Internal Revenue
bulletin

Bulletin No. 2014–46
November 10, 2014

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

Announcement 2014–31, page 827.

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

Notice 2014–67, page 822.

Guidance for determining whether a State or local government entity or an organization described in § 501(c)(3) of the Code that benefits from tax-exempt bond financing will be considered to have private business use of its bond-financed facilities under § 141 or § 145(a)(2)(B) of the Code as a result of its participation in the Medicare Shared Savings Program through an "accountable care organization." In addition, this notice amplifies Rev. Proc. 97–13, 1997–1 C.B. 632, as amended by Rev. Proc. 2001–39, 2001–2 C.B. 38, regarding certain management contracts that do not result in private business use.

T.D. 9699, page 818.

This document contains final regulations that will remove regulations relating to information reporting and backup withholding for the Qualified Payment Card Agent (QPCA) Program.

EMPLOYEE PLANS

Notice 2014–66, page 820.

This notice provides a special rule that enables qualified defined contribution plans to provide lifetime income by offering, as investment options, a series of target date funds (TDFs) that include deferred annuities among their assets, even if some of the TDFs within the series are available only to older participants. This special rule provides that, if certain conditions are satisfied, a series of TDFs in a defined contribution plan is treated as a single right or feature for purposes of the nondiscrimination requirements of § 401(a)(4) of the Internal Revenue Code. This permits the TDFs to satisfy those nondiscrimination requirements as they apply to rights or features even if one or more of the TDFs considered on its own would not satisfy those requirements.

Finding Lists begin on page ii.

Department of the Treasury
Internal Revenue Service

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.

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.

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

Code section 103.—Interest on State and local bonds

Guidance for determining whether a State or local government entity or an organization described in § 501(c)(3) of the Code that benefits from tax-exempt bond financing will be considered to have private business use of its bond-financed facilities under § 141 or § 145(a)(2)(B) of the Code as a result of its participation in the Medicare Shared Savings Program through an "accountable care organization" and amplifying Rev. Proc. 97–13, 1997–1 C.B. 632, as amended by Rev. Proc. 2001–39, 2001–2 C.B. 38, regarding certain management contracts that do not result in private business use, see 822 page.

Section 3406.—Outline of the backup withholding regulations

Section 6724.—Reasonable cause

26 CFR 31.3406(g)–1: *Exception for payments to certain payees and certain other payments.*
26 CFR 301.6724–1: *Reasonable cause.*

T.D. 9699

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 31 and 301

Removal of the Qualified Payment Card Agent Program

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that will remove regulations relating to information reporting and backup withholding for the Qualified Payment Card Agent (QPCA) Program. This document also amends regulations to remove references to the QPCA Program. Enactment of the payment card and third party network reporting requirements in the Housing Assistance Tax Act of 2008 made the QPCA Program obsolete. Because no payors have applied to be designated as a QPCA (and no payors have been designated as a QPCA), no taxpayers will be affected by these final regulations.

DATES: These regulations are effective on October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Michael Hara, (202) 317-5413 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Employment Tax Regulations (26 CFR Part 31) and the Procedure and Administration Regulations (26 CFR Part 301) to remove deadwood provisions relating to the now obsolete QPCA Program. On March 24, 2014, a notice of proposed rulemaking (REG–163195–05) was published in the **Federal Register** (79 FR 15926) proposing to remove §§ 31.3406(g)–1(f), 301.6724–1(e)(1)(vi)(H), and 301.6724–1(f)(5)(vii) and amend § 301.6724–1(c)(6) to remove references to QPCAs. The notice of proposed rulemaking also withdrew proposed regulations published in the **Federal Register** on July 13, 2007 relating to the QPCA Program (72 FR 38534). No comments were received in response to the proposed regulations.

Section 6041(a) requires persons engaged in a trade or business and making payments in the course of such trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income of $600 or more in any one taxable year to file information returns with the IRS and to furnish information statements to payees. Among other items, the payor must include the payee's name and taxpayer identification number (TIN) on the information return and the information statement. Section 3406(a)(1) requires a payor to withhold on any reportable payment (as defined in section 3406(b)(1)) if: (1) the payee fails to furnish the payee's TIN to the payor as required; or (2) the Secretary notifies the payor that the TIN furnished by the payee is incorrect.

The QPCA Program was developed by the IRS to enhance the accuracy of section 6041 information reporting in transactions where a payment card, such as a credit card, is accepted as payment. To implement the QPCA Program, on July 13, 2004, the Treasury Department and the IRS published final regulations in the **Federal Register** (TD 9136) (69 FR 41938) under sections 6041, 3406, and 6724. The Treasury Department and the IRS also published several pieces of guidance in the Internal Revenue Bulletin to implement the program. See Notice 2003–13 (2003–1 CB 513 (February 24, 2003)); Revenue Procedure 2004–42 (2004–2 CB 121 (August 2, 2004)); Revenue Procedure 2004–43 (2004–2 CB 124 (August 2, 2004)) (see § 601.601(d)(2)(ii)(*b*) of the chapter). In addition, proposed regulations were published on July 13, 2007 (REG–163195–05 published in the **Federal Register** (72 FR 38534) and a proposed revenue procedure (Notice 2007–59 (2007–30 IRB 135)) was published on July 23, 2007. The 2007 proposed regulations were withdrawn by the notice of proposed rulemaking (REG–163195–05) published in the **Federal Register** (79 FR 15926) on March 25, 2014.

Under the QPCA Program, a payment card organization may apply to the IRS to be designated as a QPCA. For this purpose, a payment card organization was defined as an entity that set the standards and provided the mechanism, either directly or indirectly through members and affiliates, for effectuating payment between a purchaser and a merchant in a payment card transaction. See section 5.06 of Notice 2007–59. Once designated, the QPCA was permitted to act on behalf of a payor/cardholder to solicit, collect, and validate the name and TIN of a payee/merchant, and to provide that information to the payor/cardholder to enable the payor/cardholder to meet its section 6041 reporting obligation, if any.

Section 6050W, enacted by the Housing Assistance Tax Act of 2008, Public Law 110–289, obsoleted the QPCA Program. Section 6050W requires payment settlement entities, including payment card organizations, to report payments made in settlement of payment card and third party network transactions. Regulations published under section 6050W and section 6041 provide, among other things, that payments required to be reported under section 6050W are not also required to be reported under section 6041. See § 1.6041–1(a)(1)(iv). Because payment card organizations now have a reporting obligation with respect to payment card transactions, there is no longer a need for payment card organizations to solicit, collect, and verify payee/merchant names/TINs for the payor/cardholder. Thus, enactment of section 6050W made the QPCA Program obsolete.

Explanation of Provisions

These final regulations adopt the proposed regulations without change. Accordingly, the regulations under §§ 31.3406(g)–1(f), 301.6724–1(e)(1)(vi)(H), and 301.6724–1(f)(5)(vii) are removed, and the regulations under § 301.6724–1(c)(6) are amended. In addition, Revenue Procedure 2004–42, Revenue Procedure 2004–43, Notice 2003–13, Notice 2003–37, and Notice 2007–59 are obsoleted. See § 601.601(d)(2)(ii)(*b*) of the chapter.

Effective Date

Sections 31.3406(g)–1(f), 301.6724–1(e)(1)(vi)(H), and 301.6724–1(f)(5)(vii) would be removed on the date these regulations are published as final regulations in the **Federal Register**. Amendments to § 301.6724–1(c)(6) would be effective on the date these regulations are published as final in the **Federal Register**.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the 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 that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business and no comments were received.

Effect on Other Documents

The following publications are obsolete as of October 27, 2014:

Notice 2003–13 (2003–1 CB 513); Notice 2003–37 (2003–1 CB 1121); Rev. Proc. 2004–42 (2004–2 CB 121); Rev. Proc. 2004–43 (2004–2 CB 124); and Notice 2007–59 (2007–30 IRB 135) (see § 601.601(d)(2)(ii)(*b*) of the chapter).

Drafting Information

The principal author of these final regulations is Michael Hara of the Office of Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Income taxes, Gift taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 301 are amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

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

§ 31.3406(g)–1 [Amended]

Par. 2. Section 31.3406(g)–1 is amended by removing paragraph (f).

PART 301–PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

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

§ 301.6724–1 [Amended]

Par. 4. Section 301.6724–1 is amended by:

a. Removing the language "or a Qualified Payment Card Agent (QPCA) as defined in § 31.3406(g)–1(f)(2)(v) of this chapter," from the introductory text of paragraph (c)(6).

b. Removing paragraphs (e)(1)(vi)(H) and (f)(5)(vii).

John Dalrymple,
Deputy Commissioner for Services and Enforcement.

Approved: October 9, 2014.

Mark J. Mazur,
Assistant Secretary of Treasury (Tax Policy).

(Filed by the Office of the Federal Register on October 24, 2014, 8:45 a.m., and published in the issue of the Federal Register for October 27, 2014, 79 F.R. 63811)

Part III. Administrative, Procedural, and Miscellaneous

Lifetime Income Provided Through Target Date Funds in Section 401(k) Plans and Other Qualified Defined Contribution Plans

Notice 2014–66

I. PURPOSE

This notice provides a special rule that enables qualified defined contribution plans to provide lifetime income by offering, as investment options, a series of target date funds (TDFs) that include deferred annuities among their assets, even if some of the TDFs within the series are available only to older participants. This special rule provides that, if certain conditions are satisfied, a series of TDFs in a defined contribution plan is treated as a single right or feature for purposes of the nondiscrimination requirements of § 401(a)(4) of the Internal Revenue Code. This permits the TDFs to satisfy those nondiscrimination requirements as they apply to rights or features even if one or more of the TDFs considered on its own would not satisfy those requirements.

II. BACKGROUND

Section 401(a)(4) provides in general that a plan is a qualified plan only if the contributions or the benefits provided under the plan do not discriminate in favor of highly compensated employees.

Section 1.401(a)(4)–4 of the Income Tax Regulations provides that optional forms of benefit, ancillary benefits, and other rights and features must be currently available to a group of employees that satisfies the nondiscriminatory classification requirement of § 410(b) (without regard to the average benefit percentage test). In addition, the group of employees to whom these benefits, rights, and features are effectively available must not substantially favor highly compensated employees.

Section 1.401(a)(4)–4(e)(1) provides that the term "optional form of benefit" means a distribution alternative (including the normal form of benefit) that is available under a plan with respect to benefits described in § 411(d)(6)(A) or a distribution alternative that is an early retirement benefit or retirement-type subsidy described in § 411(d)(6)(B)(i), including a "qualified social security supplement" (QSUPP) as defined in § 1.401(a)(4)–12.

Section 1.401(a)(4)–4(e)(2) provides that the term "ancillary benefit" means social security supplements (other than QSUPPs), disability benefits not in excess of a qualified disability benefit described in § 411(a)(9), ancillary life insurance and health insurance benefits, death benefits under a defined contribution plan, preretirement death benefits under a defined benefit plan, shut-down benefits not protected under § 411(d)(6), and other similar benefits.

Section 1.401(a)(4)–4(e)(3)(i) provides that the term "other right or feature" generally means any right or feature applicable to employees under the plan. Different rights or features exist if a right or feature is not available on substantially the same terms as another right or feature. Section 1.401(a)(4)–4(e)(3)(ii) provides that a right or feature is not considered an other right or feature if it is an optional form of benefit or ancillary benefit, or cannot be expected to be of meaningful value to an employee. Section 1.401(a)(4)–4(e)(3)(iii)(C) provides, as an example, that the right to a particular form of investment is an other right or feature.

Section 1.401(a)(4)–1(d) provides that the Commissioner may, in revenue rulings, notices, and other guidance, published in the Internal Revenue Bulletin, provide any additional guidance that may be necessary or appropriate in applying the nondiscrimination requirements of § 401(a)(4), including additional safe harbors and alternative methods and procedures for satisfying those requirements.

Questions have arisen regarding compliance with the nondiscrimination requirements of § 401(a)(4) for an arrangement under which a plan's investment options include a series of TDFs, some of which hold deferred annuities. Under the arrangement, the TDF series is a group of TDFs managed by an investment manager and each of the TDFs is invested in a manner appropriate for a particular age group, with the mix of equity and fixed income exposure becoming more conservative over time in order to reflect the applicable age group's advancing age.

Some of the fixed income exposure in the TDFs for older age groups results from the purchase of deferred annuities, which will be distributed to participants when the TDF is dissolved at its target date. As each group's age advances, an increasing portion of the portfolio is applied to the purchase of deferred annuities. Stakeholders indicate that it would not be actuarially reasonable for an insurer to offer a deferred annuity at a price that does not vary based on the age of the purchaser, and that, accordingly, a TDF that holds deferred annuities should not be expected to permit participants whose ages fall outside the designated age-band for the TDF to hold an interest in that TDF.

If the deferred annuity within a TDF is made available only to older participants, these participants could disproportionately consist of highly compensated employees (because, as a group, older employees are often higher paid than younger employees). If so, making TDFs with deferred annuities available only to older participants presents the question of whether the use of age-restricted TDFs could violate the current availability or effective availability requirement for benefits, rights, and features under § 1.401(a)(4)–4. Stakeholders have requested guidance that the use of a series of TDFs to provide lifetime income in this manner does not violate those nondiscrimination requirements of § 401(a)(4).

III. TREATMENT OF A TDF SERIES AS A SINGLE RIGHT OR FEATURE

The right to each form of investment available under a plan, including each TDF in a series of TDFs, is an other right or feature within the meaning of § 1.401(a)(4)–(4)(e)(3)(iii)(C). Therefore, each TDF must be made available in a nondiscriminatory manner and must otherwise satisfy the nondiscrimination requirements under § 401(a)(4) and § 1.401(a)(4)–4.

Pursuant to the Commissioner's authority under § 1.401(a)(4)–1(d) to provide an alternative method for satisfying the nondiscrimination requirements, a series of TDFs under a defined contribution plan in which participation in some TDFs is restricted to participants in particular age-bands is permitted to be treated as a single “other right or feature” for purposes of § 1.401(a)(4)–4, provided that the following conditions are satisfied:

1. The series of TDFs is designed to serve as a single integrated investment program under which the same investment manager manages each TDF and applies the same generally accepted investment theories across the series of TDFs. Thus, the only difference among the TDFs is the mix of assets selected by the investment manager, which difference results solely from the intent to achieve the level of risk appropriate for the age-band of individuals participating in each TDF. In accordance with the consistent investment strategy used to manage the series of TDFs, the design for the series is for the mix of assets in a TDF currently available for older participants to become available to each younger participant as the asset mix of each TDF for younger participants changes to reflect the increasing age of those participants.

2. Some of the TDFs available to participants in older age-bands include deferred annuities, and none of the deferred annuities provide a guaranteed lifetime withdrawal benefit (GLWB) or guaranteed minimum withdrawal benefit (GMWB) feature.[1]

3. The TDFs do not hold employer securities, as described in section 407(d)(1) of the Employee Retirement Income Security Act of 1974, Public Law 93–406, as amended (ERISA), that are not readily tradable on an established securities market.

4. Each TDF in the series is treated in the same manner with respect to rights or features other than the mix of assets. For example, the fees and administrative expenses for each TDF are determined in a consistent manner, and the extent to which those fees and expenses are paid from plan assets (rather than by the employer) is the same.

IV. EXAMPLE OF A TDF SERIES ELIGIBLE FOR RELIEF

Employer X sponsors Plan A, which is a profit-sharing plan qualified under § 401(a) that includes a qualified cash or deferred arrangement described in § 401(k). Participants in Plan A can commence distribution upon attainment of age 65, the normal retirement age under Plan A, or upon severance from employment. Plan A provides participants the opportunity daily to direct the investment of assets held in, or contributed to, their accounts in a broad array of investment alternatives.

The designated investment alternatives available to all participants under Plan A include a series of TDFs managed by an investment manager (as defined in section 3(38) of ERISA) who acknowledges in writing that the investment manager is a fiduciary with respect to the plan. The TDFs are designed to provide varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed-income exposures based on generally accepted investment theories. The same investment manager manages all the TDFs under Plan A, and makes asset allocation decisions using a consistent investment strategy under which the asset mix is designed to change over time, becoming more conservative through a gradual reduction in the allocation to equity investments and a gradual increase in the allocation to fixed-income exposure as the participants in each TDF grow older. None of the TDFs holds or permits the acquisition of employer securities.

Each TDF is available only to participants who will attain normal retirement age within a limited number of years around the target date for the fund. For example, investment in the 2020 TDF is restricted to participants who will attain normal retirement age in 2019, 2020 or 2021.

Each TDF is intended to be a qualified default investment alternative (QDIA) within the meaning of § 2550.404c–5(e) of the Department of Labor regulations, which describes the attributes necessary for an investment fund, product, model portfolio, or managed account to be a QDIA.[2] The plan sponsor also represents that it will satisfy the conditions of § 2550.404c–5(c) of the QDIA regulation, including the requirement that participants be furnished a notice of the circumstances under which their assets may be invested in the QDIA, their right to direct the investment of their assets into any other plan investment alternatives, and the investment objectives, risk and return characteristics, and fees and expenses attendant to the QDIA.

Each TDF available to participants age 55 or older holds unallocated deferred annuity contracts as a portion of its fixed-income exposure. The deferred annuity contracts are purchased from an insurance company that is independent from the investment manager. None of the TDFs provides a GLWB or GMWB feature.

As the age of the group of participants in such a TDF increases, a larger portion of the assets in the TDF will be used to purchase deferred annuities each year. The TDFs available to participants younger than age 55 do not include deferred annuity contracts. However, the series of TDFs is designed so that, as the asset allocation changes over time, each TDF will include deferred annuity contracts beginning when the participants in that TDF attain age 55.

Each TDF is dissolved at its target date. When a TDF is dissolved, a participant who has an interest in that TDF will receive an annuity certificate representing the participant’s interest in the annuity

[1]Under a contract that provides GLWBs with respect to a participant’s account, the participant is guaranteed to receive a specified lifetime stream of income regardless of the investment performance of the account, while still retaining access to the funds in the account. This GLWB feature permits a participant to withdraw annually a certain percentage (for example, 5 percent) of a contractually specified income or benefit base. In the event that the participant’s account balance (determined without regard to any potential future GLWB payments) is reduced to $0 as a result of these guaranteed annual withdrawal amounts, the insurer will continue to pay the guaranteed withdrawal amount annually for the remainder of the participant’s life. A GMWB feature is similar to a GLWB feature, but a stream of income is guaranteed for a specified period rather than for the lifetime of the contract owner or annuitant. Treasury and the IRS are considering whether or not to provide guidance related to issues arising from the use of GLWB and GMWB features in defined contribution plans.

[2]The Department of Labor has informed the Department of the Treasury that the use of unallocated deferred annuity contracts as fixed income investments would not cause the TDFs to fail to meet the requirements of § 2550.404c–5(e)(4)(i) of the QDIA regulation. It is also the Department of Labor’s view that the distribution of annuity certificates as each TDF dissolves on its target date, as described in the example in this notice, is consistent with § 2550.404c–5(e)(4)(vi) of the QDIA regulation. See the Letter to J. Mark Iwry at the Department of the Treasury (October 23, 2014) from Phyllis C. Borzi, at *http://www.dol.gov/ebsa/regs/ils*.

contract held in the TDF. The certificate provides for immediate or deferred commencement of annuity payments in accordance with the terms of the annuity contract and the plan. The remaining portion of a participant's interest in that TDF is reinvested in other investment options within Plan A.

The investment manager and Employer X treat each TDF in the series in the same manner with respect to rights or features other than the mix of assets. For example, with respect to each TDF, the investment manager determines the fees and administrative expenses in a consistent manner, and the percentage of those fees and expenses that are paid from plan assets (rather than by Employer X) is the same.

Pursuant to the alternative method of compliance with the nondiscrimination requirements of § 401(a)(4) under section III of this notice, the series of TDFs in this example is treated as a single other right or feature for purposes of § 1.401(a)(4)–4. Therefore, each of the TDFs will satisfy the nondiscrimination requirements of § 1.401(a)(4)–4.

DRAFTING INFORMATION

The principal authors of this notice are Yaguo Zhang and Diane Bloom of the Employee Plans, Tax Exempt and Government Entities Division. Questions regarding this notice may be sent via e-mail to *RetirementPlanQuestions@irs.gov*.

Private business use of tax-exempt bond financed facilities

Notice 2014–67

SECTION 1. INTRODUCTION

The Internal Revenue Service (IRS) is considering the application of the provisions of the Internal Revenue Code (Code) governing tax-exempt bonds to arrangements entered into by hospitals or other health care organizations participating in the Medicare Shared Savings Program (Shared Savings Program) described in §§ 3022 and 10307 of the Patient Protection and Affordable Care Act, Pub. L. 111–148, 124 Stat. 119 (Affordable Care Act), enacted March 23, 2010. This notice provides interim guidance for determining whether a State or local government entity or an organization described in § 501(c)(3) of the Code that benefits from tax-exempt bond financing will be considered to have private business use of its bond-financed facilities under § 141 or § 145(a)(2)(B) of the Code as a result of its participation in the Share Savings Program through an "accountable care organization" (ACO). In addition, this notice amplifies Rev. Proc. 97–13, 1997–1 C.B. 632, as amended by Rev. Proc. 2001–39, 2001–2 C.B. 38 (cited herein as "Rev. Proc. 97–13"), regarding certain management contracts that do not result in private business use. This notice also solicits public comments on this interim guidance and on further guidance needed to facilitate participation in the Shared Savings Program.

SECTION 2. BACKGROUND

ACOs and the Shared Savings Program

Section 3022 of the Affordable Care Act amended Title XVIII of the Social Security Act (SSA) (42 U.S.C. 1395 et seq.) by adding a new § 1899, which directs the Secretary of the Department of Health and Human Services (HHS) to establish a Medicare shared savings program that promotes accountability for care of Medicare beneficiaries, improves the coordination of Medicare fee-for-service items and services, and encourages investment in infrastructure and redesigned care processes for high quality and efficient service delivery. Under § 1899(b)(1) of the SSA, groups of health care service providers and suppliers that have established a mechanism for shared governance and that meet criteria specified by HHS are eligible to participate as ACOs under the program.

Section 1899(b)(1) of the SSA provides examples of groups of service providers and suppliers that may form an ACO, including (i) physicians and other health care practitioners (ACO professionals) in a group practice, (ii) a network of individual practices, (iii) a partnership or joint venture arrangement between hospitals and ACO professionals, and (iv) a hospital employing ACO professionals. ACOs eligible to participate in the Shared Savings Program will manage and coordinate care for their assigned Medicare fee-for-service beneficiaries. Health care service providers and suppliers participating in an ACO will continue to receive Medicare fee-for-service payments in the same manner as such payments would otherwise be made. In addition, an ACO that meets quality performance standards established by HHS and demonstrates that it has achieved savings against an appropriate benchmark of expected average per capita Medicare fee-for-service expenditures will be eligible to receive payments for Medicare shared savings (Shared Savings Program payments) under § 1899(d)(2) of the SSA. Section 1899(i) of the SSA also authorizes the use of other payment models that the HHS Secretary determines will improve the quality and efficiency of items and services for Medicare.

Section 1899(b)(2) of the SSA establishes the following requirements for an ACO to participate in the Shared Savings Program:

(1) The ACO shall be willing to become accountable for the quality, cost, and overall care of the Medicare fee-for-service beneficiaries assigned to it.

(2) The ACO shall enter into an agreement with the HHS Secretary to participate in the Shared Savings Program for not less than a 3-year period.

(3) The ACO shall have a formal legal structure that would allow the organization to receive and distribute Shared Savings Program payments to participating providers of services and suppliers.

(4) The ACO shall include primary care ACO professionals that are sufficient for the number of Medicare fee-for-service beneficiaries assigned to the ACO under § 1899(c). At a minimum, the ACO shall have at least 5,000 such beneficiaries assigned to it under § 1899(c) to be eligible to participate in the Shared Savings Program.

(5) The ACO shall provide the HHS Secretary with such information regarding ACO professionals participating in the ACO as the Secretary determines necessary to support the assignment of Medicare fee-for-service beneficiaries to an ACO, the implementation of quality and the other reporting requirements under § 1899(b)(3), and the determination of Shared Savings Program payments.

(6) The ACO shall have in place a leadership and management structure that includes clinical and administrative systems.

(7) The ACO shall define processes to promote evidence-based medicine and patient engagement, report on quality and cost measures, and coordinate care, such as through the use of telehealth, remote patient monitoring, and other such enabling technologies.

(8) The ACO shall demonstrate to the HHS Secretary that it meets patient-centeredness criteria specified by the Secretary, such as the use of patient and caregiver assessments or the use of individualized care plans.

On November 2, 2011, the Centers for Medicare & Medicaid Services (CMS), the agency within HHS that administers the Medicare program, published final regulations addressing § 1899 of the SSA (76 FR 67802). The regulations contain specific eligibility criteria for entities to qualify as ACOs under the Shared Savings Program and describe quality measures, reporting requirements, and monitoring by CMS. The regulations require the ACO to be a legal entity formed under applicable State, Federal, or Tribal law, identified by a taxpayer identification number, and authorized in each State in which it operates for purposes of (1) receiving and distributing shared savings; (2) repaying shared losses or other monies determined to be owed to CMS; (3) establishing, reporting, and ensuring provider compliance with health care quality criteria, including quality performance standards; and (4) fulfilling other ACO functions identified in the regulations. The regulations require an ACO to provide for meaningful participation in the composition and control of the ACO's governing body by ACO participants (or their designated representatives). In addition, the regulations generally require that the ACO's governing body include a Medicare beneficiary representative(s) served by the ACO who does not have a conflict of interest with the ACO.

The regulations require an ACO seeking to participate in the Shared Savings Program to submit a written application to CMS describing how the ACO plans to use and distribute any Shared Savings Program payments and how that plan would contribute to achieving the specific goals of the Shared Savings Program and the general aims of better care for individuals, better health for populations, and lower growth in expenditures.

Finally, consistent with the authorization in § 1899(i) of the SSA of alternative payment models, the regulations provide a "two-sided model" under which participating ACOs not only would be eligible to share in cost savings at higher rates but also would be required to repay losses resulting from spending that exceeds a benchmark of expected average per capita Medicare fee-for-service expenditures (Shared Savings Program losses).

Private Business Use of Tax-Exempt Bonds

Section 103(a) of the Code provides that, except as provided in § 103(b) of the Code, gross income does not include interest on any State or local bond. Section 103(b)(1) of the Code provides that § 103(a) of the Code shall not apply to any private activity bond that is not a qualified bond (within the meaning of section 141 of the Code).

Section 141(a) of the Code provides that the term "private activity bond" means any bond issued as part of an issue (1) that meets the private business use test and private security or payment test, or (2) that meets the private loan financing test.

Section 141(b)(1) of the Code provides generally that an issue meets the private business use test if more than 10 percent of the proceeds of the issue are to be used for any private business use. Section 141(b)(6) of the Code defines "private business use" as use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit. For this purpose, any activity carried on by a person other than a natural person must be treated as a trade or business use.

Section 1.141–3(a) of the Income Tax Regulations provides, in part, that the 10 percent private business use test of § 141(b)(1) of the Code is met if more than 10 percent of the proceeds of an issue is used in a trade or business of a nongovernmental person. For this purpose, the use of financed property is treated as the direct use of proceeds. Section 1.141–1(b) defines a nongovernmental person as a person other than a governmental person. Pursuant to § 1.141–1(b), a governmental person means a State, territory, a possession of the United States, the District of Columbia, or any political subdivision thereof, or any instrumentality of the foregoing. The United States and any agencies and instrumentalities thereof are not governmental persons.

Section 1.141–3(b)(1) provides that both actual and beneficial use by a nongovernmental person may be treated as private business use. In most cases, the private business use test is met only if a nongovernmental person has special legal entitlements to use the financed property under an arrangement with the issuer. In general, a nongovernmental person is treated as a private business user as a result of ownership; actual or beneficial use of property pursuant to a lease, a management contract, or an incentive payment contract; or certain other arrangements such as a take or pay or other output-type contract. Section 1.141–3(b)(7) provides that any other arrangement that conveys special legal entitlements for beneficial use of bond proceeds or of financed property that are comparable to the special legal entitlements described above results in private business use.

Section 1.141–3(b)(4)(i) provides generally that a management contract with respect to financed property may result in private business use of that property, based on all of the facts and circumstances. A management contract with respect to financed property generally results in private business use of that property if the contract provides for compensation for services rendered with compensation based, in whole or in part, on a share of net profits from the operations of the facility.

Section 1.141–3(b)(4)(ii) defines "management contract" as a management, service, or incentive payment contract between a governmental person and a service provider under which the service provider provides services involving all, a portion, or any function, of a facility. For example, a contract for the provision of management services for an entire hospital, a contract for management services for a specific department of a hospital, and an incentive payment contract for physician services to patients of a hospital are each treated as a management contract.

Section 1.141–3(b)(4)(iii) provides that certain arrangements described therein generally are not treated as management contracts that give rise to private business use. The described arrangements include (A) contracts for services that are solely incidental to the primary governmental function or functions of a financed facility (for example, contracts for janitorial, office equipment repair, hospital billing, or similar services); and (B) the mere granting of admitting privileges by a hospital to a doctor, even if those privileges are conditioned on the provision of *de minimis* services if those privileges are available to all qualified physicians in the area, consistent with the size and nature of the hospital's facilities.

Section 141(e) of the Code provides, in part, that the term "qualified bond" includes a qualified 501(c)(3) bond if certain requirements stated therein are met.

Section 145(a) of the Code provides generally that the term "qualified 501(c)(3) bond" means any private activity bond issued as part of an issue if (1) all property that is to be provided by the net proceeds of the issue is to be owned by a 501(c)(3) organization or a governmental unit, and (2) such bond would not be a private activity bond if (A) 501(c)(3) organizations were treated as governmental units with respect to their activities that do not constitute unrelated trades or businesses, determined by applying § 513(a) of the Code, and (B) §§ 141(b)(1) and (2) of the Code were applied by substituting "5 percent" for "10 percent" each place it appears and by substituting "net proceeds" for "proceeds" each place it appears. Section 150(a)(4) of the Code defines the term "501(c)(3) organization" to mean any organization described in § 501(c)(3) and exempt from tax under § 501(a) of the Code.

Section 1.145–2 provides that, with certain exceptions and modifications, §§ 1.141–0 through 1.141–15 apply to § 145(a) of the Code. Section 1.145–2(b) provides that, in applying §§ 1.141–0 through 1.141–15 to § 145(a), (1) references to governmental persons include 501(c)(3) organizations with respect to their activities that do not constitute unrelated trades or businesses under § 513(a) of the Code; (2) references to "10 percent" and "proceeds" in the context of the private business use test and the private security or payment test mean "5 percent" and "net proceeds", respectively; and (3) references to the private business use test in §§ 1.141–2 and 1.141–12 include the ownership test of § 145(a)(1) of the Code.

Rev. Proc. 97–13 sets forth conditions under which a management contract between a qualified user and a service provider does not result in private business use under § 141(b) of the Code. Rev. Proc. 97–13 also applies to determinations of the effect of such a management contract on whether a bond meets the test in § 145(a)(2)(B) of the Code. Section 3.07 of Rev. Proc. 97–13 defines "qualified user" as any State or local governmental unit as defined in § 1.103–1 or any instrumentality thereof. The term also includes a 501(c)(3) organization if the financed property is not used in an unrelated trade or business under § 513(a) of the Code. The term does not include the United States or any agency or instrumentality thereof.

Section 5.01 of Rev. Proc. 97–13 provides that if the requirements of section 5 of Rev. Proc. 97–13 are satisfied a management contract does not itself result in private business use. In addition, the use of financed property, pursuant to a management contract meeting these requirements, is not private business use if that use is functionally related and subordinate to that management contract and that use is not, in substance, a separate contractual agreement (for example, a separate lease of a portion of the financed property).

Under section 5.02(1) of Rev. Proc. 97–13, the management contract must provide for reasonable compensation for services rendered with no compensation based, in whole or in part, on a share of net profits from the operation of the facility.

Section 5.02(2) of Rev. Proc. 97–13 provides, for purposes of § 1.141–3(b)(4)(i) and Rev. Proc. 97–13, that compensation based on (a) a percentage of gross revenues (or adjusted gross revenues) of a facility or a percentage of expenses from a facility, but not both; (b) a capitation fee; or (c) a per-unit fee is generally not considered to be based on a share of net profits.

Section 5.02(3) of Rev. Proc. 97–13 provides, for purposes of § 1.141–3(b)(4)(i) and Rev. Proc. 97–13, that a productivity reward equal to a stated dollar amount based on increases or decreases in gross revenues (or adjusted gross revenues), or reductions in total expenses (but not both increases in gross revenues (or adjusted gross revenues) and reductions in total expenses) in any annual period during the term of the contract, generally does not cause the compensation to be based on a share of net profits.

Section 5.03 of Rev. Proc. 97–13 provides that the management contract must be described in section 5.03(1), (2), (3), (4), (5), or (6). Section 5.03(4) describes periodic fixed fee and capitation fee arrangements in certain 5-year contracts. Section 5.03(5) describes per-unit fee arrangements in certain 3-year contracts. Section 5.03(6) describes percentage of revenue or expense fee arrangements in certain 2-year contracts.

SECTION 3. INTERIM GUIDANCE

01. *Participation by Governmental Persons or Section 501(c)(3) Organizations in the Shared Savings Program through ACOs*

The IRS understands that governmental persons (as defined in § 1.141–1(b)) and 501(c)(3) organizations typically will be participating in the Shared Savings Program through ACOs with nongovernmental persons. The IRS further understands that this participation may take a variety of forms, including membership in a nonprofit membership corporation, ownership of shares in a corporation, ownership of a partnership interest in a partnership, and ownership of a membership interest in an LLC.

Under the private business use test described above, participation by a user of a health care facility financed with tax-exempt bonds in the Shared Savings Program through an ACO that includes participants that are nongovernmental persons must be structured so as not to result in private business use of the facility. In addition, any 501(c)(3) organization using a facility financed with tax-exempt bonds must structure its participation in an ACO so that its participation neither jeopardizes its 501(c)(3) status nor causes it to be engaged in an unrelated trade or business under § 513(a) of the Code.

The participation of a qualified user (as defined in section 3.07 of Rev. Proc. 97–13) in the Shared Savings Program through an ACO in itself will not result in private business use of the tax-exempt bond financed facility if all of the following conditions are met:

- The terms of the qualified user's participation in the Shared Savings Program through the ACO (including its share of Shared Savings Program payments or losses and expenses) are set forth in advance in a written agreement negotiated at arm's length.
- CMS has accepted the ACO into, and has not terminated the ACO from, the Shared Savings Program.
- The qualified user's share of economic benefits derived from the ACO (including its share of Shared Savings Program payments) is proportional to the benefits or contributions the qualified user provides to the ACO. If the qualified user receives an ownership interest in the ACO, the ownership interest received is proportional and equal in value to its capital contributions to the ACO and all ACO returns of capital, allocations, and distributions are made in proportion to ownership interests.
- The qualified user's share of the ACO's losses (including its share of Shared Savings Program losses) does not exceed the share of ACO economic benefits to which the qualified user is entitled.
- All contracts and transactions entered into by the qualified user with the ACO and the ACO's participants, and by the ACO with the ACO's participants and any other parties, are at fair market value.
- The qualified user does not contribute or otherwise transfer the property financed with tax-exempt bonds to the ACO unless the ACO is an entity that is a governmental person, or in the case of qualified 501(c)(3) bonds, either a governmental person or a 501(c)(3) organization.

02. *Management Contracts*

It is anticipated, further, that qualified users of hospitals or other health care facilities that are financed with tax-exempt bonds will enter into management contracts (as defined in § 1.141–3(b)(4)(ii)) with nongovernmental persons to provide health care services at the qualified users' facilities that will take into account the quality performance standards and Medicare fee-for-service expenditures relevant to participation in the Shared Savings Program. Under the private business use test described above, a qualified user must structure its management contracts with respect to those facilities to avoid private business use.

This notice amplifies the permitted productivity rewards and the types of permissible arrangements described in Rev. Proc. 97–13 that do not result in private business use, provided all other requirements of section 5 of Rev. Proc. 97–13 are met.

(1) Section 5.02(3) of Rev. Proc. 97–13 is amplified to add the following text at the end:

A productivity reward for services in any annual period during the term of the contract generally also does not cause the compensation to be based on a share of net profits of the financed facility if:

- The eligibility for the productivity award is based on the quality of the services provided under the management contract (for example, the achievement of Medicare Shared Savings Program quality performance standards or meeting data reporting requirements), rather than increases in revenues or decreases in expenses of the facility; and
- The amount of the productivity award is a stated dollar amount, a periodic fixed fee, or a tiered system of stated dollar amounts or periodic fixed fees based solely on the level of performance achieved with respect to the applicable measure.

(2) Section 5.03 of Rev. Proc. 97–13 is amplified to revise the first sentence and add new section 5.03(7) at the end as follows:

.03 Permissible Arrangements. The management contract must be described in section 5.03(1), (2), (3), (4), (5), (6), or (7).

* * * * *

(7) Arrangements in certain 5-year contracts. All of the compensation for services is based on a stated amount; periodic fixed fee; a capitation fee; a per-unit fee; or a combination of the preceding. The compensation for services also may include a percentage of gross revenues, adjusted gross revenues, or expenses of the facility (but not both revenues and expenses). The term of the contract, including all renewal options, does not exceed five years. Such contract need not be terminable by the qualified user prior to the end of the term. For purposes of this section 5.03(7), a tiered productivity award as described in section 5.02(3) will be treated as a stated amount or a periodic fixed fee, as appropriate.

SECTION 4. REQUEST FOR PUBLIC COMMENTS

The IRS expects to issue guidance concerning management contracts for purposes of §§ 141 and 145(a)(2)(B) of the Code. That guidance may address issues relevant to participation in the Shared Savings Program. To help inform that guidance, the Treasury Department and the IRS solicit comments on the guidance that is described in section 3 of this notice and on further guidance needed to facilitate participation in the Shared Savings Program by qualified users of tax-exempt bond financed facilities through ACOs.

Public comments should be submitted in writing on or before January 22, 2015. Comments should be sent to the following address:

Internal Revenue Service
CC:PA:LPD:PR (Notice 2014–67)
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Comments may be hand delivered to:
CC:PA:LPD:PR (Notice 2014–67)
Courier's Desk
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Comments may also be sent electronically to *notice.comments@irscounsel.treas.gov*. Please include "Notice 2014–67" in the subject line.

All comments will be available for public inspection.

SECTION 5. APPLICABILITY DATES

Section 3.01 of this notice applies to bonds subject to § 141 or § 145(a)(2)(B) of the Code sold on or after January 22, 2015. Section 3.01 may be applied to bonds sold before January 22, 2015, that are subject to § 141 or § 145(a)(2)(B) of the Code.

Section 3.02 of this notice applies to contracts entered into, materially modified, or extended (other than pursuant to a renewal option) on or after January 22, 2015. Section 3.02 may be applied to contracts entered into before January 22, 2015.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 97–13 is amplified by this notice.

SECTION 7. DRAFTING INFORMATION

The principal author of this notice is Johanna Som de Cerff of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this notice contact Johanna Som de Cerff on (202) 317-6980 (not a toll-free number).

Part IV. Items of General Interest

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2014–31

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

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

Disbarred from practice before the IRS—An individual who is disbarred is not eligible to practice before the IRS as defined at 31 C.F.R. § 10.2(a)(4).

Suspended from practice before the IRS—An individual who is suspended is not eligible to practice before the IRS as defined at 31 C.F.R. § 10.2(a)(4) during the term of the suspension.

Censured in practice before the IRS—Censure is a public reprimand. Unlike disbarment or suspension, censure does not affect an individual's eligibility to practice before the IRS, but OPR may subject the individual's future practice rights to conditions designed to promote high standards of conduct.

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

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

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

Disciplinary sanctions are described in these terms:

Disbarred by decision, Suspended by decision, Censured by decision, Monetary penalty imposed, and Disqualified after hearing—An administrative law judge (ALJ) either 1) granted the government's summary judgment motion or 2) conducted an evidentiary hearing upon OPR's complaint alleging violation of the regulations; and 3) issued a decision imposing one of these sanctions. After 30 days from the issuance of the decision, in the absence of an appeal, the ALJ's decision became the final agency decision.

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

Disbarment by decision on appeal, Suspended by decision on appeal, Censured by decision on appeal, Monetary penalty imposed by decision on appeal, and Disqualified by decision on appeal—The decision of the ALJ was appealed to the agency appeal authority, acting as the delegate of the Secretary of the Treasury, and the appeal authority issued a decision imposing one of these sanctions.

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

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

OPR has authority to disclose the grounds for disciplinary sanctions in these situations: (1) an ALJ or the Secretary's delegate on appeal has issued a decision on or after September 26, 2007, which was the effective date of amendments to the regulations that permit making such decisions publicly available; (2) the individual has settled a disciplinary case by signing OPR's "consent to sanction" form, which requires consenting individuals to admit to one or more violations of the regulations and to consent to the disclosure of the individual's own return information related to the admitted violations (for example, failure to file Federal income tax returns); or (3) OPR has issued a decision in an expedited proceeding for indefinite suspension.

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

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
California				
Coto De Caza	Ung, Rathana	Enrolled Agent	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 22, 2014
Ladera Ranch	Gilliland, Nathan M.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 14, 2014
San Francisco	Kleier, James P.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 10, 2014
Stockton	Reed, Trudy N.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 9, 2014
	Wattoff, Matthew P., see New York			
District of Columbia				
Washington, DC	Bradley, Stephanie Y.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 9, 2014
Georgia				
Stone Mountain	Adegbite, Matthew A.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 12, 2014
Hawaii				
Honolulu	Agard, Andrew A.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 14, 2014
Illinois				
Palos Heights	Spencer, George L.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 3, 2014
Wilmette	Daugerdas, Paul M.	Attorney/CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 14, 2014
Massachusetts				
Hudson	Sousa, Carlos M.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 14, 2014
Michigan				
Ada	Kroon, Arthur	CPA	Censured by consent for admitted violation of § 10.22(a)(1) (Revs. 2005 and 2008) (requiring practitioner to exercise due diligence in preparing, and filing of, tax returns for the tax years 2006, 2007, 2008, and 2009)	July 9, 2014
Minnesota				
Moorhead	Meidinger, Joan L.	Attorney	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 1, 2014

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
New Jersey				
East Brunswick	Saleem, Muhammed	Enrolled Agent	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 14, 2014
Rivervale	Rekuc, Raymond	CPA	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 1, 2014
Somers Point	Murphy, Thomas L.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 1, 2014
New York				
Hyde Park	Wattoff, Matthew P.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 14, 2014
Monroe	Balaban, Barry	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 3, 2014
Vestal	Simons, Ronald L.	CPA	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 11, 2014
Pennsylvania				
Havertown	Easton, III, William N.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 15, 2014
Swoyersville	Pinkowski, Jerome	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 2, 2014
Tennessee				
Goodlettsville	Clemmons, John E.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 9, 2014
Virginia				
Fredericksburg	Bee, Charles W.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 14, 2014
West Virginia				
Charleston	Albertson, Harold S.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from August 14, 2014

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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[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2014–01 through 2014–26 is in Internal Revenue Bulletin 2014–26, dated June 30, 2014.

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