

# Internal Revenue bulletin

Bulletin No. 1998-28  
July 13, 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.

### EMPLOYEE PLANS

T.D. 8769, page 4.

Final regulations under section 411(d) of the Code permit taxpayers to amend qualified plans or other employee pension benefit plans to eliminate plan provisions for benefit distributions before retirement but after age 70½ if certain conditions are satisfied.

Rev. Proc. 98-42, page 9.

Minimum funding standards and limitations on deductions; retroactive amendment of money purchase pension plan. This procedure provides guidance regarding the application of the minimum funding standards of section 412 of the Code and the limitations on deductions under section 404 of the Code to retroactive plan amendments of qualified money purchase pension plans, which relate to changes in the plan qualification requirements made by the Uruguay Round Agreements Act, the Small Business Job Protection Act of 1996, and the Taxpayer Relief Act of 1997.

Announcement 98-63, page 12.

REG-209463-82, 1998-4 I.R.B. 27, which amended the existing proposed regulations that make changes to the rules that apply if a trust is named as a beneficiary of an employee's benefit under a retirement plan, is corrected.

### EXEMPT ORGANIZATIONS

Announcement 98-67, page 15.

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

### EXCISE TAX

Announcement 98-57, page 11.

This announcement provides additional excise tax changes made by the Taxpayer Relief Act of 1997 by imposing a tax and a floor stocks tax on kerosene. The announcement also provides a replacement rate table for claims, procedure for filing claims for kerosene, and a reminder of delayed deposit rules for 1998.

Announcement 98-65, page 14.

T.D. 8748, 1998-8 I.R.B. 24, relating to gasoline and diesel fuel excise tax, is corrected.

### ADMINISTRATIVE

Announcement 98-58, page 12.

New Form 5305-RB, Roth Individual Retirement Annuity Endorsement, is now available.

Announcement 98-59, page 12.

Announcement 98-47, 1998-23 I.R.B. 5, providing supplemental tables of income tax rates and exempt personal service income under new income tax treaties and protocols, is corrected.

Announcement 98-64, page 14.

T.D. 8739, 1997-51 I.R.B. 8, relating to taxpayer identifying numbers, is corrected.

Announcement 98-66, page 15.

REG-209276-87, 1998-11 I.R.B. 18, relating to the abatement of interest attributable to unreasonable errors or delays by an officer or employee of the IRS, is corrected.

Finding Lists begin on page 19.



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.

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

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

## Section 404.—Deduction for Contributions of an Employer to an Employee's Trust or Annuity Plan and Compensation Under a Deferred-Payment Plan

A revenue procedure provides guidance regarding the application of the limitations on deductions under § 404 of the Internal Revenue Code with respect to certain retroactive amendments of qualified money purchase pension plans. See Rev. Proc. 98-42, page 9.

## Section 411.—Minimum Vesting Standards

*26 CFR 411(d)(4): Section 411(d)(6) protected benefits.*

T.D. 8769

DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
26 CFR Parts 1 and 602

### Permitted Elimination of Preretirement Optional Forms of Benefit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that permit an amendment to a qualified plan or other employee pension benefit plan that eliminates plan provisions for benefit distributions before retirement but after age 70½. These regulations affect employers that maintain qualified plans and other employee pension benefit plans, plan administrators of these plans and participants in these plans.

EFFECTIVE DATE: These regulations are effective, June 5, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Foley, (202) 622-6050 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### *Paperwork Reduction Act*

The collection of information contained in these final regulations has been

reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under the control number 1545-1545. The collection of information in these final regulations is in §1.411(d)-4. Responses to this collection of information are required in order to obtain a benefit. Specifically, this information is required for a taxpayer who wants to amend a qualified plan to eliminate certain preretirement optional forms of benefit. This information will be used to determine whether taxpayers have amended a qualified plan.

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

The estimated average burden per recordkeeper for master and prototype plan employers is 10 minutes. The estimated average burden per recordkeeper for master and prototype plan sponsors is 30 minutes. The estimated average burden per recordkeeper for employers with individually designed plans is 30 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the **Internal Revenue Service**, Attn: IRS Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

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.

##### *Background*

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 411(d) of the Internal Revenue Code of 1986. The final regulations permit taxpayers to amend qualified plans to eliminate plan provisions for benefit distributions before retirement but after age 70½, if certain conditions are satisfied.

Section 411(d)(6) generally provides that a plan will not be treated as satisfying the requirements of section 411 if the accrued benefit of a participant is decreased by a plan amendment. Under section 411(d)(6)(B), a plan amendment that eliminates an optional form of benefit will be treated as reducing accrued benefits to the extent that the amendment applies to benefits accrued as of the later of the adoption date or the effective date of the amendment. However, section 411(d)(6)(B) also permits the Secretary to provide in regulations that this rule will not apply to an amendment that eliminates an optional form of benefit.

Section 401(a)(9) provides that, in order for a plan to be qualified under section 401(a), distributions from the plan must commence no later than the "required beginning date." Prior to 1997, section 401(a)(9)(C) generally provided that the required beginning date is April 1 following the calendar year in which the employee attains age 70½. Consequently, in order to satisfy section 401(a)(9), qualified plans, other than certain church and governmental plans, have provided for distributions to commence no later than April 1 following the calendar year that an employee attains age 70½. These distributions commence without regard to whether the employee has retired from employment with the employer maintaining the plan.

Section 1404 of the Small Business Job Protection Act of 1996, Public Law 104-188 (SBJPA), amended the definition of required beginning date that applies to an employee who is not a 5-percent owner. Section 401(a)(9)(C)(i), as amended, provides that, in the case of such an employee, the required beginning date is April 1 of the calendar year following the later of the calendar year in which the employee attains age 70½ or the calendar year in which the employee retires. Accordingly, except in the case of 5-percent owners, a plan is no longer required to provide for distributions that commence prior to retirement in order to satisfy section 401(a)(9).

The right to commence benefit distributions in any form at a particular time is an optional form of benefit within the

meaning of section 411(d)(6)(B) and §1.411(d)-4, Q&A-1(b). In enacting section 1404 of the SBJPA, Congress did not alter the application of section 411(d)(6). Thus, except to the extent authorized by regulations, a plan amendment that eliminates the right to commence preretirement benefit distributions in a plan after age 70½ (or restricts the right by adding an additional condition) violates section 411(d)(6) if the amendment applies to benefits accrued as of the later of the adoption or effective date of the amendment.

On July 2, 1997, a notice of proposed rulemaking under section 411(d)(6) was published in the **Federal Register** (62 F.R. 35752 [REG-107644-97 (1997-32 I.R.B. 24)]). The proposed regulations would allow amendment of qualified plans to eliminate the right to commence preretirement benefit distributions after age 70½, as required under section 401(a)(9) before its amendment by the SBJPA. On October 28, 1997, a public hearing was held on the proposed regulations. In general, most of the comments received with respect to the proposed regulations did not relate to the proposed amendments to the regulations under section 411(d)(6), but rather to the other issues related to the SBJPA amendment to section 401(a)(9). Many of those issues are addressed in Notice 97-75 (1997-51 I.R.B. 18). Those comments that addressed the amendments to the proposed regulations under section 411(d)(6) were generally favorable. Thus, after consideration of the comments received, the final regulations retain the structure and substance of the proposed regulations, with the changes or clarifications discussed below.

#### *Overview*

##### *1. Permitted Elimination of Preretirement Distributions After Age 70½*

The legislative history to section 1404 of the SBJPA indicates that the reason for amending the definition of required beginning date was that it is inappropriate to require all participants to commence distributions by age 70½ without regard to whether the participant is still employed by the employer. Because section 1404 did not alter the application of section

411(d)(6) to plan provisions allowing or requiring preretirement distributions after age 70½, an employer's choices for amending its plan to implement the SBJPA change to the definition of required beginning date would be limited if the IRS and Treasury did not grant relief from section 411(d)(6).

Under previously-issued administrative guidance, one approach that is available to employers is to give employees the option of commencing distributions at age 70½ or deferring commencement until after retirement. See Announcement 97-24 (1997-11 I.R.B. 24) and Revenue Procedure 97-41 (1997-33 I.R.B. 51). Another alternative available to employers is to amend the plan to eliminate the right to preretirement distributions solely with respect to future accruals. However, under this second approach, each current participant would retain the right to receive preretirement distributions after age 70½ with respect to a portion of his or her accrued benefit.

The IRS and Treasury recognize the potential complexity of administering plans (particularly defined benefit plans) that adopt either of these approaches. In addition, an employer may not have chosen voluntarily to offer preretirement distributions to employees who have attained age 70½ but instead may have included these provisions in its plan solely to comply with section 401(a)(9) prior to its amendment by the SBJPA. Therefore, the proposed regulations set forth a proposal to provide relief from section 411(d)(6) for certain plan amendments that eliminate preretirement distributions commencing at age 70½. After consideration of the comments received with respect to the proposed regulations, the final regulations provide this relief using the same approach.

##### *2. Conditions on the Relief From Section 411(d)(6)*

###### *a. Protection for Employees Who Are Near Age 70½*

Under the regulations, an amendment to eliminate a preretirement age 70½ distribution option is permitted to apply only to benefits with respect to employees who attain age 70½ in or after a calendar year, specified in the amendment, that begins after the later of December 31, 1998, or

the adoption date of the amendment. The relief from section 411(d)(6) is limited to distributions to employees who attain age 70½ after calendar year 1998 because employees who were near age 70½ at the time of enactment of the SBJPA may have had an expectation of receiving preretirement distributions in the near future and may have made plans that took into account these expected distributions.

###### *b. Optional Forms of Benefit for Participants Retiring After Age 70½*

A plan using this relief generally may not preclude an employee who retires after the calendar year in which the employee attains age 70½ from receiving an optional form of benefit that would have been available if the employee had retired in the calendar year in which the employee attained age 70½. Two of the commentators on the proposed regulations requested clarification that this requirement does not impose special additional restrictions with respect to employees over age 70½ that would require plan sponsors to retain all plan options in effect during the year any employee attained age 70½. In response to these comments, the final regulations clarify that no such special additional restrictions are being imposed. Thus, to the extent a section 411(d)(6) protected benefit may otherwise be eliminated or reduced under §1.411(d)-4, that protected benefit can be reduced or eliminated for all employees without violating section 411(d)(6), even if that benefit would have been available to an employee who retired in the calendar year in which the employee attained age 70½.

###### *c. Timing of Plan Amendment*

An amendment to eliminate a preretirement age 70½ distribution option must be adopted no later than the last day of the remedial amendment period that applies to the plan for changes under the SBJPA. The relief provided is available only to employers that adopt the amendment within this specified time period because the relief is intended to simplify the implementation of section 401(a)(9), as amended by the SBJPA, for employers that do not voluntarily provide preretirement distributions for an extended period after the enactment of the SBJPA.

The IRS and Treasury have determined that it is appropriate to provide an exten-



sion of the period for collectively bargained plans to implement an amendment permitted by these regulations. This was suggested by a commentator who noted that it might not be possible to amend a collectively bargained plan until the expiration of all applicable collective bargaining agreements that are in effect when the final regulations are issued. Accordingly, under the final regulations, §1.411(d)-4, Q&A-10(b)(3) has been amended so that, in the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before, **September 3, 1998**, the amendment deadline is extended to the last day of the twelfth month beginning after the date on which the last of such collective bargaining agreements terminates (determined without regard to any extensions on or after, **September 3, 1998**, if later than the last day of the remedial amendment period for the plan for changes under the SBJPA.

### 3. *Circumstances Under Which No Relief Is Required*

Many employers do not need relief under section 411(d)(6) in order to implement the SBJPA change in the definition of required beginning date in their plans. The regulations include an example of such a plan, a profit-sharing plan that permits an employee to elect distribution after age 59½ at any time and in any amount. The example illustrates that this plan may be amended to implement the SBJPA change in the definition of required beginning date without violating section 411(d)(6). In this example, the section 411(d)(6) relief in these regulations is not required because the optional forms of benefit in the plan that reflect the pre-SBJPA mandatory distribution requirements of section 401(a)(9) are encompassed by the optional forms of benefit provided under the general elective distribution provisions of the plan. The right to commence distributions at age 70½ continues to be available under the plan even after the plan is amended to implement the SBJPA change in the required beginning date.

#### *Effective Date*

These regulations are effective June 5, 1998.

### *Special Analyses*

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Further, it is hereby certified, pursuant to sections 603(a) and 605(b) of the Regulatory Flexibility Act, that the collection of information in these regulations does not have a significant economic impact on a substantial number of small entities. The burden imposed by the collection of information is the burden of amending a plan to modify the provisions reflecting section 401(a)(9). The cost of the amendment varies depending upon whether the small entity involved maintains an individually designed plan or uses a master or prototype plan. For an individually designed plan, the small entity maintaining the plan will be responsible for arranging to have the amendment made. Most small entities with individually designed plans will have the amendment done by a skilled outside service provider, such as a consulting firm or law firm. The time required to make such an amendment is estimated at 30 minutes, which is not a significant economic impact, even for a very small entity. Moreover, most very small entities that maintain a qualified plan use a master or prototype plan. For master and prototype plans, the plan sponsor drafts a single amendment for all of the employers participating in the plan. The average time required for the amendment per employer participating in a master or prototype plan is estimated to be 10 minutes, which certainly is not a substantial economic impact. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### *Drafting Information*

The principal author of these regulations is Cheryl Press, Office of the Asso-

ciate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

\* \* \* \* \*

### *Amendments to the Regulations*

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

#### PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by revising the entry for §1.411(d)-4 to read as follows:

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

§1.411(d)-4 also issued under 26 U.S.C. 411(d)(6). \* \* \*

Par. 2. Section 1.411(d)-4 is amended by adding Q&A-10 to read as follows:

*§1.411(d)-4 Section 411(d)(6) protected benefits.*

\* \* \* \* \*

Q-10. If a plan provides for an age 70½ distribution option that commences prior to retirement from employment with the employer maintaining the plan, to what extent may the plan be amended to eliminate this distribution option?

A-10. (a) *In general.* The right to commence benefit distributions in a particular form and at a particular time prior to retirement from employment with the employer maintaining the plan is a separate optional form of benefit within the meaning of section 411(d)(6)(B) and Q&A-1 of this section, even if the plan provision creating this right was included in the plan solely to comply with section 401(a)(9), as in effect for years before January 1, 1997. Therefore, except as otherwise provided in paragraph (b) of this Q&A-10 or any other Q&A in this section, a plan amendment violates section 411(d)(6) if it eliminates an age 70½ distribution option (within the meaning of paragraph (c) of this Q&A-10) to the extent that it applies to benefits accrued as of the later of the adoption date or effective date of the amendment.

(b) *Permitted elimination of age 70½ distribution option.* An amendment of a plan will not violate the requirements of section 411(d)(6) merely because the amendment eliminates an age 70½ distrib-

ution option to the extent that the option provides for distribution to an employee prior to retirement from employment with the employer maintaining the plan, provided that—

(1) The amendment eliminating this optional form of benefit applies only to benefits with respect to employees who attain age 70½ in or after a calendar year, specified in the amendment, that begins after the later of—

(i) December 31, 1998; or

(ii) The adoption date of the amendment;

(2) The plan does not, except to the extent required by section 401(a)(9), preclude an employee who retires after the calendar year in which the employee attains age 70½ from receiving benefits in any of the same optional forms of benefit (except for the difference in the timing of the commencement of payments) that would have been available had the employee retired in the calendar year in which the employee attained age 70½; and

(3) The amendment is adopted no later than—

(i) The last day of the remedial amendment period that applies to the plan for changes under the Small Business Job Protection Act of 1996 (110 Stat. 1755); or

(ii) Solely in the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before **September 3, 1998**, the last day of the twelfth month beginning after the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after September 3, 1998, if later than the date described in paragraph (b)(3)(i) of this Q&A-10. For purposes of this paragraph (b)(3)(ii), the rules of §1.410(b)-10(a)(2) apply for purposes of determining whether a plan is maintained pursuant to one or more collective bargaining agreements, except that **September 3, 1998**, is substituted for March 1, 1986, as the date before which the collective bargaining agreements must be ratified.

(c) *Age 70½ distribution option.* For purposes of this Q&A-10, an age 70½ distribution option is an optional form of benefit under which benefits payable in a

particular distribution form (including any modifications that may be elected after benefit commencement) commence at a time during the period that begins on or after January 1 of the calendar year in which an employee attains age 70½ and ends April 1 of the immediately following calendar year.

(d) *Examples.* The provisions of this section are illustrated by the following examples:

*Example 1.* Plan A, a defined benefit plan, provides each participant with a qualified joint and survivor annuity (QJSA) that is available at any time after the later of age 65 or retirement. However, in accordance with section 401(a)(9) as in effect prior to January 1, 1997, Plan A provides that if an employee does not retire by the end of the calendar year in which the employee attains age 70½, then the QJSA commences on the following April 1. On October 1, 1998, Plan A is amended to provide that, for an employee who is not a 5-percent owner and who attains age 70½ after 1998, benefits may not commence before the employee retires but must commence no later than the April 1 following the later of the calendar year in which the employee retires or the calendar year in which the employee attains age 70½. This amendment satisfies this Q&A-10 and does not violate section 411(d)(6).

*Example 2.* Plan B, a money purchase pension plan, provides each participant with a choice of a QJSA or a single sum distribution commencing at any time after the later of age 65 or retirement. In addition, in accordance with section 401(a)(9) as in effect prior to January 1, 1997, Plan B provides that benefits will commence in the form of a QJSA on April 1 following the calendar year in which the employee attains age 70½, except that, with spousal consent, a participant may elect to receive annual installment payments equal to the minimum amount necessary to satisfy section 401(a)(9) (calculated in accordance with a method specified in the plan) until retirement, at which time a participant may choose between a QJSA and a single sum distribution (with spousal consent). On June 30, 1998, Plan B is amended to provide that, for an employee who is not a 5-percent owner and who attains age 70½ after 1998, benefits may not commence prior to retirement but benefits must commence no later than April 1 after the later of the calendar year in which the employee retires or the calendar year in which the employee attains age 70½. The amendment further provides that the option described above to receive annual installment payments prior to retirement will not be available under the plan to an employee who is not a 5-percent owner and who attains age 70½ after 1998. This amendment satisfies this Q&A-10 and does not violate section 411(d)(6).

*Example 3.* Plan C, a profit-sharing plan, contains two distribution provisions. Under the first provision, in any year after an employee attains age 59½, the employee may elect a distribution of any specified amount not exceeding the balance of the employee's account. In addition, the plan provides a section 401(a)(9) override provision under which, if, during any year following the year that the employee attains age 70½, the employee does not elect

an amount at least equal to the minimum amount necessary to satisfy section 401(a)(9) (calculated in accordance with a method specified in the plan), Plan C will distribute the difference by December 31 of that year (or for the year the employee attains age 70½, by April 1 of the following year). On December 31, 1996, Plan C is amended to provide that, for an employee other than an employee who is a 5-percent owner in the year the employee attains age 70½, in applying the section 401(a)(9) override provision, the later of the year of retirement or year of attainment of age 70½, is substituted for the year of attainment of age 70½. After the amendment, Plan C still permits each employee to elect to receive the same amount as was available before the amendment. Because this amendment does not eliminate an optional form of benefit, the amendment does not violate section 411(d)(6). Accordingly, the amendment is not required to satisfy the conditions of paragraph (b) of this Q&A-10.

(e) *Effective date.* This Q&A-10 applies to amendments adopted and effective after, June 5, 1998.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In §602.101, paragraph (c) is amended by adding an entry in numerical order to the table to read as follows:

*§602.101 OMB Control numbers.*

* * * * *	(c) * * *
CFR part or section where identified and described	Current OMB control No.
* * * * *	* * * * *
1.411(d)-4 . . . . .	1545-1545
* * * * *	* * * * *

Michael P. Dolan,  
*Deputy Commissioner of  
Internal Revenue.*

Approved May 11, 1998.

Donald C. Lubick,  
*Assistant Secretary of  
the Treasury.*

(Filed by the Office of the Federal Register on June 4, 1998, 8:45 a.m., and published in the issue of the Federal Register for June 5, 1998, 63 F.R. 30621)

## Section 412.—Minimum Funding Standards

A revenue procedure provides guidance regarding the application of the minimum funding standards of § 412 of the Internal Revenue Code with respect to certain retroactive amendments of qualified money purchase pension plans. See Rev. Proc. 98-42, page 9.



## Part III. Administrative, Procedural, and Miscellaneous

Rev. Proc. 98-42

26 CFR 601.601: Rules and regulations.  
(Also, Part I §§ 404, 412.)

### Section 1. Purpose

This revenue procedure provides guidance regarding the application of the minimum funding standards under § 412 of the Internal Revenue Code and the limitations on deductions under § 404 to qualified money purchase pension plans. If the requirements described in this revenue procedure are satisfied, a future plan amendment related to recent changes in the law that is made retroactively effective will be deemed to have been adopted and put into effect as of the amendment's retroactive effective date for purposes of applying §§ 412 and 404 to a money purchase pension plan.

### Part I. Background

#### Section 2. The § 401(b) Remedial Amendment Period

.01 The Uruguay Round Agreements Act, Pub. L. 103-465 (GATT), the Small Business Job Protection Act of 1996, Pub. L. 104-188 (SBJPA) (including § 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353 (USERRA)), and the Taxpayer Relief Act of 1997, Pub. L. 105-34 (TRA '97) made a number of changes to the plan qualification requirements. Some of these changes require plans to be amended to retain qualified status. Other changes are optional; that is, employers may choose, but are not required, to amend their plans as a result of these changes.

.02 In Rev. Proc. 97-41, 1997-33 I.R.B. 51, the Service provided a remedial amendment period under § 401(b) that permits plan amendments to be made retroactively effective if they are adopted on or before the last day of the first plan year beginning on or after January 1, 1999, and they amend plan provisions related to GATT and SBJPA qualification changes that are effective before the first day of that plan year ("disqualifying provisions"). (A later date applies in the case of governmental plans, as defined in § 414(d).) Those amendments of disqual-

ifying provisions that are required to be made to retain qualified status as a result of GATT and SBJPA qualification changes must be made retroactively effective as of the date on which the qualification change became effective with respect to the plan. Operational compliance prior to actual amendment is required if the qualification change is effective before the first day of the first plan year beginning on or after January 1, 1998. Those amendments of disqualifying provisions that are not required but that amend plan provisions that are integrally related to SBJPA qualification changes may be made retroactively effective as of the first day on which the plan was operated in accordance with the amended plan provision.

.03 Rev. Proc. 98-14, 1998-4 I.R.B. 22, provides that the remedial amendment period for GATT and SBJPA qualification changes also will apply to plan amendments of disqualifying provisions that relate to TRA '97, conditioned on a plan's operational compliance with the TRA '97 plan amendments throughout the remedial amendment period.

#### Section 3. Application of the Minimum Funding Standards Under § 412 and the Limitations on Deductions Under § 404 to Money Purchase Pension Plans

.01 Section 412 provides minimum funding standards applicable to pension plans that are or were qualified plans under § 401. The requirements of § 412 apply both to defined contribution pension plans (that is, money purchase pension plans, including target benefit plans) and defined benefit plans, but they do not apply to profit-sharing or stock bonus plans.

.02 Under § 412(b), a plan that is subject to § 412 is required to establish and maintain a funding standard account. The minimum required contribution for a plan under § 412 for a plan year is determined with reference to this account. For a plan year, the funding standard account must reflect charges for the normal cost of the plan for the plan year, credits for amounts considered contributed by the employer to or under the plan for the plan year, and charges and credits for certain amortization bases.

.03 Section 404 limits deductible contributions to qualified plans. Under § 404, contributions paid by an employer under a qualified plan are deductible only under § 404(a), subject to the limits of § 404(a), and only if they would otherwise be deductible under Chapter 1 of Subtitle A of the Code. Section 404(a)(1)(A) sets forth the general limit on deductions for contributions to a qualified pension plan. Under § 404(a)(1)(A), the deductible limit for a qualified money purchase pension plan is, generally, the normal cost of the plan, or, if greater, the minimum required contribution under § 412.

### Part II. Guidance

#### Section 4. Treatment of Retroactive Plan Amendments Adopted Pursuant to Rev. Proc. 97-41 and Rev. Proc. 98-14 for Purposes of Applying §§ 412 and 404 to Money Purchase Pension Plans

.01 If, pursuant to Rev. Proc. 97-41 (and, if applicable, Rev. Proc. 98-14), an amendment of a disqualifying provision under a money purchase pension plan which is related to SBJPA, GATT, or TRA '97 is made retroactively effective, then the amendment will be deemed to have been adopted and put into effect as of the amendment's retroactive effective date for purposes of applying the minimum funding standards under § 412 and the limitations on deductions under § 404. The preceding sentence shall apply with respect to a plan year of a money purchase pension plan only if: a) the contribution required under § 412 (taking into account the preceding sentence) is made to the plan within 8½ months after the close of such plan year, b) the contribution is allocated to the accounts of participants in accordance with the plan, as amended, as of a date within such plan year, and c) all amendments described in the preceding sentence are in fact adopted by the end of the remedial amendment period provided under Rev. Proc. 97-41 and Rev. Proc. 98-14 for GATT, SBJPA, and TRA '97 changes.

.02 Section 4.01 of this revenue procedure applies to money purchase pension plans and not to defined benefit plans. Thus, as noted in section 8 of Rev. Proc. 97-41, except to the extent required by

§ 412(c)(12) or as otherwise provided by the Commissioner, future amendments may not be anticipated in determining the minimum funding standards under § 412 or the limitations on deductions under § 404 for a defined benefit plan, even though the amendments are adopted before the end of the remedial amendment period.

#### *Section 5. Example*

Employer O maintains Plan X, a qualified money purchase pension plan that is maintained on a calendar plan year basis. Plan X benefits three employees: A and B, who are husband and wife and are each highly compensated, and C, who is unrelated to A and B. Plan X provides that the employer will contribute annually 10% of each employee's compensation for the plan year, with compensation limited to the amount that may be taken into account under § 401(a)(17). Plan X also contains the family aggregation rules, as in effect prior to their repeal by SBJPA. As a result, under Plan X, the amount that may be contributed on behalf of A and B may

not, in total, exceed 10% of the § 401(a)(17) limit. Plan X does not have a funding deficiency or provide past service credit; the normal cost of Plan X for a year is the 10% required contribution.

A and B each receive \$90,000 of compensation for the 1997 plan year, and C receives \$70,000. The § 401(a)(17) limit for the 1997 plan year is \$160,000. Taking Plan X's family aggregation provisions into account, the normal cost of Plan X for 1997 would be \$23,000 (that is, \$16,000, or 10% of \$160,000, plus \$7,000). However, Employer O expects to amend Plan X within the remedial amendment period to eliminate the plan's family aggregation provisions effective as of the first day of the 1997 plan year. Employer O therefore disregards the plan's family aggregation provisions and contributes \$25,000 for the 1997 plan year on August 15, 1998. This amount is allocated, as of December 31, 1997, as follows: \$9,000 each for A and B and \$7,000 for C. Employer O amends Plan X by December 31, 1999, to eliminate Plan X's family aggregation provisions, effective

as of the first day of the 1997 plan year. Pursuant to this revenue procedure, this plan amendment is deemed to have been adopted and put into effect as of the first day of the 1997 plan year for purposes of applying §§ 412 and 404 to Plan X. Accordingly, the normal cost under § 412 of Plan X for 1997 is \$25,000. This is also the normal cost of Plan X for purposes of § 404.

#### *Section 6. Effective Date*

This revenue procedure is effective July 13, 1998, but may be relied upon as provided in section 4.

#### *Drafting Information*

The principal author of this revenue procedure is James Flannery of the Employee Plans Division. For further information regarding this revenue procedure, contact the Employee Plans Division's telephone assistance service between the hours of 1:30 and 3:30 p.m. Eastern time, Monday through Thursday, on (202) 622-6074/75. (These telephone numbers are not toll-free.)

# Part IV. Items of General Interest

## Changes to Excise Taxes

### Announcement 98-57

**Purpose**

To announce excise tax changes made by the Taxpayer Relief Act of 1997 (P.L. 105-34). The changes include:

- A tax on kerosene effective beginning July 1, 1998 (new **IRS No. 35** (Form 720)), and
- A floor stocks tax on kerosene held on July 1, 1998 (new **IRS No. 103** (Form 720)).

Also included in this announcement are:

- A replacement for the **Rate Table for Fuel Tax Claims** for Form 8849 (Rev. January 1997), Claim for Refund of Excise Taxes;
- Procedures for filing a claim for the nontaxable use of kerosene and sales of kerosene by registered ultimate vendors; and
- A reminder of delayed deposit due dates for certain taxes.

**Kerosene tax,  
New IRS No. 35**

The rate for undyed kerosene is \$.244 per gallon. Generally, the rules that apply to taxable fuel apply to kerosene.

**Floor stocks  
tax on kerosene,  
New IRS No. 103**

A floor stocks tax is:

- Imposed on kerosene held by any person on July 1, 1998.
- Imposed at a rate of \$.244 per gallon.
- Payable by deposit at an authorized depository by August 31, 1998.
- Reported on Form 720 for the third quarter, generally due October 31, 1998.

The floor stocks tax **does not apply**—

- To the extent tax on the kerosene has been or will be imposed under Code section 4081 or 4091.
- To kerosene that has been dyed by the earlier of (1) the time of sale or (2) September 30, 1998.
- To kerosene held for any exempt use.
- If the total amount of kerosene held on July 1, 1998, is not more than 2,000 gallons. Kerosene held for an exempt use is not included in figuring the 2,000-gallon threshold.

See Form 720 and its instructions.

**Form 8849**

You may continue to use Form 8849 (Rev. January 1997) until an updated version is available. The following table shows the current rates for fuel tax claims. Do not use the table in the Instructions of Form 8849 (Rev. April 1997).

**Rate Table for Fuel Tax Claims** (as of 10/01/97)

Line No.	Rate	Line No.	Rate
3a	.184	7c	.4854 MCF
b	.13	8a	.15
c	.14242	b	.194
d	.15322	9a	.175
4	.184	b	.219
5a	.13	10a	.03956
b	.14242	b	.0297
c	.15322	c	.02152
6a-c	.244	11a	.1875
7a (LPG only)	.136	b	.17
b (LPG only)	.062		

**Kerosene claims**

Claims for nontaxable use of taxed kerosene and for sales by registered ultimate vendors of kerosene may be made on Form 8849 as follows:

- Use line 12, **Other Claims**, to make a claim for kerosene.
- Follow the format for line 6 on Form 8849 (Rev. January 1997).
- Registered ultimate vendors who sell the fuel for use by a state or on a farm are to provide the same information as outlined in the instructions for line 6c. See the **Instructions for Form 8849** (Rev. April 1997).

**Delayed deposits of certain excise taxes**

Any deposit of . . . taxes on either	that would be due . . .	is instead due on . . .
Fuel (all IRS Nos.) <b>or</b> Transportation of property by air	After July 31, 1998, and before Oct. 1, 1998,*	Oct. 5, 1998
Transportation of persons by air <b>or</b> Use of international air travel facilities	After Aug. 14, 1998, and before Oct. 1, 1998,*	Oct. 5, 1998

\* Includes the September rule deposit due Sept. 28 or 29

## New Form 5305-RB Now Available

## Announcement 98-58

**Form 5305-RB**, Roth Individual Retirement Annuity Endorsement, is a new model annuity endorsement agreement. Section 302 of the Taxpayer Relief Act of 1997 created the Roth individual retirement annuity (Roth IRA). A Roth IRA is established after the contract, which includes Form 5305-RB, is executed by both the annuitant and the issuer. The form meets the requirements of section 408A of the Internal Revenue Code.

Copies of Form 5305-RB are available at most IRS offices. Applicants may order the form by telephone or they may use other IRS electronic information services to get copies.

Request by—	Number or Address
Telephone	1-800-TAX-FORM (1-800-829-3676)
Personal computer: World Wide Web File Transfer Protocol Telnet	www.irs.ustreas.gov ftp.irs.ustreas.gov iris.irs.ustreas.gov
Direct Dial (by modem)	703-321-8020

Announcement 98-47,  
Supplemental Tables of Income  
Tax Rates and Exempt Personal  
Service Income Under New  
Income Tax Treaties and  
Protocols; Correction

## Announcement 98-59

The following corrections should be made to Table 1 of Announcement 98-47. This announcement was published on

page 5 of Internal Revenue Bulletin 1998-23.

Under column 6 for residents of Switzerland, the rate of withholding should be corrected to read "15." It currently reads "18."

In footnote **k**, the first sentence should be corrected to read: "This is the rate for royalties for the use of, or the right to use, industrial, commercial, and scientific equipment."

Required Distributions From  
Qualified Plans and Individual  
Retirement Plans; Correction

## Announcement 98-63

AGENCY: Internal Revenue Service,  
Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains



corrections to REG-209463-82, which was published in the **Federal Register** on Tuesday, December 30, 1997 (62 F.R. 67780 [1998-4 I.R.B. 27]). The amendments to existing proposed regulations make changes to the rules that apply if a trust is named as a beneficiary of an employees benefit under a retirement plan.

FOR FURTHER INFORMATION CONTACT: Thomas Foley, (202) 622-6030 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

*Background*

The notice of proposed rulemaking that is the subject of these corrections is under section 401(a)(9) of the Internal Revenue Code.

*Need for Correction*

As published, REG-209463-82 contains errors which may prove to be mis-

leading and are in need of clarification.

*Correction of Publication*

Accordingly, the publication of the notice of proposed rulemaking (REG-209463-82), which is the subject of FR Doc. 97-33393, is corrected as follows:

**§1.409(a)(9)-1 [Corrected]**

1. On page 67783, § 1.409(a)(9)-1 is corrected as set out in the following table:

Section	Location	Incorrect Language	Corrected Language
1.409(a)(9)-1	Q&A D-5, column 2, paragraph (a) of A, line 10	“paragraph (b) of D-5A are met,”	“paragraph(b) of this D-5 are met,”
1.409(a)(9)-1	Q&A D-5, column 2, paragraph (a) of A., line 24	“paragraph (b) of this D-5A are not met,”	“paragraph (b) of this D-5 are not met,”
1.409(a)(9)-1	Q&A D-5, column 3, paragraph (c) of A., line 10 from the top of the column	“5A are satisfied with respect to such”	“5 are satisfied with respect to such”
1.409(a)(9)-1	Q&A D-6, column 3, paragraph (a) of A., line 3	“requirements of paragraph (b) of D-5A”	“requirements of paragraph (b) of D-5”
1.409(a)(9)-1	Q&A D-6, column 3, paragraph (a) of A., line 13 from the bottom of the paragraph	“5A of this section are satisfied with”	“5 of this section are satisfied with”

2. On page 67784, § 1.409(a)(9)-1 is corrected as set out in the following table:

Section	Location	Incorrect Language	Corrected Language
1.409(a)(9)-1	Q&A D-6, column 3, paragraph (a) of A., line 8 from the bottom of the paragraph	“paragraph (b) of D-5A of this section are”	“paragraph (b) of D-5 of this section are”
1.409(a)(9)-1	Q&A D-7, column 1, paragraph (a) introductory text of A., last line of the paragraph	“(2) of this D-7A:”	“(2) of this D-7:”
1.409(a)(9)-1	Q&A D-7, column 1, paragraph (a)(2)(ii) of A., line 5	“and (3) of D-5A of this section are”	“and (3) of D-5 of this section are”
1.409(a)(9)-1	Q&A D-7, column 1, paragraph (b)(1) of A., second line from the bottom of the column	“paragraph (b)(1), (2), and (3) of D-5A of”	“paragraph (b)(1), (2) and (3) of D-5 of”
1.409(a)(9)-1 (c)(1) of A., line 6	Q&A D-7, column 2, paragraph this D-7A, a plan”	“(a)(1), (a)(2), or (b) of this D-7, a plan”	“(a)(1), (a)(2), or (b) of this D-7, a plan”

3. On page 67784, § 1.409(a)(9)–1 is corrected as set out in the following table:

Section	Location	Incorrect Language	Corrected Language
1.409(a)(9)–1	Q&A D–7, column 2, paragraph (c)(1) of A., line 10 from the bottom of the paragraph	“requirements of paragraph (b) of D–5A”	“requirements of paragraph (b) of D–5”

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

(Filed by the Office of the Federal Register on March 24, 1998, 8:45 a.m., and published in the issue of the Federal Register for March 25, 1998, 63 F.R. 14391)

IRS Adoption Taxpayer  
Identification Numbers;  
Correction

Announcement 98–64

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains corrections to Treasury Decision 8739, which was published in the **Federal Register** on Monday, November 24, 1997 (62 F.R. 62518 [1997–51 I.R.B. 8]) relating to taxpayer identifying numbers.

DATES: This correction is effective November 24, 1997.

FOR FURTHER INFORMATION CONTACT: Michael L. Gompertz, (202) 622-4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

*Background*

The final and temporary regulations that are the subject of these corrections are under section 6109 of the Internal Revenue Code.

*Need for Correction*

As published, TD 8739 contain errors which may prove to be misleading and are in need of clarification.

*Correction of Publication*

Accordingly, the publication of the final and temporary regulations (T.D.

8739), which was the subject of F.R. Doc. 97–30550, is corrected as follows:

§301.6109–1 [Corrected]

1. On page 62520, column 2, §301.6109–1(h)(2)(iii), line 1, the language “(iii) Paragraphs (a)(1)(i), (a)(1)(ii)(A),” is corrected to read “(iii) Paragraphs (a)(1)(i), (a)(1)(ii) introductory text, (a)(1)(ii)(A),”. On the last two lines of the paragraph, the language “(a)(1)(ii) introductory text, and (a)(1)(ii)(A) and (B).” is corrected to read “(a)(1)(ii) introductory text, (a)(1)(ii)(A) and (a)(1)(ii)(B).”.

§301.6109–1T [Corrected]

2. On page 62520, column 3, §301.6109–1T(h), the last three lines of the paragraph, the language “further guidance prior to November 24, 1997, see §301.6109–1(a)(1)(i), (a)(1)(ii)(A) and (a)(1)(ii)(B).” is corrected to read “guidance applicable prior to November 25, 1997, see §301.6109–1(a)(1)(i), (a)(1)(ii) introductory text, (a)(1)(ii)(A) and (a)(1)(ii)(B).”.

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

(Filed by the Office of the Federal Register on March 17, 1998, 8:45 a.m., and published in the issue of the Federal Register for March 18, 1998, 63 F.R. 13124)

Gasoline and Diesel Fuel Excise  
Tax; Special Rules for Alaska;  
Definitions; Correction

Announcement 98–65

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations (T.D. 8748), which were published in the **Fed-**

**eral Register** on Friday, January 2, 1998 (63 F.R. 24 [1998–8 I.R.B. 24]). The regulations relate to gasoline and diesel fuel excise tax.

DATES: This correction is effective January 2, 1998.

FOR FURTHER INFORMATION CONTACT: Frank Boland (202) 622-3130, (not a toll-free call).

SUPPLEMENTARY INFORMATION:

*Background*

The final regulations that are the subject of this correction are under section 6416.

*Need for Correction*

As published, final regulations (T.D. 8748) contain errors that may prove to be misleading and are in need of clarification.

*Correction of Publication*

Accordingly, the publication of the final regulations (T.D. 8748), which are the subject of F.R. Doc. 97–33988, is corrected as follows:

**PART 48—[Corrected]**

1. On page 26, column 1, amendatory instruction “**Par. 6a.**” is added to read as follows:

**§48.6416(a)–3 [Amended]**

**Par. 6a.** In §48.6416(a)–3, paragraph (b)(3)(ii) is amended by removing the last sentence.

2. On page 26, column 1, amendatory instruction “**Par. 6b.**” is added to read as follows:

**§48.6416(b)(3)–2 [Amended]**

**Par. 6b.** In §48.6416(b)(3)–2, paragraph (d)(6) is amended by removing the language “and §48.6416(b)(4)–1”.

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

(Filed by the Office of the Federal Register on March 30, 1998, 8:45 a.m., and published in the issue of the Federal Register for March 31, 1998, 63 F.R. 15292)

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## Abatement of Interest; Correction

### Announcement 98-66

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to REG-209276-87, which was published in the **Federal Register** on Thursday, January 8, 1998 (63 F.R. 1086 [1998-11 I.R.B. 18]), relating to the abatement of interest attributable to unreasonable errors or delays by an officer or employee of the IRS.

FOR FURTHER INFORMATION CONTACT: David Auclair, (202) 622-4910 (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### *Background*

The notice of proposed rulemaking that is the subject of this correction is under section 6404 of the Internal Revenue Code.

#### *Need for Correction*

As published, REG-209276-87 contains an error which may prove to be misleading and is in need of clarification.

#### *Correction of Publication*

Accordingly, the publication of the notice of proposed rulemaking (REG-209276-87), which is the subject of F.R. Doc. 98-19, is corrected as follows:

On page 1087, column 3, in the preamble under the paragraph reading “**Explanation of Provisions**”, the first full paragraph in the column is corrected to read:

The provisions of the regulations are proposed to apply to interest accruing with

respect to deficiencies or payments of any tax described in section 6212(a) for taxable years beginning after July 30, 1996.

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

(Filed by the Office of the Federal Register on March 4, 1998, 8:45 a.m., and published in the issue of the Federal Register for March 5, 1998, 63 F.R. 10798)

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## Foundations Status of Certain Organizations

### Announcement 98-67

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:

A Life Recovery Center Inc., Tallahassee, FL  
A E A O N M S Health and Medical Research Foundation Inc., Detroit, MI  
A P P L E S Project Inc., Kent, OH  
Able Abilities Enterprises Inc., Malvern, AR  
Academics Behavior and Cooperation Inc., Abilene, TX  
Act V Inc., Alexandria, VA  
Adult Basic Education Council of Lauderdale County Inc., Ripley, TN  
African American Arts Alliance, Laplume, PA  
African-Americans in Horse Racing Inc., Baltimore, MD  
Afrikasian Scholars Foundation Inc., Silver Spring, MD  
Agape Full of Love Learning Center Inc., Pittsburgh, PA

Agape Parc Inc., Charlotte, NC  
Agricultural Improvement Project, Chicago, IL

Alamance Childrens Theater Inc., Burlington, NC

Alpha Kappa PSI Foundation, Indianapolis, IN

Alternative Program Associates Foundation, Pittsburgh, PA

American Friends of the Institute of Talmudic Studies, Inc., Lakewood, NJ

American Musical Theatre, Kansas City, MO

American Way Charities Inc., Atlanta, GA

AMTF Joint Theater Center Inc., Philadelphia, PA

Angels Place, Southfield, MI

Animal Shelter League Inc., High Point, NC

Aretha Franklins Scholarship Awards Inc., Birmingham, MI

Arizona Figure Skating Club, Phoenix, AZ

Arizona Future Business Leaders of America Phi Beta Lambda, Phoenix, AZ

Art Attack Inc., Atlanta, GA

Arthur Kill Watershed Association Corp., Colonia, NJ

Ash Tree Organization, Savannah, GA

Asian American Institute, Evanston, IL

Association for the Health Enrichment of Large People, Radford, VA

Association of Community Living of Larimer County Inc., Fort Collins, CO

Association of Sycamore Schools Parent Organizations, Cincinnati, OH

Atlanta Gaymes Inc., Atlanta, GA

Agua Fria Firefighters Association, Santa Fe, NM

Avra Community Resource Center, Marana, AZ

Awakening Center, Memphis, TN

Axis Theatre of Maryland Inc., Baltimore, MD

Baker Street Theater Inc., Gate City, VA

Ballet Metropolitan Foundation, Columbus, OH

Baltimore Housing Roundtable Inc., Baltimore, MD

Bang Elementary P T O Incorporated, Houston, TX

Batavia Rotary Club Educational and Charitable Fund Inc., Batavia, OH

Bay Ballet Theatre Inc., Tampa, FL

Beaverdale Place Inc., Des Moines, IA  
 Bedford Development Corporation,  
 Bedford, KY  
 Bellefonte Educational Foundation Inc.,  
 Bellefonte, PA  
 Bellerive Neighborhood Association,  
 St. Louis, MO  
 Belton Senior Center Foundation Inc.,  
 Belton, TX  
 Bergen County Community Broadcast  
 Foundation, Dumont, NJ  
 Berkeley County Sheriffs Police Athletic  
 League Inc., Martinsburg, WV  
 Bessemer Education Enhancement  
 Foundation, Bessemer, AL  
 Bethesda Elementary P T O Inc.,  
 Waukesha, WI  
 Black Educators of Morris County,  
 Madison, NJ  
 Blackwell Regional Hospital Auxiliary  
 Inc., Blackwell, OK  
 Bluecoats of Atlanta Inc., Atlanta, GA  
 Brandon & Millard Williams Police  
 Athletic League, Youngstown, OH  
 Brenda L Redmond Cultural Arts  
 Foundation, Houston, TX  
 Brentwood Community Foundation,  
 Houston, TX  
 Brians House-Price Lane Inc., West  
 Chester, PA  
 Bridge for Prison Ministries, Huntsville,  
 AL  
 Bronco Soccer Club, Fenton, MO  
 Bruton Park Home Incorporated,  
 Hampton, VA  
 Business Volunteer Alliance, Englewood,  
 CO  
 C A R E S Foundation of Mt. Carmel,  
 Mt. Carmel, IL  
 C B S Homes Inc., Albuquerque, NM  
 Canton District No. 66 Education,  
 Canton, IL  
 Capital Area Supply Corps Wives Inc.,  
 Arlington, VA  
 Care Network for the Disabled,  
 Gladstone, MO  
 Cariso Productions Inc., St. Croix, VI  
 Carolina Organization for Community  
 Concerns on Environment, Wilson,  
 NC  
 Carroll Council Inc., Southlake, TX  
 Carroll County Women on the Move,  
 Westminster, MD  
 CASA Phoenix Incorporated, Sun City,  
 AZ  
 Catawba County Housing Foundation,  
 Newton, NC  
 Cedar Lake Volunteer Fire Department  
 Inc., Hinton, OK  
 Center for Global Educational  
 Partnerships, Rancho De Taos, NM  
 Center for Leadership Development and  
 Research Inc., Washington, DC  
 Center for the Prevention of Child Abuse  
 in Williamson County Inc., Franklin,  
 TN  
 Centrada-Center for Alcohol and Drug  
 Addiction Services, Marysville, OH  
 Christopher Charity Inc., Columbus,  
 OH  
 Circleville Band Boosters, Circleville,  
 OH  
 Cincinnati-Nancy Sister City Association  
 Inc., Cincinnati, OH  
 Cities in Schools of Rock Hill Fort Mill  
 Inc., Rock Hill, SC  
 Citrus-Hernando Private Industry  
 Council Inc., Brooksville, FL  
 Clarke County Education Foundation  
 Inc., Berryville, VA  
 Clemson University Flying Club Inc.,  
 Clemson, SC  
 Cleveland County Audubon Society,  
 Norman, OK  
 Cleveland Sister Cities Inc., Cleveland,  
 OH  
 Clinton Rotary Club Foundation, Clinton,  
 IA  
 Close Call Theatre, Chicago, IL  
 Coalition of All Breed Rescue of  
 Arizona-Cabra, Phoenix, AZ  
 College News and Consulting Services  
 Inc., Kent, OH  
 Color Vision Foundation, Ashland, OR  
 Commodity Giving Initiative,  
 Minnetonka, MN  
 Community Assistance Programs Inc.,  
 Baltimore, MD  
 Community Awareness Committee, New  
 Brighton, PA  
 Community Builders Housing  
 Corporation, Stirling, NJ  
 Community Care of the VNA,  
 Philadelphia, PA  
 Community Health Ventures Inc.,  
 Norman, OK  
 Community Health Awareness Inc.,  
 Miami, FL  
 Community Interpreter Services, St. Paul,  
 MN  
 Computers for Classrooms Inc., Atlanta,  
 GA  
 Cor Christi Inc., Whippany, NJ  
 Cornerstone Ministries, Rawlins, WY  
 Cortez Addictions Recovery Service,  
 Cortez, CO  
 Council of Houma Indian Elders  
 Federation Inc., Kenner, LA  
 Central Georgia Council on Family  
 Violence Inc., Macon, GA  
 Central Georgia Open Inc., Macon, GA  
 Centro Hispano, Little Rock, AR  
 Champlin Park Traveling Basketball  
 Association, Champlin, MN  
 Chemical Valley Sports Association and  
 Foundation, Charleston, WV  
 Chicago Community Health Association  
 Inc., Chicago, IL  
 Christian Ecumenical Development Corp  
 for Far South Side of Chicago,  
 Chicago, IL  
 Chipola Historical Trust Inc., Marianna,  
 FL  
 Counseling and Educational Support  
 Services, St. Louis, MO  
 Creative Advancement Centers Inc.,  
 Augusta, GA  
 Creative Arts Therapies Inc., Arma, KS  
 Crystal Courts, Chicago, IL  
 Cut and Clean Inc., Hopkinsville, KY  
 Collier County Juvenile Justice Council,  
 Inc., Naples, FL  
 Community Access to Service  
 Association, Modesto, CA  
 Covenant Ministrier, Inc., Auberry, CO  
 D P Whitley Scholarship Fund, High  
 Point, NC  
 Dakota Mental Health Consumers  
 Network, Apply Valley, MN  
 Dallas Academy of Music for Children,  
 Dallas, TX  
 Daystar Inc., Kenner, LA  
 Dearborn Public Schools Education  
 Foundation, Dearborn, MI  
 Delta Regional Coalition, McGehee, AR  
 Denver International Childrens Festival,  
 Denver, CO  
 Denver Place Parent-Teacher  
 Organization, Wilmington, OH  
 Desoto Eagles Athletic Booster Club Inc.,  
 Desoto, TX  
 Detroit Area Taskforce on Self Esteem,  
 Detroit, MI  
 Detroit Community Focus Inc., Detroit,  
 MI  
 DHS Orchestra Boosters Inc., Dunwoody,  
 GA  
 Diverse Financial Services, Houston,  
 TX  
 Dobson Rescue Squad Inc., Dobson, NC  
 Double D Thrift Inc., Minot, ND



Dr King Food & Shelter Center, Toledo, OH  
Dunbar Project, Baltimore, MD  
Durham Communities in Schools Inc., Durham, NC  
Durham Episcopal Housing Ministries, Durham, NC  
Eagle Point Parent Group Inc., Oakdale, MN  
East Ark Inc., Helena, AR  
East Central Wellness Project Inc., Oshkosh, WI  
East Hills Band and Orchestra Association, Bethlehem, PA  
East Row Historic Foundation Inc., Newport, KY  
Eastern Women S. Junior Committee of Fifty, Pinson, AL  
Edge of the Wilderness Community Center, Bigfork, MN  
Edgerton Athletic Boosters Inc., Edgerton, OH  
Edmond Arts Incorporated, Edmond, OK  
Edmondson Community Organization Inc., Baltimore, MD  
Edna-Johnetta House Inc., Memphis, TN  
Employment Agency Servicing Youth of Chicago, Chicago, IL  
End Time Ministries Inc., Belton, SC  
Energy Rated Homes of Virginia Inc., Richmond, VA  
Environmental Fund for Virginia Inc., Charlottesville, VA  
Entity Mission, Garland, TX  
Environmental Employment Services, Austin, TX  
Fair Play Parent Teacher Organization, Fair Play, MO  
Fairview Early Education Parent Teacher Organization, Rockford, IL  
Falling Through the Cracks, Hanover, PA  
Financial Freedom Foundation Inc., Keene, TX  
Fire Fighters Safety House Inc., Barrackville, WV

Florida International Affairs Foundation Inc., Tallahassee, FL  
Florida League of Middle Schools, Naples, FL  
Folami House, Inc., Chicago, IL  
Foothills Symphonic Band-Foothills Symphonic Music Association, Loveland, CO  
Forest Lakes Public Library Inc., Forest Lakes, AZ  
Fort Maurepas Society, Ocean Springs, MS  
Fort Recovery Ohio Community Foundation Inc., Fort Recovery, OH  
Fort Worth Youth Soccer Association Inc., Fort Worth, TX  
Forty-Two State Street Inc., Belleville, NJ  
413 Club Inc., Columbus, GA  
Foundation for Life Death and Transition, El Rito, NM  
Foundation for Prevention of Medical Adverse Events-Latrogenics, Tucson, AZ  
Foundation for Transplants for Needy Children Inc., Morristown, NJ  
Fourth Street Foundation Inc., Carrollton, GA  
Frank Lloyd Wright Heritage Tourism Program Inc., Madison, WI  
Franklin County 2000-Business and Education Standing Together, Chambersburg, PA  
Friends of Rancho de Ninos Inc., Albuquerque, NM  
Friends of Shepard State Park, Gaupier, MS  
Friends of the Assiniboines Foundation, Wolf Point, MT  
Friends of the Libraries of Woodbridge Township Inc., Woodbridge, NJ  
Friends of the Library Calhoun County Library, Edison, GA  
Friends of the Love County Branch of the Chickasaw Library System, Marietta, OK

Friends of the Park Foundation, Tilden, NE  
Friends of the Thomas-Foreman Home, Muskogee, OK  
Friends of the West Unity Library, W Unity, OH  
Friends of Vander Veer Inc., Davenport, IA  
Friends of Youth Services, Lincoln, NE  
Fun Fishing Without Barriers Inc., Freeland, MD  
Future Directions Consumer Operated, Westlake, OH  
Gahanna Middle School South Parent Association, Gahanna, OH  
Galesburg-Augusta Community Schools Foundation, Galesburg, MI  
Garfield Boulevard Community Organization, Chicago, IL  
Georgia Baptist College of Nursing Honor Society, Atlanta, GA  
Georgia Folk Festival, Milledgeville, GA  
GHS – Osteopathic Inc., Philadelphia, PA  
Gifts for Education and Economic Development Inc., Kansas City, MO  
Goat Song Productions, Houston, TX

If an organization listed above submits information that warrants the renewal of its classification as a public charity or as a private operating foundation, the Internal Revenue Service will issue a ruling or determination letter with the revised classification as to foundation status. Grantors and contributors may thereafter rely upon such ruling or determination letter as provided in section 1.509(a)-7 of the Income Tax Regulations. It is not the practice of the Service to announce such revised classification of foundation status in the Internal Revenue Bulletin.

## 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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<sup>1</sup> A cumulative finding list for previously published items mentioned 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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