Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.601: Rules and regulations.
(Also Part I, §§ 61, 1012, 1016; 1.61-1)

Rev. Proc. 2009-10

SECTION 1. PURPOSE

This revenue procedure provides a safe harbor for the treatment of certain payments received by a regulated investment company under Part 1 of subchapter M of the Internal Revenue Code (sections 851-855) that is a money market fund registered with the Securities and Exchange Commission and regulated under Rule 2a-7 of the Investment Company Act of 1940, 17 C.F.R. 270.2a-7 (“Money Market Fund”).

SECTION 2. BACKGROUND

.01 *Payment*. Money Market Funds strive to maintain a stable per share net asset value of $1.00. Persons who contract to perform investment advisory or management services (“Advisors”) are concerned that a decline in per share net asset value to a threshold amount below $1.00 (commonly referred to as "breaking the buck") will significantly harm their business reputations and could lead to litigation by shareholders. These Advisors may make a payment ("Payment") to the Money Market Fund in order to maintain a per share net asset value of $1.00. This Payment is not calculated with reference to the investment advisory fees paid or to be paid to the Advisor by the Money Market Fund, is not a loan to the Money Market Fund, and does not give the Advisor any ownership interest in the Money Market Fund.

.02 *Excess Amount Received in a Purchase Transaction*. Alternatively, for the same reasons described in section 2.01 of this revenue procedure, an Advisor may purchase an asset of a Money Market Fund for an amount that exceeds the asset's fair market value (such excess hereinafter referred to as an "Excess Amount"). For example, an Advisor may purchase a debt instrument from the Money Market Fund for $100x at a time when the fair market value of the debt instrument is $90x. When property is purchased for an amount above fair market value for a purpose other than the acquisition of the property, the Excess Amount (e.g., $10x in the example in the preceding sentence) is generally not accounted for as part of the purchase/sale transaction for tax purposes. Thus, in the example, the Advisor is treated as having a cost basis in the purchased debt instrument of $90x. The Excess Amount should be treated in the same manner as a Payment described in section 2.01 of this revenue procedure.

SECTION 3. SCOPE

This revenue procedure applies to a Money Market Fund that receives a Payment or Excess Amount described in section 2 of this revenue procedure.

SECTION 4. PROCEDURE

The Internal Revenue Service will not challenge the treatment of a Payment or Excess Amount by a Money Market Fund to which this revenue procedure applies if the Money Market Fund treats the Payment or Excess Amount as short-term capital gain in the taxable year in which the Payment or Excess Amount is received. No inference should be drawn from this revenue procedure as to whether or not other treatments of Payments or Excess Amounts may be appropriate.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective with respect to Payments or Excess Amounts received before January 1, 2010, by a Money Market Fund to which this revenue procedure applies.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Richard C. LaFalce of the Office of the Associate Chief Counsel (Financial Institutions & Products). For further information, contact him at (202) 622-3930 (not a toll-free call).