

HIGHLIGHTS

OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 98-58, page 6.

Section 1274A inflation-adjusted numbers for 1999. This ruling provides the dollar amounts, increased by the 1999 inflation-adjustment, for section 1274A of the Code. Rev. Rul. 97-56 supplemented and superseded.

Rev. Rul. 98-59, page 8.

CPI adjustment for below-market loans for 1999. The amount that section 7872(g) of the Code permits a taxpayer to lend to a qualified continuing care facility without incurring imputed interest is published and adjusted for inflation for years 1987 - 1999. Rev. Rul. 97-57 supplemented and superseded.

EMPLOYEE PLANS

Notice 98-64, page 10.

Weighted average interest rate update. The weighted average interest rate for December 1998 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 are set forth.

EXEMPT ORGANIZATIONS

Announcement 98-114, page 88.

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

EMPLOYMENT TAX

Page 87.

1999 social security contribution and benefit base; domestic employee coverage threshold. The Commissioner of the Social Security Administration has announced the OASDI contribution and benefit base paid in 1999, the

relied upon as authoritative interpretations.

self-employment income earned in taxable years beginning in 1999, and the domestic employee coverage amount for 1999.

ADMINISTRATIVE

Rev. Proc. 98-61, page 18.

Cost-of-living adjustments for 1999. The Service provides cost-of-living adjustments for the tax rate tables for individuals, estates, and trusts, the standard deduction amounts, the personal exemption, and several other items that use the adjustment method provided for the tax rate tables. The Service also provides the adjustment for eligible long-term care premiums and another item that uses the adjustment method provided for eligible long-term care premiums.

Rev. Proc. 98-62, page 23.

Penalties; substantial understatement. Guidance is provided concerning when information shown on a return in accordance with the applicable forms and instructions will be adequate disclosure for purposes of reducing an understatement of income tax under section 6662(d) of the Code.

Rev. Proc. 98-63, page 25.

Option standard mileage rates. This procedure announces 31 cents as the optional rate for deducting or accounting for expenses for business use of an automobile, 14 cents as the optional rate for deducting or accounting for use of an automobile as a charitable contribution, and 10 cents as the optional rate for deducting or accounting for use of an automobile as a medical or moving expense for 1999. It provides rules for substantiating the deductible expenses of using an automobile for business, moving, medical, or charitable purposes. Rev. Proc. 97-58 superseded.

(Continued on page 4)

Finding Lists begin on page 90.

Announcement of Declaratory Judgment Proceedings Under Section 7428 begins on page 88.



The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities

and by applying the tax law with integrity and fairness to all.

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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HIGHLIGHTS

OF THIS ISSUE—Continued

ADMINISTRATIVE—Continued

Rev. Proc. 98-64, page 32.

Per diem allowances. This procedure provides optional rules for deeming substantiated the amount of certain reimbursed traveling expenses of an employee as well as for determining the amount of deductible meals while traveling away from home. Rev. Proc. 97-59 superseded.

Rev. Proc. 98-65, page 40.

Substitute printed, computer-prepared, and computer-generated tax forms and schedules for 1998. Requirements are set forth for privately designed and printed federal tax forms and conditions under which the Service will accept computer-prepared and computer-generated tax forms and schedules. Rev. Proc. 97-54 superseded.

Notice 98-65, page 10.

Advance Pricing Agreements. Special procedures for

small business taxpayers to obtain Advance Pricing Agreements are finalized. Rev. Proc. 96-53 modified.

Notice 98-66, page 17.

Qualified Funeral Trusts. This notice provides information and guidance on amendments made by the Internal Revenue Service Restructuring and Reform Act of 1998 to the Qualified Funeral Trust (QFT) provisions of section 685 of the Code.

Notice 98-67, page 18.

Early closing of courier's desk. Guidance is provided for when the Courier's Desk at the national office of the Service closes early on the last day prescribed for filing an application to change an accounting method or accounting period with the national office.

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

Section 1.—Tax Imposed

26 CFR 1.1–1: Income tax on individuals.

The Service provides adjusted tax tables for individuals, trusts, and estates for taxable years beginning in 1999 to reflect changes in the cost of living. Also adjusted is the amount of certain reductions allowed against the unearned income of minor children in computing the “kiddie tax,” either on the child’s return or, in the alternative, on a parent’s return. The amounts used to determine whether a parent may elect to report the “kiddie tax” on the parent’s return are also adjusted. See Rev. Proc. 98–61, page 18.

Section 32.—Earned Income

26 CFR 1.32–2: Earned income credit for taxable years beginning after December 31, 1978.

The Service provides inflation adjustments to the limitations on the earned income tax credit for taxable years beginning in 1999. See Rev. Proc. 98–61, page 18.

Section 59.—Other Definitions and Special Rules for the Alternative Minimum Tax

The Service provides an inflation adjustment to the exemption amount used in computing the alternative minimum tax for a minor child subject to the “kiddie tax” for taxable years beginning in 1999. See Rev. Proc. 98–61, page 18.

Section 62.—Adjusted Gross Income Defined

26 CFR 1.62–2: Reimbursements and other expense allowance arrangements.

Rules under which a reimbursement or other expense allowance arrangement for the cost of operating an automobile for business purposes will satisfy the requirements of section 62(c) of the Code as to business connection, substantiation, and returning amounts in excess of expenses. See Rev. Proc. 98–63, page 25.

Rules are set forth under which a reimbursement or other expense allowance arrangement for the cost of lodging, meal, and incidental expenses or meal and incidental expenses incurred by an employee while traveling away from home will satisfy the requirements of § 62(c) of the Code as to substantiation of the amount of the expenses. See Rev. Proc. 98–64, page 32.

26 CFR 1.62–2T: Reimbursements and other expense allowance arrangements (temporary).

Rules under which a reimbursement or other expense allowance arrangement for the cost of operat-

ing an automobile for business purposes will satisfy the requirements of section 62(c) of the Code as to business connection, substantiation, and returning amounts in excess of expenses. See Rev. Proc. 98–63, page 25.

Rules are set forth under which a reimbursement or other expense allowance arrangement for the cost of lodging, meal, and incidental expenses or meal and incidental expenses incurred by an employee while traveling away from home will satisfy the requirements of § 62(c) of the Code as to Substantiation of the amount of the expenses. See Rev. Proc. 98–64, page 32.

Section 63.—Taxable Income Defined

26 CFR 1.63–1: Change of treatment with respect to the zero bracket amount and itemized deductions.

The Service provides inflation adjustments to the standard deduction amounts (including the limitation in the case of certain dependents, and the additional standard deduction for the aged or blind) for taxable years beginning in 1999. See Rev. Proc. 98–61, page 18.

Section 68.—Overall Limitation on Itemized Deductions

The Service provides inflation adjustments to the overall limitation on itemized deductions for taxable years beginning in 1999. See Rev. Proc. 98–61, page 18.

Section 135.—Income From United States Savings Bonds Used To Pay Higher Education Tuition and Fees

The Service provides an inflation adjustment to the limitation on the exclusion of income from United States savings bonds for taxpayers who pay qualified higher education expenses for taxable years beginning in 1999. See Rev. Proc. 98–61, page 18.

Section 151.—Allowance of Deductions for Personal Exemptions

26 CFR 1.151–4: Amount of deduction for each exemption under section 151.

The Service provides inflation adjustments to the personal exemption and to the threshold amounts of adjusted gross income above which the exemption amount phases out for taxable years beginning in 1999. See Rev. Proc. 98–61, page 18.

Section 162.—Trade or Business Expenses

26 CFR 1.162–17: Reporting and substantiation of certain business expenses of employees.

Rules are set forth for substantiating the amount of a deduction or an expense for business use of an automobile that most nearly represents current costs. See Rev. Proc. 98–63, page 25.

Rules are set forth for substantiating the amount of a deduction or an expense for lodging, meal, and incidental expenses or meal and incidental expenses incurred while traveling away from home that most nearly represents current costs. See Rev. Proc. 98–64, page 32.

Section 170.—Charitable, Etc., Contributions and Gifts

26 CFR 1.170–1: Charitable, etc., contributions and gifts; allowance of deductions.

The Service provides inflation adjustments to the “insubstantial benefit” guidelines for calendar year 1999. Under the guidelines, a charitable contribution is fully deductible even though the contributor receives “insubstantial benefits” from the charity. See Rev. Proc. 98–61, page 18.

26 CFR 1.170A–1: Charitable, etc., contributions and gifts; allowance of deduction.

Rules are set forth for substantiating the amount of a deduction or an expense for charitable use of an automobile. See Rev. Proc. 98–63, page 25.

Section 213.—Medical, Dental, Etc., Expenses

The Service provides an inflation adjustment to the limitation on the amount of eligible long-term care premiums includible in the term “medical care” for taxable years beginning in 1999. See Rev. Proc. 98–61, page 18.

26 CFR 1.213–1: Medical, dental, etc., expenses.

Rules are set forth for substantiating the amount of a deduction or an expense for use of an automobile to obtain medical services. See Rev. Proc. 98–63, page 25.

Section 217.—Moving Expenses

26 CFR 1.217–2: Moving expenses.

Rules are set forth for substantiating the amount of a deduction or an expense for use of an automobile as part of a move. See Rev. Proc. 98–63, page 25.

Section 220.—Medical Saving Accounts

The Service provides inflation adjustments to the amounts used to determine whether a health plan is a “high deductible health plan” for purposes of determining whether an individual is eligible for a deduction for cash paid to a medical savings account for taxable years beginning in 1999. See Rev. Proc. 98–61, page 18.

Section 267.—Losses, Expenses, and Interest With Respect to Transactions Between Related Taxpayers

26 CFR 1.267(a)-1: Deductions disallowed.

When a payor provides a per diem allowance to an employee who is a related party, the rules set forth for the deemed substantiation to the payor of the amount of the employee’s ordinary and necessary business expenses for lodging, meal, and incidental expenses or meal and incidental expenses incurred while traveling away from home do not apply. See Rev. Proc. 98–64, page 32.

Section 274.—Disallowance of Certain Entertainment, Etc., Expenses

26 CFR 1.274(d)-1T: Substantiation requirements (temporary).

Simplified optional method for substantiating the amount of the ordinary and necessary business expenses of an employee for business use of an automobile when a payor provides a mileage allowance for such expenses. See Rev. Proc. 98–63, page 25.

Rules are set forth for an optional method for substantiating the amount of ordinary and necessary business expenses of an employee for lodging, meal, and incidental expenses or meal and incidental expenses incurred while traveling away from home when a payor provides a per diem allowance under a reimbursement or other expense allowance arrangement to pay for such expenses. See Rev. Proc. 98–64, page 32.

26 CFR 1.274-5T: Substantiation requirements (temporary).

Simplified optional method for substantiating the amount of the ordinary and necessary business expenses of an employee for business use of an automobile when a payor provides a mileage allowance for such expenses. See Rev. Proc. 98–63, page 25.

Rules are set forth for an optional method for substantiating the amount of ordinary and necessary business expenses of an employee for lodging, meal, and incidental expenses or meal and incidental expenses incurred while traveling away from home when a payor provides a per diem allowance under a reimbursement or other expense allowance arrangement to pay for such expenses. Rules are also set forth for an optional method for employees and self-employed individuals to use in computing the de-

ductible costs of business meal and incidental expenses paid or incurred while traveling away from home. See Rev. Proc. 98–64, page 32.

Section 482.—Advance Pricing Agreements

Notice 98–10, 1998–6 I.R.B. 9, is updated and finalized providing guidance regarding special procedures for small business taxpayers to obtain an advance pricing agreement. See Notice 98–65, on page 10.

Section 483.—Interest on Certain Deferred Payments

26 CFR 1.483-1: Computation of interest on certain deferred payments.

As defined by section 1274A, the definitions for both “qualified debt instruments” and “cash method debt instruments” have dollar ceilings on the stated principal amount. The limits to the stated principal amount are adjusted for inflation for sales or exchanges occurring in the 1999 calendar year. See Rev. Rul. 98–58, page 6.

Section 512.—Unrelated Business Taxable Income

The Service provides an inflation adjustment to the maximum amount of annual dues that can be paid to certain agricultural or horticultural organizations without any portion being treated as unrelated trade or business income by reason of any benefits or privileges available to members for taxable years beginning in 1999. See Rev. Proc. 98–61, page 18.

Section 685.—Treatment of Funeral Trusts

The Service provides an inflation adjustment to the maximum amount of contributions that may be made to a qualified funeral trust for contracts entered in calendar year 1999. See Rev. Proc. 98–61, page 18.

Section 877.—Expatriation to Avoid Tax

The Service provides an inflation adjustment to amounts used to determine whether an individual’s loss of United States citizenship had the avoidance of United States taxes as one of its principal purposes for calendar year 1999. See Rev. Proc. 98–61, page 18.

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

26 CFR 1.1274A-1: Special rules for certain transactions where stated principal amount does not exceed \$2,800,000.

As defined by section 1274A, the definitions for both “qualified debt instruments” and “cash method debt instruments” have dollar ceilings on the stated principal amount. The limits to the stated principal amount are adjusted for inflation for sales or exchanges occurring in the 1999 calendar year. See Rev. Rul. 98–58, page 6.

Section 1274A.—Special Rules for Certain Transactions Where Stated Principal Amount Does Not Exceed \$2,800,000

(Also Sections 1274, 483; 1.1274A-1.)

Section 1274A inflation-adjusted numbers for 1999. This ruling provides the dollar amounts, increased by the 1999 inflation-adjustment, for section 1274A of the Code. Rev. Rul. 97–56 supplemented and superseded.

Rev. Rul. 98–58

This revenue ruling provides the dollar amounts, increased by the 1999 inflation adjustment, for § 1274A of the Internal Revenue Code.

BACKGROUND

In general, §§ 483 and 1274 determine the principal amount of a debt instrument given in consideration for the sale or exchange of nonpublicly traded property. In addition, any interest on a debt instrument subject to § 1274 is taken into account under the original issue discount provisions of the Code. Section 1274A, however, modifies the rules under §§ 483 and 1274 for certain types of debt instruments.

In the case of a “qualified debt instrument,” the discount rate used for purposes of §§ 483 and 1274 may not exceed 9 percent, compounded semiannually. Section 1274A(b) defines a qualified debt instrument as any debt instrument given in consideration for the sale or exchange of property (other than new § 38 property

within the meaning of § 48(b), as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990) if the stated principal amount of the instrument does not exceed the amount specified in § 1274A(b). For debt instruments arising out of sales or exchanges before January 1, 1990, this amount is \$2,800,000.

In the case of a “cash method debt instrument,” as defined in § 1274A(c), the borrower and lender may elect to use the cash receipts and disbursements method of accounting. In particular, for any cash method debt instrument, § 1274 does not apply, and interest on the instrument is accounted for by both the borrower and the lender under the cash method of accounting. A cash method debt instrument is a qualified debt instrument that meets the following additional requirements: (A) In

the case of instruments arising out of sales or exchanges before January 1, 1990, the stated principal amount does not exceed \$2,000,000; (B) the lender does not use an accrual method of accounting and is not a dealer with respect to the property sold or exchanged; (C) § 1274 would have applied to the debt instrument but for an election under § 1274A(c); and (D) an election under § 1274A(c) is jointly made with respect to the debt instrument by the borrower and lender. Section 1.1274A-1(c)(1) of the Income Tax Regulations provides rules concerning the time for, and manner of, making this election.

Section 1274A(d)(2) provides that, for any debt instrument arising out of a sale or exchange during any calendar year after 1989, the dollar amounts stated in § 1274A(b) and § 1274A(c)(2)(A) are increased by the inflation adjustment for the

calendar year. Any increase due to the inflation adjustment is rounded to the nearest multiple of \$100 (or, if the increase is a multiple of \$50 and not of \$100, the increase is increased to the nearest multiple of \$100). The inflation adjustment for any calendar year is the percentage (if any) by which the CPI for the preceding calendar year exceeds the CPI for calendar year 1988. Section 1274A(d)(2)(B) defines the CPI for any calendar year as the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of that calendar year.

INFLATION-ADJUSTED AMOUNTS

For debt instruments arising out of sales or exchanges after December 31, 1989, the inflation-adjusted amounts under § 1274A are shown in Table 1.

<i>Calendar Year of Sale or Exchange</i>	<i>1274A(b) Amount (qualified debt instrument)</i>	<i>1274A(c)(2)(A) Amount (cash method debt instrument)</i>
1990	\$2,933,200	\$2,095,100
1991	\$3,079,600	\$2,199,700
1992	\$3,234,900	\$2,310,600
1993	\$3,332,400	\$2,380,300
1994	\$3,433,500	\$2,452,500
1995	\$3,523,600	\$2,516,900
1996	\$3,622,500	\$2,587,500
1997	\$3,723,800	\$2,659,900
1998	\$3,823,100	\$2,730,800
1999	\$3,885,500	\$2,775,400

Note: These inflation adjustments were computed using the All-Urban, Consumer Price Index, 1982-1984 base, published by the Bureau of Labor Statistics.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 97-56, 1997-2 C.B. 107 is supplemented and superseded.

DRAFTING INFORMATION

The principal author of this revenue ruling is Diana A. Inhof of the Office of the Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling

contact Ms. Inhof on (202) 622-3930 (not a toll-free call).

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

The Service provides an inflation adjustment to the maximum amount by which the value of qualified real property included in a decedent's gross estate may be decreased for the estate of a decedent

dying in calendar year 1999. See Rev. Proc. 98-62, page 18.

Section 2503.—Taxable Gifts

The Service provides an inflation adjustment to the amount of gifts that may be made to a person in a calendar year without including the amount in taxable gifts for calendar year 1999. See Rev. Proc. 98-61, page 18.

Section 2523.—Gift to Spouse

The Service provides an inflation adjustment to the amount of gifts that may be made to a spouse who is not a citizen of the United States in a calendar year without including the amount in taxable gifts for calendar year 1999. See Rev. Proc. 98-61, page 18.

Section 2631.—GST Exemption

The Service provides an inflation adjustment to the amount of the generation-skipping transfer tax exemption for calendar year 1999. See Rev. Proc. 98-61, page 18.

Section 4001.—Passenger Vehicles

The Service provides an inflation adjustment to the price above which a passenger vehicle becomes subject to an excise tax for transactions occurring in calendar year 1999. See Rev. Proc. 98-61, page 18.

Section 4003.—Special Rules

The Service provides an inflation adjustment to the price above which a passenger vehicle becomes subject to an excise tax for transactions occurring in calendar year 1999. (Price includes the price of installation of parts or accessories on a passenger vehicle within six months of the date after the vehicle was first placed in service.) See Rev. Proc. 98-61, page 18.

Section 4261.—Transportation by Air

The Service provides an inflation adjustment to the amount of the excise tax on passenger air transportation beginning or ending in the United States for calendar year 1999. See Rev. Proc. 98-61, page 18.

Section 6033.—Returns by Exempt Organizations

The Service provides an inflation adjustment to the amount of dues certain exempt organizations can charge and still be excepted from the reporting requirements for exempt organizations with nondeductible lobbying expenditures for taxable years beginning in 1999. See Rev. Proc. 98-61, page 18.

Section 6039F.—Notice of Large Gifts Received From Foreign Persons

The Service provides an inflation adjustment to the amount of gifts in a taxable year from certain

foreign person(s) that may trigger a reporting requirement for a United States person for taxable years beginning in 1999. See Rev. Proc. 98-61, page 18.

Section 6323.—Validity and Priority Against Certain Persons

The Service provides inflation adjustments for calendar year 1999 to the maximum amount of a casual sale of personal property below which a federal tax lien will not be valid against a purchaser of the property, and to the maximum amount of a contract for the repair or improvement of certain residential property at or below which a federal tax lien will not be valid against a mechanic's lienor. See Rev. Proc. 98-61, page 18.

Section 6601.—Interest on Underpayment, Nonpayment, or Extension of Time for Payment of Tax

The Service provides an inflation adjustment to the amount used to determine the amount of interest charged on a certain portion of the estate tax payable in installments for the estate of a decedent dying in calendar year 1999. See Rev. Proc. 98-61, page 18.

Section 6662.—Imposition of Accuracy-Related Penalty

When information shown on a return in accordance with the applicable forms and instructions will be adequate disclosure for purposes of reducing an understatement of income tax. See Rev. Proc. 98-62, page 23.

Section 7430.—Awarding of Costs and Certain Fees

The Service provides an inflation adjustment to the hourly limit on attorney fees that may be awarded in a judgment or settlement of an administrative or judicial proceeding concerning the determination, collection, or refund of tax, interest, or penalty for calendar year 1999. See Rev. Proc. 98-61, page 18.

Section 7702B.—Treatment of Qualified Long-Term Care Insurance

The Service provides an inflation adjustment to the stated dollar amount of the per diem limitation regarding periodic payments received under a qualified long-term care insurance contract or periodic payments received under a life insurance contract that are treated as paid by reason of the death of a

chronically ill individual for calendar year 1999. See Rev. Proc. 98-61, page 18.

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

CPI adjustment for below-market loans for 1999. The amount that section 7872(g) of the Code permits a taxpayer to lend to a qualified continuing care facility without incurring imputed interest is published and adjusted for inflation for years 1987-1999. Rev. Rul. 97-57 supplemented and superseded.

Rev. Rul. 98-59

This revenue ruling publishes the amount that § 7872(g) of the Internal Revenue Code permits a taxpayer to lend to a qualifying continuing care facility without incurring imputed interest. The amount is adjusted for inflation for the years after 1986.

Section 7872 generally treats loans bearing a below-market interest rate as if they bore interest at the market rate.

Section 7872(g)(1) provides that, in general, § 7872 does not apply for any calendar year to any below-market loan made by a lender to a qualified continuing care facility pursuant to a continuing care contract if the lender (or the lender's spouse) attains age 65 before the close of the year.

Section 7872(g)(2) provides that, in the case of loans made after October 11, 1985, and before 1987, § 7872(g)(1) applies only to the extent that the aggregate outstanding amount of any loan to which § 7872(g) applies (determined without regard to § 7872(g)(2)), when added to the aggregate outstanding amount of all other previous loans between the lender (or the lender's spouse) and any qualified continuing care facility to which § 7872(g)(1) applies, does not exceed \$90,000.

Section 7872(g)(5) provides that, for loans made during any calendar year after 1986 to which § 7872(g)(1) applies, the \$90,000 limit specified in § 7872(g)(2) is increased by an inflation adjustment. The inflation adjustment for any calendar year is the percentage (if any) by which the Consumer Price Index (CPI) for the preceding calendar year exceeds the CPI for

calendar year 1985. Section 7872(g)(5) states that the CPI for any calendar year is the average of the CPI as of the close of

the 12-month period ending on September 30 of that calendar year.

Table 1 sets forth the amount specified

in § 7872(g)(2) of the Code. The amount is increased by the inflation adjustment for the years 1987-99.

REV. RUL. 98-59 TABLE 1
Limit under 7872(g)(2)

<i>Year</i>	<i>Amount</i>
Before 1987	\$ 90,000
1987	\$ 92,200
1988	\$ 94,800
1989	\$ 98,800
1990	\$103,500
1991	\$108,600
1992	\$114,100
1993	\$117,500
1994	\$121,100
1995	\$124,300
1996	\$127,800
1997	\$131,300
1998	\$134,800
1999	\$137,000

Note: These inflation adjustments were computed using the All-Urban, Consumer Price Index 1982-1984 base, published by the Bureau of Labor Statistics.

EFFECT ON OTHER DOCUMENTS

Rev. Rul. 97-57, 1997-2 C.B. 275, is supplemented and superseded.

DRAFTING INFORMATION

The author of this revenue ruling is Diana A. Inhof of the Office of Assistant

Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling, contact Ms. Inhof on (202) 622-3930 (not a toll-free call).

Part III. Administrative, Procedural, and Miscellaneous

Weighted Average Interest Rate Update

Notice 98-64

Notice 88-73 provides guidelines for determining the weighted average interest rate and the resulting permissible range of interest rates used to calculate current lia-

bility 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 November

1998 is 5.25 percent. Notice 98-58, 1998-47 I.R.B. 9, contains a printing error. It should have read that the average yield on 30-year Treasury Constant Maturities for October 1998 is 5.01 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
December	1998	6.29	5.66 to 6.67	5.66 to 6.92

Drafting Information

The principal author of this notice is Todd Newman 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). Mr. Newman's number is (202) 622-8458 (also not a toll-free number).

Small Business Taxpayer Advance Pricing Agreements

Notice 98-65

INTRODUCTION

On February 9, 1998, the Internal Revenue Service ("Service") issued Notice 98-10, 1998-6 I.R.B. 9, which set forth proposed special procedures for small business taxpayer ("SBT") Advance Pricing Agreements ("APAs"). Notice 98-10 also solicited comments from the public prior to finalizing the special procedures for SBT APAs.

After consideration of all the comments received, the final procedures for SBT APAs are adopted as revised by this Notice. It is the Service's intention to incorporate the final SBT procedures in any revisions or successor to the general procedures for obtaining an APA from the Service, currently contained in Rev. Proc. 96-53, 1996-2 C.B. 375.

EXPLANATION OF REVISIONS AND SUMMARY OF COMMENTS

Most of the comments focused on expanding the situations in which the SBT special procedures could be employed, including (i) expanding the definition of an SBT to permit more taxpayers to qualify; (ii) clarifying that small transactions (as defined in § 5.14(4) of Rev. Proc. 96-53), without regard to the size of the taxpayer, would qualify; and (iii) permitting transactions that involve non-routine intangibles to qualify. This Notice doubles the gross income amount from \$100 million to \$200 million for determining which entities will be considered an SBT for purposes of implementing SBT APA special procedures. So that all taxpayers who qualify as SBTs are treated uniformly with respect to APA user fees, this Notice also increases, from \$100 million to \$200 million, the gross income amount in the definition of taxpayers that qualify for the reduced user fee of \$5,000 contained in § 5.14(3) of Rev. Proc. 96-53.

This Notice also clarifies that the special procedures can apply, when appropriate, to the small transactions described in § 5.14(4) of Rev. Proc. 96-53. With respect to applying the special procedures to transactions involving intangibles, this Notice clarifies that the Service will consider such application on a case by case basis.

In addition, the Service believes the SBT procedures could be beneficial for

start-up companies and new lines of business for existing companies. Accordingly, transactions involving such companies or such lines of business are mentioned among the types of transactions for which SBT procedures would be appropriate.

It was also requested that the initial term of an SBT APA have the potential to be greater than three years. As reflected in this Notice, depending on the facts and circumstances of each case, an SBT APA term can generally range from three to five years.

Other commentators requested that the Notice address the policy for "rollbacks" (i.e., rolling back the transfer pricing methodology ("TPM") to years prior to those covered in the APA). The requests involved clarifying how rollback requests would be treated in an SBT APA context generally, and more specifically, in situations where a rollback year in a bilateral SBT APA request is under the jurisdiction of Appeals and the simultaneous Appeals and competent authority procedure as described in § 8 of Rev. Proc. 96-13, 1996-1 C.B. 616, 622, is applicable. As with all policies and procedures not specifically addressed by this Notice, such policies and procedures, including the rollback procedures, remain the same as described in Rev. Proc. 96-53. (For the rollback procedures, see § 8 of Rev. Proc. 96-53).

Other comments expressed concern regarding coordination with treaty partners

in the case of bilateral SBT APA requests. As with all bilateral APA requests, the Service has worked, and will continue to work, diligently with treaty partners to effectuate bilateral APAs (SBT or otherwise) as quickly as possible.

Finally, some comments addressed internal Service procedures, such as the staffing of APA Teams. The APA Program appreciates all suggestions to make the APA process more efficient. However, since the purpose of this Notice is to provide guidance to SBTs seeking an APA and not to address internal procedures, these comments have not been addressed in this Notice.

PURPOSE

The Service instituted the APA Program to assist all taxpayers in their efforts to comply with I.R.C. § 482. Under an APA, the Service and a taxpayer agree on a TPM to be prospectively applied to an apportionment or allocation of income, deductions, credits, or allowances between or among two or more organizations, trades, or businesses owned or controlled, directly or indirectly, by the same interests. Provided the taxpayer complies with the terms and conditions of the APA, the Service will regard the results of applying the TPM as satisfying the arm's length standard under § 482. Rev. Proc. 96-53, 1996-2 C.B. 375, explains how a taxpayer may secure an APA from the Service.

To date, the Service has concluded more than 160 APAs with U.S. taxpayers, the majority of which have been large business taxpayers with substantial income and/or assets. In an effort to reduce the § 482 compliance burden of, and to make the APA Program more accessible to, small business taxpayers ("SBTs"), the Service is adopting special APA procedures for SBTs ("SBT procedures"). For purposes of this Notice, a "small business taxpayer" is any U.S. taxpayer with total gross income of \$200 million or less (determined pursuant to § 5.14(7) of Rev. Proc. 96-53 or its successor). In addition, for taxpayers not able to meet the gross income threshold, if deemed appropriate by the Service, SBT procedures will be available for the small transactions described in § 5.14(4) of Rev. Proc. 96-53, subject to the limitations regarding intangibles discussed below.

The SBT procedures seek to address the SBT's need to achieve the compliance certainty an APA provides at a cost that is reasonable relative to the size and complexity of the transactions involved. This Notice describes the circumstances under which an SBT may request special procedures in seeking an APA, the nature of the special procedures, and other provisions designed to assist SBTs in the APA process.

BACKGROUND

The Service has indicated a desire to alleviate the § 482 compliance burden for SBTs. For example, under the 1993 temporary regulations, § 1.482-1T set forth a safe harbor for small taxpayers. That provision, however, was not retained in the final regulations due to deficiencies with the safe harbor. See "Explanation of Revisions and Summary of Comments" of the § 482 final regulations, T.D. 8552, 1994-2 C.B. 93, 104. At that time, the Service solicited suggestions from the public for alternative approaches to assist small taxpayers with their § 482 compliance burden. *Id.* No comments were received as a result of this solicitation.

The Service also attempted to assist all taxpayers, including SBTs, with their § 482 compliance efforts by implementing the APA Program under Rev. Proc. 91-22, 1991-1 C.B. 526. The Program's experience, however, indicates that SBTs are not participating in the Program to the same extent as larger taxpayers, due at least in part to cost concerns (in terms of internal staff time, external legal, accounting, and consulting fees, and Service user fees).

As a consequence, the Service established additional incentives for SBTs to seek APAs. Section 3.09 of Rev. Proc. 96-53 provides that the Service and a small business taxpayer may agree to special procedures for obtaining an APA, including simplified procedures that depart from standard procedures, to meet the needs of the particular SBT. In addition, § 5.14 of Rev. Proc. 96-53 establishes a reduced user fee for many SBTs seeking an APA. The APA Program has successfully applied the approach referenced in § 3.09 in several cases to assist SBTs in receiving APAs.

The Service believes that maintaining the ability to adapt procedures to the facts

and circumstances of a particular SBT is better than establishing formal procedures that may not be applicable to all SBTs. However, it is important for the Service to furnish guidance regarding the types of procedures it deems appropriate for SBT APAs. Accordingly, the provisions in this Notice expand upon § 3.09 of Rev. Proc. 96-53 by providing examples of simplified procedures the Service believes may be appropriate. It is hoped that the flexibility underlying this approach will encourage more small business taxpayers to participate in the APA Program.

PRINCIPLES FOR SMALL BUSINESS TAXPAYER APA REQUESTS

The Service intends to maintain flexibility in the APA process to address the particular needs of SBTs. Accordingly, the special procedures set forth below are the types of procedures the Service will entertain for SBT APA requests; they are not exclusive, and the Service will consider other procedures that are consistent with the objectives of the APA Program and the SBT. In addition, different procedures may apply to different SBTs, depending upon the facts and circumstances of each APA case.

To address the concern that the perceived costs to secure an APA are high in proportion to the size of the transactions involved, the special procedures focus on simplifying the APA process for SBT transactions. This simplification is intended to reduce costs in terms of the amount of time required to evaluate the request, while permitting the Service to satisfy its due diligence requirements.

This objective can be accomplished, and use of special procedures is encouraged, when the SBT proposes to cover less complicated transactions with which the APA Program has had experience (such as those involving the manufacture or distribution of tangible property under § 1.482-3 and the performance of administrative and technical services under § 1.482-2(b)) and proposes a "best method" that is specified under the regulations. In addition, use of special procedures is encouraged for start-up companies or lines of business. Although transactions involving non-routine intangibles, including research and development cost sharing arrangements under § 1.482-7, would not ordinarily be

amenable to such special procedures due to the complexity of valuing such intangibles, the Service will consider employing special procedures for such transactions on a case by case basis.

In addition, to the extent practical, the Service will coordinate the special procedures with the SBT's other tax compliance efforts so as to minimize the costs to the SBT. For example, an SBT's I.R.C. § 6662(e) documentation may be accepted as the APA submission materials, and such documentation could form the primary foundation for the Service's evaluation of the SBT's APA request.

SPECIAL PROVISIONS FOR SBT APAs

At the request of an SBT, the Service will apply any or all of the following provisions under the principles of this Notice, if deemed appropriate by the APA Director:

1. Under ordinary conditions, a taxpayer contemplating an APA may (but is not required to) request a prefiling conference with the Service. If a prefiling conference is requested, the Service provides informal advice to the taxpayer regarding the taxpayer's proposal, but ordinarily does not begin its due diligence evaluation in earnest until the taxpayer formally files an APA request along with the appropriate user fee. Once the formal APA request is received, the APA Program targets finalizing the negotiating position for bilateral APAs in nine months and concluding unilateral APAs in 12 months. In contrast, for SBT transactions the Service intends, if requested, to commence its due diligence analysis at the front-end of the process to accelerate the conclusion of the APA negotiations.

(a) The Service and SBT may hold a prefiling conference (before a user fee is paid) to determine as early as possible the best method for the SBT's proposed covered transactions. To accomplish this, the Service will need a detailed description of the underlying facts of, and the proposed

TPM for, the SBT's requested covered transactions at least 60 days prior to the scheduled conference. For purposes of this Notice, the SBT may provide the information it is required to maintain under I.R.C. § 6662(e) to satisfy this requirement. Prior to its prefiling submission, the SBT must consult with APA Program personnel to determine the information the Service deems necessary to evaluate the SBT's particular covered transactions.

(b) An APA Team will evaluate the SBT APA prefiling submittal to determine items of concern and the additional documentation, if any, needed to evaluate the request. The SBT will be advised of the APA Team's initial conclusions before the prefiling conference so that it can address these items before or at the conference.

(c) At the prefiling conference, the SBT and Service will negotiate the case management plan with the objective of concluding a unilateral APA, or finalizing the recommended negotiating position for a bilateral APA, within six months of the date the SBT files its APA request. The Service's efforts to perform more of its analysis earlier in the process should result in a reduced number of post-filing meetings and supplemental information requests.

2. The Service and SBT may negotiate the reduction or elimination of specific elements otherwise required under § 5 of Rev. Proc. 96-53. Examples of the types of information that the Service may determine the SBT could exclude from its APA request include those described in the following subsections of Rev. Proc. 96-53: (a) § 5.04(3); (b) § 5.04(5); (c) § 5.04(6); (d) § 5.08; and (e) § 5.09.

3. The Service will hold all meetings with the SBT at a location convenient to the SBT. To minimize the number of meetings, teleconferences will be employed whenever feasible.

4. The Service will reasonably assist the SBT in the selection and evaluation of comparables or the computation of adjustments to comparables under § 1.482-1(e),

as well as, if appropriate, assist the SBT in determining other adjustments.

5. The initial term of an SBT APA will generally be from three to five years, depending upon the facts and circumstances of the SBT.

6. For unilateral APA requests, an SBT may submit a proposed draft APA in a form substantially identical to the current APA model agreement attached to this Notice (the APA model is subject to change; SBTs should check with the APA Program for updated versions). To expedite review of the proposed draft APA, the SBT should also include a "redline" version showing the differences between the APA model and the SBT's proposed draft. In addition, SBTs should also submit the draft on a computer disk in a word processing format acceptable to the Service.

7. The Service will consider other procedures suggested by the SBT to reduce the SBT's administrative and financial burden, consistent with the objectives of the APA Program and the requirements of § 482.

EFFECT ON OTHER DOCUMENTS

Section 5.14(3) of Rev. Proc. 96-53, 1996-2 C.B. 375, 379, is modified by increasing the gross income amount contained therein from \$100,000,000 to \$200,000,000.

EFFECTIVE DATE

This Notice is effective immediately and will apply to all SBT APA requests, including requests for renewal, received on or after the date this Notice is published.

DRAFTING INFORMATION

The principal author of this Notice is David J. Canale of the Advance Pricing Agreement Program, Office of Associate Chief Counsel (International). For further information regarding this Notice, contact Mr. Karl Kellar at (202) 874-4360 (not a toll-free call).

ADVANCE PRICING AGREEMENT

between

TAXPAYER

and

THE INTERNAL REVENUE SERVICE

THIS ADVANCE PRICING AGREEMENT (“APA”) is made by and between Taxpayer and the Internal Revenue Service (“Service”), acting through the Associate Chief Counsel (International).

WHEREAS, Taxpayer and the Service (the “Parties”) wish to establish a method for determining whether certain prices used in international transactions involving Taxpayer are in accordance with the principles of section 482 of the Internal Revenue Code of 1986 as amended (the “Code”) and attendant Regulations and, to the extent applicable, income tax conventions to which the United States is a party;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. Identifying Information. Taxpayer’s EIN is _____. [Taxpayer is included in the consolidated federal income tax return filed by _____, EIN _____. All references to Taxpayer’s United States income tax return in this APA refer to that consolidated return, and all references in this APA to “Taxpayer” shall refer to the _____ consolidated return group.]

2. Covered Transactions. This APA governs the pricing of the transactions specified in Appendix A (the “Covered Transactions”).

3. Legal Effect.

3.1. Taxpayer agrees to comply with the terms and conditions of this APA, including the transfer pricing methodology (“TPM”) that is described in Appendix A. If Taxpayer complies with the terms and conditions of this APA, then the Service will not contest the application of the TPM to the Covered Transactions and will not make or propose any reallocation or adjustment under section 482 of the Code with respect to Taxpayer concerning the Transfer Prices in Covered Transactions for the years covered by this APA (the “APA Years”).

3.2. Regardless of the date on which Taxpayer filed its request for this APA, Taxpayer and the Service agree, unless otherwise specified to the contrary in this APA, that Rev. Proc. 96–53, 1996–2 C.B. 375, and not any predecessor to Rev. Proc. 96–53, governs the interpretation and administration of this APA.

3.3. If, for any APA Year, Taxpayer does not comply with the terms and conditions of this APA, then the Service may:

- i. enforce the terms of this APA and propose adjustments to the income, expenses, deductions, credits, or allowances reported on Taxpayer’s U.S. federal income tax return in keeping with the terms of this APA;
- ii. cancel or revoke this APA pursuant to section 11.05 or 11.06 of Rev. Proc. 96–53; or
- iii. revise this APA, upon agreement on revision with Taxpayer.

3.4. [This APA addresses the arm’s length nature of prices charged or received in the aggregate between Taxpayer and [name of foreign group], and except as explicitly provided in this APA does not address, and does not bind the Service with respect to, prices charged or received, or the relative amounts of income or loss realized, by particular legal entities that are members of Taxpayer or that are members of [foreign group]. The true taxable income of a member of an affiliated group filing a U.S. consolidated return shall be determined under the regulations governing consolidated returns. *See, e.g.*, Treas. Reg. section 1.1502–12. Similarly, to the extent relevant for United States tax purposes, and except as explicitly provided in this APA, the relative amounts of income of different entities that are members of [foreign group] shall be determined under the arm’s length standard of section 482 without reference to this APA.]

3.5. The Parties agree that nonfactual oral and written representations, within the meaning of sections 10.04 and 10.05 of Rev. Proc. 96-53 (including any proposals to use particular TPMs), made in conjunction with this request constitute statements made in compromise negotiations within the meaning of Rule 408 of the Federal Rules of Evidence.

4. **Term.** This APA shall apply only to the APA Years, which shall include only _____.

5. **Financial Statements and APA Records.** The determination whether Taxpayer has complied with this APA will be based on its United States income tax return; its financial statements as prepared in accordance with generally accepted accounting principles ("GAAP") on a consistent basis (the "Financial Statements"); the additional records ("APA Records") specified in Appendix B; and all information referenced in section 8 of this APA. Taxpayer will be in compliance with the TPM only if a certified public accountant renders an opinion that the Financial Statements present fairly, in all material respects, the financial position of Taxpayer and the results of its operations, in accordance with GAAP. Taxpayer agrees to maintain the Financial Statements and APA Records and to make them available within thirty days of a request by the Service in connection with an examination described in section 11.03 of Rev. Proc. 96-53. Compliance with this section 5 will constitute compliance with the provisions of sections 6038A and 6038C of the Code, with respect to the Covered Transactions during the APA Years.

6. **Critical Assumptions.** The Critical Assumptions of this APA, within the meaning of section 5.07 of Rev. Proc. 96-53, are listed in Appendix C.

7. **Compensating Adjustments.** To the extent necessary to bring Taxpayer into compliance with this APA, Taxpayer may make Compensating Adjustments as described in and subject to the rules of section 11.02 of Rev. Proc. 96-53, and subject to any restrictions stated in this APA.

8. **Annual Report.** Taxpayer shall file a timely Annual Report for each APA Year pursuant to the rules of section 11.01 of Rev. Proc. 96-53. However, no Annual Report will be due less than 90 days after this APA becomes effective. The Annual Report shall contain the information described in Appendix D. In connection with an examination described in section 11.03 of Rev. Proc. 96-53, the District Director may request and Taxpayer shall provide additional facts, computations, data or information reasonably necessary to clarify the Annual Report or verify compliance with the APA.

9. **Disputes.** Should a dispute arise concerning the interpretation, application or enforcement of this APA, the Parties agree to seek resolution of the dispute by the Associate Chief Counsel (International), to the extent reasonably practicable, prior to seeking alternative remedies.

10. **Section Captions.** The section captions contained in this APA are for convenience and reference only and shall not affect in any way the interpretation or application of this APA.

11. **Notice.** Any notices required by this APA or Rev. Proc. 96-53 shall be in writing. Taxpayer shall send notices to the Service at the address and in the manner prescribed in section 5.13(2) of Rev. Proc. 96-53. The Service shall send notices to Taxpayer at:

12. **Effective Date.** This APA shall become binding when both Parties have executed the APA.

13. **Counterparts.** This APA may be executed in counterparts, with each counterpart deemed an original.

IN WITNESS WHEREOF, the Parties have executed this APA on the dates indicated below.

TAXPAYER

By: _____ Date: _____

INTERNAL REVENUE SERVICE

By: _____ Date: _____
Associate Chief Counsel (International)

APPENDIX A

TRANSFER PRICING METHODOLOGY

For each APA Year:

A. Covered Transactions.

The Covered Transactions for this APA consist of _____.

B. Transfer Pricing Methodology (“TPM”).

* * * * *

APPENDIX B

APA RECORDS

3. All documents listed in Appendix D for inclusion in the Annual Report, as well as all documents, notes, work papers, records, or other writings that support the information provided in such documents.
2. [Insert here other records].

* * * * *

APPENDIX C

CRITICAL ASSUMPTIONS

4. The business activities, financial and tax accounting methods and classifications, and methods of estimation, of Taxpayer shall remain materially the same as described or used in Taxpayer’s request for this APA.
2. [Insert here other Critical Assumptions.]

APPENDIX D
ANNUAL REPORT

Taxpayer shall include the following in its Annual Report for each APA Year:

5. A statement identifying all material differences between Taxpayer's business operations during the APA Year and the description of Taxpayer's business operations contained in Taxpayer's request for this APA, or if there have been no such material differences a statement to that effect.
6. A statement identifying all material changes in the Taxpayer's accounting methods and classifications, and methods of estimation, from those described or used in Taxpayer's request for this APA, or if there have been no such material changes a statement to that effect.
7. The Financial Statements.
8. A financial analysis demonstrating Taxpayer's compliance with the TPM.
9. A description of any failure to meet Critical Assumptions or, if there have been no such failures, a statement to that effect.
10. A description of the reason for, and financial analysis of, any Compensating Adjustments with respect to the APA Year, including the means by which any such Compensating Adjustment has been or will be satisfied.
11. A copy of the certified public accountant's opinion, described in section 5 of this APA, for the APA Year.
12. [Insert here other items to be included in Annual Report.]

Qualified Funeral Trusts

Notice 98-66

PURPOSE

Section 6013(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (1998 Act), Pub. L. No. 105-206, 112 Stat. 685, amended the Qualified Funeral Trust (QFT) provisions of § 685 of the Internal Revenue Code: (1) to allow pre-need funeral trusts to continue to qualify as QFTs for a 60-day period beginning on the date of death of the grantor of the trust; and (2) to extend the Secretary's authority to prescribe rules for simplified reporting of QFTs that terminate during the taxable year. This notice provides guidance on the 1998 Act amendments to § 685. The amendments are effective for taxable years ending after August 5, 1997.

BACKGROUND

A "pre-need funeral trust" is an arrangement in which funeral or cemetery merchandise or services are purchased before the beneficiary's death. The purchaser enters into a contract with the seller whereby the purchaser selects, and pays for, the desired merchandise or services. Upon the death of the beneficiary, the seller provides the selected merchandise or services. Most states have laws or regulations that govern pre-need funeral trusts. These laws and regulations protect the beneficiary and provide for the investment of the money transferred to the seller. Usually, the seller is required to deposit a percentage of the money received into a pre-need funeral trust to be invested and held by the trust for the beneficiary until the funeral or cemetery merchandise or services are provided. The terms of the trust arrangements vary from seller to seller and the provisions governing pre-need funeral trusts vary from state to state.

In Rev. Rul. 87-127, 1987-2 C.B. 156, the Service addresses the taxation of pre-need funeral trusts in four situations. The ruling concludes that in all four situations the trust is a grantor trust and the purchaser of the trust is treated as the owner of the trust for federal tax purposes. The ruling further concludes that any payment received by the seller from the trust is a

payment for merchandise or services and is includible under § 61 in the seller's gross income in the year received or properly accrued, depending on the seller's method of accounting.

The Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788, created the QFT provisions. Section 685 permits the trustees of certain pre-need funeral trusts to elect QFT status on behalf of the trusts. If a valid QFT election is made and the trust otherwise qualifies as a QFT under § 685, the trustee is liable for the tax on the taxable income of the trust. The amount of tax is determined in accordance with the income tax rate schedule generally applicable to trusts and estates. A QFT election may be made for an eligible trust for any taxable year ending after August 5, 1997.

In Notice 98-6, 1998-3 I.R.B. 52, the Service provided guidance on QFT eligibility requirements, election procedures, and simplified reporting requirements. The notice recognizes that pre-need trusts for cemetery merchandise and services, like pre-need trusts for funeral merchandise and services, may be treated as QFTs if they meet the requirements of § 685. The trustees of QFTs are required to file a trust return on behalf of the QFT. Form 1041-QFT, U.S. Income Tax Return for Qualified Funeral Trusts, is used to file the return and to make the QFT election. A trustee responsible for multiple QFTs may report the income for all of the QFTs on one composite Form 1041-QFT. A QFT election, once made, cannot be revoked without the consent of the Commissioner of Internal Revenue.

LOSS OF GRANTOR TRUST STATUS

One of the necessary qualifications for a QFT is that it would be treated, but for the QFT election, as a grantor trust for federal income tax purposes. Section 685(b)(6). Prior to the 1998 Act amendment, a trust would have lost its QFT status upon the death of the grantor because it would no longer have been a grantor trust. However, because actual distribution of the trust assets to the seller of the merchandise or services usually does not occur immediately upon the death of the decedent, the 1998 Act provides that a QFT retains its QFT status for the period of time between the decedent's death and the actual distribution of the trust assets to

the seller, but not to exceed a 60-day period beginning on the date of the decedent's death. Any income earned by the QFT during this period must be reported by the trustee on the Form 1041-QFT.

SHORT YEAR QFTS

Section 685(f), as originally enacted, provided that the Secretary may prescribe rules for simplified reporting of all QFTs having a single trustee. The 1998 Act amendment to § 685(f) extends the Secretary's authority to prescribe rules for simplified reporting of QFTs terminated during the taxable year (for example, upon the beneficiary's death).

As a general rule, § 6072(a) provides that trust returns must be filed by the 15th day of the fourth month following the close of the taxable year. QFTs are required to adopt a calendar year. Therefore, QFTs generally are required to file an income tax return by April 15th of the year following the close of the calendar year. Under § 443, a trust that is in existence during only part of a year is required to file a return for that short period. QFTs that terminate during the year, therefore, would be required to file a return by the 15th day of the fourth month following the close of the short taxable year. For example, if the beneficiary of a QFT died on March 3rd and all the trust assets were distributed prior to the end of March, the trustee would be required to file the tax return by July 15th.

The Service recognizes that a trustee of multiple QFTs often has many QFTs that terminate during the calendar year. To simplify the reporting requirements for these trustees, a single, composite Form 1041-QFT may be filed for all QFTs managed by the same trustee, including short period QFTs. Therefore, a trustee of multiple QFTs is not required to file a separate tax return for any QFT that terminates during the year. The trustee of multiple QFTs has until April 15th of the year following the close of the calendar year to file a composite Form 1041-QFT, even when the return includes QFTs that terminate during the calendar year.

REQUESTS FOR COMMENTS

The Treasury and the Service invite comments from the public on issues that may arise in implementing the amend-

ments to § 685. Send written comments to the following address:

Internal Revenue Service
CC:DOM:CORP (NT 98-66;
CC:DOM:P&SI:1)
P.O. Box 7604, Ben Franklin Station
Washington, D.C. 20044

Alternatively, send written comments electronically via the Internet to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html. Please identify the comments as relating to this notice.

DRAFTING INFORMATION

The principal author of this notice is Shannon Cohen of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact Shannon Cohen on (202) 622-3050 (not a toll-free call).

Filing Procedure for Early Closing of Courier's Desk

Notice 98-67

SECTION 1. PURPOSE

This notice provides that when the Courier's Desk at the national office of the Internal Revenue Service closes early on the last day prescribed for filing an application to change an accounting method or accounting period with the national of-

fice, the Service will consider the application timely filed if it is filed at that desk during the next succeeding day (other than a Saturday, Sunday, or legal holiday) that the national office is open for business.

SECTION 2. BACKGROUND

The Service permits taxpayers to file certain applications for a change in accounting method or accounting period at the Courier's Desk at the national office of the Service, located at 1111 Constitution Avenue, NW, Washington, DC, between 8:15 AM and 5:00 PM. For example, Rev. Proc. 97-27, 1997-1 C.B. 680, as provided in Rev. Proc. 98-1, 1998-1 I.R.B. 3, permits a taxpayer requesting a change in method of accounting to file the Form 3115, Application for Change in Accounting Method, at the Courier's Desk. Similarly, Rev. Proc. 98-60, 1998-51 I.R.B. 16, permits a taxpayer changing its method of accounting automatically to file the copy of the application at the Courier's Desk.

SECTION 3. PROCEDURE

.01 For applications to change an accounting method or accounting period that are permitted to be filed at the Courier's Desk at the national office of the Service, if that desk closes early (before 5:00 PM) on the last day prescribed

for filing the application, the Service will consider the application timely filed provided it is filed at that desk during the next succeeding day (other than a Saturday, Sunday, or legal holiday) that the national office is open for business.

.02 In order to obtain the relief provided by this notice, the taxpayer should write at the top of the application "FILED PURSUANT TO NOTICE 98-67."

.03 For an example of the relief provided by this notice, assume that a taxpayer wanting to change its method of accounting for calendar year 1998 under Rev. Proc. 97-27 is required to file a Form 3115 with the Service on or before December 31, 1998. If the Courier's Desk closes before 5 PM on December 31, 1998, the taxpayer may timely file the copy of the Form 3115 at that desk on Monday, January 4, 1999 (because Friday, January 1, 1999, is a legal holiday and January 2 and 3, 1999, are a Saturday and Sunday (see § 7503 of the Internal Revenue Code)).

DRAFTING INFORMATION

The principal author of this notice is Robert A. Testoff of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Mr. Testoff at (202) 622-4800 (not a toll-free call).

26 CFR 601.602: Tax forms and instructions.

(Also Part I, §§ 1, 32, 59, 63, 68, 135, 151, 170, 213, 220, 512, 513, 685, 877, 2032A, 2503, 2523, 2631, 4001, 4003, 4261, 6033, 6039F, 6323, 6601, 7430, 7702B)

Rev. Proc. 98-61

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.16 Annual Exclusion for Gifts	2503 & 2523
.17 Generation-Skipping Transfer Tax Exemption	2631
.18 Luxury Automobile Excise Tax	4001 & 4003
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.20 Reporting Exception for Certain Exempt Organizations with Nondeductible Lobbying Expenditures	6033(e)(3)
.21 Notice of Large Gifts Received from Foreign Persons	6039F
.22 Persons against Which a Federal Tax Lien is Not Valid	6323
.23 Interest on a Certain Portion of the Estate Tax Payable in Installments	6601(j)
.24 Attorney Fee Awards	7430
.25 Periodic Payments Received under Qualified Long-Term Care Insurance Contracts or under Certain Life Insurance Contracts	7702B(d)

SECTION 4. EFFECTIVE DATE

SECTION 5. DRAFTING INFORMATION

SECTION 1. PURPOSE

This revenue procedure sets forth inflation adjusted items for 1999.

SECTION 2. CHANGES MADE FROM PRECEDING YEAR

.01 The amount used in determining the exemption under §§ 55 and 59(j), as amended by section 1201(b) of the Taxpayer Relief Act of 1997 (the "TRA of 1997"), Pub. L. No. 105-34, 111 Stat. 788 (1997), from the alternative minimum tax under § 55 for a child subject to the "kiddie tax" under § 1(g), is adjusted for inflation for tax years beginning in 1999 (section 3.04).

.02 The amounts used to determine whether a health plan is a "high deductible health plan" for purposes of determining whether an individual is eligible for a deduction for cash paid to a medical savings account under § 220, as enacted by section 301(a) of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996), are adjusted for inflation for tax years beginning in 1999 (section 3.10).

.03 The maximum amount of contributions that may be made to a qualified funeral trust defined in § 685, as enacted by section 1309(a) of the TRA of 1997, is adjusted for inflation for calendar year 1999 (section 3.13).

.04 The maximum amount by which the estate tax valuation method under § 2032A, as amended by section 501(b) of the TRA of 1997, may decrease the value of certain farm and other qualified real property included in a decedent's gross estate, is adjusted for inflation for calendar year 1999 (section 3.15).

.05 The amount of gifts that may be made to a person in a calendar year without including the amount in taxable gifts under § 2503, as amended by section 501(c) of the TRA of 1997, is adjusted for inflation for calendar year 1999. Also, under § 2523(i)(2) by cross reference to § 2503, the amount of gifts that may be made to a spouse who is not a citizen of

the United States in a calendar year without including the amount in taxable gifts under § 2503 is adjusted for inflation for calendar year 1999 (section 3.16).

.06 The amount of the generation-skipping transfer tax exemption under § 2631, as amended by section 501(d) of the TRA of 1997, which was technically corrected by section 6007(a)(1) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "RRA of 1998"), Pub. L. No. 105-206, 112 Stat. 685 (1998), is adjusted for inflation for calendar year 1999 (section 3.17).

.07 The amount of the excise tax on passenger air transportation beginning or ending in the United States under § 4261, as amended by section 1031(c) of the TRA of 1997, is adjusted for inflation for calendar year 1999 (section 3.19).

.08 The maximum amount of a casual sale of personal property below which a federal tax lien will not be valid against a purchaser of the property under § 6323(b)(4), and the maximum amount of a contract for the repair or improvement of certain residential property at or below which a federal tax lien will not be valid against a mechanic's lienor under § 6323(b)(7), each as amended by section 3435(a) of the RRA of 1998, are adjusted for inflation for calendar year 1999 (section 3.22).

.09 For purposes of calculating interest charged under § 6601(j), as amended by section 501(e) of the TRA of 1997, the dollar amount used to determine the "2 percent portion" of the estate tax payable in installments under § 6166 is adjusted for inflation for calendar year 1999 (sec-

tion 3.23).

.10 The amount of the limit on the hourly rate at which attorney fees may be awarded under § 7430 in a judgment or settlement of an administrative or judicial proceeding concerning the determination, collection, or refund of tax, interest, or penalty under the Code was increased to \$125, as adjusted for inflation, effective for costs incurred after January 18, 1999, by section 3101(a)(1) of the RRA of 1998 (section 3.24).

SECTION 3. 1999 ADJUSTED ITEMS

.01 *Tax Rate Tables.* For tax years beginning in 1999, the tax rate tables under § 1 are as follows:

TABLE 1 - Section 1(a). — MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES

If Taxable Income Is:	The Tax Is:
Not Over \$43,050	15% of the taxable income
Over \$43,050 but not over \$104,050	\$6,457.50 plus 28% of the excess over \$43,050
Over \$104,050 but not over \$158,550	\$23,537.50 plus 31% of the excess over \$104,050
Over \$158,550 but not over \$283,150	\$40,432.50 plus 36% of the excess over \$158,550
Over \$283,150	\$85,288.50 plus 39.6% of the excess over \$283,150

TABLE 2 - Section 1(b). — HEADS OF HOUSEHOLDS

If Taxable Income Is:	The Tax Is:
Not Over \$34,550	15% of the taxable income
Over \$34,550 but not over \$89,150	\$5,182.50 plus 28% of the excess over \$34,550
Over \$89,150 but not over \$144,400	\$20,470.50 plus 31% of the excess over \$89,150
Over \$144,400 but not over \$283,150	\$37,598 plus 36% of the excess over \$144,400
Over \$283,150	\$87,548 plus 39.6% of the excess over \$283,150

TABLE 3 - Section 1(c). — UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS)

If Taxable Income Is:	The Tax Is:
Not Over \$25,750	15% of the taxable income
Over \$25,750 but not over \$62,450	\$3,862.50 plus 28% of the excess over \$25,750
Over \$62,450 but not over \$130,250	\$14,138.50 plus 31% of the excess over \$62,450

Over \$130,250 but not over \$283,150	\$35,156.50 plus 36% of the excess over \$130,250
Over \$283,150	\$90,200.50 plus 39.6% of the excess over \$283,150

TABLE 4 - Section 1(d). — MARRIED INDIVIDUALS FILING SEPARATE RETURNS

If Taxable Income Is:	The Tax Is:
Not Over \$21,525	15% of the taxable income
Over \$21,525 but not over \$52,025	\$3,228.75 plus 28% of the excess over \$21,525
Over \$52,025 but not over \$79,275	\$11,768.75 plus 31% of the excess over \$52,025
Over \$79,275 but not over \$141,575	\$20,216.25 plus 36% of the excess over \$79,275
Over \$141,575	\$42,644.25 plus 39.6% of the excess over \$141,575

TABLE 5 - Section 1(e). — ESTATES AND TRUSTS

If Taxable Income Is:	The Tax Is:
Not Over \$1,750	15% of the taxable income
Over \$1,750 but not over \$4,050	\$262.50 plus 28% of the excess over \$1,750
Over \$4,050 but not over \$6,200	\$906.50 plus 31% of the excess over \$4,050
Over \$6,200 but not over \$8,450	\$1,573 plus 36% of the excess over \$6,200
Over \$8,450	\$2,383 plus 39.6% of the excess over \$8,450

.02 *Unearned Income of Minor Children Taxed as if Parent's Income (the "Kiddie Tax").* For tax years beginning in 1999, the amount in § 1(g)(4)(A)(ii)(I), which is used to reduce the net unearned income reported on the child's return that is subject to the "kiddie tax," is \$700. (This amount is the same as the \$700 standard deduction amount provided in section 3.05(2) of this revenue procedure.) In the alternative, the same \$700

amount is used for purposes of § 1(g)(7) (that is, determining whether a parent may elect to include a child's gross income in the parent's gross income and for calculating the "kiddie tax").

.03 *Earned Income Credit.*

(1) *In general.* For tax years beginning in 1999, the following amounts are used to determine the earned income credit under § 32(b). The "earned income amount" is the amount of earned income

at or above which the maximum amount of the earned income credit is allowed. The "threshold phaseout amount" is the amount of modified adjusted gross income (or, if greater, earned income) above which the maximum amount of the credit begins to phase out. The "completed phaseout amount" is the amount of modified adjusted gross income (or if greater, earned income) at or above which no credit is allowed.

Number of Children	Maximum Amount of the Credit	Earned Income Amount	Threshold Phaseout Amount	Completed Phaseout Amount
1	\$2,312	\$6,800	\$12,460	\$26,928
2 or more	\$3,816	\$9,540	\$12,460	\$30,580
None	\$ 347	\$4,530	\$ 5,670	\$10,200

The Internal Revenue Service, in the instructions for the Form 1040 series, provides tables showing the amount of the earned income credit for each type of taxpayer.

(2) Excessive investment income. For tax years beginning in 1999, the

earned income credit is denied under § 32(i) if the aggregate amount of certain investment income exceeds \$2,350.

.04 *Alternative Minimum Tax Exemption for a Child Subject to the "Kiddie Tax."* For tax years beginning in 1999, in the case of a child to whom the § 1(g)

"kiddie tax" applies, the exemption amount under § 55 and § 59(j) for purposes of the alternative minimum tax under § 55 may not exceed the sum of (A) such child's earned income for the taxable year, plus (B) \$5,100.

.05 *Standard Deduction.*

(1) *In general.* For tax years beginning in 1999, the standard deduction amounts under § 63(c)(2) are as follows:

<i>Filing Status</i>	<i>Standard Deduction</i>
MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES (§ 1(a))	\$7,200
HEADS OF HOUSEHOLDS (§ 1(b))	\$6,350
UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS) (§ 1(c))	\$4,300
MARRIED INDIVIDUALS FILING SEPARATE RETURNS (§ 1(d))	\$3,600

(2) *Dependent.* For tax years begin-

ning in 1999, the standard deduction amount under § 63(c)(5) for an individual who may be claimed as a dependent by another taxpayer may not exceed the greater of \$700, or the sum of \$250 and the individual's earned income.

(3) *Aged and blind.* For tax years beginning in 1999, the additional standard deduction amounts under § 63(f) for the aged and for the blind are \$850 for each. These amounts are increased to \$1,050 if the individual is also unmarried and not a surviving spouse.

.06 *Overall Limitation on Itemized Deductions.* For tax years beginning in 1999, the "applicable amount" of adjusted gross income under § 68(b), above which the amount of otherwise allowable itemized deductions is reduced under § 68, is \$126,600 (or \$63,300 for a separate return filed by a married individual).

.07 *Income from United States Savings*

Bonds for Taxpayers Who Pay Qualified Higher Education Expenses. For tax years beginning in 1999, the exclusion under § 135, regarding income from United States savings bonds for taxpayers who pay qualified higher education expenses, begins to phase out for modified adjusted gross income above \$79,650 for joint returns and \$53,100 for other returns. This exclusion completely phases out for modified adjusted gross income of \$109,650 or more for joint returns and \$68,100 or more for other returns.

.08 *Personal Exemption.*

(1) *Exemption amount.* For tax years beginning in 1999, the personal exemption amount under § 151(d) is \$2,750.

(2) *Phaseout.* For tax years beginning in 1999, the personal exemption amount begins to phase out at, and is completely phased out after, the following adjusted gross income amounts:

<i>Filing Status</i>	<i>Threshold Phaseout Amount</i>	<i>Completed Phaseout Amount After</i>
Code § 1(a)	\$189,950	\$312,450
Code § 1(b)	\$158,300	\$280,800
Code § 1(c)	\$126,600	\$249,100
Code § 1(d)	\$ 94,975	\$156,225

.09 *Eligible Long-Term Care Premiums.* For tax years beginning in 1999, the limitations under § 213(d), regarding eligible long-term care premiums includible in the term "medical care," are as follows:

Attained age before the close of the taxable year:

40 or less.	\$ 210
More than 40 but not more than 50	\$ 400
More than 50 but not more than 60	\$ 800
More than 60 but not more than 70	\$2,120
More than 70.	\$2,660

.10 *Medical Savings Accounts.*

(1) *Self-only coverage.* For tax years beginning in 1999, the term "high deductible health plan" as defined in § 220(c)(2)(A) means, in the case of self-only coverage, a health plan which has an annual deductible that is not less than \$1,550 and not more than \$2,300, and under which the annual out-of-pocket ex-

penses required to be paid (other than for premiums) for covered benefits does not exceed \$3,050.

(2) *Family coverage.* For tax years beginning in 1999, the term "high deductible health plan" means, in the case of family coverage, a health plan which has an annual deductible that is not less than \$3,050 and not more than \$4,600, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits does not exceed \$5,600.

.11 *Treatment of Dues Paid to Agricultural or Horticultural Organizations.* For tax years beginning in 1999, the limitation under § 512(d)(1), regarding the exemption of annual dues required to be paid by a member to an agricultural or horticultural organization, is \$110.

.12 *Insubstantial Benefit Limitations for Contributions Associated with Charitable Fund-Raising Campaigns.*

(1) *Low cost article.* For tax years beginning in 1999, the unrelated business income of certain exempt organizations

under § 513(h)(2) does not include a "low cost article" of \$7.20 or less.

(2) *Other insubstantial benefits.* For tax years beginning in 1999, the \$5, \$25, and \$50 guidelines in section 3 of Rev. Proc. 90-12, 1990-1 C.B. 471 (as amplified and modified), for disregarding the value of insubstantial benefits received by a donor in return for a fully deductible charitable contribution under § 170, are \$7.20, \$36, and \$72, respectively.

.13 *Funeral Trusts.* For a contract entered into during calendar year 1999 for a "qualified funeral trust," as defined in § 685, the trust may not accept aggregate contributions by or for the benefit of an individual in excess of \$7,100.

.14 *Expatriation to Avoid Tax.* For calendar year 1999, the thresholds used under § 877(a)(2), regarding whether an individual's loss of United States citizenship had the avoidance of United States taxes as one of its principal purposes, are more than \$110,000 for "average annual net income tax" and \$552,000 or more for "net worth."

.15 *Valuation of Qualified Real Property in Decedent's Gross Estate.* For an estate of a decedent dying in calendar year 1999, if the executor elects to use the special use valuation method under § 2032A for qualified real property, the aggregate decrease in the value of qualified real property resulting from electing to use § 2032A that is taken into account for purposes of the estate tax may not exceed \$760,000.

.16 *Annual Exclusion for Gifts.*

(1) For calendar year 1999, the first \$10,000 of gifts to any person (other than gifts of future interests in property) are not included in the total amount of taxable gifts under § 2503 made during that year.

(2) For calendar year 1999, the first \$101,000 of gifts to a spouse who is not a citizen of the United States (other than gifts of future interests in property) are not included in the total amount of taxable gifts under §§ 2503 and 2523(i)(2) made during that year.

.17 *Generation-Skipping Transfer Tax Exemption.* For calendar year 1999, the generation-skipping transfer tax exemption under § 2631, which is allowed in determining the "inclusion ratio" defined in § 2642, is \$1,010,000.

.18 *Luxury Automobile Excise Tax.* For calendar year 1999, the excise tax under §§ 4001 and 4003 is imposed on the first retail sale of a passenger vehicle (including certain parts or accessories installed within six months of the date after the vehicle was first placed in service), to the extent the price exceeds \$36,000.

.19 *Passenger Air Transportation Excise Tax.* For calendar year 1999, the tax under § 4261(c) on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States, generally is \$12.20. However, in the case of a domestic segment beginning or ending in Alaska or Hawaii as described in § 4261(c)(3), the tax only applies to departures and is at the rate of \$6.10.

.20 *Reporting Exception for Certain Exempt Organizations with Nondeductible Lobbying Expenditures.* For tax years beginning in 1999, the annual per person, family, or entity dues limitation to qualify for the reporting exception under § 6033(e)(3) (and section 5.05 of Rev. Proc. 98-19, 1998-7 I.R.B. 30), regarding

certain exempt organizations with nondeductible lobbying expenditures, is \$77 or less.

.21 *Notice of Large Gifts Received from Foreign Persons.* For tax years beginning in 1999, recipients of gifts from certain foreign persons may have to report these gifts under § 6039F if the aggregate value of gifts received in a taxable year exceeds \$10,735.

.22 *Persons against Which a Federal Tax Lien is Not Valid.* For calendar year 1999, a federal tax lien is not valid against (1) certain purchasers under § 6323(b)(4) that purchased personal property in a casual sale for less than \$1,040, or (2) a mechanic's lienor under § 6323(b)(7) that repaired or improved certain residential property if the contract price with the owner is not more than \$5,220.

.23 *Interest on a Certain Portion of the Estate Tax Payable in Installments.* For an estate of a decedent dying in calendar year 1999, the dollar amount used to determine the "2-percent portion" (for purposes of calculating interest under § 6601(j)) of the estate tax payable in installments under § 6166 is \$1,010,000.

.24 *Attorney Fee Awards.* For calendar year 1999, for costs incurred on or before January 18, 1999, the attorney fee award limitation under § 7430(c)(1)(B)(iii) is \$120 per hour. For costs incurred after January 18, 1999, the attorney fee award limitation under § 7430(c)(1)(B)(iii) is \$130 per hour.

.25 *Periodic Payments Received under Qualified Long-Term Care Insurance Contracts or under Certain Life Insurance Contracts.* For calendar year 1999, the stated dollar amount of the per diem limitation under § 7702B(d)(4), regarding periodic payments received under a qualified long-term care insurance contract or periodic payments received under a life insurance contract that are treated as paid by reason of the death of a chronically ill individual, is \$190.

SECTION 4. EFFECTIVE DATE

.01 *General Rule.* Except as provided in section 4.02, this revenue procedure applies to tax years beginning in 1999.

.02 *Calendar Year Rule.* This revenue procedure applies to transactions or events occurring in calendar year 1999 for purposes of section 3.13 (funeral trusts),

section 3.14 (expatriation to avoid tax), section 3.15 (valuation of qualified real property in decedent's gross estate), section 3.16 (annual exclusion for gifts), section 3.17 (generation-skipping transfer tax exemption), section 3.18 (luxury automobile excise tax), section 3.19 (passenger air transportation excise tax), section 3.22 (persons against which a federal tax lien is not valid), section 3.23 (interest on a certain portion of the estate tax payable in installments), section 3.24 (attorney fee awards), and section 3.25 (periodic payments received under qualified long-term care insurance contracts or under certain life insurance contracts).

SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is John Moran of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Moran on (202) 622-4940 (not a toll-free call).

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability. (Also Part I, section 6662.)

Rev. Proc. 98-62

SECTION 1. PURPOSE

.01 This revenue procedure updates Rev. Proc. 97-56, 1997-2 C.B. 582, and identifies circumstances under which the disclosure on a taxpayer's return of a position with respect to an item is adequate for the purpose of reducing the understatement of income tax under § 6662(d) of the Internal Revenue Code (relating to the substantial understatement aspect of the accuracy-related penalty), and for the purpose of avoiding the preparer penalty under § 6694(a) (relating to understatements due to unrealistic positions). This revenue procedure does not apply with respect to any other penalty provision (including the negligence or disregard provisions of the § 6662 accuracy-related penalty).

.02 This revenue procedure applies to any return filed on 1998 tax forms for a taxable year beginning in 1998, and to any return filed on 1998 tax forms in 1999 for short taxable years beginning in 1999.

SEC. 2. CHANGES FROM REV. PROC. 97-56

.01 Editorial changes have been made to update the revenue procedure for returns filed on 1998 tax forms for a taxable year beginning in 1998, and returns filed on 1998 tax forms in 1999 for short taxable years beginning in 1999.

.02 Section 4.01(4)(c) has been added with regard to transactions and amounts under §§ 6114 and 7701(b) as disclosed on Form 8833, Treaty-Based Return Position Disclosure.

.03 Section 4.01(5)(a) of this revenue procedure has been revised to eliminate the reference to Form 3903-F, Foreign Moving Expenses, because that form is now obsolete.

.04 Section 4.01(5)(b) of Rev. Proc. 97-56 has been eliminated from this revenue procedure because Form 2119, Sale of Your Home, has been eliminated.

SEC. 3. BACKGROUND

.01 If § 6662 applies to any portion of an underpayment of tax required to be shown on a return, an amount equal to 20 percent of the portion of the underpayment to which the section applies is added to the tax. (The penalty rate is 40 percent in the case of certain gross valuation misstatements.) Under § 6662(b)(2), § 6662 applies to the portion of an underpayment that is attributable to a substantial understatement of income tax.

.02 Section 6662(d)(1) provides that there is a substantial understatement of income tax if the amount of the understatement exceeds the greater of 10 percent of the amount of tax required to be shown on the return for the taxable year or \$5,000 (\$10,000 in the case of a corporation other than an S corporation or a personal holding company). Section 6662(d)(2) defines an understatement as the excess of the amount of tax required to be shown on the return for the taxable year over the amount of the tax that is shown on the return reduced by any rebate (within the meaning of § 6211(b)(2)).

.03 In the case of an item not attributable to a tax shelter, § 6662(d)(2)(B)(ii) provides that the amount of the understatement is reduced by the portion of the understatement attributable to any item with respect to which the relevant facts affecting the item's tax treatment are ade-

quately disclosed on the return or on a statement attached to the return, and there is a reasonable basis for the tax treatment of such item by the taxpayer.

.04 In general, this revenue procedure provides guidance in determining when disclosure is adequate for purposes of § 6662(d). For purposes of this revenue procedure, the taxpayer must furnish all required information in accordance with the applicable forms and instructions, and the money amounts entered on these forms must be verifiable. Guidance under § 6662(d) for returns filed in 1996, 1997, and 1998 is provided in Rev. Proc. 95-55, 1995-2 C.B. 457; Rev. Proc. 96-58, 1996-2 C.B. 390, and Rev. Proc. 97-56, 1997-2 C.B. 582, respectively.

SEC. 4. PROCEDURE

.01 Additional disclosure of facts relevant to, or positions taken with respect to, issues involving any of the items set forth below is unnecessary for purposes of reducing any understatement of income tax under § 6662(d) provided that the forms and attachments are completed in a clear manner and in accordance with their instructions. The money amounts entered on the forms must be verifiable, and the information on the return must be disclosed in the manner described below. For purposes of this revenue procedure, a number is verifiable if, on audit, the taxpayer can demonstrate the origin of the number (even if that number is not ultimately accepted by the Internal Revenue Service) and the taxpayer can show good faith in entering that number on the applicable form.

(1) Form 1040, Schedule A, Itemized Deductions:

(a) Medical and Dental Expenses: Complete lines 1 through 4, supplying all required information.

(b) Taxes: Complete lines 5 through 9, supplying all required information. Line 8 must list each type of tax and the amount paid.

(c) Interest Expense: Complete lines 10 through 14, supplying all required information. This section 4.01(1)(c) does not apply to (i) amounts disallowed under § 163(d) unless Form 4952, Investment Interest Expense Deduction, is completed, or (ii) amounts disallowed under § 265.

(d) Contributions: Complete lines 15 through 18, supplying all required information. Merely entering the amount of the donation on Schedule A, however, will not constitute adequate disclosure if the taxpayer receives a substantial benefit from the donation shown. If a contribution of property other than cash is made and the amount claimed as a deduction exceeds \$500, a properly completed Form 8283, Noncash Charitable Contributions, must be attached to the return. This section 4.01(1)(d) will not apply to any contribution of \$250 or more unless the contemporaneous written acknowledgment requirement of § 170(f)(8) is satisfied.

(e) Casualty and Theft Losses: Complete Form 4684, Casualties and Thefts, and attach to the return. Each item or article for which a casualty or theft loss is claimed must be listed on Form 4684.

(2) Certain Trade or Business Expenses (including, for purposes of this section 4.01(2), the following six expenses as they relate to the rental of property):

(a) Casualty and Theft Losses: The procedure outlined in section 4.01(1)(e) above must be followed.

(b) Legal Expenses: The amount claimed must be stated. This section 4.01(2)(b) does not apply, however, to amounts properly characterized as capital expenditures, personal expenses, or nondeductible lobbying or political expenditures, including amounts that are required to be (or that are) amortized over a period of years.

(c) Specific Bad Debt Charge-off: The amount written off must be stated.

(d) Reasonableness of Officers' Compensation: Form 1120, Schedule E, Compensation of Officers, must be completed when required by its instructions. The time devoted to business must be expressed as a percentage as opposed to "part" or "as needed." This section 4.01(2)(d) does not apply to "golden parachute" payments, as defined under § 280G. This section 4.01(2)(d) will not apply to the extent that remuneration paid or incurred exceeds the \$1 million employee remuneration limitation, if applicable.

(e) Repair Expenses: The amount claimed must be stated. This section 4.01(2)(e) does not apply, however, to any repair expenses properly characterized as capital expenditures or personal expenses.

(f) Taxes (other than foreign taxes): The amount claimed must be stated.

(3) Form 1120, Schedule M-1, Reconciliation of Income (Loss) per Books With Income per Return, provided:

(a) The amount of the deviation from the financial books and records is not the result of a computation that includes the netting of items; and

(b) The information provided reasonably may be expected to apprise the Internal Revenue Service of the nature of the potential controversy concerning the tax treatment of the item.

(4) Foreign Tax Items:

(a) International Boycott Transactions: Transactions disclosed on Form 5713, International Boycott Report.

(b) Intercompany Transactions: Transactions and amounts shown on Schedule M (Form 5471), Transactions Between Controlled Foreign Corporation and Shareholders or Other Related Persons, lines 19 and 20, and Form 5472, Part IV, Monetary Transactions Between Reporting Corporations and Foreign Related Party, lines 7 and 18.

(c) Treaty-Based Return Position: Transactions and amounts under §§ 6114 or 7701(b) as disclosed on Form 8833, Treaty-Based Return Position Disclosure.

(5) Other:

(a) Moving Expenses: Complete Form 3903, Moving Expenses, and attach to the return.

(b) Employee Business Expenses: Complete Form 2106, Employee Business Expenses, or Form 2106-EZ, Unreimbursed Employee Business Expenses, and attach to the return. This section 4.01(5)(b) does not apply to club dues, or to travel expenses for any non-employee accompanying the taxpayer on a trip.

(c) Fuels Credit: Complete Form 4136, Credit for Federal Tax Paid on Fuels, and attach to the return.

(d) Investment Credit: Complete Form 3468, Investment Credit, and attach to the return.

SEC. 5. EFFECTIVE DATE

This revenue procedure applies to any return filed on 1998 tax forms for a taxable year beginning in 1998, and to any return filed on 1998 tax forms in 1999 for short taxable years beginning in 1999.

SEC. 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Marc C. Porter of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Porter on (202) 622-4940 (not a toll-free call).

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also Part I, Sections 62, 162, 274, 1016; 1.62-2, 1.162-7, 1.274-5T, 1.274(d)-1T, 1.1016-3.)

Rev. Proc. 98-63

SECTION 1. PURPOSE

This revenue procedure updates Rev. Proc. 97-58, 1997-2 C.B. 587, by providing optional standard mileage rates for employees, self-employed individuals, or other taxpayers to use in computing the deductible costs paid or incurred on or after January 1, 1999, of operating an automobile for business, charitable, medical, or moving expense purposes. This revenue procedure also provides rules under which the amount of ordinary and necessary expenses of local travel or transportation away from home that are paid or incurred by an employee will be deemed substantiated under § 1.274-5T of the temporary Income Tax Regulations when a payor (the employer, its agent, or a third party) provides a mileage allowance under a reimbursement or other expense allowance arrangement to pay for such expenses. Use of a method of substantiation described in this revenue procedure is not mandatory and a taxpayer may use actual allowable expenses if the taxpayer maintains adequate records or other sufficient evidence for proper substantiation.

SECTION 2. SUMMARY OF STANDARD MILEAGE RATES

.01 *Standard mileage rates.*

- | | | |
|------------------------|-------------------|-------------------|
| (1) Business | (section 5 below) | 31 cents per mile |
| (2) Charitable | (section 7 below) | 14 cents per mile |
| (3) Medical and Moving | (section 7 below) | 10 cents per mile |

.02 *Determination of standard mileage rates.* The business, medical, and moving standard mileage rates reflected in this revenue procedure are based on an annual study of the fixed and variable costs of operating an automobile conducted on behalf of the Service by an independent contractor, and the charitable standard mileage rate is provided in § 170(i) of the Internal Revenue Code. In connection with its study, the contractor has suggested that a change be made to the study methodology regarding the business standard mileage rate. This suggested change would include the cost of personal rather than business automobile insurance because taxpayers who use the business standard mileage rate generally carry personal rather than business insurance on their automobiles. Had it been adopted, this suggested change would have further decreased the business standard mileage rate for 1999. The Service is currently reviewing this suggested change for purposes of determining the business standard mileage rate for the year 2000.

SECTION 3. BACKGROUND AND CHANGES

.01 Section 162(a) of the Internal Revenue Code allows a deduction for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Under that provision, an employee or self-employed individual may deduct the cost of operating an automobile to the extent that it is used in a trade or business. However, under § 262, no portion of the cost of operating an automobile that is attributable to personal use is deductible.

.02 Section 274(d) provides, in part, that no deduction shall be allowed under § 162 with respect to any listed property (as defined in § 280F(d)(4) to include passenger automobiles and any other property used as a means of transportation) unless the taxpayer complies with certain substantiation requirements. The section further provides that regulations may prescribe that some or all of the substantiation requirements do not apply to an expense that does not exceed an amount prescribed by such regulations.

.03 Section 1.274(d)-1T, in part, grants the Commissioner the authority to prescribe rules relating to mileage al-

allowances for ordinary and necessary expenses of local travel and transportation away from home. Pursuant to this grant of authority, the Commissioner may prescribe rules under which such allowances, if in accordance with reasonable business practice, will be regarded as (1) equivalent to substantiation, by adequate records or other sufficient evidence, of the amount of such travel and transportation expenses for purposes of § 1.274-5T(c), and (2) satisfying the requirements of an adequate accounting to the employer of the amount of such expenses for purposes of § 1.274-5T(f).

.04 Section 62(a)(2)(A) allows an employee, in determining adjusted gross income, a deduction for the expenses allowed by Part VI (§ 161 and following), subchapter B, chapter 1 of the Code, paid or incurred by the employee in connection with the performance of services as an employee under a reimbursement or other expense allowance arrangement with a payor.

.05 Section 62(c) provides that an arrangement will not be treated as a reimbursement or other expense allowance arrangement for purposes of § 62(a)(2)(A) if it—

(1) does not require the employee to substantiate the expenses covered by the arrangement to the payor, or

(2) provides the employee with the right to retain any amount in excess of the substantiated expenses covered under the arrangement. Section 62(c) further provides that the substantiation requirements described therein shall not apply to any expense to the extent that, under the grant of regulatory authority prescribed in § 274(d), the Commissioner has provided that substantiation is not required for such expense.

.06 Under § 1.62-2(c)(1), a reimbursement or other expense allowance arrangement satisfies the requirements of § 62(c) if it meets the requirements of business connection, substantiation, and returning amounts in excess of expenses as specified in the regulations. Section 1.62-2T(e)(2) specifically provides that substantiation of certain business expenses in accordance with rules prescribed under the authority of § 1.274(d)-1T will be treated as substantiation of the amount of such expenses for purposes of § 1.62-2. Under § 1.62-2(f)(2), the Commissioner

may prescribe rules under which an arrangement providing mileage allowances will be treated as satisfying the requirement of returning amounts in excess of expenses, even though the arrangement does not require the employee to return the portion of such an allowance that relates to miles of travel substantiated and that exceeds the amount of the employee's expenses deemed substantiated pursuant to rules prescribed under § 274(d), provided the allowance is reasonably calculated not to exceed the amount of the employee's expenses or anticipated expenses and the employee is required to return any portion of such an allowance that relates to miles of travel not substantiated.

.07 Section 1.62-2(h)(2)(i)(B) provides that if a payor pays a mileage allowance under an arrangement that meets the requirements of § 1.62-2(c)(1), the portion, if any, of the allowance that relates to miles of travel substantiated in accordance with § 1.62-2(e), that exceeds the amount of the employee's expenses deemed substantiated for such travel pursuant to rules prescribed under §§ 274(d) and 1.274(d)-1, and that the employee is not required to return, is subject to withholding and payment of employment taxes. See §§ 31.3121(a)-3, 31.3231(e)-1(a)(5), 31.3306(b)-2, and 31.3401(a)-4. Because the employee is not required to return this excess portion, the reasonable period of time provisions of § 1.62-2(g) (relating to the return of excess amounts) do not apply to this excess portion.

.08 Under § 1.62-2(h)(2)(i)(B)(4), the Commissioner may, in his or her discretion, prescribe special rules regarding the timing of withholding and payment of employment taxes on mileage allowances.

.09 Significant changes to this revenue procedure include:

(1) the addition of a business standard mileage test under which a FAVR allowance is treated as meeting the requirements of § 280F (section 8.04(3)); and

(2) the decrease in the minimum number of employees that must be covered by a FAVR allowance (section 8.05(4)).

SECTION 4. DEFINITIONS

.01 *Standard mileage rate.* The term "standard mileage rate" means the applic-

able amount provided by the Service for optional use by employees or self-employed individuals in computing the deductible costs of operating automobiles (including vans, pickups, or panel trucks) owned or leased for business purposes, or by taxpayers in computing the deductible costs of operating automobiles for charitable, medical, or moving expense purposes.

.02 *Transportation expenses.* The term "transportation expenses" means the expenses of operating an automobile for local travel or transportation away from home.

.03 *Mileage allowance.* The term "mileage allowance" means a payment under a reimbursement or other expense allowance arrangement that meets the requirements specified in § 1.62-2(c)(1) and that is

(1) paid with respect to the ordinary and necessary business expenses incurred, or which the payor reasonably anticipates will be incurred, by an employee for transportation expenses in connection with the performance of services as an employee of the employer,

(2) reasonably calculated not to exceed the amount of the expenses or the anticipated expenses, and

(3) paid at the applicable standard mileage rate, a flat rate or stated schedule, or in accordance with any other Service-specified rate or schedule.

.04 *Flat rate or stated schedule.* A mileage allowance is paid at a flat rate or stated schedule if it is provided on a uniform and objective basis with respect to the expenses described in section 4.03 of this revenue procedure. Such allowance may be paid periodically at a fixed rate, at a cents-per-mile rate, at a variable rate based on a stated schedule, at a rate that combines any of these rates, or on any other basis that is consistently applied and in accordance with reasonable business practice. Thus, for example, a periodic payment at a fixed rate to cover the fixed costs (including depreciation (or lease payments), insurance, registration and license fees, and personal property taxes) of driving an automobile in connection with the performance of services as an employee of the employer, coupled with a periodic payment at a cents-per-mile rate to cover the operating costs (including gasoline and all taxes thereon, oil, tires,

and routine maintenance and repairs) of using an automobile for such purposes, is an allowance paid at a flat rate or stated schedule. Likewise, a periodic payment at a variable rate based on a stated schedule for different locales to cover the costs of driving an automobile in connection with the performance of services as an employee is an allowance paid at a flat rate or stated schedule.

SECTION 5. BUSINESS STANDARD MILEAGE RATE

.01 *In general.* The standard mileage rate for transportation expenses is 31 cents per mile for all miles of use for business purposes. This business standard mileage rate will be adjusted annually (to the extent warranted) by the Service, and any such adjustment will be applied prospectively.

.02 *Use of the business standard mileage rate.* A taxpayer may use the business standard mileage rate with respect to an automobile that is either owned or leased by the taxpayer. A taxpayer generally may deduct an amount equal to either the business standard mileage rate times the number of business miles traveled or the actual costs (both operating and fixed) paid or incurred by the taxpayer that are allocable to traveling those business miles.

.03 *Business standard mileage rate in lieu of operating and fixed costs.* A deduction using the standard mileage rate for business miles is computed on a yearly basis and is in lieu of all operating and fixed costs of the automobile allocable to business purposes (except as provided in section 9.06 of this revenue procedure). Such items as depreciation (or lease payments), maintenance and repairs, tires, gasoline (including all taxes thereon), oil, insurance, and license and registration fees are included in operating and fixed costs for this purpose.

.04 *Parking fees, tolls, interest, and taxes.* Parking fees and tolls attributable to use of the automobile for business purposes may be deducted as separate items. Likewise, interest relating to the purchase of the automobile as well as state and local taxes (other than those included in the cost of gasoline) may be deducted as separate items, but only to the extent that the interest or taxes are allowable deductions under § 163 or 164 respectively. If

the automobile is operated less than 100 percent for business purposes, an allocation is required to determine the business and nonbusiness portion of the taxes and interest deduction allowable. However, § 163(h)(2)(A) expressly provides that interest is nondeductible personal interest when it is paid or accrued on indebtedness properly allocable to the trade or business of performing services as an employee. Section 164 also expressly provides that state and local taxes that are paid or accrued by a taxpayer in connection with an acquisition or disposition of property will be treated as part of the cost of the acquired property or as a reduction in the amount realized on the disposition of such property.

.05 *Depreciation.* For owned automobiles placed in service for business purposes, and for which the business standard mileage rate has been used for any year, depreciation will be considered to have been allowed at the rate of 12 cents a mile for 1995, 1996, 1997, 1998, and 1999, for those years in which the business standard mileage rate was used. If actual costs were used for one or more of those years, the rates above will not apply to any year in which such costs were used. The depreciation described above will reduce the basis of the automobile (but not below zero) in determining adjusted basis as required by § 1016.

.06 *Limitations.*

(1) The business standard mileage rate may not be used to compute the deductible expenses of (a) automobiles used for hire, such as taxicabs, or (b) two or more automobiles used simultaneously (such as in fleet operations).

(2) The business standard mileage rate may not be used to compute the deductible business expenses of an automobile leased by a taxpayer unless the taxpayer uses either the business standard mileage rate or a FAVR allowance (as provided in section 8 of this revenue procedure) to compute the deductible business expenses of the automobile for the entire lease period (including renewals). For a lease commencing on or before December 31, 1997, the "entire lease period" means the portion of the lease period (including renewals) remaining after that date.

(3) The business standard mileage rate may not be used to compute the de-

ductible expenses of an automobile for which the taxpayer has (a) claimed depreciation using a method other than straight-line for its estimated useful life, (b) claimed a § 179 deduction, or (c) used the Accelerated Cost Recovery System (ACRS) under former § 168 or the Modified Accelerated Cost Recovery System (MACRS) under current § 168. By using the business standard mileage rate, the taxpayer has elected to exclude the automobile (if owned) from MACRS pursuant to § 168(f)(1). If, after using the business standard mileage rate, the taxpayer uses actual costs, the taxpayer must use straight-line depreciation for the automobile's remaining estimated useful life (subject to the applicable depreciation deduction limitations under § 280F).

(4) The business standard mileage rate and this revenue procedure may not be used to compute the amount of the deductible automobile expenses of an employee of the United States Postal Service incurred in performing services involving the collection and delivery of mail on a rural route if the employee receives qualified reimbursements (as defined in § 162(o)) for such expenses. See § 162(o) for the rules that apply to these qualified reimbursements.

SECTION 6. RESERVED

SECTION 7. CHARITABLE, MEDICAL, AND MOVING STANDARD MILEAGE RATE

.01 *Charitable.* Section 170(i) provides a standard mileage rate of 14 cents per mile for purposes of computing the charitable deduction for use of an automobile in connection with rendering gratuitous services to a charitable organization under § 170.

.02 *Medical and moving.* The standard mileage rate is 10 cents per mile for use of an automobile (a) to obtain medical care described in § 213, or (b) as part of a move for which the expenses are deductible under § 217. The standard mileage rates for medical and moving transportation expenses will be adjusted annually (to the extent warranted) by the Service, and any such adjustment will be applied prospectively.

.03 *Charitable, medical, or moving expense standard mileage rate in lieu of operating expenses.* A deduction computed

using the applicable standard mileage rate for charitable, medical, or moving expense miles is in lieu of all operating expenses (including gasoline and oil) of the automobile allocable to such purposes. Costs for such items as depreciation (or lease payments), maintenance and repairs, tires, insurance, and license and registration fees are not deductible, and are not included in such standard mileage rates.

.04 *Parking fees, tolls, interest, and taxes.* Parking fees and tolls attributable to the use of the automobile for charitable, medical, or moving expense purposes may be deducted as separate items. Likewise, interest relating to the purchase of the automobile as well as state and local taxes (other than those included in the cost of gasoline) may be deducted as separate items, but only to the extent that the interest and taxes are allowable deductions under § 163 or 164, respectively.

SECTION 8. FIXED AND VARIABLE RATE ALLOWANCE

.01 *In general.*

(1) The ordinary and necessary expenses paid or incurred by an employee in driving an automobile owned or leased by the employee in connection with the performance of services as an employee of the employer will be deemed substantiated (in an amount determined under section 9 of this revenue procedure) when a payor reimburses such expenses with a mileage allowance using a flat rate or stated schedule that combines periodic fixed and variable rate payments that meet all the requirements of section 8 of this revenue procedure (a FAVR allowance).

(2) The amount of a FAVR allowance must be based on data that (a) is derived from the base locality, (b) reflects retail prices paid by consumers, and (c) is reasonable and statistically defensible in approximating the actual expenses employees receiving the allowance would incur as owners of the standard automobile.

.02 *Definitions.*

(1) *FAVR allowance.* A FAVR allowance includes periodic fixed payments and periodic variable payments. A payor may maintain more than one FAVR allowance. A FAVR allowance that uses the same payor, standard automobile (or an automobile of the same make and model

that is comparably equipped), retention period, and business use percentage is considered one FAVR allowance, even though other features of the allowance may vary. A FAVR allowance also includes any optional high mileage payments; however, such optional high mileage payments are included in the employee's gross income, are reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of employment taxes when paid. See section 9.05 of this revenue procedure. An optional high mileage payment covers the additional depreciation for a standard automobile attributable to business miles driven and substantiated by the employee for a calendar year in excess of the annual business mileage for that year. If an employee is covered by the FAVR allowance for less than the entire calendar year, the annual business mileage may be prorated on a monthly basis for purposes of the preceding sentence.

(2) *Periodic fixed payment.* A periodic fixed payment covers the projected fixed costs (including depreciation (or lease payments), insurance, registration and license fees, and personal property taxes) of driving the standard automobile in connection with the performance of services as an employee of the employer in a base locality, and must be paid at least quarterly. A periodic fixed payment may be computed by (a) dividing the total projected fixed costs of the standard automobile for all years of the retention period, determined at the beginning of the retention period, by the number of periodic fixed payments in the retention period, and (b) multiplying the resulting amount by the business use percentage.

(3) *Periodic variable payment.* A periodic variable payment covers the projected operating costs (including gasoline and all taxes thereon, oil, tires, and routine maintenance and repairs) of driving a standard automobile in connection with the performance of services as an employee of the employer in a base locality, and must be paid at least quarterly. The rate of a periodic variable payment for a computation period may be computed by dividing the total projected operating costs for the standard automobile for the computation period, determined at the be-

ginning of the computation period, by the computation period mileage. A computation period can be any period of a year or less. Computation period mileage is the total mileage (business and personal) a payor reasonably projects a standard automobile will be driven during a computation period and equals the retention mileage divided by the number of computation periods in the retention period. For each business mile substantiated by the employee for the computation period, the periodic variable payment must be paid at a rate that does not exceed the rate for that computation period.

(4) *Base locality.* A base locality is the particular geographic locality or region of the United States in which the costs of driving an automobile in connection with the performance of services as an employee of the employer are generally paid or incurred by the employee. Thus, for purposes of determining the amount of fixed costs, the base locality is generally the geographic locality or region in which the employee resides. For purposes of determining the amount of operating costs, the base locality is generally the geographic locality or region in which the employee drives the automobile in connection with the performance of services as an employee of the employer.

(5) *Standard automobile.* A standard automobile is the automobile selected by the payor on which a specific FAVR allowance is based.

(6) *Standard automobile cost.* The standard automobile cost for a calendar year may not exceed 95 percent of the sum of (a) the retail dealer invoice cost of the standard automobile in the base locality, and (b) state and local sales or use taxes applicable on the purchase of such an automobile. Further, the standard automobile cost may not exceed \$27,100.

(7) *Annual mileage.* Annual mileage is the total mileage (business and personal) a payor reasonably projects a standard automobile will be driven during a calendar year. Annual mileage equals the annual business mileage divided by the business use percentage.

(8) *Annual business mileage.* Annual business mileage is the mileage a payor reasonably projects a standard automobile will be driven by an employee in

connection with the performance of services as an employee of the employer during the calendar year, but may not be less than 6,250 miles for a calendar year. Annual business mileage equals the annual mileage multiplied by the business use percentage.

(9) *Business use percentage.* A business use percentage is determined by dividing the annual business mileage by the annual mileage. The business use percentage may not exceed 75 percent. In lieu of demonstrating the reasonableness of the business use percentage based on records of total mileage and business mileage driven by the employees annually, a payor may use a business use percentage that is less than or equal to the following percentages for a FAVR allowance that is paid for the following annual business mileage:

<i>Annual business mileage</i>	<i>Business use percentage</i>
6,250 or more but less than 10,000	45 percent
10,000 or more but less than 15,000	55 percent
15,000 or more but less than 20,000	65 percent
20,000 or more	75 percent

(10) *Retention period.* A retention period is the period in calendar years selected by the payor during which the payor expects an employee to drive a standard automobile in connection with the performance of services as an employee of the employer before the automobile is replaced. Such period may not be less than two calendar years.

(11) *Retention mileage.* Retention mileage is the annual mileage multiplied by the number of calendar years in the retention period.

(12) *Residual value.* The residual value of a standard automobile is the projected amount for which it could be sold at the end of the retention period after being driven the retention mileage. The Service will accept the following safe harbor residual values for a standard automobile computed as a percentage of the standard automobile cost:

<i>Retention period</i>	<i>Residual value</i>
2-year	70 percent
3-year	60 percent
4-year	50 percent

.03 FAVR allowance in lieu of operating and fixed costs.

(1) A reimbursement computed using a FAVR allowance is in lieu of the employee's deduction of all the operating and fixed costs paid or incurred by an employee in driving the automobile in connection with the performance of services as an employee of the employer, except as provided in section 9.06 of this revenue procedure. Such items as depreciation (or lease payments), maintenance and repairs, tires, gasoline (including all taxes thereon), oil, insurance, license and registration fees, and personal property taxes are included in operating and fixed costs for this purpose.

(2) Parking fees and tolls attributable to an employee driving the standard automobile in connection with the performance of services as an employee of the employer are not included in fixed and operating costs and may be deducted as separate items. Similarly, interest relating to the purchase of the standard automobile may be deducted as a separate item, but only to the extent that the interest is an allowable deduction under § 163.

.04 Depreciation.

(1) A FAVR allowance may not be paid with respect to an automobile for which the employee has (a) claimed depreciation using a method other than straight-line for its estimated useful life, (b) claimed a § 179 deduction, or (c) used the Accelerated Cost Recovery System (ACRS) under former § 168 or the Modified Accelerated Cost Recovery System (MACRS) under current § 168. If an employee uses actual costs for an owned automobile that has been covered by a FAVR allowance, the employee must use straight-line depreciation for the automobile's remaining estimated useful life (subject to the applicable depreciation deduction limitations under § 280F).

(2) Except as provided in section 8.04(3) of this revenue procedure, the total amount of the depreciation component for the retention period taken into account in computing the periodic fixed payments for that retention period may not exceed the excess of the standard automobile cost over the residual value of the standard automobile. In addition, the total amount of such depreciation component may not exceed the sum of the annual § 280F limitations on depreciation

(in effect at the beginning of the retention period) that apply to the standard automobile during the retention period.

(3) If the depreciation component of periodic fixed payments exceeds the limitations in section 8.04(2) of this revenue procedure, that section will be treated as satisfied in any year during which the total annual amount of the periodic fixed payments and the periodic variable payments made to an employee driving 80 percent of the annual business mileage of the standard automobile does not exceed the amount obtained by multiplying 80 percent of the annual business mileage of the standard automobile by the applicable business standard mileage rate for that year (see, e.g., section 5.01 of this revenue procedure).

(4) The depreciation included in each periodic fixed payment portion of a FAVR allowance paid with respect to an automobile will reduce the basis of the automobile (but not below zero) in determining adjusted basis as required by § 1016. See section 8.07(2) of this revenue procedure for the requirement that the employer report the depreciation component of a periodic fixed payment to the employee.

.05 FAVR allowance limitations.

(1) A FAVR allowance may be paid only to an employee who substantiates to the payor for a calendar year at least 5,000 miles driven in connection with the performance of services as an employee of the employer or, if greater, 80 percent of the annual business mileage of that FAVR allowance. If the employee is covered by the FAVR allowance for less than the entire calendar year, these limits may be prorated on a monthly basis.

(2) A FAVR allowance may not be paid to a control employee (as defined in § 1.61-21(f)(5) and (6), excluding the \$100,000 limitation in paragraph (f)(5)(iii)).

(3) At no time during a calendar year may a majority of the employees covered by a FAVR allowance be management employees.

(4) At all times during a calendar year at least five employees of an employer must be covered by one or more FAVR allowances.

(5) A FAVR allowance may be paid only with respect to an automobile (a) owned or leased by the employee receiv-

ing the payment, (b) the cost of which, when new, is at least 90 percent of the standard automobile cost taken into account for purposes of determining the FAVR allowance for the first calendar year the employee receives the allowance with respect to that automobile, and (c) the model year of which does not differ from the current calendar year by more than the number of years in the retention period.

(6) A FAVR allowance may not be paid with respect to an automobile leased by an employee for which the employee has used actual expenses to compute the deductible business expenses of the automobile for any year during the entire lease period. For a lease commencing on or before December 31, 1997, the "entire lease period" means the portion of the lease period (including renewals) remaining after that date.

(7) The insurance cost component of a FAVR allowance must be based on the rates charged in the base locality for insurance coverage on the standard automobile during the current calendar year without taking into account such rate-increasing factors as poor driving records or young drivers.

(8) A FAVR allowance may be paid only to an employee whose insurance coverage limits on the automobile with respect to which the FAVR allowance is paid are at least equal to the insurance coverage limits used to compute the periodic fixed payment under that FAVR allowance.

.06 Employee reporting. Within 30 days after an employee's automobile is initially covered by a FAVR allowance, or is again covered by a FAVR allowance if such coverage has lapsed, the employee by written declaration must provide the payor with the following information: (a) the make, model, and year of the employee's automobile, (b) written proof of the insurance coverage limits on the automobile, (c) the odometer reading of the automobile, (d) if owned, the purchase price of the automobile or, if leased, the price at which the automobile is ordinarily sold by retailers (the gross capitalized cost of the automobile), and (e) if owned, whether the employee has claimed depreciation with respect to the automobile using any of the depreciation methods prohibited by section 8.04(1) of this revenue

procedure or, if leased, whether the employee has computed deductible business expenses with respect to the automobile using actual expenses. The information described in (a), (b), and (c) of the preceding sentence also must be supplied by the employee to the payor within 30 days after the beginning of each calendar year that the employee's automobile is covered by a FAVR allowance.

.07 Payor recordkeeping and reporting.

(1) The payor or its agent must maintain written records setting forth (a) the statistical data and projections on which the FAVR allowance payments are based, and (b) the information provided by the employees pursuant to section 8.06 of this revenue procedure.

(2) Within 30 days of the end of each calendar year, the employer must provide each employee covered by a FAVR allowance during that year with a statement that, for automobile owners, lists the amount of depreciation included in each periodic fixed payment portion of the FAVR allowance paid during that calendar year and explains that by receiving a FAVR allowance the employee has elected to exclude the automobile from MACRS pursuant to § 168(f)(1). For automobile lessees, the statement must explain that by receiving the FAVR allowance the employee may not compute the deductible business expenses of the automobile using actual expenses for the entire lease period (including renewals). For a lease commencing on or before December 31, 1997, the "entire lease period" means the portion of the lease period (including renewals) remaining after that date.

.08 Failure to meet section 8 requirements. If an employee receives a mileage allowance that fails to meet one or more of the requirements of section 8 of this revenue procedure, the employee may not be treated as covered by any FAVR allowance of the payor during the period of such failure. Nevertheless, the expenses to which that mileage allowance relates may be deemed substantiated using the method described in sections 5, 9.01(1), and 9.02 of this revenue procedure to the extent the requirements of those sections are met.

SECTION 9. APPLICATION

.01 If a payor pays a mileage allowance

in lieu of reimbursing actual transportation expenses incurred or to be incurred by an employee, the amount of the expenses that is deemed substantiated to the payor is either:

(1) for any mileage allowance other than a FAVR allowance, the lesser of the amount paid under the mileage allowance or the applicable standard mileage rate in section 5.01 of this revenue procedure multiplied by the number of business miles substantiated by the employee; or

(2) for a FAVR allowance, the amount paid under the FAVR allowance less the sum of (a) any periodic variable rate payment that relates to miles in excess of the business miles substantiated by the employee and that the employee fails to return to the payor although required to do so, (b) any portion of a periodic fixed payment that relates to a period during which the employee is treated as not covered by the FAVR allowance and that the employee fails to return to the payor although required to do so, and (c) any optional high mileage payments.

.02 If the amount of transportation expenses is deemed substantiated under the rules provided in section 9.01 of this revenue procedure, and the employee actually substantiates to the payor the elements of time, place (or use), and business purpose of the transportation expenses in accordance with paragraphs (b)(2) (travel away from home), (b)(6) (listed property, which includes passenger automobiles and any other property used as a means of transportation), and (c) of § 1.274-5T, the employee is deemed to satisfy the adequate accounting requirements of § 1.274-5T(f), as well as the requirement to substantiate by adequate records or other sufficient evidence for purposes of § 1.274-5T(c). See § 1.62-2(e)(1) for the rule that an arrangement must require business expenses to be substantiated to the payor within a reasonable period of time.

.03 An arrangement providing mileage allowances will be treated as satisfying the requirement of § 1.62-2(f)(2) with respect to returning amounts in excess of expenses as follows:

(1) For a mileage allowance other than a FAVR allowance, the requirement to return excess amounts will be treated as satisfied if the employee is required to re-

turn within a reasonable period of time (as defined in § 1.62-2(g)) any portion of such an allowance that relates to miles of travel not substantiated by the employee, even though the arrangement does not require the employee to return the portion of such an allowance that relates to the miles of travel substantiated and that exceeds the amount of the employee's expenses deemed substantiated. For example, assume a payor provides an employee an advance mileage allowance of \$70 based on an anticipated 200 business miles at 35 cents per mile (at a time when the applicable business standard mileage rate is 31 cents per mile), and the employee substantiates 120 business miles. The requirement to return excess amounts will be treated as satisfied if the employee is required to return the portion of the allowance that relates to the 80 unsubstantiated business miles (\$28) even though the employee is not required to return the portion of the allowance (\$4.80) that exceeds the amount of the employee's expenses deemed substantiated under section 9.01 of this revenue procedure (\$37.20) for the 120 substantiated business miles. However, the \$4.80 excess portion of the allowance is treated as paid under a nonaccountable plan as discussed in section 9.05.

(2) For a FAVR allowance, the requirement to return excess amounts will be treated as satisfied if the employee is required to return within a reasonable period of time (as defined in § 1.62-2(g)), (a) the portion (if any) of the periodic variable payment received that relates to miles in excess of the business miles substantiated by the employee, and (b) the portion (if any) of a periodic fixed payment that relates to a period during which the employee was not covered by the FAVR allowance.

.04 An employee is not required to include in gross income the portion of a mileage allowance received from a payor that is less than or equal to the amount deemed substantiated under section 9.01 of this revenue procedure, provided the employee substantiates in accordance with section 9.02. See § 1.274-5T(f)-(2)(i). In addition, such portion of the allowance is treated as paid under an accountable plan, is not reported as wages or other compensation on the employee's Form W-2, and is exempt from the with-

holding and payment of employment taxes. See §§ 1.62-2(c)(2) and (c)(4).

.05 An employee is required to include in gross income only the portion of a mileage allowance received from a payor that exceeds the amount deemed substantiated under section 9.01 of this revenue procedure, provided the employee substantiates in accordance with section 9.02 of this revenue procedure. See § 1.274-5T(f)(2)(ii). In addition, the excess portion of the allowance is treated as paid under a nonaccountable plan, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes. See §§ 1.62-2(c)(3)(ii), (c)(5), and (h)(2)(i)(B).

.06

(1) Except as otherwise provided in section 9.06(2) of this revenue procedure with respect to leased automobiles, if the amount of the expenses deemed substantiated under the rules provided in section 9.01 of this revenue procedure is less than the amount of the employee's business transportation expenses, the employee may claim an itemized deduction for the amount by which the business transportation expenses exceed the amount that is deemed substantiated, provided the employee substantiates all the business transportation expenses, includes on Form 2106, Employee Business Expenses, the deemed substantiated portion of the mileage allowance received from the payor, and includes in gross income the portion (if any) of the mileage allowance received from the payor that exceeds the amount deemed substantiated. See § 1.274-5T(f)(2)(iii). However, for purposes of claiming this itemized deduction, substantiation of the amount of the expenses is not required if the employee is claiming a deduction that is equal to or less than the applicable standard mileage rate multiplied by the number of business miles substantiated by the employee minus the amount deemed substantiated under section 9.01 of this revenue procedure. The itemized deduction is subject to the 2-percent floor on miscellaneous itemized deductions provided in § 67.

(2) An employee whose business transportation expenses with respect to a leased automobile are deemed substantiated under section 9.01(1) of this revenue procedure (relating to an allowance other

than a FAVR allowance) may not claim a deduction based on actual expenses unless the employee does so consistently beginning with the first business use of the automobile after December 31, 1997. However, an employee whose business transportation expenses with respect to a leased automobile are deemed substantiated under section 9.01(2) of this revenue procedure (relating to a FAVR allowance) may not claim a deduction based on actual expenses.

.07 An employee may deduct an amount computed pursuant to section 5.01 of this revenue procedure only as an itemized deduction. This itemized deduction is subject to the 2-percent floor on miscellaneous itemized deductions provided in § 67.

.08 A self-employed individual may deduct an amount computed pursuant to section 5.01 of this revenue procedure in determining adjusted gross income under § 62(a)(1).

.09 If a payor's reimbursement or other expense allowance arrangement evidences a pattern of abuse of the rules of § 62(c) and the regulations thereunder, all payments under the arrangement will be treated as made under a nonaccountable plan. Thus, such payments are included in the employee's gross income, are reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of employment taxes. See §§ 1.62-2(c)(3), (c)(5), and (h)(2).

SECTION 10. WITHHOLDING AND PAYMENT OF EMPLOYMENT TAXES.

.01 The portion of a mileage allowance (other than a FAVR allowance), if any, that relates to the miles of business travel substantiated and that exceeds the amount deemed substantiated for those miles under section 9.01(1) of this revenue procedure is subject to withholding and payment of employment taxes. See § 1.62-2(h)(2)(i)(B).

(1) In the case of a mileage allowance paid as a reimbursement, the excess described in section 10.01 of this revenue procedure is subject to withholding and payment of employment taxes in the payroll period in which the payor reimburses the expenses for the business

miles substantiated. See § 1.62-2(h)(2)-(i)(B)(2).

(2) In the case of a mileage allowance paid as an advance, the excess described in section 10.01 of this revenue procedure is subject to withholding and payment of employment taxes no later than the first payroll period following the payroll period in which the business miles with respect to which the advance was paid are substantiated. See § 1.62-2(h)(2)(i)(B)(3). If some or all of the business miles with respect to which the advance was paid are not substantiated within a reasonable period of time and the employee does not return the portion of the allowance that relates to those miles within a reasonable period of time, the portion of the allowance that relates to those miles is subject to withholding and payment of employment taxes no later than the first payroll period following the end of the reasonable period. See § 1.62-2(h)(2)(i)(A).

(3) In the case of a mileage allowance that is not computed on the basis of a fixed amount per mile of travel (e.g., a mileage allowance that combines periodic fixed and variable rate payments, but that does not satisfy the requirements of section 8 of this revenue procedure), the payor must compute periodically (no less frequently than quarterly) the amount, if any, that exceeds the amount deemed substantiated under section 9.01(1) of this revenue procedure by comparing the total mileage allowance paid for the period to the applicable standard mileage rate in section 5.01 of this revenue procedure multiplied by the number of business miles substantiated by the employee for the period. Any excess is subject to withholding and payment of employment taxes no later than the first payroll period following the payroll period in which the excess is computed. See § 1.62-2(h)(2)-(i)(B)(4).

(4) For example, assume an employer pays its employees a mileage allowance at a rate of 35 cents per mile (when the business standard mileage rate is 31 cents per mile). The employer does not require the return of the portion of the allowance (4 cents) that exceeds the business standard mileage rate for the business miles substantiated. In June, the employer advances an employee \$175 for 500 miles to be traveled during the

month. In July, the employee substantiates to the employer 400 business miles traveled in June and returns \$35 to the employer for the 100 business miles not traveled. The amount deemed substantiated for the 400 miles traveled is \$124 and the employee is not required to return the remaining \$16. No later than the first payroll period following the payroll period in which the 400 business miles traveled are substantiated, the employer must withhold and pay employment taxes on \$16.

.02 The portion of a FAVR allowance, if any, that exceeds the amount deemed substantiated for those miles under section 9.01(2) of this revenue procedure is subject to withholding and payment of employment taxes. See § 1.62-2(h)(2)-(i)(B).

(1) Any periodic variable rate payment that relates to miles in excess of the business miles substantiated by the employee and that the employee fails to return within a reasonable period, or any portion of a periodic fixed payment that relates to a period during which the employee is treated as not covered by the FAVR allowance and that the employee fails to return within a reasonable period, is subject to withholding and payment of employment taxes no later than the first payroll period following the end of the reasonable period. See § 1.62-2(h)(2)-(i)(A).

(2) Any optional high mileage payment is subject to withholding and payment of employment taxes when paid.

SECTION 11. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 97-58, 1997-2 C.B. 587, is hereby superseded for mileage allowances paid to an employee on or after January 1, 1999, with respect to transportation expenses paid or incurred on or after January 1, 1999, and, for purposes of computing the amount allowable as a deduction, for transportation expenses paid or incurred on or after January 1, 1999.

DRAFTING INFORMATION

The principal author of this revenue procedure is Edwin B. Cleverdon of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure,

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26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also Part I, §§ 62, 162, 267, 274; 1.62-2, 1.162-17, 1.267(a)-1, 1.274-5T, 1.274(d)-1T.)

Rev. Proc. 98-64

SECTION 1. PURPOSE

This revenue procedure updates Rev. Proc. 97-59, 1997-2 C.B. 594, by providing rules under which the amount of ordinary and necessary business expenses of an employee for lodging, meal, and incidental expenses or for meal and incidental expenses incurred while traveling away from home will be deemed substantiated under § 1.274-5T of the temporary Income Tax Regulations when a payor (the employer, its agent, or a third party) provides a per diem allowance under a reimbursement or other expense allowance arrangement to pay for such expenses. This revenue procedure also provides an optional method for employees and self-employed individuals to use in computing the deductible costs of business meal and incidental expenses paid or incurred while traveling away from home. Use of a method described in this revenue procedure is not mandatory and a taxpayer may use actual allowable expenses if the taxpayer maintains adequate records or other sufficient evidence for proper substantiation. This revenue procedure does not provide rules under which the amount of an employee's lodging expenses will be deemed substantiated when a payor provides an allowance to pay for those expenses but not meal and incidental expenses.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 162(a) of the Internal Revenue Code allows a deduction for all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Under that provision, an employee or self-employed individual may deduct expenses paid or incurred while traveling away from home in pursuit of a trade or business. However, under § 262, no portion of such travel expenses that is attributable to per-

sonal, living, or family expenses is deductible.

.02 Section 274(n) generally limits the amount allowable as a deduction under § 162 for any expense for food, beverages, or entertainment to 50 percent of the amount of the expense that otherwise would be allowable as a deduction. In the case of any expenses for food or beverages consumed while away from home (within the meaning of § 162(a)(2)) by an individual during, or incident to, the period of duty subject to the hours of service limitations of the Department of Transportation, § 274(n)(3) gradually increases the deductible percentage to 80 percent for taxable years beginning in 2008. For taxable years beginning in 1999, the deductible percentage for these expenses is 55 percent.

.03 Section 274(d) provides, in part, that no deduction shall be allowed under § 162 for any traveling expense (including meals and lodging while away from home) unless the taxpayer complies with certain substantiation requirements. The section further provides that regulations may prescribe that some or all of the substantiation requirements do not apply to an expense that does not exceed an amount prescribed by such regulations.

.04 Section 1.274(d)-1T(a) of the regulations, in part, grants the Commissioner the authority to prescribe rules relating to reimbursement arrangements or per diem allowances for ordinary and necessary expenses paid or incurred while traveling away from home. Pursuant to this grant of authority, the Commissioner may prescribe rules under which such arrangements or allowances, if in accordance with reasonable business practice, will be regarded (1) as equivalent to substantiation, by adequate records or other sufficient evidence, of the amount of such travel expenses for purposes of § 1.274-5T(c), and (2) as satisfying the requirements of an adequate accounting to the employer of the amount of such travel expenses for purposes of § 1.274-5T(f).

.05 For purposes of determining adjusted gross income, § 62(a)(2)(A) allows an employee a deduction for expenses allowed by Part VI (§ 161 and following), subchapter B, chapter 1 of the Code, paid or incurred by the employee in connection with the performance of services as an employee under a reimbursement or other

expense allowance arrangement with a payor.

.06 Section 62(c) provides that an arrangement will not be treated as a reimbursement or other expense allowance arrangement for purposes of § 62(a)-(2)(A) if it—

(1) does not require the employee to substantiate the expenses covered by the arrangement to the payor, or

(2) provides the employee with the right to retain any amount in excess of the substantiated expenses covered under the arrangement.

Section 62(c) further provides that the substantiation requirements described therein shall not apply to any expense to the extent that, under the grant of regulatory authority prescribed in § 274(d), the Commissioner has provided that substantiation is not required for such expense.

.07 Under § 1.62-2(c)(1) a reimbursement or other expense allowance arrangement satisfies the requirements of § 62(c) if it meets the requirements of business connection, substantiation, and returning amounts in excess of expenses as specified in the regulations. Section 1.62-2T(e)(2) specifically provides that substantiation of certain business expenses in accordance with rules prescribed under the authority of § 1.274(d)-1T(a) or 1.274-5T(j) will be treated as substantiation of the amount of such expenses for purposes of § 1.62-2. Under § 1.62-2(f)(2), the Commissioner may prescribe rules under which an arrangement providing per diem allowances will be treated as satisfying the requirement of returning amounts in excess of expenses, even though the arrangement does not require the employee to return the portion of such an allowance that relates to days of travel substantiated and that exceeds the amount of the employee's expenses deemed substantiated pursuant to rules prescribed under § 274(d), provided the allowance is reasonably calculated not to exceed the amount of the employee's expenses or anticipated expenses and the employee is required to return any portion of such an allowance that relates to days of travel not substantiated.

.08 Section 1.62-2(h)(2)(i)(B) provides that if a payor pays a per diem allowance that meets the requirements of § 1.62-2(c)(1), the portion, if any, of the allowance that relates to days of travel sub-

stantiated in accordance with § 1.62-2(e), that exceeds the amount of the employee's expenses deemed substantiated for such travel pursuant to rules prescribed under § 274(d) and § 1.274(d)-1(a) or § 1.274-5T(j), and that the employee is not required to return, is subject to withholding and payment of employment taxes. See §§ 31.3121(a)-3, 31.3231(e)-1(a)(5), 31.3306(b)-2, and 31.3401(a)-4. Because the employee is not required to return this excess portion, the reasonable period of time provisions of § 1.62-2(g) (relating to the return of excess amounts) do not apply to this portion.

.09 Under § 1.62-2(h)(2)(i)(B)(4), the Commissioner may, in his or her discretion, prescribe special rules regarding the timing of withholding and payment of employment taxes on per diem allowances.

.10 Section 1.274-5T(j) grants the Commissioner the authority to establish a method under which a taxpayer may elect to use a specified amount for meals paid or incurred while traveling away from home in lieu of substantiating the actual cost of meals.

.11 Section 5.04 of this revenue procedure contains revisions to the list of high-cost localities and to the high-low rates for purposes of section 5.

SECTION 3. DEFINITIONS

.01 *Per diem allowance.* The term "per diem allowance" means a payment under a reimbursement or other expense allowance arrangement that meets the requirements specified in § 1.62-2(c)(1) and that is

(1) paid with respect to ordinary and necessary business expenses incurred, or which the payor reasonably anticipates will be incurred, by an employee for lodging, meal, and incidental expenses or for meal and incidental expenses for travel away from home in connection with the performance of services as an employee of the employer,

(2) reasonably calculated not to exceed the amount of the expenses or the anticipated expenses, and

(3) paid at or below the applicable Federal per diem rate, a flat rate or stated schedule, or in accordance with any other Service-specified rate or schedule.

.02 Federal per diem rate.

(1) *General rule.* The Federal per diem rate is equal to the sum of the Federal lodging expense rate and the Federal meal and incidental expense (M&IE) rate for the locality of travel. Each of these rates for a particular locality in the continental United States ("CONUS") is set forth in Appendix A of 41 C.F.R., Chapter 301, as amended. See 41 C.F.R. Part 301-7 (1998), as amended, for specific rules regarding these Federal rates. Each of these rates is established by the Secretary of Defense for a particular nonforeign locality outside the continental United States ("OCONUS") (including Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands, and the possessions of the United States), and by the Secretary of State for a particular foreign OCONUS locality. Each of these OCONUS rates is published in the Per Diem Supplement to the Standardized Regulations (Government Civilians, Foreign Areas). See, e.g., Maximum Travel Per Diem Allowances for Foreign Areas, PD Supplement 415, issued December 1, 1998.

(2) *Locality of travel.* The term "locality of travel" means the locality where an employee traveling away from home in connection with the performance of services as an employee of the employer stops for sleep or rest.

(3) *Incidental expenses.* The term "incidental expenses" includes, but is not limited to, expenses for laundry, cleaning and pressing of clothing, and fees and tips for services, such as for porters and baggage carriers. The term "incidental expenses" does not include taxicab fares, lodging taxes, or the costs of telegrams or telephone calls.

.03 Flat rate or stated schedule.

(1) *In general.* Except as provided in section 3.03(2) of this revenue procedure, an allowance is paid at a flat rate or stated schedule if it is provided on a uniform and objective basis with respect to the expenses described in section 3.01 of this revenue procedure. Such allowance may be paid with respect to the number of days away from home in connection with the performance of services as an employee or on any other basis that is consistently applied and in accordance with reasonable business practice. Thus, for example, an hourly payment to cover meal and incidental expenses paid to a

pilot or flight attendant who is traveling away from home in connection with the performance of services as an employee is an allowance paid at a flat rate or stated schedule. Likewise, a payment based on the number of miles traveled (e.g., cents per mile) to cover meal and incidental expenses paid to an over-the-road truck driver who is traveling away from home in connection with the performance of services as an employee is an allowance paid at a flat rate or stated schedule.

(2) *Limitation.* For purposes of this revenue procedure, an allowance that is computed on a basis similar to that used in computing the employee's wages or other compensation (e.g., the number of hours worked, miles traveled, or pieces produced) does not meet the business connection requirement of § 1.62-2(d), is not a per diem allowance, and is not paid at a flat rate or stated schedule, unless, as of December 12, 1989, (a) the allowance was identified by the payor either by making a separate payment or by specifically identifying the amount of the allowance, or (b) an allowance computed on that basis was commonly used in the industry in which the employee is employed. See § 1.62-2(d)(3)(ii).

SECTION 4. PER DIEM SUBSTANTIATION METHOD

.01 Per diem allowance. If a payor pays a per diem allowance in lieu of reimbursing actual expenses for lodging, meal, and incidental expenses incurred or to be incurred by an employee for travel away from home, the amount of the expenses that is deemed substantiated for each calendar day is equal to the lesser of the per diem allowance for such day or the amount computed at the Federal per diem rate for the locality of travel for such day (or partial day, see section 6.04 of this revenue procedure).

.02 Meals only per diem allowance. If a payor pays a per diem allowance only for meal and incidental expenses in lieu of reimbursing actual expenses for meal and incidental expenses incurred or to be incurred by an employee for travel away from home, the amount of the expenses that is deemed substantiated for each calendar day is equal to the lesser of the per diem allowance for such day or the amount computed at the Federal M&IE

rate for the locality of travel for such day (or partial day, see section 6.04 of this revenue procedure). A per diem allowance is treated as paid only for meal and incidental expenses if (1) the payor pays the employee for actual expenses for lodging based on receipts submitted to the payor, (2) the payor provides the lodging in kind, (3) the payor pays the actual expenses for lodging directly to the provider of the lodging, (4) the payor does not have a reasonable belief that lodging expenses were or will be incurred by the employee, or (5) the allowance is computed on a basis similar to that used in computing the employee's wages or other compensation (e.g., the number of hours worked, miles traveled, or pieces produced).

.03 Optional method for meals only deduction. In lieu of using actual expenses, employees and self-employed individuals, in computing the amount allowable as a deduction for ordinary and necessary meal and incidental expenses paid or incurred for travel away from home, may use an amount computed at the Federal M&IE rate for the locality of travel for each calendar day (or partial day, see section 6.04 of this revenue procedure) the employee or self-employed individual is away from home. Such amount will be deemed substantiated for purposes of paragraphs (b)(2) (travel away from home) and (c) of § 1.274-5T, provided the employee or self-employed individual substantiates the elements of time, place, and business purpose of the travel expenses in accordance with those regulations.

.04 Special rules for transportation industry.

(1) *In general.* This section 4.04 applies to (a) a payor that pays a per diem allowance only for meal and incidental expenses for travel away from home as described in section 4.02 of this revenue procedure to an employee in the transportation industry, or (b) an employee or self-employed individual in the transportation industry who computes the amount allowable as a deduction for meal and incidental expenses for travel away from home in accordance with section 4.03 of this revenue procedure.

(2) *Rates.* A taxpayer described in section 4.04(1) of this revenue procedure may treat \$38 as the Federal M&IE rate

for any locality of travel in CONUS, and/or \$42 as the Federal M&IE rate for any locality of travel OCONUS. A payor that uses either (or both) of these special rates with respect to an employee must use the special rate(s) for all amounts subject to section 4.02 of this revenue procedure paid to that employee for travel away from home within CONUS and/or OCONUS, as the case may be, during the calendar year. Similarly, an employee or self-employed individual that uses either (or both) of these special rates must use the special rate(s) for all amounts computed pursuant to section 4.03 of this revenue procedure for travel away from home within CONUS and/or OCONUS, as the case may be, during the calendar year.

(3) *Periodic rule.* A payor described in section 4.04(1) of this revenue procedure may compute the amount of the employee's expenses that is deemed substantiated under section 4.02 of this revenue procedure periodically (not less frequently than monthly), rather than daily, by comparing the total per diem allowance paid for the period to the sum of the amounts computed at the Federal M&IE rate(s) for the localities of travel for the days (or partial days, see section 6.04 of this revenue procedure) the employee is away from home during the period. For example, assume an employee in the transportation industry travels away from home within CONUS on 17 days (including partial days, see section 6.04 of this revenue procedure) during a calendar month and receives a per diem allowance

only for meal and incidental expenses from a payor that uses the special rule under section 4.04(2) of this revenue procedure. The amount deemed substantiated under section 4.02 of this revenue procedure is equal to the lesser of the total per diem allowance paid for the month or \$646 (17 days at \$38 per day).

(4) *Transportation industry defined.* For purposes of this section 4.04 of this revenue procedure, an employee or self-employed individual is "in the transportation industry" only if the employee's or individual's work (a) is of the type that directly involves moving people or goods by airplane, barge, bus, ship, train, or truck, and (b) regularly requires travel away from home which, during any single trip away from home, usually involves travel to localities with differing Federal M&IE rates. For purposes of the preceding sentence, a payor must determine that an employee or a group of employees is "in the transportation industry" by using a method that is consistently applied and in accordance with reasonable business practice.

SECTION 5. HIGH-LOW SUBSTANTIATION METHOD

.01 *General rule.* If a payor pays a per diem allowance in lieu of reimbursing actual expenses for lodging, meal, and incidental expenses incurred or to be incurred by an employee for travel away from home and the payor uses the high-low substantiation method described in this section 5 for travel within CONUS, the

amount of the expenses that is deemed substantiated for each calendar day is equal to the lesser of the per diem allowance for such day or the amount computed at the rate set forth in section 5.02 of this revenue procedure for the locality of travel for such day (or partial day, see section 6.04 of this revenue procedure). This high-low substantiation method may be used in lieu of the per diem substantiation method provided in section 4.01 of this revenue procedure, but may not be used in lieu of the meals only substantiation method provided in section 4.02 or 4.03 of this revenue procedure.

.02 *Specific high-low rates.* The per diem rate set forth in this section 5.02 is \$185 for travel to any "high-cost locality" specified in section 5.03 of this revenue procedure, or \$115 for travel to any other locality within CONUS. Whichever per diem rate applies, it is applied as if it were the Federal per diem rate for the locality of travel. For purposes of applying the high-low substantiation method and the § 274(n) limitation on meal expenses (see section 6.05 of this revenue procedure), the Federal M&IE rate shall be treated as \$42 for a high-cost locality and \$34 for any other locality within CONUS.

.03 *High-cost localities.* The following localities have a Federal per diem rate of \$150 or more for all or part of the calendar year, and are high-cost localities for all of the calendar year or the portion of the calendar year specified in parenthesis under the key city name:

Key city

Alabama
Gulf Shores
(May 1-September 30)

California
Gualala
Palo Alto
San Francisco
Sunnyvale
Yosemite Nat'l Park
(April 1-October 31)

Colorado
Aspen
(June 1-March 31)

County or other defined location

Baldwin

City limits of Gualala
City limits of Palo Alto
San Francisco
City limits of Sunnyvale
Mariposa

Pitkin

<i>Key city</i>	<i>County or other defined location</i>
Telluride (November 1-March 31) Vail	San Miguel Eagle
District of Columbia Washington, D.C.	District of Columbia
Florida Delray Beach (November 1-March 31) Jupiter (January 1-April 30) Key West (December 1-April 30) Palm Beach (January 1-April 30) Singer Island (January 1-April 30)	City limits of Delray Beach City limits of Jupiter Monroe City limits of Palm Beach City limits of Singer Island
Idaho Sun Valley (April 1-September 30)	City limits of Sun Valley
Illinois Chicago Lake County	Cook Lake County
Maine Bar Harbor	Hancock
Maryland Baltimore Montgomery County Ocean City (April 1-August 31)	Baltimore Montgomery County Worcester
Massachusetts Boston Cambridge Martha's Vineyard (June 1-September 30)	Suffolk City limits of Cambridge Dukes
Michigan Charlevoix (July 1-September 30) Mackinac Island	Charlevoix Mackinac
Nevada Stateline	Douglas
New Jersey Cape May (June 1-September 30) Ocean City (June 1-August 31) Piscataway Union County	Cape May (except Ocean City) City limits of Ocean City City limits of Piscataway Union County
New York The Bronx Brooklyn	The Bronx Brooklyn

<i>Key city</i>	<i>County or other defined location</i>
Manhattan	Manhattan
Queens Borough	Queens
Saratoga Springs	Saratoga
(August 1-August 31)	
Tarrytown/White Plains	Westchester
West Point	Orange
North Carolina	
Kill Devil Hills	Dare
(May 1-August 31)	
Pennsylvania	
Hershey	City limits of Hershey
(May 1-October 31)	
Philadelphia	Philadelphia; city of Bala Cynwyd in Montgomery County
Rhode Island	
Newport	Newport
(June 1-September 30)	
South Carolina	
Hilton Head	Beaufort
(March 1-August 31)	
Myrtle Beach	Horry; Myrtle Beach Air Force Base
(June 1-September 30)	
Utah	
Park City	Summit
(December 1-March 31)	
Virginia	
Alexandria	City limits of Alexandria
Arlington	Arlington
Fairfax County	Fairfax County (includes the cities of Falls Church and Fairfax)
Wintergreen	Nelson
(June 1-October 31)	
Washington	
Seattle	King

.04 *Changes in high-cost localities.*
The list of high-cost localities in section 5.03 of this revenue procedure differs from the list of high-cost localities in section 5.03 of Rev. Proc. 97-59.

(1) The following localities (listed by key cities) have been added to the list of high-cost localities: Gulf Shores, Alabama; Sunnyvale, California; Yosemite National Park, California; Delray Beach, Florida; Jupiter, Florida; Palm Beach, Florida; Singer Island, Florida; Sun Valley, Idaho; Charlevoix, Michigan; Mackinac Island, Michigan; Stateline, Nevada; Piscataway, New Jersey; Union County, New Jersey; Saratoga Springs, New York; West Point, New York; Hershey, Pennsylvania; and Wintergreen, Virginia.

(2) The portion of the year for which the following are high-cost localities (listed by key cities) has been changed: Aspen, Colorado; Telluride, Colorado; Vail, Colorado; Key West, Florida; Bar Harbor, Maine; Ocean City, Maryland; Martha's Vineyard, Massachusetts; Cape May, New Jersey; Ocean City, New Jersey; Kill Devil Hills, North Carolina; Newport, Rhode Island; Hilton Head, South Carolina; and Myrtle Beach, South Carolina.

(3) The following localities (generally listed by key cities) have been removed from the list of high-cost localities: Grand Canyon, Arizona; Los Angeles, California; Napa, California; Santa Clara County, California (except the city limits of Palo Alto and Sunny-

vale); Mendocino County, California (except the city limits of Gualala); Keystone/Silverthorne, Colorado; Lewes, Delaware; Naples, Florida; Du Page County, Illinois; Nashville, Indiana; Harford County, Maryland; Prince George's County, Maryland; St. Michaels, Maryland; Middlesex County, Massachusetts (except the city limits of Cambridge); Nantucket, Massachusetts; Incline Village, Nevada; Hanover, New Hampshire; Parsippany/Dover, New Jersey; Santa Fe, New Mexico; Nassau County, New York; Staten Island Borough, New York; Suffolk County, New York; Block Island, Rhode Island; Loudoun County, Virginia; Friday Harbor, Washington; and Jackson, Wyoming.

.05 Specific limitation.

(1) Except as provided in section 5.05(2) of this revenue procedure, a payor that uses the high-low substantiation method with respect to an employee must use that method for all amounts paid to that employee for travel away from home within CONUS during the calendar year.

(2) With respect to an employee described in section 5.05(1) of this revenue procedure, the payor may reimburse actual expenses or use the meals only per diem method described in section 4.02 of this revenue procedure for any travel away from home, and may use the per diem substantiation method described in section 4.01 of this revenue procedure for any OCONUS travel away from home.

SECTION 6. LIMITATIONS AND SPECIAL RULES

.01 In general. The Federal per diem rate and the Federal M&IE rate described in section 3.02 of this revenue procedure for the locality of travel will be applied in the same manner as applied under the Federal Travel Regulations, 41 C.F.R. Part 301-7 (1998), except as provided in sections 6.02 through 6.04 of this revenue procedure.

.02 Federal per diem rate. A receipt for lodging expenses is not required in determining the amount of expenses deemed substantiated under section 4.01 or 5.01 of this revenue procedure. See section 7.01 of this revenue procedure for the requirement that the employee substantiate the time, place, and business purpose of the expense.

.03 Federal per diem or M&IE rate. A payor is not required to reduce the Federal per diem rate or the Federal M&IE rate for the locality of travel for meals provided in kind, provided the payor has a reasonable belief that meal and incidental expenses were or will be incurred by the employee.

.04 Proration of the Federal per diem or M&IE rate. Pursuant to the Federal Travel Regulations, in determining the Federal per diem rate or the Federal M&IE rate for the locality of travel, the full applicable Federal M&IE rate is available for a full day of travel from 12:01 a.m. to 12:00 midnight. For purposes of determining the amount deemed substantiated under section 4 or 5 of this revenue procedure with respect to partial

days of travel away from home, either of the following methods may be used to prorate the Federal M&IE rate to determine the Federal per diem rate or the Federal M&IE rate for the partial days of travel:

(1) Such rate may be prorated using the method prescribed by the Federal Travel Regulations. Currently the Federal Travel Regulations allow three-fourths of the applicable Federal M&IE rate for each partial day during which the employee or self-employed individual is traveling away from home in connection with the performance of services as an employee or self-employed individual; or

(2) Such rate may be prorated using any method that is consistently applied and in accordance with reasonable business practice. For example, if an employee travels away from home from 9 a.m. one day to 5 p.m. the next day, a method of proration that results in an amount equal to 2 times the Federal M&IE rate will be treated as being in accordance with reasonable business practice (even though only 1½ times the Federal M&IE rate would be allowed under the Federal Travel Regulations).

.05 Application of the appropriate § 274(n) limitation on meal expenses. All or part of the amount of an expense deemed substantiated under this revenue procedure is subject to the appropriate limitation under § 274(n) (see section 2.02 of this revenue procedure) on the deductibility of food and beverage expenses.

(1) When an amount for meal and incidental expenses is computed pursuant to section 4.03 of this revenue procedure, the taxpayer must treat such amount as an expense for food and beverages.

(2) When a per diem allowance is paid only for meal and incidental expenses, the payor must treat an amount equal to the lesser of the allowance or the Federal M&IE rate for the locality of travel for such day (or partial day, see section 6.04 of this revenue procedure) as an expense for food and beverages.

(3) When a per diem allowance is paid for lodging, meal, and incidental expenses, the payor must treat an amount equal to the Federal M&IE rate for the locality of travel for each calendar day (or partial day, see section 6.04 of this revenue procedure) the employee is away

from home as an expense for food and beverages. For purposes of the preceding sentence, when a per diem allowance for lodging, meal, and incidental expenses is paid at a rate that is less than the Federal per diem rate for the locality of travel for such day (or partial day, see section 6.04 of this revenue procedure), the payor may treat an amount equal to 40 percent of such allowance as the Federal M&IE rate for the locality of travel for such day (or partial day, see section 6.04 of this revenue procedure).

.06 No double reimbursement or deduction. If a payor pays a per diem allowance in lieu of reimbursing actual expenses for lodging, meal, and incidental expenses in accordance with section 4 or 5 of this revenue procedure, any additional payment with respect to such expenses is treated as paid under a nonaccountable plan, is included in the employee's gross income, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes. Similarly, if an employee or self-employed individual computes the amount allowable as a deduction for meal and incidental expenses for travel away from home in accordance with section 4.03 or 4.04 of this revenue procedure, no other deduction is allowed to the employee or self-employed individual with respect to such expenses. For example, assume an employee receives a per diem allowance from a payor for lodging, meal, and incidental expenses or for meal and incidental expenses incurred while traveling away from home. During that trip, the employee pays for dinner for the employee and two business associates. The payor reimburses as a business entertainment meal expense the meal expense for the employee and the two business associates. Because the payor also pays a per diem allowance to cover the cost of the employee's meals, the amount paid by the payor for the employee's portion of the business entertainment meal expense is treated as paid under a nonaccountable plan, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes.

.07 Related parties. Sections 4.01, 4.02, 4.04 (to the extent it relates to sec-

tion 4.02), and 5 of this revenue procedure will not apply in any case in which a payor and an employee are related within the meaning of § 267(b), but for this purpose the percentage of ownership interest referred to in § 267(b)(2) shall be 10 percent.

SECTION 7. APPLICATION

.01 If the amount of travel expenses is deemed substantiated under the rules provided in section 4 or 5 of this revenue procedure, and the employee actually substantiates to the payor the elements of time, place, and business purpose of the travel expenses in accordance with paragraphs (b)(2) (travel away from home) and (c) (other than subparagraph (2)(iii)(A) thereof) of § 1.274-5T, the employee is deemed to satisfy the adequate accounting requirements of § 1.274-5T(f) as well as the requirement to substantiate by adequate records or other sufficient evidence for purposes of § 1.274-5T(c). See § 1.62-2(e)(1) for the rule that an arrangement must require business expenses to be substantiated to the payor within a reasonable period of time.

.02 An arrangement providing per diem allowances will be treated as satisfying the requirement of § 1.62-2(f)(2) with respect to returning amounts in excess of expenses if the employee is required to return within a reasonable period of time (as defined in § 1.62-2(g)) any portion of such an allowance that relates to days of travel not substantiated, even though the arrangement does not require the employee to return the portion of such an allowance that relates to days of travel substantiated and that exceeds the amount of the employee's expenses deemed substantiated. For example, assume a payor provides an employee an advance per diem allowance for meal and incidental expenses of \$200, based on an anticipated 5 days of business travel at \$40 per day to a locality for which the Federal M&IE rate is \$34, and the employee substantiates 3 full days of business travel. The requirement to return excess amounts will be treated as satisfied if the employee is required to return within a reasonable period of time (as defined in § 1.62-2(g)) the portion of the allowance that is attributable to the 2 unsubstantiated days of travel (\$80), even though the employee is

not required to return the portion of the allowance (\$18) that exceeds the amount of the employee's expenses deemed substantiated under section 4.02 of this revenue procedure (\$102) for the 3 substantiated days of travel. However, the \$18 excess portion of the allowance is treated as paid under a nonaccountable plan as discussed in section 7.04 of this revenue procedure.

.03 An employee is not required to include in gross income the portion of a per diem allowance received from a payor that is less than or equal to the amount deemed substantiated under the rules provided in section 4 or 5 of this revenue procedure if the employee substantiates the business travel expenses covered by the per diem allowance in accordance with section 7.01 of this revenue procedure. See § 1.274-5T(f)(2)(i). In addition, such portion of the allowance is treated as paid under an accountable plan, is not reported as wages or other compensation on the employee's Form W-2, and is exempt from the withholding and payment of employment taxes. See § 1.62-2(c)(2) and (c)(4).

.04 An employee is required to include in gross income only the portion of the per diem allowance received from a payor that exceeds the amount deemed substantiated under the rules provided in section 4 or 5 of this revenue procedure if the employee substantiates the business travel expenses covered by the per diem allowance in accordance with section 7.01 of this revenue procedure. See § 1.274-5T(f)(2)(ii). In addition, the excess portion of the allowance is treated as paid under a nonaccountable plan, is reported as wages or other compensation on the employee's Form W-2, and is subject to withholding and payment of employment taxes. See § 1.62-2(c)(3)(ii), (c)(5), and (h)(2)(i)(B).

.05 If the amount of the expenses that is deemed substantiated under the rules provided in section 4.01, 4.02, or 5 of this revenue procedure is less than the amount of the employee's business expenses for travel away from home, the employee may claim an itemized deduction for the amount by which the business travel expenses exceed the amount that is deemed substantiated, provided the employee substantiates all the business travel expenses, includes on Form 2106, Employee Busi-

ness Expenses, the deemed substantiated portion of the per diem allowance received from the payor, and includes in gross income the portion (if any) of the per diem allowance received from the payor that exceeds the amount deemed substantiated. See § 1.274-5T(f)(2)(iii). However, for purposes of claiming this itemized deduction with respect to meal and incidental expenses, substantiation of the amount of the expenses is not required if the employee is claiming a deduction that is equal to or less than the amount computed under section 4.03 of this revenue procedure minus the amount deemed substantiated under sections 4.02 and 7.01 of this revenue procedure. The itemized deduction is subject to the appropriate limitation (see section 2.02 of this revenue procedure) on meal and entertainment expenses provided in § 274(n) and the 2-percent floor on miscellaneous itemized deductions provided in § 67.

.06 An employee who does not receive a per diem allowance for meal and incidental expenses may deduct an amount computed pursuant to section 4.03 of this revenue procedure only as an itemized deduction. This itemized deduction is subject to the appropriate limitation (see section 2.02 of this revenue procedure) on meal and entertainment expenses provided in § 274(n) and the 2-percent floor on miscellaneous itemized deductions provided in § 67.

.07 A self-employed individual may deduct an amount computed pursuant to section 4.03 of this revenue procedure in determining adjusted gross income under § 62(a)(1). This deduction is subject to the appropriate limitation (see section 2.02 of this revenue procedure) on meal and entertainment expenses provided in § 274(n).

.08 If a payor's reimbursement or other expense allowance arrangement evidences a pattern of abuse of the rules of § 62(c) and the regulations thereunder, all payments under the arrangement will be treated as made under a nonaccountable plan. Thus, such payments are included in the employee's gross income, are reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of employment taxes. See § 1.62-2(c)(3), (c)(5), and (h)(2).

SECTION 8. WITHHOLDING AND PAYMENT OF EMPLOYMENT TAXES.

.01 The portion of a per diem allowance, if any, that relates to the days of business travel substantiated and that exceeds the amount deemed substantiated for those days under section 4.01, 4.02, or 5 of this revenue procedure is subject to withholding and payment of employment taxes. See § 1.62-2(h)(2)(i)(B).

.02 In the case of a per diem allowance paid as a reimbursement, the excess described in section 8.01 of this revenue procedure is subject to withholding and payment of employment taxes in the payroll period in which the payor reimburses the expenses for the days of travel substantiated. See § 1.62-2(h)(2)(i)(B)(2).

.03 In the case of a per diem allowance paid as an advance, the excess described in section 8.01 of this revenue procedure is subject to withholding and payment of employment taxes no later than the first payroll period following the payroll period in which the days of travel with respect to which the advance was paid are substantiated. See § 1.62-2(h)(2)(i)(B)(3). If some or all of the days of travel with respect to which the advance was paid are not substantiated within a reasonable period of time and the employee does not return the portion of the allowance that relates to those days within a reasonable period of time, the portion of the allowance that relates to those days is sub-

ject to withholding and payment of employment taxes no later than the first payroll period following the end of the reasonable period. See § 1.62-2(h)(2)(i)(A).

.04 In the case of a per diem allowance only for meal and incidental expenses for travel away from home paid to an employee in the transportation industry by a payor that uses the rule in section 4.04(3) of this revenue procedure, the excess of the per diem allowance paid for the period over the amount deemed substantiated for the period under section 4.02 of this revenue procedure (after applying section 4.04(3) of this revenue procedure), is subject to withholding and payment of employment taxes no later than the first payroll period following the payroll period in which the excess is computed. See § 1.62-2(h)(2)(i)(B)(4).

.05 For example, assume that an employer pays an employee a per diem allowance to cover business expenses for meals and lodging for travel away from home at a rate of 120 percent of the Federal per diem rate for the localities to which the employee travels. The employer does not require the employee to return the 20 percent by which the reimbursement for those expenses exceeds the Federal per diem rate. The employee substantiates 6 days of travel away from home: 2 days in a locality in which the Federal per diem rate is \$100 and 4 days in a locality in which the Federal per diem rate is \$125. The employer reimburses the employee \$840 for the 6 days of travel

away from home ($2 \times (120\% \times \$100) + 4 \times (120\% \times \$125)$), and does not require the employee to return the excess payment of \$140 ($(2 \text{ days} \times \$20 (\$120 - \$100) + 4 \text{ days} \times \$25 (\$150 - \$125))$). For the payroll period in which the employer reimburses the expenses, the employer must withhold and pay employment taxes on \$140. See section 8.02 of this revenue procedure.

SECTION 9. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 97-59 is hereby superseded for per diem allowances paid to an employee on or after January 1, 1999, with respect to lodging, meal, and incidental expenses or with respect to meal and incidental expenses paid or incurred for travel while away from home on or after January 1, 1999, and, for purposes of computing the amount allowable as a deduction, for meal and incidental expenses paid or incurred by an employee or self-employed individual for travel while away from home on or after January 1, 1999.

DRAFTING INFORMATION

The principal author of this revenue procedure is Edwin B. Cleverdon of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Cleverdon at (202) 622-4920 (not a toll-free call).

Rev. Proc. 98-65

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Chapter 1

Introduction to Substitute Forms

Overview of Revenue Procedure 98-65

Purpose This revenue procedure provides the general requirements and conditions for the development, printing, and approval of all substitute tax forms to be acceptable for filing in lieu of official IRS forms.

Unique Forms Certain unique, specialized forms require the use of other additional revenue procedures to supplement this publication. See Chapter 4.

Scope The Internal Revenue Service accepts quality substitute tax forms that are consistent with the official forms and do not have an adverse impact on our processing. The IRS Substitute Forms Program administers the formal acceptance and processing of these forms nationwide. While this program deals primarily with paper documents, it also interfaces with other processing and filing media such as:

- Magnetic tape,
- Optical character recognition, and
- Electronic filing, etc.

Only those substitute forms that comply fully with the requirements set forth herein are acceptable. Exhibit L-1 lists the form numbers mentioned in this document and their titles. This revenue procedure is updated as required to reflect pertinent tax year form changes and to meet processing and/or legislative requirements.

Forms Covered by This Revenue Procedure

The following types of forms are covered by this revenue procedure:

- IRS tax returns and their related forms and schedules.
- Applications for permission to file returns electronically and forms used as required documentation for electronically filed returns.
- Powers of Attorney.
- Estimated tax payment vouchers.
- Forms and schedules relating to partnerships, exempt organizations, and employee plans.

Forms NOT Covered by This Revenue Procedure

The following types of forms are not covered:

- W-2, W-3 (see Publication 1141 for information on these forms)
- 1096, 1098 series, 1099 series, 5498 series, and W-2G (see Publication 1179 for information on these forms)
- Federal Tax Deposit (FTD) coupons, which may not be reproduced.
- Requests for information or documentation initiated by the Service.
- Forms used internally by the Service.
- State tax forms.
- Forms developed outside IRS (except for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts).

IRS Contacts

Where To Send Substitute Forms

Send your substitute forms for approval to the following offices (DO NOT send forms with taxpayer data):

Form	Office and Address
4789, 8300, 8362, 8852, TD F 90-22.1, TD F 90-22.47	IRS Computing Center BSA Compliance Branch P.O. Box 32063 Detroit, MI 48232-0063
4461, 4461-A, 4461-B, 5300, 5303, 5307, 5310, 5310-A, and 6406	Internal Revenue Service Attn: EP OCR Forms Coordinator OP:E:EP:FC 1111 Constitution Avenue, NW Room 2232 IR Washington, DC 20224
All others (except W-2, W-3, 1096, 1098, 1099, 5498, and W-2G)	Internal Revenue Service Attn: Substitute Forms Program OP:FS:FP:F:CD 1111 Constitution Avenue, NW Room 5244 IR Washington, DC 20224

In addition, the Substitute Forms Program can be contacted via email at tfpmail@publish.no.irs.gov. Use this email address only to inquire about forms covered by this revenue procedure. DO NOT attach graphic files for approval with email.

For questions about Forms W-2 and W-3, refer to IRS Publication 1141, General Rules and Specifications for Private Printing of Substitute Forms W-2 and W-3. For Forms 1096, 1098, 1099, 5498, and W-2G, refer to IRS Publication 1179, Specifications for Paper Document Reporting and Paper Substitutes for Forms 1096, 1098, 1099, 5498, and W-2G.

Nature of Changes

Changes to the Revenue Procedure

- Information on IRS Contact offices has been revised.
- Substitute Forms Program email address has been revised.
- Information on advanced proofs has been changed to reflect the presence of advance drafts on the Internet.
- The scheduled print date report is now available on the IRS Internet site.
- IRS organizational symbols changed where appropriate.
- Previous instructions labeled “Special Form 941 Requirements” have been removed from this revenue procedure.
- The office phone number and address for 1040PC Project Office has been updated.
- A paragraph has been added on Tax Fax and CD-ROM ordering instructions have been updated.
- The instructions for ordering forms from the IRS Distribution Center have been revised.
- Various editorial changes have been made.

Definitions

Substitute Form	A tax form (or related schedule) that differs in any way from the official version and is intended to replace the entire form that is printed and distributed by the Service. This term also covers those approved substitute forms exhibited in this revenue procedure.
Printed (or Preprinted) Form	A form produced using conventional printing processes. Also, a printed form which has been reproduced by photocopying or similar processes.
Preprinted Pin-Fed Form	A printed form that has marginal perforations for use with automated and high-speed printing equipment.
Computer- Prepared Substitute Form	A preprinted form in which the taxpayer's tax entry information has been inserted by a computer, computer-printer, or other computer type equipment, such as word-processing equipment.
Computer- Generated Substitute Tax Return or Form	A tax return or form that is entirely designed and printed by the use of a computer printer, such as a laser printer, etc., on plain white paper. This return or form must conform to the physical layout of the corresponding Service form although the typeface may differ. The text should match the text on the officially printed form as closely as possible; condensed text and abbreviations will be considered on a case-by-case basis. Exception: All jurats (perjury statements) must be reproduced verbatim.
Manually- Prepared Form	A preprinted reproduced form in which the taxpayer's tax entry information is entered by an individual using a pen, pencil, typewriter, or other non-automated equipment.
Computer- Generated Answer Sheet Format Tax Return	A tax return that contains only the taxpayer's significant line entries, and is formatted three columns per page with tax form headings, a summary, and jurat. This return is printed on plain white paper using a computer printer.
Graphics	Those parts of a printed tax form that are not tax amount entries nor called-for information. Generally, these are line numbers, captions, shadings, instructions, special indicators, borders, rules, and strokes created by typesetting, photographics, photocomposition, etc.
Acceptable Reproduced Form	A legible photocopy of an original form.
Supporting Statement (Supplemental Schedule)	A document providing detailed information to support an entry for a line(s) on an official or approved substitute form and filed with (attached to) a tax return. (A supporting statement is not a tax form and does not take the place of an official form, unless specifically permitted elsewhere in this procedure.)
Specific Forms Terms	The following terms are used throughout this revenue procedure in reference to all substitute forms, with the exception of the 1040PC "answer sheet format" tax return.
Format	The overall physical arrangement and general layout of a substitute form.
Sequence	The same numeric and logical placement order of data, as reflected on the official form version. Sequence is an integral part of the total format requirement.
Line Reference (Code)	The line numbers, letters or alphanumerics used to identify each captioned line on the official forms, and printed to the immediate left of each caption or data entry field.
Item Caption	The textual portion of each line on the form identifying the specific data elements required.
Data Entry Field	All areas designated on a form for the insertion of data, such as dollar amounts, quantities, responses, checkboxes, etc.

Agreement

Important Stipulation of This Revenue Procedure

Any person or company who uses substitute forms and makes all or part of the changes specified in this revenue procedure agrees to the following stipulations:

- The Internal Revenue Service presumes the changes are made in accordance with these procedures and, as such, will be noninterruptive to the processing of the tax return.
 - Should any of the changes prove to be not exactly as described, and as a result become disruptive to the Internal Revenue Service during processing of the tax return, the person or company agrees to accept the determination of the IRS as to whether or not the form may continue to be used during the filing season.
 - The person or company agrees to work with the IRS in correcting noted deficiencies. Notification of deficiencies may be made by any combination of fax, letter, email, or phone contact and may include the return of unacceptable forms for resubmission of acceptable forms.
-

Chapter 2

General Guidelines for Submissions and Approvals

General Specifications for Approval

Overview	If you produce any tax returns and forms using IRS guidelines on permitted changes, you can generate your own substitutes without further approval. If your changes are more extensive, you must get official approval before using substitute forms. These changes include the use of typefaces and sizes other than those found on the official form and the condensing of line item descriptions to save space.
Schedules	Schedules are considered to be an integral part of a complete tax return when assigned consecutive page numbers and printed contiguously with page 1 of the return.
Example of Schedules That Must Be Submitted With the Return	Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, is an example of this situation, where Schedules A through S have pages numbered as part of the basic return. For a Form 706 to be approved, the entire form including Schedules A through S must be submitted.
Examples of Schedules That Can Be Submitted Separately	However, Schedules 1, 2, and 3 of Form 1040A are examples of schedules that can be separately computer-generated. Although printed by the IRS as a continuation of Form 1040A, none of these schedules have page numbers that require them to be filed with Form 1040A, and may, therefore, be separated from Form 1040A and submitted as computer-generated substitute schedules.
Use and Distribution of Unapproved Forms	The Internal Revenue Service is continuing a program to identify and contact tax return preparers, forms developers, and software publishers who use or distribute unapproved forms that do not conform to this revenue procedure. The use of unapproved forms impedes processing of the returns.

Highlights of Permitted Changes and Requirements

Methods of Reproducing Internal Revenue Service Forms	<p>Official versions are supplied by the Internal Revenue Service, such as those in the taxpayer's tax package, those printed in revenue procedures, and over-the-counter forms available at IRS and other governmental public offices or buildings. Forms are also available on CD-ROM, and on-line via Fed-world and the Internet.</p> <p>There are methods of reproducing Internal Revenue Service printed tax forms suitable for use as substitute tax forms without prior approval.</p> <ul style="list-style-type: none">• You can photocopy most tax forms and use them instead of the official ones. The entire substitute form, including entries, must be legible.• You can reproduce any current tax form as cut sheets, snapsets, and marginally punched, pin-fed forms so long as you use an official IRS version as the master copy.• You can reproduce a "signature form" as a valid substitute form. Many tax forms (including returns) have a taxpayer signature requirement as part of the form layout. The jurat/perjury statement/signature line areas must be retained and worded exactly as on the official form. The requirement for a signature by itself does not prohibit a tax form from being properly computer-generated.• You can computer-generate Answer Sheet Format Tax Returns on plain bond paper using IRS-accepted software for the 1040PC format for return types 1040EZ, 1040, 1040A, and attachments, forms, and schedules.
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Vouchers

Overview

All payment vouchers (Forms 940-V, 940-EZ(V), 941-V, 943-V, 945-V, 1040-V, and 2290-V) must be reproduced. Substitute vouchers must be the same size as the officially printed vouchers. Vouchers that are prepared for printing on a laser printer may include a scanline.

Scanline Specifications

NNNNNNNNN AA AAAA NN N NNNN NNN
A B C D E F G

- A - Social Security Number/Employer Identification Number (SSN/EIN) has 9 numeric spaces.
 - B - Check Digit has 2 alpha spaces.
 - C - Name Control has 4 alphanumeric spaces.
 - D - Master File Tax (MFT) Code has 2 numeric spaces (see below).
 - E - Taxpayer Identification Number (TIN) Type has 1 numeric space (see below)
 - F - Tax period has four numeric spaces in year/month format (YYMM).
 - G - Transaction Code has 3 numeric spaces.
-

MFT Code

Code Number for:

- Form 1040 family - 30;
 - Form 940/940-EZ - 10;
 - Form 941 - 01;
 - Form 943 - 11;
 - Form 945 - 16; and
 - Form 2290 - 60.
-

TIN Type

Type Number for:

- Form 1040 family - 0; and
 - Forms 940, 940-EZ, 941, 943, 945, and 2290 - 2.
-

Voucher Size

The voucher size must be exactly 8.0" × 3.25". The document scanline must be vertically positioned 1.625 inches from the bottom of the scanline to the bottom of the voucher. The right most character of the scanline must be placed 3.5 inches from the right leading edge of the document. The maximum vertical displacement is .06 inches. The minimum required horizontal clear space between characters is .014 inches. The line to be scanned must have a clear band 0.25 inches in height from top to bottom of the scanline, and from border to border of the document. "Clear band" means no printing except for dropout ink.

Print and Paper Weight

Vouchers must be imaged in black ink using OCR A or OCR B, size 1 font. The paper must be 20 to 24 pound OCR bond paper weight.

Restrictions on Changes

Things You CANNOT Do to IRS Forms Suitable for Substitute Tax Forms

You cannot, without prior IRS approval, change any Internal Revenue Service tax form or use your own (non-approved) versions (preprinted labels), including graphics, unless specifically permitted by this revenue procedure.

You cannot adjust any of the graphics on Forms 1040, 1040A, and 1040EZ (except in those areas specified in Chapter 5 of this revenue procedure) without prior approval from the IRS Substitute Forms Program.

You cannot use your own preprinted label on tax returns filed with IRS, unless you fully comply with the exception criteria specified in the section on use of preaddressed IRS labels in this revenue procedure.

Guidelines for Obtaining IRS Approval

Basic Requirements

Preparers who desire to file substitute privately designed and printed tax forms and/or computer-generated and computer-prepared tax forms must develop such substitutes using the guidelines for substitute forms established in this chapter. These substitutes, unless excepted by revenue procedure, must be approved by the IRS before being filed.

1040PC Format Return

A software developer who wants to market, distribute, or use for its own clientele, a tax preparation package featuring the 1040PC tax return format, must first file an application to participate in the program. Only after successfully fulfilling test requirements will a developer's software package be accepted by the IRS to produce 1040PC tax returns.

Conditional Approval Based on Advance Drafts

The Internal Revenue Service cannot grant final approval of your substitute form until the official form has been published. However, the IRS has established a location on the Internet for the posting of advance drafts of forms. This site can be reached through the Tax Professional's Corner at http://www.irs.ustreas.gov/prod/bus_info/tax_pro.

We encourage submission of proposed substitutes of these advance draft forms, and will grant conditional approval based solely on these early drafts. These advance drafts are subject to significant change before forms are finalized. If these advance drafts are used as the basis for your substitute forms, you will be responsible for subsequently updating your final forms to agree with the final official version before use. These revisions need not be submitted for further approval.

NOTE: Approval of forms based on advance drafts will not be granted after the final version of an official form is published.

- Any alteration of forms must be within the limits acceptable to the Service. It is possible that, from one filing period to another, a change in law or a change in internal need (processing, audit, compliance, etc.) may change the allowable limits for the alteration of the official form.
 - When specific approval of any substitute form (other than those specified in Chapter 2, IRS Contacts) is desired, a sample of the proposed substitute should be forwarded for consideration by letter to the Substitute Forms Program Coordinator at the address shown in Chapter 2.
 - To expedite multiple forms approval, we prefer that your proposed forms be submitted in separate sets by return. For example, Forms 1040 and their normally related schedules or attachments should be submitted separately from Forms 1120, 1065, 5500 Series, etc., if at all possible. Schedules and forms (e.g., Forms 3468, 4136, etc.) that can be used with more than one type of return (e.g., 1040, 1041, 1120, etc.) should be submitted only once for approval, regardless of the number of different tax returns with which they may be ultimately associated. In addition, all pages of a multipage form or return should be submitted in the same package.
-

Approving Offices

As no IRS office except the ones specified in this procedure (per the chart in Chapter 1) are authorized to approve substitute forms, unnecessary delay may result if forms are sent elsewhere for approval. All forms submitted to any other office must be forwarded to the appropriate office for formal control and review. The Substitute Forms Program Coordinator may then coordinate the response with the program analyst responsible for the processing of that form. Such coordination may include allowing the analyst to officially approve the form. No IRS office is authorized to allow deviations from this revenue procedure.

Service's Review of Software Programs, etc.

The IRS does not review or approve the logic of specific software programs, nor confirm the calculations entered on forms output from these programs that are submitted for approval. The accuracy of the program itself remains the responsibility of the software package developer, distributor, or user. The Substitute Forms Program is primarily concerned with the prefiling quality review of the final forms output, produced by whatever means, that are expected to be processed by IRS field offices. For the above reasons, it is suggested that you submit forms without including any "taxpayer" information such as names, addresses, monetary amounts, etc.

Guidelines for Obtaining IRS Approval, Continued

When to Send Proposed Substitutes

Proposed substitutes, which are required to be submitted per this revenue procedure, should be sent as much in advance of the filing period as possible. This is to allow adequate time for analysis and response.

Accompanying Statement

When the sample substitute is submitted, there should be an accompanying statement that lists the form number of each substitute requested and detail those items that deviate from the official form in position, arrangement, appearance, line numbers, additions, deletions, etc. Included with each of the items should be a detailed reason or justification for the change and an approximation of the number of forms expected to be filed.

When requesting approval for multiple forms, the statement should be presented as a checklist. Check-sheets are not mandatory, but do facilitate the approval process. The checklist may look like the example (Exhibit C) displayed in the back of this procedure or may be one of your own design. Please include your fax number on the checklist.

Approval/Non-Approval Notice

The Substitute Forms Coordinator will fax the checklist or an approval letter back to the originator if a fax number has been provided, unless:

- the requester has asked for a formal letter; or
- significant corrections are required to the submitted forms.

Notice of approval may contain qualifications for use of the substitutes. Notices of non-approval letters may specify the changes required for approval, and may also require resubmission of the form(s) in question. Telephone contact is used when possible.

Duration of Approval

Most signature tax returns and many of their schedules and related forms have the tax (liability) year printed in the upper right corner. Approvals for these forms are usually good for one calendar year (January through December of the year of filing). Quarterly tax forms in the 94X series, and Form 720, require approval for any quarter in which the form has been revised.

- If the preprinted year is the only change made to a form, the form for the upcoming year is not subject to review.
 - Otherwise, each new filing season requires a new approval.
-

Limited Continued Use of Approved Change

Limited continued use of a change approved for one tax year may be allowed for the same form in the following tax year. Examples of such limitations and requirements are the use of abbreviated words, revised form spacing, compressed text lines, shortened captions, etc., which do not change the consistency of lines or text on the official forms.

If substantial changes are made to the form, new substitutes must be submitted for approval. If only minor editorial changes are made to the form, it is not subject to review.

If you received written approval of a previous tax year substitute form governed by this revenue procedure and continue to use the approved change on your current tax year substitute form, you may revise your form to include this change and, without additional written approval, use it as a current tax year substitute form, provided you comply with the requirements in this revenue procedure.

When Approval Is Not Required

If you received written approval for a specific change on a specific form last year, such as deleting the vertical lines used to separate dollars and cents on some forms and schedules, e.g., Schedules A&B of Form 1040, you may again make the same change on the same form this year if the item changed is still present on this year's official form.

- The new substitute does not have to be sent to the IRS and written approval is not required.
- However, the new substitute must conform to the official current year IRS form in other respects: date, Office of Management and Budget (OMB) approval number, attachment sequence number, Paperwork Reduction Act Notice statement, arrangement, item caption, line number, line reference, data sequence, etc.

Guidelines for Obtaining IRS Approval, Continued

When Approval Is Not Required (continued)

- It must also comply with this revenue procedure—which may have eliminated, added to, or otherwise changed the guideline(s) which affected the change approved last year.

Exception: Those written approvals which state that the approved change or form would not be allowed in any other tax year, or for a temporary, limited, or interim approval pending resolution of a failure to meet one or more IRS-prescribed requirements.

- This authorization for continued use of an approved change is limited to the continuation of design logic from an immediately prior tax year substitute form to a current tax year substitute form.
-

Continuous Use Forms

Forms without preprinted tax years are called “continuous use” forms. Many of these forms had expiration dates, but these are being phased out. Continuous use forms are revised when a legislative change affects the form or a change will facilitate processing.

Internet Program Chart

A chart of print dates (for annual and quarterly forms) and most current revision dates (for continuous use forms) will be maintained on the Internet. For further details, see the section on Internet access in Chapter 4 of this revenue procedure.

Required Copies

Generally, you must send us one copy of each form being submitted for approval. However, if you are producing forms for different computer systems (e.g., IBM (or compatible) vs. MacIntosh) or different types of printers (laser vs. dot matrix), and these forms differ significantly in appearance, submit one copy for each type of system or printer.

Requestor’s Responsibility After Receipt of Approval

Following the receipt of initial approval for a substitute forms package, or of a software output program to print substitute forms, it is the responsibility of the originator (designer or distributor) to provide each subsequent client firm or individual with the pertinent Service forms requirements that must be met for continuing acceptability.

Examples of this responsibility include:

- The use of prescribed print paper, font size, legibility, state tax data deletion,
 - The legal requirements of the Paperwork Reduction Act Notice for informing all users of substitute forms of the official use and collection requirements stated in the instructions for the official IRS forms, completion of documents, etc.
-

Source Code

The Substitute Forms Program Unit, OP:FS:FP:F:CD, will assign a unique source code to each firm that submits substitute paper forms for approval. This will be a permanent control number that should be used on every form created by a particular firm.

- This source code should be printed at the bottom left margin area on the first page of every approved substitute paper form.
 - The source code for paper returns consists of three alpha characters.
 - This source code should not be used on optically scanned (OCR) forms, except for certain specified Forms 1040–ES.
-

Office of Management and Budget (OMB) Requirements for All Substitute Forms

OMB Requirements for All Substitute Forms

Legal Requirements of the Paperwork Reduction Act of 1995 (“Act”). Public Law 104–13 requires that:

- OMB approve all IRS tax forms that are subject to the Act,
- Each IRS form contains (in the upper right corner) the OMB number, if any, and

Office of Management and Budget (OMB) Requirements for All Substitute Forms, Continued

OMB Requirements for All Substitute Forms (continued)

- Each IRS form (or its instructions) states why IRS needs the information, how it will be used, and whether or not the information is required to be furnished.

This information must be provided to every user of official or substitute tax forms.

Application of Act to Substitute Forms

On forms to which OMB numbers have been assigned:

- All substitute forms must contain in the upper right corner the OMB number that is on the official form.
 - Format Required - OMB No. XXXX-XXXX (Preferred) or OMB # XXXX-XXXX.
-

Required Explanation to Users

You must also inform the users of your substitute forms of the IRS use and collection requirements stated in the instructions for the official Internal Revenue Service form.

- If you provide your users or customers with the official IRS instructions, page 1 of each form must retain either the Paperwork Reduction Act Notice, or a reference to it as the IRS does on the official forms (usually in the lower left corner of the forms).
 - If the IRS instructions are not provided to users of your forms, the exact text of the Paperwork Reduction Act Notice must be furnished on the form or separately.
 - This notice reads, in part, “We ask for this information to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax...”
 - You must also include a copy of the alternative statement provided to users of your forms with the forms you submit for approval.
-

Obtaining OMB Number and Notice

The OMB number and Paperwork Reduction Act Notice may be obtained from the official form (or its instructions), or any format produced by the IRS (e.g., Compact Disc (CD), Internet download, or Bulletin Board System (BBS) download).

Chapter 3 Physical Aspects and Requirements

General Guidelines for Substitute Forms

General Information The Official Form is the standard. Because a substitute form is a variation from the official form, you should know the requirements of the official form for the year of use before you modify it to meet your needs. The Internal Revenue Service provides several means of obtaining the most frequently used tax forms. These include the Internet, fax-on-demand, CD-ROM and an electronic forms bulletin board (see chapter 4).

Design Each form must follow the design of the official form as to format arrangement, item caption, line numbers, line references, and sequence.

State Tax Information Prohibited State tax information must not appear (be visible) on the federal tax return or associated form or schedule which is filed with the Internal Revenue Service, except where amounts are claimed on or required by the federal return, e.g., state and local income taxes, Schedule A (Form 1040).

Vertical Alignment of Amount Fields

IF	THEN
a form is to be manually prepared	<ul style="list-style-type: none"> • The federal column must have a vertical line or some type of indicator in the amount field to separate dollars from cents if the official form has a vertical line. • The cents column must be at least 2/10" wide.

If a form is to be..	Then...
Computer-generated	<ul style="list-style-type: none"> • Vertically align the amount entry fields where possible. • Use one of the following amount formats: <ul style="list-style-type: none"> • 0,000,000. • 0,000,000.00
Computer-prepared	<ul style="list-style-type: none"> • You may remove the vertical line in the amount field that separates dollars from cents. • Use one of the following amount formats: <ul style="list-style-type: none"> • 0,000,000. • 0,000,000.00

Attachment Sequence Number

- Most individual income tax forms have a required "attachment sequence number" located just below the year designation in the upper right corner of the form. The Internal Revenue Service uses this number to indicate the order in which forms are to be attached to the tax return so they may be processed in that order. Some of the attachment sequence numbers may change each year.

On computer-prepared forms:

- It must be printed in no less than 12-point boldface type and centered below the form's year designation.

General Guidelines for Substitute Forms, Continued

Attachment Sequence Number (continued)

- The sequence number must be placed following the year designation for the tax form and separate with an asterisk.
- It is not necessary to duplicate the “Attachment Sequence Number” wording, except for the actual number.

Paid Preparer’s Information and Signature Area

On Forms 1040EZ, 1040A, 1040, and 1120, etc., the “Paid Preparer’s Use Only” area may not be rearranged or relocated. You may, however, add three extra lines to the paid preparer’s address area without prior approval. This applies to other tax forms as well. Please note that the preparer’s area on Form 1040EZ is on the bottom of page 2. Substitute Forms 1040EZ with the preparer area in any location other than the bottom of page 2 will not be accepted.

Assembly of Forms

If developing software or forms for use by others, please inform your customers/clients that the order in which the forms are arranged may affect the processing of the package. A return must be arranged in this order:

If the Form Is	Then Sequence Is
1040	<ul style="list-style-type: none"> • Form 1040 • Schedules and forms in sequence number order
Any other (form 1120, 1120S, 1065, 1041, etc.)	<ul style="list-style-type: none"> • The tax return • Lettered schedules (Schedule D, etc.) in alphabetical order • Nnumber forms in numerical order

Supporting statements should then follow in the same sequence as the forms they support. Additional information required or voluntarily submitted and should be attached last.

In this way, they are received in the order in which they must be processed. If you do not send them to us in this order, the Internal Revenue Service has to delay the return package to disassemble them and place them in order before processing is continued.

Paper

Paper Content

- The paper must be:
- Chemical wood writing paper that is equal to or better than the quality used for the official form,
 - At least 18 pound (17” × 22”, 500 sheets), or
 - At least 50 pound offset book (25” × 38”, 500 sheets).

Paper with Chemical Transfer Properties

- There are several kinds of paper prohibited for substitute forms. These are:
- Carbon-bonded paper
 - Chemical transfer paper except when the following specifications are met:
 - Each ply within the chemical transfer set of forms must be labeled.
 - Only the top ply (ply one and white in color), the one that contains chemical on the back only (coated back), may be filed with the Service.

Paper, Continued

Example

A set containing three plies would be constructed as follows: one ply (coated back), "Federal Return, File with IRS"; ply two (coated front and back), "Taxpayer's copy", and ply three (coated front), "Preparer's copy."

- The file designation, "Federal Return, File with IRS," for ply one must be printed in the bottom right margin (just below the last line of the form) in 12-point, bold-face type.
 - It is not mandatory, but recommended, that the file designation "Federal Return, File with IRS," be printed in a contrasting ink for visual emphasis.
-

Carbon Paper

Do not attach any carbon paper to any return you file with the Internal Revenue Service.

Paper and Ink Color

We prefer that the color and opacity of paper substantially duplicates that of the original form. This means that your substitute must be printed in black ink and may be on white or on the colored paper the IRS form is printed on. Forms 1040A and 1040 substitute reproductions may be in black ink without the colored shading. The only exception to this rule is Form 1041-ES, which should always be printed with a very light gray shading in the color screened area. This is necessary to assist us in expeditiously separating this form from the very similar Form 1040-ES.

Page Size

Substitute or reproduced forms and computer prepared/generated substitutes may be the same size as the official form (8" × 11" in most cases) or they may be the standard commercial size (8½" × 11") exclusive of pin-feed holes. The thickness of the stock cannot be less than .003 inch.

Printing

Printing Medium

The private printing of all substitute tax forms must be by conventional printing processes, photocopying, computer-graphics, or similar reproduction processes.

Legibility

All forms must have a high standard of legibility, both as to printing and reproduction and as to fill-in matter. Entries of taxpayer data may be no smaller than eight points. The Internal Revenue Service reserves the right to reject those with poor legibility. The ink and printing method used must ensure that no part of a form (including text, graphics, data entries, etc.) develops "smears" or similar quality deterioration. This includes any subsequent copies or reproductions made from an approved master substitute form, either during preparation or during IRS processing.

Type Font

Many federal tax forms are printed using "Helvetica" as the basic type font. We request that you use this type font when composing substitute forms.

Print Spacing

Substitute forms should be printed using a 6 lines/inch vertical print option. They should also be printed horizontally in 10 pitch pica (i.e., 10 print characters per inch) or 12 pitch elite (i.e., 12 print positions per inch).

Image Size

The image size of a printed substitute form should be as close as possible to that of the official form. You may omit any text on both computer-prepared and computer-generated forms that is solely instructional.

Title Area Changes

To allow a large top margin for marginal printing and more lines per page, the title line(s) for all substitute forms (not including the form's year designation and sequence number, when present), may be photographically reduced by 40 percent or reset as one line of type. When reset as one line, the type size may be no smaller than 14-point. You may omit "Department of the Treasury, Internal Revenue Service" and all reference to instructions in the form's title area.

Printing

Remove Government Printing Office Symbol and IRS Catalog Number

When privately printing substitute tax forms, the Government Printing Office symbol and/or jacket number must be removed. In the same place, using the same type size, print the Employer Identification Number (EIN), the Social Security Number (SSN) of the printer or designer, or the IRS assigned source code. (We prefer this last number be printed in the lower left area of the first page of each form.) Also remove the IRS Catalog Number, if one is present in the bottom center margin, and the Recycle Symbol, if the substitute is not produced on recycled paper.

Printing on One Side of Paper

While it is preferred that both sides of the paper be used for substitute and reproduced forms, resulting in the same page arrangement as that of the official form or schedule, the IRS will not reject your forms if only one side of the paper is used.

Photocopy Equipment

The Internal Revenue Service does not undertake to approve or disapprove the specific equipment or process used in reproducing official forms. Photocopies of forms must be entirely legible and satisfy the conditions stated in this and other revenue procedures.

Reproductions

Reproductions of official forms and substitute forms that do not meet the requirements of this revenue procedure may not be filed instead of the official forms. Illegible photocopies are subject to being returned to the filer for resubmission of legible copies.

Removal of Instructions

You may remove all references to instructions. No prior approval is needed. One exception is that the statement, "For Paperwork Reduction Act Notice, see instructions", must be retained or a similar statement provided on each form.

MARGINS

Margin Size

The format of a reproduced tax return when printed on the page must have margins on all sides at least as large as the margins on the official form. This allows room for IRS employees to make the necessary entries on the form during processing.

- A 1/2" to 1/4" inch margin must be maintained across the top, bottom, and both sides (exclusive of any pin-fed holes) of all computer-generated substitutes.
 - The marginal, perforated strips containing the pin-fed holes must be removed from all forms prior to filing with the Internal Revenue Service.
-

Marginal Printing

Non-tax material allowed in limited areas.

- Printing is never allowed in the top right margin of the tax return form (i.e., Forms 1040, 1040A, 1040EZ, 1120, 940, 941, 5500 Series, etc.). The Service uses this area to imprint a Document Locator Number for each return.
- With the exception of the actual tax return forms (i.e., Forms 1040, 1040A, 1040EZ, 1120, 940, 941, etc.), you may print in the left vertical margin and in the left half of the bottom margin.

Prior approval is not required for the marginal printing allowed when printed on an official form or on a photocopy of an official form.

The marginal printing allowance is also the guide for the preparation of acceptable substitute forms. There is no exception to the requirement that no printing is allowed in the top right margin of the tax return form.

Examples of Approved Formats

Examples of Approved Formats From the Exhibits

Two sets of exhibits (Exhibits A-1, A-2, B-1, and B-2) are at the end of this revenue procedure. These are examples of how the guidelines in this revenue procedure may be used in some specific cases. Vertical spacing is six (6) lines to the inch.

Examples of Acceptable computer-generated formats

Examples of acceptable computer-generated formats are also shown in the Exhibits section of this revenue procedure. Exhibits CG-A and CG-B show computer-generated Schedules A and B. Vertical spacing is six (6) lines to the inch. You may also refer to them as examples of how the guidelines in this revenue procedure may be used in specific cases. A combination of upper and lower case print fonts is acceptable in producing the computer-generated forms included in this procedure. This same logic for computer-generated forms can be applied to any IRS form that is normally reproducible as a substitute form, with the exception of tax return forms as discussed elsewhere. These examples are from a prior year and are not to be used as substitute forms.

Miscellaneous Information for Substitute Forms

Filing Substitute Forms

To be acceptable for filing, a substitute return or form must print out in a format that will allow the party submitting the return to follow the same instructions as for filing official forms. These instructions are in the taxpayer's tax package or in the related form instructions. The form must be on the appropriate size paper, be legible, and include a jurat where one appears on the published form.

Caution to Software Publishers

The IRS has received returns produced by software packages with approved output where either the form heading was altered or the lines were spaced irregularly. This produces an illegible or unrecognizable return or a return with the wrong number of pages. We realize that many of these problems are caused by individual printer differences but they may delay input of return data and, in some cases, generate correspondence to the taxpayer. Therefore, in the instructions to the purchasers of your product, both individual and professional, please stress that their returns will be processed more efficiently if they are properly formatted. This includes:

- Having the correct form numbers and titles at the top of the return, and
 - Submitting the same number of pages as if the form were an official IRS form, with the line items on the proper pages.
-

Use Preaddressed IRS Label

If you are a practitioner filling out a return for a client or a software publisher who prints instruction manuals, stress the use of the preaddressed label provided in the tax package the IRS sent to the taxpayer, when available. The use of this label (or its precisely duplicated label information) is extremely important for the efficient, accurate, and economical processing of a taxpayer's return. Labeled returns indicate that a taxpayer is an established filer and permits us to automatically accelerate processing of those returns. This results in quicker refunds, more accurate names/addresses and postal deliveries, and less manual review by IRS functions.

Caution to Producers of Software Packages

If you are producing a software package that generates name and address data onto the tax return, do not under any circumstances program either the Service preprinted check digits or a practitioner-derived Name Control to appear on any return prepared and filed with the Internal Revenue Service.

Programming to Print Forms

Whenever applicable:

- Use only the following label information format for single filers:
JOHN Q. PUBLIC
310 OAK DRIVE
HOMETOWN, STATE 94000
 - Use only the following information for joint filers:
JOHN Q. PUBLIC
MARY I. PUBLIC
310 OAK DRIVE
HOMETOWN, STATE 94000
-

Chapter 4 Additional Resources

Guidance from Other Revenue Procedures

General

Guidance for the substitute tax forms not covered in this revenue procedure and the revenue procedures that govern their use are as follows:

- Revenue Procedure 94–79, IRS Publication 1355, Requirements and Conditions for the Reproduction, Private Design, and Printing of Substitute Forms 1040–ES.
 - Revenue Procedure 98–33, IRS Publication 1141, General Rules and Specifications for Private Printing of Substitute Forms W-2 and W-3.
 - Revenue Procedure 98–37, IRS Publication 1179, Specifications for Paper Document Reporting and Paper Substitutes for Forms 1096, 1098, 1099, 5498, and W-2G.
 - Revenue Procedure 96–11, IRS Publication 1187, Specifications for Filing Form 1042–S, Foreign Person’s U.S. Source Income Subject to Withholding, on Magnetic Tape.
 - Revenue Procedure 96–36, IRS Publication 1220, Specifications for Filing Forms 1098, 1099, 5498, and W-2G Magnetically or Electronically.
 - Revenue Procedure 95–18, IRS Publication 1223, Specifications for Private Printing of Substitute Forms W-2c and W-3c.
-

Ordering Publications

Sources of Publications

The publications listed below may be ordered by calling 1-800-TAX-FORM (1-800-829-3676). Identify the requested document by IRS publication number:

- Pub. 1141, the revenue procedure on specifications for private printing for Forms W-2 and W-3.
- Pub. 1167, the revenue procedure on substitute printed, computer- prepared, and computer-generated tax forms and schedules. This publication is available from the IRS Internet website.
- Pub. 1179, the revenue procedure on paper substitute information returns (Forms 1096, 1098, 1099, 5498, and W-2G).
- Pub. 1192, Catalog of Reproducible Forms and Instructions.
- Pub. 1220, the revenue procedure on electronic or magnetic tape and magnetic diskette reporting for information returns (Forms 1098, 1099 series, 5498, and W-2G).
- Pub. 1223, the revenue procedure on substitute Forms W-2c and W-3c.
- Pub. 1239, Specifications for Filing Form 8027, Employer’s Annual Information Return of Tip Income and Allocated Tips, on Magnetic Tape.
- Pub. 1245, Magnetic Tape Reporting for Forms W-4.
- Pub. 1345, Handbook for Electronic Filers of Individual Income Tax Returns (Tax Year 1997). (This is an annual publication; tax year is subject to change). This publication is available from the IRS Internet website.

Ordering Publications, Continued

Sources of Publications (continued)

Pub. 1345–A, Handbook for Electronic Filers of Individual Income Tax Returns (Tax Year 1997) (Supplement). This publication, printed in the late fall, supplements Publication 1345.

- Pub. 1355, the revenue procedure on the requirements for substitute Form 1040–ES.
-

Where To Order

If you are mailing your order, the address to use is determined by your location.

IF YOU LIVE IN THE...	THEN MAIL YOUR ORDER TO. .
Western United States	Western Area Distribution Center Rancho Cordova, CA 95743-0001
Central United States	Central Area Distribution Center P.O. Box 8903 Bloomington, IL 61702-8903
Eastern United States or or a foreign country	Eastern Area Distribution Center P.O. Box 85074 Richmond, VA 23261-5074

Electronic Tax Products

The Internet

Copies of tax forms with instructions, publications, and other tax related materials may be obtained via the Internet. Forms can be downloaded in several file formats (PDF- Portable Document Format, PS - PostScript, and PCL - Printer Control Language). Those choosing to use PDF files for viewing on personal computer can also download a free copy of the Adobe Acrobat Reader.

- World Wide Web - <http://www.irs.ustreas.gov>
- FTP - <ftp.irs.ustreas.gov>
- Telnet - <iris.irs.ustreas.gov>

Access to these sites is free but time on the Internet is subject to the fees charged by your Internet provider.

Fedworld (BBS)

The Internal Revenue Information Systems (IRIS) Bulletin Board can be reached via FedWorld, an aggregation of federal BBS maintained by the Department of Commerce. IRIS can be reached directly by modem at (703) 321-8020; FedWorld's main number is (703) 321-3339. These are toll calls.

Tax Fax

The most frequently requested tax forms, instructions, and other information are available through IRS Tax Fax at (703) 368-9694. Call from your fax machine and follow the voice prompts. Your request will be transmitted directly back to you. Each call is limited to requesting three items; users pay the telephone line charges.

Report of Print Dates The Service makes available a site on the Internet that shows print dates for returns processing forms. It is in three parts:

- Schedule of anticipated print dates of annual returns,
- Schedule of anticipated print dates of quarterly returns, and
- Schedule of last revision dates for continuous use only forms.

The site address is http://www.irs.ustreas.gov/prod/bus_info/tax_pro/formsch.html. The site will be updated weekly during peak printing periods and as necessary at other times.

Federal Tax Forms on CD-ROM

**Information About
Federal Tax Forms
CD-ROM**

The CD-ROM contains over 2,000 tax forms and publications for small businesses, return preparers, and others who frequently need current or prior year tax products. Most current tax forms on the CD-ROM may be filled in electronically, then printed out for submission. Other products on the CD-ROM include the Internal Revenue Bulletin, Tax Supplements, and Internet resources for the tax professional with links to the World Wide Web.

All necessary software to view the files must be installed from the CD-ROM. Software for Microsoft Windows 3.x and Macintosh System 7.5 and later is included on the disk. The software will also run under Windows 95/98/NT. All products are presented in Adobe's Portable Document Format (PDF). A copy of the Adobe Acrobat Reader is on the CD. In addition, the TIPs will be provided in the Standard Generalized Markup Language (SGML).

**System Requirements
and How to Order the
Federal Tax Forms
CD-ROM**

For system requirements, contact the National Technical Information Service (NTIS) help desk at 703-487-4608.

The cost of the CD if purchased via the Internet at <http://www.ustreas.gov/cdorders> from NTIS is \$13 (plus a \$5 handling fee). If purchased using the following methods the cost is \$20 (plus a \$5 handling fee).

- by phone - 1-877-CDFORMS (1-877-233-6767)
- by fax - (703) 605-6900
- by mail using the order form contained in IRS Publication 1045 (Tax Professionals Program)
- by mail to:
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

There is a \$7 discount per CD on orders of 50 or more copies.

Chapter 5 Requirements for Specific Tax Returns

Tax Returns (Form 1040, 1040A, 1120, Etc.)

Acceptable Forms

There are acceptable computer-generated versions of a tax return form (e.g., Form 1040, 1040A, 1120, etc., which requires a signature and that establishes tax liability) that are permitted under the following conditions:

- These substitute returns must be printed on plain white paper.
- Substitute returns and forms must conform to the physical layout of the corresponding Service form although the typeface may differ. The text should match the text on the officially published form as closely as possible; condensed text and abbreviations will be considered on a case-by-case basis.

Exception: All jurats (perjury statements) must be reproduced verbatim. No text can be added, deleted, or changed in meaning. It must be readily identifiable as a valid tax return.

- Various computer-graphic print media such as laser printing, dot matrix addressable printing, etc., may be used to produce the substitute forms.
 - The substitute return must be the same exact number of pages, and contain the same line text as the official return.
 - All computer-generated tax returns **MUST** be submitted for approval prior to their original use. Should you receive an approval letter for a return and the following year's return has no changes except the preprinted year, the latter return is not subject to approval. **Exception:** If the approval letter specifies a one-time exception for your return, the next year's return must be approved.
-

Computer- Generated Condensed Format Versions

The accepted condensed print format version for individual returns is the 1040PC "answer sheet format" tax return. The approval process for Form 1040PC differs from that of traditional forms. See Chapter 7 for additional information.

Prohibited Forms

The following are prohibited:

- Tax returns (e.g., Forms 1040, etc.) computer-generated on lined or color-barred paper.
 - Tax returns that differ from the official IRS forms in a manner that makes them not standard or processable.
-

Changes Permitted to Forms 1040 and 1040A

Certain changes (listed below) are permitted to the graphics of the form without prior approval, but these changes apply only to acceptable preprinted forms. Changes not requiring prior approval are good only for the annual filing period, which is the current Tax Year. Such changes are valid in subsequent years only if the official form does not change.

Other Changes Not Listed

All changes not listed here require prior approval from the Service **BEFORE** the form may be filed.

Changes Permitted to Graphics (Forms 1040A and 1040)

Adjustments

You may make minor vertical and horizontal spacing adjustments to allow for computer or word-processing printing. This includes widening the amount columns or tax entry areas so long as the adjustments do not exceed other provisions stated in revenue procedures. No prior approval is needed for these changes.

Changes Permitted to Graphics (Forms 1040A and 1040), Continued

Name and Address Area The horizontal rules and instructions within the name and address area may be removed and the entire area left blank; no line or instruction can remain in the area. However, the statement regarding use of the IRS mail label should be retained. The heavy ruled border (when present) that outlines the name and address area must not be removed, relocated, expanded, or contracted.

Required Format When the name and address area is left blank, the following format must be used when printing the taxpayer's name and address. Otherwise, unless the taxpayer's preprinted label is affixed over the information entered in this area, the lines must be filled in as shown:

- 1st name line (35 characters maximum)
- 2nd name line (35 characters maximum)
- In-care-of name line (35 characters maximum)
- City, State (25 char. max.), one blank char., & ZIP (five char.)

Conventional Name and Address Data When there is no in-care-of name line, the name and address will consist of only three lines (single filer) or four lines (joint filer).
Name and address (joint filer) with no in-care-of name line:

JOHN Z. JONES
MARY I. JONES
1234 ANYWHERE ST., APT 111
ANYTOWN, STATE 12321

Example of In-Care-Of Name Line Name and address (single filer) with in-care-of name line:

JOHN Z. JONES
C/O THOMAS A. JONES
4311 SOMEWHERE AVE.
SAMETOWN, STATE 54345

Social Security Number (SSN) and Employer Identification Number (EIN) Area The vertical lines separating the format arrangement of the SSN/EIN may be removed. When the vertical lines are removed, the SSN and EIN formats must be 000-00-0000 or 00-0000000, respectively.

Cents Column

- You may remove the vertical rule that separates the dollars from the cents.
- All entries in the amount column should have a decimal point following the whole dollar amounts whether or not the vertical line that separates the dollars from the cents is present.
- You may omit printing the cents, but all amounts entered on the form must follow a consistent format. You are strongly urged to round off the figures to whole dollar amounts, following the official return instructions.
- Where several amounts are summed together, the total should be rounded off subsequent to the addition (i.e, individual amounts should not be rounded off for computation purposes).
- When printing money amounts, you must use one of the following ten- character formats: (a) 0,000,000. (b) 000,000.00
- When there is no entry for a line, leave the line blank.

“Paid Preparer’s Use Only” Area On all forms, the paid preparer’s information area may not be rearranged or relocated. You may add three lines and remove the horizontal rules in the preparer’s address area.

Changes Permitted to Form 104A Graphics

General No prior approval is needed for the following changes (for use with computer-prepared forms only).

Changes Permitted to Form 104A Graphics, Continued

Line 4 of Form 1040A	This line may be compressed horizontally (to allow for same line entry for the name of the qualifying child) by using the following caption: "Head of household; child's name" (name field).
Other Lines	Any line whose caption takes up two or more vertical lines may be compressed to one line by using contractions, etc., and by removing instructional references.
Page 2 of Form 1040A	All lines must be present and numbered in the order shown on the official form. These lines may also be compressed.
Color Screening	It is not necessary to duplicate the color screening used on the official form. A substitute Form 1040A may be printed in black and white only, with no color screening.
Other Changes Prohibited	No other changes to the Form 1040A graphics are allowed without prior approval, except for the removal of instructions and references to instructions.

Changes Permitted to Form 1040 Graphics

General	No prior approval is needed for the following changes (for use with computer-prepared forms only).
Line 4 of Form 1040	This line may be compressed horizontally (to allow for a larger entry area for the name of the qualifying child) by using the following caption: "Head of household; child's name" (name field).
Line 6c of Form 1040	The vertical lines separating columns (1) through (4) may be removed. The captions may be shortened to allow a one-line caption for each column.
Other Lines	Any other line whose caption takes up two or more vertical lines may be compressed to one line by using contractions, etc., and by removing instructional references.
Line 21 - Other Income	The fill-in portion of this line may be expanded vertically to three lines. The amount entry box must remain a single entry.
Line 40 of Form 1040 - Tax	You may change the line caption to read "Tax" and computer print the words "Total includes tax from" and either "Form(s) 8814", or "Form 4972".
Line 47 of Form 1040	You may change the caption to read: "Other credits from Form" and computer-print only the form(s) that apply.
Color Screening	It is not necessary to duplicate the color screening used on the official form. A substitute Form 1040 may be printed in black and white only, with no color screening.
Other Changes Prohibited	No other changes to the Form 1040 graphics are permitted without prior approval except for the removal of instructions and references to instructions.

Chapter 6
Format and Content of Substitute Returns

Acceptable Formats for Computer-Generated Forms and Schedules

Exhibits and Use of Acceptable Computer-Generated Formats Exhibits of acceptable computer-generated formats for the schedules usually attached to the Form 1040 are shown in the Exhibits section of this revenue procedure.

- If your computer-generated forms appear exactly like the exhibits, no prior authorization is needed.
- Those who want to computer-generate forms not shown here may do so, but they must design such forms themselves by following the manner and style of those in the Exhibits section of this revenue procedure, and by taking care to observe other requirements and conditions stated here. The Service encourages the submission of all proposed forms covered by this revenue procedure.

Instructions The format of each substitute schedule or form must follow the format of the official schedule or form as to item captions, line references, line numbers, sequence, form arrangement and format, etc. Basically, try to make the form look like the official one, with readability and consistency being primary factors. You may use periods and/or other similar special characters to separate the various parts and sections of the form. **DO NOT** use alpha or numeric characters for these purposes. With the exceptions in the paragraph below, all line numbers and items must be printed even though an amount is not entered on the line.

Line Numbers When a line on an official form is designated by a number or a letter, that designation (reference code) must be used on a substitute form. The reference code must be printed to the left of the corresponding captioned line and also immediately preceding the data entry field even if there is no reference code immediately preceding the data entry field on the official form. If an entry field contains multiple lines but shows the line references only one time on the left and right side of the form, do not use more than the same number of line references on the substitute return.

In addition, the reference code that is immediately before the data field must either be followed by a period or enclosed in parentheses. There also must be at least two blank spaces between the period or the right parenthesis and the first digit of the data field. (See example below.)

Decimal Points A decimal point (i.e., a period) should be used for each money amount regardless of whether the amount is reported in dollars and cents or in whole dollars, or whether or not the vertical line that separates the dollars from the cents is present. The decimal points must be vertically aligned when possible.

Example:

```
5 STATE & LOCAL INC.  
  TAX.....5 495.00  
6 REAL ESTATE  
  TAXES.....6  
7 PERSONAL PROPERTY  
  TAXES.....7 198.00  
  or  
5 STATE & LOCAL INC.  
  TAX.....(5) 495.00  
6 REAL ESTATE  
  TAXES.....(6)  
7 PERSONAL PROPERTY  
  TAXES.....(7) 198.00
```

Multiple Page Forms When submitting multiple page forms, send all pages of the form in the same package. If you are not producing certain pages, please note that in your cover letter.

Additional Instructions for All Forms

Use of Your Own Internal Control Numbers and Identifying Symbols

Internal control numbers and identifying symbols of the computer preparer may be shown on the substitute, if the use of such numbers or symbols is acceptable to the taxpayer and the taxpayer's representative. If shown, such information must not be printed in the top ½" clear area of any form or schedule requiring a signature. With the exception of the actual tax return form (i.e., Forms 1040, 1120, 940, 941, 5500 Series, etc.), you may print in the left vertical and bottom left margins. The bottom left margin you may use extends 3½ inches from the left edge of the form.

Descriptions for Captions, Lines, etc.

Descriptions for captions, lines, etc., appearing on the substitute forms may be limited to one print line by using abbreviations and contractions, and by omitting articles, prepositions, etc. However, sufficient key words must be retained to permit ready identification of the caption, line, or item.

Derivation of Final Totals

Explanatory detail and/or intermediate calculations for derivation of final line totals may be included on the substitute. We prefer that such calculations be submitted in the form of a supporting statement. If intermediate calculations are included on the substitute, the line on which they appear may not be numbered or lettered. Intermediate calculations may not be printed in the right column. This column is reserved for official numbered and lettered lines that correspond to the ones on the official form. If a supporting statement is submitted, intermediate calculations or subtotals may be formatted at the preparer's option.

Instructional Text Prescribed for the Official Form

Text prescribed for the official form, which is solely instructional in nature, e.g., "Attach this schedule to Form 1040," "See instructions," etc., may be omitted from the substitute form.

Mixing of Forms on the Same Page Prohibited

Information for more than one schedule or form may not be shown on the same printout page. Both sides of the paper may be printed for multiple page official forms; but it is unacceptable to intermix single page schedules of forms, except for Schedules A and B (Form 1040), which are printed back to back by the Service.

Schedule E can be printed on both sides of the paper, because the official form is multiple page, with page 2 continued on the back. However, do not print Schedule E on the front page and Schedule SE on the back, or Schedule A on the front and Form 8615 on the back, etc. Both pages of a substitute form must match the official form version it represents, except that the back page may be blank if the Service form only contains the instructions thereon.

Identifying Computer-Prepared Substitutes

Identify all computer-prepared substitutes clearly; print the form designation ½" from the top margin and 1½" from the left margin; print the title centered on the first line of print; and print the taxable year and, where applicable, the sequence number on the same line ½ to 1" from right margin. Include the taxpayer's name and SSN on all forms and attachments. Also, print the OMB number as reflected on the official form.

Negative Amounts

Negative (or loss) monetary amount entries should be enclosed in brackets, or signed minus, to assist in the accurate computation and input of form data. On many official forms the Service preprints brackets in selected negative data fields, and these designations should be retained or inserted on affected substitute forms.

Chapter 7
OCR Forms

Special Form 1040EZ Optical Character Recognition/Image Character Recognition (OCR/ICR) Requirements

Form 1040EZ Designed in OCR/ICR Format

The Form 1040EZ is designed in OCR/ICR format. The IRS has the capability to machine read this form by optical character recognition/image character recognition (OCR/ICR) equipment. Form 1040EZ data may also be filed electronically or on a 1040PC format return.

An acceptable substitute OCR/ICR Form 1040EZ must generally be an exact replica of the official OCR/ICR reproduction proof with respect to layout, content, and required OCR/ICR characteristics.

Paper Requirements for OCR/ICR Form 1040EZ

The special paper requirements which must be met for the development of a substitute (privately printed) OCR/ICR Form 1040EZ include the following:

Property	Requirements
Color and quality of paper	Paper must be white, OCR/ICR grade bond, with no fluorescent additives or water marks, and with zero rag content.
Reflectivity of paper	Must be 80% or greater.
Opacity	The paper opacity ratio must be 80% or more.
Paper Weight	Specified paper weight is 20 lb. OCR/ICR bond (.0035").
Dirt	Must not exceed 10 parts per million.
Finish (smoothness)	Must be between 90 and 160 units (Sheffield).
Porosity	Paper should have a Gurley reading between 15 and 95.
Gloss	Paper with shiny or lustrous appearance (glossy) should be avoided.
Size	Form trim size must be 8" × 11".

Special Form 1040EZ Optical Character Recognition/Image Character Recognition (OCR/ICR) Requirements, Continued

Specific Ink Requirements

The specific ink requirements which must be met for this form include the following:

Property	Requirements
Print Color	The face of the form prints in black and green, the back prints in black only (70 % screen).
Ink	Green ink used must be highly reflective OCR/ICR type, such as Flint J-27975, or an exact match. Black ink used must be nonreflective.
Face Registration	Black to green must be .02" (plus or minus) both horizontally and vertically.
Face Screen	Forms contain a green-screened background equal to a 15% tone of 110-line screen. Follow registration marks on repro-proof for screen positioning. Handprinted boxes are included on Page 1 of the reproduction proof and should be printed as a 50% value of the recommended OCR/ICR green ink. Inks used for handprinted boxes must reflect at least 90% of the background on which it is printed as measured in the visible range.
Face Margins	Approximately 2/6" head from top trimmed edge to screen (1/2" to black image). 1/6" outside from trimmed edges to screen.
Back Margins	1/2" head, 5/16" foot, and 5/16" sides.
Back Screen	Back copy should be screened for 70% tone value.

Typography

Type must be substantially identical in both size and shape with corresponding type on the official form reproduction proof.

Proper Alignment and Position of Handprinted Characters

To assure proper alignment and position of handprinted characters representing return lines 1 through 10 tax data, they must be handprinted (entered) into the preprinted amount field boxes on the form. A #2 lead wooden pencil, or blue, and/or black ink pen (ball point, fountain, or felt-tipped) is recommended as the writing tool that will consistently provide the required stroke width and print contrast on entered characters.

Reading of Handprinted Character Techniques

Reading of handprinted characters requires adherence to the following techniques:

- Enter numeric amount digits carefully and clearly. Fill at least 2/3 of the individual character box height, keeping the character within the box with no overlapping or touching characters. Specific required digit constraints are shown below.
- When entering "fours", keep the top open.
- When entering "ones", do not use serifs.
- When entering "twos", do not add extra loops.
- All character lines must be connected with no gaps.

Note:

All the general and detailed provisions of this revenue procedure apply (in addition to this specific OCR/ICR Section) to the development of substitute OCR/ICR Forms 1040EZ.

Computer Generated Alternative Returns, 1040PC Format Return

Introduction	The Internal Revenue Service offers an electronic approach for filing individual income tax returns. The 1040PC Format Return is an alternative to the conventional preprinted tax return. The 1040PC is an answer sheet return, generated on a personal computer in a three-column format, that prints only tax data that is input into the software. Tax returns are filed by tax preparers and taxpayers using commercially available tax preparation software packages that include the 1040PC Format Return print option.
1040PC Format Returns	1040PC Format Returns are computer-prepared, printed on plain white paper, signed and mailed to the designated processing center, and processed like any other conventionally filed return.
Software Packages Must Be Purchased	Preparers, or taxpayers, must purchase IRS-accepted tax preparation software packages that include the 1040PC print option. All that is necessary to participate in 1040PC is a personal computer, accepted software, a printer, and plain white paper. The 1040PC is attractive to tax preparers and taxpayers who might not be interested or capable of electronic filing.
Options Available to Taxpayers	The Direct Deposit option is available to taxpayers filing 1040PC returns. Balance due returns may also be filed using 1040PC. The payment may be forwarded to the Service Center with a separate payment voucher (Form 1040-V).
Use of the 1040PC Program	All software used to generate the 1040PC Format Return must be tested and accepted by the Internal Revenue Service. Testing will validate 1040PC returns generated by the software and that the software program is in compliance with validity and consistency checks in the IRS 1040PC project specifications. Software developers who wish to participate in the 1040PC program must submit Form 9356, Application for Software Developers to Participate in the 1040PC Answer Sheet for Individual Income Tax Returns, to the 1040PC Filing Section.
Acceptance Code	Upon successful completion of software acceptance testing, the software developer will be issued a software acceptance code that will be embedded into the software and print on every 1040PC return generated. This is not the same as the Source Code issued by the Substitute Forms Program or the approval number which is generated for OCR Scannable Application Forms for Employee Plans.
References/ Information on the 1040PC Format Return	The Internal Revenue Service believes that 1040PC will prove beneficial to taxpayers, tax preparers, and the Service. For specific information about the alternative computer-generated 1040PC Format Return, refer to Publication 1678, Project 1040PC, Handbook for 1040PC Format Preparers and Publication 1630, Project 1040PC, Specifications for Software Developers. You may also call (202) 283-0823 or write: Internal Revenue Service 1040PC Filing Office, OP:FS:S:P:S 5000 Ellin Rd Lanham, MD 20706

Form 941 Requirements – OCR

Form 941 Not Machine Read	The Service is not currently machine reading (scanning) Form 941 or Schedule B (Form 941). Previous instructions labeled “Special Form 941 Requirements” have been removed from this revenue procedure.
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OCR Scannable Application Forms for Employee Plans

OCR Scannable Documents

Forms 4461, 4461–A, 4461–B, 5300, 5303, 5307, 5310–A, 5310–B, and 6406 are OCR scannable documents submitted to key district offices for employee plans matters. They may be submitted as computer-generated substitute forms if the requirements of this section are satisfied.

OCR Data Sheet Requirements

An OCR data sheet must be generated according to the following requirements:

- Set at least 1" margin at top, bottom, and both sides.
 - A data element consists of a less than sign (delimiter), information or at least 5 blank spaces, and a greater than sign (delimiter). All data elements from page one of the application forms listed above must be printed on the OCR data sheet, even if no information is entered between the delimiters.
 - Each data element must start at the left margin.
 - One line for each data field, except for employer and plan name fields which may be two lines. However, only one set of delimiters may bracket the field, even if the field is on two lines.
 - Each data element must appear on the OCR data sheet in the same sequence as printed on the preprinted form, reading top to bottom and from left to right.
 - Each data field must be sequentially numbered at left commencing with 1. See Notice 90–38 for examples of the acceptable format.
 - The data sheet must be printed on 8 ½" x 11" white nonrecycled paper suitable for use with printing equipment and duplicating machines. A photocopy is not acceptable. Heavyweight bond paper and onion skin paper are not acceptable.
 - Use 10 pitch type in a standard business font (e.g., courier, elite, pica).
 - Add at least two spaces before and after each less than and greater than sign (delimiters).
 - Do not fold or staple the OCR data sheet. It may remain loose, or be paper or spring clipped to the application.
 - At the top of the OCR data sheet add the heading "OCR Data Sheet, File With Application Form (Enter Form Number), Approval Number" (leave nine spaces for approval number).
-

Where To Send OCR Data Sheet for Approval

The OCR data sheet must be submitted for approval to EP OCR Forms Coordinator, OP:E:EP:FC, Room 2232, 1111 Constitution Ave., NW, Washington, DC 20224.

Submission Requirements

The OCR data sheet must be submitted with a complete word-for-word identical copy of the application form except as described below. This copy may be a photocopy or a computer-generated substitute form. Computer-generated substitute forms may be submitted for approval to the address above. However, except for the OCR data sheet, such approval is not required if the requirements of this revenue procedure are satisfied. If approval is requested, leave nine spaces for the approval number above the OMB approval number.

Procedures for Filing the OCR Data Sheet

The OCR data sheet replaces the first copy of page 1 of the application which must otherwise be submitted in duplicate. To avoid confusion when generating the OCR data sheet, the following wording should be deleted from page 1 of the application: "File page 1 of the form in duplicate" and "Both copies of this page must be signed". If the Procedural Requirements Checklist is being generated, the following line item statements should be modified as indicated. The question "Has page one been submitted in duplicate" should be modified to read, "Have you submitted the OCR data sheet?", and the question "Have you signed both copies of page 1 of the application?" should be modified to read "Have you signed the application?"

Nonscannable EP Application Forms

Nonscannable EP application forms, e.g., Form(s) 5305 and 5306, may be computer generated. They need not be submitted for approval if the requirements of this revenue procedure are satisfied. If approval is desired, these forms may be submitted to the Substitute Forms Coordinator.

Chapter 8 Miscellaneous Forms and Programs

Paper Substitutes for Form 1042-S

Paper Substitutes	Paper substitutes for Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, that totally conform to the specifications contained in this procedure may be privately printed without prior approval from the Internal Revenue Service. Proposed substitutes not conforming to these specifications must be submitted for consideration.
Timeframe for Submission of Form 1042-S	The request should be submitted by November 15 of the year prior to the year the form is to be used. This is to allow the Service adequate time to respond and the submitter adequate time to make any corrections. These requests should contain a copy of the proposed form, the need for the specific deviation(s), and the number of information returns to be printed.
Revisions	Form 1042-S is subject to annual review and possible change. Withholding agents and form suppliers are cautioned against overstocking supplies of the privately printed substitutes.
Obtaining Copies	Copies of the official form for the reporting year may be obtained from most Service offices. The Service provides only cut sheets (no carbon interleaves) of these forms. Continuous fan-fold/pin-fed forms are not provided.
Instructions For Withholding Agents	<p>Instructions for withholding agents:</p> <ul style="list-style-type: none">• Only original copies may be filed with the Service. Carbon copies and reproductions are not acceptable.• The term "Recipient's U.S. taxpayer identification number" for an individual means the social security number (SSN) or individual taxpayer identification number (ITIN), consisting of nine digits separated by hyphens as follows: 000-00-0000. For all other recipients, the term means employer identification number (EIN). The EIN consists of nine digits separated by hyphen as follows: 00-0000000. The taxpayer identification number (TIN) must be in one of these formats.• Withholding agents are requested to type or machine print whenever possible, provide quality data entries on the forms (that is, use black ribbon and insert data in the middle of blocks well separated from other printing and guidelines), and take other measures to guarantee a clear, sharp image. Withholding agents are not required, however, to acquire special equipment solely for the purpose of preparing these forms.• On corrected returns, the words CORRECTED RETURN must be typed in all capital letters in the top 1/4", right of center margin. All required information must be completed on a corrected return since it replaces and supersedes the information return previously filed.• Substitute forms prepared in continuous or strip form must be burst and stripped to conform to the size specified for a single form before they are filed with the Service. The dimensions are found below. Computer cards are acceptable provided they meet all requirements regarding layout, content, and size.

**Substitute Forms
Format Requirements**

Property	Substitute Forms Format Requirements
Printing	Privately printed substitute Forms 1042-S must be exact replicas of the official forms with respect to layout and contents. Only the dimensions of the substitute form may differ and the printing of the Government Printing Office symbol must be deleted. The exact dimensions are found below.
Line Entries	Line 1 must be present, line 2 may be omitted if it is not needed. If line 2 is omitted, also omit line 3.
Boxes	None of the boxes can be omitted. Each box (a through h) must be present and in the exact order. The box for each payment amount must contain the appropriate caption.
Color Quality of Paper	<ul style="list-style-type: none"> • Paper For Copy A must be white chemical wood bond, or equivalent, 20 pound (basis 17 × 22-500), plus or minus 5 percent; or offset book paper, 50 pound (basis 25 × 38-500). No optical brighteners may be added to the pulp or paper during manufacture. The paper must consist of principally bleach chemical woodpulp or recycled printed paper. It also must be suitable sized to accept ink without feathering. • Copies B, C, D (for Recipient), and E (For Withholding Agent) are provided in the official assembly solely for the convenience of the withholding agent. Withholding agents may choose the format, design, color and quality of the paper used for these copies.
Color and Quality of Ink	All printing must be in a high quality non-gloss black ink. Bar codes should be free from picks and voids.
Typography	Type must be substantially identical in size and shape to corresponding type on the official form. All rules on the document are either 1 point (0.015”) or 3 point (0.045”). Vertical rules must be parallel to the left edge of the document; horizontal rules, parallel to the top edge.
Dimensions	<ul style="list-style-type: none"> • The official form is 8” wide × 5-1/2” deep, exclusive of a ½ snap stub on the left side of the form. The snap feature is not required on substitutes. • The width of a substitute Copy A must be a minimum of 7” and a maximum of 8”, although adherence to the size of the official form is preferred. If the width of substitute Copy A is reduced from that of the official form, the width of each field on the substitute form must be reduced proportionately. The left margin must be 1/2” and free of all printing other than that shown on the official form. • The depth of a substitute Copy A must be a minimum of 5 1/6” and a maximum of 5 1/2”.
Carbons	Carbonized forms or “spot carbons” are not permissible. Interleaved carbons, if used, must be of good quality to preclude smudging and should be black.
Other Copies	Copies B, C, and D are required to be furnished for the convenience of payees who are required to send a copy of the form with other federal and state returns they file. Copy E may be desired as a withholding agent’s record/copy.
Assembly	If all five parts are present, the parts of the assembly shall be arranged from top to bottom as follows: Copy A (Original) “For Internal Revenue Service,” Copies B, C, and D “For Recipient,” and Copy E “For Withholding Agent.”

Specifications for Filing Substitute Schedules K-1

Schedule K-1 Requirements

Prior approval is NOT required for a substitute Schedule K-1 that accompanies Form 1065 (for partnership), Form 1120S (for small business corporation), or a Form 1041 (for fiduciary) when the substitute Schedule K-1 meets all of the following requirements.

- The Schedule K-1 must contain the payer and recipient's name, address and SSN/EIN.
 - The Schedule K-1 must contain all the items required for use by the taxpayer.
 - The line items must be in the same order and arrangement as those on the official form.
 - Each taxpayer's information must be on a separate sheet of paper. Therefore, all continuously printed substitutes must be separated, by taxpayer, before filing with the Service.
 - Schedule K-1 for recipients must have instructions for required line items attached.
 - You may be subject to penalties if you file Schedules K-1 with the Service and furnish Schedules K-1 to partners, shareholders, or beneficiaries that do not conform to the specifications of this revenue procedure.
 - The amount of each partner's shareholder's or beneficiary's share of each line item must be shown. The furnishing of a total amount of each line item and a percentage (or decimal equivalent) to be applied to such total amount by the partner, shareholder, or beneficiary does not satisfy the law and the specifications of this revenue procedure.
 - If you file Schedules K-1 not conforming to the above specifications, IRS may consider these as not processable and return them to you to be filed correctly. You may also be subjected to the penalty as mentioned.
-

Procedures for Printing Internal Revenue Service Envelopes

Procedures for Printing IRS Envelopes

Organizations are permitted to produce substitute tax return envelopes. Use of substitute return envelopes that comply with the requirements set forth in this section will assist in delivery of mail by the U.S. Postal Service and facilitate internal sorting once the envelopes are received at the Internal Revenue Service Centers.

The permanent five-digit ZIP codes must be utilized when mailing returns to the prescribed service center:

Service Center	Zip Code
Atlanta, GA	39901
Kansas City, MO	64999
Austin, TX	73301
Philadelphia, PA	19255
Memphis, TN	37501
Andover, MA	05501
Cincinnati, OH	45999
Holtsville, NY	00501
Ogden, UT	84201
Fresno, CA	93888

Procedures for Printing Internal Revenue Service Envelopes, Continued

Sorting of Returns by Form Type

The sorting of returns by form type is accomplished by the preprinted bar codes on return envelopes that are included in each specific type of form or package mailed to the taxpayer. The 32 bit bar code located to the left of the address on each envelope identifies the type of form that person is filing and assists the Service in consolidating like returns for processing. Failure to use the envelopes furnished by the Service results in additional processing time and effort, and possibly delays the timely deposit of funds, processing of returns, and issuance of refund checks.

Sorting of Returns by ZIP+4 or 9 Digit ZIP Codes

The Internal Revenue Service will not furnish or sell bulk quantities of preprinted tax return envelopes to taxpayers or tax practitioners. A suitable alternative has been developed that will accommodate the sorting needs of both the IRS and the U.S. Postal Service. The new alternative is based on the use of ZIP + 4 or 9 digit ZIP codes for mailing various types of tax returns to the different area service centers. Essentially, the Postal Service will utilize the last four digits to identify and sort the various form types into separate groups for processing. The list of add-on four digits or + 4 portion of the 9 digit ZIP codes with the related form designations is provided below and is to become a permanent part of the five digit service center ZIP codes shown above.

Add-on Four Digits or + 4 Portion of the 9 Digit ZIP Codes

Form ZIP + FOUR	Package
XXXXXX-0001	Reserved
XXXXXX-0002	1040
XXXXXX-0005	941
XXXXXX-0006	940
XXXXXX-0008	943
XXXXXX-0011	1065
XXXXXX-0012	1120
XXXXXX-0013	1120S
XXXXXX-0014	1040EZ
XXXXXX-0015	1040A
XXXXXX-0020	5500-CR
XXXXXX-0024	5500EZ
XXXXXX-0027	990
XXXXXX-0031	2290
XXXXXX-0044	5500

Reproducible Program Is Abolished

The Reproducible Program that in past years supplied the envelope Reproduction Proofs was abolished September 30, 1996. The IRS will no longer provide camera copy to practitioners for the production of envelopes. Practitioners must develop their own camera copy.

Procedures for Printing Internal Revenue Service Envelopes, Continued

Guidelines for Having Envelopes Preprinted Use of preparer company names, addresses, and logos is permissible as long as prescribed clear areas are not invaded. The government recommends that the envelope stock have an average opacity not less than 89 percent and contain a minimum of 50 percent waste paper. Use of carbon-based ink is essential for effective address and bar code reading. Envelope construction can be of side seam or diagonal seam design. The government recommends that the size of the envelope should be 5-3/4" by 9". Continuous pin-fed construction is not desirable but is permissible if the glued edge is at the top. This requirement is firm because mail opening equipment is designed to slice or otherwise open the bottom edge of each envelope.

Envelopes/Zip Codes The above procedures or guidelines are written for the user having envelopes preprinted. Many practitioners may not wish to have volumes of the different envelopes with differing ZIP codes/form designations preprinted for reasons of low volume, warehousing, waste, etc. In this case, the practitioner can type or machine print the addresses with the appropriate ZIP codes to accommodate sorting. If the requirements/guidelines outlined in this section cannot be met, then use of only the appropriate five digit service center ZIP code is needed.

Procedures for Substitute Form 5471 and Form 5472

Form 5471 and Form 5472 This section covers instructions for producing substitutes for:

- Form 5471, Information Return of U.S. Persons with Respect to Certain Foreign Corporations and accompanying Schedules J, M, N, and O.
- Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business (Under Sections 6038A and 6038C of the Internal Revenue Code).

Paper and Computer-Generated Substitutes Paper and computer-generated substitutes for Form 5471 and the accompanying Schedules J, M, N, and O, and Form 5472 that totally conform to the specifications contained in this procedure may be privately printed, but must have prior approval and are subject to annual review from the Internal Revenue Service.

Official Forms Can Be Obtained From Most Service Offices Copies of the official forms for the reporting year may be obtained from most Service offices. The Service provides only cut sheets of these forms. Continuous fan-folded/pin-fed forms are not provided.

Quality Substitute Forms The Service will accept quality substitute tax forms that are consistent with the official forms they represent AND that do not have an adverse impact on our processing. Therefore, only those substitute forms that conform to, and do not deviate from, the corresponding official forms are acceptable.

Computer- Prepared Tax Forms If the substitute returns and schedules meet the guidelines prescribed herein, the Service will (for filing purposes) accept computer-prepared Forms 5471 and 5472 filled in by a computer, word processing equipment or similar automated equipment or a combination of computer-prepared/generated and filled in information. They may be filed separately or attached to individual or business income tax returns.

Format Arrangement The specifications for Form 5471 and 5472 are as follows:

- The substitute must follow the design of the official form as to format, arrangement, item caption, line numbers, line references, and sequence. It must be an exact textual and graphic MIRROR image of the official form for it to be acceptable.
- The filer must use one of the official ten character amount formats. All entries in the amount column should have a decimal point following the whole dollar amounts whether or not the vertical line that separates the dollars from the cents is present. It must follow a consistent format.

Procedures for Substitute Form 5471 and Form 5472, Continued

Format Arrangement (continued)

- The reference code must be printed to the left of the corresponding captioned line and also immediately preceding the data entry field EVEN if there is no reference code preceding the data entry field on the official form. The reference code that is immediately before the data field must either be followed by a period or enclosed in parentheses. There also must be at least two blank spaces between the period or the right parenthesis and the first digit of the data field.
- The size of the page must be the same as the official form (8 ½" × 11").
- The acceptable type is "Helvetica".
- The spacing of the type must be 6 lines/inch vertical, 10 or 12 print characters per inch horizontally.
- A ½ to 1/4" margin must be maintained across the top, bottom, and both sides (exclusive of any pin-fed holes).
- The substitute form must be of the same number of pages as the official one.
- The preprinted brackets in the money fields should be retained.
- The filer must COMPLETELY fill in all the specified numbers or referenced lines as they appear on the official form (not just totals) BEFORE attaching any supporting statement.
- Supporting statements are NEVER to be used until the required official form they support are first totally filled in (completed). A blank or incomplete form that refers to a supporting statement, in lieu of completing a tax return, is unacceptable.
- Descriptions for captions, lines, etc., appearing in the substitute forms may be limited to one print line by using abbreviations and contractions, and by omitting articles, prepositions, etc. However, sufficient key words must be retained to permit ready identification of the caption, line, or item.
- Text prescribed for the official form, which is solely instructional in nature, e.g., "Attach this schedule to Form 1040", "See instruction", etc., may be omitted from the form.

Filing Instructions

Instructions for filing substitute forms are the same as for filing official forms.

Chapter 9
Alternative Methods of Filing

Forms for Electronically Filed Returns

Electronic Filing Program

Electronic filing is a method by which qualified filers transmit tax return information directly to an IRS Service Center over telephone lines in the format of the official Internal Revenue Service forms. The Service accepts both refund and balance due individual tax returns that are filed electronically.

Applying for the Electronic Filing Program

Anyone wishing to participate in the Electronic Filing Program for individual income tax returns must submit a Form 8633, Application To Participate in the IRS e-file Program. (Note: For business returns, prospective participants must submit a Form 9041, Application For Electronic/Magnetic Media Filing of Business and Employee Benefit Plan Returns.)

Mailing Instructions

IF AN APPLICATION IS FILED FOR...	THEN MAIL IT TO:
Form 8633 for Individual Income Taxes (regular mail)	Internal Revenue Service Andover Service Center Attn: EFU Acceptance - Stop 983 P.O. Box 4099 Woburn, MA 01888-4099
Form 8633 for Individual Income Taxes (overnight mail)	Internal Revenue Service Andover Service Center Attn: EFU Acceptance -Stop 983 310 Lowell Street Andover, MA 05501
Form 9041 for Forms 1065	Internal Revenue Service Andover Service Center Attn: EFU Acceptance - Stop 983 P.O. Box 4050 Woburn, MA 01888-4050
Form 9041 for Forms 1041	Internal Revenue Service Philadelphia Service Center Attn: DP 115 11601 Roosevelt Blvd. Philadelphia, PA 19154
Form 9041 for Forms 5500, 5500-C/R, and 5500-EZ	Internal Revenue Service Attn: EFU (EPMF), Stop 261 P.O. Box 30309, A.M.F. Memphis, TN 38310

Forms for Electronically Filed Returns, Continued

Obtaining the Taxpayer Signature

The taxpayer signature does not appear on the electronically transmitted tax return and is obtained by the qualified electronic filer on Form 8453, U. S. Individual Income Tax Declaration for Electronic Filing, for Forms 1040, 1040A, and 1040EZ. Form 8453, which serves as a transmittal for the associated non electronic (paper) documents, such as Forms W-2, W-2G, and 1099-R, is a one-page form and can only be approved through the Substitute Forms Program in that format. For specific information about electronic filing, refer to Publication 1345, Handbook for Electronic Filers of Individual Income Tax Returns. (Note: For business returns, the electronic/magnetic media participants must use the official Form 8453-E, F or P, or an approved substitute that duplicates the official form in language, format, content, color, and size.)

Guidelines for Preparing Substitute Forms in the Electronic Filing Program

A participant in the electronic filing program who wants to develop a substitute form should follow the guidelines for preparing substitute forms throughout this publication, and send a sample of the form for approval to the Substitute Forms Coordinator at the address in Chapter 2. Forms 8453 prepared using a font where all IRS-approved wording will not fit on a single page will not be accepted as a substitute form. This applies primarily to dot-matrix printers, although forms prepared similarly on laser and inkjet printers will also be rejected. **PLEASE NOTE:** Use of unapproved forms could result in suspension of the participant from the electronic filing program.

FTD Magnetic Tape Payments

Instructions for Reporting Agents

Publication 1315 provides the requirements and instructions for reporting agents who submit Federal Tax Deposits (FTD) payment information on magnetic tape. Magnetic tape submissions for FTD can be made for Forms 940, 941, 942, 943, 720, CT-1, 990-PF, 990-T, 990-C, 1042, 1120, and Schedule A (Form 941) Backup Withholding.

Instructions for Banks and Fiduciaries

Revenue Procedure 89-49 (Pub. 1374) provides the requirements and instructions for certain banks and fiduciaries to submit quarterly Form 1041-ES payments on magnetic tape through the Federal Tax Deposit (FTD) system.

Effect on Other Documents

Documents Effect on Other

This revenue procedure supersedes Revenue Procedure 97-54, I.R.B. 1997-50.

Exhibit A-1 (Preferred Format)

SCHEDULES A&B
(Form 1040)

Schedule A—Itemized Deductions

(Schedule B is on back)

OMB No. 1545-0074

1998

Attachment
Sequence No. **07**

Department of the Treasury
Internal Revenue Service (99)

▶ Attach to Form 1040. ▶ See instructions for Schedules A and B (Form 1040).

Name(s) shown on Form 1040

Your social security number

Medical and Dental Expenses		Caution: Do not include expenses reimbursed or paid by others.				
1	Medical and dental expenses (see page A-1)	1				
2	Enter amount from Form 1040, line 34	2				
3	Multiply line 2 above by 7.5% (.075)	3				
4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4				
Taxes You Paid		5				
5	State and local income taxes	6				
6	Real estate taxes (see page A-2)	7				
7	Personal property taxes	8				
8	Other taxes. List type and amount ▶	9				
9	Add lines 5 through 8	9				
Interest You Paid		10				
10	Home mortgage interest and points reported to you on Form 1098	11				
11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ▶	12				
Note: Personal interest is not deductible.		13				
12	Points not reported to you on Form 1098. See page A-3 for special rules	14				
13	Investment interest. Attach Form 4952 if required. (See page A-3.)	14				
14	Add lines 10 through 13	15				
Gifts to Charity		16				
15	Gifts by cash or check. If you made any gift of \$250 or more, see page A-4	17				
16	Other than by cash or check. If any gift of \$250 or more, see page A-4. You MUST attach Form 8283 if over \$500	18				
17	Carryover from prior year	18				
18	Add lines 15 through 17	19				
Casualty and Theft Losses		19				
19	Casualty or theft loss(es). Attach Form 4684. (See page A-5.)	20				
Job Expenses and Most Other Miscellaneous Deductions		21				
20	Unreimbursed employee expenses—job travel, union dues, job education, etc. You MUST attach Form 2106 or 2106-EZ if required. (See page A-5.) ▶	22				
21	Tax preparation fees	23				
22	Other expenses—investment, safe deposit box, etc. List type and amount ▶	24				
23	Add lines 20 through 22	25				
24	Enter amount from Form 1040, line 34	26				
25	Multiply line 24 above by 2% (.02)	27				
26	Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-	28				
Other Miscellaneous Deductions		27				
27	Other—from list on page A-6. List type and amount ▶	28				
Total Itemized Deductions		28 Is Form 1040, line 34, over \$124,500 (over \$62,250 if married filing separately)?				
		NO. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter on Form 1040, line 36, the larger of this amount or your standard deduction.				
		YES. Your deduction may be limited. See page A-6 for the amount to enter.				

Exhibit A-2 (Acceptable Format)

SCHEDULES A&B
(Form 1040)

Schedule A—Itemized Deductions

OMB No. 1545-0074

1998

Attachment
Sequence No. 07

Department of the Treasury
Internal Revenue Service (99)

(Schedule B is on back)

▶ Attach to Form 1040. ▶ See Instructions for Schedules A and B (Form 1040).

Name(s) shown on Form 1040

Your social security number

Medical and Dental Expenses	1	Caution: Do not include expenses reimbursed or paid by others. Medical and dental expenses (see page A-1)	1		
	2	Enter amount from Form 1040, line 34, 2	2		
	3	Multiply line 2 above by 7.5% (.075)	3		
	4	Subtract line 3 from line 2. If line 3 is more than line 2, enter -0-	4		
Taxes You Paid (See page A-2.)	5	State and local income taxes	5		
	6	Real estate taxes (see page A-2)	6		
	7	Personal property taxes	7		
	8	Other taxes. List type and amount ▶	8		
	9	Add lines 5 through 8	9		
Interest You Paid (See page A-3.)	10	Home mortgage interest and points reported to you on Form 1098	10		
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ▶	11		
Note: Personal interest is not deductible.	12	Points not reported to you on Form 1098. See page A-3 for special rules.	12		
	13	Investment interest. Attach Form 4952 if required. (See page A-3.)	13		
	14	Add lines 10 through 13	14		
Gifts to Charity If you made a gift and got a benefit for it, see page A-4.	15	Gifts by cash or check. If you made any gift of \$250 or more, see page A-4	15		
	16	Other than by cash or check. If any gift of \$250 or more, see page A-4. You MUST attach Form 8283 if over \$500	16		
	17	Carryover from prior year	17		
	18	Add lines 15 through 17	18		
Casualty and Theft Losses	19	Casualty or theft losses). Attach Form 4684. (See page A-5.)	19		
Job Expenses and Most Other Miscellaneous Deductions (See page A-8 for expenses to deduct here.)	20	Unreimbursed employee expenses—job travel, union dues, job education, etc. You MUST attach Form 2106 or 2106-EZ if required. (See page A-5.) ▶	20		
	21	Tax preparation fees	21		
	22	Other expenses—investment, safe deposit box, etc. List type and amount ▶	22		
	23	Add lines 20 through 22	23		
	24	Enter amount from Form 1040, line 34, 24	24		
	25	Multiply line 24 above by 2% (.02)	25		
	26	Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-	26		
Other Miscellaneous Deductions	27	Other—from list on page A-6. List type and amount ▶	27		
Total Itemized Deductions	28	Is Form 1040, line 34, over \$124,500 (over \$62,250 if married filing separately)? NO. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter on Form 1040, line 36, the larger of this amount or your standard deduction. YES. Your deduction may be limited. See page A-6 for the amount to enter.	28		

For Paperwork Reduction Act Notice, see Form 1040 instructions.

Cat. No. 11330X

Schedule A (Form 1040) 1998

Exhibit B-1 (Preferred Format)

Schedules A&B (Form 1040) 1998

OMB No. 1545-0074

Page 2

Name(s) shown on Form 1040. Do not enter name and social security number if shown on other side.

Your social security number

Schedule B—Interest and Ordinary Dividends

Attachment Sequence No. 08

Note: If you had over \$400 in taxable interest income, you must also complete Part III.

Part I Interest

(See pages 20 and B-1.)

Note: If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see page B-1 and list this interest first. Also, show that buyer's social security number and address

Grid for listing interest payers with columns for name and amount.

Table with columns for amount and row numbers 1, 2, 3, 4.

2 Add the amounts on line 1. 3 Excludable interest on series EE U.S. savings bonds issued after 1989 from Form 8815, line 14. You MUST attach Form 8815 to Form 1040. 4 Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a

Note: If you had over \$400 in ordinary dividends, you must also complete Part III.

Part II Ordinary Dividends

(See pages 21 and B-1.)

Note: If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

5 List name of payer. Include only ordinary dividends. Report any capital gain distributions on Schedule D, line 13

Grid for listing ordinary dividends with columns for name and amount.

Table with columns for amount and row numbers 5, 6.

6 Add the amounts on line 5. Enter the total here and on Form 1040, line 9

Part III Foreign Accounts and Trusts

(See page B-2.)

You must complete this part if you (a) had over \$400 of interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

7a At any time during 1998, did you have an interest in or a signature or other authority over a financial account in a foreign country... b If "Yes," enter the name of the foreign country... 8 During 1998, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520.

Yes/No grid for foreign account and trust questions.

For Paperwork Reduction Act Notice, see Form 1040 instructions.



Schedule B (Form 1040) 1998

Exhibit B-2 (Acceptable Format)

Schedules A&B (Form 1040) 1998

OMB No. 1545-0074 Page 2

Name(s) shown on Form 1040. Do not enter name and social security number if shown on other side.

Your social security number

Schedule B—Interest and Ordinary Dividends

Attachment
Sequence No. 08

Note: If you had over \$400 in taxable interest income, you must also complete Part III.

**Part I
Interest**

(See pages 20
and B-1.)

Note: If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

- 1** List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see page B-1 and list this interest first. Also, show that buyer's social security number and address ►

	Amount
1	
2	
3	
4	

- 2** Add the amounts on line 1
- 3** Excludable interest on series EE U.S. savings bonds issued after 1989 from Form 8815, line 14. You MUST attach Form 8815 to Form 1040
- 4** Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a ►

**Part II
Ordinary Dividends**

(See pages 21
and B-1.)

Note: If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

- 5** List name of payer. Include only ordinary dividends. Report any capital gain distributions on Schedule D, line 13 ►

	Amount
5	
6	

- 6** Add the amounts on line 5. Enter the total here and on Form 1040, line 9

**Part III
Foreign
Accounts
and Trusts**

(See
page B-2.)

- You must complete this part if you (a) had over \$400 of interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.
- 7a** At any time during 1998, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See page B-2 for exceptions and filing requirements for Form TD F 90-22.1
 - b** If "Yes," enter the name of the foreign country ►
 - 8** During 1998, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See page B-2

Yes	No

For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule B (Form 1040) 1998

EXHIBIT C

Checklist of IRS Substitute Forms Submitted on, 1997:

Company:

Contact:

Phone:

Fax:

Source Code:

Approved	Approved with Corrections	Must be Resubmitted	Form Number	Comments

Authorized Name: _____

Title: _____

Reviewer's Name: _____

Telephone: _____

Date: _____

SSN _____

MEDICAL AND DENTAL EXPENSES**
1 Medical and dental expenses.....(1) _____
2 Amount from Form 1040, line 32....(2) _____
3 Multiply line 2 by 7.5% (.075).....(3) _____
4 Subtract line 3 from line 1, not less than zero.....(4) _____
TAXES YOU PAID**
5 State and local income taxes.....(5) _____
6 Real estate taxes.....(6) _____
7 Personal property taxes.....(7) _____
8 Other taxes. List type and amount.

_____(8) _____
9 Add lines 5 thru 8.....(9) _____
INTEREST YOU PAID**
10 Home mortgage interest and points reported
to you on Form 1098.....(10) _____
11 Home mtg int not reported on Form 1098. If to
seller, person's name, id no., and address:

_____(11) _____
12 Points not reported to you on Form 1098....(12) _____
13 Investment interest. Att Form 4952 if req..(13) _____
14 Add lines 10 thru 13.....(14) _____
GIFTS TO CHARITY**
15 Gifts by cash or check.....(15) _____
16 Other than cash or check. If over \$500,
you MUST attach Form 8283.....(16) _____
17 Carryover from prior year.....(17) _____
18 Add lines 15 thru 17.....(18) _____
CASUALTY AND THEFT LOSSES**
19 Casualty or theft loss(es) from Form 4684.....(19) _____
JOB EXPENSES & MOST OTHER MISCELLANEOUS DEDUCTIONS**
20 Unreim employee exp (Form 2106).....

_____(20) _____
21 Tax preparation fees.....(21) _____
22 Other expenses:

_____(22) _____
23 Add lines 20 thru 22.....(23) _____
24 Amount from Form 1040, line 32... (24) _____
25 Multiply line 24 by 2% (.02).....(25) _____
26 Subtract line 25 from line 23, not less than zero....(26) _____
OTHER MISCELLANEOUS DEDUCTIONS**
_____(27) _____
TOTAL ITEMIZED DEDUCTIONS**
28 If Form 1040, line 32 more than \$114,700 (\$57,350 MFS),
see page A-5. Else add right column of lines 4-27....(28) _____

D260 For Paperwork Reduction Act Notice, see Form 1040 Instructions.

SSN _____

Part I - Interest Income **Amount**

1 _____ (1) _____

_____ (1) _____

_____ (1) _____

_____ (1) _____

_____ (1) _____

_____ (1) _____

_____ (1) _____

_____ (1) _____

Less tax-exempt interest.....To Form 1040, line 8b....

2 Add the amounts on line 1.....(2) _____

3 Excludable savings bond interest from Form 8815.....(3) _____

4 Subtract line 3 from line 2.....To Form 1040, line 8a (4) _____

Part II - Dividend Income **Amount**

5 Dividend income (include capital gain dist, nontaxable dist, etc.)

_____ (5) _____

_____ (5) _____

_____ (5) _____

_____ (5) _____

_____ (5) _____

_____ (5) _____

_____ (5) _____

_____ (5) _____

_____ (5) _____

6 Add the amounts on line 5.....(6) _____

7 Capital gain distributions.....(7) _____

8 Nontaxable distributions.....(8) _____

9 Add lines 7 and 8.....(9) _____

10 Subtract line 9 from line 6. To Form 1040, line 9...(10) _____

Part III - Foreign Accounts and Foreign Trusts

If you had over \$400 of interest or dividends OR had a foreign account or were a grantor of, or a transferor to, a foreign trust, must complete:

11a At any time during 1995, did you have an interest in or a signature authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)?.. _____

b If Yes, name of foreign country. _____

12 Were you the grantor of, or transferor to, a foreign trust that existed during 1995, whether or not you have any beneficial interest in it? If Yes, you may have to file Form 3520, 3520-A, or 926.. _____

D260 For Paperwork Reduction Act Notice, see Form 1040 Instructions.

EXHIBIT L-1 - LIST OF FORMS REFERRED TO IN REVENUE PROCEDURE

<u>FORM</u>	<u>TITLE</u>
706	United States Estate (and Generation-Skipping Transfer) Tax Return
720	Quarterly Federal Excise Tax Return
940	Employer's Annual Federal Unemployment (FUTA) Tax Return
940-EZ	Employer's Annual Federal Unemployment (FUTA) Tax Return
941	Employer's Quarterly Federal Tax Return
941 Sch. B	Employer's Record of Federal Tax Liability
943	Employer's Annual Tax Return for Agricultural Employees
945	Annual Return of Withheld Federal Income Tax
945-A	Annual Record of Federal Tax Liability
990-C	Farmers' Cooperative Association Income Tax Return
990-PF	Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation
990-T	Exempt Organization Business Income Tax Return
1040	U.S. Individual Income Tax Return
1040-ES	Estimated Tax for Individuals
1040A	U.S. Individual Income Tax Return
1040E2	Income Tax Return for Single and Joint Filers with No Dependents
1040PC	1040PC Format U.S. Individual Income Tax Return
1041	U.S. Income Tax Return for Estates and Trusts
1041-ES	Estimated Tax for Estates and Trusts
1042	Annual Withholding Tax Return for U.S. Source Income of Foreign Persons
1042-S	Foreign Person's U.S. Source Income Subject to Withholding
1065	U.S. Partnership Return of Income
1096	Annual Summary and Transmittal of U.S. Information Returns
1098	Mortgage Interest Statement
1099-A	Acquisition or Abandonment of Secured Property
1099-B	Proceeds from Broker and Barter Exchange Transactions
1099-C	Cancellation of Debt
1099-DIV	Dividends and Distributions
1099-G	Certain Government Payments
1099-INT	Interest Income
1099-MISC	Miscellaneous Income
1099-OID	Original Issue Discount
1099-PATR	Taxable Distributions Received from Cooperatives
1099-R	Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, Etc.
1099-S	Proceeds from Real Estate Transactions
1120	U.S. Corporation Income Tax Return

EXHIBIT L-1 - LIST OF FORMS REFERRED TO IN REVENUE PROCEDURE
(continued)

2290	Heavy Vehicle Use Tax Return
3468	Investment Credit
3975	Tax Practitioner Annual Mailing List Application Update
4136	Credit for Federal Tax Paid on Fuels
4461	Application for Approval of Master or Prototype and Regional Prototype Defined Contribution Plan
4461-A	Application for Approval of Master or Prototype and Regional Prototype Defined Benefit Plan
4461-B	Application for Approval of Master or Prototype Plan, or Regional Prototype Plan Mass Submitter Return Adopting Sponsor
5300	Application for Determination for Employee Benefit Plan
5303	Application for Determination for Collectively Bargained Plan
5305	Individual Retirement Trust Account
5306	Application for Approval of Prototype or Employer Sponsored Individual Retirement Account
5307	Application for Determination for Adopters of Master or Prototype, Regional Prototype or Volume Submitter Plans
5310	Application for Determination for Terminating Plan
5310-A	Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business
5498	Individual Retirement Arrangement Information
5500	Annual Return/Report of Employee Benefit Plan (With 100 or more participants)
5500 C/R	Annual Return/Report of Employee Benefit Plan (With fewer than 100 participants)
5500-EZ	Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan
6406	Short Form Application for Determination For Minor Amendment of Employee Benefit Plan
8109	Federal Tax Deposit Coupon
8109-B	Federal Tax Deposit Coupon
8453	U.S. Individual Income Tax Declaration for Electronic Filing
8453-E	Employee Benefit Plan Declaration and Signature for Electronic/Magnetic Media Filing
8453-F	U.S. Income Tax Declaration and Signature for Electronic and Magnetic Media Filing
8453-P	U.S. Partnership Declaration and Signature for Electronic and Magnetic Media Filing
8633	Application to Participate in the IRS e-file Program
9041	Application for Electronic/Magnetic Media Filing of Business and Employee Benefit Plan Returns

EXHIBIT L-1 - LIST OF FORMS REFERRED TO IN REVENUE PROCEDURE
(continued)

CT-1	Employer's Annual Railroad Retirement Tax Return
W-2	Wage and Tax Statement
W-2G	Certain Gambling Winnings
W-3	Transmittal of Income and Tax Statements

Social Security Contribution and Benefit Base for 1999

Under authority contained in the Social Security Act (“the Act”), the Commissioner, Social Security Administration, has determined and announced (63 F.R. 58446, dated October 30, 1998) that the contribution and benefit base for remuneration paid in 1998, and self-employment income earned in taxable years beginning in 1999 is \$72,600.

“Old-Law” Contribution and Benefit Base

General. The 1999 “old-law” contribution and benefit base is \$53,700. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. The base is computed under section 230(b) of the Act as it read prior to the 1977 amendments.

The “old-law” contribution and benefit base is used by:

(a) the Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the “old-law” base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Domestic Employee Coverage Threshold

General. Section 2 of the “Social Security Domestic Employment Reform Act of 1994” (Pub. L. 103–387) increased the threshold for coverage of a domestic employee’s wages paid per employer from \$50 per calendar quarter to \$1,000 in calendar year 1994. The statute holds the coverage threshold at the \$1,000 level for 1995 and then increases the threshold in

\$100 increments for years after 1995. The formula for increasing the threshold is provided in section 3121(x) of the Internal Revenue Code.

Computation. Under the formula, the domestic employee coverage threshold amount for 1999 shall be equal to the 1995 amount of \$1,000 multiplied by the ratio of the national average wage index for 1997 to that for 1993. If the amount so determined is not a multiple of \$100, it shall be rounded to the next lower multiple of \$100.

Domestic Employee Coverage Threshold Amount. The ratio of the national average wage index for 1997, \$27,426.00, compared to that for 1993, \$23,132.67, is 1.1855960. Multiplying the 1995 domestic employee coverage threshold amount of \$1,000 by the ratio of 1.1855960 produces the amount of \$1,185.60, which must then be rounded to \$1,100. Accordingly, the domestic employee coverage threshold amount is determined to be \$1,100 for 1999.

(Filed by the Office of the Federal Register on October 29, 1998, 8:45 a.m., and published in the issue of the Federal Register for October 30, 1998, 63 F.R. 58446)

Part IV. Items of General Interest

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

Announcement 98-114

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

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible

for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on (DATE) 1998, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1).

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

Atkins-Chambers Post No. 254 of
American Legion, Inc., Eden, NC
Institute for Higher Healing, Inc.
Richmond, VA

Muscular Dystrophy Aid Society, Inc.
Houston, TX
Tarp Institute, Inc.
Arlington, VA

Notice of Disposition of Declaratory Judgment Proceedings Under Section 7428

This announcement serves notice to donors that on July 23, 1998, the United States Court of Federal Claims entered a Stipulation of Dismissal on the Complaint with reference to the organization listed below. The Court agreed that the parties be treated as if the Section 7428 declaratory judgment action had not been filed, which means that the organization's revocation notice is final and the organization listed below is not described in section 170(c)(2) and is not recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code.

LAC Facilities, Inc.
Miami, FL

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.
FR.—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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