

## **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**

#### **Notice 2010-64, page 421.**

**Extension of replacement period for livestock sold on account of drought.** This notice explains the circumstances under which the 4-year replacement period under section 1033(e)(2) of the Code is extended for livestock sold on account of drought. This notice also contains a list of the counties that experienced exceptional, extreme, or severe drought during the preceding 12-month period ending August 31, 2010. Taxpayers may use this list to determine if an extension is available.

#### **Notice 2010-65, page 424.**

The notice announces that the Treasury Department and the IRS intend to exercise regulatory authority under section 901(l)(3) of the Code not to apply the credit disallowance rules of section 901(l) to foreign withholding taxes on (1) royalties received in "ordinary course" back-to-back licenses of intellectual property and articles embodying intellectual property and (2) direct sales from the U.S. of copies of copyrighted articles. The notice solicits comments on the exception as well as on related issues under section 901(l). Notice 2005-90 supplemented.

#### **Announcement 2010-75, page 428.**

This document is part of a series of announcements relating to the Service's announcement that it was developing a schedule requiring certain business taxpayers to report uncertain tax positions on their tax returns. This announcement explains the actions being taken by the IRS in response to the comments received on the proposed schedule and instructions.

#### **Announcement 2010-76, page 432.**

This document announces that the Service is expanding its policy of restraint in connection with its decision to require certain corporations to file Schedule UTP, *Uncertain Tax Position Statement*, and will forgo seeking particular documents that relate to uncertain tax positions and the workpapers that document the completion of Schedule UTP.

### **EMPLOYEE PLANS**

#### **Notice 2010-63, page 420.**

This notice solicits comments on the requirements under section 9815 of the Code (and 2716 of the Public Health Service Act) that insured group health plans not discriminate in favor of highly compensated individuals.

### **EXCISE TAX**

#### **Notice 2010-63, page 420.**

This notice solicits comments on the requirements under section 9815 of the Code (and 2716 of the Public Health Service Act) that insured group health plans not discriminate in favor of highly compensated individuals.

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Announcements of Disbarments and Suspensions begin on page 433.  
Finding Lists begin on page ii.



## **ADMINISTRATIVE**

### **Rev. Proc. 2010–34, page 426.**

**Nonshareholder contribution to capital under section 118(a).** This procedure provides a safe harbor under section 118(a) of the Code for the treatment of certain grants to corporations from the Rural Utilities Service of the Department of Agriculture under the Broadband Initiatives Program and from the National Telecommunications and Information Administration of the Department of Commerce under the Broadband Technology Opportunities Program, as authorized by the American Recovery and Reinvestment Act of 2009.

### **Announcement 2010–77, page 433.**

This document contains a correction to Announcement 2010–59, which corrected Announcement 2010–47, 2010–30 I.R.B. 173, regarding “Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code”.

# The IRS Mission

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

force the 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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# Part III. Administrative, Procedural, and Miscellaneous

## Request for Comments on Requirements Prohibiting Discrimination in Favor of Highly Compensated Individuals in Insured Group Health Plans

### Notice 2010-63

#### PURPOSE

This notice invites public comments concerning the application of rules prohibiting insured group health plans from discriminating in favor of highly compensated individuals. Representatives from the United States Department of Labor and from the United States Department of Health and Human Services have reviewed this notice and have advised the Department of the Treasury and the Internal Revenue Service that they agree with it.

#### I. BACKGROUND

The Patient Protection and Affordable Care Act (the Affordable Care Act), Pub. L. 111-148, was enacted on March 23, 2010; the Health Care and Education Reconciliation Act (the Reconciliation Act), Pub. L. 111-152, was enacted on March 30, 2010. The Affordable Care Act and the Reconciliation Act reorganize, amend, and add to the provisions of part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. The Affordable Care Act adds section 9815(a)(1) to the Internal Revenue Code and section 715(a)(1) to the Employee Retirement Income Security Act (ERISA) to incorporate the provisions of part A of title XXVII of the PHS Act into the Code and ERISA, and make them applicable to group health plans, and health insurance issuers providing health insurance coverage in connection with group health plans.

Section 10101(d) of the Affordable Care Act adds section 2716 to the PHS

Act. Section 2716 of the PHS Act provides that a group health plan (other than a self-insured plan) must satisfy the requirements of section 105(h)(2) of the Code; that rules similar to the rules of section 105 in paragraphs (h)(3) (nondiscriminatory eligibility classification), (h)(4) (nondiscriminatory benefits), and (h)(8) (certain controlled groups) apply; and that the term “highly compensated individual” has the meaning given by section 105(h)(5). These requirements for insured group health plans are effective for plan years beginning on or after September 23, 2010. New section 9815 of the Code incorporates by reference the requirements of section 2716 of the PHS Act into chapter 100 of the Code. Section 4980D of the Code provides that group health plans that fail to satisfy the requirements of chapter 100 are subject to an excise tax.

Section 105(h)(1) of the Code provides that the exclusion in section 105(b), which generally excludes from gross income amounts paid through employer-sponsored health care coverage, does not apply to amounts paid to a highly compensated individual under a self-insured medical reimbursement plan that does not satisfy the requirements of section 105(h)(2) for a plan year, to the extent the amounts constitute an excess reimbursement of the highly compensated individual. Section 105(h)(2) provides that a self-insured medical reimbursement plan satisfies the requirements of that section only if (1) the plan does not discriminate in favor of highly compensated individuals as to eligibility to participate and (2) the benefits provided under the plan do not discriminate in favor of participants who are highly compensated individuals. Treasury Regulation §1.105-11 provides guidance on the application of section 105(h).

#### II. APPLICATION OF THE NONDISCRIMINATION RULES IN CODE SECTION 105(h)(2) TO INSURED GROUP HEALTH PLANS

PHS Act section 2716 incorporates the substantive nondiscrimination requirements of Code section 105(h) (but not the taxes on highly compensated individuals

in section 105(h)(1)) and applies them to insured group health plans. An insured group health plan failing to comply with the nondiscrimination requirements of Code section 105(h) is subject to the taxes, remedies, and penalties that generally apply for a plan failing to comply with the requirements of chapter 100 of the Code (generally, an excise tax of \$100 per day per individual discriminated against for each day the plan does not comply with the requirement), part 7 of ERISA (a civil action to enjoin a noncompliant act or practice or for appropriate equitable relief), or title XXVII of the PHS Act (civil money penalties of \$100 per day per individual discriminated against for each day the plan does not comply with the requirement). Thus, if a self-insured plan fails to comply with Code section 105(h), highly compensated individuals lose a tax benefit; if an insured group health plan fails to comply with Code section 105(h), the plan is subject to a civil action to compel it to provide nondiscriminatory benefits and the plan or plan sponsor is subject to an excise tax or civil money penalty of \$100 per day per individual discriminated against.

For determining the application of PHS Act section 2716 to grandfathered health plans, see §54.9815-1251T, 29 CFR 2590.715-1251, and 45 CFR 147.140 (providing that the rules prohibiting discrimination in favor of highly compensated individuals by insured group health plans do not apply to grandfathered health plans). The rules of section 105(h) of the Code continue to apply to any self-insured medical reimbursement plan regardless of whether the plan is a grandfathered health plan.

#### III. REQUEST FOR COMMENTS

The final regulations under section 105(h) of the Code,<sup>1</sup> prohibiting discrimination in favor of highly compensated individuals under self-insured medical expense reimbursement plans, were issued in 1981. The Treasury Department and the IRS are considering issuing guidance on the extension, through section 2716 of the PHS Act and new section 9815 of

<sup>1</sup> 26 CFR 1.105-11.

the Code, of the requirements of section 105(h)(2) to insured group health plans. The Department of the Treasury and the IRS request comments on what additional guidance relating to the application of section 105(h)(2) would be helpful with respect to insured group health plans.

*Date:* Comments must be submitted by November 4, 2010.

*Addresses:* Comments, identified by “Notice 2010–63”, may be sent by one of the following methods:

- *Electronic:* Send to the following e-mail address:  
*Notice.Comments@irs.counsel.treas.gov.* Include “Notice 2010–63” in the subject line.
- *Mail:* CC:PA:LPD:PR (Notice 2010–63), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.
- *Hand or courier delivery:* Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (Notice 2010–63), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC 20224.

All submissions will be open to public inspection and copying in room 1621, 1111 Constitution Avenue, NW, Washington, DC from 9 a.m. to 4 p.m.

#### IV. DRAFTING INFORMATION

The principal author of this notice is Karen Levin of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Ms. Levin at (202) 622–6080 (not a toll-free call).

## Extension of Replacement Period for Livestock Sold on Account of Drought in Specified Counties

### Notice 2010–64

#### SECTION 1. PURPOSE

This notice provides guidance regarding an extension of the replacement period under § 1033(e) of the Internal Revenue Code for livestock sold on account of drought in specified counties.

#### SECTION 2. BACKGROUND

.01 *Nonrecognition of Gain on Involuntary Conversion of Livestock.* Section 1033(a) generally provides for nonrecognition of gain when property is involuntarily converted and replaced with property that is similar or related in service or use. Section 1033(e)(1) provides that a sale or exchange of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy purposes in excess of the number that would be sold following the taxpayer’s usual business practices is treated as an involuntary conversion if the livestock is sold or exchanged solely on account of drought, flood, or other weather-related conditions.

.02 *Replacement Period.* Section 1033(a)(2)(A) generally provides that gain from an involuntary conversion is recognized only to the extent the amount realized on the conversion exceeds the cost of replacement property purchased during the replacement period. If a sale or exchange of livestock is treated as an involuntary conversion under § 1033(e)(1) and is solely on account of drought, flood, or other weather-related conditions that result in the area being designated as eligible for assistance by the federal government, § 1033(e)(2)(A) provides that the replacement period ends four years after the close of the first taxable year in which any part of the gain from the conversion is realized. Section 1033(e)(2)(B) provides that the Secretary may extend this replacement period on a regional basis for such additional time as the Secretary determines appropriate if the weather-related conditions that resulted in the area being designated as eligible for assistance by the federal government continue for more than three

years. Section 1033(e)(2) is effective for any taxable year with respect to which the due date (without regard to extensions) for a taxpayer’s return is after December 31, 2002.

#### SECTION 3. EXTENSION OF REPLACEMENT PERIOD UNDER § 1033(e)(2)(B)

Notice 2006–82, 2006–2 C.B. 529, provides for extensions of the replacement period under § 1033(e)(2)(B). If a sale or exchange of livestock is treated as an involuntary conversion on account of drought and the taxpayer’s replacement period is determined under § 1033(e)(2)(A), the replacement period will be extended under § 1033(e)(2)(B) and Notice 2006–82 until the end of the taxpayer’s first taxable year ending after the first drought-free year for the applicable region. For this purpose, the first drought-free year for the applicable region is the first 12-month period that (1) ends August 31; (2) ends in or after the last year of the taxpayer’s 4-year replacement period determined under § 1033(e)(2)(A); and (3) does not include any weekly period for which exceptional, extreme, or severe drought is reported for any location in the applicable region. The applicable region is the county that experienced the drought conditions on account of which the livestock was sold or exchanged and all counties that are contiguous to that county.

A taxpayer may determine whether exceptional, extreme, or severe drought is reported for any location in the applicable region by reference to U.S. Drought Monitor maps that are produced on a weekly basis by the National Drought Mitigation Center. U.S. Drought Monitor maps are archived at [www.drought.unl.edu/dm/archive.html](http://www.drought.unl.edu/dm/archive.html).

In addition, Notice 2006–82 provides that the Internal Revenue Service will publish in September of each year a list of counties, districts, cities, or parishes (hereinafter “counties”) for which exceptional, extreme, or severe drought was reported during the preceding 12 months. Taxpayers may use this list instead of U.S. Drought Monitor maps to determine whether exceptional, extreme, or severe drought has been reported for any location in the applicable region.

The Appendix to this notice contains the list of counties for which exceptional,

extreme, or severe drought was reported during the 12-month period ending August 31, 2010. Under Notice 2006–82, the 12-month period ending on August 31, 2010, is not a drought-free year for an applicable region that includes any county on this list. Accordingly, for a taxpayer who qualified for a four-year replacement period for livestock sold or exchanged on account of drought and whose replacement

period is scheduled to expire at the end of 2010 (or, in the case of a fiscal year taxpayer, at the end of the taxable year that includes August 31, 2010), the replacement period will be extended under § 1033(e)(2) and Notice 2006–82 if the applicable region includes any county on this list. This extension will continue until the end of the taxpayer’s first taxable year ending after a drought-free year for the applicable region.

#### SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Sue-Jean Kim of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Ms. Kim at (202) 622–4960 (not a toll-free call).

### APPENDIX

#### *Arizona*

Counties of Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Maricopa, Mohave, Navajo, Pima, Pinal, Santa Cruz, Yavapai, Yuma.

#### *Arkansas*

Counties of Arkansas, Ashley, Chicot, Clay, Columbia, Desha, Drew, Greene, Lafayette, Ouachita, Phillips, Union.

#### *California*

Counties of Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba.

#### *Colorado*

Counties of La Plata, Montezuma.

#### *Delaware*

County of Sussex.

#### *Hawaii*

Counties of Hawaii, Honolulu, Kalawao, Kauai, Maui.

#### *Idaho*

Counties of Bear Lake, Benewah, Bonner, Bonneville, Caribou, Clearwater, Fremont, Idaho, Kootenai, Latah, Madison, Shoshone, Teton.

#### *Kentucky*

Counties of Carlisle, Fulton, Hickman.

#### *Louisiana*

Parishes of Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Carroll, Franklin, Grant, Jackson, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll, Winn.

#### *Maryland*

Counties of Allegany, Anne Arundel, Calvert, Charles, Dorchester, Frederick, Garrett, Prince George’s, Saint Mary’s, Somerset, Washington, Wicomico, Worcester.

#### *Michigan*

Counties of Alger, Baraga, Charlevoix, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft.

#### *Minnesota*

Counties of Aitkin, Anoka, Beltrami, Cass, Chisago, Cook, Crow Wing, Dakota, Hennepin, Hubbard, Isanti, Itasca, Koochiching, Lake, Pine, Ramsey, Saint Louis, Sherburne, Washington, Wright.

*Mississippi*

Counties of Bolivar, Coahoma, Humphreys, Issaquena, Leflore, Quitman, Sharkey, Sunflower, Tallahatchie, Tunica, Warren, Washington, Yazoo.

*Missouri*

Counties of Butler, Carter, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Stoddard, Wayne.

*Montana*

Counties of Big Horn, Carbon, Flathead, Gallatin, Glacier, Granite, Lake, Lincoln, Mineral, Missoula, Park, Pondera, Ravalli, Sanders, Stillwater.

*Nevada*

Counties of Churchill, Clark, Esmeralda, Humboldt, Lincoln, Nye, Pershing, Washoe.

*New Jersey*

Counties of Atlantic, Burlington, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset.

*New Mexico*

Counties of Hidalgo, McKinley, San Juan.

*North Carolina*

Counties of Franklin, Gates, Halifax, Hertford, Nash, Northampton, Union, Warren.

*Oklahoma*

Counties of Atoka, Bryan, Choctaw, Ellis, Harper, McCurtain, Pushmataha, Woods, Woodward.

*Oregon*

Counties of Harney, Jackson, Klamath, Lake.

*Pennsylvania*

Counties of Bedford, Bucks, Fayette, Franklin, Fulton, Somerset.

*South Carolina*

Counties of Chester, Chesterfield, Clarendon, Darlington, Dillon, Fairfield, Florence, Georgetown, Horry, Kershaw, Lancaster, Lee, Marion, Marlboro, Sumter, Williamsburg.

*Tennessee*

Counties of Dyer, Lake, Obion.

*Texas*

Counties of Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Brazoria, Brazos, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Collin, Colorado, Comal, Comanche, Coryell, Dallas, Delta, Denton, DeWitt, Dimmit, Duval, Edwards, Ellis, Erath, Falls, Fannin, Fayette, Fort Bend, Freestone, Frio, Galveston, Gillespie, Goliad, Gonzales, Grayson, Grimes, Guadalupe, Hamilton, Harris, Harrison, Haskell, Hays, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, Lamar, Lampasas, La Salle, Lavaca, Lee, Leon, Limestone, Live Oak, Llano, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Montgomery, Nacogdoches, Newton, Nueces, Panola, Rains, Real, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Patricio, San Saba, Shackelford, Shelby, Somervell, Starr, Stephens, Throckmorton, Travis, Trinity, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, Zavala.

*Utah*

Counties of Kane, Rich, San Juan, Washington.

## Virginia

Cities of Charlottesville, Colonial Heights, Emporia, Franklin, Hopewell, Newport News, Petersburg, Poquoson, Richmond, Suffolk, Williamsburg, Winchester. Counties of Accomack, Albemarle, Amelia, Brunswick, Buckingham, Caroline, Charles City, Chesterfield, Clarke, Culpeper, Cumberland, Dinwiddie, Essex, Fauquier, Fluvanna, Frederick, Gloucester, Goochland, Greene, Greensville, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Powhatan, Prince George, Rappahannock, Richmond, Rockingham, Shenandoah, Southampton, Spotsylvania, Surry, Sussex, Warren, Westmoreland, York.

## Washington

Counties of Chelan, Clallam, Douglas, Grant, Grays Harbor, Jefferson, Kittitas, Mason, Okanogan.

## West Virginia

Counties of Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Preston, Tucker.

## Wisconsin

Counties of Ashland, Barron, Bayfield, Burnett, Chippewa, Clark, Door, Douglas, Dunn, Eau Claire, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Polk, Price, Rusk, Saint Croix, Sawyer, Shawano, Taylor, Vilas, Washburn.

## Wyoming

Counties of Big Horn, Fremont, Lincoln, Park, Sublette, Sweetwater, Teton.

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## Credit for Certain Foreign Gross-Basis Withholding Taxes

### Notice 2010–65

#### PURPOSE

On November 30, 2005, the Treasury Department and the Internal Revenue Service (IRS) issued Notice 2005–90, 2005–2 C.B. 1163. Notice 2005–90 sets forth an exception to the application of section 901(l)(1)(B) of the Internal Revenue Code with respect to certain back-to-back computer program licensing arrangements. This notice provides additional guidance regarding the application of section 901(l) to other back-to-back licensing arrangements and certain arrangements for the retail distribution of copyrighted articles.

#### BACKGROUND

Section 901(l) generally disallows a credit for foreign gross-basis withholding tax on any item of income (other than dividends) or gain with respect to property if (a) the recipient of the item has not held the property for more than 15 days (within a 31-day testing period), exclusive of periods during which the recipient is protected from risk of loss (section 901(l)(1)(A)), or (b) the recipient is under an obligation

(whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property (section 901(l)(1)(B)). Section 901(l)(3) provides that the Secretary may by regulation provide that section 901(l)(1) does not apply to property where such application is not necessary to carry out the purposes of section 901(l).

Notice 2005–90 states that the Treasury Department and the IRS expect to issue regulations setting forth an exception to the application of section 901(l)(1)(B) to foreign gross-basis withholding taxes imposed on payments in a back-to-back computer program licensing arrangement in the ordinary course of the licensor's and licensee's respective trades or businesses. Notice 2005–90 also requested comments concerning any additional issues that should be addressed by regulations, including whether the exception should apply to other circumstances and to other types of property.

#### DISCUSSION

Following the issuance of Notice 2005–90, the Treasury Department and the IRS received comments regarding business arrangements involving the ordinary course licensing and other transfers of certain intellectual property with respect to which the disallowance of a credit is not necessary to carry out the purposes

of section 901(l). One such business arrangement is generally similar to the back-to-back licensing arrangements described in Notice 2005–90, except that the intellectual property involved is property other than rights in, or copies of, computer programs. Another ordinary course of business arrangement identified by a commentator involves the retail distribution of certain copyrighted articles that does not meet the holding period requirement in section 901(l)(1)(A).

Consistent with Notice 2005–90 and in response to comments received since the issuance of that notice, the Treasury Department and the IRS intend to issue regulations, pursuant to section 901(l)(3), providing relief from the application of section 901(l)(1)(A) or (B) in the circumstances described below. Specifically, the regulations will provide that (1) section 901(l)(1)(B) will not apply to disallow a credit for foreign gross-basis withholding taxes (which otherwise meet the legal requirements to be treated as creditable taxes) imposed on income or gain with respect to back-to-back licensing arrangements involving certain intellectual property or copyrighted articles entered into in the ordinary course of business; and (2) section 901(l)(1)(A) will not apply to disallow a credit for foreign gross-basis withholding taxes (which otherwise meet the legal requirements to be treated as creditable taxes) imposed on income

or gain with respect to retail distribution arrangements for certain copyrighted articles entered into in the ordinary course of business.

#### 1. Relief from application of section 901(l)(1)(B) for certain back-to-back licensing arrangements made in the ordinary course of business

Under a typical business arrangement involving back-to-back licensing, a domestic corporation or a U.S. citizen or resident alien individual (Master Licensor) licenses (or otherwise transfers) rights to certain intellectual property pursuant to a master license agreement or similar arrangement to either an affiliate (foreign or domestic) or an unrelated domestic corporation (or its controlled foreign corporation) (Head Licensee) for the purpose of development, production, exploitation, distribution, or marketing of the intellectual property. Head Licensee (or its affiliates) is in the business of developing, producing, exploiting, distributing or marketing intellectual property. As part of the arrangement, Head Licensee sublicenses rights to the intellectual property to its affiliates or to unrelated corporations (Sublicensees), as permitted under the terms and conditions of the master license agreement. Pursuant to the sublicense agreements, Sublicensees make payments to Head Licensee, which may be subject to foreign gross-basis withholding tax.

There are a variety of business reasons independent of U.S. tax considerations for parties to structure a back-to-back licensing arrangement with respect to intellectual property. For example, Master Licensor may contract with an unrelated Head Licensee as part of a distribution arrangement in which Licensee distributes an article embodying Master Licensor's intellectual property through its affiliated Sublicensees around the world. In such a case, Master Licensor may be unwilling for business or practical reasons to enter into a contractual relationship with each Sublicensee in each foreign jurisdiction and may therefore require that its only contractual relationship be with Head Licensee. Alternatively, Master Licensor may license the intellectual property to an affiliated domestic or foreign Head Licensee that distributes articles embodying the intellectual property by means of

contractual relationships with unrelated Sublicensees in foreign jurisdictions.

A back-to-back licensing arrangement may be part of the manner by which an unrelated Head Licensee conducts its business. For example, where Head Licensee has expertise in exploiting the intellectual property, it may be ordinary and customary for Head Licensee to acquire rights to the intellectual property from Master Licensor as part of a production or development process before the article embodying the intellectual property is distributed through sublicensing arrangements with Head Licensee's foreign or domestic affiliates.

#### a. Covered intellectual property and copyrighted articles

Pursuant to the authority granted under section 901(l)(3), the Treasury Department and the IRS have determined that the application of section 901(l)(1)(B) to foreign gross-basis withholding taxes imposed on payments in a back-to-back licensing arrangement with respect to covered intellectual property or a covered copyrighted article entered into in the ordinary course of business, as that term is defined in section 1(b) of this notice, is not necessary to carry out the purposes of section 901(l). For purposes of this notice, "covered intellectual property" means intellectual property rights in any film, television program or recording; literary, musical or artistic composition; computer program; right to publicity (*e.g.*, name and likeness); or other similar property, and a "covered copyrighted article" means a copy of any film, television program or recording; literary, musical or artistic composition; computer program; or other similar property.

#### b. Back-to-back licensing arrangement

For purposes of this notice, a "back-to-back licensing arrangement with respect to covered intellectual property or a covered copyrighted article" is a transaction or series of transactions in which: (1) a domestic corporation or individual who is a citizen or resident of the United States owns a right or rights in covered intellectual property or a covered copyrighted article (master licensor) and transfers a right or rights in the covered intellectual property or the covered copyrighted article to a domestic

corporation or a controlled foreign corporation within the meaning of section 957 (head licensee) pursuant to an agreement (a master license agreement or similar arrangement) that is confined to the development, production, exploitation, distribution, or marketing of the intellectual property or the copyrighted article; (2) the head licensee transfers a right or rights in the covered intellectual property or the covered copyrighted article to one or more corporations (sublicensees), as permitted by the terms and conditions of the master license agreement, for the purpose of development, production, exploitation, distribution or marketing of the intellectual property or the copyrighted article or for the sublicensee's own use; and (3) the head licensee is a member of the worldwide affiliated group that includes either the master licensor or the sublicensee. For purposes of this notice, a worldwide affiliated group is as defined in section 864(f)(1)(C), determined without regard to the exception in section 1504(a)(4) treating certain preferred stock as not stock.

The relief described in section 1 of this notice applies without regard to the form of the transaction or the treatment of the transaction under foreign law, and includes the transfer of rights in the intellectual property or the copyrighted article through a license, sale, lease or exchange for U.S. tax purposes.

#### c. Ordinary course of business

For purposes of this notice, a back-to-back licensing arrangement with respect to covered intellectual property or a covered copyrighted article is in the "ordinary course of business" if: (A) the arrangement is consistent with the normal business practices of the master licensor with respect to licensing of intellectual property or a copyrighted article of the type that is the subject of the back-to-back licensing arrangement (as defined in section 1(a) of this notice) independent of U.S. federal tax considerations; (B) the head licensee and each sublicensee (other than a sublicensee that licenses the intellectual property or copyrighted article exclusively for its own use) are regularly engaged in a trade or business, within the meaning of § 1.367(a)-2T(b)(2), of developing, producing, exploiting, distributing or marketing the intellectual property or

the copyrighted article that is the subject of the back-to-back licensing arrangement; and (C) for each payment made by a sublicensee under the sublicense agreement with respect to which foreign gross-basis withholding tax is imposed, the sublicensee uses the right to the intellectual property or the copyrighted article that is the subject of the sublicense agreement in a trade or business within the meaning of § 1.367(a)-2T(b)(2). For purposes of clause (B), the head licensee or the sublicensee shall be considered to be regularly engaged in the business of developing, producing, exploiting, distributing or marketing the intellectual property or the copyrighted article that is the subject of the back-to-back licensing arrangement if any member of its worldwide affiliated group is so engaged with respect to that specific intangible.

## 2. Relief from application of section 901(l)(1)(A) for certain retail distribution arrangements made in the ordinary course of business

Under a typical business arrangement involving retail distribution of certain copyrighted articles, a domestic corporation owns a copyright which is used to produce copyrighted articles. In the ordinary course of its trade or business, the corporation, which may or may not hold the copyrighted articles for the minimum holding period described in section 901(l)(1)(A), transfers such copyrighted articles directly or indirectly through U.S. affiliates to retail customers in foreign jurisdictions. The transactions with retail customers would generally be treated as sales in determining whether for U.S. tax purposes the income is from sources within the United States. See, e.g., § 1.861-18. Retail customers in foreign jurisdictions make payments to the domestic corporation or its U.S. affiliate that, nevertheless, may be subject to foreign gross-basis withholding taxes.

### a. Covered copyrighted articles

Pursuant to the authority granted under section 901(l)(3), the Treasury Department and the IRS have determined that the application of section 901(l)(1)(A) to foreign gross-basis withholding taxes imposed on payments in a retail distribution arrangement for covered copyrighted articles (as

that term is defined in section 1(a) of this notice) entered into in the ordinary course of business (as that term is defined in section 2(c) of this notice) is not necessary to carry out the purposes of section 901(l).

### b. Retail distribution arrangement

For purposes of this notice, a “retail distribution arrangement for covered copyrighted articles” is a transaction in which: (1) a domestic corporation owns a copyright which is used to produce a covered copyrighted article; (2) the domestic corporation transfers directly or indirectly through one or more U.S. affiliates the covered copyrighted article to foreign retail customers; and (3) such arrangement is in the ordinary course of business of the domestic corporation and, if appropriate, its U.S. affiliate(s). For purposes of this notice, a U.S. affiliate is any member of the domestic corporation’s affiliated group as defined in section 1504(a).

### c. Ordinary course of business

For purposes of this notice, a retail distribution arrangement for covered copyrighted articles is in the “ordinary course of business” if: (A) the arrangement is consistent with the normal business practices of the domestic corporation with respect to sales of copyrighted articles of the type that is the subject of the retail distribution arrangement (as defined in section 2(a) of this notice) independent of U.S. federal tax considerations; and (B) the domestic corporation, or the U.S. affiliate in the case of a domestic corporation that transfers the covered copyrighted articles indirectly through such affiliate, is regularly engaged in a trade or business, within the meaning of § 1.367(a)-2T(b)(2), of selling the covered copyrighted articles that are the subject of the retail distribution arrangement.

## EFFECT ON OTHER DOCUMENTS

This notice supplements but does not modify or affect the application of the exception described in Notice 2005-90.

## EFFECTIVE DATE

The regulations described in this notice will apply to amounts that are paid or

accrued after September 23, 2010. Until regulations incorporating the guidance set forth in this notice are issued, taxpayers may rely on the guidance contained in this notice.

## REQUEST FOR COMMENTS AND CONTACT INFORMATION

The Treasury Department and the IRS request comments concerning the exceptions to section 901(l)(1) described in this notice, the scope of the active dealer exception in section 901(l)(2) to persons for whom intangible property or copyrighted articles are described in section 1221(a)(1), as well as the exception described in Notice 2005-90 and other issues with respect to which the Treasury Department and the IRS requested comments in Notice 2005-90. Written comments may be submitted to the Office of Associate Chief Counsel (International), Attention: Suzanne Walsh, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. Alternatively, taxpayers may submit comments electronically to [Notice.comments@irscounsel.treas.gov](mailto:Notice.comments@irscounsel.treas.gov). Comments will be available for public inspection and copying. For further information regarding this notice, contact Ms. Walsh of the Office of Associate Chief Counsel (International) at (202)-622-3850 (not a toll-free call).

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*26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.*  
(Also Part I, §§ 118, 362.)

## Rev. Proc. 2010-34

### SECTION 1. PURPOSE

This revenue procedure provides a safe harbor under section 118(a) of the Internal Revenue Code for the treatment of certain grants to corporations from the Rural Utilities Service (RUS) of the Department of Agriculture under the Broadband Initiatives Program (BIP) and from the National Telecommunications and Information Administration (NTIA) of the Department of Commerce under the Broadband Technology Opportunities Program (BTOP) as authorized by the American Recovery and Reinvestment Act of 2009 (ARRA).

## SECTION 2. BACKGROUND

Section 118(a) of the Code provides that in the case of a corporation, gross income does not include a contribution to the capital of the taxpayer.

Section 1.118-1 of the Income Tax Regulations provides that section 118 applies to contributions to capital made by a person other than a shareholder, for example, property contributed to a corporation by a governmental unit for the purpose of enabling the corporation to expand its operating facilities.

Section 362(c)(2) of the Code requires a basis reduction in a corporation's property when the corporation receives money from a nonshareholder as a contribution to its capital.

ARRA appropriated money for the expansion of broadband capabilities in the United States. Title I, Division A of ARRA appropriated \$2.5 billion to RUS for BIP. Title II, Division A of ARRA appropriated \$4.7 billion to NTIA for BTOP.

BIP provides grants for six purposes: (1) Last Mile Remote Projects (LMRP); (2) Last Mile Projects (LMP); (3) Middle Mile Projects (MMP); (4) Satellite Projects (SP); (5) Technical Assistance

(TA); and (6) Rural Library Broadband (RLB). BTOP provides grants for four purposes: (1) Broadband Infrastructure (BI); (2) Comprehensive Community Infrastructure (CCI); (3) Public Computer Centers (PCC); and (4) Sustainable Broadband Adoption (SBA). See Notices of Funds Availability, 74 FR 33104 (BIP and BTOP), 75 FR 3792 (BTOP), and 75 FR 3820 (BIP).

## SECTION 3. SCOPE

This revenue procedure generally applies to corporate taxpayers that receive a grant from RUS under BIP for LMRP, LMP, MMP, or RLB or from NTIA under BTOP for BI or CCI.

This revenue procedure does not apply to the portion of any grant paid to reimburse pre-application expenses. This revenue procedure also does not apply to grants from RUS under BIP for SP or TA.

In addition, this revenue procedure does not apply to: (1) noncorporate taxpayers; (2) loans from RUS under BIP; (3) grants from NTIA under BTOP for PCC or SBA; or (4) the National Broadband Plan or the Universal Service Fund of the Federal Communications Commission.

## SECTION 4. PROCEDURE

The Internal Revenue Service will not challenge a corporation's treatment of a grant to the corporation from RUS under BIP for LMRP, LMP, MMP, or RLB or from NTIA under BTOP for BI or CCI within the scope of section 3 of this revenue procedure as a nonshareholder contribution to the capital of the corporation under section 118(a) of the Code if the corporation properly reduces the basis of its property under section 362(c)(2) and the regulations thereunder.

## SECTION 5. EFFECTIVE DATE

This revenue procedure is effective September 23, 2010.

## SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is David McDonnell of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this revenue procedure, contact Mr. McDonnell at (202) 622-3040 (not a toll-free call).

## Part IV. Items of General Interest

### Reporting of Uncertain Tax Positions

#### Announcement 2010–75

In a series of announcements the Internal Revenue Service announced that it was developing a schedule requiring certain business taxpayers to report uncertain tax positions on their tax returns and requested comments both on the proposal and on a draft schedule and instructions. Announcement 2010–9, 2010–7 I.R.B. 408; Announcement 2010–17, 2010–13 I.R.B. 515; Announcement 2010–30, 2010–19 I.R.B. 668. The Service also stated in Announcement 2010–9 that it would issue a Notice of Proposed Rulemaking (NPRM) to provide that corporations would be required to file a schedule disclosing uncertain tax positions. The NPRM was published on September 9, 2010, and sets out a proposed rule explicitly authorizing the Service to require the filing of Schedule UTP. Requirement of a Statement Disclosing Uncertain Tax Positions, 75 Fed. Reg. 54802 (proposed Sept. 9, 2010). The Service expects a final rule will be promulgated by the end of the year.

The Service received a large number of comments on the overall proposal, including whether and how the Service should implement the requirement to file a schedule reporting uncertain tax positions, as well as the draft schedule and instructions released for comment on April 19, 2010. Many of the comments expressed concerns regarding how the Service would use the reported information, the interaction of the new reporting requirement with the existing policy of restraint, the additional burden the reporting requirement would place on affected corporations, and the impact the reporting requirement would have on the relationship between the corporation and the Service or the corporation and its advisors or independent auditors. Some commentators questioned the Service's authority to require reporting of uncertain tax positions with the corporation's tax return.

All of these comments have been carefully considered in developing the final schedule and instructions, which require certain corporations with audited financial statements to file Schedule UTP, *Uncertain Tax Position Statement*, beginning

with the 2010 tax year. A final schedule and instructions are being released contemporaneously with this announcement. In addition, a Directive regarding implementation of Schedule UTP and related matters, and a separate announcement regarding modifications that will be made to the existing Policy of Restraint in conjunction with implementation of Schedule UTP, are being released contemporaneously with this announcement.

#### *Overview of major changes to the draft schedule and instructions*

The final schedule and instructions make a number of significant changes to the April draft in order to address burden and other concerns expressed by commentators. Some of the major changes include:

- a five-year phase-in of the reporting requirement based on a corporation's asset size;
- no reporting of a maximum tax adjustment;
- no reporting of the rationale and nature of uncertainty in the concise description of the position; and
- no reporting of administrative practice tax positions.

#### *Five-year phase-in period*

In Announcement 2010–9, the Service proposed that the reporting requirement apply to business taxpayers with total assets of at least \$10 million. The Service requested comments on whether transition rules should be used or criteria modified to either include or exclude certain business taxpayers, and the type of uncertain tax positions that should be reported by pass-through entities and tax-exempt entities.

In Announcement 2010–30, the Service announced that the types of corporations required to file the schedule initially would be limited to corporations that issue audited financial statements (or that have tax positions for which a related party records a reserve in an audited financial statement) and file Form 1120, *U.S. Corporation Income Tax Return*; Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*; Form 1120-L, *U.S. Life Insurance*

*Company Income Tax Return*; or Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*.

A number of commentators recommended that the Service either increase the \$10 million total asset threshold permanently or during a transition period to allow many organizations additional time to implement the reporting requirement. Some commentators recommended that taxpayers in the Compliance Assurance Program (CAP) and taxpayers under continuous audit (CIC taxpayers) be excluded from the reporting requirement. Although a few comments recommended that the reporting requirement also apply to pass-through entities and tax-exempt entities, many suggested that the reporting requirements should be delayed or eliminated for these entities.

The final schedule and instructions generally retain the previously announced filing requirements regarding types of corporations required to complete the schedule for 2010 tax years. Accordingly, public or privately held corporations that issue or are included in audited financial statements and that file a Form 1120, Form 1120-F, Form 1120-L, or Form 1120-PC must report their uncertain tax positions on Schedule UTP if they satisfy the total asset threshold. In response to comments, however, the Service has implemented a five-year phase-in of the Schedule UTP for corporations with total assets under \$100 million. Corporations that have total assets equal to or exceeding \$100 million must file Schedule UTP starting with 2010 tax years. The total asset threshold will be reduced to \$50 million starting with 2012 tax years and to \$10 million starting with 2014 tax years. The Service will consider whether to extend all or a portion of Schedule UTP reporting to other taxpayers for 2011 or later tax years, such as pass-through entities and tax-exempt entities.

The final instructions do not exclude CAP or CIC taxpayers from the reporting requirement. With respect to CAP, the Service will address Schedule UTP compliance in upcoming CAP permanence guidance that is expected to be released shortly.

### *No reporting of maximum tax adjustment*

The draft schedule and instructions proposed that the corporation report a maximum tax adjustment for each tax position listed on the schedule, other than transfer pricing and other valuation positions. The maximum tax adjustment was defined in the draft instructions as the maximum United States federal income tax liability for the tax position if the position were not sustained upon examination by the Service. The draft instructions also provided the corporation a choice of ranking transfer pricing and other valuation positions based on the federal income tax reserve or an estimate of the adjustment to federal income tax that would result if the position were not sustained.

Many of the comments recommended eliminating entirely or modifying the proposed requirement to report the maximum tax adjustment for each tax position. Many comments expressed concern that this amount would be unduly burdensome to compute, would provide the Service with misleading information about the riskiness of the position and its magnitude, and would not be a meaningful basis upon which to determine the issues or returns to examine. Some commentators recommended that no information be provided on the schedule regarding the materiality of the tax position. Some commentators expressed a preference for a measure that relied on information already available to the corporation to minimize the burden associated with completing the schedule. Many commentators suggested various alternative measures of magnitude including the following:

- ranges or baskets based on the maximum tax adjustment, a reasonable estimate of the federal income tax benefit, or the reserve for the tax positions;
- ranges or baskets based on a percentage of gross income, revenue, expenses, or reserves;
- ranking of all issues as proposed in the draft instructions for transfer pricing and other valuation issues;
- ranking of all issues based on magnitude, such as reserves for uncertain tax positions;

- disclosure of only those tax positions for which the tax reserve exceeds a percentage of the tabular roll-forward in the annual financial statement footnote disclosures;<sup>1</sup>
- disclosure of the maximum tax adjustment only if it exceeds \$500,000; and
- disclosure of the aggregate reserve for uncertain tax positions.

After considering the comments and the suggested alternatives, the Service has removed the proposed requirement to report the maximum tax adjustment. Instead, the final schedule and instructions require a corporation to rank all of the reported tax positions (including transfer pricing and other valuation positions) based on the United States federal income tax reserve (including interest and penalties) recorded for the position taken in the return, and to designate those tax positions for which the reserve exceeds 10 percent of the aggregate amount of the reserves for all of the tax positions reported on the schedule. This ranking method is expected to allow the Service to more accurately evaluate the materiality of the issues reported on the schedule and to impose less burden on corporations than would have been the case under the maximum tax adjustment proposal. This method relies on the reserve computations that corporations perform for audited financial statement purposes, but does not require disclosure of the actual amounts of the tax reserves.

In addition, commentators noted the difficulty of computing the maximum tax adjustment for tax positions for which no reserve was created based on an expectation to litigate the position. The instructions address this concern by providing that no size needs to be determined with respect to these tax positions and that these positions can be assigned any rank by the corporation.

### *Removal of requirement to include rationale and nature of uncertainty in concise description of the position*

A number of commentators expressed concern about the requirement that the rationale for an uncertain tax position, as well as the nature of the uncertainty, be disclosed as part of the concise description.

Commentators stated that these disclosures are not required by FIN 48 and asserted that they conflict with both the Service's policy of restraint and the Service's stated objective not to require that taxpayers disclose their assessment of the strength or weakness of their positions. Other commentators pointed out that the examples in the draft instructions did not provide this information. As an alternative, several commentators suggested that the requirements for a concise description be similar to the information required to be disclosed in conjunction with the filing of a Form 8275, *Disclosure Statement*.

In response to these comments, the proposed requirement to include the rationale and nature of the uncertainty in the concise description has been eliminated. The instructions now require a concise description of the tax position, including a description of the relevant facts affecting the tax treatment of the position and information that reasonably can be expected to apprise the Service of the identity of the tax position and the nature of the issue. This is based upon and consistent with the information required to be reported on Form 8275. In addition, the final instructions expressly state that a corporation is not required to include an assessment of the hazards of a tax position or an analysis of the support for or against the tax position.

### *No reporting of administrative practice tax positions*

The proposal required that a corporation report on Schedule UTP tax positions for which no reserve was recorded because the corporation determined it was the Service's administrative practice not to raise the issue during an examination. Many commentators recommended elimination of this requirement because it would be unduly burdensome for corporations to identify, describe, and quantify these positions, and would provide the Service very little useful information.

After reviewing the comments, the Service determined that the concerns about the administrability of this requirement outweighed the value of the information that may be included. Therefore, the Service has eliminated the proposed requirement to report tax positions for which

<sup>1</sup> Public companies are required to disclose a tabular reconciliation of unrecognized tax benefits at the beginning and end of the reporting period in their annual financial statements. FASB ASC Topic 740-10 Income Taxes. Income Taxes, Accounting Standards Codification Subtopic 740-10-5015A (Fin. Accounting Standards Bd. 2010).

no reserve was created due to a widely-understood administrative practice, but will continue to explore ways to assess the impact of these tax positions on overall tax compliance.

### *Consistency between Schedule UTP reporting and financial statement reserve decisions*

Some commentators opposed the proposal because of their understanding that it required a corporation to report tax positions for which no reserve was recorded in the corporation's financial statements (including expectation-to-litigate positions) either because the position was highly certain or was immaterial in the context of the audited financial statements. Other commentators recommended that the instructions clearly state that highly certain and immaterial tax positions not be required to be reported on the schedule.

The final instructions address these comments by clarifying that the schedule seeks the reporting of tax positions consistent with the reserve decisions made by the corporation for audited financial statement purposes. The instructions clarify that corporations are not required to report tax positions that are either immaterial under applicable financial accounting standards or are sufficiently certain so that no reserve is required under those standards. A tax position that a corporation would litigate, if challenged, but that is clear and unambiguous or is immaterial is therefore not required to be reported on Schedule UTP. The instructions require reporting of tax positions taken in a return for which reserves were created under applicable financial accounting standards or for which no reserve was created because of an expectation to litigate.

A number of commentators requested that the instructions regarding unit of account be clarified to more closely align the term with its meaning in FIN 48. The final instructions add an example to emphasize that the definition of unit account should be applied consistently with the guidance in FIN 48. Some commentators stated that the draft instructions provided inadequate guidance regarding the treatment of a unit of account for reporting tax positions by corporations using IFRS. The final instructions continue to provide that a corporation that uses its entire tax year as a unit of ac-

count under IFRS or another method of accounting may not do so for Schedule UTP reporting, but must identify a unit of account based on FIN 48 principles or by using any other level of detail that is consistently applied if that identification is reasonably expected to apprise the Service of the identity and nature of the issue underlying a tax position taken in the tax return.

### *Additional areas of clarification*

Many of the commentators provided specific comments on the language in the draft instructions, either asking for clarification of the language or suggesting changes to the language. In response, the following changes were made to the instructions:

- The instructions clarify that Schedule UTP requires the reporting of U.S. federal income tax positions but not foreign or state tax positions. Under the general reporting instructions, however, a corporation is required to report a United States federal income tax position taken in a return that arises out of uncertainty with regard to a foreign tax position (e.g., foreign tax credits) if a reserve for United States federal income tax was recorded to reflect that uncertainty.
- The instructions clarify that a tax position is reported on Schedule UTP once (1) a reserve for a tax position is recorded and (2) a tax position is taken on a return regardless of the order in which those two events occur.
- The instructions clarify that corporations report their own tax positions on Schedule UTP and do not report the tax positions of a related party.
- The instructions clarify that tax positions taken in years before 2010 need not be reported in 2010 or a later year even if a reserve is recorded in audited financial statements issued in 2010 or later.
- The instructions clarify the reporting of recurring tax positions taken in multiple years.
- The instructions were revised to reflect the fact that Schedule UTP need not be filed for short tax years ending in 2010.
- The instructions clarify that worldwide assets are used to determine whether a corporation that files a Form 1120-F

(including a protective return) must file Schedule UTP.

- The definition of audited financial statement was revised to clarify that an audited financial statement is one on which an independent auditor expresses an opinion and that compiled or reviewed financial statements are excluded from the definition of audited financial statement.
- The definition of record a reserve was revised to clarify that it includes the recording of a reserve for United States federal income tax, interest, or penalties and to reinforce that temporary differences must be reported on Schedule UTP.
- The instructions clarify for corporations included in multiple audited financial statements that the recording of a reserve in any audited financial statement in which the corporation is included triggers reporting of the tax position if the tax position is taken on a return filed by the reporting corporation.

### *Privilege, work product doctrine, subject matter waiver, and policy of restraint comments*

A number of commentators asked that the proposal be withdrawn on the basis that the requirement to identify tax positions along with the taxpayer's views and assessments of those positions is inconsistent with the attorney-client privilege, the work product doctrine, and the tax practitioner privilege, because it may require disclosure of information that is based upon the advice of counsel and tax return preparers and may require the sharing of the mental impressions of these advisers. Many of these commentators were also concerned that disclosure of tax positions on Schedule UTP could enable adversaries to raise questions about subject-matter waiver with respect to confidential communications related to the disclosed tax positions. Other commentators asked that the Service confirm that claims of privilege may continue to be asserted to the same extent permitted under current law.

As set out above, the instructions no longer require the rationale and nature of the uncertainty to be included in the schedule's concise description and further explain that the concise description should

not include information related to the corporation's assessment of the hazards of a tax position or an analysis of the support for or against the tax position.

Many commentators raised issues about the effect of Schedule UTP's reporting requirements on the Service's policy of restraint. Some saw Schedule UTP as inconsistent with the policy of restraint, while others asked that the policy of restraint be expanded to cover documents used to prepare Schedule UTP. The Service is releasing, contemporaneously with the release of this announcement, Announcement 2010-76, which modifies the policy of restraint in response to these concerns.

#### *Other comments — exclude certain tax positions and expectation to litigate*

Various commentators suggested excluding certain types of tax positions from Schedule UTP reporting, including:

- all transfer pricing positions;
- temporary differences;
- correlative effects of foreign tax positions (e.g., effect of foreign tax positions on U.S. earnings and profits or foreign tax credits); and
- specified transactions or issues, such as permanent establishment, debt-equity, tax-free combinations, or issues the Service has conceded in an audit of the reporting corporation during the prior five years, which should be included in an "angel list."

The final schedule and instructions do not incorporate any of the recommended exclusions. The Service believes that excluding these types of tax positions from Schedule UTP reporting would be inconsistent with the purpose and objectives underlying the new reporting requirement and that it is important to obtain reporting of all types of uncertain tax positions.

The proposal required a corporation to report a tax position taken in a return for which no reserve was recorded based on the corporation's expectation to litigate the position. A number of commentators suggested eliminating this requirement, either because it would be unduly burdensome to identify, describe, and quantify these positions, or because requiring reporting of these positions on Schedule UTP departs from the Service's stated

objective of consistency with financial accounting standards. Many commentators recommended clarifying the scope of tax positions required to be reported as expectation-to-litigate positions. Some commentators expressed concern that this requirement would require corporations to reassess at the time of preparing Schedule UTP all tax positions taken in the current-year return for which no reserve was previously recorded and report on the schedule each tax position the corporation might litigate if it had to do so in order to sustain the issue. A few commentators requested guidance on how the corporation documents an expectation-to-litigate position.

The final schedule and instructions retain the requirement to report tax positions taken in a return for which no reserve was recorded because of an expectation to litigate the position and incorporate revised instructions to clarify the meaning of expectation to litigate. The final instructions clarify that a corporation may rely on the reserve decisions it made for financial statement purposes to complete Schedule UTP and thus is not expected to reassess at the time the schedule is completed those reserve decisions previously made for financial statement purposes. The final instructions do not provide guidance on how a corporation documents an expectation to litigate position. The Service expects that a corporation would continue to document its decision in the same way as it substantiates any decision not to record a reserve in its financial statements.

#### *Internal Directive and related changes*

The Service is issuing contemporaneously with this Announcement a Directive concerning the use of Schedule UTP by the Service and its examination and research personnel. The Directive outlines the various uses for the information reported on the schedule and indicates that initial processing of Schedule UTP information will be centralized to ensure appropriate review to identify trends and areas requiring further guidance to address uncertainty in the law.

In addition, the Service will create a working group to study and revise the Schedule M-3, *Net Income (Loss) Reconciliation for Corporations with Total Assets of \$10 Million or More*, to reduce

duplicate reporting. The Service believes that the implementation of Schedule UTP is likely to reduce the need for some of the information currently reported on the Schedule M-3. The working group will begin its work in 2011 and will work with external stakeholders to develop appropriate revisions to the Schedule M-3.

The Service also will be expanding the Compliance Assurance Program (CAP) and making it permanent. The Service intends that the permanent CAP will consist of three phases: pre-CAP, which will allow a taxpayer to become current on the audit cycle while demonstrating the requisite transparency needed to be eligible for CAP; CAP, which will resemble the existing CAP pilot program; and CAP maintenance, which will call for the reduction of resources and taxpayer contact for those taxpayers in this phase as appropriate. Details will be contained in the upcoming CAP permanence guidance that is expected to be released shortly.

#### *Exchange of information with foreign governments*

Concerns have been raised that the Service will automatically disclose information reported on the Schedule UTP to foreign governments. The Service intends to generally refrain from providing Schedule UTP information to other governments except in those circumstances in which there is a reciprocal arrangement with the foreign government regarding uncertain-tax-position information, such as where the foreign government collects similar information for its own tax administration purposes and agrees to make this information available to the Service in a similar manner. In addition, even if reciprocity did exist, the Service would consider other factors in determining whether to disclose the information, including the relevance of the information to the foreign government, which in many cases would not be present.

#### *Future guidance and changes*

While the instructions provide initial guidance concerning filing of Schedule UTP, the Service recognizes that they do not address every issue raised by commentators. For example, the instructions do not address issues related to the reporting of tax positions in the year in which

a corporation is acquired or disposed of. As another example, a number of commentators recommended the instructions address the level or type of due diligence required to obtain reserve information from a related party or information from a pass-through entity relating to a corporation's uncertain tax position involving the pass-through entity. Other issues will arise as the Service and corporations gain experience with the schedule. The Service will continue to consider these issues and how best to provide further guidance.

In addition, the Service will review the completeness and utility of Schedule UTPs filed by corporations, beginning with 2010 tax years, and modify the schedule and instructions as appropriate. For example, the Service will review the reporting of transfer pricing positions on Schedule UTP and consider whether additional information, such as the specific country, character of income, or other facts are necessary to provide sufficient information regarding the identity and nature of those tax positions.

#### *Penalties*

A number of commentators recommended that the Service expressly state that penalties will not be imposed, either permanently or during a transition period, for reporting failures regarding Schedule UTP. The final instructions do not provide specific instructions regarding penalties. The Service intends to review compliance regarding how the schedule is completed by corporations and to take appropriate enforcement action, including the possibility of opening an examination or making another type of taxpayer contact, in those instances in which there appears to be a failure to complete the schedule or a failure to report whether the corporation is required to complete the schedule.

#### *Coordination with Forms 8275 and 8886*

Some commentators suggested the Service provide that in certain circumstances a corporation need not file Form 8886, *Reportable Transaction Disclosure Statement*, if a reportable transaction is disclosed on Schedule UTP. A number of commentators recommended that the Service expressly provide that disclosure of a tax position on Schedule UTP con-

stitutes disclosure of the position to avoid penalties under sections 6662(b)(6) and 6662(i) involving an underpayment due to a claimed tax benefit because of a transaction lacking economic substance.

The final Schedule UTP instructions state that a complete and accurate disclosure of a tax position on the appropriate year's Schedule UTP will be treated as if the corporation filed a Form 8275 or Form 8275-R regarding the tax position and that a separate Form 8275 or 8275-R need not be filed to avoid certain accuracy-related penalties with respect to that tax position. Consistent with Notice 2010-62, issued September 13, 2010, in the case of a transaction that is not a reportable transaction, the Service will treat a complete and accurate disclosure of a tax position on Schedule UTP as satisfying the disclosure requirements of section 6662(i). The Service is studying other ways to reduce duplicate reporting and is considering whether complete and accurate disclosure on Schedule UTP would also, in appropriate circumstances, provide the information necessary to satisfy the reportable transaction disclosure requirements.

The principal author of this announcement is Kathryn Zuba of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this announcement, contact Kathryn Zuba at (202) 622-3400 (not a toll-free call). For questions relating to Schedule UTP and instructions, contact Deborah Palacheck at (202) 283-8710 (not a toll-free call).

## **Requests for Documents Provided to Independent Auditors, Policy of Restraint and Uncertain Tax Positions**

### **Announcement 2010-76**

The Internal Revenue Service is expanding its policy of restraint in connection with its decision to require certain corporations to file Schedule UTP, *Uncertain Tax Position Statement*, and will forgo seeking particular documents that relate to uncertain tax positions and the workpapers that document the completion of Schedule UTP.

## **BACKGROUND**

Schedule UTP requires a specified class of corporations to provide a concise description of each uncertain tax position for which the corporation or a related entity has recorded a reserve in its financial statements, or for which no reserve has been recorded because of an expectation of litigation. These uncertain tax positions are identified by corporations during the process of preparing financial statements under applicable accounting standards, such as FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes, an Interpretation of FASB Statement No. 109* (FIN 48).<sup>1</sup> In reviewing and verifying financial statements for compliance with FIN 48, independent auditors may ask for copies of legal opinions and other documents in order to understand transactions, to understand the legal bases for the treatment of transactions, and to determine the adequacy of reserves for contingent tax liabilities.

## **POLICY OF RESTRAINT**

(1) If a document is otherwise privileged under the attorney-client privilege, the tax advice privilege in section 7525 of the Code, or the work product doctrine and the document was provided to an independent auditor as part of an audit of the taxpayer's financial statements, the Service will not assert during an examination that privilege has been waived by such disclosure.

(2) Paragraph (1) does not apply if

(a) the taxpayer has engaged in any activity or taken any action, other than those described in that paragraph, that would waive the attorney-client privilege, the tax advice privilege in section 7525 of the Code, or the work product doctrine; or

(b) a request for tax accrual workpapers is made under IRM 4.10.20.3 because unusual circumstances exist or the taxpayer has claimed the benefits of one or more listed transactions.

(3) Under current procedures, examiners request tax reconciliation workpapers as a matter of course. IRM 4.10.20.3. The taxpayer may redact the following information from any copies of tax reconciliation workpapers relating to the preparation

<sup>1</sup> Under the codification of accounting standards, the relevant portions of FIN 48 are now contained in Accounting Standards Codification subtopic 740-10, *Income Taxes*. FASB ASC 740-10.

of Schedule UTP it is asked to produce during an examination:

(a) working drafts, revisions, or comments concerning the concise description of tax positions reported on Schedule UTP;

(b) the amount of any reserve related to a tax position reported on Schedule UTP; and

(c) computations determining the ranking of tax positions to be reported on Schedule UTP or the designation of a tax position as a Major Tax Position.

(4) Other than requiring the disclosure of the information on the schedule, the requirement to file Schedule UTP does not affect the policy of restraint.

(5) This announcement describes the policy of the Service for seeking the documents described in paragraph 1 and 3 from taxpayers and third parties during an examination. It does not create or imply the application of the attorney-client privilege, the tax advice privilege under section 7525 of the Code, or the work product doctrine to any document of any taxpayer or third party.

(6) These modifications to the policy of restraint will be incorporated into IRM 4.10.20.

#### DRAFTING INFORMATION

The principal author of this announcement is Kathryn Zuba of the office of Associate Chief Counsel (Procedure and Administration). For further information regarding this announcement, contact Kathryn Zuba at (202) 622-3400 (not a toll-free call).

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

#### Announcement 2010-77

This document contains a corrected Announcement 2010-59. Announcement 2010-59 should have read:

This document contains a correction to Announcement 2010-47, 2010-30 I.R.B. 173, which contained an incorrect taxpayer name. The taxpayer name incorrectly read: “Thorek Hospital & Medical Center of Chicago, IL”.

The taxpayer name should have read: “Thorek Hospital & Medical Center Self Insurance Trust Fund of Chicago, IL”.

#### FOR FURTHER INFORMATION CONTACT:

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## Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

### Announcement 2010-78

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)
<b>California</b>				
West Hollywood	Krane, Matthew G.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (suspension of attorney license)	Indefinite from August 10, 2010
Sacramento	Murray, William R.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (suspension of CPA license)	Indefinite from August 10, 2010
Cerritos	Tiongson, Anthony A.	CPA	Suspended by decision in expedited proceeding under § 10.82 (conviction under 26 U.S.C. § 7207, filing false tax return)	Indefinite from August 9, 2010
<b>Florida</b>				
Fort Lauderdale	Shepherd, Robert L.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment in New York)	Indefinite from August 10, 2010

<b>City &amp; State</b>	<b>Name</b>	<b>Professional Designation</b>	<b>Disciplinary Sanction</b>	<b>Effective Date(s)</b>
<b>Kentucky</b>				
Louisville	Atherton, Bruce D.	Attorney	Suspended by decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from September 7, 2010
<b>Nebraska</b>				
Kearney	Hager, Janelle M.	CPA	Suspended by default decision in expedited proceeding under § 10.82 (revocation of CPA license)	Indefinite from August 10, 2010
<b>New York</b>				
Garrison	Azznara, Nat J.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (attorney disbarment)	Indefinite from August 10, 2010
	Shepherd, Robert L., See Florida			
Waccabuc	Simels, Robert M.	Attorney	Suspended by default decision in expedited proceeding under § 10.82 (conviction under 18 U.S.C. § 1512, conspiracy to obstruct justice, and attempt to obstruct justice; 18 U.S.C. § 201, bribery; and 18 U.S.C. § 2512, importation of eavesdropping equipment)	Indefinite from August 10, 2010
<b>North Carolina</b>				
Charlotte	Ross, Walter H.	CPA	Suspended by decision in expedited proceeding under § 10.82 (suspension of CPA license)	Indefinite from August 16, 2010

# 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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<sup>1</sup> A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2010–1 through 2010–26 is in Internal Revenue Bulletin 2010–26, dated June 28, 2010.

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<sup>1</sup> A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2010–1 through 2010–26 is in Internal Revenue Bulletin 2010–26, dated June 28, 2010.









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