

# Internal Revenue bulletin

Bulletin No. 1998-25  
June 22, 1998

## 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. 98-31, page 4.

Low-income housing credit; satisfactory bond; "bond factor" amounts for the period April through June 1998. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period April through June 1998.

Rev. Rul. 98-32, page 4.

Interest rates; underpayments and overpayments. The rate of interest determined under section 6621 of the Code for the calendar quarter beginning July 1, 1998, will be 7 percent for overpayments, 8 percent for underpayments, and 10 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding \$10,000 is 5.5 percent.

### EMPLOYEE PLANS

Rev. Rul. 98-30, page 8.

Qualified cash or deferred arrangement; participation. This ruling describes certain criteria that must be met

before an employee's compensation can be contributed to an employer's section 401(k) plan in the absence of an affirmative election by the employee.

Notice 98-33, page 10.

Weighted average interest rate update. Guidelines are set forth for determining for June 1998, the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for purposes of the full funding limitation of section 412(c)(7) of the Code as amended by the Omnibus Budget Reconciliation Act of 1987 and by the Uruguay Round Agreements Act (GATT).

### EXEMPT ORGANIZATIONS

Announcement 98-54, page 11.

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

Finding Lists begin on page 17.

Announcement of the Expedited Suspension of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries From Practice Before the Internal Revenue Service 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 semiannual basis and are published in the first Bulletin of the succeeding semiannual period, respectively.

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

## Section 42.—Low-Income Housing Credit

**Low-income housing credit; satisfactory bond; “bond factor” amounts for the period April through June 1998.** This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period April through June 1998.

### Rev. Rul. 98-31

In Rev. Rul. 90-60, 1990-2 C.B. 3, the

Internal Revenue Service provided guidance to taxpayers concerning the general methodology used by the Treasury Department in computing the bond factor amounts used in calculating the amount of bond considered satisfactory by the Secretary under § 42(j)(6) of the Internal Revenue Code. It further announced that the Secretary would publish in the Internal Revenue Bulletin a table of “bond factor” amounts for dispositions occurring during each calendar month.

This revenue ruling provides in Table 1 the bond factor amounts for calculating the amount of bond considered satisfactory under § 42(j)(6) for dispositions of qualified low-income buildings or interests therein during the period April through June 1998.

Table 1 Rev. Rul. 98-31 Monthly Bond Factor Amounts for Dispositions Expressed As a Percentage of Total Credits												
Calendar Year Building Placed in Service or, if Section 42(f)(1) Election Was Made, the Succeeding Calendar Year												
Month of Disposition	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Apr '98	61.09	75.25	75.96	77.87	80.16	82.79	85.46	87.97	90.41	93.03	95.60	97.21
May '98	61.09	75.25	75.75	77.65	79.93	82.55	85.20	87.69	90.12	92.74	95.31	97.21
Jun '98	61.09	75.25	75.54	77.44	79.71	82.31	84.95	87.43	89.85	92.46	95.05	97.21

For a list of bond factor amounts applicable to dispositions occurring during other calendar years, see the following revenue rulings: Rev. Rul. 95-83, 1995-2 C.B. 8, for dispositions occurring during calendar year 1995; Rev. Rul. 98-3, 1998-2 I.R.B. 4, for dispositions occurring during the calendar years 1996 and 1997; and Rev. Rul. 98-13, 1998-11 I.R.B. 4, for dispositions occurring the period January through March 1998.

### DRAFTING INFORMATION

The principal author of this revenue ruling is Jack Malgeri of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Mr. Malgeri at (202) 622-3040 (not a toll-free call).

## Section 6621.—Determination of Interest Rate

26 CFR 301.6621-1: Interest rate.

**Interest rates; underpayments and overpay-**

**ments.** The rate of interest determined under section 6621 of the Code for the calendar quarter beginning July 1, 1998, will be 7 percent for overpayments, 8 percent for underpayments, and 10 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding \$10,000 is 5.5 percent.

### Rev. Rul. 98-32

Section 6621 of the Internal Revenue Code establishes different rates for interest on tax overpayments and interest on tax underpayments. Under § 6621(a)(1), the overpayment rate is the sum of the federal short-term rate plus 2 percentage points, except the rate for the portion of a corporate overpayment of tax exceeding \$10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point for interest computations made after December 31, 1994. Under § 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under § 6601 on any large corporate underpayment, the underpayment rate under § 6621(a)(2) is

determined by substituting “5 percentage points” for “3 percentage points.” See § 6621(c) and § 301.6621-3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable date. Section 6621(c) and § 301.6621-3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal short-term rate for the first month in each calendar quarter.

Section 6621(b)(2)(A) provides that the federal short-term rate determined under § 6621(b)(1) for any month applies during the first calendar quarter beginning after such month.

Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during such month by the Secretary in accordance with § 1274(d), rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, the rate is increased to the next highest full percent).

Notice 88-59, 1988-1 C.B. 546, announced that, in determining the quarterly interest rates to be used for overpayments and underpayments of tax under § 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with § 6621 which, pursuant to § 6622, is subject to daily compounding.

Rounded to the nearest full percent, the federal short-term rate based on daily compounding determined during the month of April 1998 is 5 percent. Accordingly, an overpayment rate of 7 percent and an underpayment rate of 8 per-

cent are established for the calendar quarter beginning July 1, 1998. The overpayment rate for the portion of a corporate overpayment exceeding \$10,000 for the calendar quarter beginning July 1, 1998, is 5.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning July 1, 1998, is 10 percent. These rates apply to amounts bearing interest during that calendar quarter.

Interest factors for daily compound interest for annual rates of 5.5 percent, 7 percent, 8 percent, and 10 percent are published in Tables 16, 19, 21, and 25 of

Rev. Proc. 95-17, 1995-1 C.B. 556, 570, 573, 575, and 579.

Annual interest rates to be compounded daily pursuant to § 6622 that apply for prior periods are set forth in the tables accompanying this revenue ruling.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is Raymond Bailey of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Mr. Bailey on (202) 622-6226 (not a toll-free call).

**TABLE OF INTEREST RATES**  
**PERIODS BEFORE JUL. 1, 1975 — PERIODS ENDING DEC. 31, 1986**  
**OVERPAYMENTS AND UNDERPAYMENTS**

PERIOD	RATE	DAILY RATE TABLE IN 1995-1 C.B.
Before Jul. 1, 1975	6%	Table 2, pg. 557
Jul. 1, 1975—Jan. 31, 1976	9%	Table 4, pg. 559
Feb. 1, 1976—Jan. 31, 1978	7%	Table 3, pg. 558
Feb. 1, 1978—Jan. 31, 1980	6%	Table 2, pg. 557
Feb. 1, 1980—Jan. 31, 1982	12%	Table 5, pg. 560
Feb. 1, 1982—Dec. 31, 1982	20%	Table 6, pg. 560
Jan. 1, 1983—Jun. 30, 1983	16%	Table 37, pg. 591
Jul. 1, 1983—Dec. 31, 1983	11%	Table 27, pg. 581
Jan. 1, 1984—Jun. 30, 1984	11%	Table 75, pg. 629
Jul. 1, 1984—Dec. 31, 1984	11%	Table 75, pg. 629
Jan. 1, 1985—Jun. 30, 1985	13%	Table 31, pg. 585
Jul. 1, 1985—Dec. 31, 1985	11%	Table 27, pg. 581
Jan. 1, 1986—Jun. 30, 1986	10%	Table 25 pg. 579
Jul. 1, 1986—Dec. 31, 1986	9%	Table 23, pg. 577

TABLE OF INTEREST RATES  
FROM JAN. 1, 1987 — PRESENT

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	TABLE	PG	RATE	TABLE	PG
	1995- C.B.			1995-1 C.B.		
Jan. 1, 1987—Mar. 31, 1987	8%	21	575	9%	23	577
Apr. 1, 1987—Jun. 30, 1987	8%	21	575	9%	23	577
Jul. 1, 1987—Sep. 30, 1987	8%	21	575	9%	23	577
Oct. 1, 1987—Dec. 31, 1987	9%	23	577	10%	25	579
Jan. 1, 1988—Mar. 31, 1988	10%	73	627	11%	75	629
Apr. 1, 1988—Jun. 30, 1988	9%	71	625	10%	73	627
Jul. 1, 1988—Sep. 30, 1988	9%	71	625	10%	73	627
Oct. 1, 1988—Dec. 31, 1988	10%	73	627	11%	75	629
Jan. 1, 1989—Mar. 31, 1989	10%	25	579	11%	27	581
Apr. 1, 1989—Jun. 30, 1989	11%	27	581	12%	29	583
Jul. 1, 1989—Sep. 30, 1989	11%	27	581	12%	29	583
Oct. 1, 1989—Dec. 31, 1989	10%	25	579	11%	27	581
Jan. 1, 1990—Mar. 31, 1990	10%	25	579	11%	27	581
Apr. 1, 1990—Jun. 30, 1990	10%	25	579	11%	27	581
Jul. 1, 1990—Sep. 30, 1990	10%	25	579	11%	27	581
Oct. 1, 1990—Dec. 31, 1990	10%	25	579	11%	27	581
Jan. 1, 1991—Mar. 31, 1991	10%	25	579	11%	27	581
Apr. 1, 1991—Jun. 30, 1991	9%	23	577	10%	25	579
Jul. 1, 1991—Sep. 30, 1991	9%	23	577	10%	25	579
Oct. 1, 1991—Dec. 31, 1991	9%	23	577	10%	25	579
Jan. 1, 1992—Mar. 31, 1992	8%	69	623	9%	71	625
Apr. 1, 1992—Jun. 30, 1992	7%	67	621	8%	69	623
Jul. 1, 1992—Sep. 30, 1992	7%	67	621	8%	69	623
Oct. 1, 1992—Dec. 31, 1992	6%	65	619	7%	67	621
Jan. 1, 1993—Mar. 31, 1993	6%	17	571	7%	19	573
Apr. 1, 1993—Jun. 30, 1993	6%	17	571	7%	19	573
Jul. 1, 1993—Sep. 30, 1993	6%	17	571	7%	19	573
Oct. 1, 1993—Dec. 31, 1993	6%	17	571	7%	19	573
Jan. 1, 1994—Mar. 31, 1994	6%	17	571	7%	19	573
Apr. 1, 1994—Jun. 30, 1994	6%	17	571	7%	19	573
Jul. 1, 1994—Sep. 30, 1994	7%	19	573	8%	21	575
Oct. 1, 1994—Dec. 31, 1994	8%	21	575	9%	23	577
Jan. 1, 1995—Mar. 31, 1995	8%	21	575	9%	23	577
Apr. 1, 1995—Jun. 30, 1995	9%	23	577	10%	25	579
Jul. 1, 1995—Sep. 30, 1995	8%	21	575	9%	23	577
Oct. 1, 1995—Dec. 31, 1995	8%	21	575	9%	23	577
Jan. 1, 1996—Mar. 31, 1996	8%	69	623	9%	71	625
Apr. 1, 1996—Jun. 30, 1996	7%	67	621	8%	69	623
Jul. 1, 1996—Sep. 30, 1996	8%	69	623	9%	71	625
Oct. 1, 1996—Dec. 31, 1996	8%	69	623	9%	71	625
Jan. 1, 1997—Mar. 31, 1997	8%	21	575	9%	23	577
Apr. 1, 1997—Jun. 30, 1997	8%	21	575	9%	23	577
Jul. 1, 1997—Sep. 30, 1997	8%	21	575	9%	23	577
Oct. 1, 1997—Dec. 31, 1997	8%	21	575	9%	23	577
Jan. 1, 1998—Mar. 31, 1998	8%	21	575	9%	23	577
Apr. 1, 1998—Jun. 30, 1998	7%	19	573	8%	21	575
Jul. 1, 1998—Sep. 30, 1998	7%	19	573	8%	21	575

TABLE OF INTEREST RATES FOR LARGE CORPORATE UNDERPAYMENTS

FROM JANUARY 1, 1991 — PRESENT

	RATE	TABLE	PG
	1995-1 C.B.		
Jan. 1, 1991—Mar. 31, 1991	13%	31	585
Apr. 1, 1991—Jun. 30, 1991	12%	29	583
Jul. 1, 1991—Sep. 30, 1991	12%	29	583
Oct. 1, 1991—Dec. 31, 1991	12%	29	583
Jan. 1, 1992—Mar. 31, 1992	11%	75	629
Apr. 1, 1992—Jun. 30, 1992	10%	73	627
Jul. 1, 1992—Sep. 30, 1992	10%	73	627
Oct. 1, 1992—Dec. 31, 1992	9%	71	625
Jan. 1, 1993—Mar. 31, 1993	9%	23	577
Apr. 1, 1993—Jun. 30, 1993	9%	23	577
Jul. 1, 1993—Sep. 30, 1993	9%	23	577
Oct. 1, 1993—Dec. 31, 1993	9%	23	577
Jan. 1, 1994—Mar. 31, 1994	9%	23	577
Apr. 1, 1994—Jun. 30, 1994	9%	23	577
Jul. 1, 1994—Sep. 30, 1994	10%	25	579
Oct. 1, 1994—Dec. 31, 1994	11%	27	581
Jan. 1, 1995—Mar. 31, 1995	11%	27	581
Apr. 1, 1995—Jun. 30, 1995	12%	29	583
Jul. 1, 1995—Sep. 30, 1995	11%	27	581
Oct. 1, 1995—Dec. 31, 1995	11%	27	581
Jan. 1, 1996—Mar. 31, 1996	11%	75	629
Apr. 1, 1996—Jun. 30, 1996	10%	73	627
Jul. 1, 1996—Sep. 30, 1996	11%	75	629
Oct. 1, 1996—Dec. 31, 1996	11%	75	629
Jan. 1, 1997—Mar. 31, 1997	11%	27	581
Apr. 1, 1997—Jun. 30, 1997	11%	27	581
Jul. 1, 1997—Sep. 30, 1997	11%	27	581
Oct. 1, 1997—Dec. 31, 1997	11%	27	581
Jan. 1, 1998—Mar. 31, 1998	11%	27	581
Apr. 1, 1998—Jun. 30, 1998	10%	25	579
Jul. 1, 1998—Sep. 30, 1998	10%	25	579

TABLE OF INTEREST RATES FOR CORPORATE  
OVERPAYMENTS EXCEEDING \$10,000

FROM JANUARY 1, 1995 — PRESENT

	RATE	TABLE	PG
	1995-1 C.B.		
Jan. 1, 1995—Mar. 31, 1995	6.5%	18	572
Apr. 1, 1995—Jun. 30, 1995	7.5%	20	574
Jul. 1, 1995—Sep. 30, 1995	6.5%	18	572
Oct. 1, 1995—Dec. 31, 1995	6.5%	18	572
Jan. 1, 1996—Mar. 31, 1996	6.5%	66	620
Apr. 1, 1996—Jun. 30, 1996	5.5%	64	618
Jul. 1, 1996—Sep. 30, 1996	6.5%	66	620
Oct. 1, 1996—Dec. 31, 1996	6.5%	66	620
Jan. 1, 1997—Mar. 31, 1997	6.5%	18	572
Apr. 1, 1997—Jun. 30, 1997	6.5%	18	572
Jul. 1, 1997—Sep. 30, 1997	6.5%	18	572
Oct. 1, 1997—Dec. 31, 1997	6.5%	18	572
Jan. 1, 1998—Mar. 31, 1998	6.5%	18	572
Apr. 1, 1998—Jun. 30, 1998	5.5%	16	570
Jul. 1, 1998—Sep. 30, 1998	5.5%	16	570

## Section 401.—Qualified Pension, Profit-Sharing and Stock Bonus Plans, etc.

26 CFR 1.401(k)-1: Certain cash or deferred arrangements.

**Qualified cash or deferred arrangement; participation.** This revenue ruling describes certain criteria that must be met before an employee's compensation can be contributed to an employer's section 401(k) plan in the absence of an affirmative election by the employee.

Rev. Rul. 98-30

### ISSUE

Will employer contributions to a profit-sharing plan fail to be considered elective contributions, within the meaning of § 1.401(k)-1(g)(3) of the Income Tax Regulations, made under a qualified cash or deferred arrangement, within the meaning of § 401(k) of the Internal Revenue Code, merely because they are made pursuant to an arrangement under which, in any case in which an employee does not affirmatively elect to receive cash, the employee's compensation is reduced by a fixed percentage and that amount is contributed on the employee's behalf to the plan?

### FACTS

Employer X maintains Plan A, a profit-sharing plan intended to satisfy the requirements of § 401(a), including §§ 401(k) and 401(m). Under Plan A, any employee of Employer X, including an employee with less than one year of service, may elect to have Employer X make contributions on the employee's behalf to Plan A in lieu of receiving that amount as cash compensation that would otherwise be payable to the employee. The employee may designate the amount of these compensation reduction contributions as a percentage of the employee's compensation, subject to certain limitations set forth in the plan.

Under Plan A, a newly hired employee is immediately eligible to participate in Plan A. If the employee does not affirmatively elect to receive cash or have a specified amount contributed to Plan A, his or her compensation is automatically reduced by 3 percent and this amount is contributed to Plan A. An election not to make compensation reduction contribu-

tions or to contribute a different percentage of compensation can be made at any time. The election is effective for the first pay period and subsequent pay periods (until superseded by a subsequent election) if filed when the employee is hired or if filed within a reasonable period thereafter ending before the compensation for the first pay period is currently available. Thus, if an employee files an election to receive cash in lieu of compensation reduction contributions and the election is filed when the employee is hired or within a reasonable period thereafter ending before the compensation is currently available (and if the employee does not later elect to have compensation reduction contributions made), then no compensation reduction contributions for the first pay period are made on the employee's behalf to Plan A. Elections filed at a later date are effective for payroll periods beginning in the month next following the date the election is filed.

At the time an employee is hired, the employee receives a notice that explains the automatic compensation reduction election and the employee's right to elect to have no such compensation reduction contributions made to the plan or to alter the amount of those contributions, including the procedure for exercising that right and the timing for implementation of any such election. The employee is subsequently notified annually of his or her compensation reduction percentage and the employee's right to change the percentage.

Plan A provides that compensation reduction contributions are immediately nonforfeitable and, if the employee has not attained age 59½, cannot be distributed prior to the employee's retirement, death, or separation from service except in the case of hardship (as defined in the plan). Plan A also provides that, for each employee who has at least 1 year of service, Employer X will make matching contributions to Plan A on account of the employee's compensation reduction contributions up to a specified percentage of the employee's compensation. Plan A does not permit after-tax employee contributions.

Plan A provides that both matching contributions and compensation reduction contributions will be invested in accordance with the participant's election

among a broad range of investment funds held by the trustee or, if no investment election is made by the participant, in the trust's balanced fund which includes both diversified equity and fixed income investments.<sup>1</sup>

### LAW AND ANALYSIS

Section 401(k) provides that a profit-sharing or stock bonus plan, a pre-ERISA money purchase plan, or a rural cooperative plan can meet the requirements of § 401(a) even if it includes a qualified cash or deferred arrangement. Section 401(k) also sets forth the requirements that a cash or deferred arrangement must satisfy in order to be a qualified cash or deferred arrangement.

Section 1.401(k)-1(a)(2)(i) defines a cash or deferred arrangement as an arrangement under which an eligible employee may make a cash or deferred election with respect to contributions to, or accruals or other benefits under, a plan that is intended to satisfy the requirements of § 401(a). Section 1.401(k)-1(a)(2)(ii) provides that a cash or deferred arrangement does not include an arrangement under which amounts contributed under a plan at an employee's election are designated or treated at the time of contribution as after-tax employee contributions.

Section 1.401(k)-1(a)(3)(i) defines a cash or deferred election as any election (or modification of an earlier election) by an employee to have the employer either provide an amount to the employee in the form of cash (or some other taxable benefit) that is not currently available or contribute an amount to a trust (or provide an accrual or other benefit) under a plan deferring the receipt of compensation. Section 1.401(k)-1(a)(3)(iv) provides that a

<sup>1</sup>The Department of Labor has advised Treasury and the Service that, under Title I of the Employee Retirement Income Security Act of 1974 (ERISA), fiduciaries of a plan must ensure that the plan is administered prudently and solely in the interest of plan participants and beneficiaries. While ERISA § 404(c) may serve to relieve certain fiduciaries from liability when participants or beneficiaries exercise control over the assets in their individual accounts, the Department of Labor has taken the position that a participant or beneficiary will not be considered to have exercised control when the participant or beneficiary is merely apprised of investments that will be made on his or her behalf in the absence of instructions to the contrary. See 29 CFR § 2550.404c-1 and 57 FR 46924.



cash or deferred election does not include a one-time irrevocable election, made at the time an employee commences employment with the employer or upon the employee's first becoming eligible under any plan of the employer, to have contributions made by the employer on the employee's behalf to the plan (or to any other plan of the employer) equal to a specified amount or percentage of the employee's compensation.

Section 1.401(k)-1(e)(2) provides generally that a qualified cash or deferred arrangement must provide that the amount that each eligible employee may defer as an elective contribution is available to the employee in cash.

Section 1.401(k)-1(g)(3) defines elective contributions as employer contributions made to a plan that were subject to a cash or deferred election under a cash or deferred arrangement. Such contributions are elective contributions without regard to whether the cash or deferred arrangement is a qualified cash or deferred arrangement.

The definition of a cash or deferred election in § 1.401(k)-1(a)(3)(i) requires that the employee have an election between the employer paying cash (or some other taxable benefit) to the employee or making a contribution to a trust on behalf of the employee. The regulation does not require that the employee receive an amount in cash in any case in which the employee does not make an affirmative election to have that amount contributed to the trust. Thus, a cash or deferred election will not fail to be made under a qualified cash or deferred arrangement merely because, when an employee fails to make an affirmative election with respect to an amount of compensation, that amount is contributed on the employee's behalf to a trust, provided that the employee had an effective opportunity to elect to receive that amount in cash. The employee has an effective opportunity to elect to receive an amount in cash as required under § 1.401(k)-1(a)(3)(i) if the employee receives notice of the availability of the election and the employee has a reasonable period to make the election before the date on which the cash is currently available.

If Plan A were to permit after-tax employee contributions, then the amounts contributed to the plan would have to be designated or treated, at the time of the contribution, as pre-tax compensation reduction contributions or after-tax employee contributions.

Compensation reduction contributions made by Employer X to Plan A (including those made if the employee has not filed an election to the contrary) are amounts contributed pursuant to a procedure under which the employee receives a notice explaining his or her rights to have no compensation reduction contribution and, after receiving the notice, the employee has a reasonable period before the cash is currently available in which to elect to receive the cash in lieu of having an employer contribution made to the plan in that amount. Thus, an eligible employee has an effective opportunity to elect to receive cash or have a contribution made to the plan on the employee's behalf. In addition, compensation reduction contributions made under the plan are not contributions made pursuant to a one-time irrevocable election because the employee can change the election in the future. Consequently, the compensation reduction contributions under Plan A are made pursuant to a cash or deferred election and satisfy the requirement in § 1.401(k)-1(a)(3)(i) that the amount that each eligible employee may defer as an elective contribution be available to the employee in cash. The result would be the same if the plan required a period of service (permitted under § 401(k)(2)(D)) before an employee became eligible for elective contributions.

#### HOLDING

Where, as in this case, an eligible employee has an effective opportunity to elect to receive cash or have that amount contributed by the employer to a profit-sharing plan, those employer contributions made on the employee's behalf to the plan in lieu of receipt of cash compensation will not fail to be considered elective contributions within the meaning of § 1.401(k)-1(g)(3) made under a qualified cash or deferred arrangement within

the meaning of § 401(k) merely because they are made pursuant to an arrangement under which, in any case in which an employee does not affirmatively elect to receive cash, the employee's compensation is reduced by a fixed percentage and that amount is contributed on the employee's behalf to the plan.

#### PAPERWORK REDUCTION ACT

The collection of information contained in this revenue ruling has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1605.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information in this revenue ruling is in the sixth paragraph in the section headed "LAW AND ANALYSIS." This information is required in order for certain employee elections to meet the requirements of § 401(k). The collection of information is required to obtain a benefit. The likely respondents are businesses or other for-profit institutions, and not-for-profit institutions.

The estimated total annual reporting burden is 1,000 hours. The estimated annual burden per respondent is 1 hour. The estimated number of respondents is 1,000.

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

#### DRAFTING INFORMATION

The principal author of this revenue ruling is Roger Kuehnle of the Employee Plans Division. For further information regarding this revenue ruling, call the Employee Plans Division's taxpayer assistance telephone service at (202) 622-6074/6075 (not toll-free numbers) between 1:30 and 3:30 p.m. Eastern Time, Monday through Thursday.

## Part III. Administrative, Procedural, and Miscellaneous

### Weighted Average Interest Rate Update

#### Notice 98-33

Notice 88-73 provides guidelines for determining the weighted average interest rate and the resulting permissible range of

interest rates used to calculate current liability for the purpose of the full funding limitation of § 412(c)(7) of the Internal Revenue Code as amended by the Omnibus Budget Reconciliation Act of 1987 and as further amended by the Uruguay Round Agreements Act, Pub. L. 103-465 (GATT).

The average yield on the 30-year Treasury Constant Maturities for May 1998 is 5.93 percent.

The following rates were determined for the plan years beginning in the month shown below.

Month	Year	Weighted Average	90% to 106% Permissible Range	90% to 110% Permissible Range
June	1998	6.59	5.93 to 6.99	5.93 to 7.25

### Drafting Information

The principal author of this notice is Donna Prestia of the Employee Plans Division. For further information regarding

this notice, call (202) 622-6076 between 2:30 and 3:30 p.m. Eastern time (not a toll-free number). Ms. Prestia's number is (202) 622-7473 (also not a toll-free number).

## Part IV. Items of General Interest

### Foundations Status of Certain Organizations

#### Announcement 98-54

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:

- Acosta Garcia Foundation, Arlington, TX  
Admiral Richard E. Byrd Monument Restoration Fund, Midlothian, VA  
Advocacy Group Tag, Waterford, MI  
Aeromedical Training Institute Limited, Alexandria, VA  
Alliance for Ethics in Nursing, Tulsa, OK  
Arkansas Society for Parenteral and Enteral Nutrition, Little Rock, AR  
Art of Living Wellness Institute, Houston, TX  
Ayehu Brehan Foundation Inc., Fort Washington, MD  
Bijela Foundation, Westfield, NJ  
Black Achievers Voices of Cleveland, Shaker Hts., OH  
Bradford House, Harvey, IL  
Brick Town Soccer Association Inc., Brick, NJ  
Bruin Athletic Club Inc., Orem, UT  
Campership Fund for Christian Scientists in Georgia, Atlanta, GA  
Caring Corner Inc., Dallas, TX  
Center for Academic Excellence, Naples, NC  
Center for Applied Environmental Technology, Ashburn, VA  
Center for Perinatal Research and Family Support Corporation, Roseland, NJ  
Church of New Beginnings in Christ, Philadelphia, PA  
Collegium Aesculapium Foundation, Inc., Provo, UT  
Computer Recycling Center, Santa Clara, CA  
Crafton Foundation, Pittsburgh, PA  
Dave Tiberi Youth Center Inc., Wilmington, DE  
Donna and Richard Fishel Foundation, Inc., Dallas, TX  
Dr. Martin Luther King Jr. Committee of Las Vegas Nevada, Las Vegas, NV  
Eastwind Community Development Corporation, Baltimore, MD  
Endeavor Project, Houston, TX  
Evang Blessed Hope in Christ, Stockton, CA  
Extended Hours Program, Washington, DC  
Extra Mile Ministry Inc., Tavares, FL  
Foundation for Real Estate Education of the Ft. Myers-Association, Ft. Myers, FL  
Good Music Society Inc., Tyler, TX  
Good Shepherd Retreat Center Inc., Ashtabula, OH  
Greenville Steering Non Profit Housing Corporation, Jersey City, NJ  
Gueydan Museum and Cultural Art Society, Gueydan, LA  
Hall of Fame Youth Foundation Inc., Augusta, GA  
Harbor Foundation Inc., Decatur, GA  
Hawk Voice Education Foundation Inc., College Park, MD  
Heritage Foundation of Tennessee, Inc., Memphis, TN  
Hispanic Century Fund, Philadelphia, PA  
Homeless Organization, Akron, OH  
Humboldt Historic Preservation Alliance Incorporated, Humboldt, KS  
Ilyssa Schwartz Leukemia Foundation, Inc., Pine Brook, NJ  
International Conference of Evangelicals Alliance, Inc., Roswell, GA  
International Creative Marquetry Society, Denver, CO  
International Dante Seminar Inc., Princeton, NJ  
International Network for Education and Technology, American Fork, UT  
Iowa Shakespeare Project Inc., Des Moines, IA  
Jack Trowell Scholarship Fund Inc., Washington, DC  
Jimenez Sanctuary Inc., Arlington, VA  
Joseph E. Mertz Memorial Educational Foundation, Inc., Cleveland, TN  
Key Knock Enter Yield Center Inc., Jacksonville, FL  
Kidney Group, Washington, DC  
Kuhiston Foundation, Boulder, CO  
Lafayette Public Library Association, Lafayette, LA  
Leadership Project Inc., Athens, OH  
Lemonade Opera Company, Alamo, TX  
Lite Circle Inc., Baltimore, MD  
Masterworks Choir A New Jersey Nonprofit Corporation, Ocean City, NJ  
Miller Scholarship Foundation LTD., Baltimore, MD  
Mission Gospel Train, Vernon, TX  
Nashville Dance Project, Nashville, TN  
National Autism and Communication Research Institute, Eugene, OR  
New American Stage Company Inc., Charleston, SC  
New Generation Youth Foundation, Los Angeles, CA  
New Way A Helping Hand, Yardley, PA  
90th Anniversary Celebration of Korean Immigration to Hawaii, Honolulu, HI  
North Carolina Chapter of the Health Physics Society, Inc., Graham, NC  
Ohio Center for Native American Affairs, Columbus, OH  
Omega Education Foundation Incorporated, Gary, IN  
O'Neil Hadnott Scholarship Fund Inc., Santa Monica, CA  
Order of St. Markella of Chios Inc., New Orleans, LA  
Orders of Saint Francis of the Anglican Catholic Church, Inc., Louisville, KY  
Pacer Connection Inc., Indianapolis, IN  
Parent Organization of Villa Angela-Saint Joseph High School, Cleveland, OH  
Parke County Veterans Council Inc., Rockville, IN  
Performing Arts Foundation Inc., Memphis, TN  
Pittsburg Community Foundation, Pittsburg, KS  
Playground, Brookings, SD  
Princeton Tiger Lilies Ice Hockey Association Inc., Princeton, NJ  
Recovery Connection Inc., Joliet, IL  
Reno Sparks Group Theatre, Sparks, NV  
Richmond County Coalition of Substance Abuse Project Reclaim, Inc., Hephzibah, GA

Sacramento Blues Society, Sacramento, CA  
 Scrub Land Trust Inc., Melbourne, FL  
 Self Help Organization Inc.-Sho, Baltimore, MD  
 Spirit for a New Generation Foundation, Palm Desert, CA  
 Stacey Ann Boe Memorial Fund Inc., Atlanta, GA  
 Student Theater Arts Group Experience Inc., Glen Mills, PA  
 Students for Political Understanding Inc., Catonsville, MD  
 Students for the Prevention of Aids SPA Inc., Tucson, AZ  
 Students Taking an Active Role Inc., Baltimore, MD  
 Stunts for Science Students Inc., Memphis, TN  
 Sue Carver Share and Care Group Inc., Robinson, IL  
 Sufficient Grace Foundation, Tulsa, OK  
 Sugar Land Community Orchestra, Sugar Land, TX  
 Suited for Change, Washington, DC  
 Summer Creek Commons Gardens, Tigard, OR  
 Summer Funner Theatre, Colorado Springs, CO  
 Summertime Players Inc., Monon, IN  
 Summit Christian Academy Inc., Dallas, TX  
 Sundiata African-American Cultural Association, Seattle, WA  
 Sunnyside Neighborhood Center, Houston, TX  
 Sunnyside South Corridor Community Coalition Inc., Houston, TX  
 Sunrise Childrens Foundation, Long Beach, CA  
 Sunshine and Rainbows Inc., Hendrum, MN  
 Sunshine Fields Day Care Inc., Cedar Springs, MI  
 Supa Inc., Los Angeles, CA  
 Support Our School Foundation, Attalla, AL  
 Sussex Whitetail Hunter Inc., Sussex, WI  
 Susquehanna Service Dogs, Harrisburg, PA  
 Suwanne County Friends of the Library Inc., Live Oak, FL  
 Suwanne River Area Health Education Center Inc., Alachua, FL  
 Sweet Auburn Area Improvement Association Inc., Atlanta, GA  
 Sword of the Spirit-Minneapolis St. Paul, Minneapolis, MN  
 Sydia Group Home Inc., Altadena, CA  
 Szyfra Institute for Artisan Training, Inc., Hollywood Beach, FL  
 T B E C C, Ogden, UT  
 T R S A, Kaufman, TX  
 Tahoe Truckee Housing Development Corporation, Truckee, CA  
 Take A Stand Inc., Lakewood, OH  
 Talent Artistic Juvenile Inc., Hialeah, FL  
 Talladega Beautification Association, Talladega, AL  
 Tallahatchie Housing Inc., Webb, MS  
 Tamar Inc., Lincoln, NE  
 Tampa Bay Total Quality Management Network Inc., Tampa, FL  
 Tampa Theatre Inc., Tampa, FL  
 Tarrant County Emergency Nurses Association, Granbury, TX  
 Tarrant County Homes Inc., Fort Worth, TX  
 Tarzana Hospital and Community Foundation, Tarzana, CA  
 Tass Inc., Glenside, PA  
 Tate Baseball Booster Inc., Gonzalez, FL  
 Tautphaus Park Zoological Society Inc., Idaho Falls, ID  
 Taylor Allderdice Hockey Club, Pittsburgh, PA  
 Taylor Home of Charlotte Inc., Charlotte, NC  
 Team A Inc., South Bend, IN  
 Team Alpine, Olympia, WA  
 Team Indiana Inc., Indianapolis, IN  
 Team Parents Booster Club, Kansas City, MO  
 Teamster Retiree Housing, Washington, DC  
 Tech-Knowledge Bank LTD, Hunt Valley, MD  
 Technologies Users of Broward Tub Inc., S. Florida, FL  
 Technology Institute, Los Alamos, NM  
 Tee Foundation, Mechanicsburg, PA  
 Teen Life for Christ, Dallas, TX  
 Teen Life Inc., Gadsden, AL  
 Teen Pregnancy Coalition of Oklahoma County, Inc., Oklahoma City, OK  
 Telecommunications Information Project, Salt Lake City, UT  
 Telemedicine U S A Inc., Ontario Canada  
 Tell the Truth Ministries Inc., Milwaukee, WI  
 Tennessee Ballet Theatre, Johnson City, TN  
 Tennessee River Museum, Savannah, TN  
 Tennessee Trucking Foundation Inc., Nashville, TN  
 Tennis & College Club Inc., Birmingham, AL  
 Tetelestai Ministries, Bellevue, WA  
 Texana Arts Council, Francitas, TX  
 Texas Association of Leather Artists, Houston, TX  
 Texas Castles, Austin, TX  
 Texas Council of Child Welfare Boards, Bryan, TX  
 Texas Environmental Consortium, San Antonio, TX  
 Texas Federal Child Care Nutritional Program, Incorporated, Houston, TX  
 Texas Fire Chiefs Association Foundation, Inc., Austin, TX  
 Texas Partners Foundation, Austin, TX  
 Texas Social Services Inc., Houston, TX  
 Texas Superstar Foundation, Houston, TX  
 Texas Trails Network, Dallas, TX  
 Texas Veteran Foundation, Austin, TX  
 Texoma Charity Golf Classic Inc., Sherman, TX  
 Thad E. Saleeby Center Volunteer Services, Inc., Hartsville, SC  
 Theatrefaire for Children, Lake Forest, CA  
 Thee Way Out, Seattle, WA  
 Therapeutic Alternative Care Programs, Columbia, MO  
 Think Twice Foundation, Southfield, MI  
 Third Planet Theatre, Dallas, TX  
 Third World Foundation Inc., College Park, MD  
 This is Colombia, Oak Brook, IL  
 Thomas Arthur Productions Inc., Florence, SC  
 Thornapple River Watershed Group Inc., Caledonia, MI  
 Those in Need Inc., Moundsville, WV  
 Three Places Productions Inc., Tucson, AZ  
 Thumbs Up Vidor Inc., Vidor, TX  
 Thunder Road Ensemble, Chicago, IL  
 Thurman Brisben Homeless Shelter Inc., Fredericksburg, VA  
 Thy Kingdom Come Ministries, Denver, CO  
 Tibetan Resettlement Project-New, Albuquerque, NM  
 Tidewater Chapter of the Association of Military Surgeons, Chesapeake, VA  
 Tidewater Sampler Guild Inc., Virginia Beach, VA  
 Tiffin-Seneca Teen Center, Tiffin, OH  
 Tiftons Charlie Brown Playhouse, Tifton, GA

Total Care Living Center Incorporated,  
Baltimore, MD  
Training Trust Inc. c/o Nak Inc., England  
Tri-County Sister Help Inc., Rock Hill,  
SC  
Tropical Flora and Fauna Preservation  
Society, Houston, TX  
US Georgia Foundation Inc., Washington,  
DC  
Vietnamese Nationalist Organization of  
Dallas Vicinities, Garland, TX

Vietnamese Volunteer Youth Association,  
West Valley City, UT  
Welcome House Inc., Crowley, LA  
Wild Side Inc., Wayne, PA  
Williamstown Area Development  
Corporation, Williamstown, WV

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 de-

termination letter with the revised classi-  
fication as to foundation status. Grantors  
and contributors may thereafter rely upon  
such ruling or determination letter as pro-  
vided in section 1.509(a)-7 of the Income  
Tax Regulations. It is not the practice of  
the Service to announce such revised clas-  
sification of foundation status in the Inter-  
nal Revenue Bulletin.

# 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 individual has 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
McDonald, Milton	Stone Mountain, GA	Attorney	Indefinite from February 24, 1998
Parsons, Gary D.	Chattanooga, TN	CPA	Indefinite from February 24, 1998
Buchanan, Steven	Phoenix, AZ	Attorney	Indefinite from February 24, 1998
Caplan, Alan	San Francisco, CA	Attorney	Indefinite from February 24, 1998
Delany, R. Emmet	Ridgefield, CT	Attorney	Indefinite from February 24, 1998
Hirsch, Sheldon	Brooklyn, NY	CPA	Indefinite from February 24, 1998
Newman, Peter R.	Syosset, NY	Attorney	Indefinite from February 24, 1998
Land, Gary	Fayetteville, AR	Enrolled Agent	Indefinite from February 24, 1998
Hunt, William D.	Tulsa, OK	Attorney	Indefinite from February 24, 1998
Hamilton, Robert	Corpus Christie, TX	Attorney	Indefinite from February 24, 1998
Rabinowitz, Emile	Minnetonka, MN	Enrolled Agent	Indefinite from February 24, 1998
McCaffrey, Michael	Wheaton, IL	CPA	Indefinite from February 24, 1998
Eisenstein, Joel	St. Charles, MO	Attorney	Indefinite from February 24, 1998
Cannavo Jr., Joseph S.	St. Louis, MO	Attorney	Indefinite from February 24, 1998
Tilker, Robert M.	Fairfax, VA	CPA	Indefinite from February 24, 1998
Toms, James H.	Hendersonville, NC	Attorney	Indefinite from February 24, 1998
Everett, Kenneth	New York, NY	Attorney	Indefinite from February 24, 1998
Frederick, Charles	Elk Grove	Enrolled Agent	Indefinite from March 13, 1998
Artho, David	Lubbock, TX	CPA	Indefinite from March 18, 1998
Seale, Forrest I.	San Antonio, TX	CPA	Indefinite from March 18, 1998
Yancey, Quinton E.	Stephens City, VA	CPA	Indefinite from March 18, 1998
Hunnicut, Benjamin	Reseda, CA	CPA	Indefinite from March 18, 1998
Finkel, Merle	Beverly Hills, CA	CPA	Indefinite from March 18, 1998
Mullay, Carl P.	Swoyersville, PA	CPA	Indefinite from March 18, 1998

Name	Address	Designation	Date of Suspension
Cunning, Dennis A.	Molalla, OR	CPA	Indefinite from March 18, 1998
Adamson, Steven A.	Nampa, ID	Attorney	Indefinite from April 14, 1998
Bowman, David W.	Colorado Springs, CO	Attorney	Indefinite from April 21, 1998
Beezley, Jack L.	Dallas, TX	Attorney	Indefinite from April 21, 1998
Cunningham, Andrew	Hatfield, PA	CPA	Indefinite from April 28, 1998
Palmquist, Craig S.	Seattle, WA	Attorney	Indefinite from April 21, 1998
Ross, Mark J.	Columbus, OH	Attorney	Indefinite from April 21, 1998
Madoch, Lawrence	Elgin, IL	CPA	Indefinite from April 21, 1998
Taylor, George M.	Springfield, IL	Attorney	Indefinite from April 21, 1998
Casey, Kenneth J.	Corte Madera, CA	CPA	Indefinite from April 21, 1998
Akolt III, John P.	Denver, CO	Attorney	Indefinite from April 21, 1998
Dowdy, Frank	Huntsville, AL	CPA	Indefinite from April 28, 1998
Eckert, Bruce G.	Cleveland, OH	CPA	May 2, 1998 to May 1, 1999
Rozanski, Lawrence J.	Pittsburgh, PA	CPA	June 1, 1998 to May 30, 2000
Mangum, Carl E.	Morris Plains, NJ	CPA	July 1, 1998 to December 31, 1999
Reeser, Richard M.	Thornton, CO	CPA	July 1, 1998 to September 30, 1999
Bailey, Thomas O.	Dallas, TX	CPA	July 1, 1998 to June 30, 2001
Johnson, Kenneth E.	Forest Lake, MN	CPA	July 1, 1998 to November 30, 1999
Deren, Joseph	Lackawanna, NY	Attorney	July 1, 1998 to June 30, 2001

## 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 1997–27 through 1997–52 will be found in Internal Revenue Bulletin 1998–1, dated January 5, 1998.

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