INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2015–23
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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

REG–108214–15, page 1035.

Proposed regulation under section 1297(b)(2)(B) addressing when a foreign insurance company's income is excluded from passive income under section 1297(a). The proposed regulation requires that the income be earned by an insurance company that would be subject to tax under subchapter L if it were a domestic corporation and that the income be derived in the "active conduct" of an "insurance business," proposing a definition for each of those terms.

REG–140991–09, page 1037.

These proposed regulations, which will apply to banks and domestic building and loan associations (and related parties) that receive federal financial assistance ("FFA"), will modify and clarify the treatment of transactions in which FFA is provided to such institutions.

Rev. Proc. 2015–31, page 1017.

This procedure provides issuers of qualified mortgage bonds (QMBs) and qualified mortgage credit certificates (MCCs) with average area purchase price safe harbors for statistical areas in the United States and with a nationwide average purchase price for residences in the United States for purposes of the QMB rules under section 143 of the Code and the MCC rules under section 25. Rev. Proc. 2014–31 obsoleted in part.

ADMINISTRATIVE

Rev. Proc. 2015–31, page 1017.

This procedure provides issuers of qualified mortgage bonds (QMBs) and qualified mortgage credit certificates (MCCs) with average area purchase price safe harbors for statistical areas in the United States and with a nationwide average purchase price for residences in the United States for purposes of the QMB rules under section 143 of the Code and the MCC rules under section 25. Rev. Proc. 2014–31 obsoleted in part.

Finding Lists begin on page ii.

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

26 CFR 6a.103A–2: Qualified mortgage bond

Rev. Proc. 2015–31

SECTION 1. PURPOSE

This revenue procedure provides issuers of qualified mortgage bonds, as defined in section 143(a) of the Internal Revenue Code, and issuers of mortgage credit certificates, as defined in section 25(c), with (1) the nationwide average purchase price for residences located in the United States, and (2) average area purchase price safe harbors for residences located in statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam.

SECTION 2. BACKGROUND

.01 Section 103(a) provides that, except as provided in section 103(b), gross income does not include interest on any state or local bond. Section 103(b)(1) provides that section 103(a) shall not apply to any private activity bond that is not a "qualified bond" within the meaning of section 141. Section 141(e) provides, in part, that the term "qualified bond" means any private activity bond if such bond (1) is a qualified mortgage bond under section 143, (2) meets the volume cap requirements under section 146, and (3) meets the applicable requirements under section 147.

.02 Section 143(a)(1) provides that the term "qualified mortgage bond" means a bond that is issued as part of a qualified mortgage issue. Section 143(a)(2)(A) provides that the term "qualified mortgage issue" means an issue of one or more bonds by a state or political subdivision thereof, but only if: (i) all proceeds of the issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences; (ii) the issue meets the requirements of subsections (c), (d), (e), (f), (g), (h), (i), and (m)(7) of section 143; (iii) the issue does not meet the private business tests of paragraphs (1) and (2) of section 141(b); and (iv) with respect to amounts received more than 10 years after the date of issuance, repayments of $250,000 or more of principal on mortgage financing provided by the issue are used by the close of the first semiannual period beginning after the date the prepayment (or complete repayment) is received to redeem bonds that are part of the issue.

Average Area Purchase Price

.03 Section 143(e)(1) provides that an issue of bonds meets the purchase price requirements of section 143(e) if the acquisition cost of each residence financed by the issue does not exceed 90 percent of the average area purchase price applicable to such residence. Section 143(e)(5) provides that, in the case of a targeted area residence (as defined in section 143(j)), section 143(e)(1) shall be applied by substituting 110 percent for 90 percent.

.04 Section 143(e)(2) provides that the term "average area purchase price" means, with respect to any residence, the average purchase price of single-family residences (in the statistical area in which the residence is located) that were purchased during the most recent 12-month period for which sufficient statistical information is available. Under sections 143(e)(3) and (4), respectively, separate determinations are to be made for new and existing residences, and for two-, three-, and four-family residences.

.05 Section 143(e)(2) provides that the determination of the average area purchase price for a statistical area shall be made as of the date on which the commitment to provide the financing is made or, if earlier, the date of the purchase of the residence.

.06 Section 143(k)(2)(A) provides that the term "statistical area" means (i) a metropolitan statistical area (MSA), and (ii) any county (or the portion thereof) that is not within an MSA. Section 143(k)(2)(C) further provides that if sufficient recent statistical information with respect to a county (or portion thereof) is unavailable, the Secretary may substitute another area for which there is sufficient recent statistical information for such county (or portion thereof). In the case of any portion of a State which is not within a county, section 143(k)(2)(D) provides that the Secretary may designate as a county any area that is the equivalent of a county. Section 6a.103A–1(b)(4)(i) of the Temporary Income Tax Regulations (issued under section 103A of the Internal Revenue Code of 1954, the predecessor of section 143) provides that the term "State" includes a possession of the United States and the District of Columbia.

.07 Section 6a.103A–2(f)(5)(i) provides that an issuer may rely upon the average area purchase price safe harbors published by the Department of the Treasury for the statistical area in which a residence is located. Section 6a.103A–2(f)(5)(i) further provides that an issuer may use an average area purchase price limitation different from the published safe harbor if the issuer has more accurate and comprehensive data for the statistical area.

Qualified Mortgage Credit Certificate Program

.08 Section 25(c) permits a state or political subdivision to establish a qualified mortgage credit certificate program. In general, a qualified mortgage credit certificate program is a program under which the issuing authority elects not to issue an amount of private activity bonds that it may otherwise issue during the calendar year under section 146, and in their place, issues mortgage credit certificates to taxpayers in connection with the acquisition of their principal residences. Section 25(a)(1) provides, in general, that the holder of a mortgage credit certificate may claim a federal income tax credit equal to the product of the credit rate specified in the certificate and the interest paid or accrued during the tax year on the remaining principal of the indebtedness incurred to acquire the residence. Section 25(c)(2)(A)(iii)(III) generally provides that residences acquired in connection with the issuance of mortgage credit certificates must meet the purchase price requirements of section 143(e).

Income Limitations for Qualified Mortgage Bonds and Mortgage Credit Certificates

.09 Section 143(f) imposes limitations on the income of mortgagors for whom financing may be provided by qualified mortgage bonds. In addition, section 25(c)(2)(A)(iii)(IV) provides that holders of mortgage credit certificates must meet the income requirement of section 143(f). Generally, under sections 143(f)(1) and 25(c)(2)(A)(iii)(IV), the income requirement is met only if all owner-financing under a qualified mortgage bond and all mortgage credit certificates issued under a qualified mortgage credit certificate program are provided to mortgagors whose family income is 115 percent or less of the applicable median family income. Section 143(f)(5), however, generally provides for an upward adjustment to the percentage limitation in high housing cost areas. High housing cost areas are defined in section 143(f)(5)(C) as any statistical area for which the housing cost/income ratio is greater than 1.2.

.10 Under section 143(f)(5)(D), the housing cost/income ratio with respect to any statistical area is determined by dividing (a) the applicable housing price ratio for such area by (b) the ratio that the area median gross income for such area bears to the median gross income for the United States. The applicable housing price ratio is the new housing price ratio (new housing average area purchase price divided by the new housing average purchase price for the United States) or the existing housing price ratio (existing housing average area purchase price divided by the existing housing average purchase price for the United States), whichever results in the housing cost/income ratio being closer to 1.

Average Area and Nationwide Purchase Price Limitations

.11 Average area purchase price safe harbors for each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam were last published in Rev. Proc. 2014–31, 2014–20 I.R.B. 1009.

.12 The nationwide average purchase price limitation was last published in section 4.02 of Rev. Proc. 2014–31. Guidance with respect to the United States and area median gross income figures that are to be used in computing the housing cost/income ratio described in section 143(f)(5) was last published in Rev. Proc. 2015–23, 2015–13 I.R.B. 820.

.13 This revenue procedure uses FHA loan limits for a given statistical area to calculate the average area purchase price safe harbor for that area. FHA sets limits on the dollar value of loans it will insure based on median home prices and conforming loan limits established by the Federal Home Loan Mortgage Corporation. In particular, FHA sets an area's loan limit at 95 percent of the median home sales price for the area, subject to certain floors and caps measured against conforming loan limits.

.14 To calculate the average area purchase price safe harbors in this revenue procedure, the FHA loan limits are adjusted to take into account the differences between average and median purchase prices. Because FHA loan limits do not differentiate between new and existing residences, this revenue procedure contains a single average area purchase price safe harbor for both new and existing residences in a statistical area. The Treasury Department and the Internal Revenue Service have determined that FHA loan limits provide a reasonable basis for determining average area purchase price safe harbors. If the Treasury Department and the Internal Revenue Service become aware of other sources of average purchase price data, including data that differentiate between new and existing residences, consideration will be given as to whether such data provide a more accurate method for calculating average area purchase price safe harbors.

.15 The average area purchase price safe harbors listed in section 4.01 of this revenue procedure are based on FHA loan limits released December 5, 2014. FHA loan limits are available for statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam. See section 3.03 of this revenue procedure with respect to FHA loan limits revised after December 5, 2014.

.16 OMB Bulletin No. 03–04, dated and effective June 6, 2003, revised the definitions of the nation's metropolitan areas and recognized 49 new metropolitan statistical areas. The OMB bulletin no longer includes primary metropolitan statistical areas.

SECTION 3. APPLICATION

Average Area Purchase Price Safe Harbors

.01 Average area purchase price safe harbors for statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam are set forth in section 4.01 of this revenue procedure. Average area purchase price safe harbors are provided for single-family and two to four-family residences. For each type of residence, section 4.01 of this revenue procedure contains a single safe harbor that may be used for both new and existing residences. Issuers of qualified mortgage bonds and issuers of mortgage credit certificates may rely on these safe harbors to satisfy the requirements of sections 143(e) and (f). Section 4.01 of this revenue procedure provides safe harbors for MSAs and for certain counties and county equivalents. If no purchase price safe harbor is available for a statistical area, the safe harbor for "ALL OTHER AREAS" may be used for that statistical area.

.02 If a residence is in an MSA, the safe harbor applicable to it is the limitation of that MSA. If an MSA falls in more than one state, the MSA is listed in section 4.01 of this revenue procedure under each state.

.03 If the FHA revises the FHA loan limit for any statistical area after December 5, 2014, an issuer of qualified mortgage bonds or mortgage credit certificates may use the revised FHA loan limit for that statistical area to compute (as provided in the next sentence) a revised average area purchase price safe harbor for the statistical area provided that the issuer maintains records evidencing the revised FHA loan limit. The revised average area purchase price safe harbor for that statistical area is computed by dividing the revised FHA loan limit by .943.

.04 If, pursuant to section 6a.103A–2(f)(5)(i), an issuer uses more accurate and comprehensive data to determine the average area purchase price for a statistical area, the issuer must make separate average area purchase price determinations for new and existing residences. Moreover, when computing the average area purchase price for a statistical area that is an MSA, as defined in OMB Bulletin No. 03–04, the issuer must make the computation for the entire applicable MSA. When computing the average area purchase price for a statistical area that is not an MSA, the issuer must make the computation for the entire statistical area and may not combine statistical areas. Thus, for example, the issuer may not combine two or more counties.

.05 If an issuer receives a ruling permitting it to rely on an average area purchase price limitation that is higher than the applicable safe harbor in this revenue procedure, the issuer may rely on that higher limitation for the purpose of satisfying the requirements of section 143(e) and (f) for bonds sold, and mortgage credit certificates issued, not more than 30 months following the termination date of the 12-month period used by the issuer to compute the limitation.

Nationwide Average Purchase Price

.06 Section 4.02 of this revenue procedure sets forth a single nationwide average purchase price for purposes of computing the housing cost/income ratio under section 143(f)(5).

.07 Issuers must use the nationwide average purchase price set forth in section 4.02 of this revenue procedure when computing the housing cost/income ratio under section 143(f)(5) regardless of whether they are relying on the average area purchase price safe harbors contained in this revenue procedure or using more accurate and comprehensive data to determine average area purchase prices for new and existing residences for a statistical area that are different from the published safe harbors in this revenue procedure.

.08 If, pursuant to section 6.02 of this revenue procedure, an issuer relies on the average area purchase price safe harbors contained in Rev. Proc. 2014–31, the issuer must use the nationwide average purchase price set forth in section 4.02 of Rev. Proc. 2014–31 in computing the housing cost/income ratio under section 143(f)(5). Likewise, if, pursuant to section 6.04 of this revenue procedure, an issuer relies on the nationwide average purchase price published in Rev. Proc. 2014–31, the issuer may not rely on the average area purchase price safe harbors published in this revenue procedure.

SECTION 4. AVERAGE AREA AND NATIONWIDE AVERAGE PURCHASE PRICES

.01 Average area purchase prices for single-family and two to four-family residences in MSAs, and for certain counties and county equivalents are set forth below. The safe harbor for "ALL OTHER AREAS" (found at the end of the table below) may be used for a statistical area that is not listed below.

2015 Average Area Purchase Prices for Mortgage Revenue Bonds

County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
ALEUTIANS WEST CENSUS	AK	$408,537	$523,012	$632,185	$785,631
ANCHORAGE MUNICIPALITY	AK	$412,195	$527,678	$637,858	$792,683
BRISTOL BAY BOROUGH	AK	$310,976	$398,091	$481,177	$598,038
DENALI BOROUGH	AK	$315,854	$404,348	$488,759	$607,423
FAIRBANKS NORTH STAR	AK	$291,463	$373,118	$451,007	$560,498
HAINES BOROUGH	AK	$301,220	$385,578	$466,119	$579,268
JUNEAU CITY AND BOROUGH	AK	$421,951	$540,138	$652,916	$811,453
KETCHIKAN GATEWAY BOROUGH	AK	$341,463	$437,116	$528,367	$656,681
KODIAK ISLAND BOROUGH	AK	$404,878	$518,293	$626,511	$778,632
MATANUSKA-SUSITNA BOROUGH	AK	$412,195	$527,678	$637,858	$792,683
NOME CENSUS AREA	AK	$291,463	$373,118	$451,007	$560,498
NORTH SLOPE BOROUGH	AK	$352,439	$451,166	$545,387	$677,784
PETERSBURG CENSUS AREA	AK	$352,439	$451,166	$545,387	$677,784
SITKA CITY AND BOROUGH	AK	$479,268	$613,521	$741,622	$921,686
SKAGWAY MUNICIPALITY	AK	$397,561	$508,961	$615,217	$764,528
VALDEZ-CORDOVA CENSUS	AK	$310,976	$398,091	$481,177	$598,038
WRANGELL CITY AND BOROUGH	AK	$352,439	$451,166	$545,387	$677,784
YAKUTAT CITY AND BOROUGH	AK	$446,341	$571,368	$690,668	$858,378
RUSSELL	AL	$307,317	$393,425	$475,557	$590,986
COCONINO	AZ	$384,146	$491,782	$594,433	$738,759

2015 Average Area Purchase Prices for Mortgage Revenue Bonds					
ALAMEDA	CA	$663,309	$849,178	$1,026,458	$1,275,636
ALPINE	CA	$491,463	$629,162	$760,498	$945,122
AMADOR	CA	$352,439	$451,166	$545,387	$677,784
BUTTE	CA	$310,976	$398,091	$481,177	$598,038
CALAVERAS	CA	$396,341	$507,370	$613,309	$762,195
CONTRA COSTA	CA	$663,309	$849,178	$1,026,458	$1,275,636
EL DORADO	CA	$503,659	$644,751	$779,374	$968,558
FRESNO	CA	$298,780	$382,503	$462,354	$574,549
HUMBOLDT	CA	$347,561	$444,910	$537,805	$668,399
INYO	CA	$391,463	$501,113	$605,779	$752,810
LOS ANGELES	CA	$663,309	$849,178	$1,026,458	$1,275,636
MARIN	CA	$663,309	$849,178	$1,026,458	$1,275,636
MARIPOSA	CA	$341,463	$437,116	$528,367	$656,681
MENDOCINO	CA	$396,341	$507,370	$613,309	$762,195
MONO	CA	$560,976	$718,134	$868,081	$1,078,791
MONTEREY	CA	$532,927	$682,238	$824,655	$1,024,867
NAPA	CA	$652,439	$835,260	$1,009,597	$1,254,719
NEVADA	CA	$506,098	$647,879	$783,139	$973,277
ORANGE	CA	$663,309	$849,178	$1,026,458	$1,275,636
PLACER	CA	$503,659	$644,751	$779,374	$968,558
PLUMAS	CA	$357,317	$457,423	$552,916	$687,169
RIVERSIDE	CA	$376,829	$482,397	$583,086	$724,655
SACRAMENTO	CA	$503,659	$644,751	$779,374	$968,558
SAN BENITO	CA	$663,309	$849,178	$1,026,458	$1,275,636
SAN BERNARDINO	CA	$376,829	$482,397	$583,086	$724,655
SAN DIEGO	CA	$596,341	$763,415	$922,800	$1,146,819
SAN FRANCISCO	CA	$663,309	$849,178	$1,026,458	$1,275,636
SAN JOAQUIN	CA	$323,171	$413,680	$500,053	$621,474
SAN LUIS OBISPO	CA	$595,122	$761,877	$920,891	$1,144,486
SAN MATEO	CA	$663,309	$849,178	$1,026,458	$1,275,636
SANTA BARBARA	CA	$663,309	$849,178	$1,026,458	$1,275,636
SANTA CLARA	CA	$663,309	$849,178	$1,026,458	$1,275,636
SANTA CRUZ	CA	$663,309	$849,178	$1,026,458	$1,275,636
SHASTA	CA	$290,244	$371,527	$449,099	$558,165
SIERRA	CA	$323,171	$413,680	$500,053	$621,474
SOLANO	CA	$424,390	$543,266	$656,734	$816,119
SONOMA	CA	$552,439	$707,211	$854,878	$1,062,407
STANISLAUS	CA	$292,683	$374,655	$452,916	$562,831
TUOLUMNE	CA	$351,220	$449,629	$543,478	$675,398
VENTURA	CA	$640,244	$819,618	$990,721	$1,231,230
YOLO	CA	$503,659	$644,751	$779,374	$968,558
ADAMS	CO	$450,000	$576,087	$696,341	$865,376
ARAPAHOE	CO	$450,000	$576,087	$696,341	$865,376
ARCHULETA	CO	$302,439	$387,169	$467,975	$581,601
BOULDER	CO	$484,146	$619,777	$749,205	$931,071
BROOMFIELD	CO	$450,000	$576,087	$696,341	$865,376

2015 Average Area Purchase Prices for Mortgage Revenue Bonds					
CHAFFEE	CO	$291,463	$373,118	$451,007	$560,498
CLEAR CREEK	CO	$450,000	$576,087	$696,341	$865,376
DENVER	CO	$450,000	$576,087	$696,341	$865,376
DOUGLAS	CO	$450,000	$576,087	$696,341	$865,376
EAGLE	CO	$663,309	$849,178	$1,026,458	$1,275,636
ELBERT	CO	$450,000	$576,087	$696,341	$865,376
GARFIELD	CO	$663,309	$849,178	$1,026,458	$1,275,636
GILPIN	CO	$450,000	$576,087	$696,341	$865,376
GRAND	CO	$353,659	$452,757	$547,243	$680,117
GUNNISON	CO	$379,268	$485,525	$586,903	$729,374
HINSDALE	CO	$453,659	$580,753	$702,015	$872,428
JEFFERSON	CO	$450,000	$576,087	$696,341	$865,376
LA PLATA	CO	$402,439	$515,164	$622,747	$773,913
LARIMER	CO	$318,293	$407,476	$492,524	$612,089
MESA	CO	$300,000	$384,040	$464,210	$576,935
OURAY	CO	$451,220	$577,625	$698,250	$867,709
PARK	CO	$450,000	$576,087	$696,341	$865,376
PITKIN	CO	$663,309	$849,178	$1,026,458	$1,275,636
ROUTT	CO	$663,309	$849,178	$1,026,458	$1,275,636
SAN MIGUEL	CO	$663,309	$849,178	$1,026,458	$1,275,636
SUMMIT	CO	$663,309	$849,178	$1,026,458	$1,275,636
FAIRFIELD	CT	$637,805	$816,490	$986,957	$1,226,564
HARTFORD	CT	$374,390	$479,268	$579,321	$719,989
LITCHFIELD	CT	$379,268	$485,525	$586,903	$729,374
MIDDLESEX	CT	$374,390	$479,268	$579,321	$719,989
NEW HAVEN	CT	$324,390	$415,270	$501,962	$623,807
NEW LONDON	CT	$297,561	$380,912	$460,445	$572,216
TOLLAND	CT	$374,390	$479,268	$579,321	$719,989
WINDHAM	CT	$302,439	$387,169	$467,975	$581,601
DISTRICT OF COLUMBIA	DC	$663,309	$849,178	$1,026,458	$1,275,636
NEW CASTLE	DE	$402,439	$515,164	$622,747	$773,913
SUSSEX	DE	$335,366	$429,321	$518,929	$644,910
BAKER	FL	$328,049	$419,936	$507,635	$630,859
BROWARD	FL	$365,854	$468,346	$566,119	$703,552
CLAY	FL	$328,049	$419,936	$507,635	$630,859
COLLIER	FL	$475,610	$608,855	$735,949	$914,634
DUVAL	FL	$328,049	$419,936	$507,635	$630,859
LAKE	FL	$291,463	$373,118	$451,007	$560,498
MANATEE	FL	$302,439	$387,169	$467,975	$581,601
MARTIN	FL	$335,366	$429,321	$518,929	$644,910
MIAMI-DADE	FL	$365,854	$468,346	$566,119	$703,552
MONROE	FL	$560,976	$718,134	$868,081	$1,078,791
NASSAU	FL	$328,049	$419,936	$507,635	$630,859

2015 Average Area Purchase Prices for Mortgage Revenue Bonds					
OKALOOSA	FL	$345,122	$441,782	$534,040	$663,680
ORANGE	FL	$291,463	$373,118	$451,007	$560,498
OSCEOLA	FL	$291,463	$373,118	$451,007	$560,498
PALM BEACH	FL	$365,854	$468,346	$566,119	$703,552
ST. JOHNS	FL	$328,049	$419,936	$507,635	$630,859
ST. LUCIE	FL	$335,366	$429,321	$518,929	$644,910
SARASOTA	FL	$302,439	$387,169	$467,975	$581,601
SEMINOLE	FL	$291,463	$373,118	$451,007	$560,498
SUMTER	FL	$292,683	$374,655	$452,916	$562,831
WALTON	FL	$345,122	$441,782	$534,040	$663,680
BARROW	GA	$363,415	$465,217	$562,354	$698,887
BARTOW	GA	$363,415	$465,217	$562,354	$698,887
BUTTS	GA	$363,415	$465,217	$562,354	$698,887
CARROLL	GA	$363,415	$465,217	$562,354	$698,887
CHATTAHOOCHEE	GA	$307,317	$393,425	$475,557	$590,986
CHEROKEE	GA	$363,415	$465,217	$562,354	$698,887
CLARKE	GA	$340,244	$435,578	$526,511	$654,295
CLAYTON	GA	$363,415	$465,217	$562,354	$698,887
COBB	GA	$363,415	$465,217	$562,354	$698,887
COWETA	GA	$363,415	$465,217	$562,354	$698,887
DAWSON	GA	$363,415	$465,217	$562,354	$698,887
DEKALB	GA	$363,415	$465,217	$562,354	$698,887
DOUGLAS	GA	$363,415	$465,217	$562,354	$698,887
FAYETTE	GA	$363,415	$465,217	$562,354	$698,887
FORSYTH	GA	$363,415	$465,217	$562,354	$698,887
FULTON	GA	$363,415	$465,217	$562,354	$698,887
GREENE	GA	$546,341	$699,417	$845,440	$1,050,689
GWINNETT	GA	$363,415	$465,217	$562,354	$698,887
HARALSON	GA	$363,415	$465,217	$562,354	$698,887
HARRIS	GA	$307,317	$393,425	$475,557	$590,986
HEARD	GA	$363,415	$465,217	$562,354	$698,887
HENRY	GA	$363,415	$465,217	$562,354	$698,887
JASPER	GA	$363,415	$465,217	$562,354	$698,887
LAMAR	GA	$363,415	$465,217	$562,354	$698,887
MADISON	GA	$340,244	$435,578	$526,511	$654,295
MARION	GA	$307,317	$393,425	$475,557	$590,986
MERIWETHER	GA	$363,415	$465,217	$562,354	$698,887
MORGAN	GA	$363,415	$465,217	$562,354	$698,887
MUSCOGEE	GA	$307,317	$393,425	$475,557	$590,986
NEWTON	GA	$363,415	$465,217	$562,354	$698,887
OCONEE	GA	$340,244	$435,578	$526,511	$654,295
OGLETHORPE	GA	$340,244	$435,578	$526,511	$654,295
PAULDING	GA	$363,415	$465,217	$562,354	$698,887
PICKENS	GA	$363,415	$465,217	$562,354	$698,887
PIKE	GA	$363,415	$465,217	$562,354	$698,887
ROCKDALE	GA	$363,415	$465,217	$562,354	$698,887

2015 Average Area Purchase Prices for Mortgage Revenue Bonds

SPALDING	GA	$363,415	$465,217	$562,354	$698,887
WALTON	GA	$363,415	$465,217	$562,354	$698,887
HONOLULU	HI	$764,634	$978,844	$1,183,245	$1,470,467
KALAWAO	HI	$697,561	$893,001	$1,079,427	$1,341,463
KAUAI	HI	$756,098	$967,922	$1,170,042	$1,454,030
MAUI	HI	$697,561	$893,001	$1,079,427	$1,341,463
HAWAII	HI	$390,244	$499,576	$603,871	$750,477
BLAINE	ID	$663,309	$849,178	$1,026,458	$1,275,636
CAMAS	ID	$663,309	$849,178	$1,026,458	$1,275,636
LINCOLN	ID	$663,309	$849,178	$1,026,458	$1,275,636
TETON	ID	$663,309	$849,178	$1,026,458	$1,275,636
VALLEY	ID	$289,024	$369,989	$447,243	$555,832
BOONE	IL	$359,756	$460,551	$556,681	$691,835
COOK	IL	$387,805	$496,448	$600,106	$745,758
DEKALB	IL	$387,805	$496,448	$600,106	$745,758
DUPAGE	IL	$387,805	$496,448	$600,106	$745,758
GRUNDY	IL	$387,805	$496,448	$600,106	$745,758
KANE	IL	$387,805	$496,448	$600,106	$745,758
KENDALL	IL	$387,805	$496,448	$600,106	$745,758
LAKE	IL	$387,805	$496,448	$600,106	$745,758
MCHENRY	IL	$387,805	$496,448	$600,106	$745,758
WILL	IL	$387,805	$496,448	$600,106	$745,758
WINNEBAGO	IL	$359,756	$460,551	$556,681	$691,835
BOONE	IN	$313,415	$401,220	$484,995	$602,704
BROWN	IN	$313,415	$401,220	$484,995	$602,704
CLARK	IN	$301,220	$385,578	$466,119	$579,268
FLOYD	IN	$301,220	$385,578	$466,119	$579,268
HAMILTON	IN	$313,415	$401,220	$484,995	$602,704
HANCOCK	IN	$313,415	$401,220	$484,995	$602,704
HARRISON	IN	$301,220	$385,578	$466,119	$579,268
HENDRICKS	IN	$313,415	$401,220	$484,995	$602,704
JASPER	IN	$387,805	$496,448	$600,106	$745,758
JOHNSON	IN	$313,415	$401,220	$484,995	$602,704
LAKE	IN	$387,805	$496,448	$600,106	$745,758
MADISON	IN	$313,415	$401,220	$484,995	$602,704
MARION	IN	$313,415	$401,220	$484,995	$602,704
MORGAN	IN	$313,415	$401,220	$484,995	$602,704
NEWTON	IN	$387,805	$496,448	$600,106	$745,758
PORTER	IN	$387,805	$496,448	$600,106	$745,758
PUTNAM	IN	$313,415	$401,220	$484,995	$602,704
SCOTT	IN	$301,220	$385,578	$466,119	$579,268
SHELBY	IN	$313,415	$401,220	$484,995	$602,704
WASHINGTON	IN	$301,220	$385,578	$466,119	$579,268

2015 Average Area Purchase Prices for Mortgage Revenue Bonds

JOHNSON	KS	$295,122	$377,784	$456,681	$567,550
LEAVENWORTH	KS	$295,122	$377,784	$456,681	$567,550
LINN	KS	$295,122	$377,784	$456,681	$567,550
MIAMI	KS	$295,122	$377,784	$456,681	$567,550
WYANDOTTE	KS	$295,122	$377,784	$456,681	$567,550
BULLITT	KY	$301,220	$385,578	$466,119	$579,268
HENRY	KY	$301,220	$385,578	$466,119	$579,268
JEFFERSON	KY	$301,220	$385,578	$466,119	$579,268
OLDHAM	KY	$301,220	$385,578	$466,119	$579,268
SHELBY	KY	$301,220	$385,578	$466,119	$579,268
SPENCER	KY	$301,220	$385,578	$466,119	$579,268
TRIMBLE	KY	$301,220	$385,578	$466,119	$579,268
BARNSTABLE	MA	$430,488	$551,113	$666,172	$827,837
BRISTOL	MA	$452,439	$579,215	$700,106	$870,095
DUKES	MA	$663,309	$849,178	$1,026,458	$1,275,636
ESSEX	MA	$548,780	$702,545	$849,205	$1,055,355
HAMPDEN	MA	$301,220	$385,578	$466,119	$579,268
HAMPSHIRE	MA	$301,220	$385,578	$466,119	$579,268
MIDDLESEX	MA	$548,780	$702,545	$849,205	$1,055,355
NANTUCKET	MA	$663,309	$849,178	$1,026,458	$1,275,636
NORFOLK	MA	$548,780	$702,545	$849,205	$1,055,355
PLYMOUTH	MA	$548,780	$702,545	$849,205	$1,055,355
SUFFOLK	MA	$548,780	$702,545	$849,205	$1,055,355
WORCESTER	MA	$302,439	$387,169	$467,975	$581,601
ANNE ARUNDEL	MD	$548,780	$702,545	$849,205	$1,055,355
BALTIMORE	MD	$548,780	$702,545	$849,205	$1,055,355
BALTIMORE CITY	MD	$548,780	$702,545	$849,205	$1,055,355
CALVERT	MD	$663,309	$849,178	$1,026,458	$1,275,636
CARROLL	MD	$548,780	$702,545	$849,205	$1,055,355
CECIL	MD	$402,439	$515,164	$622,747	$773,913
CHARLES	MD	$663,309	$849,178	$1,026,458	$1,275,636
FREDERICK	MD	$663,309	$849,178	$1,026,458	$1,275,636
HARFORD	MD	$548,780	$702,545	$849,205	$1,055,355
HOWARD	MD	$548,780	$702,545	$849,205	$1,055,355
KENT	MD	$308,537	$394,963	$477,413	$593,319
MONTGOMERY	MD	$663,309	$849,178	$1,026,458	$1,275,636
PRINCE GEORGE'S	MD	$663,309	$849,178	$1,026,458	$1,275,636
QUEEN ANNE'S	MD	$548,780	$702,545	$849,205	$1,055,355
SOMERSET	MD	$335,366	$429,321	$518,929	$644,910
ST. MARY'S	MD	$368,293	$471,474	$569,883	$708,271
TALBOT	MD	$406,098	$519,883	$628,420	$780,965
WICOMICO	MD	$335,366	$429,321	$518,929	$644,910
WORCESTER	MD	$335,366	$429,321	$518,929	$644,910

2015 Average Area Purchase Prices for Mortgage Revenue Bonds

CUMBERLAND	ME	$320,732	$410,604	$496,288	$616,808
HANCOCK	ME	$287,805	$368,452	$445,334	$553,446
KNOX	ME	$296,341	$379,374	$458,537	$569,883
SAGADAHOC	ME	$320,732	$410,604	$496,288	$616,808
YORK	ME	$320,732	$410,604	$496,288	$616,808
ANOKA	MN	$341,463	$437,116	$528,367	$656,681
CARVER	MN	$341,463	$437,116	$528,367	$656,681
CHISAGO	MN	$341,463	$437,116	$528,367	$656,681
COOK	MN	$300,000	$384,040	$464,210	$576,935
DAKOTA	MN	$341,463	$437,116	$528,367	$656,681
HENNEPIN	MN	$341,463	$437,116	$528,367	$656,681
ISANTI	MN	$341,463	$437,116	$528,367	$656,681
LE SUEUR	MN	$341,463	$437,116	$528,367	$656,681
MILLE LACS	MN	$341,463	$437,116	$528,367	$656,681
RAMSEY	MN	$341,463	$437,116	$528,367	$656,681
SCOTT	MN	$341,463	$437,116	$528,367	$656,681
SHERBURNE	MN	$341,463	$437,116	$528,367	$656,681
SIBLEY	MN	$341,463	$437,116	$528,367	$656,681
WASHINGTON	MN	$341,463	$437,116	$528,367	$656,681
WRIGHT	MN	$341,463	$437,116	$528,367	$656,681
BATES	MO	$295,122	$377,784	$456,681	$567,550
CALDWELL	MO	$295,122	$377,784	$456,681	$567,550
CASS	MO	$295,122	$377,784	$456,681	$567,550
CLAY	MO	$295,122	$377,784	$456,681	$567,550
CLINTON	MO	$295,122	$377,784	$456,681	$567,550
JACKSON	MO	$295,122	$377,784	$456,681	$567,550
LAFAYETTE	MO	$295,122	$377,784	$456,681	$567,550
PLATTE	MO	$295,122	$377,784	$456,681	$567,550
RAY	MO	$295,122	$377,784	$456,681	$567,550
COPIAH	MS	$292,683	$374,655	$452,916	$562,831
HINDS	MS	$292,683	$374,655	$452,916	$562,831
MADISON	MS	$292,683	$374,655	$452,916	$562,831
RANKIN	MS	$292,683	$374,655	$452,916	$562,831
SIMPSON	MS	$292,683	$374,655	$452,916	$562,831
YAZOO	MS	$292,683	$374,655	$452,916	$562,831
FLATHEAD	MT	$319,512	$409,014	$494,433	$614,422
GALLATIN	MT	$367,073	$469,883	$568,028	$705,885
JEFFERSON	MT	$303,659	$388,706	$469,883	$583,934
LEWIS AND CLARK	MT	$303,659	$388,706	$469,883	$583,934
MADISON	MT	$345,122	$441,782	$534,040	$663,680
MISSOULA	MT	$300,000	$384,040	$464,210	$576,935
SWEET GRASS	MT	$307,317	$393,425	$475,557	$590,986

2015 Average Area Purchase Prices for Mortgage Revenue Bonds

CAMDEN	NC	$663,309	$849,178	$1,026,458	$1,275,636
CHATHAM	NC	$354,878	$454,295	$549,152	$682,450
CURRITUCK	NC	$486,585	$622,906	$752,969	$935,737
DARE	NC	$414,634	$530,806	$641,622	$797,349
DURHAM	NC	$354,878	$454,295	$549,152	$682,450
FRANKLIN	NC	$297,561	$380,912	$460,445	$572,216
GATES	NC	$486,585	$622,906	$752,969	$935,737
HYDE	NC	$512,195	$655,673	$792,577	$984,995
JOHNSTON	NC	$297,561	$380,912	$460,445	$572,216
ORANGE	NC	$354,878	$454,295	$549,152	$682,450
PASQUOTANK	NC	$663,309	$849,178	$1,026,458	$1,275,636
PERQUIMANS	NC	$663,309	$849,178	$1,026,458	$1,275,636
PERSON	NC	$354,878	$454,295	$549,152	$682,450
TYRRELL	NC	$414,634	$530,806	$641,622	$797,349
WAKE	NC	$297,561	$380,912	$460,445	$572,216
WATAUGA	NC	$291,463	$373,118	$451,007	$560,498
BILLINGS	ND	$323,171	$413,680	$500,053	$621,474
BURLEIGH	ND	$308,537	$394,963	$477,413	$593,319
MCKENZIE	ND	$291,463	$373,118	$451,007	$560,498
MORTON	ND	$308,537	$394,963	$477,413	$593,319
OLIVER	ND	$308,537	$394,963	$477,413	$593,319
SIOUX	ND	$308,537	$394,963	$477,413	$593,319
STARK	ND	$317,073	$405,885	$490,615	$609,756
WILLIAMS	ND	$335,366	$429,321	$518,929	$644,910
HILLSBOROUGH	NH	$313,415	$401,220	$484,995	$602,704
ROCKINGHAM	NH	$548,780	$702,545	$849,205	$1,055,355
STRAFFORD	NH	$548,780	$702,545	$849,205	$1,055,355
ATLANTIC	NJ	$335,366	$429,321	$518,929	$644,910
BERGEN	NJ	$663,309	$849,178	$1,026,458	$1,275,636
BURLINGTON	NJ	$402,439	$515,164	$622,747	$773,913
CAMDEN	NJ	$402,439	$515,164	$622,747	$773,913
CAPE MAY	NJ	$439,024	$562,036	$679,374	$844,274
ESSEX	NJ	$663,309	$849,178	$1,026,458	$1,275,636
GLOUCESTER	NJ	$402,439	$515,164	$622,747	$773,913
HUDSON	NJ	$663,309	$849,178	$1,026,458	$1,275,636
HUNTERDON	NJ	$663,309	$849,178	$1,026,458	$1,275,636
MERCER	NJ	$365,854	$468,346	$566,119	$703,552
MIDDLESEX	NJ	$663,309	$849,178	$1,026,458	$1,275,636
MONMOUTH	NJ	$663,309	$849,178	$1,026,458	$1,275,636
MORRIS	NJ	$663,309	$849,178	$1,026,458	$1,275,636
OCEAN	NJ	$663,309	$849,178	$1,026,458	$1,275,636
PASSAIC	NJ	$663,309	$849,178	$1,026,458	$1,275,636
SALEM	NJ	$402,439	$515,164	$622,747	$773,913

2015 Average Area Purchase Prices for Mortgage Revenue Bonds					
SOMERSET	NJ	$663,309	$849,178	$1,026,458	$1,275,636
SUSSEX	NJ	$663,309	$849,178	$1,026,458	$1,275,636
UNION	NJ	$663,309	$849,178	$1,026,458	$1,275,636
WARREN	NJ	$395,122	$505,832	$611,400	$759,862
LOS ALAMOS	NM	$403,659	$516,755	$624,602	$776,246
SANTA FE	NM	$390,244	$499,576	$603,871	$750,477
TAOS	NM	$303,659	$388,706	$469,883	$583,934
CARSON CITY	NV	$303,659	$388,706	$469,883	$583,934
CLARK	NV	$304,878	$390,297	$471,792	$586,320
DOUGLAS	NV	$371,951	$476,140	$575,557	$715,270
STOREY	NV	$345,122	$441,782	$534,040	$663,680
WASHOE	NV	$345,122	$441,782	$534,040	$663,680
ALBANY	NY	$309,756	$396,554	$479,321	$595,652
BRONX	NY	$663,309	$849,178	$1,026,458	$1,275,636
DUTCHESS	NY	$663,309	$849,178	$1,026,458	$1,275,636
KINGS	NY	$663,309	$849,178	$1,026,458	$1,275,636
NASSAU	NY	$663,309	$849,178	$1,026,458	$1,275,636
NEW YORK	NY	$663,309	$849,178	$1,026,458	$1,275,636
ORANGE	NY	$663,309	$849,178	$1,026,458	$1,275,636
PUTNAM	NY	$663,309	$849,178	$1,026,458	$1,275,636
QUEENS	NY	$663,309	$849,178	$1,026,458	$1,275,636
RENSSELAER	NY	$309,756	$396,554	$479,321	$595,652
RICHMOND	NY	$663,309	$849,178	$1,026,458	$1,275,636
ROCKLAND	NY	$663,309	$849,178	$1,026,458	$1,275,636
SARATOGA	NY	$309,756	$396,554	$479,321	$595,652
SCHENECTADY	NY	$309,756	$396,554	$479,321	$595,652
SCHOHARIE	NY	$309,756	$396,554	$479,321	$595,652
SUFFOLK	NY	$663,309	$849,178	$1,026,458	$1,275,636
WESTCHESTER	NY	$663,309	$849,178	$1,026,458	$1,275,636
DELAWARE	OH	$335,366	$429,321	$518,929	$644,910
FAIRFIELD	OH	$335,366	$429,321	$518,929	$644,910
FRANKLIN	OH	$335,366	$429,321	$518,929	$644,910
HOCKING	OH	$335,366	$429,321	$518,929	$644,910
LICKING	OH	$335,366	$429,321	$518,929	$644,910
MADISON	OH	$335,366	$429,321	$518,929	$644,910
MORROW	OH	$335,366	$429,321	$518,929	$644,910
PERRY	OH	$335,366	$429,321	$518,929	$644,910
PICKAWAY	OH	$335,366	$429,321	$518,929	$644,910
UNION	OH	$335,366	$429,321	$518,929	$644,910
BENTON	OR	$317,073	$405,885	$490,615	$609,756
CLACKAMAS	OR	$384,146	$491,782	$594,433	$738,759
CLATSOP	OR	$298,780	$382,503	$462,354	$574,549

2015 Average Area Purchase Prices for Mortgage Revenue Bonds					
COLUMBIA	OR	$384,146	$491,782	$594,433	$738,759
CURRY	OR	$347,561	$444,910	$537,805	$668,399
DESCHUTES	OR	$324,390	$415,270	$501,962	$623,807
HOOD RIVER	OR	$393,902	$504,242	$609,544	$757,529
JACKSON	OR	$296,341	$379,374	$458,537	$569,883
LINCOLN	OR	$292,683	$374,655	$452,916	$562,831
MULTNOMAH	OR	$384,146	$491,782	$594,433	$738,759
TILLAMOOK	OR	$304,878	$390,297	$471,792	$586,320
WASHINGTON	OR	$384,146	$491,782	$594,433	$738,759
YAMHILL	OR	$384,146	$491,782	$594,433	$738,759
BUCKS	PA	$402,439	$515,164	$622,747	$773,913
CARBON	PA	$395,122	$505,832	$611,400	$759,862
CHESTER	PA	$402,439	$515,164	$622,747	$773,913
DELAWARE	PA	$402,439	$515,164	$622,747	$773,913
LEHIGH	PA	$395,122	$505,832	$611,400	$759,862
MONTGOMERY	PA	$402,439	$515,164	$622,747	$773,913
NORTHAMPTON	PA	$395,122	$505,832	$611,400	$759,862
PHILADELPHIA	PA	$402,439	$515,164	$622,747	$773,913
PIKE	PA	$663,309	$849,178	$1,026,458	$1,275,636
BRISTOL	RI	$452,439	$579,215	$700,106	$870,095
KENT	RI	$452,439	$579,215	$700,106	$870,095
NEWPORT	RI	$452,439	$579,215	$700,106	$870,095
PROVIDENCE	RI	$452,439	$579,215	$700,106	$870,095
WASHINGTON	RI	$452,439	$579,215	$700,106	$870,095
BEAUFORT	SC	$371,951	$476,140	$575,557	$715,270
BERKELEY	SC	$341,463	$437,116	$528,367	$656,681
CHARLESTON	SC	$341,463	$437,116	$528,367	$656,681
DORCHESTER	SC	$341,463	$437,116	$528,367	$656,681
GEORGETOWN	SC	$347,561	$444,910	$537,805	$668,399
JASPER	SC	$371,951	$476,140	$575,557	$715,270
CANNON	TN	$451,220	$577,625	$698,250	$867,709
CHEATHAM	TN	$451,220	$577,625	$698,250	$867,709
DAVIDSON	TN	$451,220	$577,625	$698,250	$867,709
DICKSON	TN	$451,220	$577,625	$698,250	$867,709
HICKMAN	TN	$451,220	$577,625	$698,250	$867,709
MACON	TN	$451,220	$577,625	$698,250	$867,709
MAURY	TN	$451,220	$577,625	$698,250	$867,709
ROBERTSON	TN	$451,220	$577,625	$698,250	$867,709
RUTHERFORD	TN	$451,220	$577,625	$698,250	$867,709
SMITH	TN	$451,220	$577,625	$698,250	$867,709
SUMNER	TN	$451,220	$577,625	$698,250	$867,709
TROUSDALE	TN	$451,220	$577,625	$698,250	$867,709
WILLIAMSON	TN	$451,220	$577,625	$698,250	$867,709
WILSON	TN	$451,220	$577,625	$698,250	$867,709

2015 Average Area Purchase Prices for Mortgage Revenue Bonds

ATASCOSA	TX	$335,366	$429,321	$518,929	$644,910
AUSTIN	TX	$346,341	$443,372	$535,949	$666,013
BANDERA	TX	$335,366	$429,321	$518,929	$644,910
BASTROP	TX	$351,220	$449,629	$543,478	$675,398
BEXAR	TX	$335,366	$429,321	$518,929	$644,910
BRAZORIA	TX	$346,341	$443,372	$535,949	$666,013
CALDWELL	TX	$351,220	$449,629	$543,478	$675,398
CHAMBERS	TX	$346,341	$443,372	$535,949	$666,013
COLLIN	TX	$329,268	$421,527	$509,491	$633,192
COMAL	TX	$335,366	$429,321	$518,929	$644,910
DALLAS	TX	$329,268	$421,527	$509,491	$633,192
DENTON	TX	$329,268	$421,527	$509,491	$633,192
ELLIS	TX	$329,268	$421,527	$509,491	$633,192
FORT BEND	TX	$346,341	$443,372	$535,949	$666,013
GALVESTON	TX	$346,341	$443,372	$535,949	$666,013
GUADALUPE	TX	$335,366	$429,321	$518,929	$644,910
HARRIS	TX	$346,341	$443,372	$535,949	$666,013
HAYS	TX	$351,220	$449,629	$543,478	$675,398
HOOD	TX	$329,268	$421,527	$509,491	$633,192
HUNT	TX	$329,268	$421,527	$509,491	$633,192
JOHNSON	TX	$329,268	$421,527	$509,491	$633,192
KAUFMAN	TX	$329,268	$421,527	$509,491	$633,192
KENDALL	TX	$335,366	$429,321	$518,929	$644,910
LIBERTY	TX	$346,341	$443,372	$535,949	$666,013
MARTIN	TX	$290,244	$371,527	$449,099	$558,165
MEDINA	TX	$335,366	$429,321	$518,929	$644,910
MIDLAND	TX	$290,244	$371,527	$449,099	$558,165
MONTGOMERY	TX	$346,341	$443,372	$535,949	$666,013
PARKER	TX	$329,268	$421,527	$509,491	$633,192
ROCKWALL	TX	$329,268	$421,527	$509,491	$633,192
SOMERVELL	TX	$329,268	$421,527	$509,491	$633,192
TARRANT	TX	$329,268	$421,527	$509,491	$633,192
TRAVIS	TX	$351,220	$449,629	$543,478	$675,398
WALLER	TX	$346,341	$443,372	$535,949	$666,013
WILLIAMSON	TX	$351,220	$449,629	$543,478	$675,398
WILSON	TX	$335,366	$429,321	$518,929	$644,910
WISE	TX	$329,268	$421,527	$509,491	$633,192
BOX ELDER	UT	$413,415	$529,215	$639,714	$795,016
DAGGETT	UT	$320,732	$410,604	$496,288	$616,808
DAVIS	UT	$413,415	$529,215	$639,714	$795,016
JUAB	UT	$310,976	$398,091	$481,177	$598,038
MORGAN	UT	$413,415	$529,215	$639,714	$795,016
RICH	UT	$314,634	$402,757	$486,850	$605,037
SALT LAKE	UT	$323,171	$413,680	$500,053	$621,474
SUMMIT	UT	$636,585	$814,952	$985,101	$1,224,231

2015 Average Area Purchase Prices for Mortgage Revenue Bonds

TOOELE	UT	$323,171	$413,680	$500,053	$621,474
UTAH	UT	$310,976	$398,091	$481,177	$598,038
WASATCH	UT	$370,732	$474,602	$573,648	$712,937
WASHINGTON	UT	$295,122	$377,784	$456,681	$567,550
WEBER	UT	$413,415	$529,215	$639,714	$795,016
ALBEMARLE	VA	$463,415	$593,266	$717,073	$891,198
ALEXANDRIA CITY	VA	$663,309	$849,178	$1,026,458	$1,275,636
AMELIA	VA	$568,293	$727,519	$879,374	$1,092,895
AMHERST	VA	$309,756	$396,554	$479,321	$595,652
APPOMATTOX	VA	$309,756	$396,554	$479,321	$595,652
ARLINGTON	VA	$663,309	$849,178	$1,026,458	$1,275,636
BEDFORD	VA	$309,756	$396,554	$479,321	$595,652
BEDFORD CITY	VA	$309,756	$396,554	$479,321	$595,652
BUCKINGHAM	VA	$463,415	$593,266	$717,073	$891,198
CAMPBELL	VA	$309,756	$396,554	$479,321	$595,652
CAROLINE	VA	$568,293	$727,519	$879,374	$1,092,895
CHARLES CITY	VA	$568,293	$727,519	$879,374	$1,092,895
CHARLOTTESVILLE	VA	$463,415	$593,266	$717,073	$891,198
CHESAPEAKE CITY	VA	$486,585	$622,906	$752,969	$935,737
CHESTERFIELD	VA	$568,293	$727,519	$879,374	$1,092,895
CLARKE	VA	$663,309	$849,178	$1,026,458	$1,275,636
COLONIAL HEIGHT	VA	$568,293	$727,519	$879,374	$1,092,895
CULPEPER	VA	$663,309	$849,178	$1,026,458	$1,275,636
DINWIDDIE	VA	$568,293	$727,519	$879,374	$1,092,895
FAIRFAX	VA	$663,309	$849,178	$1,026,458	$1,275,636
FAIRFAX CITY	VA	$663,309	$849,178	$1,026,458	$1,275,636
FALLS CHURCH CI	VA	$663,309	$849,178	$1,026,458	$1,275,636
FAUQUIER	VA	$663,309	$849,178	$1,026,458	$1,275,636
FLOYD	VA	$309,756	$396,554	$479,321	$595,652
FLUVANNA	VA	$463,415	$593,266	$717,073	$891,198
FREDERICK	VA	$287,805	$368,452	$445,334	$553,446
FREDERICKSBURG	VA	$663,309	$849,178	$1,026,458	$1,275,636
GILES	VA	$309,756	$396,554	$479,321	$595,652
GLOUCESTER	VA	$486,585	$622,906	$752,969	$935,737
GOOCHLAND	VA	$568,293	$727,519	$879,374	$1,092,895
GREENE	VA	$463,415	$593,266	$717,073	$891,198
HAMPTON CITY	VA	$486,585	$622,906	$752,969	$935,737
HANOVER	VA	$568,293	$727,519	$879,374	$1,092,895
HARRISONBURG CITY	VA	$293,902	$376,246	$454,772	$565,164
HENRICO	VA	$568,293	$727,519	$879,374	$1,092,895
HOPEWELL CITY	VA	$568,293	$727,519	$879,374	$1,092,895
ISLE OF WIGHT	VA	$486,585	$622,906	$752,969	$935,737
JAMES CITY	VA	$486,585	$622,906	$752,969	$935,737
KING GEORGE	VA	$371,951	$476,140	$575,557	$715,270
KING WILLIAM	VA	$568,293	$727,519	$879,374	$1,092,895
LANCASTER	VA	$469,512	$601,060	$726,511	$902,916

2015 Average Area Purchase Prices for Mortgage Revenue Bonds

LEXINGTON CITY	VA	$308,537	$394,963	$477,413	$593,319
LOUDOUN	VA	$663,309	$849,178	$1,026,458	$1,275,636
LYNCHBURG CITY	VA	$309,756	$396,554	$479,321	$595,652
MANASSAS CITY	VA	$663,309	$849,178	$1,026,458	$1,275,636
MANASSAS PARK CITY	VA	$663,309	$849,178	$1,026,458	$1,275,636
MATHEWS	VA	$486,585	$622,906	$752,969	$935,737
MONTGOMERY	VA	$309,756	$396,554	$479,321	$595,652
NELSON	VA	$463,415	$593,266	$717,073	$891,198
NEW KENT	VA	$568,293	$727,519	$879,374	$1,092,895
NEWPORT NEWS CITY	VA	$486,585	$622,906	$752,969	$935,737
NORFOLK CITY	VA	$486,585	$622,906	$752,969	$935,737
NORTHUMBERLAND	VA	$337,805	$432,450	$522,747	$649,629
PETERSBURG CITY	VA	$568,293	$727,519	$879,374	$1,092,895
POQUOSON CITY	VA	$486,585	$622,906	$752,969	$935,737
PORTSMOUTH CITY	VA	$486,585	$622,906	$752,969	$935,737
POWHATAN	VA	$568,293	$727,519	$879,374	$1,092,895
PRINCE GEORGE	VA	$568,293	$727,519	$879,374	$1,092,895
PRINCE WILLIAM	VA	$663,309	$849,178	$1,026,458	$1,275,636
PULASKI	VA	$309,756	$396,554	$479,321	$595,652
RADFORD CITY	VA	$309,756	$396,554	$479,321	$595,652
RAPPAHANNOCK	VA	$663,309	$849,178	$1,026,458	$1,275,636
RICHMOND CITY	VA	$568,293	$727,519	$879,374	$1,092,895
ROCKINGHAM	VA	$293,902	$376,246	$454,772	$565,164
SPOTSYLVANIA	VA	$663,309	$849,178	$1,026,458	$1,275,636
STAFFORD	VA	$663,309	$849,178	$1,026,458	$1,275,636
SUFFOLK CITY	VA	$486,585	$622,906	$752,969	$935,737
SUSSEX	VA	$568,293	$727,519	$879,374	$1,092,895
VIRGINIA BEACH	VA	$486,585	$622,906	$752,969	$935,737
WARREN	VA	$663,309	$849,178	$1,026,458	$1,275,636
WILLIAMSBURG CITY	VA	$486,585	$622,906	$752,969	$935,737
WINCHESTER CITY	VA	$287,805	$368,452	$445,334	$553,446
YORK	VA	$486,585	$622,906	$752,969	$935,737
BENNINGTON	VT	$293,902	$376,246	$454,772	$565,164
CHITTENDEN	VT	$363,415	$465,217	$562,354	$698,887
FRANKLIN	VT	$363,415	$465,217	$562,354	$698,887
GRAND ISLE	VT	$363,415	$465,217	$562,354	$698,887
LAMOILLE	VT	$292,683	$374,655	$452,916	$562,831
CHELAN	WA	$363,415	$465,217	$562,354	$698,887
CLALLAM	WA	$407,317	$521,421	$630,276	$783,298
CLARK	WA	$384,146	$491,782	$594,433	$738,759
DOUGLAS	WA	$363,415	$465,217	$562,354	$698,887
ISLAND	WA	$341,463	$437,116	$528,367	$656,681
JEFFERSON	WA	$341,463	$437,116	$528,367	$656,681
KING	WA	$548,780	$702,545	$849,205	$1,055,355
KITSAP	WA	$325,610	$416,808	$503,871	$626,193

2015 Average Area Purchase Prices for Mortgage Revenue Bonds

PIERCE	WA	$548,780	$702,545	$849,205	$1,055,355
SAN JUAN	WA	$512,195	$655,673	$792,577	$984,995
SKAGIT	WA	$334,146	$427,731	$517,073	$642,577
SKAMANIA	WA	$384,146	$491,782	$594,433	$738,759
SNOHOMISH	WA	$548,780	$702,545	$849,205	$1,055,355
THURSTON	WA	$310,976	$398,091	$481,177	$598,038
WHATCOM	WA	$323,171	$413,680	$500,053	$621,474
KENOSHA	WI	$387,805	$496,448	$600,106	$745,758
MILWAUKEE	WI	$306,098	$391,835	$473,648	$588,653
OZAUKEE	WI	$306,098	$391,835	$473,648	$588,653
PIERCE	WI	$341,463	$437,116	$528,367	$656,681
ST. CROIX	WI	$341,463	$437,116	$528,367	$656,681
WASHINGTON	WI	$306,098	$391,835	$473,648	$588,653
WAUKESHA	WI	$306,098	$391,835	$473,648	$588,653
JEFFERSON	WV	$663,309	$849,178	$1,026,458	$1,275,636
HAMPSHIRE	WV	$287,805	$368,452	$445,334	$553,446
TETON	WY	$663,309	$849,178	$1,026,458	$1,275,636
SUBLETTE	WY	$304,878	$390,297	$471,792	$586,320
SWEETWATER	WY	$317,073	$405,885	$490,615	$609,756
GUAM	GU	$597,561	$765,005	$924,708	$1,149,152
NORTHERN ISLAND	MP	$556,098	$711,877	$860,498	$1,069,406
ROTA	MP	$435,366	$557,317	$673,701	$837,222
SAIPAN	MP	$560,976	$718,134	$868,081	$1,078,791
TINIAN	MP	$564,634	$722,853	$873,754	$1,085,843
AGUAS BUENAS	PR	$408,537	$523,012	$632,185	$785,631
AIBONITO	PR	$408,537	$523,012	$632,185	$785,631
BARCELONETA	PR	$408,537	$523,012	$632,185	$785,631
BARRANQUITAS	PR	$408,537	$523,012	$632,185	$785,631
BAYAMON	PR	$408,537	$523,012	$632,185	$785,631
CAGUAS	PR	$408,537	$523,012	$632,185	$785,631
CANOVANAS	PR	$408,537	$523,012	$632,185	$785,631
CAROLINA	PR	$408,537	$523,012	$632,185	$785,631
CATANO	PR	$408,537	$523,012	$632,185	$785,631
CAYEY	PR	$408,537	$523,012	$632,185	$785,631
CEIBA	PR	$408,537	$523,012	$632,185	$785,631
CIALES	PR	$408,537	$523,012	$632,185	$785,631
CIDRA	PR	$408,537	$523,012	$632,185	$785,631
COMERIO	PR	$408,537	$523,012	$632,185	$785,631
COROZAL	PR	$408,537	$523,012	$632,185	$785,631
CULEBRA	PR	$300,000	$384,040	$464,210	$576,935
DORADO	PR	$408,537	$523,012	$632,185	$785,631

2015 Average Area Purchase Prices for Mortgage Revenue Bonds					
FAJARDO	PR	$408,537	$523,012	$632,185	$785,631
FLORIDA	PR	$408,537	$523,012	$632,185	$785,631
GUAYNABO	PR	$408,537	$523,012	$632,185	$785,631
GURABO	PR	$408,537	$523,012	$632,185	$785,631
HUMACAO	PR	$408,537	$523,012	$632,185	$785,631
JUNCOS	PR	$408,537	$523,012	$632,185	$785,631
LAS PIEDRAS	PR	$408,537	$523,012	$632,185	$785,631
LOIZA	PR	$408,537	$523,012	$632,185	$785,631
LUQUILLO	PR	$408,537	$523,012	$632,185	$785,631
MANATI	PR	$408,537	$523,012	$632,185	$785,631
MAUNABO	PR	$408,537	$523,012	$632,185	$785,631
MOROVIS	PR	$408,537	$523,012	$632,185	$785,631
NAGUABO	PR	$408,537	$523,012	$632,185	$785,631
NARANJITO	PR	$408,537	$523,012	$632,185	$785,631
OROCOVIS	PR	$408,537	$523,012	$632,185	$785,631
RIO GRANDE	PR	$408,537	$523,012	$632,185	$785,631
SAN JUAN	PR	$408,537	$523,012	$632,185	$785,631
SAN LORENZO	PR	$408,537	$523,012	$632,185	$785,631
TOA ALTA	PR	$408,537	$523,012	$632,185	$785,631
TOA BAJA	PR	$408,537	$523,012	$632,185	$785,631
TRUJILLO ALTO	PR	$408,537	$523,012	$632,185	$785,631
VEGA ALTA	PR	$408,537	$523,012	$632,185	$785,631
VEGA BAJA	PR	$408,537	$523,012	$632,185	$785,631
YABUCOA	PR	$408,537	$523,012	$632,185	$785,631
ST. CROIX ISLAND	VI	$347,561	$444,910	$537,805	$668,399
ST. JOHN ISLAND	VI	$660,976	$846,182	$1,022,800	$1,271,103
ST. THOMAS ISLAND	VI	$473,171	$605,726	$732,185	$909,968
ALL OTHER AREAS (floor):		$287,434	$367,975	$444,777	$552,757

.02 The nationwide average purchase price (for use in the housing cost/income ratio for new and existing residences) is $255,300.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2014–31 is obsolete except as provided in section 6 of this revenue procedure.

SECTION 6. EFFECTIVE DATES

.01 Issuers may rely on this revenue procedure to determine average area purchase price safe harbors for commitments to provide financing or issue mortgage credit certificates that are made, or (if the purchase precedes the commitment) for residences that are purchased, in the period that begins on May 22, 2015, and ends on the date as of which the safe harbors contained in section 4.01 of this revenue procedure are rendered obsolete by a new revenue procedure.

.02 Notwithstanding section 5 of this revenue procedure, issuers may continue to rely on the average area purchase price safe harbors contained in Rev. Proc. 2014–31, with respect to bonds sold, or for mortgage credit certificates issued with respect to bond authority exchanged, before June 21, 2015, if the commitments to provide financing or issue mortgage credit certificates are made on or before July 21, 2015.

.03 Except as provided in section 6.04, issuers must use the nationwide average purchase price limitation contained in this revenue procedure for commitments to provide financing or issue mortgage credit certificates that are made, or (if the purchase precedes the commitment) for residences that are purchased, in the period that begins on May 22, 2015, and ends on the date when the nationwide average purchase price limitation is rendered obsolete by a new revenue procedure.

.04 Notwithstanding sections 5 and 6.03 of this revenue procedure, issuers may continue to rely on the nationwide average purchase price set forth in Rev. Proc. 2014–31 with respect to bonds sold, or for mortgage credit certificates issued with respect to bond authority exchanged, before June 21, 2015, if the commitments to provide financing or issue mortgage credit certificates are made on or before July 21, 2015.

SECTION 7. PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1877.

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

This revenue procedure contains a collection of information requirement in section 3.03. The purpose of the collection of information is to verify the applicable FHA loan limit that issuers of qualified mortgage bonds and qualified mortgage certificates have used to calculate the average area purchase price for a given metropolitan statistical area for purposes of section 143(e) and 25(c). The collection of information is required to obtain the benefit of using revisions to FHA loan limits to determine average area purchase prices. The likely respondents are state and local governments.

The estimated total annual reporting and/or recordkeeping burden is: 15 hours.

The estimated annual burden per respondent and/or recordkeeper: 15 minutes.

The estimated number of respondents and/or recordkeepers: 60.

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

SECTION 8. DRAFTING INFORMATION

The principal authors of this revenue procedure are David White and James Polfer of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue procedure contact David E. White at (202) 317-4562 (not a toll free number).

Part IV. Items of General Interest

Notice of Proposed Rulemaking

Exception from Passive Income for Certain Foreign Insurance Companies

REG–108214–15

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance regarding when a foreign insurance company's income is excluded from the definition of passive income under section 1297(b)(2)(B). The proposed regulations affect the U.S. shareholders of foreign corporations. This document also invites comments from the public on all aspects of the proposed rules and provides the opportunity for the public to request a public hearing.

DATES: Written or electronic comments and requests for a public hearing must be received by July 23, 2015.

ADDRESSES: Send submissions to: CC: PA:LPD:PR (REG–108214–15), room 5203, Internal Revenue Service, P.O. 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 (REG–108214–15), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–108214–15).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Josephine Firehock, (202) 317-4932; concerning submissions of comments or requests for a public hearing, Oluwafunmilayo (Funmi) Taylor at (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The Department of Treasury (Treasury) and the IRS are aware of situations in which a hedge fund establishes a purported foreign reinsurance company in order to defer and reduce the tax that otherwise would be due with respect to investment income. Such foreign corporations may be Passive Foreign Investment Companies (PFICs). For a description of the recent trends and legislative proposals to address the issue, see "Background and Data with Respect to Hedge Fund Reinsurance Arrangements," JCT (July 31, 2014) (2014 JCT Report); see also Notice 2003–34, 2003–23 IRB 990 (May 9, 2003).

Under section 1297 of the Internal Revenue Code (Code), a foreign corporation is a PFIC if either 75 percent or more of its gross income for the taxable year is passive income ("passive income test"), or on average 50 percent or more of its assets produce passive income or are held for the production of passive income ("passive asset test"). Section 1297(b)(1) generally defines the term "passive income" to mean any income of a kind that would be "foreign personal holding company income" as defined in section 954(c). In general, an asset is characterized as passive if it generates (or is reasonably expected to generate in the reasonably foreseeable future) passive income as defined in section 1297(b). Assets that generate both passive and non-passive income in a taxable year are treated as partly passive and partly non-passive assets in proportion to the relative amounts of income generated by those assets in that year. See Notice 88–22, 1988–1 CB 489 (February 26, 1988).

For purposes of applying the passive income test, section 1297(b)(2)(B) provides that, except as provided in regulations, the term "passive income" does not include any income that is derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L as an insurance company if the corporation were a domestic corporation. As the terms "active conduct" and "insurance business" are not defined in section 1297, Treasury and the IRS are proposing regulations to clarify the circumstances under which investment income earned by a foreign insurance company is derived in the active conduct of an insurance business for purposes of determining whether the income is passive income, and thus the extent to which the company's assets are treated as passive assets for purposes of determining whether the company is a PFIC.

The proposed regulations provide that the term "active conduct" has the same meaning as in § 1.367(a)–2T(b)(3), except that officers and employees are not considered to include the officers and employees of related entities. The proposed regulations define the term "insurance business" to mean the business activity of issuing insurance and annuity contracts and the reinsuring of risks underwritten by insurance companies, together with investment activities and administrative services that are required to support or are substantially related to insurance contracts issued or reinsured by the foreign insurance company.[1] The regulations also provide that an investment activity is any activity engaged in to produce income of a kind that would be foreign personal holding company income as defined in section 954(c). The proposed regulations further provide that investment activities will be treated as required to support or as substantially related to insurance or annuity contracts issued or reinsured by the foreign corporation to the extent that income from the activities is earned from assets held by the foreign corporation to meet obligations under the contracts.

The proposed regulations do not set forth a method to determine the portion of assets held to meet obligations under insurance and annuity contracts. Comments

[1]Cf. Committee on Ways and Means U.S. House of Representatives, Supplemental Report, The Deficit Reduction Act of 1984, 98th Cong. 2d Sess., H.R. Rept. 98–432, part 2, at 531 (Mar. 5, 1984); Committee on Finance United States Senate, The Deficit Reduction Act of 1984, S. Rept. 98–169, vol. 1, at 1407–08 (April 2, 1984); H.R. Rept. 98–861, 98th Cong. 2d Sess. at 1045 (June 23, 1984) (Conference Report).

are requested on appropriate methodologies for determining the extent to which assets are held to meet obligations under insurance and annuity contracts.

The proposed regulations also do not define what it means to be "predominantly engaged" in an insurance business. Prior to 1984, the Code did not define an insurance company. Section 1.801–3(a) of the regulations, however, provides in relevant part that an insurance company is a company whose primary and predominant business activity during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

In 1984, Congress enacted a definition of an "insurance company" that applied only to life insurance companies, and in 2004, a conforming amendment was made to apply the same definition to non-life insurance companies. See sections 816(a) and 831(c). Under this definition, in order for a corporation to be subject to tax as an insurance company under subchapter L, more than half of its business during the taxable year is required to be the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies. By requiring that more than half of the company's business activity, rather than its predominant business activity, be insurance activity, the current subchapter L statutory rules adopt a stricter and more precise standard than the "primary and predominant" regulatory standard under prior law.[2] Thus, any company taxable under subchapter L as an insurance company is necessarily predominantly engaged in an insurance business for purposes of section 1297(a)(2)(B).

Proposed Effective/Applicability Date

These regulations are proposed to apply on the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register.**

Special Analyses

It has been determined that this notice of proposed rulemaking 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, and 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, this notice of proposed rulemaking has been submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under "Addresses." Treasury and the IRS request comments on all aspects of the proposed rules. Comments specifically are requested with regard to how to determine the portion of a foreign insurance company's assets that are held to meet obligations under insurance contracts issued or reinsured by the company. For example, assets could be considered as held to meet obligations under insurance or annuity contracts issued or reinsured by the corporation to the extent the corporation's assets in the calendar year do not exceed a specified percentage of the corporation's total insurance liabilities for the year (for example, the sum of the corporation's "total reserves" (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c)). Comments are requested with regard to what percentage would be appropriate. Also, comments are requested with regard to whether other methods would be more appropriate to determine the portion of assets that are held to meet obligations under insurance and annuity contracts.

All comments will be available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Josephine Firehock of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Par. 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.1297–4 is also issued under 26 U.S.C. 1297(b)(2)(B) and 1298(g).

Par. 2. Section 1.1297–4 is added to read as follows:

§ 1.1297–4 Exception from the definition of passive income for certain foreign insurance company income.

(a) *Income derived in the active conduct of an insurance business.* For purposes of section 1297, the term *passive income* does not include income earned by a foreign corporation that would be subject to tax under subchapter L if it were a domestic corporation, but only to the extent the income is derived in the active conduct of an insurance business.

(b) *Definitions.* The following definitions apply for purposes of paragraph (a) of this section—

(1) *Active conduct.* The term *active conduct* has the same meaning as in

[2]Committee on Ways and Means U.S. House of Representatives, Supplemental Report, The Deficit Reduction Act of 1984, 98th Cong. 2d Sess., H.R. Rept. 98–432, part 2, at 1402–3 (March 5, 1984); Committee on Finance United States Senate, The Deficit Reduction Act of 1984, 98th Cong. 2d Sess., S. Rpt. 98–169, vol. 1, at 525–6 (April 2, 1984); Committee on Ways and Means U.S. House of Representatives, Supplemental Report, The Deficit Reduction Act of 1984, 98th Cong. 2d Sess., H.R. Rept. 98–432, part 2, at 1042–2 (March 5, 1984) (Conference Report); H.R. Rept. 108–457, Pension Funding Equity Act of 2004, 108th Cong. 2d Sess.at 52–53 (April 1, 2004).

§ 1.367(a)–2T(b)(3), except that officers and employees are not considered to include the officers and employees of related entities as provided in § 1.367(a)–2T(b)(3).

(2) *Insurance business*. The term *insurance business* means the business of issuing insurance and annuity contracts and the reinsuring of risks underwritten by insurance companies, together with those investment activities and administrative services that are required to support or are substantially related to insurance and annuity contracts issued or reinsured by the foreign corporation. For purposes of the preceding sentence—

(i) An investment activity is any activity engaged in by the foreign corporation to produce income of a kind that would be foreign personal holding company income as defined in section 954(c); and

(ii) Investment activities are required to support or are substantially related to insurance and annuity contracts issued or reinsured by the foreign corporation to the extent that income from the activities is earned from assets held by the foreign corporation to meet obligations under the contracts.

(c) *Effective/applicability date*. These regulations apply beginning [*EFFECTIVE DATE OF FINAL RULE*].

John M. Dalrymple
Deputy Commissioner for
Services and Enforcement.

(Filed by the Office of the Federal Register on April 23, 2015, 8:45 a.m., and published in the issue of the Federal Register for April 24, 2015, 80 F.R. 22954)

Notice of Proposed Rulemaking

Guidance Regarding the Treatment of Transactions in which Federal Financial Assistance is Provided

REG–140991–09

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 597 of the Internal Revenue Code (the “Code”). The proposed regulations, which will apply to banks and domestic building and loan associations (and related parties) that receive Federal financial assistance (“FFA”), will modify and clarify the treatment of transactions in which FFA is provided to such institutions. This document also invites comments from the public and requests for a public hearing regarding these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by August 18, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–140991–09), 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 (REG–140991–09), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov/* (IRS REG–140991–09).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Russell G. Jones, (202) 317-5357, or Ken Cohen, (202) 317-5367; concerning the submission of comments or to request a public hearing, Oluwafunmilayo (Funmi) P. Taylor, (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Washington, DC 20224. Comments on the collection of information should be received by July 20, 2015.

The Treasury Department and the IRS previously issued a comprehensive set of regulations providing guidance to banks and domestic building and loan associations (and related parties) that receive FFA. These regulations (see TD 8641) were previously approved under control number 1545-1300.

The collections of information in this proposed regulation are in §§ 1.597–2(c)(4), 1.597–4(g)(5), 1.597–6(c), and 1.597–7(c)(3). The collections of information in these regulations are necessary for the proper performance of the function of the IRS by providing relevant information concerning the deferred FFA account and the amount of income tax potentially not subject to collection. The collections also inform the IRS and certain financial institutions that certain elections in these regulations have been made. The likely recordkeepers will be banks and domestic building and loan associations (and related parties) that receive FFA.

The estimated burden is as follows:

Estimated total annual reporting and/or recordkeeping burden: 2,200 hours.

Estimated average annual burden per respondent: 4.4 hours.

Estimated number of respondents: 500.

Estimated annual frequency of responses: once.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attn: Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Washington DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Any such comments should be submitted not later than July 20, 2015. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

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

Background

Overview of Legislative History and Current Regulations

Section 597 was enacted as part of the Economic Recovery Tax Act of 1981 (Public Law 97–34, 95 Stat 172 (1981)) in response to the emerging savings and loan crisis. As originally enacted, section 597 provided that money or other property provided to a domestic building and loan association by the Federal Savings and Loan Insurance Corporation ("FSLIC") was excluded from the recipient's gross income, and that such recipient was not required to make a downward adjustment to the basis of its assets.

The Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647, 102 Stat 3342 (1988)) modified section 597 by requiring taxpayers to reduce certain tax attributes by one-half of the amount of financial assistance received from the FSLIC or the Federal Deposit Insurance Corporation ("FDIC"). Yet troubled financial institutions still could receive half of such financial assistance without any corresponding reduction in tax attributes. These rules thus continued to allow the FSLIC and the FDIC to arrange acquisitions of troubled financial institutions by healthy financial institutions at a tax-subsidized cost. Notice 89–102 (1989–2 CB 436).

Section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101–73, 103 Stat 183 (1989)) ("FIRREA") further amended section 597 to provide that FFA generally is treated as taxable income. Congress believed that the tax subsidy provided to troubled financial institutions was an inefficient way to provide assistance to such institutions. *See* H.R. Rep. No. 101–54, pt. 2, at 25 (1989). Moreover, Congress believed that a tax subsidy no longer was necessary because the provisions of FIRREA that deem FFA to be included in the troubled financial institution's income at the time the institution's assets are sold or transferred generally would cause the FFA inclusion to be offset by the institution's losses. Id. at 27.

In 1995, the Treasury Department and the IRS issued a comprehensive set of regulations (the "current regulations") providing guidance for banks and domestic building and loan associations ("Institutions") and their affiliates for transactions occurring in connection with the receipt of FFA. *See* TD 8641 (1996–1 CB 103). For these purposes, the term "Institution" includes not only a troubled financial institution, but also a financial institution that acquires the troubled institution's assets and liabilities in a transaction facilitated by "Agency" (the Resolution Trust Corporation, the FDIC, any similar instrumentality of the U.S. government, and any predecessor or successor of the foregoing (including the FSLIC)).

The current regulations reflect certain principles derived from the legislative history of FIRREA. First, FFA generally is treated as ordinary income of the troubled Institution that is being compensated for its losses through the provision of assistance. Second, an Institution should not get the tax benefit of losses for which it has been compensated with FFA. Third, the timing of the inclusion of FFA should, where feasible, match the recognition of the Institution's losses. Finally, the income tax consequences of the receipt of FFA as part of a transaction in which a healthy Institution acquires a troubled Institution should not depend on the form of the acquisition (for example, the income tax consequences should not differ depending on whether the stock or the assets of a troubled Institution are acquired).

Definitions

As provided in section 597(c) and current § 1.597–1(b), "FFA" means any money or property provided by Agency to an Institution or to a direct or indirect owner of stock in an Institution under section 406(f) of the National Housing Act (12 U.S.C. 1729(f), prior to its repeal by Public Law 101–73), section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4), prior to its repeal by Public Law 111–203, 124 Stat 1376 (2010)), section 11(f) or 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f), 1823(c)), or any similar provision of law.

The amount of FFA received or accrued is the amount of any money, the fair market value of any property (other than an Agency Obligation), and the issue price of any Agency Obligation. An "Agency Obligation" is a debt instrument that Agency issues to an Institution or to a direct or indirect owner thereof.

FFA includes "Loss Guarantee" payments, "Net Worth Assistance," and certain other types of payments. A "Loss Guarantee" is an agreement pursuant to which Agency (or an entity under "Agency Control") guarantees or agrees to pay an Institution a specified amount upon the disposition or charge-off (in whole or in part) of specific assets, an agreement pursuant to which an Institution has a right to put assets to Agency (or to an entity under "Agency Control") at a specified price, or a similar arrangement. An Institution or entity is under "Agency Control" if Agency is conservator or receiver of the Institution or entity or if Agency has the right to appoint any of the Institution's or entity's directors. "Net Worth Assistance" is money or property that Agency provides as an integral part of certain actual or deemed transfers of assets or deposit liabilities, other than FFA that accrues after the date of the transfer (Net Worth Assistance thus does not include Loss Guarantee payments).

Other terms are defined in current §§ 1.597–1(b) or 1.597–5(a)(1). "Taxable Transfers" generally include (i) transfers of deposit liabilities (if FFA is provided) or of any asset for which Agency or an entity under Agency Control has any financial obligation (for example, pursuant to a Loss Guarantee), and (ii) certain deemed asset transfers. "Acquiring" refers to a corporation that is a transferee of the assets and liabilities of a troubled Institution in a Taxable Transfer (other than a deemed transferee in a Taxable Transfer described in current § 1.597–5(b)). A "New Entity" is the new corporation that is treated as purchasing all the assets of a troubled Institution in a Taxable Transfer described in § 1.597–5(b)). A "Consolidated Subsidiary" is a member of the consolidated group of which an Institution is a member that bears the same relationship to the Institution that the members of a consolidated group bear to their common parent under section 1504(a)(1). For additional terms not otherwise defined herein, *see* generally § 1.597–1(b).

Inclusion of FFA in Income

Under the current regulations, FFA generally is includible as ordinary income to the recipient at the time the FFA is received or accrued in accordance with the recipient's method of accounting. Section 1.597–2(a)(1). There are three exceptions to this general rule, however. First, if Net Worth Assistance is provided to Acquiring or a New Entity, the troubled Institution is treated as having directly received such FFA immediately before the transfer, and the Net Worth Assistance is treated as an asset that is sold in the Taxable Transfer. Section 1.597–5(c)(1). The inclusion of Net Worth Assistance in the troubled Institution's income generally will be offset by the Institution's net operating losses and other losses. Second, § 1.597–2(c) limits the amount of FFA an Institution currently must include in income under certain circumstances (for example, if the Institution has insufficient net operating losses and other losses to offset the inclusion of Net Worth Assistance in income) and provides rules for the deferred inclusion in income of amounts in excess of those limits. This provision results in matching the inclusion of FFA in income with the recognition of an Institution's built-in losses. Third, under § 1.597–2(d)(2), certain amounts received pursuant to a Loss Guarantee are included in the amount realized by Acquiring with respect to an asset subject to the Loss Guarantee rather than being included directly in gross income.

The typical Agency-assisted transaction involves the sale by Agency (in its capacity as receiver) of the troubled Institution's assets and the provision of FFA to Acquiring, which agrees to assume the troubled Institution's deposit liabilities. If, instead, an Agency-assisted transaction were structured as a stock purchase, the current regulations would treat the transaction as an asset transfer under certain circumstances. A deemed asset transfer occurs if a transaction structured as a transfer of Institution or Consolidated Subsidiary stock causes an Institution or its Consolidated Subsidiary to enter or leave a consolidated group (other than pursuant to an election under § 1.597–4(g)), or if the Institution or its Consolidated Subsidiary issues sufficient stock to cause an ownership change of at least 50 percent (*see* § 1.597–5(b)). The foregoing rules are intended to treat an Agency-assisted acquisition of a troubled Institution as a taxable asset acquisition regardless of how the acquisition is structured. The treatment of certain stock transfers as asset transfers also fosters the matching of FFA income with a troubled Institution's losses by triggering the Institution's built-in losses.

If an Agency-assisted transaction involves an actual asset transfer, the amount realized by the transferor Institution is determined under section 1001(b) by reference to the consideration paid by Acquiring. If the transaction involves a deemed asset transfer instead, the amount realized is the grossed-up basis in the acquired stock plus the amount of liabilities assumed (plus certain other items). Section 1.597–5(c)(2).

Section 1.597–5(d)(2)(i) of the current regulations provides that the purchase price for assets acquired in a Taxable Transfer generally is allocated among the assets in the same manner as amounts are allocated among assets under § 1.338–6(b), (c)(1), and (c)(2). This means that the purchase price first is allocated to the Class I assets; then, to the extent the purchase price exceeds the value of the Class I assets, the remaining purchase price is allocated among the Class II assets in proportion to their fair market value. Any remaining purchase price after allocation to the Class II assets is then allocated in a similar method among the Class III, IV, V, VI, and VII assets seriatim.

The current regulations modify certain aspects of the section 338 allocation rules. Section 1.597–5(c)(3)(ii) treats an asset subject to a Loss Guarantee as a Class II asset with a fair market value that cannot be less than its highest guaranteed value or the highest price at which it can be put. Further, § 1.597–5(d)(2)(iii) provides that if the fair market value of the Class I and Class II assets acquired in a Taxable Transfer is greater than Acquiring's or a New Entity's purchase price for the acquired assets, then the basis of the Class I and Class II assets equals their fair market value (which, in the case of an asset subject to a Loss Guarantee, cannot be less than its highest guaranteed value or the highest price at which it can be put). The amount by which the assets' fair market value exceeds the purchase price is included ratably as ordinary income by Acquiring or a New Entity over a six-year period beginning in the year of the Taxable Transfer.

In certain situations, Agency may organize a "Bridge Bank" to hold the deposit liabilities and assets of a troubled Institution and continue its operations pending its acquisition or liquidation. In general, a Bridge Bank and its associated "Residual Entity" (the entity that remains after the troubled Institution transfers its deposit liabilities to the Bridge Bank) are treated as a single entity for income tax purposes and are treated together as the successor to the troubled Institution. Thus, for example, the transferring Institution recognizes no gain or loss on the transfer of deposit liabilities to a Bridge Bank, and the Bridge Bank succeeds to the transferring Institution's basis in any transferred assets, its other tax attributes, its Taxpayer Identification Number ("TIN"), its taxable year, and its status as a member of a consolidated group. The Bridge Bank also is responsible for filing all income tax returns and statements for this single entity and is the agent for the Residual Entity (which effectively is treated as a division of the Bridge Bank). Section 1.597–4(d) and (e).

To ensure that FFA is included in the income of the transferor Institution or its consolidated group, current § 1.597–4(f) provides that the Institution remains a member of its consolidated group regardless of its placement under Agency Control or the transfer of its deposit liabilities to a Bridge Bank, unless an election is made under § 1.597–4(g) to disaffiliate the Institution. Under § 1.597–4(g), a consolidated group may elect to exclude from the group a subsidiary member that is an Institution in Agency receivership. The election is irrevocable and requires the inclusion of a "toll charge" in the group's income (the toll charge is intended to reflect the amount the group would include in income if Agency were to provide the entire amount of FFA necessary to restore the Institution's solvency at the time of the event permitting disaffiliation). Section § 1.597–4(g)(6) further imposes a deemed election (subject to the toll charge) if members of a consolidated group deconsolidate a subsidiary Institution in contemplation of Agency Control or the receipt of FFA. After any affirmative or deemed election to disaffiliate, an Institution generally is treated as a new unaffiliated corporation that received its assets and liabilities in a section 351 transaction (and thus has no net operating or capital loss carryforwards) and that holds an account receivable for future FFA with a basis equal to the toll charge (to offset the inclusion of future FFA). Section 1.597–4(g)(4)(i). The regulations under section 597 take precedence over any conflicting provisions in the regulations under section 1502. Section 1.597–4(f)(3).

Explanation of Provisions

The Treasury Department and the IRS received many comments suggesting that changes be made to the current regulations under section 597. These proposed regulations address many of these comments as well as additional concerns not raised in comments. Not all comments resulted in proposed modifications to the regulations. For example, as discussed in sections 9, 10, and 11 of this preamble, the proposed regulations generally have not been modified to match non-tax accounting treatment. This preamble describes the proposed changes and also addresses certain areas in which commenters requested changes but no changes are proposed.

These regulations propose to modify and clarify the treatment of certain transactions in which FFA is provided to Institutions (and related persons). The proposed regulations remove all references to "highest guaranteed value" and provide guidance relating to the determination of assets' fair market value. In addition, the proposed regulations provide guidance regarding the transfer of property to Agency by a non-consolidated affiliate of an Institution, the ownership of assets subject to a Loss Guarantee ("Covered Assets"), and the determination of Acquiring's purchase price when it has an option to purchase additional assets. The proposed regulations also make changes to facilitate e-filing, remove the reference to former § 1.1502–76(b)(5)(ii) (which allowed a subsidiary that was a consolidated group member for 30 days or less during the group's taxable year to elect not to be included as a group member for that year), make a non-substantive change to the terminology used in § 1.597–5(b)(1) and (2) to clarify that the events resulting in a deemed acquisition of assets must occur to an Institution or a Consolidated Subsidiary of an Institution, and make a non-substantive change to the definition of Consolidated Subsidiary. In addition, there are numerous non-substantive changes that pervade all sections of the current regulations. Thus, the proposed regulations amend and restate all of §§ 1.597–1 through 1.597–7 in order to make the reading of the regulations more user-friendly. The proposed regulations make no changes to § 1.597–8.

1. *Removal of References to Highest Guaranteed Value*

It is common practice for Agency to provide a Loss Guarantee that does not provide for payment of a specific amount with respect to a Covered Asset, but that instead provides for reimbursement to an Institution for a percentage of its losses on Covered Assets, with the reimbursement percentage changing if a certain threshold of losses is met (a "Loss Share Agreement"). For example, assume that a guaranteed party has a pool of loans with an unpaid principal balance of $90 million and owns real estate with a book value of $10 million, and that Agency enters into a Loss Share Agreement whereby Agency will reimburse the guaranteed party zero percent of the first $20 million of losses (the "first loss tranche") on the Covered Assets (the pool of loans and the real estate) and 80 percent of any additional losses (the "second loss tranche") on the Covered Assets. Losses generally are determined by reference to the unpaid principal balance of a loan or the book value of an asset, not by reference to tax basis.

The Treasury Department and the IRS have received comments and inquiries from taxpayer groups asking how to calculate a Covered Asset's "highest guaranteed value" under a Loss Share Agreement. This term, which appears in §§ 1.597–3(f), 1.597–5(c)(3)(ii), and 1.597–5(f) (Example 4) of the current regulations, is not presently defined, and the Treasury Department and the IRS understand that there may be uncertainty in determining how to calculate highest guaranteed value in the absence of guidance. Moreover, commenters have observed that reliance on certain measures of highest guaranteed value may cause basis to be allocated to assets in amounts that exceed the total principal collections and Agency reimbursements that Acquiring reasonably can expect to receive.

To alleviate confusion and possible distortions created by use of the term "highest guaranteed value," and because of the clarification of the meaning of "fair market value" (as discussed in the paragraphs that follow), the Treasury Department and the IRS have removed all references to "highest guaranteed value" from the regulations.

2. *Determination of Fair Market Value of Covered Assets*

Taxpayers have asked whether potential Agency payments pursuant to a Loss Guarantee are included in determining the fair market value of a Covered Asset. Legislative history provides that Congress intended "that basis be allocated to the specified assets (or pool of assets) in an amount equal to their fair market value *as adjusted to reflect the capital loss guarantee and income maintenance agreements applicable to those assets*." H.R. Rep. No. 101–54, pt. 2, at 28 (1989) (emphasis added). Accordingly, the proposed regulations provide that, in determining the fair market value of a Covered Asset, potential Loss Guarantee payments from Agency are included.

More specifically, the fair market value of a Covered Asset equals its "Expected Value"—the sum of (i) the amount a third party would pay for the asset absent the existence of a Loss Guarantee (the "Third-Party Price" or "TPP"), and (ii) the amount Agency would pay if the asset actually were sold for the Third-Party Price. If the amount Agency agrees to reimburse the guaranteed party is determined by a Loss Share Agreement, then for purposes of calculating the Expected Value, the amount that Agency would pay is determined by multiplying the loss (as determined under the terms of the Loss Share Agreement) that would be realized if the asset were disposed of at the Third-Party Price by the "Average Reimbursement Rate" (or "ARR"). In turn, the Average Reimbursement Rate is the percentage of losses under a Loss Share Agreement that would be reimbursed if every Covered Asset were disposed of for the Third-Party Price at the time of the Taxable Transfer. In effect, the ARR converts a multiple-tranche reimbursement into a single rate that covers all losses.

For example, assume that a guaranteed party has a pool of loans with an unpaid principal balance of $90 million and owns real estate with a book value of $10 million, and that Agency enters into a Loss Share Agreement whereby Agency will reimburse the guaranteed party zero percent of the first $20 million of losses on the pool of loans and the real estate and 80 percent of any additional losses on these Covered Assets. Further assume that the Third-Party Price is $46 million for the pool of loans and $4 million for the real estate. If all of these assets were disposed of for the $50 million Third-Party Price, the guaranteed party would have a total realized loss of $50 million ($100 million − $50 million), and Agency would reimburse the guaranteed party a total of $24 million (($20 million realized loss × 0%) + ($30 million realized loss × 80%)). Therefore, the Average Reimbursement Rate would equal 48 percent ($24 million reimbursement/ $50 million realized loss). The Expected Value of the pool of loans thus would equal $67.12 million ($46 million TPP plus $21.12 million from Agency ($44 million realized loss × 48% ARR)), and the Expected Value of the real estate would equal $6.88 million ($4 million TPP plus $2.88 million from Agency ($6 million realized loss × 48% ARR)).

The Treasury Department and the IRS believe this definition of a Covered Asset's fair market value furthers Congress's intent and correctly represents the true economic value of a Covered Asset. Whether an Institution receives an amount on the disposition of an asset entirely from either the purchaser or from Agency, or whether the Institution instead receives a portion of the amount from the purchaser and the remainder from Agency, the asset is worth the same amount from the Institution's perspective. To simplify the administration of these regulations, however, the Average Reimbursement Rate is determined at the time of the Taxable Transfer and is not adjusted for any changes in Third-Party Price over the life of any asset subject to a Loss Share Agreement or the prior disposition of any asset subject to a Loss Share Agreement.

For purposes of the foregoing example, the pool of loans has been treated as if it were a single asset. However, in applying the proposed regulations, the fair market value, Third-Party Price, and Expected Value of each loan within a pool must be determined separately. The Treasury Department and the IRS request comments as to whether an Institution that holds assets subject to a Loss Guarantee should be permitted or required to "pool" those assets for valuation purposes rather than value each asset separately. The Treasury Department and the IRS also request comments about how such a pooling approach should be implemented and about valuation and other issues that may arise from pooling assets.

3. *Transfers of Property to Agency by a Non-Consolidated Affiliate of an Institution*

Under current § 1.597–2(c)(4), an Institution must establish and maintain a deferred FFA account if any FFA received by the Institution is not currently included in its income. In general terms, a deferred FFA account is necessary if an Institution has insufficient net operating losses and other losses to fully offset an FFA inclusion. For example, assume that, at the beginning of the taxable year, Institution A has assets with a value of $750 and a basis of $800 (written down from $1,000) and liabilities of $1,000. A has a $200 net operating loss from writing down its assets. Further assume that Agency provides $250 of Net Worth Assistance to Institution B in connection with B's acquisition of A's assets and liabilities. Under these circumstances, A would currently include $200 of the Net Worth Assistance in income, and A would establish a deferred FFA account for the remaining $50. As A recognizes built-in losses upon the sale of its assets, a corresponding amount of the $50 of deferred FFA (which would be offset by these losses) would be taken into account. See § 1.597–2(c)(2).

Under current § 1.597–2(d)(4)(i), if an Institution transfers money or property to Agency, the amount of money and the fair market value of the property will decrease the balance in its deferred FFA account to the extent the amount transferred exceeds the amount Agency provides in the exchange. For purposes of the foregoing rules, an Institution is treated under § 1.597–2(d)(4)(iv) as having made any transfer to Agency that was made by any other member of its consolidated group, and appropriate investment basis adjustments must be made. However, there is no corresponding provision for transfers made by a person other than the Institution if the Institution is not a member of a consolidated group.

For example, assume that Corporation X (an includible corporation within the meaning of section 1504(b)) owns all of the outstanding stock of an Institution, but X and the Institution do not join in filing a consolidated return. Further assume that Agency provides $10 million of FFA to the Institution in 2015 in exchange for a debt instrument of X (which, under § 1.597–3(b), is not treated as debt for any purposes of the Code while held by Agency); that the Institution has a deferred FFA account of $5 million at the beginning of 2016; and that, during 2016, X makes a $1 million payment on the debt instrument to Agency. Because X and the Institution do not join in filing a consolidated return, the Institution would not be able to reduce its FFA account to reflect X's payment. Moreover, because the debt instrument is not treated as debt while held by Agency, X would not be allowed a deduction for any portion of the payment to Agency.

The proposed regulations expand § 1.597–2(d)(4)(iv) by providing that an Institution is treated as having made any transfer to Agency that was made by any other member of its affiliated group, regardless of whether a consolidated return is filed. Because the affiliate is transferring property to Agency to reimburse Agency for FFA provided to the Institution, the Treasury Department and the IRS believe it is appropriate that the recipient of the FFA (in this case, the Institution) take such transfer into account in determining adjustments to its deferred FFA account, regardless of whether a consolidated return is filed. Economically, the reason for the transfer by the Institution's affiliate is the same. Appropriate adjustments must be made to reflect the affiliate's payment with respect to the Institution's FFA account.

4. *Covered Assets Not Owned by an Institution*

Section 1.597–3(a) of the current regulations provides that, for all Federal income tax purposes, an Institution is treated as the owner of all Covered Assets, regardless of whether Agency otherwise would be treated as the owner under general principles of income taxation. The Treasury Department and the IRS have become aware of certain instances in which Agency has provided Loss Guarantees to an Institution for assets held by a subsidiary of the Institution that is not a member of the Institution's consolidated group (for example, a real estate investment trust ("REIT")).

The intent behind § 1.597–3(a) of the current regulations was to prevent Agency from being considered the owner of Covered Assets even though Agency might have significant indicia of tax ownership with respect to such assets. The question of whether the Institution or its non-consolidated subsidiary should be treated as the owner of a Covered Asset was not considered because that scenario was not envisioned at the time the current regulations were promulgated. The proposed regulations modify this rule to clarify that the entity that actually holds the Covered Asset will be treated as the owner of such asset. Pursuant to proposed regulation § 1.597–2(d)(2)(ii), appropriate basis adjustments must be made to reflect the receipt of FFA by the Institution when the Covered Asset is disposed of or charged off by the asset's owner. The proposed regulations also provide that the deemed transfer of FFA by a regulated investment company ("RIC") or a REIT to the Institution, if a deemed distribution, will not be treated as a preferential dividend for purposes of sections 561, 562, 852, or 857.

5. *Determination of Purchase Price When Acquiring Has Option to Purchase Additional Assets*

Some taxpayers have questioned how the purchase price for assets is determined when the purchase agreement provides Acquiring an option period (for example, 90 days) to decide whether it also wants to acquire the troubled Institution's physical assets (for example, branch buildings). The Treasury Department and the IRS believe that, in accord with general principles of tax law and the intent of the current regulations, the amount paid for assets subsequently acquired under an option should be integrated into the overall purchase price because the purchase of those assets relates back to, and is part of, the overall purchase agreement. The proposed regulations clarify the current regulations and update the citation in § 1.597–5(d)(1) to the final regulations under section 1060.

6. *E-filing*

The proposed regulations make two changes to facilitate e-filing. First, the proposed regulations replace the requirement in current § 1.597–4(g)(5)(i)(A) that a consolidated group attach a copy of any election statement mailed to an affected Institution and the accompanying certified mail receipt to its income tax return with the requirement that the consolidated group include an election statement with its income tax return and retain a copy of certain documents in its records. Second, if an Institution without Continuing Equity (in other words, an Institution that is a Bridge Bank, in Agency receivership, or treated as a New Entity on the last day of the taxable year) is liable for income tax that is potentially not subject to collection because it would be borne by Agency, the proposed regulations replace the requirement in current § 1.597–6(c) that a consolidated group make a notation of such amount directly on the front page of its tax return with the requirement that a consolidated group include a statement providing such amount on its income tax return.

7. *Removal of Outdated Provision*

The proposed regulations remove paragraph § 1.597–4(f)(2) of the current regulations relating to a 30-day election to be excluded from the consolidated group. The 30-day election was eliminated for subsidiary members of a consolidated group that became or ceased to be members of the consolidated group on or after January 1, 1995. Therefore, the reference to such election is no longer necessary.

8. *Consolidated Subsidiary*

As noted previously, § 1.597–1(b) of the current regulations defines "Consolidated Subsidiary" to mean a member of the consolidated group of which an Institution is a member that bears the same relationship to the Institution that the members of a consolidated group bear to their common parent under section 1504(a)(1). These proposed regulations modify this definition to provide that a "Consolidated Subsidiary" is a corporation that both (i) is a member of the same consolidated group as an Institution, and (ii) would be a member of the affiliated group that would be determined under section 1504(a) if the Institution were the common parent thereof. This change is intended merely to clarify the meaning of "Consolidated Subsidiary" and is not intended to be a substantive change.

The Treasury Department and the IRS request comments as to whether the rules in these proposed regulations concerning Consolidated Subsidiaries should be expanded to apply either to (i) an Institution's subsidiaries that are "includible corporations" (within the meaning of section 1504(b)) but that are not members of the Institution's consolidated group (such as affiliated but non-consolidated subsidiaries of an Institution or subsidiaries of an Institution that is an S corporation), or (ii) an Institution's subsidiaries that are not "includible corporations" (such as REITs). Any such comments should explain which (if any) provisions in the regulations should be changed and which provisions should continue to apply solely to Consolidated Subsidiaries (as defined in the proposed regulations). Such comments also should describe the reasons for the recommended change (or for making no change). Final regulations issued pursuant to this notice of proposed rulemaking may contain a broader rule than these proposed regulations.

9. *Basis-Step-Up and Six-Year-Inclusion Rules*

As noted previously, certain Taxable Transfers can result in the fair market value of Class I and Class II assets exceeding their purchase price and the inclusion of the excess in income by Acquiring or a New Entity over a six-year period. See § 1.597–5(d)(2)(iii). For example, assume that Acquiring assumes $150,000 of a troubled Institution's deposit liabilities in Year 1 in exchange for Institution's Assets 1 and 2 (which have a 10-year weighted average life) and Agency's provision of an $80,000 Loss Guarantee with respect to Asset 1 and a $100,000 Loss Guarantee with respect to Asset 2. (These Loss Guarantees are not Loss Share Agreements.) Further assume that the Third-Party Price for Assets 1 and 2 is $70,000 and $95,000, respectively. Under the current regulations, the fair market value of Assets 1 and 2 equals $80,000 and $100,000, respectively—each asset's highest guaranteed value. Under the proposed regulations, the fair market value of Assets 1 and 2 also equals $80,000 and $100,000, respectively—each asset's Expected Value. The aggregate fair market value of Assets 1 and 2 ($180,000) thus exceeds their purchase price ($150,000). At the end of Year 2, Acquiring wholly charges off Assets 1 and 2 and receives $180,000 from Agency. Under the basis-step-up and six-year-inclusion rules in § 1.597–5(d)(2)(iii), Acquiring's aggregate basis in Assets 1 and 2 upon their acquisition equals their fair market value ($180,000). Even though Assets 1 and 2 have a 10-year weighted average life, Acquiring may not depreciate these assets below $180,000 because Agency guarantees Acquiring $180,000 on the disposition of the assets. See § 1.597–3(f). Acquiring thus recognizes no gain or loss with respect to the charge-off of these assets in Year 2. Instead, Acquiring includes $5,000 in income for each of Years 1–6 ($30,000 excess of fair market value over purchase price / 6 years).

One commenter suggested that the current rules may create a mismatch in the timing of a taxpayer's economic and taxable income that results in a timing benefit for, or a timing detriment to, either the taxpayer or the government, depending on the expected life of the purchased assets. For instance, in the foregoing example, Acquiring must include amounts in income over a six-year period even though Assets 1 and 2 have a 10-year weighted average life; consequently, this mismatch results in a detriment to the taxpayer. The commenter thus would eliminate the basis-step-up and six-year-inclusion rules, have Acquiring take an initial basis in the Class I and Class II assets equal to their purchase price, and then have Acquiring either (a) recognize gain upon the disposition of the assets, or (b) accrue income (and increase basis) in each year based on the weighted average life of the assets (rather than over a six-year period).

Under the commenter's first proposed approach, Acquiring's aggregate asset basis in the foregoing example would be $150,000 (the amount of liabilities assumed) rather than $180,000, and Acquiring would recognize $30,000 of gain at the end of Year 2. Under the commenter's second proposed approach, the $30,000 would be spread over 10 years; thus, Acquiring's economic and taxable income would be matched.

After consideration of the comment, these proposed regulations retain the current basis-step-up and six-year-inclusion rules. The basis-step-up and six-year-inclusion rules prevent the realization of income from being a factor in the acquirer's decision whether to retain or dispose of Covered Assets. Furthermore, these rules lock in the tax cost of the purchase, which reduces the cost of uncertainties ultimately borne by Agency.

The Treasury Department and the IRS believe that, although the current rules may be imperfect (in that sometimes there will be a benefit and other times a detriment), they are administratively efficient and they satisfy the intent of the current regulations. Accordingly, these proposed regulations retain the current rules.

10. *Treatment of Debt or Equity Issued to Agency*

Section 1.597–3(b) of the current regulations disregards any debt of or equity interests in the Institution (or any affiliates) that Agency receives in connection with a transaction in which FFA is provided while such debt or equity interests are held by Agency. One commenter supported eliminating the current rule (resulting in an Institution's debt or equity issued to Agency being included in Acquiring's purchase price) and replacing it with anti-abuse rules to address any concerns.

After consideration of the comment, these proposed regulations retain the current rules. The Treasury Department and the IRS believe that treating debt or equity interests in an Institution as having value would be inconsistent with section 597(c), which provides that all amounts provided by Agency are FFA regardless of whether Agency takes back an instrument in exchange therefor. Further, the current rule eliminates any issues for Agency and the IRS relating to valuation of the debt or equity interests.

11. *Tax Treatment of Agency Payments Under Loss Share Agreements*

The current regulations integrate the treatment of Loss Guarantee payments with other proceeds received with respect to Covered Assets, whereas under non-tax accounting principles a Loss Guarantee is treated as a separate asset and source of income. Commenters suggested that the tax treatment of Loss Guarantees and payments thereunder be conformed to the non-tax accounting treatment thereof. After consideration of these comments, these proposed regulations retain the current rules. The Treasury Department and the IRS believe the treatment of Loss Guarantee payments in the current and proposed regulations comports better with general income tax principles (for example, treating Loss Guarantee payments as part of the consideration received with respect to a Covered Asset is analogous to the tax treatment of insurance proceeds received with respect to other losses).

12. *Effective/Applicability Date*

The proposed regulations will be effective on the date of publication of the Treasury decision adopting these proposed rules as final regulations in the **Federal Register**, except with respect to FFA provided pursuant to an agreement entered into before such date. In the latter case, the current regulations will continue to apply unless the taxpayer elects to apply the final regulations on a retroactive basis. However, the election to apply the final regulations on a retroactive basis cannot be made if the period for assessment and collection of tax has expired under the rules of section 6501 for any taxable year in which §§ 1.597–1 through 1.597–6 would affect the determination of the electing entity's or group's income, deductions, gain, loss, basis, or other items.

Special Analyses

It has been determined that this notice of proposed rulemaking 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. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations apply only to transactions involving banks or domestic building and loan associations, which tend to be larger businesses. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. In addition to the specific requests for comments made elsewhere in this preamble, the Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Russell G. Jones of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805, unless otherwise noted. * * *

Par. 2. Section 1.597–1 is revised to read as follows:

§ 1.597–1 Definitions.

For purposes of the regulations under section 597—

(a) Unless the context otherwise requires, the terms *consolidated group*, *member*, and *subsidiary* have the meanings provided in § 1.1502–1; and

(b) The following terms have the meanings provided below:

Acquiring. The term *Acquiring* means a corporation that is a transferee in a Taxable Transfer, other than a deemed transferee in a Taxable Transfer described in § 1.597–5(b).

Agency. The term *Agency* means the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, any similar instrumentality of the United States government, and any predecessor or successor of the foregoing (including the Federal Savings and Loan Insurance Corporation).

Agency Control. An Institution or entity is under *Agency Control* if Agency is conservator or receiver of the Institution or entity, or if Agency has the right to appoint any of the Institution's or entity's directors.

Agency Obligation. The term *Agency Obligation* means a debt instrument that Agency issues to an Institution or to a direct or indirect owner of an Institution.

Average Reimbursement Rate. The term *Average Reimbursement Rate* means the percentage of losses (as determined under the terms of the Loss Share Agreement) that would be reimbursed by Agency or a Controlled Entity if every asset subject to a Loss Share Agreement were disposed of for the Third-Party Price. The Average Reimbursement Rate is determined at the time of the Taxable Transfer and is not adjusted for any changes in Third-Party Price over the life of any asset subject to the Loss Share Agreement or the prior disposition of any asset subject to the Loss Share Agreement.

Bridge Bank. The term *Bridge Bank* means an Institution that is organized by Agency to hold assets and liabilities of another Institution and that continues the operation of the other Institution's business pending its acquisition or liquidation, and that is any of the following:

(1) A national bank chartered by the Comptroller of the Currency under section 11(n) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)) or section 21A(b)(10)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(A), prior to its repeal by Public Law 111–203), or under any successor sections;

(2) A Federal savings association chartered by the Director of the Office of Thrift Supervision under section 21A(b)(10)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(A), prior to its repeal by Public Law 111–203) or any successor section; or

(3) A similar Institution chartered under any other statutory provisions.

Consolidated Subsidiary. The term *Consolidated Subsidiary* means a corporation that both:

(1) Is a member of the same consolidated group as an Institution; and

(2) Would be a member of the affiliated group that would be determined under section 1504(a) if the Institution were the common parent thereof.

Continuing Equity. An Institution has *Continuing Equity* for any taxable year if, on the last day of the taxable year, the Institution is not a Bridge Bank, in Agency receivership, or treated as a New Entity.

Controlled Entity. The term *Controlled Entity* means an entity under Agency Control.

Covered Asset. The term *Covered Asset* means an asset subject to a Loss Guarantee. The fair market value of a Covered Asset equals the asset's Expected Value.

Expected Value. The term *Expected Value* means the sum of the Third-Party Price for a Covered Asset and the amount that Agency or a Controlled Entity would pay under the Loss Guarantee if the asset actually were sold for the Third-Party Price. For purposes of the preceding sentence, if an asset is subject to a Loss Share Agreement, the amount that Agency or a Controlled Entity would pay under a Loss Guarantee with respect to the asset is determined by multiplying the amount of loss that would be realized under the terms of the Loss Share Agreement if the asset were disposed of at the Third-Party Price by the Average Reimbursement Rate.

Federal Financial Assistance. The term *Federal Financial Assistance* (*FFA*), as defined by section 597(c), means any money or property provided by Agency to an Institution or to a direct or indirect owner of stock in an Institution under section 406(f) of the National Housing Act (12 U.S.C. 1729(f), prior to its repeal by Public Law 101–73), section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4), prior to its repeal by Public Law 111–203), section 11(f) or 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f), 1823(c)), or any similar provision of law. Any such money or property is FFA, regardless of whether the Institution or any of its affiliates issues Agency a note or other obligation, stock, warrants, or other rights to acquire stock in connection with Agency's provision of the money or property. FFA includes Net Worth Assistance, Loss Guarantee payments, yield maintenance payments, cost to carry or cost of funds reimbursement payments, expense reimbursement or indemnity payments, and interest (including original issue discount) on an Agency Obligation.

Institution. The term *Institution* means an entity that is, or immediately before being placed under Agency Control was, a bank or domestic building and loan association within the meaning of section 597 (including a Bridge Bank). Except as otherwise provided in the regulations under section 597, the term Institution includes a New Entity or Acquiring that is a bank or domestic building and loan association within the meaning of section 597.

Loss Guarantee. The term *Loss Guarantee* means an agreement pursuant to which Agency or a Controlled Entity guarantees or agrees to pay an Institution a specified amount upon the disposition or charge-off (in whole or in part) of specific assets, an agreement pursuant to which an Institution has a right to put assets to Agency or a Controlled Entity at a specified price, a Loss Share Agreement, or a similar arrangement.

Loss Share Agreement. The term *Loss Share Agreement* means an agreement pursuant to which Agency or a Controlled Entity agrees to reimburse the guaranteed party a percentage of losses realized.

Net Worth Assistance. The term *Net Worth Assistance* means money or property (including an Agency Obligation to the extent it has a fixed principal amount) that Agency provides as an integral part of a Taxable Transfer, other than FFA that accrues after the date of the Taxable Transfer. For example, Net Worth Assistance does not include Loss Guarantee payments, yield maintenance payments, cost to carry or cost of funds reimbursement payments, or expense reimbursement or indemnity payments. An Agency Obligation is considered to have a fixed principal amount notwithstanding an agreement providing for its adjustment after issuance to reflect a more accurate determination of the condition of the Institution at the time of the acquisition.

New Entity. The term *New Entity* means the new corporation that is treated as purchasing all of the assets of an Old Entity in a Taxable Transfer described in § 1.597–5(b).

Old Entity. The term *Old Entity* means the Institution or Consolidated Subsidiary that is treated as selling all of its assets in a Taxable Transfer described in § 1.597–5(b).

Residual Entity. The term *Residual Entity* means the entity that remains after an Institution transfers deposit liabilities to a Bridge Bank.

Taxable Transfer. The term *Taxable Transfer* has the meaning provided in § 1.597–5(a)(1).

Third-Party Price. The term *Third-Party Price* means the amount that a third party would pay for an asset absent the existence of a Loss Guarantee.

Par. 3. Section 1.597–2 is revised to read as follows:

§ 1.597–2 Taxation of Federal financial assistance.

(a) *Inclusion in income*—(1) *In general*. Except as otherwise provided in the regulations under section 597, all FFA is includible as ordinary income to the recipient at the time the FFA is received or accrued in accordance with the recipient's method of accounting. The amount of FFA received or accrued is the amount of any money, the fair market value of any property (other than an Agency Obligation), and the issue price of any Agency Obligation (determined under § 1.597–3(c)(2)). An Institution (and not the nominal recipient) is treated as receiving directly any FFA that Agency provides in a taxable year to a direct or indirect shareholder of the Institution, to the extent the money or property is transferred to the Institution pursuant to an agreement with Agency.

(2) *Cross references*. See paragraph (c) of this section for rules regarding the timing of inclusion of certain FFA. See paragraph (d) of this section for additional rules regarding the treatment of FFA received in connection with transfers of money or property to Agency or a Controlled Entity, or paid pursuant to a Loss Guarantee. See § 1.597–5(c)(1) for addi-

tional rules regarding the inclusion of Net Worth Assistance in the income of an Institution.

(b) *Basis of property that is FFA*. If FFA consists of property, the Institution's basis in the property equals the fair market value of the property (other than an Agency Obligation) or the issue price of the Agency Obligation (as determined under § 1.597–3(c)(2)).

(c) *Timing of inclusion of certain FFA*—(1) *Scope*. This paragraph (c) limits the amount of FFA an Institution must include in income currently under certain circumstances and provides rules for the deferred inclusion in income of amounts in excess of those limits. This paragraph (c) does not apply to a New Entity or Acquiring.

(2) *Amount currently included in income by an Institution without Continuing Equity*. The amount of FFA an Institution without Continuing Equity must include in income in a taxable year under paragraph (a)(1) of this section is limited to the sum of—

(i) The excess at the beginning of the taxable year of the Institution's liabilities over the adjusted bases of the Institution's assets; and

(ii) The amount by which the excess for the taxable year of the Institution's deductions allowed by chapter 1 of the Internal Revenue Code (other than net operating and capital loss carryovers) over its gross income (determined without regard to FFA) is greater than the excess at the beginning of the taxable year of the adjusted bases of the Institution's assets over the Institution's liabilities.

(3) *Amount currently included in income by an Institution with Continuing Equity*. The amount of FFA an Institution with Continuing Equity must include in income in a taxable year under paragraph (a)(1) of this section is limited to the sum of—

(i) The excess at the beginning of the taxable year of the Institution's liabilities over the adjusted bases of the Institution's assets;

(ii) The greater of—

(A) The excess for the taxable year of the Institution's deductions allowed by chapter 1 of the Internal Revenue Code (other than net operating and capital loss carryovers) over its gross income (determined without regard to FFA); or

(B) The excess for the taxable year of the deductions allowed by chapter 1 of the Internal Revenue Code (other than net operating and capital loss carryovers) of the consolidated group of which the Institution is a member on the last day of the Institution's taxable year over the group's gross income (determined without regard to FFA); and

(iii) The excess of the amount of any net operating loss carryover of the Institution (or in the case of a carryover from a consolidated return year of the Institution's current consolidated group, the net operating loss carryover of the group) to the taxable year over the amount described in paragraph (c)(3)(i) of this section.

(4) *Deferred FFA*—(i) *Maintenance of account*. An Institution must establish a deferred FFA account commencing in the first taxable year in which it receives FFA that is not currently included in income under paragraph (c)(2) or (c)(3) of this section, and must maintain that account in accordance with the requirements of this paragraph (c)(4). The Institution must add the amount of any FFA that is not currently included in income under paragraph (c)(2) or (c)(3) of this section to its deferred FFA account. The Institution must decrease the balance of its deferred FFA account by the amount of deferred FFA included in income under paragraphs (c)(4)(ii), (iv), and (v) of this section. (See also paragraphs (d)(4) and (d)(5)(i)(B) of this section for other adjustments that decrease the deferred FFA account.) If, under paragraph (c)(3) of this section, FFA is not currently included in income in a taxable year, the Institution thereafter must maintain its deferred FFA account on a FIFO (first in, first out) basis (for example, for purposes of the first sentence of paragraph (c)(4)(iv) of this section).

(ii) *Deferred FFA recapture*. In any taxable year in which an Institution has a balance in its deferred FFA account, it must include in income an amount equal to the lesser of the amount described in paragraph (c)(4)(iii) of this section or the balance in its deferred FFA account.

(iii) *Annual recapture amount*—(A) *Institutions without Continuing Equity*—(*1*) *In general*. In the case of an Institution without Continuing Equity, the amount described in this paragraph (c)(4)(iii) is the amount by which—

(*i*) The excess for the taxable year of the Institution's deductions allowed by chapter 1 of the Internal Revenue Code (other than net operating and capital loss carryovers) over its gross income (taking into account FFA included in income under paragraph (c)(2) of this section) is greater than

(*ii*) The Institution's remaining equity as of the beginning of the taxable year.

(*2*) *Remaining equity*. The Institution's remaining equity is—

(*i*) The amount at the beginning of the taxable year in which the deferred FFA account was established equal to the adjusted bases of the Institution's assets minus the Institution's liabilities (which amount may be positive or negative); plus

(*ii*) The Institution's taxable income (computed without regard to any carryover from any other year) in any subsequent taxable year or years; minus

(*iii*) The excess in any subsequent taxable year or years of the Institution's deductions allowed by chapter 1 of the Internal Revenue Code (other than net operating and capital loss carryovers) over its gross income.

(B) *Institutions with Continuing Equity*. In the case of an Institution with Continuing Equity, the amount described in this paragraph (c)(4)(iii) is the amount by which the Institution's deductions allowed by chapter 1 of the Internal Revenue Code (other than net operating and capital loss carryovers) exceed its gross income (taking into account FFA included in income under paragraph (c)(3) of this section).

(iv) *Additional deferred FFA recapture by an Institution with Continuing Equity*. To the extent that, as of the end of a taxable year, the cumulative amount of FFA deferred under paragraph (c)(3) of this section that an Institution with Continuing Equity has recaptured under this paragraph (c)(4) is less than the cumulative amount of FFA deferred under paragraph (c)(3) of this section that the Institution would have recaptured if that FFA had been included in income ratably over the six taxable years immediately following the taxable year of deferral, the Institution must include that difference in income for the taxable year. An Institution with Continuing Equity must include in income the balance of its deferred FFA account in the taxable year in which it liquidates, ceases to do business, transfers (other than to a Bridge Bank) substantially all of its assets and liabilities, or is deemed to transfer all of its assets under § 1.597–5(b).

(v) *Optional accelerated recapture of deferred FFA*. An Institution that has a deferred FFA account may include in income the balance of its deferred FFA account on its timely filed (including extensions) original income tax return for any taxable year that it is not under Agency Control. The balance of its deferred FFA account is income on the last day of that year.

(5) *Exceptions to limitations on use of losses*. In computing an Institution's taxable income or alternative minimum taxable income for a taxable year, sections 56(d)(1), 382, and 383 and §§ 1.1502–15, 1.1502–21, and 1.1502–22 (or §§ 1.1502–15A, 1.1502–21A, and 1.1502–22A, as appropriate) do not limit the use of the attributes of the Institution to the extent, if any, that the inclusion of FFA (including recaptured FFA) in income results in taxable income or alternative minimum taxable income (determined without regard to this paragraph (c)(5)) for the taxable year. This paragraph (c)(5) does not apply to any limitation under section 382 or 383 or §§ 1.1502–15, 1.1502–21, or 1.1502–22 (or §§ 1.1502–15A, 1.1502–21A, or 1.1502–22A, as appropriate) that arose in connection with or prior to a corporation becoming a Consolidated Subsidiary of the Institution.

(6) *Operating rules*—(i) *Bad debt reserves*. For purposes of paragraphs (c)(2), (c)(3), and (c)(4) of this section, the adjusted bases of an Institution's assets are reduced by the amount of the Institution's reserves for bad debts under section 585 or 593, other than supplemental reserves under section 593.

(ii) *Aggregation of Consolidated Subsidiaries*. For purposes of this paragraph (c), an Institution is treated as a single entity that includes the income, expenses, assets, liabilities, and attributes of its Consolidated Subsidiaries, with appropriate adjustments to prevent duplication.

(iii) *Alternative minimum tax*. To compute the alternative minimum taxable income attributable to FFA of an Institution for any taxable year under section 55, the rules of this section, and related rules, are applied by using alternative minimum tax basis, deductions, and all other items required to be taken into account. All other alternative minimum tax provisions continue to apply.

(7) *Earnings and profits*. FFA that is not currently included in income under this paragraph (c) is included in earnings and profits for all purposes of the Internal Revenue Code to the extent and at the time it is included in income under this paragraph (c).

(d) *Transfers of money or property to Agency, and Covered Assets*—(1) *Transfers of property to Agency*. Except as provided in paragraph (d)(4)(iii) of this section, the transfer of property to Agency or a Controlled Entity is a taxable sale or exchange in which the Institution is treated as realizing an amount equal to the property's fair market value.

(2) *FFA with respect to Covered Assets other than on transfer to Agency*—(i) FFA provided pursuant to a Loss Guarantee with respect to a Covered Asset is included in the amount realized with respect to the Covered Asset.

(ii) If Agency makes a payment to an Institution pursuant to a Loss Guarantee with respect to a Covered Asset owned by an entity other than the Institution, the payment will be treated as made directly to the owner of the Covered Asset and included in the amount realized with respect to the Covered Asset when the Covered Asset is sold or charged off. The payment will be treated as further transferred through chains of ownership to the extent necessary to reflect the actual receipt of such payment. Any such transfer, if a deemed distribution, will not be a preferential dividend for purposes of sections 561, 562, 852, or 857.

(iii) For the purposes of this paragraph (d)(2), references to an amount realized include amounts obtained in whole or partial satisfaction of loans, amounts obtained by virtue of charging off or marking to market a Covered Asset, and other amounts similarly related to property, whether or not disposed of.

(3) *Treatment of FFA received in exchange for property*. FFA included in the amount realized for property under this paragraph (d) is not includible in income under paragraph (a)(1) of this section. The amount realized is treated in the same manner as if realized from a person other than Agency or a Controlled Entity. For example, gain attributable to FFA received with respect to a capital asset retains its character as capital gain. Similarly, FFA received with respect to property that has been charged off for income tax purposes is treated as a recovery to the extent of the amount previously charged off. Any FFA provided in excess of the amount realized under this paragraph (d) is includible in income under paragraph (a)(1) of this section.

(4) *Adjustment to FFA*—(i) *In general*. If an Institution pays or transfers money or property to Agency or a Controlled Entity, the amount of money and the fair market value of the property is an adjustment to its FFA to the extent the amount paid and transferred exceeds the amount of money and the fair market value of any property that Agency or a Controlled Entity provides in exchange.

(ii) *Deposit insurance*. This paragraph (d)(4) does not apply to amounts paid to Agency with respect to deposit insurance.

(iii) *Treatment of an interest held by Agency or a Controlled Entity*—(A) *In general*. For purposes of this paragraph (d), an interest described in § 1.597–3(b) is not treated as property when transferred by the issuer to Agency or a Controlled Entity nor when acquired from Agency or a Controlled Entity by the issuer.

(B) *Dispositions to persons other than issuer*. On the date Agency or a Controlled Entity transfers an interest described in § 1.597–3(b) to a holder other than the issuer, Agency, or a Controlled Entity, the issuer is treated for purposes of this paragraph (d)(4) as having transferred to Agency an amount of money equal to the sum of the amount of money and the fair market value of property that was paid by the new holder as consideration for the interest.

(iv) *Affiliated groups*. For purposes of this paragraph (d), an Institution is treated as having made any transfer to Agency or a Controlled Entity that was made by any other member of its affiliated group. The affiliated group must make appropriate basis adjustments or other adjustments to the extent the member transferring money or other property is not the member that received FFA.

(5) *Manner of making adjustments to FFA*—(i) *Reduction of FFA and deferred FFA*. An Institution adjusts its FFA under paragraph (d)(4) of this section by reducing in the following order and in an aggregate amount not greater than the adjustment—

(A) The amount of any FFA that is otherwise includible in income for the taxable year (before application of paragraph (c) of this section); and

(B) The balance (but not below zero) in the deferred FFA account, if any, maintained under paragraph (c)(4) of this section.

(ii) *Deduction of excess amounts*. If the amount of the adjustment exceeds the sum of the amounts described in paragraph (d)(5)(i) of this section, the Institution may deduct the excess to the extent the deduction does not exceed the amount of FFA included in income for prior taxable years reduced by the amount of deductions allowable under this paragraph (d)(5)(ii) in prior taxable years.

(iii) *Additional adjustments*. Any adjustment to FFA in excess of the sum of the amounts described in paragraphs (d)(5)(i) and (ii) of this section is treated—

(A) By an Institution other than a New Entity or Acquiring, as a deduction of the amount in excess of FFA received that is required to be transferred to Agency under section 11(g) of the Federal Deposit Insurance Act (12 U.S.C. 1821(g)); or

(B) By a New Entity or Acquiring, as an adjustment to the purchase price paid in the Taxable Transfer (see § 1.338–7).

(e) *Examples*. The following examples illustrate the provisions of this section:

Example 1. Timing of inclusion of FFA in income. (i) Institution M, a calendar-year taxpayer without Continuing Equity because it is in Agency receivership, is not a member of a consolidated group and has not been acquired in a Taxable Transfer. On January 1, 2016, M has assets with a total adjusted basis of $100 million and total liabilities of $120 million. M's deductions do not exceed its gross income (determined without regard to FFA) for 2016. Agency provides $30 million of FFA to M in 2016. The amount of this FFA that M must include in income in 2016 is limited by paragraph (c)(2) of this section to $20 million, the amount by which M's liabilities ($120 million) exceed the total adjusted basis of its assets ($100 million) at the beginning of the taxable year. Pursuant to paragraph (c)(4)(i) of this section, M must establish a deferred FFA account for the remaining $10 million.

(ii) If Agency instead lends M the $30 million, M's indebtedness to Agency is disregarded and the results are the same as in paragraph (i) of this *Example 1* under section 597(c), paragraph (b) of § 1.597–1, and paragraph (b) of § 1.597–3.

Example 2. Transfer of property to Agency. (i) Institution M, a calendar-year taxpayer without Continuing Equity because it is in Agency receivership, is not a member of a consolidated group and has not been acquired in a Taxable Transfer. At the beginning of 2016, M's remaining equity is $0 and M has a deferred FFA account of $10 million. Agency does not provide any FFA to M in 2016. During the year, M transfers property not subject to a Loss Guarantee to Agency and does not receive any consideration. The property has an adjusted basis of $5 million and a fair market value of $1 million at the time of the transfer. M has no other taxable income or loss in 2016.

(ii) Under paragraph (d)(1) of this section, M is treated as selling the property for $1 million, its fair market value, thus recognizing a $4 million loss ($5 million − $1 million). In addition, because M did not receive any consideration from Agency, under paragraph (d)(4) of this section M has an adjustment to FFA of $1 million, the amount by which the fair market value of the transferred property ($1 million) exceeds the consideration M received from Agency ($0). Because no FFA is provided to M in 2016, this adjustment reduces the balance of M's deferred FFA account to $9 million ($10 million − $1 million) under paragraph (d)(5)(i)(B) of this section. Because M's $4 million loss causes M's deductions to exceed its gross income by $4 million in 2016 and M has no remaining equity, under paragraph (c)(4)(iii)(A) of this section M must include $4 million of deferred FFA in income and must decrease the remaining $9 million balance of its deferred FFA account by the same amount, leaving a balance of $5 million.

Example 3. Loss Guarantee. Institution Q, a calendar-year taxpayer, holds a Covered Asset (Asset Z). Q's adjusted basis in Asset Z is $10,000. Q sells Asset Z to an unrelated third party for $4,000. Pursuant to the Loss Guarantee, Agency pays Q $6,000 ($10,000 − $4,000). Q's amount realized from the sale of Asset Z is $10,000 ($4,000 from the third party and $6,000 from Agency) under paragraph (d)(2) of this section. Q realizes no gain or loss on the sale ($10,000 − $10,000 = $0), and therefore includes none of the $6,000 of FFA it receives pursuant to the Loss Guarantee in income under paragraph (d)(3) of this section.

Par. 4. Section 1.597–3 is revised to read as follows:

§ 1.597–3 Other rules.

(a) *Ownership of assets*. For all income tax purposes, Agency is not treated as the owner of assets subject to a Loss Guarantee, yield maintenance agreement, or cost to carry or cost of funds reimbursement agreement, regardless of whether it otherwise would be treated as the owner under general principles of income taxation.

(b) *Debt and equity interests received by Agency*. Debt instruments, stock, warrants, or other rights to acquire stock of an Institution (or any of its affiliates) that Agency or a Controlled Entity receives in connection with a transaction in which FFA is provided are not treated as debt, stock, or other equity interests of or in the issuer for any purpose of the Internal Revenue Code while held by Agency or a Controlled Entity. On the date Agency or a Controlled Entity transfers an interest described in this paragraph (b) to a holder other than Agency or a Controlled Entity, the interest is treated as having been newly issued by the issuer to the holder with an issue price equal to the sum of the amount of money and the fair market value of property paid by the new holder in exchange for the interest.

(c) *Agency Obligations*—(1) *In general*. Except as otherwise provided in this paragraph (c), the original issue discount rules of sections 1271 et. seq. apply to Agency Obligations.

(2) *Issue price of Agency Obligations provided as Net Worth Assistance*. The issue price of an Agency Obligation that is provided as Net Worth Assistance and that bears interest at either a single fixed rate or a qualified floating rate (and provides for no contingent payments) is the lesser of the sum of the present values of all payments due under the obligation, discounted at a rate equal to the applicable Federal rate (within the meaning of section 1274(d)(1) and (3)) in effect for the date of issuance, or the stated principal amount of the obligation. The issue price of an Agency Obligation that bears a qualified floating rate of interest (within the meaning of § 1.1275–5(b)) is determined by treating the obligation as bearing a fixed rate of interest equal to the rate in effect on the date of issuance under the obligation.

(3) *Adjustments to principal amount*. Except as provided in § 1.597–5(d)(2)(iv), this paragraph (c)(3) applies if Agency modifies or exchanges an Agency Obligation provided as Net Worth Assistance (or a successor obligation). The issue price of the modified or new Agency Obligation is determined under paragraphs (c)(1) and (2) of this section. If the issue price is

greater than the adjusted issue price of the existing Agency Obligation, the difference is treated as FFA. If the issue price is less than the adjusted issue price of the existing Agency Obligation, the difference is treated as an adjustment to FFA under § 1.597–2(d)(4).

(d) *Successors*. To the extent necessary to effectuate the purposes of the regulations under section 597, an entity's treatment under the regulations applies to its successor. A successor includes a transferee in a transaction to which section 381(a) applies or a Bridge Bank to which another Bridge Bank transfers deposit liabilities.

(e) [Reserved].

(f) *Losses and deductions with respect to Covered Assets*. Prior to the disposition of a Covered Asset, the asset cannot be charged off, marked to a market value, depreciated, amortized, or otherwise treated in a manner that supposes an actual or possible diminution of value below the asset's fair market value. See § 1.597–1(b).

(g) *Anti-abuse rule*. The regulations under section 597 must be applied in a manner consistent with the purposes of section 597. Accordingly, if, in structuring or engaging in any transaction, a principal purpose is to achieve a tax result that is inconsistent with the purposes of section 597 and the regulations thereunder, the Commissioner can make appropriate adjustments to income, deductions, and other items that would be consistent with those purposes.

Par. 5. Section 1.597–4 is revised to read as follows:

§ 1.597–4 Bridge Banks and Agency Control.

(a) *Scope*. This section provides rules that apply to a Bridge Bank or other Institution under Agency Control and to transactions in which an Institution transfers deposit liabilities (whether or not the Institution also transfers assets) to a Bridge Bank.

(b) *Status as taxpayer*. A Bridge Bank or other Institution under Agency Control is a corporation within the meaning of section 7701(a)(3) for all purposes of the Internal Revenue Code and is subject to all Internal Revenue Code provisions that generally apply to corporations, including those relating to methods of accounting and to requirements for filing returns, even if Agency owns stock of the Institution.

(c) *No section 382 ownership change*. The imposition of Agency Control, the cancellation of Institution stock by Agency, a transaction in which an Institution transfers deposit liabilities to a Bridge Bank, and an election under paragraph (g) of this section are disregarded in determining whether an ownership change has occurred within the meaning of section 382(g).

(d) *Transfers to Bridge Banks*—(1) *In general*. Except as otherwise provided in paragraph (g) of this section, the rules of this paragraph (d) apply to transfers to Bridge Banks. In general, a Bridge Bank and its associated Residual Entity are together treated as the successor entity to the transferring Institution. If an Institution transfers deposit liabilities to a Bridge Bank (whether or not it also transfers assets), the Institution recognizes no gain or loss on the transfer and the Bridge Bank succeeds to the transferring Institution's basis in any transferred assets. The associated Residual Entity retains its basis in any assets it continues to hold. Immediately after the transfer, the Bridge Bank succeeds to and takes into account the transferring Institution's items described in section 381(c) (subject to the conditions and limitations specified in section 381(c)), taxpayer identification number ("TIN"), deferred FFA account, and account receivable for future FFA as described in paragraph (g)(4)(ii) of this section. The Bridge Bank also succeeds to and continues the transferring Institution's taxable year.

(2) *Transfers to a Bridge Bank from multiple Institutions*. If two or more Institutions transfer deposit liabilities to the same Bridge Bank, the rules in paragraph (d)(1) of this section are modified to the extent provided in this paragraph (d)(2). The Bridge Bank succeeds to the TIN and continues the taxable year of the Institution that transfers the largest amount of deposits. The taxable years of the other transferring Institutions close at the time of the transfer. If all the transferor Institutions are members of the same consolidated group, the Bridge Bank's carryback of losses to the Institution that transfers the largest amount of deposits is not limited by section 381(b)(3). The limitations of section 381(b)(3) do apply to the Bridge Bank's carrybacks of losses to all other transferor Institutions. If the transferor Institutions are not all members of the same consolidated group, the limitations of section 381(b)(3) apply with respect to all transferor Institutions. See paragraph (g)(6)(ii) of this section for additional rules that apply if two or more Institutions that are not members of the same consolidated group transfer deposit liabilities to the same Bridge Bank.

(e) *Treatment of Bridge Bank and Residual Entity as a single entity*. A Bridge Bank and its associated Residual Entity or Entities are treated as a single entity for income tax purposes and must file a single combined income tax return. The Bridge Bank is responsible for filing all income tax returns and statements for this single entity and is the agent of each associated Residual Entity to the same extent as if the Bridge Bank were the common parent of a consolidated group including the Residual Entity. The term Institution includes a Residual Entity that files a combined return with its associated Bridge Bank.

(f) *Rules applicable to members of consolidated groups*—(1) *Status as members*. Unless an election is made under paragraph (g) of this section, Agency Control of an Institution does not terminate the Institution's membership in a consolidated group. Stock of a subsidiary that is canceled by Agency is treated as held by the members of the consolidated group that held the stock prior to its cancellation. If an Institution is a member of a consolidated group immediately before it transfers deposit liabilities to a Bridge Bank, the Bridge Bank succeeds to the Institution's status as the common parent or, unless an election is made under paragraph (g) of this section, as a subsidiary of the group. If a Bridge Bank succeeds to an Institution's status as a subsidiary, its stock is treated as held by the shareholders of the transferring Institution, and the stock basis or excess loss account of the Institution carries over to the Bridge Bank. A Bridge Bank is treated as owning stock owned by its associated Residual Entities, including for purposes of determining membership in an affiliated group.

(2) *Coordination with consolidated return regulations*. The provisions of the regulations under section 597 take precedence over conflicting provisions in the regulations under section 1502.

(g) *Elective disaffiliation*—(1) *In general*. A consolidated group of which an Institution is a subsidiary may elect irrevocably not to include the Institution in its affiliated group if the Institution is placed in Agency receivership (whether or not assets or deposit liabilities of the Institution are transferred to a Bridge Bank). See paragraph (g)(6) of this section for circumstances under which a consolidated group is deemed to make this election.

(2) *Consequences of election*. If the election under this paragraph (g) is made with respect to an Institution, the following consequences occur immediately before the subsidiary Institution to which the election applies is placed in Agency receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, immediately before the consolidated group is deemed to make the election) and in the following order—

(i) All adjustments of the Institution and its Consolidated Subsidiaries under section 481 are accelerated;

(ii) Deferred intercompany gains and losses and intercompany items with respect to the Institution and its Consolidated Subsidiaries are taken into account and the Institution and its Consolidated Subsidiaries take into account any other items required under the regulations under section 1502 for members that become nonmembers within the meaning of § 1.1502–32(d)(4);

(iii) The taxable year of the Institution and its Consolidated Subsidiaries closes and the Institution includes the amount described in paragraph (g)(3) of this section in income as ordinary income as its last item for that taxable year;

(iv) The members of the consolidated group owning the common stock of the Institution include in income any excess loss account with respect to the Institution's stock under § 1.1502–19 and any other items required under the regulations under section 1502 for members that own stock of corporations that become nonmembers within the meaning of § 1.1502–32(d)(4); and

(v) If the Institution's liabilities exceed the aggregate fair market value of its assets on the date the Institution is placed in Agency receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, on the date the consolidated group is deemed to make the election), the members of the consolidated group treat their stock in the Institution as worthless. (See §§ 1.337(d)–2, 1.1502–35(f), and 1.1502–36 for rules applicable when a member of a consolidated group is entitled to a worthless stock deduction with respect to stock of another member of the group.) In all other cases, the consolidated group will be treated as owning stock of a nonmember corporation until such stock is disposed of or becomes worthless under rules otherwise applicable.

(3) *Toll charge*. The amount described in this paragraph (g)(3) is the excess of the Institution's liabilities over the adjusted bases of its assets immediately before the Institution is placed in Agency receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, immediately before the consolidated group is deemed to make the election). In computing this amount, the adjusted bases of an Institution's assets are reduced by the amount of the Institution's reserves for bad debts under section 585 or 593, other than supplemental reserves under section 593. For purposes of this paragraph (g)(3), an Institution is treated as a single entity that includes the assets and liabilities of its Consolidated Subsidiaries, with appropriate adjustments to prevent duplication. The amount described in this paragraph (g)(3) for alternative minimum tax purposes is determined using alternative minimum tax basis, deductions, and all other items required to be taken into account. In computing the increase in the group's taxable income or alternative minimum taxable income, sections 56(d)(1), 382, and 383 and §§ 1.1502–15, 1.1502–21, and 1.1502–22 (or §§ 1.1502–15A, 1.1502–21A, and 1.1502–22A, as appropriate) do not limit the use of the attributes of the Institution and its Consolidated Subsidiaries to the extent, if any, that the inclusion of the amount described in this paragraph (g)(3) in income would result in the group having taxable income or alternative minimum taxable income (determined without regard to this sentence) for the taxable year. The preceding sentence does not apply to any limitation under section 382 or 383 or §§ 1.1502–15, 1.1502–21, or 1.1502–22 (or §§ 1.1502–15A, 1.1502–21A, or 1.1502–22A, as appropriate) that arose in connection with or prior to a corporation becoming a Consolidated Subsidiary of the Institution.

(4) *Treatment of Institutions after disaffiliation*—(i) *In general*. If the election under this paragraph (g) is made with respect to an Institution, immediately after the Institution is placed in Agency receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, immediately after the consolidated group is deemed to make the election), the Institution and each of its Consolidated Subsidiaries are treated for income tax purposes as new corporations that are not members of the electing group's affiliated group. Each new corporation retains the TIN of the corresponding disaffiliated corporation and is treated as having received the assets and liabilities of the corresponding disaffiliated corporation in a transaction to which section 351 applies (and in which no gain was recognized under section 357(c) or otherwise). Thus, the new corporation has no net operating or capital loss carryforwards. An election under this paragraph (g) does not terminate the single entity treatment of a Bridge Bank and its Residual Entities provided in paragraph (e) of this section.

(ii) *FFA*. A new Institution is treated as having a non-interest bearing, nontransferable account receivable for future FFA with a basis equal to the amount described in paragraph (g)(3) of this section. If a disaffiliated Institution has a deferred FFA account at the time of its disaffiliation, the corresponding new Institution succeeds to and takes into account that deferred FFA account.

(iii) *Filing of consolidated returns*. If a disaffiliated Institution has Consolidated Subsidiaries at the time of its disaffiliation, the corresponding new Institution is required to file a consolidated income tax return with the subsidiaries in accordance with the regulations under section 1502.

(iv) *Status as Institution*. If an Institution is disaffiliated under this paragraph (g), the resulting new corporation is treated as an Institution for purposes of the regulations under section 597 regardless of whether it is a bank or domestic building and loan association within the meaning of section 597.

(v) *Loss carrybacks*. To the extent a carryback of losses would result in a refund being paid to a fiduciary under section 6402(k), an Institution or Consolidated Subsidiary with respect to which an election under this paragraph (g) (other than under paragraph (g)(6)(ii) of this section) applies is allowed to carry back losses as if the Institution or Consolidated Subsidiary had continued to be a member of the consolidated group that made the election.

(5) *Affirmative election*—(i) *Original Institution*—(A) *Manner of making election*. Except as otherwise provided in paragraph (g)(6) of this section, a consolidated group makes the election provided by this paragraph (g) by sending a written statement by certified mail to the affected Institution on or before 120 days after its placement in Agency receivership. The statement must contain the following legend at the top of the page: "THIS IS AN ELECTION UNDER § 1.597–4(g) TO EXCLUDE THE BELOW-REFERENCED INSTITUTION AND CONSOLIDATED SUBSIDIARIES FROM THE AFFILIATED GROUP," and must include the names and taxpayer identification numbers of the common parent and of the Institution and Consolidated Subsidiaries to which the election applies, and the date on which the Institution was placed in Agency receivership. The consolidated group must send a similar statement to all subsidiary Institutions placed in Agency receivership during the consistency period described in paragraph (g)(5)(ii) of this section. (Failure to satisfy the requirement in the preceding sentence, however, does not invalidate the election with respect to any subsidiary Institution placed in Agency receivership during the consistency period described in paragraph (g)(5)(ii) of this section.) The consolidated group must retain a copy of the statement sent to any affected or subsidiary Institution (and the accompanying certified mail receipt) as proof that it mailed the statement to the affected Institution, and the consolidated group must make the statement and receipt available for inspection by the Commissioner upon request. The consolidated group must include an election statement as part of its first income tax return filed after the due date under this paragraph (g)(5) for such statement. A statement must be attached to this return indicating that the individual who signed the election was authorized to do so on behalf of the consolidated group. Agency cannot make this election under the authority of section 6402(k) or otherwise.

(B) *Consistency limitation on affirmative elections*. A consolidated group may make an affirmative election under this paragraph (g)(5) with respect to a subsidiary Institution placed in Agency receivership only if the group made, or is deemed to have made, the election under this paragraph (g) with respect to every subsidiary Institution of the group placed in Agency receivership within five years preceding the date the subject Institution was placed in Agency receivership.

(ii) *Effect on Institutions placed in receivership simultaneously or subsequently*. An election under this paragraph (g), other than under paragraph (g)(6)(ii) of this section, applies to the Institution with respect to which the election is made or deemed made (the original Institution) and each subsidiary Institution of the group placed in Agency receivership or deconsolidated in contemplation of Agency Control or the receipt of FFA simultaneously with the original Institution or within five years thereafter.

(6) *Deemed Election*—(i) *Deconsolidations in contemplation*. If one or more members of a consolidated group deconsolidate (within the meaning of § 1.1502–19(c)(1)(ii)(B)) a subsidiary Institution in contemplation of Agency Control or the receipt of FFA, the consolidated group is deemed to make the election described in this paragraph (g) with respect to the Institution on the date the deconsolidation occurs. A subsidiary Institution is conclusively presumed to have been deconsolidated in contemplation of Agency Control or the receipt of FFA if either event occurs within six months after the deconsolidation.

(ii) *Transfers to a Bridge Bank from multiple groups*. On the day an Institution's transfer of deposit liabilities to a Bridge Bank results in the Bridge Bank holding deposit liabilities from both a subsidiary Institution and an Institution not included in the subsidiary Institution's consolidated group, each consolidated group of which a transferring Institution or the Bridge Bank is a subsidiary is deemed to make the election described in this paragraph (g) with respect to its subsidiary Institution. If deposit liabilities of another Institution that is a subsidiary member of any consolidated group subsequently are transferred to the Bridge Bank, the consolidated group of which the Institution is a subsidiary is deemed to make the election described in this paragraph (g) with respect to that Institution at the time of the subsequent transfer.

(h) *Examples*. The following examples illustrate the provisions of this section:

Facts. Corporation X, the common parent of a consolidated group, owns all the stock (with a basis of $4 million) of Institution M, an insolvent Institution with no Consolidated Subsidiaries. At the close of business on April 30, 2016, M has $4 million of deposit liabilities, $1 million of other liabilities, and assets with an adjusted basis of $4 million and a fair market value of $3 million.

Example 1. Effect of receivership on consolidation. On May 1, 2016, Agency places M in receivership and begins liquidating M. X does not make an election under paragraph (g) of this section. M remains a member of the X consolidated group after May 1, 2016 under paragraph (f)(1) of this section.

Example 2. Effect of Bridge Bank on consolidation—(i) *Additional facts*. On May 1, 2016, Agency places M in receivership and causes M to transfer all of its assets and deposit liabilities to Bridge Bank MB.

(ii) *Consequences without an election to disaffiliate*. M recognizes no gain or loss from the transfer and MB succeeds to M's basis in the transferred assets, M's items described in section 381(c) (subject to the conditions and limitations specified in section 381(c)), and TIN under paragraph (d)(1) of this section. (If M had a deferred FFA account, MB would also succeed to that account under paragraph (d)(1) of this section.) MB continues M's taxable year and succeeds to M's status as a member of the X consolidated group after May 1, 2016 under paragraphs (d)(1) and (f) of this section. MB and M are treated as a single entity for income tax purposes under paragraph (e) of this section.

(iii) *Consequences with an election to disaffiliate*. If, on July 1, 2016, X makes an election under paragraph (g) of this section with respect to M, the following consequences are treated as occurring immediately before M was placed in Agency receivership. M must include $1 million ($5 million of liabilities − $4 million of adjusted basis) in income as of May 1, 2016 under paragraph (g)(2) and (3) of this section. M is then treated as a new corporation that is not a member of the X consolidated group and that has assets (including a $1 million account receivable for future FFA) with a basis of $5 million and $5 million of liabilities received from disaffiliated corporation M in a section 351 transaction. New corporation M retains the TIN of disaffiliated corporation M under paragraph (g)(4) of this section. Immediately after the disaffiliation, new corporation

M is treated as transferring its assets and deposit liabilities to Bridge Bank MB. New corporation M recognizes no gain or loss from the transfer and MB succeeds to M's TIN and taxable year under paragraph (d)(1) of this section. Bridge Bank MB is treated as a single entity that includes M and has $5 million of liabilities, an account receivable for future FFA with a basis of $1 million, and other assets with a basis of $4 million under paragraph (d)(1) of this section.

Par. 6. Section 1.597–5 is revised to read as follows:

§ 1.597–5 Taxable Transfers.

(a) *Taxable Transfers*—(1) *Defined*. The term *Taxable Transfer* means—

(i) A transaction in which an entity transfers to a transferee other than a Bridge Bank—

(A) Any deposit liability (whether or not the Institution also transfers assets), if FFA is provided in connection with the transaction; or

(B) Any asset for which Agency or a Controlled Entity has any financial obligation (for example, pursuant to a Loss Guarantee or Agency Obligation); or

(ii) A deemed transfer of assets described in paragraph (b) of this section.

(2) *Scope*. This section provides rules governing Taxable Transfers. Rules applicable to both actual and deemed asset acquisitions are provided in paragraphs (c) and (d) of this section. Special rules applicable only to deemed asset acquisitions are provided in paragraph (e) of this section.

(b) *Deemed asset acquisitions upon stock purchase*—(1) *In general*. In a deemed transfer of assets under this paragraph (b), an Institution (including a Bridge Bank or a Residual Entity) or a Consolidated Subsidiary of the Institution (the Old Entity) is treated as selling all of its assets in a single transaction and is treated as a new corporation (the New Entity) that purchases all of the Old Entity's assets at the close of the day immediately preceding the occurrence of an event described in paragraph (b)(2) of this section. However, such an event results in a deemed transfer of assets under this paragraph (b) only if it occurs—

(i) In connection with a transaction in which FFA is provided;

(ii) While the Institution is a Bridge Bank;

(iii) While the Institution has a positive balance in a deferred FFA account (see § 1.597–2(c)(4)(v) regarding the optional accelerated recapture of deferred FFA); or

(iv) With respect to a Consolidated Subsidiary, while the Institution of which it is a Consolidated Subsidiary is under Agency Control.

(2) *Events*. A deemed transfer of assets under this paragraph (b) results if the Institution or Consolidated Subsidiary—

(i) Becomes a non-member (within the meaning of § 1.1502–32(d)(4)) of its consolidated group, other than pursuant to an election under § 1.597–4(g);

(ii) Becomes a member of an affiliated group of which it was not previously a member, other than pursuant to an election under § 1.597–4(g); or

(iii) Issues stock such that the stock that was outstanding before the imposition of Agency Control or the occurrence of any transaction in connection with the provision of FFA represents 50 percent or less of the vote or value of its outstanding stock (disregarding stock described in section 1504(a)(4) and stock owned by Agency or a Controlled Entity).

(3) *Bridge Banks and Residual Entities*. If a Bridge Bank is treated as selling all of its assets to a New Entity under this paragraph (b), each associated Residual Entity is treated as simultaneously selling its assets to a New Entity in a Taxable Transfer described in this paragraph (b).

(c) *Treatment of transferor*—(1) *FFA in connection with a Taxable Transfer*. A transferor in a Taxable Transfer is treated as having directly received immediately before a Taxable Transfer any Net Worth Assistance that Agency provides to the New Entity or Acquiring in connection with the transfer. (See § 1.597–2(a) and (c) for rules regarding the inclusion of FFA in income and § 1.597–2(a)(1) for related rules regarding FFA provided to shareholders.) The Net Worth Assistance is treated as an asset of the transferor that is sold to the New Entity or Acquiring in the Taxable Transfer.

(2) *Amount realized in a Taxable Transfer*. In a Taxable Transfer described in paragraph (a)(1)(i) of this section, the amount realized is determined under section 1001(b) by reference to the consideration paid for the assets. In a Taxable Transfer described in paragraph (a)(1)(ii) of this section, the amount realized is the sum of the grossed-up basis of the stock acquired in connection with the Taxable Transfer (excluding stock acquired from the Old or New Entity), plus the amount of liabilities assumed or taken subject to in the deemed transfer, plus other relevant items. The grossed-up basis of the acquired stock equals the acquirers' basis in the acquired stock divided by the percentage of the Old Entity's stock (by value) attributable to the acquired stock.

(3) *Allocation of amount realized*—(i) *In general*. The amount realized under paragraph (c)(2) of this section is allocated among the assets transferred in the Taxable Transfer in the same manner as amounts are allocated among assets under § 1.338–6(b), (c)(1) and (2).

(ii) *Modifications to general rule*. This paragraph (c)(3)(ii) modifies certain of the allocation rules of paragraph (c)(3)(i) of this section. Agency Obligations and Covered Assets in the hands of the New Entity or Acquiring are treated as Class II assets. Stock of a Consolidated Subsidiary is treated as a Class II asset to the extent the fair market value of the Consolidated Subsidiary's Class I and Class II assets (see § 1.597–1(b)) exceeds the amount of its liabilities. The fair market value of an Agency Obligation is deemed to equal its adjusted issue price immediately before the Taxable Transfer.

(d) *Treatment of a New Entity and Acquiring*—(1) *Purchase price*. The purchase price for assets acquired in a Taxable Transfer described in paragraph (a)(1)(i) of this section is the cost of the assets acquired. See § 1.1060–1(c)(1). All assets transferred in related transactions pursuant to an option included in an agreement between the transferor and Acquiring in the Taxable Transfer are included in the group of assets among which the consideration paid is allocated for purposes of determining the New Entity's or Acquiring's basis in each of the assets. The purchase price for assets acquired in a Taxable Transfer described in paragraph (a)(1)(ii) of this section is the sum of the grossed-up basis of the stock acquired in connection with the Taxable Transfer (excluding stock acquired from the Old or New Entity), plus the amount of liabilities assumed or taken subject to in the deemed transfer, plus other relevant items. The grossed-up basis of the acquired stock equals the acquirers' basis in the acquired stock divided by the percentage of the Old Entity's stock (by value) attributable to the acquired stock. FFA provided in connection with a Taxable Transfer is not included in the New Entity's or Acquiring's purchase price for the acquired assets. Any Net Worth Assistance so provided is treated as an asset of the transferor sold to the New Entity or Acquiring in the Taxable Transfer.

(2) *Allocation of basis*—(i) *In general*. Except as otherwise provided in this paragraph (d)(2), the purchase price determined under paragraph (d)(1) of this section is allocated among the assets transferred in the Taxable Transfer in the same manner as amounts are allocated among assets under § 1.338–6(b), (c)(1) and (2).

(ii) *Modifications to general rule*. The allocation rules contained in paragraph (c)(3)(ii) of this section apply to the allocation of basis among assets acquired in a Taxable Transfer. No basis is allocable to Agency's agreement to provide Loss Guarantees, yield maintenance payments, cost to carry or cost of funds reimbursement payments, or expense reimbursement or indemnity payments. A New Entity's basis in assets it receives from its shareholders is determined under general principles of income taxation and is not governed by this paragraph (d).

(iii) *Allowance and recapture of additional basis in certain cases*. The basis of Class I and Class II assets equals their fair market value. See § 1.597–1(b). If the fair market value of the Class I and Class II assets exceeds the purchase price for the acquired assets, the excess is included ratably as ordinary income by the New Entity or Acquiring over a period of six taxable years beginning in the year of the Taxable Transfer. The New Entity or Acquiring must include as ordinary income the entire amount remaining to be recaptured under the preceding sentence in the taxable year in which an event occurs that would accelerate inclusion of an adjustment under section 481.

(iv) *Certain post-transfer adjustments*—(A) *Agency Obligations*. If an adjustment to the principal amount of an Agency Obligation or cash payment to reflect a more accurate determination of the condition of the Institution at the time of the Taxable Transfer is made before the earlier of the date the New Entity or Acquiring files its first post-transfer income tax return or the due date of that return (including extensions), the New Entity or Acquiring must adjust its basis in its acquired assets to reflect the adjustment. In making adjustments to the New Entity's or Acquiring's basis in its acquired assets, paragraph (c)(3)(ii) of this section is applied by treating an adjustment to the principal amount of an Agency Obligation pursuant to the first sentence of this paragraph (d)(2)(iv)(A) as occurring immediately before the Taxable Transfer. (See § 1.597–3(c)(3) for rules regarding other adjustments to the principal amount of an Agency Obligation.)

(B) *Covered Assets*. If, immediately after a Taxable Transfer, an asset is not subject to a Loss Guarantee but the New Entity or Acquiring has the right to designate specific assets that will be subject to the Loss Guarantee, the New Entity or Acquiring must treat any asset so designated as having been subject to the Loss Guarantee at the time of the Taxable Transfer. The New Entity or Acquiring must adjust its basis in the Covered Assets and in its other acquired assets to reflect the designation in the manner provided by paragraph (d)(2) of this section. The New Entity or Acquiring must make appropriate adjustments in subsequent taxable years if the designation is made after the New Entity or Acquiring files its first post-transfer income tax return or the due date of that return (including extensions) has passed.

(e) *Special rules applicable to Taxable Transfers that are deemed asset acquisitions*—(1) *Taxpayer Identification Numbers*. Except as provided in paragraph (e)(3) of this section, the New Entity succeeds to the TIN of the Old Entity in a deemed sale under paragraph (b) of this section.

(2) *Consolidated Subsidiaries*—(i) *In general*. A Consolidated Subsidiary that is treated as selling its assets in a Taxable Transfer under paragraph (b) of this section is treated as engaging immediately thereafter in a complete liquidation to which section 332 applies. The consolidated group of which the Consolidated Subsidiary is a member does not take into account gain or loss on the sale, exchange, or cancellation of stock of the Consolidated Subsidiary in connection with the Taxable Transfer.

(ii) *Certain minority shareholders*. Shareholders of the Consolidated Subsidiary that are not members of the consolidated group that includes the Institution do not recognize gain or loss with respect to shares of Consolidated Subsidiary stock retained by the shareholder. The shareholder's basis for that stock is not affected by the Taxable Transfer.

(3) *Bridge Banks and Residual Entities*—(i) *In general*. A Bridge Bank or Residual Entity's sale of assets to a New Entity under paragraph (b) of this section is treated as made by a single entity under § 1.597–4(e). The New Entity deemed to acquire the assets of a Residual Entity under paragraph (b) of this section is not treated as a single entity with the Bridge Bank (or with the New Entity acquiring the Bridge Bank's assets) and must obtain a new TIN.

(ii) *Treatment of consolidated groups*. At the time of a Taxable Transfer described in paragraph (a)(1)(ii) of this section, treatment of a Bridge Bank as a subsidiary member of a consolidated group under § 1.597–4(f)(1) ceases. However, the New Entity that is deemed to acquire the assets of a Residual Entity is a member of the selling consolidated group after the deemed sale. The group's basis or excess loss account in the stock of the New Entity that is deemed to acquire the assets of the Residual Entity is the group's basis or excess loss account in the stock of the Bridge Bank immediately before the deemed sale, as adjusted for the results of the sale.

(4) *Certain returns*. If an Old Entity without Continuing Equity is not a subsidiary of a consolidated group at the time of the Taxable Transfer, the controlling Agency must file all income tax returns for the Old Entity for periods ending on or prior to the date of the deemed sale described in paragraph (b) of this section that are not filed as of that date.

(5) *Basis limited to fair market value*. If all of the stock of the corporation is not acquired on the date of the Taxable Transfer, the Commissioner may make appropriate adjustments under paragraphs (c) and (d) of this section to the extent using

a grossed-up basis of the stock of a corporation results in an aggregate amount realized for, or basis in, the assets other than the aggregate fair market value of the assets.

(f) *Examples*. The following examples illustrate the provisions of this section. For purposes of these examples, an Institution's loans are treated as if they were a single asset. However, in applying these regulations, the fair market value of each loan (including, for purposes of a Covered Asset, the Third-Party Price and the Expected Value) must be determined separately.

Example 1. Branch sale resulting in Taxable Transfer. (i) Institution M is a calendar-year taxpayer in Agency receivership. M is not a member of a consolidated group. On January 1, 2016, M has $200 million of liabilities (including deposit liabilities) and assets with an adjusted basis of $100 million. M has no income or loss for 2016 and, except as described below, M receives no FFA. On September 30, 2016, Agency causes M to transfer six branches (with assets having an adjusted basis of $1 million) together with $120 million of deposit liabilities to N. In connection with the transfer, Agency provides $121 million in cash to N.

(ii) The transaction is a Taxable Transfer in which M receives $121 million of Net Worth Assistance under paragraph (a)(1) of this section. (M is treated as directly receiving the $121 million of Net Worth Assistance immediately before the Taxable Transfer under paragraph (c)(1) of this section.) M transfers branches having a basis of $1 million and is treated as transferring $121 million in cash (the Net Worth Assistance) to N in exchange for N's assumption of $120 million of liabilities. Thus, M realizes a loss of $2 million on the transfer. The amount of the FFA M must include in its income in 2016 is limited by paragraph (c) of § 1.597–2 to $102 million, which is the sum of the $100 million excess of M's liabilities ($200 million) over the total adjusted basis of its assets ($100 million) at the beginning of 2016 and the $2 million excess for the taxable year (which results from the Taxable Transfer) of M's deductions (other than carryovers) over its gross income other than FFA. M must establish a deferred FFA account for the remaining $19 million of FFA under paragraph (c)(4) of § 1.597–2.

(iii) N, as Acquiring, must allocate its $120 million purchase price for the assets acquired from M among those assets. Cash is a Class I asset. The branch assets are in Classes III and IV. N's adjusted basis in the cash is its amount, that is, $121 million under paragraph (d)(2) of this section. Because this amount exceeds N's purchase price for all of the acquired assets by $1 million, N allocates no basis to the other acquired assets and, under paragraph (d)(2) of this section, must recapture the $1 million excess at an annual rate of $166,667 in the six consecutive taxable years beginning with 2016 (subject to acceleration for certain events).

Example 2. Stock issuance by Bridge Bank causing Taxable Transfer. (i) On April 1, 2016, Institution P is placed in receivership and caused to transfer assets and liabilities to Bridge Bank PB. On August 31, 2016, the assets of PB consist of $20 million in cash, loans outstanding with an adjusted basis of $50 million and a Third-Party Price of $40 million, and other non-financial assets (primarily branch assets and equipment) with an adjusted basis of $5 million. PB has deposit liabilities of $95 million and other liabilities of $5 million. P, the Residual Entity, holds real estate with an adjusted basis of $10 million and claims in litigation having a zero basis. P retains no deposit liabilities and has no other liabilities (except its liability to Agency for having caused its deposit liabilities to be satisfied).

(ii) On September 1, 2016, Agency causes PB to issue 100 percent of its common stock for $2 million cash to X. On the same day, Agency issues a $25 million note to PB. The note bears a fixed rate of interest in excess of the applicable Federal rate in effect for September 1, 2016. Agency provides Loss Guarantees guaranteeing PB a value of $50 million for PB's loans outstanding.

(iii) The stock issuance is a Taxable Transfer in which PB is treated as selling all of its assets to a new corporation, New PB, under paragraph (b)(1) of this section. PB is treated as directly receiving $25 million of Net Worth Assistance (the issue price of the Agency Obligation) immediately before the Taxable Transfer under paragraph (c)(2) of § 1.597–3 and paragraph (c)(1) of this section. The amount of FFA PB must include in income is determined under paragraphs (a) and (c) of § 1.597–2. PB in turn is deemed to transfer the note (with a basis of $25 million) to New PB in the Taxable Transfer, together with $20 million of cash, all its loans outstanding (with a basis of $50 million) and its other non-financial assets (with a basis of $5 million). The amount realized by PB from the sale is $100 million (the amount of PB's liabilities deemed to be assumed by New PB). This amount realized equals PB's basis in its assets; thus, PB realizes no gain or loss on the transfer to New PB.

(iv) Residual Entity P also is treated as selling all its assets (consisting of real estate and claims in litigation) for $0 (the amount of consideration received by P) to a new corporation (New P) in a Taxable Transfer under paragraph (b)(3) of this section. (P's only liability is to Agency and a liability to Agency is not treated as a debt under paragraph (b) of § 1.597–3.) P's basis in its assets is $10 million; thus, P realizes a $10 million loss on the transfer to New P. The combined return filed by PB and P for 2016 will reflect a total loss on the Taxable Transfer of $10 million ($0 for PB and $10 million for P) under paragraph (e)(3) of this section. That return also will reflect FFA income from the Net Worth Assistance, determined under paragraphs (a) and (c) of § 1.597–2.

(v) New PB is treated as having acquired the assets it acquired from PB for $100 million, the amount of liabilities assumed. In allocating basis among these assets, New PB treats the Agency note and the loans outstanding (which are Covered Assets) as Class II assets. For the purpose of allocating basis, the fair market value of the Agency note is deemed to equal its adjusted issue price immediately before the transfer ($25 million), and the fair market value of the loans is their Expected Value, $50 million (the sum of the $40 million Third-Party Price and the $10 million that Agency would pay if PB sold the loans for $40 million) under paragraph (b) of § 1.597–1. Alternatively, if the Third-Party Price for the loans were $60 million, then the fair market value of the loans would be $60 million, and there would be no payment from Agency.

(vi) New P is treated as having acquired its assets for no consideration. Thus, its basis in its assets immediately after the transfer is zero. New PB and New P are not treated as a single entity under paragraph (e)(3) of this section.

Example 3. Taxable Transfer of previously disaffiliated Institution. (i) Corporation X, the common parent of a consolidated group, owns all the stock of Institution M, an insolvent Institution with no Consolidated Subsidiaries. On April 30, 2016, M has $4 million of deposit liabilities, $1 million of other liabilities, and assets with an adjusted basis of $4 million. On May 1, 2016, Agency places M in receivership. X elects under paragraph (g) of § 1.597–4 to disaffiliate M. Accordingly, as of May 1, 2016, new corporation M is not a member of the X consolidated group. On May 1, 2016, Agency causes M to transfer all of its assets and liabilities to Bridge Bank MB. Under paragraphs (e) and (g)(4) of § 1.597–4, MB and M are thereafter treated as a single entity which has $5 million of liabilities, an account receivable for future FFA with a basis of $1 million, and other assets with a basis of $4 million.

(ii) During May 2016, MB earns $25,000 of interest income and accrues $20,000 of interest expense on depositor accounts and there is no net change in deposits other than the additional $20,000 of interest expense accrued on depositor accounts. MB pays $5,000 of wage expenses and has no other items of income or expense.

(iii) On June 1, 2016, Agency causes MB to issue 100 percent of its stock to Corporation Y. In connection with the stock issuance, Agency provides an Agency Obligation for $2 million and no other FFA.

(iv) The stock issuance results in a Taxable Transfer under paragraph (b) of this section. MB is treated as receiving the Agency Obligation immediately prior to the Taxable Transfer under paragraph (c)(1) of this section. MB has $1 million of basis in its account receivable for FFA. This receivable is treated as satisfied, offsetting $1 million of the $2 million of FFA provided by Agency in connection with the Taxable Transfer. The status of the remaining $1 million of FFA as includible income is determined as of the end of the taxable year under paragraph (c) of § 1.597–2. However, under paragraph (b) of § 1.597–2, MB obtains a $2 million basis in the Agency Obligation received as FFA.

(v) Under paragraph (c)(2) of this section, in the Taxable Transfer, Old Entity MB is treated as selling, to New Entity MB, all of Old Entity MB's assets, having a basis of $6,020,000 (the original $4 million of asset basis as of April 30, 2016, plus $20,000 net cash from May 2016 activities, plus the $2 million Agency Obligation received as FFA), for $5,020,000, the amount of Old Entity MB's liabilities assumed by New Entity MB pursuant to the Taxable Transfer. Therefore, Old Entity MB recognizes, in the aggregate, a loss of $1 million from the Taxable Transfer.

(vi) Because this $1 million loss causes Old Entity MB's deductions to exceed its gross income (determined without regard to FFA) by $1 million, Old Entity MB must include in its income the $1 million of FFA not offset by the FFA receivable under paragraph (c) of § 1.597–2. (As of May 1, 2016, Old Entity MB's liabilities ($5 million) did not exceed MB's $5 million adjusted basis of its assets. For the taxable year, MB's deductions of $1,025,000 ($1 million loss from the Taxable Transfer, $20,000 interest expense and $5,000 of wage expense) exceeded its gross income (disregarding FFA) of $25,000 (interest income) by $1 million. Thus, under paragraph (c) of § 1.597–2, MB includes in income the entire $1 million of FFA not offset by the FFA receivable.)

(vii) Therefore, Old Entity MB's taxable income for the taxable year ending on the date of the Taxable Transfer is $0.

(viii) Residual Entity M is also deemed to engage in a deemed sale of its assets to New Entity M under paragraph (b)(3) of this section, but there are no tax consequences as M has no assets or liabilities at the time of the deemed sale.

(ix) Under paragraph (d)(1) of this section, New Entity MB is treated as purchasing Old Entity MB's assets for $5,020,000, the amount of New Entity MB's liabilities. Of this, $2 million is allocated to the $2 million Agency Obligation, and $3,020,000 is allocated to the other assets New Entity MB is treated as purchasing in the Taxable Transfer.

Example 4. Loss Guarantee. On January 1, 2016, Institution N acquires assets and assumes liabilities of another Institution in a Taxable Transfer. In exchange for assuming $1,100,000 of the transferring Institution's liabilities, N acquires Net Worth Assistance of $200,000, loans with an unpaid principal balance of $1 million, and two foreclosed properties each having a book value of $100,000 in the hands of the transferring Institution. In connection with the Taxable Transfer, Agency guarantees N a price of $800,000 on the disposition or charge-off of the loans and a price of $80,000 on the disposition or charge-off of each of the foreclosed properties. This arrangement constitutes a Loss Guarantee. The Third-Party Price is $500,000 for the loans and $50,000 for each of the foreclosed properties. For basis allocation purposes, the loans and foreclosed properties are Class II assets because they are Covered Assets, and N must allocate basis to such assets equal to their fair market value under paragraphs (c)(3)(ii), (d)(2)(ii), and (d)(2)(iii) of this section. The fair market value of the loans is their Expected Value, $800,000 (the sum of the $500,000 Third-Party Price and the $300,000 that Agency would pay if N sold the loans for $500,000)). The fair market value of each foreclosed property is its Expected Value, $80,000 (the sum of the $50,000 Third-Party Price and the $30,000 that Agency would pay if N sold the foreclosed property for $50,000)) under paragraph (b) of § 1.597–1. Accordingly, N's basis in the loans and in each of the foreclosed properties is $800,000 and $80,000, respectively. Because N's aggregate basis in the cash, loans, and foreclosed properties ($1,160,000) exceeds N's purchase price ($1,100,000) by $60,000, N must include $60,000 in income ratably over six years under paragraph (d)(2)(iii) of this section.

Example 5. Loss Share Agreement. (i) The facts are the same as in *Example 4* except that, in connection with the Taxable Transfer, Agency agrees to reimburse Institution N in an amount equal to zero percent of any loss realized (based on the $1 million unpaid principal balance of the loans and the $100,000 book value of each of the foreclosed properties) on the disposition or charge-off of the Covered Assets up to $200,000; 50 percent of any loss realized between $200,000 and $700,000; and 95 percent of any additional loss realized. This arrangement constitutes a Loss Guarantee that is a Loss Share Agreement. Thus, the Covered Assets are Class II assets, and N allocates basis to such assets equal to their fair market value under paragraphs (c)(3)(ii), (d)(2)(ii), and (d)(2)(iii) of this section. Because the Third-Party Price for all of the Covered Assets is $600,000 ($500,000 for the loans and $50,000 for each of the foreclosed properties), the Average Reimbursement Rate is 33.33% ((($200,000 × 0%) + ($400,000 × 50%) + ($0 × 95%))/$600,000). The Expected Value of the loans is $666,667 ($500,000 Third-Party Price + $166,667 (the amount of the loss if the loans were disposed of for the Third-Party Price × 33.33%)), and the Expected Value of each foreclosed property is $66,667 ($50,000 Third-Party Price + $16,667 (the amount of the loss if the foreclosed property were sold for the Third-Party Price × 33.33%)) under paragraph (b) of § 1.597–1. For purposes of allocating basis, the fair market value of the loans is $666,667 (their Expected Value), and the fair market value of each foreclosed property is $66,667 (its Expected Value) under paragraph (b) of § 1.597–1.

(ii) At the end of 2016, the Third-Party Price for the loans drops to $400,000, and the Third-Party Price for each of the foreclosed properties remains at $50,000, The fair market value of the loans at the end of Year 2 is their Expected Value, $600,000 ($400,000 Third-Party Price + $200,000 (the amount of the loss if the loans were disposed of for the Third-Party Price × 33.33% (the Average Reimbursement Rate does not change)). Thus, if the loans otherwise may be charged off, marked to a market value, depreciated, or amortized, then the loans may be marked down to $600,000. The fair market value of each of the foreclosed properties remains at $66,667 ($50,000 Third-Party Price + $16,667 (the amount of the loss if the foreclosed property were sold for the Third-Party Price × 33.33%)). Therefore, the foreclosed properties may not be charged off or depreciated in 2016.

Par. 7. Section 1.597–6 is revised to read as follows:

§ 1.597–6 Limitation on collection of income tax.

(a) *Limitation on collection where tax is borne by Agency*. If an Institution without Continuing Equity (or any of its Consolidated Subsidiaries) is liable for income tax that is attributable to the inclusion in income of FFA or gain from a Taxable Transfer, the tax will not be collected if it would be borne by Agency. The final determination of whether the tax would be borne by Agency is within the sole discretion of the Commissioner. In determining whether tax would be borne by Agency, the Commissioner will disregard indemnity, tax-sharing, or similar obligations of Agency, an Institution, or its Consolidated Subsidiaries. Collection of the several income tax liability under § 1.1502–6 from members of an Institution's consolidated group other than the Institution or its Consolidated Subsidiaries is not affected by this section. Income tax will continue to be subject to collection except as specifically limited in this section. This section does not apply to taxes other than income taxes.

(b) *Amount of tax attributable to FFA or gain on a Taxable Transfer*. For purposes of paragraph (a) of this section, the amount of income tax in a taxable year attributable to the inclusion of FFA or gain from a Taxable Transfer in the income of an Institution (or a Consolidated Subsidiary) is the excess of the actual income tax liability of the Institution (or the consolidated group in which the Institution is a member) over the income tax liability of the Institution (or the consolidated group in which the Institution is a member) determined without regard to FFA or gain or loss on the Taxable Transfer.

(c) *Reporting of uncollected tax*. A taxpayer must specify on a statement included with its Form 1120 (U.S. Corporate Income Tax Return) the amount of income tax for the taxable year that is potentially not subject to collection under this section. If an Institution is a subsidiary member of a consolidated group, the amount specified as not subject to collection is zero.

(d) *Assessments of tax to offset refunds*. Income tax that is not collected under this section will be assessed and, thus, used to offset any claim for refund made by or on behalf of the Institution, the Consolidated Subsidiary or any other corporation with several liability for the tax.

(e) *Collection of taxes from Acquiring or a New Entity*—(1) *Acquiring*. No income tax liability (including the several liability for taxes under § 1.1502–6) of a transferor in a Taxable Transfer will be collected from Acquiring.

(2) *New Entity*. Income tax liability (including the several liability for taxes

under § 1.1502–6) of a transferor in a Taxable Transfer will be collected from a New Entity only if stock that was outstanding in the Old Entity remains outstanding as stock in the New Entity or is reacquired or exchanged for consideration.

(f) *Effect on section 7507*. This section supersedes the application of section 7507, and the regulations thereunder, for the assessment and collection of income tax attributable to FFA.

Par. 8. Section 1.597–7 is revised to read as follows:

§ 1.597–7 Effective date.

(a) *FIRREA effective date*. Section 597, as amended by section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101–73, 103 Stat 183 (1989)) ("FIRREA") is generally effective for any FFA received or accrued by an Institution on or after May 10, 1989, and for any transaction in connection with which such FFA is provided, unless the FFA is provided in connection with an acquisition occurring prior to May 10, 1989. See § 1.597–8 for rules regarding FFA received or accrued on or after May 10, 1989, that relates to an acquisition that occurred before May 10, 1989.

(b) *Effective date of regulations*. Sections 1.597–1 through 1.597–6 will be effective on or after the date of publication of the Treasury decision adopting these proposed rules as final regulations in the **Federal Register**, except with respect to FFA provided pursuant to a written agreement that is binding before the date of publication of the Treasury decision adopting these proposed rules as final regulations in the **Federal Register**, and that continues to be binding at all times after such date, in which case §§ 1.597–1 through 1.597–6 as contained in 26 CFR part 1, revised April 1, 2014, will continue to apply unless the taxpayer elects to apply the final regulations on a retroactive basis pursuant to paragraph (c) of this section.

(c) *Elective application to prior years and transactions*—(1) *In general*. Except as limited in this paragraph (c), an election is available to apply §§ 1.597–1 through 1.597–6 to taxable years prior to the effective date of these regulations. A consolidated group may elect to apply §§ 1.597–1 through 1.597–6 for all members of the group in all taxable years to which section 597, as amended by FIRREA, applies. The common parent makes the election for the group. An entity that is not a member of a consolidated group may elect to apply §§ 1.597–1 through 1.597–6 to all taxable years to which section 597, as amended by FIRREA, applies for which it is not a member of a consolidated group. The election is irrevocable.

(2) *Election unavailable if statute of limitations closed*. The election cannot be made if the period for assessment and collection of tax has expired under the rules of section 6501 for any taxable year in which §§ 1.597–1 through 1.597–6 would affect the determination of the electing entity's or group's income, deductions, gain, loss, basis, or other items.

(3) *Manner of making election*. An Institution or consolidated group makes the election provided by this paragraph (c) by including a written statement as a part of the taxpayer's or consolidated group's first annual income tax return filed on or after the date of publication of the Treasury decision adopting these proposed rules as final regulations in the **Federal Register.** The statement must contain the following legend at the top of the page: "THIS IS AN ELECTION UNDER § 1.597–7(c)," and must contain the name, address, and employer identification number of the taxpayer or common parent making the election. The statement must include a declaration that "TAXPAYER AGREES TO EXTEND THE STATUTE OF LIMITATIONS ON ASSESSMENT FOR THREE YEARS FROM THE DATE OF THE FILING OF THIS ELECTION UNDER § 1.597–7(c), IF THE LIMITATIONS PERIOD WOULD EXPIRE EARLIER WITHOUT SUCH EXTENSION, FOR ANY ITEMS AFFECTED IN ANY TAXABLE YEAR BY THE FILING OF THIS ELECTION," and a declaration that either "AMENDED RETURNS WILL BE FILED FOR ALL TAXABLE YEARS AFFECTED BY THE FILING OF THIS ELECTION WITHIN 180 DAYS OF MAKING THIS STATEMENT, UNLESS SUCH REQUIREMENT IS WAIVED IN WRITING BY THE INTERNAL REVENUE SERVICE" or "ALL RETURNS PREVIOUSLY FILED ARE CONSISTENT WITH THE PROVISIONS OF §§ 1.597–1 THROUGH 1.597–6." An election with respect to a consolidated group must be made by the common parent of the group, not Agency, and applies to all members of the group.

John Dalrymple
Deputy Commissioner for
Services and Enforcement.

(Filed by the Office of the Federal Register on May 19, 2015, 8:45 a.m., and published in the issue of the Federal Register for May 20, 2015, 80 F.R. 28872)

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.

Numerical Finding List[1]

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[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2014–27 through 2014–52 is in Internal Revenue Bulletin 2014–52, dated December 28, 2014.

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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.

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