INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2016–9
February 29, 2016

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. Proc. 2016–14, page 365.

This procedure provides the inflation-adjusted items for 2016 pursuant to the enactment of Protecting Americans from Tax Hikes Act of 2015.

EMPLOYEE PLANS

REG–101701–16, page 368.

These proposed regulations would provide guidance on the application of a limitation under § 432(e)(9)(D)(vii) on a suspension of benefits under § 432(e)(9) under a multiemployer defined benefit pension plan that includes benefits directly attributable to a participant's service with any employer that has withdrawn from the plan, paid its full withdrawal liability, and, pursuant to a collective bargaining agreement, assumed liability for providing benefits to participants and beneficiaries equal to benefits for such participants and beneficiaries reduced as a result of the financial status of the plan.

Notice 2016–18, page 359.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for February 2016 used under § 417(e)(3)(D), the 24-month average segment rates applicable for February 2016, 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).

EXEMPT ORGANIZATIONS

Announcement 2016–08, page 367.

Serves notice to potential donors of organizations that have recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Announcement 2016–09, page 367.

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

Announcement 2016–10, page 367.

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

ESTATE TAX

Notice 2016–19, page 362.

This notice provides that statements required under section 6035, regarding the basis of property distributed from the estate of a decedent, need not be filed or furnished until March 31, 2016, rather than the current February 29, 2016 deadline. The notice further recommends that executors and other persons who are required to file an estate tax return wait to prepare the statements required under section 6035 until the Treasury Department and IRS issue further guidance.

(Continued on the next page)

Finding Lists begin on page ii.

EXCISE TAX

Notice 2016–17, page 358.
Notice 2016–17 provides schools (colleges and universities) with temporary transition relief to address compliance with certain group market reform provisions of the ACA. The guidance in this notice is being issued in substantially identical form by DOL and HHS in separate guidance. The Treasury Department and IRS, and DOL and HHS will not assert that a premium reduction arrangement fails to satisfy certain group market reform provisions of the ACA if the arrangement is offered in connection with other student health coverage (insured or self-insured) for a plan year or policy year beginning before January 1, 2017.

ADMINISTRATIVE

Notice 2016–20, page 362.
This notice sets forth the maximum face amount of Qualified Zone Academy Bonds that may be issued for each State for the calendar years 2015 and 2016. For this purpose, "State" includes the District of Columbia and the possessions of the United States.

The IRS Mission

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

Introduction

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

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

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

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

The Bulletin is divided into four parts as follows:

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

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

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

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

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

Part III. Administrative, Procedural, and Miscellaneous

APPLICATION OF THE MARKET REFORMS AND OTHER PROVISIONS OF THE AFFORDABLE CARE ACT TO STUDENT HEALTH COVERAGE

Notice 2016–17

I. PURPOSE AND OVERVIEW

This notice provides guidance on the application of certain provisions of the Affordable Care Act[1] to premium reduction arrangements offered in connection with student health plans and provides temporary transition relief from enforcement by the Departments of the Treasury, Labor, and Health and Human Services (collectively, the Departments) in certain circumstances.

On September 13, 2013, the Treasury Department (Treasury) and the Internal Revenue Service (IRS) published Notice 2013–54,[2] 2013–40 IRB 287, addressing the application of the market reforms to health reimbursement arrangements and employer payment plans under the Affordable Care Act. The Department of Labor (DOL) contemporaneously published parallel guidance in Technical Release 2013–03[3] and the Department of Health and Human Services (HHS) issued guidance stating that it concurs in the application of the laws under its jurisdiction as set forth in the guidance issued by DOL and Treasury and IRS.[4] Subsequent guidance reiterated and clarified the application of the market reforms to employer payment plans.[5] The guidance set out below provides a transition period for the application of certain market reforms to certain arrangements offered by an institution of higher education to its students that are designed to reduce the cost of student health coverage (whether insured or self-insured) through a credit, offset, reimbursement, stipend, or similar arrangement (a premium reduction arrangement).

The Departments continue to work together to develop coordinated regulations and other administrative guidance to assist stakeholders with implementation of the Affordable Care Act. The guidance in this notice is being issued in substantially identical form by DOL and HHS in separate guidance.

II. BACKGROUND

Under Notice 2013–54 (the 2013 guidance), an employer payment plan (EPP) is a group health plan under which an employer reimburses an employee for some or all of the premium expenses incurred for an individual market health insurance policy or directly pays a premium for an individual market health insurance policy covering the employee. EPPs and health reimbursement arrangements (HRAs) typically consist of a promise by an employer to reimburse medical expenses up to a certain amount. The 2013 guidance clarifies that such arrangements are subject to the group market reform provisions of the Affordable Care Act, including the prohibition on annual dollar limits under PHS Act section 2711 and the requirement to provide certain preventive services without cost sharing under PHS Act section 2713. That guidance generally provides that EPPs and HRAs will fail to comply with these group market reform requirements because these arrangements, by their very definition, include dollar limits on the amount of reimbursements or payments, and therefore violate the Affordable Care Act prohibition on annual dollar limits and the requirement to provide coverage of certain recommended preventive services without imposing any cost-sharing requirements.

The 2013 guidance further clarified that such employer health care arrangements will not violate the market reform provisions when integrated with a group health plan that otherwise complies with those provisions. Importantly, however, the 2013 guidance provided that these employer health care arrangements cannot be integrated with individual market policies to satisfy the market reforms. Consequently, such an arrangement may be subject to penalties, including excise taxes under section 4980D of the Code.

On March 21, 2012, HHS published a final rule (the student health insurance plan or SHIP rule) establishing requirements for student health insurance coverage under the PHS Act and the Affordable Care Act.[6] The SHIP rule defines "student health insurance coverage" as a type of individual market health insurance coverage that is offered to students and their dependents under a written agreement between an institution of higher education (as that term is defined for purposes of the Higher Education Act of 1965) and an issuer.[7]

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[1]The "Affordable Care Act" refers to the Patient Protection and Affordable Care Act (enacted March 23, 2010, Pub. L. No. 111–148), 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). Section 1001 of the Affordable Care Act added new Public Health Service Act (PHS Act) §§ 2711–2719. Section 1563 of the Affordable Care Act (as amended by § 10107(b) of the Affordable Care Act) added Internal Revenue Code (Code) § 9815(a) and Employee Retirement Income Security Act (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 §§ 2701 through 2728. Accordingly, these referenced PHS Act sections (the market reforms) are subject to shared interpretive jurisdiction by the Departments.

[2]Notice 2013–54 is available at *http://www.irs.gov/pub/irs-drop/n-13-54.pdf*.

[3]Technical Release 2013–03 is available at http://www.dol.gov/ebsa/newsroom/tr13-03.html.

[4]*See* Insurance Standards Bulletin, Application of Affordable Care Act Provisions to Certain Healthcare Arrangements, September 16, 2013, available at *https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/cms-hra-notice-9-16-2013.pdf*.

[5]There have been several prior issuances on the topics addressed in this notice: (1) FAQs About Affordable Care Act Implementation (Part XI), issued on January 24, 2013 by DOL (http://www.dol.gov/ebsa/faqs/faq-aca11.html) and HHS (http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/aca_implementation_faqs11.html); (2) IRS Notice 2013–54 and DOL Technical Release 2013–03, issued on September 13, 2013; (3) IRS FAQ on Employer Healthcare Arrangements (http://www.irs.gov/Affordable-Care-Act/Employer-Health-Care-Arrangements). (4) FAQs About Affordable Care Act Implementation (Part XXII), issued on November 6, 2014 by DOL (http://www.dol.gov/ebsa/faqs/faq-aca22.html) and HHS (*http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQs-Part-XXII-FINAL.pdf*); Notice 2015–17, 2015–14 I.R.B. 845, issued by Treasury and IRS on February 18, 2015, and Notice 2015–87, 2015–52 I.R.B. 889, Q&A–1 to Q&A–6, issued by Treasury and IRS on December 16, 2015.

[6]*See* 45 CFR 147.145.

[7]Student health insurance plans are regulated under the Affordable Care Act individual market reforms. *See* Affordable Care Act sections 1302 and 1201 (incorporating PHS Act section 2701). These requirements have been modified somewhat for student health insurance taking into account Congressional intent as expressed in section 1560 of the Affordable Care Act.

Many colleges and universities provide students (typically graduate students) with student health coverage at greatly reduced or no cost as part of their student package, which often includes tuition assistance and a stipend for living expenses. The student health coverage can be provided either through individual health insurance or through coverage that is self-insured by the college or university. For these students, the bill they receive from the school for the health coverage premium may take into account a premium reduction arrangement. Because some of these students also perform services for the school (such as teaching or research), the question has been raised whether such premium reduction arrangements might be employer-sponsored group health plans, and, as a result, might be viewed as EPPs that violate market reform provisions of the Affordable Care Act. Whether a particular arrangement constitutes a group health plan will depend on all of the facts and circumstances.

III. GUIDANCE

In many cases in which a college or university offers a premium reduction arrangement to its students, the payment arrangement will not constitute an EPP under the 2013 guidance. In other cases, however, such arrangements might meet the definition of an EPP. The Departments understand that some schools that have been offering such premium reduction arrangements might not have recognized at the time of the 2013 guidance that, in certain circumstances, the arrangements might constitute EPPs within the meaning of the 2013 guidance and, therefore, violate PHS Act sections 2711 and 2713 because they are not integrated with group health plan coverage and (as provided in the 2013 guidance and other guidance) cannot integrate with individual insurance coverage. As a result, the Departments recognize that schools may need additional time to adopt a suitable alternative or make other arrangements to come into compliance. Accordingly, the Departments will not assert that a premium reduction arrangement fails to satisfy PHS Act section 2711 or 2713 if the arrangement is offered in connection with other student health coverage (insured or self-insured) for a plan year or policy year beginning before January 1, 2017 (therefore including, for example, plan years or policy years that are roughly coterminous with academic years beginning in the summer or fall of 2016 and ending in 2017).

IV. APPLICABILITY DATE AND EFFECT ON OTHER DOCUMENTS

This notice applies for plan years beginning before January 1, 2017. This notice supplements the guidance provided in Notice 2013–54 and Notice 2015–87, 2015–52 IRB 889.

V. DRAFTING INFORMATION

This notice was prepared by personnel at the Health and Welfare Branch, Office of Associate Chief Counsel (Tax Exempt and Governmental Entities), Internal Revenue Service, with the development of the guidance including personnel at the Treasury Department, Department of Labor and Department of Health and Human Services. For further information regarding this guidance, contact the Department of Labor at (202) 693-8335 or the Internal Revenue Service at (202) 317-5500 (not a toll-free number).

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

Notice 2016–18

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 January 2016 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of January 2016 are, respectively, 1.78, 4.08, and 5.02.

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.

[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)).

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for February 2016 without adjustment for the 25-year average segment rate limits are as follows:

Applicable Month	First Segment	Second Segment	Third Segment
February 2016	1.43	3.94	4.96

Based on § 430(h)(2)(C)(iv), the 24-month averages applicable for February 2016 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**
2015	February	2016	4.72	6.11	6.81
2016	February	2016	4.43	5.91	6.65

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 January 2016 is 2.86 percent. The Service determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in November 2045. For plan years beginning in the month shown below, the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rate used to calculate current liability are as follows:

For Plan Years Beginning in		30-Year Treasury Weighted Average	Permissible Range		
Month	*Year*		90%	to	105%
February	2016	3.11	2.80		3.27

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 January 2016 are as follows:

First Segment	Second Segment	Third Segment
1.78	4.08	5.02

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 toll-free numbers).

Table I
Monthly Yield Curve for January 2016
Derived from January 2016 Data

Maturity	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*
0.5	0.73	20.5	4.80	40.5	5.04	60.5	5.13	80.5	5.18
1.0	1.11	21.0	4.81	41.0	5.05	61.0	5.14	81.0	5.18
1.5	1.43	21.5	4.82	41.5	5.05	61.5	5.14	81.5	5.18
2.0	1.68	22.0	4.83	42.0	5.05	62.0	5.14	82.0	5.18
2.5	1.86	22.5	4.84	42.5	5.06	62.5	5.14	82.5	5.18
3.0	1.99	23.0	4.85	43.0	5.06	63.0	5.14	83.0	5.18
3.5	2.09	23.5	4.86	43.5	5.06	63.5	5.14	83.5	5.19
4.0	2.19	24.0	4.87	44.0	5.07	64.0	5.14	84.0	5.19
4.5	2.30	24.5	4.87	44.5	5.07	64.5	5.15	84.5	5.19
5.0	2.42	25.0	4.88	45.0	5.07	65.0	5.15	85.0	5.19
5.5	2.55	25.5	4.89	45.5	5.07	65.5	5.15	85.5	5.19
6.0	2.69	26.0	4.90	46.0	5.08	66.0	5.15	86.0	5.19
6.5	2.84	26.5	4.90	46.5	5.08	66.5	5.15	86.5	5.19
7.0	3.00	27.0	4.91	47.0	5.08	67.0	5.15	87.0	5.19
7.5	3.15	27.5	4.92	47.5	5.08	67.5	5.15	87.5	5.19
8.0	3.30	28.0	4.92	48.0	5.09	68.0	5.15	88.0	5.19
8.5	3.45	28.5	4.93	48.5	5.09	68.5	5.16	88.5	5.19
9.0	3.59	29.0	4.94	49.0	5.09	69.0	5.16	89.0	5.19
9.5	3.72	29.5	4.94	49.5	5.09	69.5	5.16	89.5	5.19
10.0	3.84	30.0	4.95	50.0	5.10	70.0	5.16	90.0	5.19
10.5	3.96	30.5	4.95	50.5	5.10	70.5	5.16	90.5	5.20
11.0	4.06	31.0	4.96	51.0	5.10	71.0	5.16	91.0	5.20
11.5	4.15	31.5	4.97	51.5	5.10	71.5	5.16	91.5	5.20
12.0	4.24	32.0	4.97	52.0	5.10	72.0	5.16	92.0	5.20
12.5	4.31	32.5	4.98	52.5	5.11	72.5	5.16	92.5	5.20
13.0	4.38	33.0	4.98	53.0	5.11	73.0	5.17	93.0	5.20
13.5	4.44	33.5	4.99	53.5	5.11	73.5	5.17	93.5	5.20
14.0	4.49	34.0	4.99	54.0	5.11	74.0	5.17	94.0	5.20
14.5	4.54	34.5	5.00	54.5	5.11	74.5	5.17	94.5	5.20
15.0	4.58	35.0	5.00	55.0	5.12	75.0	5.17	95.0	5.20
15.5	4.62	35.5	5.01	55.5	5.12	75.5	5.17	95.5	5.20
16.0	4.65	36.0	5.01	56.0	5.12	76.0	5.17	96.0	5.20
16.5	4.67	36.5	5.01	56.5	5.12	76.5	5.17	96.5	5.20
17.0	4.70	37.0	5.02	57.0	5.12	77.0	5.17	97.0	5.20
17.5	4.72	37.5	5.02	57.5	5.13	77.5	5.17	97.5	5.20
18.0	4.74	38.0	5.03	58.0	5.13	78.0	5.18	98.0	5.20
18.5	4.75	38.5	5.03	58.5	5.13	78.5	5.18	98.5	5.21
19.0	4.77	39.0	5.03	59.0	5.13	79.0	5.18	99.0	5.21
19.5	4.78	39.5	5.04	59.5	5.13	79.5	5.18	99.5	5.21
20.0	4.79	40.0	5.04	60.0	5.13	80.0	5.18	100.0	5.21

Date for Compliance with Consistent Basis Reporting Between Estate and Person Acquiring Property from Decedent

Notice 2016–19

SECTION 1: PURPOSE

On July 31, 2015, the President of the United States signed into law the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*, Public Law 114–41, 129 Stat. 443 (Act). Section 2004 of the Act added new sections 1014(f) and 6035. On August 21, 2015, the Treasury Department and the IRS issued Notice 2015–57, 2015–36 IRB 294. That notice delayed until February 29, 2016, the due date for any statements required under section 6035(a)(3)(A) to be provided before February 29, 2016. This notice provides that executors and other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016. This notice is being issued in order to provide executors and such other persons the opportunity to review the proposed regulations to be issued under sections 1014(f) and 6035 before preparing a Form 8971 and any Schedule A.

SECTION 2: BACKGROUND

Section 1014(f) provides rules requiring that the basis of certain property acquired from a decedent, as determined under section 1014, may not exceed the value of that property as finally determined for federal estate tax purposes, or if not finally determined, the value of that property as reported on a statement made under section 6035.

Section 6035 imposes new reporting requirements with regard to the value of property included in a decedent's gross estate for federal estate tax purposes.

Section 6035(a)(1) provides that the executor of any estate required to file a return under section 6018(a) must furnish, both to the Secretary and to the person acquiring any interest in property included in the decedent's gross estate for federal estate tax purposes, a statement identifying the value of each interest in such property as reported on such return and such other information with respect to such interest as the Secretary may prescribe.

Section 6035(a)(2) provides that each person required to file a return under section 6018(b) must furnish, both to the Secretary and to each other person who holds a legal or beneficial interest in the property to which such return relates, a statement identifying the information described in section 6035(a)(1).

Section 6035(a)(3)(A) provides that each statement required to be furnished under section 6035(a)(1) or (a)(2) is to be furnished at such time as the Secretary may prescribe, but in no case at a time later than the earlier of (i) the date which is 30 days after the date on which the return under section 6018 was required to be filed (including extensions, if any) or (ii) the date which is 30 days after the date such return is filed.

Section 6035(b) authorizes the Secretary to prescribe such regulations as necessary to carry out section 6035. Section 7805(a) provides generally that the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue. Section 7805(b)(2) provides that regulations may apply retroactively if they are issued within 18 months of the date of the enactment of the statutory provision to which they relate.

SECTION 3: GUIDANCE

Statements required under sections 6035(a)(1) and (a)(2) to be filed with the IRS or furnished to a beneficiary before March 31, 2016, need not be filed with the IRS and furnished to a beneficiary until March 31, 2016. The Treasury Department and IRS recommend that executors and other persons required to file a return under section 6018 wait to prepare the statements required by section 6035(a)(1) and (a)(2) until the issuance of proposed regulations by the Treasury Department and the IRS addressing the requirements of section 6035. The Treasury Department and the IRS expect to issue proposed regulations under sections 1014(f) and 6035 very shortly.

SECTION 4: EFFECTIVE DATE

This notice is effective on February 11, 2016. This notice applies to executors of the estates of decedents and to other persons who are required under section 6018(a) or (b) to file a return if that return is filed after July 31, 2015.

DRAFTING INFORMATION

The principal author of this notice is Eliezer Mishory of the Office of the Associate Chief Counsel (Procedure & Administration). For further information regarding this notice, please contact Theresa Melchiorre at (202) 317-6859 (not a toll-free number).

Qualified Zone Academy Bond Allocations for 2015 and 2016

Notice 2016–20

SECTION 1. PURPOSE

This notice sets forth the maximum face amount of Qualified Zone Academy Bonds ("QZABs") that may be issued for each State for the calendar years 2015 and 2016 under § 54E(c)(2) of the Internal Revenue Code. Under § 54A(e)(3), the term State includes the District of Columbia and any possession of the United States.

SECTION 2. BACKGROUND

.01 INTRODUCTION

Section 313 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Div. C of Pub. L. No. 110–343, 122 Stat. 3765 (2008) ("Act") added new § 54E, which provides revised program provisions for QZABs in lieu of the existing provisions under § 1397E, effective for obligations issued after October 3, 2008. The Act amended § 54A(d)(1) to provide that the term qualified tax credit bond ("QTCB") means, in part, a qualified zone academy bond which is part of an issue that meets the requirements of §§ 54A(d)(2), (3), (4), (5), and (6) regarding expenditures of bond proceeds, information reporting, arbitrage, maturity limitations, and prohibitions against financial conflicts of interest. The Act also amended § 54A(d)(2)(C) to provide that, for

purposes of § 54A(d)(2), the term "qualified purpose" for a QZAB means a purpose specified in § 54E(a)(1), described below.

The Act added § 54E(c)(1) to provide a national zone academy bond limitation authorization for QZABs of $400 million for each of calendar years 2008 and 2009. Section 1522 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111–5, 123 Stat. 115 (2009) ("2009 Act") amended § 54E(c)(1) to provide an increased national zone academy bond limitation authorization for QZABs of $1.4 billion for each of calendar years 2009 and 2010. Section 758 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public L. No. 111–312, 124 Stat. 3296 (2010) ("2010 Act") amended § 54E(c)(1) to provide an authorization for QZABs of $400 million for calendar year 2011. Section 310 of the American Taxpayer Relief Act of 2012, Public L. No. 112–240, 126 Stat. 2313 (2012) ("2012 Act") amended § 54E(c)(1) to provide authorization for QZABs of $400 million for each of calendar years 2012 and 2013. Section 120 of the Tax Increase Prevention Act of 2014, Public L. No. 113–295 (2014) ("2014 Act") amended § 54E(c)(1) to provide authorization for QZABs of $400 million for calendar year 2014. The amendment made by § 120 of the 2014 Act applies to obligations issued after December 31, 2013. Section 202 of the 2014 Act also amended § 6431(f)(3)(A)(iii) to provide that the direct-pay subsidy option does not apply to any national zone academy bond limitation for years after 2010 or any carryforward of any such limitation. Section 164 of the Protecting Americans from Tax Hikes Act of 2015, Public L. No. 114–113, 129 Stat. 2242 ("2015 Act") amended § 54E(c)(1) to provide authorization for QZABs of $400 million for each of calendar years 2015 and 2016. The amendment made by § 164 of the 2015 Act applies to obligations issued after December 31, 2014.

.02 QUALIFIED ZONE ACADEMY BOND UNDER § 54E

Section 54E(d) defines "qualified zone academy" as any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level provided: (A) the public school or program is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates and prepare students for college and the workforce; (B) students will be subject to the same academic standards and assessments as other students educated by the eligible local education agency; (C) the comprehensive education plan is approved by the eligible local education agency; and (D)(i) such public school is located in an empowerment zone or enterprise community including such designated after October 3, 2008; or (ii) there is a reasonable expectation (as of the date of bond issuance) that at least 35 percent of the students will be eligible for free or reduced cost lunches under the school lunch program established under the National School Lunch Act.

Section 54E(a) provides that a "qualified zone academy bond" or QZAB means any bond issued as part of an issue if: (1) 100 percent of the available project proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency; (2) the bond is issued by a State or local government within the jurisdiction of which such academy is located, and (3) the issuer: (A) designates such bond for purposes of this section; (B) certifies that it has written assurances that the private business contribution requirement of § 54E(b) will be met; and, (C) certifies that it has the written approval of the eligible local education agency for such bond issuance.

Section 54E(d)(3) provides that a qualified purpose with respect to each academy means: (A) rehabilitating or repairing the public school facility; (B) providing equipment; (C) developing course materials; and, (D) training teachers and other school personnel. The private business contribution requirement of § 54E(b) is met if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue. Section 54E(d)(4) defines "qualified contributions" as any contribution (of a type and quality acceptable to the eligible local education agency) of: (A) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment); (B) technical assistance in developing curriculum or in training teachers to promote appropriate market driven technology in the classroom; (C) employees' services as volunteer mentors; (D) internships, field trips, or other educational opportunities outside the academy; or (E) any other property or service specified by the eligible education agency. Section 54E(d)(2) defines "eligible local education agency" as any local educational agency as defined in § 9101 of the Elementary and Secondary Education Act of 1965.

Section 54E(c)(2) provides that the Department of the Treasury shall allocate the national zone academy bond limitation among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

Under § 54E(c)(3), the maximum aggregate face amount of bonds issued during any calendar year which may be designated as QZABs with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy for such calendar year. However, under § 54E(c)(4)(A), if for any calendar year the limitation amount for any State exceeds the amount of bonds issued during such year which are designated QZABs with respect to qualified zone academies within such State, the limitation amount for such State for the following calendar year shall be increased by the amount of such excess. Under § 54E(c)(4)(B), however, any carryforward of a limitation amount may be carried only to the first 2 years following the unused limitation year. For these purposes, the limitation amount shall be treated as used on a first-in first-out basis.

Sections 1.1397E–1 (the "Final Regulations") sets forth regulations that were issued under § 1397E. For other guidance concerning the applicability of the regulations issued under § 1397E, the

credit rate, and the sinking fund yield see § 1.397E–1(m), and Notice 2009–15, 2009–6 I.R.B. 449, Notice 2009–30, 2009–16 I.R.B. 852, Notice 2010–22, 2010–10 I.R.B. 435, and Rev. Proc. 2011–19, 2011–6 I.R.B. 465.

SECTION 3. NATIONAL ZONE ACADEMY BOND LIMITATION FOR 2015 and 2016

The national limitation for QZABs issued under § 54E for calendar years 2015 and 2016 is $400 million. These amounts are allocated among the States as follows:

Qualified Zone Academy Bond Allocations (in dollars) by State or Territory, 2015 and 2016

State or Territory	2015	2016
Alabama	$ 7,222,000	$ 7,222,000
Alaska	$ 651,000	$ 651,000
Arizona	$ 9,536,000	$ 9,536,000
Arkansas	$ 4,306,000	$ 4,306,000
California	$49,866,000	$49,866,000
Colorado	$ 5,048,000	$ 5,048,000
Connecticut	$ 2,993,000	$ 2,993,000
Delaware	$ 941,000	$ 941,000
DC	$ 915,000	$ 915,000
Florida	$25,766,000	$25,766,000
Georgia	$14,376,000	$14,376,000
Hawaii	$ 1,262,000	$ 1,262,000
Idaho	$ 1,895,000	$ 1,895,000
Illinois	$14,372,000	$14,372,000
Indiana	$ 7,723,000	$ 7,723,000
Iowa	$ 2,940,000	$ 2,940,000
Kansas	$ 3,042,000	$ 3,042,000
Kentucky	$ 6,481,000	$ 6,481,000
Louisiana	$ 7,168,000	$ 7,168,000
Maine	$ 1,449,000	$ 1,449,000
Maryland	$ 4,823,000	$ 4,823,000
Massachusetts	$ 6,062,000	$ 6,062,000
Michigan	$12,499,000	$12,499,000
Minnesota	$ 4,847,000	$ 4,847,000
Mississippi	$ 5,063,000	$ 5,063,000
Missouri	$ 7,244,000	$ 7,244,000
Montana	$ 1,211,000	$ 1,211,000
Nebraska	$ 1,795,000	$ 1,795,000
Nevada	$ 3,432,000	$ 3,432,000
New Hampshire	$ 940,000	$ 940,000
New Jersey	$ 7,754,000	$ 7,754,000
New Mexico	$ 3,352,000	$ 3,352,000
New York	$24,582,000	$24,582,000
North Carolina	$13,269,000	$13,269,000
North Dakota	$ 632,000	$ 632,000
Ohio	$14,180,000	$14,180,000
Oklahoma	$ 4,969,000	$ 4,969,000
Oregon	$ 5,081,000	$ 5,081,000
Pennsylvania	$13,389,000	$13,389,000
Rhode Island	$ 1,195,000	$ 1,195,000

Qualified Zone Academy Bond Allocations (in dollars) by State or Territory, 2015 and 2016

State or Territory	2015	2016
South Carolina	$ 6,683,000	$ 6,683,000
South Dakota	$ 924,000	$ 924,000
Tennessee	$ 9,292,000	$ 9,292,000
Texas	$ 36,040,000	$ 36,040,000
Utah	$ 2,724,000	$ 2,724,000
Vermont	$ 576,000	$ 576,000
Virginia	$ 7,620,000	$ 7,620,000
Washington	$ 7,284,000	$ 7,284,000
West Virginia	$ 2,621,000	$ 2,621,000
Wisconsin	$ 5,879,000	$ 5,879,000
Wyoming	$ 509,000	$ 509,000
American Samoa	$ 325,000	$ 325,000
Guam	$ 352,000	$ 352,000
Northern Mariana Islands	$ 185,000	$ 185,000
Puerto Rico	$ 14,519,000	$ 14,519,000
Virgin Islands	$ 196,000	$ 196,000
Total Allocation	$400,000,000	$400,000,000

SECTION 4. EFFECTIVE DATE OF NATIONAL ZONE ACADEMY BOND LIMITATIONS

The national limitation allocated in section 3 for calendar years 2015 and 2016 is effective for QZABs issued after December 31, 2014.

SECTION 5. DRAFTING INFORMATION

The principal authors of this notice are James A. Polfer and David E. White of the Office of Associate Chief Counsel (Financial Institutions and Products). For further information regarding this notice contact David White or James Polfer at (202) 317-6980 (not a toll-free number).

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26 CFR 601.602: Tax forms and instructions.
(Also Part I, §§ 62, 132, 179)

Rev. Proc. 2016–14

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SECTION 1. PURPOSE

Rev. Proc. 2015–53, 2015–44 I.R.B. 615, provides inflation adjustments for certain items for 2016. This revenue procedure provides the inflation adjustments for additional items that are adjusted for inflation due to the enactment of the Protecting Americans from Tax Hikes Act (PATH Act) of 2015, enacted as part of the Consolidated Appropriations Act, 2016, Public Law 114–113, div. Q (the "Act"). This revenue procedure also modifies part of section 3.17 of Rev. Proc. 2015–53, concerning the inflation adjustment for excludable transit benefits.

SECTION 2. BACKGROUND

.01 Section 104 of the Act provides that under § 62(a)(2)(D) of the Internal Revenue Code the amount of the deduction allowed under § 162 which consists of expenses paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom is adjusted for inflation for taxable years beginning after December 31, 2015. (See section 3.01 of this revenue procedure.)

.02 Section 105 of the Act amends § 132(f)(2) of the Code to create parity, for periods after December 31, 2014, between the transit benefit exclusion for the aggregate of transportation in a commuter highway vehicle and any transit pass, and the exclusion for qualified parking. (See section 3.02 of this revenue procedure.)

.03 Section 124 of the Act amends § 179(b)(1) and (2) of the Code to provide that the dollar limitation for the aggregate cost of § 179 property that a taxpayer may elect to expense is $500,000, and that dollar amount is reduced by the amount by which the cost of all § 179 property placed in service during the taxable year exceeds $2,000,000. For taxable years beginning in 2016, these amounts are adjusted for inflation. (See section 3.03 of this revenue procedure.)

SECTION 3. 2016 ADDITIONAL INFLATION ADJUSTED ITEMS

.01 *Certain Expenses of Elementary and Secondary School Teachers*. For taxable years beginning in 2016, under § 62(a)(2)(D) the amount of the deduction allowed under § 162 which consists of expenses paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom is not in excess of $250.

.02 *Qualified Transportation Fringe Benefit*. For taxable years beginning in 2016, the monthly limitation under § 132(f)(2)(A) regarding the aggregate fringe benefit exclusion amount for transportation in a commuter highway vehicle and any transit pass is $255. This section modifies section 3.17 of Rev. Proc. 2015–53. (For taxable years beginning in 2015, see Notice 2016–6, 2016–4 I.R.B 287, *Application of Retroactive Increase in Excludable Transit Benefits.)*

.03 *Election to Expense Certain Depreciable Assets*. For taxable years beginning in 2016, under § 179(b)(1) the aggregate cost of any § 179 property that a taxpayer elects to treat as an expense cannot exceed $500,000. Under § 179(b)(2)(C), the $500,000 limitation is reduced (but not below zero) by the amount the cost of § 179 property placed in service during the 2016 taxable year exceeds $2,010,000.

SECTION 4. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2015–53 is modified.

SECTION 5. EFFECTIVE DATES

Section 3 of this revenue procedure applies to taxable years beginning in 2016.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is William Ruane of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Mr. Ruane at (202) 317-4718 (not a toll-free number).

Part IV. Items of General Interest

Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

Announcement 2016–08

This announcement serves notice to potential donors that the organization listed below has recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section 170(c)(2), as more particularly set forth in section 7428(c)(1).

In the case of individual contributors, the maximum amount of contributions protected during this period is limited to $1,000.00, with a husband and wife being treated as one contributor. This protection is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for the revocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

Name of Organization	Date Suit Filed	Effective Date of Revocation	Location
Columbians of Nampa, Inc.	12/23/2015	1/1/2010	Nampa, ID

Notice of Disposition of Declaratory Judgment Proceedings under Section 7428

Announcement 2016–09

This announcement serves notice to donors that on November 4, 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).

Dr. R.C. Samantha Roy Institute of Science and Technology Inc

Green Bay WI

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

Announcement 2016–10

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The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the IRS will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the IRS is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on February 29, 2016 and would end on the date the court first determines the organization is not described in section 170(c)(2) as more particularly set for in section 7428(c)(1). For individual contributors, the maximum deduction protected is $1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

NAME OF ORGANIZATION	Effective Date of Revocation	LOCATION
Nuestro Futuro Inc.	January 1, 2014	Portland, OR
Senior Rescue	February 4, 2009	San Diego, CA
Enfinite Possibilities, Inc.	January 1, 2012	Los Angeles, CA

Notice of proposed rulemaking and notice of public hearing Additional Limitation on Suspension of Benefits Applicable to Certain Pension Plans

REG–101701–16

Under the Multiemployer Pension Reform Act of 2014

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: The Multiemployer Pension Reform Act of 2014 ("MPRA"), which was enacted by Congress as part of the Consolidated and Further Continuing Appropriations Act of 2015, relates to multiemployer defined benefit pension plans that are projected to have insufficient funds, within a specified timeframe, to pay the full plan benefits to which individuals will be entitled (referred to as plans in "critical and declining status"). Under MPRA, the sponsor of such a plan is permitted to reduce the pension benefits payable to plan participants and beneficiaries if certain conditions and limitations are satisfied (referred to in MPRA as a "suspension of benefits"). One specific limitation governs the application of a suspension of benefits under any plan that includes benefits directly attributable to a participant's service with any employer that has withdrawn from the plan in a complete withdrawal, paid its full withdrawal liability, and, pursuant to a collective bargaining agreement, assumed liability for providing benefits to participants and beneficiaries equal to any benefits for such participants and beneficiaries reduced as a result of the financial status of the plan. This document contains proposed regulations that would provide guidance relating to this specific limitation. These regulations affect active, retired, and deferred vested participants and beneficiaries under any such multiemployer plan in critical and declining status as well as employers contributing to, and sponsors and administrators of, those plans.

DATES: Comments must be received by March 15, 2016. Outlines of topics to be discussed at the public hearing scheduled for March 22, 2016 must be received by March 15, 2016.

ADDRESSES: Send submissions to: CC: PA:LPD:PR (REG–101701–16), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington D.C. 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–101701–16), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C., or sent electronically via the Federal eRulemaking Portal at http://www.regulations.gov (IRS REG–101701–16). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, the Department of the Treasury MPRA guidance information line at (202) 622-1559; concerning submissions of comments, the hearing, and/or being placed on the building access list to attend the hearing, Regina Johnson at (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 432(e)(9) of the Internal Revenue Code (Code), as amended by section 201 of the Multiemployer Pension Reform Act of 2014, Division O of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law No. 113–235 (128 Stat. 2130 (2014)) (MPRA).[1] As amended, section 432(e)(9) permits plan sponsors of certain multiemployer plans to reduce the plan benefits payable to participants and beneficiaries by plan amendment (referred to in the statute as a "suspension of benefits") if specified conditions are satisfied. A plan sponsor that seeks to implement a suspension of benefits must submit an application that the Secretary of the Treasury, in consultation with the Pension Benefit Guaranty Corporation and the Secretary of Labor (generally referred to in this preamble as the Treasury Department, PBGC, and Labor Department, respectively), is required by the statute to approve upon finding that certain specified conditions are satisfied. One condition is that the plan is in critical and declining status, meaning that the plan is projected to have insufficient funds, within a specified timeframe, to pay the full benefits to which individuals will be entitled under the plan.

Another condition, set forth in section 432(e)(9)(D)(vii), is a specific limitation on how a suspension of benefits must be applied under a plan that, as described in section 432(e)(9)(D)(vii)(III), includes benefits that are directly attributable to a participant's service with any employer that has, prior to the date MPRA was enacted, withdrawn from the plan in a complete withdrawal under section 4203 of ERISA, paid the full amount of the employer's withdrawal liability under section 4201(b)(1) of ERISA or an agreement with the plan, and, pursuant to a collective bargaining agreement, assumed liability for providing benefits to participants and beneficiaries of the plan under a separate, single-employer plan sponsored by the employer, in an amount equal to any amount of benefits for these participants and beneficiaries reduced as a result of the financial status of the plan. Such an employer is referred to in this preamble as a "subclause III employer," and the agreement to assume liability for those benefits is referred to as a "make-whole agreement."

If the specific limitation of section 432(e)(9)(D)(vii) applies to a plan, then section 432(e)(9)(D)(vii)(I) requires that the suspension of benefits first be applied

[1]Section 201 of MPRA makes parallel amendments to section 305 of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA). The Treasury Department has interpretive jurisdiction over the subject matter of these provisions under ERISA as well as the Code. See also section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713). Thus, these proposed Treasury regulations issued under section 432 of the Code apply as well for purposes of section 305 of ERISA.

to the maximum extent permissible to benefits attributable to a participant's service with an employer that withdrew from the plan and failed to pay (or is delinquent with respect to paying) the full amount of its withdrawal liability under section 4201(b)(1) of ERISA or an agreement with the plan. Such an employer is referred to in this preamble as a "subclause I employer." Second, under section 432(e)(9)(D)(vii)(II), except as provided in section 432(e)(9)(D)(vii)(III), a suspension of benefits must be applied to all other benefits. Third, under section 432(e)(9)(D)(vii)(III), a suspension must be applied to benefits under a plan that are directly attributable to a participant's service with a subclause III employer.

On June 19, 2015, the Treasury Department and the IRS published temporary regulations (TD 9723) under section 432(e)(9) in the **Federal Register** (80 FR 35207) providing general guidance regarding section 432(e)(9) as well as outlining the requirements for a plan sponsor of a plan that is in critical and declining status to apply for approval of a suspension of benefits and for the Treasury Department to begin processing such an application. A notice of proposed rulemaking cross-referencing the temporary regulations (REG–102648–15) and providing additional guidance was published in the same issue of the **Federal Register** (80 FR 35262). Neither the temporary nor the proposed regulations include guidance regarding the limitation under section 432(e)(9)(D)(vii).

On October 23, 2015, the Treasury Department published a notice in the **Federal Register** (80 FR 64508) regarding an application for a proposed suspension of benefits, which represented that the plan is of the type to which section 432(e)(9)(D)(vii) applies. The notice requested public comments on all aspects of the application, including with respect to the interpretation of section 432(e)(9)(D)(vii) that is reflected in the application. The Treasury Department and the IRS have considered the comments received in response to that notice in developing these proposed regulations.

Explanation of Provisions

These proposed regulations would amend the Income Tax Regulations (26 CFR part 1) to provide guidance regarding section 432(e)(9)(D)(vii). The Treasury Department consulted with PBGC and the Labor Department in developing these proposed regulations. These proposed regulations would add a new paragraph (d)(8) to proposed § 1.432(e)(9)–1 and do not otherwise affect the provisions of the proposed regulations published in the **Federal Register** (80 FR 35262) on June 19, 2015.

Section 432(e)(9)(D)(vii) sets forth a rule that limits how a suspension may be applied under a plan that includes benefits that are directly attributable to a participant's service with any employer that, as defined in section 432(e)(9)(D)(vii)(III), has withdrawn, paid the full amount of its withdrawal liability, and, pursuant to a collective bargaining agreement, assumed liability for providing benefits to participants and beneficiaries of the plan under a separate, single-employer plan sponsored by the employer, in an amount equal to any amount of benefits for such participants and beneficiaries reduced as a result of the financial status of the multiemployer plan. In determining how a suspension should be allocated consistent with the statutory framework, the Treasury Department and the IRS analyzed the statute and applied principles of statutory construction.

Subclause (I) of section 432(e)(9)(D)(vii) provides that the suspension of benefits should first be applied "to the maximum extent permissible." Accordingly, the Treasury Department and the IRS conclude that reductions with respect to benefits attributable to service with a subclause I employer must be applied first to the maximum extent permissible before reductions are permitted to be applied to any other benefits. Consequently, these proposed regulations require that a suspension of benefits under a plan that is subject to section 432(e)(9)(D)(vii) be applied to the maximum extent permissible to benefits attributable to service with a subclause I employer. Only if such a suspension is not reasonably estimated to achieve the level that is necessary to enable the plan to avoid insolvency may a suspension then be applied to other benefits that are permitted to be suspended and that are attributable to a participant's service with other employers.

In contrast, subclause (II) does not include the phrase "to the maximum extent permissible," and therefore the Treasury Department and the IRS have concluded that the best interpretation of section 432(e)(9)(D)(vii) is that a suspension need not be applied to the maximum extent permissible to benefits described in subclause (II) before any suspension is applied to benefits described in subclause (III).[2] This interpretation is also consistent with the language in subclause (II) providing for application of a suspension "except as provided in subclause (III)," contemplating a coordinated application of those subclauses, which are to be applied "second" and "third," respectively.[3] Because of the order of application of subclauses (II) and (III) and the coordinated application described in the preceding sentence, the Treasury Department and the IRS conclude that the best interpretation of section 432(e)(9)(D)(vii) is that the application of a suspension to benefits described in subclause (II) must be greater than or equal to the application of the suspension to benefits described in subclause (III).

Under these proposed regulations, a suspension would not be permitted to reduce benefits directly attributable to service with a subclause III employer, unless other benefits are first reduced and are reduced to at least the same extent (thus protecting a subclause III employer from the possibility that the suspension would be expressly designed to take advantage of the employer's agreement to make participants and beneficiaries whole for the

[2]*See Loughrin v. United States*, 134 S. Ct. 2384, 2390 (2014) ("We have often noted that when 'Congress includes particular language in one section of a statute but omits it in another'—let alone in the very next provision—this Court 'presume[s]' that Congress intended a difference in meaning." (quoting *Russello v. United States*, 464 U.S. 16, 23 (1983)). To read subclause (II) to require that benefits be suspended "to the maximum extent permissible" without that language would either render that language superfluous in subclause (I), *see Marx v. General Revenue Corp.*, 133 S. Ct. 1166, 1178 (2013) ("[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme."), or effectively rewrite subclause (II) to include that requirement, *see Hall v. United States*, 132 S. Ct. 1882, 1893 (2012) ("[I]t is not for us to rewrite the statute.").

[3]*See Corley v. United States*, 556 U.S. 303, 314 (2009) (rejecting constructions "at odds with the basic interpretive canon that '"[a] statute should be construed [to give effect] to all its provisions, so that no part will be inoperative or superfluous, void or insignificant" ' " (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004)).

reductions). Under these proposed regulations, a suspension would not violate this restriction if no participant's benefits that are directly attributable to service with a subclause III employer are reduced more than that individual's benefits would have been reduced if, holding constant the benefit formula, work history, and all other relevant factors used to determine the individual's benefits, those benefits were attributable to that participant's service with any other employer.

These proposed regulations would also provide that the benefits described in section 432(e)(9)(D)(vii)(III) are any benefits for a participant under a plan that are directly attributable to service with a subclause III employer, without regard to whether the employer has assumed liability for providing benefits to the participant that were reduced as a result of the financial status of the plan. For example, if a participant commenced receiving retirement benefits under a plan, which are directly attributable to service with such an employer, before the date the employer entered into a make-whole agreement, then the participant's benefits would be described in section 432(e)(9)(D)(vii)(III) even if those benefits were not covered by the make-whole agreement. This interpretation is based on the statutory language in section 432(e)(9)(D)(vii)(III), which defines the benefits to which that subclause applies as those benefits that are directly attributable to service with an employer that has met the conditions set forth in section 432(e)(9)(D)(vii)(III)(aa) and (bb). In other words, the statutory provision refers to benefits directly attributable to service with an employer described in subclause III, and not only to benefits covered by the make-whole agreement.

The Treasury Department and the IRS are also considering an alternative to the ordering rule set forth in these proposed regulations. Under the alternative, as under the proposed regulations, the rule would require that a suspension of benefits under a plan that is subject to section 432(e)(9)(D)(vii) be applied to the maximum extent permissible to benefits attributable to service with a subclause I employer before any suspension is applied to benefits attributable to service with other employers. However, in contrast to the approach described in these proposed regulations, the alternative would require that any such suspension of benefits be applied to provide for a *lesser* reduction in benefits that are directly attributable to service with a subclause III employer than to benefits that are attributable to any other service. The alternative approach could be satisfied if, for example, benefits that are directly attributable to service with a subclause III employer are reduced less, on a percentage basis, than benefits would have been reduced if, holding constant the benefit formula, work history, and all other relevant factors used to determine benefits, those benefits were attributable to service with any other employer.

The Treasury Department and the IRS recognize that the language of section 432(e)(9)(D)(vii) has similarities to other statutory provisions that establish priority categories requiring claims to be fully satisfied under each earlier category before any claims are permitted to be satisfied under any subsequent category. For example, section 4044 of ERISA provides for the allocation of pension plan assets in the event of a distress termination and for categories of payments to be made "in the following order:" "First," "Second," "Third," "Fourth," "Fifth" and "Sixth."[4]

If such an approach were applied under section 432(e)(9)(D)(vii), then the maximum permitted suspension would be required to be imposed with respect to benefits described in each subclause before any suspension could apply to benefits described in a successive subclause. Under that approach, any suspension of benefits would first have to be applied to the maximum extent permissible to benefits attributable to a participant's service with a subclause I employer. Only if such a suspension were not reasonably estimated to achieve the level that is necessary to enable the plan to avoid insolvency would the suspension then be applied to other benefits that are permitted to be suspended and that are attributable to a participant's service with any other employers (except for benefits that are directly attributable to service with a subclause III employer). Under this approach, only if the additional suspension were not reasonably estimated to achieve the level that is necessary to enable the plan to avoid insolvency would the suspension then be applied also to benefits directly attributable to a participant's service with a subclause III employer.

Based on the language of the statute as well as principles of statutory construction described in this preamble, the proposed regulations and alternative rule do not reflect the approach described in the preceding paragraph.[5] In addition, in contrast to section 4044 of ERISA, which includes the language "in the following order," there is no similar generally applicable ordering language in section 432(e)(9)(D)(vii) and section 305(e)(9)(D)(vii) of ERISA. As under section 4044 of ERISA, in enacting section 432(e)(9)(D)(vii) and its counterpart under ERISA, Congress could readily have used consistent language in describing the scope of permissible benefit suspensions with respect to the benefits described in each of the three statutory subclauses. Instead of doing so, Congress created a distinction in describing the treatment of benefits described in the three subclauses in section 432(e)(9)(D)(vii).[6] For these reasons, the Treasury Department and the IRS have concluded that the best reading of Congressional intent is that a suspension of benefits described in section 432(e)(9)(D)(vii)(II) does not need to be applied "to the maximum extent permissible" before any suspension is permitted to be applied to benefits described in section 432(e)(9)(D)(vii)(III). However, the Treasury Department and the IRS request comments on whether "to the maximum extent permissible" should be applied to benefits described in subclause II in the final regulations.

[4]The regulations interpreting this provision provide: "If the plan has sufficient assets to pay for all benefits in a priority category, the remaining assets shall then be allocated to the next lower priority category. This process shall be repeated until all benefits in priority categories 1 through 6 have been provided or until all available plan assets have been allocated." See 29 CFR 4044.10(d).

[5]See footnotes 2 and 3 and accompanying text.

[6]That is, the phrase "to the maximum extent permissible" appears in subclause (I) but not in subclause (II).

Effective/Applicability Dates

These regulations are proposed to be effective on and apply with respect to suspensions for which the approval or denial is issued on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

The Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6) requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities. In this case, the IRS and the Treasury Department believe that the regulations likely would not have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 605. This certification is based on the fact that the number of small entities affected by this rule is unlikely to be substantial because it is unlikely that a substantial number of small multiemployer plans in critical and declining status are subject to the limitation contained in section 432(e)(9)(D)(vii). Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the Treasury Department and the IRS as prescribed in this preamble in the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of these proposed regulations, including the interaction of the provisions of the proposed regulation with the limitation described in section 432(e)(9)(D)(vi) relating to the requirement that a suspension of benefits be equitably distributed.

In addition to the comment request included in this preamble under the "Explanation of Provisions" heading, the Treasury Department and the IRS request comments regarding the alternative rule also described under the "Explanation of Provisions" heading or any other alternative. With respect to the alternative rule described in this preamble, comments are specifically requested regarding whether satisfaction of the alternative rule described in this preamble should be required on an individual-by-individual basis or on an aggregate basis (comparing the aggregate suspension of benefits that are directly attributable to service with a subclause III employer to what the aggregate would have been if, holding constant the benefit formula, work history, and all other relevant factors used to determine benefits, those benefits were attributable to service with any other employer).

All comments will be available for public inspection and copying at *www.regulations.gov* or upon request. **Please Note**: All comments will be made available to the public. Do not include any personally identifiable information (such as Social Security number, name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

A public hearing on these proposed regulations has been scheduled for March 22, 2016 beginning at 10 A.M. in the Auditorium, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments by March 15, 2016, and an outline of topics to be discussed and the amount of time to be devoted to each topic by March 15, 2016. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Contact Information

For general questions regarding these regulations, please contact the Department of the Treasury MPRA guidance information line at (202) 622-1559 (not a toll-free number). For information regarding a specific application for a suspension of benefits, please contact the Treasury Department at (202) 622-1534 (not a toll-free number).

* * * * *

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.432(e)(9)–1 is added to read as follows:

§ 1.432(e)(9)–1 Benefit suspensions for multiemployer plans in critical and declining status.

(a) through (c) [Reserved]

(d) *Limitations on suspension.* (1) through (7) [Reserved]

(8) *Additional rules for plans described in section 432(e)(9)(D)(vii)*—(i) *In general.* In the case of a plan that includes the benefits described in paragraph (d)(8)(i)(C) of this section, any suspension of benefits under this section shall—

(A) First, be applied to the maximum extent permissible to benefits attributable to a participant's service for an employer that withdrew from the plan and failed to pay (or is delinquent with respect to pay-

ing) the full amount of its withdrawal liability under section 4201(b)(1) of ERISA or an agreement with the plan;

(B) Second, except as provided by paragraph (d)(8)(i)(C) of this section, be applied to all other benefits that may be suspended under this section; and

(C) Third, be applied to benefits under a plan that are directly attributable to a participant's service with any employer that has, prior to December 16, 2014—

(*1*) Withdrawn from the plan in a complete withdrawal under section 4203 of ERISA and paid the full amount of the employer's withdrawal liability under section 4201(b)(1) of ERISA or an agreement with the plan, and

(*2*) Pursuant to a collective bargaining agreement, assumed liability for providing benefits to participants and beneficiaries of the plan under a separate, single-employer plan sponsored by the employer, in an amount equal to any amount of benefits for such participants and beneficiaries reduced as a result of the financial status of the plan.

(ii) *Application of suspensions to benefits that are directly attributable to a participant's service with certain employers*—(A) *Greater reduction in certain benefits not permitted*. A suspension of benefits under this section must not be applied to provide for a greater reduction in benefits described in paragraph (d)(8)(i)(C) of this section than the reduction that is applied to benefits described in paragraph (d)(8)(i)(B) of this section. This requirement is satisfied if no participant's benefits that are directly attributable to service with an employer described in paragraph (d)(8)(i)(C) of this section are reduced more than that participant's benefits would have been reduced if, holding the benefit formula, work history, and all relevant factors used to compute benefits constant, those benefits were attributable to service with an employer that is not described in paragraph (d)(8)(i)(C) of this section.

(B) *Application of limitation to benefits of participants with respect to which the employer has not assumed liability*. Benefits under a plan that are directly attributable to a participant's service with an employer described in paragraph (d)(8)(i)(C) of this section include all such benefits without regard to whether the employer has assumed liability for providing benefits to the participant that were reduced as a result of the financial status of the plan as described in paragraph (d)(8)(i)(C)(*2*) of this section. Thus, all benefits under a plan that are directly attributable to a participant's service with an employer described in paragraph (d)(8)(i)(C) of this section are subject to the limitation in paragraph (d)(8)(ii)(A) of this section, even if the employer has not, pursuant to a collective bargaining agreement that satisfies the requirements of paragraph (d)(8)(i)(C)(*2*) of this section, assumed liability for providing those benefits to participants and beneficiaries of the plan.

John Dalrymple,
Deputy Commissioner
for Services and Enforcement.

(Filed by the Office of the Federal Register on February 9, 2016, 4:15 p.m., and published in the issue of the Federal Register for February 11, 2016, 81 F.R. 7253)

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 2015–27 through 2015–52 is in Internal Revenue Bulletin 2015–52, dated December 28, 2015.

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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

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