INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2015–52
December 28, 2015

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

INCOME TAX

Rev. Rul. 2015–23, page 866.

Interest rates: underpayment and overpayments. The rates for interest determined under section 6621 of the code for the calendar quarter beginning January 1, 2016, will be 3 percent for overpayments (2 percent in the case of a corporation), 3 percent for the underpayments, and 5 percent for large corporation underpayments. The rate of interest paid on the portion of a corporation overpayment exceeding $10,000 will be 0.5 percent.

EMPLOYEE PLANS

Notice 2015–84, page 880.

The Notice provides a list of changes in plan qualification requirements to be used by plan sponsors submitting determination letter applications for plans during the period beginning February 1, 2016 and ending January 31, 2017.

Notice 2015–85, page 884.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for December 2015 used under § 417(e)(3)(D), the 24-month average segment rates applicable for December 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).

Notice 2015–86, page 887.

This notice provides guidance on the application of the decision in Obergefell v. Hodges, 576 U.S. ___, 135 S.Ct. 2584 (2015), to retirement plans qualified under section 401(a) of the Internal Revenue Code (Code) and to health and welfare plans, including cafeteria plans under section 125 of the Code.

Notice 2015–87, page 889.

This notice provides further guidance on the application of various provisions of the Affordable Care Act (ACA) to employer-provided health coverage. The notice addresses, among other topics: (1) application of ACA market reform provisions to health reimbursement arrangements and certain other forms of employer-provided health coverage; (2) impact of HRA contributions, employer flex contributions, opt-out payments, and fringe benefit payments under certain federal statutes on determination of the employee's required contribution for purposes of §§ 36B and 5000A, and for any related consequences under § 4980H; (3) clarification of how §§ 4980H, 6055 and 6056 apply to government entities and to certain forms of government-provided health coverage; and (4) application of the COBRA continuation coverage rules to unused amounts in a health flexible spending arrangement (health FSA) carried over and available in later years.

EXEMPT ORGANIZATIONS

Announcement 2015–36, page 904.

Serves notice to potential donors of a stipulated decision by the United States Tax Court in declaratory judgment proceedings under Section 7428.

(Continued on the next page)

Finding Lists begin on page ii.

EXCISE TAX

Notice 2015–87, page 889.

This notice provides further guidance on the application of various provisions of the Affordable Care Act (ACA) to employer-provided health coverage. The notice addresses, among other topics: (1) application of ACA market reform provisions to health reimbursement arrangements and certain other forms of employer-provided health coverage; (2) impact of HRA contributions, employer flex contributions, opt-out payments, and fringe benefit payments under certain federal statutes on determination of the employee's required contribution for purposes of §§ 36B and 5000A, and for any related consequences under § 4980H; (3) clarification of how §§ 4980H, 6055 and 6056 apply to government entities and to certain forms of government-provided health coverage; and (4) application of the COBRA continuation coverage rules to unused amounts in a health flexible spending arrangement (health FSA) carried over and available in later years.

The IRS Mission

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

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

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

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

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

The Bulletin is divided into four parts as follows:

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

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

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

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

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

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

Section 6621.—Determination of Rate of Interest

26 CFR 301.6621–1: Interest rate.

Rev. Rul. 2015–23

Section 6621 of the Internal Revenue Code establishes the interest rates on overpayments and underpayments of tax. Under section 6621(a)(1), the overpayment rate is the sum of the federal short-term rate plus 3 percentage points (2 percentage points in the case of a corporation), except the rate for the portion of a corporate overpayment of tax exceeding $10,000 for a taxable period is the sum of the federal short-term rate plus 0.5 of a percentage point. Under section 6621(a)(2), the underpayment rate is the sum of the federal short-term rate plus 3 percentage points.

Section 6621(c) provides that for purposes of interest payable under section 6601 on any large corporate underpayment, the underpayment rate under section 6621(a)(2) is determined by substituting "5 percentage points" for "3 percentage points."

See section 6621(c) and section 301.6621–3 of the Regulations on Procedure and Administration for the definition of a large corporate underpayment and for the rules for determining the applicable date. Section 6621(c) and section 301.6621–3 are generally effective for periods after December 31, 1990.

Section 6621(b)(1) provides that the Secretary will determine the federal short-term rate for the first month in each calendar quarter. Section 6621(b)(2)(A) provides that the federal short-term rate determined under section 6621(b)(1) for any month applies during the first calendar quarter beginning after that month. Section 6621(b)(2)(B) provides that in determining the addition to tax under section 6654 for failure to pay estimated tax for any taxable year, the federal short-term rate that applies during the third month following the taxable year also applies during the first 15 days of the 4th month following the taxable year. Section 6621(b)(3) provides that the federal short-term rate for any month is the federal short-term rate determined during that month by the Secretary in accordance with section 1274(d), rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, the rate is increased to the next highest full percent).

Notice 88–59, 1988–1 C.B. 546, announced that in determining the quarterly interest rates to be used for overpayments and underpayments of tax under section 6621, the Internal Revenue Service will use the federal short-term rate based on daily compounding because that rate is most consistent with section 6621 which, pursuant to section 6622, is subject to daily compounding.

The federal short-term rate determined in accordance with section 1274(d) during October 2015 is the rate published in Revenue Ruling 2015–22, 2015–44 IRB 610 to take effect beginning November 1, 2015. The federal short-term rate, rounded to the nearest full percent, based on daily compounding determined during the month of October 2015 is 0 percent. Accordingly, an overpayment rate of 3 percent (2 percent in the case of a corporation) and an underpayment rate of 3 percent are established for the calendar quarter beginning January 1, 2016. The overpayment rate for the portion of a corporate overpayment exceeding $10,000 for the calendar quarter beginning January 1, 2016 is 0.5 percent. The underpayment rate for large corporate underpayments for the calendar quarter beginning January 1, 2016, is 5 percent. These rates apply to amounts bearing interest during that calendar quarter.

The 3 percent rate also applies to estimated tax underpayments for the first calendar quarter in 2016.

Interest factors for daily compound interest for annual rates of 0.5 percent are published in Appendix A of this Revenue Ruling. Interest factors for daily compound interest for annual rates of 2 percent, 3 percent and 5 percent are published in Tables 57, 59, and 63 of Rev. Proc. 95–17, 1995–1 C.B. 611, 613, and 617.

Annual interest rates to be compounded daily pursuant to section 6622 that apply for prior periods are set forth in the tables accompanying this revenue ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Deborah Colbert-James of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue ruling, contact Ms. Colbert-James at (202) 317-3400 (not a toll-free call).

APPENDIX A

365 Day Year

0.5% Compound Rate 184 Days

Days	Factor	Days	Factor	Days	Factor
1	0.000013699	63	0.000863380	125	0.001713784
2	0.000027397	64	0.000877091	126	0.001727506
3	0.000041096	65	0.000890801	127	0.001741228
4	0.000054796	66	0.000904512	128	0.001754951
5	0.000068495	67	0.000918223	129	0.001768673
6	0.000082195	68	0.000931934	130	0.001782396

365 Day Year

0.5% Compound Rate 184 Days

7	0.000095894	69	0.000945646	131	0.001796119
8	0.000109594	70	0.000959357	132	0.001809843
9	0.000123294	71	0.000973069	133	0.001823566
10	0.000136995	72	0.000986781	134	0.001837290
11	0.000150695	73	0.001000493	135	0.001851013
12	0.000164396	74	0.001014206	136	0.001864737
13	0.000178097	75	0.001027918	137	0.001878462
14	0.000191798	76	0.001041631	138	0.001892186
15	0.000205499	77	0.001055344	139	0.001905910
16	0.000219201	78	0.001069057	140	0.001919635
17	0.000232902	79	0.001082770	141	0.001933360
18	0.000246604	80	0.001096484	142	0.001947085
19	0.000260306	81	0.001110197	143	0.001960811
20	0.000274008	82	0.001123911	144	0.001974536
21	0.000287711	83	0.001137625	145	0.001988262
22	0.000301413	84	0.001151339	146	0.002001988
23	0.000315116	85	0.001165054	147	0.002015714
24	0.000328819	86	0.001178768	148	0.002029440
25	0.000342522	87	0.001192483	149	0.002043166
26	0.000356225	88	0.001206198	150	0.002056893
27	0.000369929	89	0.001219913	151	0.002070620
28	0.000383633	90	0.001233629	152	0.002084347
29	0.000397336	91	0.001247344	153	0.002098074
30	0.000411041	92	0.001261060	154	0.002111801
31	0.000424745	93	0.001274776	155	0.002125529
32	0.000438449	94	0.001288492	156	0.002139257
33	0.000452154	95	0.001302208	157	0.002152985
34	0.000465859	96	0.001315925	158	0.002166713
35	0.000479564	97	0.001329641	159	0.002180441
36	0.000493269	98	0.001343358	160	0.002194169
37	0.000506974	99	0.001357075	161	0.002207898
38	0.000520680	100	0.001370792	162	0.002221627
39	0.000534386	101	0.001384510	163	0.002235356
40	0.000548092	102	0.001398227	164	0.002249085
41	0.000561798	103	0.001411945	165	0.002262815
42	0.000575504	104	0.001425663	166	0.002276544
43	0.000589211	105	0.001439381	167	0.002290274
44	0.000602917	106	0.001453100	168	0.002304004
45	0.000616624	107	0.001466818	169	0.002317734
46	0.000630331	108	0.001480537	170	0.002331465
47	0.000644039	109	0.001494256	171	0.002345195
48	0.000657746	110	0.001507975	172	0.002358926
49	0.000671454	111	0.001521694	173	0.002372657
50	0.000685161	112	0.001535414	174	0.002386388
51	0.000698869	113	0.001549133	175	0.002400120
52	0.000712578	114	0.001562853	176	0.002413851

365 Day Year					
0.5% Compound Rate 184 Days					
53	0.000726286	115	0.001576573	177	0.002427583
54	0.000739995	116	0.001590293	178	0.002441315
55	0.000753703	117	0.001604014	179	0.002455047
56	0.000767412	118	0.001617734	180	0.002468779
57	0.000781121	119	0.001631455	181	0.002482511
58	0.000794831	120	0.001645176	182	0.002496244
59	0.000808540	121	0.001658897	183	0.002509977
60	0.000822250	122	0.001672619	184	0.002523710
61	0.000835960	123	0.001686340		
62	0.000849670	124	0.001700062		

366 Day Year					
0.5% Compound Rate 184 Days					
Days	Factor	Days	Factor	Days	Factor
1	0.000013661	63	0.000861020	125	0.001709097
2	0.000027323	64	0.000874693	126	0.001722782
3	0.000040984	65	0.000888366	127	0.001736467
4	0.000054646	66	0.000902040	128	0.001750152
5	0.000068308	67	0.000915713	129	0.001763837
6	0.000081970	68	0.000929387	130	0.001777522
7	0.000095632	69	0.000943061	131	0.001791208
8	0.000109295	70	0.000956735	132	0.001804893
9	0.000122958	71	0.000970409	133	0.001818579
10	0.000136620	72	0.000984084	134	0.001832265
11	0.000150283	73	0.000997758	135	0.001845951
12	0.000163947	74	0.001011433	136	0.001859638
13	0.000177610	75	0.001025108	137	0.001873324
14	0.000191274	76	0.001038783	138	0.001887011
15	0.000204938	77	0.001052459	139	0.001900698
16	0.000218602	78	0.001066134	140	0.001914385
17	0.000232266	79	0.001079810	141	0.001928073
18	0.000245930	80	0.001093486	142	0.001941760
19	0.000259595	81	0.001107162	143	0.001955448
20	0.000273260	82	0.001120839	144	0.001969136
21	0.000286924	83	0.001134515	145	0.001982824
22	0.000300590	84	0.001148192	146	0.001996512
23	0.000314255	85	0.001161869	147	0.002010201
24	0.000327920	86	0.001175546	148	0.002023889
25	0.000341586	87	0.001189223	149	0.002037578
26	0.000355252	88	0.001202900	150	0.002051267
27	0.000368918	89	0.001216578	151	0.002064957
28	0.000382584	90	0.001230256	152	0.002078646
29	0.000396251	91	0.001243934	153	0.002092336
30	0.000409917	92	0.001257612	154	0.002106025
31	0.000423584	93	0.001271291	155	0.002119715

366 Day Year

0.5% Compound Rate 184 Days

32	0.000437251	94	0.001284969	156	0.002133405
33	0.000450918	95	0.001298648	157	0.002147096
34	0.000464586	96	0.001312327	158	0.002160786
35	0.000478253	97	0.001326006	159	0.002174477
36	0.000491921	98	0.001339685	160	0.002188168
37	0.000505589	99	0.001353365	161	0.002201859
38	0.000519257	100	0.001367044	162	0.002215550
39	0.000532925	101	0.001380724	163	0.002229242
40	0.000546594	102	0.001394404	164	0.002242933
41	0.000560262	103	0.001408085	165	0.002256625
42	0.000573931	104	0.001421765	166	0.002270317
43	0.000587600	105	0.001435446	167	0.002284010
44	0.000601269	106	0.001449127	168	0.002297702
45	0.000614939	107	0.001462808	169	0.002311395
46	0.000628608	108	0.001476489	170	0.002325087
47	0.000642278	109	0.001490170	171	0.002338780
48	0.000655948	110	0.001503852	172	0.002352473
49	0.000669618	111	0.001517533	173	0.002366167
50	0.000683289	112	0.001531215	174	0.002379860
51	0.000696959	113	0.001544897	175	0.002393554
52	0.000710630	114	0.001558580	176	0.002407248
53	0.000724301	115	0.001572262	177	0.002420942
54	0.000737972	116	0.001585945	178	0.002434636
55	0.000751643	117	0.001599628	179	0.002448331
56	0.000765315	118	0.001613311	180	0.002462025
57	0.000778986	119	0.001626994	181	0.002475720
58	0.000792658	120	0.001640678	182	0.002489415
59	0.000806330	121	0.001654361	183	0.002503110
60	0.000820003	122	0.001668045	184	0.002516806
61	0.000833675	123	0.001681729		
62	0.000847348	124	0.001695413		

TABLE OF INTEREST RATES

PERIODS BEFORE JUL. 1, 1975 – PERIODS ENDING DEC. 31, 1986

OVERPAYMENTS AND UNDERPAYMENTS

PERIOD	RATE	In 1995–1 C.B. DAILY RATE TABLE
Before Jul. 1, 1975	6%	Table 2, pg. 557
Jul. 1, 1975—Jan. 31, 1976	9%	Table 4, pg. 559
Feb. 1, 1976—Jan. 31, 1978	7%	Table 3, pg. 558
Feb. 1, 1978—Jan. 31, 1980	6%	Table 2, pg. 557
Feb. 1, 1980—Jan. 31, 1982	12%	Table 5, pg. 560
Feb. 1, 1982—Dec. 31, 1982	20%	Table 6, pg. 560
Jan. 1, 1983—Jun. 30, 1983	16%	Table 37, pg. 591

TABLE OF INTEREST RATES

PERIODS BEFORE JUL. 1, 1975 – PERIODS ENDING DEC. 31, 1986

OVERPAYMENTS AND UNDERPAYMENTS

Jul. 1, 1983—Dec. 31, 1983	11%	Table 27, pg. 581
Jan. 1, 1984—Jun. 30, 1984	11%	Table 75, pg. 629
Jul. 1, 1984—Dec. 31, 1984	11%	Table 75, pg. 629
Jan. 1, 1985—Jun. 30, 1985	13%	Table 31, pg. 585
Jul. 1, 1985—Dec. 31, 1985	11%	Table 27, pg. 581
Jan. 1, 1986—Jun. 30, 1986	10%	Table 25, pg. 579
Jul. 1, 1986—Dec. 31, 1986	9%	Table 23, pg. 577

TABLE OF INTEREST RATES

FROM JAN. 1, 1987 — DEC. 31, 1998

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995–1 C.B. TABLE	PG	RATE	1995–1 C.B. TABLE	PG
Jan. 1, 1987—Mar. 31, 1987	8%	21	575	9%	23	577
Apr. 1, 1987—Jun. 30, 1987	8%	21	575	9%	23	577
Jul. 1, 1987—Sep. 30, 1987	8%	21	575	9%	23	577
Oct. 1, 1987—Dec. 31, 1987	9%	23	577	10%	25	579
Jan. 1, 1988—Mar. 31, 1988	10%	73	627	11%	75	629
Apr. 1, 1988—Jun. 30, 1988	9%	71	625	10%	73	627
Jul. 1, 1988—Sep. 30, 1988	9%	71	625	10%	73	627
Oct. 1, 1988—Dec. 31, 1988	10%	73	627	11%	75	629
Jan. 1, 1989—Mar. 31, 1989	10%	25	579	11%	27	581
Apr. 1, 1989—Jun. 30, 1989	11%	27	581	12%	29	583
Jul. 1, 1989—Sep. 30, 1989	11%	27	581	12%	29	583
Oct. 1, 1989—Dec. 31, 1989	10%	25	579	11%	27	581
Jan. 1, 1990—Mar. 31, 1990	10%	25	579	11%	27	581
Apr. 1, 1990—Jun. 30, 1990	10%	25	579	11%	27	581
Jul. 1, 1990—Sep. 30, 1990	10%	25	579	11%	27	581
Oct. 1, 1990—Dec. 31, 1990	10%	25	579	11%	27	581
Jan. 1, 1991—Mar. 31, 1991	10%	25	579	11%	27	581
Apr. 1, 1991—Jun. 30, 1991	9%	23	577	10%	25	579
Jul. 1, 1991—Sep. 30, 1991	9%	23	577	10%	25	579
Oct. 1, 1991—Dec. 31, 1991	9%	23	577	10%	25	579
Jan. 1, 1992—Mar. 31, 1992	8%	69	623	9%	71	625
Apr. 1, 1992—Jun. 30, 1992	7%	67	621	8%	69	623
Jul. 1, 1992—Sep. 30, 1992	7%	67	621	8%	69	623
Oct. 1, 1992—Dec. 31, 1992	6%	65	619	7%	67	621
Jan. 1, 1993—Mar. 31, 1993	6%	17	571	7%	19	573
Apr. 1, 1993—Jun. 30, 1993	6%	17	571	7%	19	573
Jul. 1, 1993—Sep. 30, 1993	6%	17	571	7%	19	573
Oct. 1, 1993—Dec. 31, 1993	6%	17	571	7%	19	573
Jan. 1, 1994—Mar. 31, 1994	6%	17	571	7%	19	573
Apr. 1, 1994—Jun. 30, 1994	6%	17	571	7%	19	573

TABLE OF INTEREST RATES

FROM JAN. 1, 1987 — DEC. 31, 1998

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995–1 C.B. TABLE	PG	RATE	1995–1 C.B. TABLE	PG
Jul. 1, 1994—Sep. 30, 1994	7%	19	573	8%	21	575
Oct. 1, 1994—Dec. 31, 1994	8%	21	575	9%	23	577
Jan. 1, 1995—Mar. 31, 1995	8%	21	575	9%	23	577
Apr. 1, 1995—Jun. 30, 1995	9%	23	577	10%	25	579
Jul. 1, 1995—Sep. 30, 1995	8%	21	575	9%	23	577
Oct. 1, 1995—Dec. 31, 1995	8%	21	575	9%	23	577
Jan. 1, 1996—Mar. 31, 1996	8%	69	623	9%	71	625
Apr. 1, 1996—Jun. 30, 1996	7%	67	621	8%	69	623
Jul. 1, 1996—Sep. 30, 1996	8%	69	623	9%	71	625
Oct. 1, 1996—Dec. 31, 1996	8%	69	623	9%	71	625
Jan. 1, 1997—Mar. 31, 1997	8%	21	575	9%	23	577
Apr. 1, 1997—Jun. 30, 1997	8%	21	575	9%	23	577
Jul. 1, 1997—Sep. 30, 1997	8%	21	575	9%	23	577
Oct. 1, 1997—Dec. 31, 1997	8%	21	575	9%	23	577
Jan. 1, 1998—Mar. 31, 1998	8%	21	575	9%	23	577
Apr. 1, 1998—Jun. 30, 1998	7%	19	573	8%	21	575
Jul. 1, 1998—Sep. 30, 1998	7%	19	573	8%	21	575
Oct. 1, 1998—Dec. 31, 1998	7%	19	573	8%	21	575

TABLE OF INTEREST RATES

FROM JANUARY 1, 1999 — PRESENT

NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	RATE	1995–1 C.B. TABLE	PAGE
Jan. 1, 1999—Mar. 31, 1999	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	9%	23	577
Apr. 1, 2001—Jun. 30, 2001	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	6%	17	571
Apr. 1, 2002—Jun. 30, 2002	6%	17	571
Jul. 1, 2002—Sep. 30, 2002	6%	17	571
Oct. 1, 2002—Dec. 31, 2002	6%	17	571
Jan. 1, 2003—Mar. 31, 2003	5%	15	569

TABLE OF INTEREST RATES

FROM JANUARY 1, 1999 — PRESENT

NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	RATE	1995–1 C.B. TABLE	PAGE
Apr. 1, 2003—Jun. 30, 2003	5%	15	569
Jul. 1, 2003—Sep. 30, 2003	5%	15	569
Oct. 1, 2003—Dec. 31, 2003	4%	13	567
Jan. 1, 2004—Mar. 31, 2004	4%	61	615
Apr. 1, 2004—Jun. 30, 2004	5%	63	617
Jul. 1, 2004—Sep. 30, 2004	4%	61	615
Oct. 1, 2004—Dec. 31, 2004	5%	63	617
Jan. 1, 2005—Mar. 31, 2005	5%	15	569
Apr. 1, 2005—Jun. 30, 2005	6%	17	571
Jul. 1, 2005—Sep. 30, 2005	6%	17	571
Oct. 1, 2005—Dec. 31, 2005	7%	19	573
Jan. 1, 2006—Mar. 31, 2006	7%	19	573
Apr. 1, 2006—Jun. 30, 2006	7%	19	573
Jul. 1, 2006—Sep. 30, 2006	8%	21	575
Oct. 1, 2006—Dec. 31, 2006	8%	21	575
Jan. 1, 2007—Mar. 31, 2007	8%	21	575
Apr. 1, 2007—Jun. 30, 2007	8%	21	575
Jul. 1, 2007—Sep. 30, 2007	8%	21	575
Oct. 1, 2007—Dec. 31, 2007	8%	21	575
Jan. 1, 2008—Mar. 31, 2008	7%	67	621
Apr. 1, 2008—Jun. 30, 2008	6%	65	619
Jul. 1, 2008—Sep. 30, 2008	5%	63	617
Oct. 1, 2008—Dec. 31, 2008	6%	65	619
Jan. 1, 2009—Mar. 31, 2009	5%	15	569
Apr. 1, 2009—Jun. 30, 2009	4%	13	567
Jul. 1, 2009—Sep. 30, 2009	4%	13	567
Oct. 1, 2009—Dec. 31, 2009	4%	13	567
Jan. 1, 2010—Mar. 31, 2010	4%	13	567
Apr. 1, 2010—Jun. 30, 2010	4%	13	567
Jul. 1, 2010—Sep. 30, 2010	4%	13	567
Oct. 1, 2010—Dec. 31, 2010	4%	13	567
Jan. 1, 2011—Mar. 31, 2011	3%	11	565
Apr. 1, 2011—Jun. 30, 2011	4%	13	567
Jul. 1, 2011—Sep. 30, 2011	4%	13	567
Oct. 1, 2011—Dec. 31, 2011	3%	11	565
Jan. 1, 2012—Mar. 31, 2012	3%	59	613
Apr. 1, 2012—Jun. 30, 2012	3%	59	613
Jul. 1, 2012—Sep. 30, 2012	3%	59	613
Oct. 1, 2012—Dec. 31, 2012	3%	59	613
Jan. 1, 2013—Mar. 31, 2013	3%	11	565
Apr. 1, 2013—Jun. 30, 2013	3%	11	565
Jul. 1, 2013—Sep. 30, 2013	3%	11	565

TABLE OF INTEREST RATES

FROM JANUARY 1, 1999 — PRESENT

NONCORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	RATE	1995–1 C.B. TABLE	PAGE
Oct. 1, 2013—Dec. 31, 2013	3%	11	565
Jan. 1, 2014—Mar. 31, 2014	3%	11	565
Apr. 1, 2014—Jun. 30, 2014	3%	11	565
Jul. 1, 2014—Sep. 30, 2014	3%	11	565
Oct. 1, 2014—Dec. 31, 2014	3%	11	565
Jan. 1, 2015—Mar. 31, 2015	3%	11	565
Apr. 1, 2015—Jun. 30, 2015	3%	11	565
Jul. 1, 2015—Sep. 30, 2015	3%	11	565
Oct. 1, 2015—Dec. 31, 2015	3%	11	565
Jan. 1, 2016—Mar. 31, 2016	3%	59	613

TABLE OF INTEREST RATES

FROM JANUARY 1, 1999 — PRESENT

CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995–1 C.B. TABLE	PG	RATE	1995–1 C.B. TABLE	PG
Jan. 1, 1999—Mar. 31, 1999	6%	17	571	7%	19	573
Apr. 1, 1999—Jun. 30, 1999	7%	19	573	8%	21	575
Jul. 1, 1999—Sep. 30, 1999	7%	19	573	8%	21	575
Oct. 1, 1999—Dec. 31, 1999	7%	19	573	8%	21	575
Jan. 1, 2000—Mar. 31, 2000	7%	67	621	8%	69	623
Apr. 1, 2000—Jun. 30, 2000	8%	69	623	9%	71	625
Jul. 1, 2000—Sep. 30, 2000	8%	69	623	9%	71	625
Oct. 1, 2000—Dec. 31, 2000	8%	69	623	9%	71	625
Jan. 1, 2001—Mar. 31, 2001	8%	21	575	9%	23	577
Apr. 1, 2001—Jun. 30, 2001	7%	19	573	8%	21	575
Jul. 1, 2001—Sep. 30, 2001	6%	17	571	7%	19	573
Oct. 1, 2001—Dec. 31, 2001	6%	17	571	7%	19	573
Jan. 1, 2002—Mar. 31, 2002	5%	15	569	6%	17	571
Apr. 1, 2002—Jun. 30, 2002	5%	15	569	6%	17	571
Jul. 1, 2002—Sep. 30, 2002	5%	15	569	6%	17	571
Oct. 1, 2002—Dec. 31, 2002	5%	15	569	6%	17	571
Jan. 1, 2003—Mar. 31, 2003	4%	13	567	5%	15	569
Apr. 1, 2003—Jun. 30, 2003	4%	13	567	5%	15	569
Jul. 1, 2003—Sep. 30, 2003	4%	13	567	5%	15	569
Oct. 1, 2003—Dec. 31, 2003	3%	11	565	4%	13	567
Jan. 1, 2004—Mar. 31, 2004	3%	59	613	4%	61	615
Apr. 1, 2004—Jun. 30, 2004	4%	61	615	5%	63	617
Jul. 1, 2004—Sep. 30, 2004	3%	59	613	4%	61	615
Oct. 1, 2004—Dec. 31, 2004	4%	61	615	5%	63	617

TABLE OF INTEREST RATES

FROM JANUARY 1, 1999 — PRESENT

CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995–1 C.B. TABLE	PG	RATE	1995–1 C.B. TABLE	PG
Jan. 1, 2005—Mar. 31, 2005	4%	13	567	5%	15	569
Apr. 1, 2005—Jun. 30, 2005	5%	15	569	6%	17	571
Jul. 1, 2005—Sep. 30, 2005	5%	15	569	6%	17	571
Oct. 1, 2005—Dec. 31, 2005	6%	17	571	7%	19	573
Jan. 1, 2006—Mar. 31, 2006	6%	17	571	7%	19	573
Apr. 1, 2006—Jun. 30, 2006	6%	17	571	7%	19	573
Jul. 1, 2006—Sep. 30, 2006	7%	19	573	8%	21	575
Oct. 1, 2006—Dec. 31, 2006	7%	19	573	8%	21	575
Jan. 1, 2007—Mar. 31, 2007	7%	19	573	8%	21	575
Apr. 1, 2007—Jun. 30, 2007	7%	19	573	8%	21	575
Jul. 1, 2007—Sep. 30, 2007	7%	19	573	8%	21	575
Oct. 1, 2007—Dec. 31, 2007	7%	19	573	8%	21	575
Jan. 1, 2008—Mar. 31, 2008	6%	65	619	7%	67	621
Apr. 1, 2008—Jun. 30, 2008	5%	63	617	6%	65	619
Jul. 1, 2008—Sep. 30, 2008	4%	61	615	5%	63	617
Oct. 1, 2008—Dec. 31, 2008	5%	63	617	6%	65	619
Jan. 1, 2009—Mar. 31, 2009	4%	13	567	5%	15	569
Apr. 1, 2009—Jun. 30, 2009	3%	11	565	4%	13	567
Jul. 1, 2009—Sep. 30, 2009	3%	11	565	4%	13	567
Oct. 1, 2009—Dec. 31, 2009	3%	11	565	4%	13	567
Jan. 1, 2010—Mar. 31, 2010	3%	11	565	4%	13	567
Apr. 1, 2010—Jun. 30, 2010	3%	11	565	4%	13	567
Jul. 1, 2010—Sep. 30, 2010	3%	11	565	4%	13	567
Oct. 1, 2010—Dec. 31, 2010	3%	11	565	4%	13	567
Jan. 1, 2011—Mar. 31, 2011	2%	9	563	3%	11	565
Apr. 1, 2011—Jun. 30, 2011	3%	11	565	4%	13	567
Jul. 1, 2011—Sep. 30, 2011	3%	11	565	4%	13	567
Oct. 1, 2011—Dec. 31, 2011	2%	9	563	3%	11	565
Jan. 1, 2012—Mar. 31, 2012	2%	57	611	3%	59	613
Apr. 1, 2012—Jun. 30, 2012	2%	57	611	3%	59	613
Jul. 1, 2012—Sep. 30, 2012	2%	57	611	3%	59	613
Oct. 1, 2012—Dec. 31, 2012	2%	57	611	3%	59	613
Jan. 1, 2013—Mar. 31, 2013	2%	9	563	3%	11	565
Apr. 1, 2013—Jun. 30, 2013	2%	9	563	3%	11	565
Jul. 1, 2013—Sep. 30, 2013	2%	9	563	3%	11	565
Oct. 1, 2013—Dec. 31, 2013	2%	9	563	3%	11	565
Jan. 1, 2014—Mar. 31, 2014	2%	9	563	3%	11	565
Apr. 1, 2014—Jun. 30, 2014	2%	9	563	3%	11	565
Jul. 1, 2014—Sep. 30, 2014	2%	9	563	3%	11	565
Oct. 1, 2014—Dec. 31, 2014	2%	9	563	3%	11	565
Jan. 1, 2015—Mar. 31, 2015	2%	9	563	3%	11	565

TABLE OF INTEREST RATES

FROM JANUARY 1, 1999 — PRESENT

CORPORATE OVERPAYMENTS AND UNDERPAYMENTS

	OVERPAYMENTS			UNDERPAYMENTS		
	RATE	1995–1 C.B. TABLE	PG	RATE	1995–1 C.B. TABLE	PG
Apr. 1, 2015—Jun. 30, 2015	2%	9	563	3%	11	565
Jul. 1, 2015—Sep. 30, 2015	2%	9	563	3%	11	565
Oct. 1, 2015—Dec. 31, 2015	2%	9	563	3%	11	565
Jan. 1, 2016—Mar. 31, 2016	2%	57	611	3%	59	613

TABLE OF INTEREST RATES FOR LARGE CORPORATE UNDERPAYMENTS

FROM JANUARY 1, 1991 — PRESENT

	RATE	1995–1 C.B. TABLE	PG
Jan. 1, 1991—Mar. 31, 1991	13%	31	585
Apr. 1, 1991—Jun. 30, 1991	12%	29	583
Jul. 1, 1991—Sep. 30, 1991	12%	29	583
Oct. 1, 1991—Dec. 31, 1991	12%	29	583
Jan. 1, 1992—Mar. 31, 1992	11%	75	629
Apr. 1, 1992—Jun. 30, 1992	10%	73	627
Jul. 1, 1992—Sep. 30, 1992	10%	73	627
Oct. 1, 1992—Dec. 31, 1992	9%	71	625
Jan. 1, 1993—Mar. 31, 1993	9%	23	577
Apr. 1, 1993—Jun. 30, 1993	9%	23	577
Jul. 1, 1993—Sep. 30, 1993	9%	23	577
Oct. 1, 1993—Dec. 31, 1993	9%	23	577
Jan. 1, 1994—Mar. 31, 1994	9%	23	577
Apr. 1, 1994—Jun. 30, 1994	9%	23	577
Jul. 1, 1994—Sep. 30, 1994	10%	25	579
Oct. 1, 1994—Dec. 31, 1994	11%	27	581
Jan. 1, 1995—Mar. 31, 1995	11%	27	581
Apr. 1, 1995—Jun. 30, 1995	12%	29	583
Jul. 1, 1995—Sep. 30, 1995	11%	27	581
Oct. 1, 1995—Dec. 31, 1995	11%	27	581
Jan. 1, 1996—Mar. 31, 1996	11%	75	629
Apr. 1, 1996—Jun. 30, 1996	10%	73	627
Jul. 1, 1996—Sep. 30, 1996	11%	75	629
Oct. 1, 1996—Dec. 31, 1996	11%	75	629
Jan. 1, 1997—Mar. 31, 1997	11%	27	581
Apr. 1, 1997—Jun. 30, 1997	11%	27	581
Jul. 1, 1997—Sep. 30, 1997	11%	27	581
Oct. 1, 1997—Dec. 31, 1997	11%	27	581
Jan. 1, 1998—Mar. 31, 1998	11%	27	581
Apr. 1, 1998—Jun. 30, 1998	10%	25	579
Jul. 1, 1998—Sep. 30, 1998	10%	25	579

TABLE OF INTEREST RATES FOR LARGE CORPORATE UNDERPAYMENTS

FROM JANUARY 1, 1991 — PRESENT

	RATE	1995–1 C.B. TABLE	PG
Oct. 1, 1998—Dec. 31, 1998	10%	25	579
Jan. 1, 1999—Mar. 31, 1999	9%	23	577
Apr. 1, 1999—Jun. 30, 1999	10%	25	579
Jul. 1, 1999—Sep. 30, 1999	10%	25	579
Oct. 1, 1999—Dec. 31, 1999	10%	25	579
Jan. 1, 2000—Mar. 31, 2000	10%	73	627
Apr. 1, 2000—Jun. 30, 2000	11%	75	629
Jul. 1, 2000—Sep. 30, 2000	11%	75	629
Oct. 1, 2000—Dec. 31, 2000	11%	75	629
Jan. 1, 2001—Mar. 31, 2001	11%	27	581
Apr. 1, 2001—Jun. 30, 2001	10%	25	579
Jul. 1, 2001—Sep. 30, 2001	9%	23	577
Oct. 1, 2001—Dec. 31, 2001	9%	23	577
Jan. 1, 2002—Mar. 31, 2002	8%	21	575
Apr. 1, 2002—Jun. 30, 2002	8%	21	575
Jul. 1, 2002—Sep. 30, 2002	8%	21	575
Oct. 1, 2002—Dec. 31, 2002	8%	21	575
Jan. 1, 2003—Mar. 31, 2003	7%	19	573
Apr. 1, 2003—Jun. 30, 2003	7%	19	573
Jul. 1, 2003—Sep. 30, 2003	7%	19	573
Oct. 1, 2003—Dec. 31, 2003	6%	17	571
Jan. 1, 2004—Mar. 31, 2004	6%	65	619
Apr. 1, 2004—Jun. 30, 2004	7%	67	621
Jul. 1, 2004—Sep. 30, 2004	6%	65	619
Oct. 1, 2004—Dec. 31, 2004	7%	67	621
Jan. 1, 2005—Mar. 31, 2005	7%	19	573
Apr. 1, 2005—Jun. 30, 2005	8%	21	575
Jul. 1, 2005—Sep. 30, 2005	8%	21	575
Oct. 1, 2005—Dec. 31, 2005	9%	23	577
Jan. 1, 2006—Mar. 31, 2006	9%	23	577
Apr. 1, 2006—Jun. 30, 2006	9%	23	577
Jul. 1, 2006—Sep. 30, 2006	10%	25	579
Oct. 1, 2006—Dec. 31, 2006	10%	25	579
Jan. 1, 2007—Mar. 31, 2007	10%	25	579
Apr. 1, 2007—Jun. 30, 2007	10%	25	579
Jul. 1, 2007—Sep. 30, 2007	10%	25	579
Oct. 1, 2007—Dec. 31, 2007	10%	25	579
Jan. 1, 2008—Mar. 31, 2008	9%	71	625
Apr. 1, 2008—Jun. 30, 2008	8%	69	623
Jul. 1, 2008—Sep. 30, 2008	7%	67	621
Oct. 1, 2008—Dec. 31, 2008	8%	69	623
Jan. 1, 2009—Mar. 31, 2009	7%	19	573
Apr. 1, 2009—Jun. 30, 2009	6%	17	571
Jul. 1, 2009—Sep. 30, 2009	6%	17	571

TABLE OF INTEREST RATES FOR LARGE CORPORATE UNDERPAYMENTS

FROM JANUARY 1, 1991 — PRESENT

	RATE	1995–1 C.B. TABLE	PG
Oct. 1, 2009—Dec. 31, 2009	6%	17	571
Jan. 1, 2010—Mar. 31, 2010	6%	17	571
Apr. 1, 2010—Jun. 30, 2010	6%	17	571
Jul. 1, 2010—Sep. 30, 2010	6%	17	571
Oct. 1, 2010—Dec. 31, 2010	6%	17	571
Jan. 1, 2011—Mar. 31, 2011	5%	15	569
Apr. 1, 2011—Jun. 30, 2011	6%	17	571
Jul. 1, 2011—Sep. 30, 2011	6%	17	571
Oct. 1, 2011—Dec. 31, 2011	5%	15	569
Jan. 1, 2012—Mar. 31, 2012	5%	63	617
Apr. 1, 2012—Jun. 30, 2012	5%	63	617
Jul. 1, 2012—Sep. 30, 2012	5%	63	617
Oct. 1, 2012—Dec. 31, 2012	5%	63	617
Jan. 1, 2013—Mar. 31, 2013	5%	15	569
Apr. 1, 2013—Jun. 30, 2013	5%	15	569
Jul. 1, 2013—Sep. 30, 2013	5%	15	569
Oct. 1, 2013—Dec. 31, 2013	5%	15	569
Jan. 1, 2014—Mar. 31, 2014	5%	15	569
Apr. 1, 2014—Jun. 30, 2014	5%	15	569
Jul. 1, 2014—Sep. 30, 2014	5%	15	569
Oct. 1, 2014—Dec. 31, 2014	5%	15	569
Jan. 1, 2015—Mar. 31, 2015	5%	15	569
Apr. 1, 2015—Jun. 30, 2015	5%	15	569
Jul. 1, 2015—Sep. 30, 2015	5%	15	569
Oct. 1, 2015—Dec. 31, 2015	5%	15	569
Jan. 1, 2016—Mar. 31, 2016	5%	63	617

TABLE OF INTEREST RATES FOR CORPORATE OVERPAYMENTS EXCEEDING $10,000

FROM JANUARY 1, 1995 — PRESENT

	RATE	1995–1 C.B. TABLE	PG
Jan. 1, 1995—Mar. 31, 1995	6.5%	18	572
Apr. 1, 1995—Jun. 30, 1995	7.5%	20	574
Jul. 1, 1995—Sep. 30, 1995	6.5%	18	572
Oct. 1, 1995—Dec. 31, 1995	6.5%	18	572
Jan. 1, 1996—Mar. 31, 1996	6.5%	66	620
Apr. 1, 1996—Jun. 30, 1996	5.5%	64	618
Jul. 1, 1996—Sep. 30, 1996	6.5%	66	620
Oct. 1, 1996—Dec. 31, 1996	6.5%	66	620
Jan. 1, 1997—Mar. 31, 1997	6.5%	18	572
Apr. 1, 1997—Jun. 30, 1997	6.5%	18	572
Jul. 1, 1997—Sep. 30, 1997	6.5%	18	572

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING $10,000

FROM JANUARY 1, 1995 — PRESENT

	RATE	1995–1 C.B. TABLE	PG
Oct. 1, 1997—Dec. 31, 1997	6.5%	18	572
Jan. 1, 1998—Mar. 31, 1998	6.5%	18	572
Apr. 1, 1998—Jun. 30, 1998	5.5%	16	570
Jul. 1. 1998—Sep. 30, 1998	5.5%	16	570
Oct. 1, 1998—Dec. 31, 1998	5.5%	16	570
Jan. 1, 1999—Mar. 31, 1999	4.5%	14	568
Apr. 1, 1999—Jun. 30, 1999	5.5%	16	570
Jul. 1, 1999—Sep. 30, 1999	5.5%	16	570
Oct. 1, 1999—Dec. 31, 1999	5.5%	16	570
Jan. 1, 2000—Mar. 31, 2000	5.5%	64	618
Apr. 1, 2000—Jun. 30, 2000	6.5%	66	620
Jul. 1, 2000—Sep. 30, 2000	6.5%	66	620
Oct. 1, 2000—Dec. 31, 2000	6.5%	66	620
Jan. 1, 2001—Mar. 31, 2001	6.5%	18	572
Apr. 1, 2001—Jun. 30, 2001	5.5%	16	570
Jul. 1, 2001—Sep. 30, 2001	4.5%	14	568
Oct. 1, 2001—Dec. 31, 2001	4.5%	14	568
Jan. 1, 2002—Mar. 31, 2002	3.5%	12	566
Apr. 1, 2002—Jun. 30, 2002	3.5%	12	566
Jul. 1, 2002—Sep. 30, 2002	3.5%	12	566
Oct. 1, 2002—Dec. 31, 2002	3.5%	12	566
Jan. 1, 2003—Mar. 31, 2003	2.5%	10	564
Apr. 1, 2003—Jun. 30, 2003	2.5%	10	564
Jul. 1, 2003—Sep. 30, 2003	2.5%	10	564
Oct. 1, 2003—Dec. 31, 2003	1.5%	8	562
Jan. 1, 2004—Mar. 31, 2004	1.5%	56	610
Apr. 1, 2004—Jun. 30, 2004	2.5%	58	612
Jul. 1, 2004—Sep. 30, 2004	1.5%	56	610
Oct. 1, 2004—Dec. 31, 2004	2.5%	58	612
Jan. 1, 2005—Mar. 31, 2005	2.5%	10	564
Apr. 1, 2005—Jun. 30, 2005	3.5%	12	566
Jul. 1, 2005—Sep. 30, 2005	3.5%	12	566
Oct. 1, 2005—Dec. 31, 2005	4.5%	14	568
Jan. 1, 2006—Mar. 31, 2006	4.5%	14	568
Apr. 1, 2006—Jun. 30, 2006	4.5%	14	568
Jul. 1, 2006—Sep. 30, 2006	5.5%	16	570
Oct. 1, 2006—Dec. 31, 2006	5.5%	16	570
Jan. 1, 2007—Mar. 31, 2007	5.5%	16	570
Apr. 1, 2007—Jun. 30, 2007	5.5%	16	570
Jul. 1, 2007—Sep. 30, 2007	5.5%	16	570
Oct. 1, 2007—Dec. 31, 2007	5.5%	16	570
Jan. 1, 2008—Mar. 31, 2008	4.5%	62	616
Apr. 1, 2008—Jun. 30, 2008	3.5%	60	614

TABLE OF INTEREST RATES FOR CORPORATE
OVERPAYMENTS EXCEEDING $10,000

FROM JANUARY 1, 1995 — PRESENT

	RATE	1995–1 C.B. TABLE	PG
Jul. 1, 2008—Sep. 30, 2008	2.5%	58	612
Oct. 1, 2008—Dec. 31, 2008	3.5%	60	614
Jan. 1, 2009—Mar. 31, 2009	2.5%	10	564
Apr. 1, 2009—Jun. 30, 2009	1.5%	8	562
Jul. 1, 2009—Sep. 30, 2009	1.5%	8	562
Oct. 1, 2009—Dec. 31, 2009	1.5%	8	562
Jan. 1, 2010—Mar. 31, 2010	1.5%	8	562
Apr. 1, 2010—Jun. 30, 2010	1.5%	8	562
Jul. 1, 2010—Sep. 30, 2010	1.5%	8	562
Oct. 1, 2010—Dec. 31, 2010	1.5%	8	562
Jan. 1, 2011—Mar. 31, 2011	0.5%*		
Apr. 1, 2011—Jun. 30, 2011	1.5%	8	562
Jul. 1, 2011—Sep. 30, 2011	1.5%	8	562
Oct. 1, 2011—Dec. 31, 2011	0.5%*		
Jan. 1, 2012—Mar. 31, 2012	0.5%*		
Apr. 1, 2012—Jun. 30, 2012	0.5%*		
Jul. 1, 2012—Sep. 30, 2012	0.5%*		
Oct. 1, 2012—Dec. 31, 2012	0.5%*		
Jan. 1, 2013—Mar. 31, 2013	0.5%*		
Apr. 1, 2013—Jun. 30, 2013	0.5%*		
Jul. 1, 2013—Sep. 30, 2013	0.5%*		
Oct. 1, 2013—Dec. 31, 2013	0.5%*		
Jan. 1, 2014—Mar. 31, 2014	0.5%*		
Apr. 1, 2014—Jun. 30, 2014	0.5%*		
Jul. 1, 2014—Sep. 30, 2014	0.5%*		
Oct. 1, 2014—Dec. 31, 2014	0.5%*		
Jan. 1, 2015—Mar. 31, 2015	0.5%*		
Apr. 1, 2015—Jun. 30, 2015	0.5%*		
Jul. 1, 2015—Sep. 30, 2015	0.5%*		
Oct. 1, 2015—Dec. 31, 2015	0.5%*		
Jan. 1, 2016—Mar. 31, 2016	0.5%*		

* The asterisk reflects the interest factors for daily compound interest for annual rates of 0.5 percent are published in Appendix A of this Revenue Ruling.

Part III. Administrative, Procedural, and Miscellaneous

2015 Cumulative List of Changes in Plan Qualification Requirements

Notice 2015–84

I. PURPOSE

This notice contains the 2015 Cumulative List of Changes in Plan Qualification Requirements (2015 Cumulative List) described in section 4 of Rev. Proc. 2007–44, 2007–2 C.B. 54. The 2015 Cumulative List is to be used by plan sponsors and practitioners submitting determination letter applications for plans during the period beginning February 1, 2016 and ending January 31, 2017.

Plans using this Cumulative List will primarily be single employer individually designed defined contribution plans and single employer individually designed defined benefit plans that are in Cycle A. Generally an individually designed plan is in Cycle A if the last digit of the employer identification number of the plan sponsor is 1 or 6.

The list of changes in section IV of this notice does not extend the deadline by which a plan must be amended to comply with any statutory, regulatory, or guidance changes. The general deadline for timely adoption of an interim or discretionary amendment can be found in section 5.05 of Rev. Proc. 2007–44.

II. BACKGROUND

Rev. Proc. 2007–44 sets forth procedures for issuing opinion, advisory, and determination letters and describes the five-year remedial amendment cycle for individually designed plans and the six-year remedial amendment cycle for pre-approved plans. In addition, section 5.05 of Rev. Proc. 2007–44 provides the deadline for timely adoption of an interim amendment or discretionary amendment.

Under section 4 of Rev. Proc. 2007–44, the Internal Revenue Service (the Service) announced its intention to annually publish a Cumulative List to identify statutory, regulatory, and guidance changes that must be taken into account in submissions by plan sponsors to the Service requesting opinion, advisory, and determination letters whose submission period begins on February 1st following issuance of the Cumulative List.

In Notice 2014–77, 2014–52 I.R.B. 974, the Service published the 2014 Cumulative List of Changes in Plan Qualification Requirements (2014 Cumulative List).[1]

III. APPLICATION OF 2015 CUMULATIVE LIST

This notice relates to the determination letter program for individually designed plans eligible for Cycle A. In accordance with Rev. Proc. 2007–44, the Service will start accepting determination letter applications for Cycle A individually designed plans beginning on February 1, 2016. The 12-month submission period for Cycle A plans will end on January 31, 2017.

The 2015 Cumulative List, set forth in section IV of this notice, informs plan sponsors of issues the Service has specifically identified for review in determining whether a plan filing in Cycle A has been properly updated. Specifically, the 2015 Cumulative List reflects law changes under the Pension Protection Act of 2006 (PPA '06), Pub. L. 109–280; the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA), Pub. L. 110–458; the Small Business Jobs Act of 2010 (SBJA), Pub. L. 111–240; the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010), Pub. L. No. 111–192; the Moving Ahead for Progress in the 21st Century Act (MAP–21), Pub. L. 112–141; the American Taxpayer Relief Act of 2012 (ATRA), Pub. L. 112–240; the Highway and Transportation Funding Act of 2014 (HATFA), Pub. L. No. 113–159; the Cooperative and Small Employer Charity Pension Flexibility Act (CSEC Act), Pub. L. 113–97; the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113–235; and the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Pub. L. 114–41.

Except as provided below, the Service will not consider in its review of any determination letter application for the submission period that begins February 1, 2016, any:

(1) guidance issued after October 1, 2015;
(2) statutes enacted after October 1, 2015;
(3) qualification requirements first effective in 2017 or later;
(4) statutory provisions that are first effective in 2016, for which there is no guidance identified in this notice; or
(5) proposed regulations or other guidance described solely in any footnote in this notice.

However, in order to be qualified, a plan must comply with all relevant qualification requirements, not just those on the 2015 Cumulative List.

Terminating plans must include all law changes in effect at the time of termination. See section 8 of Rev. Proc. 2007–44 regarding plan termination.

IV. 2015 CUMULATIVE LIST OF CHANGES IN PLAN QUALIFICATION REQUIREMENTS

The following list consists of statutory provisions and associated guidance that reflect changes to plan qualification requirements. The Service has identified below the plan qualification requirements that differ from those that were on the 2014 or earlier Cumulative Lists as "(New)."

Items from the 2010 Cumulative List have been deleted from the 2015 Cumulative List. Thus, the 2015 Cumulative List contains the plan qualification requirements in the 2011, 2012, 2013 and 2014 Cumulative Lists, as well as additional 2015 plan qualification requirements. The deletions have been made to enhance the utility of the cumulative list, by removing items that would have been previously reviewed in the case of a plan that was submitted during the second Cycle A submission period (February 1,

[1]For previous cumulative lists, see Notice 2013–84, 2013–52 I.R.B. 822; Notice 2012–76, 2012–52 I.R.B. 775; Notice 2011–97, 2011–52 I.R.B. 923; Notice 2010–90, 2010–52 I.R.B. 909; Notice 2009–98, 2009–52 I.R.B. 974; Notice 2008–108, 2008–2 C.B. 1275; Notice 2007–94, 2007–2 C.B. 1179; Notice 2007–3, 2007–1 C.B. 255; Notice 2005–101, 2005–2 C.B. 1219; and Notice 2004–84, 2004–2 C.B. 1030.

2011 – January 31, 2012). However, if a plan has not been previously reviewed for items on earlier cumulative lists, the items from the earlier cumulative lists must be taken into account. These items can be found in the 2010 Cumulative List, Notice 2010–90, 2010–52 I.R.B. 909.

1. *401(a)*:

- Rev. Rul. 2011–1, 2011–2 I.R.B. 251, revises the generally applicable rules for group trusts and, if certain requirements are met, permits the participation in group trusts of custodial accounts under § 403(b)(7), retirement income accounts under § 403(b)(9), and governmental retiree benefit plans under § 401(a)(24). This revenue ruling also modifies the transition relief provided in Rev. Rul. 2008–40. (2011 C. L.)
- Notice 2012–6, 2012–3 I.R.B. 293, extends and expands the transition relief provided under Rev. Rul. 2011–1 for certain group trusts, certain retirement trusts that qualify under the Puerto Rico Internal Revenue Code that participate in group trusts, and certain qualified retirement plans that benefit Puerto Rico residents. The notice also provides additional time for governmental retiree benefit plans described in § 401(a)(24) to be amended to satisfy the applicable requirements of Rev. Rul. 2011–1. (2012 C. L.)
- Notice 2012–29, 2012–18 I.R.B. 872, provides that the Service and Treasury intend to modify the normal retirement age regulations to clarify that governmental plans that do not provide for in-service distributions before age 62 do not need to have a definition of normal retirement age and to modify the age-50 safe harbor rule for qualified public safety employees. The notice also provides that the Service and Treasury intend to amend the normal retirement age regulations to extend the effective date for governmental plans to annuity starting dates that occur in plan years beginning on or after the later of (1) January 1, 2015 or (2) the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is 3 months after the final regulations are published in the Federal Register. (2012 C. L.)
- *United States v. Windsor*, 570 U.S. ___, 133 S. Ct. 2675 (2013). The Supreme Court found that Section 3 of the Defense of Marriage Act (DOMA), which provides that in determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife, is unconstitutional because it violates the principles of equal protection. (2013 C. L.)
- Rev. Rul. 2013–17, 2013–38 I.R.B. 201, provides that for Federal tax purposes, the terms "spouse," "husband and wife," "husband," and "wife" include an individual married to a person of the same sex if the individuals are lawfully married under state law, and the term "marriage" includes such a marriage between individuals of the same sex and the Service adopts a general rule recognizing a marriage of same-sex individuals that was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages. (2013 C. L.)
- Rev. Rul. 2014–9, 2014–17 I.R.B. 975, provides procedures a plan administrator may use in order to reasonably conclude that an amount is a valid rollover contribution. (2014 C.L.)
- Notice 2014–19, 2014–17 I.R.B. 979, provides guidance on the application (including the retroactive application) of the decision in *United States v. Windsor*, and the holdings of Rev. Rul. 2013–17, to retirement plans qualified under § 401(a). (2014 C.L.)[2]
- Rev. Rul. 2014–24, 2014–37 I.R.B. 529, modifies the list of group trust retiree benefit plans eligible to participate in group trusts described in Rev. Rul. 81–100, as modified by Rev. Rul. 2011–1 and Notice 2012–6, to include trusts of certain retirement plans qualified only under the Puerto Rico Code, clarifies that assets held by certain separate accounts maintained by insurance companies may be invested in those group trusts, and provides limited transition relief. (2014 C.L.)

2. *401(a)(4)*:

- Notice 2014–5, 2014–2 I.R.B. 276, provides temporary nondiscrimination relief for certain "closed" defined benefit pension plans. (2014 C.L.)
- Notice 2014–66, 2014–46 I.R.B. 820, provides a special nondiscrimination rule for a qualified defined contribution plan that provides lifetime income by offering, as investment options, a series of target date funds (TDFs) that include deferred annuities among their assets, even if some of the TDFs within the series are available only to older participants. (2014 C.L.)
- Notice 2015–28, 2015–14 I.R.B. 848, extends the temporary nondiscrimination relief previously established in Notice 2014–5 for certain "closed" defined benefit pension plans. (New)

3. *401(a)(9)*:

- Final regulations that provide a limited modification of the required minimum distribution rules for tax-qualified defined contribution plans holding qualifying longevity annuity contracts were published on July 2, 2014 (79 Fed. Reg. 37633). (2014 C.L.)
- Notice 2015–49, 2015–30 I.R.B. 79, informs taxpayers that the Treasury Department and the IRS intend to propose amendments to the required minimum distribution regulations under § 401(a)(9) to address the use of lump sum payments to replace annuity payments being paid by a qualified defined benefit pension plan and that these amendments are intended to ap-

[2]Retirement plans qualified under § 401(a) were required to recognize marriages of same-sex couples pursuant to *United States v. Windsor*, 570 U.S. ___, 133 S. Ct. 2675 (2013) and Notice 2014–19. Notice 2015–86, which will appear in 2015–52 I.R.B, provides that qualified retirement plans are not required to make additional changes as a result of the decision in *Obergefell v. Hodges*, 576 U.S.___, 135 S. Ct. 2584 (2015). However, a plan sponsor may decide to amend its plan following *Obergefell* to make certain discretionary amendments (also described in Notice 2015–86).

ply as of July 9, 2015 except with respect to certain accelerations of annuity payments described in the notice. (New)

4. *401(a)(22)*:

- Notice 2011–19, 2011–11 I.R.B. 550, provides that the terms readily tradable on an established securities market and readily tradable on an established market mean employer securities that are readily tradable on an established securities market within the meaning of § 1.401(a)(35)–1(f)(5) for purposes of § 401(a)(22). Notice 2011–19 is effective for plan years that begin on or after January 1, 2012, except for certain plans that have a delayed effective date. (2011 C. L.)

5. *401(a)(28)(C)*:

- Notice 2011–19 provides that the terms readily tradable on an established securities market and readily tradable on an established market mean employer securities that are readily tradable on an established securities market within the meaning of § 1.401(a)(35)–1(f)(5) for purposes of § 401(a)(28)(C). Notice 2011–19 is effective for plan years that begin on or after January 1, 2012, except for certain plans that have a delayed effective date. (2011 C. L.)

6. *401(a)(35)*:

- Notice 2013–17, 2013–20 I.R.B. 1082, provides relief from anti-cutback rules for an amendment to an ESOP that becomes subject to the diversification requirements of § 401(a)(35) to eliminate all in-service distribution options previously used to satisfy the diversification requirements of § 401(a)(28)(B)(i). (2013 C. L.)

7. *401(k) & 401(m)*:

- Final regulations that provide guidance on permitted mid-year reductions or suspensions of safe harbor nonelective contributions in certain circumstances for amendments adopted after May 18, 2009 and revise the requirements for permitted mid-year reductions or suspensions of safe harbor matching contributions for plan years beginning on or after January 1, 2015 were published on November 15, 2013 (78 Fed. Reg. 68735). (2013 C. L.)
- Notice 2014–37, 2014–24 I.R.B. 1100, provides guidance on a mid-year amendment to a § 401(k) safe harbor plan or § 401(m) safe harbor plan to reflect the outcome of *United States v. Windsor*, pursuant to Notice 2014–19. (2014 C.L.)

8. *402(a)*:

- Final regulations clarifying the rules regarding the tax treatment of payments by qualified retirement plans for accident or health insurance were published on May 12, 2014 (79 Fed. Reg. 26838). (2014 C.L.)

9. *402(c)(2)*:

- Notice 2014–54, 2014–41 I.R.B. 670, provides rules for allocating pretax and after-tax amounts among disbursements that are made to multiple destinations from a qualified plan described in § 401(a). (2014 C.L.)

10. *402A*:

- ATRA § 902 added § 402A(c)(4)(E), which provides that rollovers from a plan account to the plan's designated Roth account can include a rollover of an otherwise nondistributable amount. (2013 C. L.)
- Notice 2013–74 provides guidance regarding § 402A(c)(4)(E) and also provides guidance that applies to all in-plan Roth rollovers under § 402A(c)(4). (2013 C. L.)
- Notice 2014–54, 2014–41 I.R.B. 670, provides rules for allocating pretax and after-tax amounts among disbursements that are made to multiple destinations under tax-favored retirement plans. (2014 C.L.)
- Proposed regulations under § 402A were published on September 19, 2014 (79 Fed. Reg. 56310) with respect to the tax treatment of distributions from designated Roth accounts under tax-favored retirement plans. (2014 C.L.)

11. *409*:

- Notice 2011–19 provides that the terms readily tradable on an established securities market and readily tradable on an established market mean employer securities that are readily tradable on an established securities market within the meaning of § 1.401(a)(35)–1(f)(5) for purposes of § 409(h)(1)(B) and § 409(l). Notice 2011–19 is effective for plan years that begin on or after January 1, 2012, except for certain plans that have a delayed effective date. (2011 C. L.)

12. *411(a)*:

- Rev. Rul. 2012–4, 2012–8 I.R.B. 386, describes whether a qualified defined benefit pension plan that accepts a direct rollover of an eligible rollover distribution from a qualified defined contribution plan maintained by the same employer satisfies §§ 411 and 415 in a case in which the defined benefit plan provides an annuity resulting from the direct rollover. (2012 C. L.)

13. *411(a)(13)*:[3]

- Notice 2011–85, 2011–44 I.R.B. 605, extends the deadline for adopting an interim or discretionary amendment under § 411(a)(13) (other than § 411(a)(13)(A)). (2011 C. L.)
- Notice 2012–61, 2012–42 I.R.B. 479, provides that certain provisions in the 2010 final hybrid plan regulations will not be effective for plan years beginning before January 1, 2014. (2012 C. L.)

14. *411(b)(1)*:

- Final regulations under § 411(b)(1) with respect to a variable interest crediting rate that potentially can be negative in any given year were published on September 19, 2014 (79 Fed. Reg. 56442). (2014 C.L.)

[3]Amendments to the final regulations under § 411(a)(13) (which final regulations were included in the 2010 C. L.) were published on September 19, 2014 (79 Fed. Reg. 56442) and November 16, 2015 (80 Fed. Reg. 70680). Pursuant to the 2015 amendments, the provisions included in the 2014 and 2015 amendments to the regulations generally apply for plan years beginning on or after January 1, 2017. Neither of these amendments to the regulations is included in the 2015 Cumulative List. Proposed regulations under § 411(a)(13) were published on October 19, 2010 (75 Fed. Reg. 64197) and can be relied upon until the 2014 and 2015 amendments to the regulations under § 411(a)(13) apply.

15. *411(b)(5)*:[4]

- Notice 2011–85 announces that the Treasury Department and the Service intend to amend the 2010 final hybrid plan regulations to postpone the effective/applicability date of § 1.411(b)(5)–1(d)(1)(iii), (d)(1)(vi), and (d)(6)(i) to plan years that begin on or after a date to be specified in those regulations that is not earlier than January 1, 2013. This notice also extends the deadline for adopting an interim or discretionary amendment under § 411(b)(5). (2011 C. L.)
- Notice 2012–61 provides that certain provisions in the 2010 final hybrid plan regulations will not be effective for plan years beginning before January 1, 2014. (2012 C. L.)

16. *411(d)(6):*

- Final Regulations under § 411(d)(6), which provide an additional limited exception to the anti-cutback rules in the case of a plan sponsor who is a debtor in a bankruptcy proceeding, were published on November 8, 2012 (77 Fed. Reg. 66915). (2012 C. L.)
- Notice 2013–17 provides relief from anti-cutback rules for an amendment to an ESOP to eliminate all in-service distribution options previously used to satisfy the diversification requirements of § 401(a)(28)(B)(i). (2013 C. L.)

17. *411(f):*

- Division P of the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113–235, section 2 adds § 411(f) which provides a special rule for determining normal retirement age for certain existing defined benefit plans. (New)

18. *415*:

- Rev. Rul. 2012–4 describes whether a qualified defined benefit pension plan that accepts a direct rollover of an eligible rollover distribution from a qualified defined contribution plan maintained by the same employer satisfies §§ 411 and 415 in a case in which the defined benefit plan provides an annuity resulting from the direct rollover. (2012 C. L.)
- Proposed regulations under § 415 were published on November 15, 2013 (78 Fed. Reg. 68780) with respect to amounts paid to an Indian tribe member as remuneration for services performed in a fishing rights-related activity. (2014 C.L.)

19. *417*:

- Rev. Rul. 2012–3, 2012–6 I.R.B. 383, describes how the qualified joint and survivor annuity ("QJSA") and the qualified preretirement survivor annuity ("QPSA") rules, described in §§ 401(a)(11) and 417, apply when a deferred annuity contract is purchased under a profit sharing plan. (2012 C. L.)

20. *420*:

- MAP–21 §§ 40241 and 40242 amend § 420 to extend the provisions relating to transfers of excess pension assets to retiree health accounts and to expand those provisions to allow transfers to retiree group term life insurance accounts. (2012 C. L.)
- Section 2007 of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 amends § 420 to extend the provisions relating to transfers to December 31, 2025. (New)

21. *431(b)(8)*:

- PRA 2010 § 211(a)(2) added § 431(b)(8), which provides two special funding rules available to multiemployer plans. (2011 C. L.)
- Notice 2010–83, 2010–51 I.R.B. 862, provides guidance with respect to the special funding rules under § 431(b)(8). (2011 C. L.)

22. *432(e)(9)*:

- Section 432(e)(9), as amended by the Multiemployer Pension Reform Act of 2014 (MPRA), contained in Division O of the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113–235, permits plan sponsors of multiemployer plans to suspend benefits if certain conditions are satisfied. (New)
- Temporary regulations provide guidance to enable plan sponsors of multiemployer plans to suspend benefits if certain conditions are satisfied (80 Fed. Reg. 35207) (New)[5]

23. *436*:[6]

- Section 1.436–1 provides guidance on the application of § 436, which provides a series of limitations on the accrual and payment of benefits under underfunded single employer defined benefit plans. (2012 C. L.)
- Notice 2011–3, 2011–2 I.R.B. 263, provides guidance on the special rules relating to the relaxation of § 436 rules that were included in the funding relief for single employer defined benefit pension plans under PRA 2010. (2012 C. L.)
- Notice 2011–96, 2011–52 I.R.B. 915, provides a sample plan amendment that plan sponsors may adopt to satisfy § 436 regarding limitations on the accrual and payment of benefits. The notice also extends both the deadline to amend a plan to satisfy § 436 and the period during which such an amendment is eligible for relief from the anti-cutback requirements of § 411(d)(6). (2012 C. L.)
- Notice 2012–70, 2012–51 I.R.B. 712, extends the deadline, as set forth in Notice 2011–96, to amend a defined benefit plan to satisfy the requirements of § 436 and provides associated relief from the requirements of § 411(d)(6). (2012 C. L.)
- CSEC Act § 202 exempted certain cooperative and small employer charity

[4]Amendments to the final regulations under § 411(b)(5) (which final regulations were included in the 2010 C. L.) were published on September 19, 2014 (79 Fed. Reg. 56442) and November 16, 2015 (80 Fed. Reg. 70680). Pursuant to the 2015 amendments, the provisions included in the 2014 and 2015 amendments to the regulations generally apply for plan years beginning on or after January 1, 2017. Neither of these amendments to the regulations is included in the 2015 Cumulative List. Proposed regulations under § 411(b)(5) were published on October 19, 2010 (75 Fed. Reg. 64197) and can be relied upon until the 2014 and 2015 amendments to the regulations under § 411(b)(5) apply.

[5]See also temporary regulations providing guidance relating to the administration of the required vote of participants to approve a suspension of benefits (80 Fed. Reg. 52972).

[6]Notice 2012–61 and Notice 2014–53, 2014–43 I.R.B.737, provide guidance on the application of MAP–21 and HATFA. Notice 2012–55, 2012–36 I.R.B. 332, and Notice 2013–11, 2013–11 I.R.B. 610, provide guidance on the 25-year average segment rates under MAP–21.

pension plans from the limitations of §§ 436 and 401(a)(33), and provided new funding rules for these plans. (2014 C.L.)

The following guidance contains sample or model amendments: Rev. Rul. 2011–1 (group trusts); and Notice 2011–96 (limitations on the accrual and payment of benefits under underfunded single employer defined benefit plans).

DRAFTING INFORMATION

The principal author of this notice is Maxine Terry of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this announcement, contact Ms. Terry at (202) 317-4102 (not a toll-free number).

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

Notice 2015–85

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).

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.[1] 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 November 2015 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of November 2015 are, respectively, 1.76, 4.15, and 5.13.

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) to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates. For plan years beginning before 2018, the applicable minimum percentage is 90% and the applicable maximum percentage is 110%. The 25-year average segment rates for plan years beginning in 2014, 2015, and 2016 were published in Notice 2013–58, 2013–40 I.R.B. 294, Notice 2014–50, 2014–40 I.R.B. 590, and Notice 2015–61, 2015–39 I.R.B. 408, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

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

Applicable Month	First Segment	Second Segment	Third Segment
December 2015	1.39	3.98	5.00

Based on § 430(h)(2)(C)(iv), the 24-month averages applicable for December 2015 adjusted to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates, are as follows:

For Plan Years Beginning In	Applicable Month		Adjusted 24-Month Average Segment Rates		
			First Segment	Second Segment	Third Segment
2014	December	2015	4.99	6.32	6.99
2015	December	2015	4.72	6.11	6.81
2016	December	2015	4.43	5.91	6.65

[1]Pursuant to § 433(h)(3)(A), the 3rd segment rate determined under § 430(h)(2)(C) is used to determine the current liability of a CSEC plan (which is used to calculate the minimum amount of the full funding limitation under § 433(c)(7)(C)).

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 November 2015 is 3.03 percent. The Service determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in August 2045 determined each day through November 10, 2015 and the yield on the 30-year Treasury bond maturing in November 2045 determined each day for the balance of the month. 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		30-Year Treasury Weighted	Permissible Range		
Month	*Year*	Average	90%	to	105%
December	2015	3.13	2.81		3.28

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 November 2015 are as follows:

First Segment	Second Segment	Third Segment
1.76	4.15	5.13

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 202-317-6700 or Tony Montanaro at 202-317-8698 (not a toll-free number).

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

Maturity	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*
0.5	0.53	20.5	4.86	40.5	5.17	60.5	5.27	80.5	5.33
1.0	0.94	21.0	4.88	41.0	5.17	61.0	5.28	81.0	5.33
1.5	1.31	21.5	4.89	41.5	5.17	61.5	5.28	81.5	5.33
2.0	1.60	22.0	4.90	42.0	5.18	62.0	5.28	82.0	5.33
2.5	1.83	22.5	4.91	42.5	5.18	62.5	5.28	82.5	5.33
3.0	2.00	23.0	4.93	43.0	5.19	63.0	5.28	83.0	5.33
3.5	2.14	23.5	4.94	43.5	5.19	63.5	5.29	83.5	5.34
4.0	2.28	24.0	4.95	44.0	5.19	64.0	5.29	84.0	5.34
4.5	2.41	24.5	4.96	44.5	5.20	64.5	5.29	84.5	5.34
5.0	2.55	25.0	4.97	45.0	5.20	65.0	5.29	85.0	5.34
5.5	2.69	25.5	4.98	45.5	5.20	65.5	5.29	85.5	5.34
6.0	2.83	26.0	4.99	46.0	5.21	66.0	5.29	86.0	5.34
6.5	2.98	26.5	4.99	46.5	5.21	66.5	5.29	86.5	5.34
7.0	3.13	27.0	5.00	47.0	5.21	67.0	5.30	87.0	5.34
7.5	3.27	27.5	5.01	47.5	5.21	67.5	5.30	87.5	5.34
8.0	3.41	28.0	5.02	48.0	5.22	68.0	5.30	88.0	5.34
8.5	3.55	28.5	5.03	48.5	5.22	68.5	5.30	88.5	5.34
9.0	3.68	29.0	5.04	49.0	5.22	69.0	5.30	89.0	5.35
9.5	3.80	29.5	5.04	49.5	5.23	69.5	5.30	89.5	5.35
10.0	3.91	30.0	5.05	50.0	5.23	70.0	5.30	90.0	5.35
10.5	4.01	30.5	5.06	50.5	5.23	70.5	5.31	90.5	5.35
11.0	4.11	31.0	5.07	51.0	5.23	71.0	5.31	91.0	5.35
11.5	4.20	31.5	5.07	51.5	5.24	71.5	5.31	91.5	5.35
12.0	4.28	32.0	5.08	52.0	5.24	72.0	5.31	92.0	5.35
12.5	4.35	32.5	5.09	52.5	5.24	72.5	5.31	92.5	5.35
13.0	4.41	33.0	5.09	53.0	5.24	73.0	5.31	93.0	5.35
13.5	4.47	33.5	5.10	53.5	5.25	73.5	5.31	93.5	5.35
14.0	4.52	34.0	5.10	54.0	5.25	74.0	5.31	94.0	5.35
14.5	4.57	34.5	5.11	54.5	5.25	74.5	5.32	94.5	5.35
15.0	4.61	35.0	5.11	55.0	5.25	75.0	5.32	95.0	5.35
15.5	4.64	35.5	5.12	55.5	5.25	75.5	5.32	95.5	5.36
16.0	4.68	36.0	5.12	56.0	5.26	76.0	5.32	96.0	5.36
16.5	4.71	36.5	5.13	56.5	5.26	76.5	5.32	96.5	5.36
17.0	4.73	37.0	5.13	57.0	5.26	77.0	5.32	97.0	5.36
17.5	4.76	37.5	5.14	57.5	5.26	77.5	5.32	97.5	5.36
18.0	4.78	38.0	5.14	58.0	5.27	78.0	5.32	98.0	5.36
18.5	4.80	38.5	5.15	58.5	5.27	78.5	5.33	98.5	5.36
19.0	4.82	39.0	5.15	59.0	5.27	79.0	5.33	99.0	5.36
19.5	4.83	39.5	5.16	59.5	5.27	79.5	5.33	99.5	5.36
20.0	4.85	40.0	5.16	60.0	5.27	80.0	5.33	100.0	5.36

Application of *Obergefell* to Qualified Retirement Plans and Health and Welfare Plans

Notice 2015–86

I. PURPOSE

This notice provides guidance on the application of the decision in *Obergefell v. Hodges*, 576 U.S. ___, 135 S.Ct. 2584 (2015), to retirement plans qualified under section 401(a) of the Internal Revenue Code (Code) and to health and welfare plans, including cafeteria plans under section 125 of the Code. This guidance relates solely to the application of federal tax law with respect to same-sex spouses.

II. BACKGROUND

.01 *Windsor and Impact on Employee Benefit Plans*

Prior to the decision of the Supreme Court in *United States v. Windsor*, 570 U.S. ___, 133 S.Ct. 2675 (2013), section 3 of the Defense of Marriage Act (DOMA), 1 U.S.C. § 7, prohibited recognition of same-sex spouses for purposes of federal tax law. As a result, same-sex spouses who were married under applicable state law were not recognized as spouses for purposes of the federal tax rules that apply because an individual is married, including the rules that apply with respect to employee benefit plans.

On June 26, 2013, the Supreme Court held in *Windsor* that section 3 of DOMA is unconstitutional. As a result of this decision, marriages of same-sex spouses were recognized for federal tax law purposes. On August 29, 2013, the Department of the Treasury (Treasury) and the IRS issued Rev. Rul. 2013–17, 2013–38 I.R.B. 201. Among other issues addressed in the ruling, Treasury and the IRS adopted a general rule for federal tax purposes recognizing a marriage of same-sex couples that was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of such marriages. As a result of *Windsor* and Rev. Rul. 2013–17, marriages of same-sex spouses that were valid in the state where they were entered into, including marriages entered into in previous years, were recognized for federal tax law purposes.[1]

Following Rev. Rul. 2013–17, Treasury and the IRS issued the following additional guidance addressing various employee benefit and employment tax issues (collectively referred to in this notice as the Post-*Windsor* Guidance): Notice 2014–19, 2014–17 I.R.B. 979, amplified by Notice 2014–37, 2014–24 I.R.B. 1100 (applying *Windsor* and Rev. Rul. 2013–17 to qualified retirement plans); Notice 2013–61, 2013–44 I.R.B. 432 (applying *Windsor* and Rev. Rul. 2013–17 to employment taxes, including procedures for adjustments or claims for refunds or credits); and Notice 2014–1, 2014–02 I.R.B. 270 (applying *Windsor* and Rev. Rul. 2013–17 to elections and reimbursements for same-sex spouses under cafeteria plans, flexible spending arrangements, and health savings accounts).[2]

.02 *Limited Effect of Obergefell for Federal Tax Law Purposes*

On June 26, 2015, the Supreme Court held in *Obergefell* that the Fourteenth Amendment (i) requires a state's civil marriage laws to apply to same-sex couples "on the same terms and conditions as opposite-sex couples," and (ii) prohibits a state from refusing to "recognize a lawful same-sex marriage performed in another State on the ground of its same-sex character."[3] Because *Obergefell* requires that states recognize marriages of same-sex couples performed in other states, certain marriages performed in previous periods will be recognized for the first time for state law purposes. However, because these same marriages have already been recognized for federal tax law purposes pursuant to *Windsor* and the Post-*Windsor* Guidance, Treasury and the IRS do not anticipate any significant impact from *Obergefell* on the application of federal tax law to employee benefit plans.

Treasury and the IRS understand, however, that some plan sponsors may alter aspects of their employee benefit plans, or how their plans are administered, in response to *Obergefell*. In addition, some plan sponsors have asked for clarification of the application of *Obergefell* to certain changes to employee benefit plans, such as a discretionary expansion of benefits that is not required under the federal tax rules. The following questions and answers provide guidance to address these issues.

III. QUESTIONS AND ANSWERS

Qualified Retirement Plans

Q–1. For federal tax law purposes, does *Obergefell* require that a sponsor of a qualified retirement plan change the terms or operation of its plan?

A–1. A qualified retirement plan is not required to make additional changes as a result of *Obergefell*. Q&A–8 of Notice 2014–19 required qualified retirement plans to be amended to reflect *Windsor* and Notice 2014–19 no later than December 31, 2014 (or a possible delayed amendment deadline for governmental plans, as described in Q&A–8 of Notice 2014–19). Thus, under *Windsor* and Notice 2014–19, any plan amendments required to recognize same-sex spouses and their marriages with respect to the section 401(a) qualification requirements are already required to be adopted and effective (subject to a possible delayed amendment deadline for governmental plans). However, a plan sponsor may decide to amend its plan following *Obergefell* to make certain optional changes or clarifications. Examples of discretionary amendments a plan sponsor may decide to make to its qualified retirement plan are described in Q&A–2 and Q&A–3 of this notice.

Q–2. May a qualified retirement plan be amended to provide new rights or ben-

[1]Individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under state law that is not denominated as a marriage under the laws of the state are not recognized as spouses for federal tax law purposes. See Rev. Rul. 2013–17.

[2]For further information regarding *Windsor*, Rev. Rul. 2013–17, and Notice 2014–19, see *IRS FAQs on Application of the Windsor Decision and Post-Windsor Guidance to Qualified Retirement Plans* (*http://www.irs.gov/Retirement-Plans/Application-of-the-Windsor-Decision-and-Post-Windsor-Published-Guidance-to-Qualified-Retirement-Plans-FAQs*).

[3]On October 23, 2015, Treasury and the IRS published proposed regulations that reflect the holdings of *Obergefell*, *Windsor*, and Rev. Rul. 2013–17, and that define terms in the Code describing the marital status of taxpayers. Definition of Terms Relating to Marital Status, 80 Fed. Reg. 64378 (Oct. 23, 2015).

efits with respect to participants with same-sex spouses?

A–2. In response to *Windsor*, some plan sponsors may have amended their qualified retirement plans to provide new rights or benefits with respect to participants with same-sex spouses in order to make up for benefits or benefit options that had not previously been available to those participants.[4] For example, such an amendment may have provided participants who commenced a single life annuity distribution prior to June 26, 2013 (the date of the *Windsor* decision) with an opportunity to elect a qualified joint and survivor annuity (QJSA) form of distribution as of a new annuity starting date. Following *Obergefell*, some plan sponsors might similarly decide to make discretionary plan amendments to provide new rights or benefits with respect to participants with same-sex spouses. Plan sponsors are permitted to make such amendments, which must comply with the applicable qualification requirements (such as the nondiscrimination requirements of section 401(a)(4)).

Q–3. Q&A–3 of Notice 2014–19 provided that a qualified retirement plan could be amended to recognize marriages of same-sex couples on a retroactive basis as of a date earlier than June 26, 2013, the date of the *Windsor* decision. If a plan sponsor did not make such a retroactive amendment to its qualified retirement plan following issuance of Notice 2014–19, may the qualified retirement plan now be amended to recognize marriages of same-sex couples on a retroactive basis and only for certain purposes as described in Q&A–3 of Notice 2014–19?

A–3. In general, under *Windsor* and Notice 2014–19, a retirement plan fails to meet the applicable section 401(a) qualification requirements (such as the qualified joint and survivor requirements of section 401(a)(11)) if it does not recognize the same-sex spouse of a participant as a spouse on and after June 26, 2013, the date of the *Windsor* decision. However, a plan will not lose its qualified status if it also applies *Windsor* prior to June 26, 2013.[5] A plan sponsor that has not yet made such a retroactive amendment in accordance with Notice 2014–19 may decide to make such an amendment after this notice is issued. Such an amendment will not cause the plan to lose its qualified status, provided the amendment otherwise complies with Q&A–3 of Notice 2014–19 (for example, the amendment must comply with applicable qualification requirements, such as section 401(a)(4)).

Q–4. Is an amendment to a single-employer defined benefit plan that is intended to respond to *Obergefell* or this notice (for example, by extending certain rights and benefits to a same-sex spouse) subject to the requirements of section 436(c)?

A–4. In general, under section 436(c), a discretionary amendment to a single-employer defined benefit plan that increases the liabilities of the plan cannot take effect unless the plan's adjusted funding target attainment percentage is sufficient or the plan sponsor makes the additional contribution specified under section 436(c)(2). Because an amendment that extends rights and benefits to a same-sex spouse in response to *Obergefell* or this notice (for example, an amendment described in Q&A–2 or Q&A–3 of this notice) is a discretionary expansion of coverage, the amendment is subject to the requirements of section 436(c).

Q–5. What is the deadline for the sponsor of a qualified retirement plan to adopt a plan amendment pursuant to this notice, such as an amendment described in Q&A–2?

A–5. Amendments to a qualified retirement plan that are contemplated by this notice are not interim amendments within the meaning of section 5.02 of Rev. Proc. 2007–44, or successor guidance, but are discretionary amendments. Thus, pursuant to section 5.05(2) of Rev. Proc. 2007–44, the deadline to adopt a plan amendment pursuant to this notice is generally the end of the plan year in which the amendment is operationally effective. However, pursuant to section 5.06(1) of Rev. Proc. 2007–44, in the case of a governmental plan, the deadline for any amendment made pursuant to this notice is the later of (i) the end of the plan year in which the amendment is operationally effective, or (ii) the last day of the next regular legislative session beginning after the amendment is operationally effective in which the governing body with authority to amend the plan can consider a plan amendment under the laws and procedures applicable to the governing body's deliberations.

Health and Welfare Plans

Q–6. For federal tax law purposes, does *Obergefell* require that a sponsor of a health or welfare plan change the terms or operation of its plan?

A–6. Federal tax law generally does not require health and welfare plans to offer any specific rights or benefits to the spouse of a participant. To the extent that a health or welfare plan does offer benefits to the spouse of a participant, the federal tax treatment of the benefits that are provided to a same-sex spouse has already been addressed in Rev. Rul. 2013–17 and Notice 2014–1. Accordingly, no changes to the terms of a health or welfare plan are required due to *Obergefell*.

If a health or welfare plan does offer benefits to the spouse of a participant, however, *Obergefell* could require changes to the operation of the plan to the extent that the decision results in a change in the group of spouses eligible for coverage under the terms of the plan. For example, if the terms of a health or welfare plan provide that coverage is offered to the spouse of a participant as defined under applicable state law, and the plan administrator determines that applicable state law has expanded to include same-sex spouses as a result of *Obergefell*, then the terms of the plan would require coverage of same-sex spouses as of the date of the change in applicable state law. See Q&A–7 below for a discussion of election changes under a section 125 cafeteria plan under such circumstances.

Q–7. If, as of the beginning of a plan year, a health or welfare plan that is offered under a section 125 cafeteria plan does not permit coverage of same-sex spouses, and the terms or operation of the plan change during the plan year to permit

[4]See, for example, FAQ–4 in *IRS FAQs on Application of the Windsor Decision and Post-Windsor Guidance to Qualified Retirement Plans* (*http://www.irs.gov/Retirement-Plans/Application-of-the-Windsor-Decision-and-Post-Windsor-Published-Guidance-to-Qualified-Retirement-Plans-FAQs*).

[5]See Q&A–3 of Notice 2014–19.

coverage of same-sex spouses, may the cafeteria plan permit a participant to revoke an existing election and submit a new election?

A–7. Yes, if the terms of the cafeteria plan allow (or, under Q&A–8 of this notice, are amended to allow) a participant to make a change in coverage due to a significant improvement in coverage during the coverage period under an existing coverage option, then the participant may revoke an existing election and make a new election as permitted under § 1.125–4(f)(3)(iii). If the eligibility criteria for a qualified benefit offered under a cafeteria plan change during a plan year to add eligibility for same-sex spouses, this change constitutes a significant improvement in coverage under an existing coverage option for purposes of § 1.125–4(f)(3)(iii). Such a change in eligibility criteria could occur, for example, as a result of an amendment to the terms of the plan; a change in applicable state law (to the extent the terms of the plan refer to state law); or a change in the interpretation of the existing terms of the plan.

A cafeteria plan that allows participants to make a change in election due to a significant improvement in coverage under an existing coverage option may permit a participant to revoke an existing election and submit a new election if same-sex spouses first become eligible for coverage under the terms of the plan during the period of coverage for any reason, including but not limited to those listed in the preceding paragraph. This new election may be an election by a participant to add coverage for a same-sex spouse to a benefit option in which the participant is already enrolled, or an election by a participant who had not previously elected coverage to add coverage for the participant and a same-sex spouse.

Q–8. If the terms of a cafeteria plan do not allow participants to make a change in election due to a significant improvement in coverage during the coverage period under an existing coverage option, may the plan sponsor amend the terms of the cafeteria plan to allow such an election?

A–8. Yes. The cafeteria plan may be amended at any time to permit participants to make a change in election. In the case of a change described in Q&A–7, such an amendment must be adopted no later than the last day of the plan year including the later of (i) the date same-sex spouses first became eligible for coverage under the plan, or (ii) December 9, 2015. Such an amendment may be retroactive to the date same-sex spouses first became eligible for coverage under the plan.

IV. EFFECT ON OTHER DOCUMENTS

Notice 2014–19 is amplified.

V. NO INFERENCE

No inference should be drawn from this notice as to the application of any law other than federal tax law, including the application of any provisions of the Constitution of the United States or Title VII of the Civil Rights Act of 1964,[6] to the treatment of same-sex spouses under employee benefit plans.

VI. DRAFTING INFORMATION

The principal authors of this notice are Jeremy Lamb and Shad Fagerland of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding the qualified retirement plan aspects of this notice, contact Mr. Lamb at (202) 317-6799 (not a toll-free number) and regarding the health and welfare plan aspects of this notice, contact Mr. Fagerland at (202) 317-5500 (not a toll-free number).

Further Guidance on the Application of the Group Health Plan Market Reform Provisions of the Affordable Care Act to Employer-Provided Health Coverage and on Certain Other Affordable Care Act Provisions

Notice 2015–87

I. PURPOSE AND OVERVIEW

This notice provides further guidance on the application of various provisions of the Affordable Care Act[1] to employer-provided health coverage. Part II of this notice applies to provisions within the jurisdiction of the Treasury Department (Treasury) and the Internal Revenue Service (IRS), the Departments of Health and Human Services (HHS), and Labor (DOL) (collectively the Departments). Parts III through VI of this notice apply only to provisions of the Internal Revenue Code, and accordingly the guidance on these parts is provided solely by Treasury and IRS. For purposes of this notice, references to sections refer to sections of the Internal Revenue Code unless otherwise indicated.

Part II of this notice provides guidance on the application of the market reforms[2] that apply to group health plans under the Affordable Care Act (the market reforms) to various types of employer health care arrangements. The notice covers, among other health care arrangements: (1) health reimbursement arrangements (HRAs), including HRAs integrated with a group health plan, and similar employer-funded health care arrangements, and (2) group health plans under which an employer reimburses an employee for some or all of the premium expenses incurred for an individual health insurance policy, such as a reimbursement arrangement described in

[6]Public Law 88–352, 78 Stat. 241.

[1]The "Affordable Care Act" refers to the Patient Protection and Affordable Care Act (enacted March 23, 2010, Pub. L. No. 111–148) (ACA), as amended by the Health Care and Education Reconciliation Act of 2010 (enacted March 30, 2010, Pub. L. No. 111–152), and as further amended by the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (enacted April 15, 2011, Pub. L. No. 112–10) and the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (enacted July 31, 2015, Pub. L. No. 114–41).

[2]Section 1001 of the ACA added new Public Health Service Act (PHS Act) §§ 2711–2719. Section 1563 of the ACA (as amended by ACA § 10107(b)) added Code § 9815(a) and ERISA § 715(a) to incorporate the provisions of part A of title XXVII of the PHS Act into the Code and ERISA, and to make them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans. The PHS Act sections incorporated by these references are sections 2701 through 2728. Accordingly, these referenced PHS Act sections (that is, the market reforms) are subject to shared interpretive jurisdiction by the Departments.

Revenue Ruling 61–146, 1961–2 CB 25, or an arrangement under which the employer uses its funds to directly pay the premium for an individual health insurance policy covering the employee (collectively, an employer payment plan). This notice supplements the guidance provided in Notice 2013–54, 2013–40 IRB 287; FAQs about Affordable Care Act Implementation (Part XXII) issued by the Department of Labor on November 6, 2014; Notice 2015–17, 2015–14 IRB 845; and final regulations implementing the market reform provisions of the ACA published in the Federal Register on November 18, 2015, 80 FR 72192. DOL and HHS have reviewed Part II of this notice and have advised Treasury and the IRS that they agree with this guidance.

Part III of this notice clarifies certain aspects of the employer shared responsibility provisions of § 4980H, including the identification of employee contributions when employers offer HRAs, flex credits, opt-out payments, or fringe benefit payments required under the McNamara-O'Hara Service Contract Act or other similar laws, the application of the adjusted 9.5 percent affordability threshold under § 36B(c)(2)(i)(II) to the safe harbor provisions under § 4980H, and the employer status of certain entities for § 4980H purposes.

Part IV of this notice clarifies certain aspects of the application to government entities of § 4980H, the information reporting provisions for applicable large employers under § 6056, and application of the rules for health savings accounts (HSAs) to persons eligible for benefits administered by the Department of Veterans Affairs (VA).

Part V of this notice clarifies the application of the COBRA continuation coverage rules to unused amounts in a health flexible spending arrangement (health FSA) carried over and available in later years pursuant to Notice 2013–71, 2013–47 IRB 532, and conditions that may be put on the use of carryover amounts.

Part VI of this notice addresses relief from penalties under §§ 6721 and 6722 that has been provided for employers that make a good faith effort to comply with the requirements under § 6056 to report information about offers made in calendar year 2015.

II. FURTHER GUIDANCE ON THE APPLICATION OF THE GUIDANCE UNDER NOTICE 2013–54 (APPLICATION OF THE MARKET REFORMS TO EMPLOYER PAYMENT PLANS)

A. Further Guidance on the Application of the Guidance under Notice 2013–54 to HRAs

***Question 1*:** May an HRA that covers fewer than two participants who are current employees be used to purchase individual market coverage after an employee covered by the HRA ceases to be covered by other integrated group health plan coverage without causing the HRA to fail to comply with the market reforms?

***Answer 1*:** Yes. As explained in Notice 2013–54, Q&A–10, an HRA that covers fewer than two participants who are current employees (such as one covering only retirees or other former employees) is not subject to the market reforms. This includes a retiree-only HRA under which available amounts are determined in whole or in part by amounts credited during the period that the individual was a current employee covered by an HRA integrated with another group health plan. However, this former-employee-only HRA constitutes an eligible employer-sponsored plan under § 5000A(f)(2) for any month during which funds are retained in the HRA (including amounts retained in the HRA during periods after the employer has ceased making contributions). As a result, a participant in an HRA with available funds for any month will not be eligible for a premium tax credit under § 36B for that month. See Notice 2013–54, Q&A–10.

***Question 2*:** Notice 2013–54, Q&A–5 provides that unused amounts that were credited to an HRA while it was integrated with other group health plan coverage may be used to reimburse medical expenses in accordance with the terms of the HRA after an employee ceases to be covered by the other integrated group health plan coverage without causing the HRA to fail to comply with the market reforms. May an HRA or similar employer-funded health care arrangement that covers two or more participants who are current employees (a current-employee HRA) be used to purchase individual market coverage after the employee covered by the HRA ceases to be covered by other integrated group health plan coverage without causing the HRA to fail to comply with the market reforms?

***Answer 2*:** No. A current-employee HRA fails to be integrated with another group health plan if the amounts credited to the HRA may be used to purchase individual market coverage. This answer is intended to clarify the intent of Notice 2013–54, Q&A–5, which in permitting unused amounts credited to an HRA while it was integrated with other group health plan coverage to be used in accordance with the preexisting terms of the HRA, assumed that those HRA terms would not provide a current employee the ability to purchase duplicative or substitute individual market coverage. Accordingly, this failure occurs, for example, even if the current-employee HRA terms provide that it may be used to purchase individual coverage while the current employee is covered by a group health plan with which it is integrated (which coverage generally would be duplicative and thus not purchased by the current employee) or, alternatively, provide that unused amounts previously credited to the HRA may be used to purchase individual market coverage in periods during which the participant is no longer covered by a group health plan with which the HRA is integrated. Accordingly, a current-employee HRA that includes terms permitting the purchase of individual market coverage will constitute a group health plan that fails to meet the market reforms because it is not integrated with another group health plan.

***Question 3*:** On January 24, 2013, the Departments issued FAQs that address the application of the annual dollar limit prohibition to certain HRAs (HRA FAQs).[3] The HRA FAQs stated that it was anticipated that future guidance would provide

[3]See Affordable Care Act Implementation FAQs Part XI, available at http://www.dol.gov/ebsa/faqs/faq-aca11.html and at http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs11.html.

that, whether or not an HRA was integrated, certain HRA amounts that were credited prior to January 1, 2014 under terms that were in effect prior to January 1, 2013 could be used after December 31, 2013 to reimburse medical expenses in accordance with those terms without causing the HRA to fail to comply with the annual dollar limit prohibition. Notice 2013–54 summarized this FAQ but did not include its substance in the guidance section of the notice. Does the guidance in the HRA FAQs remain unchanged, such that whether or not an HRA is integrated with other group health plan coverage, unused amounts credited before January 1, 2014, including any amounts credited before January 1, 2013 and any amounts that were credited during 2013 under the terms of an HRA as in effect on January 1, 2013, may be used after December 31, 2013 to reimburse medical expenses in accordance with those terms without causing the HRA to fail to comply with the annual dollar limit prohibition and the preventive services requirements?

***Answer 3*:** Yes. Whether or not an HRA is integrated with other group health plan coverage, unused amounts credited before January 1, 2014, including any amounts credited before January 1, 2013 and any amounts that were credited during 2013 under the terms of an HRA in effect on January 1, 2013, may be used after December 31, 2013 to reimburse medical expenses in accordance with those terms without causing the HRA to fail to comply with the annual dollar limit prohibition or the preventive services requirements. If the HRA terms in effect on January 1, 2013, did not prescribe a set amount or amounts to be credited during 2013 or the timing for crediting such amounts, then the amounts credited during 2013 may not exceed the amounts credited for 2012 and may not be credited on an earlier schedule or at a faster rate than the crediting schedule or rate that applied during 2012.

***Question 4*:** Notice 2013–54, Q&A–4 explains the circumstances under which an HRA may be integrated with a group health plan. May an HRA available to reimburse the medical expenses of an employee's spouse and/or dependents (a family HRA) be integrated with self-only coverage under the employer's other group health plan?

***Answer 4*:** No. An HRA is permitted to be integrated with the employer's other group health plan coverage for purposes of the application of the group market reforms only as to the individuals who are enrolled in both the HRA and the employer's other group health plan. If the spouse and/or dependents are not enrolled in the employer's group health plan coverage, the coverage of these individuals under the HRA cannot be integrated with the coverage under the employer's group health plan, and the HRA coverage generally would fail to meet the group market reforms. Note that an HRA could be structured to be continuously integrated if eligibility for coverage under the HRA automatically applied only to individuals covered under the employer's other group health plan, so that eligibility for expense reimbursement would expand automatically if the employee changed coverage from employee-only coverage to coverage including a spouse and/or dependents (and vice versa, for example, if the employee changed coverage from family coverage to employee-only coverage).

Treasury and IRS are aware that many HRAs do not currently contain the restriction necessary to integrate an HRA with employee-only coverage under the employer's other group health plan because the HRA is intended to reimburse only limited expenses such as co-pays and employees have been permitted to use them for these types of expenses of other family members regardless of whether those family members were also enrolled in the employer's other group health plan. To facilitate transition to compliance with the group market reforms through the use of integrated HRAs, Treasury and IRS will not treat an HRA available for the expenses of family members not enrolled in the employer's other group health plan for plan years beginning before January 1, 2016, as failing to be integrated with an employer's other group health plan for plan years beginning before January 1, 2016, nor will they treat an HRA and group health plan that otherwise would be integrated based on the terms of the plan as of December 16, 2015 as failing to be integrated with an employer's other group health plan for plan years beginning before January 1, 2017, solely because the HRA covers expenses of one or more of an employee's family members even if those family members are not also enrolled in the employer's other group health plan. To be integrated with the employer's group health plan, however, the HRA must meet all the other requirements of the applicable guidance on integration with a group health plan. In addition, the employer will be responsible under § 6055 for reporting the coverage as minimum essential coverage for each individual the medical expenses for whom are reimbursable by the HRA who is not also enrolled in the employer's group health plan. See Notice 2015–68, 2015–41 IRB 547.

B. Further Guidance on the Application of the Guidance under Notice 2013–54 to Other Arrangements

***Question 5*:** If the terms of an HRA or employer payment plan provide that the HRA or employer payment plan may only be used to reimburse (or pay directly for) premiums for individual market coverage consisting solely of excepted benefits[4] (such as dental coverage), does the HRA or employer payment plan fail to satisfy the market reforms?

***Answer 5*:** No. An HRA or employer payment plan that, by its terms, reimburses (or pays directly for) premiums for individual market coverage only if that individual market coverage covers only excepted benefits does not fail to comply with the market reforms solely due to the ability to reimburse the employer for that individual market coverage. The market reforms do not apply to a group health plan that is designed to provide solely excepted benefits. As a result, an HRA or employer payment plan and the excepted benefits individual market coverage for which the arrangement pays are not subject to the annual dollar limit prohibition or the preventive services requirement and therefore do not fail to satisfy those market reforms.

Example 1. *Facts*: The terms of an HRA provide that the HRA may only be used to

[4]See Code § 9832(c), ERISA § 733(c) and PHS Act § 2791(c)

reimburse premiums for individual market coverage that covers only excepted benefits, but not individual market coverage that covers benefits other than excepted benefits.

Conclusion: The HRA is not subject to the annual dollar limit prohibition or the preventive services requirement.

Example 2**.** *Facts*: The terms of an HRA provide that the HRA may be used to reimburse premiums for individual market coverage, with no requirement that the individual market coverage cover only excepted benefits. A covered employee is reimbursed by the HRA for premiums for individual market coverage that covers only excepted benefits.

Conclusion: The HRA is subject to the annual dollar limit prohibition and the preventive services requirement, because the terms of the HRA would have permitted reimbursement of premiums for individual market coverage that is not limited to excepted benefits.

***Question 6*:** Notice 2013–54 provides that a group health plan used to purchase coverage on the individual market is not integrated with that individual market coverage. If the group health plan is an employer payment plan offered through a cafeteria plan under § 125 (referred to throughout this notice as a cafeteria plan) that uses salary reduction or other contributions to purchase coverage on the individual market, is the employer payment plan integrated with the individual market coverage?

***Answer 6*:** No. An employer arrangement reimbursing the cost of individual market coverage offered under a cafeteria plan is an employer payment plan (whether or not funded solely by salary reduction or also including other employer contributions, such as flex credits), which (as set forth in Notice 2013–54) is a group health plan for purposes of the market reforms. This separate group health plan (in this case, the employer payment plan offered under the cafeteria plan) cannot be integrated with the individual market coverage purchased through that employer payment plan.

As a separate arrangement that is a group health plan under the Code, that employer payment plan offered through the cafeteria plan generally must satisfy the requirements for group health plans (unless the individual market coverage the premiums for which the plan pays or reimburses covers only excepted benefits, see Q&A–5 above). However, because the employer payment plan offered through the cafeteria plan cannot be integrated with any individual market coverage purchased under the arrangement, it will fail to comply with (1) the annual dollar limit prohibition, because it is considered to impose an annual limit up to the cost of the individual market coverage purchased through the arrangement, and (2) the preventive services requirements, because it does not provide preventive services without cost-sharing in all instances. Consequently, an employer payment plan that reimburses the cost of individual coverage offered through a cafeteria plan will fail to satisfy the market reforms.

III. ADDITIONAL MISCELLANEOUS GUIDANCE ON AFFORDABILTY OF EMPLOYER-SPONSORED HEALTH COVERAGE

***Question 7*:** How are contributions to an HRA taken into account for purposes of determining whether an applicable large employer has made an offer of affordable minimum value coverage under an eligible employer-sponsored plan under §§ 36B and 5000A and any related consequences under § 4980H(b) (including application of the affordability safe harbors in § 54.4980H–5(e)(2))?

***Answer 7*:** An applicable large employer (as defined in § 54.4980H–1(a)(4)) may be subject to an assessable payment under § 4980H(b) for any month for which a full-time employee (as defined in § 54.4980H–1(a)(21)) has received a premium tax credit under § 36B in connection with enrollment in a qualified health plan through the Marketplace. Under § 36B(c)(2)(C), an employee is not eligible for the premium tax credit for any month for which the employee is eligible for coverage under an eligible employer-sponsored plan that provides minimum value and is affordable (or for any month for which the employee enrolls in an eligible employer-sponsored plan, regardless of whether the plan is affordable or provides minimum value). For this purpose, an offer of coverage is affordable if the employee's required contribution (within the meaning of § 5000A(e)(1)(B)) for coverage under the plan is 9.5 percent (as adjusted annually) or less of the employee's household income. See § 36B(c)(2)(C)(II).

The amount of an employee's required contribution for purposes of determining affordability under § 36B is determined under § 5000A and the related regulations. Section 5000A(e)(1)(B)(i) provides that the term "required contribution" means, in the case of an individual eligible to purchase minimum essential coverage consisting of coverage through an eligible employer-sponsored plan, the portion of the annual premium that would be paid by the individual (without regard to whether paid through salary reduction or otherwise) for self-only coverage. As a result, the determination of whether an applicable large employer has made an offer of affordable, minimum value coverage under an eligible employer-sponsored plan for purposes of any related consequences under § 4980H(b) generally is based on the standards set forth in §§ 5000A and 36B.

The treatment of employer contributions to HRAs for purposes of determining the employee's required contribution is determined under the rules provided in §§ 1.5000A–3(e)(3)(ii)(D) and 1.36B–2(c)(v)(A)(5). Under those rules, amounts made available for the current plan year under an HRA that an employee may use to pay premiums for an eligible employer-sponsored plan, or that an employee may use to pay premiums for an eligible employer-sponsored plan and also may use for cost-sharing and/or for other health benefits not covered by that plan in addition to premiums, are counted toward the employee's required contribution (and thus reduce the dollar amount of that required contribution) if the HRA would be integrated, as that term is used in Notice 2013–54 or in any successor published guidance, with the eligible employer-sponsored plan for an employee enrolled in the plan.

Employer contributions to an HRA count toward an employee's required contribution only to the extent the amount of the employer's annual contribution to the HRA is required under the terms of the arrangement or otherwise determinable within a reasonable time before the employee must decide whether to enroll in the eligible employer-sponsored plan. Sections 1.5000A–3(e)(3)(ii)(D) and 1.36B–2(c)(v)(A)(5). A contribution that meets this requirement relates to the im-

mediately subsequent period of coverage for which the employee could enroll and use the HRA contribution. For purposes of § 4980H(b) and the related reporting under § 6056 (Form 1095–C, Employer-Provided Health Insurance Offer and Coverage), the employer contribution to an HRA (and any resulting reduction in the employee contribution) is treated as made ratably for each month of the period to which it relates.

Example. *Facts*: The employee contribution for health coverage under the major medical group health plan offered by the employer is generally $200 per month. For the current plan year, the employer makes newly available $1,200 under an HRA that the employee may use to pay the employee share of contributions for the major medical coverage, pay cost-sharing, or pay towards the cost of vision or dental coverage. The HRA satisfies all requirements for integration with the major medical group health plan as provided in Notice 2013–54.

Conclusion: The $1,200 employer contribution to the HRA reduces the employee's required contribution for the coverage under §§ 36B and 5000A. For purposes of § 4980H(b) and the related reporting under § 6056, the employee's required contribution for the major medical plan is $100 ($200 – $100) per month because 1/12 of the $1,200 HRA amount per month is taken into account as an employer contribution whether or not the employee uses the HRA to pay the employee share of contributions for the major medical coverage.

Section 54.4980H–5(e)(2) provides three affordability safe harbors for purposes of § 4980H(b), but those safe harbors relate to the calculation of the employee's household income and not the calculation of the employee's required contribution. For purposes of applying those safe harbors to determine whether an offer of coverage is affordable, the treatment of employer contributions to an HRA is consistent with the treatment of those contributions for purposes of determining whether coverage is affordable under §§ 5000A and 36B(c)(2)(C)(II) as described above.

***Question 8*:** How are employer flex contributions to a cafeteria plan taken into account for purposes of determining whether an applicable large employer has made an offer of affordable minimum value coverage under an eligible employer-sponsored plan under §§ 36B and 5000A and any related consequences under § 4980H(b) (including application of the affordability safe harbors in § 54.4980H–5(e)(2))?

***Answer 8*:** As discussed in Q&A–7, the affordability of an employer's offer of eligible employer-sponsored coverage for purposes of §§ 36B and 5000A, and any related consequences under § 4980H(b) (including under the § 54.4980H–5(e)(2) affordability safe harbors), depends on whether the employee's required contribution exceeds the applicable required contribution percentage of household income (under §§ 36B and 5000A) or wages (under the § 4980H affordability safe harbors). As provided in §§ 1.5000A–3(e)(3)(ii)(A) and 1.36B–2(c)(3)(v)(A)(*1*), an employee's required contribution is the portion of the annual premium that the employee must pay for self-only coverage (whether by salary reduction or otherwise).

Under a § 125 cafeteria plan, the employee's enrollment in a group health plan generally is funded by salary reduction but may also be funded by employer flex contributions. Whether these employer flex contributions reduce the amount of an employee's required contribution depends on the nature of the available flex contribution. Specifically, the amount of the employer contribution reduces the employee's required contribution if the amount constitutes a "health flex contribution" under §§ 1.5000A–3(e)(3)(ii)(E) and 1.36B–2(c)(3)(v)(A)(*6*). Sections 1.5000A–3(e)(3)(ii)(E) and 1.36B–2(c)(v)(A)(*6*) provide that an amount is a health flex contribution if (1) the employee may not opt to receive the amount as a taxable benefit, (2) the employee may use the amount to pay for minimum essential coverage, and (3) the employee may use the amount exclusively to pay for medical care, within the meaning of § 213. For purposes of § 4980H(b) and the related reporting under § 6056 (Form 1095–C), a health flex contribution is treated as made ratably for each month of the period to which it relates.

An employer flex contribution that is not a health flex contribution does not reduce an employee's required contribution. Consistent with §§ 1.5000A–3(e)(3)(ii)(E) and 1.36B–2(c)(v)(A)(*6*), this means, for example, that if an employer flex contribution that is available to pay for health care is also available to pay for any non-health care benefits under the § 125 cafeteria plan (such as dependent care or group term life insurance), that contribution is not a health flex contribution and, as a result, does not reduce the required employee contribution. Similarly, an employer flex contribution that is available to pay for health care but also could be received as cash is not a health flex contribution and does not reduce the employee's required contribution. (See Q&A–9, however, concerning treatment of amounts that are not available to pay for coverage under an eligible employer-sponsored health plan and are available only if the employee declines that coverage.)

The treatment of non-health flex contributions differs from the treatment of health flex contributions and contributions to HRAs discussed in Q&A–7 of this notice because, as explained in the preamble to the final regulations under § 5000A, the appropriate measure of an employee's required contribution is the amount of compensation that the employee could apply to something other than health-related expenses that the employee must forgo to obtain coverage under the employer's health plan.[5] Thus, if an employer provides employees with an HRA contribution or a health flex contribution that may be used only to pay health expenses, the employee's cost of coverage (the amount of salary or other non-health benefits that the employee must forgo to obtain coverage under the employer's health plan) is reduced by the amount of the health flex contribution or HRA contribution. In that case, it is fair to assume that the employee would use the health flex contribution or HRA contribution to pay for the employer's health coverage (because the health flex contribution or HRA contribution can be used only for health benefits), and if the employee does not use it for that purpose the employee does not gain any other economic benefit. Therefore, the employee's required contribution is equal to the amount that the employer otherwise requires the employee to pay for health cov-

[5]79 FR 70464, 70465 (Nov. 26, 2014).

erage, reduced by the amount of the health flex contribution or HRA contribution.

If, however, the employer provides an employee with a flex contribution that may be used to pay health expenses but also may be used for non-health benefits (that is, a non-health flex contribution), an employee who elects coverage under the employer's health plan must forgo the non-health benefits in order to take the health coverage. Because a non-health flex contribution (unlike a health flex contribution or HRA contribution) may be used for benefits other than health benefits, it is not appropriate to assume that the employee would use the non-health flex contribution to pay for health coverage; the employee might choose to use that flex contribution for another non-health benefit. Accordingly, the employee's required contribution in this case is equal to the stated amount the employee must pay for health coverage (whether that amount is paid by the employee in the form of a flex contribution, a salary reduction, or otherwise) and is not reduced by the non-health flex contribution.

Example 1 (Health Flex Contribution Reduces Dollar Amount of Employee's Required Contribution). *Facts*: Employer offers employees coverage under a group health plan through a § 125 cafeteria plan. An employee electing self-only coverage under the health plan is required to contribute $200 per month toward the cost of coverage. Employer offers employer flex contributions of $600 for the plan year that may only be applied toward the employee share of contributions for the group health coverage or contributed to a health flexible spending arrangement (health FSA).

Conclusion: The $600 employer flex contribution is a health flex contribution and reduces the employee's required contribution for the coverage under §§ 36B and 5000A and for purposes of any related consequences under § 4980H(b) (including application of the § 54.4980H–5(e)(2) affordability safe harbors). Because the $600 employer flex contribution is a health flex contribution, the $600 is taken into account as an employer contribution (and therefore reduces the employee's required contribution) regardless of whether the employee elects to apply the health flex contribution toward the employee contribution for the group health coverage or elects to contribute it to the health FSA. For purposes of § 4980H(b) and the related reporting under § 6056 (Form 1095–C), the employee's required contribution for the group health coverage is $150 ($200 – $50) per month.

Example 2 (Employer Flex Contribution Does Not Reduce Dollar Amount of Employee's Required Contribution). *Facts*: Employer offers employees coverage under a group health plan through a § 125 cafeteria plan. An employee electing self-only coverage under the health plan contributes $200 per month toward the cost of coverage. Employer offers employer flex contributions of $600 for the plan year that can be used for any benefit under the § 125 cafeteria plan (including benefits not related to health) but are not available as cash.

Conclusion: Because the $600 employer flex contribution is not usable exclusively for medical care, it is not a health flex contribution and therefore does not reduce the employee's required contribution for the coverage under §§ 36B and 5000A and any related potential consequences under § 4980H(b). For purposes of § 4980H(b) and the related reporting under § 6056 (Form 1095–C), the employee's required contribution is $200 per month.

Example 3 (Employer Flex Contribution Does Not Reduce Dollar Amount of Employee's Required Contribution). *Facts*: Same as in *Example 2*, except that the employee may also elect to receive the $600 employer flex contribution as cash or other taxable compensation.

Conclusion: Same as conclusion for *Example 2* because the employer flex contribution is not a health flex contribution. The same conclusion would apply if the employer flex contribution were available to pay for health benefits or to be taken as cash or other taxable compensation but not available to pay for other types of benefits.

Solely for purposes of § 4980H(b) and solely for coverage for plan years beginning before January 1, 2017, an employer flex contribution that is not a health flex contribution because it may be used for non-health benefits (including non-taxable benefits and/or cash or another taxable benefit), but that may be used by the employee towards the amount the employee is otherwise required to pay for the health coverage, will be treated as reducing the amount of an employee's required contribution. This relief is not available with respect to a flex contribution arrangement offering non-health benefits that is adopted after December 16, 2015 or that substantially increases the amount of the flex contribution after December 16, 2015 (a "non-relief-eligible flex contribution arrangement"). For this purpose, a flex contribution arrangement will be treated as adopted after December 16, 2015 unless (1) the employer offered the flex contribution arrangement (or a substantially similar flex contribution arrangement) for a plan year including December 16, 2015; (2) a board, committee, or similar body or an authorized officer of the employer specifically adopted the flex contribution arrangement before December 16, 2015; or (3) the employer had provided written communications to employees on or before December 16, 2015 indicating that the flex contribution arrangement would be offered to employees at some time in the future.

In addition, solely for coverage for plan years beginning before January 1, 2017, an employer may reduce the amount of the employee's required contribution by the amount of a non-health flex contribution (other than a flex contribution made under a non-relief-eligible flex contribution arrangement) for purposes of information reporting under § 6056 (line 15 of Form 1095–C). Because treating a non-health flex contribution as reducing an employee's required contribution may affect the employee's eligibility for the premium tax credit under § 36B, employers are encouraged not to reduce the amount of the employee's required contribution by the amount of a non-health flex contribution for purposes of information reporting under § 6056. If an employee's required contribution is reported in this manner (that is, without reduction for the amount of a non-health flex contribution) and the employer is contacted by the IRS concerning a potential assessable payment under § 4980H(b) relating to the employee's receipt of a premium tax credit, the employer will have an opportunity to respond and show that it is entitled to the relief described in this Q&A–8 to the extent that the employee would not have been eligible for the premium tax credit if the required employee contribution had been reduced by the amount of the non-health flex contribution or to the extent that the employer would have qualified for an affordability safe harbor under § 54.4980H–(4)(e)(2) if the required employee contribution had been reduced by the amount of the non-health flex contribution. See also Q&A–26 for certain relief with respect to employer information reporting under § 6056.

For individual taxpayers, the rules in §§ 1.5000A–3(e)(3)(ii)(E) and 1.36B–2(c)(3)(v)(A)(*6*) apply for months begin-

ning after December 31, 2013, as provided in those regulations. Accordingly, an employer non-health flex contribution, as illustrated in ***Example 2*** and ***Example 3*** of this Q&A–8, does not reduce the amount of an employee's required contribution for purposes of § 5000A and for determining eligibility for the premium tax credit under § 36B.

Nothing in this notice, including this Q&A–8, modifies the guidance in Notice 2012–40 treating flex contributions under a health flexible spending account (health FSA) that an employee may elect to receive as cash or a taxable benefit as a salary reduction contribution for purposes of the limit on salary reduction contributions to health FSAs under § 125(i). See also the definition of "employer flex credits" in Prop. Treas. Reg. § 1.125–5(b).

***Question 9*:** How are employer payments that are available only if an employee declines coverage under an eligible employer-sponsored plan taken into account for purposes of determining whether an applicable large employer has made an offer of affordable minimum value coverage under an eligible employer-sponsored plan under §§ 36B and 5000A and any related consequences under § 4980H(b) (including application of the affordability safe harbors in § 54.4980H–5(e)(2))?

***Answer 9*:** As discussed in Q&As–7 and 8, the affordability of an employer's offer of eligible employer-sponsored coverage for purposes of any related consequences under § 4980H(b) (including under the § 54.4980H–5(e)(2) affordability safe harbors) depends on whether the employee's required contribution exceeds the applicable required contribution percentage of household income (under § 36B) or wages (under the § 4980H affordability safe harbors). As provided in §§ 1.5000A–3(e)(3)(ii)(A) and 1.36B–2(c)(3)(v)(A)(*1*), an employee's required contribution is the portion of the annual premium that the employee must pay for self-only coverage (whether by salary reduction or otherwise).

If an employer offers to an employee an amount that cannot be used to pay for coverage under the employer's health plan and is available only if the employee declines coverage (which includes waiving coverage in which the employee would otherwise be enrolled) under the employer's health plan (an opt-out payment), this choice between cash and coverage presented by the offer of an opt-out payment is analogous to the cash-or-coverage choice presented by the option to pay for coverage via salary reduction. In both cases, the employee may purchase the health plan coverage only at the price of forgoing a specified amount of cash compensation that the employee would otherwise receive – salary, in the case of a salary reduction, or other compensation, in the case of the opt-out payment. For example, an employee who must reduce his or her compensation by $1,000 to pay for employer-provided health coverage has a choice that is similar to the choice of an employee who is ostensibly not required to pay anything for employer-provided coverage, but who would receive an additional $1,000 in compensation only if he or she declined coverage. In each case, the price of obtaining employer-provided health coverage is forgoing $1,000 in compensation that otherwise would be available to the employee.

An opt-out payment may have the effect of increasing an employee's contribution for health coverage beyond the amount of any salary reduction contribution. For example, if an employer offers employees group health coverage through a § 125 cafeteria plan, requiring employees who elect self-only coverage to contribute $200 per month toward the cost of that coverage, and offers an additional $100 per month in taxable wages to each employee who declines the coverage, the offer of $100 in additional compensation has the economic effect of increasing the employee's contribution for the coverage. In this case, the employee contribution for the group health plan effectively would be $300 ($200 + $100) per month, because an employee electing coverage under the health plan must forgo $100 per month in compensation in addition to the $200 per month in salary reduction.

Consistent with this analysis, Treasury and IRS have determined that it is generally appropriate to treat an unconditional opt-out arrangement (that is, an arrangement providing for a payment conditioned solely on an employee declining coverage under an employer's health plan and not on an employee satisfying any other meaningful requirement related to the provision of health care to employees, such as a requirement to provide proof of coverage provided by a spouse's employer) in the same manner as a salary reduction for purposes of determining an employee's required contribution under §§ 36B and 5000A and any related consequences under § 4980H(b). Accordingly, Treasury and IRS intend to propose regulations reflecting this rule and requesting comments on the treatment of employer offers of opt-out payments under one or more of these sections. It is anticipated that the proposed regulations will also address and request comments on the treatment of opt-out payments that are conditioned not only on the employee declining employer-sponsored coverage but also on satisfaction of additional conditions (such as the employee providing proof of having coverage provided by a spouse's employer or other coverage).

Treasury and IRS anticipate that the regulations generally will apply only for periods after the issuance of final regulations. However, Treasury and IRS also anticipate that mandatory inclusion in the employee's required contribution of amounts offered or provided under an unconditional opt-out arrangement (as defined in the preceding paragraph) that is adopted after December 16, 2015 (a "non-relief-eligible opt-out arrangement") will apply for periods after December 16, 2015. For this purpose, an opt-out arrangement will be treated as adopted after December 16, 2015 unless (1) the employer offered the opt-out arrangement (or a substantially similar opt-out arrangement) with respect to health coverage provided for a plan year including December 16, 2015; (2) a board, committee, or similar body or an authorized officer of the employer specifically adopted the opt-out arrangement before December 16, 2015; or (3) the employer had provided written communications to employees on or before December 16, 2015 indicating that the opt-out arrangement would be offered to employees at some time in the future.

For the period prior to the applicability date of regulations, employers are not required to increase the amount of an employee's required contribution by the amount of an opt-out payment (other than a payment made under a non-relief-eligible opt-out arrangement) for purposes

of § 6056 (Form 1095–C), and an opt-out payment (other than a payment made under a non-relief-eligible opt-out arrangement) will not be treated as increasing an employee's required contribution for purposes of any potential consequences under § 4980H(b). However, until the applicability date of any further guidance (and in any event for plan years beginning before January 1, 2017), individual taxpayers may rely on the treatment of unconditional opt-out payments described in this Q&A–9 for purposes of §§ 36B and 5000A and treat these payments as increasing the employee's required contribution. In addition, for this same period with respect to any individual who could demonstrate that the individual meets a condition (in addition to declining the employer's health coverage) that must be satisfied to receive an opt-out payment (such as demonstrating that the employee has coverage under a spouse's group health plan), the individual may treat the opt-out payment as increasing the employee's required contribution for purposes of §§ 36B and 5000A.

***Question 10*:** How are employer payments for fringe benefits made pursuant to the McNamara-O'Hara Service Contract Act ("SCA"),[6] the Davis-Bacon Act,[7] or the Davis-Bacon Related Acts (collectively with the Davis-Bacon Act, the "DBRA")[8] taken into account for purposes of determining whether an applicable large employer has made an offer of affordable minimum value coverage under an eligible employer-sponsored plan under §§ 36B and 5000A and any related consequences under § 4980H(b) (including application of the affordability safe harbors in § 54.4980H–5(e)(2))?

***Answer 10*:** The SCA and DBRA require that workers employed on certain federal contracts be paid prevailing wages and fringe benefits. Under the SCA and DBRA, an employer generally can satisfy its fringe benefit obligations by providing a particular benefit or benefits, as determined by the employer, that have a sufficient dollar value. Alternatively, an employer generally may satisfy its fringe benefit obligations by providing the cash equivalent of benefits or some combination of cash and benefits, or it may permit employees to choose among various benefits or among various benefits and cash. If an employer chooses to provide fringe benefits under the SCA or DBRA by offering an employee the option to enroll in health coverage provided by the employer (including an option to decline that coverage), and the employee declines the coverage, that employer would then generally be required by the SCA or DBRA to provide the employee with cash or other benefits of an equivalent value.

Q&A–8 of this notice addresses employer flex contributions that are available to pay for health care and non-health care benefits (including cash or other taxable compensation) under a § 125 cafeteria plan and that, because they are non-health flex contributions, would not reduce the required employee contribution for purposes of §§ 36B and 5000A or for purposes of any related consequences under § 4980H(b). However, Treasury and IRS have been made aware that, as applied to employers with employees who are subject to the SCA or DBRA, the interaction of this treatment with SCA or DBRA fringe benefit requirements could create certain difficulties. In the case of an employer that chooses to provide fringe benefits under the SCA or DBRA by offering employees the option to enroll in health coverage provided by the employer (including an option to decline that coverage), the amount that must be provided to employees who decline to enroll in the group health plan as a cash payment or other benefits in lieu of coverage under the group health plan is substantial, would not count as an employer contribution toward the cost of coverage, and therefore would not reduce the employee's required contribution for purposes of §§ 36B and 5000A or for purposes of any related consequences under § 4980H(b). Accordingly, an employer that chooses to satisfy its obligation to provide fringe benefits under the SCA or DBRA by offering an employee the option to enroll in health coverage provided by the employer (including an option to decline that coverage) generally would need to provide a significant additional subsidy to make the offer affordable for purposes of § 36B and avoid any related consequences under § 4980H(b). While the SCA and DBRA require employers to pay covered employees no less than prevailing wage and fringe benefit rates, this additional subsidy would result in certain employees receiving amounts significantly in excess of SCA and DBRA minimum rates.

Treasury and IRS continue to consider how the requirements of the SCA, the DBRA, and the employer shared responsibility provisions under § 4980H may be coordinated. However, until the applicability date of any further guidance, and in any event for plan years beginning before January 1, 2017, employer fringe benefit payments (including flex credits or flex contributions) under the SCA or DBRA that are available to employees covered by the SCA or DBRA to pay for coverage under an eligible employer-sponsored plan (even if alternatively available to the employee in other benefits or cash) will be treated as reducing the employee's required contribution for participation in that eligible employer-sponsored plan for purposes of § 4980H(b), but only to the extent the amount of the payment does not exceed the amount required to satisfy the requirement to provide fringe benefit payments under the SCA or DBRA. In addition, for these same periods an employer may treat these employer fringe benefit payments as reducing the employee's required contribution for purposes of reporting under § 6056 (Form 1095–C), subject to the same limitations that apply for purposes of § 4980H(b). Employers are, however, encouraged to treat these fringe benefit payments as not reducing the employee's required contribution for purposes of reporting under § 6056. If an employee's required contribution is reported without reduction for the amount of the fringe benefit payment and the employer is contacted by the IRS concerning a potential assessable payment under § 4980H(b) relating to the employee's receipt of a premium tax credit, the employer will have an opportunity to respond

[6] 41 U.S.C. Chapter 67.

[7] 40 U.S.C. Chapter 31, Subchapter IV.

[8] *See* 29 CFR 5.1(a) (listing many of the Related Acts).

and show that it is entitled to the relief described in this Q&A–10 to the extent that the employee would not have been eligible for the premium tax credit if the required employee contribution had been reduced by the amount of the fringe benefit payment or to the extent that the employer would have qualified for an affordability safe harbor under § 54.4980H–(4)(e)(2) if the required employee contribution had been reduced by the amount of the fringe benefit payment. See also Q&A–26 for certain relief with respect to employer information reporting under § 6056.

For purposes of §§ 36B and 5000A, individual taxpayers are not required to take these amounts into account as reducing the employee's required contribution.

Treasury and IRS continue to consider other methods for reporting the amount of the required contribution for employees subject to the SCA or DBRA, including the possible use of indicator codes; however, no such other reporting methods, if ultimately adopted, will be required to be implemented for reporting on plan years beginning before January 1, 2017.

Example. *Facts*: Employer offers employees subject to the SCA or DBRA coverage under a group health plan through a § 125 cafeteria plan, which the employees may choose to accept or reject. Under the terms of the offer, an employee may elect to receive self-only coverage under the plan at no cost, or may alternatively decline coverage under the health plan and receive a taxable payment of $700 per month. For the employee, $700 per month does not exceed the amount required to satisfy the fringe benefit requirements under the SCA or DBRA.

Conclusion: Until the applicability date of any further guidance (and in any event for plan years beginning before January 1, 2017), for purposes of §§ 4980H(b) and 6056, the required employee contribution for the group health plan for an employee who is subject to the SCA or DBRA is $0. However, for purposes of §§ 36B and 5000A, that employee's required contribution for the group health plan is $700 per month.

***Question 11*:** Q&As 7 through 10 of this notice address the determination of an employee's required contribution under §§ 36B and 5000A in cases in which an employer offers certain HRA contributions, flex credits, or opt-out payments. Some of these Q&As also provide transition relief for employers that treat these amounts differently for purposes of reporting the employee's required contribution under § 6056. Could this different treatment have any implications for employees?

***Answer 11*:** The vast majority of individuals offered employer-provided coverage will not be affected by the guidance provided in Q&As 7 through 10 of this notice. Specifically, the guidance, including the relief for employers, will not affect the following individuals' eligibility for the premium tax credit: (1) employees who enrolled in the employer-sponsored coverage; (2) employees who enrolled in other health coverage that was not coverage offered through the Marketplace; (3) employees who were offered health coverage that does not include an arrangement described in Q&As 7 through 10; (4) employees who for any other reason would not qualify for a premium tax credit (for example, an employee who qualifies for Medicare or has household income in excess of the limits); (5) generally, employees who enrolled in coverage through the Marketplace and received the benefit of advance payments of the premium tax credit based on a determination by the Marketplace that their offer of employer-sponsored coverage was not affordable (see § 1.36B–2(c)(3)(v)(A)(*3*)); and (6) employees who did not enroll in any coverage.

Certain employees, however, may be affected by the transition relief for employers in Q&As 8 through 10. (Q&A–7 does not involve any relief for employers.) Because employers are permitted to report a lower amount as the employee's required contribution by not taking into account the modifications described in Q&As 8 through 10 (including reporting an offer as a qualifying offer on Form 1095–C that, taking into account the modifications, would not be a qualifying offer), employees who enrolled in coverage through the Marketplace, who did not receive the benefit of advance payments of the premium tax credit, but whose household income is in the range for premium tax credit eligibility, may need additional information from their employers regarding their required employee contribution to determine whether they may claim the premium tax credit.

Employers using the § 6056 relief in Q&As 8 through 10 are encouraged to notify employees that they may obtain accurate information about their required contribution taking into account the modifications provided in Q&A–8 through 10 using the employer contact telephone number provided to the employee on Form 1095–C. Without regard to how the employee obtains that information, as determined under Q&A–8 through 10, if the modified required contribution is not affordable for purposes of § 36B and the employee is otherwise entitled to the premium tax credit, the employee may claim it on Form 8692, Premium Tax Credit, which is filed with the employee's annual income tax return (regardless of the required contribution or qualifying offer information reported on that employee's Form 1095–C).

***Question 12*:** How are the adjustments to the affordability threshold under § 36B(c)(2)(C)(i)(II) that are made in accordance with § 36B(c)(2)(C)(iv) taken into account for purposes of the following provisions of the regulations under §§ 4980H and 6056: (1) the affordability safe harbors under § 54.4980H–5(e), (2) the reference to an offer of coverage under § 54.4980H–4, (3) the multiemployer plan interim relief described in section XV.E of the preamble to the final regulations under § 4980H, and (4) the definition of a qualifying offer for purposes of § 301.6056–1(j)(1) (reporting by applicable large employers)?

***Answer 12*:** In each case, the reference to 9.5 percent is adjusted to reflect the adjustment to the affordability provisions under § 36B(c)(2)(C)(iv). Section 36B(b)(1) generally provides that an individual may be eligible for a premium assistance credit amount with respect to any coverage month. Section 36B(c)(2)(B) provides that a coverage month does not include any month with respect to an individual if for such month the individual is eligible for minimum essential coverage other than eligibility for coverage described in § 5000A(f)(1)(C) (relating to coverage in the individual market). Section 36B(c)(2)(C)(i) provides that an employee is not treated as eligible for minimum essential coverage if such coverage (1) consists of an eligible employer-sponsored plan (as defined in § 5000A(f)(2)), and (2) the employee's required contribution (within the meaning

of § 5000A(e)(1)(B)) with respect to the plan exceeds 9.5 percent (as adjusted annually) of the applicable taxpayer's household income. Section 36B(c)(2)(C)(iv) provides that in the case of plan years beginning after 2014, the Secretary shall adjust the 9.5 percent under § 36B(c)(2)(C)(i)(II) in the same manner as the percentages are adjusted under § 36B(b)(3)(A)(ii). See Rev. Proc. 2014–37, 2014–33 IRB 363 (adjustment to 9.56 percent for plan years beginning in 2015); Rev. Proc. 2014–62, 2014–50 IRB 948 (adjustment to 9.66 percent for plan years beginning in 2016).

The affordability safe harbors in the regulations under § 4980H are based on 9.5 percent of an employee's wages reported on the Form W–2, Wage and Tax Statement (§ 54.4980H–5(e)(2)(ii), Form W–2 safe harbor), 9.5 percent of an amount equal to 130 hours multiplied by the lower of the employee's hourly rate of pay as of the first day of the coverage period or lowest rate of pay during the calendar month (§ 54.4980H–5(e)(2)(iii), rate of pay safe harbor), or 9.5 percent of a monthly amount determined as the federal poverty line for a single individual for the applicable calendar year, divided by 12 (§ 54.4980H–5(e)(2)(iv), federal poverty line safe harbor). The 9.5 percent standard set forth in each of the affordability safe harbors is derived from § 36B(c)(2)(C)(i), basing affordability on a required contribution not exceeding 9.5 percent of the applicable taxpayer's household income. The § 4980H(b) affordability safe harbors are intended to provide safe harbors with respect to the determination of the employee's household income as part of the affordability calculation because an employer generally will not have access to that information with respect to its employees. The safe harbors are not intended to otherwise alter the affordability calculation, and accordingly Treasury and IRS intend to amend the regulations under § 4980H to reflect that the applicable percentage in the affordability safe harbors should be adjusted consistent with § 36B(b)(3)(A)(ii), so that employers may rely upon the 9.56 percent for plan years beginning in 2015 and 9.66 percent for plan years beginning in 2016.

Similarly, when determining if there is an offer of coverage for purposes of § 54.4980H–4 (requirement that employees be permitted to decline enrollment in coverage absent certain conditions in order for the arrangement to be treated as an offer of coverage), or whether coverage under a multiemployer plan is affordable under the Interim Guidance with respect to Multiemployer Arrangements in the preamble to the final regulations under § 4980H (79 FR 8576), an applicable large employer may use the 9.5 percent standard as indexed pursuant to § 36B(c)(2)(C)(iv).

Treasury and IRS also intend to amend the regulations under § 6056 that provide alternative reporting methods for certain types of offers of coverage, referred to as qualifying offers of coverage. Specifically, a qualifying offer under § 301.6056–1(j)(1)(i) is an offer at employee cost for employee-only coverage not exceeding 9.5 percent of the mainland single federal poverty line. Treasury and IRS intend to amend § 301.6056–1(j)(1)(i) to reflect that the reference to 9.5 percent is adjusted to reflect any adjustments under § 36B(c)(2)(C)(iv), and for those changes to be applicable back to December 16, 2015. For all periods, applicable large employers may rely on the 9.5 percent standard as adjusted pursuant to § 36B(c)(2)(C)(iv) in applying the alternative reporting method for qualifying offers.

***Question 13*:** Under § 4980H(c)(5), in the case of any calendar year after 2014, the applicable dollar amounts of $2,000 and $3,000 under § 4980H(c)(1) and (b)(1) are increased based on the premium adjustment percentage as defined in § 1302(c)(4) of the Affordable Care Act (4.213431463 for 2015[9] and 8.316047520 for 2016[10]) rounded to the lowest multiple of $10. What are those amounts for calendar years 2015 and 2016?

***Answer 13*:** For calendar year 2015, the adjusted $2,000 amount in § 4980H(c)(1) is $2,080 ($2,000 x .04213431463 = $84.27 plus $2,000 rounded down to $2,080), and the adjusted $3,000 amount in § 4980H(b)(1) is $3,120 ($3,000 x .04213431463 = $126.40 plus $3,000 rounded down to $3,120). For calendar year 2016, the adjusted $2,000 amount in § 4980H(c)(1) is $2,160 ($2,000 x .08316047520 = $166.32 plus $2,000 rounded down to $2,160), and the adjusted $3,000 amount in § 4980H(b)(1) is $3,240 ($3,000 x .08316047520 = $249.48 plus $3,000 rounded down to $3,240). Treasury and IRS anticipate that adjustments for future years will be posted on the IRS.gov website.

***Question 14*:** To determine status as a full-time employee for purposes of § 4980H, § 54.4980H–1(a)(24) provides that the term "hour of service" means each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer, and each hour for which the employee is paid, or entitled to payment by the employer, for a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence (as defined in 29 CFR 2530.200b–2(a)). To what extent are the rules under 29 CFR 2530.200b–2(a) incorporated into the definition of hour of service under § 4980H?

***Answer 14*:** The definition of hour of service under § 54.4980H–1(a)(24), and specifically the reference to 29 CFR 2530.200b–2(a), was intended to provide parallels between the two regulatory provisions on the basic definition of an hour of service, without incorporating certain mechanical rules contained in the DOL regulations that do not fit into the general structure of § 4980H and specifically the identification of employees as full-time employees. This Q&A–14 clarifies how this reference to the DOL regulations applies. Treasury and IRS intend to include these clarifications as proposed regulations under § 4980H effective as of December 16, 2015.

The § 4980H regulations did not incorporate the provisions of 29 CFR 2530.200b–2(a)(2) that require hours of service to be credited for certain periods of time during which no duties are performed "irrespective of whether the employment relationship has terminated." Because the purpose of the crediting of

[9]See 79 FR 13744, 13802 (Mar. 11, 2014).

[10]See 80 FR 10750, 10825 (Feb. 27, 2015).

hours of service is to determine whether a current employee is a full-time employee (and to accumulate the hours of service of current non-full-time employees to calculate an employer's number of full-time equivalent employees), an hour of service for purposes of § 4980H does not include any hours after the individual terminates employment with the employer.

The reference to 29 CFR 2530.200b–2(a) is intended to incorporate the limitations of 29 CFR 2530.200b–2(a)(2)(ii) and (iii) which are substantive exclusions of the type of payments the right to which will not result in an hour of service. Accordingly, an hour of service does not include (1) an hour for which an employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workmen's compensation, or unemployment or disability insurance laws; and (2) an hour of service for a payment which solely reimburses an employee for medical or medically related expenses incurred by the employee.

However, the reference to 29 CFR 2530.200b–2(a) was not intended to incorporate the limitation on hours of service contained in 29 CFR 2530.200b–2(a)(2)(i), which is not a substantive part of the definition of an hour of service but instead a mechanical limitation on the crediting of those hours appropriate in the contexts to which the DOL regulations apply but not with respect to § 4980H and the definition of a full-time employee and a full-time equivalent employee. Accordingly, there is no 501-hour limit on the hours of service required to be credited to an employee on account of any single continuous period during which the employee performs no duties if the hours of service would otherwise qualify as hours of service.[11]

Finally, the § 4980H regulations defining an "hour of service" are intended to incorporate the remaining provisions of 29 CFR 2530.200b–2 relating to the source of the payment for the hour of service for which no duties were performed. For purposes of determining whether an hour of service must be credited, a payment is deemed to be made by or due from an employer regardless of whether the payment is made by or due from the employer directly, or indirectly through, among others, a trust fund or insurer to which the employer contributes or pays premiums, and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular employees or are on behalf of a group of employee in the aggregate.

Accordingly, periods during which an individual is not performing services but is receiving payments due to short-term disability or long-term disability result in hours of service for any part of the period during which the recipient retains status as an employee of the employer, unless the payments are made from an arrangement to which the employer did not contribute directly or indirectly. For this purpose, a disability arrangement for which the employee paid with after-tax contributions (so that the benefits received under the arrangement are excluded from income under § 104(a)(3)) would be treated as an arrangement to which the employer did not contribute, and payments from the arrangement would not give rise to hours of service. Periods during which the employee is not performing services but is receiving payments in the form of workers compensation wage replacement benefits under a program provided by the state or local government do not result in hours of service.

***Question 15*:** Is an employee who primarily performs services for one or more educational organizations but is not the employee of the educational organization(s) (because, for example, the individual is an employee of a staffing agency) subject to the special rehire rules under §§ 54.4980H–3(c)(4)(ii) and 54.4980H–3(d)(6) (and the related definition of "employment break period" at § 54.4980H–1(a)(17)) and thus only treated as a new employee after a break of at least 26 consecutive weeks and, if the employer is using the lookback measurement method, subject to the special hours of service averaging rules?

***Answer 15*:** Treasury and IRS intend to amend the regulations under § 4980H to address the application of the special rehire rules under §§ 54.4980H–3(c)(4)(ii) and 54.4980H–3(d)(6)(ii) to employees who primarily perform services for one or more educational organizations.

Because Treasury and IRS have concluded that it would not be appropriate for employees who had become eligible for coverage prior to a break in service to be subjected to a new period of exclusion from a plan (which applies in certain circumstances for new employees) based upon a brief break in service, Treasury and IRS adopted rehire rules under which an employee may be treated as a new employee only after a break in service of at least 13 weeks. Treasury and IRS concluded, however, that without special rehire rules, this general rehire rule may be inequitable to employees of educational organizations who had become eligible for coverage prior to the break. Similarly, Treasury and IRS concluded that without special rules under the lookback measurement method for employees of educational organizations, application of those rules could be inequitable to those employees if, for purposes of determining the average weekly hours of service over the entire lookback period, employers counted the summer recess periods (or other periods) during which some of these employees may not provide services as periods during which no hours of service were performed. To provide more appropriate rules for employees of educational organizations, the final regulations under § 4980H provide two special rules.

Sections 54.4980H–3(c)(4)(ii) and 54.4980H–3(d)(6)(ii)(A) address the treatment of a new employee after a period of absence for employees of educational organizations for purposes of determining the status of these employees as full-time employees, under both the monthly measurement method and the lookback measurement method. These sections provide that for an employer that is an educational organization, an employee who resumes providing service to (or is otherwise credited with an hour of service for) an applicable large employer

[11]Note, however, that the 501-hour limit on hours of service required to be credited to an employee of an educational organization during employment break periods in a calendar year under § 54.4980H–3(c)(6)(ii)(B) continues to apply.

after a period during which the individual was not credited with any hours of service may be treated as having terminated employment and having been rehired, and therefore may be treated as a new employee upon the resumption of services, only if the employee did not have an hour of service for the applicable large employer for a period of at least 26 consecutive weeks immediately preceding the resumption of services. Section 54.4980H–3(d)(6)(ii)(B) applies to educational organizations applying the lookback measurement method of determining full-time employee status and provides special rules to account for the periods during which the employee may not be providing services, such as a summer break period.

Treasury and IRS have been made aware that some educational organizations are attempting to avoid application of these rules by, for example, using a third-party staffing agency for certain individuals providing services. Because the staffing agency is not an educational organization subject to the special rule, the staffing agency could apply the lookback measurement method or the rules on new hires to treat some or all of these individuals as failing to be full-time employees or as new employees after a break in service of less than 26 weeks. In some cases, the facts and circumstances may demonstrate that the staffing agency is not the common law employer of the individual for purposes of § 4980H, but rather that the individual remains the employee of the educational organization and the special lookback measurement rule and rehire rule would continue to apply. But even if the individuals are the employees of the staffing agency or other third party, this structure would circumvent the intent of the special rules. Accordingly, Treasury and IRS intend to propose amendments to the regulations under § 4980H to provide for application of the special rule in certain circumstances in which the services are being provided to one or more educational organizations, even if the employer is not an educational organization. The amendments will apply as of the applicability date specified in the regulations, but in no event will the applicability date be earlier than the first plan year beginning after the date on which the proposed regulations are issued.

Specifically, Treasury and IRS anticipate amending the regulations under § 4980H to provide that the special rules under §§ 54.4980H–3(c)(4)(ii) and 54.4980H–3(d)(6)(ii) (and the related definition of "employment break period" at § 54.4980H–1(a)(17)) apply not only to employees of educational organizations, but also to any employee providing services primarily to one or more educational organizations for whom a meaningful opportunity to provide services during the entire year (to an educational organization or any other type of service recipient) is not made available. For example, the special rule would apply to an employer with respect to a bus driver who is primarily placed to provide bus driving services, or a cafeteria worker who is primarily placed to provide services in a cafeteria, at one or more educational organizations and who is not provided a meaningful opportunity to provide services during one or more months of the calendar year (for example, the summer recess period). In contrast, an employer that primarily places bus drivers or cafeteria workers at educational organizations would not apply the special rule to an employee if the individual was offered a meaningful opportunity to provide services during all months of the year (for example, in the case of a cafeteria worker, by working at a hospital cafeteria during the summer recess period of the educational organization at which the individual generally is placed).

***Question 16*:** Is an AmeriCorps member providing services to a grantee receiving assistance under the national service laws an employee (of either AmeriCorps or the grantee) for purposes of the employer shared responsibility provisions of § 4980H?

***Answer 16*:** No. The National and Community Service Act provides that participants in AmeriCorps programs are not considered to be employees of the grantee receiving assistance under the national service laws through which the participant is engaging in service (42 U.S.C. § 12511(30)(B)). Similarly, AmeriCorps members generally are not considered Federal employees and are not subject to the provisions of law relating to Federal employment. (See, e.g., 42 U.S.C. § 12620). Consistent with these provisions, for purposes of § 4980H, participants in the AmeriCorps programs are not employees of the grantee receiving assistance through AmeriCorps for which the participant is providing services.

***Question 17*:** How is an offer of coverage under TRICARE due to employment which results in eligibility for coverage under TRICARE treated for purposes of §§ 4980H and 6056?

***Answer 17*:** For purposes of determining any potential liability under § 4980H and for purposes of the related information reporting requirements under § 6056, an offer of coverage under TRICARE for any month due to employment with an employer that results in eligibility for TRICARE is treated as an offer by that employer of minimum essential coverage under an eligible employer-sponsored plan for that month.

IV. GOVERNMENT ENTITIES, HEALTH SAVINGS ACCOUNTS, AND BENEFITS ADMINISTERED BY THE DEPARTMENT OF VETERANS AFFAIRS

***Question 18*:** For purposes of determining whether an employer had 50 or more full-time employees (including full-time equivalents) in the previous year and therefore is an applicable large employer (or ALE member), § 4980H(c)(2)(C)(i) and § 54.4980H–1(a)(16) require that employers apply the aggregation rules under § 414(b), (c), (m), and (o) and treat all the aggregated employers as a single employer. How do these aggregation rules apply to employers that are government entities?

***Answer 18*:** The aggregation rules under § 414(b), (c), (m), and (o) provide that (1) corporations that are part of a controlled group of corporations, (2) groups of other types of entities that are under common control, and (3) members of an affiliated service group, may in each case be treated as a single employer for certain employee benefit requirements. Section 4980H(c)(2)(C)(i) and § 54.4980H–1(a)(16) apply these standards in determining whether an employer is an applicable large employer (or ALE member). The regulations under § 414(b), (c), (m), and (o) do not specifically address the application of these standards to govern-

ment entities. Accordingly, as provided in section V.D of the preamble to the final regulations under § 4980H, government entities may apply a reasonable, good faith interpretation of the employer aggregation rules under § 414(b), (c), (m), and (o) for purposes of determining whether a government entity is an applicable large employer or an ALE member, and thereby subject to the employer shared responsibility provisions under § 4980H and the related reporting requirements under § 6056.

If two government entities would independently be applicable large employers (because each of the entities, in the previous year, had 50 or more full-time employees, including full-time equivalents), the aggregation analysis will be of limited consequence. That is because each of those two entities would be subject to § 4980H and the related reporting requirements under § 6056 regardless of the aggregation analysis and any consequences of application of the employer aggregation rules would be limited (generally relevant only to the allocation of the reduction by 30 full-time employees for the calculation of any assessable payment under § 4980H(a) or the cap on any assessable payment under § 4980H(b)).

***Question 19*:** Is a separate employer identification number (EIN) required for each government entity employer that is subject to a reporting requirement (as an applicable large employer or ALE member, or if neither, because it has employees receiving self-insured health coverage)?

***Answer 19*:** Yes, each separate employer entity (not applying any aggregation rules) that is an applicable large employer (or ALE member), or that provides self-insured health coverage to its employees, must use its own EIN for purposes of the applicable reporting requirements. Accordingly, separate Forms 1094–C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, must be filed by each employer that is an ALE member of an applicable large employer group, and each Form 1094–C must have a separate EIN that is the EIN of the ALE member filing the form. For example, assume that a state treats the state executive and executive agencies, the state judiciary, and the state legislature as three separate employers that are ALE members of the applicable large employer group that reflects the state government. Each of the three employers is required to have a separate EIN and to file the Forms 1094–C and 1095–C reflecting the EIN of the employer.

The analysis is not changed by a government entity's use of a designated government entity (DGE). In that case, the government entity has transferred the responsibility for reporting to the DGE, but the DGE is still reporting on behalf of the government entity that retains its separate status as an applicable large employer (or ALE member) subject to the employer shared responsibility provisions. For example, if ten counties that are applicable large employers enter into agreements with a state government entity that the state will be the DGE for each of the counties, the state government entity should file a Form 1094–C on behalf of each of the counties (as well as a Form 1094–C on behalf of itself as an employer of its own employees). Each Form 1094–C would list the name and EIN of the state government entity as the DGE, and the name and EIN of the county as the employer. The Form 1094–C for each county would be accompanied by the Forms 1095–C for each employee of that county and would identify the county as the employer.

***Question 20*:** Notice 2004–50, 2004–2 C.B. 196, Q&A–5 provides guidance on the eligibility to contribute to an HSA of an individual who is eligible to receive medical benefits administered by the Department of Veterans Affairs (VA), stating that the individual is not eligible to make HSA contributions for any month if the individual has received medical benefits from the VA at any time during the previous three months. Notice 2008–59, 2008–29 IRB 123, Q&A–9 clarified that although an individual actually receiving medical benefits from the VA at any time in the previous three months generally is not eligible to contribute to an HSA, the disqualification rule does not apply if the medical benefits consist solely of disregarded coverage or preventive care. Section 4007(b) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the Surface Transportation Act) amends § 223 to provide that an individual shall not fail to be treated as an eligible individual for any period merely because the individual receives hospital care or medical services under any law administered by the Secretary of Veterans Affairs for a service-connected disability (within the meaning of § 101(16) of title 38, United States Code).

How does § 4007(b) of the Surface Transportation Act affect the prior guidance on the interaction of the receipt of VA health care and eligibility to contribute to an HSA?

***Answer 20*:** As modified by the legislation, an individual actually receiving medical benefits from the VA is not disallowed from making HSA contributions if the medical benefits consist solely of (1) disregarded coverage, (2) preventive care, or (3) hospital care or medical services under any law administered by the Secretary of Veterans Affairs for service-connected disability (within the meaning of § 101(16) of title 38, United States Code). Distinguishing between services provided by the VA for service-connected disabilities and other types of medical care is administratively complex and burdensome for employers and HSA trustees or custodians. Moreover, as a practical matter, most care provided for veterans who have a disability rating will be such qualifying care. Consequently, as a rule of administrative simplification, for purposes of this rule, any hospital care or medical services received from the VA by a veteran who has a disability rating from the VA may be considered to be hospital care or medical services under a law administered by the Secretary of Veterans Affairs for service-connected disability.

V. APPLICATION OF COBRA CONTINUATION COVERAGE RULES AND HEALTH FSA CARRYOVERS AS PERMITTED BY NOTICE 2013–71

***Question 21*:** Notice 2013–71 modifies the rules for cafeteria plans to allow a carryover of up to $500 of unused amounts remaining at the end of the plan year in a health FSA. Section 54.4980B–2, Q&A–8(e) provides that a health FSA is not obligated to make COBRA continuation coverage available for the plan year in which a qualifying event occurs unless as of the date of the quali-

fying event, the amount the qualified beneficiary may become entitled to receive during the remainder of the plan year as a benefit exceeds the amount the health FSA may require to be paid for COBRA continuation coverage for the remainder of the plan year.

In determining the amount of the benefit that a qualified beneficiary is entitled to receive during a plan year, is any amount that has been carried over from a prior plan year as permitted by Notice 2013–71 included?

***Answer 21*:** Yes. Any carryover amount is included in determining the amount of the benefit that a qualified beneficiary is entitled to receive during the remainder of the plan year in which a qualifying event occurs. The following example illustrates the application of this rule:

> ***Example.*** *Facts*: An employer maintains a calendar year health FSA that qualifies as an excepted benefit. Under the health FSA, during the open season an employee has elected to reduce salary by $2,500 for the year. In addition, the employee carries over $500 in unused benefits from the prior year. Thus, the maximum benefit that the employee can become entitled to receive under the health FSA for the entire year is $3,000. The employee experiences a qualifying event that is a termination of employment on May 31. As of that date, the employee had submitted $1,100 of reimbursable expenses under the health FSA.
>
> *Conclusion*: The maximum benefit that the employee could become entitled to receive for the remainder of the year as a benefit under the health FSA is $1,900 (($2,500 plus $500) minus $1,100).

***Question 22*:** Section 4980B(f)(2)(C) provides that the maximum amount that a group health plan is permitted to charge for COBRA continuation coverage is 102 percent of the applicable premium for the period of COBRA continuation coverage. Section 4980B(f)(4) generally defines "applicable premium" as the cost to the plan of providing coverage during such period for similarly situated beneficiaries who have not incurred a COBRA qualifying event (nonCOBRA beneficiaries). Under § 4980B(f)(4)(B), a self-insured plan may base the applicable premium on a reasonable estimate of the cost of providing coverage for nonCOBRA beneficiaries, provided that the reasonable estimate is determined on an actuarial basis and satisfies any other applicable requirements under the regulations. An example under Q&A–8(f) of § 54.49890B–2 illustrates that with respect to a health FSA, an employer may base its reasonable estimate of the cost of providing coverage for similarly situated nonCOBRA beneficiaries on the maximum amount available under the health FSA for the period, taking into account both the employee salary reduction and any additional employer contribution.

What is the maximum amount that a health FSA is permitted to require to be paid for COBRA continuation coverage if the maximum benefit that an employee is entitled to receive under the health FSA for the entire year includes carryover amounts?

***Answer 22*:** The maximum amount that a health FSA is permitted to require to be paid for COBRA continuation coverage (that is, 102 percent of the applicable premium) does not include unused amounts carried over from prior years. The applicable premium is based solely on the sum of the employee's salary reduction election for the year and any nonelective employer contribution. The following example illustrates the application of this rule:

> ***Example.*** *Facts*: An employee elects salary reduction with respect to a health FSA of $2,000. The employer provides a matching contribution of $1,000. In addition, the employee carries over $500 in unused benefits from the prior year. The employee experiences a qualifying event that is a termination of employment on May 31.
>
> *Conclusion*: The maximum amount the health FSA is permitted to require to be paid for COBRA continuation coverage for the remainder of the year is 102 percent of 1/12 of the applicable premium of $3,000 ($2,000 of employee salary reduction election plus $1,000 of employer contributions) times the number of months remaining in the year after the qualifying event. The $500 of benefits carried over from the prior year is not included in the applicable premium.

***Question 23*:** Is a health FSA that allows carryovers of unused amounts for similarly situated nonCOBRA beneficiaries obligated to allow a carryover of unused amounts to a qualified beneficiary who elected COBRA continuation coverage with respect to the health FSA, even if the result is that the COBRA continuation coverage under the health FSA continues beyond the plan year?

***Answer 23*:** If a health FSA allows carryovers of unused amounts for similarly situated nonCOBRA beneficiaries, notwithstanding § 54.4980B–2, Q&A–8(d), the health FSA must allow carryovers by similarly situated COBRA beneficiaries, subject to the same terms applicable with respect to nonCOBRA beneficiaries. However, the health FSA is not required to allow a COBRA beneficiary to elect additional salary reduction amounts for the carryover period, or to have access to any employer contributions to the health FSA made during the carryover period. In addition, the carryover is limited to the applicable COBRA continuation period.

As noted in Q&A–22 of this notice, the maximum amount that a health FSA can require to be paid as the applicable premium does not include unused amounts carried over from prior years. Thus, if a qualified beneficiary is allowed a carryover of unused amounts to a later year, the applicable premium for that later year period is zero. The following example illustrates the application of this rule.

> ***Example.*** *Facts*: An employer maintains a calendar year health FSA which qualifies as an excepted benefit. Under the health FSA, during the open season an employee may elect to reduce salary by $2,500 for the year. In addition, the plan allows a carryover of up to $500 in unused benefits remaining at the end of the plan year.
>
> An employee elects salary reduction of $2,500 for the year. The employee experiences a qualifying event that is a termination of employment on May 31. As of that date, the employee had submitted $400 of reimbursable expenses under the health FSA. The employee elects COBRA continuation coverage and pays the required premiums for the rest of the year. As a qualified beneficiary, the former employee submits additional reimbursable payments in the amount of $1,600. At the end of the plan year, there is $500 of unused benefits remaining.
>
> *Conclusion*: The qualified beneficiary is allowed to continue to submit expenses under the same terms as similarly situated nonCOBRA beneficiaries in the next year, for up to $500 in reimbursable expenses. The maximum amount that can be required as an applicable premium for the carryover amount for periods after the end of the plan year is zero. The maximum period the carryover is required to be made available is the period of COBRA continuation coverage. In this case, the period is 18 months and terminates at the end of November of the next year. Thus, the health FSA need not reimburse any expense incurred after that November.

***Question 24*:** May a health FSA condition the ability to carry over unused amounts on participation in the health FSA in the next year?

***Answer 24*:** Yes. A health FSA may limit the availability of the carryover of unused amounts (subject to the $500 limit) to individuals who have elected to participate in the health FSA in the next year, even if the ability to participate in that next year requires a minimum salary reduction election to the health FSA for that next year.

Example. *Facts*: Employer sponsors a cafeteria plan offering a health FSA that permits up to $500 of unused health FSA amounts to be carried over to the next year in compliance with Notice 2013–71, but only if the employee participates in the health FSA during that next year. To participate in the health FSA, an employee must contribute a minimum of $60 ($5 per calendar month). As of December 31, 2016, Employee A and Employee B each have $25 remaining in their health FSA. Employee A elects to participate in the health FSA for 2017, making a $600 salary reduction election. Employee B elects not to participate in the health FSA for 2015. Employee A has $25 carried over to the health FSA for 2017, resulting in $625 available in the health FSA. Employee B forfeits the $25 as of December 31, 2016 and has no funds available in the health FSA thereafter.

Conclusion: This arrangement is a permissible health FSA carryover feature under Notice 2013–71.

***Question 25*:** May a health FSA limit the ability to carry over unused amounts to a maximum period?

***Answer 25*:** Yes. A health FSA may limit the ability to carry over unused amounts to a maximum period (subject to the $500 limit). For example, a health FSA can limit the ability to carry over unused amounts to one year. Thus, if an individual carried over $30 and did not elect any additional amounts for the next year, the health FSA may require forfeiture of any amount remaining at the end of that next year.

VI. RELIEF RELATING TO EMPLOYER REPORTING

***Question 26*:** For employer reporting required under § 6056 (Forms 1094–C and 1095–C), is relief available from penalties for incomplete or incorrect returns filed or statements furnished to employees in 2016 for coverage offered (or not offered) in calendar year 2015?

***Answer 26*:** Yes. To assist with the implementation of the information reporting requirements, Treasury and IRS have provided certain relief applicable for reporting in early 2016 related to the coverage offered (or not offered) in calendar year 2015. See preamble to the final regulations under § 6056, section XIII, 79 FR 13231, 13246 (Mar. 10, 2014). This relief is intended to provide additional time to develop appropriate procedures for collection of data and compliance with the new reporting requirements. Accordingly, the IRS will not impose penalties under §§ 6721 and 6722 on ALE members that can show that they have made good faith efforts to comply with the information reporting requirements. Specifically, relief is provided from penalties under §§ 6721 and 6722 for returns and statements filed and furnished in 2016 to report offers of coverage in 2015 for incorrect or incomplete information reported on the return or statement. This relief does not apply in the case of ALE members that cannot show a good faith effort to comply with the information reporting requirements or that fail to timely file an information return or furnish a statement. However, consistent with existing information reporting rules, ALE members that fail to timely meet the requirements still may be eligible for penalty relief if the IRS determines that the standards for reasonable cause under § 6724 are satisfied. Similar relief has also been provided with respect to reporting on coverage under § 6055. See preamble to the regulations under § 6055, section 7, 79 FR 13220, 13226 (Mar. 10, 2014).

VII. REQUEST FOR COMMENTS

Q&A–9, Q&A–12, Q&A–14, and Q&A–15 of this notice provide certain guidance that Treasury and IRS intend to incorporate into proposed regulations. These proposed regulations will provide stakeholders an opportunity for comment on the issues addressed in the proposed regulations. However, to assist in development of those proposed regulations, Treasury and IRS request comments on the guidance provided in those Q&As.

Public comments should be submitted no later than February 28, 2016. Comments should include a reference to Notice 2015–87. Send submissions to CC:PA:LPD:PR (Notice 2015–87), 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 (Notice 2015–87), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20044, or sent electronically, via the following e-mail address: *Notice.comments@irscounsel.treas.gov*. Please include "Notice 2015–87" in the subject line of any electronic communication. All material submitted will be available for public inspection and copying.

VIII. APPLICABILITY DATE AND RELIANCE PERIOD

Except as otherwise explicitly provided in this notice, the guidance provided in this notice applies for plan years beginning on and after December 16, 2015, but taxpayers may apply the guidance provided in this notice for all prior periods.

IX. DRAFTING INFORMATION

The principal author of this notice is Shad Fagerland of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice contact at (202) 317-5500 (not a toll-free number).

Part IV. Items of General Interest

Notice of Disposition of Declaratory Judgment Proceedings under Section 7428

Announcement 2015–36

This announcement serves notice to donors that on August 27, 2015, the United States Tax Court entered an order dismissing the case involving the below-referenced organization. The organization listed below is not recognized as an organization described in section 501(c)(3), is not exempt from tax under section 501(a), and is not an organization described in section 170(c)(2).

Congressional District Programs
Falls Church VA

Definition of Terms

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

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

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

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

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

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

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

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

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

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

Abbreviations

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

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

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

Internal Revenue Service
Washington, DC 20224

INTERNAL REVENUE BULLETIN

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

We Welcome Comments About the Internal Revenue Bulletin

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