Internal Revenue
bulletin

Bulletin No. 2002–40
October 7, 2002

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 2002–61, page 639.
Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for October 2002.

T.D. 9016, page 628.
Final regulations under section 141 of the Code provide guidance to issuers of tax-exempt bonds in the application of the private business tests to output facilities and in the application of the special $15 million limitation for output facilities. These regulations also amend regulations issued on January 18, 2001.

Rev. Proc. 2002–58, page 644.
This procedure provides the domestic asset/liability percentages and domestic investment yield percentages needed by foreign companies conducting insurance business in the United States to compute their minimum effectively connected net investment income.

Announcement 2002–90, page 684.
For purposes of the Archer MSA pilot program under section 220(j)(2) of the Code, 2002 is not a cut-off year.

Announcement 2002–91, page 685.
This announcement provides advance notice regarding guidance to issuers of tax-exempt bonds by describing rules the Service and the Treasury Department expect to issue in proposed regulations. This document provides guidance regarding tax-exempt bonds that are issued for the government use portion of an output facility when that facility is used for both government and private business use.

EXCISE TAX

Rev. Rul. 2002–60, page 641.
Mileage awards. This ruling illustrates the application of Notice 2002–63, in this I.R.B., when a foreign air carrier purchases mileage awards from a domestic air carrier. In addition, the revenue ruling concludes that Rev. Rul. 55–534, 1955–2 C.B. 665, does not hold that all payments between air carriers are exempt from the tax imposed by Section 4261 of the Code. Rev. Rul. 55–534 distinguished.

Notice 2002–63, page 644.
Mileage awards. This notice provides guidance on the application of the excise tax on the amount paid for air transportation to amounts paid for frequent flyer miles. Under the notice, amounts paid for mileage awards that cannot be redeemed for taxable transportation are not subject to tax. The notice further provides that, inasmuch as mileage awards issued by a foreign air carrier cannot be redeemed for taxable transportation, those mileage awards are not subject to tax. In addition, the notice provides that amounts paid by an air carrier to another air carrier for mileage awards that can be redeemed for taxable transportation are not subject to tax to the extent those miles will be awarded in connection with the purchase of taxable transportation. Amounts paid by an air carrier to another air carrier for mileage awards that can be redeemed for taxable transportation are subject to tax to the extent the miles will be awarded other than in connection with the purchase of taxable transportation. Notice 2001–6 modified and superseded.

ADMINISTRATIVE

T.D. 9015, page 642.
REG–134026–02, page 684.
Final, temporary, and proposed regulations under section 7602 of the Code amend section 301.7602–1 of the regulations to include officers and employees of the Office of Chief Counsel in the group of persons who can take summoned testimony under oath and receive summoned documents.

Finding Lists begin on page ii.
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Department of the Treasury
Internal Revenue Service

Rev. Proc. 2002–60, page 645.
Substitute tax forms and schedules. Requirements are set forth for privately designed and privately printed federal tax forms and the conditions under which the IRS will accept substitute computer-prepared and computer-generated tax forms and schedules. Rev. Proc. 2001–45 superseded.

Rev. Proc. 2002–62, page 682.
Election under section 1397B. This document provides procedures for a taxpayer to make an election to defer recognition of capital gain on the sale of a qualified empowerment zone (QEZ) asset.

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and 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 first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the first Bulletin of the succeeding semiannual period, respectively.

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

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

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 141.—Private Activity Bond; Qualified Bond

26 CFR 1.141–7: Special rules for output facilities.

T.D. 9016

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR part 1

Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations on the definition of private activity bonds applicable to tax-exempt bonds issued by state and local governments for output facilities. These regulations affect issuers of tax-exempt bonds and provide needed guidance for applying the private activity bond restrictions to output facilities.

DATES: *Effective date:* These regulations are effective November 22, 2002.

Applicability date: For dates of applicability, see § 1.141–15 of these regulations.

FOR FURTHER INFORMATION CONTACT: Rose M. Weber (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Income Tax Regulations (26 CFR part 1) under section 141 by providing special rules for tax-exempt bonds issued for output facilities. On January 18, 2001, temporary regulations (T.D. 8941, 2001–1 C.B. 977) (the temporary regulations) were published in the **Federal Register** (66 FR 4661) to provide guidance under the Internal Revenue Code of 1986 regarding, among other things, (a) the application of the private activity bond tests under section 141(b)(1) and (2) to output contracts for output facilities; and (b) the application of the $15 million limit under section 141(b)(4) to output facility financings. A notice of proposed rulemaking (REG-114998–99, 2001–1 C.B. 992) cross-referencing the temporary regulations was published in the **Federal Register** on the same day (66 FR 4754). On July 24, 2001, the IRS held a public hearing on the proposed regulations. Written comments responding to the notice of proposed rulemaking were also received. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision and the temporary regulations are removed. The revisions are discussed below.

Explanation of Provisions

A. *§ 1.141–7 Special Rules for Output Facilities*

1. *Benefits and burdens test*

The temporary regulations contain a benefits and burdens test for determining whether the purchase of output of an output facility is taken into account under the private business tests. In particular, the temporary regulations provide that the purchase by a nongovernmental person of available output of an output facility is taken into account under the private business tests if it has the effect of transferring substantial benefits of owning the facility and substantial burdens of paying the debt service on bonds used to finance the facility. Under this test, an output contract transfers substantial benefits of owning a facility if it gives the purchaser (directly or indirectly) rights to capacity of the facility on a basis that is preferential to the rights of the general public. An output contract transfers substantial burdens of paying debt service under this test to the extent that the issuer reasonably expects that it is substantially certain that payments will be made under the terms of the contract (disregarding default, insolvency, or other similar circumstances).

Commentators were generally critical of the benefits and burdens test in the temporary regulations. Some commentators stated that preferential rights is not an adequate concept for determining whether substantial benefits of ownership are passed through an output contract. Some commentators suggested that a substantial certainty of payment by a purchaser does not necessarily constitute a transfer of substantial burdens of paying debt service. Other commentators recommended that any sale of output by a municipal utility outside of its traditional service territory should result in private business use.

The final regulations amend the benefits and burdens test. Under the revised provision, an output contract is taken into account under the private business tests if it has the effect of transferring to a nongovernmental person the benefits of owning the facility and the burdens of paying the debt service on bonds issued to finance the facility. This test is met if a nongovernmental person agrees to purchase available output of a facility pursuant to (1) a take contract (that is, a contract under which the purchaser agrees to pay for the output if the facility is capable of providing it), or (2) a take or pay contract (that is, a contract under which the purchaser agrees to pay for the output, whether or not the facility is capable of providing it). In addition, as discussed below, certain requirements contracts may satisfy the benefits and burdens test. The final regulations define *requirements contract* as an output contract, other than a take contract or a take or pay contract, under which a nongovernmental person agrees to purchase all or part of its output requirements.

2. *Requirements contracts*

The temporary regulations provide that a requirements contract under which a nongovernmental person agrees to purchase all or part of its output requirements is taken into account under the private business tests to the extent that, based on all the facts and circumstances, it meets the benefits and burdens test in those regulations. Relevant factors in making this determination include whether the purchaser's customer base has significant indicators of stability, whether the contract covers historical (rather than only projected) requirements, and whether the purchaser agrees not to construct or acquire other resources. A requirements con-

tract that is not a sale at wholesale (a retail requirements contract) generally does not meet the benefits and burdens test in the temporary regulations, except to the extent it obligates the purchaser to have requirements or to make payments that are not contingent on its requirements. Reasonable and customary damages and termination provisions do not cause a requirements contract to meet the benefits and burdens test under the temporary regulations.

Most commentators were critical of the treatment of requirements contracts in the temporary regulations. Some commentators stated that the factors for analyzing requirements contracts are not administrable and do not necessarily indicate whether a purchaser has acquired substantial benefits of ownership or burdens of debt service. Other commentators requested that the regulations be amended to specify that requirements contracts with power marketers or with purchasers located outside the service territory of a municipal utility result in private business use.

The final regulations provide two rules under which a requirements contract may satisfy the benefits and burdens test. First, a requirements contract (retail or wholesale) generally meets the benefits and burdens test to the extent that it contains contractual terms that obligate the purchaser to make payments that are not contingent on the output requirements of the purchaser or that obligate the purchaser to have output requirements. Second, the final regulations continue to apply a facts and circumstances approach for wholesale requirements contracts, but provide simplified factors and two safe harbors. Under this approach, the following factors tend to establish that a wholesale requirements contract meets the benefits and burdens test: (1) the term of the contract is substantial relative to the term of the issue and (2) the amount of output to be purchased represents a substantial portion of the available output. A wholesale requirements contract does not meet the benefits and burdens test under the facts and circumstances approach if it satisfies one of the following safe harbors: (1) its term does not exceed the lesser of five years or 30 percent of the term of the issue or (2) the amount of output to be purchased does not exceed five percent of the available output of the facility.

3. *Pledged contracts*

Under the temporary regulations, payments under an output contract that is pledged as security for an issue are taken into account under the private business tests even if they are not substantially certain to be made. A contract is pledged for this purpose only if the bond documents prohibit substantial amendments of the contract without the consent of bondholders.

Some commentators suggested that this provision adds undue complexity and is unnecessary in light of the benefits and burdens test. The final regulations adopt this comment and delete the provision.

4. *Exception for small purchases of output*

The temporary regulations provide that an output contract is not taken into account under the private business tests if the average annual payments under the contract that are substantially certain to be made do not exceed 0.5 percent of the average annual debt service on all outstanding tax-exempt bonds issued to finance the facility, determined as of the effective date of the contract.

Some commentators recommended that the 0.5 percent threshold be increased to one percent, and that the exception refer to guaranteed minimum, rather than substantially certain, payments. Other commentators recommended that the exception be deleted. The final regulations increase the 0.5 percent threshold to one percent and specify that all payments to be made under the contract are taken into account.

5. *Exception for short-term sales of output*

The temporary regulations contain an exception under which an output contract with a nongovernmental person is not taken into account under the private business tests if: (1) the term of the contract, including all renewal options, does not exceed one year; (2) the compensation under the contract is based on generally applicable and uniformly applied rates or represents a negotiated, fair market price; and (3) the facility is not financed for a principal purpose of serving that nongovernmental person.

Most commentators recommended that this exception be expanded to permit contracts of a longer duration. These commentators stated that longer-term contracts are required in order to transfer benefits of ownership and burdens of debt service with respect to an output facility. Other commentators suggested that the exception should be narrower in scope. These commentators recommended that the exception take into account the entire anticipated period of ongoing sales, irrespective of the term of any contracts or renewal options.

The final regulations retain and amend the exception for short-term output sales. In order to exclude from the private business tests output contracts that do not transfer the benefits of ownership and the burdens of debt service, the final regulations increase the one-year period to three years.

6. *Exception for swapping and pooling arrangements*

The temporary regulations provide that certain agreements to swap or pool output do not result in private business use to the extent that: (1) the swapped output is reasonably expected to be approximately equal in value, determined over periods of one year or less; and (2) the agreement is entered into for a qualifying purpose, such as enhancing reliability.

Some commentators recommended that the exception be expanded to apply to transactions in which the value of the swapped output is not approximately equal, but the governmental person is a net importer of power. The final regulations do not adopt this recommendation because such transactions may not in substance constitute power swaps, and are more appropriately analyzed under the benefits and burdens test.

The final regulations retain the exception for swapping and pooling arrangements, but increase the one-year period to three years.

7. *Special rule for facilities with significant unutilized capacity*

The temporary regulations provide that, if an issuer reasonably expects on the issue date that persons that are treated as private business users will purchase more than 20 percent of the actual output of the facility, the Commissioner may determine the number of units produced or to be produced by the facility in one year on a reasonable basis other than by reference to nameplate capacity, such as the average expected annual output of the facility.

Commentators suggested that the 20 percent threshold be increased to 30 percent in order to be consistent with longstanding IRS ruling positions that pre-dated the issuance of regulations under section 141 for output facilities (*e.g.*, Rev. Proc. 89–3, 1989–1 C.B. 761). The final regulations adopt this comment and change the 20 percent threshold to 30 percent.

8. *Special exception for sales of output attributable to excess generating capacity resulting from open access*

The temporary regulations contain an exception to private business use for certain purchases of output of an electric generating facility if: (1) the contract term does not exceed three years; (2) the issuer does not utilize tax-exempt financing to increase the generating capacity of its system by more than three percent during the contract term; (3) the governmental owner offers certain non-discriminatory, open access transmission tariffs; (4) all of the output sold is attributable to excess capacity resulting from the offer of the open access tariffs; and (5) all payments received by the governmental owner under the contract (other than the portion allocable to operation and maintenance expenses described in § 1.141–4(c)(2)(C)) are applied as promptly as is reasonably practical to redeem tax-exempt bonds in a manner consistent with § 1.141–12.

Some commentators stated that this exception contains overly restrictive requirements that significantly limit its usefulness. These commentators recommended that the exception be expanded to apply to: (1) sales in anticipation of open access or retail competition; (2) sales to native load customers if open access is in effect or reasonably expected to commence within a reasonable time period; and (3) contracts with terms in excess of three years. These commentators also requested clarification regarding the requirement to redeem bonds, the extent to which the rules in § 1.141–12 apply, and the limitations on tax-exempt financing during the contract term.

These suggested changes raise a number of administrability issues. For example, in many cases it may be difficult to predict the nature and extent of an issuer's future participation in open access or to determine whether a particular sale is made in anticipation of open access. In light of these administrability concerns and the expansion of the short-term contract exception to three years as described above, the final regulations delete the special exception for excess capacity-related sales.

9. *Special rules for electric output facilities used to provide open access*

Under the temporary regulations, the use of electric generation, transmission or distribution facilities by a nongovernmental person may result in private business use under the benefits and burdens test. In addition, the use of electric facilities under arrangements other than output contracts may constitute private business use under the general rules of § 1.141–3.

The temporary regulations do not contain specific provisions for determining whether the use of electric output facilities by a regional transmission organization (RTO), independent system operator (ISO) or other independent transmission operator results in private business use. However, the preamble to the temporary regulations states that the rules for management contracts under section 141, including Revenue Procedure 97–13, 1997–1 C.B. 632, apply in this regard.

Commentators stated that the management contract guidelines in Revenue Procedure 97–13 are not well-tailored to address the use of electric facilities by an RTO or an ISO. They requested additional guidance concerning the circumstances in which an RTO or an ISO will not be treated as a private business user. The final regulations provide that a contract for the operation of an electric transmission facility by an independent entity, such as an RTO or an ISO (*independent transmission operator*), does not result in private business use of the facility if: (1) the facility is owned by a governmental person; (2) the operation of the facility by the independent transmission operator is approved by the Federal Energy Regulatory Commission (FERC) under provisions of the Federal Power Act (16 U.S.C. 791a through 825r) (or by a state authority under comparable provisions of state law); (3) the independent transmission operator's compensation is not based on a share of net profits from the facility; and (4) the independent transmission operator does not bear risk of loss of the facility.

The temporary regulations contain two special exceptions under which certain actions involving electric transmission or distribution facilities are not treated as deliberate actions under § 1.141–2(d). The first exception applies to certain contracts entered into in response to, or in anticipation of, an order by the FERC to wheel power under the Federal Power Act, or by a state authority under comparable state law. The second exception applies to certain actions to implement the offering of nondiscriminatory, open access tariffs in a manner consistent with certain FERC rules under the Federal Power Act or comparable state law. The final regulations retain these special exceptions.

Commentators requested additional guidance regarding the circumstances in which electric transmission and distribution facilities that are available for use on a nondiscriminatory, open access basis will not be used for a private business use. The final regulations provide that the use of an electric transmission or distribution facility by a nongovernmental person pursuant to an output contract does not result in private business use if: (1) the facility is owned by a governmental person; (2) the facility is available for use on a nondiscriminatory, open access basis (a transmission facility meets this requirement if it is operated by a qualifying independent transmission operator); and (3) the facility is not financed for a principal purpose of serving that nongovernmental person.

B. *§ 1.141–8 $15 Million Limitation for Output Facilities*

The temporary regulations provide guidance on the special $15 million limitation on output facilities of section 141(b)(4). In general, this limitation is based on the nonqualified amount of an issue or issues that finance a single project.

The temporary regulations provide that facilities having different purposes or serving different customer bases are not ordinarily part of the same project. For example, a peaking unit and a baseload unit generally are not part of the same project.

The temporary regulations also provide that, in the case of generation and related facilities, project means property located at the same site. However, separate generating units are not part of the same project if one unit is reasonably expected, on the issue date of each issue that finances the facilities, to be placed in service more than three years before the other.

Some commentators noted that there is an ambiguity in the temporary regulations regarding whether a peaking unit and a baseload unit that are located at the same site and placed in service within the same three-year period are part of the same project. The final regulations clarify that a peaking unit and a baseload unit generally are not part of the same project, even if they are located at the same site and placed in service within the same three-year period.

C. *Need for Final Regulations*

Congress passed the Energy Policy Act of 1992, Public Law 102–486 (106 Stat. 2776), to encourage restructuring of the electric power industry. Since that time, the FERC and many states have adopted policies to provide open access to transmission and distribution facilities. Treasury and the IRS are aware that these initiatives have caused many changes in the electric power industry, and that restructuring efforts are ongoing. The temporary regulations were published in order to provide immediate guidance under section 141 regarding the effect on the tax-exempt status of bonds of certain restructuring transactions necessary for utilities to participate in a restructured electric utility industry.

Commentators stated that the lack of final regulations addressing these issues has hindered public power systems in undertaking long-term planning. Commentators also stated that uncertainty regarding the characterization under the private business tests of certain open access transactions has hampered participation by public power systems in open access plans. The final regulations are being issued at this time in order to address these concerns, notwithstanding that restructuring initiatives continue to evolve. It is anticipated that the special rules in the final regulations for open access transactions will not result in a significant increase in the volume of tax-exempt bonds for output facilities. In the event that such an increase does occur, Treasury and the IRS may reconsider relevant aspects of the regulations and propose additional limitations on the use of tax-exempt financing for such facilities.

Effective Dates

The final regulations apply to bonds sold on or after November 22, 2002.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the rule does not impose a collection of information on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal authors of these regulations are Bruce M. Serchuk and Rose M. Weber, Office of Chief Counsel (Tax Exempt and Government Entities), Internal Revenue Service, and Stephen J. Watson, Office of Tax Legislative Counsel, Department of the Treasury. However, other personnel from the IRS and Treasury Department participated in their development.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.141–0 is amended by removing the entries for §§ 1.141–7T, 1.141–8T and 1.141–15T and adding entries to the table in numerical order for §§ 1.141–7, 1.141–8 and 1.141–15(f) through (i) to read as follows:

§ 1.141–0 Table of contents.

* * * * *

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§ 1.141–8 $15 million limitation for output facilities.

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Par. 3. Section 1.141–2 is amended by revising the last sentence of paragraph (d)(3)(ii)(B) to read as follows:

§ 1.141–2 Private activity bond tests.

* * * * *

(d) * * *

(3) * * *

(ii) * * *

(B) * * * See § 1.141–7(g)(4).

* * * * *

Par. 4. Section 1.141–7 is added to read as follows:

§ 1.141–7 Special rules for output facilities.

(a) *Overview.* This section provides special rules to determine whether arrangements for the purchase of output from an output facility cause an issue of bonds to meet the private business tests. For this purpose, unless otherwise stated, water facilities are treated as output facilities. Sections 1.141–3 and 1.141–4 generally apply to determine whether other types of arrangements for use of an output facility cause an issue to meet the private business tests.

(b) *Definitions.* For purposes of this section and § 1.141–8, the following definitions and rules apply:

(1) *Available output.* The available output of a facility financed by an issue is determined by multiplying the number of units produced or to be produced by the facility in one year by the number of years in the measurement period of that facility for that issue.

(i) *Generating facilities.* The number of units produced or to be produced by a generating facility in one year is determined by reference to its nameplate capacity or the equivalent (or where there is no nameplate capacity or the equivalent, its maximum capacity), which is not reduced for reserves, maintenance or other unutilized capacity.

(ii) *Transmission and other output facilities*—(A) *In general*. For transmission, distribution, cogeneration, and other output facilities, available output must be measured in a reasonable manner to reflect capacity.

(B) *Electric transmission facilities.* Measurement of the available output of all or a portion of electric transmission facilities may be determined in a manner consistent with the reporting rules and requirements for transmission networks promulgated by the Federal Energy Regulatory Commission (FERC). For example, for a transmission network, the use of aggregate load and load share ratios in a manner consistent with the requirements of the FERC may be reasonable. In addition, depending on the facts and circumstances, measurement of the available output of transmission facilities using thermal capacity or transfer capacity may be reasonable.

(iii) *Special rule for facilities with significant unutilized capacity.* If an issuer reasonably expects on the issue date that persons that are treated as private business users will purchase more than 30 percent of the actual output of the facility financed with the issue, the Commissioner may determine the number of units produced or to be produced by the facility in one year on a reasonable basis other than by reference to nameplate or other capacity, such as the average expected annual output of the facility. For example, the Commissioner may determine the available output of a financed peaking electric generating unit by reference to the reasonably expected annual output of that unit if the issuer reasonably expects, on the issue date of bonds that finance the unit, that an investor-owned utility will purchase more than 30 percent of the actual output of the facility during the measurement period under a take or pay contract, even if the amount of output purchased is less than 10 percent of the available output determined by reference to nameplate capacity. The reasonably expected annual output of the generating facility must be consistent with the capacity reported for prudent reliability purposes.

(iv) *Special rule for facilities with a limited source of supply.* If a limited source of supply constrains the output of an output facility, the number of units produced or to be produced by the facility must be determined by reasonably taking into account those constraints. For this purpose, a limited source of supply shall include a physical limitation (for example, flow of water), but not an economic limitation (for example, cost of coal or gas). For example, the available output of a hydroelectric unit must be determined by reference to the reasonably expected annual flow of water through the unit.

(2) *Measurement period.* The measurement period of an output facility financed by an issue is determined under § 1.141–3(g).

(3) *Sale at wholesale.* A sale at wholesale means a sale of output to any person for resale.

(4) *Take contract and take or pay contract*. A *take contract* is an output contract under which a purchaser agrees to pay for the output under the contract if the output facility is capable of providing the output. A *take or pay contract* is an output contract under which a purchaser agrees to pay for the output under the contract, whether or not the output facility is capable of providing the output.

(5) *Requirements contract*. A *requirements contract* is an output contract, other than a take contract or a take or pay contract, under which a nongovernmental person agrees to purchase all or part of its output requirements.

(6) *Nonqualified amount.* The nonqualified amount with respect to an issue is determined under section 141(b)(8).

(c) *Output contracts*—(1) *General rule*. The purchase pursuant to a contract by a nongovernmental person of available output of an output facility (output contract) financed with proceeds of an issue is taken into account under the private business tests if the purchase has the effect of transferring the benefits of owning the facility and the burdens of paying the debt service on bonds used (directly or indirectly) to finance the facility (the benefits and burdens test). See paragraph (c)(4) of this section for the treatment of an output contract that is properly characterized as a lease for Federal income tax purposes. See paragraphs (d) and (e) of this section for rules regarding measuring the use of, and payments of debt service for, an output facility for determining whether the private business tests are met. See also § 1.141–8 for rules for when an issue that finances an output facility (other than a water facility) meets the private business tests because the nonqualified amount of the issue exceeds $15 million.

(2) *Take contract or take or pay contract.* The benefits and burdens test is met if a nongovernmental person agrees pur-

suant to a take contract or a take or pay contract to purchase available output of a facility.

(3) *Requirements contract*—(i) *In general*. A requirements contract may satisfy the benefits and burdens test under paragraph (c)(3)(ii) or (iii) of this section. See § 1.141–15(f)(2) for special effective dates for the application of this paragraph (c)(3) to issues financing facilities subject to requirements contracts.

(ii) *Requirements contract similar to take contract or take or pay contract.* A requirements contract generally meets the benefits and burdens test to the extent that it contains contractual terms that obligate the purchaser to make payments that are not contingent on the output requirements of the purchaser or that obligate the purchaser to have output requirements. For example, a requirements contract with an industrial purchaser meets the benefits and burdens test if the purchaser enters into additional contractual obligations with the issuer or another governmental unit not to cease operations. A requirements contract does not meet the benefits and burdens test, however, by reason of a provision that requires the purchaser to pay reasonable and customary damages (including liquidated damages) in the event of a default, or a provision that permits the purchaser to pay a specified amount to terminate the contract while the purchaser has requirements, in each case if the amount of the payment is reasonably related to the purchaser's obligation to buy requirements that is discharged by the payment.

(iii) *Wholesale requirements contract*—(A) *In general.* A requirements contract that is a sale at wholesale (a *wholesale requirements contract*) may satisfy the benefits and burdens test, depending on all the facts and circumstances.

(B) *Significant factors.* Significant factors that tend to establish that a wholesale requirements contract meets the benefits and burdens test include, but are not limited to—

(1) The term of the contract is substantial relative to the term of the issue or issues that finance the facility; and

(2) The amount of output to be purchased under the contract represents a substantial portion of the available output of the facility.

(C) *Safe harbors.* A wholesale requirements contract does not meet the benefits and burdens test if—

(1) The term of the contract, including all renewal options, does not exceed the lesser of 5 years or 30 percent of the term of the issue; or

(2) The amount of output to be purchased under the contract (and any other requirements contract with the same purchaser or a related party with respect to the facility) does not exceed 5 percent of the available output of the facility.

(iv) *Retail requirements contract.* Except as otherwise provided in this paragraph (c)(3), a requirements contract that is not a sale at wholesale does not meet the benefits and burdens test.

(4) *Output contract properly characterized as a lease*. Notwithstanding any other provision of this section, an output contract that is properly characterized as a lease for Federal income tax purposes shall be tested under the rules contained in §§ 1.141–3 and 1.141–4 to determine whether it is taken into account under the private business tests.

(d) *Measurement of private business use.* If an output contract results in private business use under this section, the amount of private business use generally is the amount of output purchased under the contract.

(e) *Measurement of private security or payment.* The measurement of payments made or to be made by nongovernmental persons under output contracts as a percent of the debt service of an issue is determined under the rules provided in § 1.141–4.

(f) *Exceptions for certain contracts*—(1) *Small purchases of output.* An output contract for the use of a facility is not taken into account under the private business tests if the average annual payments to be made under the contract do not exceed 1 percent of the average annual debt service on all outstanding tax-exempt bonds issued to finance the facility, determined as of the effective date of the contract.

(2) *Swapping and pooling arrangements.* An agreement that provides for swapping or pooling of output by one or more governmental persons and one or more nongovernmental persons does not result in private business use of the output facility owned by the governmental person to the extent that—

(i) The swapped output is reasonably expected to be approximately equal in value (determined over periods of three years or less); and

(ii) The purpose of the agreement is to enable each of the parties to satisfy different peak load demands, to accommodate temporary outages, to diversify supply, or to enhance reliability in accordance with prudent reliability standards.

(3) *Short-term output contracts.* An output contract with a nongovernmental person is not taken into account under the private business tests if—

(i) The term of the contract, including all renewal options, is not longer than 3 years;

(ii) The contract either is a negotiated, arm's-length arrangement that provides for compensation at fair market value, or is based on generally applicable and uniformly applied rates; and

(iii) The output facility is not financed for a principal purpose of providing that facility for use by that nongovernmental person.

(4) *Certain conduit parties disregarded.* A nongovernmental person acting solely as a conduit for the exchange of output among governmentally owned and operated utilities is disregarded in determining whether the private business tests are met with respect to financed facilities owned by a governmental person.

(g) *Special rules for electric output facilities used to provide open access*—(1) *Operation of transmission facilities by nongovernmental persons*—(i) *In general.* The operation of an electric transmission facility by a nongovernmental person may result in private business use of the facility under § 1.141–3 and this section based on all the facts and circumstances. For example, a transmission facility is generally used for a private business use if a nongovernmental person enters into a contract to operate the facility and receives compensation based, in whole or in part, on a share of net profits from the operation of the facility.

(ii) *Certain use by independent transmission operators.* A contract for the operation of an electric transmission facility by an independent entity, such as a regional transmission organization or an independent system operator (*independent transmission operator*), does not constitute private business use of the facility if—

(A) The facility is owned by a governmental person;

(B) The operation of the facility by the independent transmission operator is approved by the FERC under one or more provisions of the Federal Power Act (16 U.S.C. 791a through 825r) (or by a state authority under comparable provisions of state law);

(C) No portion of the compensation of the independent transmission operator is based on a share of net profits from the operation of the facility; and

(D) The independent transmission operator does not bear risk of loss of the facility.

(2) *Certain use by nongovernmental persons under output contracts*—(i) *Transmission facilities*. The use of an electric transmission facility by a nongovernmental person pursuant to an output contract does not constitute private business use of the facility if—

(A) The facility is owned by a governmental person;

(B) The facility is operated by an independent transmission operator in a manner that satisfies paragraph (g)(1)(ii) of this section; and

(C) The facility is not financed for a principal purpose of providing that facility for use by that nongovernmental person.

(ii) *Distribution facilities.* The use of an electric distribution facility by a nongovernmental person pursuant to an output contract does not constitute private business use of the facility if—

(A) The facility is owned by a governmental person;

(B) The facility is available for use on a nondiscriminatory, open access basis by buyers and sellers of electricity in accordance with rates that are generally applicable and uniformly applied within the meaning of § 1.141–3(c)(2); and

(C) The facility is not financed for a principal purpose of providing that facility for use by that nongovernmental person (other than a retail end-user).

(3) *Ancillary services*. The use of an electric output facility to provide ancillary services required to be offered as part of an open access transmission tariff under rules promulgated by the FERC under the Federal Power Act (16 U.S.C. 791a through 825r) does not result in private business use.

(4) *Exceptions to deliberate action rules*—(i) *Mandated wheeling.* Entering into a contract for the use of electric transmission or distribution facilities is not treated as a deliberate action under § 1.141–2(d) if—

(A) The contract is entered into in response to (or in anticipation of) an order by the United States under sections 211 and 212 of the Federal Power Act (16 U.S.C. 824j and 824k) (or a state regulatory authority under comparable provisions of state law); and

(B) The terms of the contract are *bona fide* and arm's-length, and the consideration paid is consistent with the provisions of section 212(a) of the Federal Power Act.

(ii) *Actions taken to implement nondiscriminatory, open access*. An action is not treated as a deliberate action under § 1.141–2(d) if it is taken to implement the offering of non-discriminatory, open access tariffs for the use of electric transmission or distribution facilities in a manner consistent with rules promulgated by the FERC under sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d and 824e) (or comparable provisions of state law). This paragraph (g)(4)(ii) does not apply, however, to the sale, exchange, or other disposition (within the meaning of section 1001(a)) of transmission or distribution facilities to a nongovernmental person.

(iii) *Application of reasonable expectations test to certain current refunding bonds.* An action taken or to be taken with respect to electric transmission or distribution facilities refinanced by an issue is not taken into account under the reasonable expectations test of § 1.141–2(d) if—

(A) The action is described in paragraph (g)(4)(i) or (ii) of this section;

(B) The bonds of the issue are current refunding bonds that refund bonds originally issued before February 23, 1998; and

(C) The weighted average maturity of the refunding bonds is not greater than the remaining weighted average maturity of the prior bonds.

(5) *Additional transactions as permitted by the Commissioner.* The Commissioner may, by published guidance, set forth additional circumstances in which the use of electric output facilities in a restructured electric industry does not constitute private business use.

(h) *Allocations of output facilities and systems*—(1) *Facts and circumstances analysis.* Whether output sold under an output contract is allocated to a particular facility (for example, a generating unit), to the entire system of the seller of that output (net of any uses of that system output allocated to a particular facility), or to a portion of a facility is based on all the facts and circumstances. Significant factors to be considered in determining the allocation of an output contract to financed property are the following:

(i) The extent to which it is physically possible to deliver output to or from a particular facility or system.

(ii) The terms of a contract relating to the delivery of output (such as delivery limitations and options or obligations to deliver power from additional sources).

(iii) Whether a contract is entered into as part of a common plan of financing for a facility.

(iv) The method of pricing output under the contract, such as the use of market rates rather than rates designed to pay debt service of tax-exempt bonds used to finance a particular facility.

(2) *Illustrations*. The following illustrate the factors set forth in paragraph (h)(1) of this section:

(i) *Physical possibility*. Output from a generating unit that is fed directly into a low voltage distribution system of the owner of that unit and that cannot physically leave that distribution system generally must be allocated to those receiving electricity through that distribution system. Output may be allocated without regard to physical limitations, however, if exchange or similar agreements provide output to a purchaser where, but for the exchange agreements, it would not be possible for the seller to provide output to that purchaser.

(ii) *Contract terms relating to performance.* A contract to provide a specified amount of electricity from a system, but only when at least that amount of electricity is being generated by a particular unit, is allocated to that unit. For example, a contract to buy 20 MW of system power with a right to take up to 40 percent of the actual output of a specific 50 MW facility whenever total system output is insufficient to meet all of the seller's obligations generally is allocated to the specific facility rather than to the system.

(iii) *Common plan of financing.* A contract entered into as part of a common plan of financing for a facility generally is allocated to the facility if debt service for the issue of bonds is reasonably expected to be paid, directly or indirectly, from payments under the contract.

(iv) *Pricing method.* Pricing based on the capital and generating costs of a particular turbine tends to indicate that output under the contract is properly allocated to that turbine.

(3) *Transmission and distribution contracts.* Whether use under an output contract for transmission or distribution is allocated to a particular facility or to a transmission or distribution network is based on all the facts and circumstances, in a manner similar to paragraphs (h)(1) and (2) of this section. In general, the method used to determine payments under a contract is a more significant contract term for this purpose than nominal contract path. In general, if reasonable and consistently applied, the determination of use of transmission or distribution facilities under an output contract may be based on a method used by third parties, such as reliability councils.

(4) *Allocation of payments.* Payments for output provided by an output facility financed with two or more sources of funding are generally allocated under the rules in § 1.141–4(c).

(i) *Examples.* The following examples illustrate the application of this section:

Example 1. Joint ownership. Z, an investor-owned electric utility, and City H agree to construct an electric generating facility of a size sufficient to take advantage of the economies of scale. H will issue $50 million of its 24-year bonds, and Z will use $100 million of its funds for construction of a facility they will jointly own as tenants in common. Each of the participants will share in the ownership, output, and operating expenses of the facility in proportion to its contribution to the cost of the facility, that is, one-third by H and two-thirds by Z. H's bonds will be secured by H's ownership interest in the facility and by revenues to be derived from its share of the annual output of the facility. H will need only 50 percent of its share of the annual output of the facility during the first 20 years of operations. It agrees to sell 10 percent of its share of the annual output to Z for a period of 20 years pursuant to a contract under which Z agrees to take that power if available. The facility will begin operation, and Z will begin to receive power, 4 years after the H bonds are issued. The measurement period for the property financed by the issue is 20 years. H also will sell the remaining 40 percent of its share of the annual output to numerous other private utilities under contracts of three years or less that satisfy the exception under paragraph (f)(3) of this section. No other contracts will be executed obligating any person to purchase any specified amount of the power for any specified period of time. No person (other than Z) will make payments that will result in a transfer of the burdens of paying debt service on bonds used directly or indirectly to provide H's share of the facilities. The bonds are not private activity bonds, because H's one-third interest in the facility is not treated as used by the other owners of the facility. Although 10 percent of H's share of the annual output of the facility will be used in the trade or business of Z, a nongovernmental person, under this section, that portion constitutes not more than 10 percent of the available output of H's ownership interest in the facility.

Example 2. Wholesale requirements contract. (i) City J issues 20-year bonds to acquire an electric generating facility having a reasonably expected economic life substantially greater than 20 years and a nameplate capacity of 100 MW. The available output of the facility under paragraph (b)(1) of this section is approximately 17,520,000 MWh (100 MW X 24 hours X 365 days X 20 years). On the issue date, J enters into a contract with T, an investor-owned utility, to provide T with all of its power requirements for a period of 10 years, commencing on the issue date. J reasonably expects that T will actually purchase an average of 30 MW over the 10-year period. The contract is taken into account under the private business tests pursuant to paragraph (c)(3) of this section because the term of the contract is substantial relative to the term of the issue and the amount of output to be purchased is a substantial portion of the available output.

(ii) Under paragraph (d) of this section, the amount of reasonably expected private business use under this contract is approximately 15 percent (30 MW X 24 hours X 365 days X 10 years, or 2,628,000 MWh) of the available output. Accordingly, the issue meets the private business use test. J reasonably expects that the amount to be paid for an average of 30 MW of power (less the operation and maintenance costs directly attributable to generating that 30 MW of power), will be more than 10 percent of debt service on the issue on a present-value basis. Accordingly, the issue meets the private security or payment test because J reasonably expects that payment of more than 10 percent of the debt service will be indirectly derived from payments by T. The bonds are private activity bonds under paragraph (c) of this section. Further, if 15 percent of the sale proceeds of the issue is greater than $15 million and the issue meets the private security or payment test with respect to the $15 million output limitation, the bonds are also private activity bonds under section 141(b)(4). See § 1.141–8.

Example 3. Retail contracts. (i) State Agency M, a political subdivision, issues bonds in 2003 to finance the construction of a generating facility that will be used to furnish electricity to M's retail customers. In 2007, M enters into a 10-year contract with industrial corporation I. Under the contract, M agrees to supply I with all of its power requirements during the contract term, and I agrees to pay for that power at a negotiated price as it is delivered. The contract does not require I to pay for any power except to the extent I has requirements. In addition, the contract requires I to pay reasonable and customary liquidated damages in the event of a default by I, and permits I to terminate the contract while it has requirements by paying M a specified amount that is a reasonable and customary amount for terminating the contract. Any damages or termination payment by I will be reasonably related to I's obligation to buy requirements that is discharged by the payment. Under paragraph (c)(3) of this section, the contract does not meet the benefits and burdens test. Thus, it is not taken into account under the private business tests.

(ii) The facts are the same as in paragraph (i) of this *Example 3*, except that the contract requires I to make guaranteed minimum payments, regardless of I's requirements, in an amount such that the contract does not meet the exception for small purchases in paragraph (f)(1) of this section. Under paragraph (c)(3)(ii) of this section, the contract meets the benefits and burdens test because it obligates I to make payments that are not contingent on its output requirements. Thus, it is taken into account under the private business tests.

Example 4. Allocation of existing contracts to new facilities. Power Authority K, a political subdivision created by the legislature in State X to own and operate certain power generating facilities, sells all of the power from its existing facilities to four private utility systems under contracts executed in 1999, under which the four systems are required to take or pay for specified portions of the total power output until the year 2029. Existing facilities supply all of the present needs of the four utility systems, but their future power requirements are expected to increase substantially beyond the capacity of K's current generating system. K issues 20-year bonds in 2004 to construct a large generating facility. As part of the financing plan for the bonds, a fifth private utility system contracts with K to take or pay for 15 percent of the available output of the new facility. The balance of the output of the new facility will be available for sale as required, but initially it is not anticipated that there will be any need for that power. The revenues from the contract with the fifth private utility system will be sufficient to pay less than 10 percent of the debt service on the bonds (determined on a present value basis). The balance, which will exceed 10 percent of the debt service on the bonds, will be paid from revenues derived from the contracts with the four systems initially from sale of power produced by the old facilities. The output contracts with all the private utilities are allocated to K's entire generating system. See paragraphs (h)(1) and (2) of this section. Thus, the bonds meet the private business use test because more than 10 percent of the proceeds will be used in the trade or business of a nongovernmental person. In addition, the bonds meet the private security or payment test because payment of more than 10 percent of the debt service, pursuant to underlying arrangements, will be derived from payments in respect of property used for a private business use.

Example 5. Allocation to displaced resource. Municipal utility MU, a political subdivision, purchases all of the electricity required to meet the needs of its customers (1,000 MW) from B, an investor-owned utility that operates its own electric generating facilities, under a 50-year take or pay contract. MU does not anticipate that it will require additional electric resources, and any new resources would produce electricity at a higher cost to MU than its cost under its contract with B. Nevertheless, B encourages MU to construct a new generating plant sufficient to meet MU's requirements. MU issues obligations to construct facilities that will produce 1,000 MW of electricity. MU, B, and I, another investor-owned utility, enter into an agreement under which MU assigns to I its rights under MU's take or pay contract with B.

Under this arrangement, I will pay MU, and MU will continue to pay B, for the 1,000 MW. I's payments to MU will at least equal the amounts required to pay debt service on MU's bonds. In addition, under paragraph (h)(1)(iii) of this section, the contract among MU, B, and I is entered into as part of a common plan of financing of the MU facilities. Under all the facts and circumstances, MU's assignment to I of its rights under the original take or pay contract is allocable to MU's new facilities under paragraph (h) of this section. Because I is a nongovernmental person, MU's bonds are private activity bonds.

Example 6. Operation of transmission facilities by regional transmission organization. (i) Public Power Agency D is a political subdivision that owns and operates electric generation, transmission and distribution facilities. In 2003, D transfers operating control of its transmission system to a regional transmission organization (RTO), a nongovernmental person, pursuant to an operating agreement that is approved by the FERC under sections 205 and 206 of the Federal Power Act. D retains ownership of its facilities. No portion of the RTO's compensation is based on a share of net profits from the operation of D's facilities, and the RTO does not bear any risk of loss of those facilities. Under paragraph (g)(1)(ii) of this section, the RTO's use of D's facilities does not constitute a private business use.

(ii) Company A is located in D's service territory. In 2004, Power Supplier E, a nongovernmental person, enters into a 10-year contract with A to supply A's electricity requirements. The electricity supplied by E to A will be transmitted over D's transmission and distribution facilities. D's distribution facilities are available for use on a nondiscriminatory, open access basis by buyers and sellers of electricity in accordance with rates that are generally applicable and uniformly applied within the meaning of § 1.141–3(c)(2). D's facilities are not financed for a principal purpose of providing the facilities for use by E. Under paragraph (g)(2) of this section, the contract between A and E does not result in private business use of D's facilities.

Example 7. Certain actions not treated as deliberate actions. The facts are the same as in *Example 6* of this paragraph (i), except that the RTO's compensation is based on a share of net profits from operating D's facilities. In addition, D had issued bonds in 1994 to finance improvements to its transmission system. At the time D transfers operating control of its transmission system to the RTO, D chooses to apply the private activity bond regulations of §§ 1.141–1 through 1.141–15 to the 1994 bonds. The operation of D's facilities by the RTO results in private business use under § 1.141–3 and paragraph (g)(1)(i) of this section. Under the special exception in paragraph (g)(4)(ii) of this section, however, the transfer of control is not treated as a deliberate action. Accordingly, the transfer of control does not cause the 1994 bonds to meet the private activity bond tests.

Example 8. Current refunding. The facts are the same as in *Example 7* of this paragraph (i), and in addition D issues bonds in 2004 to currently refund the 1994 bonds. The weighted average maturity of the 2004 bonds is not greater than the remaining weighted average maturity of the 1994 bonds. D chooses to apply the private activity bond regulations of §§ 1.141–1 through 1.141–15 to the refunding bonds. In general, reasonable expectations must be separately tested on the date that refunding bonds are issued under § 1.141–2(d). Under the special exception in paragraph (g)(4)(iii) of this section, however, the transfer of the financed facilities to the RTO need not be taken into account in applying the reasonable expectations test to the refunding bonds.

§ 1.141–7T [Removed]

Par. 5. Section 1.141–7T is removed.

Par. 6. Section 1.141–8 is added to read as follows:

§ 1.141–8 $15 million limitation for output facilities.

(a) *In general*—(1) *General rule.* Section 141(b)(4) provides a special private activity bond limitation (the $15 million output limitation) for issues 5 percent or more of the proceeds of which are to be used to finance output facilities (other than a facility for the furnishing of water). Under this rule, an issue consists of private activity bonds under the private business tests of section 141(b)(1) and (2) if the nonqualified amount with respect to output facilities financed by the proceeds of the issue exceeds $15 million. The $15 million output limitation applies in addition to the private business tests of section 141(b)(1) and (2). Under section 141(b)(4) and paragraph (a)(2) of this section, the $15 million output limitation is reduced in certain cases. Specifically, an issue meets the test in section 141(b)(4) if both of the following tests are met:

(i) More than $15 million of the proceeds of the issue to be used with respect to an output facility are to be used for a private business use. Investment proceeds are disregarded for this purpose if they are not allocated disproportionately to the private business use portion of the issue.

(ii) The payment of the principal of, or the interest on, more than $15 million of the sale proceeds of the portion of the issue used with respect to an output facility is (under the terms of the issue or any underlying arrangement) directly or indirectly—

(A) Secured by any interest in an output facility used or to be used for a private business use (or payments in respect of such an output facility); or

(B) To be derived from payments (whether or not to the issuer) in respect of an output facility used or to be used for a private business use.

(2) *Reduction in $15 million output limitation for outstanding issues*—(i) *General rule.* In determining whether an issue 5 percent or more of the proceeds of which are to be used with respect to an output facility consists of private activity bonds under the $15 million output limitation, the $15 million limitation on private business use and private security or payments is applied by taking into account the aggregate nonqualified amounts of any outstanding bonds of other issues 5 percent or more of the proceeds of which are or will be used with respect to that output facility or any other output facility that is part of the same project.

(ii) *Bonds taken into account.* For purposes of this paragraph (a)(2), in applying the $15 million output limitation to an issue (the later issue), a tax-exempt bond of another issue (the earlier issue) is taken into account if—

(A) That bond is outstanding on the issue date of the later issue;

(B) That bond will not be redeemed within 90 days of the issue date of the later issue in connection with the refunding of that bond by the later issue; and

(C) 5 percent or more of the sale proceeds of the earlier issue financed an output facility that is part of the same project as the output facility that is financed by 5 percent or more of the sale proceeds of the later issue.

(3) *Benefits and burdens test applicable*—(i) *In general.* In applying the $15 million output limitation, the benefits and burdens test of § 1.141–7 applies, except that "$15 million" is applied in place of "10 percent", or "5 percent" as appropriate.

(ii) *Earlier issues for the project.* If bonds of an earlier issue are outstanding and must be taken into account under paragraph (a)(2) of this section, the nonqualified amount for that earlier issue is multiplied by a fraction, the numerator of which is the adjusted issue price of the earlier issue as of the issue date of the later issue, and the denominator of which is the issue price of the earlier issue. Pre-issuance accrued interest as defined in § 1.148–1(b) is disregarded for this purpose.

(b) *Definition of project*—(1) *General rule.* For purposes of paragraph (a)(2) of this section, *project* has the meaning provided in this paragraph. Facilities that are functionally related and subordinate to a project are treated as part of that same project. Facilities having different purposes or serving different customer bases

are not ordinarily part of the same project. For example, the following are generally not part of the same project—

(i) Generation, transmission and distribution facilities;

(ii) Separate facilities designed to serve wholesale customers and retail customers; and

(iii) A peaking unit and a baseload unit (regardless of the location of the units).

(2) *Separate ownership.* Except as otherwise provided in this paragraph (b)(2), facilities that are not owned by the same person are not part of the same project. If different governmental persons act in concert to finance a project, however (for example as participants in a joint powers authority), their interests are aggregated with respect to that project to determine whether the $15 million output limitation is met. In the case of undivided ownership interests in a single output facility, property that is not owned by different persons is treated as separate projects only if the separate interests are financed—

(i) With bonds of different issuers; and

(ii) Without a principal purpose of avoiding the limitation in this section.

(3) *Generating property*—(i) *Property on same site.* In the case of generation and related facilities, *project* means property located at the same site.

(ii) *Special rule for generating units.* Separate generating units are not part of the same project if one unit is reasonably expected, on the issue date of each issue that finances the units, to be placed in service more than 3 years before the other. Common facilities or property that will be functionally related to more than one generating unit must be allocated on a reasonable basis. If a generating unit already is constructed or is under construction (the first unit) and bonds are to be issued to finance an additional generating unit (the second unit), all costs for any common facilities paid or incurred before the earlier of the issue date of bonds to finance the second unit or the commencement of construction of the second unit are allocated to the first unit. At the time that bonds are issued to finance the second unit (or, if earlier, upon commencement of construction of that unit), any remaining costs of the common facilities may be allocated between the first and second units so that in the aggregate the allocation is reasonable.

(4) *Transmission and distribution.* In the case of transmission or distribution facilities, *project* means functionally related or contiguous property. Separate transmission or distribution facilities are not part of the same project if one facility is reasonably expected, on the issue date of each issue that finances the facilities, to be placed in service more than 2 years before the other.

(5) *Subsequent improvements*—(i) *In general.* An improvement to generation, transmission or distribution facilities that is not part of the original design of those facilities (the original project) is not part of the same project as the original project if the construction, reconstruction, or acquisition of that improvement commences more than 3 years after the original project was placed in service and the bonds issued to finance that improvement are issued more than 3 years after the original project was placed in service.

(ii) *Special rule for transmission and distribution facilities.* An improvement to transmission or distribution facilities that is not part of the original design of that property is not part of the same project as the original project if the issuer did not reasonably expect the need to make that improvement when it commenced construction of the original project and the construction, reconstruction, or acquisition of that improvement is mandated by the federal government or a state regulatory authority to accommodate requests for wheeling.

(6) *Replacement property*. For purposes of this section, property that replaces existing property of an output facility is treated as part of the same project as the replaced property unless—

(i) The need to replace the property was not reasonably expected on the issue date or the need to replace the property occurred more than 3 years before the issuer reasonably expected (determined on the issue date of the bonds financing the property) that it would need to replace the property; and

(ii) The bonds that finance (and refinance) the output facility have a weighted average maturity that is not greater than 120 percent of the reasonably expected economic life of the facility.

(c) *Example*. The application of the provisions of this section is illustrated by the following example:

Example. (i) Power Authority K, a political subdivision, intends to issue a single issue of tax-exempt bonds at par with a stated principal amount and sale proceeds of $500 million to finance the acquisition of an electric generating facility. No portion of the facility will be used for a private business use, except that L, an investor-owned utility, will purchase 10 percent of the output of the facility under a take contract and will pay 10 percent of the debt service on the bonds. The nonqualified amount with respect to the bonds is $50 million.

(ii) The maximum amount of tax-exempt bonds that may be issued for the acquisition of an interest in the facility in paragraph (i) of this *Example* is $465 million (that is, $450 million for the 90 percent of the facility that is governmentally owned and used plus a nonqualified amount of $15 million).

§ 1.141–8T [Removed]

Par. 7. Section 1.141–8T is removed.

Par. 8. Section 1.141–15 is amended by revising paragraph (a) and adding paragraphs (f), (g), (h) and (i) to read as follows:

§ 1.141–15 Effective dates.

(a) *Scope.* The effective dates of this section apply for purposes of §§ 1.141–1 through 1.141–6(a), 1.141–7 through 1.141–14, 1.145–1 through 1.145–2, 1.150–1(a)(3) and the definition of bond documents contained in § 1.150–1(b).

* * * * *

(f) *Effective dates for certain regulations relating to output facilities*—(1) *General rule.* Except as otherwise provided in this section, §§ 1.141–7 and 1.141–8 apply to bonds sold on or after November 22, 2002, that are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602).

(2) *Transition rule for requirements contracts.* For bonds otherwise subject to §§ 1.141–7 and 1.141–8, § 1.141–7(c)(3) applies to output contracts entered into on or after September 19, 2002. An output contract is treated as entered into on or after that date if it is amended on or after that date, but only if the amendment results in a change in the parties to the contract or increases the amount of requirements covered by the contract by reason of an extension of the contract term or a change in the method for determining such requirements. For purposes of this paragraph (f)(2)—

(i) The extension of the term of a contract causes the contract to be treated as entered into on the first day of the additional term;

(ii) The exercise by a party of a legally enforceable right that was provided under

a contract before September 19, 2002, on terms that were fixed and determinable before such date, is not treated as an amendment of the contract. For example, the exercise by a purchaser after September 19, 2002 of a renewal option that was provided under a contract before that date, on terms identical to the original contract, is not treated as an amendment of the contract; and

(iii) An amendment that increases the amount of requirements covered by the contract by reason of a change in the method for determining such requirements is treated as a separate contract that is entered into as of the effective date of the amendment, but only with respect to the increased output to be provided under the contract.

(g) *Refunding bonds for output facilities*. Except as otherwise provided in paragraph (h) or (i) of this section, §§ 1.141–7 and 1.141–8 do not apply to any bonds sold on or after November 22, 2002, to refund a bond to which §§ 1.141–7 and 1.141–8 do not apply unless—

(1) The refunding bonds are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602); and

(2)(i) The weighted average maturity of the refunding bonds is longer than—

(A) The weighted average maturity of the refunded bonds; or

(B) In the case of a short-term obligation that the issuer reasonably expects to refund with a long-term financing (such as a bond anticipation note), 120 percent of the weighted average reasonably expected economic life of the facilities financed; or

(ii) A principal purpose for the issuance of the refunding bonds is to make one or more new conduit loans.

(h) *Permissive retroactive application.* Except as provided in paragraphs (d), (e) or (i) of this section, §§ 1.141–1 through 1.141–6(a), 1.141–7 through 1.141–14, 1.145–1 through 1.145–2, 1.150–1(a)(3) and the definition of bond documents contained in § 1.150–1(b) may be applied by issuers in whole, but not in part, to—

(1) Outstanding bonds that are sold before November 22, 2002, and subject to section 141; or

(2) Refunding bonds that are sold on or after November 22, 2002, and subject to section 141.

(i) *Permissive application of certain regulations relating to output facilities.* Issuers may apply §§ 1.141–7(f)(3) and 1.141–7(g) to any bonds.

§ 1.141–15T [Removed]

Par. 9. Section 1.141–15T is removed.

Robert E. Wenzel,
Deputy Commisionser of Internal Revenue.

Approved September 17, 2002.

Pamela F. Olson,
Acting Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on September 19, 2002, 12:39 p.m., and published in the issue of the Federal Register for September 23, 2002, 67 F.R. 59755)

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted applicable federal long-term rate is set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 467.—Certain Payments for the Use of Property or Services

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.)

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for October 2002.

Rev. Rul. 2002–61

This revenue ruling provides various prescribed rates for federal income tax purposes for October 2002 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(2) for buildings placed in service during the current month. Finally, Table 5 contains the federal rate for determining the present value of annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2002–61 TABLE 1

Applicable Federal Rates (AFR) for October 2001

	Period for Compounding			
	Annual	*Semiannual*	*Quarterly*	*Monthly*
Short-Term				
AFR	2.03%	2.02%	2.01%	2.01%
110% AFR	2.23%	2.22%	2.21%	2.21%
120% AFR	2.43%	2.42%	2.41%	2.41%
130% AFR	2.65%	2.63%	2.62%	2.62%
Mid-Term				
AFR	3.46%	3.43%	3.42%	3.41%
110% AFR	3.81%	3.77%	3.75%	3.74%
120% AFR	4.16%	4.12%	4.10%	4.09%
130% AFR	4.51%	4.46%	4.44%	4.42%
150% AFR	5.22%	5.15%	5.12%	5.10%
175% AFR	6.09%	6.00%	5.96%	5.93%
Long-Term				
AFR	4.90%	4.84%	4.81%	4.79%
110% AFR	5.39%	5.32%	5.29%	5.26%
120% AFR	5.89%	5.81%	5.77%	5.74%
130% AFR	6.39%	6.29%	6.24%	6.21%

REV. RUL. 2002–61 TABLE 2

Adjusted AFR for October 2002

Period for Compounding

	Annual	*Semiannual*	*Quarterly*	*Monthly*
Short-term adjusted AFR	1.53%	1.52%	1.52%	1.52%
Mid-term adjusted AFR	2.96%	2.94%	2.93%	2.92%
Long-term adjusted AFR	4.50%	4.45%	4.43%	4.41%

REV. RUL. 2002–61 TABLE 3

Rates Under Section 382 for October 2002

Adjusted federal long-term rate for the current month	4.50%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	4.78%

REV. RUL. 2002–61 TABLE 4

Appropriate Percentages Under Section 42(b)(2) for October 2002

Appropriate percentage for the 70% present value low-income housing credit	7.97%
Appropriate percentage for the 30% present value low-income housing credit	3.42%

REV. RUL. 2002–61 TABLE 5

Rate Under Section 7520 for October 2002

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	4.2%

Section 1288.—Treatment of Original Issue Discounts on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 1397B.—Non-recognition of Gain on Roll-over of Empowerment Zone Investments

How does a taxpayer make an election under § 1397B of the Internal Revenue Code to defer recognition of capital gain on the sale of a qualified empowerment zone asset? See Rev. Proc. 2002-62, page 682.

Section 4261.—Imposition of Tax

26 CFR 49.4261–1: Imposition of Tax; in general.

This revenue ruling illustrates the application of Notice 2002–63, 2002–40 I.R.B. 644, when a foreign air carrier purchases mileage awards from a domestic air carrier. In addition, the revenue ruling distinguishes Rev. Rul. 55–534, 1955–2 C.B. 665, concluding that Rev. Rul. 55–534 does not hold that all payments between air carriers are exempt from the tax imposed by § 4261 of the Internal Revenue Code. See Rev. Rul. 2002–60, on this page.

This notice provides rules relating to the air transportation tax imposed by § 4261(a) of the Internal Revenue Code on amounts paid for the right to provide mileage awards. The notice supersedes Notice 2001–6, 2001–1 C.B. 327. See Notice 2002–63, page 644.

Mileage awards. This ruling illustrates the application of Notice 2002–63, 2002–40 I.R.B. 644, when a foreign air carrier purchases mileage awards from a domestic air carrier. In addition, the revenue ruling distinguishes Rev. Rul. 55–534, 1955–2 C.B. 665, concluding that Rev. Rul. 55–534 does not hold that all payments between air carriers are exempt from the tax imposed by section 4261 of the Code.

Rev. Rul. 2002–60

Notice 2002–63, 2002–40 I.R.B. 644, provides rules relating to the tax imposed by § 4261 of the Internal Revenue Code on any amount paid (and the value of any other benefit provided) for the right to provide mileage awards for, or other reductions in the cost of, any transportation of persons by air. The notice provides an exception from the tax for amounts paid for mileage awards that cannot be redeemed for taxable transportation beginning and ending in the United States and rules for determining the tax on amounts paid by an air carrier to a domestic air carrier for mileage awards. Under these rules, amounts paid for mileage awards that can be redeemed for taxable transportation are not subject to tax to the extent those miles will be awarded in connection with the purchase of taxable transportation and are subject to tax to the extent they will not be awarded in connection with the purchase of taxable transportation. The situation described below illustrates the application of Notice 2002–63 when a foreign air carrier purchases mileage awards from a domestic air carrier.

FACTS

W, a domestic air carrier, provides air transportation of persons beginning and ending in the United States and transportation between the United States and foreign countries. *W* operates a program under which it awards frequent flyer miles to certain purchasers of its air transportation. In addition, *W* sells the right to provide mileage awards to other persons. *W*'s miles are redeemable for taxable transportation beginning and ending in the United States.

Z, a foreign air carrier, purchases from *W* the right to award *W*'s miles. *Z* will award *W*'s miles in connection with the purchase of air transportation provided by *Z*. Instead of paying for *W*'s miles with money, *Z* provides *W* with mileage awards for transportation on *Z*'s flights.

ANALYSIS

Z's transfer of mileage awards to *W* is a payment for the right to provide mileage awards. Making the payment with mileage awards, rather than with money, does not affect the tax consequences of a payment for the right to provide mileage awards. Because *W*'s miles are redeemable for transportation beginning and ending in the United States, the exception in Notice 2002–63(1) is not applicable. However, *Z* is an air carrier, and the rules in Notice 2002–63(2) and (3) require a determination of the extent to which the mileage awards purchased by *Z* will be awarded in connection with taxable transportation. Because *Z* is a foreign carrier none of the mileage awards will be provided to its customers in connection with the purchase of taxable transportation. Therefore, the entire value of the mileage awards transferred by *Z* is subject to tax under § 4261(a).

Rev. Rul. 55–534, 1955–2 C.B. 665, addresses a situation in which an amount was paid by an air carrier to another air carrier to transport its passengers because, due to mechanical problems, the first air carrier was unable to complete the transportation service for which its passengers had paid and obtained transportation on the second air carrier for the passengers. The revenue ruling, which concludes that the tax does not apply to amounts paid by the first air carrier to the second carrier, does not stand for the broad proposition that all payments between air carriers are exempt from the § 4261 tax. It has no applicability to payments for the right to provide mileage awards.

EFFECT ON OTHER REVENUE RULING

Rev. Rul. 55–534 is distinguished.

DRAFTING INFORMATION

The principal author of this revenue ruling is Patrick S. Kirwan of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Mr. Kirwan at (202) 622–3130 (not a toll-free call).

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Section 7602.—Examination of Books and Witnesses

26 CFR 301.7602–1: Examination of books and witnesses.

T.D. 9015

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 301

Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations that modify the existing regulations (T.D. 8091, 1986–2 C.B. 210) promulgated under section 7602(a) of the Internal Revenue Code relating to administrative summonses. Specifically, these temporary regulations confirm that officers and employees of the Office of Chief Counsel may be included as persons designated to receive summoned books, papers, records, or other data and to take summoned testimony under oath. The text of these temporary regulations serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject (REG–134026–02) on page 684 of this Bulletin.

DATES: *Effective Dates:* These regulations are effective on September 10, 2002.

Applicability Dates: For the date of applicability, see § 301.7602–1T(d).

FOR FURTHER INFORMATION CONTACT: Elizabeth Rawlins at (202) 622–3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Explanation of Provisions

This document contains temporary regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 7602 of the Internal Revenue Code of 1986 (Code). The governing provision, section 7602(a)(2) of the Code, has not changed. The temporary regulations reflect three changes regarding the persons who may be designated to receive summoned books, papers, records, or other data or to take testimony under oath. While IRS examiners will continue to be responsible for developing and conducting examinations, these changes will allow, among other things, officers and employees of the Chief Counsel to participate fully along with an IRS employee or officer in a summoned interview.

The temporary regulations define an officer or employee of the IRS, for purposes of identifying those persons who may receive summoned information or take testimony under oath, to include all persons who administer and enforce the internal revenue laws or any other laws administered by the IRS, and who are appointed or employed by, or subject to the directions, instructions, or orders of the Secretary of the Treasury or the Secretary's delegate. This amendment confirms that officers and employees of the Office of Chief Counsel may be designated as persons authorized to take testimony under oath and to receive summoned books, papers, records, or other data.

The temporary regulations also expressly provide that more than one person may be designated to receive summoned information or to take testimony under oath during a summoned interview. Finally, the temporary regulations eliminate the language in the existing regulations suggesting that a summons document needs to designate the specific officer or employee who is authorized to take testimony under oath and to receive and examine books, papers, records, or other data. The statute does not require that such a designation appear in the summons. Moreover, at times it is necessary for a summoned interview to be conducted by an officer or employee other than the one who may be identified in the summons document.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because no prior notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Code, this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of this regulation is Elizabeth Rawlins of the Office of the Associate Chief Counsel (Procedure and Administration), Collection, Bankruptcy and Summonses Division.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

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

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

Par. 2. In § 301.7602–1, paragraph (b) is revised to read as follows:

§ 301.7602–1 Examination of books and witnesses.

* * * * *

(b) *Summons*. [Reserved]. For further guidance, see § 301.7602–1T(b).

* * * * *

Par. 3. Section 301.7602–1T is added to read as follows:

§ 301.7602–1T Examination of books and witnesses.

(a) For further guidance, see § 301.7602–1(a).

(b) *Summons*—(1) *In general*. For the purposes described in § 301.7602–1(a), the Commissioner is authorized to summon the person liable for tax or required to perform the act, or any officer or employee of such person or any person having possession, custody, or care of books of accounts containing entries relating to the business of the person liable for tax or required to perform the act, or any other person deemed proper, to appear before one or more officers or employees of the Internal Revenue Service at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry. This summons power may be used in an investigation of either civil or criminal tax-related liability. The Commissioner may designate one or more officers or employees of the Internal Revenue Service as the individuals before whom a person summoned pursuant to section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall appear. Any such officer or employee is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons.

(2) *Officer or employee of the Internal Revenue Service.* For purposes of this paragraph (b), officer or employee of the Internal Revenue Service means all officers and employees of the United States, who are engaged in the administration and enforcement of the internal revenue laws or any other laws administered by the Internal Revenue Service, and who are appointed or employed by, or subject to the directions, instructions, or orders of the Secretary of the Treasury or the Secretary's delegate. An officer or employee of the Internal Revenue Service, for purposes of this paragraph (b), shall include an officer or employee of the Office of Chief Counsel.

(c) For further guidance, see § 301.7602–1(c).

(d) *Effective date.* This section is applicable to summonses issued on or after September 10, 2002. This section expires on September 9, 2005.

David A. Mader,
Acting Deputy Commissioner of Internal Revenue.

Approved August 27, 2002.

Pamela F. Olson,
Acting Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on September 9, 2002, 8:45 a.m., and published in the issue of the Federal Register for September 10, 2002, 67 F.R. 57330)

Section 7872.—Treatment of Loans With Below-Market Interest Rates

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2002. See Rev. Rul. 2002–61, page 639.

Part III. Administrative, Procedural, and Miscellaneous

Air Transportation Excise Tax; Amount Paid for the Right to Award Miles

Notice 2002–63

This notice provides rules relating to the application of the air transportation tax imposed by § 4261 of the Internal Revenue Code to amounts paid for the right to provide mileage awards. The notice modifies and supersedes Notice 2001–6, 2001–1 C.B. 327. The Treasury Department and the Internal Revenue Service expect to issue the substance of this notice as a regulation at a later date. Until that regulation is published, persons responsible for collecting the tax and persons responsible for paying the tax may rely on the guidance provided in this notice.

Section 4261(a) imposes a 7.5-percent excise tax on amounts paid for taxable transportation (the percentage tax). Taxable transportation means air transportation beginning and ending in the United States and certain air transportation beginning or ending in southern Canada or northern Mexico if paid for within the United States. With the exception of these Canadian and Mexican flights, the percentage tax does not apply to air transportation between the United States and a foreign country; rather, this transportation is subject to the international facilities tax imposed by § 4261(c). Entirely foreign air transportation is not subject to tax.

Section 4261(e)(3), added to the Code by § 1031(c)(2) of the Taxpayer Relief Act of 1997, 1997–4 (Vol. 1) C.B. 2, 144, provides that the percentage tax applies to any amount paid (and the value of any other benefit provided) for the right to provide mileage awards for, or other reductions in the cost of, any transportation of persons by air. Regulations under § 4261(e)(3) will provide the following rules concerning mileage awards:

(1) Amounts paid for mileage awards that cannot be redeemed for taxable transportation beginning and ending in the United States are not subject to tax. For purposes of this rule, mileage awards issued by a foreign air carrier are considered to be usable only on that foreign air carrier and thus not redeemable for taxable transportation beginning and ending in the United States. Therefore, amounts paid to a foreign air carrier for mileage awards are not subject to tax.

(2) Amounts paid by an air carrier to a domestic air carrier for mileage awards that can be redeemed for taxable transportation are not subject to tax to the extent those miles will be awarded in connection with the purchase of taxable transportation.

(3) Amounts paid by an air carrier to a domestic air carrier for mileage awards that can be redeemed for taxable transportation are subject to tax to the extent those miles will not be awarded in connection with the purchase of taxable transportation.

An air carrier that purchases mileage awards from a domestic air carrier may use any reasonable method to allocate amounts paid (and the value of any other benefits provided) between purchased mileage that will be awarded in connection with the purchase of taxable transportation and purchased mileage that will not be so awarded.

These rules apply to amounts paid after September 30, 1997. However, any amount paid after June 11, 1997, by one member of a controlled group for a mileage award that is furnished by another member of the controlled group after September 30, 1997, is treated as paid after September 30, 1997.

The principal author of this notice is Patrick S. Kirwan of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact Mr. Kirwan at (202) 622–3130 (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.

Rev. Proc. 2002–58

SECTION 1. PURPOSE

This revenue procedure provides the domestic asset/liability percentages and domestic investment yields needed by foreign life insurance companies and foreign property and liability insurance companies to compute their minimum effectively connected net investment income under section 842(b) of the Internal Revenue Code for taxable years beginning after December 31, 2000. Instructions are provided for computing foreign insurance companies' liabilities for the estimated tax and installment payments of estimated tax for taxable years beginning after December 31, 2000. For more specific guidance regarding the computation of the amount of net investment income to be included by a foreign insurance company on its U.S. income tax return, see Notice 89–96, 1989–2 C.B. 417. For the domestic asset/liability percentage and domestic investment yield, as well as instructions for computing foreign insurance companies' liabilities for estimated tax and installment payments of estimated tax for taxable years beginning after December 31, 1999, see Rev. Proc. 2001–48, 2001–2 C.B. 308.

SECTION 2. CHANGES

.01 DOMESTIC ASSET/LIABILITY PERCENTAGES FOR 2001. The Secretary determines the domestic asset/liability percentage separately for life insurance companies and property and liability insurance companies. For the first taxable year beginning after December 31, 2000, the relevant domestic asset/liability percentages are:

130.7 percent for foreign life insurance companies, and

192.3 percent for foreign property and liability insurance companies.

.02 DOMESTIC INVESTMENT YIELDS FOR 2001. The Secretary is required to prescribe separate domestic investment yields for foreign life insurance companies and for foreign property and liability insurance companies. For the first taxable year beginning after December 31, 2000, the relevant domestic investment yields are:

6.0 percent for foreign life insurance companies, and

5.1 percent for foreign property and liability insurance companies.

.03 SOURCE OF DATA FOR 2001. The section 842(b) percentages to be used for the 2001 tax year are based on tax return data following the same methodology used for the 2000 year.

SECTION 3. APPLICATION — ESTIMATED TAXES

To compute estimated tax and the installment payments of estimated tax due for tax-

able years beginning after December 31, 2000, a foreign insurance company must compute its estimated tax payments by adding to its income other than net investment income the greater of (i) its net investment income as determined under section 842(b)(5), that is actually effectively connected with the conduct of a trade or business within the United States for the relevant period, or (ii) the minimum effectively connected net investment income under section 842(b) that would result from using the most recently available domestic asset/liability percentage and domestic investment yield. Thus, for installment payments due after the publication of this revenue procedure, the domestic asset/liability percentages and the domestic investment yields provided in this revenue procedure must be used to compute the minimum effectively connected net investment income. However, if the due date of an installment is less than 20 days after the date this revenue procedure is published in the Internal Revenue Bulletin, the asset/liability percentages and domestic investment yields provided in Rev. Proc. 2001–48 may be used to compute the minimum effectively connected net investment income for such installment. For further guidance in computing estimated tax, see Notice 89–96.

SECTION 4. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning after December 31, 2000.

DRAFTING INFORMATION

The principal author of this revenue procedure is Garrett D. Gregory of the Office of the Associate Chief Counsel (International). For further information regarding this revenue procedure, please contact Mr. Gregory at (202) 622–4461 (not a toll-free call), or write to the Internal Revenue Service, Office of the Associate Chief Counsel (International), 1111 Constitution Avenue, NW, Washington, DC 20224, Attention: CC:INTL:Br5, Room 4554.

Note: This revenue procedure will be reprinted as the next revision of IRS Publication 1167, *General Rules and Specifications for Substitute Tax Forms and Schedules.*

Rev. Proc. 2002–60

TABLE OF CONTENTS

Chapter 1
Introduction to Substitute Forms

Section 1.1 – Overview of Revenue Procedure 2002–60

1.1.1 Purpose

The purpose of this revenue procedure is to provide guidelines and general requirements for the development, printing, and approval of substitute tax forms. Approval will be based on these guidelines. After review and approval, submitted forms will be accepted as substitutes for official IRS forms.

1.1.2 Unique Forms

Certain unique specialized forms require the use of other additional revenue procedures to supplement this publication. See Chapter 4.

1.1.3 Scope

The IRS accepts quality substitute tax forms that are consistent with the official forms and do not have an adverse impact on our processing. The IRS Substitute Forms Program administers the formal acceptance

and processing of these forms nationwide. While this program deals primarily with paper documents, it also reviews for approval other processing and filing forms such as those used in electronic filing.

Only those substitute forms that comply fully with the requirements set forth are acceptable. Exhibit E lists the form numbers mentioned in this document, their titles, and where their references are made. This revenue procedure is updated as required to reflect pertinent tax year form changes and to meet processing and/or legislative requirements.

1.1.4 Forms Covered by This Revenue Procedure

The following types of forms are covered by this revenue procedure:

- IRS tax returns and their related forms and schedules.
- Worksheets as they appear in instruction packages.
- Applications for permission to file returns electronically and forms used as required documentation for electronically filed returns.
- Powers of Attorney.
- Over-the-counter estimated tax payment vouchers.
- Forms and schedules relating to partnerships, exempt organizations, and employee plans.

1.1.5 Forms NOT Covered by This Revenue Procedure

The following types of forms are not covered by this revenue procedure:

- W–2 and W–3 (see Publication 1141 for information on these forms).
- W–2c and W–3c (see Publication 1223 for information on these forms).
- 1096, 1098 series, 1099 series, 5498 series, and W–2G (see Publication 1179 for information on these forms).
- Federal Tax Deposit (FTD) coupons, which may not be reproduced.
- Forms 1040–ES (OCR) and 1041-ES (OCR), which may not be reproduced.
- Forms 5500, 5500–EZ, and associated schedules (see the Department of Labor web site (www.dol.gov) for information on these forms).
- Requests for information or documentation initiated by the IRS.
- Forms used internally by the IRS.
- State tax forms.
- Forms developed outside the IRS (except for Form TD F 90–22.1, *Report of Foreign Bank and Financial Accounts).*

Section 1.2 – IRS Contacts

1.2.1 Where To Send Substitute Forms

Send your substitute forms for approval to the following offices (DO NOT send forms with taxpayer data):

Form	Office and Address
4789, 8300, 8362, 8852, TD F 90–22.1, TD F 90–22.47	IRS Computing Center BSA Compliance Branch P.O. Box 32063 Detroit, MI 48232–0063
5500, 5500–EZ, and Schedules A through I, P, R, SSA, and T for Form 5500	Check EFAST information at the Department of Labor's Website at www.efast.dol.gov
All others (except W–2, W2c, W–3, W3c, 1096, 1098, 1099, 5498, and W–2G)	Internal Revenue Service Attn: Substitute Forms Program W:CAR:MP:FP:S:SP 1111 Constitution Avenue, NW Room 6411 Washington, DC 20224

In addition, the Substitute Forms Program Unit can be contacted via e-mail at **taxforms@irs.gov.* Please enter "Substitute Forms" on the Subject Line. Use this e-mail address only to inquire about forms covered by this revenue procedure. DO NOT attach graphic files for approval with e-mail.

For questions about Forms W–2 and W–3, refer to IRS Publication 1141, *General Rules and Specifications for Substitute Forms W–2 and W–3.* For Forms W–2c and W–3c, refer to IRS Publication 1223, *General Rules and Specifications for Substitute Forms W–2c and W–3c.* For Forms 1096, 1098, 1099, 5498, W–2G, and 1042–S refer to Internal Revenue Service Publication 1179, *General Rules and Specifications Substitute Forms 1096, 1098, 1099, 5498, W–2G and 1042–S.*

Section 1.3 – Nature of Changes

1.3.1 Changes to the Revenue Procedure

The following changes have been made to the Revenue Procedure for 2002:

- The Substitute Forms Program office symbols and room number have changed to W:CAR:MP:FP:S:SP and Room 6411.
- The Substitute Forms Program will no longer accept submissions in dot matrix.
- The exhibits have been renamed and new Exhibits C–1 and C–2 have replaced Exhibits CG–A and CG–B.
- 7.2.1 was changed to address the requirements for Schedules K–1 that accompany Forms 1041, 1065, 1065–Band 1120S.
- Section 7.2.2 has been added to address new and special requirements for recipient copies of Schedules K–1 of Forms 1041, 1065, 1065–B, and 1120S.
- Price information for the Federal Tax Forms CD-ROM has been revised.
- We eliminated old Section 7.4, which involved Forms 5500 and 5500–EZ and associated schedules. These forms are now handled by the Pension and Welfare Benefits Administration (PWBA) of the Department of Labor (DOL). We included the DOL web site address (*www.efast.dol.gov*).
- We eliminated old Section 8.2 because Federal Tax Deposit (FTD) payments are no longer processed using magnetic tape.

Section 1.4 – Definitions

1.4.1 Substitute Form

A tax form (or related schedule) that differs in any way from the official version and is intended to replace the entire form that is printed and distributed by the IRS. This term also covers those approved substitute forms exhibited in this revenue procedure.

1.4.2 Printed/ Preprinted Form

A form produced using conventional printing processes. Also, a printed form which has been reproduced by photocopying or a similar process.

1.4.3 Preprinted Pin-Fed Form

A printed form that has marginal perforations for use with automated and high-speed printing equipment.

1.4.4 Computer-Prepared Substitute Form

A preprinted form in which the taxpayer's tax entry information has been inserted by a computer, computer-printer, or other computer type equipment such as word-processing equipment.

1.4.5 Computer-Generated Substitute Tax Return or Form

A tax return or form that is entirely designed and printed using a computer printer such as a laser printer, etc., on plain white paper. This return or form must conform to the physical layout of the corresponding IRS form, although the typeface may differ. The text should match the text on the officially printed form as closely as possible. Condensed text and abbreviations will be considered on a case-by-case basis.

Exception: All jurat (perjury statements) must be reproduced verbatim.

1.4.6 Manually-Prepared Form

A preprinted reproduced form in which the taxpayer's tax entry information is entered by an individual using a pen, pencil, typewriter, or other non-automated equipment.

1.4.7 Graphics

Parts of a printed tax form that are not tax amount entries or required information. Examples of graphics are line numbers, captions, shadings, special indicators, borders, rules, and strokes created by typesetting, photo-graphics, photo-composition, etc.

1.4.8 Acceptable Reproduced Form

A legible photocopy of an original form.

1.4.9 Supporting Statement (Supplemental Schedule)

A document providing detailed information to support a line entry on an official or approved substitute form and filed with (attached to) a tax return.

Note: *A supporting statement is not a tax form and does not take the place of an official form unless specifically permitted elsewhere in this procedure.*

1.4.10 Specific Form Terms

The following specific terms are used throughout this revenue procedure in reference to all substitute forms: format, sequence, line reference, item caption, and data entry field.

1.4.11 Format

The overall physical arrangement and general layout of a substitute form.

1.4.12 Sequence

Sequence is an integral part of the total format requirement. The substitute form should show the same numeric and logical placement order of data, as shown on the official form.

1.4.13 Line Reference

The line numbers, letters, or alphanumerics used to identify each captioned line on an official form. These line references are printed to the immediate left of each caption or data entry field.

1.4.14 Item Caption

The text on each line of a form, which identifies the data required.

1.4.15 Data Entry Field

Designated areas for the entry of data such as dollar amounts, quantities, responses and checkboxes, etc.

1.4.16 Advance Draft

A draft version of a new or revised form may be posted to the IRS Internet site for information purposes. Substitute forms may be submitted based on these advanced drafts, but any company that receives forms approval based on these early drafts is responsible for monitoring and revising forms to mirror any revisions in the final forms provided by the IRS.

Section 1.5 – Agreement

1.5.1 Important Stipulation of This Revenue Procedure

Any person or company who uses substitute forms and makes all or part of the changes specified in this revenue procedure agrees to the following stipulations:

- The IRS presumes the changes are made in accordance with these procedures and, as such, will be non-interruptive to the processing of the tax return.

- Should any of the changes prove to be not exactly as described, and as a result become disruptive to the IRS during processing of the tax return, the person or company agrees to accept the determination of the IRS as to whether or not the form may continue to be used during the filing season.
- The person or company agrees to work with the IRS in correcting noted deficiencies. Notification of deficiencies may be made by any combination of fax, letter, e-mail, or phone contact and may include the return of unacceptable forms for re-submission of acceptable forms.

Chapter 2
General Guidelines for Submissions and Approvals

Section 2.1 – General Specifications for Approval

2.1.1 Overview

If you produce any tax returns and forms using IRS guidelines on permitted changes, you can generate your own substitutes without further approval. If your changes are more extensive, you must get official approval before using substitute forms. These changes include the use of typefaces and sizes other than those found on the official form and the condensing of line item descriptions to save space.

2.1.2 Schedules

Schedules are considered to be an integral part of a complete tax return. A schedule may be included as part of a form or printed separately.

2.1.3 Example of Schedules That Must Be Submitted With the Return

Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return,* is an example of this situation. Its Schedules A through U have pages numbered as part of the basic return. For Form 706 to be approved, the entire form including Schedules A through U must be submitted.

2.1.4 Examples of Schedules That Can Be Submitted Separately

However, Schedules 1, 2, and 3 of Form 1040A are examples of schedules that can be submitted separately. Although printed by the IRS as a supplement to Form 1040A, none of these schedules are required to be filed with Form 1040A. These schedules may be separated from Form 1040A and submitted as substitute forms.

2.1.5 Use and Distribution of Unapproved Forms

The IRS is continuing a program to identify and contact tax return preparers, forms developers, and software publishers who use or distribute unapproved forms that do not conform to this revenue procedure. The use of unapproved forms impedes processing of the returns.

Section 2.2 – Highlights of Permitted Changes and Requirements

2.2.1 Methods of Reproducing Internal Revenue Service Forms

Official versions are supplied by the IRS, such as those in the taxpayer's tax package, those printed in revenue procedures, and over-the-counter forms available at IRS and other governmental public offices or buildings. Forms are also available on CD-ROM, and on-line via the Internet.

There are methods of reproducing IRS printed tax forms suitable for use as substitute tax forms without prior approval.

- You can photocopy most tax forms and use them instead of the official ones. The entire substitute form, including entries, must be legible.
- You can reproduce any current tax form as cut sheets, snap sets, and marginally punched, pin-fed forms as long as you use an official IRS version as the master copy.
- You can reproduce a "signature form" as a valid substitute form. Many tax forms (including returns) have a taxpayer signature requirement as part of the form layout. **The jurat/perjury statement/ signature line areas must be retained and worded exactly as on the official form.** The require-

ment for a signature by itself does not prohibit a tax form from being properly computer-generated.

Section 2.3 – Vouchers

2.3.1 Overview

All payment vouchers (Forms 940–V, 940–EZ(V), 941–V, 943–V, 945–V, 1040–V, and 2290–V) must be reproduced. Substitute vouchers must be the same size as the officially printed vouchers. Vouchers that are prepared for printing on a laser printer may include a scan line.

2.3.2 Scan Line Specifications

NNNNNNNNN AA AAAA NN N NNNNNN NNN

Item: *A* *B* *C* *D* *E* *F* G

A. Social Security Number/Employer Identification Number (SSN/EIN) has 9 numeric spaces.
B. Check Digit has 2 alpha spaces.
C. Name Control has 4 alphanumeric spaces.
D. Master File Tax (MFT) Code has 2 numeric spaces (see below).
E. Taxpayer Identification Number (TIN) Type has 1 numeric space (see below)
F. Tax Period has six numeric spaces in year/month format (YYYYMM).
G. Transaction Code has 3 numeric spaces.

2.3.3 MFT Code

Code Number for Form:
- 1040 family – 30;
- 940/940–EZ – 10;
- 941 – 01;
- 943 – 11;
- 945 – 16; and
- 2290 – 60.

2.3.4 TIN Type

Type Number for:
- Form 1040 family – 0; and
- Forms 940, 940–EZ, 941, 943, 945, and 2290 – 2.

2.3.5 Voucher Size

The voucher size must be exactly 8.0″ x 3.25″ (Forms 1040–ES and 1041–ES must be 7.625″ x 3.0″). The document scan line must be vertically positioned 0.25 inches from the bottom of the scan line to the bottom of the voucher. The last character on the right of the scan line must be placed 3.5 inches from the right leading edge of the document. The minimum required horizontal clear space between characters is .014 inches. The line to be scanned must have a clear band 0.25 inches in height from top to bottom of the scan line, and from border to border of the document. “Clear band” means no printing except for dropout ink.

2.3.6 Print and Paper Weight

Vouchers must be imaged in black ink using OCR A, OCR B, or Courier 10. These fonts may not be mixed in the scan line. The horizontal character pitch is 10 CPI. The paper must be 20 to 24 pound OCR bond paper weight.

Section 2.4 – Restrictions on Changes

2.4.1 What You CANNOT Do to Forms Suitable for Substitute Tax Forms

You cannot, without prior IRS approval, change any IRS tax form or use your own (non-approved) versions including graphics, unless specifically permitted by this revenue procedure.

You cannot adjust any of the graphics on Forms 1040, 1040A, and 1040EZ (except in those areas specified in Chapter 5 of this revenue procedure) without prior approval from the IRS Substitute Forms Program Unit.

You cannot use your own preprinted label on tax returns filed with the IRS unless you fully comply with the criteria specified in the section in this revenue procedure on the use of pre-addressed IRS labels.

Section 2.5 – Guidelines for Obtaining IRS Approval

2.5.1 Basic Requirements

Preparers who submit substitute privately-designed, privately-printed, computer-generated, or computer-prepared tax forms must develop these substitutes using the guidelines established in this chapter. These forms, unless excepted by the revenue procedure, must be approved by the IRS before being filed.

2.5.2 Conditional Approval Based on Advance Drafts

The IRS cannot grant final approval of your substitute form until the official form has been published. However, the IRS has established a location on the Internet for the posting of advance drafts of forms. This site can be reached in the "Tax Professionals" area at:

www.irs.gov/bus_info/tax_pro/dftform.html

We encourage submission of proposed substitutes of these advance draft forms, and will grant conditional approval based solely on these early drafts. These advance drafts are subject to significant change before forms are finalized. If these advance drafts are used as the basis for your substitute forms, you will be responsible for subsequently updating your final forms to agree with the final official version. These revisions need not be submitted for further approval.

Note: *Approval of forms based on advance drafts will not be granted after the final version of an official form is published.*

2.5.3 Submission Procedures

Please follow these general guidelines when submitting substitute forms for approval.

- Any alteration of forms must be within the limits acceptable to the IRS. It is possible that, from one filing period to another, a change in law or a change in internal need (processing, audit, compliance, etc.) may change the allowable limits for the alteration of the official form.
- When specific approval of any substitute form (other than those specified in Chapter 1, Section 1.2 — IRS Contacts) is desired, a sample of the proposed substitute form should be forwarded for consideration by letter to the Substitute Forms Program Unit at the address shown in Section 1.2.
- To expedite multiple forms approval, we prefer that your proposed forms be submitted in separate sets by return. For example, Forms 1040 and their normally related schedules or attachments should be submitted separately from Forms 1120 and 1065 if possible. Schedules and forms (*e.g.*, Forms 3468, 4136, etc.) that can be used with more than one type of return (*e.g.*, 1040, 1041, 1120, etc.) should be submitted only once for approval, regardless of the number of different tax returns with which they may be associated. Also, all pages of multi-page forms or returns should be submitted in the same package.

2.5.4 Approving Offices

Because no IRS offices except the ones specified in this procedure (per the chart in Section 1.2) are authorized to approve substitute forms, unnecessary delay may result if forms are sent elsewhere for approval. All forms submitted to any other office must be forwarded to the appropriate office for formal control and review. The Substitute Forms Program Unit may then coordinate the response with the program analyst responsible for the processing of that form. Such coordination may include allowing the analyst to officially approve the form. No IRS office is authorized to allow deviations from this revenue procedure.

2.5.5 IRS Review of Software Programs, etc.

The IRS does not review or approve the logic of specific software programs, nor does the IRS confirm the calculations on the forms produced by these programs. The accuracy of the program remains the responsibility of the software package developer, distributor, or user.

The Substitute Forms Program is primarily concerned with the pre-filing quality review of the final forms, produced by whatever means, that are expected to be processed by IRS field offices. For the above reasons, you should submit forms without including any taxpayer information such as names, addresses, monetary amounts, etc.

2.5.6 When To Send Proposed Substitutes

Proposed substitutes, which are required to be submitted per this revenue procedure, should be sent as much in advance of the filing period as possible. This is to allow adequate time for analysis and response.

2.5.7 Accompanying Statement

When submitting sample substitutes, you should include an accompanying statement that lists each form number and its changes from the official form (position, arrangement, appearance, line numbers, additions, deletions, etc.). With each of the items you should include a detailed reason for the change.

When requesting approval, please include a checklist. Checklists expedite the approval process. The checklist may look like the example (Exhibit D) displayed in the back of this procedure or may be one of your own design. Please include your fax number on the checklist.

2.5.8 Approval/Non-Approval Notice

The Substitute Forms Unit will fax the checklist or an approval letter to the originator if a fax number has been provided, unless:

- The requester has asked for a formal letter; or
- Significant corrections to the submitted forms are required.

Notice of approval may contain qualifications for use of the substitutes. Notices of unapproved letters may specify the changes required for approval, and may also require re-submission of the form(s) in question. Telephone contact is used when possible.

2.5.9 Duration of Approval

Most signature tax returns and many of their schedules and related forms have the tax (liability) year printed in the upper right corner. Approvals for these forms are usually good for one calendar year (January through December of the year of filing). Quarterly tax forms in the 94X series and Form 720 require approval for any quarter in which the form has been revised.

Because changes are made to a form every year, each new filing season generally requires a new submission of a form. Very rarely is updating the preprinted year the only change made to a form.

2.5.10 Limited Continued Use of an Approved Change

Limited changes approved for one tax year may be allowed for the same form in the following tax year. Examples of such limitations and requirements are the use of abbreviated words, revised form spacing, compressed text lines, and shortened captions, which do not change the consistency of lines or text on the official forms.

If substantial changes are made to the form, new substitutes must be submitted for approval. If only minor editorial changes are made to the form, it is not subject to review. It is the responsibility of each vendor who has been granted permission to use substitute forms to monitor and revise forms to mirror any revisions to official forms made by the Service. If there are any questions, please contact the Substitute Forms Unit.

2.5.11 When Approval Is Not Required

If you received written approval for a specific change on a form last year, such as deleting the vertical lines used to separate dollars and cents, you may make the same change this year if the item is still present on the official form.

- The new substitute does not have to be sent to the IRS and written approval is not required.
- However, the new substitute must conform to the official current year IRS form in other respects: date, Office of Management and Budget (OMB) approval number, attachment sequence number, Paperwork Reduction Act Notice statement, arrangement, item caption, line number, line reference, data sequence, etc.
- It must also comply with this revenue procedure. The procedure may have eliminated, added to, or otherwise changed the guideline(s) that affected the change approved last year.

- An approved change is authorized only for the period from a prior tax year substitute form to a current tax year substitute form.

Exception: Forms with temporary, limited, or interim approvals (or with approvals that state a change is not allowed in any other tax year) are subject to review in subsequent years.

2.5.12 Continuous Use Forms

Forms without preprinted tax years are called "continuous use" forms. Continuous use forms are revised when a legislative change affects the form or a change will facilitate processing. These forms may have revision dates that are valid for longer than one year.

2.5.13 Internet Program Chart

A chart of print dates (for annual and quarterly forms) and most current revision dates (for continuous use forms) will be maintained on the Internet. For further details, see Section 4.3.1 on access for the Internet and the Official Forms Release Schedule.

2.5.14 Required Copies

Generally, you must send us one copy of each form being submitted for approval. However, if you are producing forms for different computer systems (*e.g.*, IBM compatible vs. Macintosh) or different types of printers (*e.g.*, laser vs. inkjet), and these forms differ significantly in appearance, submit one copy for each type of system or printer.

2.5.15 Requestor's Responsibility

Following receipt of an initial approval for a substitute forms package or a software output program to print substitute forms, it is the responsibility of the originator (designer or distributor) to provide client firms or individuals with forms that meet the IRS's requirements for continuing acceptability. Examples of this responsibility include:

- Using the prescribed print paper, font size, legibility, state tax data deletion, etc.
- Informing all users of substitute forms of the legal requirements of the Paperwork Reduction Act Notice, which is generally found in the instructions for the official IRS forms.

2.5.16 Source Code

The Substitute Forms Program Unit, W:CAR:MP:FP:S:SP, will assign a unique source code to each firm that submits substitute paper forms for approval. This will be a permanent control number that should be used on every form created by a particular firm.

The source code consists of three alpha characters and:

- Should be printed at the bottom left margin area on the first page of every approved substitute paper form.
- Should not be used on optically scanned (OCR) forms.

Section 2.6 – Office of Management and Budget (OMB) Requirements for All Substitute Forms

2.6.1 OMB Requirements for All Substitute Forms

There are legal requirements of the Paperwork Reduction Act of 1995 (The Act). Public Law 104–13 requires that:

- OMB approve all IRS tax forms that are subject to the Act,
- Each IRS form contains (in the upper right corner) the OMB number, if any, and
- Each IRS form (or its instructions) states why the IRS needs the information, how it will be used, and whether or not the information is required to be furnished.

This information must be provided to every user of official or substitute tax forms.

2.6.2 Application of the Paperwork Reduction Act

On forms that have been assigned OMB numbers:

- All substitute forms must contain in the upper right corner the OMB number that is on the official form.

- The required format is: **OMB No. XXXX-XXXX** (Preferred) or **OMB # XXXX-XXXX** (Acceptable).

2.6.3 Required Explanation to Users

You must inform the users of your substitute forms of the IRS use and collection requirements stated in the instructions for official IRS forms.

- If you provide your users or customers with the official IRS instructions, page 1 of each form must retain either the Paperwork Reduction Act Notice (or Disclosure, Privacy Act, and Paperwork Reduction Act Notice), or a reference to it as the IRS does on the official forms (usually in the lower left corner of the forms).
- This notice reads, in part, "We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax..."

Note: *If the IRS instructions are not provided to users of your forms, the exact text of the Paperwork Reduction Act Notice (or Disclosure, Privacy Act, and Paperwork Reduction Act Notice) must be furnished separately or on the form.*

2.6.4 Finding the OMB number and Paperwork Reduction Act Notice

The OMB number and the Paperwork Reduction Act Notice, or references to it, may be found printed on an official form (or its instructions). The number and the notice are included on the official paper format and in other formats produced by the IRS (*e.g.*, compact disc (CD) or Internet download).

Chapter 3
Physical Aspects and Requirements

Section 3.1 – General Guidelines for Substitute Forms

3.1.1 General Information

The official form is the standard. Because a substitute form is a variation from the official form, you should know the requirements of the official form for the year of use before you modify it to meet your needs. The IRS provides several means of obtaining the most frequently used tax forms. These include the Internet, fax-on-demand, and CD-ROM (see Chapter 4).

3.1.2 Design

Each form must follow the design of the official form as to format arrangement, item caption, line numbers, line references, and sequence.

3.1.3 State Tax Information Prohibited

State tax information must not appear on the federal tax return, associated form, or schedule that is filed with the IRS. Exceptions occur when amounts are claimed on, or required by, the federal return (*e.g.*, state and local income taxes, on Schedule A of Form 1040).

3.1.4 Vertical Alignment of Amount Fields

IF a form is to be...	THEN...
Manually prepared	• The column must have a vertical line or some type of indicator in the amount field to separate dollars from cents if the official form has a vertical line. • The cents column must be at least 3/10″ wide.
Computer-generated	• Vertically align the amount entry fields where possible. • Use one of the following amount formats: • 0,000,000. • 0,000,000.00

IF a form is to be...	THEN...
Computer-prepared	• You may remove the vertical line in the amount field that separates dollars from cents. • Use one of the following amount formats: • 0,000,000. • 0,000,000.00

3.1.5 Attachment Sequence Number

Many individual income tax forms have a required "attachment sequence number" located just below the year designation in the upper right corner of the form. The IRS uses this number to indicate the order in which forms are to be attached to the tax return for processing. Some of the attachment sequence numbers may change from year to year.

On computer-prepared forms:

- The sequence number may be printed in no less than 12-point boldface type and centered below the form's year designation.
- The sequence number may also be placed following the year designation for the tax form and separated with an asterisk.
- The actual number may be printed without labeling it the "Attachment Sequence Number."

3.1.6 Paid Preparer's Information and Signature Area

On Forms 1040EZ, 1040A, 1040, and 1120, etc., the "Paid Preparer's Use Only" area may not be rearranged or relocated. You may, however, add three extra lines to the paid preparer's address area without prior approval. This applies to other tax forms as well.

3.1.7 Assembly of Forms

If developing software or forms for use by others, please inform your customers/clients that the order in which the forms are arranged may affect the processing of the package. A return must be arranged in the order indicated below.

IF the form is...	THEN the sequence is...
1040	• Form 1040. • Schedules and forms in sequence number order.
Any other tax return (Form 1120, 1120S, 1065, 1041, etc.)	• The tax return. • Directly associated schedules (Schedule D, etc.). • Directly associated forms. • Additional schedules in alphabetical order. • Additional forms in numerical order.

Supporting statements should then follow in the same sequence as the forms they support. Additional information required should be attached last.

In this way, the forms are received in the order in which they must be processed. If you do not send returns to us in order, processing may be delayed.

Section 3.2 – Paper

3.2.1 Paper Content

The paper must be:

- Chemical wood writing paper that is equal to or better than the quality used for the official form,
- At least 18 pound (17″ x 22″, 500 sheets), or
- At least 50 pound offset book (25″ x 38″, 500 sheets).

3.2.2 Paper With Chemical Transfer Properties

There are several kinds of paper prohibited for substitute forms. These are:

- Carbon-bonded paper

- Chemical transfer paper except when the following specifications are met:
  - Each ply within the chemical transfer set of forms must be labeled.
  - Only the top ply (ply one and white in color), the one that contains chemical on the back only (coated back), may be filed with the IRS.

3.2.3 Example

A set containing three plies would be constructed as follows: ply one (coated back), "Federal Return, File with IRS"; ply two (coated front and back), "Taxpayer's copy"; and ply three (coated front), "Preparer's copy."

The file designation, "Federal Return, File with IRS," for ply one must be printed in the bottom right margin (just below the last line of the form) in 12-point, bold-face type.

It is not mandatory, but recommended, that the file designation "Federal Return, File with IRS," be printed in a contrasting ink for visual emphasis.

3.2.4 Carbon Paper

Do not attach any carbon paper to any return you file with the IRS.

3.2.5 Paper and Ink Color

We prefer that the color and opacity of paper substantially duplicates that of the original form. This means that your substitute must be printed in black ink and may be on white or on the colored paper the IRS form is printed on. Forms 1040A and 1040 substitute reproductions may be in black ink without the colored shading. The only exception to this rule is Form 1041–ES, which should always be printed with a very light gray shading in the color screened area. This is necessary to assist us in expeditiously separating this form from the very similar Form 1040–ES.

3.2.6 Page Size

Substitute or reproduced forms and computer prepared/generated substitutes may be the same size as the official form or they may be the standard commercial size (8 1/2″ x 11″). The thickness of the stock cannot be less than .003 inches.

Section 3.3 – Printing

3.3.1 Printing Medium

The private printing of all substitute tax forms must be by conventional printing processes, photocopying, computer-graphics, or similar reproduction processes.

3.3.2 Legibility

All forms must have a high standard of legibility as to printing, reproduction, and fill-in matter. Entries of taxpayer data may be no smaller than eight points. The IRS reserves the right to reject those with poor legibility. The ink and printing method used must ensure that no part of a form (including text, graphics, data entries, etc.) develops "smears" or similar quality deterioration. This includes any subsequent copies or reproductions made from an approved master substitute form, either during preparation or during IRS processing.

3.3.3 Type Font

Many federal tax forms are printed using "Helvetica" as the basic type font. We request that you use this type font when composing substitute forms.

3.3.4 Print Spacing

Substitute forms should be printed using a 6 lines/inch vertical print option. They should also be printed horizontally in 10 pitch pica (*i.e.*, 10 print characters per inch) or 12 pitch elite (*i.e.*, 12 print positions per inch).

3.3.5 Image Size

The image size of a printed substitute form should be as close as possible to that of the official form. You may omit any text on both computer-prepared and computer-generated forms that is solely instructional.

3.3.6 Title Area Changes

To allow a large top margin for marginal printing and more lines per page, the title line(s) for all substitute forms (not including the form's year designation and sequence number, when present), may be photographically reduced by 40 percent or reset as one line of type. When reset as one line, the type size may be no smaller than 14-point. You may omit "Department of the Treasury, Internal Revenue Service" and all reference to instructions in the form's title area.

3.3.7 Remove Government Printing Office Symbol and IRS Catalog Number

When privately printing substitute tax forms, the Government Printing Office (GPO) symbol and/or jacket number must be removed. In the same place, using the same type size, print the Employer Identification Number (EIN), the Social Security Number (SSN) of the printer or designer, or the IRS-assigned source code. (We prefer this last number be printed in the lower left area of the first page of each form.) Also remove the IRS Catalog Number (Cat. No.) if one is present in the bottom center margin, and the recycle symbol if the substitute is not produced on recycled paper.

3.3.8 Printing on One Side of Paper

While it is preferred that both sides of the paper be used for substitute and reproduced forms, resulting in the same page arrangement as that of the official form or schedule, the IRS will not reject your forms if only one side of the paper is used.

3.3.9 Photocopy Equipment

The IRS does not undertake to approve or disapprove the specific equipment or process used in reproducing official forms. Photocopies of forms must be entirely legible and satisfy the conditions stated in this and other revenue procedures.

3.3.10 Reproductions

Reproductions of official forms and substitute forms that do not meet the requirements of this revenue procedure may not be filed instead of the official forms. Illegible photocopies are subject to being returned to the filer for re-submission of legible copies.

3.3.11 Removal of Instructions

You may remove references to instructions. No prior approval is needed.

Exception: *The words "For Paperwork Reduction Act Notice, see instructions" must be retained or a similar statement provided on each form. Some forms refer the taxpayer to a page number in the instructions for information on the Paperwork Reduction Act Notice.*

Section 3.4 – Margins

3.4.1 Margin Size

The format of a reproduced tax return when printed on the page must have margins on all sides at least as large as the margins on the official form. This allows room for IRS employees to make the necessary entries on the form during processing.

- A ½-inch to ¼-inch margin must be maintained across the top, bottom, and both sides of all substitute forms.
- The marginal, perforated strips containing the pin-fed holes must be removed from all forms prior to filing with the IRS.

3.4.2 Marginal Printing

Prior approval is not required for the marginal printing allowed when printed on an official form or on a photocopy of an official form.

- With the exception of the actual tax return forms (*i.e.*, Forms 1040, 1040A, 1040EZ, 1120, 940, 941, etc.), you may print in the left vertical margin and in the left half of the bottom margin.

- Printing is never allowed in the top right margin of the tax return form (*i.e.*, Forms 1040, 1040A, 1040EZ, 1120, 940, 941, etc.). The Service uses this area to imprint a Document Locator Number for each return. There are no exceptions to this requirement.

Section 3.5 – Examples of Approved Formats

3.5.1 Examples of Approved Formats From the Exhibits

Three sets of exhibits (Exhibits A–1, 2; B–1, 2; and C–1, 2) are at the end of this revenue procedure as examples of how these guidelines may be used. Vertical spacing is six (6) lines to the inch. A combination of upper and lower-case print fonts is acceptable in producing substitute forms.

The same logic may be applied to any IRS form that is normally reproducible as a substitute form, with the exception of the tax return forms as discussed elsewhere. These exhibits may be from a prior year and are not to be used as current substitute forms.

Section 3.6 – Miscellaneous Information for Substitute Forms

3.6.1 Filing Substitute Forms

To be acceptable for filing, a substitute return or form must print out in a format that will allow the filer to follow the same instructions as for filing official forms. These instructions are in the taxpayer's tax package or in the related form instructions. The form must be on the appropriately sized paper, be legible, and include a jurat where one appears on the published form.

3.6.2 Caution to Software Publishers

The IRS has received returns produced by software packages with approved output where either the form heading was altered or the lines were spaced irregularly. This produces an illegible or unrecognizable return or a return with the wrong number of pages. We realize that many of these problems are caused by individual printer differences but they may delay input of return data and, in some cases, generate correspondence to the taxpayer. Therefore, in the instructions to the purchasers of your product, both individual and professional, please stress that their returns will be processed more efficiently if they are properly formatted. This includes:

- Having the correct form numbers and titles at the top of the return, and
- Submitting the same number of pages as if the form were an official IRS form with the line items on the proper pages.

3.6.3 Use Pre-Addressed IRS Label

If you are a practitioner filling out a return for a client or a software publisher who prints instruction manuals, stress the use of the pre-addressed label provided in the tax package the IRS sent to the taxpayer, when available. The use of this label (or its precisely duplicated label information) is extremely important for the efficient, accurate, and economical processing of a taxpayer's return. Labeled returns indicate that a taxpayer is an established filer and permits the IRS to automatically accelerate processing of those returns. This results in quicker refunds, more accurate names/addresses and postal deliveries, and less manual review by IRS functions.

3.6.4 Caution to Producers of Software Packages

If you are producing a software package that generates name and address data onto the tax return, do not under any circumstances, program either the IRS preprinted check digits or a practitioner-derived name control to appear on any return prepared and filed with the IRS.

3.6.5 Programming To Print Forms

Whenever applicable:

- Use only the following label information format for single filers:
  JOHN Q. PUBLIC
  310 OAK DRIVE
  HOMETOWN, STATE 94000

- Use only the following information for joint filers:
  JOHN Q. PUBLIC
  MARY I. PUBLIC
  310 OAK DRIVE
  HOMETOWN, STATE 94000

Chapter 4
Additional Resources

Section 4.1 – Guidance From Other Revenue Procedures

4.1.1 General

Guidance for the substitute tax forms not covered in this revenue procedure and the revenue procedures that govern their use are as follows:

- Revenue Procedure 94–79, IRS Publication 1355, *Requirements and Conditions for the Reproduction, Private Design, and Printing of Substitute Forms 1040–ES.*
- Revenue Procedure 2002–53, IRS Publication 1141, *General Rules and Specifications for Substitute Forms W–2 and W–3.*
- Revenue Procedure 2001–50, IRS Publication 1179, *General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, W–2G (and 1042–S).*
- Revenue Procedure 2001–40, IRS Publication 1187, *Specifications for Filing Form 1042–S, Foreign Person's U.S. Source Income Subject to Withholding Electronically or Magnetically.*
- Revenue Procedure 2002–34, IRS Publication 1220, *Specifications for Filing Forms 1098, 1099, 5498, and W–2G Electronically or Magnetically.*
- Revenue Procedure 2002–51, IRS Publication 1223, *General Rules and Specifications for Substitute Forms W–2c and W–3c.*

Section 4.2 – Ordering Publications

4.2.1 Sources of Publications

The publications listed below are available either on the IRS Internet web site or may be ordered by calling 1–800–TAX–FORM (1–800–829–3676). Identify the requested document by IRS publication number:

- Pub. 1141, the revenue procedure on specifications for private printing for Forms W–2 and W–3.
- Pub. 1167, the revenue procedure on substitute printed, computer-prepared, and computer-generated tax forms and schedules.
- Pub. 1179, the revenue procedure on paper substitute information returns (Forms 1096, 1098, 1099, 5498, W–2G and 1042–S).
- Pub. 1220, the revenue procedure on electronic or magnetic reporting for information returns (Forms 1098, 1099 series, 5498, and W–2G).
- Pub. 1223, the revenue procedure on substitute Forms W–2c and W–3c.
- Pub. 1239, *Specifications for Filing Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, Magnetically/Electronically.*
- Pub. 1245, electronic and magnetic reporting for Forms W–4.
- Pub. 1345, *Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns.* (This is an annual publication; tax year is subject to change).
- Pub. 1345–A, *Filing Season Supplement For Authorized IRS e-file Providers.* This publication, printed in the late fall, supplements Publication 1345.
- Pub. 1355, the revenue procedure on the requirements for substitute Form 1040–ES.

4.2.2 Where To Order

If you are mailing your order, the address to use is determined by your location.

IF you live in the...	THEN mail your order to...
Western United States	Western Area Distribution Center Rancho Cordova, CA 95743–0001
Central Unites States	Central Area Distribution Center P.O. Box 8903 Bloomington, IL 61702–8903
Eastern United States or a foreign country	Eastern Area Distribution Center P.O. Box 85074 Richmond, VA 23261–5074

Section 4.3 – Electronic Tax Products

4.3.1 The Internet

Copies of tax forms with instructions, publications, and other tax-related materials may be obtained via the Internet at *www.irs.gov*. Forms can be downloaded in several file formats (PDF — Portable Document Format, PS — PostScript, and PCL — Printer Control Language). Those choosing to use PDF files for viewing on a personal computer can also download a free copy of the Adobe Acrobat Reader.

4.3.2 Tax Fax

The most frequently requested tax forms, instructions, and other information are available through IRS Tax Fax at (703) 368–9694. Call from your fax machine and follow the voice prompts. Your request will be transmitted directly back to you. Each call is limited to requesting three items. Users pay the telephone line charges.

4.3.3 Official Forms Release Schedule

The IRS web site provides an Official Forms Release Schedule for the official forms released for use by taxpayers. The schedule has three parts:

- Anticipated print dates of annual returns,
- Anticipated print dates of quarterly returns, and
- Last revision dates for continuous use only forms.

The site address is *www.irs.gov/taxpros/formsch.html*. The site will be updated weekly during peak printing periods and as necessary. The planned dates are subject to change.

Section 4.4 – Federal Tax Forms on CD-ROM

4.4.1 Information About Federal Tax Forms CD-ROM

The CD-ROM contains over 3,000 tax forms and publications for small businesses, return preparers, and others who frequently need current or prior year tax products. Most current tax forms on the CD-ROM may be filled in electronically, then printed out for submission and saved for record keeping. Other products on the CD-ROM include the Internal Revenue Bulletins, Tax Supplements, and Internet resources for the tax professional with links to the World Wide Web.

All necessary software to view the files must be installed from the CD-ROM. Software for Adobe Acrobat Reader is included on the disk. The software will run under Windows 95/98/NT and Macintosh System 7.5 and later. All products are presented in Adobe's Portable Document Format (PDF). In addition, tax publications are provided in the Hyper Text Markup Language (HTML).

4.4.2 System Requirements and How To Order the Federal Tax Forms CD-ROM

For system requirements, contact the National Technical Information Service (NTIS) help desk at 703–487–4608. Prices are subject to change.

The cost of the CD if purchased via the Internet at *http://www.irs.gov/cdorders* from NTIS, is $22 (with no handling fee).

If purchased using the following methods, the cost for each CD is $22 (plus a $5 handling fee). These methods are:

- By phone — 1–877–CDFORMS (1–877–233–6767)
- By fax — (703) 605–6900
- By mail using the order form contained in IRS Publication 1045 (Tax Professionals Program)
- By mail to:
  National Technical Information Service
  5285 Port Royal Road
  Springfield, VA 22161

Chapter 5
Requirements for Specific Tax Returns

Section 5.1 – Tax Returns (Form 1040, 1040A, 1120, etc.)

5.1.1 Acceptable Forms

Tax return forms (such as Forms 1040, 1040A, and 1120) are forms that require a signature and establish tax liability. Computer-generated versions are acceptable under the following conditions:

- These substitute returns must be printed on plain white paper.
- Substitute returns and forms must conform to the physical layout of the corresponding IRS form although the typeface may differ. The text should match the text on the officially published form as closely as possible. Condensed text and abbreviations will be considered on a case-by-case basis.
  Caution: All jurat (perjury statements) must be reproduced verbatim. No text can be added, deleted, or changed in meaning.
- Various computer-graphic print media such as laser printing, inkjet printing, etc., may be used to produce the substitute forms.
- The substitute return must be the same number of pages and contain the same line text as the official return.
- All substitute tax return forms must be submitted for approval prior to their original use. You do not need approval for a substitute tax return form if its only change is the preprinted year and you had received a prior year approval letter.

Exception: *If the approval letter specifies a one-time exception for your return, the next year's return must be approved.*

5.1.2 Prohibited Forms

The following are prohibited:

- Tax returns (*e.g.*, Forms 1040, etc.) computer-generated on lined or color-barred paper.
- Tax returns that differ from the official IRS forms in a manner that makes them not standard or processable.

5.1.3 Changes Permitted to Forms 1040 and 1040A

Certain changes (listed in Sections 5.2 through 5.4) are permitted to the graphics of the form without prior approval, but these changes apply only to acceptable preprinted forms. Changes not requiring prior approval are good only for the annual filing period, which is the current tax year. Such changes are valid in subsequent years only if the official form does not change.

5.1.4 Other Changes Not Listed

All changes not listed in Sections 5.2 through 5.4 require approval from the IRS **before** the form may be filed.

Section 5.2 – Changes Permitted to Graphics (Forms 1040A and 1040)

5.2.1 Adjustments

You may make minor vertical and horizontal spacing adjustments to allow for computer or word-processing printing. This includes widening the amount columns or tax entry areas if the adjustments comply with other provisions stated in revenue procedures. No prior approval is needed for these changes.

5.2.2 Name and Address Area

The horizontal rules and instructions within the name and address area may be removed and the entire area left blank. No line or instruction can remain in the area. However, the statement regarding use of the IRS label should be retained. The heavy ruled border (when present) that outlines the name, address area, and social security number must not be removed, relocated, expanded, or contracted.

5.2.3 Required Format

When the name and address area is left blank, the following format must be used when printing the taxpayer's name and address. Otherwise, unless the taxpayer's preprinted label is affixed over the information entered in this area, the lines must be filled in as shown:

- 1st name line (35 characters maximum).
- 2nd name line (35 characters maximum).
- In-care-of name line (35 characters maximum).
- City, state (25 characters maximum), one blank character, & ZIP code.

5.2.4 Conventional Name and Address Data

When there is no in-care-of name line, the name and address will consist of only three lines (single filer) or four lines (joint filer). Name and address (joint filer) with no in-care-of name line:

JOHN Z. JONES
MARY I. JONES
1234 ANYWHERE ST., APT. 111
ANYTOWN, STATE 12321

5.2.5 Examples of In-Care-Of Name Line

Name and address (single filer) with in-care-of name line:

JOHN Z. JONES
C/O THOMAS A. JONES
4311 SOMEWHERE AVE.
SAMETOWN, STATE 54345

5.2.6 SSN and Employer Identification Number (EIN) Area

The vertical lines separating the format arrangement of the SSN/EIN may be removed. When the vertical lines are removed, the SSN and EIN formats must be 000–00–0000 or 00–0000000, respectively.

5.2.7 Cents Column

- You may remove the vertical rule that separates the dollars from the cents.
- All entries in the amount column should have a decimal point following the whole dollar amounts whether or not the vertical line that separates the dollars from the cents is present.
- You may omit printing the cents, but all amounts entered on the form must follow a consistent format. You are strongly urged to round off the figures to whole dollar amounts, following the official return instructions.
- When several amounts are summed together, the total should be rounded off after addition (*i.e.*, individual amounts should not be rounded off for computation purposes).
- When printing money amounts, you must use one of the following ten-character formats: (a) 0,000,000.; (b) 0,000,000.00
- When there is no entry for a line, leave the line blank.

5.2.8 "Paid Preparer's Use Only" Area

On all forms, the paid preparer's information area may not be rearranged or relocated. You may add three lines and remove the horizontal rules in the preparer's address area.

Section 5.3 – Changes Permitted to Form 1040A Graphics

5.3.1 General

No prior approval is needed for the following changes (for use with computer-prepared forms only).

5.3.2 Line 4 of Form 1040A

This line may be compressed horizontally (to allow for same line entry for the name of the qualifying child) by using the following caption: "Head of household; child's name" (name field).

5.3.3 Other Lines

Any line with text that takes up two or more vertical lines may be compressed to one line by using contractions, etc., and by removing instructional references.

5.3.4 Page 2 of Form 1040A

All lines must be present and numbered in the order shown on the official form. These lines may also be compressed.

5.3.5 Color Screening

It is not necessary to duplicate the color screening used on the official form. A substitute Form 1040A may be printed in black and white only with no color screening.

5.3.6 Other Changes Prohibited

No other changes to the Form 1040A graphics are allowed without prior approval except for the removal of instructions and references to instructions.

Section 5.4 – Changes Permitted to Form 1040 Graphics

5.4.1 General

No prior approval is needed for the following changes (for use with computer-prepared forms only). Specific line numbers in the following headings may have changed due to tax law changes.

5.4.2 Line 4 of Form 1040

This line may be compressed horizontally (to allow for a larger entry area for the name of the qualifying child) by using the following caption: "Head of household; child's name" (name field).

5.4.3 Line 6c of Form 1040

The vertical lines separating columns (1) through (4) may be removed. The captions may be shortened to allow a one-line caption for each column.

5.4.4 Other Lines

Any other line with text that takes up two or more vertical lines may be compressed to one line by using contractions, etc., and by removing instructional references.

5.4.5 Line 21—Other Income

The fill-in portion of this line may be expanded vertically to three lines.
The amount entry box must remain a single entry.

5.4.6 Line 42 of Form 1040–Tax

You may change the line caption to read "Tax" and computer print the words "Total includes tax from" and either "Form(s) 8814" or "Form 4972." If both forms are used, print both form numbers. This specific line number may have changed.

5.4.7 Line 53 of Form 1040

You may change the caption to read: "Other credits from Form" and computer-print only the form(s) that apply.

5.4.8 Color Screening

It is not necessary to duplicate the color screening used on the official form. A substitute Form 1040 may be printed in black and white only with no color screening.

5.4.9 Other Changes Prohibited

No other changes to the Form 1040 graphics are permitted without prior approval except for the removal of instructions and references to instructions.

Chapter 6
Format and Content of Substitute Returns

Section 6.1 – Acceptable Formats for Substitute Forms and Schedules

6.1.1 Exhibits and Use of Acceptable Formats

Exhibits of acceptable formats for the schedules (A and B) usually attached to the Form 1040 and Form 2106-EZ are shown in the exhibits section of this revenue procedure.

- If your computer-generated forms appear exactly like the exhibits, no prior authorization is needed.
- You may computer-generate forms not shown here, but you must design them by following the manner and style of those in the exhibits section. Take care to observe other requirements and conditions in this revenue procedure. The IRS encourages the submission of all proposed forms covered by this revenue procedure.

6.1.2 Instructions

The format of each substitute schedule or form must follow the format of the official schedule or form as to item captions, line references, line numbers, sequence, form arrangement and format, etc. Basically, try to make the form look like the official one, with readability and consistency being primary factors. You may use periods and/or other similar special characters to separate the various parts and sections of the form. DO NOT use alpha or numeric characters for these purposes. With the exceptions described in paragraph 6.1.3, all line numbers and items must be printed even though an amount is not entered on the line.

6.1.3 Line Numbers

When a line on an official form is designated by a number or a letter, that designation (reference code) must be used on a substitute form. The reference code must be printed to the left of the text of each line and immediately preceding the data entry field, even if no reference code precedes the data entry field on the official form. If an entry field contains multiple lines and shows the line references once on the left and right side of the form, use the same number of line references on the substitute return.

In addition, the reference code that is immediately before the data field must either be followed by a period or enclosed in parentheses. There also must be at least two blank spaces between the period or the right parenthesis and the first digit of the data field. (See example below.)

6.1.4 Decimal Points

A decimal point (*i.e.*, a period) should be used for each money amount regardless of whether the amount is reported in dollars and cents or in whole dollars, or whether or not the vertical line that separates the dollars from the cents is present. The decimal points must be vertically aligned when possible.

Example:

5 STATE & LOCAL INC.
TAXES.....5. 495.00
6 REAL ESTATE
TAXES.....6.
7 PERSONAL PROPERTY
TAXES.....7. 198.00

or

5 STATE & LOCAL INC.
TAXES.....(5) 495.00
6 REAL ESTATE
TAXES.....(6)
7 PERSONAL PROPERTY
TAXES.....(7) 198.00

6.1.5 Multi-Page Forms

When submitting a multi-page form, send all its pages in the same package. If you are not producing certain pages, please note that in your cover letter.

Section 6.2 – Additional Instructions for All Forms

6.2.1 Use of Your Own Internal Control Numbers and Identifying Symbols

You may show computer-preparer internal control numbers and identifying symbols on the substitute if using such numbers or symbols is acceptable to the taxpayer and the taxpayer's representative. Such information must not be printed in the top ½ inch clear area of any form or schedule requiring a signature. Except for the actual tax return form (Forms 1040, 1120, 940, 941, etc.), you may print in the left vertical and bottom left margins. The bottom left margin you may use extends 3½ inches from the left edge of the form.

6.2.2 Descriptions for Captions, Lines, etc.

Descriptions for captions, lines, etc., appearing on the substitute forms may be limited to one print line by using abbreviations and contractions, and by omitting articles, prepositions, etc. However, sufficient key words must be retained to permit ready identification of the caption, line, or item.

6.2.3 Determining Final Totals

Explanatory detail and/or intermediate calculations for determining final line totals may be included on the substitute. We prefer that such calculations be submitted in the form of a supporting statement. If intermediate calculations are included on the substitute, the line on which they appear may not be numbered or lettered. Intermediate calculations may not be printed in the right column. This column is reserved only for official numbered and lettered lines that correspond to the ones on the official form. Generally, you may choose the format for intermediate calculations or subtotals on supporting statements to be submitted.

6.2.4 Instructional Text on the Official Form

Text on the official form, which is solely instructional (*e.g.*, "Attach this schedule to Form 1040," "See instructions," etc.), may generally be omitted from the substitute form.

6.2.5 Mixing Forms on the Same Page Prohibited

You may not show more than one schedule or form on the same printout page. Both sides of the paper may be printed for multi-page official forms, but it is unacceptable to intermix single-page schedules of forms except for Schedules A and B (Form 1040), which are printed back to back by the IRS.

For instance, Schedule E can be printed on both sides of the paper because the official form is multi-page, with page 2 continued on the back. However, do not print Schedule E on the front page and Schedule SE on the back, or Schedule A on the front and Form 8615 on the back, etc. Both pages of a substitute form must match the official form. The back page may be left blank if the official form contains only the instructions.

6.2.6 Identifying Substitutes

Identify all computer-prepared substitutes clearly. Print the form designation ½ inch from the top margin and 1½ inches from the left margin. Print the title centered on the first line of print. Print the taxable year and, where applicable, the sequence number on the same line ½ inch to 1 inch from the right margin. Include the taxpayer's name and SSN on all forms and attachments. Also, print the OMB number as reflected on the official form.

6.2.7 Negative Amounts

Negative (or loss) amount entries should be enclosed in brackets or parentheses or include a minus sign. This assists in accurate computation and input of form data. The IRS preprints parentheses in negative data fields on many official forms. These parentheses should be retained or inserted on affected substitute forms.

Chapter 7
Miscellaneous Forms and Programs

Section 7.1 – Paper Substitutes for Form 1042–S

7.1.1 Paper Substitutes

Paper substitutes for Form 1042–S, *Foreign Person's U.S. Source Income Subject to Withholding,* that totally conform to the specifications contained in this procedure may be privately printed without prior approval from the IRS. Proposed substitutes not conforming to these specifications must be submitted for consideration.

7.1.2 Time Frame For Submission of Form 1042–S

The request should be submitted by November 15 of the year prior to the year the form is to be used. This is to allow the IRS adequate time to respond and the submitter adequate time to make any corrections. These requests should contain a copy of the proposed form, the need for the specific deviation(s), and the number of information returns to be printed.

7.1.3 Revisions

Form 1042–S is subject to annual review and possible change. Withholding agents and form suppliers are cautioned against overstocking supplies of the privately printed substitutes.

7.1.4 Obtaining Copies

Copies of the official form for the reporting year may be obtained from most IRS offices. The IRS provides only cut sheets (no carbon interleaves) of these forms. Continuous fan-fold/pin-fed forms are not provided.

7.1.5 Instructions For Withholding Agents

Instructions for withholding agents:

- Only original copies may be filed with the IRS. Carbon copies and reproductions are not acceptable.
- The term "Recipient's U.S. TIN" for an individual means the Social Security Number (SSN) or IRS Individual Taxpayer Identification Number (ITIN), consisting of nine digits separated by hyphens as follows: 000–00–0000. For all other recipients, the term means Employer Identification Number (EIN) or Qualified Intermediary Employer Identification Number (QI-EIN). The EIN and QI-EIN consist of nine digits separated by a hyphen as follows: 00–0000000. The Taxpayer Identification Number (TIN) must be in one of these formats.
- Withholding agents are requested to type or machine print whenever possible, provide quality data entries on the forms (that is, use black ribbon and insert data in the middle of blocks well separated from other printing and guidelines), and take other measures to guarantee a clear, sharp image. Withholding agents are not required, however, to acquire special equipment solely for the purpose of preparing these forms.
- The "VOID," "CORRECTED," and "PRO-RATA BASIS REPORTING" boxes must be printed at the top center of the form under the title and checked, if applicable.
- Substitute forms prepared in continuous or strip form must be burst and stripped to conform to the size specified for a single form before they are filed with the Service. The dimensions are found below. Computer cards are acceptable provided they meet all requirements regarding layout, content, and size.

7.1.6 Substitute Forms Format Requirements

Property	Substitute Forms Format Requirements
Printing	Privately printed substitute Forms 1042–S must be exact replicas of the official forms with respect to layout and content. Only the dimensions of the substitute form may differ. The Government Printing Office (GPO) symbol must be deleted. The exact dimensions are found below.
Box Entries	Only one item of income may be represented on the copy submitted to the IRS (Copy A). Multiple income items may be used on copies provided to recipients only. All boxes appearing on the official form must be present on the substitute form, with appropriate captions.
Color and Quality of Ink	All printing must be in high quality non-gloss black ink. Bar codes should be free from picks and voids.
Typography	Type must be substantially identical in size and shape to corresponding type on the official form. All rules on the document are either 1 point (0.015″) or 3 point (0.045″). Vertical rules must be parallel to the left edge of the document; horizontal rules must be parallel to the top edge.
Carbons	Carbonized forms or "spot carbons" are not permissible. Interleaved carbons, if used, must be of good quality to preclude smudging and should be black.
Assembly	If all five parts are present, the parts of the assembly shall be arranged from top to bottom as follows: Copy A (Original) "For Internal Revenue Service," Copies B, C, and D "For Recipient," and Copy E "For Withholding Agent."
Color Quality of Paper	• Paper For Copy A must be white chemical wood bond, or equivalent, 20 pound (basis 17 x 22-500), plus or minus 5 percent; or offset book paper, 50 pound (basis 25 x 38–500). No optical brighteners may be added to the pulp or paper during manufacture. The paper must consist of principally bleach chemical wood pulp or recycled printed paper. It also must be suitably sized to accept ink without feathering. • Copies B, C, D (for Recipient), and E (for Withholding Agent) are provided in the official assembly solely for the convenience of the withholding agent. Withholding agents may choose the format, design, color, and quality of the paper used for these copies.
Dimensions	• The official form is 8 inches wide x 5½ inches deep, exclusive of a ½ inch snap stub on the left side of the form. The snap feature is not required on substitutes. • The width of a substitute Copy A must be a minimum of 7 inches and a maximum of 8 inches, although adherence to the size of the official form is preferred. If the width of substitute Copy A is reduced from that of the official form, the width of each field on the substitute form must be reduced proportionately. The left margin must be ½ inch and free of all printing other than that shown on the official form. • The depth of a substitute Copy A must be a minimum of 5⅙ inches and a maximum of 5½ inches.
Other Copies	Copies B, C, and D must be furnished for the convenience of payees who must send a copy of the form with other federal and state returns they file. Copy E may be used as a withholding agent's record/copy.

Section 7.2 – Specifications for Substitute Schedules K–1

7.2.1 Requirements for Schedules K–1 That Accompany Forms 1041, 1065, 1065–B, and 1120S

Prior approval is not required for substitute Schedules K–1 that accompany Form 1041 (for estates and trusts), Form 1065 (for partnerships), Form 1065–B (for electing large partnerships), or Form 1120S (for S corporations) if they are exact copies of the official IRS schedules or contain only those lines that taxpayers are required to use. Schedules K–1 that accompany Form 1041, 1065, 1065–B, or 1120S must meet all of the following requirements.

- The Schedule K–1 must contain the name, address, and SSN or EIN of both the entity (estate, trust, partnership, or S corporation) and the recipient (beneficiary, partner, or shareholder).

- The Schedule K–1 must contain the tax year, the OMB number, the schedule number (K–1), the related form number (1041, 1065, 1065–B, or 1120S), and the official schedule name in substantially the same position and format as shown on the official IRS schedule.
- The Schedule K–1 must contain all the items required for use by the recipient.
- The line items that are used must be in the same order and arrangement as those on the official form.
- Each recipient's information must be on a separate sheet of paper. Therefore, all continuously-printed substitutes must be separated, by recipient, before filing with the IRS.
- The amount of each recipient's share of each line item must be shown. Furnishing a total amount of each line item and a percentage (or decimal equivalent) to be applied to such total amount by the recipient does not satisfy the law and the specifications of this revenue procedure.
- State or local tax-related information may not be included on the Schedules K–1 filed with the IRS.
- The legend "Important Tax Return Document Enclosed" must appear in a bold and conspicuous manner on the outside of the envelope that contains the substitute recipient copy of Schedule K–1.
- The entity may have to pay a penalty if substitute Schedules K–1 are filed that do not conform to the above specifications. In addition, the IRS may consider the Schedules K–1 as not processable and return Form 1041, 1065, 1065–B, or 1120S to the entity to be filed correctly.

7.2.2 Special Requirements for Recipient Copies of Schedules K–1

Increased standardization for reporting information is now required for recipient copies of substitute Schedules K–1 of Forms 1041, 1065, 1065–B, and 1120S. The more uniform visual standards are provided to increase compliance by allowing recipients to more easily recognize a substitute Schedule K–1. The entity must furnish to each recipient a copy of Schedule K–1 that meets the following requirements:

- The Schedule K–1 must contain the name, address, and SSN or EIN of both the entity and recipient.
- The Schedule K–1 must contain the tax year, the OMB number, the schedule number (K–1), the related form number (1041, 1065, 1065–B, or 1120S), and the official schedule name in substantially the same position and format as shown on the official IRS schedule.
- All applicable amounts and information required to be reported must be titled and numbered in the same manner as shown on the official IRS schedule. Line numbers are to be shown in the same order as those on the official schedule.
- The Schedule K–1 must contain all items required for use by the recipient, but line items that are not required for the particular recipient may be omitted. If line items are omitted or skipped, the remaining line items must be labeled in the same manner and shown in the same order as they are on the official IRS schedule. The instructions to the schedule must clearly indicate that the number and order of the items relate to the official IRS schedule.
- The amount of each recipient's share of each line item must be shown. Furnishing a total amount of each line item and a percentage (or decimal equivalent) to be applied to such total amount by the recipient does not satisfy the law and the specifications of this revenue procedure.
- Instructions to the recipient that are substantially similar to those on the official IRS schedule must be provided to aid in the proper reporting of the items on the recipient's income tax return. Where items have been omitted because they are not required for use by a recipient, the related instructions may also be omitted.
- The quality of the ink or other material used to generate recipients' schedules must produce clearly legible documents. In general, black chemical transfer inks are preferred.
- In order to assure uniformity of substitute Schedules K–1, the paper size must fall within the following dimensions:
    - Minimum dimensions: 8.5″ x 3.67″
    - Maximum dimensions: 8.5″ x 11″ (The international standard (A4) of 8.27″ x 11.69″ may be substituted for the maximum dimensions.)
- The paper weight, paper color, font type, font size, font color, and page layout must be such that the average recipient can easily decipher the information on each page.
- Entity logos are permitted on substitute Schedules K–1 provided the placement of the logos does not interfere with the purpose of the schedules.
- State or local tax-related information may be included on a substitute Schedule K–1. All non-tax-related information should be separated from the tax information on the substitute schedule to avoid confusion for the recipient.

- The entity may have to pay a penalty if a substitute Schedule K–1 furnished to any recipient does not conform to the specifications of this revenue procedure.

Section 7.3 – Procedures for Printing IRS Envelopes

7.3.1 Procedures for Printing IRS Envelopes

Organizations are permitted to produce substitute tax return envelopes. Use of substitute return envelopes that comply with the requirements set forth in this section will assist in delivery of mail by the U.S. Postal Service and facilitate internal sorting at the Internal Revenue Service Centers.

Use the following five-digit ZIP codes when mailing returns to the IRS Service Centers:

Service Center	Zip Code
Atlanta, GA	39901
Kansas City, MO	64999
Austin, TX	73301
Philadelphia, PA	19255
Memphis, TN	37501
Andover, MA	05501
Cincinnati, OH	45999
Holtsville, NY	00501
Ogden, UT	84201
Fresno, CA	93888

7.3.2 Sorting Returns by Form Type

Sorting returns by form type is accomplished by the preprinted bar codes on return envelopes included in each specific type of form or package mailed to the taxpayers. The 32 bit bar code on the left of the address on each envelope identifies the type of form the taxpayer is filing, and it assists in consolidating like returns for processing. Failure to use the envelopes furnished by the IRS results in additional processing time and effort, and possibly delays the timely deposit of funds, processing of returns, and issuance of refund checks.

7.3.3 ZIP+4 or 9-Digit ZIP Codes

The IRS will not furnish or sell bulk quantities of preprinted tax return envelopes to taxpayers or tax practitioners. A suitable alternative has been developed that will accommodate the sorting needs of both the IRS and the United States Postal Service (USPS). The alternative is based on the use of ZIP + 4, or 9-digit ZIP codes for mailing various types of tax returns to the IRS Service Centers. The IRS uses the last four digits to identify and sort the various form types into separate groups for processing. The list of 4-digit extensions with the related form designations is provided below.

ZIP+FOUR	Package
XXXXX–0002	1040
XXXXX–0005	941
XXXXX–0006	940
XXXXX–0008	943
XXXXX–0011	1065
XXXXX–0012	1120
XXXXX–0013	1120S
XXXXX–0014	1040EZ
XXXXX–0015	1040A
XXXXX–0027	990
XXXXX–0031	2290

7.3.4 Guidelines for Having Envelopes Preprinted

You may use the preparer company names, addresses, and logos as long as you do not interfere with the clear areas. The government recommends that the envelope stock have an average opacity of not less than 89 percent and contain a minimum of 50 percent waste paper. Use of carbon-based ink is essential for effective address and bar code reading. Envelope construction can be of side seam or diagonal seam

design. The government recommends that the size of the envelope should be 5¾ inches by 9 inches. Continuous pin-fed construction is not desirable but is permissible if the glued edge is at the top. This requirement is firm because mail opening equipment is designed to open the bottom edge of each envelope.

7.3.5 Envelopes/ZIP Codes

The above procedures or guidelines are written for the user having envelopes preprinted. Many practitioners may not wish to have large quantities of envelopes with differing ZIP codes/form designations preprinted due to low volume, warehousing, waste, etc. In this case, the practitioner can type or machine print the addresses with the appropriate ZIP codes to accommodate sorting. If the requirements/guidelines outlined in this section cannot be met, then use only the appropriate five-digit service center ZIP code.

Section 7.4 – Procedures for Substitute Forms 5471 and 5472

7.4.1 Forms 5471 and 5472

This section covers instructions for producing substitutes for:

- Form 5471, *Information Return of U.S. Persons With Respect to Certain Foreign Corporations, and accompanying Schedules J, M, N, and O*.
- Form 5472, *Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business.*

7.4.2 Paper and Computer-Generated Substitutes

Substitutes for Form 5471 and the accompanying Schedules J, M, N, and O, and Form 5472 that totally conform to the specifications contained in this procedure may be privately printed, but must have prior approval and are subject to annual review from the IRS.

7.4.3 Where To Get the Official Forms

Copies of the official Forms 5471 and 5472 for the reporting year may be obtained from most IRS offices. The IRS provides only cut sheets of these forms.

7.4.4 Quality Substitute Forms

The IRS will accept quality substitute tax forms that are consistent with the official forms they represent AND that do not have an adverse impact on our processing. Therefore, only those substitute forms that conform to, and do not deviate from, the corresponding official forms are acceptable.

7.4.5 Computer-Prepared Tax Forms

If the substitute returns and schedules meet the guidelines in this revenue procedure, the IRS will (for filing purposes) accept computer-prepared Forms 5471 and 5472 filled in by a computer, word processing, or similar automated equipment. The IRS will also accept a combination of computer-prepared/generated and filled-in information. They may be filed separately or attached to individual or business income tax returns.

7.4.6 Format Arrangement

The specifications for Forms 5471 and 5472 are as follows:

- The substitute must follow the design of the official form as to format, arrangement, item caption, line numbers, line references, and sequence. It must be an exact textual and graphic mirror image of the official form.
- The filer must use one of the official ten character amount formats. All entries in the amount column should have a decimal point following the whole dollar amounts whether or not the vertical line that separates the dollars from the cents is present. It must follow a consistent format.
- The reference code must be printed to the left of the corresponding captioned line and also immediately preceding the data entry field even if there is no reference code preceding the data entry field on the official form. The reference code that is immediately before the data field must either be followed by a period or enclosed in parentheses. There also must be at least two blank spaces between the period or the right parenthesis and the first digit of the data field.
- The size of the page must be the same as the official form (8½″ x 11″).
- The acceptable type is Helvetica.

- The spacing of the type must be 6 lines per inch vertically, 10 or 12 print characters per inch horizontally.
- A ¼ inch to ½ inch margin must be maintained across the top, bottom, and both sides.
- The substitute form must be the same number of pages as the official one.
- The preprinted parentheses in the money fields should be retained.
- The filer must completely fill in all the specified numbers or referenced lines as they appear on the official form (not just totals) before attaching any supporting statement.
- Supporting statements are never to be used until the required official form they support are completely filled in. A blank or incomplete form that refers to a supporting statement, in lieu of completing a tax return, is unacceptable.
- Descriptions for captions, lines, etc., appearing in the substitute forms may be limited to one print line by using abbreviations and contractions, and by omitting articles, prepositions, etc. However, sufficient key words must be retained to permit ready identification of the caption, line, or item.
- Text prescribed for the official form, which is solely instructional (*e.g.*, "Attach this schedule to Form 1120", "See instructions", etc.) may be omitted from the form.

7.4.7 Filing Instructions

Instructions for filing substitute forms are the same as for filing official forms.

Chapter 8
Alternative Methods of Filing

Section 8.1 – Forms for Electronically Filed Returns

8.1.1 Electronic Filing Program

Electronic filing is a method by which qualified filers transmit tax return information directly to an IRS Service Center over telephone lines in the format of the official IRS forms. The IRS accepts both refund and balance due individual tax returns that are filed electronically.

8.1.2 Applying for the Electronic Filing Program

Anyone wishing to participate in the IRS *e-file* program for individual income tax returns must submit a Form 8633, Application To Participate in the IRS *e-file* Program.

Note: *For business returns, prospective participants must submit a Form 9041,* Application For Electronic/Magnetic Media Filing of Business and Employee Benefit Plan Returns.

8.1.3 Mailing Instructions

IF an application filed is...	THEN mail it to...
Form 8633 for individual income taxes (regular mail)	Internal Revenue Service Andover Submission Processing Center Attn: EFU Acceptance-Testing Stop 983 P.O. Box 4099 Woburn, MA 01888–4099
Form 8633 for individual income taxes (overnight mail)	Internal Revenue Service Andover Submission Processing Center Attn: EFU Acceptance-Testing Stop 983 310 Lowell Street Andover, MA 05501–0001
Form 9041 for Forms 940, 941, and 1065	Internal Revenue Service Austin Submission Processing Center Attn: EFU, Stop 6380 P.O. Box 1231 Austin, TX 78767

IF an application filed is...	THEN mail it to...
Form 9041 for Forms 1041	Internal Revenue Service Philadelphia Submission Processing Center Attn: DP 2720 11601 Roosevelt Blvd. Philadelphia, PA 19154

8.1.4 Obtaining the Taxpayer Signature

Form 8453, U. S. Individual Income Tax Declaration for an IRS *e-file* Return, is the signature document for an electronically filed 1040, 1040A, or 1040EZ return not filed with an electronic signature. Form 8453, which serves as a transmittal for associated non-electronic (paper) documents, such as Form 3115, Form 5713, Form 8283, Form 8332, and Form 8609, is a one-page form and can only be approved through the Substitute Forms Program in that format. Forms 8453–OL and 8453–NR serve the same purpose for taxpayers filing through online services and Form 1040–NR filers, respectively. For specific information about electronic filing, refer to Publication 1345, Handbook for Electronic Filers of Individual Income Tax Returns.

8.1.5 Guidelines for Preparing Substitute Forms in the Electronic Filing Program

A participant in the electronic filing program who wants to develop a substitute form should follow the guidelines throughout this publication and send a sample form for approval to the Substitute Forms Unit at the address in Chapter 1. If you do not prepare Substitute Form 8453 using a font in which all IRS wording fits on a single page, the form will not be accepted.

Note: *Use of unapproved forms could result in suspension of the participant from the electronic filing program.*

Section 8.2 – Effect on Other Documents

8.2.1 Effect on Other Documents

This revenue procedure supersedes Revenue Procedure 2001–45, 2001–37 I.R.B. 227.

Exhibit A-1 (Preferred Format)

SCHEDULES A&B (Form 1040)

Department of the Treasury
Internal Revenue Service

Schedule A—Itemized Deductions

▶ Attach to Form 1040. ▶ See Instructions for Schedules A and B (Form 1040).

OMB No. 1545-0074

2001

Attachment Sequence No. **07**

Name(s) shown on Form 1040 | Your social security number

Medical and Dental Expenses		**Caution.** Do not include expenses reimbursed or paid by others.			
	1	Medical and dental expenses (see page A-2)	1		
	2	Enter amount from Form 1040, line 34. 2			
	3	Multiply line 2 above by 7.5% (.075)	3		
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-			4
Taxes You Paid (See page A-2.)	5	State and local income taxes	5		
	6	Real estate taxes (see page A-2)	6		
	7	Personal property taxes	7		
	8	Other taxes. List type and amount ▶	8		
	9	Add lines 5 through 8			9
Interest You Paid (See page A-3.)	10	Home mortgage interest and points reported to you on Form 1098	10		
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ▶	11		
Note. Personal interest is not deductible.	12	Points not reported to you on Form 1098. See page A-3 for special rules	12		
	13	Investment interest. Attach Form 4952 if required. (See page A-3.)	13		
	14	Add lines 10 through 13			14
Gifts to Charity If you made a gift and got a benefit for it, see page A-4.	15	Gifts by cash or check. If you made any gift of $250 or more, see page A-4	15		
	16	Other than by cash or check. If any gift of $250 or more, see page A-4. You **must** attach Form 8283 if over $500	16		
	17	Carryover from prior year	17		
	18	Add lines 15 through 17			18
Casualty and Theft Losses	19	Casualty or theft loss(es). Attach Form 4684. (See page A-5.)			19
Job Expenses and Most Other Miscellaneous Deductions (See page A-5 for expenses to deduct here.)	20	Unreimbursed employee expenses—job travel, union dues, job education, etc. You **must** attach Form 2106 or 2106-EZ if required. (See page A-5.) ▶	20		
	21	Tax preparation fees	21		
	22	Other expenses—investment, safe deposit box, etc. List type and amount ▶	22		
	23	Add lines 20 through 22	23		
	24	Enter amount from Form 1040, line 34. 24			
	25	Multiply line 24 above by 2% (.02)	25		
	26	Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-			26
Other Miscellaneous Deductions	27	Other—from list on page A-6. List type and amount ▶			27
Total Itemized Deductions	28	Is Form 1040, line 34, over $132,950 (over $66,475 if married filing separately)? ☐ **No.** Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter this amount on Form 1040, line 36. ☐ **Yes.** Your deduction may be limited. See page A-6 for the amount to enter. ▶			28

For Paperwork Reduction Act Notice, see Form 1040 instructions. **Schedule A (Form 1040) 2001**

Exhibit A-2 (Acceptable Format)

SCHEDULES A&B (Form 1040)

Department of the Treasury
Internal Revenue Service

Schedule A—Itemized Deductions

▶ Attach to Form 1040. ▶ See Instructions for Schedules A and B (Form 1040).

OMB No. 1545-0074

2001

Attachment Sequence No. 07

Name(s) shown on Form 1040 | Your social security number

Medical and Dental Expenses		**Caution.** Do not include expenses reimbursed or paid by others.		
	1	Medical and dental expenses (see page A-2)	1	
	2	Enter amount from Form 1040, line 34. 2		
	3	Multiply line 2 above by 7.5% (.075)	3	
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-		4
Taxes You Paid (See page A-2.)	5	State and local income taxes	5	
	6	Real estate taxes	6	
	7	Personal property taxes	7	
	8	Other taxes. List type and amount ▶	8	
	9	Add lines 5 through 8		9
Interest You Paid (See page A-3.)	10	Home mortgage interest and points reported to you on Form 1098	10	
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ▶	11	
Note. Personal interest is not deductible.	12	Points not reported to you on Form 1098. See page A-3 for special rules	12	
	13	Investment interest. Attach Form 4952 if required. (See page A-3.)	13	
	14	Add lines 10 through 13		14
Gifts to Charity If you made a gift and got a benefit for it, see page A-4.	15	Gifts by cash or check. If you made any gift of $250 or more, see page A-4	15	
	16	Other than by cash or check. If any gift of $250 or more, see page A-4. You **must** attach Form 8283 if over $500	16	
	17	Carryover from prior year	17	
	18	Add lines 15 through 17		18
Casualty and Theft Losses	19	Casualty or theft loss(es). Attach Form 4684. (See page A-5.)		19
Job Expenses and Most Other Misc. Deductions (See page A-5 for expenses to deduct here.)	20	Unreimbursed employee expenses—job travel, union dues, job education, etc. You **must** attach Form 2106 or 2106-EZ if required. (See page A-5.) ▶	20	
	21	Tax preparation fees	21	
	22	Other expenses—investment, safe deposit box, etc. List type and amount ▶	22	
	23	Add lines 20 through 22	23	
	24	Enter amount from Form 1040, line 34. 24		
	25	Multiply line 24 above by 2% (.02)	25	
	26	Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-		26
Other Misc. Deductions	27	Other—from list on page A-6. List type and amount ▶		27
Total Itemized Deductions	28	Is Form 1040, line 34, over $132,950 (over $66,475 if married filing separately)? ☐ **No.** Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter this amount on Form 1040, line 36. ☐ **Yes.** Your deduction may be limited. See page A-6 for the amount to enter. ▶		28

For Paperwork Reduction Act Notice, see Form 1040 instructions. **Schedule A (Form 1040) 2001**

Exhibit B-1 (Preferred Format)

Schedules A&B (Form 1040) 2001 — OMB No. 1545-0074 — Page 2

Name(s) shown on Form 1040. Do not enter name and social security number if shown on other side — Your social security number

Schedule B—Interest and Ordinary Dividends

Attachment Sequence No. 08

Part I Interest

(See page B-1 and the instructions for Form 1040, line 8a.)

Note. If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

		Amount
1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see page B-1 and list this interest first. Also, show that buyer's social security number and address ▶	1	
2 Add the amounts on line 1	2	
3 Excludable interest on series EE and I U.S. savings bonds issued after 1989 from Form 8815, line 14. You must attach Form 8815	3	
4 Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a ▶	4	

Note. If line 4 is over $400, you must complete Part III.

Part II Ordinary Dividends

(See page B-1 and the instructions for Form 1040, line 9.)

Note. If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

		Amount
5 List name of payer. Include only ordinary dividends. If you received any capital gain distributions, see the instructions for Form 1040, line 13 ▶	5	
6 Add the amounts on line 5. Enter the total here and on Form 1040, line 9 ▶	6	

Note. If line 6 is over $400, you must complete Part III.

Part III Foreign Accounts and Trusts

(See page B-2.)

	Yes	No
You must complete this part if you **(a)** had over $400 of taxable interest or ordinary dividends; **(b)** had a foreign account; or **(c)** received a distribution from, or were a grantor of, or a transferor to, a foreign trust.		
7a At any time during 2001, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See page B-2 for exceptions and filing requirements for Form TD F 90-22.1		
b If "Yes," enter the name of the foreign country ▶		
8 During 2001, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See page B-2		

For Paperwork Reduction Act Notice, see Form 1040 instructions. — Schedule B (Form 1040) 2001

Exhibit B-2 (Acceptable Format)

Schedules A&B (Form 1040) 2001 — OMB No. 1545-0074 — Page 2

Name(s) shown on Form 1040. — Your social security number

Schedule B—Interest and Ordinary Dividends

Attachment Sequence No. 08

Part I Interest

(See page B-1 and the instructions for Form 1040, line 8a.)

Note. If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

			Amount
1	List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see page B-1 and list this interest first. Also, show that buyer's social security number and address ▶	1	
2	Add the amounts on line 1	2	
3	Excludable interest on series EE and I U.S. savings bonds issued after 1989 from Form 8815, line 14. You **must** attach Form 8815	3	
4	Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a ▶	4	

Note. If line 4 is over $400, you must complete Part III.

Part II Ordinary Dividends

(See page B-1 and the instructions for Form 1040, line 9.)

Note. If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

			Amount
5	List name of payer. Include only ordinary dividends. If you received any capital gain distributions, see the instructions for Form 1040, line 13 ▶	5	
6	Add the amounts on line 5. Enter the total here and on Form 1040, line 9 ▶	6	

Note. If line 6 is over $400, you must complete Part III.

Part III Foreign Accounts and Trusts

(See page B-2.)

		Yes	No
	You must complete this part if you **(a)** had over $400 of taxable interest or ordinary dividends; **(b)** had a foreign account; or **(c)** received a distribution from, or were a grantor of, or a transferor to, a foreign trust.		
7a	At any time during 2001, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See page B-2 for exceptions and filing requirements for Form TD F 90-22.1		
b	If "Yes," enter the name of the foreign country ▶		
8	During 2001, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520.		

For Paperwork Reduction Act Notice, see Form 1040 instructions. — **Schedule B (Form 1040) 2001**

Exhibit C-1 (Preferred Format)

Form **2106-EZ**

Department of the Treasury
Internal Revenue Service

Unreimbursed Employee Business Expenses

▶ Attach to Form 1040.

OMB No. 1545-1441

2001

Attachment Sequence No. **54A**

Your name	Occupation in which you incurred expenses	Social security number

You May Use This Form Only if All of the Following Apply.

- You are an employee deducting expenses attributable to your job.
- You **do not** get reimbursed by your employer for any expenses (amounts your employer included in box 1 of your Form W-2 are not considered reimbursements).
- If you are claiming vehicle expense, you are using the standard mileage rate for 2001.

Caution: *You can use the standard mileage rate for 2001* ***only if:*** ***(a)*** *you owned the vehicle and used the standard mileage rate for the first year you placed the vehicle in service* ***or (b)*** *you leased the vehicle and used the standard mileage rate for the portion of the lease period after 1997.*

Part I Figure Your Expenses

1	Vehicle expense using the standard mileage rate. Complete Part II and multipy line 8a by 34½¢ (.345)	1		
2	Parking fees, tolls, and transportation, including train, bus, etc., that **did not** involve overnight travel or commuting to and from work	2		
3	Travel expense while away from home overnight, including lodging, airplane, car rental, etc. **Do not** include meals and entertainment	3		
4	Business expenses not included on lines 1 through 3. **Do not** include meals and entertainment	4		
5	Meals and entertainment expenses: $ _____ x 50% (.50) (Employees subject to Department of Transportation (DOT) hours of service limits: Multiply meal expenses by 60% (.60) instead of 50%. For details, see instructions.)	5		
6	**Total expenses.** Add lines 1 through 5. Enter here and **on line 20 of Schedule A (Form 1040).** (Fee-basis state or local government officials, qualified performing artists, and individuals with disabilities: See the instructions for special rules on where to enter this amount.)	6		

Part II Information on Your Vehicle. Complete this part only if you are claiming vehicle expense on line 1.

7 When did you place your vehicle in service for business use? (month, day, year) ▶ ..... / ..... / .....

8 Of the total number of miles you drove your vehicle during 2001, enter the number of miles you used your vehicle for:

a Business ..... b Commuting ..... c Other .....

9 Do you (or your spouse) have another vehicle available for personal use? ☐ Yes ☐ No

10 Was your vehicle available for personal use during off-duty hours? ☐ Yes ☐ No

11a Do you have evidence to support your deduction? ☐ Yes ☐ No

b If "Yes," is the evidence written? ☐ Yes ☐ No

For Paperwork Reduction Act Notice, see back of form. Form **2106-EZ** (2001)

Exhibit C-2 (Acceptable Format)

Form **2106-EZ**

Department of the Treasury
Internal Revenue Service

Unreimbursed Employee Business Expenses

▶ **Attach to Form 1040.**

OMB No. 1545-1441

2001

Attachment Sequence No. **54A**

Your name	Occupation in which you incurred expenses	**Social security number**

You May Use This Form Only if All of the Following Apply.

- You are an employee deducting expenses attributable to your job.
- You **do not** get reimbursed by your employer for any expenses (amounts your employer included in box 1 of your Form W-2 are not considered reimbursements).
- If you are claiming vehicle expense, you are using the standard mileage rate for 2001.

Caution: *You can use the standard mileage rate for 2001* ***only if:*** ***(a)*** *you owned the vehicle and used the standard mileage rate for the first year you placed the vehicle in service* ***or (b)*** *you leased the vehicle and used the standard mileage rate for the portion of the lease period after 1997.*

Part I **Figure Your Expenses**

1	Vehicle expense using the standard mileage rate. Complete Part II and multipy line 8a by 34½¢ (.345)	1	
2	Parking fees, tolls, and transportation, including train, bus, etc., that **did not** involve overnight travel or commuting to and from work	2	
3	Travel expense while away from home overnight, including lodging, airplane, car rental, etc. **Do not** include meals and entertainment	3	
4	Business expenses not included on lines 1 through 3. **Do not** include meals and entertainment	4	
5	Meals and entertainment expenses: $ _____ x 50% (.50) (Employees subject to Department of Transportation (DOT) hours of service limits: Multiply meal expenses by 60% (.60) instead of 50%. For details, see instructions.)	5	
6	**Total expenses.** Add lines 1 thru 5. Enter here & **on line 20 of Schedule A (Form 1040).** (Fee-basis state or local government officials, qualified performing artists, and individuals with disabilities: See instructions for special rules on where to enter this amt.)	6	

Part II **Information on Your Vehicle.** Complete this part **only** if you are claiming vehicle expense on line 1.

7 When did you place your vehicle in service for business use? (month, day, year) ▶ ..... / ..... / .....

8 Of the total number of miles you drove your vehicle during 2001, enter the number of miles you used your vehicle for:

a Business ..... **b** Commuting ..... **c** Other .....

9	Do you (or your spouse) have another vehicle available for personal use?	☐ **Yes**	☐ **No**
10	Was your vehicle available for personal use during off-duty hours?	☐ **Yes**	☐ **No**
11a	Do you have evidence to support your deduction?	☐ **Yes**	☐ **No**
b	If "Yes," is the evidence written?	☐ **Yes**	☐ **No**

For Paperwork Reduction Act Notice, see back of form. Form **2106-EZ** (2001)

Exhibit D

Checklist of IRS Substitute Forms Submitted on ..... 20 :

Company: .....

Contact: .....

Phone: .....

Fax: .....

Source Code: .....

Approved	Approved With Corrections	Must Be Resubmitted	Form Number	Comments

Authorized Name: _____

Title: _____

Reviewer's Name: _____

Telephone: _____

Date: _____

Exhibit E — List of Forms Referred to in the Revenue Procedure

Form	Title	Section
706	United States Estate (and Generation-Skipping Transfer) Tax Return	2.1
720	Quarterly Federal Excise Tax Return	2.5; 8.1
940	Employer's Annual Federal Unemployment Tax (FUTA) Return	2.3; 3.4; 6.2; 7.3; 8.1
940–EZ	Employer's Annual Federal Unemployement Tax (FUTA) Return	2.3
941	Employer's Quarterly Federal Tax Return	2.3; 3.4; 6.2; 7.3; 8.1
941–V	Form 941 Payment Voucher	2.3
943	Employer's Annual Tax Return for Agricultural Employees	2.3; 7.3
943–V	Form 943 Payment Voucher	2.3
945	Annual Return of Withheld Federal Income Tax	2.3
945–V	Form 945 Payment Voucher	2.3
1040	U.S. Individual Income Tax Return	2.3; 2.4; 2.5; 3.1; 3.2; 3.4; 5.1; 5.2; 5.4; 6.1; 6.2; 7.3; 8.1
1040–ES	Estimated Tax for Individuals	1.1; 2.3; 3.2; 4.1; 4.2
1040A	U.S. Individual Income Tax Return	2.1; 2.4; 3.1; 3.2; 3.4; 5.1; 5.2; 5.3; 7.3; 8.1
1040EZ	Income Tax Return for Single and Joint Filers With No Dependents	2.4; 3.1; 3.4; 7.3; 8.1
1040–NR	U.S. Nonresident Alien Income Tax Return	8.1
1040–V	Form 1040 Payment Voucher	2.3
1041	U.S. Income Tax Return for Estates and Trusts	1.3; 2.5; 3.1; 7.2; 8.1
1041–ES	Estimated Income Tax for Estates and Trusts	1.1; 2.3; 3.2
1042–S	Foreign Person's U.S. Source Income Subject to Withholding	1.2; 4.1; 4.2; 7.1
1065	U.S. Partnership Return of Income	1.3; 2.5; 3.1; 7.2; 7.3; 8.1
1065–B	U.S. Return of Income for Electing Large Partnerships	1.3; 7.2
1096	Annual Summary and Transmittal of U.S. Information Returns	1.1; 1.2; 4.1; 4.2
1098	Mortgage Interest Statement	1.1; 1.2; 4.1; 4.2
1099	Series	1.1; 1.2; 4.1; 4.2
1120	U.S. Corporation Income Tax Return	2.5; 3.1; 3.4; 5.1; 6.2; 7.3; 7.4
1120–S	U.S. Income Tax Return for an S Corporation	1.3; 3.1; 7.2; 7.3
2106–EZ	Unreimbursed Employee Business Expenses	6.1
2290	Heavy Vehicle Use Tax Return	2.3; 7.3
3468	Investment Credit	2.5
4136	Credit for Federal Tax Paid on Fuels	2.5
4972	Tax on Lump Sum Distributions	5.4
5471	Information Return of U.S. Persons With Respect to Certain Foreign Corporations	7.4
5472	Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business	7.4
5498	Individual Retirement Arrangement Information	1.1; 1.2; 4.1; 4.2
5500	Annual Return/Report of Employee Benefit Plan	1.1; 1.2; 1.3
5500–EZ	Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan	1.1; 1.2; 1.3
8453	U.S. Individual Income Tax Declaration for an IRS e-file Return	8.1
8453–NR	U.S. Nonresident Alien Income Tax Declaration for Magnetic Media Filing	8.1

Form	Title	Section
8453–OL	U.S. Individual Income Tax Declaration for an e-file Online Return	8.1
8633	Application to Participate in the IRS e-file Program	8.1
8814	Parents' Election To Report Child's Interest and Dividends	5.4
9041	Application for Electronic/Magnetic Media Filing of Business and Employee Benefit Plan Returns	8.1
W–2	Wage and Tax Statement	1.1; 1.2; 4.1; 4.2
W–2c	Corrected Wage and Tax Statement	1.1; 1.2; 4.1; 4.2
W–2G	Certain Gambling Winnings	1.1; 1.2; 4.1; 4.2
W–3	Transmittal of Income and Tax Statements	1.1; 1.2; 4.1; 4.2
W–3c	Transmittal of Corrected Wage and Tax Statements	1.1; 1.2; 4.1; 4.2
W–4	Employee's Withholding Allowance Certificate	4.2

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
(Also Part I, § 1397B.)

Rev. Proc. 2002–62

SECTION 1. PURPOSE

This revenue procedure explains how taxpayers may make an election under § 1397B of the Internal Revenue Code to defer recognition of certain gain on the sale of a qualified empowerment zone asset (QEZ asset).

SECTION 2. BACKGROUND

.01 Section 1397B, as added by § 116 of the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106–554, 114 Stat. 2763 (December 21, 2000), generally allows a taxpayer to elect to rollover the gain realized from the sale of a QEZ asset purchased after December 21, 2000, and held for more than one year. If the taxpayer makes the election under § 1397B as provided in this revenue procedure, gain from that sale is recognized only to the extent that the amount realized on the sale exceeds (1) the cost of any QEZ asset purchased by the taxpayer in the same zone as the sold QEZ asset during the 60-day period beginning on the date of the sale of the QEZ asset, reduced by (2) any portion of the cost of any replacement QEZ asset referred to in section 2.01(1) of this revenue procedure that was previously taken into account under § 1397B. However, pursuant to § 1397B(b)(2), the election is not available to defer any gain that is: (1) treated as ordinary income for purposes of subtitle A of the Code; or (2) attributable to real property or an intangible asset neither of which is an integral part of an enterprise zone business.

.02 Under § 1397B(b)(1)(A), a QEZ asset means any property that would be a qualified community asset (as defined in § 1400F) if in § 1400F: (1) references to empowerment zones were substituted for references to renewal communities; (2) references to enterprise zone businesses (as defined in § 1397C) were substituted for references to renewal community businesses; and (3) the date of the enactment of § 1397B (December 21, 2000) were substituted for December 31, 2001, each place it appears. However, under § 1397B (b)(1)(B), the District of Columbia Enterprise Zone is not treated as an empowerment zone for purposes of § 1397B.

SECTION 3. PASSTHROUGH ENTITIES

.01 A passthrough entity (within the meaning of § 1202(g)(4)) may make a § 1397B election if the entity sells a QEZ asset purchased after December 21, 2000, and held for more than one year, purchases a replacement QEZ asset in the same zone as the sold QEZ asset within 60 days of the sale of QEZ asset, and otherwise satisfies the requirements of § 1397B and this revenue procedure.

.02 If the passthrough entity chooses not to make the § 1397B election, a taxpayer who held an interest in the entity at the time the entity sold the QEZ asset, purchases a replacement QEZ asset in the same zone as the sold QEZ asset within 60 days of the sale of the QEZ asset, and otherwise satisfies the requirements of § 1397B and this revenue procedure may make the § 1397B election with respect to the taxpayer's share of any qualifying gain on the sale.

SECTION 4. ELECTION PROCEDURE

.01 *Time for Making the Election.* A § 1397B election must be made by the due date (including extensions) of the tax return for the taxable year in which a QEZ asset is sold.

.02 *Manner of Making the Election.*

(1) *In general.* Except as provided in section 4.02(2) of this revenue procedure, the election is made by:

(a) reporting the entire gain realized from the sale of the QEZ asset on the applicable line of Form 4797, *Sales of Business Property*, or Schedule D, *Capital Gains and Losses*, as appropriate, of the return; and

(b) on line 2 of Form 4797, or the line directly below the line on Schedule D on which the gain is reported, entering in column (a) "Section 1397B Rollover", and on the same line, entering as a loss in column (g) of Form 4797 or column (f) of Schedule D, as appropriate, the amount of the gain deferred under § 1397B.

(2) *Transition rule.* If the gain from the sale of a QEZ asset is reported on a timely filed return before October 7, 2002, and includes an affirmative statement to the effect that a § 1397B election applies to the gain, the requirements of section 4.02(1) of this revenue procedure will be treated as satisfied so that it will not be necessary to file an amended return to make the § 1397B election. Otherwise, an amended return satisfying the requirements of section 4.02(1) of this revenue procedure must be filed in order to make the § 1397B election with re-

spect to the gain. This amended return must be filed on or before January 6, 2003, and must include the statement "Filed Pursuant to Rev. Proc. 2002–62" at the top of the amended return.

.03 *Scope of the Election.* If a taxpayer has more than one sale of a QEZ asset in a taxable year that qualifies for the § 1397B election, the taxpayer may make a § 1397B election for one or more of those sales.

.04 *Revocation.* A § 1397B election is revocable only with the prior written consent of the Commissioner of Internal Revenue. To request the Commissioner's consent, the taxpayer who made the § 1397B election must submit a request for a private letter ruling in accordance with the provisions of Rev. Proc. 2002–1, 2002–1 I.R.B. 1 (or its successors).

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for sales of QEZ assets occurring after December 21, 2001.

DRAFTING INFORMATION

The principal author of this revenue procedure is Douglas Kim of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure, contact Mr. Kim at (202) 622–3110 (not a toll-free call).

Part IV. Items of General Interest

Notice of Proposed Rulemaking by Cross Reference to Temporary Regulations

Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code

REG–134026–02

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: In this issue of the Bulletin, the IRS is issuing temporary regulations (T.D. 9015) that modify the existing regulations promulgated under section 7602(a) of the Internal Revenue Code relating to administrative summonses. The temporary regulations confirm that officers and employees of the Office of Chief Counsel may be included as persons designated to receive summoned books, papers, records, or other data and to take summoned testimony under oath. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by December 9, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–134026–02), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Alternatively, submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–134026–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Comments may also be submitted electronically to the IRS Internet site at: *www.irs.gov/regs***.**

FOR FURTHER INFORMATION CONTACT: Elizabeth Rawlins at 202–622–3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Explanation of Provisions

The temporary regulations in the Rules and Regulations section of the **Federal Register** dated September 10, 2002, amend the Procedure and Administration Regulations (26 CFR part 301) under section 7602 of the Internal Revenue Code of 1986 (Code). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because this notice of proposed rulemaking does not impose a collection of information obligation on small entities, it is not subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Code, the temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS or electronically generated comments that are submitted timely to the IRS. The IRS generally requests any comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Elizabeth Rawlins of the Office of the Associate Chief Counsel (Procedure and Administration), Collection, Bankruptcy and Summonses Division.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

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

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

Par. 2. Section 301.7602–1 is revised to read as follows:

§ 301.7602–1 Examination of books and witnesses.

[The text of this proposed section is the same as the text of § 301.7602–1T published elsewhere in this issue of the **Federal Register**.]

David A. Mader,
Acting Deputy Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on September 9, 2002, 8:45 a.m., and published in the issue of the Federal Register for September 10, 2002, 67 F.R. 57354)

Archer MSAs

Announcement 2002–90

PURPOSE

Sections 220(i) and (j) of the Internal Revenue Code provide that if the number of Medical Savings Account (MSA) returns filed for 2001 or a statutorily specified projection of the number of MSA returns that will be filed for 2002 exceeds 750,000, then October 1, 2002, is a "cut-off " date for the Archer MSA pilot project.

The Internal Revenue Service (IRS) has determined that the applicable number of MSA returns filed for 2001 is 21,079 and that the applicable number of MSA returns projected to be filed for 2002 is 59,151 (after reduction in each case for statutorily specified exclusions, such as the exclusion for previously uninsured taxpayers). Consequently, October 1, 2002, is not a "cut-off " date and 2002 is not a "cut-off " year for the Archer MSA pilot project.

BACKGROUND

The Health Insurance Portability and Accountability Act of 1996 added section 220 to the Code to permit eligible individuals to establish Archer MSAs under a pilot project effective January 1, 1997. The pilot project, as amended by The Job Creation and Worker Assistance Act of 2002 has a scheduled "cut-off" year of 2003, but may have an earlier "cut-off" year if the number of individuals who have established Archer MSAs exceeds certain numerical limitations. See sections 220(i) and (j).

If a year is a "cut-off" year, section 220(i)(1) generally provides that no individual will be eligible for a deduction or exclusion for Archer MSA contributions for any taxable year beginning after the "cut-off" year unless the individual (A) was an active MSA participant for any taxable year ending on or before the close of the "cut-off" year, or (B) first became an active MSA participant for a taxable year ending after the "cut-off" year by reason of coverage under a high deductible health plan of an MSA-participating employer.

Section 220(j)(2)(A) provides that the numerical limitation for 2002 is exceeded if the number of MSA returns filed on or before April 15, 2002, for taxable years ending with or within the 2001 calendar year, plus the Secretary's estimate of the number of MSA returns for those taxable years which will be filed after April 15, 2002, exceeds 750,000. For this purpose, section 220(j)(2)(A) provides that a tax return is an MSA return for a taxable year if any exclusion is claimed under section 106(b) or any deduction is claimed under section 220 for that taxable year. Section 220(j)(2)(B) provides, as an alternative test, that the numerical limitation for 2002 is also exceeded if the sum of 90 percent of the MSA returns for 2001 plus the product of 2.5 and the number of Archer MSAs for taxable years beginning in 2002 that are established during the portion of 2002 preceding July 1 (based on reports by Archer MSA trustees and custodians), exceeds 750,000.

Under section 220(j)(3), in determining whether any calendar year is a "cut-off" year, the Archer MSA of any previously uninsured individual is not taken into account. In addition, section 220(j)(4)(D) specifies that, to the extent practical, all Archer MSAs established by an individual are aggregated and two married individuals opening separate Archer MSAs are to be treated as having a single Archer MSA for purposes of determining the number of Archer MSAs.

A total of 61,802 tax returns reporting an excludable or deductible contribution to an Archer MSA for the 2001 taxable year were filed by April 15, 2002. Of this total, 49,653 taxpayers were reported as being previously uninsured. It has been estimated that an additional 17,111 tax returns reporting Archer MSA contributions for the 2001 taxable year have been or will be filed after April 15, 2002, including 8,181 taxpayers who were previously uninsured. Accordingly, it has been determined that there were 78,913 (61,802 plus 17,111) MSA returns for 2001. Of this total, 57,834 (49,653 plus 8,181) were for taxpayers reported as being previously uninsured. As a result, 21,079 (78,913 minus 57,834) MSA returns count toward the applicable statutory limitation for 2002 MSA returns of 750,000.

Based on the Forms 8851 filed on or before August 1, 2002, by Archer MSA trustees and custodians, it has been determined that 20,592 taxpayers who did not have Archer MSA contributions for 2001 established Archer MSAs for 2002 during the portion of 2002 preceding July 1. Of this total, 4,490 taxpayers were reported by trustees and custodians as previously uninsured, and therefore are not taken into account in determining whether 2002 is a "cut-off" year. In addition, 30 taxpayers were reported by trustees and custodians as excludable from the count because their spouse also established an Archer MSA. Accordingly, the applicable number of Archer MSAs established from January 1, 2002, through June 30, 2002, is 16,072 (20,592 minus (4,490 plus 30)). The alternative limitation for 2002 (90 percent of the applicable number of MSA returns for 2001 plus the product of 2.5 and the number of applicable Archer MSAs established from January 1, 2002 through June 30, 2002) is 59,151 (90 percent of 21,079 plus 2.5 times 16,072), which is less than the statutory limit of 750,000. Thus, 2002 is not a "cut-off" year for the Archer MSA pilot project by reason of either the 2001 MSA returns test of section 220(j)(2)(A) or the alternative test of section 220(j)(2)(B) of the Code.

Questions regarding this announcement may be directed to Shoshanna Chaiton in the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) at (202) 622–6080 (not a toll-free number).

Guidance Regarding Mixed Use Output Facilities

Announcement 2002–91

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document describes and illustrates rules the IRS and Treasury Department expect to propose in a notice of proposed rulemaking with respect to the issuance of tax-exempt bonds for the government use portion of an output facility that is used for both a government use and a private business use. This document also invites comments from the public regarding these rules. Issuers may rely on this advance notice of proposed rulemaking for issues sold before the notice of proposed rulemaking is issued.

DATES: Written and electronic comments must be submitted by December 23, 2002.

ADDRESSES:

Send submissions to: CC:ITA:RU (REG–142599–02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–142599–02), courier's desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, submissions may be made

electronically to the IRS Internet site at *http://www.irs.gov/regs.*

FOR FURTHER INFORMATION CONTACT: Concerning submissions, Guy Traynor, (202) 622–7180; concerning the proposals, Rose M. Weber, (202) 622–3980 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

In general, under section 103 of the Internal Revenue Code, gross income does not include the interest on any State or local bond. However, this exclusion generally does not apply to private activity bonds. Section 141(a)(1) defines a private activity bond as any bond issued as part of an issue that meets either (1) the private business use test in section 141(b)(1) and the private security or payment test in section 141(b)(2) (the private business tests) or (2) the private loan financing test in section 141(c).

The private business use test is met if more than 10 percent of the proceeds of an issue are to be used for any private business use. Section 141(b)(6) defines private business use as use directly or indirectly in a trade or business that is carried on by any person other than a governmental unit. Section 141(b)(7) defines government use as any use other than a private business use.

The private security or payment test is met if the payment of the principal of, or the interest on, more than 10 percent of the proceeds of an issue is directly or indirectly (1) secured by an interest in property used or to be used for a private business use, (2) secured by an interest in payments in respect of such property, or (3) to be derived from payments, whether or not to the issuer, in respect of property, or borrowed money, used or to be used for a private business use.

Section 1.141–7 of the Income Tax Regulations provides rules under which the purchase pursuant to a contract by a nongovernmental person of available output of an *output facility* (output contract) may be taken into account under the private business tests. Section 1.141–1(b) defines *output facility* as electric and gas generation, transmission, distribution, and related facilities, and water collection, storage, and distribution facilities.

Section 141(b)(4) contains a special limitation under which an issue five percent or more of the proceeds of which are to be used with respect to any output facility (other than a facility for the furnishing of water) will be treated as meeting the private business tests if the nonqualified amount for the issue exceeds the excess of $15 million, over the aggregate nonqualified amounts with respect to all prior tax-exempt issues 5 percent or more of the proceeds of which are or will be used with respect to such facility (or any other facility which is part of the same project). Section 141(b)(8) defines *nonqualified amount* as the lesser of (1) the proceeds used for a private business use, or (2) the proceeds with respect to which there are payments, property or borrowed money taken into account under the private security or payment test.

The Conference Committee Report to the Tax Reform Act of 1986, H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II–690 (1986), 1986–3 (Vol. 4) C.B. 686 (the Conference Report), contains an example that illustrates the treatment under section 141(b)(4) of an output facility the output of which is sold for both a government use and a private business use (a mixed use output facility), but the amount of private business use and private payments would cause bonds to be private activity bonds if they financed the entire facility. In the Conference Report example, a single issue of tax-exempt bonds is contemplated to finance the acquisition of a $500 million electric generating facility. Ten percent of the output of the facility will be sold to an investor-owned utility under an output contract that gives rise to private business use. The Conference Report example concludes that $465 million of tax-exempt bonds may be used to acquire the facility, $450 million for the 90 percent of the facility that is used for a government use, plus $15 million for the allowable private business use portion under section 141(b)(4). Section 1.141–8(c) contains an example that is substantially the same as the example contained in the Conference Report.

The IRS and Treasury Department are reviewing the application of section 141 to mixed use output facilities. This Announcement describes and illustrates rules that the IRS and Treasury Department expect to propose in a notice of proposed rulemaking (the proposed regulations) as part of the 2002–2003 Guidance Priority Plan. The proposed regulations will provide guidance regarding the issuance of tax-exempt bonds for the government use portion of a mixed use output facility without the bonds being characterized as private activity bonds.

Explanation of Provisions

A. *Mixed Use Allocations*

1. *In general*

The proposed regulations will provide that tax-exempt bonds may be issued to finance costs attributable to the government use portion of a mixed-use output facility (plus any costs attributable to *de minimis* private business use permitted under section 141) without the bonds being characterized as private activity bonds. For this purpose, the term facility includes an undivided ownership interest in a facility. With respect to arrangements for the purchase of output, the government use portion of an output facility is determined based on the percentage of the available output of the facility that is not used for a private business use (as determined under § 1.141–7).

2. *Allocation of private business use and payments*

The proposed regulations will provide that, in the case of a mixed use output facility, output contracts that result in private business use (including any payments thereunder) are allocated first to the portion of the facility that is financed with equity. For this purpose, *equity* means any amount other than proceeds of a tax-exempt bond, including funds of the issuer that are not derived from a borrowing and proceeds of taxable bonds, but does not include any amount allocable to a tax-exempt bond that has been retired. With respect to each issue of bonds, the portion of the output facility financed with equity is determined based on expenditures of equity that are made contemporaneously with expenditures of proceeds of the issue as part of the same plan of financing. In order for an output contract to be allocated (in whole or in part) to the equity-financed portion of an output facility as described in this paragraph, it first must be allocable to the facility under the facts and circumstances test contained in § 1.141–7(h). For example, an output contract that is allocable to two output facilities under § 1.141–7(h) may not

be allocated in its entirety to the equity-financed portion of one of the facilities.

B. *Examples*

The provisions of the proposed regulations described above are illustrated by the following examples (although the examples involve only an electric transmission facility, the principles illustrated apply equally to all output facilities):

Example 1.

Authority is a governmental person that owns and operates an electric transmission facility. Prior to 2003, Authority incurred capital costs of $500 million for the facility. None of those costs was financed with tax-exempt bonds. In 2003, Authority needs to make repairs, upgrades and improvements to the facility in the amount of $50 million. On April 10, 2003, Authority issues an issue with proceeds of $30 million and uses those proceeds to pay capital costs of the facility. As part of the same plan of financing, Authority also uses $20 million of its own funds which are not derived from a borrowing to pay capital costs of the facility. With respect to the 2003 issue, 46 percent of the available output (as determined under § 1.141–7) of the facility is sold under output contracts that result in private business use. Thus, of the $50 million of new capital costs, $27 million (54 percent) are attributable to government use and $23 million (46 percent) are attributable to private business use. In general, output contracts that result in private business use are allocated first to the portion of the output facility that is financed with equity. Therefore, of the $23 million of costs attributable to private business use, $20 million are allocable to Authority's equity and $3 million are allocable to the 2003 issue. Thus, $27 million (90 percent) of the proceeds of the issue are used for a government use. The issue does not consist of private activity bonds.

Example 2.

The facts are the same as in *Example 1*, except that by 2010, only 75 percent of the original principal amount of the 2003 issue remains outstanding. The retirement of a portion of the issue does not affect the amount of private business use of the facility that must occur in order for the issue to consist of private activity bonds.

Request for Comments

Before the notice of proposed rulemaking is issued, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying. In addition to comments regarding allocation and accounting rules for mixed use output facilities, comments are also invited on allocation and accounting rules under section 141 for other facilities that are used for both a government use and a private business use.

Reliance on Announcement

Issuers may rely on the rules described in this Announcement with respect to any issue that is sold before the date the proposed regulations are published in the **Federal Register** (or such later date as may be specified in the proposed regulations or final regulations). Issuers may rely on this Announcement with respect to bonds that are subject to the Internal Revenue Code of 1986 or the Internal Revenue Code of 1954.

Drafting Information

The principal authors of this advance notice of proposed rulemaking are Bruce M. Serchuk and Rose M. Weber, Office of Chief Counsel (Tax Exempt and Government Entities), Internal Revenue Service, and Stephen J. Watson, Office of Tax Legislative Counsel, Department of the Treasury. However, other personnel from the IRS and Treasury Department participated in its development.

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 law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

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

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

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

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

Abbreviations

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

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance 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.—Statements of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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Key to Abbreviations:

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

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