 1997 interest rates to be used in computing the special use value of farm real property for which an election is made under section 2032A of the Code are listed for estates of decedents.

Notice 97-24, page 6.

Certain trust arrangements. This notice warns taxpayers about "trust" arrangements that purport to reduce or eliminate federal taxes in ways that are not permitted by the tax law. The notice describes some typical abusive trust arrangements and provides that, in appropriate circumstances, taxpayers and/or promoters in these trust arrangements may be subject to civil and/or criminal penalties.

Notice 97-25, page 8.

T.D. 8560, 1994-2 C.B. 200; T.D. 8597, 1995-2 C.B. 147; and T.D. 8660, 1996-1 C.B. 195, relating to the consolidated return investment adjustment provisions, intercompany transactions provisions, and the provisions limiting losses and deductions from transactions between members of a nonconsolidated controlled group, are corrected.

EXEMPT ORGANIZATIONS

Announcement 97-39, page 27.

A list is given of organizations now classified as private foundations.

ADMINISTRATIVE

Rev. Proc. 97-24, page 10.

General rules and specifications for private printing of Forms W-2 and W-3. Specifications are set forth for the private printing of paper substitutes for tax year 1997 Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements. Rev. Procs. 96-24 and 96-24A superseded.

Announcement 97-40, page 28.

T.D. 8699, 1997-6 I.R.B. 4, pertaining to the credit for employer FICA taxes paid with respect to certain tips received by employees of food or beverage establishments, is corrected.

Announcement 97-41, page 28.

T.D. 8677, 1996-30 I.R.B. 7, relating to the deductions and losses of members of a consolidated group; the carryover and carryback of losses to consolidated and separate return years; and the built-in deduction rules, is corrected.

Finding Lists begin on page 31.

Announcement of Disbarments and Suspensions begins on page 29.

Mission of the Service

The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost; serve the public by continually improving the

quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency and fairness.

Statement of Principles of Internal Revenue Tax Administration

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he or she is "protecting the revenue." The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

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 and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents of a permanent nature are consolidated semi-annually into Cumulative Bulletins, which are sold on a single-copy basis.

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 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.

With the exception of the Notice of Proposed Rulemaking and the disbarment and suspension list included in this part, none of these announcements are consolidated in the Cumulative Bulletins.

The first Bulletin for each month includes an index for the matters published during the preceding month. These monthly indexes are cumulated on a quarterly and semiannual basis, and are published in the first Bulletin of the succeeding quarterly and semi-annual period, respectively.

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

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Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 2032A.—Valuation of Certain Farm, Etc., Real Property

26 CFR 20.2032A-4: Method of valuing farm real property.

Special use value; farms; interest rates. The 1997 interest rates to be used in computing the special use value of farm real property for which an election is made under section 2032A of the Code are listed for estates of decedents.

Rev. Rul. 97-13

This revenue ruling contains a list of the average annual effective interest rates on new loans under the Farm Credit Bank system. This revenue ruling also contains a list of the states within each Farm Credit Bank District.

Under § 2032A(e)(7)(A)(ii) of the Internal Revenue Code, rates on new Farm Credit Bank loans are used in computing the special use value of real property used as a farm for which an election is made under § 2032A. The rates in this revenue ruling may be used by estates that value farmland under § 2032A as of a date in 1997.

Average annual effective interest rates, calculated in accordance with § 2032A(e)(7)(A) and § 20.2032A-4(e) of the Estate Tax Regulations, to be used under § 2032A(e)(7)(A)(ii), are set forth in the accompanying Table of Interest Rates (Table 1). The states within each Farm Credit Bank District are set forth in the accompanying Table of Farm Credit Bank Districts (Table 2).

Rev. Rul. 81-170, 1981-1 C.B. 454, contains an illustrative computation of an average annual effective interest rate. The rates applicable for valuation in 1996 are in Rev. Rul. 96-23, 1996-1 C.B. 198. For rate information for years prior to 1996, see Rev. Rul. 95-38, 1995-1 C.B. 184, and other revenue rulings that are referenced therein.

DRAFTING INFORMATION

The principal author of this revenue ruling is Lane Damazo of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Lane Damazo on (202) 622-3090 (not a toll-free call).

REV. RUL. 97-13 TABLE 1

TABLE OF INTEREST RATES
(Year of Valuation 1997)

| Farm Credit Bank District in Which Property Is Located | Interest Rate |
|--|---------------|
| Columbia | 8.88 |
| Omaha | 8.09 |
| Sacramento | 8.48 |
| St. Paul | 8.39 |
| Spokane | 8.27 |
| Springfield | 8.57 |
| Texas | 8.42 |
| Wichita | 8.21 |

REV. RUL. 97-13 TABLE 2

TABLE OF FARM CREDIT BANK DISTRICTS

| District | States |
|-------------------|--|
| Columbia | Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, West Virginia. |
| Omaha | Iowa, Nebraska, South Dakota, Wyoming. |
| Sacramento | Arizona, California, Hawaii, Nevada, Utah. |
| St. Paul | Arkansas, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, North Dakota, Ohio, Tennessee, Wisconsin. |
| Spokane | Alaska, Idaho, Montana, Oregon, Washington. |
| Springfield | Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont. |
| Texas | Alabama, Louisiana, Mississippi, Texas. |
| Wichita | Colorado, Kansas, New Mexico, Oklahoma. |

Section 6011.—General Requirement of Return, State or List

Printing of substitutes for Form W-2, Wage and Tax Statement, and Form W-3, Transmittals of Income and Tax Statements. See Rev. Proc. 97-24, page 10.

Section 6041.—Information at Source

26 CFR 1.6041-2: Return of information as to payments of \$600 or more.

Printing of substitutes for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Income and Tax Statements. See Rev. Proc. 97-24, page 10.

26 CFR 1.6041-2: Return of information as to payments to employees.

Printing of substitutes for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Income and Tax Statements. See Rev. Proc. 97-24, page 10.

Section 6051.—Receipts for Employees

26 CFR 31.6051-1: Statements for employees.

Printing of substitutes for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Income and Tax Statements. See Rev. Proc. 97-24, page 10.

Section 6071.—Time for Filing Returns and Other Documents

26 CFR 31.6071(a)-1: Time for filing returns and other documents.

Printing of substitutes for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of

Income and Tax Statements. See Rev. Proc. 97-24, page 10.

Section 6081.—Extension of Time for Filing Returns

26 CFR 31.6081(a)-1: Extension of time for filing returns.

Printing of substitutes for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Income and Tax Statements. See Rev. Proc. 97-24, page 10.

Section 6091.—Place for Filing Returns or Other Documents

Printing of substitutes for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Income and Tax Statements. See Rev. Proc. 97-24, page 10.

Part III. Administrative, Procedural, and Miscellaneous

Certain Trust Arrangements

Notice 97-24

This notice is intended to alert taxpayers about certain trust arrangements that purport to reduce or eliminate federal taxes in ways that are not permitted by federal tax law. (The notice refers to such arrangements as “abusive trust arrangements.” See Section I. ABUSIVE TRUST ARRANGEMENTS—IN GENERAL, below.) The notice describes some typical abusive trust arrangements, as well as the tax benefits promised by promoters, and then explains the correct tax principles that apply to these trust arrangements. Taxpayers should be aware that abusive trust arrangements will not produce the tax benefits advertised by their promoters and that the Internal Revenue Service is actively examining these types of trust arrangements as part of the National Compliance Strategy, Fiduciary and Special Projects. Furthermore, in appropriate circumstances, taxpayers and/or the promoters of these trust arrangements may be subject to civil and/or criminal penalties.

This notice should not, however, create concerns about the legitimate uses of trusts. For example, trusts are frequently used properly in estate planning, to facilitate the genuine charitable transfer of property, and to hold property for minors and incompetents.

Under the federal tax laws, trusts generally are separate entities subject to income tax (except for certain charitable or pension trusts that are expressly exempted by the tax laws and certain grantor trusts described in sections 671–679 of the Internal Revenue Code). Under these laws and certain court developed doctrines, either the trust, the beneficiary, or the transferor, as applicable, must pay the tax on the income realized by the trust including the income generated by property held in trust.

I. ABUSIVE TRUST ARRANGEMENTS—IN GENERAL

Abusive trust arrangements typically are promoted by the promise of tax benefits with no meaningful change in the taxpayer’s control over or benefit from the taxpayer’s income or assets. The promised benefits may include reduction or elimination of income subject to tax; deductions for personal expenses

paid by the trust; depreciation deductions of an owner’s personal residence and furnishings; a stepped-up basis for property transferred to the trust; the reduction or elimination of self-employment taxes; and the reduction or elimination of gift and estate taxes. These promised benefits are inconsistent with the tax rules applicable to the abusive trust arrangements, as described below.

Abusive trust arrangements often use trusts to hide the true ownership of assets and income or to disguise the substance of transactions. These arrangements frequently involve more than one trust, each holding different assets of the taxpayer (for example, the taxpayer’s business, business equipment, home, automobile, etc.), as well as interests in other trusts. Funds may flow from one trust to another trust by way of rental agreements, fees for services, purchase and sale agreements, and distributions. Some trusts purport to involve charitable purposes. In some situations, one or more foreign trusts also may be part of the arrangement.

II. EXAMPLES OF ABUSIVE TRUST ARRANGEMENTS

Described below are five examples of abusive trust arrangements that have come to the attention of the Internal Revenue Service. An abusive trust arrangement may involve some or all of the trusts described below. The type of trust arrangement selected is dependent on the particular tax benefit the arrangement purports to achieve. In each of the trusts described below, the original owner of the assets that are nominally subject to the trust effectively retains authority to cause the financial benefits of the trust to be directly or indirectly returned or made available to the owner. For example, the trustee may be the promoter, or a relative or friend of the owner who simply carries out the directions of the owner whether or not permitted by the terms of the trust. Often, the trustee gives the owner checks that are pre-signed by the trustee, checks that are accompanied by a rubber stamp of the trustee’s signature, a credit card or a debit card with the intention of permitting the owner to obtain cash from the trust or otherwise to use the assets of the trust for the owner’s benefit.

1. *The Business Trust.* The owner of a business transfers the business to a

trust (sometimes described as an unincorporated business trust) in exchange for units or certificates of beneficial interest, sometimes described as units of beneficial interest or UBI’s (trust units). The business trust makes payments to the trust unit holders or to other trusts created by the owner (characterized either as deductible business expenses or as deductible distributions) that purport to reduce the taxable income of the business trust to the point where little or no tax is due from the business trust. In addition, the owner claims the arrangement reduces or eliminates the owner’s self-employment taxes on the theory that the owner is receiving reduced or no income from the operation of the business. In some cases, the trust units are supposed to be canceled at death or “sold” at a nominal price to the owner’s children, leading to the contention by promoters that there is no estate tax liability.

2. *The Equipment or Service Trust.* The equipment trust is formed to hold equipment that is rented or leased to the business trust, often at inflated rates. The service trust is formed to provide services to the business trust, often for inflated fees. Under these abusive trust arrangements, the business trust may purport to reduce its income by making allegedly deductible payments to the equipment or service trust. Further, as to the equipment trust, the equipment owner may claim that the transfer of equipment to the equipment trust in exchange for the trust units is a taxable exchange. The trust takes the position that the trust has “purchased” the equipment with a known value (its fair market value) and that the value is the tax basis of the equipment for purposes of claiming depreciation deductions. The owner, on the other hand, takes the inconsistent position that the value of the trust units received cannot be determined, resulting in no taxable gain to the owner on the exchange. The equipment or service trust also may attempt to reduce or eliminate its income by distributions to other trusts.

3. *The Family Residence Trust.* The owner of the family residence transfers the residence, including its furnishings, to a trust. The parties claim inconsistent tax treatment for the trust and the owner (similar to the equipment trust). The trust claims the exchange results in a stepped-up basis for the property, while the owner reports no gain. The trust

claims to be in the rental business and purports to rent the residence back to the owner; however, in most cases, little or no rent is actually paid. Rather, the owner contends that the owner and family members are caretakers or provide services to the trust and, therefore, live in the residence for the benefit of the trust. Under some arrangements, the family residence trust receives funds from other trusts (such as a business trust) which are treated as the income of the trust. In order to reduce the tax which might be due with respect to such income (and any income from rent actually paid by the owner), the trust may attempt to deduct depreciation and the expenses of maintaining and operating the residence.

4. *The Charitable Trust.* The owner transfers assets to a purported charitable trust and claims either that the payments to the trust are deductible or that payments made by the trust are deductible charitable contributions. Payments are made to charitable organizations; however, in fact, the payments are principally for the personal educational, living, or recreational expenses of the owner or the owner's family. For example, the trust may pay for the college tuition of a child of the owner.

5. *The Final Trust.* In some multi-trust arrangements, the U.S. owner of one or more abusive trusts establishes a trust (the "final trust") that holds trust units of the owner's other trusts and is the final distributee of their income. A final trust often is formed in a foreign country that will impose little or no tax on the trust. In some arrangements, more than one foreign trust is used, with the cash flowing from one trust to another until the cash is ultimately distributed or made available to the U.S. owner, purportedly tax free.

III. LEGAL PRINCIPLES APPLICABLE TO TRUSTS

As noted above, when trusts are used for legitimate business, family or estate planning purposes, either the trust, the trust beneficiary, or the transferor to the trust, as appropriate under the tax laws, will pay the tax on the income generated by the trust property. When used in accordance with the tax laws, trusts will not transform a taxpayer's personal, living or educational expenses into deductible items, and will not seek to avoid tax liability by ignoring either the true ownership of income and assets or the true substance of transactions. Accordingly, the tax results that are promised

by the promoters of abusive trust arrangements are not allowable under federal tax law. Contrary to promises made in promotional materials, several well-established tax principles control the proper tax treatment of these abusive trust arrangements.

1. *Substance—not form—controls taxation.* The Supreme Court of the United States has consistently stated that the substance rather than the form of the transaction is controlling for tax purposes. See, for example, *Gregory v. Helvering*, 293 U.S. 465 (1935), XIV-1 C.B. 193; *Helvering v. Clifford*, 309 U.S. 331 (1940), 1940-1 C.B. 105. Under this doctrine, the abusive trust arrangements may be viewed as sham transactions, and the IRS may ignore the trust and its transactions for federal tax purposes. See *Markosian v. Commissioner*, 73 T.C. 1235 (1980) (holding that the trust was a sham because the parties did not comply with the terms of the trust and the supporting documents and the relationship of the grantors to the property transferred did not differ in any material aspect after the creation of the trust); *Zmuda v. Commissioner*, 731 F.2d 1417 (9th Cir. 1984). Accordingly, the income and assets of the business trust, the equipment in the equipment trust, the residence in the family residence trust, and the assets in the foreign trust would all be treated as belonging directly to the owner.

2. *Grantors may be treated as owners of trusts.* The grantor trust rules provide that if the owner of property transferred to a trust retains an economic interest in, or control over, the trust, the owner is treated for income tax purposes as the owner of the trust property, and all transactions by the trust are treated as transactions of the owner. Sections 671-677. In addition, a U.S. person who directly or indirectly transfers property to a foreign trust is treated as the owner of that property if there is a U.S. beneficiary of the trust. Section 679. This means that all expenses and income of the trust would belong to and must be reported by the owner, and tax deductions and losses arising from transactions between the owner and the trust would be ignored. Furthermore, there would be no taxable "exchange" of property with the trust, and the tax basis of property transferred to the trust would not be stepped-up for depreciation purposes. See Rev. Rul. 85-13, 1985-1 C.B. 184.

3. *Taxation of Non-Grantor Trusts.* If the trust is not a sham and is not a

grantor trust, the trust is taxable on its income, reduced by amounts distributed to beneficiaries. The trust must obtain a taxpayer identification number and file annual returns reporting its income. The trust must report distributions to beneficiaries on a Form K-1, and the beneficiary must include the distributed income on the beneficiary's tax return. Sections 641, 651, 652, 661 and 662.

4. *Transfers to trusts may be subject to estate and gift taxes.* Transfers to a trust may be recognized as completed gifts for federal gift tax purposes. Further, whether or not the gift tax applies, if the owner retains until the owner's death the use of, enjoyment of, or income from the property placed in a trust, the property will be subject to federal estate tax when the transferor dies. Section 2036(a).

5. *Personal expenses are generally not deductible.* Personal expenses such as those for home maintenance, education, and personal travel are not deductible unless expressly authorized by the tax laws. See section 262. The courts have consistently held that non-deductible personal expenses cannot be transformed into deductible expenses by the use of trusts. Furthermore, the costs of creating these trusts are not deductible. See, for example, *Schulz v. Commissioner*, 686 F.2d 490 (7th Cir. 1982); *Neely v. United States*, 775 F.2d 1092 (9th Cir. 1985); and *Zmuda*.

6. *A genuine charity must benefit in order to claim a valid charitable deduction.* Charitable trusts that are exempt from tax are carefully defined in the tax law. Arrangements are not exempt charitable trusts if they do not satisfy the requirements of the tax law, including the requirement that their true purpose is to benefit charity. Furthermore, supposed charitable payments made by a trust are not deductible charitable contributions where the payments are really for the benefit of the owner or the owner's family members. See, for example, *Fausner v. Commissioner*, 55 T.C. 620 (1971).

7. *Special rules apply to foreign trusts.* If an arrangement involves a foreign trust, taxpayers should be aware that a number of special provisions apply to foreign trusts with U.S. grantors or U.S. beneficiaries, including several provisions added in 1996. For example, a U.S. person that fails to report a transfer of property to a foreign trust or the receipt of a distribution from a foreign trust is subject to a tax penalty equal to 35 percent of the gross value of

the transaction. Other examples of these provisions are the application of U.S. withholding taxes to payments to foreign trusts and the application of U.S. excise taxes to transfers of appreciated property to foreign trusts. See sections 6048, 6677, 1441, and 1491.

8. *Civil and/or criminal penalties may apply.* The participants in and promoters of abusive trust arrangements may be subject to civil and/or criminal penalties in appropriate cases. See, for example, *United States v. Buttorff*, 761 F.2d 1056 (5th Cir. 1985); *United States v. Krall*, 835 F.2d 711 (8th Cir. 1987); *Zmuda and Neely*.

IV. IRS ENFORCEMENT STRATEGY FOR ABUSIVE TRUSTS

The Internal Revenue Service has undertaken a nationally coordinated enforcement initiative to address abusive trust schemes—the National Compliance Strategy, Fiduciary and Special Projects. This initiative involves Service personnel from the Assistant Commissioner (Examination), Assistant Commissioner (Criminal Investigation), and the Office of Chief Counsel.

As part of this strategy, the Service seeks to encourage voluntary compliance with the tax law. Accordingly, taxpayers who have participated in abusive trust arrangements are encouraged to file correct tax returns for 1996, as well as amended tax returns for prior years, consistent with the explanation of the law set forth in this notice.

For information regarding issues addressed in this notice, taxpayers may call (202) 622-4512 (not a toll-free number).

Consolidated Returns; Consolidated and Controlled Groups; Correction

Notice 97-25

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting Amendments.

SUMMARY: This document contains technical corrections to final regulations [T.D. 8560[1994-2 C.B. 200]; T.D. 8597[1995-2 C.B. 147]; T.D. 8660 [1996-1 C.B. 195]] which were published in the **Federal Register** on Monday, August 15, 1994 (59 FR 41666); Tuesday, July 18, 1995 (60 FR 36671); and Thursday, March 14, 1996 (61 FR 10447); respectively. The final regulations amend the consolidated return investment adjustment provisions,

intercompany transaction provisions and the provisions limiting losses and deductions from transactions between members of a nonconsolidated controlled group.

DATES: The correcting amendments affecting §§ 1.267(f)-1, 1.1502-13(f)(2)-(ii), (g)(5), (l)(1), 1.1502-20, 1.1502-32(b), and 1.1502-80(b) are effective July 18, 1995. The correcting amendments affecting §§ 1.1502-11, 1.1502-19, 1.1502-32(f), 1.1502-43, 1.1502-76 and 1.1502-80(d)(1) are effective January 1, 1995. The correcting amendments affecting § 1.1502-13(f)(6) are effective March 14, 1996. For dates of applicability see §§ 1.267(f)-1(l), § 1.1502-11(b)(5), 1.1502-13(l)(1), 1.1502-13(f)(6)(v), 1.1502-19(h), 1.1502-32(h), 1.1502-76(b)(5), 1.1502-80(d), and other relevant provisions.

FOR FURTHER INFORMATION CONTACT: William Barry of the Office of Assistant Chief Counsel (Corporate), (202) 622-7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these correcting amendments are under sections 267 and 1502 of the Internal Revenue Code.

Need for Correction

As published, the final regulations contain errors and omissions which may prove to be misleading and are in need of clarification.

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for Part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.267(f)-1 [Corrected]

Par. 2. Section 1.267(f)-1 is amended as follows:

1. In paragraph (c)(1)(iii), the first sentence is revised.

2. Paragraph (l)(2) is revised.

The revisions read as follows:

§ 1.267(f)-1 *Controlled groups.*

* * * * *

(c) * * * (1) * * *

(iii) * * * To the extent S's loss or deduction from an intercompany sale of property is taken into account under this section as a result of B's transfer of the property to a nonmember that is a person related to any member, immediately after the transfer, under sections 267(b) or 707(b), or as a result of S or B becoming a nonmember that is related to any member under section 267(b), the loss or deduction is taken into account but allowed only to the extent of any income or gain taken into account as a result of the transfer. * * *

* * * * *

(l) * * *

(2) *Avoidance transactions.* This paragraph (l)(2) applies if a transaction is engaged in or structured on or after April 8, 1994, with a principal purpose to avoid the rules of this section (and instead to apply prior law). If this paragraph (l)(2) applies, appropriate adjustments must be made in years beginning on or after July 12, 1995, to prevent the avoidance, duplication, omission, or elimination of any item (or tax liability), or any other inconsistency with the rules of this section.

* * * * *

§ 1.1502-11 [Corrected]

Par. 3. Section 1.1502-11 is amended by revising paragraph (b)(2)(iii), Example 3. (e) to read as follows: § 1.1502-11 Consolidated taxable income.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

Example 3. * * *

(e) Under paragraph (b)(2)(ii) of this section, S's \$30 of loss limited under this paragraph (b) is treated as a separate net operating loss.

* * * * *

§ 1.1502-13 [Corrected]

Par. 4. Section 1.1502-13 is amended as follows:

1. In paragraph (f)(2)(ii), a sentence is added before the last sentence of the paragraph.

2. In paragraph (f)(6) introductory text, the last sentence is revised.

3. In paragraph (g)(5), *Example 5.(c)*, the tenth sentence is revised.

4. In paragraph (l)(1) the third, fourth, and fifth sentences are revised.

The addition and revisions read as follows:

§ 1.1502-13 Intercompany transactions.

- (f) ***
(2) ***

(ii) *** B's dividend received deduction under section 243(a)(3) is determined without regard to any intercompany distributions under this paragraph (f)(2) to the extent they are not included in gross income. ***

(6) *** For this purpose, P stock is any stock of the common parent held (directly or indirectly) by another member or any stock of a member (the issuer) that was the common parent if the stock was held (directly or indirectly) by another member while the issuer was the common parent.

- (g) ***
(5) ***

Example 5. ***

(c) *** Under § 1.446-3(f), the deemed \$100 up front payment by M1 to M2 is taken into account over the term of the new contract in a manner reflecting the economic substance of the contract (for example, allocating the payment in accordance with the forward rates of a series of cash-settled forward contracts that reflect the specified index and the \$1,000 notional principal amount).***

(l) *** (1) *** For example, S's and B's items from S's sale of property to B which occurs in a consolidated return year beginning before July 12, 1995, are taken into account under prior law, even though B may dispose of the property in a consolidated return year beginning on or after July 12, 1995. Similarly, an intercompany distribution to which a shareholder becomes entitled in a consolidated return year beginning before July 12, 1995, but which is distributed in a consolidated return year beginning on or after that date is taken into account under prior law (generally when distributed), because this section generally takes dividends into account when the shareholder becomes entitled to them but this section does not apply at that time. If application of prior law to S's deferred gain or loss from a deferred intercompany transaction (as defined under prior law) occurring in a consolidated return year beginning prior to July 12, 1995, would be affected by an intercompany transaction (as defined under this section) occurring in a consolidated return year beginning on or after July 12, 1995, S's deferred gain or loss continues to be taken into account as provided under prior law, and the

items from the subsequent intercompany transaction are taken into account under this section.***

§ 1.1502-19 [Corrected]

Par. 5. Section 1.1502-19 is amended as follows:

- 1. In paragraph (c)(1)(iii)(A), the last sentence is revised.
2. Paragraph (g) is amended by:
a. Revising the first sentence of the introductory text.
b. Revising the fourth and fifth sentences in Example 1.(d).
c. Revising the first sentence in Example 4.(b).
d. Revising the first sentence in Example 6.(b).

The revisions read as follows:

§ 1.1502-19 Excess loss accounts.

- (c) ***
(1) ***
(ii) ***

(A) *** An asset of S is not considered to be disposed of or abandoned to the extent the disposition is in complete liquidation of S or is in exchange for consideration (other than relief from indebtedness);

(g) Examples. For purposes of the examples in this section, unless otherwise stated, P owns all 100 shares of the only class of S's stock and S owns all 100 shares of the only class of T's stock, the stock is owned for the entire year, T owns no stock of lower-tier members, the tax year of all persons is the calendar year, all persons use the accrual method of accounting, the facts set forth the only corporate activity, all transactions are between unrelated persons, and tax liabilities are disregarded.***

Example 1. ***

(d) *** Under section 301(d), P's basis in the T stock is \$60. Under § 1.1502-13, and paragraph (b)(2) of this section, S's \$160 gain from the distribution is deferred and taken into account in Year 5 as a result of P's sale of the T stock.***

Example 4. ***

(b) Analysis. Under paragraph (c)(2) of this section, S is treated as disposing of each of its shares of T's stock immediately before T becomes a nonmember.***

Example 6. ***

(b) Analysis. Under paragraph (c)(1)(iii)(A) of this section, P's excess loss account on each of its shares of S's stock ordinarily is taken into account at the time substantially all of S's assets are

treated as disposed of, abandoned, or destroyed for Federal income tax purposes.***

§ 1.1502-20 [Corrected]

Par. 6. Section 1.1502-20 is amended as follows:

- 1. In paragraph (b)(6), Example 5.(iii) is revised.
2. In paragraph (e)(3), Example 1. (i), the third sentence is revised.
3. In paragraph (e)(3), Example 1. (ii) is revised.

The revisions read as follows:

§ 1.1502-20 Disposition or deconsolidation of subsidiary stock.

- (b) ***
(6) ***

Example 5. ***

(iii) T's issuance of additional shares to the public results in S's intercompany loss being taken into account under the acceleration rule of § 1.1502-13(d) because there is no difference between P's \$100 basis in the T stock and the \$100 basis the T stock would have had if P and S had been divisions of a single corporation. S's loss taken into account is disallowed under paragraph (a)(1) of this section.

- (e) ***
(3) ***

Example 1. *** (i) *** With the view described in paragraph (e)(1) of this section, P transfers land with a value of \$100 and a basis of \$100 to T in exchange for preferred stock with a \$200 redemption price and liquidation preference.***

(ii) Under section 305, the redemption premium is treated as a distribution of property to which section 301 and § 1.1502-13(f)(2) apply. Under §§ 1.1502-13 and 1.1502-32, P's aggregate basis in the preferred and common stock is unaffected by the deemed distributions.

§ 1.1502-32 [Corrected]

Par. 7. Section 1.1502-32 is amended as follows:

- 1. In paragraph (b)(3)(ii)(A), the second sentence is revised.
2. In paragraph (b)(3)(v), the last sentence is revised.
3. In paragraph (b)(5)(ii), Example 5.(c), the second sentence is revised.
4. In paragraph (b)(5), Example 6.(b) is revised.
5. In paragraph (f), a sentence is added after the second sentence.

The addition and revisions read as follows:

§ 1.1502-32 Investment adjustments.

- (b) ***
(3) ***

(ii) * * * (A) * * * For example, S's dividend income to which § 1.1502-13(f)(2)(ii) applies, and its interest excluded from gross income under section 103, are treated as tax-exempt income. * * *

* * * * *
(v) * * * See § 1.1502-13(f)(2)(iv) for taking into account distributions to which section 301 applies (but not other distributions treated as dividends) under the entitlement rule.

(5) * * *
(ii) * * *

Example 5. * * *
(c) * * * Under § 1.1502-13(f)(2)(iv), S is treated as making a \$70 distribution to P at the time P becomes entitled to the distribution. * * *

Example 6. * * *
(b) *Analysis.* Under section 358, P's basis in the S stock is increased by its basis in the T stock. Under § 1.1502-13(f)(3) the money received is treated as being taken into account immediately after the transaction. Thus, the \$10 is treated as a dividend distribution under section 301 and under paragraph (b)(3)(v) of this section, the \$10 is a distribution to which paragraph (b)(2)(iv) of this section applies. Accordingly, P's basis in the S stock is \$160 immediately after the merger, which is then decreased by the \$10 distribution taken into account immediately after the transaction, resulting in a basis of \$150.

* * * * *
(f) * * * For example, if T merges into S, S is treated, as the context may require, as a successor to T and as becoming a member of the group. * * *

* * * * *
§ 1.1502-43 [Corrected]

Par. 8. Section 1.1502-43 is amended by revising paragraph (a)(3)(iii) to read as follows:

§ 1.1502-43 *Consolidated accumulated earnings tax.*

(a) * * *
(3) * * *

(iii) Earnings and profits resulting from the disposition of a member's stock are determined without regard to the stock basis adjustments under §§ 1.1502-32 and 1.1502-33(c)(1).

* * * * *
§ 1.1502-76 [Corrected]

Par. 9. Section 1.1502-76 is amended by revising paragraph (b)(4), *Example 1.(a)* and the first sentence of *Example 1.(c)* to read as follows:

§ 1.1502-76 *Taxable year of members of group.*

* * * * *
(b) * * *
(4) * * *

Example 1. Items allocated between consolidated and separate returns. (a) *Facts.* P and S are the only members of the P group. P sells all of S's stock to individual A on June 30, and therefore S becomes a nonmember on July 1 of Year 2.

* * * * *
(c) *Acquisition of another subsidiary before end of tax year.* The facts are the same as in paragraph (a) of this Example 1, except that on July 31 P acquires all the stock of T (which filed a separate return for its year ending on November 30 of Year 1) and T therefore becomes a member on August 1 of Year 2. * * *

* * * * *
§ 1.1502-80 [Corrected]

Par. 10. Section 1.1502-80 is amended as follows:

1. Paragraph (b) is revised.
2. In paragraph (d)(1), a sentence is added to the end of the paragraph.

The addition and revision reads as follows:

§ 1.1502-80 *Applicability of other provisions of law.*

* * * * *
(b) *Non-applicability of section 304.* Section 304 does not apply to any acquisition of stock of a corporation in an intercompany transaction or to any intercompany item from such transaction occurring on or after July 24, 1991.

* * * * *
(d) * * * (1) * * * For purposes of this paragraph (d), any reference to a transferor or transferee includes, as the context may require, a reference to a successor or predecessor.

* * * * *
Cynthia E. Grigsby,
Chief, Regulations Unit,
Assistant Chief Counsel (Corporate).

(Filed by the Office of the Federal Register on March 13, 1997, 8:45 a.m., and published in the issue of the Federal Register for March 14, 1997, 62 F.R. 12096)

General Rules for Filing and Specifications for the Private Printing of Substitute Forms W-2 and W-3

26 CFR 601.602: *Forms and instructions.* (Also Part I, Sections 6011, 6041, 6051, 6071, 6081, 6091; 1.6041-1, 1.6041-2, 31.6051-1, 31.6051-2, 31.6071(a)-1, 31.6081(a)-1.)

Rev. Proc. 97-24

PART A. GENERAL

SECTION 1. PURPOSE

.01 The purpose of this revenue procedure is to provide the general rules for filing and to state the requirements of the Internal Revenue Service (IRS) and the Social Security Administration (SSA) for reproducing paper substitutes for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements, for amounts paid during the 1997 calendar year. The information reported on Forms W-2 and W-3 is required to establish tax liability for employees and their eligibility for Social Security and Medicare benefits.

.02 Forms W-2 and W-3 have only minor changes for 1997. Please see "Nature of Changes" (Section 2, below) and the exhibits at the end of this revenue procedure for changes to the Form W-2 and W-3.

.03 For the purpose of this revenue procedure, a substitute form is one that is not printed by IRS. **A substitute Form W-2 or W-3 MUST conform to the specifications in this revenue procedure to be acceptable to the IRS.** Preparers should also refer to the separate instructions for Forms W-2 and the instructions on Form W-3 for details on how to complete these forms. See Part C, Sec. 4.01, for information on ordering the official IRS forms and instructions. See Part B, Sec. 2, for requirements for substitute forms furnished to employees.

.04 IRS has instituted a centralized call site to answer questions related to information returns (Forms W-2, W-3, 1099, etc.). The call-site phone number is (304)263-8700 (**not a toll-free number**). The number for Telecommunication Device for the Deaf (TDD) is (304)267-3367 (**not a toll-free number**).

.05 IRS has established a personal computer based Information Reporting Program Bulletin Board System (IRP-BBS) at the IRS Martinsburg Computing Center (IRS/MCC). This system provides access to the forms and publications relating to information returns, news of the latest changes, the ability to receive answers to specific questions, access to shareware, and other features. The IRP-BBS is available for public use and can be reached by dialing (304)264-7070 (**not a toll-free number**). The IRP-BBS is compatible with most modems. For more infor-

mation concerning this system, call IRS/MCC at (304)263-8700 (**not a toll-free number**).

.06 Employers are reminded that under Section 6722 of the Internal Revenue Code (IRC) they can be assessed a penalty of \$50 per Form W-2 that is not furnished to an employee on a form acceptable to the IRS (up to \$100,000). To be acceptable to IRS, the Form W-2 must be either the "official" form or a substitute form with the core data placed exactly as specified in Part B., Section 2.04 of this Revenue Procedure. No IRS office is authorized to allow deviations from this Revenue Procedure.

.07 This revenue procedure supersedes Rev. Procs. 96-24 and 9624A, 1996-5 I.R.B., dated January 29, 1996, and 1996-15 I.R.B., dated April 8, 1996 (Reprinted as Publication 1141, Revised 4-96).

SEC. 2. NATURE OF CHANGES

.01 The text and exhibits were updated for tax year 1997.

.02 Only 7 inch width Forms W-2 and W-3 are acceptable for SSA processing. The exhibits for the printing of 7.5 and 8 inch width Forms W-2 and W-3 have been removed because 7.5 and 8 inch forms cannot be put through SSA scanning equipment. Keying from the paper documents will be necessary for any 7.5 and 8 inch forms submitted to SSA.

.03 Information has been added that will require businesses terminating operations to give their employees Form W-2 when the employer files the final Form 941, Employer's Quarterly Federal Tax Return. This also changes the filing date Form W-2 must be sent to SSA. See Part A, Section 3.06 below for new information.

.04 The Void Box on Form W-2, Copy A, was enlarged and set with bold rules. This was requested by SSA to bring more attention to voided forms so void totals are not included in subtotals and total on Forms W-2 and W-3.

.05 Form W-2, Box 13, added codes R, S, and T for medical savings, SIMPLE retirement account, and adoption assistance payment. More details about these new codes can be found beginning in Part B, Sec. 1.04.16 below.

.06 New paragraph was added to the paperwork reduction act notice at the direction of OMB.

.07 Added information stating Household Employers with only one household employee must file Form W-3 with Form W-2. This is based on an agreement between SSA and IRS. See Part B, Section 1.10 below for new requirement.

.08 Form W-3, boxes 13 and 14, and their related instructions have been deleted. SSA says they no longer need this information. See Part A, Section 4.04.

.09 Changed the instructions for substitute forms W-2 to require that employers may provide multiple occurrences of box 13 but the boxes should use the same codes as those assigned by IRS. See Part B, Section 2.04.14 below for new information.

.10 Provided examples of the various types of information that should go in box 14, Form W-2. See Part B, Section 2.04.19 for details.

.11 The section titled "Where to File" in the general instructions on the employer's copy of the official Form W-3 must be printed in its entirety on all substitute Forms W-3.

.12 The tax year (**1997**) must be printed in non-reflective black ink on all copies of Form W-2 and Form W-3 using 24 pt OCR-A font. The forms identification numbers, e.g., 22222 or 33333, at the top of the forms must be printed in non-reflective black ink. It is imperative that SSA's scanning equipment be able to recognize the form number so that, for example, a Form W-3 is recognized and is not scanned or keyed as a Form W-2. The form number (W-2 and W-3), and the signature line information on Form W-3, must be printed in non-reflective black ink. The word "Form" as well as the form title(s), e.g., Wage and Tax Statement and Transmittal of Wage and Tax Statements, should be printed in red OCR drop-out ink.

.13 The correct scanable image depth of Form W-2, Copy A, must be 4.833 inches, instead of 5.5 inches as previously stated. The correct scanable image depth of Form W-3 on a page must be 4.167 inches, and not 4.4 inches as previously stated. See exhibits A and B.

.14 The Catalog Number, shown on the 1997 Form W-2 as "Cat. No. 10134D", and the Catalog Number shown on the 1996 Form W-3 as No. 10159Y, is used for IRS distribution purposes and should not be printed on substitute Forms W-3 or W-2 (Copy A or employee copies).

.15 Added information regarding extensions of time to file for more than 50

employers. See Part A, Section 3.08, for the new information.

.16 The zip code for P.O. Box number reserved for the Information Returns Magnetic Media Reporting Program has changed. See Part A, Section 3.01.2, for the new zip code.

.17 The Earned Income Credit notification to employees has been removed from the back of Copy C, and must now be printed on the back of Copy B, Form W-2.

.18 Added information on how forms can be ordered through computer on-line services.

.19 Various editorial changes were made.

SEC. 3. GENERAL RULES FOR FILING FORMS W-2

.01 Employers **MUST** use magnetic media for filing with SSA if they prepare and file 250 or more 1997 Forms W-2 (Copy A). This requirement applies unless:

1. The employer can establish that filing on magnetic media will result in undue hardship, **AND**

2. The employer is granted a waiver of the requirement by IRS.

To request a waiver of the magnetic media filing requirement, for the current tax year only, submit Form 8508, *Request for Waiver From Filing Information Returns on Magnetic Media*, to:

If by Postal Service:

Internal Revenue Service
Martinsburg Computing Center
P.O. Box 1359
Martinsburg, WV **25402-1359**

Or, if by truck or air freight:

IRS—Martinsburg Computing Center
Magnetic Media Reporting
Route 9 and Needy Road
Martinsburg, WV 25401.

Forms may also be FAXED to the IRS/MCC at (304) 264-5602.

Form 8508 may be obtained through electronic options on the Internet at <http://www.irs.ustreas.gov>, or by calling 1-800-829-3676. Form 8508 also may be obtained directly from the IRS Martinsburg Computing Center (IRS/MCC) at the above address or by calling (304)263-8700 (not a toll-free number). The number for Telecommunication Device for the Deaf (TDD) is (304)267-3367 (not a toll-free number). It is recommended that completed requests for waivers (Form 8508) be submitted at least 45 days before but no later than the due date of the return (see Sec. 3.06,

below). The requestor will receive an approval or denial letter from IRS, but must allow at least **30** days for IRS to respond. If you have any questions concerning Form 8508, contact IRS/MCC at the address or phone number shown above. Employers who do not comply with the magnetic media filing requirements for Form W-2 and who are not granted a waiver may be subject to certain penalties. Since many states and local governments accept Form W-2 data on magnetic media, savings may be obtained if magnetic media is used for filing with both SSA and state or local governments. In many instances, the state or local government is willing to accept the data format specifications set out in SSA's Technical Information Bulletin (TIB) No. 4, Magnetic Media Reporting. You must contact each individual state or local taxing agency to receive approval and make arrangements to file on magnetic media.

EMPLOYERS WHO FILE FORM W-2 INFORMATION ON MAGNETIC MEDIA WITH SSA MUST NOT SEND THE SAME DATA TO SSA ON PAPER FORMS W-2. This would result in duplicate reporting and may subject the filer to an unnecessary contact by the IRS.

.02 TIB-4, *Magnetic Media Reporting, Submitting Annual W-2 Copy A Information to the Social Security Administration*, (SSA Pub. No. 42-007, revised **Oct., 1996**) contains the specifications and procedures for filing Form W-2 information on magnetic media with SSA. Specifications for both tape and diskette reporting for Forms W-2 are included in the TIB-4.

.03 TIB-4 may be obtained by writing to:

Social Security Administration
OCRO, DEA
Attn: Resubmittal Unit
300 North Greene Street
Baltimore, MD 21201.

Employers may call their local SSA Magnetic Media Coordinator (MMC) to obtain the TIB-4 (see list of Magnetic Media Coordinators' telephone numbers in the Appendix). The TIB-4 is also on the SSA Annual Wage Reporting Bulletin Board System (AWRBBS). The number for the AWRBBS is (410)965-1133 (not a **toll-free number**). Employers using magnetic media are cautioned to obtain the most recent revision of the TIB-4 *and supplements* due to possible changes in the specifications and procedures.

.04 Employers not using magnetic media must file a paper Copy A of

Form W-2 with SSA on either the IRS printed official form or a privately printed substitute paper form that exactly meets the specifications shown in Parts B and C.

.05 Employers can design their own statements to give to employees. This applies to both employers who file with SSA either on magnetic media or paper Forms W-2, Copy A. Employee statements designed by employers must comply with the requirements shown in Parts B and C, below.

NOTE: Copy A must not be filed on paper with SSA when the same Form W-2 information is filed on magnetic media. Therefore, magnetic media filers who use the official IRS printed form or any other pre-printed form are advised not to print Copy A, or to discard a printed Copy A, to prevent duplicate information from being submitted to SSA.

.06 Beginning January 1, 1997, if you are terminating your business, you must provide your employees with Forms W-2 on or before the due date of the business filing its final Form 941. Employers must also file Forms W-2 and W-3 with SSA on or before the last day of the month following the due date of the final Form 941. See Rev. Proc. 96-57, Automatic Extensions for Forms W-2, Internal Revenue Bulletin 1996-53 dated 12/30/96, for more information.

Note: Use of a reporting agent or other third-party payroll service provider does not relieve an employer of the responsibility to ensure that tax and information returns are sent out and/or filed correctly and on time.

.07 1997 Forms W-2, whether filed on magnetic media or paper, must be submitted to SSA on or before **March 2, 1998**. In addition, the employee copies must be furnished to the employee on or before January 31, 1998. If employment ended before December 31, 1997, the employee may be furnished his/her copy any time after employment ends, but no later than January 31, 1998. However, if the employee requests Form W-2, you must furnish him or her the completed copies within 30 days of the request or of the final wage payment, whichever is later. This requirement is met if the form is properly addressed, mailed, and postmarked on or before the due date. Failure to timely file with SSA or to timely provide the employee copies may subject the employer to penalties. Employers needing additional time to file Form W-2 information (paper or

magnetic media) with SSA may request an extension of time to file by submitting Form 8809, *Request for Extension of Time to File Information Returns*, to the IRS/MCC at the address (or alternative address) listed in Sec. 3.01, above. The extension request should be filed as early as possible, but must be postmarked no later than the due date of the forms (**March 2, 1998**). **DO NOT SEND FORM 8809 TO SSA.**

NOTE: APPROVAL OF THE EXTENSION IS NOT AUTOMATIC. Approval or denial is based on administrative criteria and guidelines. The requestor will receive an approval or denial letter from IRS and must allow at least 30 days for IRS to respond. Form 8809 may be obtained through electronic options on the Internet at <http://www.irs.ustreas.gov>; by modem to IRIS (703)321-8020; or by using the IRS Fax Forms Program (703)487-4160, or by calling 1-800-829-3676. You can also contact IRS/MCC (See the address and phone number in Sec. 3.01, above).

.08 If requesting extensions of time for more than 10 employers, IRS encourages filers to submit the request on tape, tape cartridge, 5 1/4 or 3 1/2-inch diskette, or electronically through the Information Reporting Program Bulletin Board System (IRP-BBS). **Transmitters requesting an extension of time to file more than 50 payers are required to file the extension request on magnetic media or electronically.** Transmitters who submit requests for multiple payers will receive one approval letter with an attached list of payers covered under that approval. Publication 1220, *Specifications for Filing Forms 1098, 1099 series, 5498 and W-2G Electronically or on Magnetic Media*, provides information on how to file requests for extensions of time on tape, diskette, or electronically.

NOTE: To file a request for extensions of time magnetically or electronically for multiple payers, third party filers and/transmitters, must have an IRS Transmitter Control Code (Authorization to file information returns).

SEC. 4. GENERAL RULES FOR FILING FORM W-3

.01 Employers submitting Form W-2 (Copy A) on paper to SSA must transmit Forms W-2 with Form W-3.

.02 Form W-3 must be the same width (7 inches) as the Forms W-2 filed.

.03 Form W-3 should only be used to transmit paper Forms W-2 (Copy A). Magnetic media filers do not file Form W-3. Employers using magnetic media must transmit Form W-2 data with Form 6559, *Transmitter Report and Summary of Magnetic Media*, (and Form 6559-A, *Continuation Sheet for Form 6559*, if necessary). These forms may be obtained by calling either your SSA MMC (see listing in Appendix) or IRS at 1-800-829-3676.

.04 For 1997 Forms W-3, entries are not needed for Adjusted total social security wages and tips (**formerly box 13**) and Adjusted total Medicare wages and tips (**formerly box 14**).

PART B. REQUIREMENTS FOR FILING PAPER SUBSTITUTES

SEC. 1. REQUIREMENTS FOR SUBSTITUTE "PRIVATELY PRINTED" FORMS SUBMITTED TO SSA (FORMS W-2, COPY A, AND FORMS W-3)

.01 Employers may file privately printed substitute Forms W-2 and W-3 with SSA. The substitute form must be an exact replica of the IRS printed form (or official reproduction proof) with respect to layout and contents because it will be read by machine. The Government Printing Office (GPO) symbol must be deleted (see Sec. 1.16, below). The specifications and allowable tolerances for the Copy A of substitute Forms W-2 are provided later in this Revenue Procedure. See Exhibit A for Form W-2 specifications. The specifications for Forms W-3 are provided in Exhibit B.

.02 Paper for substitute Forms W-2, Copy A, and Form W-3 (cut sheets and continuous pinfeed forms) that are to be filed with SSA must be white 100% bleached chemical wood, **18-20 pound paper only**, optical character recognition (OCR) bond produced in accordance with the specifications shown as follows:

Paper Requirements

- 1 Acidity: pH value, average, not less than 4.5
- 2 Basis Weight 17 x 22 500 cut sheets 18-20 Metric equivalent grams per sq. meter 60-75 A tolerance of ±5 pct. shall be allowed.

- 3 Stiffness: Average, each direction, not less than Gurley milligrams— Cross direction 50 Machine direction 80
- 4 Tearing Strength: Average, each direction, not less than—Grams . . 40
- 5 Opacity: Average, not less than—Percent 82
- 6 Reflectivity: Average not less than—percent 68
- 7 Thickness: Average inch 0.0038 Metric equivalent mm 0.097 A tolerance of ±0.0005 inch (0.0127mm) shall be allowed. Paper shall not vary more than 0.0004 inch (0.012mm) from one edge to the other.
- 8 Porosity: Average, not less than—seconds 10
- 9 Finish (smoothness): Average, each side—seconds . . 20-55 (For information only, the Sheffield equivalent unit . . 170-d100)
- 10 Dirt: Average, each side, not to exceed— Parts per million 8

NOTE: Reclaimed fiber in any percentage is permitted, provided the requirements of this standard are met. **DO NOT USE RECYCLED PAPER.**

.03 All printing for Copy A (of Forms W-2) and Form W-3 will be in red OCR dropout ink, as specified below, except for the form identifying numbers '22222' or '33333' at the top of the form, as well as the **tax year at the bottom** of the form (see Exhibits C and D), must be printed in **non-reflective black ink**. All other printing will be in red OCR drop-out ink meeting, or comparable to, the specifications in this paragraph. The OCR drop-out ink for paper Forms W-2, Copy A, and W-3 is specified as Flint Ink (formerly Sinclair and Valentine) J-6983 red ink or equivalent. This is the same ink that is used for Copy A of the Form 1099 series. The use of this is required for 1997 Forms W-3 and W-2, Copy A. **NOTE:** Printing in any other red OCR dropout ink must be cleared by contacting Banc-Tech Corp., Attn: Forms Designer & Analyst, P.O. Box 660204, MS-77, Dallas, TX 75266 (214-579-6927—This is a voice mail number. Leave a message and your call will be returned).

.04 Type must be substantially identical in size and shape with corresponding type on the official form. The form identifying number **MUST** be printed in non-reflective black ink using an OCR-A font; 10 characters per inch.

1. On Form W-3 and Copy A of Forms W-2, all the perimeter rules must be 1-point (0.014 inch), while all other rules must be one-half point (0.007 inch).

2. Vertical rules must be parallel to the left edge of the form; horizontal rules parallel to the top edge.

.05 Two official Forms W-2 (Copy A), or one official Form W-3 are contained on a single page that is 7 inches wide (exclusive of any snap-stubs) by 11 inches deep. The form identifying number for the official forms (7 inches wide) is '22222' (5 digits) for Form W-2 and '33333' (5 digits) for Form W-3. The top margin for 1997 Forms W-3 and W-2, Copy A is .375 inch (3/8 inch). The right margin must be .15 inch and the left margin .35 inch (plus or minus .0313 inch). The margins are unchanged from 1996. Margins must be free of all printing. For Forms W-2, Copy A, the combination width of Box 1, "Control number", and the box containing the form identifying number (22222) must always be 2.0 inches. For Form W-3, the combined width of these boxes must always be 2.2 inches.

NOTE: All form identifying numbers are to be printed in non-reflective black ink, using OCR-A font, printed 10 characters per inch.

.06 The depth of the individual scannable image on a page must be the same as that of the IRS printed forms. For Form W-2, the depth is 4.833 inches (see Exhibit A). The scannable image depth of the Form W-3 on a page must be 4.167 inches (see Exhibit B).

.07 The words "*Do NOT Cut or Separate Forms on This Page*" must be printed in red OCR dropout ink between the two Forms W-2 on Copy A only (see Exhibit A). Perforations are required on all copies (except Copy A) to enable the separation of individual forms. Continuous pinfeed copy A forms must be separated at the page perforation into individual 11" deep pages before submission to SSA. The pinfeed strips must also be removed. However, the two W-2 documents contained on the 11" deep page *must not* be separated.

.08 The words "**For Paperwork Reduction Act Notice, see separate instructions**", *must* be printed in red OCR drop-out ink on Forms W-2, Copy A (see Exhibit A for format and location).

.09 The Office of Management and Budget (OMB) Number *must* be printed

on each ply of Form W-2 and W-3 (see Exhibits A and B for format and location).

.10 The section titled "Where to File" in the general instructions on the employer's copy of the official Form W-3, **must be** printed in its entirety on all substitute Forms W-3 (see Exhibit B). *Household employers filing Forms W-2 for household employees should send the forms to the same address shown listed in the instructions.*

Note: Household employers, even those with only one household employee, must file Form W-3 with Form W-2. On Form W-2, mark the "Hshld. Emp." Box in Box 15, and on Form W-3 mark the "Hshld." Box in Box b.

.11 The Paperwork Reduction Act Notice must be printed on Form W-3 (see Exhibit B for format and location).

.12 *Privately printed continuous substitute Forms W-2, Copy A, must be perforated at each 11" page depth. No perforations are allowed between the individual forms (5 1/2 inch Forms W-2) on a single copy page of Copy A.* Continuous pinfeed Copy A forms must be separated at the page perforation prior to submitting them to SSA. Two Copy A forms are contained on one page. The two copies must remain together on the page. Only the pages are to be separated (burst). Perforations are required between all the other *individual* copies on a page (Copies 1, B, C, 2, and D) included in the set.

.13 The back of a substitute Form W-2, Copy A, and Form W-3 (page 1) must be free of all printing.

.14 Spot carbons are *NOT permitted* for Copy A of Forms W-2 or for Form W-3. Interleaved carbon should be black and must be of good quality to assure legibility of information on all copies and to preclude smudging.

.15 Chemical transfer paper is permitted for Form W-2, Copy A, and Form W-3 only if the following standards are met:

1. Only *chemically backed* paper is acceptable for Copy A.

2. Carbon coated forms are not permitted. Front and back chemically treated paper cannot be processed properly by machine.

3. Chemically transferred images must be black in color.

.16 The GPO symbol must not be placed on substitute Copy A of Forms W-2.

.17 The Catalog Number, shown on the 1997 Form W-2 as "Cat. No.

10134D", and the Catalog Number shown on the 1996 Form W-3 as "Cat. No. **10159Y"**, is used for IRS distribution purposes and should not be printed on substitute forms.

SEC. 2. REQUIREMENTS FOR SUBSTITUTE FORMS FURNISHED TO EMPLOYEES (COPIES B, C, AND 2 OF FORMS W-2)

.01 All employers (including those who file on magnetic media and do not file a paper Copy A) must furnish employees with at least two copies of the Forms W-2 (three or more for employees required to file a state, city, or local income tax return). The dimensions of these copies (Copies B, C, etc.) but not copy A, may be expanded from the dimensions of the official form to allow space for conveying additional information, such as additional entries required for Boxes 13 or 14, withholding from pay for health insurance, union dues, bonds, charity, etc. The requirement that a maximum of three items are permitted in Box 13 of Form W-2 applies only to the paper **Copy A** that is filed with SSA. As long as sufficient space is provided on the substitute employee copies, as many items as needed may be placed in Box 13 or box 14. Also, on these copies (Copies B, C, etc.), the size of these boxes may be adjusted. (However, see the minimum sizes for certain boxes, below). This may permit the employer to eliminate other statements or notices that would otherwise be furnished to employees.

1. The **MAXIMUM** allowable dimensions for employee copies of Forms W-2 are:

(a) depth should be no more than 6.5 inches;

(b) width should be no more than 8.5 inches.

2. The **MINIMUM** allowable dimensions for employee copies of Forms W-2 are:

(a) 2.67 inches by 5.0 inches.

(b) horizontal or vertical format is permitted.

NOTE: These minimum and maximum size specifications are for **1997** only and may change for future years. The maximum width of 8.5 inches is for employee copies of Form W-2 only. The width of the paper Copy A, submitted to SSA, is specified in Part B, section 1.05 above.

.02 The paper for all copies should be white. The substitute Copy B (or its equal), that employees are instructed to

attach to their Federal income tax return, must be at least 12 pound paper (basis 17 x 22-500), while the other copies furnished the employee should be at least 9-pound paper (basis 17 x 22-500).

.03 Interleaved carbon and chemical transfer paper for employee copies must meet the following standards:

1. All copies must be **CLEARLY LEGIBLE**;

2. All copies must have the capability to be photocopied; and

3. Fading must not be of such a degree as to preclude legibility and the ability to photocopy.

In general, black chemical transfer inks are preferred; other colors are permitted only if the above standards are met. "Spot carbons" are **NOT** permitted (See Part B, Sec. 1.15, above, for standards for chemical transfer paper for Copy A.)

.04 The following requirements govern the private printing of employee copies of Forms W-2. All substitutes must be a form, which contains boxes, box numbers, and box titles that, where applicable, match the IRS printed form. The placement, numbering, and size of certain boxes (the "core" information) is specified as follows:

1. The items and box numbers that constitute the core data are:

Box 1—Wages, tips, other compensation,

Box 2—Federal income tax withheld,

Box 3—Social Security Wages/
Railroad Retirement Compensation,

Box 4—Social Security tax withheld/
Railroad Retirement Tax Withheld,

Box 5—Medicare wages and tips/
Railroad Retirement Tips,
and

Box 6—Medicare tax withheld/
Railroad Retirement Tax Withheld.

NOTE: Railroad employees may not be subject to Social Security coverage but are subject to Railroad Retirement Tax Tier I and II coverage. Railroad Compensation employers may make the above modifications to Forms W-2 but only for substitute Forms W-2 furnished to employees and *not* for any Copy A forms to be filed with SSA.

The "core" boxes **must** be printed in the exact order on each line as on the IRS printed form (see the Exhibits at the end of this revenue procedure). Boxes 1 and 2 must be next to each other, with

Boxes 3 and 4 below on the next line, and Boxes 5 and 6 on the line below Boxes 3 and 4.

2. The block of core data (Boxes 1 through 6) must be placed in the upper right of the form. Substitute employee copies of Form W-2, which are printed using a vertical format with dimensions smaller than the IRS printed form, may have the core data entirely on the top of the form (see Exhibit F). In no instance will boxes or other information be permitted to the right of the core data. Standard margins or a small amount of other blank space may appear to the top or right of this data. The form title, number, or copy (Copy B, C, etc.) may be at the top of the form. Also, a reversed or blocked-out area to accommodate a postal permit number or other postal considerations is permitted at the upper right of the form.

3. Boxes 1 through 6 must each be a minimum of 1 3/8 inches wide and 1/4 inch deep.

4. Other required boxes:

—Employer identification number (EIN),

—Employer's name, address, and ZIP code,

—Employee's Social Security number, and

—Employee's name, address, and ZIP code.

These items are required to be present on the form and must be in boxes similar to those on the IRS printed form. However, they may be placed in any location, other than the top or upper right. The lettering system used on the IRS printed form ("a" through "f") need not be used. The employer's EIN may be included in the box for the employer's name and address. If this is done, a separate box for the EIN is not required. The Control number box (Box "a" on the IRS printed form) is not required.

5. The Tax Year (1997) **MUST** be clearly printed on all copies of substitute Forms W-2. It is recommended (but not required) that this information be located to the right of the form title on the lower left of the Form W-2. **The tax year must also be printed in non-reflective black ink using 24 pt OCR-A font.**

6. If applicable, Social Security tips **MUST** be shown separately from Social Security wages. A separate box is not required unless Social Security tips are to be reported.

Boxes 1 and 2 on Copy B are required to be outlined in bold 2-point

rule (see Exhibit E) or highlighted in some manner to distinguish these boxes.

7. If a box for Advance EIC (Earned Income Credit) payments (Box 9) is present, the box must be outlined in bold 2-point rule or highlighted in some manner to distinguish this box. However, if no amounts are paid for Advance EIC, this box is not required and may be omitted by printers. Do not use Box 9 for any other purpose than reporting Advance EIC payments.

8. If Allocated tips (Box 8) are being reported for the individual employee (or class of employees that are being provided Forms W-2), it is recommended (but not required) that this box also be outlined in bold 2-point rule or highlighted on Copy B. However, if allocated tips are not being reported, this box may be omitted by printers.

9. If Form W-2 contains additional data concerning payroll deductions (e.g., saving bonds withholding, retirement withholding, or payroll savings), there should be a special highlighting of the areas pertaining to Federal income tax withheld; wages, tips, and other compensation; or Advance EIC (Earned Income Credit) payments that are related to those items.

10. Employers who are required to report or withhold state income tax information are required to include the following boxes on substitute Forms W-2:

Box 16—State and Employer's state identification (I.D.) number,

Box 17—State wages, tips, etc., and

Box 18—State income tax withheld.

11. Employers who are required to report or withhold local income tax information are required to include the following boxes on substitute Forms W-2:

Box 19—Locality name

Box 20—Local wages, tips, etc., and

Box 21—Local income tax.

12. If state or local tax information is required, this information is also considered "core data." The state and local information **MUST** be placed at the bottom of the form. See the exhibits at the end of this revenue procedure.

13. Other boxes on the IRS printed form (Boxes 7 through 15) need not appear on substitute Forms W-2 provided to employees **unless** an employer has that item of information to report to an employee. For example, if an employee did not have Social Security tips (Box 7), Allocated tips (Box 8), or Advance EIC payments (Box 9), the

form could be printed without these boxes. However, if the employer had provided amounts for dependent care benefits, those amounts would be required to be reported separately and shown in a box labeled "Box 10, Dependent care benefits," as on the IRS printed form and the exhibits in this revenue procedure.

14. Employers may provide multiple entries in Box 13, but each entry should use the same codes as assigned by the IRS for that type of item. (See Reference Guide for Box 13 Codes in the 1997 Form W-2 instructions). For example, employers reporting deferred compensation must label the box as "13d" and not as "13a", even though it is the first or only item to go in this box. Use the codes shown with the dollar amount. On Copy A, Form W-2, do not enter more than three codes in this box. If more than three items need to be reported in box 13, use a separate Form W-2 to report the additional items (see Multiple Forms in the 1997 Form W-2 instructions). However, employers may enter more than three codes in box 13 of Copies 1, 2, B, C, and D of Form W-2. Do not report in box 13 any items that are not listed as **codes A-T** in the Form W-2 instructions. Do not report the same Federal tax data to the SSA on more than one Copy A, Form W-2.

15. If you are a military employer and provide your employee with basic quarters, subsistence allowances, and combat zone compensation, report the amount in Box 13, Form W-2, using code Q.

16. Beginning January 1, 1997, employer's contributions to an employee's Medical Savings Account's (MSAs), must be reported in Box 13, Form W-2, using code R.

17. Beginning January 1, 1997, an employee's elective contributions to a salary reduction SIMPLE retirement account must be included in Box 13, Form W-2, using code S. However, if the amount is contributed to a SIMPLE that is part of a section 401(k) arrangement, that amount must be reported in Box 13, Form W-2, using code D.

18. Beginning January 1, 1997, amounts paid or expenses incurred by an employer to or for an employee for qualified adoption expenses must be reported in Box 13, Form W-2, using code T.

Note: See the 1997 Form W-2 instructions for more information regarding codes R, S, and T.

19. Employers may use Box 14 for any other information you want to give your employee. Please label each item. Examples are union dues, health insurance, premiums deducted, nontaxable income, voluntary after-tax contributions, or educational assistance payments.

.05 Substitute forms for employees (Copies B, C, and 2 of Forms W-2) must meet the following requirements:

1. All copies of Forms W-2 must clearly show the form number, the form title, and the tax year. The title of Form W-2 is "Wage and Tax Statement." It is recommended (but not required) that this be located on the bottom left of Form W-2. The reference to the Department of the Treasury—Internal Revenue Service must be on all copies of Form W-2 provided to the employee. It is recommended (but not required) that this be located on the bottom right of Form W-2.

2. If the substitute forms are *not labeled* as to the disposition of the copies, then written notification must be provided to each employee as specified below:

(a) The first copy of the form (Copy B) is filed with the employee's Federal tax return.

(b) The second copy of the form (Copy C) is for the employee's records.

(c) If applicable, the third copy (Copy 2) of the form is filed with the employee's state, city, or local income tax return.

3. If the substitute forms are *labeled*, the forms must contain the applicable description:

"Copy B, to be filed with employee's Federal tax return," and "Copy C, for employee's records." It is recommended (but not required) that this be located on the lower left of Form W-2. The designation "Form W-2, is recommended (but not required) to be located on the lower left of Form W-2 and Department of the Treasury—Internal Revenue Service." It is recommended (but not required) that this be located on the lower right of Form W-2.

4. Instructions similar to those contained on the back of Copies B and C of the official Form W-2 must be provided to each employees. Employers may modify or delete certain information in these instructions (such as modification for employees of railroads to cover Railroad Retirement Tier I and II Compensation and Taxes. Employers are allowed to delete instructions that do not apply to the employee. For example, if

none of the employees have dependent care benefits (Box 10), the employer may delete the instructions for that item. Also, if an employer will only be reporting amounts for a 401(k) plan in Box 13, those instructions may be modified to cover only Section 401(k) contributions.

5. You must notify employees who have no income tax withheld that they may be able to claim a tax refund because of the earned income credit (EIC). You will meet this notification requirement if you issue the IRS Form W-2 with the EIC notice on the back of the employee's copy (Copy B), or a substitute Form W-2 with the same statement. You may also meet the requirement by providing a substitute Form W-2 without the EIC notice and Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC), or your own statement that contains the same wording. For more information about notification requirements, see **Notice 1015** (formerly Pub. 1325), *Employers-Have You Told Your Employees About the Earned Income Credit (EIC)*.

NOTE: Printers are cautioned that the rules set forth here (Part B. Sec. 2) apply to employee copies (Copies B, C, etc.) only. Paper filers who send Copy A of Form W-2 to SSA must follow the requirements in Part B. Sec. 3, below for those paper submissions.

SEC. 3. GENERAL RULES FOR FILING "PAPER SUBSTITUTES" FOR FORMS W-2 AND W-3

.01 Paper substitutes that conform totally to the specifications contained in this revenue procedure may be privately printed without the prior approval of the IRS. Penalties may be assessed for not complying with the form specifications set forth in this publication. **SUBSTITUTE FORMS THAT DO NOT CONFORM TOTALLY TO THESE SPECIFICATIONS ARE NOT ACCEPTABLE.** This applies to both paper substitutes that are filed with SSA and those that are given to employees. **Forms should not be submitted to IRS or SSA for specific approval.** However, if you are uncertain of any specification set forth herein and want that specification clarified, you may submit a letter citing the specification in question, your interpretation of that specification, and an example of how the form would appear if produced using your understanding of the specification. Any questions pertain-

ing to Copies B, C, and 2 of Forms W-2 should be sent to:

Internal Revenue Service
ATTN: Substitute Form W-2
Coordinator
T:C:O:L,Room 7510

1111 Constitution Avenue, N.W.
Washington, DC 20224

Any questions pertaining to Copy A, Form W-2, and Form W-3 should be forwarded to:

Social Security Administration
Data Operations Center
1150 E. Mountain Drive
Wilkes-Barre, PA 18702-7997
Attn: Program Analyst Office

NOTE: You should allow at least **30** days for the IRS and SSA to respond.

.02 Forms W-2 and W-3 are subject to annual review and possible change. Employers are cautioned against overstocking supplies of privately printed substitutes.

.03 Copies of the current year IRS printed Forms W-2 and W-3 and the instructions for these forms may be obtained through electronic options on the Internet at <http://www.irs.ustreas.gov>, or from most IRS offices or by calling 1-800-829-3676. The IRS provides only cut sheet sets.

.04 Substitute Forms W-2 and W-3 transmitted to SSA should generally contain only data that is required by the Form W-2, the Form W-2 instructions, and this revenue procedure.

.05 Substitute Forms W-2, Copy A, and W-3 are machine imaged and scanned by Social Security, therefore these forms must meet the same specifications as Forms W-2 and W-3 produced by IRS. The vertical and horizontal spacing for all Federal payment and data boxes on Form W-2 must be in compliance with the specifications contained herein.

.06 All ballot boxes on Forms W-2, Copy A (Box 15), and W-3 (Box "b") must be 8-point boxes.

NOTE: If a box is marked, more than 50% of the applicable ballot box must be covered by an "X".

.07 Copy A of Form W-2 and Form W-3 must have the form producer's EIN entered to the left of "Department of Treasury".

PART C. ADDITIONAL INSTRUCTIONS

SEC. 1. INSTRUCTIONS FOR FORMS PRINTERS

.01 Except as provided below, if magnetic media is not used for filing

with SSA, the substitute copies of Forms W-2 assembly should be arranged in the same order as the IRS printed Forms W-2. Copy A should be first, followed sequentially by perforated sets (Copies 1, B, C, 2, and D). The substitute form to be filed by the employer with SSA must carry the designation "Copy A."

NOTE: Magnetic media filers do not submit Copy A of Form W-2 or Form W-3. Form 6559 is the transmittal for magnetic media filed Form W-2 data.

1. It is not a requirement that privately printed substitute forms contain a copy to be retained by employers (Copy D). However, employers must be prepared to verify or duplicate this information if it is requested by the IRS or SSA. Paper filers that do not keep Copy D should be able to generate a facsimile of Copy A in case of loss.

2. Except as provided in the arrangement of the official assemblies, additional copies that may be prepared by employers shall not be placed ahead of the copy "For EMPLOYEE'S RECORDS," Form W-2 (Copy C).

3. Instructions similar to those contained on the back of **Copies B and C** of the official form **MUST** be provided to each employee. These instructions may be printed on the back of the substitute Copy B and C or may be provided to employees on a separate statement. Do not print these instructions on the back the the copy that is to be filed with the employee's state or local returns.

.02 All privately printed Forms W-3 and Forms W-2 (Copy A), must have the tax year, form number, and form title printed on the bottom face of each form using identical type to that of the official format. **The tax year must be printed in non-reflective black ink using 24 pt OCRA-font, on all copies of Forms W-2, and Forms W-3. The form title(s), e.g., Wage and Tax Statement must be printed in red OCR drop-out ink on Form W-2, Copy A, and Form W-3. The form identifying number of Forms W-2 and W-3, must be printed in black reflective ink, using OCRA-font, printed 10 characters per inch. The word "Form" on the W-2 and W-3 must be printed in red OCR drop-out ink.**

.03 The substitute Form W-2, Copy B, which employees attach to their Federal income tax return, must be at least 12-pound paper (basis 17 x 22-500) while the other copies furnished to em-

ployee's should be at least 9-pound paper (basis 17 x 22-500).

.04 Employee copies of Forms W-2 (Copies B, C, etc.), including those that are printed on a single sheet of paper, **MUST** be produced so as to be easily separated by the employee. Perforations between the individual copies that are printed on a single sheet of paper satisfy this requirement.

.05 The Form W-2, Copy A, and the OCR bond Form W-3 that are filed with SSA must have no printing on the reverse side.

.06 Instructions similar to those provided as part of the official form must be provided as part of any substitute Form W-3.

.07 The copy of the substitute Form W-3 that contains the instructions and is to be retained by the employer should be at least 18-pound paper (basis 17 x 22-500).

SEC. 2. INSTRUCTIONS FOR EMPLOYERS

.01 Only originals or ribbon copies of Copy A (Forms W-2) and Form W-3 may be filed with SSA. *Carbon copies and photocopies are not acceptable.*

.02 Employers should type or machine print entries on forms whenever possible and provide good quality data entries by using a high quality type face, inserting data in the middle of blocks that are well separated from other printing and guidelines, and taking any other measures that will guarantee clear, sharp images. The employer must provide a machine scannable form for Copy A. The employer must also provide payee copies (Copies B, C, and 2) that are legible and capable of being photocopied (by the employee).

.03 The Employer Identification Number (EIN) may be entered in the Employer's name and address box on Copy A of Forms W-2 (Box "c" on the IRS printed Form W-2). If this is done, the EIN need not be entered in the box provided for the EIN (Box "b" on the IRS printed Form W-2). The EIN must be entered in Box "e" of the Form W-3.

.04 The employer's name, address, and EIN may be preprinted.

.05 The optional employer's state number may be pre-printed in the employer's name, address, and ZIP code box. If this is done, the Employer's state I.D. Number section in Box 16 of Forms W-2 need not be completed, as long as the applicable state taxing au-

thority does not object. **Please check with the appropriate state taxing authority before doing this.**

.06 Generally, an agent that has an approved Form(s) 2678, Employer Appointment of Agent, should enter its name as the employer in box c of Form W-2, and file one Form W-2. However, if the agent is acting as an agent for two or more employers, or is an employer and is acting as an agent for another employer, and pays social security wages in excess of the wage base to an individual, special reporting for payments to that individual is needed. The agent should file separate Forms W-2 reflecting the wages paid by each employer. Box "c" of Form W-2 should include name of agent, agent for (name of employer), and address of agent. Each Form W-2 should reflect the EIN of the agent in Box "b". In addition the employer's EIN should be shown in Box "h" of Form W-3.

.07 The preparation and filing instructions for Forms W-2 are contained in the 1997 Instructions for Form W-2. The preparation and filing instructions for Form W-3 are contained as part of the 1997 Form W-3 snap set assembly.

.08 To avoid confusion and questions by employees, employers are encouraged to delete the following items from the employee copies of Forms W-2 that are provided to employees:

1 Form identifying number (e.g., 22222);

2 The words "subtotal" and "void" and their boxes;

3 Any other captions or box number that would not be of any informational use to employees (unless otherwise required).

.09 Employers should use the IRS supplied label when filing Form W-3 with SSA. The label should be placed inside the brackets printed in boxes "e" and "f".

SEC. 3. OFFICE OF MANAGEMENT AND BUDGET (OMB) REQUIREMENTS FOR SUBSTITUTE FORMS

.01 The Paperwork Reduction Act requires: (1) OMB approval of IRS tax forms, (2) that each form (all copies) show the OMB approval number and, when appropriate, the form's expiration date, and (3) that the form (or its instructions) state why IRS is collecting the information, how we will use it and whether it must be given to us. The official IRS form (or instructions) will contain this information.

.02 As it applies to substitute IRS forms, this means:

1. All substitute forms (all copies) *must* show the OMB number as it appears on the official IRS printed form (see Exhibits A and B).

2. The OMB number must be in one of the following formats:

OMB No. 1545-0008 (preferred),
or

OMB # 1545-0008

3. You must inform the users of your substitute forms of the reasons for IRS collection, use, and requirements, as stated in the instructions for the official IRS form.

Sec. 4. FORMS and PUBLICATIONS

.01 Electronic access to IRS tax forms, instructions, publications, and

other tax data is available through the following:

Modem: IRIS at FedWorld (703) 321-8020

Technical questions regarding FedWorld can be directed to the FedWorld help desk 24 hours a day at (703) 487-4608.

Internet: Telnet—iris.irs.ustreas.gov

FTP—ftp.irs.ustreas.gov

WWW—<http://www.irs.ustreas.gov>

Fax Forms: (703) 487-4160

.02 Over 100 of the most requested forms and instructions may be obtained via your fax machine. Just call (703)487-4160 from the telephone connected to your fax machine.

.03 A CD-ROM containing over 2,000 tax forms, instructions, and publications may be purchased from the Government Printing Office (GPO), Su-

perintendent of Documents (Supt. Docs.). Current tax year materials, and tax forms from 1991 and publications from 1994, are included on the disc. To order the CD-ROM, contact Supt. Docs. at (202) 512-1800 (select Option #1), or by computer through GPO's Internet Web Site (http://www.access.gpo.gov/su_docs).

.04 List of Social Security Administrations Magnetic Media Coordinators is included in the Appendix.

Sec. 5 EFFECT ON OTHER REVENUE PROCEDURES

.01 Rev. Procs. 96-24 and 96-24A, I.R.B. 1996-5, dated January 29, 1996, and I.R.B. 1996-15, dated April 8, 1996, (Reprinted as Publication 1141, Revised **4-96**), is superseded.

**Exhibit
A
Form
W-2**

| | | | | | | |
|---|-------|-------------------------------|--|--------------------------------------|--|--|
| a Control number | 22222 | Void <input type="checkbox"/> | For Official Use Only ▶ OMB No. 1545-0008 | | | |
| b Employer's identification number | 1 | | 1 Wages, tips, other compensation | 2 Federal income tax withheld | | |
| c Employer's name, address, and ZIP code | 3 | | 3 Social security wages | 4 Social security tax withheld | | |
| | 5 | | 5 Medicare wages and tips | 6 Medicare tax withheld | | |
| | 7 | | 7 Social security tips | 8 Allocated tips | | |
| d Employee's social security number | 9 | | 9 Advance EIC payment | 10 Dependent care benefits | | |
| e Employee's name (first, middle initial, last) | 11 | | 11 Nonqualified plans | 12 Benefits included in box 1 | | |
| | 13 | | 13 See Instrs. for box 13 | 14 Other | | |
| f Employee's address and ZIP code | 15 | | 15 Statutory employee <input type="checkbox"/> | 16 Deceased <input type="checkbox"/> | 17 Pension plan <input type="checkbox"/> | 18 Legal rep. <input type="checkbox"/> |
| 16 State Employer's state I.D. No. | | 17 State wages, tips, etc. | | 18 State income tax | | 19 Locality name |
| 20 Local wages, tips, etc. | | 21 Local income tax | | | | |

Form **W-2 Wage and Tax Statement** 1997
 Copy A For Social Security Administration

Cat. No. 10134D Department of the Treasury—Internal Revenue Service
 For Paperwork Reduction Act Notice, see separate instructions.

Do NOT Cut or Separate Forms on This Page

| | | | | | | |
|---|-------|-------------------------------|--|--------------------------------------|--|--|
| a Control number | 22222 | Void <input type="checkbox"/> | For Official Use Only ▶ OMB No. 1545-0008 | | | |
| b Employer's identification number | 1 | | 1 Wages, tips, other compensation | 2 Federal income tax withheld | | |
| c Employer's name, address, and ZIP code | 3 | | 3 Social security wages | 4 Social security tax withheld | | |
| | 5 | | 5 Medicare wages and tips | 6 Medicare tax withheld | | |
| | 7 | | 7 Social security tips | 8 Allocated tips | | |
| d Employee's social security number | 9 | | 9 Advance EIC payment | 10 Dependent care benefits | | |
| e Employee's name (first, middle initial, last) | 11 | | 11 Nonqualified plans | 12 Benefits included in box 1 | | |
| | 13 | | 13 See Instrs. for box 13 | 14 Other | | |
| f Employee's address and ZIP code | 15 | | 15 Statutory employee <input type="checkbox"/> | 16 Deceased <input type="checkbox"/> | 17 Pension plan <input type="checkbox"/> | 18 Legal rep. <input type="checkbox"/> |
| 16 State Employer's state I.D. No. | | 17 State wages, tips, etc. | | 18 State income tax | | 19 Locality name |
| 20 Local wages, tips, etc. | | 21 Local income tax | | | | |

Form **W-2 Wage and Tax Statement** 1997
 Copy A For Social Security Administration

Cat. No. 10134D Department of the Treasury—Internal Revenue Service
 For Paperwork Reduction Act Notice, see separate instructions.

**Exhibit B
Form W-3**

DO NOT STAPLE

| | | |
|--|---|---|
| a Control number 33333 | | For Official Use Only OMB No. 1545-0008 |
| b Kind of Payer 941 Military 943 CT-1 Hshld. Medicare gov't. emp. | 1 Wages, tips, other compensation | 2 Federal income tax withheld |
| | 3 Social security wages | 4 Social security tax withheld |
| c Total number of statements | d Establishment number | 5 Medicare wages and tips |
| e Employer's identification number | 7 Social security tips | 8 Allocated tips |
| f Employer's name | 9 Advance EIC payments | 10 Dependent care benefits |
| | 11 Nonqualified plans | 12 Deferred compensation |
| g Employer's address and ZIP code | 13 | 14 |
| h Other EIN used this year | 15 Income tax withheld by third-party payer | |
| i Employer's state I.D. No. | | |

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature _____ Title _____ Date _____
Telephone number () _____

Form **W-3** Transmittal of Wage and Tax Statements **1997**

Department of the Treasury
Internal Revenue Service

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is 25 minutes. If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the form to this address.

Changes To Note

Household Employers.—All household employers, even those with only one household employee, must file Form W-3 with their 1997 Forms W-2.

Boxes 13 and 14 Eliminated.—Entries are not needed for *Adjusted total social security wages and tips* (formerly box 13) and *Adjusted total Medicare wages and tips* (formerly box 14).

Need Help?

For information about the Information Reporting Call Site, Bulletin Board Services, substitute forms, and how to get forms and publications, see page 1 of the 1997 **Instructions for Form W-2**.

Where To File

Send the entire first page of this form with Copy A of Forms W-2 to:

Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001

Note: If you use "Certified Mail" to file, change the ZIP code to "18769-0002." Also see **Shipping and Mailing** on page 2 for additional information. If you use a carrier other than the U.S. Postal Service to deliver this information, add "1150 E. Mountain Dr." to the address and change the ZIP code to "18769."

Exhibit C form W-2 Box Layout

| | | | | | | |
|---|---------------------------|----------------------------|--|-----------------------------------|--|-------------------------------------|
| a Control number | | 22222 | | Void <input type="checkbox"/> | For Official Use Only ▶ OMB No. 1545-0008 | |
| b Employer's identification number | | | 1 Wages, tips, other compensation | 2 Federal income tax withheld | | |
| c Employer's name, address, and ZIP code | | | 3 Social security wages | 4 Social security tax withheld | | |
| | | | 5 Medicare wages and tips | 6 Medicare tax withheld | | |
| | | | 7 Social security tips | 8 Allocated tips | | |
| d Employee's social security number | | | 9 Advance EIC payment | 10 Dependent care benefits | | |
| e Employee's name (first, middle initial, last) | | | 11 Nonqualified plans | 12 Benefits included in box 1 | | |
| | | | 13 See Instrs. for box 13 | 14 Other | | |
| f Employee's address and ZIP code | | | 15 Statutory employee <input type="checkbox"/> | Deceased <input type="checkbox"/> | Pension plan <input type="checkbox"/> | Legal rep. <input type="checkbox"/> |
| | | | Hshld. emp. <input type="checkbox"/> | Subtotal <input type="checkbox"/> | Deferred compensation <input type="checkbox"/> | |
| 16 State | Employer's state I.D. No. | 17 State wages, tips, etc. | 18 State income tax | 19 Locality name | 20 Local wages, tips, etc. | 21 Local income tax |
| | | | | | | |

Cat. No. 10134D

Department of the Treasury—Internal Revenue Service

Form **W-2 Wage and Tax Statement** 1997

For Paperwork Reduction Act Notice, see separate instructions.

Copy A For Social Security Administration

Do NOT Cut or Separate Forms on This Page

Exhibit D Form W-3

DO NOT STAPLE

| | | | | | |
|------------------------------------|--------------------------|--------------------------|--------------------------|--|--------------------------------|
| a Control number | | 33333 | | For Official Use Only ▶ OMB No. 1545-0008 | |
| b Kind of Payer ▶ | 941 | Military | 943 | 1 Wages, tips, other compensation | 2 Federal income tax withheld |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3 Social security wages | 4 Social security tax withheld |
| | CT-1 | Hshld. | Medicare gov. emp. | | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| c Total number of statements | d Establishment number | | | 5 Medicare wages and tips | 6 Medicare tax withheld |
| e Employer's identification number | | | | 7 Social security tips | 8 Allocated tips |
| f Employer's name | | | | 9 Advance EIC payments | 10 Dependent care benefits |
| g Employer's address and ZIP code | | | | 11 Nonqualified plans | 12 Deferred compensation |
| | | | | 13 | |
| h Other EIN used this year | | | | 15 Income tax withheld by third-party payer | |
| i Employer's state I.D. No. | | | | | |

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature ▶ _____ Title ▶ _____ Date ▶ _____
Telephone number () _____

Form **W-3** Transmittal of Wage and Tax Statements **1997**

Department of the Treasury
Internal Revenue Service

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is 25 minutes. If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the form to this address.

Changes To Note

Household Employers.—All household employers, even those with only one household employee, must file Form W-3 with their 1997 Forms W-2.

Boxes 13 and 14 Eliminated.—Entries are not needed for *Adjusted total social security wages and tips* (formerly box 13) and *Adjusted total Medicare wages and tips* (formerly box 14).

Need Help?

For information about the Information Reporting Call Site, Bulletin Board Services, substitute forms, and how to get forms and publications, see page 1 of the 1997 **Instructions for Form W-2**.

Where To File

Send the entire first page of this form with Copy A of Forms W-2 to:

Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001

Note: If you use "Certified Mail" to file, change the ZIP code to "18769-0002." Also see **Shipping and Mailing** on page 2 for additional information. If you use a carrier other than the U.S. Postal Service to deliver this information, add "1150 E. Mountain Dr." to the address and change the ZIP code to "18769."

Exhibit E Form W-2(Copy B)

| | | | | | | | | |
|--|---------------------------|--|---------------------|------------------|-----------------------------------|---------------------------------------|-------------------------------------|--------------------------------------|
| a Control number | | OMB No. 1545-0008 | | | | | | |
| b Employer's identification number | | 1 Wages, tips, other compensation | | | 2 Federal income tax withheld | | | |
| c Employer's name, address, and ZIP code | | 3 Social security wages | | | 4 Social security tax withheld | | | |
| | | 5 Medicare wages and tips | | | 6 Medicare tax withheld | | | |
| | | 7 Social security tips | | | 8 Allocated tips | | | |
| d Employee's social security number | | 9 Advance EIC payment | | | 10 Dependent care benefits | | | |
| e Employee's name, address, and ZIP code | | 11 Nonqualified plans | | | 12 Benefits included in box 1 | | | |
| | | 13 See Instrs. for box 13 | | | 14 Other | | | |
| | | 15 Statutory employee <input type="checkbox"/> | | | Deceased <input type="checkbox"/> | Pension plan <input type="checkbox"/> | Legal rep. <input type="checkbox"/> | Hshld. emp. <input type="checkbox"/> |
| 16 State | Employer's state I.D. No. | 17 State wages, tips, etc. | 18 State income tax | 19 Locality name | 20 Local wages, tips, etc. | 21 Local income tax | | |

Department of the Treasury—Internal Revenue Service

Form **W-2** Wage and Tax Statement **1997**
 Copy B To Be Filed With Employee's FEDERAL Tax Return

This information is being furnished to the Internal Revenue Service.

Exhibit F form W-2 Alternative Employee Copies

| | | | | | | |
|----------|-------------------------|-----------------------------------|---------------------|--------------------------------|----------------------------|---------------------|
| | | 1 Wages, tips, other compensation | | 2 Federal income tax withheld | | |
| | | 3 Social security wages | | 4 Social security tax withheld | | |
| | | 5 Medicare wages and tips | | 6 Medicare tax withheld | | |
| | | | | | | |
| 16 State | Employer's State ID No. | 17 State wages, tips, etc. | 18 State income tax | 19 Name of locality | 20 Local wages, tips, etc. | 21 Local income tax |
| | | | | | | |

▲
Horizontal Format

| | | | |
|-----------------------------------|-------------------------|--------------------------------|--|
| 1 Wages, tips, other compensation | | 2 Federal income tax withheld | |
| 3 Social security wages | | 4 Social security tax withheld | |
| 5 Medicare wages and tips | | 6 Medicare tax withheld | |
| | | | |
| 16 State | Employer's State ID No. | 17 State wages, tips, etc. | |
| 18 State income tax | | 19 Name of locality | |
| 20 Local wages, tips, etc. | | 21 Local income tax | |

▲
Vertical Format

NOTE: Exhibit F provides examples of employee copies of Form W-2 only. Copy A, which is sent to SSA, MUST conform to the dimensions in Exhibits A.

The core data boxes are 1 through 6 and, if applicable, 16 through 21. The core data must be similarly positioned, exactly numbered, and exactly titled as shown for each format. Other data may be placed in unoccupied areas based upon the employer's needs. Form identification may be placed before or after the core data. However, the employer's non-core elements may be positioned only between the sections of core data.

**APPENDIX: TELEPHONE NUMBERS FOR THE SOCIAL SECURITY ADMINISTRATIONS
REGIONAL MAGNETIC MEDIA COORDINATORS**

Social Security personnel at these telephone numbers can help callers with questions about how to submit **W-2's or W-2c's on magnetic media**. These are not toll-free telephone numbers.

Refer to Internal Revenue Service (IRS) Publication 393, Federal Employment Tax Forms, for instructions on filing paper W-2s/W-3s. Employers, payroll services, or an "agent" filing W-2s for employers may telephone the IRS Martinsburg Computing Center at (304) 263-8700 with employment tax questions.

| <u>Calls from:</u> | <u>Telephone</u> | <u>Calls from:</u> | <u>Telephone</u> |
|-----------------------------|---------------------------------|---------------------------|---------------------------------|
| Alabama | (404) 331-2587 (Atlanta) | Nevada | (415) 744-4559 (San Francisco) |
| Alaska | (206) 615-2125 (Seattle) | New Hampshire | (617) 565-2895 (Boston) |
| American Samoa | (415) 744-4559 (San Francisco) | New Jersey | (212) 264-5643 (New York) |
| Arizona | (415) 744-4559 (San Francisco) | New Mexico | (505) 262-6048 (Albuquerque) |
| Arkansas | (501) 324-5446 (Little Rock) | New York | (212) 264-5643 (New York) |
| California | (415) 744-4559 (San Francisco) | North Carolina | (404) 331-2587 (Atlanta) |
| Colorado | (303) 844-2364 (Denver) | North Dakota | (303) 844-2364 (Denver) |
| Connecticut | (617) 565-2895 (Boston) | Ohio | (312) 353-6717 x 2377 (Chicago) |
| Delaware | (215) 597-4632 (Philadelphia) | Oklahoma | (405) 951-3007 (Oklahoma City) |
| Dist. of Columbia | (215) 597-4632 (Philadelphia) | Oregon | (206) 615-2125 (Seattle) |
| Florida | (404) 331-2587 (Atlanta) | Pennsylvania | (215) 597-4632 (Philadelphia) |
| Georgia | (404) 331-2587 (Atlanta) | Puerto Rico | (787) 766-5574 (San Juan) |
| Guam | (415) 744-4559 (San Francisco) | Rhode Island | (617) 565-2895 (Boston) |
| Hawaii | (415) 744-4559 (San Francisco) | South Carolina | (404) 331-2587 (Atlanta) |
| Idaho | (206) 615-2125 (Seattle) | South Dakota | (303) 844-2364 (Denver) |
| Illinois | (312) 353-6717 x 2377 (Chicago) | Tennessee | (404) 331-2587 (Atlanta) |
| Indiana | (312) 353-6717 x 2377 (Chicago) | Texas-Central/South . . | (210) 229-6433 (San Antonio) |
| Iowa | (816) 426-2095 (Kansas City) | Texas-Dallas County . . | (214) 767-6777 (Dallas) |
| Kansas | (816) 426-2095 (Kansas City) | Texas-North | (817) 334-3123 (Fort Worth) |
| Kentucky | (404) 331-2587 (Atlanta) | Texas-Southeast | (713) 718-3015 (Houston) |
| Louisiana | (504) 389-0426 (Baton Rouge) | Texas-West | (505) 262-6048 (Albuquerque) |
| Maine | (617) 565-2895 (Boston) | Utah | (303) 844-2364 (Denver) |
| Maryland | (215) 597-4632 (Philadelphia) | Vermont | (617) 565-2895 (Boston) |
| Massachusetts | (617) 565-2895 (Boston) | Virgin Islands | (787) 766-5574 (San Juan) |
| Michigan | (312) 353-6717 x 2377 (Chicago) | Virginia | (215) 597-4632 (Philadelphia) |
| Minnesota | (312) 353-6717 x 2377 (Chicago) | Washington | (206) 615-2125 (Seattle) |
| Mississippi | (404) 331-2587 (Atlanta) | West Virginia | (215) 597-4632 (Philadelphia) |
| Missouri | (816) 426-2095 (Kansas City) | Wisconsin | (312) 353-6717 x 2377 (Chicago) |
| Montana | (303) 844-2364 (Denver) | Wyoming | (303) 844-2364 (Denver) |
| Nebraska | (816) 426-2095 (Kansas City) | | |

For questions regarding State filing, contact the State Revenue Agency.

Part IV. Items of General Interest

Foundations Status of Certain Organizations

Announcement 97-39

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

Former Public Charities. The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations:

- Absecon Police Athletic League Pal, Absecon, NJ
- African-American Adventure, Inc., Hyattsville, MD
- Ageless Wisdom Seminary, Scottsdale, AZ
- Alyce Bartholomew Childrens Museum, Laporte, IN
- Amethyst Foundation Judi Laws, Philadelphia, PA
- Amoco Dealers & Jobbers for Kids, Inc., Clearwater, FL
- Anderson Art Association, Anderson, SC
- Anderson Community Aquatics Club, Inc., Anderson, IN
- Anderson Urban League, Anderson, SC
- Arts and Humanities Council of Pickens County, Incorporated, Reform, AL
- California Earthquake Legacy, San Francisco, CA
- California Foundation for the Blind, San Francisco, CA
- Camera Arts Foundation, Santa Ana, CA
- Camp Rainbow, Encino, CA
- C and D for Youth, Inc., Stockton, CA
- Castro Valley Group Home, Castro Valley, CA
- CDF Museum Foundation, Ione, CA
- Center for Constitutional Issues in Technology, Los Altos, CA
- Center for Creative Education, Seattle, WA
- Center for Creative Work, Inc., San Francisco, CA
- Center for the Support & Protection of Indian Religious & Indigenous (Center for the Spirit), Oakland, CA
- Charles Thaxton, Konos Connection, Ramona, CA
- Children Loving Others With Needs, Spring Valley, CA
- Childrens Literacy Corporation of America, Inc., Portland, OR
- Childrens Services of Central California, Fresno, CA
- Chitman Education and Research Fund, Inc., San Diego, CA
- Christian Airline Personnel Missionary Outreach, Everett, WA
- Christians Neighbors Network, Menlo Park, CA
- CHS Properties I, Pasadena, CA
- Coalition for Kids, Inc., Grants Pass, OR
- Coalition for the Creative Arts, Berkeley, CA
- Clergy Wellness Program, Hood River, OR
- Committee To Aid Ukraine of Northern California, San Francisco, CA
- Conejo Open Alternative School Taskforce, Newbury Park, CA
- Consumer Advocates for Legal Justice, West Hills, CA
- Cook Inlet Vigil, Homer, AK
- Cooley S Landing Center Incorporated, East Palo Alto, CA
- Copper Mountain Foundation, Cordova, AK
- Create the Magic of Giving Foundation, Redondo Beach, CA
- Delphi Academy, Nicasio, CA
- Delta Rebels Manteca Youth Football, Manteca, CA
- Destiny Bound Corporation, Santa Barbara, CA
- Dots for Tots, Inc., Tigard, OR
- Earth Children, San Diego, CA
- East Honolulu Girls Softball Amateur Softball Association Jr Olympics, Honolulu, HI
- Educational Theatre for Higher Inner Consciousness, Santa Rosa, CA
- Eighty First Avenue Softball Club, Mercer Island, WA
- Everglades Equestrian Society, Inc., Bonita Springs, FL
- Exodus Foundation, Las Vegas, NV
- Gambling Problems Information, Inc., San Jose, CA
- Garmons Group Home, Stockton, CA
- Gentle Shepard Ministries, Inc., North Hollywood, CA
- Glea Foundation, Honolulu, HI
- Global Relief and Childrens Services, Olympia, WA
- Great Basin Nature Interpreters, Reno, NV
- Greater Redmond Foundation, Seattle, WA
- Greek Folklore Dance Company, Fremont, CA
- Gunther Klaus African Foundation, Los Angeles, CA
- Guy Peak Alpine Foundation, Issaquah, WA
- Hendersonville Friends of Chamber Music, Hendersonville, NC
- Jewel Baker Education Foundation, Berkeley, CA
- Jus County Cloggers of San Jose, Sunnyvale, CA
- Kahala Foundation, Honolulu, HI
- Kappa Alpha of Theta Tau Theta Sorority, Inc., Visalia, CA
- Kapuna Foundation, Wailuku, HI
- Kathleen A Toon Ministries, Hesperia, CA
- Kings Court Play RS, Inc., San Francisco, CA
- Klamath Siskiyou Coalition, Cave Junction, OR
- Knix Swim Club, Eagle River, AK
- Korean American Children & Youths Choir, Irvine, CA
- Lake Region Basketball Officials Association, Lakeland, FL
- Lamar County Literacy Council, Inc., Paris, TX
- Laredo Independent School District, Laredo, TX
- Leonia Education Association Scholarship Corp., Inc., Leonia, NJ
- Miami Killian Senior High School Band Patrons, Incorporated, Miami, FL
- Michigan Wrestling Federation, Clinton Twp., MI
- Mid America Games for the Disabled, Inc., Mission, KS
- National Transplant Action, Inc., Washington, DC
- New Group Theatre Troupe, El Paso, TX
- North Texas State Soccer Association Desoto, Desoto, TX
- Northwest Indiana Excellence in Theatre Foundation, Inc., Hammond, IN
- Organization of Positive Youth, Inc., Philadelphia, PA
- Parents on the Move, Inc., Irwinton, GA
- Peninsula Scholarship Foundation-Reach, Yorktown, VA
- Pennsylvania Babe Ruth Leagues, Inc., Greentown, PA
- Plan II Students Association, Austin, TX
- Ramazzini Institute for Occupational and Env. Health Res., Inc., Solomons, MD

Reading Fleming Middle School PTO,
Flemington, NJ
Ress of Puerto Rico, Inc., San Juan, PR
RSD Foundation, Houston, TX
Safety First Foundation, Inc., Tucker,
GA
Salvageable Consumable Recyclable
Arts Parts, Houston, TX
Science Alliance for Valuing the
Environment, Inc., Sylvania, OH
Second Mile, Austin, TX
Theatre of Dare, Nags Head, NC
Tom Martino Help Center Foundation,
Littleton, CO
Troup Band Booster Club, Troup, TX
Troy Area Gators, Troy, MI
Union County Housing Asst. Corp.,
Union, NJ

Vox Theatre Company, Philadelphia, PA
If an organization listed above sub-
mits information that warrants the re-
newal of its classification as a public
charity or as a private operating founda-
tion, the Internal Revenue Service will
issue a ruling or determination letter
with the revised classification as to
foundation status. Grantors and contribu-
tors may thereafter rely upon such rul-
ing or determination letter as provided
in section 1.509(a)-7 of the Income Tax
Regulations. It is not the practice of the
Service to announce such revised classi-
fication of foundation status in the Inter-
nal Revenue Bulletin.

**Credit for Employer Social Security
Taxes Paid on Employee Tips;
Correction**

Announcement 97-40

AGENCY: Internal Revenue Service,
Treasury.

ACTION: Correction to the removal of
temporary regulations.

SUMMARY: This document contains a
correction to the removal of temporary
regulations (T.D. 8699[1997-6 I.R.B. 4])
which were published in the **Federal
Register** on Friday, December 20, 1996
(61 FR 67212). That publication re-
moves the temporary regulations per-
taining to the credit for employer FICA
taxes paid with respect to certain tips
received by employees of food or bever-
age establishments.

EFFECTIVE DATE: December 20,
1996.

FOR FURTHER INFORMATION CON-
TACT: Jean M. Casey, (202) 622-6060
(not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The removal of temporary regulations
that is subject to this correction is under
section 45B of the Internal Revenue
Code.

Need for Correction

As published, the removal of tempo-
rary regulations (T.D. 8699) contains an
error which may prove to be misleading
and is in need of clarification.

Correction of Publication

Accordingly, the publication of the
removal of temporary regulations (T.D.
8699) which is the subject of FR Doc.
96-32249 is corrected as follows:

On page 67212, column 3, in the
heading, the RIN “**RIN 1545-AS19**” is
corrected to read “**RIN 1545-AV06**”.

Cynthia E. Grigsby,
*Chief, Regulations Unit,
Assistant Chief Counsel (Corporate).*

(Filed by the Office of the Federal Register on
March 11, 1997, 8:45 a.m., and published in the
issue of the Federal Register for March 12, 1997,
62 F.R. 11324)

**Consolidated Returns—Limitations
on the Use of Certain Losses and
Deductions; Correction**

Announcement 97-41

AGENCY: Internal Revenue Service
(IRS), Treasury.

ACTION: Correction to final and tem-
porary regulations.

SUMMARY: This document contains a
correction to final and temporary regula-

tions (T.D. 8677[1996-30 I.R.B. 7])
which were published in the Federal
Register on Thursday, June 27, 1996 (61
FR 33321). The final and temporary
regulations relate to the deductions and
losses of members and also to the
carryover and carryback of losses to
consolidated and separate return years
and to the built-in deduction rules.

EFFECTIVE DATE: June 27, 1996.

FOR FURTHER INFORMATION CON-
TACT: Diana Fulton at (202) 622-7550
(not a toll-free number).

SUPPLEMENTARY INFORMATION

Background

The final and temporary regulations
that are the subject of this correction are
under section 1502 of the Internal Re-
venue Code.

Need for Correction

As published, the final and temporary
regulations contain an error which may
prove to be misleading and is in need of
clarification.

Correction of Publication

Accordingly, the publication of the
final and temporary regulations [T.D.
8677] which are the subject of FR Doc.
96-15823 is corrected as follows:

§ 1.1502-13 [Corrected]

On page 33323, the twentieth entry in
the table is corrected to read as follows:

| Affected section | Remove | Add |
|----------------------------------|------------------|------------|
| * * * | * * * | * * * |
| 1.1502-13(h)(2), Example 2(b) | 1.1502- 22(c) | 1.1502-22T |
| * * * | * * * | * * * |

Cynthia E. Grigsby,
*Chief, Regulations Unit,
Assistant Chief Counsel (Corporate).*

(Filed by the Office of the Federal Register on
March 14, 1997, 8:45 a.m., and published in the
issue of the Federal Register for March 17, 1997,
62 F.R. 12541)

Announcement of the Expedited Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service

Under title 31 of the Code of Federal Regulations, section 10.76, the Director of Practice is authorized to immediately suspend from practice before the Internal Revenue Service any practitioner who, within five years, from the date the expedited proceeding is instituted, (1) has had a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause; or (2) has been convicted of any crime under title 26 of the United States Code or, of a felony under title 18 of the United States Code involving dishonesty or breach of trust.

Attorneys, certified public accountants, enrolled agents and enrolled actu-

aries are prohibited in any Internal Revenue Service matter from directly or indirectly employing, accepting assistance from, being employed by, or sharing fees with, any practitioner disbarred or suspended from practice before the Internal Revenue Service.

To enable attorneys, certified public accountants, enrolled agents, and enrolled actuaries to identify practitioners under expedited suspension from practice before the Internal Revenue Service, the Director of Practice will announce in the Internal Revenue Bulletin the names and addresses of practitioners who have been suspended from such practice, their designation as attorney, certified public

accountant, enrolled agent, or enrolled actuary, and date or period of suspension. This announcement will appear in the weekly Bulletin at the earliest practicable date after such action and will continue to appear in the weekly Bulletins for five successive weeks or for as many weeks as is practicable for each attorney, certified public accountant, enrolled agent, or enrolled actuary so suspended and will be consolidated and published in the Cumulative Bulletin.

The following individuals have been placed under suspension from practice before the Internal Revenue Service by virtue of the expedited proceeding provisions of the applicable regulations:

| Name | Address | Designation | Date of Suspension |
|---------------------|-------------------|-------------|-----------------------------------|
| Loberg, Thomas | St. Paul, MN | CPA | Indefinite from November 13, 1996 |
| Rose Ann Galati | Thousand Oaks, CA | CPA | Indefinite from November 25, 1996 |
| Labendeira, Anthony | Fresno, CA | CPA | Indefinite from November 25, 1996 |
| Nation, D. Mark | Albuquerque, NM | CPA | Indefinite from November 25, 1996 |
| Behren, Daryl D. | Visalia, CA | CPA | Indefinite from November 25, 1996 |
| Murphy, Virginia T. | Laurinburg, NC | CPA | Indefinite from November 25, 1996 |
| Best III, James M. | Monroe, NC | CPA | Indefinite from November 25, 1996 |
| Rehm, Aysha | Tulsa, OK | CPA | Indefinite from November 25, 1996 |
| Dineen, Lee M. | Castle Hayne, NC | CPA | Indefinite from December 12, 1996 |
| Miele, Ralph J. | North Babylon, NY | CPA | Indefinite from February 14, 1997 |

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 law 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 the 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 Contribution 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.—Statements 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 List¹

Bulletin 1997-1 through 1997-15

Announcements:

97-1, 1997-2 I.R.B. 63
97-2, 1997-2 I.R.B. 63
97-3, 1997-2 I.R.B. 63
97-4, 1997-3 I.R.B. 14
97-5, 1997-3 I.R.B. 15
97-6, 1997-4 I.R.B. 11
97-7, 1997-4 I.R.B. 12
97-8, 1997-4 I.R.B. 12
97-9, 1997-5 I.R.B. 27
97-10, 1997-10 I.R.B. 64
97-11, 1997-6 I.R.B. 19
97-12, 1997-7 I.R.B. 55
97-13, 1997-8 I.R.B. 38
97-14, 1997-8 I.R.B. 38
97-15, 1997-9 I.R.B. 23
97-16, 1997-9 I.R.B. 23
97-17, 1997-9 I.R.B. 23
97-18, 1997-10 I.R.B. 67
97-19, 1997-10 I.R.B. 68
97-20, 1997-11 I.R.B. 22
97-21, 1997-11 I.R.B. 23
97-22, 1997-12 I.R.B. 47
97-23, 1997-11 I.R.B. 23
97-24, 1997-11 I.R.B. 24
97-25, 1997-12 I.R.B. 47
97-26, 1997-12 I.R.B. 48
97-27, 1997-13 I.R.B. 30
97-28, 1997-14 I.R.B. 15
97-29, 1997-14 I.R.B. 16
97-30, 1997-14 I.R.B. 16
97-31, 1997-14 I.R.B. 16
97-32, 1997-14 I.R.B. 17
97-33, 1997-15 I.R.B. 8
97-34, 1997-15 I.R.B. 8
97-35, 1997-15 I.R.B. 9
97-36, 1997-15 I.R.B. 10
97-37, 1997-15 I.R.B. 10
97-38, 1997-15 I.R.B. 10

Notices:

97-1, 1997-2 I.R.B. 22
97-2, 1997-2 I.R.B. 22
97-3, 1997-1 I.R.B. 8
97-4, 1997-2 I.R.B. 24
97-5, 1997-2 I.R.B. 25
97-6, 1997-2 I.R.B. 26
97-7, 1997-1 I.R.B. 8
97-8, 1997-4 I.R.B. 7
97-9, 1997-2 I.R.B. 35
97-10, 1997-2 I.R.B. 41
97-11, 1997-2 I.R.B. 50
97-12, 1997-3 I.R.B. 11
97-13, 1997-6 I.R.B. 13
97-14, 1997-8 I.R.B. 23
97-15, 1997-8 I.R.B. 23
97-16, 1997-9 I.R.B. 15
97-17, 1997-10 I.R.B. 34
97-18, 1997-10 I.R.B. 35
97-19, 1997-10 I.R.B. 40
97-20, 1997-10 I.R.B. 52
97-21, 1997-11 I.R.B. 9
97-22, 1997-13 I.R.B. 9
97-23, 1997-14 I.R.B. 8

Proposed Regulations:

REG-209332-80, 1997-14 I.R.B. 9
REG-209040-88, 1997-7 I.R.B. 34
REG-209121-89, 1997-11 I.R.B. 15
REG-208288-90, 1997-11 I.R.B. 14
REG-209494-90, 1997-8 I.R.B. 24
REG-208172-91, 1997-10 I.R.B. 59
REG-209672-93, 1997-6 I.R.B. 15
REG-209709-94, 1997-13 I.R.B. 12
REG-209729-94, 1997-11 I.R.B. 19
REG-209762-95, 1997-3 I.R.B. 12
REG-209817-96, 1997-7 I.R.B. 41
REG-209824-96, 1997-11 I.R.B. 19
REG-254394-96, 1997-14 I.R.B. 14
REG-209828-96, 1997-6 I.R.B. 15
REG-209830-96, 1997-15 I.R.B. 7
REG-209834-96, 1997-4 I.R.B. 9
REG-209839-96, 1997-8 I.R.B. 26
REG-242996-96, 1997-9 I.R.B. 18
REG-246018-96, 1997-8 I.R.B. 30
REG-247678-96, 1997-6 I.R.B. 17
REG-247862-96, 1997-8 I.R.B. 32
REG-248770-96, 1997-8 I.R.B. 33
REG-249819-96, 1997-7 I.R.B. 50
REG-252231-96, 1997-7 I.R.B. 52
REG-252233-96, 1997-9 I.R.B. 19
REG-252665-96, 1997-12 I.R.B. 46

Revenue Procedures:

97-1, 1997-1 I.R.B. 11
97-2, 1997-1 I.R.B. 64
97-3, 1997-1 I.R.B. 84
97-4, 1997-1 I.R.B. 96
97-5, 1997-1 I.R.B. 132
97-6, 1997-1 I.R.B. 153
97-7, 1997-1 I.R.B. 185
97-8, 1997-1 I.R.B. 187
97-9, 1997-2 I.R.B. 56
97-10, 1997-2 I.R.B. 59
97-11, 1997-6 I.R.B. 13
97-12, 1997-4 I.R.B. 7
97-13, 1997-5 I.R.B. 18
97-14, 1997-5 I.R.B. 20
97-15, 1997-5 I.R.B. 21
97-16, 1997-5 I.R.B. 25
97-17, 1997-9 I.R.B. 15
97-18, 1997-10 I.R.B. 53
97-19, 1997-10 I.R.B. 55
97-20, 1997-11 I.R.B. 10
97-21, 1997-12 I.R.B. 44
97-22, 1997-13 I.R.B. 9

Revenue Rulings:

97-1, 1997-2 I.R.B. 10
97-2, 1997-2 I.R.B. 7
97-3, 1997-2 I.R.B. 5
97-4, 1997-3 I.R.B. 6
97-5, 1997-4 I.R.B. 5
97-6, 1997-4 I.R.B. 4
97-7, 1997-5 I.R.B. 14
97-8, 1997-7 I.R.B. 4
97-9, 1997-9 I.R.B. 4
97-10, 1997-10 I.R.B. 31
97-11, 1997-10 I.R.B. 5
97-12, 1997-11 I.R.B. 5
97-14, 1997-11 I.R.B. 5
97-15, 1997-12 I.R.B. 42
97-16, 1997-13 I.R.B. 4
97-17, 1997-14 I.R.B. 5
97-18, 1997-15 I.R.B. 4

Social Security Domestic Coverage Threshold

1997-9, I.R.B. 17

Treasury Decisions:

8688, 1997-3 I.R.B. 7
8689, 1997-3 I.R.B. 9
8690, 1997-5 I.R.B. 5
8691, 1997-5 I.R.B. 16
8692, 1997-3 I.R.B. 4
8693, 1997-6 I.R.B. 9
8694, 1997-6 I.R.B. 11
8695, 1997-4 I.R.B. 5
8696, 1997-6 I.R.B. 4
8697, 1997-2 I.R.B. 11
8698, 1997-7 I.R.B. 29
8699, 1997-6 I.R.B. 4
8700, 1997-7 I.R.B. 5
8701, 1997-7 I.R.B. 23
8702, 1997-8 I.R.B. 4
8703, 1997-8 I.R.B. 18
8704, 1997-8 I.R.B. 12
8705, 1997-8 I.R.B. 16
8706, 1997-9 I.R.B. 11
8707, 1997-7 I.R.B. 17
8708, 1997-10 I.R.B. 14
8709, 1997-9 I.R.B. 5
8710, 1997-13 I.R.B. 4
8711, 1997-12 I.R.B. 35
8712, 1997-12 I.R.B. 4
8713, 1997-14 I.R.B. 4
8714, 1997-15 I.R.B. 5

¹A cumulative list of all Revenue Rulings, Revenue Procedures, Treasury Decisions, etc., published in Internal Revenue Bulletins 1996-27 through 1996-53 will be found in Internal Revenue Bulletin 1997-1, dated January 6, 1997.

Finding List of Current Action on Previously Published Items¹

Bulletin 1997-1 through 1997-15

*Denotes entry since last publication

Revenue Procedures:

66-3

Modified by
97-11, 1997-6 I.R.B. 13

87-21

Modified by
97-11, 1997-6 I.R.B. 13

92-20

Modified by
97-1, 1997-1 I.R.B. 11

92-20

Modified by
97-10, 1997-2 I.R.B. 59

92-90

Superseded by
97-1, 1997-1 I.R.B. 11

94-52

Revoked by
97-11, 1997-6 I.R.B. 13

96-1

Superseded by
97-1, 1997-1 I.R.B. 11

96-2

Superseded by
97-2, 1997-1 I.R.B. 64

96-3

Superseded by
97-3, 1997-1 I.R.B. 84

96-4

Superseded by
97-4, 1997-1 I.R.B. 96

96-5

Superseded by
97-5, 1997-1 I.R.B. 132

96-6

Superseded by
97-6, 1997-1 I.R.B. 153

96-7

Superseded by
97-7, 1997-1 I.R.B. 185

96-8

Superseded by
97-8, 1997-1 I.R.B. 187

97-2

Amplified by
97-21, 1997-12 I.R.B. 44

Revenue Rulings:

70-480

Revoked by
97-6, 1997-4 I.R.B. 4

72-527

Obsolated by
8704, 1997-8 I.R.B. 12

Revenue Rulings—Continued

74-59

Revoked by
8708, 1997-10 I.R.B. 14

92-19

Supplemented in part by
97-2, 1997-2 I.R.B. 7

96-12

Superseded by
97-3, 1997-1 I.R.B. 84

96-13

Modified by
97-1, 1997-1 I.R.B. 11

96-22

Superseded by
97-3, 1997-1 I.R.B. 84

96-34

Superseded by
97-3, 1997-1 I.R.B. 84

96-39

Superseded by
97-3, 1997-1 I.R.B. 84

96-43

Superseded by
97-3, 1997-1 I.R.B. 84

96-56

Superseded by
97-3, 1997-1 I.R.B. 84

¹A cumulative finding list for previously published items mentioned in Internal Revenue Bulletins 1996-27 through 1996-53 will be found in Internal Revenue Bulletin 1997-1, dated January 6, 1997.