INTERNAL REVENUE BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2015–30
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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

Notice 2015–47, page 76.

The Listing Notice applies to a type of structured financial transaction in which a taxpayer attempts to defer and treat ordinary income and short-term capital gain as long-term capital gain. The contract is denominated as an option contract that references a basket of actively traded personal property (i.e., securities). The contract allows the taxpayer to trade the securities referenced in the contract while the contract purportedly remains open, and the taxpayer does so. Consequently, option treatment is not warranted, and the income deferral and conversion to long-term capital gain is improper. The transaction described in the Listing Notice is similar to a transaction described in a companion Transaction of Interest Notice (Notice 2015–48); each of the Notices makes it clear that if a transaction is identified by both Notices, it is treated as a Listed Transaction.

Notice 2015–48, page 77.

The Transaction of Interest Notice applies to a type of structured financial transaction in which a taxpayer attempts to defer and treat ordinary income and short-term capital gain as long-term capital gain. The transaction may be denominated as an option, notional principal contract, or forward contract. The contract may reference assets that are not actively traded, such as interests in hedge funds, and the taxpayer has the right to change the assets in the referenced basket. The taxpayer's ability to control the assets in the basket raises the issue of whether the form of the transaction should be respected, and, thus, whether the income deferral and conversion to long-term capital gain is improper. The transaction described in the notice is similar to a transaction described in a companion Listing Notice (Notice 2015–47); each of the Notices makes it clear that if a transaction is identified by both Notices, it is treated as a Listed Transaction.

EMPLOYEE PLANS

Notice 2015–49, page 79.

This notice informs taxpayers that the Treasury Department and the IRS intend to amend the required minimum distribution regulations under § 401(a)(9) of the Internal Revenue Code to address the use of lump sum payments to replace annuity payments being paid by a qualified defined benefit pension plan. The regulations, as amended, will provide that qualified defined benefit plans generally are not permitted to replace any joint and survivor, single life, or other annuity currently being paid with a lump sum payment or other accelerated form of distribution. The Treasury Department and the IRS intend that these amendments to the regulations will apply as of July 9, 2015, except with respect to certain accelerations of annuity payments described in the notice.

Notice 2015–50, page 81.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for July 2015 used under § 417(e)(3)(D), the 24-month average segment rates applicable for July 2015, and the 30-year Treasury rates. These rates reflect the application of § 430(h)(2)(C)(iv), which was added by the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141 (MAP–21) and amended by section 2003 of the Highway and Transportation Funding Act of 2014 (HATFA).

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.

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Part III. Administrative, Procedural, and Miscellaneous

Listing Notice – Basket Option Contracts

Notice 2015–47

The Treasury Department and the Internal Revenue Service (the "IRS") are aware of a type of structured financial transaction, described below, in which a taxpayer attempts to defer income recognition and convert short-term capital gain and ordinary income to long-term capital gain using a contract denominated as an option contract. The Treasury Department and the IRS believe this transaction (the "basket option contract") is a tax avoidance transaction. This notice identifies the basket option contract and substantially similar transactions as listed transactions for purposes of § 1.6011–4(b)(2) of the Income Tax Regulations and §§ 6111 and 6112 of the Internal Revenue Code ("the Code"). This notice also alerts persons involved in these transactions about certain responsibilities that may arise from their involvement with the basket option contract.

SECTION 1. BACKGROUND

In a basket option contract, a taxpayer ("T"), typically a hedge fund or a high net-worth individual, enters into a contract that is denominated as an option with a counterparty ("C"), typically a bank, to receive a return based on the performance of a notional basket of referenced actively traded personal property (the "reference basket"). T or a designee named by T will either determine the assets that comprise the reference basket or design or select a trading algorithm that determines the assets. While the basket option contract remains open, T[1] has the right to request changes in the assets in the reference basket or the specified trading algorithm.[2] The terms of the basket option contract also permit C to reject certain changes requested by T to the assets in the reference basket. C, however, generally accepts all or nearly all of the changes requested by T.

When the basket option contract is entered into, T typically makes an upfront cash payment to C of between 10 and 40 percent of the value of the assets in the reference basket. To manage its risk under the basket option contract, C typically acquires substantially all of the assets in the reference basket at the inception of the contract and acquires and disposes of assets during the term of the contract either when T changes the assets in the reference basket or the trading algorithm provides for such changes. C generally supplies the additional cash required to purchase the assets in the reference basket. The assets in the reference basket would typically generate ordinary income if held directly by T, and short-term trading gains and losses if purchases and sales of the assets were carried out directly by T.

The basket option contract has a stated term of more than one year but contains provisions that in effect allow either party to terminate the contract at any time with proper notice. The amount that T receives upon settlement of the basket option contract is based on the performance of the assets in the reference basket. A common payout formula on the basket option contract entitles T to a return equal to its upfront payment, plus net basket gain or minus net basket loss. The net basket gain or net basket loss includes net changes in the values of the assets in the reference basket, together with interest, dividend, and other periodic income on the assets, reduced by a fee paid to compensate C for participating in and financing the transaction. The basket option contract typically includes a provision automatically terminating the contract if the value of the reference basket approaches the amount of the upfront payment. The basket option contract also may permit or require T to provide additional collateral or otherwise reduce risk in the reference basket if the reference basket reaches a specified level of risk.

The basket option contract typically contains other safeguards to minimize the economic risk to C. For example, C may terminate the basket option contract if T violates investment guidelines that are part of the contract. C typically holds rights associated with the legal title to the assets and positions in the reference basket, including voting rights and the rights to commingle, lend, or otherwise use those assets without notice to T.

T takes the position that short-term gains and interest, dividend, and other ordinary periodic income from the performance of the reference basket are deferred until the basket option contract terminates and, if the basket option contract is held for more than one year, that the entire gain is treated as long-term capital gain.

The Treasury Department and the IRS are concerned that taxpayers are using basket option contracts to inappropriately defer income recognition and convert ordinary income and short-term capital gain into long-term capital gain. In some cases, taxpayers are mischaracterizing a transaction as an option to avoid application of § 1260, U.S. tax liability under §§ 871 and 881, and withholding and reporting obligations under Chapters 3 and 4 of the Code. Therefore, the Treasury Department and the IRS are identifying basket option contracts and substantially similar transactions as listed transactions.

The IRS may assert one or more arguments to challenge the parties' tax characterization of a basket option contract, including: (1) that C, in substance, holds the assets in the reference basket as an agent of T and that T is the beneficial owner of the assets for tax purposes; (2) that the basket option contract is not an option for tax purposes; (3) that changes to the assets in the reference basket during the year materially modify the basket option contract and result in taxable dispositions of the contract under § 1001 throughout the term of the contract; and (4) that T actually owns separate contractual rights with respect to each asset in the reference basket such that each change to the assets in the basket results in a taxable disposition of a contractual right under § 1001

[1]When used in this sentence and subsequently with respect to identifying the assets in the reference basket or the trading algorithm, references to "T" include T's designee.

[2]For purposes of this Notice, a change in the assets in the reference basket as a result of events outside of the control of T (such as a change in the notional securities in the reference basket due to a stock split or a merger of existing companies) is not treated as a change requested by T.

with respect to the asset affected by the change. The IRS may assert other arguments supporting the conclusion that T is the beneficial owner of the assets in the reference basket for tax purposes.

SECTION 2. LISTED TRANSACTIONS

.01 *Transactions Identified as Listed Transactions*

A transaction is the same as, or substantially similar to, the transaction identified in this notice if (1) the transaction is denominated as an option contract; (2) substantially all of the assets in the reference basket primarily consist of actively traded personal property as defined under § 1.1092(d)–1(a); (3) the purchaser of the option or the purchaser's designee either have the right to (a) determine the assets in the reference basket both at the inception of the transaction and periodically over the term of the transaction or (b) select or use a specified trading algorithm under its control to determine the assets in the reference basket; and (4) the purchaser of the option, the purchaser's designee, or the specified trading algorithm actually changes one or more of the assets in the reference basket during the term of the basket option contract.

.02 *Effective Date*

Transactions in effect on or after January 1, 2011, that are the same as, or substantially similar to, the transaction described in this notice are identified as "listed transactions" for purposes of § 1.6011–4(b)(2) and §§ 6111 and 6112 effective July 8, 2015.

Persons engaged in transactions in effect on or after January 1, 2011, must disclose the transactions as described in § 1.6011–4 for each taxable year in which the taxpayer participated in the transactions, provided that the period of limitations for assessment of tax had not ended on or before July 8, 2015. Material advisors who make a tax statement on or after January 1, 2011, with respect to transactions in effect on or after January 1, 2011, have disclosure and list maintenance obligations under §§ 6111 and 6112. See §§ 301.6111–3, 301.6112–1.

Independent of their classification as listed transactions, transactions that are the same as, or substantially similar to, the transaction described in this notice may already be subject to the requirements of §§ 6011, 6111, or 6112, or the regulations thereunder. If a transaction is identified as a listed transaction under section 2.01 of this notice and as a transaction of interest in Notice 2015–48, the transaction is identified as a listed transaction. Persons satisfying the disclosure requirements for a listed transaction under this notice are deemed to have satisfied the disclosure requirements under Notice 2015–48.

.03 *Participation*

Under § 1.6011–4(c)(3)(i)(A), for each year in which a transaction described in this notice (basket option contract) is open, the following parties are treated as participating in the listed transaction identified in this notice: (i) the purchaser of the basket option contract, (ii) if the purchaser of the basket option contract is a partnership, any general partner of the purchaser, (iii) if the purchaser of the basket option contract is a limited liability company, any managing member of the purchaser, and (iv) the counterparty to the basket option contract.

.04 *Time for Disclosure*

For rules regarding the time for providing disclosure of a transaction described in this notice, see § 1.6011–4(e) and § 301.6111–3(e). For purposes of the transactions described in this notice, the 90-day period provided in § 1.6011–4(e)(2) for certain disclosures is extended to 120 days. However, if, under § 1.6011–4(e), a taxpayer is required to file a disclosure statement with respect to the listed transaction described in this notice after July 8, 2015, and prior to November 5, 2015, that disclosure statement will be considered to be timely filed if the taxpayer alternatively files the disclosure with the Office of Tax Shelter Analysis by November 5, 2015.

.05 *Material Advisor Threshold Amount*

For the threshold amounts necessary to become a material advisor to a listed transaction, see § 301.6111–3(b)(3)(i)(B).

.06 *Penalties and Period of Limitations*

Persons required to disclose these transactions under § 1.6011–4 who fail to do so may be subject to the penalty under § 6707A. Persons required to disclose these transactions under § 6111 who fail to do so may be subject to the penalty under § 6707(a). Persons required to maintain lists of advisees under § 6112 who fail to do so (or who fail to provide such lists when requested by the IRS) may be subject to the penalty under § 6708(a). In addition, the IRS may impose other penalties on parties involved in these transactions or substantially similar transactions, including the accuracy-related penalty under §§ 6662 or 6662A. Persons required to disclose these transactions under § 1.6011–4 who fail to do so may be subject to an extended period of limitations under § 6501(c)(10).

The Treasury Department and the IRS recognize that some taxpayers may have filed tax returns taking the position that they were entitled to the purported tax benefits of the type of transaction described in this notice. These taxpayers should take appropriate corrective action and ensure that their transactions are disclosed properly.

SECTION 3. DRAFTING INFORMATION

The principal authors of this notice are Anna H. Kim and Robert A. Martin of the Office of Associate Chief Counsel (FIP). For further information regarding this notice, contact Ms. Kim at (202) 317-4431 or Mr. Martin at (202) 317-4455 (not a toll-free number).

Transaction of Interest – Basket Contracts

Notice 2015–48

The Treasury Department and the Internal Revenue Service (the "IRS") are aware of a type of structured financial transaction, described below, in which a taxpayer attempts to defer income recognition and may attempt to convert short-term capital gain and ordinary income to long-term capital gain through a contract denominated as an option, notional principal contract, forward contract, or other derivative contract. The Treasury Department and the IRS believe this transaction (the "basket contract") has a potential for tax avoidance or evasion but lack enough information to determine whether the transaction should be identified specifically as a tax avoidance transaction. This notice identifies the basket contract and substantially similar transactions as transactions of interest for purposes of § 1.6011–4(b)(6) of the Income Tax Regulations and §§ 6111 and 6112 of the Internal Revenue Code ("the Code"). This notice also alerts persons involved in these transactions about certain responsibilities that may arise from their involvement with these transactions.

SECTION 1. TRANSACTION OF INTEREST

.01 *Description*

In a basket contract, a taxpayer ("T") enters into a contract with a counterparty ("C") to receive a return based on the performance of a notional basket of referenced assets (the "reference basket"). The assets that comprise the reference basket may include (1) interests in entities that trade securities, commodities, foreign currency, or similar property ("hedge fund interests"), (2) securities, (3) commodities, (4) foreign currency, or (5) similar property (or positions in such property). T or a designee named by T will either determine the assets that comprise the reference basket or design or select a trading algorithm that determines the assets. While the basket contract remains open, T[1] has the right to request changes in the assets in the reference basket or the specified trading algorithm.[2] The terms of the basket contract also permit C to reject certain changes requested by T to the assets in the reference basket. C, however, generally accepts all or nearly all of the changes requested by T.

When the basket contract is entered into, T typically makes an upfront cash payment to C of between 10 and 40 percent of the value of the assets in the reference basket. To manage its risk under the basket contract, C typically acquires all or substantially all of the assets in the reference basket at the inception of the contract and acquires and disposes of assets during the term of the contract either when T changes the assets in the reference basket or the trading algorithm provides for such changes. C generally supplies the additional cash required to purchase the assets in the reference basket. The assets in the reference basket would typically generate ordinary income if held directly by T, and short-term gains and losses if purchases and sales of the assets were carried out directly by T.

The basket contract has a stated term of more than one year or overlaps two of T's taxable years but contains provisions that in effect allow either party to terminate the contract at any time during the stated contract term with proper notice. The amount that T receives upon settlement of the basket contract is based on the performance of the assets in the basket. A common payout formula on the basket contract entitles T to receive back its upfront payment, plus net basket gain or minus net basket loss. The net basket gain or net basket loss includes net changes in the values of the assets in the basket, together with interest, dividend, and other periodic income on the assets, reduced by C's fee for its participation in the transaction. The basket contract typically includes a provision automatically terminating the contract if the amount of the net basket loss reaches the amount of the upfront payment, giving T a cash settlement amount of zero. The basket contract also may permit or require T to provide additional collateral or otherwise reduce risk in the basket if a specified level of risk is reached.

The basket contract typically contains other safeguards to minimize the economic risk to C. For example, C may terminate the basket contract if T violates investment guidelines that are part of the contract. C typically holds the rights associated with the legal title to the assets and positions in the basket, including voting rights and the rights to commingle, lend, or otherwise use the assets in the basket without notice to T.

T takes the position that T's short-term trading gains and interest, dividend, and other ordinary periodic income from the performance of the basket are deferred until the basket contract terminates and, if the basket contract is held for more than one year, that the entire gain is treated as long-term capital gain.

The Treasury Department and the IRS are concerned that taxpayers may be using a basket contract to inappropriately defer income recognition and convert ordinary income and short-term capital gain into long-term capital gain. In some cases, taxpayers also may be mischaracterizing the form of the transaction to avoid application of § 1260, to avoid U.S. tax liability under §§ 871, 881, and 882, to avoid tax or reporting obligations associated with investments in passive foreign investment companies, and to avoid withholding and reporting obligations under Chapters 3 and 4 of the Code. Therefore, the Treasury Department and the IRS are identifying the basket contract and substantially similar transactions as transactions of interest. The Treasury Department and the IRS believe that the use of a basket contract to claim the tax treatment specified herein may be improper.

.02 *Effective Date*

Transactions entered into on or after November 2, 2006, that are the same as, or substantially similar to, the transactions described in this notice, and in effect on or after January 1, 2011, are identified as transactions of interest for purposes of § 1.6011–4(b)(6) and §§ 6111 and 6112 effective July 8, 2015. Persons engaged in transactions entered into on or after November 2, 2006, and in effect on or after January 1, 2011, must disclose the transactions as described in § 1.6011–4 for each taxable year in which the taxpayer participated in the transactions, provided that the period of limitations for assessment of tax had not ended on or before July 8, 2015. Material advisors who make a tax statement on or after January 1, 2011, with respect to transactions in effect on or after January 1, 2011, have disclosure and list maintenance obligations under §§ 6111 and 6112. See §§ 301.6111–3, 301.6112–1.

Independent of their classification as transactions of interest, transactions that are the same as, or substantially similar to, the transaction described in this notice may already be subject to the requirements of §§ 6011, 6111, or 6112, or the regulations thereunder. If a transaction is identified as a listed transaction under section 2.01 of Notice 2015–47, and as a transaction of interest under this notice, the transaction is identified as a listed transaction. Persons satisfying the disclosure requirements for a listed

[1]When used in this sentence and subsequently with respect to identifying the assets in the reference basket or the trading algorithm, references to "T" include T's designee.

[2]For purposes of this Notice, a change in the assets in the reference basket as a result of events outside of the control of T (such as a change in the notional securities in the reference basket due to a stock split or a merger of existing companies) is not treated as a change requested by T.

transaction under Notice 2015–47 are deemed to have satisfied the disclosure requirements under this notice.

When the Treasury Department and the IRS have gathered enough information to make an informed decision as to whether these transactions are a tax avoidance type of transaction, the Treasury Department and the IRS may take one or more administrative actions, including removing the transactions from the transactions of interest category in published guidance, designating the transactions as a listed transaction, or providing a new category of reportable transactions. In the interim, in appropriate situations, the IRS may challenge the taxpayer's position taken as part of these transactions under §§ 1260, 1001, or other provisions of the Code or under judicial doctrines, such as substance over form.

.03 *Participation*

Under § 1.6011–4(c)(3)(i)(E), for each year in which a transaction described in this notice (basket contract) is open, the following parties are treated as participating in the transaction of interest identified in this notice: (i) the purchaser of the basket contract, (ii) if the purchaser of the basket contract is a partnership, any general partner of the purchaser, (iii) if the purchaser of the basket contract is a limited liability company, any managing member of the purchaser, and (iv) the counterparty to the basket contract.

.04 *Time for Disclosure*

For rules regarding the time for providing disclosure of a transaction described in this notice, see § 1.6011–4(e) and § 301.6111–3(e). For purposes of the transactions described in this notice, the 90-day period provided in § 1.6011–4(e)(2) for certain disclosures is extended to 120 days. However, if, under § 1.6011–4(e), a taxpayer is required to file a disclosure statement with respect to the transaction of interest described in this notice after July 8, 2015, and prior to November 5, 2015, that disclosure statement will be considered to be timely filed if the taxpayer alternatively files the disclosure with the Office of Tax Shelter Analysis by November 5, 2015.

.05 *Material Advisor Threshold Amount*

The threshold amounts are the same as those for listed transactions. See § 301.6111–3(b)(3)(i)(B).

.06 *Penalties*

Persons required to disclose these transactions under § 1.6011–4 who fail to do so may be subject to the penalty under § 6707A. Persons required to disclose these transactions under § 6111 who fail to do so may be subject to the penalty under § 6707(a). Persons required to maintain lists of advisees under § 6112 who fail to do so (or who fail to provide such lists when requested by the IRS) may be subject to the penalty under § 6708(a). In addition, the IRS may impose other penalties on parties involved in these transactions or substantially similar transactions, including the accuracy-related penalty under §§ 6662 or 6662A.

The Treasury Department and the IRS recognize that some taxpayers may have filed tax returns taking the position that they were entitled to the purported tax benefits of the type of transaction described in this notice. These taxpayers should take appropriate corrective action and ensure that their transactions are disclosed properly.

SECTION 2. DRAFTING INFORMATION

The principal authors of this notice are Anna H. Kim and Robert A. Martin of the Office of Associate Chief Counsel (FIP). For further information regarding this notice, contact Ms. Kim at (202) 317-4431 or Mr. Martin at (202) 317-4455 (not a toll-free number).

Use of Lump Sum Payments to Replace Lifetime Income Being Received By Retirees Under Defined Benefit Pension

Notice 2015–49

I. PURPOSE

This notice informs taxpayers that the Treasury Department and the IRS intend to amend the required minimum distribution regulations under § 401(a)(9) of the Internal Revenue Code to address the use of lump sum payments to replace annuity payments being paid by a qualified defined benefit pension plan. The regulations, as amended, will provide that qualified defined benefit plans generally are not permitted to replace any joint and survivor, single life, or other annuity currently being paid with a lump sum payment or other accelerated form of distribution. The Treasury Department and the IRS intend that these amendments to the regulations will apply as of July 9, 2015, except with respect to certain accelerations of annuity payments described in section IV of this notice.

II. BACKGROUND

Section 401(a)(9) prescribes required minimum distribution rules for a qualified plan under § 401(a). In general, under these rules, distribution of each employee's entire interest must begin by the required beginning date. The required beginning date generally is April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½ or (2) the calendar year in which the employee retires. However, the ability to delay distribution until the calendar year in which an employee retires does not apply in the case of a 5-percent owner (as defined in § 416).

If the entire interest of the employee is not distributed by the required beginning date, § 401(a)(9)(A) provides that the entire interest of the employee must be distributed, beginning not later than the required beginning date, in accordance with regulations, over the life of the employee or lives of the employee and a designated beneficiary (or over a period not extending beyond the life expectancy of the employee or the life expectancy of the employee and a designated beneficiary). Section 401(a)(9)(B) prescribes required minimum distribution rules that apply after the death of the employee.

Section 1.401(a)(9)–6, A–1(a) provides that absent an applicable exception, in order to satisfy § 401(a)(9), distributions of an employee's entire interest must be paid in the form of periodic annuity payments for the employee's or beneficiary's life (or the joint lives of the employee and beneficiary) or over a period certain that is no longer than a period permitted under § 1.401(a)(9)–6, A–3 or A–10, as applicable (which is approximately equal to the joint and last survivor life expectancy of the employee and an assumed beneficiary who is 10 years younger than the employee, with a longer period if the sole beneficiary is the employee's spouse and the spouse is more than 10 years younger). The regulations prohibit any change in the period or form of the distribution after it has commenced, except in accordance with § 1.401(a)(9)–6, A–13. If certain conditions are met, § 1.401(a)(9)–6, A–13(a) permits changes to the payment period after payments have commenced in association with an annuity payment increase described in § 1.401(a)(9)–6, A–14.

Section 1.401(a)(9)–6, A–1(a) also provides that the payments must be nonincreasing or may increase only as otherwise provided, such as permitted increases described in § 1.401(a)(9)–6, A–14. Section 1.401(a)(9)–6, A–14(a)(4) permits annuity payments to increase "[t]o pay increased benefits that result from a plan amendment." In addition, § 1.401(a)(9)–6, A–14(a)(5) permits annuity payments to increase "to allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a lump sum upon the employee's death," but no similar rule is provided with respect to conversion of an employee's annuity benefit during an employee's life or conversion of a beneficiary's annuity other than upon the employee's death.

The § 401(a)(9) provisions and related regulations regarding pension plan annuities were crafted to provide an administrable way to ensure that a distribution of the employee's benefit will not be unduly tax-deferred. For example, a pension plan cannot permit an employee who has passed the required beginning date to defer distribution of the bulk of the employee's benefit (and thus defer the tax) until later in life, while taking relatively small periodic benefits in the interim. In addition, under the regulations, a defined benefit pension plan cannot permit a current annuitant to commute annuity payments to a lump sum or otherwise accelerate those payments, except in a narrow set of circumstances specified in the regulations, such as in the case of retirement, death, or plan termination. See § 1.401(a)(9)–6, A–13(a) and (b). If a participant has the ability to accelerate distributions at any time, then the actuarial cost associated with that acceleration right would result in smaller initial benefits, which contravenes the purpose of § 401(a)(9).

A number of sponsors of defined benefit plans have amended their plans to provide a limited period during which certain retirees who are currently receiving joint and survivor, single life, or other life annuity payments from those plans may elect to convert that annuity into a lump sum that is payable immediately.[1] These arrangements are sometimes referred to as lump sum risk-transferring programs because longevity risk and investment risk are transferred from the plan to the retirees. For purposes of compliance with the requirements of § 401(a)(9), the addition of such a right to convert a current annuity into an immediate lump sum payment has been treated in some instances as an increase in benefits that is described in § 1.401(a)(9)–6, A–14(a)(4) (with the result that the annuity payment period would be permitted to change under § 1.401(a)(9)–6, A–13(a)).

III. ANTICIPATED AMENDMENTS TO THE REGULATIONS UNDER SECTION 401(a)(9)

The Treasury Department and the IRS intend to amend the regulations under § 401(a)(9) that address the distribution of an employee's interest after the required beginning date. Those regulations reflect an intent, among other things, to prohibit, in most cases, changes to the annuity payment period for ongoing annuity payments from a defined benefit plan, including changes accelerating (or providing an option to accelerate) ongoing annuity payments. The Treasury Department and the IRS have concluded that a broad exception for increased benefits in § 1.401(a)(9)–6, A–14(a)(4) that would permit lump sum payments to replace rights to ongoing annuity payments would undermine that intent. Accordingly, the Treasury Department and the IRS intend to propose amendments to § 1.401(a)(9)–6, A–14(a)(4) to provide that the types of permitted benefit increases described in that paragraph include only those that increase the ongoing annuity payments, and do not include those that accelerate the annuity payments. The exception for changes to the annuity payment period provided in § 1.401(a)(9)–6, A–13 (as intended to be amended) would not permit acceleration of annuity payments to which an individual receiving annuity payments was entitled before the amendment, even if the plan amendment also increases annuity payments.

This notice does not provide guidance with respect to the federal tax consequences of a lump sum risk-transferring program under § 401(a)(4), 411, 415, 417, or 436, or any other section of the Code except for § 401(a)(9).

IV. EFFECTIVE DATE

The Treasury Department and the IRS intend that the amendments to the regulations under § 1.401(a)(9)–6 described in this notice will apply as of July 9, 2015. However, the Treasury Department and the IRS anticipate that the amendments to the regulations will not apply to an acceleration of ongoing annuity payments that is in association with a plan amendment specifically providing for implementation of a lump sum risk-transferring program: (1) adopted (or specifically authorized by a board, committee, or similar body with authority to amend the plan) prior to July 9, 2015; (2) with respect to which a private letter ruling or determination letter was issued by the IRS prior to July 9, 2015; (3) with respect to which a written communication to affected plan participants stating an explicit and definite intent to implement the lump sum risk-transferring program was received by those participants prior to July 9, 2015; or (4) adopted pursuant to an agreement between the plan sponsor and an employee representative (with which the plan sponsor has entered into a collective bargaining agreement) specifically authorizing implementation of such a program that was

[1] *See* United States Government Accountability Office, "PRIVATE PENSIONS Participants Need Better Information When Offered Lump Sums That Replace Their Lifetime Benefits," GAO-15-74, http://www.gao.gov/products/GAO-15-74; Advisory Council on Employee Welfare and Pension Benefit Plans, "Private Sector Pension De-risking and Participant Protections," available at http://www.dol.gov/ebsa/pdf/2013ACreport2.pdf.

entered into and was binding prior to July 9, 2015. An acceleration of ongoing annuity payments that is in association with a plan amendment implementing a lump sum risk-transferring program that satisfies one of these four conditions is referred to in this notice as a "Pre-Notice Acceleration."

The IRS will not challenge the treatment of a Pre-Notice Acceleration as an increase in benefits that is described in the current § 1.401(a)(9)–6, A–14(a)(4) (which, as noted, permits annuity payments to increase to pay increased benefits that result from a plan amendment). Accordingly, in the case of a Pre-Notice Acceleration, the annuity payment period will be permitted to be changed under § 1.401(a)(9)–6, A–13(a).

V. PRIVATE LETTER RULINGS OR DETERMINATION LETTERS

In light of the pending guidance, any private letter ruling or determination letter issued by the IRS or the IRS Office of Chief Counsel involving a plan that provides for a lump sum risk-transferring program will generally include a caveat expressing no opinion as to the federal tax consequences of the lump sum risk-transferring program. However, the IRS and the IRS Office of Chief Counsel may determine that the addition of a right to make a Pre-Notice Acceleration is an increase in benefits that is described in the current § 1.401(a)(9)–6, A–14(a)(4). See section 6.09 of Rev. Proc. 2015–1, 2015–1 I.R.B. 1.

VI. DRAFTING INFORMATION

The principal authors of this notice are Michael P. Brewer and Thomas C. Morgan of the Office of the Associate Chief Counsel (Tax Exempt and Government Entities).

Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates

Notice 2015–50

This notice provides guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under § 417(e)(3), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I). The rates in this notice reflect the application of § 430(h)(2)(C)(iv), which was added by the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141 (MAP–21) and amended by section 2003 of the Highway and Transportation Funding Act of 2014, Public Law 113–159 (HATFA).

YIELD CURVE AND SEGMENT RATES

Generally, except for certain plans under sections 104 and 105 of the Pension Protection Act of 2006 and CSEC plans under § 414(y), § 430 of the Code specifies the minimum funding requirements that apply to single-employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins. However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Notice 2007–81, 2007–44 I.R.B. 899, provides guidelines for determining the monthly corporate bond yield curve, and the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. Consistent with the methodology specified in Notice 2007–81, the monthly corporate bond yield curve derived from June 2015 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of June 2015 are, respectively, 1.59, 4.13, and 5.20.

The 24-month average segment rates determined under § 430(h)(2)(C)(i) through (iii) must be adjusted pursuant to § 430(h)(2)(C)(iv) by the applicable percentage of the corresponding 25-year average segment rates. Section 2003(a) of HATFA amended the applicable percentages under § 430(h)(2)(C)(iv). This change generally applies to plan years beginning on or after January 1, 2013. However, pursuant to section 2003(e)(2) of HATFA, a plan sponsor can elect not to have the amendments made to the applicable percentages by section 2003 of HATFA apply to any plan year beginning in 2013. These elections can be made either for all purposes or, alternatively, for purposes of determining the adjusted funding target attainment percentage under § 436. The 25-year average segment rates for plan years beginning in 2012, 2013, 2014 and 2015 were published in Notice 2012–55, 2012–36 I.R.B. 332, Notice 2013–11, 2013–11 I.R.B. 610, Notice 2013–58, 2013–40 I.R.B. 294, and Notice 2014–50, 2014–40 I.R.B. 590, respectively.

For plan years beginning in years 2012 through 2017, pursuant to the changes made by HATFA, the applicable minimum percentage is 90% and the applicable maximum percentage is 110%. These applicable percentages are referred to as HATFA applicable percentages. As described in the preceding paragraph, a special election is available for any plan year beginning in 2013 under which this change made by HATFA can be disregarded for all purposes or for limited purposes. To the extent such an election is made, the applicable minimum percentage for a plan year beginning in 2013 is 85% and the applicable maximum percentage for that plan year is 115%. These applicable percentages are referred to as MAP–21 applicable percentages.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for July 2015 without adjustment for the 25-year average segment rate limits are as follows:

Applicable Month	First Segment	Second Segment	Third Segment
July 2015	1.31	4.07	5.10

Based on § 430(h)(2)(C)(iv) as amended by section 2003 of HATFA, the 24-month averages applicable for July 2015 adjusted for the HATFA applicable percentages of the corresponding 25-year average segment rates, are as follows:

For Plan Years Beginning In			**Adjusted 24-Month Average Segment Rates, Based on the HATFA Applicable Percentage of 25-Year Average Rates**		
	Applicable Month		**First Segment**	**Second Segment**	**Third Segment**
2014	July	2015	4.99	6.32	6.99
2015	July	2015	4.72	6.11	6.81

30-YEAR TREASURY SECURITIES INTEREST RATES

Generally for plan years beginning after 2007, § 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount for the full-funding limitation described in § 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88–73, 1988–2 C.B. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for June 2015 is 3.11 percent. The Service determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in May 2045. For plan years beginning in the month shown below, the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rate used to calculate current liability are as follows:

For Plan Years Beginning in: *Month*	*Year*	30-Year Treasury Weighted Average	Permissible Range: 90%	to	105%
July	2015	3.18	2.86		3.34

MINIMUM PRESENT VALUE SEGMENT RATES

In general, the applicable interest rates under § 417(e)(3)(D) are segment rates computed without regard to a 24-month average. Notice 2007–81 provides guidelines for determining the minimum present value segment rates. Pursuant to that notice, the minimum present value segment rates determined for June 2015 are as follows:

First Segment	Second Segment	Third Segment
1.59	4.13	5.20

DRAFTING INFORMATION

The principal author of this notice is Tom Morgan of the Office of the Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS participated in the development of this guidance. For further information regarding this notice, contact Mr. Morgan at 202-317-8719 or Tony Montanaro at 202-317-8698 (not toll-free calls).

Table I
Monthly Yield Curve for June 2015
Derived from June 2015 Data

Maturity	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*
0.5	0.43	20.5	4.87	40.5	5.24	60.5	5.37	80.5	5.44
1.0	0.76	21.0	4.89	41.0	5.25	61.0	5.38	81.0	5.44
1.5	1.06	21.5	4.90	41.5	5.25	61.5	5.38	81.5	5.44
2.0	1.33	22.0	4.92	42.0	5.26	62.0	5.38	82.0	5.44
2.5	1.57	22.5	4.93	42.5	5.26	62.5	5.38	82.5	5.44
3.0	1.78	23.0	4.95	43.0	5.27	63.0	5.38	83.0	5.45
3.5	1.98	23.5	4.96	43.5	5.27	63.5	5.39	83.5	5.45
4.0	2.16	24.0	4.98	44.0	5.27	64.0	5.39	84.0	5.45
4.5	2.34	24.5	4.99	44.5	5.28	64.5	5.39	84.5	5.45
5.0	2.51	25.0	5.00	45.0	5.28	65.0	5.39	85.0	5.45
5.5	2.68	25.5	5.01	45.5	5.29	65.5	5.39	85.5	5.45
6.0	2.84	26.0	5.02	46.0	5.29	66.0	5.40	86.0	5.45
6.5	3.00	26.5	5.04	46.5	5.29	66.5	5.40	86.5	5.45
7.0	3.15	27.0	5.05	47.0	5.30	67.0	5.40	87.0	5.45
7.5	3.29	27.5	5.06	47.5	5.30	67.5	5.40	87.5	5.46
8.0	3.43	28.0	5.07	48.0	5.30	68.0	5.40	88.0	5.46
8.5	3.56	28.5	5.08	48.5	5.31	68.5	5.40	88.5	5.46
9.0	3.68	29.0	5.09	49.0	5.31	69.0	5.41	89.0	5.46
9.5	3.79	29.5	5.10	49.5	5.32	69.5	5.41	89.5	5.46
10.0	3.90	30.0	5.10	50.0	5.32	70.0	5.41	90.0	5.46
10.5	3.99	30.5	5.11	50.5	5.32	70.5	5.41	90.5	5.46
11.0	4.08	31.0	5.12	51.0	5.32	71.0	5.41	91.0	5.46
11.5	4.16	31.5	5.13	51.5	5.33	71.5	5.41	91.5	5.46
12.0	4.24	32.0	5.14	52.0	5.33	72.0	5.42	92.0	5.46
12.5	4.31	32.5	5.15	52.5	5.33	72.5	5.42	92.5	5.47
13.0	4.37	33.0	5.15	53.0	5.34	73.0	5.42	93.0	5.47
13.5	4.43	33.5	5.16	53.5	5.34	73.5	5.42	93.5	5.47
14.0	4.48	34.0	5.17	54.0	5.34	74.0	5.42	94.0	5.47
14.5	4.53	34.5	5.17	54.5	5.34	74.5	5.42	94.5	5.47
15.0	4.57	35.0	5.18	55.0	5.35	75.0	5.43	95.0	5.47
15.5	4.61	35.5	5.19	55.5	5.35	75.5	5.43	95.5	5.47
16.0	4.65	36.0	5.19	56.0	5.35	76.0	5.43	96.0	5.47
16.5	4.68	36.5	5.20	56.5	5.36	76.5	5.43	96.5	5.47
17.0	4.71	37.0	5.21	57.0	5.36	77.0	5.43	97.0	5.47
17.5	4.74	37.5	5.21	57.5	5.36	77.5	5.43	97.5	5.47
18.0	4.76	38.0	5.22	58.0	5.36	78.0	5.43	98.0	5.48
18.5	4.79	38.5	5.22	58.5	5.36	78.5	5.43	98.5	5.48
19.0	4.81	39.0	5.23	59.0	5.37	79.0	5.44	99.0	5.48
19.5	4.83	39.5	5.23	59.5	5.37	79.5	5.44	99.5	5.48
20.0	4.85	40.0	5.24	60.0	5.37	80.0	5.44	100.0	5.48

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 2015–01 through 2015–26 is in Internal Revenue Bulletin 2015–26, dated June 29, 2015.

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[1]A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2015–01 through 2015–26 is in Internal Revenue Bulletin 2015–26, dated June 29, 2015.

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INTERNAL REVENUE BULLETIN

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We Welcome Comments About the Internal Revenue Bulletin

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page (*www.irs.gov*) or write to the Internal Revenue Service, Publishing Division, IRB Publishing Program Desk, 1111 Constitution Ave. NW, IR-6230 Washington, DC 20224.