INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2015–20
May 18, 2015

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

INCOME TAX

Notice 2015–10, page 965.

Notice 2015–20 announces that the Department of the Treasury and the IRS intend to issue regulations applicable to claims for refund or credit for amounts withheld under chapter 3 or 4. In general, these regulations will provide that an otherwise allowable claim of refund or credit made by a claimant that is the beneficial owner of a withheld payment is only available to the extent that the relevant withholding agent deposited the amount withheld. The regulations will also provide for a pro rata allocation of the amount available to the claimant for refund or credit when a withholding agent has partially satisfied its deposit requirements. The notice requests public comments concerning the administration of the pro rata allocation and procedural rules described in the notice, the potential exceptions described in the notice, and other potential exceptions consistent with the purposes of the guidance described in the notice. The regulations will apply to claims for refund or credit for amounts withheld with respect to the 2015 calendar year and thereafter.

Rev. Proc. 2015–30, page 970.

This revenue procedure provides the 2016 inflation adjusted amounts for Health Savings Accounts (HSAs) under section 223 of the Internal Revenue Code.

Notice 2015–32, page 967.

Credit for Renewable Electricity Production and Refined Coal Production, and Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2015: The notice reports for 2015 the inflation adjustment factor and reference prices used to determine the availability of the section 45 credit for electricity produced from qualified energy resources and refined coal and includes the credit amounts for renewable electricity production and refined coal production.

EXEMPT ORGANIZATIONS

Announcement 2015–14, page 971.

Revocation of IRC 501(c)(3) Organizations for failure to meet the code section requirements. Contributions made to the organizations by individual donors are no longer deductible under IRC 170(b)(1)(A).

Finding Lists begin on page ii.
Index for July through May begins on page iv.

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 III. Administrative, Procedural, and Miscellaneous

Guidance on Refunds and Credits Under Chapter 3, Chapter 4, and Related Withholding Provisions

Notice 2015–10

I. PURPOSE

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) are concerned about cases in which persons subject to withholding under sections 1441 through 1443 (herein referred to as chapter 3) or sections 1471 and 1472 (herein referred to as chapter 4) are making or will make claims for refunds or credits in circumstances where a withholding agent failed to deposit the amounts withheld as required under section 6302 (or otherwise pay such amounts to the Treasury Department). The Treasury Department and the IRS are aware that withholding agents may not always be compliant with the requirement to deposit amounts withheld under chapter 3 or 4 or reported as withheld on Form 1042–S. If a refund or credit is issued for an amount that has not been deposited, the IRS may not be able to recover that amount because the claimant and, in some cases the relevant withholding agent, may be outside the United States. The allowance of refunds or credits based on the amount reported as withheld on Form 1042–S subjects the Treasury Department to the risk that refunds or credits may be improperly granted for fictitious withholding or amounts that have not been deposited, for which collectability issues may arise. In light of these concerns, the Treasury Department and the IRS intend to issue regulations applicable to claims for refund or credit for amounts withheld under chapter 3 or 4. In general, these regulations will provide that an otherwise allowable claim for refund or credit made by a claimant that is the beneficial owner of a withheld payment is only available to the extent that the relevant withholding agent deposited the amount withheld.

Section II of this notice provides background on the statutory and regulatory rules governing refund and credit claims for amounts withheld under chapter 3 or 4.

Section III of this notice describes, in general, the regulations that the Treasury Department and the IRS intend to issue with respect to the treatment of refund and credit claims made by persons subject to withholding under chapter 3 or 4 when the amount withheld is not deposited with the Treasury Department by a withholding agent as required under section 6302 (or otherwise paid to the Treasury Department). The regulations will also provide for a pro rata allocation of the amount available to the claimant for refund or credit when a withholding agent has partially satisfied its deposit requirements. These regulations will apply to claims for refund or credit for amounts withheld with respect to the 2015 calendar year and thereafter. No inference is intended with regard to existing law, and for all years, the IRS will continue to deny claims for refund or credit when appropriate, including for fictitious withholding and other fraudulent claims.

Section IV of this notice requests public comments regarding the administration of the pro rata allocation and procedural rules described in section III.B of this notice and on potential exceptions to the rules described in this notice.

II. BACKGROUND

A. General Requirement to Withhold, Deposit, and Report under Chapters 3 and 4

Chapter 3 generally requires withholding agents to collect the substantive tax liability of foreign persons that is imposed under sections 871(a), 881(a), and 4948 on certain payments of U.S. source fixed or determinable annual or periodical income through withholding requirements. Chapter 4 generally requires withholding agents to withhold tax on certain payments to foreign financial institutions (FFIs) that are nonparticipating FFIs and certain nonfinancial foreign entities (NFFEs) that do not provide information regarding their substantial U.S. owners. Chapter 4 also generally requires participating FFIs to withhold tax on certain payments to accounts held by recalcitrant account holders and payees that are nonparticipating FFIs. The withholding required under chapters 3 and 4 is collected primarily by domestic withholding agents but is also collected by foreign withholding agents.

An amount withheld by a withholding agent is required to be deposited with the Treasury Department in accordance with section 6302. See Treas. Reg. §§ 1.1461–1(a) and 1.1474–1(b). The regulations also generally require a withholding agent to deposit withheld amounts within certain time periods that vary depending on the amount of deposits. See Treas. Reg. § 1.6302–2. A withholding agent is required to report its federal income tax liability for the amounts of tax it is required to withhold under chapters 3 and 4 on Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, for the calendar year. If, at the end of a calendar year, the total amount of deposited tax is less than the amount of tax required to be reported as due on Form 1042, the withholding agent must pay the balance due when filing its Form 1042. See Treas. Reg. § 1.1461–1(a). If the total amount of deposits received by the Treasury Department is less than the withholding tax liability of the withholding agent, and the withholding agent has not paid the tax due with the filing of its Form 1042, the withholding agent remains liable for the taxes due under section 1461 (for amounts withheld under chapter 3) or section 1474(a) (for amounts withheld under chapter 4) and associated interest and penalties. See sections 6601, 6651(a)(2), and 6656.

A withholding agent is also required to file with the IRS and furnish to the recipient of the payment a Form 1042–S, Foreign Person's U.S. Source Income Subject to Withholding, reporting any amount withheld with respect to amounts paid to the recipient. The aggregate amount reported as withheld or otherwise paid by the withholding agent on all Forms 1042–S should equal the federal income tax liability reported by the withholding agent on Form 1042.

B. Claims for Refunds and Credits

Section 33 allows as a credit against the tax imposed by Subtitle A (income tax) the amount of tax withheld at the

source under subchapter A of chapter 3. Section 1462 and Treas. Reg. § 1.1462–1(a) provide that the beneficial owner of the income may claim a credit of the amount of tax actually withheld under chapter 3 against the total income tax computed on the beneficial owner's return. For purposes of chapter 4, section 1474(b)(1) and the regulations thereunder allow a credit for the amount of tax deducted and withheld under chapter 4 as if such tax had been deducted and withheld under subchapter A of chapter 3. Treas. Reg. § 1.1474–3(a) provides that the amount of tax actually withheld shall be allowed as a credit against the total income tax computed in the beneficial owner's return.

Treas. Reg. § 1.1464–1(a) provides for a refund or credit under chapter 65 (section 6401 through section 6432) of an overpayment of tax that has actually been withheld at source under chapter 3 to be made to the taxpayer from whose income the amount of such tax was in fact withheld. For chapter 4 purposes, Treas. Reg. § 1.1474–5(a)(1) provides that a refund or credit of an amount of tax that has actually been withheld at source at the time of payment will be made to the beneficial owner of the payment to which the amount of withheld tax is attributable if such beneficial owner meets the requirements of chapter 65.

Generally, there is an overpayment when (i) there is a payment in excess of the tax due, (ii) pursuant to section 6401(a), there is a payment assessed or collected after the expiration of the statute of limitations, or (iii) pursuant to section 6401(b), there is an excess refundable credit because the amount allowable as a credit exceeds the tax imposed. Under a special rule in section 6401(b)(2), the credit under section 33 is treated as a refundable credit only in the case of a beneficial owner who is a nonresident alien and who has made an election to be treated as a U.S. resident under section 6013(g) or (h). In the case of an overpayment, section 6402(a) authorizes the IRS to credit the amount of such overpayment against any liability in respect of an internal revenue tax on the part of the person who made such overpayment and provides that the IRS shall, subject to certain offsets, refund any balance.

Treas. Reg. § 301.6402–3T(e) provides the procedural requirements applicable to a claim for refund or credit made by a nonresident alien individual or foreign corporation for amounts withheld under chapter 3 or 4. These regulations provide that, for an overpayment of tax that resulted from withholding under chapter 3 or 4, the claimant must attach a copy of the relevant Form 1042–S to the income tax return on which the claim for refund or credit is made.

III. GUIDANCE TO ADDRESS REFUND AND CREDIT CLAIMS WHERE THE DEPOSIT REQUIREMENT HAS NOT BEEN SATSIFIED

A. General Rule

The Treasury Department and the IRS intend to amend the regulations under Treas. Reg. §§ 1.1464–1(a) and 1.1474–5(a)(1) to provide that a refund or credit will be allowed to a claimant with respect to an overpayment only to the extent the relevant withholding agent has deposited (or otherwise paid to the Treasury Department) the amount withheld and such amount is in excess of the claimant's tax liability, except as otherwise provided by section 6401(b)(2). Similarly, the Treasury Department and the IRS also intend to issue regulations under section 33 and amend the regulations under Treas. Reg. §§ 1.1462–1(a) and 1.1474–3(a) to provide that a credit for an amount withheld is only available to a claimant to the extent that the withholding agent has deposited (or otherwise paid to the Treasury Department) the amount withheld. Therefore, subject to certain exceptions, including, potentially, the exceptions referenced in section III.C of this notice, no refund or credit will be allowed under the regulations for an amount withheld under chapter 3 or 4 when there is a shortfall in the deposits required to be made by the withholding agent. While this notice focuses on regulations to be issued under sections 33, 1462, 1464, and 1474, the Treasury Department and the IRS may amend or issue other related regulations to carry out the objectives described in this notice.

B. Allocation of Partial Deposits to Refund or Credit Claims

The Treasury Department and the IRS recognize that a withholding agent may deposit a portion of the amount of tax that it has withheld under chapter 3 or 4. The Treasury Department and the IRS intend to issue regulations providing that, in such cases, the claimant is entitled to an amount of refund or credit, to the extent otherwise allowable, that takes into account that the withholding agent has deposited a portion of the required amount of tax. The regulations will adopt a pro rata method to allocate the amount available for refund or credit with respect to each claimant. Under this method, a withholding agent's deposits made to its Form 1042 account will be divided by the amount reported as withheld on all Forms 1042–S filed by the withholding agent to arrive at a "deposit percentage." Solely for purposes of refund and credit claims related to chapter 3 or 4, each claimant will be treated as though the withholding agent made a deposit equal to

- the amount reported as withheld on the Form 1042–S with respect to the claimant, multiplied by
- the withholding agent's deposit percentage.

The claimant will be entitled to a refund or credit of the amount withheld to the extent that the deposit amount allocated to the claimant exceeds the claimant's tax liability.

As an example, consider a case in which a withholding agent pays a $100 dividend to each of ten nonresident aliens and withholds tax at 30 percent from each dividend under chapter 3. The withholding agent is required to deposit $300 of tax, but instead deposits only $225 of tax that it withheld. The withholding agent reports on a Form 1042–S issued to each nonresident alien and filed with the IRS that it paid to that nonresident alien a $100 dividend and withheld $30 of tax. In this case, the withholding agent's deposit percentage is 75 percent ($225, the amount of deposits reflected in the withholding agent's Form 1042 account, divided by $300, the amount reported as withheld on all Forms 1042–S filed by the withholding agent). If one nonresident alien properly claims that, under an income tax treaty

with the United States, he is entitled to a 15 percent withholding tax rate and claims a $15 refund, he is allocated $22.50 of the deposit (the $30 reported as withheld on the claimant's Form 1042–S, multiplied by the withholding agent's deposit percentage of 75 percent). Since the nonresident alien withholding tax rate is 15 percent, he has a $15 tax liability. Therefore, there is an overpayment of $7.50, and the nonresident alien will be entitled to a refund or credit for that amount.

Permitting a partial refund or credit under this methodology ensures that a claimant's refund or credit claim will not be denied in its entirety due to the failure of the relevant withholding agent to fully deposit or otherwise pay the required amount of tax and serves to allocate amounts available for refund or credit proportionately to claimants.

The Treasury Department and the IRS considered whether to permit a claimant that is the beneficial owner to prove that the deposit of tax made by a withholding agent was specifically made with respect to an amount withheld from the claimant (i.e., under a tracing or specific identification methodology). Under the existing information reporting, withholding, and deposit procedures, a withholding agent does not indicate to which beneficial owner the deposit of tax relates, and such information is not reported on Form 1042 or 1042–S. Under the existing procedures, therefore, an amount deducted by the withholding agent with respect to a payment to the beneficial owner cannot be matched with an amount of tax deposited in the withholding agent's Form 1042 account. Moreover, implementing a tracing or specific identification methodology that would permit this matching could present a significant administrative burden for withholding agents who process substantial volumes of payments and for the IRS. Because Treasury and the IRS believe that the obstacles to developing and implementing a specific tracing methodology are unlikely to be overcome in the foreseeable future, they intend to adopt the pro rata allocation method described earlier in this notice. Treasury and the IRS request comments, however, on the feasibility of developing and implementing a more precise methodology at some future date.

The IRS recognizes the need for written procedures with respect to the deposit allocation rules described in this section III.B to ensure that claimants are reasonably apprised of the status of their claims and to ensure that each claimant receives the proper amount of refund or credit under these rules. For example, the IRS is considering both when to compute the initial deposit percentage for a withholding agent and how frequently to re-compute the deposit percentage to reflect additional deposits made by the withholding agent after Form 1042 has been filed, and after the amount available for a claim is first determined. The IRS is also considering the manner in which withholding agents and affected claimants will be informed of a deposit percentage (whether initial or recomputed) that is less than 100 percent, and the process under which additional refund or credit amounts will be paid or allowed to a claimant when a withholding agent takes steps to increase its deposit percentage. For these purposes, the IRS intends to establish procedures (in, for example, the Internal Revenue Manual) in connection with these allocation rules.

C. Exceptions

The Treasury Department and the IRS are considering exceptions to the general rules described in sections III.A and III.B of this notice that are administrable by the IRS and minimize the potential for fraud or the intentional under-deposit of withholding taxes. For example, the Treasury Department and the IRS are considering whether to provide an exception if the amount of the under-deposit of tax is de minimis or if the relevant withholding agent has a demonstrated history of compliance with its deposit requirements. The exceptions would treat a claimant that is the beneficial owner of the withheld payment as if a full deposit had been made, but only for purposes of a claim for refund or credit of an amount withheld under chapter 3 or 4. To the extent that any exceptions are adopted, they would not deem a withholding agent that fails to satisfy its deposit requirements as satisfying those requirements. Therefore, the withholding agent would remain liable for the amount of tax required to be deposited and associated interest and penalties.

IV. REQUEST FOR COMMENTS

This notice requests public comments regarding the allocation of partial deposits and procedural rules described in section III.B of this notice, the potential exceptions described in section III.C of this notice, and other potential exceptions consistent with the purposes of the guidance described in this notice. This notice solicits written comments from affected persons by June 29, 2015. Written comments should be sent to: CC:PA:LPD:PR (NOT–2015–10), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (NOT–2015–10), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at Notice.Comments@irscounsel.treas.gov (NOT–2015–10). Please insert "Notice 2015–10" in the subject line of any electronic communications. All comments will be available for public inspection and copying.

V. DRAFTING INFORMATION

The principal author of this notice is Michael Kaercher of the Office of Associate Chief Counsel (International). However, other personnel from Treasury and the IRS participated in its development. For further information regarding this notice, contact John Sweeney or Michael Kaercher at (202) 317-6942 (not a toll-free number).

Credit for Renewable Electricity Production and Refined Coal Production, and Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2015

Notice 2015–32

This notice publishes the inflation adjustment factor and reference prices for calendar year 2015 for the renewable electricity production credit and the refined

coal production credit under section 45 of the Internal Revenue Code. For calendar year 2015, the credit period for Indian coal production has expired. The 2015 inflation adjustment factor and reference prices are used in determining the availability of the credits. The 2015 inflation adjustment factor and reference prices apply to calendar year 2015 sales of kilowatt hours of electricity produced in the United States or a possession thereof from qualified energy resources and to calendar year 2015 sales of refined coal produced in the United States or a possession thereof.

BACKGROUND

Section 45(a) provides that the renewable electricity production credit for any tax year is an amount equal to the product of 1.5 cents multiplied by the kilowatt hours of specified electricity produced by the taxpayer and sold to an unrelated person during the tax year. This electricity must be produced from qualified energy resources and at a qualified facility during the 10-year period beginning on the date the facility was originally placed in service.

Section 45(b)(1) provides that the amount of the credit determined under section 45(a) is reduced by an amount which bears the same ratio to the amount of the credit as (A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to (B) 3 cents. Under section 45(b)(2), the 1.5 cent amount in section 45(a), the 8 cent amount in section 45(b)(1), the $4.375 amount in section 45(e)(8)(A), and, in section 45(e)(8)(B)(i), the reference price of fuel used as feedstock (within the meaning of section 45(c)(7)(A)) in 2002 are each adjusted by multiplying the amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, the amount is rounded to the nearest multiple of 0.1 cent. In the case of electricity produced in open-loop biomass facilities, small irrigation power facilities, landfill gas facilities, trash facilities, qualified hydropower facilities, and marine and hydrokinetic renewable energy facilities, section 45(b)(4)(A) requires the amount in effect under section 45(a)(1) (before rounding to the nearest 0.1 cent) to be reduced by one-half.

Section 45(c)(1) defines qualified energy resources as wind, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower production, and marine and hydrokinetic renewable energy.

Section 45(d)(1) defines a qualified facility using wind to produce electricity as any facility owned by the taxpayer that is originally placed in service after December 31, 1993, and the construction of which begins before January 1, 2015. See section 45(e)(7) for rules relating to the inapplicability of the credit to electricity sold to utilities under certain contracts.

Section 45(d)(2)(A) defines a qualified facility using closed-loop biomass to produce electricity as any facility (i) owned by the taxpayer that is originally placed in service after December 31, 1992, and the construction of which begins before January 1, 2015, or (ii) owned by the taxpayer which before January 1, 2015, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052. For purposes of section 45(d)(2)(A)(ii), a facility shall be treated as modified before January 1, 2015, if the construction of such modification begins before such date. Section 45(d)(2)(C) provides that in the case of a qualified facility described in section 45(d)(2)(A)(ii), (i) the 10-year period referred to in section 45(a) is treated as beginning no earlier than the date of enactment of section 45(d)(2)(C)(i) (October 22, 2004), and (ii) if the owner of the facility is not the producer of the electricity, the person eligible for the credit allowable under section 45(a) is the lessee or the operator of the facility.

Section 45(d)(3)(A) defines a qualified facility using open-loop biomass to produce electricity as any facility owned by the taxpayer which (i) in the case of a facility using agricultural livestock waste nutrients, (I) is originally placed in service after the date of enactment of section 45(d)(3)(A)(i)(I) (October 22, 2004) and the construction of which begins before January 1, 2015, and (II) the nameplate capacity rating of which is not less than 150 kilowatts, and (ii) in the case of any other facility, the construction of which begins before January 1, 2015. In the case of any facility described in section 45(d)(3)(A), if the owner of the facility is not the producer of the electricity, section 45(d)(3)(C) provides that the person eligible for the credit allowable under section 45(a) is the lessee or the operator of the facility.

Section 45(d)(4) defines a qualified facility using geothermal or solar energy to produce electricity as any facility owned by the taxpayer which is originally placed in service after the date of enactment of section 45(d)(4) (October 22, 2004) and which, (A) in the case of a facility using solar energy, is placed in service before January 1, 2006, or (B) in the case of a facility using geothermal energy, the construction of which begins before January 1, 2015. A qualified facility using geothermal or solar energy does not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

Section 45(d)(5) defines a qualified facility using small irrigation power to produce electricity as any facility owned by the taxpayer which is originally placed in service after the date of enactment of section 45(d)(5) (October 22, 2004) and before October 3, 2008.

Section 45(d)(6) defines a qualified facility using gas derived from the biodegradation of municipal solid waste to produce electricity as any facility owned by the taxpayer which is originally placed in service after the date of enactment of section 45(d)(6) (October 22, 2004) and the construction of which begins before January 1, 2015.

Section 45(d)(7) defines a qualified facility (other than a facility described in section 45(d)(6)) that burns municipal solid waste to produce electricity as any facility owned by the taxpayer which is originally placed in service after the date of enactment of section 45(d)(7) (October 22, 2004) and the construction of which begins before January 1, 2015. A qualified facility burning municipal solid waste includes a new unit placed in service in

connection with a facility placed in service on or before the date of enactment of section 45(d)(7), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.

Section 45(d)(8) provides, in the case of a facility that produces refined coal (other than a facility producing steel industry fuel), the term "refined coal production facility" means any facility producing refined coal placed in service after the date of the enactment of the American Jobs Creation Act of 2004 (October 22, 2004) and before January 1, 2012.

Section 45(d)(9) defines a qualified facility producing qualified hydroelectric production described in section 45(c)(8) as (i) any facility producing incremental hydropower production, but only to the extent of its incremental hydropower production attributable to efficiency improvements or additions to capacity described in section 45(c)(8)(B) placed in service after the date of enactment of section 45(d)(9)(A)(i) (August 8, 2005) and before January 1, 2015, and (ii) any other facility placed in service after the date of enactment of section 45(d)(9)(A)(ii) (August 8, 2005) and the construction of which begins before January 1, 2015. Section 45(d)(9)(B) provides that, in the case of a qualified facility described in section 45(d)(9)(A), the 10-year period referred to in section 45(a) is treated as beginning on the date the efficiency improvements or additions to capacity are placed in service. Section 45(d)(9)(C) provides that for purposes of section 45(d)(9)(A)(i), an efficiency improvement or addition to capacity is treated as placed in service before January 1, 2015, if the construction of such improvement or addition begins before such date.

Section 45(d)(11) provides in the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term "qualified facility" means any facility owned by the taxpayer which (A) has a nameplate capacity rating of at least 150 kilowatts, and (B) which is originally placed in service on or after the date of the enactment of section 45(d)(11)(B) (October 3, 2008) and the construction of which begins before January 1, 2015.

Section 45(e)(8)(A) provides that the refined coal production credit is an amount equal to $4.375 per ton of qualified refined coal (i) produced by the taxpayer at a refined coal production facility during the 10-year period beginning on the date the facility was originally placed in service, and (ii) sold by the taxpayer (I) to an unrelated person and (II) during the 10-year period and the tax year. Section 45(e)(8)(B) provides that the amount of credit determined under section 45(e)(8)(A) is reduced by an amount which bears the same ratio to the amount of the increase as (i) the amount by which the reference price of fuel used as feedstock (within the meaning of section 45(c)(7)(A)) for the calendar year in which the sale occurs exceeds an amount equal to 1.7 multiplied by the reference price for such fuel in 2002, bears to (ii) $8.75.

Section 45(e)(2)(A) requires the Secretary to determine and publish in the Federal Register each calendar year the inflation adjustment factor and the reference price for the calendar year. The inflation adjustment factor and the reference prices for the 2015 calendar year were published in the Federal Register on April 15, 2015.

Section 45(e)(2)(B) defines the inflation adjustment factor for a calendar year as the fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term "GDP implicit price deflator" means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

Section 45(e)(2)(C) provides that the reference price is the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. Only contracts entered into after December 31, 1989, are taken into account.

Under section 45(e)(8)(C), the determination of the reference price for fuel used as feedstock within the meaning of section 45(c)(7)(A) is made according to rules similar to the rules under section 45(e)(2)(C).

INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICES

The inflation adjustment factor for calendar year 2015 for qualified energy resources and refined coal is 1.5336.

The reference price for calendar year 2015 for facilities producing electricity from wind (based upon information provided by the Department of Energy) is 4.50 cents per kilowatt hour. The reference prices for fuel used as feedstock within the meaning of section 45(c)(7)(A), relating to refined coal production (based upon information provided by the Department of Energy) are $31.90 per ton for calendar year 2002 and $57.64 per ton for calendar year 2015. The reference prices for facilities producing electricity from closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower production, and marine and hydrokinetic energy have not been determined for calendar year 2015.

PHASEOUT CALCULATION

Because the 2015 reference price for electricity produced from wind (4.50 cents per kilowatt hour) does not exceed 8 cents multiplied by the inflation adjustment factor (1.5336), the phaseout of the credit provided in section 45(b)(1) does not apply to such electricity sold during calendar year 2015. Because the 2015 reference price of fuel used as feedstock for refined coal ($57.64) does not exceed $83.17 (which is the $31.90 reference price of such fuel in 2002 multiplied by the inflation adjustment factor (1.5336) and 1.7), the phaseout of the credit provided in section 45(e)(8)(B) does not apply to refined coal sold during calendar year 2015. Further, for electricity produced from closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower production, and marine and hydrokinetic energy, the phaseout of the credit provided in section 45(b)(1) does not apply to such electricity sold during calendar year 2015.

CREDIT AMOUNT BY QUALIFIED ENERGY RESOURCE AND FACILITY AND REFINED COAL

As required by section 45(b)(2), the 1.5 cent amount in section 45(a)(1), the 8 cent amount in section 45(b)(1), and the $4.375 amount in section 45(e)(8)(A) are each adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount is rounded to the nearest multiple of 0.1 cent. In the case of electricity produced in open-loop biomass facilities, small irrigation power facilities, landfill gas facilities, trash facilities, qualified hydropower facilities, and marine and hydrokinetic renewable energy facilities, section 45(b)(4)(A) requires the amount in effect under section 45(a)(1) (before rounding to the nearest 0.1 cent) to be reduced by one-half. Under the calculation required by section 45(b)(2), the credit for renewable electricity production for calendar year 2015 under section 45(a) is 2.3 cents per kilowatt hour on the sale of electricity produced from the qualified energy resources of wind, closed-loop biomass, geothermal energy, and solar energy, and 1.2 cents per kilowatt hour on the sale of electricity produced in open-loop biomass facilities, small irrigation power facilities, landfill gas facilities, trash facilities, qualified hydropower facilities, and marine and hydrokinetic energy facilities. Under the calculation required by section 45(b)(2), the credit for refined coal production for calendar year 2015 under section 45(e)(8)(A) is $6.710 per ton on the sale of qualified refined coal.

DRAFTING AND CONTACT INFORMATION

The principal author of this notice is Jennifer A. Records of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Ms. Records on (202) 317-6853 (not a toll-free number).

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26 CFR 601.602: Tax forms and instructions.(Also: Part 1, §§ 1, 223.)

Rev. Proc. 2015–30

SECTION 1. PURPOSE

This revenue procedure provides the 2016 inflation adjusted amounts for Health Savings Accounts (HSAs) as determined under § 223 of the Internal Revenue Code.

SECTION 2. 2016 INFLATION ADJUSTED ITEMS

Annual contribution limitation. For calendar year 2016, the annual limitation on deductions under § 223(b)(2)(A) for an individual with self-only coverage under a high deductible health plan is $3,350. For calendar year 2016, the annual limitation on deductions under § 223(b)(2)(B) for an individual with family coverage under a high deductible health plan is $6,750.

High deductible health plan. For calendar year 2016, a "high deductible health plan" is defined under § 223(c)(2)(A) as a health plan with an annual deductible that is not less than $1,300 for self-only coverage or $2,600 for family coverage, and the annual out-of-pocket expenses (deductibles, co-payments, and other amounts, but not premiums) do not exceed $6,550 for self-only coverage or $13,100 for family coverage.

SECTION 3. EFFECTIVE DATE

This revenue procedure is effective for calendar year 2016.

SECTION 4. DRAFTING INFORMATION

The principal author of this revenue procedure is Bill Ruane of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding § 223 and HSAs, contact Karen Levin at (202) 317-5500 (not a toll free call). For further information regarding the calculation of the inflation adjustments in this revenue procedure, contact Mr. Ruane at (202) 317-4718 (not a toll free number).

Part IV. Items of General Interest

Announcement 2015–14

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

Table of Contents

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 IRS 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 IRS 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 on May 4, 2015 and would end on the date the court first determines the organization is not described in section 170(c)(2) as more particularly set for 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.

NAME OF ORGANIZATION	Effective Date of Revocation	LOCATION
Bill Keller Ministries	June 1, 2006	St. Petersburg, FL
B R I D G E S	January, 1, 2009	Cleveland, OH
Filipino Community of Seattle Community Development Corporation	January 1, 2009	Seattle, WA
The Genesis Foundation Inc.	January 1, 2003	Valparaiso, IN
NextArts	January 1, 2010	San Francisco, CA
Powers Foundation	April 10, 2006	Abilene, TX
Pride One of Broward County Inc.	January 1, 2010	Ft. Lauderdale, FL
San Lorenzo Ruiz Center Inc.	January 1, 2010	San Francisco, CA
Social Science Conferences, Inc.	August 1, 2011	Chapel Hill, NC
Triunfo Communications	September 1, 2001	Houston, TX
Veit Foundation	January 1, 2008	Buffalo, MN
Woman to Woman Breast Cancer Foundation	November 1, 2010	Plantation, FL

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 current actions on previously published items in Internal Revenue Bulletins 2014–27 through 2014–52 is in Internal Revenue Bulletin 2014–52, dated December 28, 2014.

Internal Revenue Service
Washington, DC 20224

INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at *www.irs.gov/irb/*.

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