

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. 99-31, page 410.

LIFO; price indexes; department stores. The July 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, July 31, 1999.

T.D. 8836, page 411.

Final regulations under section 453 of the Code relate to taxation of capital gains on installment sales of depreciable real property.

EXEMPT ORGANIZATIONS

Announcement 99-91, page 421.

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

ADMINISTRATIVE

REG-113526-98, page 417.

Proposed regulations under section 148 of the Code relate to the definition of investment-type property for the arbitrage

and related restrictions applicable to tax-exempt bonds issued by State and local governments. A public hearing is scheduled for January 12, 2000.

REG-105565-99, page 419.

Proposed regulations under section 148 of the Code relate to the special rule for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow. A public hearing is scheduled for December 14, 1999.

Notice 99-45, page 415.

1999 Enhanced Oil Recovery Credit. The enhanced oil recovery credit for taxable years beginning in 1999 is determined without regard to the phase-out for crude oil price increases provided in section 43(b) of the Code.

Notice 99-46, page 415.

1999 marginal production rates. This notice announces the applicable percentage to be used in determining percentage depletion for marginal properties for taxable years beginning in 1999.

Finding Lists begin on page ii.



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.

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.

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

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

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

LIFO; price indexes; department stores. The July 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, July 31, 1999.

Rev. Rul. 99-31

The following Department Store Inventory Price Indexes for July 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 department stores employing the retail inventory and last-in, first-out inventory methods for tax years ended on, or with reference to, July 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	July 1998	July 1999	Percent Change from July 1998 to July 1999 ¹
1. Piece Goods	547.7	551.4	0.7
2. Domestic and Draperies	626.7	632.6	0.9
3. Women's and Children's Shoes	642.3	635.4	-1.1
4. Men's Shoes	906.5	874.8	-3.5
5. Infants' Wear	606.8	615.1	1.4
6. Women's Underwear	573.1	560.8	-2.1
7. Women's Hosiery	307.6	321.3	4.5
8. Women's and Girls' Accessories	539.3	532.8	-1.2
9. Women's Outerwear and Girls' Wear	389.3	367.0	-5.7
10. Men's Clothing	613.4	616.1	0.4
11. Men's Furnishings	589.3	618.8	5.0
12. Boys' Clothing and Furnishings	489.4	470.9	-3.8
13. Jewelry	981.5	962.1	-2.0
14. Notions	767.3	794.3	3.5
15. Toilet Articles and Drugs	947.6	967.1	2.1
16. Furniture and Bedding	683.7	685.0	0.2
17. Floor Coverings	602.1	602.2	0.0
18. Housewares	825.5	792.6	-4.0
19. Major Appliances	238.3	235.0	-1.4
20. Radio and Television	71.6	65.7	-8.2
21. Recreation and Education ²	104.3	98.1	-5.9
22. Home Improvements ²	131.2	128.1	-2.4
23. Auto Accessories ²	107.5	106.5	-0.9
Groups 1 - 15: Soft Goods	592.1	588.1	-0.7
Groups 16 - 20: Durable Goods	464.9	449.3	-3.4
Groups 21 - 23: Misc. Goods ²	108.4	103.7	-4.3
Store Total ³	545.9	536.7	-1.7

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

² Indexes on a January 1986=100 base.

³ 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).

Section 453.—Installment Method

26 CFR 1.453.12: Allocation of unrecaptured section 1250 gain reported on the installment method.

T.D. 8836

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Capital Gains, Installment Sales, Unrecaptured Section 1250 Gain

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the taxation of capital gains on installment sales of depreciable real property. The regulations interpret changes made by the Taxpayer Relief Act of 1997, as amended by the Internal Revenue Service Restructuring and Reform Act of 1998 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999. The regulations affect persons required to report capital gain from an installment sale where a portion of the capital gain is unrecaptured section 1250 gain and a portion is adjusted net capital gain.

DATES: *Effective Date:* These regulations are effective August 23, 1999.

Applicability Date: These regulations apply to installment payments properly taken into account after August 23, 1999.

FOR FURTHER INFORMATION CONTACT: Susan Kassell, (202) 622-4930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1). On January 22, 1999, a notice of proposed rulemaking (REG-110524-98, 1999-10 I.R.B. 55) relating to the taxation of capital gains on installment sales of depreciable real property was published in the **Federal Register** (64 F.R. 3457). No comments were received from the public in response to the notice of proposed rulemaking. No public hearing was requested or held. The proposed regulations are adopted without substantive change by this Treasury decision.

Explanation of Provisions

In 1997 Congress amended section 1(h) generally to reduce the maximum capital gain tax rates for individuals. As amended, section 1(h) generally divides a taxpayer's net capital gain into several rate groups. A maximum marginal rate of 28 percent applies to 28-percent rate gain, which is not pertinent to these final regulations. A maximum marginal rate of 25 percent applies to unrecaptured section 1250 gain (25-percent gain), which is defined in section 1(h)(7)(A) as the amount of long-term capital gain (not otherwise treated as ordinary income) that would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, reduced by any net loss in the 28-percent rate category. A maximum marginal rate of 20 percent applies to adjusted net capital gain (20/10-percent gain), defined in section 1(h)(4) as the portion of net capital gain that is not taxed at the 28-percent or 25-percent rates. A reduced rate of 10 percent is applied to the portion of the taxpayer's adjusted net capital gain that would otherwise be taxed at a 15-percent rate.

Under the final regulations, if a portion of the capital gain from an installment sale of real depreciable property consists of 25-percent gain, and a portion consists of 20/10-percent gain, the taxpayer is required to take the 25-percent gain into account before the 20/10-percent gain, as payments are received. In addition, an example in the regulations illustrates that

section 1231 gain from an installment sale that is recharacterized as ordinary gain under section 1231(c) is deemed to consist first of 25-percent gain, and then 20/10-percent gain. Consistent with this treatment and with the general rule that 25-percent gain is taken into account first, another example in the regulations illustrates that, where there is installment gain that is characterized as ordinary gain under section 1231(a) because there is a net section 1231 loss for the year, the gain is treated as consisting of 25-percent gain first, before 20/10-percent gain, for purposes of determining how much 25-percent gain remains to be taken into account in later payments.

The final regulations also provide that the capital gain rates applicable to installment payments that are received on or after the effective date of the 1997 Act from sales prior to the effective date are determined as if, for all payments received after the date of sale but before the effective date, 25-percent gain had been taken into account before 20/10-percent gain. The regulations further provide that, in the event the cumulative amount of 25-percent gain actually reported in installment payments received during the period between the effective date of section 1(h) and the effective date of these regulations was less than the amount that would have been reported using the front-loaded allocation method of the regulations, the amount of 25-percent gain actually reported, rather than an amount determined under a front-loaded allocation method, must be used in determining the amount of 25-percent gain that remains to be reported.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 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. Pursuant to section 7805(f) of the Internal

Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Susan Kassell and Rob Laude-man, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:
Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.453-12 is added to read as follows:

§1.453-12 Allocation of unrecaptured section 1250 gain reported on the installment method.

(a) *General rule.* Unrecaptured sec-

tion 1250 gain, as defined in section 1(h)(7), is reported on the installment method if that method otherwise applies under section 453 or 453A and the corresponding regulations. If gain from an installment sale includes unrecaptured section 1250 gain and adjusted net capital gain (as defined in section 1(h)(4)), the unrecaptured section 1250 gain is taken into account before the adjusted net capital gain.

(b) *Installment payments from sales before May 7, 1997.* The amount of unrecaptured section 1250 gain in an installment payment that is properly taken into account after May 6, 1997, from a sale before May 7, 1997, is determined as if, for all payments properly taken into account after the date of sale but before May 7, 1997, unrecaptured section 1250 gain had been taken into account before adjusted net capital gain.

(c) *Installment payments received after May 6, 1997, and on or before August 23, 1999.* If the amount of unrecaptured section 1250 gain in an installment payment that is properly taken into account after May 6, 1997, and on or before August 23, 1999, is less than the amount that would have been taken into account under this section, the lesser amount is used to determine the amount of unrecaptured section 1250 gain that remains to be taken into account.

(d) *Examples.* In each example, the

taxpayer, an individual whose taxable year is the calendar year, does not elect out of the installment method. The installment obligation bears adequate stated interest, and the property sold is real property held in a trade or business that qualifies as both section 1231 property and section 1250 property. In all taxable years, the taxpayer's marginal tax rate on ordinary income is 28 percent. The following examples illustrate the rules of this section:

Example 1. General rule. This example illustrates the rule of paragraph (a) of this section as follows:

(i) In 1999, A sells property for \$10,000, to be paid in ten equal annual installments beginning on December 1, 1999. A originally purchased the property for \$5000, held the property for several years, and took straight-line depreciation deductions in the amount of \$3000. In each of the years 1999-2008, A has no other capital or section 1231 gains or losses.

(ii) A's adjusted basis at the time of the sale is \$2000. Of A's \$8000 of section 1231 gain on the sale of the property, \$3000 is attributable to prior straight-line depreciation deductions and is unrecaptured section 1250 gain. The gain on each installment payment is \$800.

(iii) As illustrated in the table in this paragraph (iii) of this *Example 1*, A takes into account the unrecaptured section 1250 gain first. Therefore, the gain on A's first three payments, received in 1999, 2000, and 2001, is taxed at 25 percent. Of the \$800 of gain on the fourth payment, received in 2002, \$600 is taxed at 25 percent and the remaining \$200 is taxed at 20 percent. The gain on A's remaining six installment payments is taxed at 20 percent. The table is as follows:

	1999	2000	2001	2002	2003	2004-2008	Total gain
Installment gain	800	800	800	800	800	4000	8000
Taxed at 25%	800	800	800	600			3000
Taxed at 20%				200	800	4000	5000
Remaining to be taxed at 25%	2200	1400	600				

Example 2. Installment payments from sales prior to May 7, 1997. This example illustrates the rule of paragraph (b) of this section as follows:

(i) The facts are the same as in *Example 1* except that A sold the property in 1994, received the first of the ten annual installment payments on December 1, 1994, and had no other capital or section 1231 gains or losses in the years 1994-2003.

(ii) As in *Example 1*, of A's \$8000 of gain on the

sale of the property, \$3000 was attributable to prior straight-line depreciation deductions and is unrecaptured section 1250 gain.

(iii) As illustrated in the following table, A's first three payments, in 1994, 1995, and 1996, were received before May 7, 1997, and taxed at 28 percent. Under the rule described in paragraph (b) of this section, A determines the allocation of unrecaptured section 1250 gain for each installment payment after

May 6, 1997, by taking unrecaptured section 1250 gain into account first, treating the general rule of paragraph (a) of this section as having applied since the time the property was sold, in 1994. Consequently, of the \$800 of gain on the fourth payment, received in 1997, \$600 is taxed at 25 percent and the remaining \$200 is taxed at 20 percent. The gain on A's remaining six installment payments is taxed at 20 percent. The table is as follows:

	1994	1995	1996	1997	1998	1999-2003	Total gain
Installment gain	800	800	800	800	800	4000	8000
Taxed at 28%	800	800	800				2400
Taxed at 25%				600			600
Taxed at 20%				200	800	4000	5000
Remaining to be taxed at 25%	2200	1400	600				

Example 3. Effect of section 1231(c) recapture. This example illustrates the rule of paragraph (a) of this section when there are non-recaptured net section 1231 losses, as defined in section 1231(c)(2), from prior years as follows:

(i) The facts are the same as in *Example 1*, except that in 1999 A has non-recaptured net section 1231 losses from the previous four years of \$1000.

(ii) As illustrated in the table in paragraph (iv) of this *Example 3*, in 1999, all of A's \$800 installment gain is recaptured as ordinary income under section 1231(c). Under the rule described in paragraph (a)

of this section, for purposes of determining the amount of unrecaptured section 1250 gain remaining to be taken into account, the \$800 recaptured as ordinary income under section 1231(c) is treated as reducing unrecaptured section 1250 gain, rather than adjusted net capital gain. Therefore, A has \$2200 of unrecaptured section 1250 gain remaining to be taken into account.

(iii) In the year 2000, A's installment gain is taxed at two rates. First, \$200 is recaptured as ordinary income under section 1231(c). Second, the remaining \$600 of gain on A's year 2000 installment

payment is taxed at 25 percent. Because the full \$800 of gain reduces unrecaptured section 1250 gain, A has \$1400 of unrecaptured section 1250 gain remaining to be taken into account.

(iv) The gain on A's installment payment received in 2001 is taxed at 25 percent. Of the \$800 of gain on the fourth payment, received in 2002, \$600 is taxed at 25 percent and the remaining \$200 is taxed at 20 percent. The gain on A's remaining six installment payments is taxed at 20 percent. The table is as follows:

	1999	2000	2001	2002	2003	2004-2008	Total gain
Installment gain	800	800	800	800	800	4000	8000
Taxed at ordinary rates under section 1231(c)	800	200					1000
Taxed at 25%		600	800	600			2000
Taxed at 20%				200	800	4000	5000
Remaining non-recaptured net section 1231 losses	200						
Remaining to be taxed at 25%	2200	1400	600				

Example 4. Effect of a net section 1231 loss. This example illustrates the application of paragraph (a) of this section when there is a net section 1231 loss as follows:

(i) The facts are the same as in *Example 1* except that A has section 1231 losses of \$1000 in 1999.

(ii) In 1999, A's section 1231 installment gain of \$800 does not exceed A's section 1231 losses of \$1000. Therefore, A has a net section 1231 loss of \$200. As a result, under section 1231(a) all of A's section 1231 gains and losses are treated as ordinary gains and losses. As illustrated in the following table, A's entire \$800 of installment gain is ordinary gain. Under the rule described in paragraph (a) of

this section, for purposes of determining the amount of unrecaptured section 1250 gain remaining to be taken into account, A's \$800 of ordinary section 1231 installment gain in 1999 is treated as reducing unrecaptured section 1250 gain. Therefore, A has \$2200 of unrecaptured section 1250 gain remaining to be taken into account.

(iii) In the year 2000, A has \$800 of section 1231 installment gain, resulting in a net section 1231 gain of \$800. A also has \$200 of non-recaptured net section 1231 losses. The \$800 gain is taxed at two rates. First, \$200 is taxed at ordinary rates under section 1231(c), recapturing the \$200 net section 1231 loss sustained in 1999. Second, the remaining \$600 of

gain on A's year 2000 installment payment is taxed at 25 percent. As in *Example 3*, the \$200 of section 1231(c) gain is treated as reducing unrecaptured section 1250 gain, rather than adjusted net capital gain. Therefore, A has \$1400 of unrecaptured section 1250 gain remaining to be taken into account.

(iv) The gain on A's installment payment received in 2001 is taxed at 25 percent, reducing the remaining unrecaptured section 1250 gain to \$600. Of the \$800 of gain on the fourth payment, received in 2002, \$600 is taxed at 25 percent and the remaining \$200 is taxed at 20 percent. The gain on A's remaining six installment payments is taxed at 20 percent. The table is as follows:

	1999	2000	2001	2002	2003	2004-2008	Total gain
Installment gain	800	800	800	800	800	4000	8000
Ordinary gain under section 1231(a)	800						800
Taxed at ordinary rates under section 1231(c)		200					200
Taxed at 25%		600	800	600			2000
Taxed at 20%				200	800	4000	5000
Net section 1231 loss	200						
Remaining to be taxed at 25%	2200	1400	600				

(e) *Effective date.* This section applies to installment payments properly taken into account after August 23, 1999.

Donald C. Lubick,
Assistant Secretary
of the Treasury.

Robert E. Wenzel,
Deputy Commissioner of
Internal Revenue.

(Filed by the Office of the Federal Register on August 20, 1999, 8:45 a.m., and published in the issue of the Federal Register for August 23, 1999, 64 F.R. 45874)

Approved August 9, 1999.

Part III. Administrative, Procedural, and Miscellaneous

1999 Section 43 Inflation Adjustment

Notice 99-45

Section 43(b)(3)(B) of the Internal Revenue Code requires the Secretary to publish an inflation adjustment factor. The enhanced oil recovery credit under § 43 for any taxable year is reduced if the “reference price,” determined under § 29(d)(2)(C), for the calendar year pre-

ceding the calendar year in which the taxable year begins is greater than \$28 multiplied by the inflation adjustment factor for that year.

The term “inflation adjustment factor” means, with respect to any calendar year, a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990.

Because the reference price for the

1998 calendar year (\$10.88) does not exceed \$28 multiplied by the inflation adjustment factor for the 1999 calendar year, the enhanced oil recovery credit for qualified costs paid or incurred in 1999 is determined without regard to the phase-out for crude oil price increases.

Table 1 contains the GNP implicit price deflator used for the 1999 calendar year, as well as the previously published GNP implicit price deflators used for the 1991 through 1998 calendar years.

Notice 99-45 TABLE 1

GNP IMPLICIT PRICE DEFLATORS

<i>Calendar Year</i>	<i>GNP Implicit Price Deflator</i>
1990	112.9 (used for 1991)
1991	117.0 (used for 1992)
1992	120.9 (used for 1993)
1993	124.1 (used for 1994)
1994	126.0 (used for 1995)
1995	107.5 (used for 1996)*
1996	109.7 (used for 1997)
1997	112.35 (used for 1998)**
1998	112.64 (used for 1999)

*Beginning in 1995, the GNP implicit price deflator was rebased relative to 1992. The 1990 GNP implicit price deflator used to compute the 1996 § 43 inflation adjustment factor is 93.6.

**Beginning in 1997, two digits follow the decimal point in the GNP implicit price deflator. The 1990 GNP price deflator used to compute the 1998 § 43 inflation adjustment factor is 93.63.

Table 2 contains the inflation adjustment factor and the phase-out amount for taxable years beginning in the 1999 calendar year as well as the previously published inflation adjustment factors and phase-out amounts for the 1991 through 1998 calendar years.

DRAFTING INFORMATION

The principal author of this notice is Brenda M. Stewart of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact Ms.

Stewart on (202) 622-3120 (not a toll-free call).

1999 Marginal Production Rates

Notice 99-46

Section 613A(c)(6)(C) of the Internal Revenue Code defines the term “applicable percentage” for purposes of determining percentage depletion for oil and gas produced from marginal properties. The applicable percentage is the percentage (not greater than 25 percent) equal to the sum of 15 percent, plus one percentage point for each whole dollar by which \$20 exceeds the reference price (determined under § 29(d)(2)(C)) for crude oil for the calendar year preceding the calendar year in which the taxable year begins. The reference price determined under § 29(d)-

Notice 9-45 TABLE 2

INFLATION ADJUSTMENT FACTORS AND PHASE-OUT AMOUNTS

<i>Calendar Year</i>	<i>Inflation Adjustment Factor</i>	<i>Phase-out Amount</i>
1991	1.0000	0
1992	1.0363	0
1993	1.0708	0
1994	1.0992	0
1995	1.1160	0
1996	1.1485	0
1997	1.1720	0
1998	1.1999	0
1999	1.2030	0

(2)(C) for the 1998 calendar year is \$10.88.

Table 1 contains the applicable percentages for marginal production for taxable years beginning in calendar years 1991 through 1999.

The principal author of this notice is Brenda M. Stewart of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact Ms. Stewart at (202) 622-3120 (not a toll-free call).

Notice 99-46 TABLE 1

APPLICABLE PERCENTAGE FOR MARGINAL PRODUCTION

<i>Calendar Year</i>	<i>Applicable Percentage</i>
1991	15 percent
1992	18 percent
1993	19 percent
1994	20 percent
1995	21 percent
1996	20 percent
1997	16 percent
1998	17 percent
1999	24 percent

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

Arbitrage and Related Restrictions Applicable to Tax-exempt Bonds Issued by State and Local Governments, Investment-Type Property

REG-113526-98

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations on the arbitrage and related restrictions applicable to tax-exempt bonds issued by State and local governments. The proposed amendments affect issuers of tax-exempt bonds and provide guidance on the definition of investment-type property to help issuers comply with the arbitrage and related restrictions.

DATES: Written comments must be received by December 23, 1999. Outlines of topics to be discussed at the public hearing scheduled for January 12, 2000, at 10 a.m. must be received by December 15, 1999.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG-113526-98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG-113526-98), 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 submitting comments directly to the IRS site at http://www.irs.ustreas.gov/tax_regs/reglist.html. The public hearing is in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Barbara Jane League, (202) 622-3980; concerning submissions of comments, the hearing, and/or requests to be placed on the building access list to attend the hearing, LaNita Van Dyke, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 148 of the Internal Revenue Code provides rules addressing the use of proceeds of tax-exempt State and local bonds to acquire higher-yielding investments. On June 18, 1993, final regulations (T.D. 8476, 1993-2 C.B. 13) relating to the arbitrage restrictions and related rules under sections 103, 148, 149, and 150 were published in the **Federal Register** (58 F.R. 33510). Corrections to these regulations were published in the **Federal Register** on August 23, 1993 (58 F.R. 44451), May 11, 1994 (59 F.R. 24350), and July 9, 1999 (64 F.R. 37037). On May 9, 1997, additional final regulations (T.D. 8718, 1997-1 C.B. 47) relating to the arbitrage restrictions and related rules under sections 103, 148, 149, and 150 were published in the **Federal Register** (62 F.R. 25502). This document proposes to modify §1.148-1(e) to clarify which prepayments are investment-type property under section 148(b)(2)(D).

Explanation of Provisions

The current regulations, at §1.148-1(e)(2), provide that prepayments for property or services give rise to investment-type property if a principal purpose for prepaying is to obtain an investment return from the time that the payment is made until the time that payment otherwise would be made. A prepayment does not give rise to investment-type property if (1) the prepayment is made for a substantial business purpose other than investment return and the issuer has no commercially reasonable alternative to the prepayment, or (2) prepayments on substantially the same terms are made by a substantial percentage of persons who

are similarly situated to the issuer but who are not beneficiaries of tax-exempt financing.

Recently, an issue arose about whether investment-type property includes the prepayment of a contract for property or services after the date that the contract is entered into. In *City of Columbus v. Commissioner*, 112 F.3d 1201 (D.C. Cir. 1997), the court held that a prepayment for property cannot occur after the property is acquired. The court's holding suggests that an issuer could avoid investment-type property by entering into a contract for property or services and, at a later date, prepaying that contract. This result is inconsistent with the intent of section 148. The legislative history indicates that Congress intended that the arbitrage rules apply broadly. For example, the Conference Report to the Tax Reform Act of 1986 provides that investment property includes the acquisition of any property held for investment (other than another tax-exempt bond). H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II-747, 1986-3 C.B. (Vol.4) 747.

This document proposes modifications to the regulations to establish that prepayments that give rise to investment-type property can occur after the contract for property or services is entered into and to make other non-substantive, clarifying changes. It is intended that these regulations address only the potential issue created by the *City of Columbus* opinion as noted above. Comments are requested on whether the affect of the changes proposed in this document is broader than intended.

In addition to comments on the proposed regulations, comments are requested on whether additional guidance is needed to clarify other aspects of the investment-type property definition. For example, comments are requested on whether clarification is needed on which prepayments of an obligation will be treated as a prepayment for property or services that gives rise to investment-type property, and whether a contract under which property or services are to be provided over time and the payments for those property or services are to be made

over time gives rise to investment-type property when the payment schedule does not match the schedule for the provision of the property or services.

Finally, Treasury and the IRS have become aware of certain transactions involving prepayments for the purchase of a commodity. In these transactions, an issuer generally enters into a long-term contract with a supplier (for example, a natural gas supply company) to supply over a number of years a fixed amount of the commodity to the issuer at a fixed price (the "supply contract"). In return, the issuer makes a single lump-sum prepayment for the commodity to the supplier. The prepayment is financed through the issuance of bonds. The amount of the prepayment is determined in a manner that permits the issuer to obtain an investment return from the prepayment. The issuer also enters into other agreements, including one or more swap agreements, that result in the issuer converting substantially all of the issuer's cost for the commodity under the supply contract into a variable cost that approximates the then current price of the commodity when the issuer takes delivery.

Based on the information received, and viewing the transaction as a whole, it appears that a principal purpose of the prepayment for the supply contract was to earn an investment return. If so, the supply contract is investment-type property unless the requirement of §1.148-1(e)(2)(i) or (ii) are met. Treasury and the IRS are concerned that the supply contract may be investment-type property and request comments on these transactions.

The regulations, when finalized, will apply to bonds issued after a date of applicability that will be set forth in the final regulations. Treasury and the IRS have not yet determined such date of applicability other than to have made the determination that the date of applicability will not be before August 25, 1999. Treasury and the IRS request comments as to the date of applicability of the final regulations. No inference is intended as to the treatment of bonds issued prior to the date of applicability of the final regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a signifi-

cant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also 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 the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies, if written) that are submitted timely to the IRS. In particular, the IRS and Department of Treasury specifically 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 Wednesday, January 12, 2000, beginning at 10 a.m. in room 2615, 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 written comments by December 23, 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 December 15, 1999. A period

of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of 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 authors of these proposed regulations are Rebecca L. Harrigal and Barbara Jane League, Office of Assistant Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and Treasury Department participated in their development.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.148-1(e) is amended as follows:

1. Paragraph (e)(1) is revised.

2. Paragraphs (e)(2) introductory text, (e)(2)(i) and (e)(2)(ii) are redesignated as paragraphs (e)(2)(i) introductory text, (e)(2)(i)(A), and (e)(2)(i)(B), respectively.

3. Paragraph (e)(2) the heading is revised.

4. Newly designated paragraph (e)(2)(i) introductory text is revised.

5. New paragraph (e)(2)(ii) is added.

The revisions and addition read as follows:

§1.148-1 Definitions and elections.

* * * * *

(e) *Investment-type property*—(1) *In general.* Investment-type property includes any property, other than property described in section 148(b)(2)(A), (B), (C) or (E), that is held principally as a passive vehicle for the production of income. For this purpose, production of income includes any benefit based on the time value of money.

(2) *Prepayments.* (i) Except as otherwise provided in this paragraph (e), a prepayment for property or services, includ-

ing a prepayment of a contract for property or services that is made after the date that the contract is entered into, also gives rise to investment-type property if a principal purpose for prepaying is to receive an investment return from the time the prepayment is made until the time payment otherwise would be made. A prepayment does not give rise to investment type property if—

* * * * *

(ii) *Example.* The following example illustrates an application of paragraph (e)(2)(i) of this section:

Example. In 1996, City A entered into a ten-year contract with Company Y. Under the contract, Company Y is to provide services to City A and in return City A will make fixed annual payments to Company Y. In 1998, Company Y and City A agree that City A will prepay its obligation under the contract. To finance the prepayment, City A will issue bonds. The amount of the prepayment is determined in a manner that permits City A to obtain an investment return from the prepayment. A principal purpose for City A agreeing to make the prepayment is to obtain an investment return from the time of the prepayment until the time payment otherwise would be made. The prepayment is not made for a substantial business purpose other than to obtain the investment return and City A had a commercially reasonable alternative to the prepayment. In addition, prepayments on substantially the same terms are not made by a substantial percentage of persons who are similarly situated to City A but who are not beneficiaries of tax-exempt financing. When the prepayment is made, City A will have acquired investment-type property. It does not matter that the prepayment occurred after the date that the contract was entered into.

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

(Filed by the Office of the Federal Register on August 24, 1999, 8:45 a.m., and published in the issue of the Federal Register for August 25, 1999, 64 F.R. 46320)

Notice of Proposed Rulemaking and Notice of Public Hearing

Arbitrage Restrictions Applicable to Tax-exempt Bonds Issued by State and Local Governments

REG-105565-99

AGENCY: Internal Revenue Service
(IRS), Treasury.

1999-37 I.R.B.

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

SUMMARY: This document contains proposed regulations on the arbitrage restrictions applicable to tax-exempt bonds issued by State and local governments. The proposed amendments affect issuers of tax-exempt bonds and provide a safe harbor for qualified administrative costs for brokers' commissions and similar fees incurred in connection with the acquisition of a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow.

DATES: Written comments must be received by November 26, 1999. Outlines of topics to be discussed at the public hearing scheduled for December 14, 1999, at 10 a.m. must be received by Tuesday, November 23, 1999.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG-105565-99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG-105565-99), 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 submitting comments directly to the IRS site at http://www.irs.ustreas.gov/tax_regs/regslst.html. The public hearing is in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Rose M. Weber, (202) 622-3980; concerning submissions of comments, the hearing, and/or requests to be placed on the building access list to attend the hearing, Michael Slaughter, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 148 of the Internal Revenue Code provides rules addressing the use of proceeds of tax-exempt State and local

bonds to acquire higher-yielding investments. On May 9, 1997, final regulations (T.D. 8718, 1997-1 C.B. 47) relating to the arbitrage restrictions and related rules under sections 103, 148, 149, and 150 were published in the **Federal Register** (62 F.R. 25502). The final regulations (T.D. 8718) were amended on December 30, 1998 (63 F.R. 71748 [T.D. 8801, 1999-4 I.R.B. 5]). This document proposes to modify § 1.148-5(e)(2) to provide a safe harbor for determining whether brokers' commissions and similar fees incurred in connection with the acquisition of guaranteed investment contracts or investments purchased for a yield restricted defeasance escrow are treated as qualified administrative costs.

Explanation of Provisions

Section 1.148-5(e)(2)(iii) and (iv) of the regulations provides rules for determining whether a broker's commission or similar fee is treated as a qualified administrative cost. Section 1.148-5(e)(2)(iii) provides that, for a guaranteed investment contract, a broker's commission or similar fee paid on behalf of either an issuer or the provider is treated as an administrative cost and, generally, is a qualified administrative cost to the extent that the present value of the commission, as of the date the contract is allocated to the issue, does not exceed the lesser of a reasonable amount or the present value of annual payments equal to .05 percent of the weighted average amount reasonably expected to be invested each year of the term of the contract. Present value is computed using the taxable discount rate used by the parties to compute the commission, or if not readily ascertainable, the yield to the issuer on the investment contract or other reasonable taxable discount rate.

Section 1.148-5(e)(2)(iv) provides that, for investments purchased for a yield restricted defeasance escrow, a fee paid to a bidding agent is a qualified administrative cost only if the fee is comparable to a fee that would be charged for a reasonably comparable investment if acquired with a source of funds other than gross proceeds of tax-exempt bonds, and it is reasonable. The fee is deemed to meet both the comparability and reasonableness requirements if it does not exceed the lesser of \$10,000 and .1 percent of the ini-

tial principal amount of investments deposited in the yield restricted defeasance escrow.

Unlike §1.148-5(e)(2)(iv), §1.148-5(e)(2)(iii) does not provide parameters under which the reasonableness test will be deemed to have been met. Practitioners have noted that they are uncertain about how to determine reasonableness and whether the .05% test may be used as a safe harbor without regard to whether the resulting amount is a reasonable fee.

Practitioners have also noted that the computation required by §1.148-5(e)(2)(iii) is too complex and results in different fees being paid for the same services provided.

Finally, having different rules for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow provides an unnecessary tax incentive to structure investments in a certain manner.

To eliminate these complexities and to provide a rule that is easily administered by issuers, the proposed regulations create a single rule for qualified administrative costs that applies to a broker's commission or similar fee incurred in connection with a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow. The proposed regulations also set forth a safe harbor, which allows a broker's commission or similar fee incurred in connection with the acquisition of a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow to be treated as a qualified administrative cost. To fairly compensate most brokers, the proposed safe harbor provides a higher safe harbor limit than is currently provided for in §1.148-5(e)(2)(iv).

The proposed safe harbor sets forth two requirements. Under the first requirement, the amount of the broker's commission or similar fee incurred in connection with the acquisition of a guaranteed investment contract or other investments purchased for a yield restricted defeasance escrow and treated by the issuer as a qualified administrative cost cannot exceed the lesser of \$25,000 and .2 percent of the computational base. For guaranteed investment contracts, the computational base is the aggregate amount reasonably expected to be deposited over the

term of the contract. For investments, other than guaranteed investment contracts, deposited in a yield restricted defeasance escrow, the computational base is the initial amount invested in those investments. For example, for a guaranteed investment contract purchased for a debt service fund, the aggregate amount reasonably expected to be deposited includes all periodic deposits reasonably expected to be made pursuant to the terms of the contract. Under the second requirement, for any issue of bonds, the issuer cannot treat as qualified administrative costs more than \$75,000 in brokers' commissions and similar fees with respect to all guaranteed investment contracts and investments for yield restricted defeasance escrows purchased with gross proceeds of the issue.

The proposed regulations eliminate the special rule in §1.148-5(e)(2)(iii) for issues that meet section 148(f)(4)(D)(i). These bond issues will be permitted to use the safe harbor.

These regulations are proposed to apply to bonds sold on or after the date 90 days after the issuance of the final regulations.

Special Analysis

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 has also 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 the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies, if written) that are sub-

mitted timely to the IRS. In particular, the IRS and Department of Treasury specifically 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 Tuesday, December 14, 1999, beginning at 10 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 written comments by November 26, 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 November 23, 1999. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of 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 authors of these proposed regulations are Rose M. Weber and Rebecca L. Harrigal, Office of the Assistant Chief Counsel (Financial Institutions & Products). However, other personnel from the IRS and Treasury Department participated in their development.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. In §1.148-5, paragraph (e) is amended as follows:

- 1. Paragraph (e)(2)(iii) is revised.
- 2. Paragraph (e)(2)(iv) is removed.

The revision reads as follows:

§1.148-5 Yield and valuation of investments.

* * * * *

(e) * * *

(2) * * *

(iii) *Special rule for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow—*

(A) *In general.* An amount paid for a broker's commission or similar fee with respect to a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow is a qualified administrative cost if the fee is reasonable within the meaning of paragraph (e)(2)(i) of this section.

(B) *Safe harbor.* (1) A broker's commission or similar fee with respect to the acquisition of a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow is reasonable within the meaning of paragraph (e)(2)(i) of this section if—

(i) The amount of the fee that the issuer treats as a qualified administrative cost does not exceed the lesser of \$25,000 and .2% of the computational base; and

(ii) For any issue, the issuer does not treat as qualified administrative costs more than \$75,000 in brokers' commissions or similar fees with respect to all guaranteed investment contracts and investments for yield restricted defeasance escrows purchased with gross proceeds of the issue.

(2) For purposes of paragraph (e)(2)-(iii)(B)(1) of this section, computational base shall mean—

(i) For a guaranteed investment contract, the amount the issuer reasonably expects as of the issue date to be deposited in the guaranteed investment contract over the term of the contract; and

(ii) For investments (other than guaranteed investment contracts) to be deposited

in a yield restricted defeasance escrow, the amount of gross proceeds initially invested in those investments.

(C) *Example.* The following example illustrates an application of the safe harbor in paragraph (e)(2)(iii)(B) of this section:

Example. The issuer of a multipurpose issue uses brokers to purchase the following investments with gross proceeds of the issue: a guaranteed investment contract for amounts to be deposited in a debt service fund (debt service GIC), a guaranteed investment contract for amounts to be deposited in a construction fund (construction GIC), Treasury securities to be deposited in a yield restricted defeasance escrow (Treasury investments) and a guaranteed investment contract that will be used to earn a return on what would otherwise be idle cash balances from maturing investments in the yield restricted defeasance escrow (the float GIC). The issuer uses \$8,040,000 of the proceeds to purchase the Treasury investments and deposits \$14,000,000 into the construction GIC. Over the term of the construction GIC, the issuer reasonably expects that no further deposits will be made. Over the term of the float GIC, the issuer reasonably expects that aggregate deposits of \$600,000 will be made to the float GIC. Over the term of the debt service GIC, the issuer reasonably expects that it will make aggregate deposits of \$22,000,000, plus interest on the bond issue. The brokers' fees do not exceed \$16,080 for the Treasury investments, \$25,000 for the construction GIC, \$1,200 for the float GIC, and \$25,000 for the debt service GIC. Assuming the issuer claims no further brokerage or similar fees, the issuer can claim all \$67,280 in brokerage fees for these investments as qualified administrative costs because the fees do not exceed the limitations described in paragraph (e)(2)(iii)(B) of this section.

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Robert E. Wenzel,
Deputy Commissioner
of Internal Revenue.

(Filed by the Office of the Federal Register on August 26, 1999, 8:45 a.m., and published in the issue of the Federal Register for August 27, 1999, 64 F.R. 46876)

Foundations Status of Certain Organizations

Announcement 99-91

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 pre-

sumption 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:

- 6th Kentucky Volunteer Cavalry, Frankfort, KY
- 501C3 Inc., New York, NY
- AAWARE, Gaithersburg, MD
- A C E-Out Inc., New York, NY
- A Dying Childs Last Wish, San Antonio, TX
- ABRAXAS Inc., Milford, DE
- Academic Athletic Arts Achievements Association, Springfield, MA
- Academy Charter PTO, Castle Rock, CO
- Accessible Resources, Minneapolis, MN
- Achieve the Dream Foundation Inc., Randallstown, MD
- Acton Chamber Orchestra, Acton, MA
- Ad Council of Buffalo, Inc., Buffalo, NY
- Adele Hardison Hands Heart and Mind Inc., New York, NY
- African Initiative for Community Development Inc., Malden, MA
- Agape Care Facilities Incorporated, Jacksonville, FL
- Agape Community Services Inc., Benton, KY
- Agape Group Home Inc., Washington, NC
- AIDS Council in Oswego County Inc., Fulton, NY
- AIDS Futures Initiative Inc., Roosevelt Island, NY
- AIDS Infoshare Russia Inc., Berkeley, CA
- AIDS of the Treasure Coast Corporation, Fort Pierce, FL
- Albanian-American Cultural Foundation, New York, NY
- Albuquerque Police Department Crime Prevention Unit, Albuquerque, NM
- Algonquin-Lake in the Hills Rotary Charitable Fund, Algonquin, IL
- Algonquin Project Playground, Algonquin, IL
- Alle-Kiski Arts Consortium, New Kensington, PA
- Alliance Community Outreach Program Inc., Warren, OH

Alliance for Curriculum Reform,
 Arlington, VA
 Alverda Reed Elementary Parent Teacher
 Organization, Georgetown, OH
 Amateur Gymnastics Association of
 Florida Inc., Boca Raton, FL
 Amazon Community Housing, Eugene,
 OR
 Ambridge-Baden-Economy Soccer
 Association, Baden, PA
 American Angels for Romanian Orphans,
 Manchester, NH
 American Association for Home-Based
 Early Interventionists Nonprofit,
 Logan, UT
 American Breast Cancer Foundation,
 Tucson, AZ
 American Friends of the Hanover Band
 Inc., Brown Summit, NC
 American Indian AIDS Institute Inc.,
 San Francisco, CA
 American Museum of Modern Military
 Vehicles Inc., Hartford, CT
 Americana Community Center Inc.,
 Louisville, KY
 Amputee Education Foundation,
 Homestead, FL
 Anderson Care Facility Inc., Memphis,
 TN
 Angoon Resource Coalition, Angoon, AK
 Anthony J. Hyde Parent Teacher
 Association, Washington, DC
 Antique Tractor Museum Inc., Dallas,
 TX
 Arc-en-Ciel Dhaiti, Chicago, IL
 Arizona Adult Literacy and Technology
 Resource Center Inc., Phoenix, AZ
 Arizona People for Animal Rights,
 Gilbert, AZ
 Arkansas Ballet Theatre Inc., Rogers, AR
 Arlington Host Lions Charities Inc.,
 Arlington, VA
 Arvada Eagles Soccer Club, Arvada, CO
 Ashland Area Foundation, Ashland, NE
 Asian Pacific Foundation for Culture and
 Education, Denver, CO
 Asociacion del Instituto Dominicano de
 Enfermedades Respiratorias Inc.,
 New York, NY
 Association of Massachusetts Parents
 Aide Programs, Inc., Taunton, MA
 Aspen-Institute Inc., Park City, UT
 Assessment Consultation and Training
 Inc., Chicago, IL
 Association House Holding Corporation,
 Chicago, IL
 Association of Ethiopian Community in
 Fresno Inc., Fresno, CA
 Association of Massachusetts Parent Aide
 Programs Inc., Taunton, MA
 Atlanta CSI Foundation Inc., Marietta, GA
 Auburn Education Foundation Inc.,
 Auburn, MA
 Augusta Childrens Chorale Inc., Augusta,
 GA
 Bahini Foundation Inc., New York, NY
 Baltimore-Washington Metropolitan
 Repertory Opera Company Inc.,
 Laurel, MD
 Barney Oldfield Transportation Museum
 Inc., Wauseon, OH
 Bay Area Accordion Club, San Francisco,
 CA
 BCI Homes Inc., Moncks Corner, SC
 Beaufort County 2000 Inc., Hilton Head
 Island, SC
 Beechwood Center of New Jersey Inc.,
 Langhorne, PA
 Bel Canto Singers Inc., Hilliard, OH
 Beloved Community Center of
 Greensboro Inc., Greensboro, NC
 Benefactors of Schwab Rehabilitation
 Hospital and Care Network,
 Naperville, IL
 Bethlehem House Inc., Conway, AR
 Between Friends Inc., N. Conway, NH
 BHP Community Housing Inc.,
 Baltimore, MD
 Big Bend Rural Health Network Inc.,
 Panama City, FL
 Big Waters Federation, Des Plaines, IL
 Bink Glisson Historical Preservation
 Trust Inc., West Palm Beach, FL
 Birmingham Public Schools Adopt-A-
 School Board of Directors,
 Birmingham, AL
 Black Affairs Center Inc., Silver Spring,
 MD
 Black Economic Cluster Fund Inc.,
 Landover, MD
 Blackjack Community Center Inc.,
 Starkville, MS
 Blue Valley Northwest Booster Club Inc.,
 Overland Park, KS
 Bnai Brith Elmwood House Inc.,
 Medford, NJ
 Boiling Springs Parent Teacher Student
 Association, Spartanburg, SC
 Boost Our Southwick Schools,
 Southwick, MA
 Boosters for IGA Inc., Menlo Park, CA
 Boston Boys Choir Inc., Cambridge, MA
 Boston City Opera Company Inc.,
 Melrose, MA
 Boston School for Young Children,
 Watertown, MA
 Boy Scouts of America Troop 106 &
 Pack 106 of Ironton Ohio, Ironton, OH
 Boys & Girls Club of Bloomfield Inc.,
 Bloomfield, NM
 Boys & Girls Club of Cherokee County
 Inc., Canton, GA
 Bridges of North Carolina Inc.,
 Fayetteville, NC
 Brigham City Main Street Program,
 Brigham City, UT
 Bronx Health & Human Services
 Development Corporation Inc., Bronx,
 NY
 Bronx Hispanic Foundation Inc., Bronx,
 NY
 Brookfield Rotary Club Foundation Inc.,
 Brookfield, CT
 Brown County Veterans Assistance Inc.
 Program, Oneida, WI
 Bucks County Civil War Round Table,
 Doylestown, PA
 Buf Health and Human Services
 Corporation Inc., Plainfield, NJ
 Burke County Firefighters Association
 Inc., Morganton, NC
 Butler Sports Boosters, Oak Brook, IL
 Butts County Humane Society Inc.,
 Flovilla, GA
 Byzantine Orthodox Ecclesiastical
 Community, Trenton, NJ
 C. Waldo Scott Center for HOPE Inc.,
 Newport News, VA
 California 49ers Educational Association
 Inc., Fountain Valley, CA
 Calvary Community Development
 Corporation, Philadelphia, PA
 Cambridge-Isanti Arena Corporation,
 Cambridge, MN
 Camptown Youth Group, Franklin, VA
 Carmel Health Network, Mobile, AL
 Carroll County Civic League,
 Huntingdon, TN
 Casa de New Mexico, Albuquerque, NM
 Casa Grande 2000 Inc., Casa Grande, AZ
 Casas del Sol Resident Management
 Corporation, Calexico, CA
 Catawba Community Mental Health
 Foundation Inc., Rock Hill, SC
 Cavani String Quartet, Woodmere, OH
 Celestine Project Inc., East Islip, NY
 Cemco Industrial Scholarship Fund,
 Albuquerque, NM
 Center for Community Recovery
 Innovations Inc., Boston, MA
 Center for Employment Dispute
 Resolution Inc., Chicago, IL
 Center for Independent Living of Middle
 Tennessee, Nashville, TN

Center for Latin American Arts of New York Inc., New York, NY
Central Arkansas Peace Corps Association, Little Rock, AR
Central Bronx Community Services & Relations for the Blind, Bronx, NY
Central City Information Drug and Alcohol Office Inc., Des Moines, IA
Central Elementary School Parents Teacher Organization of Winchester, Winchester, KY
Central Iowa Juvenile Detention Center, Eldora, IA
Central Midlands Development Corporation, Columbia, SC
Central Ozarks Human Development Foundation, Rolla, MO
Central Valley Group Homes Inc., Fresno, CA
Central Virginia Regional Library, Farmville, VA
Chamberlain School District Foundation, Chamberlain, SD
Charlotte-Mecklenburg Crime Stoppers Inc., Charlotte, NC
Chaucer Street Apartments Inc., Hot Springs, AR
Cherry Tree Association, Bronx, NY
Chester Community Prevention Coalition, Chester, PA

Child Assault Prevention Project of Erie County Inc., Sandusky, OH
Childrens Programs Inc., Springfield, IL
Childrens Services Network, Charlotte, NC
First Ward Development Fund Inc., Elizabeth, NJ
Gateway C B Club, Jeffersonville, KY
Gujarat Samanvay Parivar, Richmond, VA
Hamilton-Wenham Little League Inc., S. Hamilton, MA
Help Agency of the Forest Inc., Silver Springs, FL
Institute for Cooperation of Art and Research Inc., Philadelphia, PA
Laguna Fire Relief Coalition, Laguna Beach, CA
Local 144 Hospital & Health Facilities Education Fund, New York, NY
M A A Foundation Inc., Redondo Beach, CA
Macedonia High School JROTC Booster Club Association, Moncks Corner, SC
Needed Organization-Transformation of Youth, Detroit, MI
New Northside Multi-Family Development Inc., St. Louis, MO
Nine Twenty-One Sixty-Six Inc., Tulsa, OK

North American Sasquatch Foundation, Phoenix, AZ
Tampa Area Playground Project, Tampa, FL
The Downtown Sailing Center Inc., Baltimore, MD
Triune Foundation Inc., New York, NY
Tropical Forestry Initiative Inc., Lansing, NY
Turning Point Youth Services Institute Inc., New York, NY
University Association of Central Oregon, Inc., Bend, OR
West Haven Interfaith Housing Corporation, W. Haven, CT

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

Definition of Terms

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

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

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

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

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

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

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

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

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

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

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

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

Abbreviations

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

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

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

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

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¹ 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.

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