

## 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. 97-28, page 4.**

**LIFO; price indexes; department stores.** The May 1997 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, May 31, 1997.

**Rev. Rul. 97-29, page 4.**

**Retail motor fuels outlet.** A retail motor fuels outlet is 15-year property for depreciation purposes whether or not the taxpayer-owner is the operator of the motor fuels business.

### EMPLOYEE PLANS

**Del. Order 172 (Rev. 5), page 6.**

This order gives authority to waive all or part of the excise tax imposed under Code section 4971(f), with respect to liquidity shortfalls within the meaning of Code section 412(m)(5)(E), to the Director of the Employee Plans Division and may be redelegated to branch chiefs within the division.

### EXEMPT ORGANIZATIONS

**Announcement 97-68, page 13.**

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

**Announcement 97-69, page 13.**

A list is provided of organizations that no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

### EMPLOYMENT TAX

**Page 5.**

**Railroad retirement; rate determination; quarterly.** The Railroad Retirement Board has determined that the rate of tax imposed by Code section 3221 shall be 35 cents for the quarter beginning July 1, 1997.

### EXCISE TAX

**Notice 97-41, page 6.**

T.D. 8716, 1997-19 I.R.B. 5, relating to group health plan portability, access, and renewability requirements added to section 9801 of the Code by the Health Insurance Portability and Accountability Act of 1996, is corrected.

### ADMINISTRATIVE

**Notice 97-40, page 6.**

This notice announces that for periods on or after July 1, 1997, when China resumes the exercise of sovereignty over Hong Kong, the Service will continue to treat Hong Kong and China as two separate countries for purposes of certain bilateral agreements, the Internal Revenue Code (including subpart F), and the Income Tax Regulations.

## **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 a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a quarterly and semiannual basis, and are published in the first Bulletin of the succeeding quarterly and semiannual 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 168.—Accelerated Cost Recovery System

**Retail motor fuels outlet.** A retail motor fuels outlet is 15-year property for depreciation purposes whether or not the taxpayer-owner is the operator of the motor fuels business.

### Rev. Rul. 97-29

#### ISSUE

If a taxpayer is the owner, but not the operator, of a retail motor fuels outlet, is the outlet 15-year property for depreciation purposes under § 168(e)(3)(E) of the Internal Revenue Code?

#### FACTS

A retail motor fuels outlet may be owned by one entity and operated by another entity. Often, the owner of the property leases the property to an operator. In addition, businesses other than the motor fuels business may operate in the same building. For example, an outlet building may contain a restaurant or video arcade. These businesses may be owned and operated by different taxpayers that make payments to the owner of the outlet building or to a sublessor.

#### LAW AND ANALYSIS

Section 1120 of the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 110 Stat. 1755 (1996) (the Act), amended § 168(e)(3)(E) to provide that 15-year property includes any § 1250 property that is a retail motor fuels outlet whether or not food or other convenience items are sold at the outlet. The legislative history of the Act provides that property will qualify as a

retail motor fuels outlet if 50 percent or more of the gross revenues generated from the property are derived from petroleum sales, or 50 percent or more of the floor space in the property is devoted to petroleum marketing sales. A motor fuels outlet of 1400 square feet or less qualifies as a retail motor fuels outlet under the Act without application of either 50 percent test. S. Rep. No. 281, 104th Cong., 2d Sess. 14-16 (1996).

Section 168(e)(3)(E) provides that any § 1250 property that qualifies as a retail motor fuels outlet is 15-year property. There is no distinction between an owner of a retail motor fuels outlet that also operates the motor fuels business and an owner that does not operate the motor fuels business. Accordingly, § 1250 property the use of which meets the definition of a retail motor fuels outlet is treated as 15-year property for depreciation purposes whether or not the owner is the operator. In applying the 50-percent gross revenues test to determine if the property qualifies as a retail motor fuels outlet, the owner of an outlet building must aggregate the gross revenues of all businesses operated in the outlet building whether or not such businesses are operated by the owner.

#### HOLDING

A retail motor fuels outlet is 15-year property for depreciation purposes under § 168(e)(3)(E) whether or not the taxpayer-owner is the operator of the motor fuels business.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is Mark Pitzer of the office of Assistant Chief Counsel (Passthroughs

and Special Industries). For further information regarding this revenue ruling, contact Mark Pitzer at (202) 622-3110 (not a toll-free call).

## Section 472.—Last-in, First-out Inventories

26 CFR 1.472-1: Last-in, first-out inventories.

**LIFO; price indexes; department stores.** The May 1997 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, May 31, 1997.

### Rev. Rul. 97-28

The following Department Store Inventory Price Indexes for May 1997 were issued by the Bureau of Labor Statistics on June 17, 1997. The indexes are accepted by the Internal Revenue Service, under § 1.472-1(k) of the Income Tax Regulations and Rev. Proc. 86-46, 1986-2 C.B. 739, for appropriate application to inventories of department stores employing the retail inventory and last-in, first-out inventory methods for tax years ended on, or with reference to, May 31, 1997.

The Department Store Inventory Price Indexes are prepared on a national basis and include (a) 23 major groups of departments, (b) three special combinations of the major groups—soft goods, durable goods, and miscellaneous goods, and (c) a store total, which covers all departments, including some not listed separately, except for the following: candy, foods, liquor, tobacco, and contract departments.

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE  
INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS  
(January 1941 = 100, unless otherwise noted)

Groups	May 1996	May 1997	Percent Change from May 1996 to May 1997 <sup>1</sup>
1. Piece Goods . . . . .	545.1	529.2	-2.9
2. Domestic and Draperies . . . . .	649.3	649.3	0.0
3. Women's and Children's Shoes . . . . .	659.7	663.7	0.6
4. Men's Shoes . . . . .	906.5	918.8	1.4
5. Infants' Wear . . . . .	631.2	642.0	1.7
6. Women's Underwear . . . . .	534.1	537.7	0.7
7. Women's Hosiery . . . . .	286.8	296.7	3.5
8. Women's and Girls' Accessories . . . . .	550.8	566.2	2.8

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE—Continued  
 INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS  
 (January 1941 = 100, unless otherwise noted)

Groups	May 1996	May 1997	Percent Change from May 1996 to May 1997 <sup>1</sup>
9. Women's Outerwear and Girls' Wear .....	417.9	435.1	4.1
10. Men's Clothing .....	626.1	630.2	0.7
11. Men's Furnishings .....	593.3	601.9	1.4
12. Boys' Clothing and Furnishings .....	493.3	500.2	1.4
13. Jewelry .....	1020.1	1004.9	-1.5
14. Notions .....	773.8	755.8	-2.3
15. Toilet Articles and Drugs .....	883.8	907.2	2.6
16. Furniture and Bedding .....	668.0	673.4	0.8
17. Floor Coverings .....	576.1	592.7	2.9
18. Housewares .....	803.9	806.3	0.3
19. Major Appliances .....	245.1	242.0	-1.3
20. Radio and Television .....	79.2	76.7	-3.2
21. Recreation and Education <sup>2</sup> .....	112.8	109.8	-2.7
22. Home Improvements <sup>2</sup> .....	127.2	132.4	4.1
23. Auto Accessories <sup>2</sup> .....	107.4	107.2	-0.2
Groups 1 - 15: Soft Goods .....	603.0	612.3	1.5
Groups 16 - 20: Durable Goods .....	467.6	465.4	-0.5
Groups 21 - 23: Misc. Goods <sup>2</sup> .....	113.7	112.2	-1.3
Store Total <sup>3</sup> .....	556.3	560.7	0.8

<sup>1</sup> Absence of a minus sign before percentage change in this column signifies price increase.

<sup>2</sup> Indexes on a January 1986 = 100 base.

<sup>3</sup> The store total index covers all departments, including some not listed separately, except for the following: candy, foods, liquor, tobacco, and contract departments.

**DRAFTING INFORMATION**

The principal author of this revenue ruling is Stan Michaels of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Mr. Michaels on (202) 622-4970 (not a toll-free call).

**Section 894.—Income Affected By Treaty**

For periods on or after July 1, 1997, when China resumes the exercise of sovereignty over Hong Kong, the Internal Revenue Service will continue to treat Hong Kong and China as two separate countries for purposes of certain bilateral agreements and the Internal Revenue Code and Income Tax Regulations. See Notice 97-40, page 6.

**Section 3221.—Rate of Tax**

**Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program**

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1997, shall be at the rate of 35 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quar-

ter beginning July 1, 1997, 31.0 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 69.0 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By Authority of the Board.  
 Dated May 28, 1997.

Beatrice Ezerski,  
*Secretary to the Board.*

(Filed by the Office of the Federal Register on June 4, 1997, 8:45 a.m., and published in the issue of the Federal Register for June 5, 1997, 62 F.R. 30901)

## Part III. Administrative, Procedural, and Miscellaneous

### Delegation Order No. 172 (Rev. 5)

#### Delegation of Authority

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Delegation of authority.

**SUMMARY:** The authority of the Commissioner of Internal Revenue to waive all or part of the excise tax imposed under section 4971(f) of the Internal Revenue Code (Code) with respect to liquidity shortfalls within the meaning of section 412(m)(5)(E) of the Code is delegated to the Director, Employee Plans Division, and may be redelegated to branch chiefs within the division. The text of the delegation order appears below.

**EFFECTIVE DATE:** June 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** John H. Turner, CP:E:EP:P:2, Room 6702, 1111 Constitution Avenue, NW, Washington, DC 20224, (202) 622-6214 (not a toll-free number).

### Delegation Order No. 172 (Rev. 5)

*Effective:* June 15, 1997.

Waiver of Excise Taxes Imposed Under Section 4971 of the Internal Revenue Code.

**Authority:** To waive all or part of the 100% excise tax imposed under section 4971(b) of the Internal Revenue Code in accordance with subsection (b) of section 3002 of the Employee Retirement Income Security Act of 1974 (ERISA).

*Delegated to:* Director, Employee Plans Division.

*Redelegation:* This authority may be redelegated to branch chiefs within the division for waivers that are not deemed substantial. For purposes of this order, a substantial waiver is a waiver of the additional tax liability resulting from a computation based on an accumulated funding deficiency in excess of one million dollars.

**Authority:** To waive all or part of the excise tax imposed by section 4971(f) of the Internal Revenue Code with respect to liquidity shortfalls within the meaning of section 412(m)(5)(E).

*Delegated to:* Director, Employee Plans Division.

*Redelegation:* This authority may be redelegated to branch chiefs within the division.

**Source of Authority:** Treasury Order 150-10.

To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.

This order supersedes Delegation Order No. 172 (Rev. 4), which was effective 12-31-96.

Approved April 15, 1997.

James E. Donelson,  
*Acting Chief Compliance Officer.*

(Filed by the Office of the Federal Register on May 28, 1997, 8:45 a.m., and published in the issue of the Federal Register for May 29, 1997, 62 F.R. 29187)

### Treatment of Hong Kong and China

#### Notice 97-40

This Notice sets forth the Service's position on the treatment of the Hong Kong Special Administrative Region of the People's Republic of China (Hong Kong) and The People's Republic of China (China) on and after July 1, 1997, for purposes of the application of certain bilateral agreements and the Internal Revenue Code and Income Tax Regulations, including subpart F of the Code. Under the 1984 Sino-British Joint Declaration, China and the United Kingdom agreed that China will resume the exercise of sovereignty over Hong Kong on July 1, 1997.

#### I. U.S.-China Tax Convention

The Agreement Between the Government of the United States of America and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Tax Evasion with Respect to Taxes on Income, T.I.A.S. No. 12065, 1988-1 C.B. 414 (the "Convention"), provides that its geographical scope is limited to the areas in which the laws relating to Chinese tax (as defined in Article 2(1) of the Convention) are in force. This limitation precludes application of the Convention to Hong Kong because the relevant law governing Hong Kong as of July 1, 1997, provides that the laws relating to Chinese tax will not apply in Hong Kong on or after July 1, 1997. The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, Articles 106 and 108 (1990); S. Exec. Rep. No. 7, 99th Cong., 1st Sess. 14-15, 18-19 (1985).

#### II. Reciprocal Shipping Exemption

On and after July 1, 1997, the Agreement between the Government of the United States of America and the Government of Hong Kong for the Reciprocal Exemption with Respect to Taxes on Income from the International Operation of Ships, effected by an exchange of notes, T.I.A.S. No. 11892, 1995-1 C.B. 228 (the "Shipping Agreement"), will continue to apply in accordance with its terms. The Shipping Agreement will not apply with respect to China.

#### III. Internal Revenue Code

Hong Kong has historically been treated as a separate country for purposes of the Internal Revenue Code and Income Tax Regulations, including subpart F of the Code. Consistent with the treatment of Hong Kong and China as separate countries under the Convention and the Shipping Agreement on and after July 1, 1997, the Service will continue to treat Hong Kong and China as separate countries on and after July 1, 1997, for purposes of the Code and regulations, including subpart F. See United States-Hong Kong Policy Act of 1992, § 201, 22 U.S.C. § 5721 (1996) (providing that notwithstanding any change in the exercise of sovereignty over Hong Kong, the laws of the United States will continue to apply with respect to Hong Kong on and after July 1, 1997, in the same manner as before that date unless otherwise expressly provided by law or Executive Order).

The principal author of this notice is Valerie Mark of the Office of the Associate Chief Counsel (International). For further information regarding this notice, contact Ms. Mark at (202) 622-3840 (not a toll-free call).

### Interim Rules for Health Insurance Portability for Group Health Plans; Correction

#### Notice 97-41

**AGENCIES:** Internal Revenue Service, Department of the Treasury; Pension and Welfare Benefits Administration, Department of Labor; Health Care Financing Administration, Department of Health and Human Services.

ACTION: Correction to interim rules.

SUMMARY: This document contains corrections to interim rules which were published in the **Federal Register** on Tuesday, April 8, 1997 (62 FR 16894 [T.D. 8716, 1997-19 I.R.B. 5]). The interim rules govern the access, portability and renewability requirements for group health plans and issuers of health insurance coverage offered in connection with a group health plan under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

EFFECTIVE DATE: June 1, 1997.

FOR FURTHER INFORMATION CONTACT: Julie Walton, Health Care Financing Administration, at 410-786-1565; Amy J. Scheingold, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Department of Labor, at 202-219-4377; or Russ Weinheimer, Internal Revenue Service, at 202-622-4695. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

### Background

The interim rules that are subject to these corrections are issued under sections 102(c)(4), 101(g)(4), and 401(c)(4) of HIPAA.

### Need for Correction

As published, the interim rules contain errors which may prove to be misleading and are in need of clarification.

### Correction of Publication

Accordingly, the publication of the interim rules which are the subject of FR Doc. 97-8275 is corrected as follows:

1. On page 16895, column 3, in the preamble under the paragraph heading “**C. Overview of Coordination of Group Market Regulation Among Departments**”, line 3 from the top of the column, the language “Part A of Title XXVII of the PHS Act, a” is corrected to read “Title XXVII of the PHS Act, a”.

2. On page 16896, column 1, in the preamble under the paragraph heading “**D. Special Information Concerning State Insurance Law**”, line 2 from the bottom of the column, the language “sections 144 through 148 in the PHS Act” is corrected to read “parts 144 through 148 in the PHS Act”.

3. On page 16896, column 2, in the preamble under the paragraph heading “**D. Special Information Concerning State Insurance Law**”, lines 3 through 7, the language “(See section 146) and the individual market (see section 148). The group market is further divided into the large group market and the small group market. Section 146 of the PHS Act” is corrected to read “(see part 146) and the individual market (see part 148). The group market is further divided into the large group market and the small group market. Part 146 of the PHS Act”.

4. On page 16896, column 2, in the preamble, the paragraph heading “*Definitions—26 CFR 54.9801-2, 29 CFR 2590.701-2, 45 CFR 144.103*”, is corrected to read “*Definitions—26 CFR 54.9801-2T, 29 CFR 2590.701-2, 45 CFR 144.103*”.

5. On page 16896, column 3, in the preamble, the paragraph heading “*Limitation on Preexisting Condition Exclusion Period—26 CFR 54.9801-3, 29 CFR 2590.71-3, 45 CFR 146.111*”, is corrected to read “*Limitation on Preexisting Condition Exclusion Period—26 CFR 54.9801-3T, 29 CFR 2590.701-3, 45 CFR 146.111*”.

6. On page 16896, column 3, in footnote 4, in the last line, the reference to “26 CFR 54.9801-3” is corrected to read “26 CFR 54.9801-3T”.

7. On page 16897, column 3, in the preamble, the paragraph heading “*Rules Relating to Creditable Coverage—26 CFR 54.9801-4, 29 CFR 2590.701-4, 45 CFR 146.113*” is corrected to read “*Rules Relating to Creditable Coverage—26 CFR 54.9801-4T, 29 CFR 2590.701-4, 45 CFR 146.113*”.

8. On page 16899, column 1, in the preamble, the paragraph heading “*Certificates and Disclosure of Previous Coverage—26 CFR 54.9801-5, 29 CFR 2590.701-5, 45 CFR 146.115*” is corrected to read “*Certificates and Disclosure of Previous Coverage—26 CFR 54.9801-5T, 29 CFR 2590.701-5, 45 CFR 146.115*”.

9. On page 16899, column 2, in the preamble under the paragraph heading “*Certificates and Disclosure of Previous Coverage—26 CFR 54.9801-5T, 29 CFR 2590.701-5, 45 CFR 146.115*”, the first full paragraph, line 2, the language “Paragraph (a)(5) describes the rights of” is corrected to read “Paragraph (a)(2) describes the rights of”.

10. On page 16900, column 3, in the preamble under the paragraph heading “*Certificates and Disclosure of Previous*

*Coverage—26 CFR 54.9801-5T, 29 CFR 2590.701-5, 45 CFR 146.115*”, lines 6 and 7 from the top of the column, the language “category of benefits described in paragraph (b). The requested entity may” is corrected to read “of the specified categories of benefits. The requested entity may”.

11. On page 16900, column 3, in the preamble under the heading of the model form “**Information on Categories of Benefits**”, in the unnumbered paragraph of the model form, lines 1 through 7 are corrected as follows:

‘For each category above, (i) enter ‘N/A’ if the individual had no coverage within the category, (ii) enter both the date that the individual’s coverage within the category began and the date that the individual’s coverage within the category ended (or indicate if continuing), or (iii) enter ‘same’ ’.

12. On page 16901, column 2, in the preamble under the heading of the model certificate “**Certificate of Group Health Plan Coverage**”, number 8, line 2, the language “line 5 has at least 18 months of creditable” is corrected to read “line 5 has (have) at least 18 months of creditable”.

13. On page 16901, column 2, in the preamble under the heading of the model certificate “**Certificate of Group Health Plan Coverage**”, in the paragraph entitled “**Note:**”, last line, the language “the participant and each beneficiary.” is corrected to read “the participant and each dependent.”.

14. On page 16901, column 2, in the preamble, the paragraph heading “*Special Enrollment Periods—26 CFR 54.9801-6, 29 CFR 2590.701-6, 45 CFR 146.117*” is corrected to read “*Special Enrollment Periods—26 CFR 54.9801-6T, 29 CFR 2590.701-6, 45 CFR 146.117*”.

15. On page 16902, column 2, in the preamble, the paragraph heading “*Non-discrimination in Eligibility and Premiums in the Group Market—26 CFR 54.9802-1, 29 CFR 2590.702, 45 CFR 146.121*” is corrected to read “*Nondiscrimination in Eligibility and Premiums in the Group Market—26 CFR 54.9802-1T, 29 CFR 2590.702, 45 CFR 146.121*”.

16. On page 16903, column 2, in the preamble, the paragraph heading “*Special Rules—Excepted Plans and Excepted Benefits—26 CFR 54.9804-1, 29 CFR 2590.732, 45 CFR 146.145*” is corrected to read “*Special Rules—Excepted Plans and Excepted Ben-*

*efits—26 CFR 54.9804-1T, 29 CFR 2590.732, 45 CFR 146.145*”.

17. On page 16906, column 2, in the preamble, the paragraph heading “*Effective Dates—26 CFR 54.9806-1, 29 CFR 2590.736, 45 CFR 146.125*” is corrected to read “*Effective Dates—26 CFR 54.9806-1T, 29 CFR 2590.736, 45 CFR 146.125*”.

18. On page 16907, column 1, in the preamble, under the paragraph heading “**G. Interim Rules and Request for Comments**”, line 3, the language “NMHPA), Section 2707 of the PHS Act,” is corrected to read “NMHPA), Section 2792 of the PHS Act,”.

19. On page 16909, column 2, in the preamble, the fourth full paragraph, line 9, the language “help level the playing for small” is corrected to read “help level the playing field for small”.

20. On page 16913, column 2, in the preamble, the second full paragraph, line 10, the language “explore innovative options and intend” is corrected to read “explore innovative options and HHS intends”.

20a. On page 16919, column 2, in the preamble, under the paragraph heading “Exclusion of Certain Plans from the PHS Act Group Market Requirements”, first paragraph, line 8, the language “Act. Section 146.180(b) includes rules” is corrected to read “Act. Section 146.180 includes rules”.

21. On page 16921, column 2, in the preamble, line 2 from the top of the column, the language “for certification (29 CFR 2590.710(e) and” is corrected to read “for certification (29 CFR 2590.736(e) and”.

22. On page 16923, column 1, in the preamble, the paragraph heading “*Estimated Total Burden Cost*” is removed.

23. On page 16924, column 2, in the preamble, the paragraph heading “*45 CFR 146.120 Certificates and Disclosure of Previous Coverage*” is corrected to read “*45 CFR 146.115 Certificates and Disclosure of Previous Coverage*”.

24. On page 16925, column 1, in the preamble, the paragraph heading “*45 CFR 146.122 Special Enrollment Periods*” is corrected to read “*45 CFR 146.117 Special Enrollment Periods*”.

25. On page 16925, column 2, in the preamble, lines 1 through 4 from the bottom of the column, the language “annually per issuer, for a total burden of 2,800 hours. The cost associated with this hour burden is estimated to be \$30,800 annually.” is corrected to read “per issuer, for a total burden of 2,800

hours. The cost associated with this hour burden is estimated to be \$30,800.”.

26. On page 16927, column 1, in the preamble, the paragraph heading is corrected to read as follows:

“*45 CFR 146.180 Treatment of Non-Federal Governmental Plans*”.

26a. On page 16927, column 1, in the preamble, under the paragraph heading “*45 CFR 146.180 Treatment of Non-Federal Governmental Plans*”, first paragraph, line 1, the language “Section 145.180(b) includes rules” is corrected to read “Section 146.180 includes rules”.

27. On page 16927, column 2, in the preamble, under the paragraph heading “Statutory Authorities”, the third paragraph, last line, the language “the authority contained in Section.” is corrected to read “the authority contained in 26 U.S.C. 7805, 9806; Sec. 401, Pub. L. 104-191, 101 Stat. 1936.”.

## **26 CFR PART 54 [CORRECTED]**

### **§ 54.9801-1T [Corrected]**

28. On page 16927, column 3, § 54.9801-1T, paragraph (c), line 6, the language “sections 701, 702, 703, 705, and 706 of” is corrected to read “sections 701, 702, 703, 732, and 733 of”.

### **§ 54.9801-2T [Corrected]**

29. On page 16928, column 1, § 54.9801-2T, paragraph (3) of the definition for “*COBRA*”, line 2, the language “means sections 601-608 of the ERISA,” is corrected to read “means sections 601-608 of ERISA.”.

### **§ 54.9801-3T [Corrected]**

30. On page 16930, column 1, § 54.9801-3T, paragraph (a)(1)(iii), line 2 from the top of the column, the language “coverage’ as such term is used in” is corrected to read “coverage’ as such phrase is used in”.

31. On page 16930, column 3, § 54.9801-3T, paragraph (b)(1)(ii), paragraph (ii) of the *Example.*, line 5 from the bottom of the paragraph, the language “to 2 months for any preexisting condition of” is corrected to read “to 65 days for any preexisting condition of”.

### **§ 54.9801-4T [Corrected]**

32. On page 16931, column 3, § 54.9801-4T, paragraph (b)(2)(iv), paragraph (i) of *Example 6.*, line 5, the language “ceases. C is then unemployed

for 51 days” is corrected to read “ceases. C is then unemployed and does not have any creditable coverage for 51 days”.

33. On page 16932, column 1, § 54.9801-4T, paragraph (b)(2)(iv), paragraph (ii) of *Example 7.*, line 3, the language “coverage under the policy ultimately became” is corrected to read “and coverage under the policy ultimately became”.

34. On page 16932, column 1, § 54.9801-4T, paragraph (b)(2)(v)(B), paragraph (ii) of the *Example.*, line 9, the language “month anniversary of her enrollment (May)” is corrected to read “month anniversary of F’s enrollment (May)”.

### **§ 54.9801-5T [Corrected]**

35. On page 16933, column 1, § 54.9801-5T, paragraph (a)(1)(i), lines 3 and 4 from the top of the column, the language “accordance with this paragraph (a) of this section. (See PHS section 2701(e))” is corrected to read “accordance with this paragraph (a). (See PHS section 2701(e))”.

36. On page 16933, column 2, § 54.9801-5T, paragraph (a)(1)(iv)(B)(1), line 24, the language “request made under paragraph (b)(2) of” is corrected to read “request made under paragraph (b)(1) of”.

37. On page 16933, column 2, § 54.9801-5T, paragraph (a)(1)(iv)(B)(2), paragraph (i) of the *Example.*, lines 7 through 9, the language “agreement with the plan to provide automatic certificates as permitted under paragraph (a)(2)(ii) of this section.” is corrected to read “agreement with the plan to provide certificates as permitted under paragraph (a)(1)(iii) of this section.”.

38. On page 16934, column 1, § 54.9801-5T, paragraph (a)(2)(iv), paragraph (i) of *Example 4.*, line 8, the language “expiration of a 30-day grace period, S’s group” is corrected to read “expiration of a 30-day grace period, Employer S’s group”.

39. On page 16934, column 2, § 54.9801-5T, paragraph (a)(2)(iv), paragraph (i) of *Example 5.*, line 2 from the top of the column, the language “premitted under paragraph (a)(2)(iii). Under” is corrected to read “permitted under paragraph (a)(2)(iii) of this section. Under”.

40. On page 16935, column 1, § 54.9801-5T, paragraph (a)(5)(i)(A), line 5, the language “relating to the

dependent coverage. In” is corrected to read “relating to dependent coverage. In”.

41. On page 16935, columns 1 and 2, § 54.9801-5T, paragraph (a)(5)(i)(B), paragraph (ii) of the *Example.*, the last line of column 1 and first line of column 2, the language “the standard in this paragraph (a)(5)(i) of this section that it make reasonable efforts to” is corrected to read “the standard in this paragraph (a)(5)(i) that it make reasonable efforts to”.

42. On page 16935, column 3, § 54.9801-5T, paragraph (a)(6)(ii), line 2 from the bottom of the paragraph, the language “requirements of Subparts 1 and 3 of Part” is corrected to read “requirements of Subparts 1 through 3 of Part”.

43. On page 16936, column 2, § 54.9801-5T, paragraph (c)(2)(ii), line 3 from the top of the column, the language “explanations of benefit claims (EOB) or” is corrected to read “explanations of benefit claims (EOBs) or”.

44. On page 16937, column 1, § 54.9801-5T, paragraph (d)(3), paragraph (ii) of *Example 3.*, last 4 lines of the paragraph, the language “is consistent with the urgency of *H’s health condition* (this determination may be modified as permitted under paragraph (d)(2) of this section).” is corrected to read “is consistent with the urgency of *H’s health condition*. (This determination may be modified as permitted under paragraph (d)(2) of this section.)”.

#### § 54.9801-6T [Corrected]

45. On page 16938, column 1, § 54.9801-6T, paragraph (b)(2), line 6, the language “enrolled, in the plan, the individual” is corrected to read “enrolled, for coverage under the terms of the plan, the individual”.

46. On page 16938, column 1, § 54.9801-6T, paragraph (b)(4) introductory text, line 2, the language “who is eligible, but not enrolled, in the” is corrected to read “who is eligible, but not enrolled, for coverage under the terms of the”.

47. On page 16938, column 1, § 54.9801-6T, paragraph (b)(6), line 4, the language “eligible, but not enrolled, in the plan,” is corrected to read “eligible, but not enrolled, for coverage under the terms of the plan,”.

#### § 54.9806-1T [Corrected]

48. On page 16940, column 1, § 54.9806-1T, paragraph (a)(1), line 6, the language “through 54.9804-1T apply with respect” is corrected to read “through 54.9801-6T, 54.9802-1T, and 54.9804-1T apply with respect”.

49. On page 16940, column 1, § 54.9806-1T, paragraph (a)(2), line 12, the language “1T through 54.9804-1T do not apply to” is corrected to read “1T through 54.9801-6T, 54.9802-1T, and 54.9804-1T do not apply to”.

50. On page 16940, column 1, § 54.9806-1T, paragraph (a)(2), line 3 from the bottom of the paragraph, the language “requirement of such part, is not treated” is corrected to read “requirement of such Chapter, is not treated”.

51. On page 16940, column 3, § 54.9806-1T, paragraph (d), line 11, the language “and a health insurance issuer is not” is corrected to read “and a health insurance issuer are not”.

52. On page 16940, column 3, § 54.9806-1T, paragraph (e)(3)(i), line 4, the language “§ 54.9801-5T(a)(5)(ii), that occur on or” is corrected to read “§ 54.9801-5T(a)(2)(ii), that occur on or”.

53. On page 16940, column 3, § 54.9806-1T, paragraph (e)(3)(iv), last line, the language “5T(a)(5)(iii).” is corrected to read “5T(a)(2)(iii).”

54. On page 16941, column 1, in the signature block, the language “*Assistant Secretary of the Treasury*” is corrected to read “*Acting Assistant Secretary of the Treasury*”.

### 29 CFR PART 2590 [CORRECTED]

#### § 2590.701-2 [Corrected]

55. On pages 16941 and 16942, columns 3 and 1, respectively, § 2590.701-2, the definitions of “*Enrollment date*” and “*Late enrollment*” are corrected to read as follows:

\* \* \* \* \*

*Enrollment date* definitions (*enrollment date* and *first day of coverage*) are set forth in § 2590.701-3(a)(2)(i) and (ii).

\* \* \* \* \*

*Late enrollment* definitions (*late enrollee* and *late enrollment*) are set forth in § 2590.701-3(a)(2)(iii) and (iv).

\* \* \* \* \*

#### § 2590.701-3 [Corrected]

56. On page 16943, column 1, § 2590.701-3, paragraph (a)(1)(i)(C), paragraph (i) of *Example 3.*, line 2 from the bottom of the paragraph, the language “plan. Two months later, *B* is hospitalized” is corrected to read “plan. Two months later, *B* is hospitalized for”.

57. On page 16943, column 2, § 2590.701-3, paragraph (a)(1)(iii), line 2 from the bottom of the paragraph, the language “term is used in section 701(a)(3) of the” is corrected to read “phrase is used in section 701(a)(3) of the”.

58. On page 16944, column 1, § 2590.701-3, paragraph (b)(1)(ii), paragraph (ii) of the *Example.*, line 5 from the bottom of the paragraph, the language “to 2 months for any preexisting condition of” is corrected to read “to 65 days for any preexisting condition of”.

59. On page 16944, column 2, § 2590.701-3, paragraph (c), line 3, the language “plan, and health insurance issuer” is corrected to read “plan, and a health insurance issuer”.

#### § 2590.701-4 [Corrected]

60. On page 16945, column 2, § 2590.701-4, paragraph (b)(2)(iv), paragraph (i) of *Example 6*, line 5, the language “ceases. *C* is then unemployed for 51 days” is corrected to read “ceases. *C* is then unemployed and does not have any creditable coverage for 51 days”.

#### § 2590.701-5 [Corrected]

61. On page 16946, column 2, § 2590.701-5, paragraph (a)(1)(i), last line, the language “this paragraph (a) of this section.” is corrected to read “this paragraph (a).”.

62. On page 16946, column 3, § 2590.701-5, paragraph (a)(1)(iv)(B)(1), line 12 from the bottom of the column, the language “request made under paragraph (b)(2) of” is corrected to read “request made under paragraph (b)(1) of”.

63. On page 16947, column 1, § 2590.701-5, paragraph (a)(1)(iv)(B)(2), paragraph (i) of the *Example.*, last 3 lines, the language “agreement with the plan to provide automatic certificates as permitted under paragraph (a)(2)(ii) of this section.” is corrected to read “agreement with the plan to provide certificates as permitted under paragraph (a)(1)(iii) of this section.”.

64. On page 16947, column 3, § 2590.701-5, paragraph (a)(2)(iv), paragraph (i) of *Example 4.*, line 8, the language “expiration of a 30-day grace period, S’s group” is corrected to read “expiration of a 30-day grace period, Employer S’s group”.

65. On page 16948, column 3, § 2590.701-5, paragraph (a)(5)(i)(A), line 5, the language “relating to the dependent coverage. In” is corrected to read “relating to dependent coverage. In”.

66. On page 16948, column 3, § 2590.701-5, paragraph (a)(5)(i)(B), paragraph (ii) of the *Example.*, lines 2 and 3, the language “the standard in this paragraph (a)(5)(i) of this section that it make reasonable efforts to” is corrected to read “the standard in this paragraph (a)(5)(i) that it make reasonable efforts to”.

66a. On page 16949, column 2, § 2590.701-5, paragraph (a)(6)(ii), line 3 from the top of the column, the language “requirements of subparts 1 and 3 of part” is corrected to read “requirements of Subparts 1 through 3 of Part”.

67. On page 16949, column 3, § 2590.701-5, paragraph (c)(2)(ii), line 5, the language “explanations of benefit claims (EOB) or” is corrected to read “explanations of benefit claims (EOBs) or”.

#### § 2590.701-6 [Corrected]

68. On page 16951, column 3, § 2590.701-6, paragraph (b)(2), line 6, the language “enrolled, in the plan, the individual” is corrected to read “enrolled, for coverage under the terms of the plan, the individual”.

69. On page 16951, column 3, § 2590.701-6, paragraph (b)(4) introductory text, line 2, the language “who is eligible, but not enrolled, in the” is corrected to read “who is eligible, but not enrolled, for coverage under the terms of the”.

70. On page 16951, column 3, § 2590.701-6, paragraph (b)(6), line 4, the language “eligible, but not enrolled, in the plan” is corrected to read “eligible, but not enrolled, for coverage under the terms of the plan”.

#### § 2590.731 [Corrected]

71. On page 16953, column 3, § 2590.731, paragraph (d)(1), line 2, the language “purposes of this § 2590.736 the term” is corrected to read “purposes of this section the term”.

#### § 2590.736 [Corrected]

72. On page 16955, column 1, § 2590.736, paragraph (d), line 11, the language “and a health insurance issuer is not” is corrected to read “and a health insurance issuer are not”.

73. On page 16955, column 1, § 2590.736, paragraph (e)(3)(i), line 4, the language “§ 2590.701-5(a)(5)(ii), that occur on or” is corrected to read “§ 2590.701-5(a)(2)(ii), that occur on or”.

74. On page 16955, column 2, § 2590.736, paragraph (e)(3)(iv), last line, the language “5(a)(5)(iii).” is corrected to read “5(a)(2)(iii).”

#### 45 CFR PART 144 [CORRECTED]

##### § 144.103 [Corrected]

75. On page 16956, column 3, § 144.103, the definitions of “*Creditable coverage*” and “*Enrollment date*” are corrected to read as follows:

\* \* \* \* \*

*Creditable coverage* has the meaning given the term under 45 CFR 146.113(a).

\* \* \* \* \*

*Enrollment date* definitions (*enrollment date* and *first day of coverage*) are set forth in 45 CFR 146.111(a)(2)(i) and (a)(2)(ii).

\* \* \* \* \*

76. On page 16956, column 3, § 144.103, paragraph (2) under the definition “*Excepted benefits*”, line 1, the language “(2) The individual market provisions” is corrected to read “(2) Individual market provisions”.

77. On page 16957, column 2, § 144.103, in the definition “*medical care*”, line 1, the language “*Medical care* or *condition means*” is corrected to read “*Medical care* means”.

78. On page 16957, column 2, § 144.103, in the definition “*medical condition*”, line 1, the language “*Medical condition* means any” is corrected to read “*Medical condition* or *condition* means any”.

79. On page 16957, column 3, § 144.103, in the definition “*Non-Federal governmental plan*”, line 3, the language “a Federal government plan.” is corrected to read “a Federal governmental plan.”.

80. On page 16957, column 3, § 144.103, in the definition “*PHS Act*”, line 2, the language “Service Act.” is

corrected to read “Service Act (42 U.S.C. 201, *et seq.*)”.

81. On page 16958, column 1, § 144.103, in the definition “*Public health plan*”, lines 1 and 2, the language “*Public health plan* means ‘public health plan’ within the meaning of 45” is corrected to read “*Public health plan* has the meaning given the term under 45”.

82. On page 16958, column 2, § 144.103, in the definition “*State health benefits risk pool*”, lines 1 through 3, the language “*State health benefits risk pool* means a ‘State health benefits risk pool’ within the meaning of 45 CFR” is corrected to read “*State health benefits risk pool* has the meaning given the term under 45 CFR”.

#### 45 CFR PART 146 [CORRECTED]

##### § 146.111 [Corrected]

83. On page 16959, column 2, § 146.111, paragraph (a)(1)(i)(C), paragraph (ii) of *Example 3*, line 4, the language “this of illness because the care is related to” is corrected to read “this illness because the care is related to”.

84. On page 16959, column 3, § 146.111, paragraph (a)(1)(iii), line 7 from the top of the column, the language “creditable coverage’ as such term is” is corrected to read “creditable coverage’ as such phrase is”.

85. On page 16960, column 2, § 146.111, paragraph (b)(1)(ii), paragraph (ii) of the *Example*, line 5 from the bottom of the paragraph, the language “to 2 months for any preexisting condition of” is corrected to read “to 65 days for any preexisting condition of”.

86. On page 16960, column 2, § 146.111, paragraph (c), line 3, the language “plan, and health insurance issuer” is corrected to read “plan, and a health insurance issuer”.

##### § 146.113 [Corrected]

87. On page 16961, column 3, § 146.113, paragraph (b)(2)(iv), paragraph (i) of *Example 6*, line 5, the language “ceases. C is then unemployed for 51 days” is corrected to read “ceases. C is then unemployed and does not have any creditable coverage for 51 days”.

88. On page 16962, column 1, § 146.113, paragraph (c)(1), last line, the language “(b).” is corrected to read “(b) of this section.”

89. On page 16962, column 2, § 146.113, paragraph (c)(7)(ii), line 7,

the language “paragraph (b), up to a total of 365 days” is corrected to read “paragraph (b) of this section, up to a total of 365 days”.

90. On page 16962, column 3, § 146.113, paragraph (c)(7)(iii), paragraph (ii) of the *Example*, lines 4 and 5, the language “drug benefits because D had the equivalent of 90-days of creditable coverage relating to” is corrected to read “drug benefits because D had 90 days of creditable coverage relating to”.

#### § 146.115 [Corrected]

91. On page 16962, column 3, § 146.115, paragraph (a)(1)(i), line 5, the language “required to certificates of creditable” is corrected to read “required to furnish certificates of creditable”.

92. On page 16962, column 3, § 146.115, paragraph (a)(1)(ii), line 2 from the bottom of the paragraph, the language “paragraph (a)(3) with respect to the” is corrected to read “paragraph (a)(3) of this section with respect to the”.

93. On page 16963, column 1, § 146.115, paragraph (a)(1)(iv)(B)(1), line 21, the language “paragraph (b)(2) of this section (relating)” is corrected to read “paragraph (b)(1) of this section (relating)”.

94. On page 16963, column 1, § 146.115, paragraph (a)(1)(iv)(B)(2), paragraph (i) of the *Example*, last 3 lines, the language “agreement with the plan to provide automatic certificates as permitted under paragraph (a)(2)(ii) of this section.” is corrected to read “agreement with the plan to provide certificates as permitted under paragraph (a)(1)(iii) of this section.”

95. On page 16963, column 2, § 146.115, paragraph (a)(2)(i), line 2 from the bottom of the paragraph, the language “described in paragraph (a)(2)(ii) and” is corrected to read “described in paragraph (a)(2)(ii) or”.

96. On page 16963, column 2, § 146.115, paragraph (a)(2)(ii) introductory text, line 2, the language “paragraph (a)(2)(ii) of this section are” is corrected to read “paragraph (a)(2)(ii) are”.

97. On page 16963, column 2, § 146.115, paragraph (a)(2)(ii)(A), line 4 from the bottom of the paragraph, the language “section 606 of the Act, section” is corrected to read “section 606 of ERISA, section”.

98. On page 16963, column 3, § 146.115, paragraph (a)(2)(iii), line 8

from the bottom of the paragraph, the language “acting in a reasonable or prompt fashion” is corrected to read “acting in a reasonable and prompt fashion.”.

99. On page 16964, column 1, § 146.115, paragraph (a)(2)(iv), paragraph (i) of *Example 4.*, line 8, the language “expiration of a 30-day grace period, S’s group” is corrected to read “expiration of a 30-day grace period, Employer S’s group”.

100. On page 16964, column 1, § 146.115, paragraph (a)(2)(iv), paragraph (i) of *Example 5.*, line 4, the language “permitted under paragraph (a)(2)(iii). Under” is corrected to read “permitted under paragraph (a)(2)(iii) of this section. Under”.

101. On page 16964, column 1, § 146.115, paragraph (a)(3)(i)(B)(3), line 3, the language “to accept the information in paragraph” is corrected to read “to accept the information in this paragraph”.

102. On page 16964, column 3, § 146.115, paragraph (a)(5)(i)(A), line 4, the language “needed for a certificate relating to the” is corrected to read “needed for a certificate relating to”.

103. On page 16965, column 1, § 146.115, paragraph (a)(5)(iii)(B), line 9, the language “requested to be provided. It does not” is corrected to read “requested to be provided. If a certificate does not”.

104. On page 16965, column 2, § 146.115, paragraph (a)(6)(ii), line 5 from the bottom of the column, the language “requirements of subparts 1 and 3 of part” is corrected to read “requirements of Subparts 1 through 3 of Part”.

105. On page 16966, column 1, § 146.115, paragraph (c)(2)(ii), line 5, the language “explanations of benefit claims (EOB) or” is corrected to read “explanations of benefit claims (EOBs) or”.

106. On page 16966, column 2, § 146.115, paragraph (c)(2)(iv), paragraph (i) of the *Example*, line 1, the language “*Example*: (i) Employer X’s group health” is corrected to read “*Example*: (i) Individual F terminates employment with Employer W and, a month later, is hired by Employer X. Employer X’s group health”.

107. On page 16966, column 3, § 146.115, paragraph (d)(3), paragraph (i) of the *Example*, lines 1 through 3, the language “*Example*: (i) Individual F terminates employment with Employer W and, a month later, is hired by

Employer X. *Example 1*:” is corrected to read “*Example 1*: (i)”.

#### § 146.117 [Corrected]

108. On page 16968, column 1, § 146.117, paragraph (b)(2), line 1, the language “enrolled, in the plan, the individual” is corrected to read “enrolled, for coverage under the terms of the plan, the individual”.

109. On page 16968, column 1, § 146.117, paragraph (b)(4) introductory text, line 2, the language “who is eligible, but not enrolled, in the” is corrected to read “who is eligible, but not enrolled, for coverage under the terms of the”.

110. On page 16968, column 1, § 146.117, paragraph (b)(6), line 4, the language “eligible, but not enrolled, in the plan,” is corrected to read “eligible, but not enrolled, for coverage under the terms of the plan,”.

#### § 146.121 [Corrected]

111. On page 16969, column 1, § 146.121, paragraph (a)(1)(ii), last line, the language “defined in § 146.102” is corrected to read “defined in 45 CFR 144.103”.

112. On page 16969, column 1, § 146.121, paragraph (a)(1)(vi), last line, the language “§ 146.102.” is corrected to read “45 CFR 144.103”.

#### § 146.125 [Corrected]

113. On page 16970, column 1, § 146.125, paragraph (c), line 2, the language “enforcement action is taken, under,” is corrected to read “enforcement action is to be taken”.

114. On page 16970, column 1, § 146.125, paragraph (d), line 4 from the bottom of the column, the language “health insurance issuer is not subject to” is corrected to read “health insurance issuer are not subject to”.

115. On page 16970, column 2, § 146.125, paragraph (e)(3)(i), line 3, the language “events described in § 146.115(a)(5)(ii),” is corrected to read “events described in § 146.115(a)(2)-(ii),”.

116. On page 16970, column 2, § 146.125, paragraph (e)(3)(iv), last line, the language “§ 146.115(a)(5)-(iii).” is corrected to read “§ 146.115(a)-(2)(iii).”

#### § 146.150 [Corrected]

117. On page 16971, column 3, § 146.150, paragraph (a)(2), last 5 lines

in the paragraph, the language “eligible individual, which is inconsistent with the nondiscrimination provisions of § 146.121 on an eligible individual being a participant or beneficiary.” is corrected to read “eligible individual’s being a participant or beneficiary, which is inconsistent with the nondiscrimination provisions of § 146.121.”

118. On page 16972, column 2, § 146.150, paragraph (d)(5), line 3, the language “paragraph (d) of this section on a” is corrected to read “paragraph (d) on a”.

**§ 146.180 [Corrected]**

119. On page 16973, column 3, § 146.180, paragraph (a) introductory text, line 2, the language “election described in this paragraph (a)” is corrected to read “election described in this section”.

120. On page 16973, column 3, § 146.180, paragraph (a)(2), last 2 lines, the language “individuals (and dependents) losing other coverage (§ 146.117).” is corrected to read “individuals and dependents (§ 146.117).”

121. On page 16974, column 1, § 146.180, paragraph (c)(4), line 1, the language “requirements described in paragraph (a)” is corrected to read “requirements described in paragraph (a) of this section”.

122. On page 16974, column 2, § 146.180, paragraph (i)(2), line 4, the language “of paragraphs (f) through (h), and has” is corrected to read “of paragraphs (f) through (h) of this section, and has”.

Cynthia E. Grigsby,  
*Chief, Regulations Unit,*  
*Assistant Chief Counsel (Corporate),*  
*Department of the Treasury.*

Signed at Washington, DC, this 2nd day of June 1997.

Daniel Maguire,  
*Director, Health Care Task Force,*  
*Pension and Welfare Benefits*  
*Administration,*  
*Department of Labor.*

Dated: June 2, 1997.

Neil J. Stillman,  
*Deputy Assistant,*  
*Secretary for Information*  
*Resources Management*  
*Department of Health*  
*and Human Services.*

(Filed by the Office of the Federal Register on June 9, 1997, 8:45 a.m., and published in the issue of the Federal Register for June 10, 1997, 62 F.R. 31669 and 31690)

## Part IV. Items of General Interest

### Foundations Status of Certain Organizations

#### Announcement 97-68

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:

Advancer Local Development Corporation, Santurce, PR  
African Business Round Table — USA Foundation, Washington, DC  
All About Kids Orient, Houston, TX  
Allegheny Community Theatre Inc., Low Moor, VA  
Austin Releaf Council, Austin, TX  
Austin Sister Cities Foundation, Austin, TX  
Autism Foundation Inc., Vero Beach, FL  
Avalon Theatre Company, Inc., New York, NY  
Avon Lions Charities, Inc., Avon, OH  
AWA Foundation, Houston, TX  
Broward Commons Inc — The Commons, Ft. Lauderdale, FL  
Building Open Opportunities for Knowledge, Molalla, OR  
Burger King Foundation, Inc., Miami, FL  
Burke County Communities in Schools, Inc., Waynesboro, GA  
Capital Area Association for the Education of Young Children, Camp Hill, PA  
Christian Renewal Inc., Bozeman, MT  
Cooperative Urban Education, Inc., Kansas City, MO  
Coors Hispanic Employee Network, Golden, CO  
Copper Bowl Foundation, Auburn, CA  
Cornerstone Board of Advocates, San Augustine, TX  
Cornerstone House—Family Care, Houston, TX

Corona Community Theatre, Corona, CA  
Corpus Christi Geological Society Scholarship Trust Fund, Corpus Christi, TX  
Council for Noncollegiate Cooperative Education, Inc., Farmington Hills, MI  
Covenant Fellowship, Fresno, CA  
Cowboy Assistance Foundation, Saginaw, TX  
Crafton Hills Open Space Conservancy, Yucaipa, CA  
Creative Education Inc., Edmond, OK  
Crystal River Police Department Support Association Inc., Crystal River, FL  
Forest City Hospital Scholarship Foundation, Inc., Cleveland, OH  
Friends of the British Film Institute, Los Angeles, CA  
Friends of the Fir, Issaquah, WA  
Friends of the Library Montgomery County, MD, Inc., Rockville, MD  
Friends of the Redlands Animal Shelter, Redlands, CA  
Friends of Westside Alternative School, Marina Del Rey, CA  
F S and H Incorporated, St. Louis, MO  
Fulton Mansion Docent Organization, Fulton, TX  
Future Generations, Duvall, WA  
Good News Community Health Center Inc., Gainesville, GA  
Houston Northwest Nutritional Network, Houston, TX  
Houston Reconstructionist Havurah, Houston, TX  
HOVEEV, Santa Monica, CA  
Humane Hotline Incorporated, San Carlos, CA  
Humanity Foundation Ltd., Hemet, CA  
Hurstwood Corporation, Vancouver, WA  
Kanesville Inc., Council Bluffs, IA  
Kiwanis Club of Everett Lansing Michigan Foundation, Lansing, MI  
Korean Mormon Choir & Mission Fund Quorums of Elders the Second Branch of Los Angeles California Stake the Church of Jesus Christ of Latter-Day Saints, Los Angeles, CA  
Lowcountry Releaf Inc., Charleston, SC  
Lower Cape Advocates for the Mentally Handicapped, Inc., W Chatham, MA  
Lynn Performing Arts Center, Inc., Lynnfield, MA  
Michael Ferguson Corporation, Fort Smith, AR  
Muroc Community Theatre Boosters, North Edwards, CA  
Murrieta Valley High School Athletic Booster Club, Murrieta, CA

Mutual Assistance Association Coalition of Los Angeles Inc., Los Angeles, CA  
Over Seas Missions, Collinsville, IL  
Park Fund, Inc., Raleigh, NC  
Pillar of Truth Community Outreach Program, Chicago, IL  
Robinson Youth Foundation Inc., Chicago Heights, IL  
Sports for Kids Chicago Inc., West Chicago, IL  
Sweettooth Comedy Theatre, Lakeside, CA  
Sylvia Griffith Society for Parenteral and Enteral Nutrition, Lubbock, TX  
Texas Breast Implant Information Foundation, Inc., Alief, TX  
Texas Cattle Feeders Association Education Foundation, Amarillo, TX  
Texas State Parks Volunteers, Austin, TX  
TLC Foundation Inc., Los Lunas, NM  
Together Black Men, Hyattsville, MD  
Trust for Academic Priorities Inc., Louisville, KY  
Try Jesus Ministries Inc., West Memphis, AR  
Urban Health Care Project, Inglewood, CA

If an organization listed above submits information that warrants the renewal of its classification as a public charity or as a private operating foundation, the Internal Revenue Service will issue a ruling or determination letter with the revised classification as to foundation status. Grantors and contributors may thereafter rely upon such ruling 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 classification of foundation status in the Internal Revenue Bulletin.

### Deletions from Cumulative List of Organizations Contributions to Which Are Deductible Under Section 170 of the Code

#### Announcement 97-69

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a

deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on July 14, 1997, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors,

the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

International Messianic Outreach Non-Profit Trust Fund, Jonesboro, GA  
Professional Group Homes, Inc., Fresno, CA

# 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
Newman, Harry J.	Covington, VA	CPA	Indefinite from May 16, 1997
Sehnert, Fred	Dallas, TX	CPA	Indefinite from May 16, 1997
Gaskins, John D.	Valdosta, GA	CPA	Indefinite from May 16, 1997
Turner, Charles L.	Goshen, KY	Attorney	Indefinite from May 16, 1997
Thornton Jr., Kenneth W.	Murrells Inlet, SC	Attorney	Indefinite from May 16, 1997
Kellogg, Richard	White Hall, AR	CPA	Indefinite from May 16, 1997
Stec, Albert J.	Schereville, IN	CPA	Indefinite from May 16, 1997
Huff Jr., James G.	Raleigh, NC	CPA	Indefinite from May 16, 1997
Seall, William	Dayton, OH	Attorney	Indefinite from May 16, 1997
Brunner, L. Keith	Centerville, OH	Attorney	Indefinite from May 16, 1997
Bart, David R.	Oakwood, OH	Attorney	Indefinite from May 16, 1997
Shafer, David A.	Franklin, OH	CPA	Indefinite from May 16, 1997
Schouman, James	Milford, MI	Attorney	Indefinite from May 16, 1997
Jones, Milo A.	Greensboro, NC	CPA	Indefinite from May 16, 1997
Dolan, Gary L.	Lincoln, NE	Attorney	Indefinite from May 16, 1997
Coorey, Edward T.	Hampton, NH	Enrolled Agent	Indefinite from May 16, 1997
Sheehan, Thomas J.	Maggie Valley, NC	CPA	Indefinite from May 16, 1997
Millonig, Arthur F.	Dayton, OH	Attorney	Indefinite from May 16, 1997
McHaffie, Richard T.	St. Paul, MN	Attorney	Indefinite from June 4, 1997
Rigler, Michael	Gainesville, TX	CPA	Indefinite from June 4, 1997
Hopkins, Diane E.	St. Paul, MN	Attorney	Indefinite from June 4, 1997
Adae, F. Brian	Barrington, RI	Attorney	Indefinite from June 4, 1997

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

Under 31 Code of Federal Regulations, Part 10, an attorney, certified public accountant, enrolled agent, or enrolled actuary, in order to avoid the institution or conclusion of a proceeding for his disbarment or suspension from practice before the Internal Revenue Service, may offer his consent to suspension from such practice. The Director of Practice, in his discretion, may suspend an attorney, certified public accountant, enrolled agent, or enrolled actuary in accordance with the consent offered.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries 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 consent 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 consent suspension from practice before the Internal Revenue Service:

Name	Address	Designation	Date of Suspension
Padgett, John	Orleans, MA	Attorney	May 22, 1997 to October 21, 1998
Crisp, Jerry W.	Dallas, TX	CPA	June 1, 1997 to May 31, 2000
Kessel, Donald K.	Export, PA	CPA	June 1, 1997 to November 30, 1998
Klimchak, Joseph	Aliquippa, PA	CPA	June 1, 1997 to February 28, 1998
Steele, Lewis M.	Pittsburgh, PA	CPA	June 1, 1997 to May 31, 1998
Castleberry, Gene A.	Oklahoma City, OK	Attorney	June 4, 1997 to August 3, 1997
O'Connor, Paul J.	Hanover, MA	CPA	June 6, 1997 to June 5, 2000
Olshan, Robert M.	Washington, DC	CPA	June 10, 1997 to December 9, 1998
Johnson, Kirk L.	Ann Arbor, MI	CPA	July 1, 1997 to June 30, 1999
Mattutat, Stephen	Ellicott City, MD	CPA	July 1, 1997 to March 31, 1998
Trenary, Lloyd R.	Oklahoma City, OK	CPA	August 1, 1997 to March 31, 1998
Ritchey Jr., Ferris	Birmingham, AL	Attorney	August 1, 1997 to July 31, 2000
Gold, Howard G.	Hamden, CT	CPA	August 1, 1997 to July 31, 1999
Womack, Kathleen	Hammond, LA	CPA	August 1, 1997 to July 31, 1999

## Numerical Finding List<sup>1</sup>

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### **Revenue Procedures:**

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### **Revenue Rulings:**

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<sup>1</sup>A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 1997-1 through 1997-26 will be found in Internal Revenue Bulletin 1997-27, dated July 7, 1997.

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

Bulletin 1997-27

\*Denotes entry since last publication

### Revenue Procedures:

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<sup>1</sup>A cumulative finding list for previously published items mentioned in Internal Revenue Bulletins 1997-1 through 1997-26 will be found in Internal Revenue Bulletin 1997-27 dated July 7, 1997.

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The Introduction on page 3 describes the purpose and content of this publication. The weekly Internal Revenue Bulletin is sold on a yearly subscription basis by the Superintendent of Documents. Current subscribers are notified by the Superintendent of Documents when their subscriptions must be renewed.

## CUMULATIVE BULLETINS

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If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can e-mail us your suggestions or comments through the IRS Internet Home Page ([www.irs.ustreas.gov](http://www.irs.ustreas.gov)) or write to the IRS Bulletin Unit, T:FP:F:CD, Room 5560, 1111 Constitution Avenue, NW, Washington, DC 20224. You can also leave a recorded message 24 hours a day, 7 days a week at 1-800-829-9043.

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