

# Internal Revenue bulletin

Bulletin No. 1999-28  
July 12, 1999

## HIGHLIGHTS OF THIS ISSUE

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

### INCOME TAX

#### Rev. Rul. 99-30, page 24.

**LIFO; price indexes; department stores.** The May 1999 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, May 31, 1999.

#### T.D. 8825, page 19.

Final and temporary regulations under section 382 of the Code relate to limitations on net operating loss carryovers and certain built-in losses following an ownership change of a corporation.

### EXEMPT ORGANIZATIONS

#### Announcement 99-68, page 31.

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

### ESTATE TAX

#### Announcement 99-47, page 29.

This document contains corrections to T.D. 8819, 1999-20 I.R.B. 5, final regulations relating to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests.

### GIFT TAX

#### REG-108287-98 page 27.

Proposed regulations under section 2702 of the Code apply to a grantor retained annuity trust (GRAT) and a grantor re-

tained unitrust (GRUT) in determining whether a retained interest is a "qualified interest." A public hearing is scheduled for October 20, 1999.

#### Announcement 99-47, page 29.

This document contains corrections to T.D. 8819, 1999-20 I.R.B. 5, final regulations relating to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests.

### ADMINISTRATIVE

#### Notice 99-35, page 26.

**Qualified zone academy bonds credit rate.** Issuers of qualified zone academy bonds may ascertain the qualified zone academy bond credit rate on the Bureau of Public Debt's web site located at: <http://www.publicdebt.treas.gov>. The credit rate is applicable on the first day on which there is a binding contract in writing for the sale or exchange of the bond.

#### Announcement 99-67, page 31.

This document contains corrections to Announcement 99-59, 1999-24 I.R.B. 52, the schedule of Information Reporting Seminars for 1999.

#### Announcement 99-69, page 33.

The page numbers in the Internal Revenue Bulletins have changed beginning with this issue.

Finding Lists begin on page ii.



Department of the Treasury  
Internal Revenue Service

# Mission of the Service

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.

## 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 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.**

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the first Bulletin of the succeeding semiannual period, respectively.

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

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

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

26 CFR 1.382-2: General rules for ownership change.

T.D. 8825

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

### Application of Section 382 in Short Taxable Years and With Respect to Controlled Groups

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Final and temporary regulations

SUMMARY: This document contains final regulations relating to limitations on net operating loss carryovers and certain built-in losses following an ownership change of a corporation. The regulations implement the statutory authority under section 382(m) of the Internal Revenue Code to prescribe regulations concerning short taxable years and controlled groups of corporations. Additional rules are adopted relating principally to corporations that cease to exist following a merger (or similar transaction) or that have two or more ownership changes. These final regulations replace temporary regulations that provided guidance on these topics.

DATES: *Effective Dates:* These regulations are effective June 25, 1999.

*Applicability Dates:* For dates of application and special transition rules, see Effective Dates under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Lee A. Kelley at 202-622-7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

#### *Paperwork Reduction Act*

The collection of information contained in these final regulations has been

reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1434. Responses to this collection of information are required to obtain a benefit relating to the value of a controlled group member.

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

The estimated annual burden per respondent is one quarter hour.

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

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

#### *Background and Explanation of Provisions*

On February 4, 1991, the IRS and Treasury issued a notice of proposed rulemaking, CO-077-90 (56 F.R. 4183 [1991-1 C.B. 749]) (the 1991 controlled group proposed regulations), setting forth rules regarding the application of section 382 to controlled groups of corporations and to corporations that undergo a merger or similar transaction. The 1991 controlled group proposed regulations also related to the determination of the section 382 limitation following an ownership change in the case of short taxable year, and to the valuation of the stock of a loss corporation for purposes of determining the amount of the section 382 limitation. On the same day, the IRS and Treasury also issued proposed regulations relating to the application of section 382 to affiliated groups of corporations filing consolidated

returns (CO-132-87, 56 F.R. 4194 [1991-1 C.B. 728]), and to the use of built-in deductions and net operating losses and capital losses, including the carryover and carryback of separate return year (SRLY) losses, of members of consolidated groups (CO-078-90, 56 F.R. 4228 [1991-1 C.B. 757]). A public hearing regarding the three sets of proposed regulations was held on April 8, 1991.

On June 27, 1996, the IRS and Treasury published temporary regulations (T.D. 8679, 61 F.R. 33313 [1996-2 C.B. 25]) (the 1996 controlled group temporary regulations) relating to section 382. Except for the addition of a provision relating to the effects of successive ownership changes, these regulations were substantially identical to the 1991 controlled group proposed regulations. A notice of proposed rulemaking cross-referencing the temporary regulations was published in the Federal Register on the same day (CO-026-96, 61 F.R. 33391 [1996-2 C.B. 440]) (the 1996 controlled group proposed regulations), and the 1991 controlled group proposed regulations were withdrawn. No written comments were received on the 1996 controlled group proposed regulations and no public hearing was held. Also on June 27, 1996, the IRS and Treasury published temporary regulations relating to the application of section 382 to affiliated groups of corporations filing consolidated returns (T.D. 8678, 61 F.R. 33335 [1996-2 C.B. 134]) and the SRLY limitation (T.D. 8677, 61 F.R. 33321 [1996-2 C.B. 119]). Notices of proposed rulemaking cross-referencing these temporary regulations were published on the same day (CO-025-96, 61 F.R. 33395 [1996-2 C.B. 439] and CO-024-96, 61 F.R. 33393 [1996-2 C.B. 437]), and the corresponding proposed regulations published in 1991 were withdrawn.

The 1996 controlled group proposed regulations are adopted as revised by this Treasury decision and the corresponding temporary regulations are removed. The final regulations are substantially the same as the 1996 controlled group proposed regulations, with one significant change relating to built-in losses of a member of a controlled group of corporations. This change is discussed below.

Under section 382, if an ownership change occurs with respect to a loss corporation (as defined in section 382 and the regulations thereunder), the amount of the loss corporation's taxable income for a post-change year that may be offset by the net operating loss carryovers arising before the ownership change are subject to a limitation known as the section 382 limitation. The section 382 limitation for a post-change taxable year of the loss corporation generally equals the fair market value of the stock of the corporation immediately before the ownership change multiplied by the long-term tax exempt rate (a rate of return published periodically in the Internal Revenue Bulletin).

In addition to net operating loss carryovers, the recognized built-in losses of corporations that have a net unrealized built-in loss on the ownership change date are also subject to the section 382 limitation. In general, a corporation has a net unrealized built-in loss on its ownership change date if the adjusted basis of its assets exceeds their fair market value, and such excess is greater than the threshold amount under section 382(h)(3)(B). In general, recognized built-in losses are losses with respect to assets held on the change date that are recognized within the 5-year period beginning on the ownership change date. The recognized built-in loss on an asset, however, is limited to the lesser of the loss recognized on its disposition or the amount by which the adjusted basis of the asset exceeded its fair market value on the change date.

Consistent with the proposed regulations, the final regulations require appropriate adjustments to the value of a loss corporation that is a member of a controlled group of corporations so that the same value is not included more than once in computing the section 382 limitations for the loss corporations that are members of the controlled group. In general, adjustments are required only when corporations are members of the same controlled group both when a pre-change loss arises and on the date of the ownership change. Thus, adjustments are required if a loss corporation is a component member of the same controlled group as another member (i) on December 31 of the taxable year in which a pre-change loss arises (or the change date, if earlier) and (ii) on the date that the loss

corporation has an ownership change. If a loss corporation has pre-change losses that arise in different taxable years, the component members of the controlled group with respect to losses arising in each taxable year may differ. Therefore, as in the 1996 controlled group proposed regulations, the final regulations are applied by determining a controlled group with respect to each year's pre-change loss of the corporation (a controlled group loss).

To avoid duplication of value in connection with a controlled group loss, the value of the stock of each corporation that is a component member of the controlled group with respect to a controlled group loss is reduced by the value of the stock of other component members that it directly owns immediately before the ownership change. A second adjustment (more fully explained in the preamble to the 1991 controlled group proposed regulations) permits a lower tier member to elect to restore some or all of the previously reduced value to a member that directly owns its stock.

In identifying controlled group losses, the determination of the taxable year to which a net operating loss carryover is attributable usually presents no difficulty. The determination of the taxable year in which a net unrealized built-in loss accrues, however, is more problematic. To address some concerns in this area, the final regulations include an irrebutable presumption that certain built-in losses are attributable to the period before a particular taxable year. The presumption applies to a loss corporation that had an ownership change prior to the first day of the taxable year in question, and whose net unrealized built-in losses became subject to a section 382 limitation as a result of that ownership change. Under the presumption, any built-in loss in such an asset is considered to be attributable to a period prior to the taxable year in question to the extent of the built-in loss in that asset on the previous change date.

#### *Effective Dates*

Section 1.382-5 (relating to the section 382 limitation) generally applies to a loss corporation that has an ownership change to which section 382(a), as amended by the Tax Reform Act of 1986, applies. The

rules in that section relating to successive ownership changes, however, apply to taxable years of a loss corporation beginning on or after January 1, 1997. Section 1.382-8 (relating to controlled groups of corporations) generally applies to a loss corporation that has an ownership change with respect to a controlled group loss on or after January 1, 1997. Transition rules are provided for members of controlled groups that have ownership changes before that date. The rules in §1.382-1(a)(iv) (relating to separate tracking of certain loss corporations) apply to testing dates on or after January 29, 1991. The rules in §1.382-2 (a) (4) and (a) (5) relating to successor or predecessor corporations in other than corporate reorganizations apply to testing dates on or after January 1, 1997.

#### *Special Analysis*

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. It has also been determined that section 553 of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the collection of information in this regulation is a statement of election that it is estimated will take less than one hour to prepare. The statement will be filed by electing corporations that are members of a controlled group of corporations (determined by applying a 50% common control requirement) both (1) when a net operating loss carryover (or certain other tax attributes) arises and (2) a member of the controlled group has an ownership change under section 382 of the Internal Revenue Code with respect to that net operating loss carryover (or other attribute). (An affiliated group of corporations that files a consolidated return is treated as a single corporation for this purpose, which reduces the number of potential filers.) Because the election is only filed with respect to an ownership change, it is unlikely that a corporation will file the election frequently. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not

required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

*Drafting information*

The principal author of these regulations is Lee A. Kelley of the Office of Assistant Chief Counsel (Corporate). Other personnel from the IRS and Treasury participated in their development.

\* \* \* \* \*

*26 CFR Part 602*

Reporting and recordkeeping requirements.

*Adoption of Amendments to the Regulations*

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

**PART 1—INCOME TAXES**

Paragraph 1. The authority citation for part 1 is amended by removing entries for sections 1.382-5T and 1.382-8T and by adding entries in numerical order to read in part as follows:

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

Section 1.382-5 also issued under 26 U.S.C. 382(m). \* \* \*

Section 1.382-8 also issued under 26 U.S.C. 382(m). \* \* \*

Par. 2. Section 382-1 is amended by:

1. Revising the entry for §1.382-2, paragraph (a)(1)(iv).

2. Adding an entry for §1.382-2, paragraph (a)(1)(v).

3. Adding entries for §1.382-2, paragraphs (a)(5) and (a)(6).

4. Removing the entries for §1.382-2T, paragraphs (f)(1)(i), (f)(1)(ii), and (f)(1)(iii).

5. The entry for §1.382-4 is amended as follows:

a. The entry for paragraph (b) is revised.

b. Entries for paragraphs (b)(1) and (b)(2) are added.

6. Removing the entry for §1.382-5.

7. Redesignating the entry for §1.382-5T as § 1.382-5 and revising the section heading.

8. Removing the entry for §1.382-8.

9. Redesignating the entry for §1.382-8T as §1.382-8, revising the section heading, and adding entries for paragraphs (b)(1) and (b)(2).

The revision and additions read as follows:

*§1.382-1 Table of contents.*

\* \* \* \* \*

*§1.382-2 General rules for ownership change.*

(a) \* \* \*

(1) \* \* \*

(iv) End of separate accounting for losses and credits of distributor or transferor corporation.

(v) Application to other successor corporations.

\* \* \* \* \*

(5) Successor corporation.

(6) Predecessor corporation.

\* \* \* \* \*

*§1.382-4 Constructive ownership of stock.*

\* \* \* \* \*

(b) Attribution from corporations, partnerships, estates and trusts.

(1) [Reserved].

(2) Limitation.

\* \* \* \* \*

*§1.382-5 Section 382 limitation.*

\* \* \* \* \*

*§1.382-8 Controlled groups.*

\* \* \* \* \*

(b) \* \* \*

(1) In general.

(2) Presumption regarding net unrealized built-in loss.

\* \* \* \* \*

**§1.382-2 [Amended]**

Par. 2a. Section 1.382-2 is amended by removing paragraph (a)(1)(iv).

Par. 3. Section 1.382-2T is amended as follows:

1. In paragraph (e)(2)(iv) *Example* (2)(ii), remove the reference “paragraph

(f)(1)(ii)” and add “§1.382-2(a)(1)(iv)” in its place.

2. Paragraph (f)(1)(ii) is redesignated as paragraph (a)(1)(iv) of §1.382-2.

3. Paragraph (f)(1) is revised.

4. Paragraphs (f)(4) and (f)(5) are redesignated as paragraphs (a)(5) and (a)(6) of §1.382-2, respectively.

5. New paragraphs (f)(4) and (f)(5) are added.

6. In paragraph (h)(2)(i)(A), remove the language “and solely for purposes of determining whether a loss corporation has an ownership change”.

The revision and additions read as follows:

*§1.382-2T Definition of ownership change under section 382, as amended by the Tax Reform Act of 1986 (temporary).*

\* \* \* \* \*

(f) *Definitions.* \* \* \*

(1) *Loss corporation.* See section 382 and §1.382-2(a)(1) for the definition of a loss corporation.

\* \* \* \* \*

(4) *Successor corporation.* See §1.382-2(a)(5) for the definition of successor corporation.

(5) *Predecessor corporation.* See §1.382-2(a)(6) for the definitions of predecessor corporation.

\* \* \* \* \*

Par. 4. Section 1.382-2 is amended as follows:

1. In the first sentence of paragraph (a)(1)(iii), remove the reference “§1.382-2T(f)(1)(ii)” and add “paragraph (a)(1)(iv) of this section” in its place.

2. In the first sentence of newly designated paragraph (a)(1)(iv), remove the reference “§1.382-2(a)(1)(iii)” and add “paragraph (a)(1)(iii) of this section” in its place.

3. In the first sentence of newly designated paragraph (a)(1)(iv), remove the reference “§1.382-2(a)(1)(ii)” and add “paragraph (a)(1)(ii) of this section” in its place.

4. In the last sentence of newly designated paragraph (a)(1)(iv), remove the reference “paragraph (f)(1)(ii)” and add “paragraph (a)(1)(iv)” in its place.

5. Paragraph (a)(1)(v) is added.

6. In the first sentence of paragraph (a)(3)(i), remove the reference “paragraph

(f)(18)” and add “paragraph (a)(3)(i) and §1.382-2T(f)(18)(ii) and (iii)” in its place.

7. In the last sentence of newly designated paragraph (a)(5), remove the reference “paragraph (f)(4)” and add “paragraph (a)(5)” in its place.

8. In the last sentence of newly designated paragraph (a)(6), remove the reference “paragraph (f)(5)” and add “paragraph (a)(6)” in its place.

The addition reads as follows:

*§1.382-2 General rules for ownership change.*

- (a) \* \* \*
- (1) \* \* \*

(v) *Application to other successor corporations.* This paragraph (a)(1) also applies, as the context may require, to successor corporations other than successors in section 381(a) transactions. For example, if a corporation receives assets from the loss corporation that have basis in excess of value, the recipient corporation’s basis for the assets is determined, directly or indirectly, in whole or in part, by reference to the loss corporation’s basis, and the amount by which basis exceeds value is material, the recipient corporation is a successor corporation subject to this paragraph (a)(1). This paragraph (a)(1)(v) applies to any testing date occurring on or after January 1, 1997.

\* \* \* \* \*

Par. 5. Section 1.382-4 is amended by revising paragraph (b) to read as follows:

*§1.382-4 Constructive ownership of stock.*

\* \* \* \* \*

(b) *Attribution from corporations, partnerships, estates and trusts.* (1) [Reserved].

(2) *Limitation.* Section 1.382-2T(h)-(2)(i)(A) applies solely for purposes of determining whether a loss corporation has an ownership change.

\* \* \* \* \*

**§1.382-5 [Removed]**

Par. 6. Section 1.382-5 is removed.

Par. 7. Section 1.382-5T is redesignated as §1.382-5 and amended as follows:

- 1. The section heading is revised.
- 2. In paragraph (e), the reference “§1.382-8T” is removed and “§1.382-8” is added in its place.

The revision reads as follows:

*§1.382-5 Section 382 limitation.*

\* \* \* \* \*

**§1.382-8 [Removed]**

Par. 8. Section 1.382-8 is removed.

Par. 9. Section 1.382-8T is redesignated as §1.382-8 and amended as follows:

- 1. The section heading is revised.
- 2. Redesignate paragraphs (b) introductory text, (b)(1) and (b)(2) as paragraphs (b)(1) introductory text, (b)(1)(i) and (b)(1)(ii), respectively.

3. A paragraph heading for newly designated paragraph (b)(1) is added.

4. Paragraph (b)(2) is added.

5. The first three sentences of paragraph (f) are revised.

6. The graphics of paragraph (g) *Example 1*(a) are revised.

7. The graphics of paragraph (g) *Example 2*(a) are revised.

8. Paragraph (g) *Example 4* is amended as follows:

- a. In the last sentence of paragraph (a), remove the reference “§1.1502-92T(b)-(1)(i)” and add “§1.1502-92(b)(1)(i)” in its place.

b. In paragraph (b)(2), remove the reference “§1.1502-91T(c)” and add “§1.1502-91(c)” in its place.

c. In paragraph (c), remove the reference “§1.1502-93T” and add “§1.1502-93” in its place.

9. In the fifth sentence of paragraph (h)(1), remove the reference “§1.382-8T” and add “§1.382-8” in its place.

10. Paragraph (i) is added.

The additions and revisions read as follows:

*§1.382-8 Controlled groups.*

\* \* \* \* \*

(b) *Controlled group loss and controlled group with respect to a controlled group loss*—(1) *In general.* \* \* \*

(2) *Presumption regarding net unrealized built-in loss.* For purposes of determining whether a net unrealized built-in loss of a loss corporation is attributable to

a taxable year (the determination year) with respect to which the corporation is a component member of a controlled group, the built-in loss in a prior change date asset is deemed to be attributable to a period ending before the determination year. A prior change date asset is any asset held by the loss corporation at all times during the period beginning on the change date of its most recent ownership change after 1986 (the first change date), and ending on the first day of the determination year. The built-in loss in a prior change date asset is the amount by which the adjusted basis of the asset on the first change date exceeds the fair market value of the asset on that date. The principles of this paragraph (b)(2) also apply to items described in section 382(h)(6)(B).

\* \* \* \* \*

(f) *Coordination between consolidated groups and controlled groups.* Some or all of the component members of a controlled group may also be members of a consolidated group, and a controlled group loss may be subject to a consolidated section 382 limitation or subgroup section 382 limitation determined under §1.1502-93. Except as otherwise provided in this paragraph (f) and §§1.1502-91 through 1.1502-99, §1.1502-93 applies instead of this section when both sections, by their terms, are otherwise applicable. This section is applicable and may require an adjustment to value if a member of a consolidated group, a loss group, or loss subgroup (as those terms are defined in §§1.1502-1(h) and 1.1502-91) is also a component member of a controlled group with respect to a controlled group loss. \* \* \*

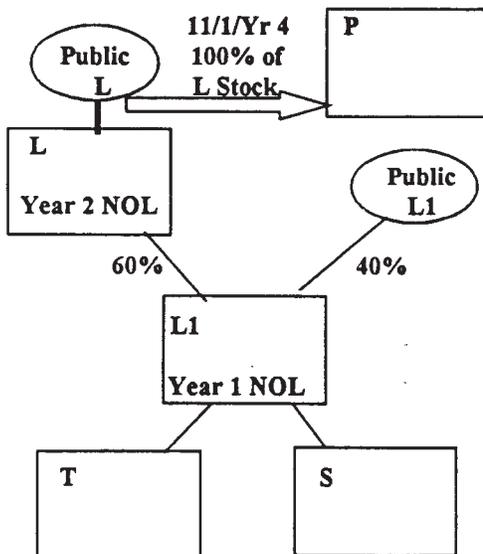
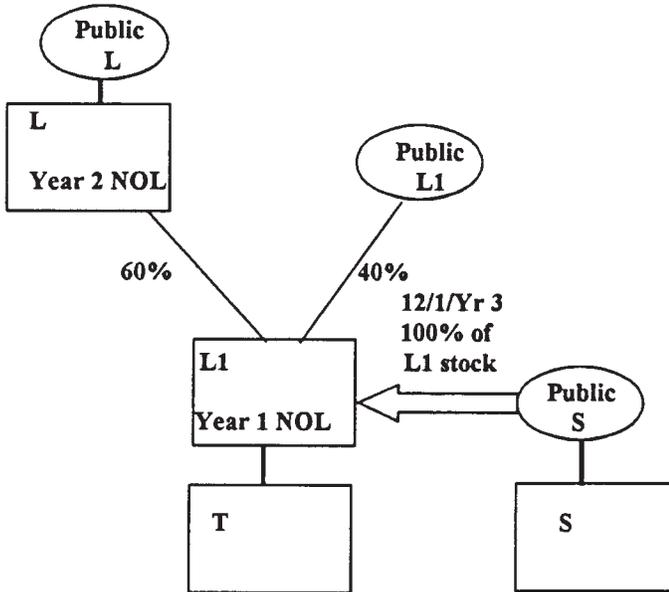
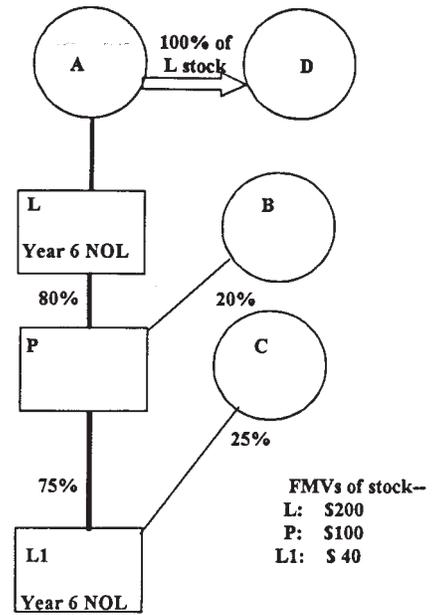
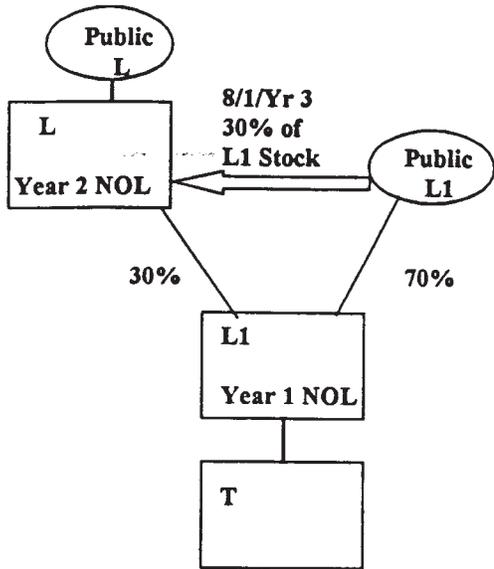
(g) \*\*\*  
*Example 1.* \* \* \*(a) \* \* \*

\* \* \* \* \*

*Example 2.* \* \* \*(a) \* \* \*

\* \* \* \* \*

(i) *References to former temporary regulations.* As the context requires, a reference in this section to §1.382-8 includes a reference to §1.382-8T in effect prior to June 25, 1999, as contained in 26 CFR part 1 revised as of April 1, 1999, a reference to §§1.1502-91, 1.1502-92, 1.1502-3, and §§1.1502-91 through



1.1502-99 includes a reference to §§1.1502-91A, 1.1502-92A, 1.1502-93A and §§ 1.1502-91A through 1.1502-99A.

\* \* \* \* \*

PART 602-OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 10. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 11. In § 602.101, paragraph (b) is amended in the table by removing the entry for 1.382-8T and adding an entry in numerical order to read as follows:

§602.101 OMB Control numbers.

\* \* \* \* \*

(b) \*\*\*

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.382-8 . . . . .	1545-1434
* * * * *	

John M. Dalrymple,  
 Acting Deputy Commissioner  
 of Internal Revenue.

Approved June 18, 1999.

Donald C. Lubick,  
Assistant Secretary of  
the Treasury.

(Filed by the Office of the Federal Register on June 25, 1999, 1:27 p.m., and published in the issue of the Federal Register for July 2, 1999, 64 F.R. 36175)

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

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

**LIFO; price indexes; department stores.** The May 1999 Bureau of Labor

Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, May 31, 1999.

### Rev. Rul. 99-30

The following Department Store Inventory Price Indexes for May 1999 were issued by the Bureau of Labor Statistics. The indexes are accepted by the Internal Revenue Service, under § 1.472-1(k) of the Income Tax Regulations and Rev. Proc. 86-46, 1986-2 C.B. 739, for appropriate application to inventories of depart-

ment stores employing the retail inventory and last-in, first-out inventory methods for tax years ended on, or with reference to, May 31, 1999.

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

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

Groups	May 1998	May 1999	Percent Change from May 1998 to May 1999 <sup>1</sup>
1. Piece Goods . . . . .	534.6	547.0	2.3
2. Domestic and Draperies . . . . .	637.0	631.1	-0.9
3. Women's and Children's Shoes . . . . .	664.2	658.7	-0.8
4. Men's Shoes . . . . .	907.9	885.6	-2.5
5. Infants' Wear . . . . .	629.1	613.3	-2.5
6. Women's Underwear . . . . .	576.1	570.0	-1.1
7. Women's Hosiery . . . . .	306.1	323.1	5.6
8. Women's and Girls' Accessories . . . . .	546.5	561.3	2.7
9. Women's Outerwear and Girls' Wear . . . . .	425.4	406.4	-4.5
10. Men's Clothing . . . . .	634.5	632.1	-0.4
11. Men's Furnishings . . . . .	608.6	646.3	6.2
12. Boys' Clothing and Furnishings . . . . .	497.9	491.5	-1.3
13. Jewelry . . . . .	986.2	977.7	-0.9
14. Notions . . . . .	786.5	743.6	-5.5
15. Toilet Articles and Drugs . . . . .	951.0	957.9	0.7
16. Furniture and Bedding . . . . .	682.1	686.8	0.7
17. Floor Coverings . . . . .	602.7	602.4	0.0
18. Housewares . . . . .	814.2	794.6	-2.4
19. Major Appliances . . . . .	238.5	234.0	-1.9
20. Radio and Television . . . . .	72.1	66.8	-7.4
21. Recreation and Education <sup>2</sup> . . . . .	105.1	99.3	-5.5
22. Home Improvements <sup>2</sup> . . . . .	134.3	128.1	-4.6
23. Auto Accessories <sup>2</sup> . . . . .	106.6	106.8	0.2
Groups 1 - 15: Soft Goods . . . . .	612.0	609.8	-0.4
Groups 16 - 20: Durable Goods . . . . .	462.5	450.8	-2.5
Groups 21 - 23: Misc. Goods <sup>2</sup> . . . . .	109.1	104.6	-4.1
Store Total <sup>3</sup> . . . . .	557.9	551.0	-1.2

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

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

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

## DRAFTING INFORMATION

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

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## Section 1397.—Other Definitions and Special Rules

*1.1397-1T: Qualified zone academy bonds.*

Guidance is provided for ascertaining the credit rate for qualified zone academy bonds. See Notice 99-35, page 26.

## Part III. Administrative, Procedural, and Miscellaneous

### Qualified Zone Academy Bond Credit Rate

#### Notice 99-35

Section 1397E(b)(2) of the Internal Revenue Code provides that the Secretary shall determine a credit rate that the Secretary estimates will permit the issuance of a qualified zone academy bond without discount and without interest cost to the issuer. Temporary regulations interpreting § 1397E(b)(2) were published on January 7, 1998, as T.D. 8755 (63 F.R. 671 [1998-10 I.R.B. 21]). The Treasury and IRS are issuing temporary regulations that

revise T.D. 8755 to provide that guidance for ascertaining the credit rate will be set forth in procedures, notices, forms, and instructions as prescribed by the Commissioner.

The Secretary has determined that, until further notice, the credit rate for a qualified zone academy bond is the qualified zone academy bond credit rate published daily by the Bureau of Public Debt on its Internet site for State and Local Government Bonds at: <http://www.publicdebt.treas.gov>. The qualified zone academy bond credit rate shall be applied to a qualified zone academy bond on the first day

on which there is a binding contract in writing for the sale or exchange of the bond. The credit rate will be determined by the Department of the Treasury based on its estimate of the yield on outstanding AA rated corporate bonds of a similar maturity for the business day immediately prior to the date on which there is a binding contract in writing for the sale or exchange of the bond.

The principal author of this notice is Timothy L. Jones of the Office of Financial Institutions and Products. For further information regarding this notice, call (202) 622-3980 (not a toll-free number).

## Part IV. Items of General Interest

### Notice of Proposed Rulemaking and Notice of Public Hearing

#### Definition of a Qualified Interest in a Grantor Retained Annuity Trust and a Grantor Retained Unitrust

REG-108287-98

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the definition of a qualified interest. The proposed regulations apply to a grantor retained annuity trust (GRAT) and a grantor retained unitrust (GRUT) in determining whether a retained interest is a “qualified interest.” The proposed regulations will affect individuals who have made a transfer in trust to a family member and have retained an interest in the trust. The proposed regulations clarify that a trust that uses a note, other debt instrument, option or similar financial arrangement to satisfy the annual payment obligation will not meet the requirements of section 2702(b) of the Internal Revenue Code. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by September 20, 1999. Outlines of topics to be discussed at the public hearing scheduled for October 20, 1999, at 10:00 a.m., must be received by September 29, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-108287-98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-108287-98), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the “Tax Regs” option on the IRS Home Page, or by sub-

mitting comments directly to the IRS internet site at <http://www.irs.gov/prod/taxregs/regsglist.html>. The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, James F. Hogan, (202) 622-3090; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita Van Dyke, (202) 622-7190 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### *Background*

Sections 2701 through 2704 were added to the Internal Revenue Code in the Omnibus Budget and Reconciliation Act of 1990 (1990 Act), 1991-2 C.B. 481, 524. Section 2702 applies to a transfer in trust that benefits a family member where the transferor retains an interest in the property subject to the transfer. If section 2702 applies to a transfer, the transferor’s retained interest will be valued at zero for gift tax purposes (and the transferor will be treated as making a gift of the entire value of the property), unless the interest is a “qualified interest.” The term “qualified interest” is defined in section 2702(b) and includes a right to receive, annually, fixed payments (a qualified annuity interest) and a right to receive, annually, a fixed percentage of the trust corpus determined annually (a qualified unitrust interest).

Congress was particularly concerned about properly valuing gifts in trust with retained interests. The legislative history that accompanied the 1990 Act states:

[T]he committee is concerned about the undervaluation of gifts valued pursuant to Treasury tables. Based on average rates of return and life expectancy, those tables are seldom accurate in a particular case, and therefore, may be the subject of adverse selection. Because the taxpayer decides what property to give, when to give it, and often controls the return on the property, use of Treasury tables undervalues the transferred interests in the aggregate, more often than not.

Therefore, the committee determines that the valuation problems inherent in trusts and term interests in property are best addressed by valuing retained interests at zero unless they take an easily valued form—as an annuity or unitrust interest. By doing so, the bill draws upon present law rules valuing split interests in property for purposes of the charitable deduction.

136 Cong. Rec. S15681 (daily ed. Oct. 18, 1990) (Informal Senate Report on S. 3209).

The provisions of section 2702 and the regulations thereunder are intended to ensure that, when a donor transfers property and retains an interest in the property, the value of the retained interest is readily ascertainable. Thus, the value of the gift, that is, the value of the transferred property less the value of the retained interest, can be accurately determined. Section 25.2702-3(b)(1) of the Gift Tax Regulations implements this principle by requiring that for a qualified annuity interest: (1) the annuity must be a fixed amount; (2) the annuity must be payable at least annually; and (3) the yearly amount must be paid by a specified date each year, that is, the annuity payment may be paid after the close of the taxable year, but no later than the due date of the trust’s income tax return. The annuity payment must be payable to (or for the benefit of) the holder of the annuity interest for each taxable year of the trust term. A right of withdrawal, whether or not cumulative, is not a qualified annuity interest. Section 25.2702-3(c) provides comparable rules applicable in the case of a qualified unitrust interest.

To avoid making a cash or an in-kind payment, some GRATs have issued notes to the transferor in satisfaction of the obligation to make the annual payment. In certain cases, the trust instrument specifically authorizes the trustee to satisfy the annual payment obligation with notes. The notes provide for actual payment at a date some time in the future.

Thus far, the transactions that have come to the Service’s attention have involved the use of notes. However, the Service is also concerned about other financial arrangements that have the effect of delaying payment from the trust to the

grantor and thus may alter the value of the transferor's retained interest. These techniques include the grant of an option to purchase trust property in the future.

Issuing a note is not payment of a fixed amount not less frequently than annually, nor is it payment of a fixed percentage of the trust assets determined annually, as required by the statute and regulations. A note is merely a promise to pay in the future. Delaying payment by the use of a note to satisfy the annual payment obligation alters the true value of the transferor's retained interest, contrary to Congressional intent in requiring provisions ensuring an accurate valuation of the interest. This position is consistent with case law and rulings concluding that the use of a note to satisfy an obligation does not constitute payment of the obligation for tax purposes. *Don E. Williams Company v. Commissioner*, 429 U.S. 569 (1977); *Helvering v. Price*, 309 U.S. 409 (1940); *Eckert v. Burnet*; 283 U.S. 140 (1931); *Maddrix v. Commissioner*, 780 F.2d 946 (11th Cir. 1986); *Battelstein v. Internal Revenue Service*, 631 F.2d 1182 (5th Cir. 1980); Rev. Rul. 76-135, 1976-1 C.B. 114.

Furthermore, under §§25.2702-(3)(b)-(1)(i) and 25.2702-(3)(c)(1)(i), a right of withdrawal is not a qualified annuity or unitrust interest. A right of withdrawal allows the payee to determine, in the payee's discretion, when the payment will be made, and thus, neither the timing nor the amount of each payment is fixed and determinable under the trust instrument. For similar reasons, the use of notes, other debt instruments, options or other similar financial arrangements that place the amount and timing of each payment at the discretion of the payee should not satisfy the annual payment obligation.

Accordingly, these proposed regulations amend the regulations under section 2702 to provide that issuance of a note, other debt instrument, option or similar financial arrangement does not constitute payment for purposes of section 2702. A retained interest that can be satisfied with such instruments is not a qualified annuity interest or a qualified unitrust interest. In examining all of these transactions, the Service will apply the step transaction doctrine where more than one step is used to achieve similar results. In addition, a retained interest is not a qualified interest

under section 2702, unless the trust instrument expressly prohibits the use of notes, other debt instruments, options or similar financial arrangements that effectively delay receipt by the grantor of the annual payment necessary to satisfy the annuity or unitrust interest amount. Under these provisions, in order to satisfy the annuity or unitrust payment obligation under section 2702(b), the annuity or unitrust payment must be made with either cash or other assets held by the trust.

The proposed regulations provide a transition rule for trusts created before September 20, 1999. If a trust created before September 20, 1999, does not prohibit a trustee from issuing a note, other debt instrument, option or other similar financial arrangement in satisfaction of the annuity or unitrust payment obligation, the interest will be treated as a qualified interest under section 2702(b) if notes, etc. are not used after September 20, 1999, to satisfy the obligation and any note or notes or other debt instruments issued on or prior to September 20, 1999, to satisfy the annual payment obligation are paid in full by December 31, 1999, and any option or similar financial arrangement is terminated by December 31, 1999, such that the grantor actually receives cash or other trust assets in satisfaction of the payment obligation. For purposes of this section, an option will be considered terminated if the grantor is paid the greater of the required annuity or unitrust payment plus interest computed under section 7520 of the Code, or the fair market value of the option.

#### *Special Analyses*

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the regulations will be submitted to the Small

Business Administration for comment on their impact on small business.

#### *Comments and Public Hearing*

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for October 20, 1999, at 10:00 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit comments by September 20, 1999, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by September 29, 1999. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### *Drafting Information*

The principal author of these proposed regulations is James F. Hogan, Office of the Chief Counsel, IRS. Other personnel from the IRS and Treasury Department participated in their development.

\* \* \* \* \*

*Proposed Amendments to the Regulations*

Accordingly, 26 CFR part 25 is proposed to be amended as follows:

**PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954**

Par. 1. The authority citation for part 25 continues to read in part as follows:

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

Par. 2. Section 25.2702-3 is amended as follows:

1. Paragraph (b)(1)(i) is amended by adding a new sentence after the third sentence.

2. Paragraph (c)(1)(i) is amended by adding a new sentence after the fourth sentence.

3. A new paragraph (d)(5) is added.

The additions read as follows:

**§25.2702-3 Qualified interests.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \* (i) \* \* \* Issuance of a note, other debt instrument, option or other similar financial arrangement in satisfaction of the annuity amount does not constitute payment of the annuity amount. \* \* \*

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \* (i) \* \* \* Issuance of a note, other debt instrument, option or other similar financial arrangement in satisfaction of the unitrust amount does not constitute payment of the unitrust amount. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(5) *Use of debt obligations to satisfy the annuity or unitrust payment obligation—(i) In general.* The trust instrument must prohibit the trustee from issuing a note, other debt instrument, option or other similar financial arrangement in satisfaction of the annuity or unitrust payment obligation.

(ii) *Special rule in the case of a trust created prior to September 20, 1999.* In

the case of a trust created prior to September 20, 1999, the interest will be treated as a qualified interest under section 2702(b) if—

(A) Notes, other debt instruments, options or similar financial arrangements are not used after September 20, 1999, to satisfy the annuity or unitrust payment obligation; and

(B) Any note or notes or any other debt instruments issued to satisfy the annual payment obligation on or prior to September 20, 1999, are paid in full by December 31, 1999, and, any option or similar financial arrangement issued to satisfy the annual payment obligation is terminated by December 31, 1999, such that the grantor receives cash or other trust assets in satisfaction of the payment obligation. For purposes of the preceding sentence, an option will be considered terminated only if the grantor receives cash or other trust assets equal in value to the greater of the required annuity or unitrust payment plus interest computed under section 7520 of the Code, or the fair market value of the option.

\* \* \* \* \*

Robert E. Wenzel,  
*Deputy Commissioner of Internal Revenue.*

(Filed by the Office of the Federal Register on June 21, 1999, 8:45 a.m., and published in the issue of the Federal Register for June 22, 1999, 64 F.R. 33235)

**Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests; Correction**

**Announcement 99-47**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains

corrections to T.D. 8819, 1999-20 I.R.B. 5, final regulations relating to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests.

DATES: This correction is effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT: William L. Blodgett (202) 622-3090 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

*Background*

The final regulations that are the subject of these corrections are under section 7520 and 2031 of the Internal Revenue Code.

*Need for correction*

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

*Correction of Publication*

Accordingly, the publication of the final regulations (T.D. 8819), that were the subject of F.R. Doc. 99-10533 is corrected as follows:

1. On page 23188, in the table entitled “CROSS REFERENCE TO REGULATION SECTIONS”, in the column entitled “Interest rate”, line 11, the language “§7520.....” is corrected to read “§7520”.

PART 1 — [CORRECTED]

**§1.170A-12T [Corrected]**

2. On page 23189, column 3, §1.170A-12T(b)(2), the formula is corrected to read as follows:

*§1.170A-12T Valuation of a remainder interest in real property for contributions made after July 31, 1969 (temporary).*

\* \* \* \* \*

(b) (2) \* \* \*

$$\left(1 + \frac{i}{2}\right) \sum_{t=0}^{n-1} v^{(t+1)} \left[ \left(1 - \frac{1_{x+t+1}}{1_x}\right) - \left(1 - \frac{1_{x+t}}{1_x}\right) \right] \left(1 - \frac{1}{2n} - \frac{t}{n}\right)$$

\* \* \* \* \*

**§1.7520-1T [Corrected]**

3. On page 23211, column 1, §1.7520-1T(c)(2) heading, line 3, the language “interest rates between 2.2 and 26” is corrected to read “interest rates between 2.2 and 22”.

4. On page 23211, column 1, §1.7520-1T(c)(2)(iii), line 5, the language “depreciation adjustment factors. See” is cor-

rected to read “depreciation adjustment factors. See”.

**PART 20 — [CORRECTED]**

**§20.2031-7A [Corrected]**

5. On page 23212, column 1, §20.2031-7A(e)(4), line 9, the language “paragraph (b)(4), and Table B, Table J,” is corrected to read “paragraph (e)(4), and Table B, Table J.”.

6. On page 23212, column 2, §20.2031-7T(c), the table at the end of the paragraph is corrected to read as follows:

*§20.2031-7T Valuation of annuities, interests for life or term of years, and remainder or reversionary interests (temporary).*

\* \* \* \* \*

(c) \* \* \*

Valuation Dates		Applicable Regulations
After	Before	
	01-01-52	20.2031-7A(a).
12-31-51 . . . . .	01-01-71	20.2031-7A(b).
12-31-70 . . . . .	12-01-83	20.2031-7A(c).
11-30-83 . . . . .	05-01-89	20.2031-7A(d).
04-30-89 . . . . .	05-01-99	20.2031-7A(e).

\* \* \* \* \*

7. On page 23222, §20.2031-7T(d)(7), in the table entitled “TABLE 90 CM. LIFE TABLE APPLICABLE AFTER APRIL 30, 1999”, the column headings are corrected to read as follows:

*§20.2031-7T Valuation of annuities, interests for life or term of years, and remainder or reversionary interests (temporary).*

(d) \* \* \*

(7) \* \* \*

\* \* \* \* \*

**TABLE 90 CM. LIFE TABLE APPLICABLE AFTER APRIL 30, 1999**

Age x (1)	l (x) (2)	Age x (1)	l (x) (2)	Age x (1)	l (x) (2)

\* \* \* \* \*

**§20.7520-1T [Corrected]**

8. On page 23223, column 2, §20.7520-1T(c)(2) heading, line 3, the language “interest rates between 2.2 and 26” is corrected to read “interest rates between 2.2 and 22”.

1T(c)(2) heading, line 3, the language “interest rates between 2.2 and 26” is corrected to read “interest rates between 2.2 and 22”.

**PARTS 1, 20, 25 — [CORRECTED]**

10. On page 23228, in the table in amendatory instruction Par.32, the entry for 1.170A-6(c)(5), *Example (2)(c)* is added in numerical order; and the entries for 1.170A-6(c)(5), *Example (2)(a)*, first sentence; 1.170A-6(c)(5), *Example (3)(a)*, seventh and eighth sentences (the fifth

entry from top of chart); 1.642(c)-A6(e)(2)(i); 20.2055-2 (f)(2)(iv), *Example (3)*, second sentence; 20.2055-2(f)(2)(iv), *Example (3)*, third sentence; 20.2056A-4(c)(4)(ii)(B), penultimate sentence; and 25.7520-1(c)(1), third sentence are corrected to read as follows:

**PART 25 — [CORRECTED]**

**§25.7520-1T [Corrected]**

9. On page 23227, column 3, §25.7520-

Section	Remove	Add
* * * * *		
1.170A-6(c)(5), Example (2)(a), first sentence . . . . .	1970, . . . . .	
1.170A-6(c)(5), Example (2)(c) . . . . .	for 1970 . . . . .	
* * * * *		
1.170A-6(c)(5), Example (3)(a), seventh, eighth, and ninth sentences . . . . .	1972 . . . . .	1973.
* * * * *		
1.642(c)-6A(e)(2)(i) . . . . .	§20.2031-7(d)(6) . . . . .	§20.2031-7A(e)(4).
* * * * *		
20.2055-2(f)(2)(iv), Example (3), third sentence. . . . .	§20.2031-10(e) . . . . .	§20.2031-7A(c).
20.2055-2(f)(2)(iv), Example (3), fourth sentence . . . . .	§20.2031-10(f) . . . . .	§20.2031-7A(d).
20.2056A-4(c)(4)(ii)(B), fifth sentence . . . . .	Alpha Volume . . . . .	Book Aleph.
* * * * *		
25.7520-1(c)(1), third sentence . . . . .	Section 20.2031-7(d)(6) of this chapter (Estate Tax Regulations) contains.	Sections 20.2031-7(d)(6) and 20.2031-7A(e)(4) of this chapter contain.

Michael Slaughter,  
Acting Chief, Regulations Unit,  
Assistant Chief Counsel (Corporate).

(Filed by the Office of the Federal Register on June 21, 1999, 8:45 a.m., and published in the issue of the Federal Register for June 22, 1999, 64 F.R. 33194)

**Information Reporting Seminar for 1999; Correction**

**Announcement 99-67**

This announcement reflects information to be corrected in Announcement 99-59, 1999-24 I.R.B. 52, dated June 14, 1999.

1. The IRS/SSA seminar scheduled in Louisville, KY, on September 16, 1999, has been canceled.
2. The telephone number for the IRS/SSA seminar scheduled for Salt Lake City, UT, on September 2, 1999, has changed to 801-799-6876.
3. The telephone number for the IRS/SSA seminar scheduled for Tampa, FL, on September 23, 1999, has changed to 904-665-0520 and the fax number has changed to 904-665-1842.

**Foundations Status of Certain Organizations**

**Announcement 99-68**

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

- Former Public Charities.* The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations:
- Smith-Cotton Alumni Association, Sedalia, MO
  - Smoketown Neighborhood Development Incorporated, Louisville, KY
  - Snohomish Valley Junior Football Association, Snohomish, WA

- Snowmass-Capitol Creek Caucus, Snowmass, CO
- Sober House, Port Angeles, WA
- Sober Lifestyles Inc., Houston, TX
- Social Work Association of the Veterans Administration, Woodside, CA
- Society for Preservation of McGrew House Inc., Kingwood, WV
- Society for the Construction of an Observatory for Public Education, Salt Lake City, UT
- Society for the Cultural Preservation of Hist Jonesborough, Jonesborough, TN
- Society of Arab Americans Inc., Houston, TX
- Society of Arab Womens Welfare Aid, Chicago, IL
- Society of Connecticut Sculptors, Windsor Locks, CT
- Socorro ISD PTO-PTA Inc., El Paso, TX
- Sojourners Athletic Club, Birmingham, AL
- Solano County Visually Impaired Group, Fairfield, CA
- Solid Believers Ministry Incorporated, Kansas City, KS
- Solo Arts Group Inc., New York, NY
- Solutions & Possibilities Inc., Columbus, OH
- Solutions Business Center, Markham, IL

Solutions for the Homeless, Baltimore, MD  
Solutions Group Inc., Sandpoint, ID  
Somali Community of San Diego, San Diego, CA  
Somerville Players Inc., Tewksbury, MA  
Somnambulist Project, Chapel Hill, NC  
Sonny Billie Foundation for Native Culture Studies Inc., Ft. Lauderdale, FL  
Sonoma County Trails Council, Windsor, CA  
Sons & Daughters of America Inc., Plantation, FL  
SOS Community Foundation, Fairview, OK  
Souderton Tourney Incorporated, Tylersport, PA  
Soul in Motion Players Inc., Gaithersburg, MD  
Souls of Wonder Inc., New York, NY  
Sound Vision Radio Reading Service for the Blind Incorporated, Tulsa, OK  
Soundbyte Incorporated, Baltimore, MD  
South Asian Society on Atherosclerosis and Thrombosis Inc., Minneapolis, MN  
South Bay Junior All American Football, Torrance, CA  
South Bend Junior Chamber of Commerce Charitable Fund Inc., South Bend, IN  
South Carolina Association of Prevention Professional and, Columbia, SC  
South Central Community Development Committee Inc., Dallas, TX  
South Central Kentucky Soccer Association Inc., Somerset, KY  
South Central Shepherds Center of Wichita Inc., Wichita, KS  
South Coast Storytellers Guild, Dana Point, CA  
South County Resource Center Inc., Venice, FL  
South Cumberland Regional Land Trust Inc., Sewanee, TN  
South Dakota Council on Problem Gambling, Sioux Falls, SD  
South East Atlanta Resource Center for Housing Inc., Atlanta, GA  
South Florida Dance Theatre Inc., Boca Raton, FL  
South Florida Reef Research Team, Hallandale, FL  
South Georgia Baseball & Softball Umpires Association Inc., Waycross, GA  
South Hills Terrace Tenants Organizations Inc., Brownsville, PA  
South Little Rock Community Development Corporation, Little Rock, AR  
South Mountain Manor Inc., Vauxhall, NJ  
South Orange Athletic Association Inc., Orlando, FL  
South Puget Environmental Education Clearinghouse, Olympia, WA  
South Texas Chariot Wheelchair Basketball Association, Mission, TX  
South Texas Informer Educational Foundation Inc., Corpus Christi, TX  
South Village Neighborhood Association Inc., Indianapolis, IN  
Southeast Durham Development Corporation, Durham, NC  
Southeast Kirkwood Housing Corporation, Kirkwood, MO  
Southeast Missouri Ballet Theatre, Cape Girardeau, MO  
Southwest Arts in Action Inc., Sedona, AZ  
Southwest Business & Economic Development Association Inc., Homestead, FL  
Southwest Center for World Missions, El Paso, TX  
Southwest Development Partnership Inc., Cleveland, OH  
Southwest Fantasy Sports Foundation, Dallas, TX  
Southwest Firefighting Explorer Post 790, MacDona, TX  
Southwest Germantown Performing Arts Center, Philadelphia, PA  
Southwest Iowa Humane Society, Clarinda, IA  
Southwest Louisiana Economic Development Inc., Lake Charles, LA  
Southwest Lynx System Inc., Midland, TX  
Southwest Trailriders Association Inc., Houston, TX  
Southwest Virginia Public Education Foundation Inc., Wise, VA  
Southwest Wings Inc., Sierra Vista, AZ  
Southwest Yonkers Planning Association, Yonkers, NY  
Southwest Rural Vision Enterprises Foundation, Kindred, ND  
Southeast Texas Trauma Regional Advisory Council, Houston, TX  
Southeastern Animal Fiber Fair, Hillsborough, NC  
Southeastern Climbers Coalition Inc., Chattanooga, TN  
Southeastern Community Development Corporation, Rowland, NC  
Southeastern Institute for Law & Commerce, Nashville, TN  
Southeastern Pennsylvania Womens Ordination Conference, Blue Bell, PA  
Southern Arizona Hospice Memorial Foundation, Tucson, AZ  
Southern California Tradeswomen Network, Fontana, CA  
Southern Colorado Coal Miners Memorial and Scholarship Fund, Trinidad, CO  
Southern Equine Educational Foundation Inc., Hopkins, SC  
Southern Maryland Association for Deaf Children, Bryans Rd., MD  
Southern Minnesota Retrouvaille, Mankato, MN  
Southern Onondaga Youth Football Association Inc., Lafayette, NY  
Southern Regional Model United Nations Inc., N. Miami Beach, FL  
Southern Union Gas Company Employee Directed Charity, Austin, TX  
Southland Sheltie Rescue Inc., La Habra, CA  
Southwestern Family Center Inc., Baltimore, MD  
Sovereign God Ministries Inc., College Station, TX  
Soweta Beat Street Theatre Inc., Marietta, GA  
Space Information Laboratories Inc., Vandenberg AFB, CA  
Spanish River Community High School Foundation Inc., Boca Raton, FL  
Spearfish Youth Baseball Assoc. Inc., Spearfish, SD  
Special Education Booster Club Inc., Austin, TX  
Special Kids Equipment Association, San Diego, CA  
Special People Accessing the Community Equally Inc., Cincinnati, OH  
Spina Bifida Association of Akron Inc., Akron, OH  
Splendora Football Association, Splendora, TX  
Sports Foundation of Texas Inc., Houston, TX  
Sports Pride of America Foundation Inc., Raleigh, NC  
Spotlight Productions, Poquoson, VA  
Spring Up O Well Inc., Benbrook, TX

Springfield Area Soccer Assoc.,  
Springfield, IL  
St. Anthonys Catholic School  
Endowment Fund Inc., Lakeland, FL  
St. Clair County Housing Development  
Corporation, Fort Gratiot, MI  
St. Francis Center at the Knolls Inc.,  
Warwick, NY  
St. James USA Inc., Ellington, CT  
St. John Bosco Educational Society  
Desert Solitaire, Dolores, CO  
St. John Institute of Culture Inc., Cruz  
Bay, VI  
St. Joseph Fire Museum Inc., St. Joseph,  
MO  
St. Jude Day Care Center Incorporated,  
Memphis, TN  
St. Louis Firefighter Memorial Statue  
Inc., St. Louis, MO  
St. Louis Knights Soccer Club, St. Louis,  
MO  
St. Martin De Porres Center, San Diego,  
CA  
St. Mary Crime Stoppers Inc., Morgan  
City, LA  
St. Matthew Housing Corp., Milwaukee,  
WI  
St. Peters Homes Inc., Charlotte, NC  
St. Rose Center Support Board, Chicago,  
IL  
St. Stephen Parent Teachers  
Organization, St. Stephen, MN  
Stage Studio Inc., Largo, FL  
Stagelights, Williamsburg, VA  
Stan Ham Memorial Bull Ride and Bull  
Fight, Odessa, TX  
Stana Foundation for Democracy,  
Chantilly, VA  
Stand-Up Incorporated, Kansas City, MO  
Star Flight Fund Inc., Austin, TX  
Starfire Council of Greater Cincinnati  
Inc., Cincinnati, OH  
Starke County Child Abuse Prevention  
Council Inc., Knox, IN  
Starr Fine Arts Ranch, Wimberly, TX  
Stat Team, San Antonio, TX

Stephen Girard Memorial Committee  
Inc., Philadelphia, PA  
Stepping High Youth Club Inc.,  
Clearwater, FL  
Stop and Recover, Philadelphia, PA  
Stow Munroe Falls Library Foundation  
Inc., Stow, OH  
Straight & Narrow Inc., Lake Forest, IL  
Strategic Arts Alliance Inc., Tinker AFB,  
OK  
Strategies for the Disadvantaged &  
Indigent, Mitchellville, MD  
Straughn Memorial Diabetes Ride,  
Mancelona, MI  
Substance Abuse Management and  
Development Corporation, Cincinnati,  
OH  
Substance Abuse Recovery Group Inc.,  
Great Falls, MT  
Suda for Ex-Offenders Inc., Adams  
Basin, NY  
Suffolk Essential Needs for Seniors  
Effort Inc., Commack, NY  
Sugar Land Select Soccer Club,  
Sugarland, TX  
Summer Incentive Program Foundation,  
Cincinnati, OH  
Summer Academy Alumni Association  
Incorporated, Lenexa, KS  
Sunny Hills High School Athletic Fund,  
Fullerton, CA  
Sunshine Emergency Shelter and  
Residential Home, Loma Linda, CA  
Sunshine Health Foundation Inc.,  
Pompano Beach, FL  
Sunshine House Inc., Fresno, CA  
Support Our Communities Kids Inc.,  
Gainesville, FL  
Support Services Network Inc., San  
Angelo, TX  
Survivors of Suicide, Aurora, IL  
Susquehanna River Arts Center Inc.,  
Clearfield, PA  
Sustainability Project Inc., Santa Fe, NM  
Swap Inc., West Annapolis, MD

Sweetwater Crisis Pregnancy Center Inc.,  
Sweetwater, TX  
Swing Orchestra Institute of Chicago,  
Chicago, IL  
Sylacauga Jaycees Childrens Fund Inc.,  
Sylacauga, AL  
Symphonic Fund Inc., Galesburg, IL  
Synergy Research Consortium,  
Pittsburgh, PA  
Syosset Baseball Association Inc.,  
Syosset, NY

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

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## Page Numbers in Internal Revenue Bulletins

### Announcement 99-69

Beginning with Internal Revenue Bulletin (IRB) 1999-28, the page numbers will run consecutively from one IRB to the next. Since IRB 1999-27 ended on page 18, this IRB starts with page 19. Previously, each IRB started with page one.

This change is based on Announcement 99-36, 1999-16 IRB 10, which stated that reprints of weekly IRBs will be bound together to form the Cumulative Bulletin (CB). With this new numbering system, the page number for an item will be the same in the CB as it is in the IRB.

## Definition of Terms

*Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:*

*Amplified* describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

*Clarified* is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

*Distinguished* describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

*Modified* is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it ap-

plies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

*Obsoleted* describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

*Revoked* describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

*Superseded* describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

*Supplemented* is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

*Suspended* is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

## Abbreviations

*The following abbreviations in current use and formerly used will appear in material published in the Bulletin.*

A—Individual.  
Acq.—Acquiescence.  
B—Individual.  
BE—Beneficiary.  
BK—Bank.  
B.T.A.—Board of Tax Appeals.  
C.—Individual.  
C.B.—Cumulative Bulletin.  
CFR—Code of Federal Regulations.  
CI—City.  
COOP—Cooperative.  
Ct.D.—Court Decision.  
CY—County.  
D—Decedent.  
DC—Dummy Corporation.  
DE—Donee.  
Del. Order—Delegation Order.  
DISC—Domestic International Sales Corporation.  
DR—Donor.  
E—Estate.  
EE—Employee.

E.O.—Executive Order.  
ER—Employer.  
ERISA—Employee Retirement Income Security Act.  
EX—Executor.  
F—Fiduciary.  
FC—Foreign Country.  
FICA—Federal Insurance Contribution Act.  
FISC—Foreign International Sales Company.  
FPH—Foreign Personal Holding Company.  
F.R.—Federal Register.  
FUTA—Federal Unemployment Tax Act.  
FX—Foreign Corporation.  
G.C.M.—Chief Counsel's Memorandum.  
GE—Grantee.  
GP—General Partner.  
GR—Grantor.  
IC—Insurance Company.  
I.R.B.—Internal Revenue Bulletin.  
LE—Lessee.  
LP—Limited Partner.  
LR—Lessor.  
M—Minor.  
Nonacq.—Nonacquiescence.  
O—Organization.  
P—Parent Corporation.

PHC—Personal Holding Company.  
PO—Possession of the U.S.  
PR—Partner.  
PRS—Partnership.  
PTE—Prohibited Transaction Exemption.  
Pub. L.—Public Law.  
REIT—Real Estate Investment Trust.  
Rev. Proc.—Revenue Procedure.  
Rev. Rul.—Revenue Ruling.  
S—Subsidiary.  
S.P.R.—Statements of Procedural Rules.  
Stat.—Statutes at Large.  
T—Target Corporation.  
T.C.—Tax Court.  
T.D.—Treasury Decision.  
TFE—Transferee.  
TFR—Transferor.  
T.I.R.—Technical Information Release.  
TP—Taxpayer.  
TR—Trust.  
TT—Trustee.  
U.S.C.—United States Code.  
X—Corporation.  
Y—Corporation.  
Z—Corporation.

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

Bulletin 1999-27

### **Announcements:**

99-64, 1999-27 I.R.B. 7

99-65, 1999-27 I.R.B. 9

99-66, 1999-27 I.R.B. 9

### **Revenue Rulings:**

99-29, 1999-27 I.R.B. 3

### **Treasury Decisions:**

8822, 1999-27 I.R.B. 5

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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 1999-1 through 1999-26 will be found in Internal Revenue Bulletin 1999-27, dated July 6, 1999.

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

Bulletin 1999-27

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<sup>1</sup> A cumulative finding list for previously published items mentioned in Internal Revenue Bulletins 1999-1 through 1999-26 will be found in Internal Revenue Bulletin 1999-27, dated July 6, 1999.

## Notes

## Notes



# INTERNAL REVENUE BULLETIN

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

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## WE WELCOME COMMENTS ABOUT THE INTERNAL REVENUE BULLETIN

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