

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. 2009-17, page 1111.

Interest rates; underpayments and overpayments. The rates for interest determined under section 6621 of the Code for the calendar quarter beginning July 1, 2009, will be 4 percent for overpayments (3 percent in the case of a corporation), 4 percent for underpayments, and 6 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding \$10,000 will be 1.5 percent.

Notice 2009-50, page 1118.

This notice provides guidance on the maximum face amount of recovery zone economic development bonds and recovery zone facility bonds that may be issued by each state and the counties and large municipalities in such state before January 1, 2011 under sections 1400U-2 and 1400U-3 of the Code as provided in section 1400U-1.

Notice 2009-54, page 1124.

This notice sets forth a process that allows manufacturers to certify to the Service that a particular vehicle meets the requirements of section 30D of the Code. Taxpayers purchasing such vehicles can rely on the domestic manufacturer (or, in the case of a foreign manufacturer, its domestic distributor) to certify that a particular make, model, and model year of vehicle qualifies as a plug-in electric drive motor vehicle under section 30D, and to certify the amount of the credit allowable with respect to the vehicle.

EXEMPT ORGANIZATIONS

Announcement 2009-54, page 1128.

The IRS has revoked its determination that Home Ownership Providers, Inc., of Marietta, GA; and Wasatch Homes Charitable Foundation of Draper, UT, qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Code.

Announcements of Disbarments and Suspensions begin on page 1128.
Finding Lists begin on page ii.
Index for January through June begins on page vi.



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 compiled 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 procedures 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 Other Related Items, 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 last 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 last Bulletin of each semiannual period.

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For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

Section 1400U-1.—Allocation of Recovery Zone Bonds

A notice that provides guidance regarding the maximum face amount of recovery zone economic development bonds and recovery zone facility bonds, that may be issued by each State and counties and large municipalities within each State before January 1, 2011 under sections 1400U-2 and 1400U-3, respectively, of the Internal Revenue Code (“Code”), as provided in section 1400U-1 of the Code. See Notice 2009-50, page 1118.

Section 6621.—Determination of Rate of Interest

26 CFR 301.6621-1: *Interest rate.*

Interest rates; underpayments and overpayments. The rates for interest determined under section 6621 of the Code for the calendar quarter beginning July 1, 2009, will be 4 percent for overpayments (3 percent in the case of a corporation), 4 percent for underpayments, and 6 percent for large corporate underpayments. The rate of interest paid on the portion of a corporate overpayment exceeding \$10,000 will be 1.5 percent.

Rev. Rul. 2009-17

Section 6621 of the Internal Revenue Code establishes the rates for interest on tax overpayments and tax underpayments. Under section 6621(a)(1), the overpayment rate is the sum of the federal short-term rate plus 3 percentage points (2 percentage points in the case of a corporation), except the rate for the portion of a corporate overpayment of tax exceeding \$10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point. Under section 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under section 6601 on any large corporate underpayment, the underpayment rate under section 6621(a)(2) is determined by substituting “5 percentage points” for “3 percentage points.” See section 6621(c) and section 301.6621-3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable date. Section 6621(c) and section 301.6621-3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal short-term rate for the first month in each calendar quarter. Section 6621(b)(2)(A) provides that the federal short-term rate determined under section 6621(b)(1) for any month applies during the first calendar quarter beginning after that month. Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during that month by the Secretary in accordance with section 1274(d), rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, the rate is increased to the next highest full percent).

Notice 88-59, 1988-1 C.B. 546, announced that, in determining the quarterly interest rates to be used for overpayments and underpayments of tax under section 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with section 6621 which, pursuant to section 6622, is subject to daily compounding.

The federal short-term rate determined in accordance with section 1274(d) during April 2009 is the rate published in Revenue Rule 2009-12 to take effect beginning May 1, 2009. The federal short-term

rate, rounded to the nearest full percent, the federal short-term rate based on daily compounding determined during the month of April 2009 is 1 percent. Accordingly, an overpayment rate of 4 percent (3 percent in the case of a corporation) and an underpayment rate of 4 percent are established for the calendar quarter beginning July 1, 2009. The overpayment rate for the portion of a corporate overpayment exceeding \$10,000 for the calendar quarter beginning July 1, 2009, is 1.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning July 1, 2009, is 6 percent. These rates apply to amounts bearing interest during that calendar quarter.

Interest factors for daily compound interest for annual rates of 1.5 percent, 3 percent, 4 percent, and 6 percent are published in Tables 8, 11, 13, and 17 of Rev. Proc. 95-17, 1995-1 C.B. 556, 562, 565, 567, and 571.

Annual interest rates to be compounded daily pursuant to section 6622 that apply for prior periods are set forth in the tables accompanying this revenue ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Deborah Colbert-James of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue ruling, contact Ms. Colbert-James at (202) 622-8143 (not a toll-free call).

TABLE OF INTEREST RATES
PERIODS BEFORE JUL. 1, 1975 — PERIODS ENDING DEC. 31, 1986
OVERPAYMENTS AND UNDERPAYMENTS

PERIOD	RATE	In 1995-1 C.B.
		DAILY RATE TABLE
Before Jul. 1, 1975	6%	Table 2, pg. 557
Jul. 1, 1975—Jan. 31, 1976	9%	Table 4, pg. 559
Feb. 1, 1976—Jan. 31, 1978	7%	Table 3, pg. 558
Feb. 1, 1978—Jan. 31, 1980	6%	Table 2, pg. 557
Feb. 1, 1980—Jan. 31, 1982	12%	Table 5, pg. 560
Feb. 1, 1982—Dec. 31, 1982	20%	Table 6, pg. 560
Jan. 1, 1983—Jun. 30, 1983	16%	Table 37, pg. 591
Jul. 1, 1983—Dec. 31, 1983	11%	Table 27, pg. 581
Jan. 1, 1984—Jun. 30, 1984	11%	Table 75, pg. 629
Jul. 1, 1984—Dec. 31, 1984	11%	Table 75, pg. 629
Jan. 1, 1985—Jun. 30, 1985	13%	Table 31, pg. 585
Jul. 1, 1985—Dec. 31, 1985	11%	Table 27, pg. 581
Jan. 1, 1986—Jun. 30, 1986	10%	Table 25, pg. 579
Jul. 1, 1986—Dec. 31, 1986	9%	Table 23, pg. 577

TABLE OF INTEREST RATES
FROM JAN. 1, 1987 — DEC. 31, 1998

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Jan. 1, 1987—Mar. 31, 1987	8%	21	575	9%	23	577
Apr. 1, 1987—Jun. 30, 1987	8%	21	575	9%	23	577
Jul. 1, 1987—Sep. 30, 1987	8%	21	575	9%	23	577
Oct. 1, 1987—Dec. 31, 1987	9%	23	577	10%	25	579
Jan. 1, 1988—Mar. 31, 1988	10%	73	627	11%	75	629
Apr. 1, 1988—Jun. 30, 1988	9%	71	625	10%	73	627
Jul. 1, 1988—Sep. 30, 1988	9%	71	625	10%	73	627
Oct. 1, 1988—Dec. 31, 1988	10%	73	627	11%	75	629
Jan. 1, 1989—Mar. 31, 1989	10%	25	579	11%	27	581
Apr. 1, 1989—Jun. 30, 1989	11%	27	581	12%	29	583
Jul. 1, 1989—Sep. 30, 1989	11%	27	581	12%	29	583
Oct. 1, 1989—Dec. 31, 1989	10%	25	579	11%	27	581
Jan. 1, 1990—Mar. 31, 1990	10%	25	579	11%	27	581
Apr. 1, 1990—Jun. 30, 1990	10%	25	579	11%	27	581
Jul. 1, 1990—Sep. 30, 1990	10%	25	579	11%	27	581
Oct. 1, 1990—Dec. 31, 1990	10%	25	579	11%	27	581
Jan. 1, 1991—Mar. 31, 1991	10%	25	579	11%	27	581
Apr. 1, 1991—Jun. 30, 1991	9%	23	577	10%	25	579
Jul. 1, 1991—Sep. 30, 1991	9%	23	577	10%	25	579
Oct. 1, 1991—Dec. 31, 1991	9%	23	577	10%	25	579
Jan. 1, 1992—Mar. 31, 1992	8%	69	623	9%	71	625
Apr. 1, 1992—Jun. 30, 1992	7%	67	621	8%	69	623
Jul. 1, 1992—Sep. 30, 1992	7%	67	621	8%	69	623
Oct. 1, 1992—Dec. 31, 1992	6%	65	619	7%	67	621
Jan. 1, 1993—Mar. 31, 1993	6%	17	571	7%	19	573
Apr. 1, 1993—Jun. 30, 1993	6%	17	571	7%	19	573
Jul. 1, 1993—Sep. 30, 1993	6%	17	571	7%	19	573
Oct. 1, 1993—Dec. 31, 1993	6%	17	571	7%	19	573
Jan. 1, 1994—Mar. 31, 1994	6%	17	571	7%	19	573
Apr. 1, 1994—Jun. 30, 1994	6%	17	571	7%	19	573
Jul. 1, 1994—Sep. 30, 1994	7%	19	573	8%	21	575

TABLE OF INTEREST RATES
FROM JAN. 1, 1987 — DEC. 31, 1998 – Continued

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Oct. 1, 1994—Dec. 31, 1994	8%	21	575	9%	23	577
Jan. 1, 1995—Mar. 31, 1995	8%	21	575	9%	23	577
Apr. 1, 1995—Jun. 30, 1995	9%	23	577	10%	25	579
Jul. 1, 1995—Sep. 30, 1995	8%	21	575	9%	23	577
Oct. 1, 1995—Dec. 31, 1995	8%	21	575	9%	23	577
Jan. 1, 1996—Mar. 31, 1996	8%	69	623	9%	71	625
Apr. 1, 1996—Jun. 30, 1996	7%	67	621	8%	69	623
Jul. 1, 1996—Sep. 30, 1996	8%	69	623	9%	71	625
Oct. 1, 1996—Dec. 31, 1996	8%	69	623	9%	71	625
Jan. 1, 1997—Mar. 31, 1997	8%	21	575	9%	23	577
Apr. 1, 1997—Jun. 30, 1997	8%	21	575	9%	23	577
Jul. 1, 1997—Sep. 30, 1997	8%	21	575	9%	23	577
Oct. 1, 1997—Dec. 31, 1997	8%	21	575	9%	23	577
Jan. 1, 1998—Mar. 31, 1998	8%	21	575	9%	23	577
Apr. 1, 1998—Jun. 30, 1998	7%	19	573	8%	21	575
Jul. 1, 1998—Sep. 30, 1998	7%	19	573	8%	21	575
Oct. 1, 1998—Dec. 31, 1998	7%	19	573	8%	21	575

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT
NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	RATE	1995-1 C.B.	
		TABLE	PG
Jan. 1, 1999—Mar. 31, 1999	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	9%	23	577
Apr. 1, 2001—Jun. 30, 2001	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	6%	17	571
Apr. 1, 2002—Jun. 30, 2002	6%	17	571
Jul. 1, 2002—Sep. 30, 2002	6%	17	571
Oct. 1, 2002—Dec. 31, 2002	6%	17	571
Jan. 1, 2003—Mar. 31, 2003	5%	15	569
Apr. 1, 2003—Jun. 30, 2003	5%	15	569
Jul. 1, 2003—Sep. 30, 2003	5%	15	569
Oct. 1, 2003—Dec. 31, 2003	4%	13	567
Jan. 1, 2004—Mar. 31, 2004	4%	61	615
Apr. 1, 2004—Jun. 30, 2004	5%	63	617
Jul. 1, 2004—Sep. 30, 2004	4%	61	615
Oct. 1, 2004—Dec. 31, 2004	5%	63	617
Jan. 1, 2005—Mar. 31, 2005	5%	15	569
Apr. 1, 2005—Jun. 30, 2005	6%	17	571
Jul. 1, 2005—Sep. 30, 2005	6%	17	571
Oct. 1, 2005—Dec. 31, 2005	7%	19	573
Jan. 1, 2006—Mar. 31, 2006	7%	19	573

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT — Continued
NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	RATE	1995-1 C.B. TABLE	PG
Apr. 1, 2006—Jun. 30, 2006	7%	19	573
Jul. 1, 2006—Sep. 30, 2006	8%	21	575
Oct. 1, 2006—Dec. 31, 2006	8%	21	575
Jan. 1, 2007—Mar. 31, 2007	8%	21	575
Apr. 1, 2007—Jun. 30, 2007	8%	21	575
Jul. 1, 2007—Sep. 30, 2007	8%	21	575
Oct. 1, 2007—Dec. 31, 2007	8%	21	575
Jan. 1, 2008—Mar. 31, 2008	7%	67	621
Apr. 1, 2008—Jun. 30, 2008	6%	65	619
Jul. 1, 2008—Sep. 30, 2008	5%	63	617
Oct. 1, 2008—Dec. 31, 2008	6%	65	619
Jan. 1, 2009—Mar. 31, 2009	5%	15	569
Apr. 1, 2009—Jun. 30, 2009	4%	13	567
Jul. 1, 2009—Sep. 30, 2009	4%	13	567

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Jan. 1, 1999—Mar. 31, 1999	6%	17	571	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	7%	19	573	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	7%	19	573	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	7%	19	573	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	7%	67	621	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	8%	69	623	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	8%	69	623	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	8%	69	623	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	8%	21	575	9%	23	577
Apr. 1, 2001—Jun. 30, 2001	7%	19	573	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	6%	17	571	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	6%	17	571	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	5%	15	569	6%	17	571
Apr. 1, 2002—Jun. 30, 2002	5%	15	569	6%	17	571
Jul. 1, 2002—Sep. 30, 2002	5%	15	569	6%	17	571
Oct. 1, 2002—Dec. 31, 2002	5%	15	569	6%	17	571
Jan. 1, 2003—Mar. 31, 2003	4%	13	567	5%	15	569
Apr. 1, 2003—Jun. 30, 2003	4%	13	567	5%	15	569
Jul. 1, 2003—Sep. 30, 2003	4%	13	567	5%	15	569
Oct. 1, 2003—Dec. 31, 2003	3%	11	565	4%	13	567
Jan. 1, 2004—Mar. 31, 2004	3%	59	613	4%	61	615
Apr. 1, 2004—Jun. 30, 2004	4%	61	615	5%	63	617
Jul. 1, 2004—Sep. 30, 2004	3%	59	613	4%	61	615
Oct. 1, 2004—Dec. 31, 2004	4%	61	615	5%	63	617
Jan. 1, 2005—Mar. 31, 2005	4%	13	567	5%	15	569
Apr. 1, 2005—Jun. 30, 2005	5%	15	569	6%	17	571
Jul. 1, 2005—Sep. 30, 2005	5%	15	569	6%	17	571
Oct. 1, 2005—Dec. 31, 2005	6%	17	571	7%	19	573
Jan. 1, 2006—Mar. 31, 2006	6%	17	571	7%	19	573
Apr. 1, 2006—Jun. 30, 2006	6%	17	571	7%	19	573

TABLE OF INTEREST RATES
FROM JANUARY 1, 1999 — PRESENT – Continued
CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	1995-1 C.B.			1995-1 C.B.		
	RATE	TABLE	PG	RATE	TABLE	PG
Jul. 1, 2006—Sep. 30, 2006	7%	19	573	8%	21	575
Oct. 1, 2006—Dec. 31, 2006	7%	19	573	8%	21	575
Jan. 1, 2007—Mar. 31, 2007	7%	19	573	8%	21	575
Apr. 1, 2007—Jun. 30, 2007	7%	19	573	8%	21	575
Jul. 1, 2007—Sep. 30, 2007	7%	19	573	8%	21	575
Oct. 1, 2007—Dec. 31, 2007	7%	19	573	8%	21	575
Jan. 1, 2008—Mar. 31, 2008	6%	65	619	7%	67	621
Apr. 1, 2008—Jun. 30, 2008	5%	63	617	6%	65	619
Jul. 1, 2008—Sep. 30, 2008	4%	61	615	5%	63	617
Oct. 1, 2008—Dec. 31, 2008	5%	63	617	6%	65	619
Jan. 1, 2009—Mar. 31, 2009	4%	13	567	5%	15	569
Apr. 1, 2009—Jun. 30, 2009	3%	11	565	4%	13	567
Jul. 1, 2009—Sep. 30, 2009	3%	11	565	4%	13	567

TABLE OF INTEREST RATES FOR
LARGE CORPORATE UNDERPAYMENTS
FROM JANUARY 1, 1991 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1991—Mar. 31, 1991	13%	31	585
Apr. 1, 1991—Jun. 30, 1991	12%	29	583
Jul. 1, 1991—Sep. 30, 1991	12%	29	583
Oct. 1, 1991—Dec. 31, 1991	12%	29	583
Jan. 1, 1992—Mar. 31, 1992	11%	75	629
Apr. 1, 1992—Jun. 30, 1992	10%	73	627
Jul. 1, 1992—Sep. 30, 1992	10%	73	627
Oct. 1, 1992—Dec. 31, 1992	9%	71	625
Jan. 1, 1993—Mar. 31, 1993	9%	23	577
Apr. 1, 1993—Jun. 30, 1993	9%	23	577
Jul. 1, 1993—Sep. 30, 1993	9%	23	577
Oct. 1, 1993—Dec. 31, 1993	9%	23	577
Jan. 1, 1994—Mar. 31, 1994	9%	23	577
Apr. 1, 1994—Jun. 30, 1994	9%	23	577
Jul. 1, 1994—Sep. 30, 1994	10%	25	579
Oct. 1, 1994—Dec. 31, 1994	11%	27	581
Jan. 1, 1995—Mar. 31, 1995	11%	27	581
Apr. 1, 1995—Jun. 30, 1995	12%	29	583
Jul. 1, 1995—Sep. 30, 1995	11%	27	581
Oct. 1, 1995—Dec. 31, 1995	11%	27	581
Jan. 1, 1996—Mar. 31, 1996	11%	75	629
Apr. 1, 1996—Jun. 30, 1996	10%	73	627
Jul. 1, 1996—Sep. 30, 1996	11%	75	629
Oct. 1, 1996—Dec. 31, 1996	11%	75	629
Jan. 1, 1997—Mar. 31, 1997	11%	27	581
Apr. 1, 1997—Jun. 30, 1997	11%	27	581
Jul. 1, 1997—Sep. 30, 1997	11%	27	581
Oct. 1, 1997—Dec. 31, 1997	11%	27	581
Jan. 1, 1998—Mar. 31, 1998	11%	27	581
Apr. 1, 1998—Jun. 30, 1998	10%	25	579
Jul. 1, 1998—Sep. 30, 1998	10%	25	579
Oct. 1, 1998—Dec. 31, 1998	10%	25	579

TABLE OF INTEREST RATES FOR
LARGE CORPORATE UNDERPAYMENTS
FROM JANUARY 1, 1991 — PRESENT — Continued

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1999—Mar. 31, 1999	9%	23	577
Apr. 1, 1999—Jun. 30, 1999	10%	25	579
Jul. 1, 1999—Sep. 30, 1999	10%	25	579
Oct. 1, 1999—Dec. 31, 1999	10%	25	579
Jan. 1, 2000—Mar. 31, 2000	10%	73	627
Apr. 1, 2000—Jun. 30, 2000	11%	75	629
Jul. 1, 2000—Sep. 30, 2000	11%	75	629
Oct. 1, 2000—Dec. 31, 2000	11%	75	629
Jan. 1, 2001—Mar. 31, 2001	11%	27	581
Apr. 1, 2001—Jun. 30, 2001	10%	25	579
Jul. 1, 2001—Sep. 30, 2001	9%	23	577
Oct. 1, 2001—Dec. 31, 2001	9%	23	577
Jan. 1, 2002—Mar. 31, 2002	8%	21	575
Apr. 1, 2002—Jun. 30, 2002	8%	21	575
Jul. 1, 2002—Sep. 30, 2002	8%	21	575
Oct. 1, 2002—Dec. 30, 2002	8%	21	575
Jan. 1, 2003—Mar. 31, 2003	7%	19	573
Apr. 1, 2003—Jun. 30, 2003	7%	19	573
Jul. 1, 2003—Sep. 30, 2003	7%	19	573
Oct. 1, 2003—Dec. 31, 2003	6%	17	571
Jan. 1, 2004—Mar. 31, 2004	6%	65	619
Apr. 1, 2004—Jun. 30, 2004	7%	67	621
Jul. 1, 2004—Sep. 30, 2004	6%	65	619
Oct. 1, 2004—Dec. 31, 2004	7%	67	621
Jan. 1, 2005—Mar. 31, 2005	7%	19	573
Apr. 1, 2005—Jun. 30, 2005	8%	21	575
Jul. 1, 2005—Sep. 30, 2005	8%	21	575
Oct. 1, 2005—Dec. 31, 2005	9%	23	577
Jan. 1, 2006—Mar. 31, 2006	9%	23	577
Apr. 1, 2006—Jun. 30, 2006	9%	23	577
Jul. 1, 2006—Sep. 30, 2006	10%	25	579
Oct. 1, 2006—Dec. 31, 2006	10%	25	579
Jan. 1, 2007—Mar. 31, 2007	10%	25	579
Apr. 1, 2007—Jun. 30, 2007	10%	25	579
Jul. 1, 2007—Sep. 30, 2007	10%	25	579
Oct. 1, 2007—Dec. 31, 2007	10%	25	579
Jan. 1, 2008—Mar. 31, 2008	9%	71	625
Apr. 1, 2008—Jun. 30, 2008	8%	69	623
Jul. 1, 2008—Sep. 30, 2008	7%	67	621
Oct. 1, 2008—Dec. 31, 2008	8%	69	623
Jan. 1, 2009—Mar. 31, 2009	7%	19	573
Apr. 1, 2009—Jun. 30, 2009	6%	17	571
Jul. 1, 2009—Sep. 30, 2009	6%	17	571

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING \$10,000
FROM JANUARY 1, 1995 — PRESENT

	RATE	1995-1 C.B. TABLE	PG
Jan. 1, 1995—Mar. 31, 1995	6.5%	18	572
Apr. 1, 1995—Jun. 30, 1995	7.5%	20	574
Jul. 1, 1995—Sep. 30, 1995	6.5%	18	572

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING \$10,000
FROM JANUARY 1, 1995 — PRESENT — Continued

	RATE	1995-1 C.B. TABLE	PG
Oct. 1, 1995—Dec. 31, 1995	6.5%	18	572
Jan. 1, 1996—Mar. 31, 1996	6.5%	66	620
Apr. 1, 1996—Jun. 30, 1996	5.5%	64	618
Jul. 1, 1996—Sep. 30, 1996	6.5%	66	620
Oct. 1, 1996—Dec. 31, 1996	6.5%	66	620
Jan. 1, 1997—Mar. 31, 1997	6.5%	18	572
Apr. 1, 1997—Jun. 30, 1997	6.5%	18	572
Jul. 1, 1997—Sep. 30, 1997	6.5%	18	572
Oct. 1, 1997—Dec. 31, 1997	6.5%	18	572
Jan. 1, 1998—Mar. 31, 1998	6.5%	18	572
Apr. 1, 1998—Jun. 30, 1998	5.5%	16	570
Jul. 1, 1998—Sep. 30, 1998	5.5%	16	570
Oct. 1, 1998—Dec. 31, 1998	5.5%	16	570
Jan. 1, 1999—Mar. 31, 1999	4.5%	14	568
Apr. 1, 1999—Jun. 30, 1999	5.5%	16	570
Jul. 1, 1999—Sep. 30, 1999	5.5%	16	570
Oct. 1, 1999—Dec. 31, 1999	5.5%	16	570
Jan. 1, 2000—Mar. 31, 2000	5.5%	64	618
Apr. 1, 2000—Jun. 30, 2000	6.5%	66	620
Jul. 1, 2000—Sep. 30, 2000	6.5%	66	620
Oct. 1, 2000—Dec. 31, 2000	6.5%	66	620
Jan. 1, 2001—Mar. 31, 2001	6.5%	18	572
Apr. 1, 2001—Jun. 30, 2001	5.5%	16	570
Jul. 1, 2001—Sep. 30, 2001	4.5%	14	568
Oct. 1, 2001—Dec. 31, 2001	4.5%	14	568
Jan. 1, 2002—Mar. 31, 2002	3.5%	12	566
Apr. 1, 2002—Jun. 30, 2002	3.5%	12	566
Jul. 1, 2002—Sep. 30, 2002	3.5%	12	566
Oct. 1, 2002—Dec. 31, 2002	3.5%	12	566
Jan. 1, 2003—Mar. 31, 2003	2.5%	10	564
Apr. 1, 2003—Jun. 30, 2003	2.5%	10	564
Jul. 1, 2003—Sep. 30, 2003	2.5%	10	564
Oct. 1, 2003—Dec. 31, 2003	1.5%	8	562
Jan. 1, 2004—Mar. 31, 2004	1.5%	56	610
Apr. 1, 2004—Jun. 30, 2004	2.5%	58	612
Jul. 1, 2004—Sep. 30, 2004	1.5%	56	610
Oct. 1, 2004—Dec. 31, 2004	2.5%	58	612
Jan. 1, 2005—Mar. 31, 2005	2.5%	10	564
Apr. 1, 2005—Jun. 30, 2005	3.5%	12	566
Jul. 1, 2005—Sep. 30, 2005	3.5%	12	566
Oct. 1, 2005—Dec. 31, 2005	4.5%	14	568
Jan. 1, 2006—Mar. 31, 2006	4.5%	14	568
Apr. 1, 2006—Jun. 30, 2006	4.5%	14	568
Jul. 1, 2006—Sep. 30, 2006	5.5%	16	570
Oct. 1, 2006—Dec. 31, 2006	5.5%	16	570
Jan. 1, 2007—Mar. 31, 2007	5.5%	16	570
Apr. 1, 2007—Jun. 30, 2007	5.5%	16	570
Jul. 1, 2007—Sep. 30, 2007	5.5%	16	570
Oct. 1, 2007—Dec. 31, 2007	5.5%	16	570
Jan. 1, 2008—Mar. 31, 2008	4.5%	62	616
Apr. 1, 2008—Jun. 30, 2008	3.5%	60	614
Jul. 1, 2008—Sep. 30, 2008	2.5%	58	612
Oct. 1, 2008—Dec. 31, 2008	3.5%	60	614
Jan. 1, 2009—Mar. 31, 2009	2.5%	10	564
Apr. 1, 2009—Jun. 30, 2009	1.5%	8	562
Jul. 1, 2009—Sep. 30, 2009	1.5%	8	562

Part III. Administrative, Procedural, and Miscellaneous

Recovery Zone Bond Volume Cap Allocations

Notice 2009-50

SECTION 1. PURPOSE

This notice provides guidance regarding the maximum face amount of recovery zone economic development bonds (“Recovery Zone Economic Development Bonds”) and recovery zone facility bonds (“Recovery Zone Facility Bonds”) (together, “Recovery Zone Bonds”), that may be issued by each State and counties and large municipalities within each State before January 1, 2011 under §§ 1400U-2 and 1400U-3, respectively, of the Internal Revenue Code (“Code”), as provided in § 1400U-1 of the Code. As applicable to §§ 1400U-1 through 1400U-3, § 103(c)(2) provides that the term “State” includes the District of Columbia and any possession of the United States. This notice also provides certain interim guidance for Recovery Zone Bonds. In general, Recovery Zone Bonds provide tax incentives for State and local governmental borrowing at lower borrowing costs to promote job creation and economic recovery that is targeted to areas particularly affected by employment declines.

SECTION 2. BACKGROUND

.01 INTRODUCTION

Section 1401 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“ARRA”), added §§ 1400U-1 through 1400U-3 to the Code authorizing State and local governments to issue Recovery Zone Bonds. Section 1400U-1 imposes a national bond volume limitation (“volume cap”) of \$10 billion for Recovery Zone Economic Development Bonds and \$15 billion for Recovery Zone Facility Bonds. The volume cap for Recovery Zone Bonds is allocated among the States and counties and large municipalities within the States based on relative declines in employment in 2008.

In general, Recovery Zone Economic Development Bonds may be used to finance certain “qualified economic development purposes” and Recovery Zone

Facility Bonds may be used to finance certain “recovery zone property,” both as described further herein, generally for use within designated “recovery zones,” as described below. Section 1400U-1(b) provides that, for purposes of §§ 1400U-1 through 1400U-3, the term “recovery zone” means: (1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress; (2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and (3) any area for which a designation as an empowerment zone or renewal community is in effect as of the effective date of ARRA, which effective date is February 17, 2009.

.02 BACKGROUND ON BUILD AMERICA BONDS

Section 1531 of ARRA added § 54AA to the Code, authorizing State and local governments, at their option, to issue two general types of Build America Bonds (“Build America Bonds”) as taxable governmental bonds with Federal subsidies for a portion of their borrowing costs. Section 54AA(d) of the Code defines the term “Build America Bond” generally to mean any taxable State or local governmental bond (excluding a private activity bond under § 141) that meets the following requirements: (1) the interest on such bond would (but for § 54AA) be excludable from gross income under § 103; (2) the bond is issued before January 1, 2011; and (3) the issuer makes an irrevocable election to have § 54AA apply. The Federal subsidies for a portion of the borrowing costs on Build America Bonds take the form of either tax credits provided to holders of the bonds or refundable tax credits paid to State and local governmental issuers of the bonds. Build America Bonds have different levels of Federal subsidies and different program requirements with respect to uses of proceeds depending on the particular type of Build America Bond.

The first type of Build America Bond provides a Federal subsidy through Federal tax credits to investors in the bonds in an amount equal to 35 percent of the to-

tal coupon interest payable by the issuer on taxable governmental bonds (net of the tax credit), which represents a Federal subsidy to the State or local governmental issuer equal to approximately 25 percent of the total return to the investor (including the coupon interest paid by the issuer and the tax credit). This type of Build America Bond will be referred to in this notice as “Build America Bonds (Tax Credit).” This type of Build America Bond generally may be used to finance any governmental purpose for which tax-exempt governmental bonds (excluding private activity bonds under § 141) could be issued under § 103 (“tax-exempt governmental bonds”) and must comply with all requirements applicable to the issuance of tax-exempt governmental bonds.

The second type of Build America Bond provides a Federal subsidy through a refundable tax credit paid to State or local governmental issuers by the Treasury Department and the Internal Revenue Service (“IRS”) in an amount equal to 35 percent of the total coupon interest payable to investors in these taxable bonds. This type of Build America Bond will be referred to in this notice as “Build America Bonds (Direct Payment).” This type of Build America Bond generally may be used to finance only capital expenditures and certain issuance costs and reasonably required reserve funds.

Recovery Zone Economic Development Bonds under § 1400U-2 represent a third type of Build America Bond. Recovery Zone Economic Development Bonds are comparable to Build America Bonds (Direct Payment), except that they provide for a deeper Federal subsidy through a refundable tax credit paid to State or local governmental issuers in an amount equal to 45 percent (rather than 35 percent) of the total coupon interest payable to investors in these taxable bonds and they have different program requirements regarding eligible uses of proceeds for qualified economic development purposes within recovery zones, as described further herein.

For additional information regarding Build America Bonds generally, see § 54AA and the initial implementation guidance on Build America Bonds set

forth in Notice 2009–26, 2009–16 I.R.B. 833 (April 20, 2009).

SECTION 3. RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS

.01 RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS TREATED AS QUALIFIED BONDS UNDER § 6431

Section 1400U–2(a) provides that a Recovery Zone Economic Development Bond shall be treated as a “qualified bond” for purposes of § 6431 (relating to the refundable credit for qualified bonds allowed and payable to the issuer in the case of Build America Bonds (Direct Payment)). Section 1400U–2(a) further provides that, for purposes of § 6431(b) (relating to the amount of the refundable credit allowed and payable to the issuer of qualified bonds), the amount of the refundable credit shall be 45 percent of the coupon interest payable on the bonds rather than 35 percent of such interest as is the case with Build America Bonds (Direct Payment). In determining the amount of coupon interest payable on the bonds for purposes of calculating the refundable credit, original issue discount is not treated as a payment of interest. *See* H.R. Conf. Rep. 111–16, 111th Cong., 1st Sess. (February 12, 2009).

.02 DEFINITION OF RECOVERY ZONE ECONOMIC DEVELOPMENT BOND

Section 1400U–2(b)(1) defines the term “Recovery Zone Economic Development Bond” to mean any bond that is issued as part of an issue that meets the following requirements: (1) the bond is a Build America Bond (as defined in § 54AA(d)); (2) the bond is issued before January 1, 2011; (3) 100 percent of the excess of (i) the available project proceeds (as defined in § 54A to mean sale proceeds of such issue less not more than 2 percent of such proceeds used to pay issuance costs, plus investment proceeds thereon), over (ii) the amounts in a reasonably required reserve (within the meaning of § 150(a)(3)) with respect to such issue, are to be used for one or more qualified economic development purposes, and (4) the issuer designates such bond for purposes of § 1400U–2.

.03 DEFINITION OF QUALIFIED ECONOMIC DEVELOPMENT PURPOSE

Section 1400U–2(c) defines the term “qualified economic development purpose” for purposes of § 1400U–2 to mean any expenditures for purposes of promoting development or other economic activity in a recovery zone, including (1) capital expenditures paid or incurred with respect to property located in the recovery zone, (2) expenditures for public infrastructure and construction of public facilities, and (3) expenditures for job training and educational programs. This broad definition of qualified economic development purpose includes capital expenditures (as defined in § 1.150–1(b) of the Income Tax Regulations) and working capital expenditures to promote development or other economic activity in a recovery zone. For this purpose, an eligible financing of qualified expenditures includes a reimbursement of those expenditures under the reimbursement rules contained in § 1.150–2. By contrast, Recovery Zone Economic Development Bonds generally may not be issued to refinance expenditures in “refunding issues” (as defined in § 1.150–1). Further, for this purpose, Recovery Zone Economic Development Bonds may be used to reimburse otherwise-eligible expenditures under § 1.150–2 that were paid or incurred after the effective date of ARRA and that were financed originally with temporary short-term financing issued after the effective date of ARRA, and such reimbursement will not be treated as a refunding issue under §§ 1.150–1(d) or 1.150–2(g).

.04 CERTAIN OTHER APPLICABLE RULES

Section 6431(c) provides that for purposes of applying the arbitrage investment restrictions under § 148, the yield on a qualified bond (including, for this purpose, a Recovery Zone Economic Development Bond), shall be reduced by the refundable credit allowed under § 6431. Section 6431(d) provides that, for purposes of § 6431, “interest payment date” means each date on which interest is payable by the issuer under the terms of the bond. Section 54AA(d)(2)(A) provides that, for

purposes of the restrictions against Federal guarantees of tax-exempt bonds under § 149(b), a Build America Bond (including, for this purpose, a Recovery Zone Economic Development Bond) shall not be treated as federally guaranteed by reason of the refundable credit allowed under § 6431. Section 54AA(d)(2)(C) provides that a bond (including, for this purpose, a Recovery Zone Economic Development Bond) shall not be treated as a Build America Bond under § 54AA(d)(1) if the issue price has more than a *de minimis* amount (determined under rules similar to the rules of § 1273(a)(3)) of premium over the stated principal amount of the bond.

SECTION 4. RECOVERY ZONE FACILITY BONDS

.01 RECOVERY ZONE FACILITY BONDS TREATED AS EXEMPT FACILITY BONDS

Section 103(a) provides that, except as otherwise provided in § 103(b), interest on State or local bonds is excludable from gross income for Federal income tax purposes. Under § 103(b), interest on a State and local bond that is a “private activity bond” under § 141(a) generally is not excludable from gross income unless the bond meets the requirements for a qualified private activity bond under § 141(e). Section 141(e) provides that an “exempt facility bond” under § 142 is one type of qualified private activity bond that may be issued with interest thereon excludable from gross income under § 103(a). Section 1400U–3(a) provides that, for purposes of §§ 141 through 150, the term “exempt facility bond” includes any Recovery Zone Facility Bond. Section 1400U–3(b) defines the term “Recovery Zone Facility Bond” to mean any bond issued as part of an issue if: (A) 95 percent or more of the net proceeds (as defined in § 150(a)(3)) of such issue are to be used for recovery zone property; (B) such bond is issued before January 1, 2011; and (C) the issuer designates such bond for purposes of § 1400U–3.

.02 RECOVERY ZONE PROPERTY

Section 1400U–3(c)(1) defines the term “recovery zone property” to mean any property to which § 168 (relating to the

accelerated cost recovery system) applies (or would apply but for § 179 (relating to electing to expense certain depreciable business assets)) if: (A) such property was constructed, reconstructed, renovated, or acquired by purchase (as defined in § 179(d)(2)) by the taxpayer after the date on which the designation of the recovery zone took effect; (B) the original use of which in the recovery zone commences with the taxpayer; and (C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business (as defined in § 1400U-3(c)(2)) by the taxpayer in the recovery zone. For purposes of § 1400U-3(c)(1), which provides that the term “recovery zone property” means, in part, any property to which § 168 applies (or would apply but for § 179), any property of a character generally subject to the allowance for depreciation under § 168 (or that would be generally subject to such allowance but for § 179) will be treated as “recovery zone property,” without regard to whether the particular property is owned by any State or local governmental entity that is not subject to Federal income taxation, provided that such property otherwise meets the requirements under § 1400U-3(c)(1).

.03 USE OF RECOVERY ZONE PROPERTY IN QUALIFIED BUSINESSES

Section 1400U-3(c)(1)(C) requires that substantially all of the use of recovery zone property involve the active conduct of a qualified business (as defined in § 1400U-3(c)(2)) by the taxpayer in the recovery zone. Section 1400U-3(c)(2) defines the term “qualified business” to mean any trade or business except that (A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in § 168(e)(2)), and (B) such term shall not include any trade or business consisting of the operation of any facility described in § 144(c)(6)(B) (relating to the prohibition on the use of proceeds of a qualified redevelopment bond for any private or commercial golf course, country club, massage parlor, hot tub facility, sun-tan facility, racetrack or other facility used for gambling, or any store the principal

business of which is the sale of alcoholic beverages for consumption off premises).

.04 OTHER APPLICABLE RULES

Section 1400U-3(c)(3) provides that rules similar to rules of § 1397D(a)(2) and (b) (relating to substantial renovations and sale-leasebacks) shall apply for purposes of § 1400U-3(c). Section 1400U-3(d) provides that § 146 (relating to the private activity bond volume cap) and § 147(d) (relating to limitations on acquisition of existing property) shall not apply to any Recovery Zone Facility Bond. Except as otherwise provided in this notice or in future administrative or regulatory guidance, rules applicable to exempt facility bonds under § 142 apply to Recovery Zone Facility Bonds.

SECTION 5. INTERIM GUIDANCE AND RELIANCE

.01 IN GENERAL

Pending the promulgation and effective date of future administrative or regulatory guidance, taxpayers may rely on the interim guidance provided in this notice.

.02 REASONABLY REQUIRED RESERVE OR REPLACEMENT FUND

Section 1400U-2(b)(1)(A) requires that 100 percent of the excess of (i) the available project proceeds (as defined in § 54A to mean sale proceeds of such issue less not more than 2 percent of such proceeds used to pay issuance costs, plus investment proceeds thereon), over (ii) the amounts in a reasonable required reserve (within the meaning of § 150(a)(3)) for an issue of Recovery Zone Economic Development Bonds be used for qualified economic development purposes. Section 1400U-3(b)(1)(a) requires that 95 percent or more of the “net proceeds” (as defined in § 150(a)(3)) of an issue of Recovery Zone Facility Bonds be used for recovery zone property. Section 150(a)(3) defines the term “net proceeds” to mean, with respect to any issue, the proceeds of such issue reduced by amounts in a “reasonably required reserve or replacement fund.” For these purposes, § 148(d) provides rules for a reasonably required reserve or replacement fund.

Section 148(d)(1) generally provides that a bond shall not be treated as an arbitrage bond solely by reason of the fact that an amount of the proceeds of the issue of which such bond is a part may be invested in higher yielding investments which are part of a reasonably required reserve or replacement fund. The amount of such proceeds shall not exceed 10 percent of the proceeds of such issue unless the issuer establishes to the satisfaction of the Secretary that a higher amount is necessary. Section 148(d)(2) provides that a bond issued as part of an issue shall be treated as an arbitrage bond if the amount of the proceeds from the sale of such issue which is part of any reserve or replacement fund exceeds 10 percent of the proceeds of the issue (or such higher amount which the issuer establishes is necessary to the satisfaction of the Secretary). Section 1.148-2(f) of the Income Tax Regulations provides additional rules regarding reasonably required reserve or replacement funds.

.03 INFORMATION REPORTING FOR RECOVERY ZONE BONDS

(i) *Recovery Zone Economic Development Bonds.* For information relating to information reporting and direct payments of refundable credits to issuers of Recovery Zone Economic Development Bonds, rules similar to those applicable for information reporting and payment of credit to issuers of qualified bonds under § 6431 shall apply. See Notice 2009-26, 2009-16 I.R.B. 833 (April 20, 2009).

(ii) *Recovery Zone Facility Bonds.* The information reporting requirement for tax-exempt bonds under § 149(e) applies to Recovery Zone Facility Bonds under § 1400U-3(a). Information reporting returns for Recovery Zone Facility Bonds are required to be submitted at the same time and in the same manner as those required under § 149(e) for exempt facility bonds on such forms as shall be prescribed by the IRS for such purpose. Pending further guidance from the IRS regarding the applicable forms to be used for such information reporting for Recovery Zone Facility Bonds, in the case of an issue of Recovery Zone Facility Bonds, the issuer must submit to the IRS an information return on Form 8038, *Information Return for Tax-Exempt Private Activity Bond Is-*

sues, at the same time and in the same manner as required under § 149(e), with modifications as described below. Issuers of Recovery Zone Facility Bonds should complete Part II of Form 8038 by checking the box on Line 11q (Other), writing "Recovery Zone Facility Bonds" in the space provided for the bond description, and entering the issue price of the Recovery Zone Facility Bonds in the Issue Price column. For purposes of this notice, the term "issue" has the meaning used for tax-exempt bond purposes in § 1.150-1(c).

.04 ELIGIBLE ISSUERS IN GENERAL AND ALLOCATIONS OF VOLUME CAP TO ULTIMATE BENEFICIARIES

Eligible issuers of Recovery Zone Bonds include States, political subdivisions as defined for purposes of § 103, and entities empowered to issue bonds on behalf of any such entity under rules similar to those for determining whether a bond issued on behalf of a State or political subdivision constitutes an obligation of that State or political subdivision for purposes of § 103 and § 1.103-1(b) of the Income Tax Regulations. Further, eligible issuers include otherwise-eligible issuers in conduit financing issues (as defined in § 1.150-1(b)). An eligible issuer may issue Recovery Zone Bonds based on a volume cap allocation received by the eligible issuer itself or by a conduit borrower or other ultimate beneficiary of the issue of the bonds. In all events, the eligible costs for qualified economic development purposes or recovery zone property, as applicable, financed with the proceeds of an issue of Recovery Zone Bonds under §§ 1400U-2 or 1400U-3, respectively, must relate to any such purpose or property that is located within, or attributable to, both the jurisdiction of the issuer of the bonds and the jurisdiction of the entity authorized to allocate volume cap to an issue of bonds for the financing of such purpose or property.

Entities authorized to allocate volume cap to ultimate beneficiaries consist of States (with respect to allocations waived or deemed waived by any county or large municipality), counties, and large municipalities (as defined in § 1400U-1(a)(3)(B)) that receive volume cap allocations under § 1400U-1(a)(3)(A). Such States, counties, and large municipalities may use such

volume cap themselves for eligible costs or may allocate such volume cap received to ultimate beneficiaries in any reasonable manner as they shall determine in good faith in their discretion for use for eligible costs for qualified economic development purposes or recovery zone property, as applicable. In the event that a county or large municipality that receives an allocation of volume cap under § 1400U-1(a)(3)(A) of Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds does not possess substantial taxing, eminent domain, and police powers, any entity the jurisdiction of which includes such county or large municipality may issue bonds and designate such bonds as Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds, as applicable, on behalf of, and for the benefit of, such county or municipality, subject to the applicable volume cap limitations for those Recovery Zone Bonds allocated to such county or large municipality. In such case, the proceeds of an issue of Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds under §§ 1400U-2 or 1400U-3, respectively, must be allocated to eligible costs for qualified economic development purposes or recovery zone property, as applicable, that is located within, or attributable to, both the jurisdiction of the issuer of the bonds and the jurisdiction of the county or large municipality that received the volume cap allocation under § 1400U-1(a)(3)(A). Thus, for example, a county or large municipality that received a volume cap allocation under § 1400U-1(a)(3)(A) may issue bonds and designate them as Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds, as applicable, for use of that volume cap by an ultimate beneficiary (including such county or large municipality itself or another entity) or another eligible issuer may issue bonds and designate them as Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds, as applicable, for use of that volume cap by an ultimate beneficiary (including such county or municipality or another entity), based on an allocation by such county or large municipality of that volume cap to an ultimate beneficiary. In all events, the proceeds of the issue must be used to finance eligible costs for qualified economic development

purposes or recovery zone property, as applicable, that is located within, or attributable to, both the jurisdiction of the issuer of the bonds and the jurisdiction of the county or large municipality authorized to allocate volume cap to an ultimate beneficiary of the issue of Recovery Zone Bonds for the financing of those purposes or property.

.05 WAIVERS OF VOLUME CAP ALLOCATIONS

Section 1400U-1(a)(3)(A) provides that a county or large municipality may waive any portion of a volume cap allocation received for Recovery Zone Bonds. Upon any such waiver, the State in which such county or large municipality is located shall be authorized to reallocate the waived volume cap in any reasonable manner as it shall determine in good faith in its discretion.

.06 DESIGNATIONS OF RECOVERY ZONES

As further described in Section 2.01 of this notice, § 1400U-1(b) requires, in part, that issuers "designate" eligible recovery zones based on certain specified criteria. For this purpose, any State, county, or large municipality that receives a volume cap allocation for Recovery Zone Bonds may make these designations of recovery zones in any reasonable manner as it shall determine in good faith in its discretion.

SECTION 6. ALLOCATIONS OF RECOVERY ZONE BOND VOLUME CAP

.01 VOLUME CAP DESIGNATIONS IN GENERAL

Sections 1400U-2(b)(2) and 1400U-3(b)(2) provide generally that the maximum face amount of the applicable type of Recovery Zone Bonds designated for issuance by an issuer cannot exceed the amounts of volume cap for the applicable Recovery Zone Bonds allocated to such issuer under § 1400U-1. For this purpose, these designations, including associated determinations of qualified economic development purposes, may be made by an issuer in any reasonable manner as it shall determine in good faith in its discretion, taking into account the special

rules for eligible issuers under Section 5.04 of this notice.

.02 VOLUME CAP ALLOCATIONS IN GENERAL

Section 1400U-1(a)(1)(A) provides that, subject to § 1400U-1(a)(1)(B) (relating to minimum allocations), generally, the Secretary shall allocate the \$10 billion national volume cap for Recovery Zone Economic Development Bonds and the \$15 billion national volume cap for Recovery Zone Facility Bonds among the States in the proportion that each State's 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all of the States. Section 1400U-1(a)(1)(B) provides that the Secretary shall adjust the allocations under § 1400U-1(a)(1)(A) for any calendar year for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the national volume cap for Recovery Zone Economic Development Bonds and 0.9 percent of the national volume cap for Recovery Zone Facility Bonds.

Section 1400U-1(a)(2) provides that for purposes of § 1400U-1(a), the term "2008 State employment decline" means, with respect to any State, the excess (if any) of (A) the number of individuals employed in such State determined for December 2007, over (B) the number of individuals employed in such State determined for December 2008. The volume cap allocations provided pursuant to this notice are based on Local Area Unemployment Statistics ("LAUS") data for December 2007 and December 2008 released by the United States Bureau of Labor Statistics. *See generally* <http://www.bls.gov/lau/home.htm>.

Section 1400U-1(a)(3)(A) provides generally that each State with respect to which an allocation is made under 1400U-1(a)(1) is required, without discretion, to reallocate such allocation among the counties and large municipalities in such State in the proportion that each county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State. For purposes of § 1400U-1(a)(3)(A),

the term "large municipality" means a municipality with a population of more than 100,000. For purposes of determining the local employment decline under § 1400U-1(a)(3), the employment decline of any county or large municipality is determined in the same manner as the determination of the State employment decline under 1400U-1(a)(2), except that in the case of a municipality any portion of which is in a county, such portion is treated as part of such municipality and not as part of such county.

.03 STATE ALLOCATIONS OF RECOVERY ZONE BOND VOLUME CAP

Pursuant to § 1400U-1(a), the \$10 billion national volume cap for Recovery Zone Economic Development Bonds and the \$15 billion national volume cap for Recovery Zone Facility Bonds under §§ 1400U-2 and 1400U-3, respectively, are allocated among the States as follows:

State	Recovery Zone Economic Development Bond Allocations (in dollars)	Recovery Zone Facility Bond Allocations (in dollars)
Alabama	244,676,000	367,014,000
Alaska	90,000,000	135,000,000
Arizona	90,000,000	135,000,000
Arkansas	90,000,000	135,000,000
California	806,225,000	1,209,338,000
Colorado	99,018,000	148,527,000
Connecticut	90,000,000	135,000,000
Delaware	90,000,000	135,000,000
District of Columbia	90,000,000	135,000,000
Florida	538,485,000	807,727,000
Georgia	355,785,000	533,677,000
Hawaii	90,000,000	135,000,000
Idaho	90,000,000	135,000,000
Illinois	666,972,000	1,000,457,000
Indiana	313,081,000	469,621,000
Iowa	90,000,000	135,000,000
Kansas	90,000,000	135,000,000
Kentucky	97,120,000	145,681,000
Louisiana	90,000,000	135,000,000
Maine	90,000,000	135,000,000
Maryland	208,860,000	313,291,000
Massachusetts	222,676,000	334,013,000
Michigan	773,050,000	1,159,575,000
Minnesota	132,154,000	198,231,000
Mississippi	90,000,000	135,000,000
Missouri	229,143,000	343,715,000

State	Recovery Zone Economic Development Bond Allocations (in dollars)	Recovery Zone Facility Bond Allocations (in dollars)
Montana	90,000,000	135,000,000
Nebraska	90,000,000	135,000,000
Nevada	90,000,000	135,000,000
New Hampshire	90,000,000	135,000,000
New Jersey	251,104,000	376,655,000
New Mexico	90,000,000	135,000,000
New York	370,098,000	555,147,000
North Carolina	418,154,000	627,231,000
North Dakota	90,000,000	135,000,000
Ohio	422,637,000	633,955,000
Oklahoma	90,000,000	135,000,000
Oregon	103,450,000	155,175,000
Pennsylvania	154,008,000	231,012,000
Rhode Island	100,882,000	151,322,000
South Carolina	115,041,000	172,562,000
South Dakota	90,000,000	135,000,000
Tennessee	231,417,000	347,126,000
Texas	90,000,000	135,000,000
Utah	90,000,000	135,000,000
Vermont	90,000,000	135,000,000
Virginia	104,396,000	156,595,000
Washington	90,000,000	135,000,000
West Virginia	90,000,000	135,000,000
Wisconsin	158,811,000	238,217,000
Wyoming	90,000,000	135,000,000
American Samoa	90,000,000	135,000,000
Guam	90,000,000	135,000,000
Northern Marianas	90,000,000	135,000,000
Puerto Rico	92,757,000	139,136,000
US Virgin Islands	90,000,000	135,000,000
Total	10,000,000,000	15,000,000,000

.04 LOCAL SUBALLOCATIONS OF RECOVERY ZONE BOND VOLUME CAP AMONG COUNTIES AND LARGE MUNICIPALITIES

The Treasury Department and the IRS recognize that the required local suballocations of the national volume cap for Recovery Zone Bonds among counties and large municipalities impose administrative burdens for the States and involve mandatory local suballocations without State discretion. Accordingly, the Treasury Department and the IRS undertook to determine these required local suballocations. For purposes of these local suballocations among counties and large municipalities, certain county-equivalent entities (including independent cities that are not otherwise located within counties, parishes, boroughs, and similar entities) are treated as counties in the same manner that the

Bureau of Labor Statistics treats such entities as county-equivalent entities in its employment data. This undertaking to provide local suballocations is intended to facilitate prompt availability of Recovery Zone Bonds as a source for State and local governmental borrowing at lower borrowing costs to promote job creation and economic recovery in areas particularly affected by employment declines.

Pursuant to § 1400U-1(a)(3), the State volume caps of the \$10 billion national volume cap for Recovery Zone Economic Development Bonds and the \$15 billion national volume cap for Recovery Zone Facility Bonds under §§ 1400U-2 and 1400U-3, respectively, are reallocated locally among the counties and large municipalities within the States (except that no such local reallocations are being provided for the Possessions of the United States (see Section 6.05 of this notice below)) in

a document regarding the Recovery Zone Bond volume cap allocations being posted on the IRS's website at the following web address: <http://www.irs.gov/taxexempt-bond/index.html> under the heading in the index entitled "IRS Releases Guidance on ARRA Bond Provisions," to be available on the same date that this notice is released publicly. Stated differently, these local suballocations will be accessible by going to the IRS website at <http://www.irs.gov>, then clicking on the heading "Tax-exempt Bond Community" in the top right corner, then clicking on the heading in the index entitled "IRS Releases Guidance on ARRA Bond Provisions," and then clicking on the subheading regarding the Recovery Zone Bond volume cap allocations, starting on the same date that this notice is released publicly.

.05 SPECIAL RULES FOR VOLUME
CAP ALLOCATIONS RECEIVED BY
THE POSSESSIONS

In recognition of the disparate local governmental organizational structures and disparate availability of employment data for the Possessions of the United States, the Possessions may allocate locally, reallocate locally, or use directly their respective State allocations of volume cap for Recovery Zone Bonds in any reasonable manner as they may determine in good faith in their discretion.

**SECTION 7. EFFECTIVE DATE OF
VOLUME CAP ALLOCATIONS**

The allocations of national volume cap for Recovery Zone Bonds in Section 6 of this notice are effective for bonds issued on or after February 17, 2009.

**SECTION 8. DRAFTING
INFORMATION**

The principal authors of this notice are Zoran Stojanovic and Timothy L. Jones of the Office of Associate Chief Counsel (Financial Institutions and Products). For further information regarding this notice, contact Mr. Stojanovic or Mr. Jones at (202) 622-3980 (not a toll-free call).

**Qualified Plug-in Electric
Vehicle Credit**

Notice 2009-54

Section 1. PURPOSE

This notice sets forth interim guidance, pending the issuance of regulations, relating to the new qualified plug-in electric drive motor vehicle credit under § 30D of the Internal Revenue Code. Specifically, this notice provides procedures for a vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to certify to the Internal Revenue Service (“Service”) both:

(1) That a motor vehicle of a particular make, model, and model year meets certain requirements that must be satisfied to claim the new qualified plug-in electric drive motor vehicle credit under § 30D; and

(2) The amount of the credit allowable with respect to that motor vehicle.

This notice also provides guidance to taxpayers who purchase motor vehicles regarding the conditions under which they may rely on the vehicle manufacturer’s (or, in the case of a foreign vehicle manufacturer, its domestic distributor’s) certification in determining whether a credit is allowable with respect to the vehicle and the amount of the credit. The Service and the Treasury Department expect that the regulations will incorporate the rules set forth in this notice.

Section 30D originally was enacted in the Energy Improvement and Extension Act of 2008, Pub. L. 110-343, 122 Stat. 3765. The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, 123 Stat. 115, amended § 30D in certain respects, and those amendments are effective for vehicles acquired after December 31, 2009. The Service and Treasury Department will issue subsequent guidance relating to those amendments. All references to § 30D in this notice are to the provision as in effect before its amendment.

Section 2. BACKGROUND

Section 30D provides for a credit for certain new qualified plug-in electric drive motor vehicles. The credit is equal to the sum of: (1) \$2,500, plus (2) \$417 for each kilowatt hour of traction battery capacity in excess of 4 kilowatt hours. Section 30D(b)(1) limits the amount of the credit allowed for a vehicle to amounts ranging from \$7,500 to \$15,000, depending on the gross vehicle weight rating of the vehicle. The new qualified plug-in electric drive motor vehicle credit phases out over the period beginning with the second calendar quarter after the calendar quarter in which at least 250,000 qualifying vehicles have been sold for use in the United States (determined on a cumulative basis for sales after December 31, 2008) (phase-out period”). Qualifying vehicles purchased in the first two calendar quarters of the phase-out period are eligible for 50 percent of the credit. Qualifying vehicles purchased in the third and fourth calendar quarters of the phase-out period are eligible for 25 percent of the credit. Vehicles purchased after the last day of the fourth calendar quarter of the phase-out period are not eligible for a credit. If a vehicle qualifies for a credit

under both § 30B and § 30D, the amount of the credit allowed under § 30B is the amount of the otherwise allowable credit under that section reduced (but not below zero) by the amount of the credit allowed under § 30D. In addition, if a vehicle qualifies for a credit under § 30D, no credit is allowed for that vehicle under § 30.

Section 3. SCOPE OF NOTICE

The new qualified plug-in electric drive motor vehicle credit applies to plug-in electric drive motor vehicles, including low speed vehicles as defined in section 4(6) of this notice, that—

(1) Are placed in service by the taxpayer in a taxable year beginning after December 31, 2008;

(2) Are acquired by the taxpayer on or before December 31, 2009; and

(3) Otherwise meet the requirements of § 30D.

Section 4. MEANING OF TERMS

The following definitions apply for purposes of this notice:

.01 *In General.* Terms used in this notice and not defined in this section 4 have the same meaning as when used in § 30D.

.02 *Clean Air Act Regulations.* The Clean Air Act regulations are the regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. §§ 7521, *et. seq.*).

.03 *Traction Battery Capacity.* Traction battery capacity is measured in kilowatt hours from a 100 percent state of charge to a zero percent state of charge.

.04 *Motor Vehicle.* The term “motor vehicle” has the meaning given that term by § 30(c)(2).

.05 *Manufacturer.* The term “manufacturer” has the meaning given that term in the Clean Air Act regulations.

.06 *Passenger Vehicle and Light Truck.* The terms “passenger vehicle” and “light truck” do not include (1) any vehicle that has a gross vehicle weight of more than 8,500 pounds and (2) any vehicle that is not treated as a motor vehicle in the Clean Air Act regulations. A low speed vehicle, as defined in section 4.07 of this notice, is not treated as a motor vehicle in the Clean Air Act regulations. Accordingly, a low

speed vehicle is not a passenger vehicle or light truck and is not required to receive a certificate of conformity under the Clean Air Act to qualify for the credit.

.07 Low Speed Vehicle. The term “low speed vehicle” means a vehicle:

- (1) That has at least four wheels;
- (2) That is manufactured primarily for use on public streets, roads and highways (not including a vehicle operated exclusively on a rail or rails);
- (3) That is not manufactured primarily for off-road use, such as primarily for use on a golf course;
- (4) Whose speed attainable in one mile is more than 20 miles per hour and not more than 25 miles per hour on a paved level surface; and
- (5) Whose gross vehicle weight rating is less than 3,000 pounds.

.08 Model Year. The term “model year” means the model year determined under the Clean Air Act regulations (see 40 CFR § 86-082-2).

Section 5. MANUFACTURER’S CERTIFICATION AND QUARTERLY REPORTS

.01 When Certification Permitted. A vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) may certify to purchasers that a motor vehicle of a particular make, model, and model year meets all requirements (other than those listed in section 5.02 of this notice) that must be satisfied to claim the new qualified plug-in electric drive motor vehicle credit allowable under § 30D with respect to the vehicle, if the following requirements are met:

(1) The manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) has submitted to the Service, in accordance with this section 5 of this notice, a certification with respect to the vehicle and the certification satisfies the requirements of section 5.03 of this notice;

(2) The manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) has received an acknowledgment of the certification from the Service.

.02 Purchaser’s Reliance. Except as provided in section 5.07 of this notice, a purchaser of a motor vehicle may rely on the manufacturer’s (or, in the case of a

foreign vehicle manufacturer, its domestic distributor’s) certification concerning the vehicle and the amount of the credit allowable with respect to the vehicle (including in cases in which the certification is received after the purchase of the vehicle). The purchaser may claim a credit in the certified amount with respect to the vehicle if the following requirements are satisfied:

(1) The vehicle is placed in service by the taxpayer in a taxable year beginning after December 31, 2008, and is purchased by the taxpayer on or before December 31, 2009;

(2) The original use of the vehicle commences with the taxpayer;

(3) The vehicle is acquired for use or lease by the taxpayer, and not for resale; and

(4) The vehicle is used predominantly in the United States.

.03 Content of Certification. The certification must contain the information required in section 5.03(1) of this notice and any applicable additional information required in section 5.03(2) or (3) of this notice.

(1) *All Vehicles.* For all vehicles, the certification must contain the following:

(a) The name, address, and taxpayer identification number of the certifying entity.

(b) The make, model, model year, and any other appropriate identifiers of the motor vehicle.

(c) A statement that the vehicle is made by a manufacturer.

(d) A statement that the vehicle is a motor vehicle within the meaning of section 4.03 of this notice.

(e) The amount of the credit for the vehicle (showing computations).

(f) The gross vehicle weight rating of the vehicle.

(g) A statement that the motor vehicle draws propulsion using a traction battery with at least 4 kilowatt hours of capacity.

(h) The number of kilowatt hours, if any, in excess of 4 kilowatt hours.

(i) A statement that the vehicle uses an offboard source of energy to recharge the battery.

(j) A statement that the vehicle complies with the applicable provisions of the Clean Air Act.

(k) A statement that the vehicle complies with the applicable air quality pro-

visions of state law of each state that has adopted the provisions under a waiver under § 209(b) of the Clean Air Act or a list identifying each state that has adopted applicable air quality provisions with which the vehicle does not comply.

(1) A description of the motor vehicle safety provisions of 49 U.S.C. §§ 30101 through 30169 applicable to the vehicle and a statement that the vehicle complies with those provisions.

(m) A declaration, applicable to the certification, statements, and any accompanying documents, signed by a person currently authorized to bind the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) in these matters, in the following form: “Under penalties of perjury, I declare that I have examined this certification, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this certification are true, correct, and complete.”

(2) *Passenger Vehicles and Light Trucks.* If the vehicle is a passenger vehicle or light truck (determined after application of the limitations in section 4.06 of this notice), the certification must also contain the following:

(a) A copy of the certificate of conformity under the Clean Air Act.

(b) Documents demonstrating that the vehicle meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year.

(c) In the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, documents showing that the vehicle meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle.

(d) In the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds, but not more than 8,500 pounds, documents showing the vehicle meets or exceeds the Bin 8 Tier II emission standard which is so established.

(3) *Low Speed Vehicles.* A certification with respect to a low speed vehicle as defined in section 4.07 of this notice must also contain the following:

(a) A statement that the vehicle has at least four wheels.

(b) A statement that the vehicle is manufactured primarily for use on public streets, roads and highways.

(c) A statement that the vehicle is not manufactured primarily for off-road use, such as primarily for use on a golf course.

(d) Evidence that the speed attainable by the vehicle in one mile is more than 20 miles per hour and not more than 25 miles per hour on a paved level surface.

.04 Acknowledgement of Certification. The Service will review the original signed certification and issue an acknowledgment letter to the vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) within 30 days of receipt of the request for certification. This acknowledgment letter will state whether purchasers may rely on the certification.

.05 Quarterly Reporting of Sales of Qualified Vehicles. A manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) that has received an acknowledgment of its certification from the Service must submit to the Service, in accordance with section 6 of this notice, a report of the number of qualified plug-in electric drive motor vehicles sold by the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to consumers or retail dealers during the calendar quarter. The quarterly report must contain the following information:

(1) The name, address, and taxpayer identification number of the reporting entity.

(2) The number of qualified vehicles sold by the reporting entity to consumers or retail dealers during the calendar quarter.

(3) The make, model, model year, and any other appropriate identifiers of the qualified vehicles sold during the calendar quarter.

(4) A declaration, applicable to the quarterly report and any accompanying documents, signed by a person currently authorized to bind the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) in these matters, in the following form: "Under penalties of perjury, I declare that I have examined this report, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support

of this report are true, correct, and complete."

.06 Acknowledgment of Quarterly Report. The Service will review the original signed quarterly report and issue an acknowledgment letter to the vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) within 30 days of receipt of the report. This acknowledgment letter will state whether purchasers may continue to rely on the certification.

.07 Effect of Erroneous Certification, Erroneous Quarterly Reports, or Failure to Make Timely Quarterly Reports.

(1) *Erroneous Certification or Quarterly Report.* The acknowledgment that the Service provides for a certification is not a determination that a vehicle qualifies for the credit, or that the amount of the credit is correct. The Service may, upon examination (and after any appropriate consultation with the Department of Transportation or the Environmental Protection Agency), determine that the vehicle is not a new qualified plug-in electric drive motor vehicle or that the amount of the credit determined by the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to be allowable with respect to the vehicle is incorrect. In either event, or in the event that the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) makes an erroneous quarterly report, the manufacturer's (or, in the case of a foreign vehicle manufacturer, its domestic distributor's) right to provide a certification to future purchasers of the new qualified plug-in electric drive motor vehicles will be withdrawn, and purchasers who acquire a vehicle after the date on which the Service publishes an announcement of the withdrawal may not rely on the certification. Purchasers may continue to rely on the certification for vehicles they acquired on or before the date on which the announcement of the withdrawal is published (including in cases in which the vehicle is not placed in service and the credit is not claimed until after that date), and the Service will not attempt to collect any understatement of tax liability attributable to such reliance. Manufacturers (or, in the case of foreign vehicle manufacturers, their domestic distributors) are reminded that an erroneous certification or an erroneous quarterly report may result in the

imposition of penalties, including, but not limited to, the penalties:

(a) Under § 7206 for fraud and making false statements; and

(b) Under § 6701 for aiding and abetting an understatement of tax liability in the amount of \$1,000 (\$10,000 in the case of understatements by corporations) per return on which a credit is claimed in reliance on the certification.

(2) *Failure to Make Timely Quarterly Report.* If a manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) fails to make a quarterly report in accordance with section 5.05 of this notice and at the time specified in section 6.02 of this notice, the acknowledgment letter issued under section 5.04 of this notice may be withdrawn, and purchasers will not be entitled to rely on the related certification for quarters beginning after the date on which the Service publishes an announcement of the withdrawal (generally, quarters beginning after the due date of the report). If the quarterly report is filed subsequently, the Service may reissue the acknowledgment letter and retract the withdrawal announcement.

Section 6. TIME AND ADDRESS FOR FILING CERTIFICATION AND QUARTERLY REPORTS

.01 Time for Filing Certification. In order for a certification under section 5 of this notice to be effective for new qualified plug-in electric drive motor vehicles placed in service during a calendar year, the certification must be received by the Service not later than December 31 of that calendar year.

.02 Time for Filing Quarterly Reports. A report of sales of qualified vehicles during a quarter must be filed with the Service at the address specified in section 6.03 of this notice not later than the last day of the first calendar month following the quarter to which the report relates.

.03 Address for Filing. Certifications and quarterly reports under section 5 of this notice must be sent to:

Internal Revenue Service
Industry Director, LMSB, Heavy
Manufacturing & Transportation
Metro Park Office Complex — LMSB
111 Wood Avenue, South
Iselin, New Jersey 08830

Section 7. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-2137.

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

The collections of information in this notice are in sections 5 and 6. This information is collected and retained in order to ensure that vehicles meet the requirements for the new qualified plug-in elec-

tric drive motor vehicle credit under § 30D. This information will be used to determine whether the vehicle for which the credit is claimed by a taxpayer is property that qualifies for the credit. The collection of information is voluntary to obtain a benefit. The likely respondents are corporations and partnerships.

The estimated total annual reporting burden is 280 hours.

The estimated annual burden per respondent varies from 20 hours to 35 hours, depending on individual circumstances, with an estimated average burden of 24 hours to complete the certification required under this notice. The estimated number of respondents is 12.

The estimated annual frequency of responses is on occasion.

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

SECTION 8. DRAFTING INFORMATION

The principal author of this notice is Patrick S. Kirwan of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Mr. Kirwan at (202) 622-3110 (not a toll-free call).

Part IV. Items of General Interest

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2009-54

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue

Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to

be deductible. Protection under section 7428(c) would begin on June 29, 2009, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Home Ownership Providers, Inc
Marietta, GA
Wasatch Homes Charitable Foundation
Draper, UT

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2009-55

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and appraisers. These individuals are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Part 10, and which are published in pamphlet form as Treasury Department Circular No. 230. The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations.

The disciplinary sanctions to be imposed for violation of the regulations are:

Disbarred from practice before the IRS—An individual who is disbarred is not eligible to represent taxpayers before the IRS.

Suspended from practice before the IRS—An individual who is suspended is not eligible to represent taxpayers before the IRS during the term of the suspension.

Censured in practice before the IRS—Censure is a public reprimand. Unlike disbarment or suspension, censure

does not affect an individual's eligibility to represent taxpayers before the IRS, but OPR may subject the individual's future representations to conditions designed to promote high standards of conduct.

Monetary penalty—A monetary penalty may be imposed on an individual who engages in conduct subject to sanction or on an employer, firm, or entity if the individual was acting on its behalf and if it knew, or reasonably should have known, of the individual's conduct.

Disqualification of appraiser—An appraiser who is disqualified is barred from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or the IRS.

Under the regulations, attorneys, certified public accountants, enrolled agents, enrolled actuaries, and enrolled retirement plan agents may not assist, or accept assistance from, individuals who are suspended or disbarred with respect to matters constituting practice (*i.e.*, representation) before the IRS, and they may not aid or abet suspended or disbarred individuals to practice before the IRS.

Disciplinary sanctions are described in these terms:

Disbarred by decision after hearing, Suspended by decision after hearing, Censured by decision after hearing, Monetary penalty imposed after hearing, and Disqualified after hearing—An administrative law judge (ALJ) conducted an evidentiary hearing upon OPR's complaint alleging violation of the regulations and issued a decision imposing one of these sanctions. After 30 days from the issuance of the decision, in the absence of an appeal, the ALJ's decision became the final agency decision.

Disbarred by default decision, Suspended by default decision, Censured by default decision, Monetary penalty imposed by default decision, and Disqualified by default decision—An ALJ, after finding that no answer to OPR's complaint had been filed, granted OPR's motion for a default judgment and issued a decision imposing one of these sanctions.

Disbarment by decision on appeal, Suspended by decision on appeal, Censured by decision on appeal, Monetary penalty imposed by decision on appeal, and Disqualified by decision on appeal—The decision of the ALJ was appealed to the agency appeal authority,

acting as the delegate of the Secretary of the Treasury, and the appeal authority issued a decision imposing one of these sanctions.

Disbarred by consent, Suspended by consent, Censured by consent, Monetary penalty imposed by consent, and Disqualified by consent—In lieu of a disciplinary proceeding being instituted or continued, an individual offered a consent to one of these sanctions and OPR accepted the offer. Typically, an offer of consent will provide for: suspension for an indefinite term; conditions that the individual must observe during the suspension; and the individual’s opportunity, after a stated number of months, to file with OPR a petition for reinstatement affirming compliance with the terms of the consent and affirming current eligibility

to practice (*i.e.*, an active professional license or active enrollment status). An enrolled agent or an enrolled retirement plan agent may also offer to resign in order to avoid a disciplinary proceeding.

Suspended by decision in expedited proceeding, Suspended by default decision in expedited proceeding, Suspended by consent in expedited proceeding—OPR instituted an expedited proceeding for suspension (based on certain limited grounds, including loss of a professional license and criminal convictions).

OPR has authority to disclose the grounds for disciplinary sanctions in these situations: (1) an ALJ or the Secretary’s delegate on appeal has issued a decision on or after September 26, 2007, which was the effective date of amendments to the

regulations that permit making such decisions publicly available; (2) the individual has settled a disciplinary case by signing OPR’s “consent to sanction” form, which requires consenting individuals to admit to one or more violations of the regulations and to consent to the disclosure of the individual’s own return information related to the admitted violations (for example, failure to file Federal income tax returns); or (3) OPR has issued a decision in an expedited proceeding for suspension.

Announcements of disciplinary sanctions appear in the Internal Revenue Bulletin at the earliest practicable date. The sanctions announced below are alphabetized first by the names of states and second by the last names of individuals. Unless otherwise indicated, section numbers (*e.g.*, §10.51) refer to the regulations.

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Arizona				
Scottsdale	Ainsworth, Brent L.	Enrolled Agent	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 287, false fictitious and fraudulent claims)	Indefinite from June 8, 2009
Illinois				
Long Grove	Neubauer, David K.	Enrolled Agent	Disbarred by ALJ default decision for violation of § 10.51 (willful failure to timely file Forms 941 and for failure to make required deposits of employment taxes)	Indefinite from April 14, 2009
Kansas				
Olathe	Dowell, Douglas W.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license in Missouri)	Indefinite from June 8, 2009
Arkansas City	Parman, Jon P.	CPA	Suspended by consent for violation of § 10.51 (failure to timely file several Form 1040)	Indefinite from April 1, 2009

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Kentucky				
Salyersville	Howard, Vickie	Attorney	Suspended by decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from June 8, 2009
Massachusetts				
Lynn	Sacher, Bruce N.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from June 8, 2009
	Skouras, Jr., Peter G., See New Hampshire			
Minnesota				
Minneapolis	Taber, Daniel P.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from June 8, 2009
Missouri				
	Dowell, Douglas W., See Kansas			
New Hampshire				
Exeter	Skouras, Jr., Peter G.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment in Massachusetts)	Indefinite from June 8, 2009
New York				
Bayside	Katz, Benjamin Z.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from June 8, 2009
North Carolina				
Waxhaw	Smith, Troy A.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from June 8, 2009
Ohio				
Dublin	Cole, Michael D.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from June 4, 2009

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Texas				
Weatherford	Vickers, Brenda J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7203, intentional failure to file personal tax return)	Indefinite from June 4, 2009

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 applies 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 laws 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 a 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 Contributions 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.—Statement 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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Ann	Announcement
CD	Court Decision
DO	Delegation Order
EO	Executive Order
PL	Public Law
PTE	Prohibited Transaction Exemption
RP	Revenue Procedure
RR	Revenue Ruling
SPR	Statement of Procedural Rules
TC	Tax Convention
TD	Treasury Decision
TDO	Treasury Department Order

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26 CFR 31.6060-1, added; 31.6107-1, added; 31.6109-2, added; 31.6694-1 thru -4, added; 31.6695-1, added; 31.6696-1, added; 31.7701-1, added; tax return preparer penalties under sections 6694 and 6695 (TD 9436) 3, 268; correction (Ann 15) 11, 687

26 CFR 301.7508A-1, amended; postponement of certain tax-related deadlines by reason of a federally declared disaster or terroristic or military action (TD 9443) 8, 564

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Proposed Regulations:

26 CFR 20.2031-7, amended; 20.2032-1, amended; 20.2055-2, amended; 20.2056A-4, amended; 20.7520-1, amended; use of actuarial tables for valuing annuities, interests for life or terms of years, and remainder or reversionary interests (REG-107845-08) 20, 1014

26 CFR 20.2036-1, amended; grantor retained interest (REG-119532-08) 20, 1017; correction (Ann 50) 25, 1105

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25 CFR 20.2031-0, revised; 20.2031-7, amended; 20.2031-7A, amended; 20.2031-7T, added; 20.2032-1, amended; 20.2032-1T, added; 20.2055-2, amended; 20.2055-2T, added; 20.2056A-4, amended; 20.2056A-4T, added; 20.7520-1, amended; 20.7520-1T, added; actuarial tables in valuing annuities, interests for life or terms of years and remainder or reversionary interests (TD 9448) 20, 942

26 CFR 20.6060-1, added; 20.6107-1, added; 20.6109-1, added; 20.6694-1 thru -4, added; 20.6695-1, added; 20.6696-1, added; 20.7701-1, added; 26.6060-1, added; 26.6107-1, added; 26.6109-1, added; 26.6694-1 thru -4, added; 26.6695-1, added; 26.6696-1, added; 26.7701-1, added; tax return preparer penalties under sections 6694 and 6695 (TD 9436) 3, 268; correction (Ann 15) 11, 687

26 CFR 301.7508A-1, amended; postponement of certain tax-related deadlines by reason of a federally declared disaster or terroristic or military action (TD 9443) 8, 564

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Proposed Regulations:

26 CFR 41.4481-1, -2, amended; 41.4483-3, amended; 41.4483-7, removed; 41.6001-1, -2, amended; 41.6011(a)-1, amended; 41.6071(a)-1, amended; 41.6156-1, removed; highway use tax; sold vehicles and electronic filing (REG-116699-07) 13, 727

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26 CFR 40.6060-1, added; 40.6107-1, added; 40.6109-1, added; 40.6694-1 thru -4, added; 40.6695-1, added; 40.6696-1, added; 40.7701-1, added; 41.6060-1, added; 41.6107-1, added; 41.6109-2, added; 41.6694-1 thru -4, added; 41.6695-1, added; 41.6696-1, added;

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41.7701-1, added; 44.6060-1, added; 44.6107-1, added; 44.6109-1, added; 44.6694-1 thru -4, added; 44.6695-1, added; 44.6696-1, added; 44.7701-1, added; 55.6060-1, added; 55.6107-1, added; 55.6109-1, added; 55.6694-1 thru -4, added; 55.6695-1, added; 55.6696-1, added; 55.7701-1, added; 156.6060-1, added; 156.6107-1, added; 156.6109-1, added; 156.6694-1 thru -4, added; 156.6695-1, added; 156.6696-1, added; 156.7701-1, added; 157.6060-1, added; 157.6107-1, added; 157.6109-1, added; 157.6694-1 thru -4, added; 157.6695-1, added; 157.6696-1, added; 157.7701-1, added; 301.7701-15, amended; tax return preparer penalties under sections 6694 and 6695 (TD 9436) 3, 268; correction (Ann 15) 11, 687

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26 CFR 1.6060-1, amended; 1.6107-1, revised; 1.6109-2, amended; 1.6694-0 thru -4, revised; 1.6695-1, -2, revised; 1.6696-1, revised; 53.6060-1, added; 53.6107-1, added; 53.6109-1, added; 53.6694-1 thru -4, added; 53.6695-1, added; 53.6696-1, added; 53.7701-1, added; 56.6060-1, added; 56.6107-1, added; 56.6109-1, added; 56.6694-1 thru -4, added; 56.6695-1, added; 56.6696-1, added; 56.7701-1, added; tax return preparer penalties under sections 6694 and 6695 (TD 9436) 3, 268; correction (Ann 15) 11, 687

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26 CFR 25.2512-5, amended; 25.2522(c)-3, amended; 25.7520-1, -3, amended; 25.2512-5A, amended; 25.2512-5T, added; 25.2522-(c)-3, amended; 25.2522(c)-3T, added; 25.7520-1, amended; 25.7520-1T, added; 25.7520-3, amended; 25.7520-3T, added; use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests (REG-107845-08) 20, 1014

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26 CFR 25.2512-0, revised; 25.2512-5, amended; use of actuarial tables in valuing annuities, interests for life or terms of years and remainder or reversionary interests (TD 9448) 20, 942

26 CFR 25.6060-1, added; 25.6107-1, added; 25.6109-1, added; 25.6694-1 thru -4, added; 25.6695-1, added; 25.6696-1, added; 25.7701-1, added; tax return preparer penalties under sections 6694 and 6695 (TD 9436) 3, 268; correction (Ann 15) 11, 687

26 CFR 301.7508A-1, amended; postponement of certain tax-related deadlines by reason of a federally declared disaster or terroristic or military action (TD 9443) 8, 564

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