

# Internal Revenue bulletin

Bulletin No. 1997-45  
November 10, 1997

## 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. 97-44, page 5.

Federal rates; adjusted federal rates; adjusted federal long-term rate, and the long-term exempt rate. For purposes of sections 1274, 1288, 382, and other sections of the Code, tables set forth the rates for November 1997.

Rev. Proc. 97-51, page 9.

Section 911(d)(4) waiver. Guidance is provided to individuals who fail to meet the eligibility requirements of section 911(d)(1) of the Code because adverse conditions in a foreign country preclude the individual from meeting those requirements. A current list of countries and the dates those countries are subject to the section 911(d)(4) waiver is provided.

### EMPLOYEE PLANS

Notice 97-58, page 7.

Retirement plans; 1998 cost-of-living adjustments. Cost-of-living adjustments, effective January 1, 1998, applicable to the dollar limits on benefits under qualified defined benefit pension plans and to other provisions affecting certain plans of deferred compensation, are set forth.

### EXEMPT ORGANIZATIONS

Announcement 97-110, page 14.

A list is provided of organizations that no longer qualify as

organizations to which contributions are deductible under section 170 of the Code.

### ADMINISTRATIVE

Rev. Proc. 97-50, page 8.

Year 2000 costs; computer software. Guidelines are provided for the examination of federal income tax returns involving the costs paid or incurred by a taxpayer in its trade or business to convert or replace computer software to recognize dates beginning in the year 2000.

Notice 97-59, page 7.

Capital gains and losses; rates. Taxpayers are informed of rules for netting capital gains and losses under recently amended section 1(h) of the Code (which provides new capital gains tax rates) and how Code section 1(h) coordinates with other provisions of the Code.

Announcement 97-106, page 11.

As a result of the Taxpayer Relief Act of 1997, changes to reporting requirements for 1997 Forms 1099-S and 1099-LTC are provided.

Announcement 97-109, page 12.

As a result of the Taxpayer Relief Act of 1997, changes for certain 1996 and 1997 forms are provided to reflect changes in the capital gains tax rates.

Finding Lists begin on page 19.

Announcement of Disbarments and Suspensions begins on page 15.

Announcement of Declaratory Judgement Proceedings Under Section 7428 begins on page 14.



Department of the Treasury  
Internal Revenue Service

# 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 prod-

ucts 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 semiannually 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 proce-

dures 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.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

## Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Section 55.—Alternative Minimum Tax Imposed

How does § 1(h), as amended by the Taxpayer Relief Act of 1997, coordinate with the alternative minimum tax provisions. See Notice 97-59, page 7.

## Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

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

The adjusted federal long-term rate is set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Section 446.—General Rule for Methods of Accounting

*26 CFR 1.446-1: General rule for methods of accounting.*

What procedures should taxpayers follow to obtain automatic consent to change their method of accounting for costs paid or incurred to convert or replace computer software to recognize dates beginning in the year 2000. See Rev. Proc. 97-50, page 8.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Section 481.—Adjustments Required by Changes in Method of Accounting

*26 CFR 1.481-1: Adjustments in general.*

*26 CFR 1.481-4: Adjustments taken into account with consent.*

What procedures should taxpayers follow to obtain automatic consent to change their method of accounting for costs paid or incurred to convert or replace computer software to recognize dates beginning in the year 2000. See Rev. Proc. 97-50, page 8.

## Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Section 911.—Citizens or Residents of the United States Living Abroad

*26 CFR 1.911-1: Partial exclusion for earned income from sources within a foreign country and foreign housing costs.*

Guidance is provided to individuals who fail to meet the eligibility requirements of section 911(d)-(1) of the Internal Revenue Code because adverse conditions in a foreign country preclude the individual from meeting those requirements. A current list of countries and the dates those countries are subject to the section 911(d)(4) waiver is provided. See Rev. Proc. 97-51, page 9.

## Section 1222.—Other Terms Relating to Capital Gains and Losses

What are the rules for netting gains and losses under § 1(h), as amended by the Taxpayer Relief Act of 1997. See Notice 97-59, page 7.

## Section 1223.—Holding Period of Property

How does § 1(h), as amended by the Taxpayer Relief Act of 1997, coordinate with the rules for determining the holding period of property under § 1223. See Notice 97-59, page 7.

## Section 1231.—Property Used in the Trade or Business and Involuntary Conversions

What are the rules for netting gains and losses under § 1(h), as amended by the Taxpayer Relief Act of 1997. See Notice 97-59, page 7.

## Section 1235.—Sale or Exchange of Patents

How does § 1(h), as amended by the Taxpayer Relief Act of 1997, coordinate with the rules for the sale or exchange of patents under § 1235. See Notice 97-59, page 7.

## Section 1250.—Gains From Dispositions of Certain Depreciable Realty

What are the rules for netting gains and losses under § 1(h), as amended by the Taxpayer Relief Act of 1997. See Notice 97-59, page 7.

**Section 1256.—Section 1256 Contracts Marked to Market**

How does § 1(h), as amended by the Taxpayer Relief Act of 1997, coordinate with the rules for gain or loss from section 1256 contracts. See Notice 97-59, page 7.

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

(Also Sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.)

**Federal rates; adjusted federal rates; adjusted federal long-term rate, and**

**the long-term exempt rate.** For purposes of sections 1274, 1288, 382, and other sections of the Code, tables set forth the rates for November 1997.

**Rev. Rul. 97-44**

This revenue ruling provides various prescribed rates for federal income tax purposes for November 1997 (the current month.) Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted

AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(2) for buildings placed in service during the current month. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

| REV. RUL. 97-44 TABLE 1                          |                               |                   |                  |                |
|--|-------------------------------|-------------------|------------------|----------------|
| Applicable Federal Rates (AFR) for November 1997 |                               |                   |                  |                |
|  | <i>Period for Compounding</i> |                   |                  |                |
|  | <i>Annual</i>                 | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
| <i>Short-Term</i>                                |                               |                   |                  |                |
| AFR  | 5.69%                         | 5.61%             | 5.57%            | 5.55%          |
| 110% AFR   | 6.27%                         | 6.17%             | 6.12%            | 6.09%          |
| 120% AFR   | 6.84%                         | 6.73%             | 6.67%            | 6.64%          |
| 130% AFR   | 7.42%                         | 7.29%             | 7.22%            | 7.18%          |
| <i>Mid-Term</i>                                  |                               |                   |                  |                |
| AFR  | 6.10%                         | 6.01%             | 5.97%            | 5.94%          |
| 110% AFR   | 6.72%                         | 6.61%             | 6.56%            | 6.52%          |
| 120% AFR   | 7.34%                         | 7.21%             | 7.15%            | 7.10%          |
| 130% AFR   | 7.96%                         | 7.81%             | 7.74%            | 7.69%          |
| 150% AFR   | 9.22%                         | 9.02%             | 8.92%            | 8.86%          |
| 175% AFR   | 10.80%                        | 10.52%            | 10.39%           | 10.30%         |
| <i>Long-Term</i>                                 |                               |                   |                  |                |
| AFR  | 6.42%                         | 6.32%             | 6.27%            | 6.24%          |
| 110% AFR   | 7.07%                         | 6.95%             | 6.89%            | 6.85%          |
| 120% AFR   | 7.72%                         | 7.58%             | 7.51%            | 7.46%          |
| 130% AFR   | 8.39%                         | 8.22%             | 8.14%            | 8.08%          |

REV. RUL. 97-44 TABLE 2  
Adjusted AFR for November 1997

|                         | <i>Period for Compounding</i> |                   |                  |                |
|-------------------------|-------------------------------|-------------------|------------------|----------------|
|                         | <i>Annual</i>                 | <i>Semiannual</i> | <i>Quarterly</i> | <i>Monthly</i> |
| Short-term adjusted AFR | 3.92%                         | 3.88%             | 3.86%            | 3.85%          |
| Mid-term adjusted AFR   | 4.35%                         | 4.30%             | 4.28%            | 4.26%          |
| Long-term adjusted AFR  | 5.15%                         | 5.09%             | 5.06%            | 5.04%          |

REV. RUL. 97-44 TABLE 3  
Rates Under Section 382 for November 1997

|  |       |
|--|-------|
| Adjusted federal long-term rate for the current month  | 5.15% |
| Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.) | 5.27% |

REV. RUL. 97-44 TABLE 4  
Appropriate Percentages Under Section 42(b)(2) for November 1997

|  |       |
|--|-------|
| Appropriate percentage for the 70% present value low-income housing credit | 8.47% |
| Appropriate percentage for the 30% present value low-income housing credit | 3.63% |

REV. RUL. 97-44 TABLE 5  
Rate Under Section 7520 for November 1997

|   |      |
|---|------|
| Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest | 7.4% |
|---|------|

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

**Section 7520.—Valuation Tables**

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1997. See Rev. Rul. 97-44, page 5.

## Part III. Administrative, Procedural, and Miscellaneous

1998 Pension Plan Limitations, Etc.<sup>1</sup>

### Notice 97-58

Section 415 of the Internal Revenue Code (the Code) provides for dollar limitations on benefits and contributions under qualified plans. Section 415 also requires that the Commissioner annually adjust these limits for cost-of-living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments.

Effective January 1, 1998, the limitation for the annual benefit under § 415(b)(1)(A) for defined benefit plans is increased from \$125,000 to \$130,000. For participants who separated from service before January 1, 1998, the limitation for defined benefit plans under § 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 1997 by 1.0220. The limitation for defined contribution plans under § 415(c)(1)(A) remains unchanged at \$30,000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of § 415(b)(1)(A) is adjusted. These dollar amounts and the adjusted amounts are as follows:

The dollar limitation on early retirement benefits for qualified police or firefighters in a defined benefit plan was amended by § 1527 of the Taxpayer Relief Act of 1997 (TRA '97), effective for years beginning after December 31, 1996. This section amended § 415(b)(2)(G) of the Code so that the dollar limitation for qualified police or firefighters is not reduced where the benefit begins before the social security retirement age.

The limitation on the exclusion for elective deferrals under § 402(g)(1) is increased from \$9,500 to \$10,000.

The dollar amount under § 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5-year distribution period is increased from \$710,000 to \$725,000, while the dollar amount used to determine the lengthening of the 5-year

distribution period is increased from \$140,000 to \$145,000.

The excess distribution and excess retirement accumulation tax was repealed by § 1073 of TRA '97, effective for excess distributions received after, and to estates of decedents dying after, December 31, 1996. This section of TRA '97 repealed § 4980A of the Code, thereby removing the threshold amount under § 4980A(c)(1)(B) regarding excess distributions.

The limitation used in the definition of highly compensated employee under § 414(q)(1)(B) remains unchanged at \$80,000.

The annual compensation limit under §§ 401(a)(17) and 404(l) remains unchanged at \$160,000. The annual compensation limit under § 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost-of-living adjustments to the compensation limitation under the plan under § 401(a)(17) to be taken into account, is \$265,000.

The compensation amount under § 408(k)(2)(C) regarding simplified employee pension plans (SEPs) remains unchanged at \$400. The compensation amount under § 408(k)(3)(C) for SEPs remains unchanged at \$160,000.

The limitation under § 408(p)(2)(A) regarding simple retirement accounts remains unchanged at \$6,000.

The limitation on deferrals under § 457(b)(2) and (c)(1) concerning eligible deferred compensation plans of state and local governments and of tax-exempt organizations is increased from \$7,500 to \$8,000.

Administrators of defined benefit or defined contribution plans that have received favorable determination letters should not request new determination letters solely because of yearly amendments to adjust maximum limitations in the plans.

### Capital Gains Rates

#### Notice 97-59

#### PURPOSE

The Taxpayer Relief Act of 1997 (the "1997 Act") amended § 1(h) of the Inter-

nal Revenue Code ("new § 1(h)") to provide for new capital gains rates for non-corporate taxpayers (individuals, estates, and trusts), effective for tax years ending after May 6, 1997. Pub. L. No. 105-34, § 311, 111 Stat. 788 (Aug. 5, 1997). The chairmen and ranking members of both the House Ways and Means Committee and the Senate Finance Committee have advised the Department of the Treasury of their intent to pursue technical corrections legislation which would correct and clarify the rules for netting capital gains and losses under new § 1(h) and coordinate new § 1(h) with certain other provisions of the Code. Such legislation has already been approved by the House Ways and Means Committee. See H.R. 2645, 105th Cong. § 4(d) (1997). When enacted, the legislation will be effective retroactively for tax years ending after May 6, 1997. This notice summarizes new § 1(h) and describes how the Internal Revenue Service is taking into account the pending retroactive legislative corrections in administering the provision.

#### BACKGROUND

Under prior law, capital gains were taxed at the same rate as ordinary income, except that a noncorporate taxpayer was subject to a maximum marginal rate of 28 percent on net capital gain. Under § 1222, net capital gain is the excess of net long-term capital gain (from assets held for more than one year) over net short-term capital loss (from assets held for one year or less).

The definitions of net capital gain, net long-term capital gain or loss, and net short-term capital gain or loss were not changed by the 1997 Act. However, under new § 1(h), if a noncorporate taxpayer has a net capital gain, the taxpayer's long-term capital gains and losses are separated into three tax rate groups.

(1) *The 28-percent group.* The 28-percent group consists of the following:

(a) capital gains and losses properly taken into account before May 7, 1997, from assets held for more than one year;

(b) capital gains and losses properly taken into account after July 28, 1997, from assets held for more than one year but not more than 18 months; and

<sup>1</sup>Based on News Release IR-97-41, dated October 22, 1997.

(c) capital gains and losses from collectibles (including works of art, rugs, antiques, metals, gems, stamps, coins, and alcoholic beverages) held for more than one year, regardless of the date taken into account.

This group also includes long-term capital loss carryovers. For sales of certain small business stock after August 10, 1998, an amount equal to the gain excluded under § 1202(a) will be included in the 28-percent group.

(2) *The 25-percent group.* The 25-percent group consists of unrecaptured section 1250 gain (there are no losses in this group). Unrecaptured section 1250 gain is long-term capital gain, not otherwise recaptured as ordinary income, attributable to prior depreciation of real property and which is from property held for more than one year (if taken into account after May 6, 1997, but before July 29, 1997), or for more than 18 months (if taken into account after July 28, 1997).

(3) *The 20-percent group.* The 20-percent group (10 percent in the case of gain that would otherwise be taxed at 15 percent) consists of long-term capital gains and losses that are not in the 28-percent or 25-percent group. Thus, for 1997 a rate of 20 or 10 percent applies to net capital gain (other than collectibles gain or unrecaptured section 1250 gain) from capital assets held for more than one year (if taken into account after May 6 but before July 29), or for more than 18 months (if taken into account after July 28).

New § 1(h) also applies to gains and losses that are characterized as capital under § 1231, which covers certain transactions including sales of depreciable property or real property used in a trade or business. These gains and losses are included in the appropriate rate group, depending on the holding period and disposition date of the particular asset.

## NETTING GAINS AND LOSSES

Within each group, gains and losses are netted to arrive at a net gain or loss. Taking into account the pending legislation, the following additional netting and ordering rules apply:

(1) *Short-term capital gains and losses.* As under prior law, short-term capital losses (including short-term capital loss carryovers) are applied first to reduce short-term capital gains, if any, otherwise

taxable at ordinary income rates. A net short-term capital loss is then applied to reduce any net long-term gain from the 28-percent group, then to reduce gain from the 25-percent group, and finally to reduce net gain from the 20-percent group.

(2) *Long-term capital gains and losses.* A net loss from the 28-percent group (including long-term capital loss carryovers) is used first to reduce gain from the 25-percent group, then to reduce net gain from the 20-percent group. A net loss from the 20-percent group is used first to reduce net gain from the 28-percent group, then to reduce gain from the 25-percent group.

Any resulting net capital gain that is attributable to a particular rate group is taxed at that group's marginal tax rate.

## COORDINATION WITH OTHER PROVISIONS

The pending legislation coordinates the multiple rates of new § 1(h) with certain other provisions of the Code. Accordingly, the following rules apply:

(1) *Holding periods.* Under prior law, certain inherited property, if disposed of within one year after the decedent's death, was deemed to have been held for more than one year under § 1223(11) or (12). Such property, if disposed of within 18 months after the decedent's death, is now deemed to have been held for more than 18 months. A similar rule applies for certain patents described in § 1235(a). Gain or loss from a section 1256 contract, to the extent that it is treated as long-term capital gain or loss under § 1256(a)(3), is now treated as attributable to property held for more than 18 months. Rules similar to those of § 1233(b) and (d) (involving short sales of substantially identical property) and § 1092(f) (involving certain stock options) apply with respect to property held for more than one year but not more than 18 months.

(2) *Recharacterized section 1231 gains.* If a portion of the taxpayer's net section 1231 gain for the year is recharacterized as ordinary income under section 1231(c), the gain so recharacterized consists first of any net section 1231 gain in the 28-percent group, then any section 1231 gain in the 25-percent group, and finally any net section 1231 gain in the 20-percent group.

(3) *Alternative minimum tax.* Newly-enacted § 55(b)(3) provides favorable alternative minimum tax ("AMT") rates for certain categories of capital gain. The amounts of these gains are determined according to the principles used for regular tax purposes, although the AMT amounts can vary from the regular tax amounts because of AMT adjustments and preferences.

## FORMS AND PUBLICATIONS

The Service is amending relevant forms, instructions, and publications (including Schedule D) to reflect the rules set forth above.

## DRAFTING INFORMATION

The principal author of this notice is Susan J. Kassell of the Office of the Assistant Chief Counsel (Income Tax & Accounting). For further information regarding this notice contact Ms. Kassell at (202) 622-4930 (not a toll-free call).

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*26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also Part I, §§ 41, 446, 481; 1.446-1, 1.481-1, 1.481-4)*

Rev. Proc. 97-50

## SECTION 1. PURPOSE

.01 This revenue procedure provides guidelines to be used in connection with the examination of federal income tax returns involving the costs paid or incurred by a taxpayer in its trade or business to convert or replace computer software to recognize dates beginning in the year 2000.

.02 This revenue procedure also provides procedures for a taxpayer to obtain automatic consent to change to a method of accounting described in this revenue procedure.

## SECTION 2. BACKGROUND

Many computer systems use two digits rather than four digits to represent the year in a date field (for example, "97" to represent 1997). A two-digit year field, however, may be inadequate to represent years after 1999. For data involving the year 2000, for example, computer systems may not recognize "00" as a year, or may treat that year as 1900 instead of

2000. Thus, many computer systems may fail to operate, or may operate improperly, if the software is not converted or replaced to recognize four-digit years (*i.e.*, made “year 2000 compliant”). In order to ensure that their computer systems are year 2000 compliant, taxpayers may pay or incur costs to manually convert their existing software, to develop new software to replace their existing software, to purchase or lease new software to replace their existing software, or to develop or purchase software tools to assist them in converting their existing software to be year 2000 compliant (“year 2000 costs”).

### SECTION 3. TREATMENT OF YEAR 2000 COSTS

Rev. Proc. 69–21, 1969–2 C.B. 303, provides guidelines to be used in connection with the examination of federal income tax returns involving the costs paid or incurred to develop, purchase, or lease computer software. Year 2000 costs fall within the purview of Rev. Proc. 69–21. Accordingly, the Internal Revenue Service will not disturb a taxpayer’s treatment of its year 2000 costs if the taxpayer treats these costs in accordance with section 3 of Rev. Proc. 69–21 (in the case of developed software, including converted software), section 4 of Rev. Proc. 69–21 (in the case of purchased software), or section 5 of Rev. Proc. 69–21 (in the case of leased software).

### SECTION 4. RESEARCH CREDIT

Section 41 of the Internal Revenue Code provides a credit against tax for increasing research activities. To be eligible for the research credit, expenditures must be for activities satisfying the requirements of § 41 including the definition of “qualified research” in § 41(d). Except in extraordinary circumstances, year 2000 costs will not satisfy the definition of “qualified research” in § 41(d). For example, year 2000 costs generally do not involve research undertaken for the purpose of discovering information that is technological in nature where substantially all of the research activities constitute elements of a process of experimentation. Thus, a taxpayer that pays or incurs year 2000 costs may not claim the research credit except in those extraordinary circumstances in which those costs satisfy the definition of “qualified re-

search” in § 41(d) and otherwise meet all the requirements of § 41.

### SECTION 5. APPLICATION

Any change in a taxpayer’s treatment of year 2000 costs to conform with section 3 of this revenue procedure is a change in method of accounting to which the provisions of §§ 446 and 481 and the regulations thereunder apply. A taxpayer wanting to change its method of accounting for year 2000 costs to conform with section 3 of this revenue procedure must follow the automatic change in accounting method provisions of Rev. Proc. 97–37, 1997–33 I.R.B. 18.

### SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 69–21 is amplified. Rev. Proc. 97–37 is amplified to include this change in the Appendix.

### DRAFTING INFORMATION

The principal author of this revenue procedure is Kimberly L. Koch of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Ms. Koch on (202) 622-4950 (not a toll-free call).

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*26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also Part I, § 911, 1.911–1)*

Rev. Proc. 97–51

### SECTION 1. PURPOSE

01. This revenue procedure provides information to any individual who failed to meet the eligibility requirements of § 911(d)(1) of the Internal Revenue Code because adverse conditions in a foreign country precluded the individual from meeting those requirements for taxable year 1996.

02. The Internal Revenue Service previously has listed countries for which the eligibility requirements of § 911(d)(1) of the Code are waived under § 911(d)(4) because of adverse conditions in those countries during the time periods stated. See Rev. Proc. 96–33, 1996–1 C.B. 720, Rev. Proc. 95–45, 1995–2 C.B. 421, Rev. Proc. 94–31, 1994–1 C.B. 625, and Rev. Proc. 94–15,

1994–1 C.B. 575. This revenue procedure relists countries where the adverse conditions are still in effect. The Central African Republic is added to the list for 1996. Rev. Proc. 96–33, Rev. Proc. 95–45, Rev. Proc. 94–31, and Rev. Proc. 94–15 remain in full force and effect; the older periods listed therein are omitted from this revenue procedure solely for brevity.

### SEC. 2. BACKGROUND

01. Section 911(a) of the Code allows a “qualified individual,” as defined in § 911(d)(1), to exclude foreign earned income and housing cost amounts from gross income. Section 911(c)(3) allows a qualified individual to deduct housing cost amounts from gross income.

02. Section 911(d)(1) of the Code defines the term “qualified individual” as an individual whose tax home is in a foreign country and who is (A) a citizen of the United States and establishes to the satisfaction of the Secretary of the Treasury that the individual has been a bona fide resident of a foreign country or countries for an uninterrupted period that includes an entire taxable year, or (B) a citizen or resident of the United States who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days.

03. Section 911(d)(4) of the Code provides an exception to the eligibility requirements of § 911(d)(1). An individual will be treated as a qualified individual with respect to a period in which the individual was a bona fide resident of, or was present in, a foreign country if the individual left the country during a period for which the Secretary of the Treasury, after consultation with the Secretary of State, determines that individuals were required to leave because of war, civil unrest, or similar adverse conditions that precluded the normal conduct of business. An individual must establish that but for those conditions the individual could reasonably have been expected to meet the eligibility requirements.

04. For purposes of § 911(d)(4) of the Code, the Secretary of the Treasury in consultation with the Secretary of State, has determined that war, civil unrest, or similar adverse conditions that precluded the normal conduct of business existed in the following countries during the specified periods:

| Country                                      | Date of Departure |                    |
|--|-------------------|--------------------|
|  | On or After       | On or Before       |
| Afghanistan                                  | April 23, 1979    | (still in effect)  |
| Bosnia and Herzegovina                       | April 7, 1992     | (still in effect)  |
| Central African Republic                     | May 21, 1996      | September 12, 1996 |
| Croatia                                      | April 7, 1992     | (still in effect)  |
| Iran   | September 1, 1978 | (still in effect)  |
| Lebanon                                      | August 31, 1979   | (still in effect)  |
| The Former Yugoslav Republic<br>of Macedonia | June 13, 1992     | (still in effect)  |
| Montenegro <sup>1</sup>                      | June 13, 1992     | (still in effect)  |
| Serbia <sup>1</sup>                          | June 13, 1992     | (still in effect)  |
| Somalia                                      | December 21, 1990 | (still in effect)  |

<sup>1</sup>Montenegro and Serbia, formerly part of the Socialist Federal Republic of Yugoslavia, have asserted the formation of a joint independent state, but this entity has not been formally recognized as a state by the United States.

.05 Accordingly, for purposes of § 911 of the Code, an individual who left one of the foregoing countries during the specified period shall be treated as a qualified individual with respect to the period during which that individual was a bona fide resident of, or present in, that foreign country if the individual establishes a reasonable expectation of meeting the requirements of § 911(d) but for those conditions.

.06 To qualify for relief under § 911(d)-(4), an individual must have established residency or have been physically present in the foreign country on or prior to the date that the Secretary of the Treasury determines that individuals were required to leave the foreign country. Individuals who establish residency or are first physi-

cally present in the foreign country after the date that the Secretary prescribes, but during the period for which the Secretary determines that individuals were required to leave the foreign country, shall not be treated as qualified individuals under § 911(d)(4) pursuant to § 911(d)(4)(C). For example, individuals who establish residency or are first physically present in Iran after September 1, 1978, are not eligible to qualify for the exemption prescribed in § 911(d)(4). The same holds true with respect to individuals who move to Afghanistan after April 23, 1979, or Lebanon after August 31, 1979.

#### SEC. 3. INQUIRIES

A taxpayer who needs assistance on how to claim this exclusion, or on how to

file an amended return, should contact a local IRS Office or, for a taxpayer residing or traveling outside the United States, the nearest overseas IRS office.

#### SEC. 4. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 92-63, 1992-2 C.B. 421 is obsolete.

#### DRAFTING INFORMATION

The principal author of this revenue procedure is Leslie B. van der Wal of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure contact Ms. van der Wal on (202) 622-3840 (not a toll-free call).

## Part IV. Items of General Interest

### Changes to Reporting Requirements for 1997 Forms 1099-S and 1099-LTC

Announcement 97-106

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#### **Background**

Forms 1099 are released early in the year so that payers, brokers, etc., can collect necessary information during the year to report to the IRS, recipients, sellers, etc. Because the Taxpayer Relief Act of 1997 (Public Law 105-34) was enacted August 5, 1997, changes in the 1997 reporting requirements of the following Forms 1099 are required:

- Form 1099-S, Proceeds From Real Estate Transactions
- Form 1099-LTC, Long-Term Care and Accelerated Death Benefits (also, the 1998 instructions for Form 1099-LTC will include changes suggested by industry)

Reporting changes are described in the following sections.

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#### **Form 1099-S: Reporting the Sale of a Principal Residence After May 6, 1997**

Filers who receive an acceptable written assurance from the seller are not required to file Form 1099-S with the IRS nor furnish the seller Form 1099-S for any sale or exchange after May 6, 1997, of a principal residence for \$250,000 or less (\$500,000 or less if the written assurance includes an assurance that the seller is married). The written assurance must state that the:

- Property sold is the seller's principal residence, and
- Full gain on the sale or exchange is excludable from gross income under section 121 of the Code.

As soon as possible, the IRS will issue guidance on what will be considered an acceptable written assurance. Although filers are not required to obtain the written assurance, if the written assurance is not obtained, Form 1099-S must be filed with the IRS and a Form 1099-S statement must be furnished to the seller.

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#### **Form 1099-LTC: Telephone Number Required**

The Act requires payers to provide a telephone number of a person to contact on statements to recipients (Copies B and C) for Form 1099-LTC. This new requirement applies to the 1997 statements due to recipients by February 2, 1998. The number must be in any conspicuous place on the statements and must provide direct access to a person who can answer questions about the statements.

Because this requirement was enacted after the 1997 forms were printed, a failure to include a telephone number on the 1997 statements will be considered to have arisen from an event beyond the control of the filer. As a result, the penalty under section 6722 of the Code will be waived for reasonable cause if the next statement required to be provided (generally for 1998) includes the number. Although the penalty will be waived for 1997 statements, payers are encouraged to enter the number anywhere they choose on the statements.

Payers are not required to report the telephone number to the IRS.

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#### **Form 1099-LTC: Instructions Changes**

At the request of industry, the IRS plans to revise the 1998 instructions for box 3 of Form 1099-LTC to require payers of accelerated death benefits to check a box to indicate whether payments were made on a per diem or reimbursed basis. If the payments were made on behalf of a terminally ill person, payers are not required to check either box in box 3. In addition, the instructions will make it clear that, in the case of a group contract, the term "policyholder" means the certificate holder, and the "policyholder" statement must be furnished to the certificate holder.

Payers are encouraged to follow these new instructions in filing their 1997 forms and in providing 1997 statements to recipients.

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# Changes to Reporting Requirements for Certain 1996 and 1997 Forms Because of Changes in the Capital Gains Tax Rates

Announcement 97-109

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## Background

The Taxpayer Relief Act of 1997 (Public Law 105-34) amended section 1(h) of the Internal Revenue Code to change the capital gains tax rates. As a result, changes in the reporting requirements are required for the following forms:

- 1997 Form 1099-DIV, Dividends and Distributions
- 1997 Form 1099-B, Broker and Barter Exchange Transactions
- 1996 Form 2439 for 1996-1997 fiscal years ending after May 6, 1997
- 1996 Schedules K & K-1 for partnerships, S corporations, and estates with 1996-1997 fiscal years ending after May 6, 1997

The instructions for the forms listed above do not reflect these changes.

Also, the tax computation using maximum capital gains rates affects 1996-1997 fiscal year individuals and estates if the taxpayer's fiscal year ended after May 6, 1997.

The necessary changes are described in the following sections. Further guidance will be issued shortly regarding the computation of capital gain distributions by regulated investment companies and real estate investment trusts.

The following rules relate **only** to forms for the years listed above. For subsequent years, the reporting requirements will be included on the forms and/or stated in the instructions.

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## Form 1099-DIV: Reporting Capital Gain Distributions for 1997

Regulated investment companies, real estate investment trusts, brokers, and others reporting capital gain distributions on the 1997 Form 1099-DIV must provide additional information with their statements to recipients. Payers must continue to report the total capital gain distributions in box 1c. Payers should also advise recipients that they cannot report capital gain distributions on Form 1040, line 13, as stated in the official 1997 Form 1099-DIV. Rather, they must report the distributions on Schedule D (Form 1040), line 13, column (f).

In addition, payers must provide to recipients information sufficient to determine the following:

- The amount of 28% rate gain distributions. Payers should advise recipients to report this amount on Schedule D (Form 1040), line 13, column (g).
- The amount of unrecaptured section 1250 gain distributions. Payers should advise recipients to report this amount on Schedule D (Form 1040), line 25.

Payers may provide this additional information to recipients on a substitute statement or on a separate statement. Payers are not required to report the additional information to the IRS.

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## Form 2439: Reporting Undistributed Long-Term Capital Gains for 1996-1997

Regulated investment companies (RICs) and other filers completing the 1996 Form 2439 for fiscal years ending after May 6, 1997, must provide additional information with their notices to shareholders. Filers must continue to report the total undistributed long-term capital gains for the year on line 1 of Form 2439. Filers should also advise individual shareholders that they cannot report the amount on line 1 on Schedule D (Form 1040), Part II, line 12, as stated in the official 1996 Form 2439 instructions. Rather, they must report the amount on line 1 on the 1997 Schedule D (Form 1040), line 11, column (f).

In addition, filers must provide to shareholders information sufficient to determine the following:

- The amount of 28% rate gain included on line 1 of Form 2439. Filers should advise recipients to report this amount on Schedule D (Form 1040), line 11, column (g).
- The amount of unrecaptured section 1250 gain included on line 1 of Form 2439. Filers should advise recipients to report this amount on Schedule D (Form 1040), line 25.

Filers may provide this additional information to shareholders on a substitute statement or on a separate statement. Filers are not required to report this additional information on Forms 2439 filed with the IRS.

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**Form 1099-B:  
Reporting Aggregate  
Profit or Loss From  
Regulated Futures  
or Foreign Currency  
Contracts**

Brokers and others reporting the aggregate gain or loss on regulated futures or foreign currency contracts in box 9 of Form 1099-B must provide additional information with their statements to recipients. They must continue to report the total aggregate amount in box 9 and also report to the recipient the amount included in box 9 attributable to the profit or loss before May 7, 1997.

Payers may provide this additional information to recipients on a substitute statement or on a separate statement. Payers are not required to report the additional information to the IRS.

**Fiscal Year  
Estates and  
Individuals: Reporting  
Capital Gains and  
Losses for 1996-1997**

Estates and individuals affected by the new capital gains rates who complete the 1996 Forms 1040 and 1041 for fiscal years ending after May 6, 1997, must attach a computation similar to that shown in Part IV of the 1997 Schedule D (Form 1040) or Part V of the 1997 Schedule D (Form 1041). These estates and individuals may use their 1997 Schedule D to figure their 1996 tax provided they use the applicable **1996** tax rate schedules or table in the computation. Also, when figuring the amount to enter on line 29 of the 1997 Schedule D, these filers must not use the dollar amounts shown on that line. Instead, they must substitute the dollar amounts shown on line 6 of the Capital Gain Tax Worksheet in the **1996** Form 1040 instructions (or line 39 of the **1996** Schedule D (Form 1041)).

**Note:** *The new capital gains rates also affect the computation of the alternative minimum tax. The above-mentioned filers should attach a computation similar to that shown in Part IV of the 1997 Form 6251 (or Part IV, Schedule I of the 1997 Form 1041).*

Estates also must continue to report each beneficiary's share of the net long-term capital gain on line 3b of Schedule K-1. In addition, the estate must provide the following information to its beneficiaries:

- 28% rate gain—the amount on line 3b attributable (after taking into account the netting rules described in Notice 97-59) to “collectibles gains and losses” AND to net gain from sales, exchanges, or conversions (including installment payments received) either:
  - (a) before May 7, 1997, or
  - (b) after July 28, 1997, for assets held more than 1 year but not more than 18 months.

Estates should advise individual beneficiaries to report this amount on the 1997 Schedule D (Form 1040), line 12, column (g).

- Unrecaptured section 1250 gain—the amount on line 3b attributable to unrecaptured section 1250 gain. Estates should advise individual beneficiaries to report this amount on the 1997 Schedule D (Form 1040), line 25.

Each beneficiary's share of the above amounts should be reported on line 13 of Schedule K-1.

**Forms 1065 and  
1120S (Schedules K  
and K-1): Reporting  
Capital and Section  
1231 Gains and Losses  
for 1996-1997**

Partnerships and S corporations completing the 1996 Forms 1065 and 1120S for fiscal years ending after May 6, 1997, must provide additional information on Schedules K and K-1. The partnership or S corporation must continue to report the net long-term capital gain or loss on line 4e of Schedules K and K-1 of Form 1065 or 1120S, the net gain or loss under section 1231 (other than due to casualty or theft) on line 6 of Schedules K and K-1 of Form 1065 (line 5 of Schedules K and K-1 of Form 1120S), and other income on line 7 of Schedules K and K-1 of Form 1065 (line 6 of Schedules K and K-1 of Form 1120S). In addition, the partnership or S corporation must provide the following information:

- 28% rate gain or loss—the amount that would be entered on each of the above lines if they included only “collectibles gains and losses” AND gains and losses from sales, exchanges, or conversions (including installment payments received) either:
  - (a) before May 7, 1997, or
  - (b) after July 28, 1997, for assets held more than 1 year but not more than 18 months.

The total 28% rate gain or loss of the partnership or S corporation should be reported as an item of information on line 24 of Schedule K, Form 1065, or on line 21 of Schedule K, Form 1120S. Each partner's or shareholder's share should be reported in the “Supplemental Information” space on Schedule K-1.

Partnerships and S corporations should advise partners and shareholders to report this amount on the line of the form to which it relates in the separate column, if any, provided on that form for 28% rate gain or loss. For example, a long-term capital gain that is also a 28% rate gain should be reported on the 1997 Schedule D (Form 1040), line 12, column (g); a section 1231 gain that is also a 28% rate gain should be reported on the 1997 Form 4797, line 2, column (h).

- Unrecaptured section 1250 gain—the amount that would be entered on each of the above lines if they included only unrecaptured section 1250 gain. The total unrecaptured section 1250 gain of the partnership or S corporation should be reported as an item of information on line 24 of Schedule K, Form 1065, or on line 21 of Schedule K, Form 1120S. Each partner's or shareholder's share should be reported in the "Supplemental Information" space on Schedule K-1.

Partnerships and S corporations should advise partners and shareholders to report this amount on the 1997 Schedule D (Form 1040), line 25.

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

### Announcement 97-110

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, con-

tributions 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 November 10, 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.

Learning Center Association  
Kettering, OH  
Self Awareness Center, Inc.  
Evansville, IN

### Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

This announcement serves notice to potential donors that the organization listed below has recently filed a timely declara-

tory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section 170(c)(2), as more particularly set forth in section 7428(c)(1). In the case of individual contributors, the maximum amount of contributions protected during this period is limited to \$1,000.00, with a husband and wife being treated as one contributor. This protection 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 the revocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

Student Ministries, Inc.  
Milwaukie, OR

# 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 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 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, en-

rolled 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                 |
|---------------------|-------------------|----------------|------------------------------------|
| Booker, William G.  | Winston-Salem, NC | CPA            | Indefinite from June 12, 1997      |
| Acevado, Gustavo    | Laredo, TX        | Attorney       | Indefinite from July 23, 1997      |
| Piotti, Wayne H.    | Homer, NY         | CPA            | Indefinite from July 23, 1997      |
| Burley, Franklin R. | Monroe, LA        | CPA            | Indefinite from July 23, 1997      |
| Kent, William F.    | Winston-Salem, NC | CPA            | Indefinite from July 23, 1997      |
| Levine, Jack        | Phoenix, AZ       | Attorney       | Indefinite from July 23, 1997      |
| Kapral, Stephen M.  | Richmond, VA      | Attorney       | Indefinite from July 23, 1997      |
| Bell, Abraham E.    | St. Louis, MO     | CPA            | Indefinite from July 30, 1997      |
| Jackson, Paul       | Burley, ID        | CPA            | Indefinite from September 11, 1997 |
| Clay, Henry         | New York, NY      | Attorney       | Indefinite from September 11, 1997 |
| Cooley, Donald      | Springfield, MO   | Attorney       | Indefinite from September 11, 1997 |
| Duke, Charla R.     | Oakland, CA       | Attorney       | Indefinite from September 11, 1997 |
| Devins, George      | Munsey Park, NY   | CPA            | Indefinite from September 11, 1997 |
| Williams, Ronald A. | Doylestown, PA    | Enrolled Agent | Indefinite from September 11, 1997 |

# Announcement of the Consent Voluntary 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, certi-

fied 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                     |
|-------------------------|------------------------|----------------|--|
| Weksler, Mark R.        | Arlington Heights, IL  | CPA            | June 16, 1997 to June 15, 2000         |
| Womble, Bill R.         | Dallas, TX             | Attorney       | Indefinite from June 19, 1997          |
| Robinson II, Vaughn     | Midland, TX            | CPA            | Indefinite from June 19, 1997          |
| Kim, Kwang W.           | Schaumburg, IL         | CPA            | June 30, 1997 to December 29, 1997     |
| Tymas, George M.        | Russellton, PA         | CPA            | July 1, 1997 to February 28, 1999      |
| Rattet, Robert L.       | New Rochelle, NY       | Attorney       | July 26, 1997 to June 25, 1998         |
| Noles, R. Leon          | N. Little Rock, AR     | CPA            | July 30, 1997 to October 29, 1997      |
| Harbin, Glenn E.        | Bakersfield, CA        | CPA            | July 31, 1997 to December 30, 1998     |
| Harms, John G.          | Lemont, PA             | CPA            | August 1, 1997 to November 30, 1997    |
| Lewis, Craig S.         | Savannah, GA           | CPA            | August 1, 1997 to July 31, 1998        |
| Terranova, Michael P.   | Lake Charles, LA       | CPA            | August 7, 1997 to May 6, 1998          |
| Frantz, Barbara A.      | Pontiac, IL            | Attorney       | August 8, 1997 to July 31, 1999        |
| Smith, Glen L.          | Edina, MN              | Attorney       | August 9, 1997 to November 8, 1997     |
| Bayus Sr., Gerald A.    | Hubbard, OH            | CPA            | August 11, 1997 to July 10, 1998       |
| Winton, D. Michael      | Clovis, NM             | Enrolled Agent | August 15, 1997 to November 14, 1997   |
| McNabb, Gerald          | White Bear, MN         | Attorney       | August 22, 1997 to January 21, 2000    |
| Ness, Stanley L.        | Minneapolis, MN        | CPA            | August 25, 1997 to February 24, 1998   |
| Culmer, Thomas A.       | Devils Lake, ND        | CPA            | September 1, 1997 to November 30, 1997 |
| Ziskind, Sherman        | Dunlevy, PA            | CPA            | September 1, 1997 to February 28, 1999 |
| Huston, James L.        | Kingman, AZ            | CPA            | September 1, 1997 to December 31, 1997 |
| Fulthorpe, Douglas R.   | St. Petersburg, FL     | CPA            | September 1, 1997 to August 30, 1998   |
| Suszko, Richard J.      | La Mesa, CA            | Enrolled Agent | September 1, 1997 to August 31, 1999   |
| Bromagen, Kent E.       | Dayton, OH             | CPA            | September 1, 1997 to February 28, 2000 |
| Shawhan, David W.       | Xenia, OH              | CPA            | September 1, 1997 to August 31, 1999   |
| Kennedy Jr., Joseph     | Santa Barbara, CA      | Enrolled Agent | September 1, 1997 to May 31, 1998      |
| Brummet, Richard E.     | Hinsdale, IL           | CPA            | September 3, 1997 to January 2, 1998   |
| Pollard, E. Dwain       | Idabell, OK            | CPA            | September 4, 1997 to August 3, 1999    |
| Tamminga, Roland R.     | Belmont, NH            | Attorney       | September 5, 1997 to December 4, 1997  |
| Ayala, Simon            | Oxnard, CA             | Enrolled Agent | Indefinite from September 19, 1997     |
| Balmer, Alan J.         | Fairfield, IA          | CPA            | September 30, 1997 to August 29, 1999  |
| Fox, Eugene             | Rockville Centre, NY   | CPA            | October 1, 1997 to March 31, 1998      |
| Sanford, Paul L.        | Avon, CT               | CPA            | November 1, 1997 to July 31, 1997      |
| Glemann, Richard P.     | Jacksonville Beach, FL | CPA            | November 1, 1997 to October 31, 1999   |
| Rubey, Patrick J.       | Chicago, IL            | CPA            | November 1, 1997 to January 31, 1999   |
| Coverdale Jr., Alphonso | Philadelphia, PA       | Enrolled Agent | December 1, 1997 to November 30, 2000  |

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

Under Section 330, Title 31 of the United States Code, the Secretary of the Treasury, after due notice and opportunity for hearing, is authorized to suspend or disbar from practice before the Internal Revenue Service any person who has violated the rules and regulations governing the recognition of attorneys, certified public accountants, enrolled agents, or enrolled actuaries to practice before the Internal Revenue Service.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are prohibited in any Internal Revenue Service matter from directly or indirectly employ-

ing, accepting assistance from, being employed by, or sharing fees with, any practitioner disbarred or under suspension from practice before the Internal Revenue Service.

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

ant, enrolled agent, or enrolled actuary, and date of disbarment or period of suspension. This announcement will appear in the weekly Bulletin 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.

After due notice and opportunity for hearing before an administrative law judge, the following individuals have been suspended from further practice before the Internal Revenue Service:

| Name             | Address       | Designation    | Date of Suspension             |
|------------------|---------------|----------------|--------------------------------|
| Makos, Deborah   | Green Bay, WI | Enrolled Agent | June 20, 1997 to May 19, 2000  |
| Friberg, John P. | Milwaukee, WI | CPA            | July 20, 1997 to June 19, 2001 |

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

Under Section 330, Title 31 of the United States Code, the Secretary of the Treasury, after due notice and opportunity for hearing, is authorized to suspend or disbar from practice before the Internal Revenue Service any person who has violated the rules and regulations governing the recognition of attorneys, certified public accountants, enrolled agents, or enrolled actuaries to practice before the Internal Revenue Service.

Attorneys, certified public accountants, enrolled agents, and enrolled actuaries are prohibited in any Internal Revenue Service matter from directly or indirectly employ-

ing, accepting assistance from, being employed by, or sharing fees with, any practitioner disbarred or under suspension from practice before the Internal Revenue Service.

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

ant, enrolled agent, or enrolled actuary, and the date of disbarment or period of suspension. This announcement will appear in the weekly Bulletin 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.

After due notice and opportunity for hearing before an administrative law judge, the following individuals have been disbarred from further practice before the Internal Revenue Service:

| Name                | Address        | Designation    | Effective Date    |
|---------------------|----------------|----------------|-------------------|
| Hoyt III, Walter J. | Burns, OR      | Enrolled Agent | July 13, 1997     |
| Lu, John S.         | New York, NY   | Enrolled Agent | July 21, 1997     |
| McCue, William T.   | Glen Rock, NJ  | Attorney       | July 21, 1997     |
| Foster, Dennis S.   | Pittsburgh, PA | CPA            | September 8, 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 ap-

plies 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.

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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.

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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.

# Notes

# Notes



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