Internal Revenue bulletin

Bulletin No. 2011-41
October 11, 2011

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. 2011–22, page 489.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for October 2011.

Rev. Rul. 2011–24, page 485.

Telecommunications services under section 199. This ruling determines in certain situations whether a taxpayer providing telecommunications services is deriving gross receipts from services, leasing or renting property, or some combination thereof for purposes of the domestic production activities deduction under section 199 of the Code.

Notice 2011–74, page 496.

This notice provides for the suspension of certain requirements under section 42 of the Code for low-income housing credit projects in order to provide emergency housing relief needed as a result of the devastation caused by Tropical Storm Irene in Vermont beginning on August 27, 2011.

Notice 2011–79, page 498.

Extension of replacement period for livestock sold on account of drought. This notice explains the circumstances under which the 4-year replacement period under section 1033(e)(2) of the Code is extended for livestock sold on account of drought. The Appendix to this notice contains a list of the counties that experienced exceptional, extreme, or severe drought during the preceding 12-month period ending August 31, 2011. Taxpayers may use this list to determine if an extension is available.

EXEMPT ORGANIZATIONS

Announcement 2011–63, page 503.

The IRS has revoked its determination that Allied Veterans of the World, Inc., & Affiliates of Charlotte, NC; Metropolitan Financial Management Corporation of Roseville, MN; Saint Rest No. 2 Missionary Baptist Church of Chicago, IL; American Homebuyers Foundation, Inc., of Conyers, GA; Bundle of Joy Daycare, Inc., of Long Beach, CA; Columbia Basin Animal Rescue and Protection Agency of Kennewick, WA; Handicap Interests International and World Religions of Saranac Lake, NY; Holographic Ecology, Inc., of Santa Barbara, CA; Mattie's Maternity Homes of Palmdale, CA; Monytek Human Services, Inc., of Pendleton, OR; and Community Day Care Center of Abbeyville, LA, qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Code.

EMPLOYMENT TAX

Announcement 2011–64, page 503.

This announcement provides notice and details regarding the new Voluntary Classification Settlement Program (VCSP). The VCSP will allow eligible taxpayers to obtain similar relief to that obtained in the current Classification Settlement Program (CSP), which is only available to taxpayers under IRS examination. The VCSP is optional and provides taxpayers with an opportunity to voluntarily reclassify their workers as employees for future tax periods with limited federal employment tax liability for the past nonemployee treatment. To participate, taxpayers must meet certain eligibility requirements, apply to participate in VCSP, and enter into a closing agreement with the IRS.

(Continued on the next page)

Finding Lists begin on page ii.

Department of the Treasury
Internal Revenue Service

ADMINISTRATIVE

T.D. 9545, page 490.

Final regulations under section 6404 of the Code relate to the suspension of interest, penalties, additions to tax, or additional amounts under section 6404(g). Notice 2007–93 obsoleted.

Notice 2011–78, page 497.

This notice provides relief to insurance companies administering certain self-insurance arrangements on behalf of an employer or other entity from any information reporting obligations under section 6050W of the Code. Insurance companies may rely on this notice until the regulations under section 6050W are amended.

The IRS Mission

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

Introduction

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

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

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

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.
This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.
This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.
To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.
This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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Part 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 2011. See Rev. Rul. 2011-22, page 489.

Section 199.—Income Attributable to Domestic Production Activities

26 CFR 1.199–3: Domestic production gross receipts.
(Also: § 7701.)

Telecommunications services under section 199. This ruling determines in certain situations whether a taxpayer providing telecommunications services is deriving gross receipts from services, leasing or renting property, or some combination thereof for purposes of the domestic production activities deduction under section 199 of the Code.

Rev. Rul. 2011–24

ISSUE

In the situations described below, does a taxpayer that provides telecommunication services derive gross receipts from services to customers, leasing or renting property to customers, or some combination thereof for purposes of the domestic production activities deduction under § 199 of the Internal Revenue Code?

FACTS

Situation 1. *Z* corporation is in the business of providing telecommunication services, including the transmission of voice, data, and video communications. *Z* contracts with *A*, a corporation that is not in the telecommunications industry, to transmit *A*'s telecommunications. *A* has multiple business locations. The contract requires *Z* to transmit *A*'s telecommunications at *A*'s desired times, to *A*'s desired destinations, and at a certain speed. If *Z* cannot transmit *A*'s telecommunications according to the terms of the contract, then the contract requires *Z* to provide *A* with a service credit. The contract requires *A* to make payments to *Z* for transmitting *A*'s telecommunications.

Z's optical and digital transmission equipment, usually a Synchronous Optical Network (SONET) ring, and the associated Public Switched Telephone Network (PSTN) are used to transmit *A*'s telecommunications. *Z*'s SONET ring is deployed in a ring topology and interconnects multiple business locations designated by *A* so that telecommunications can be transmitted between *A*'s business locations without being transmitted to *Z*'s PSTN. The SONET ring also connects with *Z*'s central office, switching center, or remote terminal so that telecommunications can be transmitted to and from *Z*'s PSTN.

The PSTN is comprised primarily of fiber optic cable and copper cable that connects switching centers with each other and connects switching centers to remote terminals. The PSTN is owned by *Z* and is not dedicated to *A* or to any of *Z*'s other customers. *Z*'s PSTN provides a multitude of different pathways to transmit telecommunications to and from *A*'s business locations. The SONET ring and PSTN assets used to transmit *A*'s telecommunications include: (1) network electronics, such as multiplexers, switches, routers, digital cross connects, optical and digital transmission equipment; (2) fiber optic cable and/or copper cable; (3) network facilities such as a central office; and (4) software.

A owns some telecommunications equipment that connects with the SONET ring to allow transmission of *A*'s telecommunications between *A*'s business locations or to the PSTN, and transmission of others' telecommunications to *A* from the PSTN. *A*'s telecommunications equipment is located solely on *A*'s side of the demarcation point (point of interconnection) as that term is used in 47 C.F.R. Part 68. *A*'s telecommunications equipment typically includes a router, a channel service unit/data service unit, and diagnostics modem (collectively the "customer premises equipment"). The contract does not require *Z* to provide any services related to *A*'s customer premises equipment.

Z owns, installs, operates, and maintains the SONET ring and PSTN. *Z* will replace any SONET ring and PSTN assets when repairs or upgrades are required. The contract requires that *A* grant *Z* reasonable access to *A*'s premises for the purpose of installing, inspecting, testing, rearranging, maintaining, repairing, or removing any of the SONET ring assets located on *A*'s premises. *Z* maintains and repairs the SONET ring and PSTN at no additional charge to *A*. *A* is prohibited from installing, inspecting, testing, rearranging, maintaining, repairing, or removing any component of the SONET ring and/or PSTN.

Situation 2. The facts and circumstances are the same as in *Situation 1*, except *A* does not have multiple business locations and *Z*'s dedicated circuit, instead of a SONET ring, is used to transmit *A*'s telecommunications to the PSTN and others' telecommunications from the PSTN. All telecommunications transmitted to or from *A* must be transmitted using the PSTN. *Z*'s dedicated circuit, also referred to as the "local loop" or "last mile," is comprised of *Z*'s equipment (copper or fiber optic cable, point of presence equipment, and dedicated or shared equipment).

Z generally does not notify *A* if *Z* repairs the dedicated circuit or PSTN. *Z* may notify *A* if *Z* upgrades the dedicated circuit or PSTN. *A* cannot stop *Z* from making any necessary repairs or upgrades to the dedicated circuit or PSTN.

Situation 3. The facts are the same as *Situation 2* except that *A* does not own the customer premises equipment required to connect with the dedicated circuit to allow transmission of *A*'s telecommunications. As part of the contract for *Z* to transmit *A*'s telecommunications, *Z* also provides the customer premises equipment, and provides support services to *A* in relation to managing the customer premises equipment. The contract provides that it is a lease of the customer premises equipment to *A*, but does not separately state the lease amount.

Z delivers and installs the customer premises equipment on *A*'s premises. *Z*, if necessary, helps maintain the customer premises equipment by providing telephone support services to *A*'s designated employees related to diagnosing problems and repairing and replacing the customer premises equipment. *Z* can also remotely perform certain maintenance or diagnostic tasks. *A*'s designated employees complete any required repair or replacement. *A* is liable for any repair charges or the replacement cost of the customer premises equipment if it is damaged or lost. *A* can relocate or modify the customer premises equipment, and may attach it to non-*Z* equipment with *Z*'s written authorization, which may not be unreasonably withheld. When the contract terminates, if *A* does not return the customer premises equipment or make it available for removal by *Z*, then *A* is liable to *Z* for the customer premises equipment's then current market value. *A* is liable for costs of any restoration of the customer premises equipment beyond ordinary wear and tear.

LAW AND ANALYSIS

Section 199(a)(1) allows a deduction equal to 9 percent (3 percent in the case of taxable years beginning in 2005 or 2006, and 6 percent in the case of taxable years beginning in 2007, 2008, or 2009) of the lesser of (A) the qualified production activities income (QPAI) of the taxpayer for the taxable year, or (B) taxable income (determined without regard to § 199) for the taxable year (or, in the case of an individual, adjusted gross income).

Sections 199(b)(1) and (b)(2) limit the amount of the deduction allowable under § 199(a) to 50 percent of the W–2 wages of the taxpayer for the taxable year that are allocable to domestic production gross receipts (DPGR).

Section 199(c)(1) defines QPAI for any taxable year as an amount equal to the excess (if any) of (A) the taxpayer's DPGR for such taxable year, over (B) the sum of (i) the cost of goods sold that are allocable to such receipts; and (ii) other expenses, losses, or deductions (other than the deduction under § 199) that are properly allocable to such receipts.

Section 199(c)(4)(A)(i)(I) provides that the term DPGR means the taxpayer's gross receipts that are derived from any lease, rental, license, sale, exchange, or other disposition of qualifying production property that was manufactured, produced, grown, or extracted by the taxpayer in whole or in significant part within the United States.

Section 1.199–3(i)(1) of the Income Tax Regulations provides that applicable Federal income tax principles apply to determine whether a transaction is, in substance, a lease, rental, license, sale, exchange, or other disposition, whether it is a service, or whether it is some combination thereof. Section 1.199–3(i)(4)(i)(A) provides that gross receipts derived from the performance of services generally do not qualify as DPGR.

Section 1.199–3(i)(6)(ii) provides that gross receipts derived from customer and technical support, telephone and other telecommunication services, online services (such as Internet access services, online banking services, providing access to online electronic books, newspapers, and journals), and other similar services do not constitute gross receipts derived from a lease, rental, license, sale, exchange, or other disposition of computer software. *Example 3* of § 1.199–3(i)(6)(v) concludes that gross receipts derived from telephone and related telecommunication services run by computer software produced by the taxpayer are attributable to a service and do not constitute gross receipts derived from a lease, rental, license, sale, exchange, or other disposition of computer software.

Rev. Rul. 68–109, 1968–1 C.B. 10, holds that switchboards or dial switching apparatus installed by the taxpayer, a regulated communications utility, at a customer location and used to furnish communications services to tax-exempt organizations or governmental units were eligible for the investment tax credit because the equipment installed was not owned or leased by the tax-exempt organizations or governmental units. The taxpayer retained all ownership in, and possession and control over, the equipment. The agreement entered into between the taxpayer and the customer was not a sale or lease but a service contract. The services furnished by the taxpayer and the manner in which they must be furnished were described in tariffs (which did not include provisions that authorized the taxpayer to sell or lease any of the property in question) on file with the Federal Communications Commission, and with the pertinent state public utility regulatory agencies.

Rev. Rul. 72–407, 1972–2 C.B. 10, holds that fully serviced vehicles that were furnished on a daily basis to a department of the United States Government were ineligible property for purposes of the investment tax credit because the vehicles were provided under a lease arrangement rather than a service contract. The ruling reasons that the provision of vehicles was more analogous to the facts under Rev. Rul. 71–397, 1971–2 C.B. 63 (in which an owner-manufacturer's machines placed with and for the use of tax-exempt organizations and governmental units were not eligible for the investment tax credit because the manufacturer did not have possession and use of the machines), than to the facts under Rev. Rul. 68–109. The ruling reasons that, because the vehicles were not part of an integrated network and no government regulations prohibited a lease of the vehicles, provision of the vehicles was fundamentally different from the provision of communications services considered in Rev. Rul. 68–109. The vehicles were provided to the governmental unit by the taxpayer; however, the taxpayer did not use them to render services to the governmental unit. Instead, the placement of the vehicles with the governmental unit allowed the governmental unit to provide services to itself.

In addition, case law addresses whether a contract is a lease or a service contract. For example, in *Xerox Corporation v. United States*, 656 F.2d 659 (Ct. Cl. 1981), the court held that machines were eligible for the investment tax credit because the machines were not leased but supplied as an integral part of service. The court, after citing Rev. Rul. 68–109 and other rulings, focused the service-versus-lease analysis on the possessory interest a taxpayer retains in the property and whether the property is part of an integrated operation. The court described four factors to use when analyzing the possessory interest: (1) retention of property ownership by taxpayer (*see* Rev. Rul. 68–109); (2) retention of possession and control of the property by taxpayer (*see* Rev. Rul. 68–109 and Rev. Rul. 71–397); (3) retention of risk of loss by the taxpayer (*see* Rev. Rul. 68–109); and (4) reservation of the right to remove the property, and replace it with comparable property.

In *Smith v. Commissioner*, T.C. Memo. 1989–318, in determining whether the taxpayer was eligible for the investment tax credit, the court listed four factors for distinguishing leases from service contracts: (1) which party has the use and possession or control of the equipment; (2) which party operates the machine; (3) whether the tax-exempt organization pays for the use of the machine for some duration, or, instead pays based upon the number of procedures executed; and (4) whether the equipment is part of a broader, integrated system of equipment and services.

Applicable Federal income tax principles relevant to determining whether a taxpayer's gross receipts are derived from providing telecommunication services or from a lease or rental of property include the factors described in § 7701(e)(1). Section 7701(e)(1) provides that for purposes of chapter 1, of which § 199 is a part, a contract that purports to be a service contract shall be treated as a lease of property if such contract is properly treated as a lease of property taking into account all relevant factors, including whether or not (A) the service recipient is in physical possession of the property, (B) the service recipient controls the property, (C) the service recipient has a significant economic or possessory interest in the property, (D) the service provider does not bear any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract, (E) the service provider does not use the property concurrently to provide significant services to entities unrelated to the service recipient, and (F) the total contract price does not substantially exceed the rental value of the property for the contract period.

Although authorities on Federal income tax principles such as those summarized above demonstrate that Federal income tax principles are generally used to determine a single character for a given transaction, § 1.199–3(i)(1) provides that, solely for purposes of § 199, a single transaction may, depending on applicable Federal income tax principles, have both a services element and a lease element. Accordingly, the application of Federal income tax principles described in § 1.199–3(i)(1) requires an analysis of relevant factors taken from Federal income tax principles, but does not require a determination of a single character. However, analysis of the relevant factors may lead to a determination that the transaction has only a single character element for purposes of § 199.

In *Situation 1*, under the applicable Federal income tax principles described above, *Z* is using its SONET ring and PSTN to provide telecommunication services to *A*, not providing a combination of telecommunication services with a lease or rental of *Z*'s SONET ring or PSTN to *A*. Although a determination for § 199 purposes that a transaction constitutes exclusively the provision of services requires thorough consideration of all relevant facts and circumstances, several significant factors in *Situation 1* support this conclusion.

For instance, *Z* maintains control of the SONET ring and PSTN that are necessary for *Z* to fulfill the conditions of its contract with *A*. To fulfill the contract terms, *Z* must transmit *A*'s telecommunications at *A*'s desired times, to *A*'s desired destinations, and at a certain speed. *A* contracts with *Z* for the quantity and quality of telecommunication services, but does not control how *Z* uses the SONET ring and PSTN to provide the services.

Further, *A* does not have a possessory interest in the SONET ring and PSTN that *Z* uses to complete the transmissions. *Z* must operate the SONET ring and PSTN because, if *A* makes the payments due under the contract to *Z*, *Z* is required to transmit *A*'s telecommunications. *A* does not operate, maintain, repair or upgrade the SONET ring and PSTN. *A* grants *Z* reasonable access to *A*'s premises for the purpose of installing, inspecting, testing, rearranging, maintaining, repairing, or removing any of the SONET ring assets located on *A*'s premises. *Z* operates, maintains, repairs, and upgrades the SONET ring and PSTN at no additional charge to *A*. *A* is prohibited from installing, inspecting, testing, rearranging, maintaining, repairing, or removing any component of the SONET ring or PSTN. *Z* is the party with a possessory interest in the SONET ring and PSTN. *Z* must be able to operate the SONET ring and PSTN because, if *Z* cannot transmit *A*'s telecommunications according to the terms of the contract (*i.e.*, *A*'s desired times, destinations, and speed), then *Z* is required to provide a service credit.

In addition, the SONET ring and PSTN are part of *Z*'s broader integrated operation of transmitting telecommunications. While the SONET ring allows *Z* to transmit *A*'s telecommunications between *A*'s designated business locations without accessing *Z*'s PSTN, the SONET ring also connects with *Z*'s central office, switching center, or remote terminal so that telecommunications can be transmitted to and from *Z*'s PSTN. The PSTN is owned by *Z* and is not dedicated to *A* or to any of *Z*'s other customers. The PSTN provides a multitude of different pathways to transmit telecommunications to and from *A*'s business locations.

In this situation, *A* contracts with *Z* for reliable telecommunication services and *Z* provides those services using its SONET ring and PSTN subject to the contract terms governing the quantity and quality of services that *Z* must provide. Accordingly, *Z*'s gross receipts derived from transmitting *A*'s telecommunications are derived from the performance of services without the lease or rental of *Z*'s SONET ring and PSTN to *A* for purposes of § 199.

In *Situation 2*, under the applicable Federal income tax principles described above, *Z* is using the dedicated circuit and PSTN to provide telecommunication services to *A*, not providing a combination of telecommunication services with a lease or rental of *Z*'s dedicated circuit or PSTN to *A*. Although a determination for § 199 purposes that a transaction constitutes exclusively the provision of services requires thorough consideration of all relevant facts and circumstances, several significant factors in *Situation 2* support this conclusion.

For instance, *A* does not control the dedicated circuit or PSTN as *Z* maintains the same control as *Z* has over the SONET ring and PSTN in *Situation 1*. Further, *A* does not have a possessory interest in the dedicated circuit and PSTN that *Z* uses to complete the transmissions. *Z*, in fact, has broader access to a dedicated circuit than a SONET ring. Also, the dedicated circuit is part of *Z*'s broader integrated operation. The dedicated circuit must connect with *Z*'s PSTN to transmit telecommunications to and from *A*'s business location.

In this situation *A* contracts with *Z* for reliable telecommunication services and *Z* provides those services using its dedicated circuit and PSTN subject to the contract terms governing the quantity and quality of services that *Z* must provide. Accordingly, *Z*'s gross receipts derived from transmitting *A*'s telecommunications are derived from the performance of services without the lease or rental of *Z*'s dedicated circuit or PSTN to *A* for purposes of § 199.

In *Situation 3*, under the applicable Federal income tax principles described above, *Z* is providing a combination of telecommunication services using its dedicated circuit and PSTN and a lease or rental of *Z*'s customer premises equipment to *A*. Although a determination for § 199 purposes that a transaction constitutes a combination of services and a lease or rental requires thorough consideration of all relevant facts and circumstances, several significant factors in *Situation 3* support this conclusion.

With respect to the dedicated circuit and PSTN, the same analysis applies to *Situation 3* as applied in *Situation 2*. In this situation, *A*'s contract with *Z* also includes the provision of customer premises equipment. The customer premises equipment is necessary to allow *A* to connect with the dedicated circuit so that *Z* can transmit telecommunications to and from *A*'s business location.

A controls the customer premises equipment in generally the same manner as in *Situation 2* where *A* owns the customer premises equipment. However, in this case, *Z* owns, provides necessary telephone support services for, and can perform certain remote maintenance and diagnostic tasks on the customer premises equipment. Nevertheless, *A* has a possessory interest in the customer premises equipment. *Z* must operate the dedicated circuit and PSTN, but just as in *Situation 2*, *A* operates the customer premises equipment. *A* designates employees to perform equipment replacement and repair of the customer premises equipment. *Z* provides telephone assistance, but only if necessary. *A* can relocate or modify the customer premises equipment, and may attach it to non-*Z* equipment with *Z*'s written authorization, which may not be unreasonably withheld. *A* is liable for any repair charges or the replacement cost of the equipment if it is damaged or lost. When the contract terminates, if *A* does not return the customer premises equipment or make it available for removal by *Z*, then *A* is liable to *Z* for the customer premises equipment's then current market value. If *A* does return it and the customer premises equipment has more than ordinary wear and tear, then *A* is liable for those restoration costs. The facts demonstrate in this situation that *A* has a possessory interest in the customer premises equipment.

Because *A* is ultimately the party responsible for ensuring that the customer premises equipment is available to connect with the dedicated circuit to allow *Z* to transmit telecommunications to and from *A*'s business location using *Z*'s dedicated circuit and PSTN, the customer premises equipment should not be considered part of *Z*'s broader integrated network.

In this situation *A* contracts with *Z* for reliable telecommunication services and *Z* provides those services using its dedicated circuit and PSTN subject to the contract terms governing the quantity and quality of services that *Z* must provide, but *A* also contracts for the lease or rental of customer premises equipment. Accordingly, *Z*'s gross receipts derived from transmitting *A*'s telecommunications are derived from a combination of services using its dedicated circuit and PSTN and a lease or rental of the customer premises equipment to *A*.

The terms "lease" and "rent" are used interchangeably throughout the Code, and for purposes of this analysis a distinction is unnecessary. The characterization of a transaction as a combination of services and a lease as opposed to a combination of services and a rental has no effect under § 199.

HOLDINGS

In *Situation 1*, *Z*'s gross receipts are derived from the performance of telecommunication services without the lease or rental of *Z*'s SONET ring and PSTN to *A* for purposes of § 199 and do not constitute DPGR.

In *Situation 2*, *Z*'s gross receipts are derived from the performance of telecommunication services without the lease or rental of *Z*'s dedicated circuit and PSTN to *A* for purposes of § 199 and do not constitute DPGR.

In *Situation 3*, *Z*'s gross receipts are derived from a combination of the performance of telecommunication services using its dedicated circuit and PSTN and a lease or rental of the customer premises equipment described above to *A* for purposes of § 199. *Z*'s gross receipts derived from the performance of services do not constitute DPGR and *Z*'s gross receipts derived from the lease or rental of the customer premises equipment only qualify as DPGR if *Z* meets the other requirements of § 199 with respect to the customer premises equipment.

DRAFTING INFORMATION

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

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of October 2011. See Rev. Rul. 2011-22, page 489.

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 2011. See Rev. Rul. 2011-22, page 489.

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 2011. See Rev. Rul. 2011-22, page 489.

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 2011. See Rev. Rul. 2011-22, page 489.

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 2011. See Rev. Rul. 2011-22, page 489.

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 2011. See Rev. Rul. 2011-22, page 489.

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 2011. See Rev. Rul. 2011-22, page 489.

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 2011. See Rev. Rul. 2011-22, page 489.

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 2011. See Rev. Rul. 2011-22, page 489.

Section 846.—Discounted Unpaid Loses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2011. See Rev. Rul. 2011-22, page 489.

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, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for October 2011.

Rev. Rul. 2011–22

This revenue ruling provides various prescribed rates for federal income tax purposes for October 2011 (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)(1) for buildings placed in service during the current month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%. Finally, Table 5 contains the federal rate for determining the present value of an 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. 2011–22 TABLE 1

Applicable Federal Rates (AFR) for October 2011

Period for Compounding

	Annual	*Semiannual*	*Quarterly*	*Monthly*
Short-term				
AFR	.16%	.16%	.16%	.16%
110% AFR	.18%	.18%	.18%	.18%
120% AFR	.19%	.19%	.19%	.19%
130% AFR	.21%	.21%	.21%	.21%
Mid-term				
AFR	1.19%	1.19%	1.19%	1.19%
110% AFR	1.31%	1.31%	1.31%	1.31%
120% AFR	1.44%	1.43%	1.43%	1.43%
130% AFR	1.56%	1.55%	1.55%	1.55%
150% AFR	1.80%	1.79%	1.79%	1.78%
175% AFR	2.09%	2.08%	2.07%	2.07%
Long-term				
AFR	2.95%	2.93%	2.92%	2.91%
110% AFR	3.25%	3.22%	3.21%	3.20%
120% AFR	3.55%	3.52%	3.50%	3.49%
130% AFR	3.85%	3.81%	3.79%	3.78%

REV. RUL. 2011–22 TABLE 2
Adjusted AFR for October 2011
Period for Compounding

	Annual	*Semiannual*	*Quarterly*	*Monthly*
Short-term adjusted AFR	.32%	.32%	.32%	.32%
Mid-term adjusted AFR	1.27%	1.27%	1.27%	1.27%
Long-term adjusted AFR	3.51%	3.48%	3.46%	3.46%

REV. RUL. 2011–22 TABLE 3
Rates Under Section 382 for October 2011

Adjusted federal long-term rate for the current month	3.51%
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.)	3.82%

REV. RUL. 2011–22 TABLE 4
Appropriate Percentages Under Section 42(b)(1) for October 2011

Note: Under Section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%.

Appropriate percentage for the 70% present value low-income housing credit	7.48%
Appropriate percentage for the 30% present value low-income housing credit	3.20%

REV. RUL. 2011–22 TABLE 5
Rate Under Section 7520 for October 2011

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	1.4%

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

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2011. See Rev. Rul. 2011-22, page 489.

Section 6404.—Abatements

26 CFR 301.6404–4: Suspension of interest and certain penalties when the Internal Revenue Service does not timely contact the taxpayer.

T.D. 9545

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 301

Interest and Penalty Suspension Provisions Under Section 6404(g) of the Internal Revenue Code

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations regarding the suspension of interest, penalties, additions to tax, or additional amounts under section 6404(g) of the Internal Revenue Code. The final regulations explain the general rules for suspension and exceptions to those general rules, and incorporate a special rule from

Notice 2007–93, 2007–2 C.B. 1072, regarding the effective date of the changes to section 6404(g) made by the Small Business and Work Opportunity Tax Act of 2007. The final regulations affect taxpayers who file timely individual income tax returns and who fail to receive notification from the IRS of additional tax liability within the time period prescribed by section 6404(g).

DATES: *Effective Date:* These regulations are effective on August 22, 2011.

Applicability Date: Section 301.6404–4(a)(5) applies to notices under section 6404(g)(1)(A) that are provided by the IRS on or after November 26, 2007, and that relate to individual Federal income tax returns that were timely filed before that date.

FOR FURTHER INFORMATION CONTACT: Nathan Rosen, (202) 622–3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Procedure and Administration Regulations (26 CFR part 301) by adding rules relating to the suspension of interest, penalties, additions to tax, or additional amounts under section 6404(g). Section 6404(g) was added to the Code by section 3305 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685, 743) (RRA 98), effective for taxable years ending after July 22, 1998. Section 6404(g) was amended by section 903(c) of the American Jobs Creation Act of 2004, Public Law 108–357 (118 Stat. 1418, 1652) (AJCA), enacted on October 22, 2004, and by section 303 of the Gulf Opportunity Zone Act of 2005, Public Law 109–135 (119 Stat. 2577, 2608–09) (GOZA), enacted on December 21, 2005. Section 8242 of the Small Business and Work Opportunity Tax Act of 2007, Public Law 110–28 (121 Stat. 190, 200), extended the eighteen-month period within which the IRS can, without suspension of interest, contact a taxpayer regarding possible adjustments to the taxpayer's liability to thirty-six months, effective for notices provided after November 25, 2007.

On June 21, 2007, the Treasury Department and the IRS published in the **Federal Register** a notice of proposed rulemaking and notice of public hearing (REG–149036–04, 2007–2 C.B. 411 [72 FR 34199]), corrected at (72 FR 41045) (July 26, 2007), under section 6404(g). The proposed regulations provided guidance regarding the suspension of interest, penalties, additions to tax, or additional amounts under section 6404(g). No comments were received in response to the notice of proposed rulemaking and no public hearing was requested or held. Therefore, the proposed regulations are adopted as amended by this Treasury decision. The revisions are discussed in this preamble.

On June 21, 2007, the Treasury Department and the IRS also published a separate set of temporary regulations (T.D. 9333, 2007–2 C.B. 350 [72 FR 34176]), corrected at 72 FR 41022, and a notice of proposed rulemaking by cross-reference to temporary regulations (REG–149036–04, 2007–2 C.B. 365 [72 FR 34204]), corrected at 72 FR 41045, under section 6404(g) concerning the suspension of interest, penalties, additions to tax, or additional amounts with respect to listed transactions or undisclosed reportable transactions. Those temporary and proposed regulations are not the subject of this Treasury decision, and were published as final regulations on June 16, 2010 (T.D. 9488, 2010–28 I.R.B. 51 [75 FR 33992]).

Explanation of Revisions

The final regulations include new §301.6404–4(a)(5) to address the matters that were the subject of Notice 2007–93. In general, section 6404(g) provides that if an individual taxpayer files a Federal income tax return on or before the due date for that return (including extensions), and if the IRS does not timely provide a notice to that taxpayer specifically stating the taxpayer's liability and the basis for that liability, then the IRS must suspend any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return that is computed by reference to the period of time the failure continues and that is properly allocable to the suspension period. A notice is timely if provided before the close of the 18-month period (36-month period, in the case of notices provided after November 25, 2007, subject to the provisions of §301.6404–4(a)(5)) beginning on the later of the date on which the return is filed or the due date of the return without regard to extensions. The suspension period begins on the day after the close of the 18-month period (or 36-month period) and ends 21 days after the IRS provides the notice. This suspension rule applies separately with respect to each item or adjustment.

Notice 2007–93 set forth a special rule for notices under section 6404(g)(1) that (i) are provided by the IRS on or after November 26, 2007, and (ii) relate to individual Federal income tax returns that were timely filed before that date. Under the special rule:

1. If, as of November 25, 2007, the 18-month notification deadline had passed and the IRS had not provided notice to the taxpayer, the suspension described in section 6404(g)(1)(A) would begin on the day after the close of the 18-month period. The suspension would end 21 days after the date on which the notice was provided.
2. In all other cases, the suspension would begin on the day after the close of the 36-month notification period described in section 6404(g)(1)(A) and end 21 days after the date on which the notice was provided.

The final regulations incorporate substantially without change the special rule of Notice 2007–93 at §301.6404–4(a)(5).

In addition, §301.6404–4(b)(2) was revised to remove the reference to section 6501(c)(1) and the meaning of fraud, as fraud is not defined in section 6501(c)(1) but is instead generally described under case law and other guidance. Thus, fraud for purposes of §301.6404–4(b)(2) has the same meaning as that provided in case law and other guidance.

Finally, minor editorial changes were made to clarify the terms of section 6404(g) and to modify a reference to official IRS forms.

Effect on Other Documents

The following publication is obsolete as of August 22, 2011:

Notice 2007–93, 2007–2 C.B. 1072.

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 these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Nathan Rosen of the Office of Associate Chief Counsel (Procedure and Administration).

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

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

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

Par. 2. Section 301.6404–0 is amended as follows:

1. Revise the introductory text.

2. Revise entries for §301.6404–4(a) and (b)(1) through (b)(4).

3. Revise entries for §301.6404–4(c) and (d).

The revisions read as follows:

§301.6404–0 Table of contents.

This section lists the paragraphs contained in §§301.6404–1 through 301.6404–4.

* * * * *

§301.6404–4 Suspension of interest and certain penalties when the Internal Revenue Service does not timely contact the taxpayer.

§301.6404–0T [Removed]

Par. 3. Section 301.6404–0T is removed.

Par. 4. Section 301.6404–4 is amended as follows:

1. Add paragraphs (a) and (b)(1) through (b)(4).

2. Add paragraph (c).

3. Paragraph (d) is amended by adding a second sentence.

The additions and revisions read as follows:

§301.6404–4 Suspension of interest and certain penalties when the Internal Revenue Service does not timely contact the taxpayer.

(a) *Suspension*.—(1) *In general*. Except as provided in paragraph (b) of this section, if an individual taxpayer files a return of tax imposed by subtitle A on or before the due date for the return (including extensions) and the Internal Revenue Service does not timely provide the taxpayer with a notice specifically stating the amount of any increased liability and the basis for that liability, then the IRS must suspend the imposition of any interest, penalty, addition to tax, or additional amount, with respect to any failure relating to the return that is computed by reference to the period of time the failure continues to exist and that is properly allocable to the suspension period. The notice described in this paragraph (a) is timely if provided before the close of the 18-month period (36-month period in the case of notices provided after November 25, 2007, subject to the provisions of paragraph (a)(5)) beginning on the later of the date on which the return is filed or the due date of the return without regard to extensions.

(2) *Treatment of amended returns and other documents*.—(i) *Amended returns filed on or after December 21, 2005, that show an increase in tax liability*. If a taxpayer, on or after December 21, 2005, provides to the IRS an amended return or one or more other signed written documents showing an increase in tax liability, the date on which the return was filed will, for purposes of this paragraph (a), be the date on which the last of the documents was provided. Documents described in this paragraph (a)(2)(i) are provided on the date that they are received by the IRS.

(ii) *Amended returns that show a decrease in tax liability*. If a taxpayer provides to the IRS an amended return or other signed written document that shows a decrease in tax liability, any interest, penalty, addition to tax, or additional amount will not be suspended if the IRS at any time proposes to adjust the changed item or items on the amended return or other signed written document.

(iii) *Amended returns and other documents as notice*.—(A) As to the items reported, an amended return or one or more other signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year serves as the notice described in paragraph (a)(1) of this section with respect to the items reported on the amended return.

(B) *Example*. An individual taxpayer timely files a Federal income tax return for taxable year 2008 on April 15, 2009. On January 19, 2010, the taxpayer mails to the IRS an amended return reporting an additional item of income and an increased tax liability for taxable year 2008. The IRS receives the amended return on January 21, 2010. The amended return will be treated for purposes of this paragraph (a) as filed on January 21, 2010, the date the IRS received it. Pursuant to paragraph (a)(2)(iii) of this section, the amended return serves as the notice described in paragraph (a)(1) of this section with respect to the item reported on the amended return. Accordingly, because the filing of the amended return and the provision of notice occur simultaneously, no suspension of any interest, penalty, addition to tax or additional amount will occur under this paragraph (a) with respect to the item reported on the amended return.

(iv) *Joint return after filing separate return*. A joint return filed under section 6013(b) is subject to the rules for amended returns described in this paragraph (a)(2). The IRS will not suspend any interest, penalty, addition to tax, or additional amount on a joint return filed under section 6013(b) after the filing of a separate return unless each spouse's separate return, if required to be filed, was timely.

(3) *Separate application*. This paragraph (a) shall be applied separately with respect to each item or adjustment.

(4) *Duration of suspension period*. The suspension period described in paragraph (a)(1) of this section begins the day after the close of the 18-month period (36-month period, in the case of notices provided after November 25, 2007, subject to the provisions of paragraph (a)(5)) beginning on the later of the date on which the return is filed or the due date of the return without regard to extensions. The suspension period ends 21 days after the earlier of the date on which the IRS mails the required notice to the taxpayer's last known address, the date on which the required notice is hand-delivered to the taxpayer, or the date on which the IRS receives an amended return or other signed written document showing an increased tax liability.

(5) *Certain notices provided on or after November 26, 2007*. If the IRS provides the notice described in paragraph (a)(1) of this section to a taxpayer on or after November 26, 2007, and the notice relates to an individual Federal income tax return that was timely filed before that date, the following rules will apply:

(i) *Eighteen-month period has closed*. If, as of November 25, 2007, the 18-month period described in paragraph (a)(1) of this section has closed and the IRS has not provided the taxpayer with the notice described in that paragraph (a)(1), the suspension described in paragraph (a)(1) of this section will begin on the day after the close of the 18-month period. The suspension will end on the date that is 21 days after the notice is provided.

(ii) *All other cases*. In all other cases, the suspension described in paragraph (a)(1) of this section will begin on the day after the close of the 36-month period described in that paragraph (a)(1) and end on the date that is 21 days after the notice described in paragraph (a)(1) of this section is provided.

(6) *Examples*. The following examples, which assume that no exceptions in section 6404(g)(2) to the general rule of suspension apply, illustrate the rules of this paragraph (a).

Example 1. An individual taxpayer timely files a Federal income tax return for taxable year 2005 on April 17, 2006. On December 11, 2007, the taxpayer mails to the IRS an amended return reporting an additional item of income and an increased tax liability for taxable year 2005. The IRS receives the amended return on December 13, 2007. On January 16, 2008, the IRS provides the taxpayer with a notice stating that the taxpayer has an additional tax liability based on the disallowance of a deduction the taxpayer claimed on his original return and did not change on his amended return. The date the amended return was received substitutes for the date that the original return was filed with respect to the additional item of tax liability reported on the amended return. Thus, the IRS will not suspend any interest, penalty, addition to tax, or additional amount with respect to the additional item of income and the increased tax liability reported on the amended return. The suspension period for the additional tax liability based on the IRS's disallowance of the deduction begins on October 17, 2007, so the IRS will suspend any interest, penalty, addition to tax, and additional amount with respect to the disallowed deduction and additional tax liability from that date through February 6, 2008, which is 21 days after the IRS provided notice of the additional tax liability and the basis for that liability. The suspension period in this example begins 18 months after filing the return (not 36 months) because, as of November 25, 2007, the 18-month period beginning on the date the return was filed had closed without the IRS giving notice of the additional liability. Thus, under the rules in paragraph (a)(5) of this section, the suspension period begins 18 months from the April 17, 2006 return filing date.

Example 2. An individual taxpayer files a Federal income tax return for taxable year 2008 on April 15, 2009. The taxpayer consents to extend the time within which the IRS may assess any tax due on the return until June 30, 2013. On December 20, 2012, the IRS provides a notice to the taxpayer specifically stating the taxpayer's liability and the basis for the liability. The suspension period for the liability identified by the IRS begins on April 15, 2012, so the IRS will suspend any interest, penalty, addition to tax, and additional amount with respect to that liability from that date through January 10, 2013, which is 21 days after the IRS provided notice of the additional tax liability and the basis for that liability.

(7) *Notice of liability and the basis for the liability*.—(i) *In general*. Notice to the taxpayer must be in writing and specifically state the amount of the liability and the basis for the liability. The notice must provide the taxpayer with sufficient information to identify which items of income, deduction, loss, or credit the IRS has adjusted or proposes to adjust, and the reason for that adjustment. Notice of the reason for the adjustment does not require a detailed explanation or a citation to any Internal Revenue Code section or other legal authority. The IRS need not incorporate all of the information necessary to satisfy the notice requirement within a single document or provide all of the information at the same time. Documents that may contain information sufficient to constitute notice, either alone or in conjunction with other documents, include, but are not limited to, statutory notices of deficiency; examination reports (for example, Form 4549, *Income Tax Examination Changes* or Form 886–A, *Explanation of Items*); Form 870, *Waiver of Restriction on Assessments and Collection of Deficiency in Tax and Acceptance of Overassessment*; notices of proposed deficiency that allow the taxpayer an opportunity for review in the Office of Appeals (30-day letters); notices pursuant to section 6213(b) (mathematical or clerical errors); and notice and demand for payment of a jeopardy assessment under section 6861.

(ii) *Tax attributable to TEFRA partnership items*. Notice to the partner or the tax matters partner (TMP) of a partnership subject to the unified audit and litigation procedures of subchapter C of chapter 63 of subtitle F of the Internal Revenue Code (TEFRA partnership procedures) that provides specific information about the basis for the adjustments to partnership items is sufficient notice if a partner could reasonably compute the specific tax attributable to the partnership item based on the proposed adjustments as applied to the partner's individual tax situation. Documents provided by the IRS during a TEFRA partnership proceeding that may contain information sufficient to satisfy the notice requirements include, but are not limited to, a Notice of Final Partnership Administrative Adjustment (FPAA); examination reports (for example, Form 4605–A or Form 886–A); or a letter that allows the partners an opportunity for review in the Office of Appeals (60-day letter).

(iii) *Examples*. The following examples illustrate the rules of this paragraph (a)(7).

Example 1. During an audit of Taxpayer A's 2005 taxable year return, the IRS questions a charitable deduction claimed on the return. The IRS provides A with a 30-day letter that proposes to disallow the charitable contribution deduction resulting in a deficiency of $1,000 and informs A that A may file a written protest of the proposed disallowance with the Office of Appeals within 30 days. The letter includes as an attachment a copy of the revenue agent's report that states, "It has not been established that the amount shown on your return as a charitable contribution was paid during the tax year. Therefore, this deduction is not allowable." The information in the 30-day letter and attachment provides A with notice of the specific amount of the liability and the basis for that liability as described in this paragraph (a)(7).

Example 2. Taxpayer B is a partner in partnership P, a TEFRA partnership for taxable year 2005. B claims a distributive share of partnership income on B's Federal income tax return for 2005 timely filed on April 17, 2006. On October 1, 2007, during the course of a partnership audit of P for taxable year 2005, the IRS provides P's TMP with a 60-day letter proposing to adjust P's income by $10,000. The IRS previously had provided the TMP with a copy of the examination report explaining that the adjustment was based on $10,000 of unreported net income. On October 31, 2007, P's TMP informs B of the proposed adjustment as required by §301.6223(g)–1(b). By accounting for B's distributive share of the $10,000 of unreported income from P with B's other income tax items, B can determine B's tax attributable to the $10,000 partnership adjustment. The information in the 60-day letter and the examination report allows B to compute the specific amount of the liability attributable to the adjustment to the partnership item and the basis for that adjustment and therefore satisfies the notice requirement of paragraph (a). Because the IRS provided that notice to the TMP, B's agent under the TEFRA partnership provisions, within 18 months of the April 17, 2006 filing date of B's return, any interest, penalty, addition to tax, or additional amount with respect to B's tax liability attributable to B's distributive share of the $10,000 of unreported partnership income will not be suspended under section 6404(g).

(8) *Providing notice*.—(i) *In general*. The IRS may provide notice by mail or in person to the taxpayer or the taxpayer's representative. If the IRS mails the notice, it must be sent to the taxpayer's last known address under rules similar to section 6212(b), except that certified or registered mail is not required. Notice is considered provided as of the date of mailing or delivery in person.

(ii) *Providing notice in TEFRA partnership proceedings*. In the case of TEFRA partnership proceedings, the IRS must provide notice of final partnership administrative adjustments (FPAA) by mail to those partners specified in section 6223. Within 60 days of an FPAA being mailed, the TMP is required to forward notice of the FPAA to those partners not entitled to direct notice from the IRS under section 6223. Certain partners with small interests in partnerships with more than 100 partners may form a Notice Group and designate a partner to receive the FPAA on their behalf. The IRS may provide other information after the beginning of the partnership administrative proceeding to the TMP who, in turn, must provide that information to the partners specified in §301.6223(g)–1 within 30 days of receipt. Pass-thru partners who receive notices and other information from the IRS or the TMP must forward that notice or information within 30 days to those holding an interest through the pass-thru partner. Information provided by the IRS to the TMP is deemed to be notice for purposes of this section to those partners specified in §301.6223(g)–1 as of the date the IRS provides that notice to the TMP. A similar rule applies to notice provided to the designated partner of a Notice Group, and to notice provided to a pass-thru partner. In the foregoing situations, the TMP, designated partner, and pass-thru partner are agents for direct and indirect partners. Consequently, notice to these agents is deemed to be notice to the partners for whom they act.

(b) *Exceptions*.—(1) *Failure to file tax return or to pay tax*. Paragraph (a) of this section does not apply to any penalty imposed by section 6651.

(2) *Fraud*. Paragraph (a) of this section does not apply to any interest, penalty, addition to tax, or additional amount for a year involving a false or fraudulent return. If a taxpayer files a fraudulent return for a particular year, paragraph (a) of this section may apply to any other tax year of the taxpayer that does not involve fraud. Fraud affecting a particular item on a return precludes paragraph (a) of this section from applying to any other items on that return.

(3) *Tax shown on return*. Paragraph (a) of this section does not apply to any interest, penalty, addition to tax, or additional amount with respect to any tax liability shown on a return.

(4) *Gross misstatement*.—(i) *Description*. Paragraph (a) of this section does not apply to any interest, penalty, addition to tax, or additional amount with respect to a gross misstatement. A *gross misstatement* for purposes of this paragraph (b) means:

(A) a substantial omission of income as described in section 6501(e)(1) or section 6229(c)(2);

(B) a gross valuation misstatement within the meaning of section 6662(h)(2)(A) and (B); or

(C) a misstatement to which the penalty under section 6702(a) applies.

(ii) *Effect of gross misstatement*. If a gross misstatement occurs, then paragraph (a) of this section does not apply to any interest, penalty, addition to tax, or additional amount with respect to any items of income omitted from the return and with respect to overstated deductions, even though one or more of the omitted items would not constitute a substantial omission, gross valuation misstatement, or misstatement to which section 6702(a) applies.

* * * * *

(c) *Special rules*.—(1) *Tentative carryback and refund adjustments*. If an amount applied, credited or refunded under section 6411 exceeds the overassessment properly attributable to a tentative carryback or refund adjustment, any interest, penalty, addition to tax, or additional amount with respect to the excess will not be suspended.

(2) *Election under section 183(e)*.—(i) *In general*. If a taxpayer elects under section 183(e) to defer the determination of whether the presumption that an activity is engaged in for profit applies, the 18-month (or 36-month) notification period described in paragraph (a)(1) of this section will be tolled for the period to which the election applies. If the 18-month (or

36-month) notification period has passed as of the date the section 183(e) election is made, the suspension period described in paragraph (a)(4) of this section will be tolled for the period to which the election applies and will resume the day after the tolling period ends. Tolling will begin on the date the election is made and end on the later of the date the return for the last taxable year to which the election applies is filed or is due without regard to extensions.

(ii) *Example*. In taxable year 2007, taxpayer begins training and showing horses. On January 4, 2011, the taxpayer elects under section 183(e) to defer the determination of whether the horse-related activity will be presumed (under section 183(d)) to be engaged in for profit. Accordingly, under section 183(e)(1), a determination of whether the section 183(d) presumption applies will not occur before the close of the 2013 taxable year. Assume that in 2014, the IRS is considering issuing a notice of deficiency for taxable year 2009 regarding tax deductions claimed for the horse-related activity. Pursuant to paragraph (c)(2)(i) of this section, the 36-month notification period under paragraph (a)(1) of this section will be tolled with respect to taxable year 2009 for the period to which the section 183(e) election applies. This tolling of the notification period begins on January 4, 2011 (the date the taxpayer made the section 183(e) election) and ends on the later of April 15, 2014, or the date the taxpayer's return for taxable year 2013 is filed.

(d) *Effective/applicability date*. * * * Paragraphs (a), (b)(1) through (b)(4), and (c) are effective on August 22, 2011.

Steven T. Miller,
Deputy Commissioner for Services and Enforcement.

Approved July 15, 2011.

Emily S. McMahon,
Acting Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on August 19, 2011, 8:45 a.m., and published in the issue of the Federal Register for August 22, 2011, 76 F.R. 52259)

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 2011. See Rev. Rul. 2011-22, page 489.

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 2011. See Rev. Rul. 2011-22, page 489.

Vermont Low-Income Housing Credit Disaster Relief

Notice 2011–74

The Internal Revenue Service is suspending certain requirements under § 42 of the Internal Revenue Code for low-income housing credit projects to provide emergency housing relief needed as a result of the devastation caused by Tropical Storm Irene in Vermont beginning on August 27, 2011. This relief is being granted pursuant to the Service's authority under § 42(n) and § 1.42–13(a) of the Income Tax Regulations.

BACKGROUND

On September 1, 2011, the President declared a major disaster for the State of Vermont. This declaration was made under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq*. Subsequently, the Federal Emergency Management Agency (FEMA) designated jurisdictions for Individual Assistance. The State of Vermont has requested that the Service allow owners of low-income housing credit projects to provide temporary housing in vacant units to individuals who resided in jurisdictions designated for Individual Assistance in Vermont and who have been displaced because their residences were destroyed or damaged as a result of the devastation caused by Tropical Storm Irene. Based upon this request and because of the widespread damage to housing caused by Tropical Storm Irene, the Service has determined that the Vermont Housing Finance Agency (Agency) may provide approval to project owners to provide temporary emergency housing for displaced individuals in accordance with this notice.

I. SUSPENSION OF INCOME LIMITATIONS

The Service has determined that it is appropriate to temporarily suspend certain income limitation requirements under § 42 for certain qualified low-income projects. The suspension will apply to low-income housing projects approved by the Agency, in which vacant units are rented to displaced individuals. The Agency will determine the appropriate period of temporary housing for each project, not to extend beyond September 30, 2012 (temporary housing period).

II. STATUS OF UNITS

A. Units in the first year of the credit period

A displaced individual temporarily occupying a unit during the first year of the credit period under § 42(f)(1) will be deemed a qualified low-income tenant for purposes of determining the project's qualified basis under § 42(c)(1), and for meeting the project's 20–50 test or 40–60 test as elected by the project owner under § 42(g)(1). After the end of the temporary housing period established by the Agency (not to extend beyond September 30, 2012), a displaced individual will no longer be deemed a qualified low-income tenant.

B. Vacant units after the first year of the credit period

During the temporary housing period established by the Agency, the status of a vacant unit (that is, market-rate or low-income for purposes of § 42 or never previously occupied) after the first year of the credit period that becomes temporarily occupied by a displaced individual remains the same as the unit's status before the displaced individual moves in. Displaced individuals temporarily occupying vacant units will not be treated as low-income tenants under § 42(i)(3)(A)(ii). However, even if it houses a displaced individual, a low-income or market rate unit that was vacant before the effective date of this notice will continue to be treated as a vacant low-income or market rate unit. Similarly, a unit that was never previously occupied before the effective date of this notice will continue to be treated as a unit that has never been previously occupied even if it houses a displaced individual. Thus, the fact that a vacant unit becomes occupied by a displaced individual will not affect the building's applicable fraction under § 42(c)(1)(B) for purposes of determining the building's qualified basis, nor will it affect the 20–50 test or 40–60 test of § 42(g)(1). If the income of occupants in low-income units exceeds 140 percent of the applicable income limitation, the temporary occupancy of a unit by a displaced individual will not cause application of the available unit rule under § 42(g)(2)(D)(ii). In addition, the project owner is not required during the temporary housing period to make attempts to rent to low-income individuals the low-income units that house displaced individuals.

III. SUSPENSION OF NON-TRANSIENT REQUIREMENTS

The non-transient use requirement of § 42(i)(3)(B)(i) shall not apply to any unit providing temporary housing to a displaced individual during the temporary housing period determined by the Agency in accordance with section I of this notice.

IV. OTHER REQUIREMENTS

All other rules and requirements of § 42 will continue to apply during the temporary housing period established by the Agency. After the end of the temporary housing period, the applicable income limitations contained in § 42(g)(1), the available unit rule under § 42(g)(2)(D)(ii), the nontransient requirement of § 42(i)(3)(B)(i), and the requirement to make reasonable attempts to rent vacant units to low-income individuals shall resume. If a project owner offers to rent a unit to a displaced individual after the end of the temporary housing period, the displaced individual must be certified under the requirements of § 42(i)(3)(A)(ii) and § 1.42–5(b) and (c) to be a qualified low-income tenant. To qualify for the relief in this notice, the project owner must additionally meet all of the following requirements:

(1) Major Disaster Area

The displaced individual must have resided in a Vermont jurisdiction designated for Individual Assistance by FEMA as a result of the devastation caused by Tropical Storm Irene in Vermont beginning on August 27, 2011.

(2) Approval of the Vermont Housing Finance Agency

The project owner must obtain approval from the Agency for the relief described in this notice. The Agency will determine the appropriate period of temporary housing for each project, not to extend beyond September 30, 2012.

(3) Certifications and Recordkeeping

To comply with the requirements of § 1.42–5, project owners are required to maintain and certify certain information concerning each displaced individual temporarily housed in the project, specifically the following: name, address of damaged residence, social security number, and a statement signed under penalties of perjury by the displaced individual that, because of damage to the individual's residence in a Vermont jurisdiction designated for Individual Assistance by FEMA as a result of the devastation caused by Tropical Storm Irene in Vermont beginning on August 27, 2011, the individual requires temporary housing. The owner must notify the Agency that vacant units are available for rent to displaced individuals.

The owner must also certify the date the displaced individual began temporary occupancy and the date the project will discontinue providing temporary housing as established by the Agency. The certifications and recordkeeping for displaced individuals must be maintained as part of the annual compliance monitoring process with the Agency.

(4) Rent Restrictions

Rents for the low-income units that house displaced individuals must not exceed the existing rent-restricted rates for the low-income units established under § 42(g)(2).

(5) Protection of Existing Tenants

Existing tenants in occupied low-income units cannot be evicted or have their tenancy terminated as a result of efforts to provide temporary housing for displaced individuals.

EFFECTIVE DATE

This notice is effective September 1, 2011 (the date of the President's major disaster declaration as a result of the devastation caused by Tropical Storm Irene in Vermont beginning on August 27, 2011).

PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–2217.

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

The collection of information in this notice is in the section titled "OTHER REQUIREMENTS" under "(3) Certifications and Recordkeeping." This information is required to enable the Service to verify whether individuals are displaced as a result of the devastation caused by Tropical Storm Irene in Vermont beginning on August 27, 2011, and thus warrant temporary housing in vacant low-income housing units. The collection of information is required to obtain a benefit. The likely respondents are individuals and businesses.

The estimated total annual recordkeeping burden is 150 hours.

The estimated annual burden per recordkeeper is approximately 15 minutes. The estimated number of recordkeepers is 600.

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

DRAFTING INFORMATION

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

Nonapplication of Section 6050W to Insurance Companies that Administer Certain Insurance Arrangements

Notice 2011–78

PURPOSE AND BACKGROUND

Section 6050W of the Internal Revenue Code requires information returns to be made for each calendar year by merchant acquiring entities and third party settlement organizations with respect to payments made in settlement of payment card transactions and third party network transactions occurring in that calendar year. The requirement to make information returns applies to returns for calendar years beginning after December 31, 2010.

In August 2010, the Treasury Department and the Internal Revenue Service published final regulations providing guidance to assist persons required to report payment card and third party network transactions to payees of those transactions. T.D. 9496, 2010–43 I.R.B. 484, 75 F.R. 49821 (August 16, 2010). Under the final regulations, a healthcare network generally is outside the scope of section 6050W because a healthcare network does not enable the transfer of funds from buyers to sellers. §1.6050W–1(e) (Example 17). The preamble to the final regulations acknowledges a comment to the effect that a self-insurance arrangement likewise should be treated as outside the scope of section 6050W. 75 F.R. at 49823; 2010–43 I.R.B. at 486. Although the final regulations do not address this issue directly, the preamble states that the suggestion was not adopted "because this arrangement could create a third party payment network of which the health insurance entity is the third party settlement organization to the extent that the health insurance entity effectively enables buyers (the self-insuring companies) to transfer funds to sellers of healthcare goods or services."

DISCUSSION

Upon further consideration, the Treasury Department and the Internal Revenue Service have decided to amend the existing regulations under section 6050W to expressly provide that an insurance company or an affiliate administering a self-insured arrangement on behalf of an employer or other entity on a cost-plus basis, or under an Administrative Services Only (ASO) plan or an Administrative Services Contract (ASC) plan, will not be treated as a third party settlement organization. Insurance companies and their affiliates may rely on the interim guidance provided in this notice until the regulations are amended.

Before amending the existing regulations, the Treasury Department and the Internal Revenue Service invite comments from the public regarding the contents of this notice. Comments should be submitted by November 3, 2011 to:

Internal Revenue Service
Attn: CC:PA:LPD:PR
(Notice 2011–78)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

or hand deliver comments Monday through Friday between the hours of 8 a.m. and 4 p.m. to:

Courier's Desk
Internal Revenue Service
Attn: CC:PA:LPD:PR
(Notice 2011–78)
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Alternatively, persons may submit comments electronically via e-mail to the following address: *Notice.Comments@irscounsel.treas.gov.* Persons should include "Notice 2011–78" in the subject line. All comments submitted by the public will be available for public inspection and copying in their entirety.

DRAFTING INFORMATION

The principal author of this notice is Girish Prasad of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, contact Mr. Prasad at (202) 622–4910 (not a toll-free call).

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

Notice 2011–79

SECTION 1. PURPOSE

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

SECTION 2. BACKGROUND

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

.02 *Replacement Period.* Section 1033(a)(2)(A) generally provides that gain from an involuntary conversion is recognized only to the extent the amount realized on the conversion exceeds the cost of replacement property purchased during the replacement period. If a sale or exchange of livestock is treated as an involuntary conversion under § 1033(e)(1) and is solely on account of drought, flood, or other weather-related conditions that result in the area being designated as eligible for assistance by the federal government, § 1033(e)(2)(A) provides that the replacement period ends four years after the close of the first taxable year in which any part of the gain from the conversion is realized. Section 1033(e)(2)(B) provides that the Secretary may extend this replacement period on a regional basis for such additional time as the Secretary determines appropriate if the weather-related conditions that resulted in the area being designated as eligible for assistance by the federal government continue for more than three years. Section 1033(e)(2) is effective for any taxable year with respect to which the due date (without regard to extensions) for a taxpayer's return is after December 31, 2002.

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

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

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

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

The Appendix to this notice contains the list of counties for which exceptional, extreme, or severe drought was reported during the 12-month period ending August 31, 2011. Under Notice 2006–82, the 12-month period ending on August 31, 2011, is not a drought-free year for an applicable region that includes any county on this list. Accordingly, for a taxpayer who qualified for a four-year replacement period for livestock sold or exchanged on account of drought and whose replacement period is scheduled to expire at the end of 2011 (or, in the case of a fiscal year taxpayer, at the end of the taxable year that includes August 31, 2011), the replacement period will be extended under § 1033(e)(2) and Notice 2006–82 if the applicable region includes any county on this list. This extension will continue until the end of the taxpayer's first taxable year ending after a drought-free year for the applicable region.

SECTION 4. DRAFTING INFORMATION

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

APPENDIX

Alabama

Counties of Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, Dallas, DeKalb, Elmore, Escambia, Etowah, Fayette, Geneva, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lee, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Perry, Pike, Randolph, Russell, Saint Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arizona

Counties of Apache, Cochise, Coconino, Gila, Graham, Greenlee, Maricopa, Navajo, Pima, Pinal, Santa Cruz.

Arkansas

Counties of Arkansas, Ashley, Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Chicot, Clark, Clay, Cleburne, Cleveland, Columbia, Conway, Craighead, Crawford, Crittenden, Cross, Dallas, Desha, Drew, Faulkner, Franklin, Fulton, Garland, Grant, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Jefferson, Johnson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Marion, Miller, Mississippi, Monroe, Montgomery, Nevada, Newton, Ouachita, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saint Francis, Saline, Scott, Searcy, Sebastian, Sevier, Sharp, Stone, Union, Van Buren, Washington, White, Woodruff, Yell.

California

Counties of Modoc, Siskiyou.

Colorado

Counties of Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Broomfield, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Denver, Douglas, El Paso, Elbert, Fremont, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Larimer, Las Animas, Lincoln, Logan, Mineral, Morgan, Otero, Park, Phillips, Prowers, Pueblo, Rio Grande, Saguache, Sedgwick, Teller, Washington, Weld.

Delaware

County of Sussex.

Florida

Counties of Alachua, Baker, Bay, Bradford, Brevard, Broward, Calhoun, Charlotte, Citrus, Clay, Collier, Columbia, DeSoto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hendry, Hernando, Highlands, Hillsborough, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Lee, Leon, Levy, Liberty, Madison, Marion, Martin, Miami-Dade, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Saint Johns, Saint Lucie, Santa Rosa, Seminole, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, Washington.

Georgia

Counties of Appling, Atkinson, Bacon, Baker, Baldwin, Banks, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Carroll, Catoosa, Charlton, Chatham, Chattahoochee, Chattooga, Cherokee, Clarke, Clay, Clayton, Clinch, Cobb, Coffee, Colquitt, Columbia, Cook, Coweta, Crawford, Crisp, Dade, Decatur, DeKalb, Dodge, Dooly, Dougherty, Douglas, Early, Echols, Effingham, Elbert, Emanuel, Evans, Fayette, Floyd, Franklin, Fulton, Gilmer, Glascock, Glynn, Gordon, Grady, Greene, Gwinnett, Habersham, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Macon, Madison, Marion, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Peach, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Richmond, Rockdale, Schley, Screven, Seminole, Spalding, Stephens, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Troup, Turner, Twiggs, Upson, Walker, Walton, Ware, Warren, Washington, Wayne, Webster, Wheeler, Whitfield, Wilcox, Wilkes, Wilkinson, Worth.

Hawaii

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

Illinois

Counties of Adams, Alexander, Brown, Cass, Champaign, Christian, Clark, Coles, De Witt, Douglas, Edgar, Edwards, Fulton, Gallatin, Greene, Hancock, Hardin, Henderson, Knox, Lawrence, Logan, Macon, Macoupin, Mason, Massac, McDonough, McLean, Menard, Mercer, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, Pope, Sangamon, Schuyler, Scott, Shelby, Tazewell, Wabash, Warren, White.

Indiana

Counties of Bartholomew, Boone, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, Dubois, Fayette, Floyd, Franklin, Gibson, Greene, Hamilton, Hancock, Harrison, Hendricks, Henry, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Madison, Marion, Martin, Monroe, Montgomery, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Randolph, Ripley, Rush, Scott, Shelby, Spencer, Sullivan, Switzerland, Union, Vanderburgh, Vermillion, Vigo, Warrick, Washington, Wayne.

Iowa

Counties of Appanoose, Davis, Des Moines, Henry, Jefferson, Johnson, Keokuk, Lee, Louisa, Mahaska, Monroe, Muscatine, Poweshiek, Van Buren, Wapello, Washington.

Kansas

Counties of Allen, Anderson, Barber, Barton, Bourbon, Butler, Chase, Chautauqua, Cherokee, Clark, Coffey, Comanche, Cowley, Crawford, Dickinson, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Gove, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Lyon, Marion, McPherson, Meade, Montgomery, Morris, Morton, Neosho, Ness, Osage, Osborne, Ottawa, Pawnee, Pratt, Reno, Rice, Rooks, Rush, Russell, Saline, Scott, Sedgwick, Seward, Stafford, Stanton, Stevens, Sumner, Trego, Wallace, Wichita, Wilson, Woodson.

Kentucky

Counties of Adair, Anderson, Ballard, Boone, Bourbon, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Campbell, Carlisle, Carroll, Casey, Christian, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Fayette, Fleming, Franklin, Fulton, Gallatin, Grant, Graves, Grayson, Green, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Kenton, Larue, Lincoln, Livingston, Logan, Lyon, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Pendleton, Pulaski, Robertson, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Trimble, Union, Warren, Washington, Wayne, Webster, Woodford.

Louisiana

Parishes of Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, Concordia, De Soto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, Jefferson, La Salle, Lafayette, Lafourche, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, Richland, Sabine, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Landry, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, Winn.

Maryland

Counties of Allegany, Dorchester, Frederick, Garrett, Saint Mary's, Somerset, Washington, Wicomico, Worcester.

Minnesota

Counties of Cook, Lake, Saint Louis.

Mississippi

Counties of Adams, Amite, Attala, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, DeSoto, Forrest, Franklin, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Humphreys, Issaquena, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Leflore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Sunflower, Tallahatchie, Tate, Tunica, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri

Counties of Barry, Barton, Bollinger, Butler, Carter, Christian, Clark, Dade, Dunklin, Greene, Jasper, Knox, Lawrence, Lewis, McDonald, Mississippi, New Madrid, Newton, Oregon, Ozark, Pemiscot, Ripley, Schuyler, Scotland, Scott, Shannon, Stoddard, Stone, Taney, Vernon, Wayne.

Nebraska

County of Deuel.

New Jersey

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

New Mexico

Counties of Bernalillo, Catron, Chaves, Cibola, Colfax, Curry, DeBaca, Dona Ana, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Quay, Rio Arriba, Roosevelt, San Juan, San Miguel, Sandoval, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia.

North Carolina

Counties of Alamance, Anson, Beaufort, Bertie, Bladen, Brunswick, Cabarrus, Camden, Carteret, Caswell, Chatham, Chowan, Cleveland, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Duplin, Durham, Edgecombe, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Henderson, Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Martin, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rowan, Rutherford, Sampson, Scotland, Stanly, Tyrrell, Union, Vance, Wake, Warren, Washington, Wayne, Wilson.

Ohio

Counties of Adams, Brown, Butler, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Montgomery, Preble, Warren.

Oklahoma

Counties of Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Choctaw, Cimarron, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Custer, Delaware, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, Major, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, Woodward.

Oregon

Counties of Klamath, Lake.

Pennsylvania

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

South Carolina

Counties of Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Chester, Chesterfield, Clarendon, Colleton, Darlington, Dillon, Dorchester, Edgefield, Fairfield, Florence, Georgetown, Greenville, Greenwood, Hampton, Horry, Jasper, Kershaw, Lancaster, Laurens, Lee, Lexington, Marion, Marlboro, McCormick, Newberry, Oconee, Orangeburg, Pickens, Richland, Saluda, Spartanburg, Sumter, Union, York.

Tennessee

Counties of Benton, Carroll, Cheatham, Chester, Crockett, Davidson, Decatur, Dickson, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Lake, Lauderdale, Madison, Montgomery, Obion, Perry, Robertson, Shelby, Stewart, Tipton, Weakley, Williamson.

Texas

Counties of Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, El Paso, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, La Salle, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Marion, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Virginia

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

West Virginia

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

Part IV. Items of General Interest

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

Announcement 2011–63

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

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

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin October 11, 2011, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is $1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Allied Veterans of the World, Inc. &
Affiliates
Charlotte, NC

American Homebuyers Foundation, Inc.
Conyers, GA

Bundle of Joy Daycare, Inc.
Long Beach, CA

Columbia Basin Animal Rescue and
Protection Agency
Kennewick, WA

Community Day Care Center
Abbeville, LA

Handicap Interests International and
World Religions
Saranac Lake, NY

Holographic Ecology, Inc.
Santa Barbara, CA

Mattie's Maternity Homes
Palmdale, CA

Metropolitan Financial Management
Corporation
Roseville, MN

Monytek Human Service, Inc.
Pendleton, OR

Saint Rest No. 2 Missionary Baptist
Church
Chicago, IL

Voluntary Classification Settlement Program

Announcement 2011–64

I. PURPOSE

The Internal Revenue Service (IRS) has developed a new program to permit taxpayers to voluntarily reclassify workers as employees for federal employment tax purposes. The Voluntary Classification Settlement Program (VCSP) allows eligible taxpayers to voluntarily reclassify their workers for federal employment tax purposes and obtain relief similar to that obtained in the current Classification Settlement Program (CSP). The VCSP is optional and provides taxpayers with an opportunity to voluntarily reclassify their workers as employees for future tax periods with limited federal employment tax liability for the past nonemployee treatment. To participate in the program, the taxpayer must meet certain eligibility requirements, apply to participate in VCSP, and enter into a closing agreement with the IRS.

II. BACKGROUND

Whether a worker is performing services as an employee or as an independent contractor depends upon the facts and circumstances and is generally determined under the common law test of whether the service recipient has the right to direct and control the worker as to how to perform the services. In some factual situations, the determination of the proper worker classification status under the common law may not be clear. For taxpayers under IRS examination, the current CSP is available to resolve federal employment tax issues related to worker misclassification, if certain criteria are met. The examination CSP permits the prospective reclassification of workers as employees, with reduced federal employment tax liabilities for past nonemployee treatment. The CSP allows business and tax examiners to resolve the worker classification issues as early in the administrative process as possible, thereby reducing taxpayer burden and providing efficiencies for both the taxpayer and the government.

In order to facilitate voluntary resolution of worker classification issues and achieve the resulting benefits of increased tax compliance and certainty for taxpayers, workers and the government, the IRS has determined that it would be beneficial to provide taxpayers with a program that allows for voluntary reclassification of workers as employees outside of the examination context and without the need to go through normal administrative correction procedures applicable to employment taxes.

III. ELIGIBILITY

The VCSP is available for taxpayers who want to voluntarily change the prospective classification of their workers. The program applies to taxpayers who are currently treating their workers (or a class or group of workers) as independent contractors or other nonemployees and want to prospectively treat the workers as employees. To be eligible, a taxpayer must have consistently treated the workers as nonemployees, and must have filed all required Forms 1099 for the workers for the previous three years. The taxpayer cannot currently be under audit by the IRS. Furthermore, the taxpayer cannot be currently under audit concerning the classification of the workers by the Department of Labor or by a state government agency. A taxpayer who was previously audited by the IRS or the Department of Labor concerning the classification of the workers will only be eligible if the taxpayer has complied with the results of that audit.

IV. EFFECT OF VCSP

A taxpayer who participates in the VCSP will agree to prospectively treat the class of workers as employees for future tax periods. In exchange, the taxpayer will pay 10 percent of the employment tax liability that may have been due on compensation paid to the workers for the most recent tax year, determined under the reduced rates of section 3509 of the Internal Revenue Code; will not be liable for any interest and penalties on the liability; and will not be subject to an employment tax audit with respect to the worker classification of the workers for prior years. Additionally, a taxpayer participating in the VCSP will agree to extend the period of limitations on assessment of employment taxes for three years for the first, second and third calendar years beginning after the date on which the taxpayer has agreed under the VCSP closing agreement to begin treating the workers as employees.

V. APPLICATION PROCESS

Eligible taxpayers who wish to participate in the VCSP must submit an application for participation in the program. Information about the VCSP and the application will be available on *www.irs.gov*. Along with the application, the name of a contact or an authorized representative with a valid *Power of Attorney* (Form 2848) should be provided. The IRS will contact the taxpayer or authorized representative to complete the process once it has reviewed the application and verified the taxpayer's eligibility. The IRS retains discretion whether to accept a taxpayer's application for the VCSP. Taxpayers whose application has been accepted will enter into a closing agreement with the IRS to finalize the terms of the VCSP and will simultaneously make full and complete payment of any amount due under the closing agreement.

VI. DRAFTING INFORMATION

The principal author of this announcement is Joseph Perera of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this announcement, contact Joseph Perera at 202–622–6040 (not a toll-free call).

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

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

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

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

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

Abbreviations

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

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D. —Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z —Corporation.

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