

## 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. 99-39, page 424.**

**Low-income housing tax credit.** Certain rental assistance payments made to a building owner on behalf of, or in respect to, a tenant under the Housing Opportunities for Persons With AIDS program are not grants made with respect to a building or its operation under section 42(d)(5) of the Code.

#### **T.D. 8838, page 424.**

Final regulations under sections 1275 and 1286 of the Code relate to the federal income tax treatment of inflation-indexed debt instruments.

### EXEMPT ORGANIZATIONS

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#### **T.D. 8837, page 426.**

Final regulations under section 6402 of the Code relate to the Tax Refund Offset Program.

#### **Notice 99-48, page 429.**

**Section 7702 closing agreements.** This notice specifies the rates the Service will use for the purpose of computing the amount due pursuant to a closing agreement concerning failed life insurance contracts under section 7702 of the Code.

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# 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 42.—Low-Income Housing Credit

26 CFR 1.42–16: Eligible basis reduced by federal grants.

**Low-income housing tax credit.** This revenue ruling advises taxpayers that certain rental assistance payments made to a building owner on behalf of, or in respect to, a tenant under the Housing Opportunities for Persons With AIDS (HOPWA) program are not grants made with respect to a building or its operation under section 42(d)(5) of the Code.

### Rev. Rul. 99–39

Pursuant to § 1.42–16(b)(3) of the Income Tax Regulations, the Internal Revenue Service has determined that certain rental assistance payments made to a building owner on behalf or in respect of a tenant under the Housing Opportunities for Persons With AIDS (HOPWA) program (42 U.S.C. 12901–12912) are not grants made with respect to a building or its operation under § 42(d)(5) of the Internal Revenue Code. These rental assistance payments are provided under 24 C.F.R. 574.300(b)(5).

### DRAFTING INFORMATION

The principal author of this revenue ruling is Christopher J. Wilson of the Office of Assistant Chief Counsel (Pass-throughs and Special Industries). For further information regarding this revenue ruling contact Mr. Wilson on (202) 622-3040 (not a toll-free call).

## Section 1275.—Other Definitions and Special Rules

26 CFR 1.1275–7: Inflation-indexed debt instruments.

### T.D. 8838

## DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

### Inflation-Indexed Debt Instruments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

**SUMMARY:** This document contains final regulations relating to the federal income tax treatment of inflation-indexed debt instruments, including Treasury Inflation-Indexed Securities. The regulations in this document provide needed guidance to holders and issuers of inflation-indexed debt instruments.

**EFFECTIVE DATE:** The regulations are effective September 7, 1999.

**FOR FURTHER INFORMATION CONTACT:** Helen Vanek-Bigelow or William E. Blanchard, (202) 622-3950 (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### *Background*

On January 6, 1997, temporary regulations (T.D. 8709, 1997–1 C.B. 167) relating to the federal income tax treatment of inflation-indexed debt instruments under sections 1275 and 1286 of the Internal Revenue Code (Code) were published in the **Federal Register** (62 F.R. 615). A notice of proposed rulemaking (REG–242996–96, 1997–1 C.B. 784) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (62 F.R. 694). A public hearing was held on April 30, 1997. However, no one requested to speak at the hearing.

No written comments responding to the notice were received. Therefore, the proposed regulations under sections 1275 and 1286 are adopted by this Treasury decision with no changes, and the corresponding temporary regulations are redesignated as final regulations.

#### *Explanation of provisions*

The following is a general explanation of the provisions in the final regulations, which are the same as the provisions in the temporary regulations.

#### *A. In General.*

The final regulations provide rules for the treatment of certain debt instruments that are indexed for inflation and deflation, including Treasury Inflation-Indexed Securities. The final regulations gener-

ally require holders and issuers of inflation-indexed debt instruments to account for interest and original issue discount (OID) using constant yield principles. In addition, the final regulations generally require holders and issuers of inflation-indexed debt instruments to account for inflation and deflation by making current adjustments to their OID accruals.

#### *B. Applicability.*

The final regulations apply to inflation-indexed debt instruments. In general, an inflation-indexed debt instrument is a debt instrument that (1) is issued for cash, (2) is indexed for inflation and deflation (as described below), and (3) is not otherwise a contingent payment debt instrument. The final regulations do not apply, however, to certain debt instruments, such as debt instruments issued by qualified state tuition programs.

#### *C. Indexing Methodology.*

A debt instrument is considered indexed for inflation and deflation if the payments on the instrument are indexed by reference to the changes in the values of a general price or wage index over the term of the instrument. Specifically, the amount of each payment on an inflation-indexed debt instrument must equal the product of (1) the amount of the payment that would be payable on the instrument (determined as if there were no inflation or deflation over the term of the instrument) and (2) the ratio of the value of the reference index for the payment date to the value of the reference index for the issue date.

The reference index for a debt instrument is the mechanism for measuring inflation and deflation over the term of the instrument. This mechanism associates the value of a single qualified inflation index for a particular month with a specified day of a succeeding month. For example, under the terms of the Treasury Inflation-Indexed Securities, the reference index for the first day of a month is the value of a qualified inflation index for the third preceding month. The reference index must be reset once a month to the current value of a qualified inflation index. Between reset dates, the value of

the reference index is determined through straight-line interpolation.

A qualified inflation index is a general price or wage index that is updated and published at least monthly by an agency of the United States Government. A general price or wage index is an index that measures price or wage changes in the economy as a whole. An index is not general if it only measures price or wage changes in a particular segment of the economy. For example, the non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers (CPI-U), which is published by the Bureau of Labor Statistics of the Department of Labor, is a qualified inflation index because it measures general price changes in the economy. By contrast, the gasoline price component of the CPI-U is not a qualified inflation index because it only measures price changes in a particular segment of the economy.

#### D. *Coupon Bond Method.*

The final regulations provide a simplified method of accounting for qualified stated interest and inflation adjustments on certain inflation-indexed debt instruments (the coupon bond method). To qualify for the coupon bond method, an inflation-indexed debt instrument must satisfy two conditions. First, there must be no more than a de minimis difference between the debt instrument's issue price and its principal amount for the issue date. Second, all stated interest on the debt instrument must be qualified stated interest. Because Treasury Inflation-Indexed Securities that are not stripped into principal and interest components satisfy both of these conditions, the coupon bond method applies to these securities.

If an inflation-indexed debt instrument qualifies for the coupon bond method, the stated interest payable on the debt instrument is taken into account under the taxpayer's regular method of accounting. Any increase in the inflation-adjusted principal amount is treated as OID for the period in which the increase occurs. Any decrease in the inflation-adjusted principal amount is taken into account under the rules for deflation adjustments described below.

For example, if a taxpayer holds a Treas-

ury Inflation-Indexed Security for an entire calendar year and the taxpayer uses the cash receipts and disbursements method of accounting (cash method), the taxpayer generally includes in income the interest payments received on the security during the year. In addition, the taxpayer includes in income an amount of OID measured by subtracting the inflation-adjusted principal amount of the security at the beginning of the year from the inflation-adjusted principal amount of the security at the end of the year. If the taxpayer uses an accrual method of accounting rather than the cash method, the taxpayer includes in income the qualified stated interest that accrued on the debt instrument during the year and an amount of OID measured by subtracting the inflation-adjusted principal amount of the security at the beginning of the year from the inflation-adjusted principal amount of the security at the end of the year.

#### E. *Discount Bond Method.*

If an inflation-indexed debt instrument does not qualify for the coupon bond method (for example, because it is issued at a discount), the instrument is subject to the discount bond method. In general, the discount bond method requires holders and issuers to make current adjustments to their OID accruals to account for inflation and deflation.

Under the discount bond method, a taxpayer determines the amount of OID allocable to an accrual period by using steps similar to those provided in §1.1272-1(b)(1). First, the taxpayer determines the yield to maturity of the debt instrument as if there were no inflation or deflation over the term of the instrument. Second, the taxpayer determines the length of the accrual periods to be used to allocate OID over the term of the debt instrument, provided no accrual period is longer than one month. Third, the taxpayer determines the percentage change in the value of the reference index during the accrual period by comparing the value at the beginning of the period to the value at the end of the period. Fourth, the taxpayer determines the OID allocable to the accrual period by using a formula that takes into account both the yield of the debt instrument and

the percentage change in the value of the reference index during the period. Fifth, the taxpayer allocates to each day in the accrual period a ratable portion of the OID for the accrual period (the daily portions). If the daily portions for an accrual period are positive amounts, these amounts are taken into account under section 163(e) by an issuer and under section 1272 by a holder. If the daily portions for an accrual period are negative amounts, these amounts are taken into account under the rules for deflation adjustments described below.

#### F. *Deflation Adjustments.*

The final regulations treat deflation adjustments in a manner consistent with the treatment of net negative adjustments on contingent payment debt instruments under §1.1275-4(b)(6)(iii). If a holder has a deflation adjustment for a taxable year, the deflation adjustment first reduces the amount of interest otherwise includible in income with respect to the debt instrument for the taxable year. If the amount of the deflation adjustment exceeds the interest otherwise includible in income for the taxable year, the holder treats the excess as an ordinary loss in the taxable year. However, the amount treated as an ordinary loss is limited to the amount by which the holder's total interest inclusions on the debt instrument in prior taxable years exceed the total amount treated by the holder as an ordinary loss on the debt instrument in prior taxable years. If the deflation adjustment exceeds the interest otherwise includible in income by the holder with respect to the debt instrument for the taxable year and the amount treated as an ordinary loss for the taxable year, the excess is carried forward to offset interest income on the debt instrument in subsequent taxable years. Similar rules apply to determine an issuer's interest deductions and income for the debt instrument.

#### G. *Miscellaneous Rules.*

The final regulations provide special rules for reopenings, strips, subsequent holders, and minimum guarantees.

#### H. *Effective Date.*

The final regulations apply to an inflation-indexed debt instrument issued on or after January 6, 1997.

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

*Drafting Information*

The principal author of the regulations is Helen Vanek-Bigelow, Office of Assistant Chief Counsel (Financial Institutions and Products). 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 is amended by removing the entries for §§1.1275-7T and 1.1286-2T and adding two entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*  
Section 1.1275-7 also issued under 26 U.S.C. 1275(d). \* \* \*  
Section 1.1286-2 also issued under 26 U.S.C. 1286(f). \* \* \*

**§1.148-4 [Amended]**

Par. 2. Section 1.148-4 is amended by:  
1. Removing the “T” from the reference “§1.1275-7T” in paragraph (h)(2)-(v)(A).  
2. Removing the “T” from the refer-

ence “§1.1275-7T” in paragraph (h)(2)-(v)(B).

**§1.163-13 [Amended]**

Par. 3. Section 1.163-13 is amended by:

- 1. Removing the “T” from the reference “§1.1275-7T(f)(1)(ii)” in the next to the last sentence in paragraph (e)(2).
- 2. Removing the “T” from the reference “§1.1275-7T” in the last sentence in paragraph (e)(2).

**§1.171-3 [Amended]**

Par. 4. Section 1.171-3 is amended by:

- 1. Removing the “T” from the reference “§1.1275-7T(f)(1)(i)” in the next to last sentence in paragraph (b).
- 2. Removing the “T” from the reference “§1.1275-7T” in the last sentence in paragraph (b).

Par. 5. In §1.1271-0, paragraph (b) is amended by revising the entry for §1.1275-7T to read as follows:

*§1.1271-0 Original issue discount; effective date; table of contents.*

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

*§1.1275-7 Inflation-indexed debt instruments.*

\* \* \* \* \*

**§1.1275-4 [Amended]**

Par. 6. Section 1.1275-4 is amended by removing the “T” from the reference “§1.1275-7T” in paragraph (a)(2)(vii).

**§1.1275-7T [Redesignated as §1.1275-7]**

Par. 7. Section 1.1275-7T is redesignated as §1.1275-7 and the language “(temporary)” is removed from the section heading.

**§1.1286-2T [Redesignated as §1.1286-2]**

Par. 8. Section 1.1286-2T is redesignated as §1.1286-2 and the language “(temporary)” is removed from the section heading.

Par. 9. Newly designated §1.1286-2 is amended by removing the “T” from the reference “§1.1275-7T(e)”.

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

Approved August 25, 1999.

Jonathan Talisman,  
*Deputy Assistant Secretary of the Treasury.*

(Filed by the Office of the Federal Register on September 3, 1999, 8:45 a.m., and published in the issue of the Federal Register for September 7, 1999, 64 F.R. 48545)

**Section 6402.—Authority to Make Credits or Refunds**

*26 CFR 301.6402-5: Offset of past-due support against overpayments.*

**T.D. 8837**

**DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
26 CFR Part 301**

**Revision of the Tax Refund Offset Program**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the administration of the Tax Refund Offset Program (TROP). This action is necessary because effective January 1, 1999, TROP, which had been administered by the IRS, was fully merged into the centralized administrative offset program known as the Treasury Offset Program (TOP), which is administered by the Financial Management Service (FMS). These regulations will affect State and Federal agencies that participate in TROP.

DATES: *Effective Dates:* These regulations are effective September 7, 1999.

*Dates of Applicability:* For dates of applicability of these regulations, see §§301.6402-5(h) and 301.6402-6(n).

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

*Background*

This document contains final regulations on Procedure and Administration (26 CFR part 301) that revise the effective dates for regulations under section 6402(c) and (d). Those subsections provide rules relating to the offset of past-due support payments and debts owed to Federal agencies against Federal tax refunds, respectively.

On August 31, 1998, a notice of proposed rulemaking (REG-104565-97, 1998-39, I.R.B. 21) under section 6402(c) and (d) was published in the **Federal Register** (63 F.R. 46205). Although written or electronic comments and requests for a public hearing were solicited, no comments were received and no public hearing was requested or held. The proposed regulations under section 6402(c) and (d) are adopted by this Treasury decision without revision.

*Explanation of Provisions*

Section 6402(c) provides, in general, that the amount of any overpayment to be refunded to the person making the overpayment must be reduced by the amount of any past-due support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act.

Section 6402(d) provides, in general, that upon receiving notice from any Federal agency that a named person owes a past-due, legally enforceable debt to that agency, the Secretary must reduce the amount of any overpayment payable to that person by the amount of the debt, pay the amount by which the overpayment is reduced to the agency, and notify the person making the overpayment that the overpayment has been reduced.

Prior to January 1, 1998, the IRS made offsets pursuant to section 6402(d) according to regulations prescribed under §301.6402-6. Prior to January 1, 1999, the IRS made offsets pursuant to section 6402(c) according to regulations prescribed under §301.6402-5.

Section 31001(v)(2) and (w) of the Debt Collection Improvement Act of 1996 (110 Stat. 1321-375), amended 42 U.S.C. 664(a)(2)(A) and 31 U.S.C.

3720A(h), respectively, to clarify that the disbursing agency of the Treasury Department may conduct tax refund offsets. The disbursing agency of the Treasury Department is the Financial Management Service (FMS).

The IRS and FMS agreed to merge the Tax Refund Offset Program (TROP), which had been administered by the IRS, into the centralized administrative offset program known as the Treasury Offset Program (TOP), which is administered by the FMS. The merger of the two programs is intended to maximize and improve the Treasury Department's government-wide collection of nontax debts, including those subject to offset against the debtor's federal tax refund. The full merger of TROP with TOP occurred on January 1, 1999.

Final rules concerning the manner in which the FMS will administer the collection of nontax Federal debts after the merger of TROP with TOP were published by the FMS in the **Federal Register** on August 28, 1998 (63 F.R. 46140) (codified at 31 CFR Part 285.2) effective for refunds payable after January 1, 1998. The regulations in this document provide an ending effective date for §301.6402-6 to accommodate the beginning effective date of the FMS regulations. Accordingly, §301.6402-6 does not apply to refunds payable after January 1, 1998.

Final rules concerning the manner in which the FMS will administer the collection of past-due support payments were published by the FMS in the **Federal Register** on December 30, 1998 (63 F.R. 72092) (codified at 31 CFR Part 285.3), effective for refunds payable after January 1, 1999. The regulations in this document provide an ending effective date for §301.6402-5 to accommodate the beginning date for the full merger of TROP with TOP. Accordingly, §301.6402-5 does not apply to refunds payable after January 1, 1999.

*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 that preceded these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

*Drafting Information*

The principal author of these regulations is Beverly A. Baughman of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

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*Adoption of Amendments to the Regulations*

Accordingly, 26 CFR part 301 is amended as follows:

**PART 301—PROCEDURE AND ADMINISTRATION**

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

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

Par. 2. Section 301.6402-5 is amended by adding paragraph (h) to read as follows:

*§301.6402-5 Offset of past-due support against overpayments.*

\* \* \* \* \*

(h) *Effective dates.* This section applies to refunds payable on or before January 1, 1999. For the rules applicable after January 1, 1999, see 31 CFR part 285.

Par. 3. Section 301.6402-6 is amended by revising paragraph (n) to read as follows:

*§301.6402-6 Offset of past-due, legally enforceable debt against overpayment.*

\* \* \* \* \*

(n) *Effective dates.* This section applies to refunds payable under section 6402 after April 15, 1992, and on or be-

fore January 1, 1998. For the rules applicable after January 1, 1998, see 31 CFR part 285.

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

Approved August 25, 1999.

Jonathan Talisman,  
*Deputy Assistant Secretary  
of the Treasury.*

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### **Section 7121.—Closing Agreements**

This notice specifies rates the Service will use for the purpose of computing the amount due pursuant to a closing agreement concerning failed life insurance contracts under §7702 of the Internal Revenue Code. See Notice 99-48, page 429.

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### **Section 7702.—Life Insurance Contract Defined**

This notice specifies rates the Service will use for the purpose of computing the amount due pursuant to a closing agreement concerning failed life insurance contracts under §7702 of the Internal Revenue Code. See Notice 99-48, page 429.



## Part III. Administrative, Procedural, and Miscellaneous

### Section 7702 Closing Agreements

#### Notice 99-48

##### PURPOSE

The purpose of this notice is to specify the rates the Service will use for the purpose of computing the amount due pursuant to a closing agreement concerning failed life insurance contracts under § 7702 of the Internal Revenue Code.

##### BACKGROUND

Section 7702 defines the term “life insurance contract” for purposes of the Code. Section 7702(a) provides that a “life insurance contract” is any contract that is a life insurance contract under the applicable law, but only if such contract: (1) meets the cash value accumulation test of § 7702(b), or (2) meets the guideline premium requirements of § 7702(c) and falls within the cash value corridor of § 7702(d).

Section 817(h) provides that for purposes of § 7702(a), a variable contract that is otherwise described in § 817, which is based on a segregated asset account, shall not be treated as a life insurance contract for any period (and any subsequent period) for which the investments made by such account are not, in accordance with regulations prescribed by the Secretary, adequately diversified.

Section 7702(g)(1)(A) provides that if at any time a contract that is a life insurance contract under the applicable law does not meet the definition of a life insurance contract under § 7702(a), the income on the contract for any taxable year of the policyholder shall be treated as ordinary income received or accrued by the policyholder during such year. Further, § 7702(g)(1)(C) provides that if, during any taxable year of the policyholder, a contract that is a life insurance contract under applicable law ceases to meet the definition of a life insurance contract under § 7702(a), the income on the contract for all prior taxable years shall be treated as received or accrued during the taxable year in which such cessation occurs. Section 7702(g)(1)(B) defines the term “income on the contract” for purposes of § 7702(g)(1).

Section 7702(f)(8) provides that the Secretary may waive a taxpayer’s failure to satisfy the requirements of § 7702(a) if: (1) the requirements described in § 7702(a) for any contract year were not satisfied due to reasonable error; and, (2) reasonable steps are being taken to remedy the error. Section 7121(a) authorizes the Secretary to enter into a written agreement with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

In Rev. Rul. 91-17, 1991-1 C.B. 190, an insurance company issued contracts that qualified as life insurance contracts under applicable law, but failed to meet the definition of a life insurance contract under § 7702(a). The ruling concludes that the income on such a contract is a nonperiodic distribution under what is now § 3405(e)(3). Thus, the insurance company is subject to certain recordkeeping, reporting, withholding and deposit obligations under §§ 3402, 3403, 3405, 6047, 6302 and 7501. In addition, if the company’s failure to meet those obligations is not due to reasonable cause, the company could be subject to the penalties described in §§ 6651, 6652(e), 6652(h), 6656(a) and 6704.

Rev. Rul. 91-17 also provides that the Service will waive civil penalties for failure to satisfy the reporting, withholding, and deposit requirements for income deemed received under § 7702(g) and (h) in certain circumstances. For example, the Service will waive these penalties if the insurance company issuing the failed contracts, pursuant to § 7702(f)(8), requests and receives a waiver of the contracts’ failure to meet the definition of a life insurance contract. In addition, the ruling provides the Service will waive these penalties if, prior to June 3, 1991, the insurance company requests, and, in a timely manner, executes a closing agreement under which it agrees to pay an amount based on: (i) the amount of tax that would have been owed by the policyholders if they were treated as receiving the income on the contracts, and (ii) any interest with regard to such tax.

Since June 3, 1991, the Service has exercised its authority under § 7121 to enter into closing agreements that waive the

penalties described above for insurance companies that issued contracts that are “life insurance contracts” under applicable law, but which inadvertently fail to meet the definition of a life insurance contract in § 7702(a) due to errors that are not reasonable errors within the meaning of § 7702(f)(8). Until further notice, the Service will continue to enter into such closing agreements and will use the following assumed tax rates to compute the amounts of tax that would have been owed by the policyholders if they were treated as receiving the income on the contracts:

(1) 15% if the death benefit under the contract is less than \$50,000,

(2) 28% if the death benefit under the contract is equal to or exceeds \$50,000, but is less than \$180,000, and,

(3) 36% if the death benefit under the contract is equal to or exceeds \$180,000.

For purposes of determining the appropriate assumed rate, the death benefit under a contract will be the death benefit (as defined in section 7702(f)(3)) as of any date within 120 days of the date of the request for closing agreement, or the last day the contract is in force.

In addition, interest on those amounts will continue to be computed under § 6621(a)(2) as if the amounts treated as received by the policyholders caused underpayments of tax in the appropriate tax years.

This notice does not apply to an issuer of a variable contract that is not treated as a life insurance contract solely because it fails to meet the diversification requirements of § 817(h). See Rev. Proc. 92-25, 1992-1 C.B. 741, or any successor to that procedure.

##### EFFECTIVE DATE

This notice is effective September 3, 1999.

##### DRAFTING INFORMATION

The principal author of this notice is Frank N. Panza of the Office of the Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this notice contact Mr. Panza at (202) 622-3970 (not a toll-free call).

## Part IV. Items of General Interest

T.D. 8830

### DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 801

#### Establishment of a Balanced Measurement System

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the adoption by the IRS of a balanced system to measure organizational performance within the IRS. These regulations further prescribe rules relating to the measurement of employee performance and implement requirements that all employees be evaluated on whether they provided fair and equitable treatment to taxpayers and bar use of records of tax enforcement results to evaluate or to impose or suggest goals for any employee of the IRS. These regulations implement sections 1201 and 1204 of the Internal Revenue Restructuring and Reform Act of 1998. These regulations affect internal operations of the IRS and the systems that agency employs to evaluate the performance of organizations within IRS and individuals employed by IRS.

DATES: These regulations are effective September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Michael G. Gallagher, 202-283-7900 (not a toll free number).

SUPPLEMENTARY INFORMATION:

#### *Background*

On January 5, 1999, the IRS published in the **Federal Register** (64 F.R. 457) a notice of proposed rulemaking (REG-119192-98, 1999-11 I.R.B. 45) regarding the establishment of a balanced system of measures for the IRS. Comments were received and a public hearing on the proposed regulations was held on May 13, 1999.

This document adopts, with modifications, the proposed regulations as final regulations.

#### *Explanation of Revisions and Summary of Comments*

A commentator suggested that certain organizational changes might add clarity to the regulation. We have adopted this suggestion and have reorganized the regulation to contain separate sections that describe the system for measuring organizational performance and the system for measuring employee performance. Consistent with the suggestion of the commentator, we have revised the heading on the latter performance measurement system to make it clear that it relates to measuring "employee" performance. The organizational changes required incidental reordering within the regulation, as well as the renumbering of additional sections.

A commentator suggested that the discussion of the performance criteria applicable to Senior Executive Service (SES) employees make explicit reference to 5 U.S.C. 4313, which contains certain performance criteria. We have adopted this suggestion and included references to 5 U.S.C. 4313 in section 801.3. The same commentator also suggested that the regulation be modified to provide that SES and managerial employees of the IRS will be evaluated on the basis of organizational performance, as measured under the balanced measurement system for organizational performance. While the IRS will modify the performance criteria for all employees to ensure that they support the organizational measures adopted in this regulation, it will evaluate employees on the basis of the performance criteria made applicable to the positions those employees occupy. Accordingly, this suggestion was not adopted.

A commentator suggested that, while it would be appropriate to gather data regarding customer and employee satisfaction via "questionnaires, surveys and other types of information gathering mechanisms" and a "questionnaire," respectively, as the proposed regulation provides, the IRS might in the future find other appropriate means to gather such data and should not be confined by the

regulation from adopting such other information gathering techniques. Although the IRS intends in the near term to gather such customer and employee satisfaction data via questionnaires and surveys, it may in the future determine that other methods of information gathering can provide accurate data. Accordingly, we have adopted the commentator's suggestion and made it clear that questionnaires and surveys are only examples of the information gathering techniques the IRS may employ to measure customer and employee satisfaction. Sections 801.4 and 801.5 of the regulations reflect the changes. A commentator suggested that since certain organizations within the IRS provide service to customers other than taxpayers, the final regulation should make clear that information gathered from persons other than taxpayers could be used in measuring customer satisfaction. We have adopted this suggestion and modified §801.5.

A commentator suggested that the quantity element of the business results measure be eliminated because, in an attempt to improve organizational performance with respect to that quantity element, managers might exert pressure upon employees to dispose of taxpayer cases too quickly or without regard to merits of the issues presented. The fundamental premise of the balanced system of organizational measures is that the presence of measures that evaluate the quality of the work done by the unit, the satisfaction of customers served by the unit (including taxpayers), and the satisfaction of employees working in the unit will obviate the risk that managers place undue emphasis upon the quantity of work completed. The absolute prohibitions (1) on the use of tax enforcement results and (2) on the use of quantity data to evaluate non-supervisory employees who exercise judgment with respect to tax enforcement results operate as effective checks against the overzealous use of enforcement authority. Accordingly, we have not adopted this suggestion. We have slightly modified the description of the quantity measure to include customer education, assistance and outreach efforts.

A commentator suggested that taxpayers against whom collection actions have

been taken would be unable to provide objective information regarding their interactions with IRS personnel and therefore should not be included among the taxpayers requested to provide information regarding customer satisfaction. IRS experience with customer satisfaction surveys, including those taken at Problem Solving Day events, indicates that this commentator's comments are not well founded. Accordingly, the suggestion was not adopted.

Finally, a commentator suggested that IRS should limit the authority delegated to lower-level employees. This suggestion was beyond the scope of the current regulation and was not adopted.

### *Special Analyses*

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, 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 notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### *Drafting Information*

The principal author of these regulations is Michael G. Gallagher, Office of the Assistant Chief Counsel (General Legal Services). However, other personnel from the Internal Revenue Service and Treasury Department participated in their development.

\* \* \* \* \*

### *Amendments to the Regulations*

Accordingly, 26 CFR Chapter I is amended by adding part 801 to Subchapter H to read as follows:

## PART 801—BALANCED SYSTEM FOR MEASURING ORGANIZATIONAL AND EMPLOYEE PERFORMANCE WITHIN THE INTERNAL REVENUE SERVICE

Sec.

801.1 Balanced performance measurement system; in general.

801.2 Measuring organizational performance.

801.3 Measuring employee performance.

801.4 Customer satisfaction measures.

801.5 Employee satisfaction measures.

801.6 Business results measures.

Authority: 5 U.S.C 9501 *et seq.*; secs. 1201, 1204, Pub. L. 105–206, 112 Stat. 685, 715–716, 722 (26 U.S. C. 7804 note).

### *§801.1 Balanced performance measurement system; In general.*

(a) *In general*—(1) The regulations in this part 801 implement the provisions of sections 1201 and 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–106, 112 Stat. 685, 715–716, 722) and provide rules relating to the establishment by the Internal Revenue Service of a balanced performance measurement system.

(2) Modern management practice and various statutory and regulatory provisions require the IRS to set performance goals for organizational units and to measure the results achieved by those organizations with respect to those goals. To fulfill these requirements, the IRS has established a balanced performance measurement system, composed of three elements: Customer Satisfaction Measures; Employee Satisfaction Measures; and Business Results Measures. The IRS is likewise required to establish a performance evaluation system for individual employees.

(b) *Effective date.* This part 801 is effective September 7, 1999.

### *§801.2 Measuring organizational performance.*

(a) *In general.* The performance measures that comprise the balanced measurement system will, to the maximum extent possible, be stated in objective, quantifiable and measurable terms and, subject to

the limitation set forth in paragraph (b) of this section, will be used to measure the overall performance of various operational units within the IRS. In addition to implementing the requirements of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206, 112 Stat. 685), the measures described here will, where appropriate, be used in performance goals and performance evaluations established, inter alia, under Division E, National Defense Authorization Act for Fiscal Year 1996 (the Clinger-Cohen Act of 1996) (Public Law 104–106, 110 Stat. 186, 679); the Government Performance and Results Act of 1993 (Public Law 103–62, 107 Stat. 285); and the Chief Financial Officers Act of 1990 (Public Law 101–576, 108 Stat. 2838).

(b) *Limitation*—quantity measures (as described in §801.6) will not be used to evaluate the performance of or to impose or suggest production goals for any organizational unit with employees who are responsible for exercising judgment with respect to tax enforcement results (as defined in §801.6) except in conjunction with an evaluation or goals based also upon Customer Satisfaction Measures, Employee Satisfaction Measures, and Quality Measures.

### *§801.3 Measuring employee performance.*

(a) *In general.* All employees of the IRS will be evaluated according to the critical elements and standards or such other performance criteria as may be established for their positions. In accordance with the requirements of 5 U.S.C. 4312, 4313 and 9508 and section 1201 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206, 112 Stat. 685) (as is appropriate to the employee's position), the performance criteria for each position will be composed of elements that support the organizational measures of Customer Satisfaction, Employee Satisfaction and Business Results; however, such organizational measures will not directly determine the evaluation of individual employees.

(b) *Fair and equitable treatment of taxpayers.* In addition to all other criteria required to be used in the evaluation of em-

ployee performance, all employees of the IRS will be evaluated on whether they provided fair and equitable treatment to taxpayers.

(c) *Senior Executive Service and special positions.* Employees in the Senior Executive Service will be rated in accordance with the requirements of 5 U.S.C. 4312 and 4313 and employees selected to fill positions under 5 U.S.C. 9503 will be evaluated pursuant to workplans, employment agreements, performance agreements or similar documents entered into between the Internal Revenue Service and the employee.

(d) *General workforce.* The performance evaluation system for all other employees will:

(1) Establish one or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance —

(i) Require periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

(ii) Require that action be taken, in accordance with applicable laws and regulations, with respect to employees whose performance does not meet the established retention standards.

(2) Establish goals or objectives for individual performance consistent with the IRS's performance planning procedures —

(i) Use such goals and objectives to make performance distinctions among employees or groups of employees; and

(ii) Use performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

(e) *Limitations*—(1) No employee of the Internal Revenue Service may use records of tax enforcement results (as defined in §801.6) to evaluate any other employee or to impose or suggest production quotas or goals for any employee.

(i) For purposes of the limitation contained in this paragraph (e), employee has the meaning as defined in 5 U.S.C. 2105(a).

(ii) For purposes of the limitation contained in this paragraph (e), evaluate includes any process used to appraise or measure an employee's performance for purposes of providing the following:

(A) Any required or requested performance rating.

(B) A recommendation for an award covered by Chapter 45 of Title 5; 5 U.S.C. 5384; or section 1201(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, (Public Law 105-206, 112 Stat. 685, 713-716).

(C) An assessment of an employee's qualifications for promotion, reassignment or other change in duties.

(D) An assessment of an employee's eligibility for incentives, allowances or bonuses.

(E) Ranking of employees for release/recall and reductions in force.

(2) Employees who are responsible for exercising judgment with respect to tax enforcement results (as defined in §801.6) in cases concerning one or more taxpayers may be evaluated with respect to work done on such cases only on the basis of information derived from a review of the work done on the taxpayer cases handled by such employee.

(3) Performance measures based in whole or in part on Quantity Measures (as described in §801.6) will not be used to evaluate the performance of or to impose or suggest goals for any non-supervisory employee who is responsible for exercising judgment with respect to tax enforcement results (as defined in §801.6).

#### §801.4 Customer satisfaction measures.

The customer satisfaction goals and accomplishments of operating units within the Internal Revenue Service will be determined on the basis of information gathered via various methods. For example, questionnaires, surveys and other types of information gathering mechanisms may be employed to gather data regarding customer satisfaction. Information to measure customer satisfaction for a particular work unit will be gathered from a statistically valid sample of the customers served by that operating unit and will be used to measure, among other things, whether those customers believe that they received courteous, timely and professional treatment by the Internal Revenue Service personnel with whom they dealt. Customers will be permitted to provide information requested for these purposes under conditions that guarantee them anonymity. For purposes of this section, customers may include individual taxpay-

ers, organizational units or employees within Internal Revenue Service and external groups affected by the services performed by the Internal Revenue Service operating unit.

#### §801.5 Employee satisfaction measures.

The employee satisfaction numerical ratings to be given operating units within the Internal Revenue Service will be determined on the basis of information gathered via various methods. For example, questionnaires, surveys and other information gathering mechanisms may be employed to gather data regarding employee satisfaction. The information gathered will be used to measure, among other factors bearing upon employee satisfaction, the quality of supervision and the adequacy of training and support services. All employees of an operating unit will have an opportunity to provide information regarding employee satisfaction within the operating unit under conditions that guarantee them anonymity.

#### §801.6 Business results measures.

(a) *In general.* The business results measures will consist of numerical scores determined under the Quality Measures and the Quantity Measures described elsewhere in this section.

(b) *Quality measures.* The quality measure will be determined on the basis of a review by a specially dedicated staff within the Internal Revenue Service of a statistically valid sample of work items handled by certain functions or organizational units determined by the Commissioner or his delegate such as the following:

(1) *Examination and Collection units and Automated Collection System units (ACS).* The quality review of the handling of cases involving particular taxpayers will focus on such factors as whether Internal Revenue Service personnel devoted an appropriate amount of time to a matter, properly analyzed the issues presented, developed the facts regarding those issues, correctly applied the law to the facts, and complied with statutory, regulatory and Internal Revenue Service procedures, including timeliness, adequacy of notifications and required contacts with taxpayers.

(2) *Toll-free telephone sites.* The quality review of telephone services will focus

on such factors as whether Internal Revenue Service personnel provided accurate tax law and account information.

(3) *Other workunits.* The quality review of other workunits will be determined according to criteria prescribed by the Commissioner or his delegate.

(c) *Quantity measures.* The quantity measures will consist of outcome-neutral production and resource data, such as the number of cases closed, work items completed, customer education, assistance and outreach efforts undertaken, hours expended and similar inventory, workload and staffing information, that does not contain information regarding the tax enforcement result reached in any case involving particular taxpayers.

(d) *Definitions—(1) Tax enforcement result.* A tax enforcement result is the outcome produced by an Internal Revenue Service employee's exercise of judgment recommending or determining whether or how the Internal Revenue Service should pursue enforcement of the tax laws.

(i) *Examples of tax enforcement results.* The following are examples of a tax enforcement result: a lien filed; a levy served; a seizure executed; the amount assessed; the amount collected; and a fraud referral.

(ii) *Examples of data that are not tax enforcement results.* The following are examples of data that are not tax enforcement results: case closures; time per case; direct examination time/out of office time; cycle time; number or percentage of overage cases; inventory information; toll-free level of access; talk time; number and type of customer education, assistance and outreach efforts completed; and data derived from a quality review or from a review of an employee's or a workunit's work on a case, such as the number or percentage of cases in which correct examination adjustments were proposed or appropriate lien determinations were made.

(2) *Records of tax enforcement results.* Records of tax enforcement results are data, statistics, compilations of information or other numerical or quantitative recordations of the tax enforcement results reached in one or more cases, but do not include tax enforcement results of individual cases when used to determine whether an employee exercised appropriate judgment in pursuing enforcement of

the tax laws based upon a review of the employee's work on that individual case.

(e) *Permitted uses of records of tax enforcement results.* Records of tax enforcement results may be used for purposes such as forecasting, financial planning, resource management, and the formulation of case selection criteria.

(f) *Examples.* The following examples illustrate the rules of this section:

*Example 1.* In conducting a performance evaluation, a supervisor may take into consideration information showing that the employee had failed to propose an appropriate adjustment to tax liability in one of the cases the employee examined, provided that information is derived from a review of the work done on the case. All information derived from such a review of individual cases handled by an employee, including time expended, issues raised, and enforcement outcomes reached may be considered in evaluating the employee.

*Example 2.* When assigning a case, a supervisor may discuss with the employee the merits, issues and development of techniques of the case based upon a review of the case file.

*Example 3.* A supervisor may not establish a goal for proposed adjustments in a future examination, based upon the tax enforcement results achieved in other cases.

*Example 4.* A headquarters unit may use records of tax enforcement results to develop methodologies and algorithms for use in selecting tax returns to audit.

Charles O. Rossotti,  
*Commissioner of  
Internal Revenue.*

Approved July 22, 1999.

Donald C. Lubick,  
*Assistant Secretary of  
the Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on August 5, 1999, 8:45 a.m., and published in the issue of the Federal Register for August 6, 1999, 64 F.R. 42834)

## Foundations Status of Certain Organizations

### Announcement 99-92

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:

According to Prophecy Ministries,  
Lemon Grove, CA  
African American Unity Congress,  
Columbia, SC  
African Americans for Humanitarian  
Relief, Houston, TX  
American Friends of the Maine Inc.,  
New York, NY  
American Friends of the University of  
Buckingham Inc., Chicago, IL  
American Friends of Torah Umesorah of  
Latinoamerica Inc., Monsey, NY  
American Indian Language Center, Inc.,  
Eufaula, OK  
The American Military Education  
Foundation Inc., Manassas Park, VA  
American Nursing Informatics  
Association, Anaheim, CA  
American-Russian Education Assc. Inc.,  
Brooklyn, NY  
Archangelus Ministries, Stanhope, NJ  
Associated Youth Partnership Programs  
Inc., Farmingdale, NY  
Association of JoJo White Growth  
Leagues Inc., Rochester, NY  
Aura a Cole PTO Inc., Constantia, NY  
Bainbridge Womens Club, Richmond, VA  
Barracuda Boosters Inc., Cincinnati, OH  
Bartlesville Area Crime Stoppers Inc.,  
Bartlesville, OK  
Bluebonnet Health & Human Services  
Inc., Belton, TX  
Brazos Valley Quality Work Force  
Planning Incorporation, Bryan, TX  
Bullock County Public Schools  
Foundation Inc. Partners In, Union  
Springs, AL  
Capital Area Library Network, Mason,  
MI  
Castle Foundation, Columbus, OH  
Center for Childrens Television Inc.,  
Amherst, MA  
Center for Conflict Management,  
Fort Collins, CO  
Central Florida Puppet Guild, Orlando,  
FL

Charitable Trust for the Womens Institute for African Rural Development, Boston, MA

Charlotte Swim Association Inc., Charlotte, NC

Chelten Christian Crusade Center for Advancement Inc., Philadelphia, PA

Child Development Center Parent Advisory Council, Ferguson, MO

Childrens Railway Society Inc., Boothwyn, PA

Christian School Foundation of Cape Girardeau, Cape Girardeau, MO

Columbia Lightning Athletic Organization, Columbia, MD

Congress of African-American Unity Inc., Rochester, NY

Connecticut Blackhawks Inc., Guilford, CT

Crime Victims United Inc., New York, NY

Cullen Christian Development Center Inc., Houston, TX

Dance Masters of America-New England Chapter 5 Inc., Randolph, MA

Dixie Childrens Fund, San Rafael, CA

Downingtown Young Whippets, Downingtown, PA

Dragons Gate An Arts Community Development System, Houston, TX

Duxbury Blue Line Club Inc., Duxbury, MA

Elmhurst House Inc., E. Greenwich, RI

Environmental Diversity Forum, Boston, MA

Everett Bullpen Club, Holt, MI

Fannin Learning Center Inc., Brandon, MS

Friends of Children United Supporting Educational Dev. Inc., Gladewater, TX

Friends of Penn Farm Inc., Duncanville, TX

Friends of the Obion County Public Library, Union City, TN

Fundacion Amigos de Corazon, Springfield, VA

Georgia Mining Foundation Inc., Atlanta, GA

Gods Favorite People Inc., Atlanta, GA

Grand Strand Swim Team Inc., Myrtle Beach, SC

Greater Detroit Free-Net, Grosse Pointe Farms, MI

Greater Kansas City Street Preservation Corporation, Kansas City, MO

Gujarati Samaj of Northeast Florida, Jacksonville, FL

Gymnastics Boosters Club Inc., Grandville, MI

Harmony Unlimited, Federal Way, WA

Help the Homeless Outreach Ministry Inc., Mesa, AZ

Homes for Brighter Futures, New Castle, PA

Horton Memorial Chapel Inc., Teague, TX

Institute for Mass Communications Inc., Brooklyn, NY

Islamic Family Services Inc., Brooklyn, NY

Jerusalem Education Fund Inc., Bala Cynwyd, PA

JoJo White Growth League of Rochester New York Inc., Rochester, NY

Just Between Friends Inc., Stone Mountain, GA

Kentucky Coal Mining Museum and Exhibition Mine Inc., Benham, KY

Keys to Empowering Youth Inc., Dorchester, MA

Kids With Cancer Foundation, Sacramento, CA

Ladies Civic League, Springfield, MO

Little Caesars Soccer Club Inc., Cedar Rapids, IA

Long Island Surf Youth Outreach Program Inc., Syosset, NY

Lubavitch Yeshiva of Minnesota Inc., St. Paul, MN

Lyndhurst Education Association Philanthropic Fund, Hewitt, NJ

Mable M. Chandler Scholarship Foundation, Dallas, TX

Mazel Tov Foundation Inc., Brooklyn, NY

Mednotes 1998, Columbus, OH

Midrange Professional Association, Buffalo, IL

Mississippi Wildlife Conservation Inc., Crystal Springs, MS

Missouri Statewide Parent Advisory Network, St. Louis, MO

Moorish Manufacturing Corp., Chicago, IL

Mound City Vo-Ag Booster Association Inc., Mound City, MO

National Urban Youth Fund Inc., Providence, RI

Native Nations, Austin, TX

New American Opera Company, Milford, PA

New Orleans Youth Action Corps., New Orleans, LA

North Suburban Jewish Community Center Inc., Peabody, MA

Pac Boosters Inc., Clemmons, NC

Parents of Gymnasts, Bartonsville, PA

Partners in Public Education Fund, Seattle, WA

Permian Basin Educational Project Inc., Midland, TX

Pittsfield Elementary Parent Teacher Organization, Pittsfield, NH

Reading Fine and Performing Arts Association Inc., Reading, MA

Shady Oak Community Development Corporation, Collins, MS

Silsbee High School Crime Stoppers Inc., Silsbee, TX

Simba Wachanga Society, Brooklyn, NY

Skatin Place Artistic Skating Club Ltd., Janesville, WI

Small Farm Research Incorporated, Carver, MA

Sports Opportunity and Information Center, Richmond, CA

Sprint Across America Inc., Hoboken, NJ

Stanford Parent-Teacher Organization, Bloomington, IL

Stonehenge Foundation Incorporated, Gladwyne, PA

Sunrise Child Development Center Inc., Newark, NJ

The Arlington Philharmonic Inc., Arlington, TX

The Danville Community Orchestra Inc., Danville, VA

Theatre in the Valley, Henderson, NV

Thoreau Nm-A Production Company, Pittsburgh, PA

Tiggeriffic Productions Inc., Boston, MA

Tri-County Transitional Treatment Centers Inc., San Marcos, TX

U Should Know Inc., Amsterdam, NY

United Charities Inc., Brea, CA

US-China Arts Exchange Center Inc., Brooklyn, NY

Very Good Musical Theatre Company, Mequon, WI

Vision Productions Unlimited, Hoffman Estates, IL

Warren Metropolitan Society of Arts, Warren, MI

Washingtonville Sea Hawks Swim Club Inc., Salisbury Mills, NY

Waterloo Community Concert Band, Waterloo, IA

West Point Parents Club of Long Island, Huntington Station, NY

Westville Care, Monroeville, PA

Wildkit Swimming Organization, Evanston, IL

Windfire Flute & Percussion Spectacular, Chesterfield, MO

Winning Swing of America, Austin, TX

Wintersville Baseball Association,  
Steubenville, OH  
WJC Home Organization, Hope, AR  
Word to the Wise Foundation, Richmond,  
VA  
World Aid Relief Corporation, New York,  
NY  
World Peace Project, Denver, CO  
Young Athletes Against AIDS Inc.,  
New York, NY

Youth Achievement Recognition Council  
of Long Island Inc., Farmingdale, NY  
Youth Philharmonic Northwest,  
Redmond, WA

If an organization listed above submits  
information that warrants the renewal of  
its classification as a public charity or as a  
private operating foundation, the Internal  
Revenue Service will issue a ruling or de-  
termination letter with the revised classi-

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

## 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>

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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.

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