INTERNAL REVENUE
BULLETIN

Bulletin No. 2019–33
August 12, 2019

HIGHLIGHTS OF THIS ISSUE

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.

ADMINISTRATIVE

REV PROC 2019-30, page 638.

This revenue procedure provides simplified procedures for an insurance company to obtain automatic consent of the Commissioner of Internal Revenue to change its methods of accounting for discounting unpaid losses and expenses unpaid, estimated salvage recoverable, and unearned premiums attributable to title insurance, as applicable, to comply with § 846, as amended by section 13523 of the Tax Cuts and Jobs Act, Public Law 115-97 (131 Stat. 2054, 2152) for taxable years beginning after December 31, 2017, and ending on or before December 31, 2019.

REV PROC 2019-31, page 643.

The revenue procedure prescribes revised discount factors for the 2018 accident year, as well as discount factors for the 2019 accident year. These discount factors will be used to compute discounted unpaid losses under § 846 of the Internal Revenue Code and discounted estimated salvage recoverable under § 832. The discount factors prescribed in the revenue procedure are determined under § 846, as amended by section 13523 of the Tax Cuts and Jobs Act, Public Law 115-97 (131 Stat. 2054, 2152), and final regulations under § 846 published in the Federal Register (84 FR 27947) on June 17, 2019.

ADMINISTRATIVE, INCOME TAX

REV PROC 2019-32, page 659.

This revenue procedure grants an extension of time to eligible BBA partnerships to file a superseding Form 1065, U.S. Return of Partnership Income, and furnish a corresponding Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc., to each of its partners.

EXEMPT ORGANIZATIONS

T.D. 9873, page 630.

These final regulations prescribe the manner in which an organization operating under IRC section 501(c)(4) must submit the notification required by IRC section 506.

INCOME TAX

T.D. 9871, page 624.

These final regulations provide rules that improve the operation of an existing safe harbor rule that is used for determining whether partnership allocations of creditable foreign tax expenditures are deemed to be in accordance with the partners' interests in the partnership.

Finding Lists begin on page ii.

The IRS Mission

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

Introduction

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

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

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

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

The Bulletin is divided into four parts as follows:

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

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

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

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

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

Part I.

26 CFR 1.704-1: Allocation of Creditable Foreign Taxes

T.D. 9871

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Allocation of Creditable Foreign Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations with respect to a provision of the Internal Revenue Code (Code) that addresses the allocation by a partnership of foreign income taxes. These regulations are necessary to improve the operation of an existing safe harbor rule that determines whether allocations of creditable foreign tax expenditures are deemed to be in accordance with the partners' interests in the partnership. The regulations affect partnerships that pay or accrue foreign income taxes and partners in such partnerships.

DATES: *Effective date*: These regulations are effective on July 24, 2019.

Applicability dates: For dates of applicability, see §1.704-1(b)(1)(ii)(*b*)(*1*).

FOR FURTHER INFORMATION CONTACT: Suzanne M. Walsh, (202) 317-6936 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On February 4, 2016, a notice of proposed rulemaking by cross-reference to temporary regulations (REG-100861-15) under section 704 of the Code and temporary regulations (T.D. 9748) (2016 temporary regulations) were published in the **Federal Register** at 81 FR 5966 and 81 FR 5908, respectively.

Section 1.704-1(b)(4)(viii) provides a safe harbor under which allocations of creditable foreign tax expenditures ("CFTEs") are deemed to be in accordance with the partners' interests in the partnership. The 2016 temporary regulations revised the rules under this section to clarify the effect of section 743(b) adjustments on the determination of net income in a CFTE category. The 2016 temporary regulations also include special rules regarding how deductible allocations and nondeductible guaranteed payments (that is, allocations that give rise to a deduction under foreign law, and guaranteed payments that do not give rise to a deduction under foreign law) are taken into account for purposes of determining net income in a CFTE category. Finally, the 2016 temporary regulations include a clarification of the rules regarding the treatment of disregarded payments between branches of a partnership for purposes of determining income attributable to an activity included in a CFTE category.

A public hearing was not requested and none was held. However, the Department of the Treasury ("Treasury Department") and the Internal Revenue Service ("IRS") received a written comment in response to the notice of proposed rulemaking. After consideration of the comment, the proposed regulations under section 704 are adopted as amended by this Treasury decision. The revisions are discussed in this preamble.

Explanation of Revisions and Summary of Comments

The comment requested revising the regulations to provide that disregarded payments between CFTE categories are taken into account in computing the net income in a CFTE category. The comment argued that the placement of a disregarded payment rule in a paragraph that discusses attribution of income to an activity is potentially confusing and requested that the language be moved to the portion of the regulation that addresses the basic definition of activities and that in its place a statement be added providing that disregarded payments between CFTE categories will reduce net income in one CFTE category and increase net income in the other category.

The Treasury Department and the IRS have determined the rule is clear as originally drafted in the 2016 temporary regulations. Income in a CFTE category is determined first by assigning items of income to activities. Activities are then grouped together in a CFTE category to the extent the income attributable to activities is allocated using the same allocation percentages. Section 1.704-1(b)(4)(viii)(*c*)(*3*). Disregarded payments are not taken into account in determining income assigned to an activity. However, if a partnership makes allocations to give economic regard to the disregarded payment, it can result in more than one allocation percentage being applied to income within the same activity. Section 1.704-1(b)(4)(viii)(*c*)(*3*)(*iv*). This will result in the activity being subdivided and the subdivided portions being assigned to different CFTE categories. See *Example 24* in §1.704-1(b)(5)(xxiv). In other words, while the 2016 temporary regulations do not literally provide that a disregarded payment "reduces" the net income in a CFTE category in that case, the 2016 temporary regulations provide for a result similar to the result suggested by the comment by instead subdividing an activity and then assigning one sub-activity to a different CFTE category. This approach is more consistent with the fact that income items are determined based on regarded items and not disregarded items, including disregarded payments. These final regulations add a cross reference to the disregarded payment rule for assigning income to an activity in §1.704-1(b)(4)(viii)(*c*)(*3*)(*iv*) in the paragraph that provides the basic definition of an activity to further highlight the interaction of those two paragraphs. See §1.704-1(b)(4)(viii)(*c*)(*2*)(*iii*).

The 2016 temporary regulations unintentionally deleted §1.704-1(b)(4)(viii)(*d*)(*1*)(*i*) and (*ii*). Those paragraphs are restored without change by these regulations. In order to comply with new **Federal Register** formatting requirements, *Ex-*

amples 25, *36* and *37* in §1.704-1T(b)(5) in the 2016 temporary regulations appear without further changes in §1.704-1(b)(6)(i) through (iii) of these final regulations, *Examples 1*, *2*, and *3*, respectively.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. Therefore, a regulatory impact assessment is not required. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), the proposed rule preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business and no comments were received.

Drafting Information

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

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is 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 1.704-1 is amended as follows:

1. In paragraph (b)(0):
   i. Add a heading for the table.
   ii. Revise the entries for §1.704-1(b)(1)(ii)(*b*)(*1*), (b)(4)(viii)(*c*)(*1*) through (*4*), and (b)(4)(viii)(*d*)(*1*) and add an entry for §1.704-1(b)(6) at the end of the table.
2. Revise paragraph (b)(1)(ii)(*b*)(*1*).
3. Redesignate paragraphs (b)(1)(ii)(*b*)(*3*)(*A*) and (*B*) as paragraphs (b)(1)(ii)(*b*)(*3*)(*i*) and (*ii*), respectively.
4. Revise newly redesignated paragraph (b)(1)(ii)(*b*)(*3*)(*ii*) and paragraphs (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), and (b)(4)(viii)(*d*)(*1*).
5. Add paragraph (b)(6).

The revisions and additions read as follows:

§1.704-1 Partner's distributive share.

* * * * *

(b) * * *

(0) * * *

Table 1 to paragraph (b)(0)

Heading	Section
*******	
In general	1.704-1(b)(1)(ii)(*b*)(*1*)
*******	
In general	1.704-1(b)(4)(viii)(*c*)(*1*)
CFTE category	1.704-1(b)(4)(viii)(*c*)(*2*)
Net income in a CFTE category	1.704-1(b)(4)(viii)(*c*)(*3*)
CFTE category share of income	1.704-1(b)(4)(viii)(*c*)(*4*)
*******	
In general	1.704-1(b)(4)(viii)(*d*)(*1*)
*******	
Examples	1.704-1(b)(6)

(1) * * *

(ii) * * *

(*b*) * * *

(*1*) *In general*. Except as otherwise provided in this paragraph (b)(1)(ii)(*b*)(*1*), the provisions of paragraphs (b)(3)(iv) and (b)(4)(viii) of this section (regarding the allocation of creditable foreign taxes) apply for partnership taxable years beginning on or after October 19, 2006. The rules that apply to allocations of creditable foreign taxes made in partnership taxable years beginning before October 19, 2006 are contained in §1.704-1T(b)(1)(ii)(*b*)(*1*) and (b)(4)(xi) as in effect before October 19, 2006 (see 26 CFR part 1 revised as of April 1, 2005). However, taxpayers may rely on the provisions of paragraphs (b)(3)(iv) and (b)(4)(viii) of this section for partnership taxable years beginning on or after April 21, 2004. The provisions of paragraphs (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and *Examples 1*, *2*, and *3* in paragraphs (b)(6)(i), (ii), and (iii) of this section apply for partnership taxable years that both begin on or after January 1, 2016, and end after February 4, 2016. For the rules that apply to partnership taxable years beginning on or after October 19, 2006, and before January 1, 2016, and to taxable years that both begin on or after January 1, 2016, and end on or before February 4, 2016, see §1.704-1(b)(1)(ii)(*b*), (b)(4)(viii)(*a*)(*1*), (b)(4)(viii)(*c*)(*1*), (b)(4)(viii)(*c*)(*2*)(*ii*) and (*iii*), (b)(4)(viii)(*c*)(*3*) and (*4*), (b)(4)(viii)(*d*)(*1*), and (b)(5), *Example 25* (as contained in 26 CFR part 1 revised as of April 1, 2015).

* * * * *

(*3*) * * *

(*ii*) *Transition rule*. Transition relief is provided by this paragraph (b)(1)(ii)(*b*)(*3*)(*ii*) to partnerships whose agreements were entered into before February 14, 2012. In such cases, if there has been no material modification to the partnership agreement on or after February 14, 2012, then, for taxable years beginning on or after January 1, 2012, and before January 1, 2016, and for taxable years that both begin on or after January 1, 2012, and end on or before February 4, 2016, these partnerships may apply the provisions of §1.704-1(b)(4)(viii)(*c*)(*3*)(*ii*) and (b)(4)(viii)(*d*)(*3*) (see 26 CFR part 1 revised as of April 1, 2011). For taxable years that both begin on or after January 1, 2016, and end after February 4, 2016, these partnerships may apply the provisions of §1.704-1(b)(4)(viii)(*d*)(*3*) (see 26 CFR part 1 revised as of April 1, 2011). For purposes of this paragraph (b)(1)(ii)(*b*)(*3*), any change in ownership constitutes a material modification to the partnership agreement. The transition rule in this paragraph (b)(1)(ii)(*b*)(*3*)(*ii*) does not apply to any taxable year in which persons bearing a relationship to each other that is specified in section 267(b) or section 707(b) collectively have the power to amend the partnership agreement without the consent of any unrelated party (and all subsequent taxable years).

* * * * *

(4) * * *

(viii) * * *

(*a*) * * *

(*1*) The CFTE is allocated (whether or not pursuant to an express provision in the partnership agreement) to each partner and reported on the partnership return in proportion to the partners' CFTE category shares of income to which the CFTE relates; and

* * * * *

(*c*) *Income to which CFTEs relate*--(*1*) *In general*. For purposes of paragraph (b)(4)(viii)(*a*) of this section, CFTEs are related to net income in the partnership's CFTE category or categories to which the CFTE is allocated and apportioned in accordance with the rules of paragraph (b)(4)(viii)(*d*) of this section. Paragraph (b)(4)(viii)(*c*)(*2*) of this section provides rules for determining a partnership's CFTE categories. Paragraph (b)(4)(viii)(*c*)(*3*) of this section provides rules for determining the net income in each CFTE category. Paragraph (b)(4)(viii)(*c*)(*4*) of this section provides rules for determining a partner's CFTE category share of income, including rules that require adjustments to net income in a CFTE category for purposes of determining the partners' CFTE category share of income with respect to certain CFTEs. Paragraph (b)(4)(viii)(*c*)(*5*) of this section provides a special rule for allocating CFTEs when a partnership has no net income in a CFTE category.

(*2*) * * *

(*ii*) *Different allocations*. Different allocations of net income (or loss) generally will result from provisions of the partnership agreement providing for different sharing ratios for net income (or loss) from separate activities. Different allocations of net income (or loss) from separate activities generally will also result if any partnership item is shared in a different ratio than any other partnership item. A guaranteed payment described in paragraph (b)(4)(viii)(*c*)(*4*)(*ii*) of this section, gross income allocation, or other preferential allocation will result in different allocations of net income (or loss) from separate activities only if the amount of the payment or the allocation is determined by reference to income from less than all of the partnership's activities.

(*iii*) *Activity*. Whether a partnership has one or more activities, and the scope of each activity, is determined in a reasonable manner taking into account all the facts and circumstances. In evaluating whether aggregating or disaggregating income from particular business or investment operations constitutes a reasonable method of determining the scope of an activity, the principal consideration is whether the proposed determination has the effect of separating CFTEs from the related foreign income. Relevant considerations include whether the partnership conducts business in more than one geographic location or through more than one entity or branch, and whether certain types of income are exempt from foreign tax or subject to preferential foreign tax treatment. In addition, income from a divisible part of a single activity is treated as income from a separate activity if necessary to prevent separating CFTEs from the related foreign income, such as when income from divisible parts of a single activity is subject to different allocations. See, for example, paragraph (b)(4)(viii)(*c*)(*3*)(*iv*) of this section (special allocations related to disregarded payments can give rise to subdivision of an activity into divisible parts). A guaranteed payment, gross income allocation, or other preferential allocation of income that is determined by reference to all the income from a single activity generally will not result in the division of an activity into divisible parts. See *Example 22* in paragraph (b)(5)(xxii) of this section and *Example 1* in paragraph (b)(6)(i) of this section. The partnership's activities must be determined consistently from year to year absent a material change in facts and circumstances.

(*3*) *Net income in a CFTE category*--(*i*) *In general*. A partnership computes net income in a CFTE category as follows: First, the partnership determines for U.S. Federal income tax purposes all of its partnership items, including items of gross income, gain, loss, deduction, and expense, and items allocated pursuant to section 704(c). For the purpose of this paragraph (b)(4)(viii)(*c*)(*3*)(*i*), the items of the partnership are determined without regard to any adjustments under section 743(b) that its partners may have to the basis of property of the partnership. However, if the partnership is a transferee partner that has a basis adjustment under section 743(b) in its capacity as a direct or indirect partner in a lower-tier partnership, the partnership does take such basis adjustment into account. Second, the partnership must assign those partnership items to its activities pursuant to paragraph (b)(4)(viii)(*c*)(*3*)(*ii*) of this section. Third, partnership items attributable to each activity are aggregated within the relevant CFTE category as determined under paragraph (b)(4)(viii)(*c*)(*2*) of this section in order to compute the net income in a CFTE category.

(*ii*) *Assignment of partnership items to activities*. The items of gross income attributable to an activity must be determined in a consistent manner under any reasonable method taking into account all the facts and circumstances. Except as otherwise provided in paragraph (b)(4)(viii)(*c*)(*3*)(*iii*) of this section, expenses, losses, or other deductions must be allocated and apportioned to gross income attributable to an activity in accordance with the rules of §§1.861-8 and 1.861-8T. Under the rules §§1.861-8 and 1.861-8T, if an expense, loss, or other deduction is allocated to gross income from more than one activity, such expense, loss, or deduction must be apportioned among each such activity using a reasonable method that reflects to a reasonably close extent the factual relationship between the deduction and the gross income from such activities. See §1.861-8T(c). For the effect of disregarded payments in determining the amount of net income attributable to an activity, see paragraph (b)(4)(viii)(*c*)(*3*)(*iv*) of this section.

(*iii*) *Interest expense and research and experimental expenditures*. The partnership's interest expense and research and experimental expenditures described in section 174 may be allocated and apportioned under any reasonable method, including but not limited to the methods prescribed in §§1.861-9 through 1.861-13T (interest expense) and §1.861-17 (research and experimental expenditures).

(*iv*) *Disregarded payments*. An item of gross income is assigned to the activity that generates the item of income that is recognized for U.S. Federal income tax purposes. Consequently, disregarded payments are not taken into account in determining the amount of net income attributable to an activity, although a special allocation of income used to make a disregarded payment may result in the subdivision of an activity into divisible parts. See paragraph (b)(4)(viii)(*c*)(*2*)(*iii*) of this section, *Example 24* in paragraph (b)(5)(xxiv) of this section, and *Examples 2* and *3* in paragraphs (b)(6)(ii) and (iii), respectively, of this section (relating to inter-branch payments).

(*4*) *CFTE category share of income*--(*i*) *In general*. CFTE category share of income means the portion of the net income in a CFTE category, determined in accordance with paragraph (b)(4)(viii)(*c*)(*3*) of this section as modified by paragraphs (b)(4)(viii)(c)(*4*)(*ii*) through (*iv*) of this section, that is allocated to a partner. To the extent provided in paragraph (b)(4)(viii)(*c*)(*4*)(*ii*) of this section, a guaranteed payment is treated as an allocation to the recipient of the guaranteed payment for this purpose. If more than one partner receives positive income allocations (income in excess of expenses) from a CFTE category, which in the aggregate exceed the total net income in the CFTE category, then such partner's CFTE category share of income equals the partner's positive income allocation from the CFTE category, divided by the aggregate positive income allocations from the CFTE category, multiplied by the net income in the CFTE category. Paragraphs (b)(4)(viii)(*c*)(*4*)(*ii*) through (*iv*) of this section require adjustments to the net income in a CFTE category for purposes of determining the partners' CFTE category share of income if one or more foreign jurisdictions impose a tax that provides for certain exclusions or deductions from the foreign taxable base. Such adjustments apply only with respect to CFTEs attributable to the taxes that allow such exclusions or deductions. Thus, net income in a CFTE category may vary for purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to different CFTEs within that CFTE category.

(*ii*) *Guaranteed payments*. Except as otherwise provided in this paragraph (b)(4)(viii)(*c*)(*4*)(*ii*), solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section, net income in the CFTE category from which a guaranteed payment (within the meaning of section 707(c)) is made is increased by the amount of the guaranteed payment that is deductible for U.S. Federal income tax purposes, and such amount is treated as an allocation to the recipient of such guaranteed payment for purposes of determining the partners' CFTE category shares of income. If a foreign tax allows (whether in the current or in a different taxable year) a deduction from its taxable base for a guaranteed payment, then solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs that are attributable to that foreign tax, net income in the CFTE category is increased only to the extent that the amount of the guaranteed payment that is deductible for U.S. Federal income tax purposes exceeds the amount allowed as a deduction for purposes of the foreign tax, and such excess is treated as an allocation to the recipient of the guaranteed payment for purposes of determining the partners' CFTE category shares of income. See *Example 1* in paragraph (b)(6)(i) of this section.

(*iii*) *Preferential allocations*. To the extent that a foreign tax allows (whether in the current or in a different taxable year) a deduction from its taxable base for an allocation (or distribution of an allocated amount) to a partner, then solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs that are attributable to that foreign tax, the net income in the CFTE category from which the allocation is made is reduced by the amount of the allocation, and that amount is not treated as an allocation for purposes of determining the partners' CFTE category shares of income. See *Example 1* in paragraph (b)(6)(i) of this section.

(*iv*) *Foreign law exclusions due to status of partner*. If a foreign tax excludes an amount from its taxable base as a result of the status of a partner, then solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs that are attributable to that foreign tax, the net income in the relevant CFTE category is reduced by the excluded amounts that are allocable to such partners. See *Example 27* in paragraph (b)(5)(xxvii) of this section.

* * * * *

(*d*) *Allocation and apportionment of CFTEs to CFTE categories*--(*1*) *In general*. CFTEs are allocated and apportioned to CFTE categories in accordance with the principles of §1.904-6. Under these principles, a CFTE is related to income in a CFTE category if the income is included in the base upon which the foreign tax is imposed. See *Examples 2* and *3* in paragraphs (b)(6)(ii) and (iii) of this section, respectively, which illustrate the application of this paragraph in the case of serial disregarded payments subject to withholding tax. In accordance with §1.904-6(a)(1)(ii) as modified by this paragraph (b)(4)(viii)(*d*), if the foreign tax base includes income in more than one CFTE category, the CFTEs are apportioned among the CFTE categories based on the relative amounts of taxable income computed under foreign law in each CFTE category. For purposes of this paragraph (b)(4)(viii)(*d*), references in §1.904-6 to a separate category or separate categories mean "CFTE category" or "CFTE categories" and the rules in §1.904-6(a)(1)(ii) are modified as follows:

(*i*) The related party interest expense rule in §1.904-6(a)(1)(ii) shall not apply in determining the amount of taxable income computed under foreign law in a CFTE category.

(*ii*) If foreign law does not provide for the direct allocation or apportionment of expenses, losses or other deductions allowed under foreign law to a CFTE category of income, then such expenses, losses or other deductions must be allocated and apportioned to gross income as determined under foreign law in a manner that is consistent with the allocation and apportionment of such items for purposes of determining the net income in the CFTE categories for U.S. tax purposes pursuant to paragraph (b)(4)(viii)(*c*)(*3*) of this section.

* * * * *

(6) *Examples*--(i) *Example 1*. (*a*) A contributes $750,000 and B contributes $250,000 to form AB, a country X eligible entity (as defined in §301.7701-3(a) of this chapter) treated as a partnership for U.S. Federal income tax purposes. AB operates business M in country X. Country X imposes a 20 percent tax on the net income from business M, which tax is a CFTE. In 2016, AB earns $300,000 of gross income, has deductible expenses of $100,000, and pays or accrues $40,000 of country X tax. Pursuant to the partnership agreement, the first $100,000 of gross income each year is specially allocated to A as a preferred return on excess capital contributed by A. All remaining partnership items, including CFTEs, are split evenly between A and B (50 percent each). The gross income allocation is not deductible in determining AB's taxable income under country X law. Assume that allocations of all items other than CFTEs are valid.

(*b*) AB has a single CFTE category because all of AB's net income is allocated in the same ratio. See paragraph (b)(4)(viii)(*c*)(*2*) of this section. Under paragraph (b)(4)(viii)(*c*)(*3*) of this section, the net income in the single CFTE category is $200,000. The $40,000 of taxes is allocated to the single CFTE category and, thus, is related to the $200,000 of net income in the single CFTE category. In 2016, AB's partnership agreement results in an allocation of $150,000 or 75 percent of the net income to A ($100,000 attributable to the gross income allocation plus $50,000 of the remaining $100,000 of net income) and $50,000 or 25 percent of the net income to B. AB's partnership agreement allocates the country X taxes in accordance with the partners' shares of partnership items remaining after the $100,000 gross income allocation. Therefore, AB allocates the country X taxes 50 percent to A ($20,000) and 50 percent to B ($20,000). AB's allocations of country X taxes are not deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section because they are not in proportion to the allocations of the CFTE category shares of income to which the country X taxes relate. Accordingly, the country X taxes will be reallocated according to the partners' interests in the partnership. Assuming that the partners do not reasonably expect to claim a deduction for the CFTEs in determining their U.S. Federal income tax liabilities, a reallocation of the CFTEs under paragraph (b)(3) of this section would be 75 percent to A ($30,000) and 25 percent to B ($10,000). If the reallocation of the CFTEs causes the partners' capital accounts not to reflect their contemplated economic arrangement, the partners may need to reallocate other partnership items to ensure that the tax consequences of the partnership's allocations are consistent with their contemplated economic arrangement over the term of the partnership.

(*c*) The facts are the same as in paragraph (b)(6)(i)(*a*) of this section, except that country X allows a deduction for the $100,000 allocation of gross income and, as a result, AB pays or accrues only $20,000 of foreign tax. Under paragraph (b)(4)(viii)(*c*)(*4*)(*iii*) of this section, the net income in the single CFTE category is $100,000, determined by reducing the net income in the CFTE category by the $100,000 of gross income that is allocated to A and for which country X allows a deduction in determining AB's taxable income. Pursuant to the partnership agreement, AB allocates the country X tax 50 percent to A ($10,000) and 50 percent to B ($10,000). This allocation is in proportion to the partners' CFTE category shares of the $100,000 net income. Accordingly, AB's allocations of country X taxes are deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii)(*a*) of this section.

(*d*) The facts are the same as in paragraph (b)(6)(i)(*c*) of this section, except that, in addition to $20,000 of country X tax, AB is subject to $30,000 of country Y withholding tax with respect to the $300,000 of gross income that it earns in 2016. Country Y does not allow any deductions for purposes of determining the withholding tax. As described in paragraph (b)(6)(i)(*b*) of this section, there is a single CFTE category with respect to AB's net income. Both the $20,000 of country X tax and the $30,000 of country Y withholding tax relate to that income and are therefore allocated to the single CFTE category. Under paragraph (b)(4)(viii)(*c*)(*4*)(*iii*) of this section, however, net income in a CFTE category is reduced by the amount of an allocation for which a deduction is allowed in determining a foreign taxable base, but only for purposes of applying paragraph (b)(4)(viii)(*a*) of this section to allocations of CFTEs that are attributable to that foreign tax. Accordingly, because the $100,000 allocation of gross income is deductible for country X tax purposes but not for country Y tax purposes, the allocations of the CFTEs attributable to country X tax and country Y tax are analyzed separately. For purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of the CFTEs attributable to the $20,000 tax imposed by country X, the analysis described in paragraph (b)(6)(i)(*c*) of this section applies. For purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of the CFTEs attributable to the $30,000 tax imposed by country Y, which did not allow a deduction for the $100,000 gross income allocation, the net income in the single CFTE category is $200,000. Pursuant to the partnership agreement, AB allocates the country Y tax 50 percent to A ($15,000) and 50 percent to B ($15,000). These allocations are not deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section because they are not in proportion to the partners' CFTE category shares of the $200,000 of net income in the category, which is allocated 75 percent to A and 25 percent to B under the partnership agreement. Accordingly, the country Y taxes will be reallocated according to the partners' interests in the partnership as described in paragraph (b)(6)(i)(*b*) of this section.

(*e*) If, rather than being a preferential gross income allocation, the $100,000 was a guaranteed payment to A within the meaning of section 707(c), the amount of net income in the single CFTE category of AB for purposes of applying paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs would be the same as in the fact patterns described in paragraphs (b)(6)(i)(*b*), (*c*), and (*d*) of this section. See paragraph (b)(4)(viii)(*c*)(*4*)(*ii*) of this section.

(ii) *Example 2*. (*a*) A, B, and C form ABC, an eligible entity (as defined in §301.7701-3(a) of this chapter) treated as a partnership for U.S. Federal income tax purposes. ABC owns three entities, DEX, DEY, and DEZ, which are organized in, and treated as corporations under the laws of, countries X, Y, and Z, respectively, and as disregarded entities for U.S. Federal income tax purposes. DEX operates business X in country X, DEY operates business Y in country Y, and DEZ operates business Z in country Z. Businesses X, Y, and Z relate to the licensing and sublicensing of intellectual property owned by DEZ. During 2016, DEX earns $100,000 of royalty income from unrelated payors on which it pays no withholding taxes. Country X imposes a 30 percent tax on DEX's net income. DEX makes royalty payments of $90,000 during 2016 to DEY that are deductible by DEX for country X purposes and subject to a 10 percent withholding tax imposed by country X. DEY earns no other income in 2016. Country Y does not impose income or withholding taxes. DEY makes royalty payments of $80,000 during 2016 to DEZ. DEZ earns no other income in 2016. Country Z does not impose income or withholding taxes. The royalty payments from DEX to DEY and from DEY to DEZ are disregarded for U.S. Federal income tax purposes.

(*b*) As a result of these payments, DEX has taxable income of $10,000 for country X purposes on which $3,000 of taxes are imposed, and DEY has $90,000 of income for country X withholding tax purposes on which $9,000 of withholding taxes are imposed. Pursuant to the partnership agreement, all partnership items from business X, excluding CFTEs paid or accrued by business X, are allocated 80 percent to A and 10 percent each to B and C. All partnership items from business Y, excluding CFTEs paid or accrued by business Y, are allocated 80 percent to B and 10 percent each to A and C. All partnership items from business Z, excluding CFTEs paid or accrued by business Z, are allocated 80 percent to C and 10 percent each to A and B. Because only business X has items that are regarded for U.S. Federal income tax purposes (the $100,000 of royalty income), only business X has partnership items. Accordingly A is allocated 80 percent of the income from business X ($80,000) and B and C are each allocated 10 percent of the income from business X ($10,000 each). There are no partnership items of income from business Y or Z to allocate.

(*c*) Because the partnership agreement provides for different allocations of partnership net income attributable to businesses X, Y, and Z, the net income attributable to each of businesses X, Y, and Z is income in separate CFTE categories. See paragraph (b)(4)(viii)(*c*)(*2*) of this section. Under paragraph (b)(4)(viii)(*c*)(*3*)(*iv*) of this section, an item of gross income that is recognized for U.S. Federal income tax purposes is assigned to the activity that generated the item, and disregarded inter-branch payments are not taken into account in determining net income attributable to an activity. Consequently, all $100,000 of ABC's income is attributable to the business X activity for U.S. Federal income tax purposes, and no net income is in the business Y or Z CFTE category. Under paragraph (b)(4)(viii)(*d*)(*1*) of this section, the $3,000 of country X taxes imposed on DEX is allocated to the business X CFTE category. The additional $9,000 of country X withholding tax imposed with respect to the inter-branch payment to DEY is also allocated to the business X CFTE category because for U.S. Federal income tax purposes the related $90,000 of income on which the country X withholding tax is imposed is in the business X CFTE category. Therefore, $12,000 of taxes ($3,000 of country X income taxes and $9,000 of the country X withholding taxes) is related to the $100,000 of net income in the business X CFTE. See paragraph (b)(4)(viii)(*c*)(*1*) of this section. The allocations of country X taxes will be in proportion to the CFTE category shares of income to which they relate and will be deemed to be in accordance with the partners' interests in the partnership if such taxes are allocated 80 percent to A and 10 percent each to B and C.

(iii) *Example 3*. (*a*) Assume that the facts are the same as in paragraph (b)(5)(ii)(*a*) of this section, except that in order to reflect the $90,000 payment from DEX to DEY and the $80,000 payment from DEY to DEZ, the partnership agreement treats only $10,000 of the gross income as attributable to the business X activity, which the partnership agreement allocates 80 percent to A and 10 percent each to B and C. Of the remaining $90,000 of gross income, the partnership agreement treats $10,000 of the gross income as attributable to the business Y activity, which the partnership agreement allocates 80 percent to B and 10 percent each to A and C; and the partnership agreement treats $80,000 of the gross income as attributable to the business Z activity, which the partnership agreement allocates 80 percent to C and 10 percent each to A and B. In addition, the partnership agreement allocates the country X taxes among A, B, and C in accordance with which disregarded entity is considered to have paid the taxes for country X purposes. The partnership agreement allocates the $3,000 of country X income taxes 80 percent to A and 10 percent to each of B and C, and allocates the $9,000 of country X withholding taxes 80 percent to B and 10 percent to each of A and C. Thus, ABC allocates the country X taxes $3,300 to A (80 percent of $3,000 plus 10 percent of $9,000), $7,500 to B (10 percent of $3,000 plus 80 percent of $9,000), and $1,200 to C (10 percent of $3,000 plus 10 percent of $9,000).

(*b*) In order to prevent separating the CFTEs from the related foreign income, the special allocations of the $10,000 and $80,000 treated under the partnership agreement as attributable to the business Y and the business Z activities, respectively, which do not follow the allocation ratios that otherwise apply under the partnership agreement to items of income in the business X activity, are treated as divisible parts of the business X activity and, therefore, as separate activities. See paragraph (b)(4)(viii)(*c*)(*2*)(*iii*) of this section. Because the divisible part of the business X activity attributable to the portion of the disregarded payment received by DEY and not paid on to DEZ ($10,000) and the net income from the business Y activity ($0) are both shared 80 percent to B and 10 percent each to A and C, that divisible part of the business X activity and the business Y activity are treated as a single CFTE category. Because the divisible part of the business X activity attributable to the disregarded payment paid to DEZ ($80,000) and the net income from the business Z activity ($0) are both shared 80 percent to C and 10 percent each to A and B, that divisible part of the business X activity and the business Z activity are also treated as a single CFTE category. See paragraph (b)(4)(viii)(*c*)(*2*)(*i*) of this section. Accordingly, $10,000 of net income attributable to business X is in the business X CFTE category, $10,000 of net income of business X attributable to the net disregarded payments of DEY is in the business Y CFTE category, and $80,000 of net income of business X attributable to the disregarded payment to DEZ is in the business Z CFTE category.

(*c*) Under paragraph (b)(4)(viii)(*d*)(*1*) of this section, the $3,000 of country X tax imposed on DEX's income is allocated to the business X CFTE category. Because the $90,000 on which the country X withholding tax is imposed is split between the business Y CFTE category and the business Z CFTE category, those withholding taxes are allocated on a pro rata basis, $1,000 [$9,000 x ($10,000 / $90,000)] to the business Y CFTE category and $8,000 [$9,000 x ($80,000 / $90,000)] to the business Z CFTE category. See paragraph (b)(4)(viii)(*d*)(*1*) of this section. To satisfy the safe harbor of paragraph (b)(4)(viii) of this section, the $3,000 of country X taxes allocated to the business X CFTE category must be allocated in proportion to the CFTE category shares of income to which they relate, and therefore would be deemed to be in accordance with the partners' interests in the partnership if such taxes were allocated 80 percent to A and 10 percent each to B and C. The allocation of the $1,000 of country X withholding taxes allocated to the business Y CFTE category would be in proportion to the CFTE category shares of income to which they relate, and therefore would be deemed to be in accordance with the partners' interests in the partnership if such taxes were allocated 80 percent to B and 10 percent each to A and C. The allocation of the $8,000 of country X withholding taxes allocated to the business Z CFTE category would be in proportion to the CFTE category shares of income to which they relate, and therefore would be deemed to be in accordance with the partners' interests in the partnership if such taxes were allocated 80 percent to C and 10 percent each to A and B. Thus, to satisfy the safe harbor, ABC must allocate the country X taxes $3,300 to A (80 percent of $3,000 plus 10 percent of $1,000 plus 10 percent of $8,000), $1,900 to B (10 percent of $3,000 plus 80 percent of $1,000 plus 10 percent of $8,000), and $6,800 to C (10 percent of $3,000 plus 10 percent of $1,000 plus 80 percent of $8,000).

(*d*) ABC's allocations of country X taxes are not deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(viii) of this section because they are not in proportion to the partners' CFTE category shares of income to which the country X taxes relate. Accordingly, the country X taxes will be reallocated according to the partners' interests in the partnership.

* * * * *

Par. 3. Section 1.704-1T is amended by:

1. Removing reserved paragraphs (a) through (b)(1)(ii)(*a*), paragraph (b)(1)(ii)(*b*), and reserved paragraphs (b)(1)(iii) through (b)(2)(iv)(*f*)(*5*).
2. Adding paragraphs (a), (b)(1), and (b)(2) introductory text and reserved paragraphs (b)(2)(i) through (b)(2)(iv)(*e*) and (b)(2)(iv)(*f*)(*1*) through (*5*).
3. Removing reserved paragraphs (b)(2)(iv)(*g*) through (b)(4)(viii)(*a*) introductory text, paragraph (b)(4)(viii)(*a*)(*1*), reserved paragraphs (b)(4)(viii)(*a*)(*2*) through (b)(4)(viii)(*b*), paragraph (b)(4)(viii)(*c*), paragraph (b)(4)(viii)(*d*) heading, paragraph (b)(4)(viii)(*d*)(*1*), reserved paragraphs (b)(4)(viii)(*d*)(*1*)(*i*) through (b)(5) *Example 24*, paragraphs (b)(5) *Examples 24* through *37*, and reserved paragraphs (c) through (e).
4. Adding paragraph (b)(2)(iv)(*g*), reserved paragraphs (b)(2)(iv)(*h*) through (*s*), paragraph (b)(3), reserved paragraphs (b)(4) through (6), paragraph (c), and reserved paragraphs (d) through (e).
5. Removing paragraph (g).

The additions read as follows:

§1.704-1T Partner's distributive share (temporary).

(a) For further guidance, see §1.704-1(a).

(b)(1) For further guidance, see §1.704-1(b)(1).

(2) For further guidance, see §1.704-1(b)(2)(i) through (b)(2)(iv)(*f*)(*5*).

(i) through (iii) [Reserved]

(iv)(*a*) through (*e*) [Reserved]

(*f*)(*1*) through (*5*) [Reserved]

* * * * *

(*g*) For further guidance, see §1.704-1(b)(2)(iv)(*g*) through (*s*).

(*h*) through (*s*) [Reserved]

(3) For further guidance, see §1.704-1(b)(3) through (6).

(4) through (6) [Reserved]

(c) For further guidance, see §1.704-1(c) through (e).

(d) through (e) [Reserved]

* * * * *

Kirsten Wielobob,
Deputy Commissioner for Services and Enforcement.

Approved: May 30, 2019.

David J. Kautter,
Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on July 23, 2019, 8:45 a.m., and published in the issue of the Federal Register for July 24, 2019, 84 F.R. 35539)

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26 CFR §1.506-1 Organizations required to notify Commissioner of intent to operate under section 501(c)(4)

T.D. 9873

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

Regulations on the Requirement to Notify the IRS of Intent to Operate as a Section 501(c)(4) Organization

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the section 506 requirement, added by the Protecting Americans from Tax Hikes Act of 2015 (the PATH Act), enacted on December 18, 2015, that organizations described in section 501(c)(4) of the Internal Revenue Code (Code) must notify the IRS, no later than 60 days after their establishment, of their intent to operate under section 501(c)(4).

DATES: *Effective Date*: These regulations are effective on July 19, 2019.

Applicability Date: For date of applicability, see § 1.506-1(f).

FOR FURTHER INFORMATION CONTACT: Melinda Williams at (202) 317-6172 or Peter A. Holiat at (202) 317-5800 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending 26 CFR Parts 1 and 602, to specify the notification requirement of section 501(c)(4) organizations under section 506 of the Code. Section 506, which was added by the PATH Act (Pub. L. 114-113, div. Q), requires an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization.

1. Section 501(c)(4) Organizations

Section 501(a) of the Code generally provides that an organization described in section 501(c) is exempt from federal income tax. Section 501(c)(4) describes certain civic leagues or organizations operated exclusively for the promotion of social welfare and certain local associations of employees. An organization is described in section 501(c)(4) and exempt from tax under section 501(a) if it satisfies the requirements applicable to such status. Subject to certain exceptions, section 6033, in part, requires organizations exempt from taxation under section 501(a) to file annual information returns or notices, as applicable.

Although an organization may apply to the IRS for recognition that the organization qualifies for tax-exempt status under section 501(c)(4), there is no requirement to do so (except as provided in section 6033(j)(2), which requires organizations that lose tax-exempt status for failure to file required annual information returns or notices and want to regain tax-exempt status to apply to obtain reinstatement of such status). Accordingly, a section 501(c)(4) organization that files annual information returns or notices (Form 990, "Return of Organization Exempt From Income Tax," or, if eligible, Form 990-EZ, "Short Form Return of Organization Exempt From Income Tax," or Form 990-N (e-Postcard)), as required under section 6033, need not seek an IRS determination of its qualification for tax-exempt status in order to be described in and operate as a section 501(c)(4) organization.

2. The PATH Act

Section 405(a) of the PATH Act added section 506 to the Code, requiring an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization. In addition, section 405(b) and (c) of the PATH Act amended sections 6033(f) and 6652(c), relating to information that section 501(c)(4) organizations may be required to include on their annual information returns and penalties for certain failures by tax-exempt organizations to comply with filing or disclosure requirements, respectively.

Section 506(a) requires a section 501(c)(4) organization, no later than 60 days after the organization is established, to notify the Secretary of the Department of the Treasury (Secretary) that it is operating as a section 501(c)(4) organization (the notification). Section 506(b) provides that the notification must include: (1) The name, address, and taxpayer identification number of the organization; (2) the date on which, and the state under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. Section 506(c) requires the Secretary to send the organization an acknowledgment of the receipt of its notification within 60 days. Section 506(d) permits the Secretary to extend the 60-day notification period in section 506(a) for reasonable cause. Section 506(e) provides that the Secretary shall impose a reasonable user fee for submission of the notification. Section 506(f) provides that, upon request by an organization, the Secretary may issue a determination with respect to the organization's treatment as a section 501(c)(4) organization and that the organization's request will be treated as an application for exemption from taxation under section 501(a) subject to public inspection under section 6104.[1]

In addition, the PATH Act amended section 6033(f) to require a section 501(c)(4) organization submitting the notification to include with its first annual information return after submitting the notification any additional information prescribed by regulation that supports the organization's treatment as a section 501(c)(4) organization.

The PATH Act also amended section 6652(c) to impose penalties for failure to submit the notification by the date and in the manner prescribed in regulations. In particular, section 6652(c)(4)(A) imposes a penalty on an organization that fails to submit the notification equal to $20 per day for each day such failure continues, up to a maximum of $5,000. Additionally, section 6652(c)(4)(B) imposes a similar penalty on persons who fail to timely submit the notification in response to a written request by the Secretary.

Section 405(f)(1) of the PATH Act provides that, in general, the requirement to submit the notification and the related amendments to sections 6033 and 6652 apply to section 501(c)(4) organizations that are established after December 18, 2015, the date of enactment of the PATH Act. Section 405(f)(2) of the PATH Act provides that these provisions also apply to any other section 501(c)(4) organizations that had not, on or before the date of enactment of the PATH Act: (1) Applied for a written determination of recognition as a section 501(c)(4) organization; or (2) filed at least one annual information return or notice required under section 6033(a)(1) or (i). Organizations described in section 405(f)(2) of the PATH Act must submit the notification within 180 days after the date of enactment of the PATH Act.

3. Notice 2016-09

The Treasury Department and the IRS issued Notice 2016-09, 2016-6 IRB 306, to provide interim guidance regarding section 405 of the PATH Act. Specifically, Notice 2016-09 extended the due date for submitting the notification until at least 60 days from the date that implementing regulations are issued in order to provide adequate transition time for organizations to comply with the new requirement to submit the notification. With respect to the separate procedure by which an organization may request a determination from the IRS that it qualifies for tax-exempt status under section 501(c)(4), Notice 2016-09 stated that organizations seeking IRS recognition of section 501(c)(4) status should continue using IRS Form 1024, *Application for Recognition of Exemption Under Section 501(a)*[2] until further guidance was issued. Notice 2016-09 also clarified that the filing of Form 1024 does not relieve an organization of the requirement to submit the notification.

4. Temporary Regulations, Notice of Proposed Rulemaking, and Rev. Proc. 2016-41

On July 12, 2016, the Department of Treasury and the IRS published in the **Federal Register** (81 FR 45008) temporary regulations under section 506 (TD 9775) that prescribe the manner in which a section 501(c)(4) organization must submit notification under section 506 of its intent to operate under section 501(c)(4). The temporary regulations were effective and applicable on July 8, 2016. Also on July 12, 2016, the Department of Treasury and the IRS published in the **Federal Register** (81 FR 45088) a notice of proposed rulemaking (REG-101689-16) cross-referencing the temporary regulations and soliciting public comments and requests for a hearing. In conjunction with the issuance of the temporary regulations and the notice of proposed rulemaking, the Department of Treasury and the IRS issued Rev. Proc. 2016-41, 2016-30 IRB 165, which sets forth the procedure for an organization to notify the IRS that it is operating as a section 501(c)(4) organization. Specifically, the preamble to the temporary regulations noted that the revenue procedure provides that the notification must be submitted on Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)" (or its successor). Revenue Procedure 2016-41 provides additional information on the procedure for submitting the form and information on requesting relief from a failure to file penalty under section 6652(c)(4), including an example of a situation in which reasonable cause relief would be appropriate.

The temporary regulations, in accordance with section 506(a), generally required a section 501(c)(4) organization to submit the notification to the IRS on Form 8976 no later than 60 days after the date the organization is organized. Because the Form 8976 was not previously available, the temporary regulations provided transitional relief from the notification requirement for organizations that, on or before July 8, 2016, either (1) applied for a written determination of recognition as a section 501(c)(4) organization (using a Form 1024 application); or (2) filed at least one annual return or notice required under section 6033(a)(1) (that is, a Form 990, or if eligible, Form 990-EZ or Form 990-N) ("Form 990 series return or notice"). For organizations that did not qualify for this relief, the temporary regulations also provided a transition rule that extended the due date of the notification to September 6, 2016.

Consistent with section 506(b), the temporary regulations specified that the notification must include: (1) the name, address, and taxpayer identification number of the organization; (2) the date on which, and the state or other jurisdiction under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. In addition, the temporary regulations provided that the notification must include such additional information as may be specified in published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect

[1] The separate procedure by which an organization may request a determination of tax-exempt status is currently prescribed in Rev. Proc. 2019-5, 2019-1 IRB 230 and will be set forth in successor annual updates of that Revenue Procedure.

[2] As of 2018, the successor to Form 1024 for section 501(c)(4) organizations is new IRS Form 1024-A, *Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code*.

to the notification. To ensure that the statutorily required items of information in the notification are correlated accurately within existing IRS systems, Form 8976 requires organizations to provide their annual accounting period.

The temporary regulations also provided that the notification must be accompanied by payment of the user fee authorized by section 506(e), which will be set forth by published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. Consistent with section 506(d), the temporary regulations stated that the 60-day period for submitting the notification may be extended for reasonable cause.

Further, the temporary regulations provided that, within 60 days after receipt of the notification, the IRS will send the organization an acknowledgment of such receipt. The temporary regulations specified that this acknowledgment is not a determination with respect to tax-exempt status. Thus, it is not a determination on which an organization may rely or a determination or a failure to make a determination with respect to which the organization may seek declaratory judgment under section 7428. Furthermore, the temporary regulations specified that the process by which an organization may request an IRS determination that it qualifies for section 501(c)(4) exempt status is separate from the procedure for submitting the notification. Section 506(f) provides that an organization subject to the section 506 notification requirement may request a determination to be treated as an organization described in section 501(c)(4). This indicates that the procedure by which an organization may request a determination that it is described in section 501(c)(4) is separate from the procedure for submitting the notification required by section 506. Accordingly, the temporary regulations provided that submission of the notification does not constitute a request for an IRS determination that the organization qualifies for tax-exempt status under section 501(c)(4). Rather, an organization that seeks IRS recognition of tax-exempt status under section 501(c)(4) must separately request a determination in the manner prescribed in Rev. Proc. 2019-5, (2019-1 IRB 230), or its successor.

The temporary regulations also referred to section 6652(c)(4) through (6) for information on the applicable penalties for failure to submit the section 506 notification. The temporary regulations specifically referred to section 6652(c)(5), which provides a reasonable cause exception, and section 6652(c)(6), which provides other special rules that generally apply for purposes of section 6652(c) penalties.

The IRS received three comments in response to the notice of proposed rulemaking, two that addressed several issues, which are discussed in detail below, and one that was withdrawn from regulations.gov. The two comments that were not withdrawn are available at *www.regulations.gov* or upon request. No public hearing was requested or held.

The IRS has considered all the issues addressed in the comments. The proposed regulations that cross-referenced the text of the temporary regulations are adopted without substantive change by this Treasury decision, except that this Treasury decision removes the temporary regulations.

Summary of Comments and Explanation of Provisions

This section discusses comments received in response to the notice of proposed rulemaking.

1. Exception for organizations that filed a Form 990 series return or notice on or before July 8, 2016

One commenter recommended that final regulations clarify whether an organization that is included as a subordinate organization on a group return on Form 990 filed on or before July 8, 2016, is exempt from the requirement to submit Form 8976. The commenter also suggested that final regulations clarify whether an organization that merely filed an application for extension of time to file Form 990 (Form 8868) on or before July 8, 2016, and not the Form 990 itself, is exempt from the requirement to submit Form 8976.

The PATH Act provides that the requirement to submit the notification does not apply to certain organizations that notified the IRS of their existence on or before December 18, 2015. The Treasury Department and the IRS recognized that additional organizations may have notified the IRS of their existence, after the enactment of the PATH Act but before the availability of the new electronic Form 8976 for submitting the notification, by applying for a written determination of tax-exempt status or filing a required information return or notice. Accordingly, § 1.506-1T(b) provided two special rules for organizations that were organized on or before July 8, 2016. First, the temporary regulations noted that the requirement to submit the notification does not apply to a section 501(c)(4) organization that, on or before December 18, 2015, either (i) applied for a written determination of recognition as a section 501(c)(4) organization; or (ii) filed at least one annual information return or notice required under section 6033(a)(1) or (i). Second, the temporary regulations provided that a section 501(c)(4) organization is not required to submit the notification if, on or before July 8, 2016, the organization either (i) applied for a written determination of recognition as a 501(c)(4) organization; or (ii) filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

Under § 1.6033-2(d)(4), a group return is considered the return of each subsidiary organization included on the return. Consequently, an organization that is included as a subordinate organization on a group return on Form 990 filed on or before July 8, 2016, qualified for the special rules in § 1.506-1T(b), and an additional provision in the regulations is not required. However, filing an extension of time to file Form 990 does not provide the IRS with the information required under section 506, including the date of organization. Accordingly, the special rules apply only to a Form 990 series return or notice, not to a request for an extension of time to file. For these reasons, the commenter's suggestions are not incorporated into the final regulations.

2. Treatment of disregarded entities

One commenter suggested that the final regulations confirm that a single-member limited liability company (LLC), the sole member of which is a section 501(c)(4) organization and that is disregarded as an entity separate from its owner, is not required to submit Form 8976.

Unless the entity elects otherwise, a domestic eligible entity that has a single owner is disregarded as an entity separate from its owner. See § 301.7701-2(c)(2)(i). For this reason, the instructions to Form 990 provide that an LLC treated as a disregarded entity by its tax-exempt member should not file a separate Form 990; instead the sole member includes activities conducted by the disregarded entity LLC on its Form 990. Similarly, a single-member LLC organization, the sole member of which is a section 501(c)(4) organization, should not submit a separate Form 8976 if it intends to be disregarded as an entity separate from its owner and only the sole member section 501(c)(4) organization should submit a Form 8976. Therefore, any further clarification in the final regulations is not necessary.

3. Exception for organizations terminated or dissolved before September 6, 2016

One commenter requested that the final regulations include an exception from the requirement to submit Form 8976 for organizations terminated or dissolved before September 6, 2016 (the extended due date for organizations as provided in § 1.506-1T(b)(3)). Although there is no statutory basis for exempting organizations that terminated by a certain date from the requirement to submit Form 8976, the commenter suggested that it would serve little purpose for the organization to notify the IRS that it intended to operate as an organization described in section 501(c)(4) if the organization had already terminated by the time it was required to submit Form 8976. However, such organizations may still be included in the IRS's Exempt Organizations Business Master File, and a filed Form 8976 would serve the purpose of notifying the IRS that it operated as an organization described in section 501(c)(4). Thus, these final regulations do not provide the requested exception.

4. Option to file application for exemption in lieu of Form 8976

One commenter requested that the final regulations provide that an organization should be treated as satisfying the requirement under section 506 if it files Form 1024-A, rather than Form 8976, within the 60-day notice period.

The notification requirement under section 506(a) is separate and distinct from the application process. See section 506(f). In addition, it is not administrable for the IRS to treat Form 1024-A as the notification required under section 506. First, there is no systemic process for the IRS to use the Form 1024-A both as a required notification under section 506 and as an optional application for exempt status. Second, the Service is required under section 506(c) to acknowledge receipt of the notification within 60 days, but review of an application for exempt status may require more time than 60 days (as reflected in the 270-day period under the declaratory judgment procedures in section 7428). Thus, the timeline for processing an application for exempt status does not align with the timeline for processing Form 8976 and it would be impractical for the Service to maintain two separate processes for responding to Form 1024-A. Therefore, these final regulations do not adopt the suggestion.

5.Group ruling organizations

Both commenters inquired whether a subordinate organization included in a group exemption letter is excepted from the requirement to submit Form 8976, or in the alternative, whether the requirement to notify the IRS that a subordinate organization intends to operate under section 501(c)(4) is satisfied if the central organization informs the IRS that it is adding the subordinate organization to the group exemption letter within 60 days from when the subordinate is organized.

A group exemption letter is a ruling or determination letter that is issued to a central organization recognizing, on a group basis, the exemption from federal income tax under section 501(a) of subordinate organizations on whose behalf the central organization has applied for recognition of exemption (see Rev. Proc. 80-27, 1980-1 C.B. 677). Under the group ruling procedures of Rev. Proc. 80-27, the central organization is required to submit annually to the IRS at least 90 days before the close of its annual accounting period any changes to the subordinates in the group ruling, including any subordinates that are no longer included in the group exemption letter and any subordinates that are to be added to the group exemption letter.

As discussed in the Background section, the PATH Act provided that the requirement to submit the notification does not apply to organizations that either filed Form 1024 or filed at least one Form 990 series return or notice on or before December 18, 2015. To reduce the burden on organizations and the IRS, the temporary regulations similarly relieved from the notification requirement any organization that filed Form 1024 or filed a Form 990 series return or notice on or before July 8, 2016, the date that Form 8976 became available. Unlike the transition relief provided in the temporary regulations, there is no similar statutory basis for relieving subordinates included in a group exemption letter from the requirement to submit Form 8976 if they do not meet one of these special rules. For the administrative convenience of taxpayers and the IRS, Rev. Proc. 80-27 relieves each of the subordinates covered by a group exemption letter from filing its own application for recognition of exemption. However, this administrative relief from the application requirements does not apply with respect to section 506 because the process for recognition of exemption is separate from the section 506 notification process. See section 506(f).

Similar to annual Form 990 series returns or notices, an annual group exemption update as required by Rev. Proc. 80-27, may replicate the information provided on Form 8976. However, the annual group exemption update also requires different information than the organization initially provides on the Form 8976, such as detailed information on the organization's activities, and the annual group exemption update may be filed significantly later than the 60 days required by section 506 and the Form 8976 depending on when the subordinate joins the group exemption and the due date of the annual group exemption update.

Furthermore, Rev. Proc. 80-27 provides that a central organization must submit information on subordinate organizations to be added to the group exemption letter in an annual update that is due at least 90 days before the end of the central organization's annual accounting period. There is not a procedure for updating the group exemption letter within 60 days of a subordinate organization's date of organization. Allowing such updates to serve in place of the statutory notification required under section 506 would lead to additional administrative burdens on central organizations and the IRS to process changes to group exemption letters multiple times per year rather than once annually.

Accordingly, these final regulations do not adopt the suggestions.

6. Date of organization

One commenter recommended that final regulations define the "date of organization" of an organization that was not initially formed as a section 501(c)(4) organization as the date the change in status to section 501(c)(4) is accomplished (such as the date that the organization's governing document is amended) or in the case of a foreign organization, the date that the foreign organization first commences activities or receives income that would cause it to have a filing requirement under section 6033.

The section 506(a) notification requirement applies no later than 60 days after the organization is established. Section 506(b)(2) further provides that the 506(a) notification shall include the date on which, and the state under the laws of which, the organization was organized. Section 506 did not indicate that any difference was intended between the use of "established" in section 506(a) and the reference to "organized" in section 506(b). Accordingly, the temporary regulations provided that, except as provided in paragraph (b) of this section, an organization (whether domestic or foreign) described in section 501(c)(4) must, no later than 60 days after the date the organization is organized, notify the Commissioner that it is operating as an organization described in section 501(c)(4) by submitting a completed Form 8976. See § 1.506-1T(a)(1). Following the longstanding approach on forms used to apply for exemption and for entering data into the IRS system, the temporary regulations in § 1.506-1T(a)(2)(ii) clarify that the date an organization is "organized" for section 506 purposes is the date on which it is formed as a legal entity.

It would be administratively difficult if the date of organization reported on Form 8976 were different from the date of legal formation reflected on organizational documents and used for other reporting purposes. For this reason, these final regulations do not adopt the suggestion. However, see section 7 of this Summary of Comments and Explanation of Provisions for discussion of availability of reasonable cause relief.

7. Reasonable cause relief

One commenter suggested that the IRS extend automatic reasonable cause relief to: (1) organizations formed before December 18, 2015, that timely submit a first Form 990 after July 8, 2016; (2) foreign organizations that file Forms 8976 within 60 days after first commencing activities or receiving income that would cause them to have a section 6033 filing requirement; (3) small organizations; and (4) organizations formed as organizations described in another paragraph of section 501(c) that file Form 8976 within 60 days after amending their organizing document to qualify under section 501(c)(4). With regard to small organizations, the commenter recommended that the IRS provide small organizations with automatic reasonable cause relief similar to the relief provided under Rev. Proc. 2014-11 regarding reinstatement of exempt status after automatic revocation under section 6033(j). Alternatively, the commenter recommended that the IRS expand the example of reasonable cause relief provided in Rev. Proc. 2016-41 to include a non-exhaustive list of factors that will weigh in favor of finding "reasonable cause" for a failure to timely submit Form 8976.

Section 6652(c)(5) provides that no penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause. Reasonable cause is determined based on all the facts and circumstances. This reasonable cause provision does not include a provision for automatic reasonable cause.

Furthermore, Rev. Proc. 2014-11 does not provide a helpful model for a procedure to establish automatic reasonable cause relief from section 6652(c) penalties for small organizations because the IRS does not have similar information for Form 8976 as it does for organizations under Rev. Proc. 2014-11 relief. Under section 4.01 of Rev. Proc. 2014-11, the IRS determined that it may retroactively reinstate an organization's exempt status without requiring the organization to show reasonable cause for the failure to file a Form 990 series return or notice for three consecutive years. In this situation, the IRS already has information in its systems and obtains additional information as part of the application for retroactive reinstatement of exempt status that shows that the size of the organization made it eligible to file Form 990-EZ or 990-N for each of the three years. By contrast, the IRS does not have similar information at the time Form 8976 is filed that would enable the IRS to identify the organization as a "small organization" eligible for the relief requested by the commenter. Thus, the streamlined procedure described in section 4 of Rev. Proc. 2014-11 is not adaptable to the section 506 notification requirement.

Although the final regulations do not provide for a procedure for automatic reasonable cause relief, organizations (including organizations formed before December 18, 2015, foreign organizations, small organizations, and organizations that originally operated under sections other than section 501(c)(4)) may seek reasonable cause relief by following the instructions in the penalty letter, as provided in Rev. Proc. 2016-41. Rev. Proc. 2016-41 includes an example of a situation in which reasonable cause relief would be appropriate regarding foreign organizations. The reasonable cause example included in Rev. Proc. 2016-41 is just one example of reasonable cause for purposes of section 506 only. Similar to the foreign organization discussed in the example provided in Rev. Proc. 2016-41, an organization (other than a section 501(c)(3) organization) that did not originally intend to operate under section 501(c)(4) is subject to the requirement to submit Form 8976 once it begins to operate as a section 501(c)(4) organization. Such an organization that files a Form 8976 within 60 days of amending its organizing document to be described in section 501(c)(4) would have reasonable cause for not filing a Form 8976 within 60 days of formation. The organization may obtain relief from the penalty described under section 6652(c)(4) by submitting a request in response to the correspondence from the IRS regarding the penalty. Because reasonable cause is determined on a case by case basis, it was not intended that Rev. Proc. 2016-41 would provide all situations where reasonable cause relief may be appropriate.

Accordingly, the final regulations do not adopt these suggestions.

8. Individual authorized to submit Form 8976

One commenter requested the final regulations clarify that Form 8976 may be submitted by any individual authorized by the organization to submit the form on its behalf and that the authorized individual may receive certain communications regarding Form 8976, including the acknowledgment required by section 506(c). The commenter further requested that guidance clarify that the Form 8976 does not need to be submitted by an officer or a person holding a power of attorney on file with the IRS. Lastly, the commenter recommended that a central organization may submit Form 8976 on behalf of its subordinate organization.

The temporary regulations did not address authorization to submit Form 8976 on behalf of an organization. However, Rev. Proc. 2016-41, section 4.01(2) provides that the individual submitting Form 8976 on behalf of a section 501(c)(4) organization must establish an account at *www.irs.gov* to submit Form 8976 electronically. The IRS may then send electronically to the account of the individual submitting the Form 8976 on behalf of the organization (1) the confirmation of transmittal of Form 8976 described in section 6.02 of Rev. Proc. 2016-41, (2) the notice of non-acceptance for processing of Form 8976 described in section 5 of Rev. Proc. 2016-41, and/or (3) the acknowledgement of receipt of Form 8976 described in section 6.01 of Rev. Proc. 2016-41. Accordingly, just like any communications regarding a taxpayer's filing obligations, an organization should ensure that the individual submitting the Form 8976 is not only authorized by the organization to submit the Form 8976 on its behalf, but also to receive communications from the IRS relating to the organization's submission. This would also apply to a subordinate organization included in a group exemption letter, as the organization should ensure that any individual (including an individual who represents the central organization) is authorized by the subordinate organization to submit Form 8976 on behalf of the subordinate organization and to receive communications from the IRS. No additional clarification within the final regulations is needed; thus, the final regulations do not adopt these suggestions.

9. Correction to Form 8976

Lastly, one commenter requested clarification in the final regulations that there is no obligation to update Form 8976 if any of the information on the Form 8976 was originally correct, but later changes. The temporary regulations did not address corrections to Form 8976 as this issue is more appropriately addressed, if necessary, in non-regulatory guidance or the instructions to the form.

The Treasury Department and the IRS note, however, that Rev. Proc. 2016-41, section 4.04 provides that a Form 8976 submitted by an organization is complete if it provides accurate responses for each required line item of the form, consistent with the form instructions, and section 5.03 provides that if an organization attempts to submit more than one Form 8976, only the first Form 8976 will be accepted for processing. Thus, Rev. Proc. 2016-41 indicates that there is no obligation to submit a new Form 8976 if the organization's information changes, or if the Form 8976 was accepted for processing. Rather, any updated information should be reported on the organization's annual information return or notice, as provided in the instructions to that form. Therefore, the final regulations do not adopt this suggestion.

Effective/Applicability Dates

The temporary regulations have applied since July 8, 2016, and this Treasury decision adopts the proposed regulations that cross-referenced the text of those temporary regulations without substantive change. Thus, for clarity and continuity in application, the final regulations apply on and after July 8, 2016.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations.

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget under control number 1545-2268 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). The collection of information is in § 1.506-1(a)(2). The likely respondents are organizations described in section 501(c)(4) of the Code (section 501(c)(4) organizations). The collection of information in § 1.506-1(a)(2) flows from section 506(b) of the Code, which requires a section 501(c)(4) organization to submit a notification including the following items of information: (1) the name, address, and taxpayer identification number of the organization; (2) the date on which, and the state under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. The final regulations provide that the notification must be submitted on Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)," or its successor. In addition to the specific information required by statute, the final regulations require that an organization provide any additional information that may be specified in published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. Form 8976 requires an organization to provide its annual accounting period to ensure that the statutorily-required items of information in the notification are correlated accurately within existing IRS systems.

For purposes of the Paperwork Reduction Act, the reporting burden associated with the collection of information with respect to section 506(b), will be reflected in the IRS Form 8976 Paperwork Reduction Act Submission (OMB control number 1545-2161, published in the Federal Register on 10/21/2016). The IRS Form 8976 Paperwork Reduction Act Submission estimated for 2016 the total number of filers at 2,500, with an estimated average time per filer of 45 minutes to complete Form 8976, and with an estimated total annual burden of 1,875 hours. A valuation of the burden hours leads to a Paperwork Reduction Act estimate of the reporting costs to taxpayers of $85,031. This is a one-time paperwork burden, as the Treasury Department and the IRS anticipate that substantially all paperwork burdens related to these final regulations will only be incurred by the taxpayer in the year of formation. All organizations operating under section 501(c)(4), regardless of their size, are required to notify the Commissioner utilizing Form 8976.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Regulatory Flexibility Act

It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. This certification is based on the fact that the registration and filing fee for Form 8976 is $50.00 and the IRS Form 8976 Paperwork Reduction Act Submission (OMB control number 1545-2161) estimates the time to complete Form 8976 at 45 minutes, which should not constitute an economic burden upon small organizations. Pursuant to section 7805(f), the temporary and proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business and no comments were received.

Drafting Information

The principal authors of these regulations are Peter A. Holiat and Melinda Williams of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at http://www.irs.gov.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are 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 1.506-1 is added to read as follows:

§1.506-1 Organizations required to notify Commissioner of intent to operate under section 501(c)(4).

(a) Notification requirement--(1) In general. Except as provided in paragraph (b) of this section, an organization (whether domestic or foreign) described in section 501(c)(4) must, no later than 60 days after the date the organization is organized, notify the Commissioner that it is operating as an organization described in section 501(c)(4) by submitting a completed Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)," or its successor (the notification). The notification must be submitted in accordance with the form and its instructions. The notification must include the information specified in paragraph (a)(2) of this section and be accompanied by payment of the user fee described in paragraph (a)(3) of this section. Additional guidance on the procedure for submitting the notification may be provided in published guidance in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(2) Contents of the notification. The notification must include the following information:

(i) The name, address, and taxpayer identification number of the organization.

(ii) The date on which, and the state or other jurisdiction under the laws of which, the organization was organized (that is, formed as a legal entity). For an organization formed outside the United States, the jurisdiction is the foreign country under the laws of which it is organized.

(iii) A statement of the purpose of the organization.

(iv) Such additional information as may be specified in published guidance in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(3) User fee. The notification must be accompanied by payment of the user fee set forth by published guidance in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(4) Extension for reasonable cause. The Commissioner may, for reasonable cause, extend the 60-day period for submitting the notification.

(b) Special rules for organizations that were organized on or before July 8, 2016—(1) Notification requirement does not apply to organizations that filed with the IRS on or before December 18, 2015. The requirement to submit the notification does not apply to any organization described in section 501(c)(4) that, on or before December 18, 2015, either—

(i) Applied for a written determination of recognition as an organization described in section 501(c)(4) in accordance with §1.501(a)-1 and all applicable guidance published in the Internal Revenue

Bulletin (see §601.601(d)(2) of this chapter), forms, and instructions; or

(ii) Filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

(2) Transition relief available for organizations that filed with the IRS on or before July 8, 2016. An organization described in section 501(c)(4) is not required to submit the notification if, on or before July 8, 2016, the organization either--

(i) Applied for a written determination of recognition as an organization described in section 501(c)(4) in accordance with §1.501(a)-1 and all applicable guidance published in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter), forms, and instructions; or

(ii) Filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

(3) Extended due date. An organization that was organized on or before July 8, 2016, and is not described in paragraph (b)(1) or (2) of this section, satisfies the requirement to submit the notification if the notification was submitted on or before September 6, 2016.

(c) Failure to submit the notification. For information on the penalties for failure to submit the notification, the applicable reasonable cause exception, and applicable special rules, see section 6652(c)(4) through (6).

(d) Acknowledgment of receipt. Within 60 days after receipt of the notification, the Commissioner will send the organization an acknowledgment of such receipt. This acknowledgment is not a determination by the Commissioner that the organization qualifies for exemption under section 501(a) as an organization described in section 501(c)(4). See paragraph (e) of this section.

(e) Separate procedure by which an organization may request an IRS determination that it qualifies for section 501(c)(4) tax-exempt status. Submission of the notification does not constitute a request by an organization for a determination by the Commissioner that the organization qualifies for exemption under section 501(a) as an organization described in section 501(c)(4). An organization seeking IRS recognition of its tax-exempt status must separately request such a determination in accordance with §1.501(a)-1 and all applicable guidance published in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter), forms, and instructions.

(f) Effective/applicability date. This section applies on and after July 8, 2016.

Section 1.506-1T [Removed]

Par. 3. Section 1.506-1T is removed.

PART 602--OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority for part 602 continues to read as follows:

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

Par. 5. In §602.101, paragraph (b) is amended by adding an entry in numerical order for § 1.506-1 and removing the entry for §1.506-1T to read as follows:

§602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where Identified and described	Current OMB control no.
* * * * *	
1.506-1	1545-2268
* * * * *	

Kirsten Wielobob,
Deputy Commissioner for Services and Enforcement.

Approved: July 9, 2019.

David J. Kautter,
Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on July 19, 2019, 4:15 a.m., and published in the issue of the Federal Register for July 23, 2019, 84 F.R. 35301)

Part III.

26 CFR 601.204: Changes in accounting periods and in methods of accounting.

(Also: Part I, Sections 446, 846.)

Rev. Proc. 2019-30

SECTION 1. PURPOSE

This revenue procedure provides simplified procedures under § 446 of the Internal Revenue Code (Code) and § 1.446-1(e) of the Income Tax Regulations for an insurance company to obtain automatic consent of the Commissioner of Internal Revenue (Commissioner) to change its methods of accounting for discounting unpaid losses and expenses unpaid, estimated salvage recoverable, and unearned premiums attributable to title insurance, as applicable, to comply with § 846 of the Code, as amended by Pub. L. No. 115-97 (131 Stat. 2054, 2152), commonly referred to as the Tax Cuts and Jobs Act (TCJA). For taxable years beginning after December 31, 2017, and ending on or before December 31, 2019, these simplified procedures are the exclusive procedures for a taxpayer within the scope of section 3 of this revenue procedure to obtain consent of the Commissioner to change a method of accounting described in this revenue procedure.

SECTION 2. BACKGROUND

.01 *Discounting Rules*.

(1) In general, to compute a non-life (property and casualty) insurance company's taxable income for Federal income tax purposes under § 832 of the Code, the insurance company's underwriting income is reduced by the amount of its discounted unpaid losses (as defined in § 846) and increased by the amount of its estimated salvage recoverable for the taxable year.[1] Under § 832(b)(6), unpaid loss adjustment expenses shown on the annual statement are included in unpaid losses and are, therefore, discounted under § 846. Section 832(b)(5) provides that estimated salvage recoverable is determined on a discounted basis in accordance with procedures established by the Secretary of the Treasury or his delegate (Secretary). Section 1.832-4(c) provides that, except as otherwise provided in guidance published by the Commissioner in the Internal Revenue Bulletin, estimated salvage recoverable generally must be discounted by using the discount factors published by the Commissioner for estimated salvage recoverable or, alternatively, by using the loss payment pattern for a line of business as the salvage recovery pattern for that line of business and by using the applicable interest rate for calculating unpaid losses under § 846(c).

(2) To compute a life insurance company's taxable income for Federal income tax purposes, all losses incurred during the taxable year on insurance and annuity contracts are deductible under § 805(a)(1) of the Code. Also, under § 807 of the Code, the life insurance company must take into account the change over a taxable year in the company's unpaid losses described in § 807(c)(2).[2] For purposes of §§ 805(a)(1) and 807(c)(2), the amount of unpaid losses (other than losses on life insurance contracts) is the amount of the discounted unpaid losses as defined in § 846.

(3) Section 846 provides that discounted unpaid losses must be separately determined for each accident year of each line of business by applying the annual rate determined under § 846(c) and the appropriate loss payment pattern to the amount of unpaid losses as measured at the end of the taxable year. Section 846(d) directs the Secretary to use the most recent aggregate loss payment data of property and casualty insurance companies to determine and publish a loss payment pattern for each line of business every five years. This loss payment pattern is used to discount unpaid losses for the accident year ending with a determination year and for each of the four succeeding accident years. Discount factors are determined for each line of business for each accident year using the applicable loss payment pattern and annual rate.

(4) In general, to compute a property and casualty insurance company's taxable income for Federal income tax purposes under § 832, underwriting income is reduced by discounted unearned premiums attributable to title insurance.[3] Under § 832(b)(8), the amount of the discounted unearned premiums attributable to title insurance is the present value of such premiums determined by using the annual rate determined under § 846(c)(2) for the calendar year in which the premiums are received and the applicable statutory premium recognition pattern.

(5) Section 13523 of the TCJA amended § 846 for taxable years beginning after December 31, 2017. Section 13523(a) and (b) amended the definition of annual rate under § 846(c) and the computational rules for loss payment patterns under § 846(d), respectively. Section 13523(c) repealed the election that was previously set forth in § 846(e) to use the insurance company's own historical loss payment

[1] Under § 832, the taxable income of a property and casualty insurance company, including a title insurance company, is the sum of its underwriting income and investment income (as well as gains and other income items), reduced by allowable deductions. Under § 832(b)(3), a property and casualty insurance company's "losses incurred" is a component of the company's underwriting income. Under § 832(b)(5)(A), the change over a taxable year in the company's discounted unpaid losses (as defined in § 846) is a component of its losses incurred for the taxable year. An increase in discounted unpaid losses over the year increases losses incurred and thereby reduces underwriting income. A decrease in discounted unpaid losses over the year decreases losses incurred and thereby increases underwriting income. Section 832(b)(5)(A) also requires that the change in estimated salvage recoverable be taken into account in computing the losses incurred component of underwriting income, with an increase in estimated salvage recoverable reducing losses incurred (and thereby increasing underwriting income) and a decrease in estimated salvage recoverable increasing losses incurred (and thereby reducing underwriting income).

[2] Under § 807(c)(2), a life insurance company must take into account the unearned premiums and unpaid losses included in total reserves under § 816(c)(2). Under § 816(c)(2), total reserves include unearned premiums and unpaid losses (whether or not ascertained) not included in life insurance reserves. Under § 807(a), a decrease in the items described in § 807(c)(2) over the taxable year is included in life insurance company gross income under § 803(a)(2). Under § 807(b), an increase in the items described in § 807(c)(2) over the taxable year is deductible under § 805(a)(2).

[3] Under § 832(b)(3), a property and casualty insurance company's "premiums earned" is a component of the company's underwriting income. Under § 832(b)(4)(b) and (8), the change over a taxable year in the company's discounted unearned premiums attributable to title insurance is a component of its premiums earned for the taxable year, with an increase in discounted unearned premiums reducing premiums earned (and thereby reducing underwriting income) and a decrease in discounted unearned premiums increasing premiums earned (and thereby increasing underwriting income).

pattern instead of the pattern published by the Secretary. Section 846, as amended by the TCJA, is referred to in this revenue procedure as Amended § 846.

(6) Section 13523(e) of the TCJA provides a transition rule for the application of the amendments made by section 13523 to unpaid losses and expenses unpaid (as defined in § 832(b)(5) and (6)) or unpaid losses (as defined in §§ 805(a)(1) and 807(c)(2)). References to unpaid losses hereinafter in this revenue procedure refer to unpaid losses and expenses unpaid (as defined in § 832(b)(5) and (6)) or unpaid losses (as defined in §§ 805(a)(1) and 807(c)(2)), as applicable. For the first taxable year beginning after December 31, 2017 (First TCJA Year), the discounted unpaid losses at the end of the preceding taxable year (Pre-TCJA Year) are determined as if the amendments made by section 13523 had applied to such unpaid losses in the Pre-TCJA Year and by using the annual rate and loss payment patterns applicable to accident years ending with calendar year 2018. The resulting adjustment, if any, is included in the insurance company's gross income ratably over an eight-year period, beginning with the First TCJA Year and continuing through the seven succeeding taxable years. Section 13523(e) also provides that, for subsequent taxable years, the amendments made by section 13523 are applied with respect to such unpaid losses by using the annual rate and loss payment patterns applicable to accident years ending with calendar year 2018.

(7) On November 7, 2018, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published proposed regulations under Amended § 846 (REG-103163-18, 83 FR 55646) (Proposed Regulations). Under the Proposed Regulations, the annual rate determined under Amended § 846(c) is based on a specific range of maturities (from one-half year to seventeen and one-half years) from the corporate bond yield curve.

(8) On January 7, 2019, the Treasury Department and the IRS published Rev. Proc. 2019-06, 2019-02 I.R.B. 284, which prescribes unpaid loss discount factors for the 2018 accident year and earlier accident years for use in computing discounted unpaid losses under Amended § 846. The unpaid loss discount factors also serve as salvage discount factors for the 2018 accident year and earlier accident years for use in discounting estimated salvage recoverable under § 832. The unpaid loss discount factors (Proposed Discount Factors) prescribed in Rev. Proc. 2019-06 were determined under Amended § 846 and the Proposed Regulations using the annual rate and loss payment patterns applicable to 2018 under the Proposed Regulations. The annual rate for the 2018 calendar year determined under the Proposed Regulations (Proposed Annual Rate) was 3.12 percent, compounded semiannually.

(9) On June 17, 2019, the Treasury Department and the IRS published final regulations under Amended § 846 (T.D. 9863, 84 FR 27947) (Final Regulations). The Final Regulations apply to taxable years beginning after December 31, 2017. Under the Final Regulations, the annual rate determined under Amended § 846(c) is based on a specific range of maturities (from four and one-half years to ten years) from the corporate bond yield curve. The guidance regarding loss payment patterns is the same under the Proposed Regulations and the Final Regulations.

(10) Rev. Proc. 2019-31, 2019-33 I.R.B. ____, published in the same edition of the Internal Revenue Bulletin as this revenue procedure, provides revised unpaid loss discount factors for the 2018 accident year and earlier accident years, determined under Amended § 846 and the Final Regulations (Revised Discount Factors). The Revised Discount Factors were determined using the same loss payment patterns as in Rev. Proc. 2019-06, but a different annual rate. The Revised Discount Factors were determined using the annual rate for the 2018 calendar year determined under the Final Regulations (Revised Annual Rate), which is 2.94 percent, compounded semiannually.

(11) An insurance company must use the Revised Discount Factors for all lines of business for the 2018 accident year and earlier accident years for purposes of discounting both unpaid losses and estimated salvage recoverable for taxable years ending on or after June 17, 2019. *See* sections 1 and 6 of Rev. Proc. 2019-06. In any taxable year beginning after December 31, 2017, and ending before June 17, 2019, an insurance company must consistently use either the Revised Discount Factors or the Proposed Discount Factors for all lines of business for all accident years for purposes of discounting both unpaid losses and estimated salvage recoverable.

(12) An insurance company must use the Revised Annual Rate to determine the amount of discounted unearned premiums attributable to title insurance with respect to premiums received in the 2018 calendar year for taxable years ending on or after June 17, 2019. In any taxable year beginning after December 31, 2017, and ending before June 17, 2019, an insurance company may use either the Revised Annual Rate or the Proposed Annual Rate to determine the amount of discounted unearned premiums attributable to title insurance with respect to premiums received in the 2018 calendar year. However, in any such taxable year, an insurance company must either use the Revised Discount Factors for purposes of discounting unpaid losses or estimated salvage recoverable and the Revised Annual Rate for purposes of determining the amount of discounted unearned premiums attributable to title insurance in that year, or must use the Proposed Discount Factors and the Proposed Annual Rate for such purposes.

.02 *Changes in Methods of Accounting*.

(1) A change in method of discounting unpaid losses, estimated salvage recoverable, or unearned premiums attributable to title insurance to comply with Amended § 846 changes the proper time for the inclusion of the item in income or the taking of the item as a deduction and is a change in method of accounting subject to § 446(e) and § 1.446-1.

(2) Section 446(e) and § 1.446-1(e)(2)(i) state that, except as otherwise provided, a taxpayer must secure the consent of the Commissioner before changing a method of accounting for any item for Federal income tax purposes. Under § 1.446-1(e)(3), to obtain the Commissioner's consent to change a method of accounting, a taxpayer generally must file a Form 3115, Application for Change in Accounting Method, during the taxable year for which the taxpayer desires to make the proposed change in method of accounting (year of change). Section 1.446-1(e)(3) provides that the Commissioner may prescribe terms and conditions for effecting a change in method of accounting. Rev.

Proc. 2015-13, 2015-5 I.R.B. 419, as clarified and modified by Rev. Proc. 2015-33, 2015-24 I.R.B. 1067, as modified by Rev. Proc. 2017-59, 2017-48 I.R.B. 543, and as modified by Rev. Proc. 2019-1, 2019-1 I.R.B. 1, provides the current general procedures, including terms and conditions by which a taxpayer may obtain consent of the Commissioner to change its method of accounting through the filing of a Form 3115. Unless specifically authorized by the Commissioner or by statute, a taxpayer may not change an established method of accounting by amending any prior Federal income tax return. *See* Rev. Rul. 90-38, 1990-1 C.B. 57.

(3) Section 481(a) provides that in computing a taxpayer's taxable income for any taxable year, if such computation is under a method of accounting different from the method under which the taxpayer's taxable income for the preceding taxable year was computed, those adjustments that are determined to be necessary solely by reason of the change in order to prevent amounts from being duplicated or omitted must be taken into account. The § 481(a) adjustment is computed as of the beginning of the year of change and taken into account over the § 481(a) adjustment period provided in the applicable administrative guidance.

(4) The timing of the issuance of the Proposed Regulations and Final Regulations implementing the amendments to § 846 made by section 13523 of the TCJA poses unique challenges for taxpayers subject to the discounting rules of § 846 in making changes in methods of accounting to comply with Amended § 846. In the interest of sound tax administration and in order to reduce the administrative and tax compliance burdens on taxpayers affected by the amendments to § 846 made by section 13523 of the TCJA, this revenue procedure provides simplified procedures for an insurance company to obtain consent of the Commissioner to change its methods of accounting for discounting unpaid losses and expenses unpaid, estimated salvage recoverable, and unearned premiums attributable to title insurance, as applicable, to comply with Amended § 846. For example, this revenue procedure provides that the requirement of § 1.446-1(e)(3) to file a Form 3115 is waived for a taxpayer making a change in method of accounting under this revenue procedure.

SECTION 3. SCOPE

.01 *Discounted Unpaid Losses and Estimated Salvage Recoverable*.

This revenue procedure applies to any property and casualty insurance company that changes its method of accounting for discounting unpaid losses under § 846, discounting salvage recoverable under § 832, or both to comply with Amended § 846, and to any life insurance company that changes its method of accounting for discounting unpaid losses to comply with Amended § 846, provided the taxpayer (whether a life insurance company or property and casualty insurance company) has a taxable year beginning after December 31, 2017, and ending before June 17, 2019, and satisfies the conditions set forth in section 3.01(1) or (2) of this revenue procedure.

(1) *Taxpayer using Revised Discount Factors in First TCJA Year*.

(a) The taxpayer uses the Revised Discount Factors to determine, as applicable, its discounted unpaid losses under § 846 (as of the end of both the First TCJA Year and the Pre-TCJA Year) and its estimated salvage recoverable under § 832 (as of the end of the First TCJA Year) on its timely filed (including any extension) Federal income tax return for its First TCJA Year, or on an amended Federal income tax return for its First TCJA Year filed on or before the date the taxpayer timely files (including any extension) its Federal income tax return for the succeeding taxable year (Second TCJA Year); and

(b) The taxpayer takes into account the § 481(a) adjustment described in section 6.01(1) of this revenue procedure in the manner prescribed in section 6.02(1) of this revenue procedure and follows the procedures prescribed in section 7 of this revenue procedure.

(2) *Taxpayer using Proposed Discount Factors in First TCJA Year and Revised Discount Factors in Second TCJA Year*.

(a) The taxpayer uses the Proposed Discount Factors to determine, as applicable, its discounted unpaid losses under § 846 (as of the end of both the First TCJA Year and the Pre-TCJA Year) and estimated salvage recoverable under § 832 (as of the end of the First TCJA Year) on its timely filed (including any extension) Federal income tax return for its First TCJA Year;

(b) The taxpayer uses the Revised Discount Factors to determine its discounted unpaid losses under § 846 (as of the end of both the Second TCJA Year and the First TCJA Year) and estimated salvage recoverable under § 832 (as of the end of both the Second TCJA Year and the First TCJA Year), as applicable, on its timely filed (including any extension) Federal income tax return for its Second TCJA Year; and

(c) The taxpayer takes into account the § 481(a) adjustments described in section 6.01(2) of this revenue procedure in the manner prescribed in section 6.02(2) of this revenue procedure and follows the procedures prescribed in section 7 of this revenue procedure.

.02 *Discounted Unearned Premiums Attributable to Title Insurance*.

This revenue procedure applies to any property and casualty insurance company that changes its method of accounting for discounted unearned premiums attributable to title insurance under § 832(b)(8) to comply with Amended § 846, provided the taxpayer has a taxable year beginning after December 31, 2017, and ending before June 17, 2019, and satisfies the conditions set forth in section 3.02(1) or (2) of this revenue procedure.

(1) *Taxpayer using Revised Annual Rate in First TCJA Year*. The taxpayer uses the Revised Annual Rate to determine its discounted unearned premiums attributable to title insurance under § 832 for its First TCJA Year on its timely filed (including any extension) Federal income tax return, or on an amended Federal income tax return for its First TCJA Year filed on or before the date the taxpayer timely files (including any extension) its Federal income tax return for its Second TCJA Year, and follows the procedures prescribed in section 7 of this revenue procedure.

(2) *Taxpayer using Proposed Annual Rate in First TCJA Year and Revised Annual Rate in Second TCJA Year*.

(a) The taxpayer uses the Proposed Annual Rate to determine its discounted unearned premiums attributable to title insurance under § 832 for its First TCJA Year on its timely filed (including any extension) Federal income tax return;

(b) The taxpayer uses the Revised Annual Rate to determine its discounted unearned premiums attributable to title insurance under § 832 for its Second TCJA

Year on its timely filed (including any extension) Federal income tax return; and

(c) The taxpayer takes into account the § 481(a) adjustment described in section 6.01(4) of this revenue procedure in the manner prescribed in section 6.02(3) of this revenue procedure and follows the procedures prescribed in section 7 of this revenue procedure.

SECTION 4. CONSENT TO CHANGE

Under § 1.446-1(e)(2)(i), the consent of the Commissioner is hereby granted to any taxpayer within the scope of section 3 of this revenue procedure to change its methods of accounting for discounting unpaid losses, estimated salvage recoverable, and unearned premiums attributable to title insurance, as applicable, to comply with Amended § 846, provided the taxpayer complies with the provisions of this revenue procedure.

SECTION 5. APPLICABILITY OF REV. PROC. 2015-13

.01 Except as otherwise provided in this revenue procedure, the provisions of Rev. Proc. 2015-13 apply to a taxpayer within the scope of section 3 of this revenue procedure.

.02 The limitations in section 5 of Rev. Proc. 2015-13 do not apply to a change in method of accounting made under this revenue procedure. Therefore, a taxpayer within the scope of this revenue procedure is eligible to make a change in method of accounting under this revenue procedure even if the requested year of change is the final year of the taxpayer's trade or business as described in section 5.03(1) of Rev. Proc. 2015-13 or the taxpayer engages in a liquidation or reorganization transaction to which § 381 applies as described in section 5.02(1) of Rev. Proc. 2015-13.

SECTION 6. TERMS AND CONDITIONS OF CHANGE

.01 *Year of Change and Section 481(a) Adjustment*.

(1) *Taxpayer using Revised Discount Factors in First TCJA Year*. For a taxpayer described in section 3.01(1) of this revenue procedure, the First TCJA Year is the year of change, and the § 481(a) adjustment is the TCJA Adjustment described in section 6.01(1)(a) of this revenue procedure, the Salvage Adjustment described in section 6.01(1)(b) of this revenue procedure, or both, as applicable. The taxpayer must take the § 481(a) adjustment into account in the manner provided in section 6.02(1) of this revenue procedure.

(a) The TCJA Adjustment is the difference between the amount of discounted unpaid losses at the end of the Pre-TCJA Year determined using the Revised Discount Factors and the amount of discounted unpaid losses at the end of the Pre-TCJA Year reported on the taxpayer's Pre-TCJA Year Federal income tax return.

(b) The Salvage Adjustment is determined as follows:

(i) If the taxpayer, for its First TCJA Year, determines estimated salvage recoverable at the end of its Pre-TCJA Year using the Revised Discount Factors, the Salvage Adjustment is the difference between that amount and the amount of estimated salvage recoverable at the end of its Pre-TCJA Year reported on its Pre-TCJA Year Federal income tax return; or

(ii) If the taxpayer, for its First TCJA Year, determines estimated salvage recoverable at the end of its Pre-TCJA Year using the amount reported on its Pre-TCJA Year Federal income tax return, the Salvage Adjustment is zero because no amounts will be duplicated or omitted by reason of the change in the First TCJA Year to use the Revised Discount Factors to discount estimated salvage recoverable.

(2) *Taxpayer using Proposed Discount Factors in First TCJA Year and Revised Discount Factors in Second TCJA Year*. For a taxpayer described in section 3.01(2) of this revenue procedure, the First TCJA Year is the first year of change. The § 481(a) adjustment for the First TCJA Year is the Partial TCJA Adjustment, described in section 6.01(2)(a) of this revenue procedure, the Partial Salvage Adjustment, described in section 6.01(2)(b) of this revenue procedure, or both, as applicable. The Second TCJA Year is the second year of change. The § 481(a) adjustment for the Second TCJA Year is the sum of the Remainder TCJA Adjustment and the Supplemental Adjustment, described in section 6.01(2)(c) and (d) of this revenue procedure, respectively. The taxpayer must take the § 481(a) adjustment into account in the manner provided in section 6.02(2) of this revenue procedure.

(a) The Partial TCJA Adjustment is the difference between the amount of discounted unpaid losses at the end of the Pre-TCJA Year determined using the Proposed Discount Factors and the amount of discounted unpaid losses at the end of the Pre-TCJA Year reported on the taxpayer's Pre-TCJA Year Federal income tax return.

(b) The Partial Salvage Adjustment is determined as follows:

(i) If the taxpayer, for its First TCJA Year, determines estimated salvage recoverable at the end of its Pre-TCJA Year using the Proposed Discount Factors, the Partial Salvage Adjustment is the difference between that amount and the amount of estimated salvage recoverable at the end of its Pre-TCJA Year reported on its Pre-TCJA Year Federal income tax return.

(ii) If the taxpayer, for its First TCJA Year, determines estimated salvage recoverable at the end of its Pre-TCJA Year using the amount reported on its Pre-TCJA Year Federal income tax return, the Partial Salvage Adjustment is zero because no amounts will be duplicated or omitted by reason of the change in the First TCJA Year to using the Proposed Discount Factors to discount estimated salvage recoverable.

(c) The Remainder TCJA Adjustment is the difference between the Partial TCJA Adjustment described in section 6.01(2)(a) of this revenue procedure and the TCJA Adjustment described in section 6.01(1)(a) of this revenue procedure.

(d) The Supplemental Adjustment is the adjustment necessary to prevent amounts from being duplicated or omitted by reason of the change from using the Proposed Discount Factors in the First TCJA Year to using the Revised Discount Factors in the Second TCJA Year. For example, the Supplemental Adjustment generally would reflect: (i) the difference between the discounted unpaid losses at the end of the First TCJA Year computed using the Proposed Discount Factors and computed using the Revised Discount Factors, adjusted to account for amounts reflected in the Remainder TCJA Adjustment, and (ii) the difference between estimated salvage at the end of the First TCJA Year computed using the Revised Discount Factors and computed using the Proposed Discount Factors.

(3) *Taxpayer using Revised Annual Rate in First TCJA Year*. For a taxpayer described in section 3.02(1) of this revenue procedure, the First TCJA Year is the year of change. The change in method of accounting for discounting unearned premiums attributable to title insurance is made using a cut-off method and applies to premiums received in the 2018 calendar year or a later calendar year. Accordingly, a § 481(a) adjustment is neither required nor permitted.

(4) *Taxpayer using Proposed Annual Rate in First TCJA Year and Revised Annual Rate in Second TCJA Year*. For a taxpayer described in section 3.02(2) of this revenue procedure, the First TCJA Year is the first year of change. The change in method of accounting for discounting unearned premiums attributable to title insurance to initially implement the provisions of the TCJA and the Proposed Regulations in the First TCJA Year is made using a cut-off method and applies to premiums received in the 2018 calendar year. Accordingly, a § 481(a) adjustment is neither required nor permitted for this change in method of accounting. The Second TCJA Year is the second year of change. A § 481(a) adjustment is necessary for the Second TCJA Year to prevent amounts from being duplicated or omitted by reason of the change from using the Proposed Annual Rate in the First TCJA Year to determine discounted unearned premiums attributable to title insurance for title insurance premiums received in 2018 to using the Revised Annual Rate in the Second TCJA Year for that purpose. The taxpayer must take the § 481(a) adjustment (Title Adjustment) into account in the manner provided in section 6.02(3) of this revenue procedure.

.02 *Section 481(a) Adjustment Period*.

(1) *Taxpayers using Revised Discount Factors in First TCJA Year*. The § 481(a) adjustment periods set forth in section 6.02(1)(a) and (b) of this revenue procedure apply to any taxpayer described in section 3.01(1) of this revenue procedure.

(a) The § 481(a) adjustment period for the TCJA Adjustment is eight taxable years (the First TCJA Year and the seven succeeding taxable years).

(b) The § 481(a) adjustment period for the Salvage Adjustment, if any, is one taxable year (the First TCJA Year) for a negative § 481(a) adjustment and four taxable years (the First TCJA Year and the three succeeding taxable years) for a positive § 481(a) adjustment.

(2) *Taxpayer using Proposed Discount Factors in First TCJA Year and Revised Discount Factors in Second TCJA Year*. The § 481(a) adjustment periods set forth in section 6.02(2)(a), (b), (c), and (d) of this revenue procedure apply to any taxpayer described in section 3.01(2) of this revenue procedure.

(a) The § 481(a) adjustment period for the Partial TCJA Adjustment is eight taxable years (the First TCJA Year and the seven succeeding taxable years).

(b) The § 481(a) adjustment period for the Partial Salvage Adjustment, if any, is one taxable year (the First TCJA Year) for a negative § 481(a) adjustment and four taxable years (the First TCJA Year and the three succeeding taxable years) for a positive § 481(a) adjustment.

(c) The § 481(a) adjustment period for the Remainder TCJA Adjustment is seven taxable years (the Second TCJA Year and the six succeeding taxable years).

(d) The § 481(a) adjustment period for the Supplemental Adjustment is either one taxable year (the Second TCJA Year) or seven taxable years (the Second TCJA Year and the six succeeding taxable years). The taxpayer may choose the adjustment period to use.

(3) *Taxpayer using Proposed Annual Rate for First TCJA Year and Revised Annual Rate for Second TCJA Year*. For a taxpayer described in section 3.02(2) of this revenue procedure, the § 481(a) adjustment period for the Title Adjustment is one taxable year (the Second TCJA Year) for a negative § 481(a) adjustment and four taxable years (the Second TCJA Year and the three succeeding taxable years) for a positive § 481(a) adjustment.

(4) *General rules*. For purposes of this revenue procedure, with respect to any § 481(a) adjustment described in section 6.01 of this revenue procedure:

(a) Except as otherwise provided in this revenue procedure, the taxpayer must take the § 481(a) adjustment into account ratably over the applicable § 481(a) adjustment period described in section 6.02(1), (2), or (3) of this revenue procedure.

(b) If the year of change or any other taxable year during the applicable § 481(a) adjustment period described in section 6.02(1), (2), or (3) of this revenue procedure is a short taxable year, the taxpayer must take the applicable § 481(a) adjustment described in section 6.01 of this revenue procedure into account as if that short taxable year were a full 12-month year. *See* Rev. Rul. 78-165, 1978-1 C.B. 276.

(c) The applicable § 481(a) adjustment period described in section 6.02(1), (2), or (3) of this revenue procedure may not be shortened under the provisions of section 7.03(3) of Rev. Proc. 2015-13.

(d) The applicable § 481(a) adjustment period described in section 6.02(1), (2), or (3) of this revenue procedure is accelerated in the situations described in section 7.03(4)(a) and (d) of Rev. Proc. 2015-13.

SECTION 7. PROCEDURE FOR MAKING THE CHANGE

In accordance with § 1.446-1(e)(3)(ii), the requirement of § 1.446-1(e)(3)(i) to file a Form 3115 is waived for a taxpayer making a change in method of accounting under this revenue procedure, provided the taxpayer satisfies all of the applicable terms and conditions set forth in section 6 of this revenue procedure; properly reports the amount of any adjustment described in section 6.01 of this revenue procedure, as applicable, on its Federal income tax returns; and, except as otherwise provided in this revenue procedure, satisfies all of the applicable terms and conditions set forth in Rev. Proc. 2015-13.

SECTION 8. AUDIT PROTECTION

Except as otherwise provided herein, the IRS will not require a taxpayer that makes a change in method of accounting for discounting unpaid losses, estimated salvage recoverable, or unearned premiums attributable to title insurance under this revenue procedure to change its method of accounting for the same item (that is, discounting of unpaid losses, estimated salvage recoverable, or unearned premiums attributable to title insurance, as applicable) for taxable years prior to the year of change, provided the taxpayer complies with the provisions of this revenue procedure. The IRS may change a taxpayer's method of accounting for the same item that is the subject of a change in method of accounting made under this revenue procedure if the taxpayer's method of accounting for the same item (that is, discounting of unpaid losses, estimated salvage recoverable, or unearned premiums attributable to title insurance, as applicable) is an issue under consideration (whether under examination, before an Appeals office, or before a federal court), within the meaning of section 3.08 of Rev. Proc. 2015-13, on July 22, 2019. The exceptions in section 8.02 of Rev. Proc. 2015-13 do not apply to a taxpayer within the scope of section 3 of this revenue procedure with respect to the taxpayer's method of accounting for the same item that is the subject of a change in method of accounting made under this revenue procedure (that is, discounting of unpaid losses, estimated salvage recoverable, or unearned premiums attributable to title insurance, as applicable).

SECTION 9. EFFECT ON OTHER REVENUE PROCEDURES

Section 26.04(1) of Rev. Proc. 2018-31, 2018-22 I.R.B. 637 (as modified by Rev. Proc. 2019-10, 2019-02 I.R.B. 296), is modified to provide that section 26.04 of Rev. 2018-31 is inapplicable to any change in method of accounting made under this revenue procedure.

SECTION 10. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning after December 31, 2017, and ending on or before December 31, 2019.

SECTION 11. DRAFTING INFORMATION

The principal author of this revenue procedure is Kathryn M. Sneade of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue procedure contact Ms. Sneade at (202) 317-6995 (not a toll free number).

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26 CFR 601.201: Rulings and determination letters.

(Also: Part I, Sections 832, 846; 1.832-4, 1.846-1.)

Rev. Proc. 2019-31

SECTION 1. PURPOSE

This revenue procedure prescribes revised unpaid loss discount factors for the 2018 accident year and earlier accident years for use by insurance companies in computing discounted unpaid losses under § 846 of the Internal Revenue Code (Code). The revised unpaid loss discount factors also serve as revised salvage discount factors for the 2018 accident year and earlier accident years for use in computing estimated salvage recoverable under § 832 of the Code. Additionally, this revenue procedure prescribes discount factors for the 2019 accident year for use by insurance companies in computing discounted unpaid losses under § 846 and estimated salvage recoverable under § 832. The discount factors prescribed herein were determined under § 846, as amended by section 13523 of Pub. L. No. 115-97 (131 Stat. 2054, 2152), commonly referred to as the Tax Cuts and Jobs Act (TCJA), and final regulations under § 846 (T.D. 9863, 84 FR 27947) (Final Regulations) published on June 17, 2019.

SECTION 2. BACKGROUND

.01 *Discounting rules and discount factors*.

(1) The discounting rules of § 846 are used to determine discounted unpaid losses under § 832(b)(5), including unpaid loss adjustment expenses included in unpaid losses under § 832(b)(6), and estimated salvage recoverable of property and casualty insurance companies for Federal income tax purposes under § 832(b)(5), as well as discounted unpaid losses of life insurance companies for Federal income tax purposes under §§ 805(a)(1) and 807(c)(2) of the Code. References to unpaid losses hereinafter in this revenue procedure refer to unpaid losses and expenses unpaid (as defined in § 832(b)(5) and (6)) or unpaid losses (as defined in §§ 805(a)(1) and 807(c)(2)), as applicable.

(2) Section 846 provides that discounted unpaid losses must be separately determined for each accident year for each line of business by applying the annual rate determined under § 846(c) and the appropriate loss payment pattern to the amount of unpaid losses as measured at the end of the taxable year. Section 846(d) directs the Secretary to use the most recent aggregate loss payment data of property and casualty insurance companies to determine a loss payment pattern for each line of business every five years. This payment pattern is used to discount unpaid losses for the accident year ending with a determination year and for each of the four succeeding accident years. For every accident year, the Secretary publishes guidance in the Internal Revenue Bulletin that provides discount factors for each line of business based on the annual rate and loss payment patterns determined under § 846.

(3) Section 13523 of the TCJA amended § 846 for taxable years beginning after December 31, 2017. Section 846, as amended by the TCJA, is referred to in this revenue procedure as Amended § 846. Section 13523(a) and (b) amended the definition of annual rate under § 846(c) and the computational rules for loss payment patterns under § 846(d), respectively. Section 13523(c) repealed the election that was previously set forth in § 846(e) to use the insurance company's own historical loss payment pattern instead of the pattern published by the Secretary.

(4) Section 13523(e) of the TCJA provides a transition rule for the application of the amendments made by section 13523. For the first taxable year beginning after December 31, 2017, the unpaid losses at the end of the preceding taxable year are determined as if the amendments made by section 13523 had applied to the unpaid losses in the preceding taxable year and by using the annual rate and loss payment patterns applicable to accident years ended with calendar year 2018. The resulting adjustment, if any, is included in the insurance company's gross income ratably over eight taxable years, beginning with the insurance company's first taxable year beginning after December 31, 2017, and continuing through the seven succeeding taxable years. Section 13523(e) also provides that, for subsequent taxable years, the amendments made by section 13523 are applied with respect to unpaid losses for accident years ended with or before

calendar year 2018 by using the annual rate and loss payment patterns applicable to accident years ended with calendar year 2018.

(5) On November 7, 2018, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published proposed regulations under Amended § 846 (REG-103163-18, 83 FR 55646) (Proposed Regulations).

(6) On January 7, 2019, the Treasury Department and the IRS published Rev. Proc. 2019-06, which prescribes unpaid loss discount factors for the 2018 accident year and earlier accident years for use in computing discounted unpaid losses under Amended § 846. The unpaid loss discount factors also serve as salvage discount factors for the 2018 accident year and earlier accident years for use in computing estimated salvage recoverable under § 832. The unpaid loss discount factors prescribed in Rev. Proc. 2019-06 (Proposed Discount Factors) were determined under Amended § 846 and the Proposed Regulations. In Rev. Proc. 2019-06, the Treasury Department and the IRS announced the intent to publish revised unpaid loss discount factors, if necessary, following the publication of the Proposed Regulations as final regulations. In Rev. Proc. 2019-06, the Treasury Department and the IRS also announced the intent to issue guidance on the use of revised discount factors, including the adjustment to be taken into account by certain taxpayers that used the Proposed Discount Factors in a taxable year ended before the date of publication of final regulations.

(7) Under the Proposed Regulations, the annual rate determined under Amended § 846(c) is based on a specific range of maturities (from one-half year to seventeen and one-half years) from the corporate bond yield curve prescribed in Amended § 846(c)(2). Under the Final Regulations, the annual rate determined under Amended § 846(c) is based on a specific range of maturities (from four and one-half years to ten years) from the prescribed corporate bond yield curve. The loss payment patterns for the 2017 determination year are the same under the Proposed Regulations and Final Regulations. The annual rate determined for the 2018 calendar year under the Proposed Regulations is 3.12 percent, compounded semiannually, while the annual rate determined for the 2018 calendar year under the Final Regulations is 2.94 percent, compounded semiannually. Because the annual rate determined under the Final Regulations is different from the annual rate determined under the Proposed Regulations, this revenue procedure prescribes revised discount factors determined under Amended § 846 and the Final Regulations (Revised Discount Factors) and provides guidance on the use of the Revised Discount Factors. Section 6.01(2) of Rev. Proc. 2019-30, 2019-33 I.R.B. ___, published in the same edition of the Internal Revenue Bulletin as this revenue procedure, describes the adjustments to be taken into account by certain taxpayers that used the Proposed Discount Factors in any taxable year ended before June 17, 2019.

(8) This revenue procedure also prescribes discount factors for the 2019 accident year determined under Amended § 846 and the Final Regulations for use by insurance companies in computing discounted unpaid losses under Amended § 846 and estimated salvage recoverable under § 832. These discount factors must be used in taxable years ending on or after June 17, 2019.

.02 *Changes in methods of accounting*. In addition to describing the adjustments to be taken into account by certain taxpayers that used the Proposed Discount Factors, Rev. Proc. 2019-30 provides simplified procedures under § 446 of the Code and § 1.446-1(e) of the Income Tax Regulations for an insurance company to obtain automatic consent of the Commissioner of Internal Revenue to change its methods of accounting for discounting unpaid losses and estimated salvage recoverable, as applicable, to comply with Amended § 846.

SECTION 3. SCOPE

This revenue procedure applies to any insurance company that is required to discount unpaid losses under Amended § 846 for a line of business using the discount factors published by the Secretary, and also applies to any insurance company that is required to discount estimated salvage recoverable under § 832. This revenue procedure applies to taxable years beginning after December 31, 2017.

SECTION 4. REVISED DISCOUNT FACTORS

.01 The tables in this section 4 present separately for each line of business the Revised Discount Factors. All of the Revised Discount Factors presented in the tables in this section 4 are determined by using the applicable interest rate for 2018 under Amended § 846(c) and the Final Regulations, which is 2.94 percent, compounded semiannually, and the payment patterns for the 2017 determination year determined by the Secretary under Amended § 846(d) and the Final Regulations. All of the Revised Discount Factors presented in these tables are determined by assuming all loss payments occur in the middle of the calendar year.

.02 An insurance company may use either the Revised Discount Factors or the Proposed Discount Factors for its first taxable year beginning after December 31, 2017, if the company's first taxable year beginning after December 31, 2017, ended before June 17, 2019. However, the insurance company must consistently use the Revised Discount Factors or consistently use the Proposed Discount Factors. An insurance company that uses the Proposed Discount Factors in its first taxable year beginning after December 31, 2017, must take into account the adjustments described in section 6.01(2) of Rev. Proc. 2019-30 in the manner prescribed in section 6.02(2) of Rev. Proc. 2019-30 if the company does not amend the return filed for that year to use the Revised Discount Factors.

.03 Tables 1 and 2 present separately for each line of business the Revised Discount Factors for losses incurred in the 2018 accident year and earlier accident years for use in the first taxable year beginning after December 31, 2017, for purposes of determining discounted unpaid losses under Amended § 846 and estimated salvage recoverable under § 832.

.04 Tables 3 and 4 present separately for each line of business the Revised Discount Factors for losses incurred in the 2017 accident year and earlier accident years for use in the first taxable year beginning after December 31, 2017, for purposes of determining the unpaid losses at the end of the preceding taxable year, as well as the adjustments described in section 2.01(4) of this revenue procedure and section 6.01(1) and (2) of Rev. Proc. 2019-30, which must be taken into account in the manner prescribed in section 6.02(1) and (2) of Rev. Proc. 2019-30.

.05 Tables 5 and 6 present separately for each line of business the Revised Discount Factors for losses incurred in the 2018 accident year for use in taxable years beginning after December 31, 2017, for purposes of determining discounted unpaid losses under Amended § 846 and estimated salvage recoverable under § 832.

.06 Section V of Notice 88-100, 1988-2 C.B. 439, sets forth a composite method for computing discounted unpaid losses for accident years that are not separately reported on the annual statement. Tables 2, 4, 5, and 6 separately provide discount factors for insurance companies that have elected to use the composite method of Notice 88-100. See Rev. Proc. 2002-74, 2002-2 C.B. 980.

Table 1 (part A)
Revised Discount Factors Under Amended Section 846 (percent)
For the First Taxable Year Beginning After December 31, 2017
Short-Tail Lines of Business

Accident Year	Auto Physical Damage	Fidelity/Surety	Financial Guaranty/ Mortgage Guaranty	International	Other*
2018	98.3892	95.9894	95.7530	96.3010	97.1014
2017	97.1339	97.1339	97.1339	97.1339	97.1339
Years before 2017	98.5513	98.5513	98.5513	98.5513	98.5513

*** For Accident and Health lines of business (other than disability income or credit disability insurance), the discount factor for taxable year 2018 is 98.5513 percent.**

Table 1 (part B)
Revised Discount Factors Under Amended Section 846 (percent)
For the First Taxable Year Beginning After December 31, 2017
Short-Tail Lines of Business

Accident Year	Reinsurance - Nonproportional Assumed Financial Lines	Reinsurance - Nonproportional Assumed Liability	Reinsurance - Nonproportional Assumed Property	Special Property (Fire, Allied Lines, Inland Marine, Earthquake, Burglary & Theft)	Warranty	Short-Tail Composite
2018	95.6050	94.8379	96.2833	97.5135	98.1947	96.9951
2017	97.1339	97.1339	97.1339	97.1339	97.1339	97.1339
Years before 2017	98.5513	98.5513	98.5513	98.5513	98.5513	98.5513

Table 2 (part A)
Revised Discount Factors Under Amended Section 846 (percent)
For the First Taxable Year Beginning After December 31, 2017
Long-Tail Lines of Business

Accident Year	Commercial Auto/Truck Liability/Medical	Medical Professional Liability - Claims-Made	Medical Professional Liability - Occurrence	Multiple Peril Lines	Other Liability - Claims-Made	Other Liability - Occurrence
2018	94.0556	91.6544	86.8932	95.3058	90.8915	89.3683
2017	94.7607	92.6388	88.9529	93.6724	91.6944	90.2053
2016	95.2819	92.8576	90.4811	93.9651	92.1992	90.7535
2015	95.3204	93.1388	91.8194	93.2041	92.2415	90.9196
2014	95.2024	93.2805	92.7664	91.4064	92.0976	90.6836
2013	95.0498	93.3035	93.5069	91.6039	92.6040	90.7542
2012	95.3260	94.2423	94.3189	91.3154	93.0770	90.7788
2011	94.9804	95.1291	94.9993	91.0177	93.8378	91.9830
2010	96.4102	96.0160	96.1220	93.5200	94.9264	92.6228
2009	98.3585	97.7503	97.7902	94.8530	96.6876	94.4974
Taxpayer Not Using the Composite Method						
2008	98.5513	98.5513	98.5513	96.1895	98.0033	95.8511
2007	98.5513	98.5513	98.5513	97.5045	98.5513	97.2176
Years before 2007	98.5513	98.5513	98.5513	98.5513	98.5513	98.5513
Taxpayer Using the Composite Method						
Years before 2009	98.5513	98.5513	98.5513	96.9185	98.0920	96.7300

Table 2 (part B)

Revised Discount Factors Under Amended Section 846 (percent)

For the First Taxable Year Beginning After December 31, 2017

Long-Tail Lines of Business

Accident Year	Private Passenger Auto Liability/ Medical	Products Liability - Claims-Made	Products Liability - Occurrence	Workers' Compensation	Long-Tail Composite
2018	95.6745	85.8982	87.8191	88.0401	92.7568
2017	95.2920	86.3600	89.1417	86.5393	91.7292
2016	95.2520	88.1407	89.8860	85.4517	91.4469
2015	94.8920	83.8076	91.1924	83.9662	90.2933
2014	94.2325	85.0889	89.8810	83.4129	88.7546
2013	94.2824	86.4184	89.9309	82.8905	88.6421
2012	94.5205	87.8040	90.8527	83.2567	88.6258
2011	95.0550	89.0388	91.8072	84.1036	89.1661
2010	95.6473	90.2969	92.1992	84.7150	90.3858
2009	97.7282	91.5785	94.4133	86.5946	92.1457
Taxpayer Not Using the Composite Method					
2008	98.5513	92.8838	95.7739	87.8065	93.4541
2007	98.5513	94.2124	97.1571	89.0414	94.7812
2006	98.5513	95.5629	98.5513	90.2995	96.1195
2005	98.5513	96.9299	98.5513	91.5813	97.4421
2004	98.5513	98.2868	98.5513	92.8867	98.5513
2003	98.5513	98.5513	98.5513	94.2154	98.5513
2002	98.5513	98.5513	98.5513	95.5661	98.5513
2001	98.5513	98.5513	98.5513	96.9334	98.5513
2000	98.5513	98.5513	98.5513	98.2913	98.5513
Years before 2000	98.5513	98.5513	98.5513	98.5513	98.5513
Taxpayer Using the Composite Method					
Years before 2009	98.5513	94.7288	96.6903	91.2579	95.0968

Table 3 (part A)
Revised Discount Factors Under Amended Section 846 (percent)
For the Taxable Year Preceding the First Taxable Year Beginning After December 31, 2017
Short-Tail Lines of Business

Accident Year	Auto Physical Damage	Fidelity/Surety	Financial Guaranty/ Mortgage Guaranty	International	Other*
2017	98.3892	95.9894	95.7530	96.3010	97.1014
2016	97.1339	97.1339	97.1339	97.1339	97.1339
Years before 2016	98.5513	98.5513	98.5513	98.5513	98.5513

* For Accident and Health lines of business (other than disability income or credit disability insurance), the discount factor for taxable year 2017 is 98.5513 percent.

Table 3 (part B)
Revised Discount Factors Under Amended Section 846 (percent)
For the Taxable Year Preceding the First Taxable Year Beginning After December 31, 2017
Short-Tail Lines of Business

Accident Year	Reinsurance - Nonproportional Assumed Financial Lines	Reinsurance - Nonproportional Assumed Liability	Reinsurance - Nonproportional Assumed Property	Special Property (Fire, Allied Lines, Inland Marine, Earthquake, Burglary & Theft)	Warranty	Short-Tail Composite
2017	95.6050	94.8379	96.2833	97.5135	98.1947	96.9951
2016	97.1339	97.1339	97.1339	97.1339	97.1339	97.1339
Years before 2016	98.5513	98.5513	98.5513	98.5513	98.5513	98.5513

Table 4 (part A)
Revised Discount Factors Under Amended Section 846 (percent)
For the Taxable Year Preceding the First Taxable Year Beginning After December 31, 2017
Long-Tail Lines of Business

Accident Year	Commercial Auto/Truck Liability/Medical	Medical Professional Liability - Claims-Made	Medical Professional Liability - Occurrence	Multiple Peril Lines	Other Liability - Claims-Made	Other Liability - Occurrence
2017	94.0556	91.6544	86.8932	95.3058	90.8915	89.3683
2016	94.7607	92.6388	88.9529	93.6724	91.6944	90.2053
2015	95.2819	92.8576	90.4811	93.9651	92.1992	90.7535
2014	95.3204	93.1388	91.8194	93.2041	92.2415	90.9196
2013	95.2024	93.2805	92.7664	91.4064	92.0976	90.6836
2012	95.0498	93.3035	93.5069	91.6039	92.6040	90.7542
2011	95.3260	94.2423	94.3189	91.3154	93.0770	90.7788
2010	94.9804	95.1291	94.9993	91.0177	93.8378	91.9830
2009	96.4102	96.0160	96.1220	93.5200	94.9264	92.6228
2008	98.3585	97.7503	97.7902	94.8530	96.6876	94.4974
Taxpayer Not Using the Composite Method						
2007	98.5513	98.5513	98.5513	96.1895	98.0033	95.8511
2006	98.5513	98.5513	98.5513	97.5045	98.5513	97.2176
Years before 2006	98.5513	98.5513	98.5513	98.5513	98.5513	98.5513
Taxpayer Using the Composite Method						
Years before 2008	98.5513	98.5513	98.5513	96.9185	98.0920	96.7300

Table 4 (part B)
Revised Discount Factors Under Amended Section 846 (percent)
For the Taxable Year Preceding the First Taxable Year Beginning After December 31, 2017
Long-Tail Lines of Business

Accident Year	Private Passenger Auto Liability/ Medical	Products Liability - Claims-Made	Products Liability - Occurrence	Workers' Compensation	Long-Tail Composite
2017	95.6745	85.8982	87.8191	88.0401	92.7568
2016	95.2920	86.3600	89.1417	86.5393	91.7292
2015	95.2520	88.1407	89.8860	85.4517	91.4469
2014	94.8920	83.8076	91.1924	83.9662	90.2933
2013	94.2325	85.0889	89.8810	83.4129	88.7546
2012	94.2824	86.4184	89.9309	82.8905	88.6421
2011	94.5205	87.8040	90.8527	83.2567	88.6258
2010	95.0550	89.0388	91.8072	84.1036	89.1661
2009	95.6473	90.2969	92.1992	84.7150	90.3858
2008	97.7282	91.5785	94.4133	86.5946	92.1457
Taxpayer Not Using the Composite Method					
2007	98.5513	92.8838	95.7739	87.8065	93.4541
2006	98.5513	94.2124	97.1571	89.0414	94.7812
2005	98.5513	95.5629	98.5513	90.2995	96.1195
2004	98.5513	96.9299	98.5513	91.5813	97.4421
2003	98.5513	98.2868	98.5513	92.8867	98.5513
2002	98.5513	98.5513	98.5513	94.2154	98.5513
2001	98.5513	98.5513	98.5513	95.5661	98.5513
2000	98.5513	98.5513	98.5513	96.9334	98.5513
1999	98.5513	98.5513	98.5513	98.2913	98.5513
Years before 1999	98.5513	98.5513	98.5513	98.5513	98.5513
Taxpayer Using the Composite Method					
Years before 2008	98.5513	94.7288	96.6903	91.2579	95.0968

Table 5 (part A) Revised Discount Factors Under Amended Section 846 (percent) For Losses Incurred in Accident Year 2018 in Short-Tail Lines of Business					
Taxable Year Beginning in	**Auto Physical Damage**	**Fidelity/Surety**	**Financial Guaranty/ Mortgage Guaranty**	**International**	**Other***
2018	**98.3892**	**95.9894**	**95.7530**	**96.3010**	**97.1014**
2019	**97.1339**	**97.1339**	**97.1339**	**97.1339**	**97.1339**
			Taxpayer Not Using Composite Method		
Years after 2019	**98.5513**	**98.5513**	**98.5513**	**98.5513**	**98.5513**
			Taxpayer Using the Composite Method		
2020	**98.5513**	**98.5513**	**98.5513**	**98.5513**	**98.5513**
Years after 2020	**Use composite discount factors published for the relevant accident year.****				

*** For Accident and Health lines of business (other than disability income or credit disability insurance), the discount factor for taxable year 2018 is 98.5513 percent. For later years, the discount factor for losses incurred in 2018 is the discount factor published for Accident and Health lines of business for losses incurred in the accident year coinciding with the taxable year.**

****The relevant accident year is the accident year that is two years prior to the specified taxable year.**

Table 5 (part B) Revised Discount Factors Under Amended Section 846 (percent) For Losses Incurred in Accident Year 2018 in Short-Tail Lines of Business						
Taxable Year Beginning in	**Reinsurance - Nonproportional Assumed Financial Lines**	**Reinsurance - Nonproportional Assumed Liability**	**Reinsurance - Nonproportional Assumed Property**	**Special Property (Fire, Allied Lines, Inland Marine, Earthquake, Burglary & Theft)**	**Warranty**	**Short-Tail Composite**
2018	**95.6050**	**94.8379**	**96.2833**	**97.5135**	**98.1947**	**96.9951**
2019	**97.1339**	**97.1339**	**97.1339**	**97.1339**	**97.1339**	**97.1339**
			Taxpayer Not Using Composite Method			
Years after 2019	**98.5513**	**98.5513**	**98.5513**	**98.5513**	**98.5513**	**98.5513**
			Taxpayer Using the Composite Method			
2020	**98.5513**	**98.5513**	**98.5513**	**98.5513**	**98.5513**	**98.5513**
Years after 2020	**Use composite discount factors published for the relevant accident year.****					

****The relevant accident year is the accident year that is two years prior to the specified taxable year.**

Table 6 (part A)

Revised Discount Factors Under Amended Section 846 (percent)

For Losses Incurred in Accident Year 2018 in Long-Tail Lines of Business

Taxable Year	Commercial Auto/Truck Liability/Medical	Medical Professional Liability - Claims-Made	Medical Professional Liability - Occurrence	Multiple Peril Lines	Other Liability - Claims-Made	Other Liability - Occurrence
2018	94.0556	91.6544	86.8932	95.3058	90.8915	89.3683
2019	94.7607	92.6388	88.9529	93.6724	91.6944	90.2053
2020	95.2819	92.8576	90.4811	93.9651	92.1992	90.7535
2021	95.3204	93.1388	91.8194	93.2041	92.2415	90.9196
2022	95.2024	93.2805	92.7664	91.4064	92.0976	90.6836
2023	95.0498	93.3035	93.5069	91.6039	92.6040	90.7542
2024	95.3260	94.2423	94.3189	91.3154	93.0770	90.7788
2025	94.9804	95.1291	94.9993	91.0177	93.8378	91.9830
2026	96.4102	96.0160	96.1220	93.5200	94.9264	92.6228
2027	98.3585	97.7503	97.7902	94.8530	96.6876	94.4974
Taxpayer Not Using Composite Method						
2028	98.5513	98.5513	98.5513	96.1895	98.0033	95.8511
2029	98.5513	98.5513	98.5513	97.5045	98.5513	97.2176
Years after 2029	98.5513	98.5513	98.5513	98.5513	98.5513	98.5513
Taxpayer Using the Composite Method						
2028	98.5513	98.5513	98.5513	96.9185	98.0920	96.7300
Years after 2028	Use composite discount factors published for the relevant accident year.*					

*The relevant accident year is the accident year that is ten years prior to the specified taxable year.

Table 6 (part B) Revised Discount Factors Under Amended Section 846 (percent) For Losses Incurred in Accident Year 2018 in Long-Tail Lines of Business					
Taxable Year	**Private Passenger Auto Liability/ Medical**	**Products Liability - Claims-Made**	**Products Liability - Occurrence**	**Workers' Compensation**	**Long-Tail Composite**
2018	95.6745	85.8982	87.8191	88.0401	92.7568
2019	95.2920	86.3600	89.1417	86.5393	91.7292
2020	95.2520	88.1407	89.8860	85.4517	91.4469
2021	94.8920	83.8076	91.1924	83.9662	90.2933
2022	94.2325	85.0889	89.8810	83.4129	88.7546
2023	94.2824	86.4184	89.9309	82.8905	88.6421
2024	94.5205	87.8040	90.8527	83.2567	88.6258
2025	95.0550	89.0388	91.8072	84.1036	89.1661
2026	95.6473	90.2969	92.1992	84.7150	90.3858
2027	97.7282	91.5785	94.4133	86.5946	92.1457
Taxpayer Not Using Composite Method					
2028	98.5513	92.8838	95.7739	87.8065	93.4541
2029	98.5513	94.2124	97.1571	89.0414	94.7812
2030	98.5513	95.5629	98.5513	90.2995	96.1195
2031	98.5513	96.9299	98.5513	91.5813	97.4421
2032	98.5513	98.2868	98.5513	92.8867	98.5513
2033	98.5513	98.5513	98.5513	94.2154	98.5513
2034	98.5513	98.5513	98.5513	95.5661	98.5513
2035	98.5513	98.5513	98.5513	96.9334	98.5513
2036	98.5513	98.5513	98.5513	98.2913	98.5513
Years after 2036	98.5513	98.5513	98.5513	98.5513	98.5513
Taxpayer Using the Composite Method					
2028	98.5513	94.7288	96.6903	91.2579	95.0968
Years after 2028	Use composite discount factors published for the relevant accident year.*				

*The relevant accident year is the accident year that is ten years prior to the specified taxable year.

SECTION 5. DISCOUNT FACTORS FOR TAXABLE YEARS BEGINNING IN 2019

.01 The tables in this section 5 present separately for each line of business discount factors for losses incurred in the 2019 accident year and earlier accident years for use by insurance companies in computing discounted unpaid losses under Amended § 846 and estimated salvage recoverable under § 832 in taxable years beginning in 2019. Insurance companies must use these discount factors in taxable years ending on or after June 17, 2019. The discount factors for losses incurred in accident year 2019 presented in these tables are determined by using the applicable interest rate for 2019 under Amended § 846(c) and the Final Regulations, which is 3.09 percent, compounded semiannually. Consistent with the transition rule in section 13523(3) of the TCJA, all other discount factors presented in these tables are determined by using the applicable interest rate for 2018, which is 2.94 percent, compounded semiannually. All of the discount factors presented in these tables are determined by using the payment patterns for the 2017 determination year determined by the Secretary under Amended § 846(d) and the Final Regulations and by assuming all loss payments occur in the middle of the calendar year.

.02 Tables 8, 9, and 10 separately provide discount factors for insurance companies that have elected to use the composite method of Notice 88-100. See Rev. Proc. 2002-74.

Table 7 (part A)
Discount Factors Under Amended Section 846 (percent)
For Taxable Year(s) Beginning in 2019
Short-Tail Lines of Business

Accident Year	Auto Physical Damage	Fidelity/Surety	Financial Guaranty/ Mortgage Guaranty	International	Other*
2019	98.3085	95.7921	95.5443	96.1189	96.9581
2018	97.1339	97.1339	97.1339	97.1339	97.1339
Years before 2018	98.5513	98.5513	98.5513	98.5513	98.5513

*** For Accident and Health lines of business (other than disability income or credit disability insurance), the discount factor for taxable year 2019 is 98.4785 percent.**

Table 7 (part B)
Factors for Discounting Unpaid Losses Under Section 846 (percent)
For Taxable Year(s) Beginning in 2019
Short-Tail Lines of Business

Accident Year	Reinsurance - Nonproportional Assumed Financial Lines	Reinsurance - Nonproportional Assumed Liability	Reinsurance - Nonproportional Assumed Property	Special Property (Fire, Allied Lines, Inland Marine, Earthquake, Burglary & Theft)	Warranty	Short-Tail Composite
2019	95.3891	94.5848	96.1004	97.3903	98.1046	96.8468
2018	97.1339	97.1339	97.1339	97.1339	97.1339	97.1339
Years before 2018	98.5513	98.5513	98.5513	98.5513	98.5513	98.5513

Table 8 (part A)
Discount Factors Under Amended Section 846 (percent)
For Taxable Year(s) Beginning in 2019
Long-Tail Lines of Business

Accident Year	Commercial Auto/Truck Liability/Med-ical	Medical Professional Liability - Claims-Made	Medical Professional Liability - Occurrence	Multiple Peril Lines	Other Liability - Claims-Made	Other Liability - Occurrence
2019	93.7704	91.2627	86.2902	95.0826	90.4676	88.8810
2018	94.7607	92.6388	88.9529	93.6724	91.6944	90.2053
2017	95.2819	92.8576	90.4811	93.9651	92.1992	90.7535
2016	95.3204	93.1388	91.8194	93.2041	92.2415	90.9196
2015	95.2024	93.2805	92.7664	91.4064	92.0976	90.6836
2014	95.0498	93.3035	93.5069	91.6039	92.6040	90.7542
2013	95.3260	94.2423	94.3189	91.3154	93.0770	90.7788
2012	94.9804	95.1291	94.9993	91.0177	93.8378	91.9830
2011	96.4102	96.0160	96.1220	93.5200	94.9264	92.6228
2010	98.3585	97.7503	97.7902	94.8530	96.6876	94.4974
Taxpayer Not Using the Composite Method						
2009	98.5513	98.5513	98.5513	96.1895	98.0033	95.8511
2008	98.5513	98.5513	98.5513	97.5045	98.5513	97.2176
Years before 2008	98.5513	98.5513	98.5513	98.5513	98.5513	98.5513
Taxpayer Using the Composite Method						
Years before 2010	98.5513	98.5513	98.5513	96.9185	98.0920	96.7300

Table 8 (part B) Discount Factors Under Amended Section 846 (percent) For Taxable Year(s) Beginning in 2019 Long-Tail Lines of Business					
Accident Year	Private Passenger Auto Liability/ Medical	Products Liability - Claims-Made	Products Liability - Occurrence	Workers' Compensation	Long-Tail Composite
2019	**95.4657**	**85.2754**	**87.2645**	**87.5213**	**92.4228**
2018	**95.2920**	**86.3600**	**89.1417**	**86.5393**	**91.7292**
2017	**95.2520**	**88.1407**	**89.8860**	**85.4517**	**91.4469**
2016	**94.8920**	**83.8076**	**91.1924**	**83.9662**	**90.2933**
2015	**94.2325**	**85.0889**	**89.8810**	**83.4129**	**88.7546**
2014	**94.2824**	**86.4184**	**89.9309**	**82.8905**	**88.6421**
2013	**94.5205**	**87.8040**	**90.8527**	**83.2567**	**88.6258**
2012	**95.0550**	**89.0388**	**91.8072**	**84.1036**	**89.1661**
2011	**95.6473**	**90.2969**	**92.1992**	**84.7150**	**90.3858**
2010	**97.7282**	**91.5785**	**94.4133**	**86.5946**	**92.1457**
Taxpayer Not Using the Composite Method					
2009	**98.5513**	**92.8838**	**95.7739**	**87.8065**	**93.4541**
2008	**98.5513**	**94.2124**	**97.1571**	**89.0414**	**94.7812**
2007	**98.5513**	**95.5629**	**98.5513**	**90.2995**	**96.1195**
2006	**98.5513**	**96.9299**	**98.5513**	**91.5813**	**97.4421**
2005	**98.5513**	**98.2868**	**98.5513**	**92.8867**	**98.5513**
2004	**98.5513**	**98.5513**	**98.5513**	**94.2154**	**98.5513**
2003	**98.5513**	**98.5513**	**98.5513**	**95.5661**	**98.5513**
2002	**98.5513**	**98.5513**	**98.5513**	**96.9334**	**98.5513**
2001	**98.5513**	**98.5513**	**98.5513**	**98.2913**	**98.5513**
Years before 2001	**98.5513**	**98.5513**	**98.5513**	**98.5513**	**98.5513**
Taxpayer Using the Composite Method					
Years before 2010	**98.5513**	**94.7288**	**96.6903**	**91.2579**	**95.0968**

SECTION 6. DISCOUNT FACTORS FOR THE 2019 ACCIDENT YEAR

.01 The tables in this section 6 present separately for each line of business the discount factors for losses incurred in the 2019 accident year for use by insurance companies in computing discounted unpaid losses under Amended § 846 and estimated salvage recoverable under § 832. All of the discount factors presented in these tables are determined by using the applicable interest rate for 2019 under Amended § 846(c) and the Final Regulations, which is 3.09 percent, compounded semiannually, and the payment patterns for the 2017 determination year determined by the Secretary under Amended § 846(d) and the Final Regulations. All of the discount factors presented in these tables are determined by assuming all loss payments occur in the middle of the calendar year.

.02 Tables 9 and 10 separately provide discount factors for insurance companies who have elected to use the composite method of Notice 88-100. See Rev. Proc. 2002-74.

Table 9 (part A)

Discount Factors Under Amended Section 846 (percent)

For Losses Incurred in Accident Year 2019 in Short-Tail Lines of Business

Taxable Year Beginning in	Auto Physical Damage	Fidelity/Surety	Financial Guar-anty/ Mortgage Guar-anty	International	Other*
2019	98.3085	95.7921	95.5443	96.1189	96.9581
2020	96.9916	96.9916	96.9916	96.9916	96.9916
		Taxpayer Not Using Composite Method			
Years after 2020	98.4785	98.4785	98.4785	98.4785	98.4785
		Taxpayer Using the Composite Method			
2021	98.4785	98.4785	98.4785	98.4785	98.4785
Years after 2021	Use composite discount factors published for the relevant accident year.**				

* For Accident and Health lines of business (other than disability income or credit disability insurance), the discount factor for taxable year 2019 is 98.4785 percent. For later years, the discount factor for losses incurred in 2019 is the discount factor published for Accident and Health lines of business for losses incurred in the accident year coinciding with the taxable year.

**The relevant accident year is the accident year that is two years prior to the specified taxable year.

Table 9 (part B)

Discount Factors Under Amended Section 846 (percent)

For Losses Incurred in Accident Year 2019 in Short-Tail Lines of Business

Taxable Year Beginning in	Reinsurance - Nonproportional Assumed Financial Lines	Reinsurance - Nonpropor-tional Assumed Liability	Reinsurance - Nonpropor-tional Assumed Property	Special Property (Fire, Allied Lines, Inland Marine, Earth-quake, Burglary & Theft)	Warranty	Short-Tail Composite
2019	95.3891	94.5848	96.1004	97.3903	98.1046	96.8468
2020	96.9916	96.9916	96.9916	96.9916	96.9916	96.9916
			Taxpayer Not Using Composite Method			
Years after 2020	98.4785	98.4785	98.4785	98.4785	98.4785	98.4785
			Taxpayer Using the Composite Method			
2021	98.4785	98.4785	98.4785	98.4785	98.4785	98.4785
Years after 2021	Use composite discount factors published for the relevant accident year.**					

**The relevant accident year is the accident year that is two years prior to the specified taxable year.

Table 10 (part A)
Discount Factors Under Amended Section 846 (percent)
For Losses Incurred in Accident Year 2019 in Long-Tail Lines of Business

Taxable Year	Commercial Auto/Truck Liability/Medical	Medical Professional Liability - Claims-Made	Medical Professional Liability - Occurrence	Multiple Peril Lines	Other Liability - Claims-Made	Other Liability - Occurrence
2019	93.7704	91.2627	86.2902	95.0826	90.4676	88.8810
2020	94.5084	92.2917	88.4392	93.3741	91.3061	89.7544
2021	95.0543	92.5197	90.0344	93.6815	91.8334	90.3264
2022	95.0945	92.8130	91.4323	92.8864	91.8764	90.4989
2023	94.9707	92.9600	92.4216	91.0050	91.7240	90.2502
2024	94.8102	92.9821	93.1951	91.2099	92.2519	90.3215
2025	95.0988	93.9636	94.0439	90.9051	92.7450	90.3437
2026	94.7349	94.8913	94.7551	90.5890	93.5395	91.6011
2027	96.2326	95.8197	95.9308	93.2071	94.6782	92.2678
2028	98.2762	97.6382	97.6800	94.6020	96.5238	94.2296
Taxpayer Not Using Composite Method						
2029	98.4785	98.4785	98.4785	96.0017	97.9036	95.6470
2030	98.4785	98.4785	98.4785	97.3803	98.4785	97.0794
Years after 2030	98.4785	98.4785	98.4785	98.4785	98.4785	98.4785
Taxpayer Using the Composite Method						
2029	98.4785	98.4785	98.4785	96.8165	98.0085	96.6260
Years after 2029	Use composite discount factors published for the relevant accident year.*					

*The relevant accident year is the accident year that is ten years prior to the specified taxable year.

Table 10 (part B) Discount Factors Under Amended Section 846 (percent) For Losses Incurred in Accident Year 2019 in Long-Tail Lines of Business					
Taxable Year	**Private Passenger Auto Liability/ Medical**	**Products Liability - Claims-Made**	**Products Liability - Occurrence**	**Workers' Compensation**	**Long-Tail Composite**
2019	**95.4657**	**85.2754**	**87.2645**	**87.5213**	**92.4228**
2020	**95.0654**	**85.7548**	**88.6442**	**85.9577**	**91.3501**
2021	**95.0239**	**87.6130**	**89.4203**	**84.8235**	**91.0564**
2022	**94.6472**	**83.0836**	**90.7854**	**83.2721**	**89.8512**
2023	**93.9560**	**84.4151**	**89.4118**	**82.6909**	**88.2413**
2024	**94.0072**	**85.7981**	**89.4605**	**82.1401**	**88.1205**
2025	**94.2553**	**87.2412**	**90.4215**	**82.5155**	**88.0992**
2026	**94.8139**	**88.5278**	**91.4175**	**83.3929**	**88.6595**
2027	**95.4330**	**89.8399**	**91.8241**	**84.0243**	**89.9313**
2028	**97.6150**	**91.1778**	**94.1415**	**85.9823**	**91.7704**
Taxpayer Not Using Composite Method					
2029	**98.4785**	**92.5418**	**95.5661**	**87.2439**	**93.1382**
2030	**98.4785**	**93.9314**	**97.0159**	**88.5305**	**94.5268**
2031	**98.4785**	**95.3452**	**98.4785**	**89.8427**	**95.9284**
2032	**98.4785**	**96.7777**	**98.4785**	**91.1807**	**97.3148**
2033	**98.4785**	**98.2011**	**98.4785**	**92.5447**	**98.4785**
2034	**98.4785**	**98.4785**	**98.4785**	**93.9345**	**98.4785**
2035	**98.4785**	**98.4785**	**98.4785**	**95.3485**	**98.4785**
2036	**98.4785**	**98.4785**	**98.4785**	**96.7814**	**98.4785**
2037	**98.4785**	**98.4785**	**98.4785**	**98.2057**	**98.4785**
Years after 2037	**98.4785**	**98.4785**	**98.4785**	**98.4785**	**98.4785**
Taxpayer Using the Composite Method					
2029	**98.4785**	**94.6171**	**96.5859**	**91.1466**	**94.9858**
Years after 2029	**Use composite discount factors published for the relevant accident year.***				

***The relevant accident year is the accident year that is ten years prior to the specified taxable year.**

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning after December 31, 2017.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Kathryn M. Sneade of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue procedure contact Ms. Sneade at (202) 317-6995 (not a toll free number).

Rev. Proc. 2019-32

SECTION 1. PURPOSE

This revenue procedure grants an extension of time to eligible partnerships to file a superseding Form 1065, U.S. Return of Partnership Income, and furnish a corresponding Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc., to each of its partners. This relief only applies to partnerships satisfying the requirements of section 3 of this revenue procedure that, for the applicable taxable year: (1) have not elected the application of section 6221(b) of the Internal Revenue Code (Code), (2) have timely filed Form 1065, and (3) have timely furnished all Schedules K-1 required to be furnished (without regard to the extensions of time provided by this revenue procedure).

SECTION 2. BACKGROUND

Section 1101(a) of the Bipartisan Budget Act of 2015 (BBA), P.L. 114-74, Title XI (November 2, 2015), removed subchapter C of chapter 63 of subtitle F of the Code effective for partnership taxable years beginning after December 31, 2017. Prior to the enactment of the BBA, subchapter C of chapter 63 contained the unified partnership audit and litigation rules enacted by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), P.L. 97–248 (September 3, 1982), that were commonly referred to as the TEFRA partnership procedures. Section 1101(c) of the BBA replaced the TEFRA partnership procedures with a centralized partnership audit regime that, in general, determines, assesses, and collects tax at the partnership level. The centralized partnership audit procedures enacted by the BBA are found at sections 6221 through 6241 of the Code. The centralized partnership audit procedures apply to all partnerships, unless the partnership makes a valid election under section 6221(b) not to have those procedures apply. Only certain partnerships that are required to issue fewer than 100 Schedules K-1 are eligible to make the election under section 6221(b). Partnerships subject to the centralized partnership audit regime are referred to as BBA partnerships.

Section 6222(a) of the Code requires partners in a BBA partnership to treat partnership-related items, as defined in section 6241 and the corresponding regulations, consistently on the partner's return with how the BBA partnership treated such items on its return. This consistency requirement applies to partners that are pass-through entities, such as partnerships and S corporations, as well as non-pass-through persons, such as individuals and C corporations.

Section 6031(a) of the Code requires every partnership to file a return for each taxable year stating specifically the items of its gross income and the deductions allowable by subtitle A of the Code and such other information as required by forms and regulations, including information about the partners in the partnership. For a partnership, the return required by section 6031(a) is the Form 1065, which includes Schedules K-1. Schedule K-1 provides the name of the partner and the partner's distributive share of taxable income and other information related to the partner regarding the partnership. Section 6031(b) requires that a partnership required to file a return under section 6031(a) furnish a copy of the Schedule K-1 to each partner that includes such information as may be required to be shown by regulations. In general, section 6031(b) also prohibits BBA partnerships from amending the information required to be furnished to its partners after the due date of the return.

Section 6072(b) of the Code provides that the deadline for filing Form 1065 and furnishing Schedules K-1 to partners is generally the fifteenth day of the third month after the end of the partnership's taxable year. For a calendar-year partnership this deadline is March 15. Section 6081(a) of the Code permits the Secretary of the Treasury or his delegate to grant a reasonable extension of time, generally no more than six months, for filing any return, statement, or other required document. Generally, to receive an extension of time to file a return, § 1.6081-2(b) of the Income Tax Regulations provides that a partnership must submit an application before the date prescribed for filing the Form 1065 (taking into account certain extensions). Certain partnerships that keep their records and books of account outside the United States and Puerto Rico are granted a three-month extension automatically without submitting an application under § 1.6081-5T(a)(1). This three-month extension runs concurrently with any six-month extension granted under § 1.6081-2.

For calendar-year partnerships that timely request a six-month extension, the extended deadline is September 15. A partnership that files its Form 1065 and furnishes Schedules K-1 to its partners prior to the deadline for filing the Form 1065 (including extensions) may file a superseding Form 1065 and furnish corresponding Schedules K-1 to its partners prior to the deadline, including extensions. Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in 2015* (March 2016) (JCT Bluebook), JCS-1-16, at 82 ("Schedules K-1 . . . may not be amended after the due date of the partnership return . . . [but] [t]he due date takes into account the permitted extension period."). A timely filed superseding Form 1065 is considered the original return of the partnership. *See, e.g.*, *Haggar Co. v. Helvering*, 308 U.S. 389, 395-96 (1940); Rev. Rul. 78-256, 1978-1 C.B. 438 (amended corporate return filed before due date including extensions is the corporation's return for that taxable year for purposes of estimated tax penalties).

Taxable years of partnerships beginning in 2018 were the first taxable years for which the centralized partnership audit regime was mandatory and the first taxable years for which restrictions on amending Schedules K-1 under section 6031(b) were effective.

The Department of the Treasury and the Internal Revenue Service (IRS) are aware that many BBA partnerships requested an extension of the filing deadline and may file an original Form 1065 (and furnish original Schedules K-1 to their partners) or a superseding Form 1065 (and furnish corresponding Schedules K-1 to their partners) until the extended due date for the 2018 taxable year. Generally, if any partners filed returns for the 2018 taxable year prior to receiving an original or revised Schedule K-1 from a BBA partnership, those partners may amend their returns if inconsistent with the Schedule K-1.

However, certain BBA partnerships timely filed Form 1065 for the 2018 taxable year and timely furnished Schedules K-1 to their partners. Some partnerships that already filed Form 1065 for the 2018 taxable year may have made errors, including not properly reporting all of the required information on the Schedules K-1. These BBA partnerships, having timely filed, did not request an extension of the deadline to file and, due to the restrictions on amending Schedules K-1 under section 6031(b), may not amend the Schedules K-1, including for the 2018 taxable year. The ability of the partners of such BBA partnerships to amend their own returns for the 2018 taxable year is not affected by the restrictions under section 6031(b); however, if the partner is a BBA partnership, the restrictions under section 6031(b) may apply.

SECTION 3. RELIEF PROVIDED TO ELIGIBLE BBA PARTNERSHIPS

.01 *Scope*. The filing and furnishing extensions provided by section 3.02 of this revenue procedure apply to BBA partnerships described in section 3.03 of this revenue procedure for the taxable years described in section 3.04 of this revenue procedure.

.02 *Relief*. The IRS will treat the timely filing of Form 1065 by a BBA partnership described in section 3.03 of this revenue procedure as a timely and appropriately filed request for a six-month extension of the deadline to file the Form 1065. BBA partnerships that timely filed a Form 1065 and timely furnished all required Schedules K-1 (without regard to the extensions of time provided by this revenue procedure) may file a superseding Form 1065 and furnish corresponding Schedules K-1 before the expiration of the extended deadline.

.03 *Eligible BBA partnerships*. The filing and furnishing extensions provided in section 3.02 of this revenue procedure are available only to BBA partnerships that timely filed Form 1065 and timely furnished Schedules K-1 prior to application of this revenue procedure and also file a superseding Form 1065 and furnish corresponding Schedules K-1 on or before the date that is six-months after the non-extended deadline. For purposes of section 6222, the superseding return replaces any prior return for the taxable year for purposes of determining the partnership's treatment of partnership-related items.

.04 *Eligible taxable years*. The filing and furnishing extensions provided in this revenue procedure apply only to partnership taxable years that ended prior to the issuance of this revenue procedure and for which the extended due date for such partnership taxable year is after July 25, 2019.

SECTION 4. PROCEDURE

To take advantage of the relief provided by section 3 of this revenue procedure, file a superseding Form 1065 and furnish corresponding Schedules K-1 in the same manner as the original return and Schedules K-1 and write on the top of the superseding Form 1065 "SUPERSEDING FORM 1065 PURSUANT TO REVENUE PROCEDURE 2019-32."

SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is Alexander Wu of the Office of the Associate Chief Counsel (Procedure and Administration). For further information, please contact 202-317-6845 (not a toll free number).

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 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

Finding List of Current Actions on Previously Published Items[1]

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[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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INTERNAL REVENUE BULLETIN

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