INTERNAL REVENUE
BULLETIN

IRS

HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2020–15
April 6, 2020

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

Announcement 2020-2, page 609.

This Announcement is issued pursuant to § 521(b) of Pub. L. 106-170, the Ticket to Work and Work Incentives Improvement Act of 1999, which requires the Secretary of the Treasury to report annually to the public concerning advance pricing agreements (APAs) and the Advance Pricing and Mutual Agreement Program (APMA Program), formerly known as the Advance Pricing Agreement Program (APA Program). This twenty-first report describes the experience, structure, and activities of the APMA Program during calendar year 2019.

Announcement 2020-3, page 655.

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and appraisers. These individuals are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Part 10, and which are published in pamphlet form as Treasury Department Circular No. 230. The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations.

Notice 2020-17, page 590.

This notice provides tax relief under section 7508A of the Code for taxpayers affected by the Coronavirus Disease 2019 (COVID-19) emergency. The due date for certain Federal income tax payments due April 15, 2020, is postponed to July 15, 2020. Associated interest, additions to tax, and penalties for late payment will also be suspended until July 15, 2020. This notice is superseded by Notice 2020-18.

Notice 2020-18, page 590.

This notice supersedes Notice 2020-17 and provides tax relief under section 7508A of the Code for taxpayers affected by the Coronavirus Disease 2019 (COVID-19) emergency. The due date for filing Federal income tax returns and making Federal income tax payments due April 15, 2020, is postponed to July 15, 2020. Associated interest, additions to tax, and penalties for late payment will also be suspended until July 15, 2020.

Rev. Proc. 2020-18, page 592.

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

INCOME TAX

Rev. Rul. 2020-9, page 563.

Federal rates; adjusted federal rates; adjusted federal long-term rate, the long-term exempt rate, and the blended annual rate. For purposes of sections 382, 1274, 1288, 7872 and other sections of the Code, tables set forth the rates for April 2020.

Finding Lists begin on page ii.

Rev. Rul. 2020-10, page 565.
Fringe benefits aircraft valuation formula. For purposes of section 1.61-21(g) of the Income Tax Regulations, relating to the rule for valuing non-commercial flights on employer-provided aircraft, the Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charge in effect for the first half of 2020 are set forth.

T.D. 9895, page 565.
The final regulations provide rules under section 901(m) for determining the amount of foreign taxes that are disqualified for foreign tax credit purposes with respect to certain covered asset acquisitions that result in a basis step-up for U.S. income tax purposes but not foreign tax purposes.

Notice 2020-19, page 591.
Notice 2020-19 withdraws Notice 2004-20, therefore removing the identification of transactions that are the same as, or substantially similar to, the transaction described in that notice as "listed transactions," because the enactment of section 901(m) has curtailed the use of those transactions.

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

Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also Sections 42, 280G, 382, 467, 468, 482, 483, 1288, 7520, 7872.)

Rev. Rul. 2020-9

This revenue ruling provides various prescribed rates for federal income tax purposes for April 2020 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2020-9 TABLE 1
Applicable Federal Rates (AFR) for April 2020
Period for Compounding

	Annual	*Semiannual*	*Quarterly*	*Monthly*
		Short-term		
AFR	0.91%	0.91%	0.91%	0.91%
110% AFR	1.00%	1.00%	1.00%	1.00%
120% AFR	1.09%	1.09%	1.09%	1.09%
130% AFR	1.18%	1.18%	1.18%	1.18%
		Mid-term		
AFR	0.99%	0.99%	0.99%	0.99%
110% AFR	1.09%	1.09%	1.09%	1.09%
120% AFR	1.19%	1.19%	1.19%	1.19%
130% AFR	1.29%	1.29%	1.29%	1.29%
150% AFR	1.50%	1.49%	1.49%	1.49%
175% AFR	1.74%	1.73%	1.73%	1.72%
		Long-term		
AFR	1.44%	1.43%	1.43%	1.43%
110% AFR	1.58%	1.57%	1.57%	1.56%
120% AFR	1.73%	1.72%	1.72%	1.71%
130% AFR	1.87%	1.86%	1.86%	1.85%

REV. RUL. 2020-9 TABLE 2
Adjusted AFR for April 2020
Period for Compounding

	Annual	*Semiannual*	*Quarterly*	*Monthly*
Short-term adjusted AFR	0.69%	0.69%	0.69%	0.69%
Mid-term adjusted AFR	0.75%	0.75%	0.75%	0.75%
Long-term adjusted AFR	1.09%	1.09%	1.09%	1.09%

REV. RUL. 2020-9 TABLE 3 Rates Under Section 382 for April 2020	
Adjusted federal long-term rate for the current month	1.09%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	1.63%

REV. RUL. 2020-9 TABLE 4 Appropriate Percentages Under Section 42(b)(1) for April 2020	
Note: Under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%.	
Appropriate percentage for the 70% present value low-income housing credit	7.28%
Appropriate percentage for the 30% present value low-income housing credit	3.12%

REV. RUL. 2020-9 TABLE 5 Rate Under Section 7520 for April 2020	
Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	1.2%

Section 42.—Low-Income Housing Credit

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 280G.—Golden Parachute Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted applicable federal long-term rate is set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 467.—Certain Payments for the Use of Property or Services

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The applicable federal short-term rates are set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 482.—Allocation of Income and Deductions Among Taxpayers

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 483.—Interest on Certain Deferred Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 7520.—Valuation Tables

The applicable federal mid-term rates are set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 7872.—Treatment of Loans With Below-Market Interest Rates

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of April 2020. See Rev. Rul. 2020-9, page 563.

Section 61. Gross Income Defined

26 CFR 1.61-21: Taxation of fringe benefits.

Rev. Rul. 2020-10

For purposes of the taxation of fringe benefits under section 61 of the Internal Revenue Code, section 1.61-21(g) of the Income Tax Regulations provides a rule for valuing noncommercial flights on employer-provided aircraft. Section 1.61-21(g)(5) provides an aircraft valuation formula to determine the value of such flights. The value of a flight is determined under the base aircraft valuation formula (also known as the Standard Industry Fare Level formula or SIFL) by multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple provided in section 1.61-21(g)(7) and then adding the applicable terminal charge. The SIFL cents-per-mile rates in the formula and the terminal charge are calculated by the Department of Transportation and are reviewed semi-annually.

The following chart sets forth the terminal charge and SIFL mileage rates

Period During Which the Flight Is Taken	*Terminal Charge*	*SIFL Mileage Rates*
1/1/20 - 6/30/20	$42.84	Up to 500 miles = $.2344 per mile 501-1500 miles = $.1787 per mile Over 1500 miles = $.1718 per mile

DRAFTING INFORMATION

The principal author of this revenue ruling is Kathleen Edmondson of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations and Employment Taxes). For further information regarding this revenue ruling, contact Ms. Edmondson at (202) 317-6798 (not a toll-free call).

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26 CFR 1.901(m)-1 through -8: Covered Asset Acquisitions

T.D. 9895

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1

Covered Asset Acquisitions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final Income Tax Regulations under section 901(m) of the Internal Revenue Code (Code) with respect to transactions that generally are treated as asset acquisitions for U.S. income tax purposes and either are treated as stock acquisitions or are disregarded for foreign income tax purposes. These regulations are necessary to provide guidance on applying section 901(m). These regulations affect taxpayers claiming foreign tax credits.

DATES: *Effective date*: These regulations are effective on March 23, 2020.

Applicability dates: For dates of applicability, see §§1.704-1(b)(1)(ii)(b)(4), 1.901(m)-1(b), 1.901(m)-2(f), 1.901(m)-3(d), 1.901(m)-4(g), 1.901(m)-5(i), 1.901(m)-6(d), 1.901(m)-7(g), and 1.901(m)-8(e).

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Parry at (202) 317-6936 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2016, both a notice of proposed rulemaking by cross-reference in part to temporary regulations (REG-129128-14) (2016 proposed regulations) under sections 901(m) and 704 of the Code and temporary regulations (TD 9800) under section 901(m) were published in the **Federal Register** at 81 FR 88562 and 81 FR 88103. The temporary and proposed regulations include the rules described in Notice 2014-44 (2014-32 I.R.B. 270 (August 4, 2014)) and Notice 2014-45 (2014-34 I.R.B. 388 (August 18, 2014).

A public hearing was not requested, and none was held. However, the Department of the Treasury (Treasury Department) and the IRS received written comments in response to the notice of proposed rulemaking. After consideration of all the comments, the 2016 proposed regulations under section 901(m) are adopted as revised by this Treasury decision. The revisions are discussed in this preamble. This Treasury decision also adopts the 2016 proposed regulations under section 704 without revision. The regulations adopted by this Treasury decision are referred to herein as the "final regulations." Defined terms used in this preamble but not defined herein have the meaning provided in the final regulations.

Summary of Comments and Explanation of Revisions

1. *Scope of covered asset acquisitions (CAAs)*

Proposed §1.901(m)-2(b) identifies six categories of transactions that constitute CAAs, three of which are specified in the statute and three of which are additional categories of transactions that are identified as CAAs pursuant to the authority granted under section 901(m)(2)(D).

One comment requested that an exemption to section 901(m) be provided for CAAs in which all or substantially all of the gains and losses with respect to the relevant foreign assets (RFAs) are recognized by members of the U.S.-parented group that includes the section 901(m) payor. The comment suggested that the policies of section 901(m) are not implicated in such a situation because if the same group takes into account the gains on the RFAs up front and then, in the future recognizes offsetting cost recovery items on those assets, over time, the U.S. income tax base is unchanged.

The Treasury Department and IRS agree that an exemption would be appropriate in certain cases, but have determined that the comment's suggestion is overbroad. As proposed by the comment, the exemption would apply to U.S. members of an affiliated group that do not file a consolidated return and to related controlled foreign corporations. This leaves open the possibility of manipulation of foreign tax credits. For example, in the case of affiliated but non-consolidated U.S. entities, the entity recognizing the U.S. gain on the assets up front may be an entity that is exempt from tax under section 501 while the entity recognizing the offsetting cost recovery items may be in a position to take advantage of the excess foreign taxes related to the basis difference.

The Treasury Department and IRS have determined that the exemption should apply only if a domestic section 901(m) payor or a member of its consolidated group recognized the gains or losses or took into account a distributive share of the gains or losses recognized by a partnership for U.S. tax purposes as part of the original CAA. Accordingly, the definition of aggregate basis difference is modified to take into account allocated basis difference adjustments determined based on gain or loss recognized with respect to an RFA as a result of a CAA. See §1.901(m)-1(a)(1), (6), (48), and (49). For example, if one domestic corporation, USS1, sold a foreign disregarded entity (FDE) that held an asset to another member of its consolidated group, USS2, the transaction is a CAA, because it is an asset sale for U.S. income tax purposes and an acquisition of stock of the FDE for foreign tax purposes. As a result, the asset is an RFA owned by USS2 subject to section 901(m). However, any aggregate basis difference USS2 determines with respect to the RFA will be adjusted to take into account the gain recognized for U.S. income tax purposes by USS1 on the original sale, provided USS1 and USS2 are still members of the same consolidated group in the year the allocated basis difference is determined.

Another comment suggested that the final category of transactions, which includes any asset acquisition for U.S. and foreign income tax purposes that results in an increase in the U.S. basis without a corresponding increase in the foreign basis, be replaced with one or more specifically defined transactions. The comment recommended that new CAAs be limited to specific transactions that are likely to achieve the same hyping of foreign tax credits as the three categories of CAAs specified in the statute and that typically involve intensive U.S. tax planning. The comment also suggested that if the Treasury Department and IRS found a list of specific transactions to be too limited, they could add an anti-abuse rule that would treat any transaction as a CAA if it was structured with a principal purpose of avoiding the specific categories of transactions set forth in the revised list of transactions.

The Treasury Department and IRS do not agree that the final category of transactions is overbroad. Section 901(m) is designed to address transactions that result in a basis difference for U.S. and foreign income tax purposes. There is no intent test. Proposed §1.901(m)-7 provides a de minimis exception that relieves the burden of applying section 901(m) to ordinary course transactions below the threshold provided in that rule. The Treasury Department and IRS have determined there is no policy justification for exempting transactions to which this exception does not apply on the grounds that the transaction lacked an intent to hype foreign taxes, and replacing this category of transactions with an anti-abuse rule would inappropriately introduce an intent component that is not required by the statute. Accordingly, the comment is not adopted.

2. *Aggregate basis difference carryover*

Proposed §1.901(m)-3(c) provides rules for determining the amount of aggregate basis difference carryover for a given U.S. taxable year of a section 901(m) payor that will be included in the section 901(m) payor's aggregate basis difference for the next U.S. taxable year. The carryover reflects the extent to which the aggregate basis difference for a U.S. taxable year has not yet given rise to a disqualified tax amount.

A comment requested that the aggregate basis difference carryover rule be eliminated due to the increased compliance costs resulting from the added complexity of tracking the carryover amounts. The comment argued that these compliance costs are unjustified, given that Congress enacted an administrable approach in the statute and did not express any intent that carryover rules could apply.

The Treasury Department and IRS have determined that the aggregate basis difference carryover rule is necessary to prevent the avoidance of the purpose of section 901(m), particularly in the case of timing differences. For example, assume a section 901(m) payor that is also a foreign payor has a foreign taxable year ending on March 31 and a U.S. taxable year ending on December 31. Assume further that the section 901(m) payor recognizes foreign gain on the disposition of an RFA on November 30, in U.S. tax year 1. For U.S. income tax purposes, because the disposition occurs in U.S. tax year 1, the section 901(m) payor will have allocated basis difference in U.S. tax year 1, requiring a calculation of a disqualified tax amount. For foreign income tax purposes, the foreign tax on the gain is not imposed until the end of the foreign taxable year, which is March 31, in U.S. tax year 2. Assuming the section 901(m) payor does not pay any other foreign taxes, the disqualified tax amount for U.S. tax year 1 will

be zero, because the foreign taxes are not taken into account by the section 901(m) payor for U.S. income tax purposes until U.S. tax year 2. Because the allocated basis difference in U.S. tax year 1 does not give rise to a disqualified tax amount, the aggregate basis difference carryover rule requires that the allocated basis difference be carried into U.S. tax year 2 and be used to calculate a disqualified tax amount with respect to the foreign taxes taken into account in U.S. tax year 2. Without the aggregate basis difference carryover rule, there would be no disqualified tax amount in U.S. tax year 1, because there are not foreign taxes taken into account in that year, and no disqualified tax amount in U.S. tax year 2, because there is no allocated basis difference in that year. This would allow avoidance of the application of section 901(m) to a fact pattern that is clearly meant to be covered by the statute. The aggregate basis difference carryover rule also prevents taxpayers from avoiding the application of section 901(m) by timing dispositions of RFAs to coincide with offsetting unrelated foreign losses. For these reasons, the comment is not adopted.

3. *Foreign basis election*

Basis difference with respect to an RFA is generally equal to the U.S. basis in the RFA immediately after a CAA less the U.S. basis in the RFA immediately before the CAA. Proposed §1.901(m)-4(c) provides that a taxpayer may instead elect to determine basis difference as the U.S. basis in the RFA immediately after the CAA less the foreign basis in the RFA immediately after the CAA. This is referred to as the foreign basis election. Paragraphs (c) and (g)(3) of proposed §1.901(m)-4 provide that taxpayers may apply the foreign basis election retroactively to CAAs that have occurred on or after January 1, 2011, provided that the taxpayer applies all of the rest of the rules in the 2016 proposed regulations retroactively, with a few limited exceptions.

One comment suggested that though this consistency requirement is appropriate for tax years that remain open, the requirement is unfair if some tax years of the taxpayer or its affiliates are already closed. The comment recommended the consistency requirement be modified to permit taxpayers to apply the foreign basis election as long as they apply the rules in the 2016 proposed regulations consistently to all relevant tax years that remain open.

The Treasury Department and IRS agree that taxpayers should not be denied the choice to retroactively apply the foreign basis election because a closed tax year is preventing them from satisfying the consistency requirement. However, because the statute of limitations for refunds attributable to foreign tax credits is ten years while the statute of limitations for assessment is generally only three years, the only relevant tax years of the taxpayer or its affiliates that would be closed are the tax years in which a consistent application of the regulations would result in an assessment. The Treasury Department and IRS do not believe taxpayers should be able to obtain the benefits of retroactive application of the regulations while avoiding the negative consequences. Accordingly, while the consistency requirement has been modified to apply only for tax years that remain open, an additional requirement is added that any deficiencies be taken into account that would have resulted from the consistent application of the final regulations for a tax year that is closed. See §1.901(m)-4(g)(3). For example, assume a taxpayer chooses to make a retroactive foreign basis election that would give rise to a $6 million refund in a prior year that is open under the statute of limitations for refunds but that a consistent retroactive application of another provision of the final regulations would give rise to a $1 million deficiency in another prior year that is closed under the statute of limitations for assessment. In this case, in order to meet the consistency requirement, the taxpayer would need to reduce its refund claim in the open year from $6 million to $5 million to take into account the $1 million deficiency that would have resulted in the closed tax year.

4. *Successor rules*

The successor rules in proposed §1.901(m)-6(b) provide that section 901(m) continues to apply to any unallocated basis difference with respect to an RFA after there is a transfer of the RFA for U.S. income tax purposes, regardless of whether the transfer is a disposition, a CAA, or a non-taxable transaction. For example, if a section 901(m) payor contributes an RFA with respect to a prior CAA to a partnership, any unallocated basis difference in the RFA remains subject to the section 901(m) in the hands of the partnership. One comment suggested that the Treasury Department and IRS consider whether it would be appropriate to apply principles similar to those of section 704(c) to treat the section 901(m) "taint" in the RFA as a built-in item that is allocated back to the contributing partner.

The Treasury Department and IRS have considered this comment and determined that the provisions in proposed §1.901(m)-5 for allocating basis difference to partners in a partnership that owns RFAs reflect the most appropriate approach, whether the RFAs are contributed to the partnership in a successor transaction or the partnership acquires them directly in a CAA. These allocation rules are based on the principle that the partner that takes into account the basis difference is the one that should be subject to section 901(m). For example, if there is a cost recovery amount of 20x due to increased depreciation deductions related to a U.S. basis step-up in a CAA, section 901(m) basically operates to disallow a credit for foreign taxes on that 20x differential created between income for U.S. and foreign tax purposes. The 2016 proposed regulations take the approach that the partner to whom the 20x of increased depreciation is allocated is the one that benefits from the income differential and is therefore the one to whom the section 901(m) disallowance should apply. If some other partner contributed the RFA to the partnership but does not get an allocation of the increased depreciation deductions, the Treasury Department and IRS see no policy reason to nevertheless subject the contributing partner to the section 901(m) disallowance.

5. *De miminis threshold*

Proposed §1.901(m)-7 describes de minimis rules under which certain basis differences are not taken into account for purposes of section 901(m). In general, under the 2016 proposed regulations, a basis difference with respect to an RFA

is not taken into account for purposes of section 901(m) if either (i) the sum of the basis differences for all RFAs with respect to the CAA is less than the greater of $10 million or 10 percent of the total U.S. basis of all RFAs immediately after the CAA; or (ii) the RFA is part of a class of RFAs for which the sum of the basis differences of all RFAs in the class is less than the greater of $2 million or 10 percent of the total U.S. basis of all RFAs in the class immediately after the CAA. The threshold dollar amounts and percentages to meet the de minimis exemptions for related-party CAAs are lower than those for unrelated party CAAs, replacing the terms "$10 million," "10 percent," and "$2 million" with the terms "$5 million," "5 percent," and "$1 million," respectively.

One comment expressed the view that the threshold amounts for the de minimis rules were too low, noting that the potential basis differential with respect to transactions of those magnitudes would not generate a sufficient foreign tax credit benefit to justify intensive tax planning. The comment suggested raising the $10 million threshold to $15 million. The comment also recommended eliminating the reduced de minimis thresholds in the context of related-party transactions. The comment argued that the test should be different for related parties only if the fact that the parties are related somehow makes the rules less burdensome than they are for unrelated parties or makes the likelihood of tax arbitrage higher. The comment suggested that this was unlikely to be the case in the context of section 901(m).

Although the Treasury Department and the IRS do not believe that the comment made a compelling argument for increasing the threshold for the cumulative basis difference exemption, the Treasury Department and IRS agree that it is appropriate to extend the scope of the de minimis rules in order to further reduce the burden of compliance with the rules. However, rather than increasing the threshold amount, the Treasury Department and IRS have decided to add an additional exclusion, such that a basis difference with respect to an individual RFA is not taken into account for purposes of section 901(m) if the basis difference is less than $20,000. See §1.901(m)-7(b)(4). Like the de minimis exceptions contained in the 2016 proposed regulations, this de minimis exception applies independently of the other de minimis exceptions. Moreover, the reduced thresholds for related-party transactions are eliminated, as suggested by the comment. See §1.901(m)-7(c).

6. *Interaction with section 909*

One comment requested adding a priority rule to the regulations to address transactions to which both section 901(m) and section 909 apply, such as, for example, the acquisition of a reverse hybrid with respect to which a section 338 election is made. The acquisition is a CAA under section 901(m), and the reverse hybrid structure is a specified foreign tax credit splitting event under the section 909 regulations. The comment recommended that, given the complexity of the calculation of disqualified tax amounts under section 901(m), those calculations should be made first and section 909 should then be applied to determine whether any of the remaining foreign taxes are suspended.

The Treasury Department and IRS agree with the comment that if section 901(m) and section 909 apply to the same transaction, the section 901(m) calculations should be undertaken before applying section 909. However, the comment's recommendation implied that only the portion of the foreign taxes that are not disqualified under section 901(m) are subject to potential suspension under section 909. The Treasury Department and IRS disagree with this implication. Section 909 defers taking into account foreign taxes for purposes of claiming a foreign tax credit or claiming a deduction. Foreign taxes that are disqualified for foreign tax credit purposes under section 901(m) but remain eligible to be deducted may be subject to deferral under section 909 as well. The comment's suggestion is adopted with these clarifications. See §1.901(m)-8(d).

7. *Changes related to the Tax Cuts and Jobs Act (TCJA)*

The final regulations reflect modifications to the rules contained in the 2016 proposed regulations necessary to reflect statutory changes by the TCJA, Public Law 115–97 (2017). References to section 902 corporations are replaced with references to applicable foreign corporations, which consist of section 902 corporations before the applicability of the TCJA modifications to the foreign tax credit rules and controlled foreign corporations thereafter. See §1.901(m)-1(a)(7). In addition, a definition of separate category is added and utilized to address the income groupings required under section 960 following TCJA. See §1.901(m)-1(a)(42).

8. *Applicability dates*

The 2016 proposed regulations were generally proposed to apply to CAAs occurring on or after the date of publication of the final regulations. However, the 2016 proposed regulations also provided that taxpayers could rely on the rules therein before they would otherwise be applicable, provided that taxpayers consistently applied proposed §1.901(m)-2 (excluding § 1.901(m)-2(d)) to all CAAs occurring on or after December 7, 2016, and consistently applied §1.704-1(b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*), §1.901(m)-1, and §§1.901(m)-3 through 1.901(m)-8 (excluding § 1.901(m)–4(e)) to all CAAs occurring on or after January 1, 2011. For this purpose, persons that are related (within the meaning of section 267(b) or 707(b)) were treated as a single taxpayer.

In order to be consistent with the revised applicability of the foreign basis election, as discussed in Part 3 of this Summary of Comments and Explanation of Revisions section, and allow the rules in the final regulations to be applied retroactively, the final regulations provide that taxpayers may choose to apply the rules before they would otherwise be applicable, provided that the consistency requirements described in the preceding paragraph are met, on any original or amended tax return for each taxable year for which the application of the provisions affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable. The relevant tax returns for taxable years ending before March 23, 2020, must be filed no later than March 23, 2021. In the case of taxable years that are not open for assessment, appropriate adjustments must be made to take into account deficiencies that would have result-

ed from the consistent application of the applicable provisions.

Special Analyses

These final regulations are 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.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. In general, foreign corporations are not considered small entities. Nor are U.S. taxpayers considered small entities to the extent the taxpayers are natural persons or entities other than small entities. Small entities are significantly less likely to engage in the types of transactions addressed by the regulations than U.S. multinational corporations. Moreover, the de minimis rules discussed in Part 5 of the Summary of Comments and Explanation of Revisions section further limit the number of small entities likely to be subject to the regulations.

Pursuant to section 7805(f), the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received.

Drafting Information

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

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

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 is amended by removing entries for §§ 1.901(m)-1T through 1.901(m)-8T and § 1.901(m)-5T and adding entries for §§ 1.901(m)-1 through 1.901(m)-8 and § 1.901(m)-5 in numerical order to read as follows:

Authority: 26 U.S.C. 7805

* * * * *

Sections 1.901(m)-1 through 1.901(m)-8 also issued under 26 U.S.C. 901(m)(7).

Section 1.901(m)-5 also issued under 26 U.S.C. 901(m)(3)(B)(ii).

* * * * *

Par. 2. Section 1.704-1 is amended by adding paragraphs (b)(1)(ii)(*b*)(*4*) and (b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*) to read as follows:

§1.704-1 Partner's distributive share.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(*b*) * * *

(*4*) *Special rules for covered asset acquisitions*. Paragraphs (b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*) of this section apply to covered asset acquisitions (CAAs) (as defined in §1.901(m)-1(a)(13)) occurring on or after March 23, 2020**.** Taxpayers may, however, choose to apply paragraphs (b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*) of this section before the date paragraphs (b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*) of this section are applicable provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(*i*) Consistently apply paragraphs (b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*) of this section, §1.901(m)-1, and §§1.901(m)-3 through 1.901(m)-8 (excluding §1.901(m)-4(e)) to all CAAs occurring on or after January 1, 2011, and consistently apply §1.901(m)-2 (excluding §1.901(m)-2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (b)(1)(ii)(*b*)(*4*)(*i*) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(*ii*) File all tax returns described in paragraph (b)(1)(ii)(*b*)(*4*)(*i*) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(*iii*) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (b)(1)(ii)(*b*)(*4*)(*i*) of this section for taxable years that are not open for assessment.

* * * * *

(4) * * *

(viii) * * *

(*c*) * * *

(*4*) * * *

(*v*) *Adjustments related to section 901(m)*. If one or more assets owned by a partnership are relevant foreign assets (or RFAs) with respect to a foreign income tax, then, solely for purposes of applying the safe harbor provisions of paragraph (b)(4)(viii)(*a*)(*1*) of this section to allocations of CFTEs with respect to that foreign income tax, the net income in a CFTE category that includes partnership items of income, deduction, gain, or loss attributable to the RFA shall be increased by the amount described in paragraph (b)(4)(viii)(*c*)(*4*)(*vi*) of this section and reduced by the amount described in paragraph (b)(4)(viii)(*c*)(*4*)(*vii*) of this section. Similarly, a partner's CFTE category share of income shall be increased by the portion of the amount described in paragraph (b)(4)(viii)(*c*)(*4*)(*vi*) of this section that is allocated to the partner under §1.901(m)-5(d) and reduced by the portion of the amount described in paragraph (b)(4)(viii)(*c*)(*4*)(*vii*) of this section that is allocated to the partner under §1.901(m)-5(d). The principles of this paragraph (b)(4)(viii)(*c*)(*4*)(*v*) apply similarly when a partnership owns an RFA indirectly through one or more other partnerships. For purposes of this paragraph (b)(4)(viii)(*c*)(*4*)(*v*) and paragraphs (b)(4)(viii)(*c*)(*4*)(*vi*) and (b)(4)(viii)(*c*)(*4*)(*vii*) of this section, basis difference is defined in §1.901(m)-4, cost recovery amount is defined in §1.901(m)-5(b)(2), disposition amount is defined in §1.901(m)-5(c)(2), foreign income tax is defined in §1.901(m)-1(a)(26), RFA is defined in §1.901(m)-2(c), U.S. disposition gain is defined in §1.901(m)-1(a)(52), and U.S. disposition loss is defined in §1.901(m)-1(a)(53).

(*vi*) *Adjustment amounts for RFAs with a positive basis difference*. With re-

spect to RFAs with a positive basis difference, the amount referenced in paragraph (b)(4)(viii)(*c*)(*4*)(*v*) of this section is the sum of any cost recovery amounts and disposition amounts attributable to U.S. disposition loss that correspond to partnership items that are included in the net income in the CFTE category and that are taken into account for the U.S. taxable year of the partnership under §1.901(m)-5(d).

(*vii*) *Adjustment amounts for RFAs with a negative basis difference*. With respect to RFAs with a negative basis difference, the amount referenced in paragraph (b)(4)(viii)(*c*)(*4*)(*v*) of this section is the sum of any cost recovery amounts and disposition amounts attributable to U.S. disposition gain that correspond to partnership items that are included in the net income in the CFTE category and that are taken into account for the U.S. taxable year of the partnership under §1.901(m)-5(d).

* * * * *

Par. 3. Section 1.901(m)-1 is added to read as follows:

§1.901(m)-1 Definitions.

(a) *Definitions*. For purposes of section 901(m), this section, and §§1.901(m)-2 through 1.901(m)-8, the following definitions apply:

(1) The term *aggregate basis difference* means, with respect to a foreign income tax and a foreign payor, the sum of the allocated basis differences and the allocated basis difference adjustments for a U.S. taxable year of a section 901(m) payor, plus any aggregate basis difference carryover from the immediately preceding U.S. taxable year of the section 901(m) payor with respect to the foreign income tax and foreign payor, as adjusted under §1.901(m)-6(c). For purposes of this definition, if foreign law imposes tax on the combined income (within the meaning of §1.901-2(f)(3)(ii)) of two or more foreign payors, all foreign payors whose items of income, deduction, gain, or loss are included in the U.S. taxable income or earnings and profits of the section 901(m) payor are treated as a single foreign payor. Aggregate basis difference is determined with respect to each separate category.

(2) The term *aggregate basis difference carryover* has the meaning provided in §1.901(m)-3(c).

(3) The term *aggregated CAA transaction* means a series of related CAAs occurring as part of a plan.

(4) The term *allocable foreign income* means the portion of foreign income of a foreign payor that relates to the foreign income tax amount of the foreign payor that is paid or accrued by, or considered paid or accrued by, a section 901(m) payor.

(5) The term *allocated basis difference* means, with respect to an RFA and a foreign income tax, the sum of the cost recovery amounts and disposition amounts assigned to a U.S. taxable year of the section 901(m) payor under §1.901(m)-5.

(6) The term *allocated basis difference adjustment* means an adjustment to a section 901(m) payor's allocated basis difference with respect to an RFA and a foreign income tax for a U.S. taxable year. If the RFA has a positive basis difference, the allocated basis difference adjustment is equal to the lesser of the allocated basis difference or the portion of any unallocated CAA gain that corresponds to the CAA gain recognized by the section 901(m) payor or a member of the section 901(m) payor's consolidated group. If the RFA has a negative basis difference, the allocated basis difference adjustment is equal to the greater of the allocated basis difference or the portion of any unallocated CAA loss that corresponds to the CAA loss recognized by the section 901(m) payor or a member of the section 901(m) payor's consolidated group. For purposes of this paragraph, CAA gain or CAA loss recognized by the section 901(m) payor or a member of the section 901(m) payor's consolidated group includes their distributive share of CAA gain or CAA loss recognized by a partnership.

(7) The term *applicable foreign corporation* means—

(i) For taxable years of foreign corporations beginning before January 1, 2018, a section 902 corporation (as defined in section 909(d)(5) (as in effect on December 21, 2017)), and

(ii) For taxable years of foreign corporations beginning after December 31, 2017, a controlled foreign corporation (as defined in section 957).

(8) The term *basis difference* has the meaning provided in §1.901(m)-4.

(9) The term *CAA gain* means the amount of gain recognized with respect to an RFA for U.S. tax purposes as a result of a CAA.

(10) The term *CAA loss* means the amount of loss recognized with respect to an RFA for U.S. tax purposes as a result of a CAA.

(11) The term *consolidated group* has the meaning provided in §1.1502-1(h).

(12) The term *cost recovery amount* has the meaning provided in §1.901(m)-5(b)(2).

(13) The term *covered asset acquisition* (or *CAA*) has the meaning provided in §1.901(m)-2.

(14) The term *cumulative basis difference exemption* has the meaning provided in §1.901(m)-7(b)(2).

(15) The term *disposition* means an event (for example, a sale, abandonment, or mark-to-market event) that results in gain or loss being recognized with respect to an RFA for purposes of U.S. income tax or a foreign income tax, or both.

(16) The term *disposition amount* has the meaning provided in §1.901(m)-5(c)(2).

(17) The term *disqualified tax amount* has the meaning provided in §1.901(m)-3(b).

(18) The term *disregarded entity* means an entity that is disregarded as an entity separate from its owner, as described in §301.7701-2(c)(2)(i) of this chapter.

(19) The term *fiscally transparent entity* means an entity, including a disregarded entity, that is fiscally transparent under the principles of §1.894-1(d)(3) for purposes of U.S. income tax or a foreign income tax (or both).

(20) The term *foreign basis* means the adjusted basis of an asset determined for purposes of a foreign income tax.

(21) The term *foreign basis election* has the meaning provided in §1.901(m)-4(c).

(22) The term *foreign country creditable tax* (or *FCCT*) means, with respect to a foreign income tax amount, the amount of income, war profits, or excess profits tax paid or accrued to a foreign country or possession of the United States and claimed as a foreign tax credit for purposes of determining the foreign income tax amount. To qualify as a FCCT, the tax imposed by the foreign country or possession must be a foreign income tax or a withholding tax determined on a gross basis as described in section 901(k)(1)(B).

(23) The term *foreign disposition gain* means, with respect to a foreign income tax, the amount of gain recognized on a disposition of an RFA in determining foreign income, regardless of whether the gain is deferred or otherwise not taken into account currently. Notwithstanding the foregoing, if after a section 743(b) CAA there is a disposition of an asset that is an RFA with respect to that section 743(b) CAA, foreign disposition gain has the meaning provided in §1.901(m)-5(c)(2)(iii).

(24) The term *foreign disposition loss* means, with respect to a foreign income tax, the amount of loss recognized on a disposition of an RFA in determining foreign income, regardless of whether the loss is deferred or disallowed or otherwise not taken into account currently. Notwithstanding the foregoing, if after a section 743(b) CAA there is a disposition of an asset that is an RFA with respect to that section 743(b) CAA, foreign disposition loss has the meaning provided in §1.901(m)-5(c)(2)(iii).

(25) The term *foreign income* means, with respect to a foreign income tax, the taxable income (or loss) reflected on a foreign tax return (as properly amended or adjusted), even if the taxable income (or loss) is reported by an entity that is a fiscally transparent entity for purposes of the foreign income tax. If, however, foreign law imposes tax on the combined income (within the meaning of §1.901-2(f)(3)(ii)) of two or more foreign payors, foreign income means the combined taxable income (or loss) of such foreign payors, regardless of whether such income (or loss) is reflected on a single foreign tax return.

(26) The term *foreign income tax* means an income, war profits, or excess profits tax for which a credit is allowable under section 901 or section 903, except that it does not include any withholding tax determined on a gross basis as described in section 901(k)(1)(B).

(27) The term *foreign income tax amount* means, with respect to a foreign income tax, the amount of tax (including an amount of tax that is zero) reflected on a foreign tax return (as properly amended or adjusted). If foreign law imposes tax on the combined income (within the meaning of §1.901-2(f)(3)(ii)) of two or more foreign payors, however, a foreign income tax amount means the amount of tax imposed on the combined income, regardless of whether the tax is reflected on a single foreign tax return.

(28) The term *foreign payor* means an individual or entity (including a disregarded entity) subject to a foreign income tax. If foreign law imposes tax on the combined income (within the meaning of §1.901-2(f)(3)(ii)) of two or more individuals or entities, each such individual or entity is a foreign payor. An individual or entity may be a foreign payor with respect to more than one foreign income tax for purposes of applying section 901(m).

(29) The term *foreign taxable year* means a taxable year for purposes of a foreign income tax.

(30) The term *mid-year transaction* means a transaction in which a foreign payor that is a corporation or a disregarded entity has a change in ownership or makes an election pursuant to §301.7701-3 to change its entity classification, or a transaction in which a foreign payor that is a partnership terminates under section 708(b)(1), provided in each case that the foreign payor's foreign taxable year does not close as a result of the transaction, and, if the foreign payor is a corporation or a partnership, the foreign payor's U.S. taxable year closes.

(31) The term *prior CAA* has the meaning provided in §1.901(m)-6(b)(2).

(32) The term *prior section 743(b) CAA* has the meaning provided in §1.901(m)-6(b)(4)(iii).

(33) The term *relevant foreign asset* (or *RFA*) has the meaning provided in §1.901(m)-2.

(34) The term *reverse hybrid* has the meaning provided in §1.909-2(b)(1)(iv).

(35) The term *RFA class exemption* has the meaning provided in §1.901(m)-7(b)(3).

(36) The term *RFA exemption* has the meaning provided in §1.901(m)-7(b)(4).

(37) The term *RFA owner (U.S.)* means a person that owns an RFA for U.S. income tax purposes.

(38) The term *RFA owner (foreign)* means an individual or entity (including a disregarded entity) that owns an RFA for purposes of a foreign income tax.

(39) The term *section 338 CAA* has the meaning provided in §1.901(m)-2(b)(1).

(40) The term *section 743(b) CAA* has the meaning provided in §1.901(m)-2(b)(3).

(41) The term *section 901(m) payor* means a person eligible to claim the foreign tax credit allowed under section 901(a), regardless of whether the person chooses to claim the foreign tax credit, as well as an applicable foreign corporation. Each member of a consolidated group is a separate section 901(m) payor. If individuals file a joint return, those individuals are treated as a single section 901(m) payor.

(42) The term *separate category* means each separate category described in §1.904-5(a)(4)(v), and in the case of an applicable foreign corporation described in paragraph (a)(7)(ii) of this section, each income group described in §1.960-1(d)(2)(ii).

(43) The term *subsequent CAA* has the meaning provided in §1.901(m)-6(b)(4)(i).

(44) The term *subsequent section 743(b) CAA* has the meaning provided in §1.901(m)-6(b)(4)(iii).

(45) The term *successor transaction* has the meaning provided in §1.901(m)-6(b)(2).

(46) The term *tentative disqualified tax amount* has the meaning provided in §1.901(m)-3(b)(2)(ii).

(47) The term *unallocated basis difference* means, with respect to an RFA and a foreign income tax, the basis difference reduced by the sum of the cost recovery amounts and the disposition amounts that have been computed under §1.901(m)-5.

(48) The term *unallocated CAA gain* means, with respect to an RFA, the CAA gain reduced by the sum of the allocated basis difference adjustments that have been computed with respect to the RFA.

(49) The term *unallocated CAA loss* means, with respect to an RFA, the CAA loss reduced by the sum of the allocated basis difference adjustments that have been computed with respect to the RFA.

(50) The term *U.S. basis* means the adjusted basis of an asset determined for U.S. income tax purposes.

(51) The term *U.S. basis deduction* has the meaning provided in §1.901(m)-5(b)(3).

(52) The term *U.S. disposition gain* means the amount of gain recognized for

U.S. income tax purposes on a disposition of an RFA, regardless of whether the gain is deferred or otherwise not taken into account currently. Notwithstanding the foregoing, if after a section 743(b) CAA there is a disposition of an asset that is an RFA with respect to that section 743(b) CAA, U.S. disposition gain has the meaning provided in §1.901(m)-5(c)(2)(iii).

(53) The term *U.S. disposition loss* means the amount of loss recognized for U.S. income tax purposes on a disposition of an RFA, regardless of whether the loss is deferred or disallowed or otherwise not taken into account currently. Notwithstanding the foregoing, if after a section 743(b) CAA there is a disposition of an asset that is an RFA with respect to that section 743(b) CAA, U.S. disposition loss has the meaning provided in §1.901(m)-5(c)(2)(iii).

(54) The term *U.S. taxable year* means a taxable year as defined in section 7701(a)(23).

(b) *Applicability dates*. (1) Except as provided in paragraph (b)(2) of this section, this section applies to CAAs occurring on or after March 23, 2020.

(2) Paragraphs (a)(8), (12), (13), (15), (16), (18), (19), (23) through (26), (31) through (33), (39), (40), (43) through (45), (47), (50), and (52) through (54) of this section apply to CAAs occurring on or after July 21, 2014, and to CAAs occurring before that date resulting from an entity classification election made under §301.7701-3 that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014. Paragraphs (a)(8), (12), (13), (15), (16), (18), (19), (23) through (26) through (33), (39), (40), (43) through (45), (47), (50), and (52) through (54) of this section also apply to CAAs occurring on or after January 1, 2011, and before July 21, 2014, other than CAAs occurring before July 21, 2014, resulting from an entity classification election made under §301.7701-3 that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014, but only if the basis difference (within the meaning of section 901(m)(3)(C)(i)) in one or more RFAs with respect to the CAA had not been fully taken into account under section 901(m)(3)(B) either as of July 21, 2014, or, in the case of an entity classification election made under §301.7701-3 that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014, before the transactions that are deemed to occur under §301.7701-3(g) as a result of the change in classification.

(3) Taxpayers may, however, choose to apply provisions in this section before the date such provisions are applicable pursuant to paragraph (b)(1) or (2) of this section, provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(i) Consistently apply this section, §1.704-1(b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*), and §§1.901(m)-3 through 1.901(m)-8 (excluding §1.901(m)-4(e)) to all CAAs occurring on or after January 1, 2011, and consistently apply §1.901(m)-2 (excluding §1.901(m)-2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (b)(3)(i) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(ii) File all tax returns described in paragraph (b)(3)(i) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(iii) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (b)(3)(i) of this section for taxable years that are not open for assessment.

§1.901(m)-1T [Removed]

Par. 4. Section 1.901(m)-1T is removed.

Par. 5. Section 1.901(m)-2 is added to read as follows:

§1.901(m)-2 Covered asset acquisitions and relevant foreign assets.

(a) *In general*. Paragraph (b) of this section sets forth the transactions that are covered asset acquisitions (or CAAs). Paragraph (c) of this section provides rules for identifying assets that are relevant foreign assets (or RFAs) with respect to a CAA. Paragraph (d) of this section provides special rules for identifying CAAs and RFAs with respect to transactions to which paragraphs (b) and (c) of this section do not apply. Paragraph (e) of this section provides examples illustrating the rules of this section, and paragraph (f) of this section provides applicability dates.

(b) *Covered asset acquisitions*. Except as provided in paragraph (d) of this section, the transactions set forth in this paragraph (b) are CAAs.

(1) A qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies (*section 338 CAA*);

(2) Any transaction that is treated as an acquisition of assets for U.S. income tax purposes and treated as an acquisition of stock of a corporation (or disregarded) for foreign income tax purposes;

(3) Any acquisition of an interest in a partnership that has an election in effect under section 754 (*section 743(b) CAA*);

(4) Any transaction (or series of transactions occurring pursuant to a plan) to the extent it is treated as an acquisition of assets for purposes of U.S. income tax and as the acquisition of an interest in a fiscally transparent entity for purposes of a foreign income tax;

(5) Any transaction (or series of transactions occurring pursuant to a plan) to the extent it is treated as a partnership distribution of one or more assets the U.S. basis of which is determined by section 732(b) or 732(d) or to the extent it causes the U.S. basis of the partnership's remaining assets to be adjusted under section 734(b), provided the transaction results in an increase in the U.S. basis of one or more of the assets distributed by the partnership or retained by the partnership without a corresponding increase in the foreign basis of such assets; and

(6) Any transaction (or series of transactions occurring pursuant to a plan) to the extent it is treated as an acquisition of assets for purposes of both U.S. income tax and a foreign income tax, provided the transaction results in an increase in the U.S. basis without a corresponding increase in the foreign basis of one or more assets.

(c) *Relevant foreign asset*—(1) *In general*. Except as provided in paragraph (d) of this section, an RFA means, with respect to a foreign income tax and a CAA, any asset (including goodwill, going con-

cern value, or other intangible) subject to the CAA that is relevant in determining foreign income for purposes of the foreign income tax.

(2) *RFA status with respect to a foreign income tax*. An asset is relevant in determining foreign income if income, deduction, gain, or loss attributable to the asset is taken into account in determining foreign income immediately after the CAA, or would be taken into account in determining foreign income immediately after the CAA if the asset were to give rise to income, deduction, gain, or loss at such time.

(3) *Subsequent RFA status with respect to another foreign income tax*. After a CAA, an asset will become an RFA with respect to another foreign income tax if, pursuant to a plan or series of related transactions that have a principal purpose of avoiding the application of section 901(m), an asset that was not relevant in determining foreign income for purposes of that foreign income tax immediately after the CAA becomes relevant in determining such foreign income. A principal purpose of avoiding section 901(m) will be deemed to exist if income, deduction, gain, or loss attributable to the asset is taken into account in determining such foreign income within the one-year period following the CAA, or would be taken into account in determining such foreign income during such time if the asset were to give rise to income, deduction, gain, or loss within the one-year period.

(d) *Identifying covered asset acquisitions and relevant foreign assets to which paragraphs (b) and (c) of this section do not apply*. For transactions occurring on or after January 1, 2011, and before July 21, 2014, other than transactions occurring before July 21, 2014, resulting from an entity classification election made under §301.7701-3 of this chapter that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014, the transactions set forth under section 901(m)(2) are CAAs and the assets that are relevant foreign assets with respect to the CAA under section 901(m)(4) are RFAs.

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

(1) *Example 1*: *CAA involving an acquisition of a partnership interest for foreign income tax purposes*—(i) *Facts*. (A) FPS is an entity organized in Country F that is treated as a partnership for both U.S. and Country F income tax purposes. FPS is owned equally by FC1 and FC2, each of which is a corporation organized in Country F and treated as a corporation for both U.S. and Country F income tax purposes. FPS has a single asset, Asset A. USP, a domestic corporation, owns all the interests in DE, a disregarded entity.

(B) Pursuant to the same transaction, USP acquires FC1's interest in FPS, and DE acquires FC2's interest in FPS. For U.S. income tax purposes, with respect to USP, the acquisition of the interests in FPS is treated as the acquisition of Asset A by USP. See Rev. Rul. 99-6, 1999-1 C.B. 432. For Country F tax purposes, the acquisitions of the interests of FPS by USP and DE are treated as acquisitions of partnership interests.

(ii) *Result*. The transaction is a CAA under paragraph (b)(4) of this section because it is treated as the acquisition of Asset A for U.S. income tax purposes and the acquisition of interests in a fiscally transparent entity for Country F tax purposes.

(2) *Example 2: CAA involving an asset acquisition for purposes of both U.S. income tax and a foreign income tax*—(i) *Facts*. (A) USP, a domestic corporation, wholly owns CFC1, a foreign corporation, and CFC1 wholly owns CFC2, also a foreign corporation. CFC1 and CFC2 are organized in Country F. CFC1 owns Asset A.

(B) In an exchange described in section 351, CFC1 transfers Asset A to CFC2 in exchange for CFC2 common stock and cash. CFC1 recognizes gain on the exchange under section 351(b). Under section 362(a), CFC2's U.S. basis in Asset A is increased by the gain recognized by CFC1. For Country F tax purposes, gain or loss is not recognized on the transfer of Asset A to CFC2, and therefore there is no increase in the foreign basis in Asset A.

(ii) *Result*. The transaction is a CAA under paragraph (b)(6) of this section because it is treated as an acquisition of Asset A by CFC2 for both U.S. and Country F income tax purposes, and it results in an increase in the U.S. basis of Asset A without a corresponding increase in the foreign basis of Asset A.

(3) *Example 3: RFA status determined immediately after CAA; application of principal purpose rule*—(i) *Facts*. (A) USP1 and USP2 are unrelated domestic corporations. USP1 wholly owns USSub, also a domestic corporation. On January 1 of Year 1, USP2 acquires all of the stock of USSub from USP1 in a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies. Immediately after the acquisition, none of the income, deduction, gain, or loss attributable to any of the assets of USSub is taken into account in determining foreign income for purposes of a foreign income tax nor would such items be taken into account in determining foreign income for purposes of a foreign income tax immediately after the acquisition if such assets were to give rise to income, deduction, gain, or loss immediately after the acquisition.

(B) On December 1 of Year 1, USSub contributes all its assets to FSub, its wholly owned subsidiary, which is a corporation for both U.S. and Country X income tax purposes, in a transfer described in section 351 (subsequent transfer). USSub recognizes no gain or loss for U.S. or Country X income tax purposes as a result of the subsequent transfer. As a result of the subsequent transfer, income, deduction, gain, or loss attributable to the assets of USSub that were transferred to FSub is taken into account in determining foreign income of FSub for Country X tax purposes.

(ii) *Result*. (A) Under paragraph (b)(1) of this section, the acquisition by USP2 of the stock of USSub is a section 338 CAA. Under paragraph (c)(1) of this section, none of the assets of USSub are RFAs immediately after the CAA, because none of the income, deduction, gain, or loss attributable to such assets is taken into account for purposes of determining foreign income with respect to any foreign income tax immediately after the CAA (nor would such items be taken into account for purposes of determining foreign income immediately after the CAA if such assets were to give rise to income, deduction, gain, or loss at such time).

(B) Although the subsequent transfer is not a CAA under paragraph (b) of this section, the subsequent transfer causes the assets of USSub to become relevant in the hands of FSub in determining foreign income for Country X tax purposes. Because the subsequent transfer occurred within the one-year period following the CAA, it is presumed to have a principal purpose of avoiding section 901(m) under paragraph (c)(3) of this section. Accordingly, the assets of USSub with respect to the CAA occurring on January 1 of Year 1 become RFAs with respect to Country X tax as a result of the subsequent transfer. Thus, a basis difference with respect to Country X tax must be computed for the RFAs and taken into account under section 901(m).

(f) *Applicability dates*. (1) Except as provided in paragraph (f)(2) of this section, this section applies to CAAs occurring on or after [*INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

(2) Paragraphs (a), (b)(1) through (3), and (c)(1) of this section apply to transactions occurring on or after July 21, 2014, and to transactions occurring before that date resulting from an entity classification election made under §301.7701-3 of this chapter that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014. Paragraph (d) of this section applies to transactions occurring on or after January 1, 2011, and before July 21, 2014, other than transactions occurring before July 21, 2014, resulting from an entity classification election made under §301.7701-3 of this chapter that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014.

(3) Taxpayers may, however, choose to apply provisions in this section before the date such provisions are applicable pursuant to paragraph (f)(1) or (2) of this section, provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(i) Consistently apply this section (excluding paragraph (d) of this section) to all CAAs occurring on or after December 7, 2016 and consistently apply §1.704-1(b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*), §1.901(m)-1, and §§1.901(m)-3 through 1.901(m)-8 (excluding §1.901(m)-4(e)) to all CAAs occurring on or after January 1, 2011, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (f)(3)(i) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(ii) File all tax returns described in paragraph (f)(3)(i) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(iii) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (f)(3)(i) of this section for taxable years that are not open for assessment.

§1.901(m)-2T [Removed]

Par. 6. Section 1.901(m)-2T is removed.

Par. 7. Section 1.901(m)-3 is added to read as follows:

§1.901(m)-3 Disqualified tax amount and aggregate basis difference carryover.

(a) *In general*. If a section 901(m) payor has an aggregate basis difference, with respect to a foreign income tax and a foreign payor, for a U.S. taxable year, the section 901(m) payor must determine the portion of a foreign income tax amount that is disqualified under section 901(m) (*disqualified tax amount*). Paragraph (b) of this section provides rules for determining the disqualified tax amount. Paragraph (c) of this section provides rules for determining what portion, if any, of aggregate basis difference will be carried forward to the next U.S. taxable year (*aggregate basis difference carryover*). Paragraph (d) of this section provides applicability dates.

(b) *Disqualified tax amount*—(1) *In general*. A section 901(m) payor's disqualified tax amount is not taken into account in determining the credit allowed under section 901(a). If the section 901(m) payor is an applicable foreign corporation, the disqualified tax amount is not taken into account for purposes of section 902 (for tax years of foreign corporations beginning before January 1, 2018) or 960. Sections 78 and 275 do not apply to the disqualified tax amount. The disqualified tax amount is allowed as a deduction to the extent otherwise deductible. See sections 164, 212, and 964 and the regulations under those sections.

(2) *Determination of disqualified tax amount*—(i) *In general*. Except as provided in paragraph (b)(2)(iv) of this section, the disqualified tax amount is equal to the lesser of the foreign income tax amount that is paid or accrued by, or considered paid or accrued by, the section 901(m) payor for the U.S. taxable year or the tentative disqualified tax amount. All calculations are determined with respect to each separate category.

(ii) *Tentative disqualified tax amount*. The tentative disqualified tax amount is equal to the amount determined under paragraph (b)(2)(ii)(A) of this section reduced (but not below zero) by the amount described in paragraph (b)(2)(ii)(B) of this section.

(A) The product of—

(*1*) The sum of the foreign income tax amount and the FCCTs that are paid or accrued by, or considered paid or accrued by, the section 901(m) payor, and

(*2*) A fraction, the numerator of which is the aggregate basis difference, but not in excess of the allocable foreign income, and the denominator of which is the allocable foreign income.

(B) The amount of the FCCT that is a disqualified tax amount of the section 901(m) payor with respect to another foreign income tax.

(iii) *Allocable foreign income*—(A) *No allocation required*. Except as provided in paragraph (b)(2)(iii)(D) of this section, if the entire foreign income tax amount is paid or accrued by, or considered paid or accrued by, a single section 901(m) payor, then the allocable foreign income is equal to the entire foreign income, determined with respect to each separate category.

(B) *Allocation required*. Except as provided in paragraph (b)(2)(iii)(D) of this section, if the foreign income tax amount is allocated to, and considered paid or accrued by, more than one person, a section 901(m) payor's allocable foreign income is equal to the portion of the foreign income that relates to the foreign income tax amount allocated to that section 901(m) payor, determined with respect to each separate category.

(C) *Rules for allocations*. This paragraph (b)(2)(iii)(C) provides allocation rules that apply to determine allocable foreign income in certain cases.

(*1*) If the foreign payor is involved in a mid-year transaction and the foreign income tax amount is allocated under §1.336-2(g)(3)(ii), §1.338-9(d), or §1.901-2(f)(4), then, to the extent any portion of the foreign income tax amount is allocated to, and considered paid or accrued by, a section 901(m) payor, the allocable foreign income of the section 901(m) payor is determined in accordance with the principles of §1.1502-76(b). To the extent the foreign income tax amount is allocated to an entity that is a partnership for U.S. income tax purposes, a portion of the foreign income is first allocated to the partnership in accordance with the principles of §1.1502-76(b), which is then allocated under the rules of paragraph (b)(2)(iii)(C)(*2*) of this section to determine the allocable foreign income of a section 901(m) payor that owns an interest in the partnership directly or indirectly through one or more other partnerships for U.S. income tax purposes.

(*2*) If the foreign income tax amount is considered paid or accrued by a section 901(m) payor for a U.S. taxable year under §1.702-1(a)(6), the determination of the allocable foreign income must be consistent with the allocation of the foreign income tax amount that relates to the foreign income. See §1.704-1(b)(4)(viii).

(*3*) If the foreign income tax amount that is allocated to, and considered paid or accrued by, a section 901(m) payor for a U.S. taxable year is determined under §1.901-2(f)(3)(i), the allocable foreign income is determined in accordance with §1.901-2(f)(3)(iii).

(D) *Failure to substantiate allocable foreign income*. If, pursuant to section 901(m)(3)(A), a section 901(m) payor fails to substantiate its allocable foreign income to the satisfaction of the Secretary, then allocable foreign income will equal

the amount determined by dividing the sum of the foreign income tax amount and the FCCTs that are paid or accrued by, or considered paid or accrued by, the section 901(m) payor, by the highest marginal tax rate applicable to income of the foreign payor under foreign tax law.

(iv) *Special rule*. A section 901(m) payor's disqualified tax amount is zero for a U.S. taxable year if:

(A) The section 901(m) payor's aggregate basis difference for the U.S. taxable year is a negative amount;

(B) Foreign income is less than or equal to zero for the foreign taxable year of the foreign payor; or

(C) The foreign income tax amount that is paid or accrued by, or considered paid or accrued by, the section 901(m) payor for the U.S. taxable year is zero.

(3) *Examples*. The following examples illustrate the rules of paragraph (b)(2) of this section. For purposes of all the examples, unless otherwise specified: USP is a domestic corporation. CFC1, CFC2, DE1, and DE2 are organized in Country F and are treated as corporations for Country F tax purposes. CFC1 and CFC2 are applicable foreign corporations. DE1 and DE2 are disregarded entities. USP, CFC1, and CFC2 each have a calendar year for both U.S. and Country F income tax purposes, and DE1 and DE2 each have a calendar year for Country F tax purposes. Country F and Country G each impose a single tax that is a foreign income tax. CFC1, CFC2, DE1, and DE2 each have a functional currency of the u with respect to all activities. At all relevant times, 1u equals $1. All amounts are stated in millions. The examples assume that the applicable cost recovery method for property results in basis being recovered ratably over the life of the property beginning on the first day of the U.S. taxable year in which the property is acquired or placed into service; there is a single separate category with respect to a foreign income and foreign income tax amount; and a section 901(m) payor properly substantiates its allocable foreign income to the satisfaction of the Secretary.

(i) *Example 1: Determining aggregate basis difference; multiple foreign payors*—(A) *Facts*. CFC1 wholly owns CFC2 and DE1. DE1 wholly owns DE2. Assume that the tax laws of Country F do not allow combined income reporting or the filing of consolidated income tax returns. Accordingly, CFC1, CFC2, DE1, and DE2 file separate tax returns for Country F tax purposes. USP acquires all of the stock of CFC1 in a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies for both CFC1 and CFC2.

(B) *Result*. (*1*) The acquisition of CFC1 gives rise to four separate CAAs under §1.901(m)-2(b). The acquisition of the stock of CFC1 and the deemed purchase of the stock of CFC2 under section 338(h)(3)(B) are each a section 338 CAA under §1.901(m)-2(b)(1). Furthermore, because the deemed purchase of the assets of DE1 and DE2 for U.S. income tax purposes is disregarded for Country F tax purposes, each acquisition is a CAA under §1.901(m)-2(b)(2). Because these four CAAs occur pursuant to a plan, under §1.901(m)-1(a)(3) they are part of an aggregated CAA transaction. Under §1.901(m)-1(a)(37), CFC1 is the RFA owner (U.S.) with respect to its assets and those of DE1 and DE2. CFC2 is the RFA owner (U.S.) with respect to its assets. Under §1.901(m)-1(a)(28), CFC1, CFC2, DE1, and DE2 are each a foreign payor for Country F tax purposes. Under §1.901(m)-1(a)(41), CFC1 is the section 901(m) payor with respect to foreign income tax amounts for which CFC1, DE1, and DE2 are the foreign payors (see §1.901-2(f)(1) and (f)(4)(ii)). CFC2 is the section 901(m) payor with respect to foreign income tax amounts for which CFC2 is the foreign payor (see §1.901-2(f)(1)).

(*2*) In determining aggregate basis difference under §1.901(m)-1(a)(1) for a U.S. taxable year of CFC1, CFC1 has three computations with respect to Country F tax, because there are three foreign payors for Country F tax purposes whose foreign income tax amount, if any, is considered paid or accrued by CFC1 as the section 901(m) payor. Furthermore, for each U.S. taxable year, CFC1 will compute a separate disqualified tax amount and aggregate basis difference carryover (if any) under paragraph (b)(2) of this section, with respect to each foreign payor.

(*3*) In determining aggregate basis difference for a U.S. taxable year of CFC2 under §1.901(m)-1(a)(1), CFC2 has a single computation with respect to Country F tax, because there is a single foreign payor (CFC2) for Country F tax purposes whose foreign income tax amount, if any, is considered paid or accrued by CFC2 as the section 901(m) payor. Furthermore, for each U.S. taxable year, CFC2 will compute a disqualified tax amount and aggregate basis difference carryover (if any) under paragraph (b)(2) of this section.

(C) *Alternative facts*. Assume the same facts as in paragraph (b)(3)(i)(A) of this section (paragraph (A) of this *Example 1*), except that foreign income for Country F tax purposes is based on combined income (within the meaning of §1.901-2(f)(3)(ii)) of CFC1, CFC2, DE1, and DE2. For purposes of determining an aggregate basis difference for a U.S. taxable year of CFC1 under §1.901(m)-1(a)(1), CFC1, DE1, and DE2 are treated as a single foreign payor because all of the items of income, deduction, gain, or loss with respect to CFC1, DE1, and DE2 are included in the earnings and profits of CFC1 for U.S. income tax purposes. For each U.S. taxable year, CFC1 will therefore compute a single aggregate basis difference, disqualified tax amount, and aggregate basis difference carryover. The result for CFC2 under the alternative facts is the same as in paragraph (b)(3)(i)(B)(*3*) (paragraph (B)(*3*) of this *Example 1*).

(ii) Example 2: Computation of disqualified tax amount—(A) *Facts*. On December 31 of Year 0, USP acquires all of the stock of CFC1 in a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies (Acquisition). CFC1 owns four assets (Asset A, Asset B, Asset C, and Asset D, and collectively, Assets) and conducts activities in Country F and in a Country G branch. The activities conducted by CFC1 in Country G are not subject to tax in Country F. The tax rate is 25% in Country F and 30% in Country G. For Country F tax purposes, CFC1's foreign income and foreign income tax amount for each foreign taxable year 1 through 15 is 100u and $25 (25u translated at the exchange rate of $1 = 1u), respectively. For Country G tax purposes, CFC1's foreign income and foreign income tax amount for each foreign taxable year 1 through 5 is 400u and $120 (120u translated at the exchange rate of $1 = 1u), respectively. No dispositions occur for any of the Assets during the applicable cost recovery period. Additional facts relevant to each of the Assets are summarized below.

Assets	Relevant foreign income tax	Basis Difference	Applicable Cost Recovery Period	Cost Recovery Amount
Asset A	Country F tax	150u	15 years	10u (150u / 15)
Asset B	Country F tax	50u	5 years	10u (50u / 5)
Asset C	Country G tax	300u	5 years	60u (300u / 5)
Asset D	Country G tax	(100u)	5 years	negative 20u (negative 100 / 5)

(B) *Result*. (*1*) Under §1.901(m)-2(b)(1), the acquisition of the stock of CFC1 is a section 338 CAA. Under §1.901(m)-2(c)(1), Assets A and B are RFAs with respect to Country F tax, because they are relevant in determining foreign income of CFC1 for Country F tax purposes and were owned by CFC1 when the Acquisition occurred. Assets C and D are RFAs with respect to Country G tax, because they are relevant in determining foreign income of CFC1 for Country G tax purposes and were owned by CFC1 when the Acquisition occurred. Under §1.901(m)-1(a)(37), CFC1 is the RFA owner (U.S.) with respect to all of the RFAs. Under §1.901(m)-1(a)(41) and (28), CFC1 is the section 901(m) payor and the foreign payor for Country F and Country G tax purposes.

(*2*) In determining aggregate basis difference for a U.S. taxable year of CFC1, CFC1 has two computations, one with respect to Country F tax and one with respect to Country G tax. Under §1.901(m)-1(a)(1), the aggregate basis difference for a U.S. taxable year with respect to Country F tax is equal to the sum of the allocated basis differences and allocated basis difference adjustments with respect to Assets A and B for the U.S. taxable year. Under §1.901(m)-1(a)(5), allocated basis differences are the sum of cost recovery amounts and disposition amounts. Because there are no dispositions, the only allocated basis differences taken into account in determining an aggregate basis difference are cost recovery amounts. Under §1.901(m)-5(b), any cost recovery amounts are attributed to CFC1, because CFC1 is the section 901(m) payor and RFA owner (U.S.) with respect to all of the Assets. For each U.S. taxable year, CFC1 will compute a separate disqualified tax amount and aggregate basis difference carryover (if any) with respect to Country F tax and Country G tax under paragraph (b)(2) of this section. For purposes of both disqualified tax amount computations, because CFC1 is the section 901(m) payor and foreign payor, the foreign income tax amount paid or accrued by CFC1 with respect to Country F tax and Country G tax, respectively, will be the entire foreign income tax amount and CFC1's allocable foreign income will be the entire foreign income.

(*3*) With respect to Country F tax, in U.S. taxable years 1 through 5, CFC1 has an aggregate basis difference of 20u each year (10u cost recovery amount with respect to Asset A plus 10u cost recovery amount with respect to Asset B). For U.S. taxable years 1 through 5, under paragraph (b)(2) of this section, the disqualified tax amount each year is $5, the lesser of two amounts: the tentative disqualified tax amount, in this case, $5 ($25 foreign income tax amount x (20u aggregate basis difference / 100u allocable foreign income)), or the foreign income tax amount paid or accrued by CFC1, in this case, $25. After U.S. taxable year 5, Asset B has no unallocated basis difference with respect to Country F tax. Accordingly, in U.S. taxable years 6 through 15, CFC1 has an aggregate basis difference of 10u each year. Accordingly, for U.S. taxable years 6 through 15, the disqualified tax amount each year is $2.50, the lesser of two amounts: the tentative disqualified tax amount, in this case, $2.50 ($25 foreign income tax amount x (10u aggregate basis difference / 100u allocable foreign income)), or the foreign income tax amount paid or accrued by CFC1, in this case, $25. After U.S. taxable year 15, Asset A has no unallocated basis difference with respect to Country F tax and, therefore, CFC1 has no disqualified tax amount with respect to Country F Tax.

(*4*) With respect to Country G tax, in U.S. taxable years 1 through 5, CFC1 has an aggregate basis difference of 40u each year (60u cost recovery amount with respect to Asset C + (20u) cost recovery amount with respect to Asset D). For U.S. taxable years 1 through 5, under paragraph (b)(2) of this section, the disqualified tax amount each year is $12, the lesser of two amounts: the tentative disqualified tax amount, in this case, $12 ($120 foreign income tax amount x (40u aggregate basis difference / 400u allocable foreign income)), or the foreign income tax amount paid or accrued by CFC1, in this case, $120. After U.S. taxable year 5, Asset C and Asset D have no unallocated basis difference with respect to Country G tax. Accordingly, in U.S. taxable years 6 through 15, CFC1 has no disqualified tax amount with respect to Country G Tax.

(iii) *Example 3*: *FCCT*—(A) *Facts*. In U.S. taxable year 1, USP acquires all of the interests in DE1 in a transaction (Transaction) that is treated as a stock acquisition for Country F tax purposes. Immediately after the Transaction, DE1 owns assets (Pre-Transaction Assets), all of which are used in a Country G branch and give rise to income that is taken into account for Country F tax and Country G tax purposes. After the Transaction, DE1 acquires additional assets (Post-Transaction Assets), which are not used by the Country G branch. Both Country F and Country G have a tax rate of 30%. Country F imposes worldwide tax on its residents and provides a foreign tax credit for taxes paid to other jurisdictions. In foreign taxable year 3, 100u of income is attributable to DE1's Post-Transaction Assets and 100u of income is attributable to DE1's Pre-Transaction Assets. For Country G tax purposes, the foreign income is 100u and foreign income tax amount is 30u (30% x 100u). For Country F tax purposes, the foreign income is 200u and the pre-foreign tax credit tax is 60u (30% x 200u). The 60u of Country F pre-foreign tax credit tax is reduced by the 30u foreign income tax amount imposed for Country G tax purposes. Thus, the foreign income tax amount for Country F tax purposes is $30 (30u translated into dollars at the exchange rate of $1 = 1u). Assume that for U.S. taxable year 3 USP has 100u aggregate basis difference with respect to Country F tax and 100u aggregate basis difference with respect to Country G tax. USP does not dispose of DE1 or any assets of DE1 in U.S. taxable year 3.

(B) *Result*. (*1*) Under §1.901(m)-2(b)(2), the Transaction is a CAA. Under §1.901(m)-2(c)(1), the Pre-Transaction Assets are RFAs with respect to both Country F tax and Country G tax, because they are relevant in determining the foreign income of DE1 for Country F tax and Country G tax purposes and were owned by DE1 when the Transaction occurred. Under §1.901(m)-1(a)(37), USP is the RFA owner (U.S.) with respect to the RFAs. Under §1.901(m)-1(a)(28), DE1 is a foreign payor for Country F tax and Country G tax purposes. Under §1.901(m)-1(a)(41), USP is the section 901(m) payor with respect to foreign income tax amounts for which DE1 is the foreign payor (see §1.901-2(f)(4)(ii)). Because the Country G foreign income tax amount is claimed as a credit for purposes of determining the Country F foreign income tax amount, the Country G foreign income tax amount is an FCCT under §1.901(m)-1(a)(22).

(*2*) Under §1.901(m)-1(a)(1), for each U.S. taxable year, USP will separately compute the aggregate basis difference with respect to Country F tax and with respect to Country G tax and will use those amounts to separately compute a disqualified tax amount and aggregate basis difference carryover (if any) with respect to each foreign income tax. Because DE1 is a disregarded entity owned by USP during the entire U.S. taxable year 3, the foreign income tax amount paid or accrued by DE1 is not subject to allocation. Accordingly, for purposes of each of the disqualified tax amount computations, the foreign income tax amount paid or accrued by USP with respect to Country F tax and Country G tax, respectively, is the entire foreign income tax amount paid or accrued by DE1, and, under paragraph (b)(2)(iii)(A) of this section, USP's allocable foreign income will be equal to DE1's entire foreign income.

(*3*) As stated in paragraph (b)(3)(iii)(A) of this section (paragraph (A) of this *Example 3*), for U.S. taxable year 3 USP has 100u aggregate basis difference with respect to Country F tax and 100u aggregate basis difference with respect to Country G tax. With respect to Country G tax, in U.S. taxable year 3, under paragraph (b)(2) of this section, the disqualified tax amount is $30, the lesser of the two amounts: the tentative disqualified tax amount, in this case, $30 ($30 foreign income tax amount x (100u aggregate basis difference / 100u allocable foreign income)), or the foreign income tax amount considered paid or accrued by USP, in this case, $30.

(*4*) With respect to Country F tax, in U.S. taxable year 3, under paragraph (b)(2) of this section, the disqualified tax amount is $0, the lesser of two amounts: the tentative disqualified tax amount, in this case $0 (($30 foreign income tax amount + $30 Country G FCCT) x (100u aggregate basis difference / 200u foreign income) = $30 reduced by $30 Country G FCCT that is a disqualified tax amount of USP), or the foreign income tax amount considered paid or accrued by USP, in this case, $30.

(c) *Aggregate basis difference carryover*—(1) *In general*. If a section 901(m) payor has an aggregate basis difference carryover for a U.S. taxable year, as determined under this paragraph (c), the aggregate basis difference carryover is taken into account in computing the section 901(m) payor's aggregate basis difference for the next U.S. taxable year. For successor rules that apply to an aggregate basis difference carryover, see §1.901(m)-6(c).

(2) *Amount of aggregate basis difference carryover*. (i) If a section 901(m) payor's disqualified tax amount is zero, all of the section 901(m) payor's aggregate basis difference (positive or negative) for the U.S. taxable year gives rise to an aggregate basis difference carryover to the next U.S. taxable year.

(ii) If a section 901(m) payor's disqualified tax amount is not zero, then aggregate basis difference carryover can arise in either or both of the following two situations:

(A) If a section 901(m) payor's aggregate basis difference for the U.S. taxable year exceeds its allocable foreign income, the excess gives rise to an aggregate basis difference carryover.

(B) If the tentative disqualified tax amount exceeds the disqualified tax amount, the excess tentative disqualified tax amount is converted into aggregate basis difference carryover by multiplying such excess by a fraction, the numerator of which is the allocable foreign income,

and the denominator of which is the sum of the foreign income tax amount and the FCCTs that are paid or accrued by, or considered paid or accrued by, the section 901(m) payor.

(3) *Example*. The following example illustrates the rules of paragraph (c) of this section.

(i) *Facts*. (A) On July 1 of Year 1, CFC1 acquires all of the interests of DE1 in a transaction (Transaction) that is treated as a stock acquisition for Country F tax purposes. CFC1 and DE1 are organized in Country F and are treated as corporations for Country F tax purposes. CFC1 is an applicable foreign corporation, and DE1 is a disregarded entity. CFC1 has a calendar year for U.S. income tax purposes, and DE1 has a June 30 year-end for Country F tax purposes. Country F imposes a single tax that is a foreign income tax. CFC1 and DE1 each have a functional currency of the u with respect to all activities. Immediately after the Transaction, DE1 owns one asset, Asset A, that gives rise to income that is taken into account for Country F tax purposes. For the first U.S. taxable year (U.S. taxable year 1) there is a cost recovery amount with respect to Asset A of 9u, and for each subsequent U.S. taxable year until the U.S. basis is fully recovered, there is a cost recovery amount with respect to Asset A of 18u. There is no disposition of Asset A.

(ii) *Result*. (A) Under §1.901(m)-2(b)(2), the Transaction is a CAA. Under §1.901(m)-2(c)(1), Asset A is an RFA with respect to Country F tax because it is relevant in determining the foreign income of DE1 for Country F tax purposes and was owned by DE1 when the Transaction occurred. Under §1.901(m)-1(a)(37), CFC1 is the RFA owner (U.S.) with respect to Asset A. Under §1.901(m)-1(a)(28), DE1 is a foreign payor for Country F tax purposes. Under §1.901(m)-1(a)(41), CFC1 is the section 901(m) payor with respect to foreign income tax amounts for which DE1 is the foreign payor (see §1.901-2(f)(4)(ii)).

(B) Under §1.901(m)-1(a)(1), in determining the aggregate basis difference for U.S. taxable year 1, CFC1 has one computation with respect to Country F tax. Under §1.901(m)-1(a)(1), aggregate basis difference with respect to Country F tax is equal to the sum of allocated basis differences and allocated basis difference adjustments with respect to all RFAs, which, in this case, is only Asset A. Under §1.901(m)-1(a)(5), allocated basis differences are the sum of cost recovery amounts and disposition amounts. Because there is no disposition of Asset A, the only allocated basis difference taken into account in determining an aggregate basis difference are cost recovery amounts with respect to Asset A. Under §1.901(m)-5(b), any cost recovery amounts are assigned to a U.S taxable year of CFC1, because CFC1 is the section 901(m) payor and RFA owner (U.S.) with respect to Asset A. Under paragraph (b)(2) of this section, for each U.S. taxable year, CFC1 will compute a disqualified tax amount and aggregate basis difference carryover with respect to the aggregate basis difference. Because DE1 is a disregarded entity owned by CFC1, the foreign income tax amount paid or accrued by DE1 is not subject to allocation. Accordingly, for purposes of the disqualified tax amount computation, the foreign income tax amount paid or accrued by CFC1 with respect to Country F tax is the entire foreign income tax amount paid or accrued by DE1, and under paragraph (b)(2)(iii)(A) of this section, CFC1's allocable foreign income will be equal to DE1's entire foreign income.

(C) In U.S. taxable year 1, CFC1 has an aggregate basis difference of 9u (the 9u cost recovery amount with respect to Asset A for U.S. taxable year 1). However, because the foreign taxable year of DE1, the foreign payor, will not end between July 1 and December 31, there will not be a foreign income tax amount for U.S. taxable year 1. Because the foreign income tax amount considered paid or accrued by CFC1 for U.S. taxable year 1 is zero, under paragraph (b)(2)(iv) of this section, the disqualified tax amount for U.S. taxable year 1 of CFC1 is also zero. Furthermore, because the disqualified tax amount is zero, under paragraph (c)(2)(i) of this section, CFC1 has an aggregate basis difference carryover equal to 9u, the entire amount of the aggregate basis difference for U.S. taxable year 1. Under paragraph (c)(1) of this section, the 9u aggregate basis difference carryover is taken into account in computing CFC1's aggregate basis difference for U.S. taxable year 2. Accordingly, in U.S. taxable year 2, CFC1 has an aggregate basis difference of 27u (18u cost recovery amount for U.S. taxable year 2, plus 9u aggregate basis difference carryover from U.S. taxable year 1).

(d) *Applicability dates*. This section applies to CAAs occurring on or after March 20, 2020. Taxpayers may, however, choose to apply this section before the date this section is applicable provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(1) Consistently apply this section, §1.704-1(b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*), §1.901(m)-1, and §§1.901(m)-4 through 1.901(m)-8 (excluding §1.901(m)-4(e)) to all CAAs occurring on or after January 1, 2011, and consistently apply §1.901(m)-2 (excluding §1.901(m)-2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (d)(1) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable

(2) File all tax returns described in paragraph (d)(1) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(3) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (d)(1) of this section for taxable years that are not open for assessment.

§1.901(m)-3T [Removed]

Par. 8. Section 1.901(m)-3T is removed.

Par. 9. Section 1.901(m)-4 is added to read as follows:

§1.901(m)-4 Determination of basis difference.

(a) *In general*. This section provides rules for determining for each RFA the basis difference that arises as a result of a CAA. A basis difference is computed separately with respect to each foreign income tax for which an asset subject to a CAA is an RFA. Paragraph (b) of this section provides the general rule for determining basis difference that references only U.S. basis in the RFA. Paragraph (c) of this section provides for an election to determine basis difference by reference to foreign basis and sets forth the procedures for making the election. Paragraph (d) of this section provides special rules for determining basis difference in the case of a section 743(b) CAA. Paragraph (e) of this section provides a special rule for determining basis difference in an RFA with respect to a CAA to which paragraphs (b) through (d) of this section do not apply. Paragraph (f) of this section provides examples illustrating the rules of this section, and paragraph (g) of this section provides applicability dates.

(b) *General rule*. Except as otherwise provided in paragraphs (c), (d), and (e) of this section, basis difference is the U.S. basis in the RFA immediately after the CAA, less the U.S. basis in the RFA immediately before the CAA. Basis difference is an attribute that attaches to an RFA.

(c) *Foreign basis election*. (1) An election (*foreign basis election*) may be made to apply section 901(m)(3)(C)(i)(II) by reference to the foreign basis immediately after the CAA instead of the U.S. basis immediately before the CAA. Accordingly, if a foreign basis election is made, basis difference is the U.S. basis in the RFA immediately after the CAA, less the foreign basis in the RFA immediately after the CAA. For this purpose, the foreign basis immediately after the CAA takes into account any adjustment to that foreign basis resulting from the CAA for purposes of the foreign income tax.

(2) Except as otherwise provided in this paragraph (c), a foreign basis election is made by the RFA owner (U.S.). If, however, the RFA owner (U.S.) is a partnership, each partner in the partnership (and not the partnership) may independently make a foreign basis election. In the case of one or more tiered partnerships, the foreign basis election is made at the level at which a partner is not also a partnership.

(3) The foreign basis election may be made separately for each CAA, and with respect to each foreign income tax and each foreign payor. For purposes of making the foreign basis election, all CAAs that are part of an aggregated CAA transaction are treated as a single CAA. Furthermore, for purposes of making the foreign basis election, if foreign law imposes tax on the combined income (within the meaning of §1.901-2(f)(3)(ii)) of two or more foreign payors, all foreign payors whose items of income, deduction, gain, or loss for U.S. income tax purposes are included in the U.S. taxable income or earnings and profits of a single section 901(m) payor are treated as a single foreign payor.

(4) A foreign basis election is made by using foreign basis to determine basis difference for purposes of computing a disqualified tax amount and an aggregate basis difference carryover for the U.S. taxable year, as provided under §1.901(m)-3. A separate statement or form evidencing the foreign basis election need not be filed. Except as provided in paragraphs (c)(5) and (6) of this section, in order for a foreign basis election to be effective, the election must be reflected on a timely filed original federal income tax return (taking into account extensions) for the first U.S. taxable year that the foreign basis election is relevant to the computation of any amounts reported on such return, including on any required schedules.

(5) If the RFA owner (U.S.) is a partnership, a foreign basis election reflected on a partner's timely filed amended federal income tax return is also effective if all of the following conditions are satisfied:

(i) The partner's timely filed original federal income tax return (taking into account extensions) for the first U.S. taxable year of the partner in which a foreign basis election is relevant to the computation of any amounts reported on such return, including on any required schedules, does not reflect the application of section 901(m);

(ii) The information provided by the partnership to the partner for purposes of applying section 901(m) and any information required to be reported by the partnership is based solely on computations that use foreign basis to determine basis difference; and

(iii) Before the due date of the original federal income tax return described in paragraph (c)(5)(i) of this section, the partner delegated the authority to the partnership to choose whether to provide the partner with information to apply section 901(m) using foreign basis, either pursuant to a written partnership agreement (within the meaning of §1.704-1(b)(2)(ii)(*h*)) or written notice provided by the partner to the partnership.

(6) If, pursuant to paragraph (g)(3) of this section, a taxpayer chooses to have this section apply to CAAs occurring on or after January 1, 2011, a foreign basis election will be effective if the election is reflected on a timely filed amended federal income tax return (or tax returns, as applicable) filed no later than March 23, 2021.

(7) The foreign basis election is irrevocable. Relief under §301.9100-1 is not available for the foreign basis election.

(d) *Determination of basis difference in a section 743(b) CAA*—(1) *In general*. Except as provided in paragraphs (d)(2) and (e) of this section, if there is a section 743(b) CAA, basis difference is the resulting basis adjustment under section 743(b) that is allocated to the RFA under section 755.

(2) *Foreign basis election*. If a foreign basis election is made with respect to a section 743(b) CAA, then, for purposes of paragraph (d)(1) of this section, the section 743(b) adjustment is determined by reference to the foreign basis of the RFA, determined immediately after the CAA.

(e) *Determination of basis difference in an RFA with respect to a CAA with respect to which paragraphs (b), (c), and (d) of this section do not apply*. For CAAs occurring on or after January 1, 2011, and before July 21, 2014, other than CAAs occurring before July 21, 2014, resulting from an entity classification election made under §301.7701-3 of this chapter that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014, basis difference in an RFA with respect to the CAA is the amount of any basis difference (within the meaning of section 901(m)(3)(C)(i)) that had not been taken into account under section 901(m)(3)(B) either as of July 21, 2014, or, in the case of an entity classification election made under §301.7701-3 of this chapter that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014, before the transactions that are deemed to occur under §301.7701-3(g) as a result of the change in classification.

(f) *Examples*. The following examples illustrate the rules of this section:

(1) *Example 1: Scope of basis choice; identifying separate CAAs, RFA owners (U.S.), and foreign payors in an aggregated CAA transaction*—(i) *Facts*. CFC1 wholly owns CFC2, both of which are applicable foreign corporations, organized in Country F, and treated as corporations for Country F tax purposes. CFC1 also wholly owns DE1, and DE1 wholly owns DE2. DE1 and DE2 are entities organized in Country F treated as corporations for Country F tax purposes and as disregarded entities for U.S. income tax purposes. Country F imposes a single tax that is a foreign income tax. All of the stock of CFC1 is acquired in a qualified stock purchase (within the meaning of section 338(d)(3)) to which section 338(a) applies for both CFC1 and CFC2. For Country F tax purposes, the transaction is treated as an acquisition of the stock of CFC1.

(ii) *Result*. (A) The acquisition of CFC1 gives rise to four separate CAAs described in §1.901(m)-2. Under §1.901(m)-2(b)(1), the acquisition of the stock of CFC1 and the deemed acquisition of the stock of CFC2 under section 338(h)(3)(B) are each a section 338 CAA. Furthermore, because the deemed acquisition of the assets of each of DE1 and DE2 for U.S. income tax purposes is disregarded for Country F tax purposes, the deemed acquisitions are CAAs under §1.901(m)-2(b)(2). Because the four CAAs occurred pursuant to a plan, under §1.901(m)-1(a)(3), all of the CAAs are part of an aggregated CAA transaction. Under §1.901(m)-1(a)(37), CFC1 is the RFA owner (U.S.) with respect to its assets and the assets of DE1 and DE2 that are RFAs. CFC2 is the RFA owner (U.S.) with respect to its assets that are RFAs. Under §1.901(m)-1(a)(28), CFC1, CFC2, DE1, and DE2 are each a foreign payor for Country F tax purposes.

(B) Under paragraph (c) of this section, a foreign basis election may be made by the RFA owner (U.S.). The election is made separately with respect to each CAA (for this purpose, treating all CAAs that are part of an aggregated CAA transaction as a single CAA) and with respect to each foreign income tax and foreign payor. Thus, in this case, CFC1 can make a separate foreign basis election for one or more of the following three groups of RFAs: RFAs that are relevant in determining foreign income of CFC1; RFAs that are relevant in determining foreign income of DE1; and RFAs that are relevant in deter-

mining foreign income of DE2. Furthermore, CFC2 can make a foreign basis election for all of its RFAs that are relevant in determining its foreign income.

(2) *Example 2: Scope of basis choice; RFA owner (U.S.) is a partnership*—(i) *Facts*. USPS is a domestic partnership for which a section 754 election is in effect. USPS owns two assets, the stock of DE1 and DE2. DE1 is an entity organized in Country X and treated as a corporation for Country X tax purposes. DE2 is an entity organized in Country Y and treated as a corporation for Country Y tax purposes. DE1 and DE2 are disregarded entities. Country X and Country Y each impose a single tax that is a foreign income tax. US1 and US2, unrelated domestic corporations, and FP, a foreign person unrelated to US1 and US2, acquire partnership interests in USPS from existing partners of USPS pursuant to the same plan.

(ii) *Result*. Under §1.901(m)-2(b)(3), the acquisitions of the partnership interests in USPS by US1, US2, and FP each give rise to separate section 743(b) CAAs, but under §1.901(m)-1(a)(3), they are treated as an aggregated CAA transaction because they occur as part of a plan. Under §1.901(m)-1(a)(37), USPS is the RFA owner (U.S.) with respect to the assets of DE1 and DE2 that are RFAs. Under §1.901(m)-1(a)(28), DE1 is a foreign payor for Country X tax purposes, and DE2 is a foreign payor for Country Y tax purposes. Because the RFA owner (U.S.) is a partnership, paragraph (c)(2) of this section provides that US1, US2, and FP (the relevant partners in USPS) separately choose whether to make a foreign basis election for purposes of determining basis difference. Furthermore, under paragraph (c)(3) of this section, the choice to make the election is made separately by each partner with respect to each foreign payor. Thus, in this case, each partner may make separate elections for the RFAs that are relevant in determining foreign income of DE1 for Country X tax purposes and the RFAs that are relevant in determining foreign income of DE2 for Country Y tax purposes.

(g) *Applicability dates*. (1) Except as provided in paragraph (g)(2) of this section, this section applies to CAAs occurring on or after March 23, 2020.

(2) Paragraphs (a), (b), and (d)(1) of this section apply to CAAs occurring on or after July 21, 2014, and to CAAs occurring before that date resulting from an entity classification election made under §301.7701-3 that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014. Paragraph (e) of this section applies to CAAs occurring on or after January 1, 2011, and before July 21, 2014, other than CAAs occurring before July 21, 2014, resulting from an entity classification election made under §301.7701-3 of this chapter that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014. Taxpayers may, however, consistently apply paragraph (d)(1) of this section to all section 743(b) CAAs occurring on or after January 1, 2011. For this purpose, persons that are related (within the meaning of section 267(b) or 707(b)) will be treated as a single taxpayer.

(3) Taxpayers may, however, choose to apply provisions in this section before the date such provisions are applicable pursuant to paragraph (g)(1) or (2) of this section, provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(i) Consistently apply this section (excluding paragraph (e) of this section), §1.704-1(b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*), §1.901(m)-1, §1.901(m)-3, and §§1.901(m)-5 through 1.901(m)-8 to all CAAs occurring on or after January 1, 2011, and consistently apply §1.901(m)-2 (excluding §1.901(m)-2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (g)(3)(i) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(ii) File all tax returns described in paragraph (g)(3)(i) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(iii) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (g)(3)(i) of this section for taxable years that are not open for assessment.

§1.901(m)-4T [Removed]

Par. 10. Section 1.901(m)-4T is removed.

Par. 11. Section 1.901(m)-5 is added to read as follows:

§1.901(m)-5 Basis difference taken into account.

(a) *In general*. This section provides rules for determining the amount of basis difference with respect to an RFA that is taken into account in a U.S. taxable year for purposes of determining the disqualified portion of a foreign income tax amount. Paragraph (b) of this section provides rules for determining a cost recovery amount and assigning that amount to a U.S. taxable year of a single section 901(m) payor when the RFA owner (U.S.) is the section 901(m) payor. Paragraph (c) of this section provides rules for determining a disposition amount and assigning that amount to a U.S. taxable year of a single section 901(m) payor when the RFA owner (U.S.) is the section 901(m) payor. Paragraph (d) of this section provides rules for allocating cost recovery amounts and disposition amounts when the RFA owner (U.S.) is a fiscally transparent entity for U.S. income tax purposes. Paragraph (e) of this section provides special rules for allocating cost recovery amounts and disposition amounts with respect to certain section 743(b) CAAs. Paragraph (f) of this section provides special rules for allocating certain disposition amounts when a foreign payor is transferred in a mid-year transaction. Paragraph (g) of this section provides special rules for allocating both cost recovery amounts and disposition amounts in certain cases in which the RFA owner (U.S.) either is a reverse hybrid or a fiscally transparent entity for both U.S. and foreign income tax purposes that is directly or indirectly owned by a reverse hybrid. Paragraph (h) of this section provides examples illustrating the application of this section. Paragraph (i) of this section provides the applicability dates.

(b) *Basis difference taken into account under applicable cost recovery method*—(1) *In general*. When the RFA owner (U.S.) is a section 901(m) payor, all of a cost recovery amount is attributed to the section 901(m) payor and assigned to the U.S. taxable year of the section 901(m) payor in which the corresponding U.S. basis deduction is taken into account under the applicable cost recovery method. This is the case regardless of whether the deduction is deferred or disallowed for U.S. income tax purposes. If instead the RFA owner (U.S.) is a fiscally transparent entity for U.S. income tax purposes, a cost recovery amount is allocated to one or more section 901(m) payors under paragraph (d) of this section, except as provided in paragraphs (e) and (g) of this section. If a cost recovery amount arises from an RFA with respect to a section 743(b) CAA, in certain cases the cost recovery amount is allocated to a section 901(m) payor under paragraph (e) of this

section. In certain cases in which the RFA owner (U.S.) either is a reverse hybrid or a fiscally transparent entity for both U.S. and foreign income tax purposes that is directly or indirectly owned by a reverse hybrid, a cost recovery amount is allocated to one or more section 901(m) payors under paragraph (g) of this section.

(2) *Determining a cost recovery amount*—(i) *General rule*. A cost recovery amount for an RFA is determined by applying the applicable cost recovery method to the basis difference rather than to the U.S. basis.

(ii) *U.S. basis subject to multiple cost recovery methods*. If the entire U.S. basis is not subject to the same cost recovery method, the applicable cost recovery method for determining the cost recovery amount is the cost recovery method that applies to the portion of the U.S. basis that corresponds to the basis difference.

(3) *Applicable cost recovery method*. For purposes of section 901(m), an applicable cost recovery method includes any method for recovering the cost of property over time for U.S. income tax purposes (each application of a method giving rise to a *U.S. basis deduction*). Such methods include depreciation, amortization, or depletion, as well as a method that allows the cost (or a portion of the cost) of property to be expensed in the year of acquisition or in the placed-in-service year, such as under section 179. Applicable cost recovery methods do not include any provision allowing the U.S. basis to be recovered upon a disposition of an RFA.

(c) *Basis difference taken into account as a result of a disposition*—(1) *In general*. Except as provided in paragraph (f) of this section, when the RFA owner (U.S.) is a section 901(m) payor, all of a disposition amount is attributed to the section 901(m) payor and assigned to the U.S. taxable year of the section 901(m) payor in which the disposition occurs. If instead the RFA owner (U.S.) is a fiscally transparent entity for U.S. income tax purposes, except as provided in paragraphs (e), (f), and (g) of this section, a disposition amount is allocated to one or more section 901(m) payors under paragraph (d) of this section. If a disposition amount arises from an RFA with respect to a section 743(b) CAA, in certain cases the disposition amount is allocated to a section 901(m) payor under paragraph (e) of this section. If there is a disposition of an RFA in a foreign taxable year of a foreign payor during which there is a mid-year transaction, in certain cases a disposition amount is allocated under paragraph (f) of this section. In certain cases in which the RFA owner (U.S.) either is a reverse hybrid or a fiscally transparent entity for both U.S. and foreign income tax purposes that is directly or indirectly owned by a reverse hybrid, a disposition amount is allocated to one or more section 901(m) payors under paragraph (g) of this section.

(2) *Determining a disposition amount*—(i) *Disposition is fully taxable for purposes of both U.S. income tax and the foreign income tax*. If a disposition of an RFA is fully taxable (that is, results in all gain or loss, if any, being recognized with respect to the RFA) for purposes of both U.S. income tax and the foreign income tax, the disposition amount is equal to the unallocated basis difference with respect to the RFA.

(ii) *Disposition is not fully taxable for purposes of U.S. income tax or the foreign income tax (or both)*. If the disposition of an RFA is not fully taxable for purposes of both U.S. income tax and the foreign income tax, the disposition amount is determined under this paragraph (c)(2)(ii). See §1.901(m)-6 for rules regarding the continued application of section 901(m) if the RFA has any unallocated basis difference after determining the disposition amount under paragraph (c)(2)(ii)(A) or (B) of this section, as applicable.

(A) *Positive basis difference*. If the disposition of an RFA is not fully taxable for purposes of both U.S. income tax and the foreign income tax, and the RFA has a positive basis difference, the disposition amount equals the lesser of:

(*1*) Any foreign disposition gain plus any U.S. disposition loss (for this purpose, expressed as a positive amount), or

(*2*) Unallocated basis difference with respect to the RFA.

(B) *Negative basis difference*. If the disposition of an RFA is not fully taxable for purposes of both U.S. income tax and the foreign income tax, and the RFA has a negative basis difference, the disposition amount equals the greater of:

(*1*) Any U.S. disposition gain (for this purpose, expressed as a negative amount) plus any foreign disposition loss, or

(*2*) Unallocated basis difference with respect to the RFA.

(iii) *Disposition of an RFA after a section 743(b) CAA*. If an RFA was subject to a section 743(b) CAA and subsequently there is a disposition of the RFA, then, for purposes of determining the disposition amount, foreign disposition gain or foreign disposition loss are specially defined to mean the amount of gain or loss recognized for purposes of the foreign income tax on the disposition of the RFA that is allocable to the partnership interest that was transferred in the section 743(b) CAA. In addition, U.S. disposition gain or U.S. disposition loss are specially defined to mean the amount of gain or loss recognized for U.S. income tax purposes on the disposition of the RFA that is allocable to the partnership interest that was transferred in the section 743(b) CAA, taking into account the basis adjustment under section 743(b) that was allocated to the RFA under section 755.

(d) *General rules for allocating and assigning a cost recovery amount or a disposition amount when the RFA owner (U.S.) is a fiscally transparent entity*—(1) *In general*. Except as provided in paragraphs (e), (f), and (g) of this section, this paragraph (d) provides rules for allocating a cost recovery amount or a disposition amount when the RFA owner (U.S.) is a fiscally transparent entity for U.S. income tax purposes in which a section 901(m) payor directly or indirectly owns an interest, as well as for assigning the allocated amount to a U.S. taxable year of the section 901(m) payor. For purposes of this paragraph (d), unless otherwise indicated, a reference to direct or indirect ownership in an entity means for U.S. income tax purposes. For purposes of this paragraph (d), a person indirectly owns an interest in an entity for U.S. income tax purposes if the person owns the interest through one or more fiscally transparent entities for U.S. income tax purposes, and at least one of the fiscally transparent entities is not a disregarded entity. For purposes of this paragraph (d), a person indirectly owns an interest in an entity for foreign income tax purposes if the person owns the interest through one or more fiscally transparent entities for foreign income tax purposes. If the RFA owner (U.S.) is a lower-tier fiscally transparent entity for U.S. income

tax purposes in which the section 901(m) payor indirectly owns an interest, the rules of this section apply in a manner consistent with the application of these rules when the section 901(m) payor directly owns an interest in the RFA owner (U.S.).

(2) *Allocation of a cost recovery amount*. A cost recovery amount is allocated to a section 901(m) payor that directly or indirectly owns an interest in the RFA owner (U.S.) to the extent the U.S. basis deduction that corresponds to the cost recovery amount is (or will be) included in the section 901(m) payor's distributive share of the income of the RFA owner (U.S.) for U.S. income tax purposes.

(3) *Allocation of a disposition amount attributable to foreign disposition gain or foreign disposition loss*—(i) *In general*. Except as provided in paragraph (f) of this section, a disposition amount attributable to foreign disposition gain or foreign disposition loss (as determined under paragraph (d)(5) of this section) is allocated under paragraph (d)(3)(ii) or (d)(3)(iii) of this section to a section 901(m) payor that directly or indirectly owns an interest in the RFA owner (U.S.).

(ii) *First allocation rule*. This paragraph (d)(3)(ii) applies when a section 901(m) payor, or a disregarded entity directly owned by a section 901(m) payor, is the foreign payor whose foreign income includes a distributive share of the foreign income of the RFA owner (foreign) and, therefore, all of the foreign income tax amount of the foreign payor is paid or accrued by, or considered paid by, the section 901(m) payor. Thus, this paragraph (d)(3)(ii) applies when the RFA owner (U.S.) is a fiscally transparent entity for both U.S. and foreign income tax purposes and a section 901(m) payor either directly owns an interest in the RFA owner (U.S.) or directly owns an interest in another fiscally transparent entity for U.S. and foreign income tax purposes, which, in turn, directly or indirectly owns an interest in the RFA owner (U.S.) for both U.S. and foreign income tax purposes. In these cases, the section 901(m) payor is allocated the portion of a disposition amount that is equal to the product of the disposition amount attributable to foreign disposition gain or foreign disposition loss, as applicable, and a fraction, the numerator of which is the portion of the foreign disposition gain or foreign disposition loss recognized by the RFA owner (foreign) for foreign income tax purposes that is (or will be) included in the foreign payor's distributive share of the foreign income of the RFA owner (foreign), and the denominator of which is the foreign disposition gain or foreign disposition loss.

(iii) *Second allocation rule*. This paragraph (d)(3)(iii) applies when neither a section 901(m) payor nor a disregarded entity directly owned by a section 901(m) payor is the foreign payor with respect to the foreign income of the RFA owner (foreign). Instead, a section 901(m) payor directly or indirectly owns an interest in the foreign payor, which is a fiscally transparent entity for U.S. income tax purposes (other than a disregarded entity directly owned by the section 901(m) payor), and, therefore, the section 901(m) payor is considered to pay or accrue only its allocated portion of the foreign income tax amount of the foreign payor. This will be the case when the foreign payor is either the RFA owner (U.S.), another fiscally transparent entity for U.S. income tax purposes (other than a disregarded entity directly owned by a section 901(m) payor) that directly or indirectly owns an interest in the RFA owner (U.S.) for both U.S. and foreign income tax purposes, or a disregarded entity directly owned by the RFA owner (U.S.). In these cases, the section 901(m) payor is allocated the portion of a disposition amount that is equal to the product of the disposition amount attributable to foreign disposition gain or foreign disposition loss, as applicable, and a fraction, the numerator of which is the portion of the foreign disposition gain or foreign disposition loss that is included in the allocable foreign income of the section 901(m) payor, and the denominator of which is the foreign disposition gain or foreign disposition loss. If allocable foreign income is not otherwise required to be determined because there is no foreign income tax amount, the numerator is the portion of the foreign disposition gain or foreign disposition loss that would be included in the allocable foreign income of the section 901(m) payor if there were a foreign income tax amount.

(4) *Allocation of a disposition amount attributable to U.S. disposition gain or U.S. disposition loss*. A section 901(m) payor that directly or indirectly owns an interest in the RFA owner (U.S.) is allocated the portion of a disposition amount that is equal to the product of the disposition amount attributable to U.S. disposition gain or U.S. disposition loss (as determined under paragraph (d)(5) of this section), as applicable, and a fraction, the numerator of which is the portion of the U.S. disposition gain or U.S. disposition loss that is (or will be) included in the section 901(m) payor's distributive share of income of the RFA owner (U.S.) for U.S. income tax purposes, and the denominator of which is the U.S. disposition gain or U.S. disposition loss.

(5) *Determining the extent to which a disposition amount is attributable to foreign or U.S. disposition gain or loss*—(i) *RFA with a positive basis difference*. When there is a disposition of an RFA with a positive basis difference and the disposition results in either a foreign disposition gain or a U.S. disposition loss, but not both, the entire disposition amount is attributable to foreign disposition gain or U.S. disposition loss, as applicable, even if the disposition amount exceeds the foreign disposition gain or the absolute value of the U.S. disposition loss. If the disposition results in both a foreign disposition gain and a U.S. disposition loss, the disposition amount is attributable first to foreign disposition gain to the extent thereof, and the excess disposition amount, if any, is attributable to the U.S. disposition loss, even if the excess disposition amount exceeds the absolute value of the U.S. disposition loss.

(ii) *RFA with a negative basis difference*. When there is a disposition of an RFA with a negative basis difference and the disposition results in either a foreign disposition loss or a U.S. disposition gain, but not both, the entire disposition amount is attributable to foreign disposition loss or U.S. disposition gain, as applicable, even if the absolute value of the disposition amount exceeds the absolute value of the foreign disposition loss or the U.S. disposition gain. If the disposition results in both a foreign disposition loss and a U.S. disposition gain, the disposition amount is attributable first to foreign disposition loss to the extent thereof, and the excess disposition amount, if any, is attributable to the U.S. disposition gain, even if the absolute

value of the excess disposition amount exceeds the U.S. disposition gain.

(6) *U.S. taxable year of a section 901(m) payor to which an allocated cost recovery amount or disposition amount is assigned*. A cost recovery amount or a disposition amount allocated to a section 901(m) payor under paragraph (d) of this section is assigned to the U.S. taxable year of the section 901(m) payor that includes the last day of the U.S. taxable year of the RFA owner (U.S.) in which, in the case of a cost recovery amount, the RFA owner (U.S.) takes into account the corresponding U.S. basis deduction (without regard to whether the deduction is deferred or disallowed for U.S. income tax purposes), or in the case of a disposition amount, the disposition occurs.

(e) *Special rules for certain section 743(b) CAAs*. If a section 901(m) payor acquires a partnership interest in a section 743(b) CAA, including a section 743(b) CAA with respect to a lower-tier partnership that results from a direct acquisition by the section 901(m) payor of an interest in an upper-tier partnership, and subsequently there is a cost recovery amount or a disposition amount that arises from an RFA with respect to that section 743(b) CAA, all of the cost recovery amount or the disposition amount is allocated to that section 901(m) payor. The U.S. taxable year of the section 901(m) payor to which the cost recovery amount or the disposition amount is assigned is the U.S. taxable year in which, in the case of a cost recovery amount, the section 901(m) payor takes into account the corresponding U.S. basis deduction (without regard to whether the deduction is deferred or disallowed for U.S. income tax purposes), or in the case of a disposition amount, the disposition occurs.

(f) *Mid-year transactions*—(1) *In general*. When a disposition of an RFA occurs in the same foreign taxable year that a foreign payor is involved in a mid-year transaction, the portion of the disposition amount that is attributable to foreign disposition gain or foreign disposition loss (as determined under paragraph (d)(5) of this section) is allocated to a section 901(m) payor and assigned to a U.S. taxable year of the section 901(m) payor under this paragraph (f). To the extent the disposition amount is attributable to U.S. disposition gain or U.S. disposition loss (as determined under paragraph (d)(5) of this section), see paragraph (c)(1) or (d) of this section, as applicable.

(2) *Allocation rule*. To the extent a disposition amount is attributable to foreign disposition gain or foreign disposition loss, a section 901(m) payor is allocated the portion of the disposition amount equal to the product of the disposition amount attributable to foreign disposition gain or foreign disposition loss, as applicable, and a fraction, the numerator of which is the portion of the foreign disposition gain or foreign disposition loss that is included in the allocable foreign income of the section 901(m) payor, and the denominator of which is the foreign disposition gain or foreign disposition loss. If allocable foreign income is not otherwise required to be determined because there is no foreign income tax amount, the numerator is the portion of the foreign disposition gain or foreign disposition loss that would be included in the allocable foreign income of the section 901(m) payor if there were a foreign income tax amount.

(3) *Assignment to a U.S. taxable year of a section 901(m) payor*. A disposition amount allocated to a section 901(m) payor under paragraph (f)(2) of this section is assigned to the U.S. taxable year of the section 901(m) payor in which the foreign disposition gain or foreign disposition loss (or portion thereof) is included in allocable foreign income of the section 901(m) payor or, if allocable foreign income is not otherwise required to be determined because there is no foreign income tax amount, the U.S. taxable year in which the foreign disposition gain or foreign disposition loss would be included in allocable foreign income if there were a foreign income tax amount.

(g) *Reverse hybrids*—(1) *In general*. This paragraph (g) provides rules for allocating a cost recovery amount or a disposition amount when the RFA owner (U.S.) is either a reverse hybrid or a fiscally transparent entity for U.S. and foreign income tax purposes that is directly or indirectly owned by a reverse hybrid for U.S. and foreign income tax purposes, and in each case, the foreign payor whose foreign income includes a distributive share of the foreign income of the RFA owner (foreign) directly or indirectly owns an interest in the reverse hybrid for foreign income tax purposes. Application of the allocation rules under paragraphs (g)(2) and (g)(3) of this section depend upon whether a section 901(m) payor or a disregarded entity directly owned by a section 901(m) payor is the foreign payor, or, instead, a section 901(m) payor directly or indirectly owns an interest in the foreign payor. For purposes of this paragraph (g), unless otherwise indicated, a reference to direct or indirect ownership in an entity means for U.S. income tax purposes. For purposes of this paragraph (g), a person indirectly owns an interest in an entity for U.S. income tax purposes if the person owns the interest through one or more fiscally transparent entities for U.S. income tax purposes, and at least one of the fiscally transparent entities is not a disregarded entity. For purposes of this paragraph (g), a person indirectly owns an interest in an entity for foreign income tax purposes if the person owns the interest through one or more fiscally transparent entities for foreign income tax purposes. If the RFA owner (U.S.) is a lower-tier fiscally transparent entity for U.S. income tax purposes in which the reverse hybrid indirectly owns an interest, the rules of this section apply in a manner consistent with the application of these rules when the reverse hybrid directly owns an interest in the RFA owner (U.S.).

(2) *First allocation rule*—(i) *Allocation to a section 901(m) payor*. This paragraph (g)(2)(i) applies when a section 901(m) payor, or a disregarded entity directly owned by a section 901(m) payor, is the foreign payor whose foreign income includes a distributive share of the foreign income of the RFA owner (foreign), and, therefore, all of the foreign income tax amount of the foreign payor is paid or accrued by, or considered paid or accrued by, the section 901(m) payor. Thus, this paragraph (g)(2)(i) applies when a section 901(m) payor either directly owns an interest in the reverse hybrid or directly owns an interest in a fiscally transparent entity for U.S. and foreign income tax purposes, which, in turn, directly or indirectly owns an interest in the reverse hybrid for both U.S. and foreign income tax purposes. In these cases, the section 901(m) payor is allocated the portions of cost recovery amounts or disposition amounts (or

both) with respect to RFAs that are equal to the product of the sum of the cost recovery amounts and the disposition amounts and a fraction, the numerator of which is the portion of the foreign income of the RFA owner (foreign) that is included in the foreign income of the foreign payor, and the denominator of which is the foreign income of the RFA owner (foreign).

(ii) *Assignment to a U.S. taxable year of a section 901(m) payor*. This paragraph (g)(2)(ii) applies when a cost recovery amount or a disposition amount, or portion thereof, is allocated to a section 901(m) payor under paragraph (g)(2)(i) of this section. If the reverse hybrid is the RFA owner (U.S.), a cost recovery amount or disposition amount, or portion thereof, is assigned to the U.S. taxable year of the section 901(m) payor that includes the last day of the U.S. taxable year of the reverse hybrid in which, in the case of a cost recovery amount, the reverse hybrid takes into account the corresponding U.S. basis deduction (without regard to whether the deduction is deferred or disallowed for U.S. income tax purposes), or, in the case of a disposition amount, the disposition occurs. If the reverse hybrid is not the RFA owner (U.S.) but instead the reverse hybrid directly or indirectly owns an interest in the RFA owner (U.S.) for both U.S. and foreign income tax purposes, a cost recovery amount or disposition amount, or portion thereof, is assigned to the U.S. taxable year of the section 901(m) payor that includes the last day of the U.S. taxable year of the reverse hybrid, which, in turn, includes the last day of the U.S. taxable year of the RFA owner (U.S.) in which, in the case of a cost recovery amount, the RFA owner (U.S.) takes into account the corresponding U.S. basis deduction (without regard to whether the deduction is deferred or disallowed for U.S. income tax purposes), or, in the case of a disposition amount, the disposition occurs.

(3) *Second allocation rule*—(i) *Allocation to a section 901(m) payor*. This paragraph (g)(3)(i) applies when neither a section 901(m) payor nor a disregarded entity directly owned by a section 901(m) payor is the foreign payor with respect to the foreign income of the RFA owner (foreign). Instead, a section 901(m) payor directly or indirectly owns an interest in the foreign payor, which is a fiscally transparent entity for U.S. income tax purposes (other than a disregarded entity directly owned by the section 901(m) payor), and, therefore, the section 901(m) payor is considered to pay or accrue only its allocated portion of the foreign income tax amount of the foreign payor. In these cases, the section 901(m) payor is allocated the portions of cost recovery amounts or disposition amounts (or both) with respect to RFAs that are equal to the product of the sum of the cost recovery amounts and the disposition amounts and a fraction, the numerator of which is the portion of the foreign income of the RFA owner (foreign) that is included in the foreign income of the foreign payor and included in the allocable foreign income of the section 901(m) payor, and the denominator of which is the foreign income of the RFA owner (foreign). If allocable foreign income is not otherwise required to be determined for a section 901(m) payor because there is no foreign income tax amount, the numerator is the foreign income of the RFA owner (foreign) that is included in the foreign income of the foreign payor and that would be included in allocable foreign income of the section 901(m) payor if there were a foreign income tax amount.

(ii) *Assignment to a U.S. taxable year of a section 901(m) payor*. A cost recovery amount or a disposition amount, or portion thereof, that is allocated to a section 901(m) payor under paragraph (g)(3)(i) of this section is assigned to the U.S. taxable year of the section 901(m) payor in which the foreign income of the RFA owner (foreign) described in paragraph (g)(3)(i) of this section is included in the allocable foreign income of the section 901(m) payor, or, if there is no foreign income tax amount, the U.S. taxable year of the section 901(m) payor in which the foreign income of the RFA owner (foreign) described in paragraph (g)(3)(i) of this section would be included in allocable foreign income if there were a foreign income tax amount.

(h) *Examples*. The following examples illustrate the rules of this section. In addition to any facts described in a particular example, the following facts apply to all the examples unless otherwise specified: CFC1, CFC2, and DE are organized in Country F and treated as corporations for Country F tax purposes. CFC1 and CFC2 are each an applicable foreign corporation that is wholly owned by the same U.S. corporation, and DE is a disregarded entity. CFC1 and CFC2 each have a U.S. taxable year that is a calendar year, and CFC1, CFC2, and DE each have a foreign taxable year that is a calendar year. Country F imposes a single tax that is a foreign income tax. CFC1, CFC2, and DE each have a functional currency of the u with respect to all activities. At all relevant times, 1u equals $1. All amounts are stated in millions. The examples assume that the applicable cost recovery method for property results in basis being recovered ratably over the life of the property beginning on the first day of the U.S. taxable year in which the property is acquired or placed into service.

(1) *Example 1: CAA followed by disposition: fully taxable for both U.S. income tax and foreign income tax purposes*—(i) *Facts*. (A) On January 1, Year 1, USP acquires all of the stock of CFC1 in a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies (Section 338 Acquisition). At the time of the Section 338 Acquisition, CFC1 owns a single asset (Asset A) that is located in Country F. Asset A gives rise to income that is taken into account for Country F tax purposes. Asset A is tangible personal property that, under the applicable cost recovery method in the hands of CFC1, is depreciable over 5 years. There are no cost recovery deductions available for Country F tax purposes with respect to Asset A. Immediately before the Section 338 Acquisition, Asset A has a U.S. basis of 10u and a foreign basis of 40u. Immediately after the Section 338 Acquisition, Asset A has a U.S. basis of 100u and foreign basis of 40u.

(B) On July 1, Year 2, Asset A is transferred to an unrelated third party in exchange for 120u in a transaction in which all realized gain is recognized for both U.S. income tax and Country F tax purposes (subsequent transaction). For U.S. income tax purposes, CFC1 recognizes U.S. disposition gain of 50u (amount realized of 120u, less U.S. basis of 70u (100u cost basis, less 30u of accumulated depreciation)) with respect to Asset A. The 30u of accumulated depreciation is the sum of 20u of depreciation in Year 1 (100u cost basis/5 years) and 10u of depreciation in Year 2 ((100u cost basis/5 years) x 6/12). For Country F tax purposes, CFC1 recognizes foreign disposition gain of 80u (amount realized of 120u, less foreign basis of 40u) with respect to Asset A. Immediately after the subsequent transaction, Asset A has a U.S. basis and a foreign basis of 120u.

(ii) *Result*. (A) Under §1.901(m)-2(b)(1), USP's acquisition of the stock of CFC1 in the Section 338 Acquisition is a section 338 CAA. Under §1.901(m)-2(c)(i), Asset A is an RFA with respect to Country F tax because it is relevant in determining the foreign income of CFC1 for Country F tax purposes. Under §1.901(m)-4(b), the basis difference with respect to Asset A is 90u (100u – 10u). Under §1.901(m)-1(a)(37), CFC1 is the RFA owner (U.S.) with respect to Asset A. Under §1.901(m)-1(a)(28), CFC1 is a

foreign payor for Country F tax purposes. Under §1.901(m)-1(a)(41), CFC1 is the section 901(m) payor with respect to a foreign income tax amount for which CFC1 is the foreign payor (see §1.901-2(f)(1)).

(B) Under §1.901(m)-1(a)(5), allocated basis differences are the sum of cost recovery amounts and disposition amounts. In Year 1, Asset A has an allocated basis difference that includes only a cost recovery amount. Under paragraph (b)(2) of this section, the cost recovery amount for Year 1 is determined by applying the applicable cost recovery method of Asset A in the hands of CFC1 to the basis difference with respect to Asset A. Accordingly, the cost recovery amount is 18u (90u basis difference/5 years). Under paragraph (b)(1) of this section, all of the 18u cost recovery amount is attributed to CFC1 and assigned to Year 1, because CFC1 is a section 901(m) payor and RFA owner (U.S.) with respect to Asset A and Year 1 is the U.S. taxable year of CFC1 in which it takes into account the corresponding 20u of depreciation. Immediately after Year 1, under §1.901(m)-1(a)(47), unallocated basis difference is 72u with respect to Asset A (90u – 18u).

(C) In Year 2, Asset A has an allocated basis difference that includes both a cost recovery amount and a disposition amount. Under paragraph (b)(2) of this section, the cost recovery amount for Year 2, as of the date of the subsequent transaction, is 9u ((90u basis difference/5 years) x 6/12). Under §1.901(m)-1(a)(15), the subsequent transaction is a disposition of Asset A, because the subsequent transaction is an event that results in an amount of gain being recognized for U.S. income tax and Country F tax purposes. Because all realized gain in Asset A is recognized for U.S. income tax and Country F tax purposes, the rule in paragraph (c)(2)(i) of this section applies to determine the disposition amount. Under that rule, the disposition amount for Year 2 is the unallocated basis difference of 63u (90u basis difference, less total 27u taken into account as cost recovery amounts in Year 1 and Year 2). Accordingly, the allocated basis difference for Year 2 is 72u (9u of cost recovery amount, plus 63u of disposition amount). Under paragraphs (b)(1) and (c)(1) of this section, all of the 72u of allocated basis difference is attributed to CFC1 and assigned to Year 2, because CFC1 is a section 901(m) payor and the RFA owner (U.S.) with respect to Asset A and Year 2 is the U.S. taxable year of CFC1 in which it takes into account the corresponding 10u of depreciation and in which the disposition occurred.

(D) Unallocated basis difference with respect to Asset A, as determined immediately after the subsequent transaction, is 0u (90u basis difference less 90u basis difference taken into account as 27u total cost recovery amount in Year 1 and Year 2 and as a 63u disposition amount in Year 2). Accordingly, because there is no unallocated basis difference with respect to Asset A attributable to the Section 338 Acquisition, the subsequent transaction is not a successor transaction as defined in §1.901(m)-6(b)(2). Furthermore, the subsequent transaction is not a CAA under §1.901(m)-2(b). For these reasons, section 901(m) no longer applies to Asset A.

(2) *Example 2: CAA followed by disposition: nontaxable for U.S. income tax purposes and taxable for foreign income tax purposes*—(i) *Facts*. The facts are the same as in paragraph (h)(1)(i)(A) of this section (paragraph (i)(A) of *Example 1*) but the facts in paragraph (h)(1)(i)(B) of this section (paragraph (i)(B) of *Example 1*) are instead that on July 1, Year 2, Asset A is transferred to CFC2, in exchange for 100u of stock of CFC2 (subsequent transaction). For U.S. income tax purposes, CFC1 does not recognize any U.S. disposition gain or U.S. disposition loss with respect to Asset A. For Country F tax purposes, CFC1 recognizes foreign disposition gain of 60u (amount realized of 100u, less foreign basis of 40u) with respect to Asset A. Immediately after the subsequent transaction, Asset A has a U.S. basis of 70u (100u cost basis less 30u accumulated depreciation) and a foreign basis of 100u. The 30u of accumulated depreciation is the sum of 20u of depreciation in Year 1 (100u cost basis/5 years) and 10u in Year 2 ((100u cost basis/5 years) x 6/12).

(ii) *Result*. (A) The results described in paragraph (h)(1)(ii)(A) of this section (paragraph (ii)(A) of *Example 1)* also apply to this paragraph (h)(2)(ii) (the results of this *Example 2*).

(B) The result for Year 1 is the same as in paragraph (h)(1)(ii)(B) of this section (paragraph (ii)(B) of *Example 1*).

(C) In Year 2, Asset A has an allocated basis difference that includes both a cost recovery amount and a disposition amount. Under paragraph (b)(2) of this section, the cost recovery amount for Year 2, as of the date of the subsequent transaction, is 9u ((90u basis difference/5 years) x 6/12). Under §1.901(m)-1(a)(15), the subsequent transaction is a disposition of Asset A, because the subsequent transaction is an event that results in an amount of gain being recognized for Country F tax purposes. Because the disposition is not also fully taxable for U.S. income tax purposes, the rule in paragraph (c)(2)(ii) of this section applies to determine the disposition amount. Under that rule, the disposition amount is 60u, the lesser of (i) 60u (60u foreign disposition gain plus absolute value of 0u U.S. disposition loss), and (ii) 63u unallocated basis difference (90 basis difference less total 27u taken into account as cost recovery amounts, 18u in Year 1 and 9u in Year 2). Accordingly, the allocated basis difference for the first half of Year 2 is 69u (9u of cost recovery amount, plus 60u of disposition amount). Under paragraphs (b)(1) and (c)(1) of this section, all of the 69u of allocated basis difference is attributed to CFC1 and assigned to Year 2, because CFC1 is a section 901(m) payor and the RFA owner (U.S.) with respect to Asset A and Year 2 is the U.S. taxable year of CFC1 in which it takes into account the corresponding 10u of depreciation and in which the disposition occurred.

(D) Unallocated basis difference with respect to Asset A immediately after the subsequent transaction is 3u (90u basis difference less 87u basis difference taken into account as a 27u total cost recovery amount in Year 1 and Year 2 and as a 60u disposition amount in Year 2). Accordingly, because there is unallocated basis difference of 3u with respect to Asset A attributable to the Section 338 Acquisition, as determined immediately after the subsequent transaction, the subsequent transaction is a successor transaction as defined in §1.901(m)-6(b)(2). Following the subsequent transaction, the unallocated basis difference of 3u must be taken into account as cost recovery amounts or disposition amounts (or both) by CFC2, the new section 901(m) payor and RFA owner (U.S.) of Asset A. See §1.901(m)-6(b)(3)(ii). Because the subsequent transaction is not a CAA under §1.901(m)-2(b), there is no additional basis difference with respect to Asset A as a result of the subsequent transaction.

(3) Example 3: CAA followed by disposition: nontaxable for both U.S. income tax and foreign income tax purposes—(i) *Facts*. The facts are the same as in paragraph (h)(1)(i)(A) of this section (paragraph (i)(A) of *Example 1*) but the facts in paragraph (h)(1)(i)(B) of this section (paragraph (i)(B) of *Example 1*) are instead that on July 1, Year 2, CFC1 transfers Asset A to CFC2, in exchange for 110u of stock of CFC2 (subsequent transaction). For U.S. income tax purposes, CFC1 does not recognize any U.S. disposition gain or U.S. disposition loss with respect to Asset A as a result of the subsequent transaction. Furthermore, for Country F tax purposes, CFC1 recognizes no foreign disposition gain or foreign disposition loss with respect to Asset A as a result of the subsequent transaction. Immediately after the subsequent transaction, Asset A has a U.S. basis of 70u (100u cost basis less 30u accumulated depreciation) and a foreign basis of 40u. The 30u of accumulated depreciation is the sum of 20u of depreciation in Year 1 (100u cost basis/5 years) and 10u in Year 2 ((100u cost basis/5 years) x 6/12).

(ii) *Result*. (A) The result for Year 1 is the same as in paragraph (h)(1)(ii)(A) of this section (paragraph (ii)(A) of *Example 1*).

(B) The result for Year 1 is the same as in paragraph (h)(1)(ii)(B) of this section (paragraph (ii)(B) of *Example 1*).

(C) In Year 2, Asset A has an allocated basis difference that includes only a cost recovery amount. Under paragraph (b)(2) of this section, the cost recovery amount for Year 2, as of the date of the subsequent transaction, is 9u ((90u basis difference/5 years) x 6/12). Under §1.901(m)-1(a)(15), the subsequent transaction does not constitute a disposition of Asset A, because the subsequent transaction is not an event that results in an amount of gain or loss being recognized for U.S. income tax or for Country F tax purposes. Therefore, no disposition amount is taken into account for Asset A in Year 2. Under paragraph (b)(1) of this section, all of the 9u of allocated basis difference is attributed to CFC1 and assigned to Year 2, because CFC1 is a section 901(m) payor and RFA owner (U.S.) with respect to Asset A and Year 2 is the U.S. taxable year of CFC1 in which it takes into account the corresponding 10u of depreciation.

(D) Unallocated basis difference with respect to Asset A immediately after the subsequent transaction is 63u (90u basis difference, less 27u total cost recovery amounts, 18u in Year 1 and 9u in Year 2). Accordingly, because there is unallocated basis difference of 63u with respect to Asset A attributable to the CAA, as determined immediately after the subsequent transaction, the subsequent transaction is a successor transaction as defined in §1.901(m)-6(b)(2). Following the subsequent transaction, the unallocated basis difference of 63u must be taken into account as cost recovery amounts or disposition amounts (or both) by CFC2, the new section 901(m) payor and RFA owner (U.S.) of Asset A. See §1.901(m)-6(b)(3)(ii). Because the subsequent transaction is not a CAA under §1.901(m)-2(b), there is

no additional basis difference with respect to Asset A as a result of the subsequent transaction.

(i) *Applicability dates*. (1) Except as provided in paragraph (i)(2) of this section, this section applies to CAAs occurring on or after March 23, 2020.

(2) Paragraphs (b)(2)(i) and (c)(2) of this section apply to CAAs occurring on or after July 21, 2014, and to CAAs occurring before that date resulting from an entity classification election made under §301.7701-3 of this chapter that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014. Paragraphs (b)(2)(i) and (c)(2) of this section also apply to CAAs occurring on or after January 1, 2011, and before July 21, 2014, other than CAAs occurring before July 21, 2014, resulting from an entity classification election made under §301.7701-3 that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014, but only with respect to basis difference determined under §1.901(m)-4T(e) with respect to the CAA.

(3) Taxpayers may, however, choose to apply provisions in this section before the date such provisions are applicable pursuant to paragraphs (i)(1) and (2) of this section, provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(i) Consistently apply this section, §1.704-1(b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*), §1.901(m)-1, §1.901(m)-3, §1.901(m)-4 (excluding §1.901(m)-4(e)), §1.901(m)-6, §1.901(m)-7, and §1.901(m)-8 to all CAAs occurring on or after January 1, 2011, and consistently apply §1.901(m)-2 (excluding §1.901(m)-2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (i)(3)(i) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(ii) File all tax returns described in paragraph (i)(3)(i) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(ii) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (i)(3)(i) of this section for taxable years that are not open for assessment.

§1.901(m)-5T [Removed]

Par. 12. Section 1.901(m)-5T is removed.

Par. 13. Section 1.901(m)-6 is added to read as follows:

§1.901(m)-6 Successor rules.

(a) *In general*. This section provides successor rules applicable to section 901(m). Paragraph (b) of this section provides rules for the continued application of section 901(m) after an RFA that has unallocated basis difference has been transferred, including special rules applicable to successor transactions that are also CAAs or that involve partnerships. Paragraph (c) of this section provides rules for determining when an aggregate basis difference carryover of a section 901(m) payor either becomes an aggregate basis difference carryover of the section 901(m) payor with respect to another foreign payor or is transferred to another section 901(m) payor, and paragraph (d) of this section provides applicability dates.

(b) *Successor rules for unallocated basis difference*—(1) *In general*. Except as provided in paragraph (b)(4) of this section, section 901(m) continues to apply after a successor transaction to any unallocated basis difference attached to a transferred RFA until the entire basis difference has been taken into account as a cost recovery amount or a disposition amount (or both) under §1.901(m)-5.

(2) *Definition of a successor transaction*. A successor transaction occurs with respect to an RFA if, after a CAA (*prior CAA*), there is a transfer of the RFA for U.S. income tax purposes and the RFA has unallocated basis difference with respect to the prior CAA, determined immediately after the transfer. A successor transaction may occur regardless of whether the transfer of the RFA is a disposition, a CAA, or a non-taxable transaction for purposes of U.S. income tax. If the RFA was subject to multiple prior CAAs, a separate determination must be made with respect to each prior CAA as to whether the transfer is a successor transaction.

(3) *Special considerations*. (i) If an asset is an RFA with respect to more than one foreign income tax, this paragraph (b) applies separately with respect to each foreign income tax.

(ii) Any subsequent cost recovery amount for an RFA transferred in a successor transaction is determined based on the post-transaction applicable cost recovery method, as described in §1.901(m)-5(b)(3), that applies to the U.S. basis (or portion thereof) that corresponds to the unallocated basis difference.

(4) *Successor transaction is a CAA*—(i) *In general*. An asset may be an RFA with respect to multiple CAAs if a successor transaction is also a CAA (*subsequent CAA*). Except as otherwise provided in this paragraph (b)(4), if there is a subsequent CAA, unallocated basis difference with respect to any prior CAAs will continue to be taken into account under section 901(m) after the subsequent CAA. Furthermore, the subsequent CAA may give rise to additional basis difference subject to section 901(m).

(ii) *Foreign basis election*. If a foreign basis election is made under §1.901(m)-4(c) with respect to a foreign income tax in a subsequent CAA, any unallocated basis difference with respect to one or more prior CAAs will not be taken into account under section 901(m). The only basis difference that will be taken into account after the subsequent CAA with respect to that foreign income tax is the basis difference with respect to the subsequent CAA.

(iii) *Multiple section 743(b) CAAs*. If an RFA is subject to two section 743(b) CAAs (*prior section 743(b) CAA* and *subsequent section 743(b) CAA*) and the same partnership interest is acquired in both the CAAs, the RFA will be treated as having no unallocated basis difference with respect to the prior section 743(b) CAA if the basis difference for the section 743(b) CAA is determined independently from the prior section 743(b) CAA. In this regard, see generally §1.743-1(f). If the subsequent section 743(b) CAA results from the acquisition of only a portion of the partnership interest acquired in the prior section 743(b) CAA, then the transferor will be required to equitably apportion the unallocated basis difference attributable to the prior section 743(b) CAA between the portion retained by the transferor and the

portion transferred. In this case, with respect to the portion transferred, the RFAs will be treated as having no unallocated basis difference with respect to the prior section 743(b) CAA if basis difference for the subsequent section 743(b) CAA is determined independently from the prior section 743(b) CAA.

(5) *Example*. The following example illustrates the rules of paragraph (b) of this section.

(i) *Facts*. USP, a domestic corporation, wholly owns CFC, a foreign corporation organized in Country A and treated as a corporation for both U.S. and Country A tax purposes. FT is an unrelated foreign corporation organized in Country A and treated as a corporation for both U.S. and Country A tax purposes. FT owns one asset, a parcel of land (Asset). Country A imposes a single tax that is a foreign income tax. On January 1, Year 1, CFC acquires all of the stock of FT in exchange for 300u in a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies (Acquisition). Immediately before the Acquisition, Asset had a U.S. basis of 100u, and immediately after the Acquisition, Asset had a U.S. basis of 300u. Effective on February 1, Year 1, FT elects to be a disregarded entity pursuant to §301.7701-3. As a result of the election, FT is deemed, for U.S. income tax purposes, to distribute Asset to CFC in liquidation (Deemed Liquidation) immediately before the closing of the day before the election is effective pursuant to §301.7701-3(g)(1)(iii) and (3)(ii). The Deemed Liquidation is disregarded for Country A tax purposes. No gain or loss is recognized on the Deemed Liquidation for either U.S. or Country A tax purposes.

(ii) *Result*. Under §1.901(m)-2(b)(1), the acquisition by CFC of the stock of FT is a section 338 CAA. Under §1.901(m)-2(c)(1), Asset is an RFA with respect to Country A tax and the Acquisition, because immediately after the Acquisition, Asset is relevant in determining foreign income of FT for Country A tax purposes, and FT owned Asset when the Acquisition occurred. Under §1.901(m)-4(b), the basis difference with respect to Asset is 200u (300u – 100u). Under §1.901(m)-2(b)(2), the Deemed Liquidation is a CAA (subsequent CAA) because the Deemed Liquidation is treated as an acquisition of assets for U.S. income tax purposes and is disregarded for Country A tax purposes. Because the U.S. basis in Asset is 300u immediately before and after the Deemed Liquidation, the subsequent CAA does not give rise to any additional basis difference. The Deemed Liquidation is not a disposition under §1.901(m)-1(a)(15) because it did not result in gain or loss being recognized with respect to Asset for U.S. or Country A tax purposes. Accordingly, no basis difference with respect to Asset is taken into account under §1.901(m)-5 as a result of the Deemed Liquidation, and the unallocated basis difference with respect to Asset immediately after the Deemed Liquidation is 200u (200u – 0u). Under paragraph (b)(2) of this section, the Deemed Liquidation is a successor transaction because there is a transfer of Asset for U.S. income tax purposes from FT to CFC and Asset has unallocated basis difference with respect to the Acquisition immediately after the Deemed Liquidation. Accordingly, under paragraph (b)(1) of this section, section 901(m) will continue to apply to the unallocated basis difference with respect to Asset until the entire 200u basis difference has been taken into account under §1.901(m)-5.

(c) *Successor rules for aggregate basis difference carryover*—(1) *Transfers of a section 901(m) payor's aggregate basis difference carryover to another person*. If a corporation acquires the assets of a section 901(m) payor in a transaction to which section 381 applies, that corporation succeeds to any aggregate basis difference carryovers of the section 901(m) payor.

(2) *Transfers of a section 901(m) payor's aggregate basis difference carryover with respect to a foreign payor to another foreign payor*. If a section 901(m) payor has an aggregate basis difference carryover, with respect to a foreign income tax and a foreign payor, and substantially all of the assets of the foreign payor are transferred to another foreign payor in which the section 901(m) payor owns an interest, the section 901(m) payor's aggregate basis difference carryover with respect to the first foreign payor is transferred to the section 901(m) payor's aggregate basis difference carryover with respect to the other foreign payor. In such a case, the section 901(m) payor's aggregate basis difference carryover with respect to the first foreign payor is reduced to zero.

(3) *Anti-abuse rule*. If a section 901(m) payor has an aggregate basis difference carryover with respect to a foreign income tax and a foreign payor and, with a principal purpose of avoiding the application of section 901(m), assets of the foreign payor are transferred to another foreign payor in a transaction not described in paragraph (c)(1) or (2) of this section, then a portion of the aggregate basis difference carryover of the section 901(m) payor is transferred either to the aggregate basis difference carryover of the section 901(m) payor with respect to the other foreign payor or to another section 901(m) payor, as appropriate. The portion of the aggregate basis difference carryover transferred is determined based on the ratio of fair market value of the assets transferred to the fair market value of all of the assets of the foreign payor that transferred the assets. Similar principles apply when, with a principal purpose of avoiding the application of section 901(m), there is a change in the allocation of foreign income for foreign income tax purposes or the allocation of foreign income tax amounts for U.S. income tax purposes that would otherwise separate foreign income tax amounts from the related aggregate basis difference carryover.

(4) *Ownership*. For purposes of this paragraph (c), a section 901(m) payor owns an interest in a foreign payor if the section 901(m) payor owns the interest directly or indirectly through one or more fiscally transparent entities for U.S. income tax purposes.

(d) *Applicability dates*—(1) Except as provided in paragraph (d)(2) of this section, this section applies to CAAs occurring on or after March 23, 2021.

(2) Paragraphs (a), (b)(1) and (2), (b)(4)(i) and (iii), and (b)(5) of this section apply to CAAs occurring on or after July 21, 2014, and to CAAs occurring before that date resulting from an entity classification election made under §301.7701-3 of this chapter that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014. Paragraphs (a), (b)(1) and (2), (b)(4)(i) and (iii), and (b)(5) of this section also apply to CAAs occurring on or after January 1, 2011, and before July 21, 2014, other than CAAs occurring before July 21, 2014, resulting from an entity classification election made under §301.7701-3 that is filed on or after July 29, 2014, and that is effective on or before July 21, 2014, but only with respect to basis difference determined under §1.901(m)-4T(e) with respect to the CAA.

(3) Taxpayers may, however, choose to apply provisions in this section before the date such provisions are applicable pursuant to paragraphs (d)(1) and (2) of this section, provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(i) Consistently apply this section, §1.704-1(b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*), §1.901(m)-1, §§1.901(m)-3 through 1.901(m)-5 (excluding §1.901(m)-4(e)), §1.901(m)-7, and §1.901(m)-8 to all CAAs occurring on or after January 1, 2011, and consistently apply §1.901(m)-2 (excluding §1.901(m)-2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for

each taxable year for which the application of the provisions listed in this paragraph (d)(3)(i) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(ii) File all tax returns described in paragraph (d)(3)(i) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(iii) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (d)(3)(i) of this section for taxable years that are not open for assessment.

§1.901(m)-6T [Removed]

Par. 14. Section 1.901(m)-6T is removed.

Par. 15. Section 1.901(m)-7 is added to read as follows:

§1.901(m)-7 De minimis rules.

(a) *In general*. This section provides rules describing basis difference that is not taken into account under section 901(m) because a CAA results in a de minimis amount of basis difference. Paragraph (b) of this section sets forth the general rule for determining whether the de minimis threshold is met. Paragraph (c) of this section modifies the general rule in the case of CAAs that are part of an aggregated CAA transaction. Paragraph (d) of this section provides rules for applying this section, and paragraph (e) of this section provides an anti-abuse rule applicable to related persons. Paragraph (f) of this section provides examples that illustrate the application of this section. Paragraph (g) of this section provides applicability dates.

(b) *General rule*—(1) *In general*. A basis difference with respect to an RFA and a foreign income tax is not taken into account under section 901(m) if the requirements under the cumulative basis difference exemption, the RFA class exemption, or the RFA exemption are satisfied.

(2) *Cumulative basis difference exemption*. Except as provided in paragraph (c) of this section, a basis difference, with respect to an RFA and a foreign income tax, is not taken into account under section 901(m) (*cumulative basis difference exemption*) if the sum of that basis difference and all other basis differences (including negative basis differences), with respect to a single CAA and a single RFA owner (U.S.), is less than the greater of:

(i) $10 million, or

(ii) 10 percent of the total U.S. basis of all the RFAs immediately after the CAA.

(3) *RFA class exemption*—(i) Except as provided in paragraph (c) of this section, a basis difference, with respect to an RFA and a foreign income tax, is not taken into account under section 901(m) (*RFA class exemption*) if the RFA is part of a class of RFAs and the absolute value of the sum of the basis differences (including negative basis differences), with respect to a single CAA and a single RFA owner, for all the RFAs in that class is less than the greater of:

(A) $2 million, or

(B) 10 percent of the total U.S. basis of all the RFAs in that class of RFAs immediately after the CAA.

(ii) For purposes of this paragraph (b)(3), the classes of RFAs are the seven asset classes defined in §1.338-6(b), regardless of whether the CAA is a section 338 CAA.

(4) *RFA exemption*. A basis difference, with respect to an RFA and a foreign income tax, is not taken into account under section 901(m) (*RFA exemption*) if the absolute value of the basis difference with respect to the RFA is less than $20,000.

(c) *Special rule if a CAA is part of an aggregated CAA transaction*. If a CAA is part of an aggregated CAA transaction and a single RFA owner (U.S.) does not own all the RFAs attributable to the CAAs that are part of the aggregated CAA transaction, the cumulative basis difference exemption and the RFA class exemption apply to such CAA only if, in addition to satisfying the requirements of paragraph (b)(2) or (b)(3) of this section, respectively, determined without regard to this paragraph (c), the cumulative basis difference exemption or the RFA class exemption, as modified by this paragraph (c), is satisfied. Solely for purposes of this paragraph (c), the cumulative basis difference exemption and the RFA class exemption are applied taking into account all the basis differences with respect to all the RFAs owned by all the RFA owners (U.S.) that are attributable to the CAAs that are part of the aggregated CAA transaction.

(d) *Rules of application*. The following rules apply for purposes of this section.

(1) Whether a basis difference qualifies for the cumulative basis difference exemption, the RFA class exemption, or the RFA exemption is determined when an asset first becomes an RFA with respect to a CAA. In the case of a subsequent CAA described in §1.901(m)-6(b)(4), the application of the cumulative basis difference exemption, the RFA class exemption, and the RFA exemption is based on basis difference, if any, that results from the subsequent CAA.

(2) If there is an aggregated CAA transaction, the cumulative basis difference exemption and each RFA class exemption are applied by treating all CAAs that are part of the aggregated CAA transaction as a single CAA.

(3) Basis difference is computed in accordance with §1.901(m)-4 except that a foreign basis election need not be evidenced if the cumulative basis difference exemption, an RFA class exemption, or the RFA exemption apply to all RFAs with respect to the CAA.

(4) Basis difference is translated into U.S. dollars (if necessary) using the spot rate determined under the principles of §1.988-1(d) on the date of the CAA.

(e) *Anti-abuse rule*. The cumulative basis difference exemption, an RFA class exemption, and the RFA exemption are not available if the transferor and transferee in the CAA are related persons (as described in section 267(b) or 707(b)) and the CAA was entered into, or structured, with a principal purpose of avoiding the application of section 901(m). See also §1.901(m)-8(c), which provides that certain built-in loss assets are not taken into account for purposes of applying this section.

(f) *Examples*. The following examples illustrate the rules of this section:

(1) *Example 1: De minimis; cumulative basis difference exemption*—(i) *Facts*. USP, a domestic corporation, as part of a plan, purchases all of the stock of CFC1 and CFC2 from a single seller. CFC1 and CFC2 are applicable foreign corporations, organized in Country F, and treated as corporations for Country F tax purposes. Country F imposes a single tax that is a foreign income tax. Each acquisition is a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies. A foreign basis election is not made under §1.901(m)-4(c). Immediately

after the acquisition of the stock of CFC1 and CFC2, the assets of CFC1 and CFC2 give rise to income that is taken into account for Country F tax purposes, and those assets are in a single class, as defined in §1.338-6(b). Assume that the absolute value of the basis difference with respect to any single RFA is greater than $20,000. At all relevant times, 1u equals $1. All amounts are stated in millions. The additional facts are summarized below.

Relevant Foreign Assets	Total U.S. Basis Immediately Before	Total U.S. Basis Immediately After	Total Basis Difference
Assets of CFC1	48u	60u	12u
Assets of CFC2	*100u*	*96u*	*(4)u*
Total	*148u*	*156u*	*8u*

(ii) *Result*. (A) Under §1.901(m)-2(b)(1), USP's acquisitions of the stock of CFC1 and CFC2 are each a section 338 CAA. Under 1.901(m)-1(a)(3), the two section 338 CAAs constitute an aggregated CAA transaction because the acquisitions occur as part of a plan. Under §1.901(m)-2(c)(1), the assets of CFC1 and CFC2 are RFAs for Country F tax purposes because they are relevant in determining foreign income of CFC1 and CFC 2, respectively, for Country F tax purposes. Under §1.901(m)-1(a)(37), CFC1 is the RFA owner (U.S.) with respect to its assets, and CFC2 is the RFA owner (U.S.) with respect to its assets.

(B) Under paragraph (b)(2) of this section, the application of the cumulative basis difference exemption is based on a single CAA and a single RFA owner (U.S.), subject to the requirements under paragraph (c) of this section that apply when there is an aggregated CAA transaction. In the case of the section 338 CAA with respect to CFC1, without regard to paragraph (c) of this section, the requirements of the cumulative basis difference exemption are satisfied if the sum of the basis differences is less than the threshold of $10 million, the greater of $10 million or $6 million (10% of the total U.S. basis of $60 million (60 million u translated into dollars at the exchange rate of $1 = 1u)). In this case, the sum of the basis differences is $12 million (12 million u translated into dollars at the exchange rate of $1 = 1 u). Because the sum of the basis differences of $12 million is not less than the threshold of $10 million, the requirements of the cumulative basis difference exemption are not satisfied. Because the requirements of the cumulative basis difference exemption are not satisfied, without regard to paragraph (c) of this section, paragraph (c) of this section is not applicable. The RFA class exemption is not relevant because all of the RFAs of CFC1 are in a single class. Finally, because the absolute value with respect to each RFA is greater than $20,000, the RFA exemption does not apply. Accordingly, the basis differences with respect to all of the RFAs of CFC1 must be taken into account under section 901(m).

(C) In the case of the section 338 CAA with respect to CFC2, without regard to paragraph (c) of this section, the requirements of the cumulative basis difference exemption are satisfied if the sum of the basis differences is less than the threshold of $10 million, the greater of $10 million or $ 9.6 million (10% of the total U.S. basis of $96 million (96 million u translated into dollars at the exchange rate of $1 = 1u)) In this case, the sum of the basis differences is ($4) million ((4) million u translated into dollars at the exchange rate of $1 = 1 u). Because the sum of the basis differences of ($4) million is less than the threshold of $10 million, the requirements of the cumulative basis difference exemption are satisfied. However, because the section 338 CAA with respect to CFC2 is part of an aggregated CAA transaction that includes the section 338 CAA with respect to CFC1, paragraph (c) of this section is applicable. Under paragraph (c) of this section, the requirements of the cumulative basis difference exemption must also be satisfied taking into account all of the RFAs of both CFC2 and CFC1. In this case, the requirements of the cumulative basis difference exemption for purposes of paragraph (c) of this section are satisfied if the sum of the basis differences with respect to all of the RFAs of CFC2 and CFC1 is less than the threshold of $15.6 million, the greater of $10 million or $15.6 million (10% of the total U.S. basis of $156 million (156 million u translated into dollars at the exchange rate of $1 = 1u)). In this case, the sum of the basis differences is $8 million (8 million u translated into dollars at the exchange rate of $1 = 1 u). Because the sum of the basis differences of $8 million is less than the threshold of $15.6 million, the requirements of the cumulative basis difference exemption are satisfied in the case of the section 338 CAA with respect to CFC2. Accordingly, none of the basis differences with respect to the RFAs of CFC2 are taken into account under section 901(m).

(2) *Example 2: De minimis; RFA Class Exemption*—(i) *Facts*. USP, a domestic corporation, acquires all the stock of CFC, an applicable foreign corporation organized in Country F and treated as a corporation for Country F tax purposes, in a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies. Country F imposes a single tax that is a foreign income tax. A foreign basis election is not made under §1.901(m)-4(c). Immediately after the acquisition of CFC, the assets of CFC give rise to income that is taken into account for Country F tax purposes. Assume that the absolute value of the basis difference with respect to any single RFA is greater than $20,000. At all relevant times, 1u equals $1. All amounts are stated in millions. The additional facts are summarized below.

Relevant Foreign Assets	Total U.S. Basis Immediately Before	Total U.S. Basis *I*mmediately After	Total Basis Difference
Cash (Class I)	10u	10u	0u
Inventory (Class IV)	14u	15u	1u
Buildings (Class V)	*19u*	*30u*	*11u*
Total	*43u*	*55u*	*12u*

(ii) *Result*. (A) Under §1.901(m)-2(b)(1), USP's acquisition of the stock of CFC is a section 338 CAA. Under §1.901(m)-2(c)(1), the assets of CFC are RFAs for Country F tax purposes because they are relevant in determining foreign income of CFC for Country F tax purposes.

(B) Under paragraph (b)(2) of this section, the requirements of the cumulative basis difference exemption are satisfied if the sum of the basis differences is less than the threshold of $10 million, the greater of $10 million or $5.5 million (10% of the total U.S. basis of $55 million (55 million u translated into dollars at the exchange rate of $1 = 1u)). In this case, the sum of the basis differences is $12 million (12 million u translated into dollars at the exchange rate of $1 = 1 u). Because the sum of the basis differences of $12 million is not less than the threshold of $10 million, the requirements of the cumulative basis difference exemption are not satisfied.

(C) Under paragraph (b)(3) of this section, each of CFC's assets is allocated to its class under §1.338-6(b) for purposes of the RFA class exemption. The requirements of the RFA class exemption with respect to the Class IV RFAs (in this case, inventory) are satisfied if the absolute value of the sum of the basis differences with respect to the Class IV RFAs is less than the threshold of $2 million, the greater of $2 million or $1.5 million (10% of the total U.S. basis of Class IV RFAs of $15 million (15 million u translated into dollars at the exchange rate of $1 = 1u)). In this case, the absolute value of the sum of the basis differences is $1 million (1 million u translated into dollars at the exchange rate of $1 = 1 u). Because the

sum of the basis differences of $1 million is less than the threshold of $2 million, the requirements of the RFA class exemption are satisfied. Accordingly, the basis differences with respect to the Class IV RFAs are not taken into account under section 901(m).

(D) The requirements of the RFA class exemption with respect to the Class V RFAs (in this case, buildings) is satisfied if the absolute value of the sum of the basis differences with respect to the Class V RFAs is less than the threshold of $3 million, the greater of $2 million or $3 million (10% of the total U.S. basis of Class V RFAs of $30 million (30 million u translated into dollars at the exchange rate of $1 = 1u)). In this case, the absolute value of the sum of the basis differences is $11 million (11 million u translated into dollars at the exchange rate of $1 = 1 u). Because the sum of the basis differences of $11 million is not less than the threshold of $3 million, the requirements of the RFA class exemption are not satisfied. Finally, because the absolute value with respect to each RFA is greater than $20,000, the RFA exemption does not apply. Accordingly, the basis differences with respect to the Class V RFAs are taken into account under section 901(m).

(E) The Class I RFAs (in this case, cash) are irrelevant because there are no basis differences with respect to those RFAs.

(g) *Applicability dates*. This section applies to CAAs occurring on or after March 23, 2020. Taxpayers may, however, choose to apply this section before the date this section is applicable provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(1) Consistently apply this section, §1.704-1(b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*), §1.901(m)-1, §§1.901(m)-3 through 1.901(m)-6 (excluding §1.901(m)-4(e)), and §1.901(m)-8 to all CAAs occurring on or after January 1, 2011, and consistently apply §1.901(m)-2 (excluding §1.901(m)-2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (g)(1) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(2) File all tax returns described in paragraph (g)(1) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(3) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (g)(1) of this section for taxable years that are not open for assessment.

§1.901(m)-7T [Removed]

Par. 16. Section 1.901(m)-7T is removed.

Par. 17. Section 1.901(m)-8 is added to read as follows:

§1.901(m)-8 Miscellaneous.

(a) *In general*. This section provides guidance on other matters under section 901(m). Paragraph (b) of this section provides guidance on the application of section 901(m) to pre-1987 foreign income taxes. Paragraph (c) of this section provides anti-abuse rules relating to built-in loss assets. Paragraph (d) of this section provides guidance on the interaction of section 901(m) and section 909. Paragraph (e) of this section provides applicability dates.

(b) *Application of section 901(m) to pre-1987 foreign income taxes*. Section 901(m) and §§1.901(m)-1 through 1.901-8 apply to pre-1987 foreign income taxes (as defined in §1.902-1(a)(10)(iii)) of an applicable foreign corporation.

(c) *Anti-abuse rule for built-in loss RFAs*. A basis difference with respect to an RFA described in section 901(m)(3)(C)(ii) (*built-in loss RFA*) will not be taken into account for purposes of computing an allocated basis difference for a U.S. taxable year of a section 901(m) payor if any RFA, including an RFA other than built-in loss RFAs, is acquired with a principal purpose of using one or more built-in loss RFAs to avoid the application of section 901(m). Furthermore, a basis difference with respect to a built-in loss RFA will not be taken into account for purposes of the cumulative basis difference exemption or the RFA class exemption under §1.901(m)-7 if any RFAs, including RFAs other than built-in loss RFAs, are acquired with a principal purpose of avoiding the application of section 901(m).

(d) *Interaction with section 909*. The amount of a foreign income tax that is disqualified under section 901(m) is determined before applying section 909. However, section 909 may apply to suspend a deduction for the amount of a foreign income tax that is disqualified under section 901(m).

(e) *Applicability dates*. This section applies to CAAs occurring on or after March 23, 2020. Taxpayers may, however, choose to apply this section before the date this section is applicable provided that they (along with any persons that are related (within the meaning of section 267(b) or 707(b)) to the taxpayer)—

(1) Consistently apply this section, §1.704-1(b)(4)(viii)(*c*)(*4*)(*v*) through (*vii*), §1.901(m)-1, and §§1.901(m)-3 through 1.901(m)-7 (excluding §1.901(m)-4(e)) to all CAAs occurring on or after January 1, 2011, and consistently apply §1.901(m)-2 (excluding §1.901(m)-2(d)) to all CAAs occurring on or after December 7, 2016, on any original or amended tax return for each taxable year for which the application of the provisions listed in this paragraph (e)(1) affects the tax liability and for which the statute of limitations does not preclude assessment or the filing of a claim for refund, as applicable;

(2) File all tax returns described in paragraph (e)(1) of this section for any taxable year ending on or before March 23, 2020, no later than March 23, 2021; and

(3) Make appropriate adjustments to take into account deficiencies that would have resulted from the consistent application under paragraph (e)(2) of this section for taxable years that are not open for assessment.

§1.901(m)-8T [Removed]

Par. 18. Section 1.901(m)-8T is removed.

Sunita Lough
Deputy Commissioner for
Services and Enforcement

Approved: February 13, 2020

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

(Filed by the Office of the Federal Register on March 20, 2020, 8:45 a.m., and published in the issue of the Federal Register for March 23, 2020, 85 F.R. 16245)

Part III

Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic

Notice 2020-17

I. PURPOSE

On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic (Emergency Declaration). The Emergency Declaration instructed the Secretary of the Treasury "to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency, as appropriate, pursuant to 26 U.S.C. 7508A(a)." Pursuant to the Emergency Declaration, this notice provides relief under section 7508A(a) of the Internal Revenue Code for the persons described in section III of this notice that the Secretary of the Treasury has determined to be affected by the COVID-19 emergency.

II. BACKGROUND

Section 7508A provides the Secretary of the Treasury or his delegate (Secretary) with authority to postpone the time for performing certain acts under the internal revenue laws for a taxpayer determined by the Secretary to be affected by a Federally declared disaster as defined in section 165(i)(5)(A). Pursuant to section 7508A(a), a period of up to one year may be disregarded in determining whether the performance of certain acts is timely under the internal revenue laws.

III. GRANT OF RELIEF

The Secretary has determined that any person with a Federal income tax payment due April 15, 2020, is affected by the COVID-19 emergency for purposes of the relief described in this section III (Affected Taxpayer).

For an Affected Taxpayer, the due date for making Federal income tax payments due April 15, 2020, in an aggregate amount up to the Applicable Postponed Payment Amount, is postponed to July 15, 2020. The Applicable Postponed Payment Amount is up to $10,000,000 for each consolidated group (as defined in §1.1502-1) or for each C corporation that does not join in filing a consolidated return. For all other Affected Taxpayers, the Applicable Postponed Payment Amount is up to $1,000,000 regardless of filing status. For example, the Applicable Postponed Payment Amount is the same for a single individual and for married individuals filing a joint return. In both instances the Applicable Postponed Payment Amount is up to $1,000,000.

The relief provided in this section III is available solely with respect to Federal income tax payments (including payments of tax on self-employment income) due on April 15, 2020, in respect of an Affected Taxpayer's 2019 taxable year, and Federal estimated income tax payments (including payments of tax on self-employment income) due on April 15, 2020, for an Affected Taxpayer's 2020 taxable year. The Applicable Postponed Payment Amounts described in this section III include, in the aggregate, all payments described in the preceding sentence due on April 15, 2020 for such Affected Taxpayers.

No extension is provided in this notice for the payment or deposit of any other type of Federal tax, or for the filing of any tax return or information return.

As a result of the postponement of the due date for making Federal income tax payments up to the Applicable Postponed Payment Amount from April 15, 2020, to July 15, 2020, the period beginning on April 15, 2020, and ending on July 15, 2020, will be disregarded in the calculation of any interest, penalty, or addition to tax for failure to pay the Federal income taxes postponed by this notice. Interest, penalties, and additions to tax with respect to such postponed Federal income tax payments will begin to accrue on July 16, 2020. In addition, interest, penalties and additions to tax will accrue, without any suspension or deferral, on the amount of any Federal income tax payments in excess of the Applicable Postponed Payment Amount due but not paid by an Affected Taxpayer on April 15, 2020.

Affected Taxpayers subject to penalties or additions to tax despite the relief granted by this section III may seek reasonable cause relief under section 6651 for a failure to pay tax or seek a waiver to a penalty under section 6654 for a failure by an individual or certain trusts and estates to pay estimated income tax, as applicable. Similar relief with respect to estimated tax payments is not available for corporate taxpayers or tax-exempt organizations under section 6655.

IV. DRAFTING INFORMATION

The principal author of this notice is Jennifer Auchterlonie of the Office of Associate Chief Counsel, Procedure and Administration. For further information regarding this notice, you may call (202) 317-3400 (not a toll-free number).

Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic

Notice 2020-18

I. PURPOSE

On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in response to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic (Emergency Declaration). The Emergency Declaration instructed the Secretary of the Treasury "to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency, as appropriate, pursuant to 26 U.S.C. 7508A(a)." Pursuant to the Emergency Declaration, this notice provides relief under section 7508A(a) of the Internal Revenue Code (Code) for the persons

described in section III of this notice that the Secretary of the Treasury has determined to be affected by the COVID-19 emergency. This notice supersedes Notice 2020-17.

II. BACKGROUND

Section 7508A provides the Secretary of the Treasury or his delegate (Secretary) with authority to postpone the time for performing certain acts under the internal revenue laws for a taxpayer determined by the Secretary to be affected by a Federally declared disaster as defined in section 165(i)(5)(A). Pursuant to section 7508A(a), a period of up to one year may be disregarded in determining whether the performance of certain acts is timely under the internal revenue laws.

On March 18, 2020, the Department of the Treasury and the Internal Revenue Service issued Notice 2020-17 providing relief under section 7508A(a) of the Code, which postponed the due date for certain Federal income tax payments from April 15, 2020 until July 15, 2020. This notice restates and expands upon the relief provided in Notice 2020-17.

III. GRANT OF RELIEF

The Secretary of the Treasury has determined that any person with a Federal income tax payment or a Federal income tax return due April 15, 2020, is affected by the COVID-19 emergency for purposes of the relief described in this section III (Affected Taxpayer). The term "person" includes an individual, a trust, estate, partnership, association, company or corporation, as provided in section 7701(a)(1) of the Code.

For an Affected Taxpayer, the due date for filing Federal income tax returns and making Federal income tax payments due April 15, 2020, is automatically postponed to July 15, 2020. Affected Taxpayers do not have to file Forms 4868 or 7004. There is no limitation on the amount of the payment that may be postponed.

The relief provided in this section III is available solely with respect to Federal income tax payments (including payments of tax on self-employment income) and Federal income tax returns due on April 15, 2020, in respect of an Affected Taxpayer's 2019 taxable year, and Federal estimated income tax payments (including payments of tax on self-employment income) due on April 15, 2020, for an Affected Taxpayer's 2020 taxable year.

No extension is provided in this notice for the payment or deposit of any other type of Federal tax, or for the filing of any Federal information return.

As a result of the postponement of the due date for filing Federal income tax returns and making Federal income tax payments from April 15, 2020, to July 15, 2020, the period beginning on April 15, 2020, and ending on July 15, 2020, will be disregarded in the calculation of any interest, penalty, or addition to tax for failure to file the Federal income tax returns or to pay the Federal income taxes postponed by this notice. Interest, penalties, and additions to tax with respect to such postponed Federal income tax filings and payments will begin to accrue on July 16, 2020.

IV. EFFECT ON OTHER DOCUMENTS

This Notice supersedes Notice 2020-17. Because of the expansion of relief provided in this notice and the fact that Notice 2020-17 is superseded, any phone calls regarding Notice 2020-17 that have not already been returned will not be returned. As noted below, taxpayers with questions regarding the application of this notice should contact (202) 317-5436.

V. DRAFTING INFORMATION

The principal author of this notice is Jennifer Auchterlonie of the Office of Associate Chief Counsel, Procedure and Administration. For further information regarding this notice, you may call (202) 317-5436 (not a toll-free number).

Abusive Foreign Tax Credit Intermediary Transactions

Notice 2020-19

This notice withdraws Notice 2004-20, 2004-1 C.B. 608, thereby removing the identification of transactions that are the same as, or substantially similar to, the transaction described in that notice as "listed transactions" for purposes of §1.6011-4(b)(2) of the Income Tax Regulations and sections 6111 and 6112 of the Internal Revenue Code.

BACKGROUND

Notice 2004-20 describes a transaction generally involving four parties: (1) a person or persons (X) that plans to sell the stock or assets of (2) a foreign corporation or group of foreign corporations (Target) that is not engaged in a U.S. trade or business, (3) a domestic corporation that acts as an intermediary (Midco), and (4) a person or persons (Y) that plans to purchase the assets of Target. Pursuant to a prearranged plan, the parties undertake the following steps. X purports to sell the stock of Target to Midco. Midco then makes an election under section 338 to treat the stock purchase as resulting in a deemed sale by Target (Old Target) of its assets and an acquisition of those assets by a deemed new corporation (New Target), providing New Target with a stepped-up basis in the assets. Midco then may cause New Target to liquidate, either in a liquidation under local law or by making an election under §301.7701-3 to treat New Target as a disregarded entity. As a result of the liquidation (or deemed liquidation), Midco inherits New Target's assets with a stepped-up basis. Shortly thereafter, pursuant to the prearranged plan, Y purchases all or substantially all of New Target's assets. Alternatively, if Midco does not liquidate New Target (or elect to treat New Target as a disregarded entity), New Target pays a dividend to Midco after the asset sale.

The asset sale to Y generates a taxable gain for foreign tax purposes (but not for U.S. tax purposes), and Midco claims a credit under section 901 with respect to the foreign income tax imposed on the asset sale. If Midco does not liquidate New Target (or elect to treat New Target as a disregarded entity), Midco claims a credit under section 902 (as in effect on December 21, 2017) for the foreign income tax imposed on the asset sale when New Target pays a dividend.

Notice 2004-20 alerts taxpayers that, in appropriate cases, the IRS intends to

challenge the purported tax results from the transaction on a number of grounds. Notice 2004-20 also identifies transactions that are the same as, or substantially similar to, the transaction described in Notice 2004-20 as "listed transactions" for purposes of the disclosure, registration, and list maintenance requirements then in §1.6011-4(b)(2) of the Income Tax Regulations and §§301.6111-2(b)(2) and 301.6112-1(b)(2) of the Procedure and Administration Regulations. [1]

Section 212 of the Education, Jobs and Medicaid Assistance Act of 2010, P.L. 111-226, 124 Stat. 2389, added section 901(m) to the Internal Revenue Code, effective for "covered asset acquisitions" after December 30, 2010. Section 901(m)(1) provides that, in the case of a covered asset acquisition, the disqualified portion of any foreign income tax determined with respect to the income or gain attributable to the disposition of relevant foreign assets will not be taken into account in determining the foreign tax credit allowed under section 901(a), and in the case of foreign income tax paid by a foreign corporation, will not be taken into account for purposes of section 960.[2] Section 901(m)(2) defines a covered asset acquisition to include a qualified stock purchase to which section 338(a) applies. Section 901(m) does not affect the ability to claim a deduction with respect to the disqualified portion of any foreign income tax.

DISCUSSION

The Treasury Department and the IRS have concluded that these transactions no longer should be identified as "listed transactions" for purposes of the disclosure, registration, and list maintenance requirements currently under §1.6011-4(b)(2) and sections 6111 and 6112. The Treasury Department and the IRS believe that the enactment of section 901(m) has curtailed the use of these transactions because it effectively denies the foreign tax credits claimed by Midco under section 901 or 902 (as in effect on December 21, 2017), as described in Notice 2004-20, or section 960. Accordingly, transactions will no longer be identified as "listed transactions" for purposes of §1.6011-4(b)(2) and sections 6111 and 6112 solely because they are the same as, or substantially similar to, the transaction described in Notice 2004-20. Although a transaction is no longer a "listed transaction" solely because the transaction is described in Notice 2004-20, the transaction may still otherwise be subject to the requirements of sections 6011, 6111, and 6112, and the regulations thereunder.

EFFECT ON OTHER DOCUMENTS

Notice 2004-20 is withdrawn effective for transactions entered into after April 6, 2020.

DRAFTING INFORMATION

The principal author of this notice is Jeffrey L. Parry, of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact Mr. Parry at (202) 317-6936 (not a toll-free number).

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26 CFR 601.601: Rules and Regulations
(Also Part 1, §§ 143(e)(2), 6a.103A-2(f)(3), 6a.103A-2(f)(5).)

Rev. Proc. 2020-18

SECTION 1. PURPOSE

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

SECTION 2. BACKGROUND

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

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

Average Area Purchase Price

.03 Section 143(e)(1) provides that an issue of bonds meets the purchase price requirements of section 143(e) if the acquisition cost of each residence financed by the issue does not exceed 90 percent of the average area purchase price applicable to such residence. Section 143(e)(5)

[1] While the definition of a listed transaction remains in §1.6011-4(b)(2), the regulations under section 6111 and 6112, relating to the disclosure and list maintenance requirements applicable to material advisors, have been revised and now cross-reference that definition. See §§301.6111-3(c)(2) and 301.6112-1(c)(3).

[2] The Tax Cuts and Jobs Act 2017, P.L. 115-97, 131 Stat. 2054 (TCJA), revised section 901(m) to remove a reference to deemed paid foreign taxes under section 902, because section 902 was repealed under the TCJA, which also modified section 960 accordingly.

provides that, in the case of a targeted area residence (as defined in section 143(j)), section 143(e)(1) shall be applied by substituting 110 percent for 90 percent.

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

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

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

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

Qualified Mortgage Credit Certificate Program

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

Income Limitations for Qualified Mortgage Bonds and Mortgage Credit Certificates

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

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

Average Area and Nationwide Purchase Price Limitations

.11 Average area purchase price safe harbors for each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam were last published in Rev. Proc. 2019-14, 2019-15 I.R.B. 948.

.12 The nationwide average purchase price limitation was last published in section 4.02 of Rev. Proc. 2019-14. Guidance with respect to the United States and area median gross income figures that are to be used in computing the housing cost/income ratio described in section 143(f)(5) was last published in Rev. Proc. 2019-21, 2019-21 I.R.B. 1190.

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

.14 To calculate the average area purchase price safe harbors in this revenue procedure, the FHA loan limits are adjusted to take into account the differences between average and median purchase

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

.15 The average area purchase price safe harbors listed in section 4.01 of this revenue procedure are based on FHA loan limits released December 3, 2019. FHA loan limits are available for statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam. See section 3.03 of this revenue procedure with respect to FHA loan limits revised after December 3, 2019.

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

SECTION 3. APPLICATION

Average Area Purchase Price Safe Harbors

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

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

.03 If the FHA revises the FHA loan limit for any statistical area after December 3, 2019, an issuer of qualified mortgage bonds or mortgage credit certificates may use the revised FHA loan limit for that statistical area to compute (as provided in the next sentence) a revised average area purchase price safe harbor for the statistical area provided that the issuer maintains records evidencing the revised FHA loan limit. The revised average area purchase price safe harbor for that statistical area is computed by dividing the revised FHA loan limit by 1.0135.

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

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

Nationwide Average Purchase Price

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

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

.08 If, pursuant to section 6.02 of this revenue procedure, an issuer relies on the average area purchase price safe harbors contained in Rev. Proc. 2019-14, the issuer must use the nationwide average purchase price set forth in section 4.02 of Rev. Proc. 2019-14 in computing the housing cost/income ratio under section 143(f)(5). Likewise, if, pursuant to section 6.04 of this revenue procedure, an issuer relies on the nationwide average purchase price published in Rev. Proc. 2019-14, the issuer may not rely on the average area purchase price safe harbors published in this revenue procedure.

SECTION 4. AVERAGE AREA AND NATIONWIDE AVERAGE PURCHASE PRICES

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

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
ALEUTIANS WEST	AK	$380,110	$486,620	$588,197	$730,966
ANCHORAGE MUNIC	AK	$406,208	$520,019	$628,551	$781,187
JUNEAU CITY AND	AK	$449,325	$575,222	$695,299	$864,067
KETCHIKAN GATEW	AK	$364,225	$466,246	$563,629	$700,429
KODIAK ISLAND B	AK	$402,804	$515,628	$623,322	$774,626
MATANUSKA-SUSIT	AK	$406,208	$520,019	$628,551	$781,187
NOME CENSUS ARE	AK	$385,784	$493,872	$596,978	$741,869
NORTH SLOPE BOR	AK	$327,916	$419,774	$507,439	$630,623
PETERSBURG CENS	AK	$327,916	$419,774	$507,439	$630,623
SITKA CITY AND	AK	$479,960	$614,442	$742,708	$923,019
SKAGWAY MUNICIP	AK	$409,611	$524,360	$633,830	$787,699
WRANGELL CITY A	AK	$327,916	$419,774	$507,439	$630,623
YAKUTAT CITY AN	AK	$415,285	$531,612	$642,611	$798,651
COCONINO	AZ	$357,417	$457,563	$553,072	$687,356
ALAMEDA	CA	$755,386	$967,246	$1,169,117	$1,452,905
ALPINE	CA	$457,267	$585,385	$707,582	$879,360
AMADOR	CA	$350,609	$448,831	$542,514	$674,233
CALAVERAS	CA	$368,764	$472,067	$570,634	$709,161
CONTRA COSTA	CA	$755,386	$967,246	$1,169,117	$1,452,905
EL DORADO	CA	$561,656	$719,028	$869,148	$1,080,096
HUMBOLDT	CA	$340,397	$435,758	$526,728	$654,599
INYO	CA	$368,764	$472,067	$570,634	$709,161
LOS ANGELES	CA	$755,386	$967,246	$1,169,117	$1,452,905
MARIN	CA	$755,386	$967,246	$1,169,117	$1,452,905
MENDOCINO	CA	$403,938	$517,108	$625,048	$776,797
MONO	CA	$521,943	$668,165	$807,679	$1,003,728
MONTEREY	CA	$663,775	$849,760	$1,027,161	$1,276,490
NAPA	CA	$754,547	$965,939	$1,167,612	$1,451,079
NEVADA	CA	$479,960	$614,442	$742,708	$923,019
ORANGE	CA	$755,386	$967,246	$1,169,117	$1,452,905
PLACER	CA	$561,656	$719,028	$869,148	$1,080,096
PLUMAS	CA	$332,455	$425,595	$514,444	$639,355
RIVERSIDE	CA	$436,843	$559,238	$675,960	$840,091
SACRAMENTO	CA	$561,656	$719,028	$869,148	$1,080,096
SAN BENITO	CA	$755,386	$967,246	$1,169,117	$1,452,905
SAN BERNARDINO	CA	$436,843	$559,238	$675,960	$840,091
SAN DIEGO	CA	$692,141	$886,069	$1,071,068	$1,331,052
SAN FRANCISCO	CA	$755,386	$967,246	$1,169,117	$1,452,905
SAN JOAQUIN	CA	$442,517	$566,490	$684,741	$850,993
SAN LUIS OBISPO	CA	$680,795	$871,516	$1,053,505	$1,309,247
SAN MATEO	CA	$755,386	$967,246	$1,169,117	$1,452,905
SANTA BARBARA	CA	$644,486	$825,044	$997,315	$1,239,392

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
SANTA CLARA	CA	$755,386	$967,246	$1,169,117	$1,452,905
SANTA CRUZ	CA	$755,386	$967,246	$1,169,117	$1,452,905
SOLANO	CA	$499,249	$639,108	$772,554	$960,118
SONOMA	CA	$695,545	$890,410	$1,076,297	$1,337,614
STANISLAUS	CA	$360,821	$461,904	$558,350	$693,868
SUTTER	CA	$340,397	$435,758	$526,728	$654,599
VENTURA	CA	$703,488	$900,573	$1,088,630	$1,352,857
YOLO	CA	$561,656	$719,028	$869,148	$1,080,096
YUBA	CA	$340,397	$435,758	$526,728	$654,599
ADAMS	CO	$567,329	$726,280	$877,929	$1,091,048
ARAPAHOE	CO	$567,329	$726,280	$877,929	$1,091,048
BOULDER	CO	$635,408	$813,451	$983,255	$1,221,977
BROOMFIELD	CO	$567,329	$726,280	$877,929	$1,091,048
CHAFFEE	CO	$364,225	$466,246	$563,629	$700,429
CLEAR CREEK	CO	$567,329	$726,280	$877,929	$1,091,048
DENVER	CO	$567,329	$726,280	$877,929	$1,091,048
DOUGLAS	CO	$567,329	$726,280	$877,929	$1,091,048
EAGLE	CO	$755,386	$967,246	$1,169,117	$1,452,905
EL PASO	CO	$351,744	$450,262	$544,290	$676,404
ELBERT	CO	$567,329	$726,280	$877,929	$1,091,048
GARFIELD	CO	$755,386	$967,246	$1,169,117	$1,452,905
GILPIN	CO	$567,329	$726,280	$877,929	$1,091,048
GRAND	CO	$467,479	$598,458	$723,369	$898,994
GUNNISON	CO	$366,494	$469,156	$567,132	$704,820
HINSDALE	CO	$422,093	$540,344	$653,168	$811,724
JEFFERSON	CO	$567,329	$726,280	$877,929	$1,091,048
LA PLATA	CO	$416,419	$533,092	$644,387	$800,822
LARIMER	CO	$448,190	$573,742	$693,523	$861,896
MONTROSE	CO	$419,823	$537,433	$649,666	$807,334
OURAY	CO	$419,823	$537,433	$649,666	$807,334
PARK	CO	$567,329	$726,280	$877,929	$1,091,048
PITKIN	CO	$755,386	$967,246	$1,169,117	$1,452,905
ROUTT	CO	$629,735	$806,150	$974,474	$1,211,025
SAN MIGUEL	CO	$755,386	$967,246	$1,169,117	$1,452,905
SUMMIT	CO	$712,565	$912,216	$1,102,641	$1,370,321
TELLER	CO	$351,744	$450,262	$544,290	$676,404
WELD	CO	$399,400	$511,287	$618,043	$768,065
FAIRFIELD	CT	$593,426	$759,678	$918,284	$1,141,219
HARTFORD	CT	$348,340	$445,921	$539,012	$669,892
LITCHFIELD	CT	$352,879	$451,742	$546,066	$678,624
MIDDLESEX	CT	$348,340	$445,921	$539,012	$669,892
TOLLAND	CT	$348,340	$445,921	$539,012	$669,892

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
WINDHAM	CT	$334,724	$428,506	$517,947	$643,696
DISTRICT OF COLUMBIA	DC	$755,386	$967,246	$1,169,117	$1,452,905
NEW CASTLE	DE	$402,804	$515,628	$623,322	$774,626
SUSSEX	DE	$340,397	$435,758	$526,728	$654,599
BAKER	FL	$368,764	$472,067	$570,634	$709,161
BROWARD	FL	$368,764	$472,067	$570,634	$709,161
CLAY	FL	$368,764	$472,067	$570,634	$709,161
COLLIER	FL	$444,786	$569,401	$688,293	$855,384
DUVAL	FL	$368,764	$472,067	$570,634	$709,161
MARTIN	FL	$346,071	$443,010	$535,509	$665,501
MIAMI-DADE	FL	$368,764	$472,067	$570,634	$709,161
MONROE	FL	$544,636	$697,223	$842,804	$1,047,388
NASSAU	FL	$368,764	$472,067	$570,634	$709,161
OKALOOSA	FL	$385,784	$493,872	$596,978	$741,869
PALM BEACH	FL	$368,764	$472,067	$570,634	$709,161
ST. JOHNS	FL	$368,764	$472,067	$570,634	$709,161
ST. LUCIE	FL	$346,071	$443,010	$535,509	$665,501
WALTON	FL	$385,784	$493,872	$596,978	$741,869
BARROW	GA	$395,996	$506,945	$612,765	$761,553
BARTOW	GA	$395,996	$506,945	$612,765	$761,553
BUTTS	GA	$395,996	$506,945	$612,765	$761,553
CARROLL	GA	$395,996	$506,945	$612,765	$761,553
CHEROKEE	GA	$395,996	$506,945	$612,765	$761,553
CLARKE	GA	$374,437	$479,319	$579,415	$720,064
CLAYTON	GA	$395,996	$506,945	$612,765	$761,553
COBB	GA	$395,996	$506,945	$612,765	$761,553
COWETA	GA	$395,996	$506,945	$612,765	$761,553
DAWSON	GA	$395,996	$506,945	$612,765	$761,553
DEKALB	GA	$395,996	$506,945	$612,765	$761,553
DOUGLAS	GA	$395,996	$506,945	$612,765	$761,553
FAYETTE	GA	$395,996	$506,945	$612,765	$761,553
FORSYTH	GA	$395,996	$506,945	$612,765	$761,553
FULTON	GA	$395,996	$506,945	$612,765	$761,553
GREENE	GA	$508,327	$650,751	$786,614	$977,582
GWINNETT	GA	$395,996	$506,945	$612,765	$761,553
HARALSON	GA	$395,996	$506,945	$612,765	$761,553
HEARD	GA	$395,996	$506,945	$612,765	$761,553
HENRY	GA	$395,996	$506,945	$612,765	$761,553
JASPER	GA	$395,996	$506,945	$612,765	$761,553
LAMAR	GA	$395,996	$506,945	$612,765	$761,553
MADISON	GA	$374,437	$479,319	$579,415	$720,064

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
MERIWETHER	GA	$395,996	$506,945	$612,765	$761,553
MORGAN	GA	$395,996	$506,945	$612,765	$761,553
NEWTON	GA	$395,996	$506,945	$612,765	$761,553
OCONEE	GA	$374,437	$479,319	$579,415	$720,064
OGLETHORPE	GA	$374,437	$479,319	$579,415	$720,064
PAULDING	GA	$395,996	$506,945	$612,765	$761,553
PICKENS	GA	$395,996	$506,945	$612,765	$761,553
PIKE	GA	$395,996	$506,945	$612,765	$761,553
ROCKDALE	GA	$395,996	$506,945	$612,765	$761,553
SPALDING	GA	$395,996	$506,945	$612,765	$761,553
WALTON	GA	$395,996	$506,945	$612,765	$761,553
HAWAII	HI	$385,784	$493,872	$596,978	$741,869
HONOLULU	HI	$711,430	$910,736	$1,100,914	$1,368,151
KALAWAO	HI	$680,795	$871,516	$1,053,505	$1,309,247
KAUAI	HI	$703,488	$900,573	$1,088,630	$1,352,857
MAUI	HI	$680,795	$871,516	$1,053,505	$1,309,247
ADA	ID	$361,956	$463,335	$560,077	$696,088
BLAINE	ID	$637,678	$816,362	$986,758	$1,226,318
BOISE	ID	$361,956	$463,335	$560,077	$696,088
CAMAS	ID	$637,678	$816,362	$986,758	$1,226,318
CANYON	ID	$361,956	$463,335	$560,077	$696,088
GEM	ID	$361,956	$463,335	$560,077	$696,088
KOOTENAI	ID	$331,320	$424,115	$512,668	$637,135
OWYHEE	ID	$361,956	$463,335	$560,077	$696,088
TETON	ID	$755,386	$967,246	$1,169,117	$1,452,905
BOONE	IL	$334,724	$428,506	$517,947	$643,696
COOK	IL	$363,091	$464,815	$561,853	$698,259
DEKALB	IL	$363,091	$464,815	$561,853	$698,259
DUPAGE	IL	$363,091	$464,815	$561,853	$698,259
GRUNDY	IL	$363,091	$464,815	$561,853	$698,259
KANE	IL	$363,091	$464,815	$561,853	$698,259
KENDALL	IL	$363,091	$464,815	$561,853	$698,259
LAKE	IL	$363,091	$464,815	$561,853	$698,259
MCHENRY	IL	$363,091	$464,815	$561,853	$698,259
WILL	IL	$363,091	$464,815	$561,853	$698,259
WINNEBAGO	IL	$334,724	$428,506	$517,947	$643,696
BOONE	IN	$350,609	$448,831	$542,514	$674,233
BROWN	IN	$350,609	$448,831	$542,514	$674,233
CLARK	IN	$329,051	$421,254	$509,165	$632,794
FLOYD	IN	$329,051	$421,254	$509,165	$632,794
HAMILTON	IN	$350,609	$448,831	$542,514	$674,233

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
HANCOCK	IN	$350,609	$448,831	$542,514	$674,233
HARRISON	IN	$329,051	$421,254	$509,165	$632,794
HENDRICKS	IN	$350,609	$448,831	$542,514	$674,233
JASPER	IN	$363,091	$464,815	$561,853	$698,259
JOHNSON	IN	$350,609	$448,831	$542,514	$674,233
LAKE	IN	$363,091	$464,815	$561,853	$698,259
MADISON	IN	$350,609	$448,831	$542,514	$674,233
MARION	IN	$350,609	$448,831	$542,514	$674,233
MORGAN	IN	$350,609	$448,831	$542,514	$674,233
NEWTON	IN	$363,091	$464,815	$561,853	$698,259
PORTER	IN	$363,091	$464,815	$561,853	$698,259
PUTNAM	IN	$350,609	$448,831	$542,514	$674,233
SHELBY	IN	$350,609	$448,831	$542,514	$674,233
WASHINGTON	IN	$329,051	$421,254	$509,165	$632,794
JOHNSON	KS	$347,205	$444,490	$537,285	$667,721
LEAVENWORTH	KS	$347,205	$444,490	$537,285	$667,721
LINN	KS	$347,205	$444,490	$537,285	$667,721
MIAMI	KS	$347,205	$444,490	$537,285	$667,721
WYANDOTTE	KS	$347,205	$444,490	$537,285	$667,721
BULLITT	KY	$329,051	$421,254	$509,165	$632,794
HENRY	KY	$329,051	$421,254	$509,165	$632,794
JEFFERSON	KY	$329,051	$421,254	$509,165	$632,794
OLDHAM	KY	$329,051	$421,254	$509,165	$632,794
SHELBY	KY	$329,051	$421,254	$509,165	$632,794
SPENCER	KY	$329,051	$421,254	$509,165	$632,794
BARNSTABLE	MA	$465,210	$595,547	$719,866	$894,653
BRISTOL	MA	$453,863	$580,994	$702,304	$872,799
DUKES	MA	$755,386	$967,246	$1,169,117	$1,452,905
ESSEX	MA	$680,795	$871,516	$1,053,505	$1,309,247
MIDDLESEX	MA	$680,795	$871,516	$1,053,505	$1,309,247
NANTUCKET	MA	$755,386	$967,246	$1,169,117	$1,452,905
NORFOLK	MA	$680,795	$871,516	$1,053,505	$1,309,247
PLYMOUTH	MA	$680,795	$871,516	$1,053,505	$1,309,247
SUFFOLK	MA	$680,795	$871,516	$1,053,505	$1,309,247
WORCESTER	MA	$334,724	$428,506	$517,947	$643,696
ANNE ARUNDEL	MD	$514,000	$658,003	$795,395	$988,484
BALTIMORE	MD	$514,000	$658,003	$795,395	$988,484
BALTIMORE CITY	MD	$514,000	$658,003	$795,395	$988,484
CALVERT	MD	$755,386	$967,246	$1,169,117	$1,452,905
CARROLL	MD	$514,000	$658,003	$795,395	$988,484
CECIL	MD	$402,804	$515,628	$623,322	$774,626

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
CHARLES	MD	$755,386	$967,246	$1,169,117	$1,452,905
FREDERICK	MD	$755,386	$967,246	$1,169,117	$1,452,905
HARFORD	MD	$514,000	$658,003	$795,395	$988,484
HOWARD	MD	$514,000	$658,003	$795,395	$988,484
MONTGOMERY	MD	$755,386	$967,246	$1,169,117	$1,452,905
PRINCE GEORGE'S	MD	$755,386	$967,246	$1,169,117	$1,452,905
QUEEN ANNE'S	MD	$514,000	$658,003	$795,395	$988,484
SOMERSET	MD	$340,397	$435,758	$526,728	$654,599
ST. MARY'S	MD	$342,667	$438,669	$530,231	$658,990
TALBOT	MD	$377,841	$483,710	$584,694	$726,625
WICOMICO	MD	$340,397	$435,758	$526,728	$654,599
WORCESTER	MD	$340,397	$435,758	$526,728	$654,599
CUMBERLAND	ME	$361,956	$463,335	$560,077	$696,088
SAGADAHOC	ME	$361,956	$463,335	$560,077	$696,088
YORK	ME	$361,956	$463,335	$560,077	$696,088
ANOKA	MN	$377,841	$483,710	$584,694	$726,625
CARVER	MN	$377,841	$483,710	$584,694	$726,625
CHISAGO	MN	$377,841	$483,710	$584,694	$726,625
DAKOTA	MN	$377,841	$483,710	$584,694	$726,625
HENNEPIN	MN	$377,841	$483,710	$584,694	$726,625
ISANTI	MN	$377,841	$483,710	$584,694	$726,625
LE SUEUR	MN	$377,841	$483,710	$584,694	$726,625
MILLE LACS	MN	$377,841	$483,710	$584,694	$726,625
RAMSEY	MN	$377,841	$483,710	$584,694	$726,625
SCOTT	MN	$377,841	$483,710	$584,694	$726,625
SHERBURNE	MN	$377,841	$483,710	$584,694	$726,625
WASHINGTON	MN	$377,841	$483,710	$584,694	$726,625
WRIGHT	MN	$377,841	$483,710	$584,694	$726,625
BATES	MO	$347,205	$444,490	$537,285	$667,721
CALDWELL	MO	$347,205	$444,490	$537,285	$667,721
CASS	MO	$347,205	$444,490	$537,285	$667,721
CLAY	MO	$347,205	$444,490	$537,285	$667,721
CLINTON	MO	$347,205	$444,490	$537,285	$667,721
JACKSON	MO	$347,205	$444,490	$537,285	$667,721
LAFAYETTE	MO	$347,205	$444,490	$537,285	$667,721
PLATTE	MO	$347,205	$444,490	$537,285	$667,721
RAY	MO	$347,205	$444,490	$537,285	$667,721
CAMDEN	NC	$452,728	$579,563	$700,577	$870,628
CHATHAM	NC	$408,477	$522,929	$632,103	$785,529
CURRITUCK	NC	$452,728	$579,563	$700,577	$870,628
DARE	NC	$385,784	$493,872	$596,978	$741,869

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
DURHAM	NC	$408,477	$522,929	$632,103	$785,529
FRANKLIN	NC	$348,340	$445,921	$539,012	$669,892
GATES	NC	$452,728	$579,563	$700,577	$870,628
GRANVILLE	NC	$408,477	$522,929	$632,103	$785,529
HYDE	NC	$476,556	$610,051	$737,429	$916,458
JOHNSTON	NC	$348,340	$445,921	$539,012	$669,892
ORANGE	NC	$408,477	$522,929	$632,103	$785,529
PASQUOTANK	NC	$755,386	$967,246	$1,169,117	$1,452,905
PERQUIMANS	NC	$755,386	$967,246	$1,169,117	$1,452,905
PERSON	NC	$408,477	$522,929	$632,103	$785,529
WAKE	NC	$348,340	$445,921	$539,012	$669,892
BILLINGS	ND	$334,724	$428,506	$517,947	$643,696
STARK	ND	$334,724	$428,506	$517,947	$643,696
LINCOLN	NE	$427,766	$547,596	$661,950	$822,627
LOGAN	NE	$427,766	$547,596	$661,950	$822,627
MCPHERSON	NE	$427,766	$547,596	$661,950	$822,627
HILLSBOROUGH	NH	$334,724	$428,506	$517,947	$643,696
ROCKINGHAM	NH	$680,795	$871,516	$1,053,505	$1,309,247
STRAFFORD	NH	$680,795	$871,516	$1,053,505	$1,309,247
BERGEN	NJ	$755,386	$967,246	$1,169,117	$1,452,905
BURLINGTON	NJ	$402,804	$515,628	$623,322	$774,626
CAMDEN	NJ	$402,804	$515,628	$623,322	$774,626
CAPE MAY	NJ	$408,477	$522,929	$632,103	$785,529
ESSEX	NJ	$755,386	$967,246	$1,169,117	$1,452,905
GLOUCESTER	NJ	$402,804	$515,628	$623,322	$774,626
HUDSON	NJ	$755,386	$967,246	$1,169,117	$1,452,905
HUNTERDON	NJ	$755,386	$967,246	$1,169,117	$1,452,905
MERCER	NJ	$340,397	$435,758	$526,728	$654,599
MIDDLESEX	NJ	$755,386	$967,246	$1,169,117	$1,452,905
MONMOUTH	NJ	$755,386	$967,246	$1,169,117	$1,452,905
MORRIS	NJ	$755,386	$967,246	$1,169,117	$1,452,905
OCEAN	NJ	$755,386	$967,246	$1,169,117	$1,452,905
PASSAIC	NJ	$755,386	$967,246	$1,169,117	$1,452,905
SALEM	NJ	$402,804	$515,628	$623,322	$774,626
SOMERSET	NJ	$755,386	$967,246	$1,169,117	$1,452,905
SUSSEX	NJ	$755,386	$967,246	$1,169,117	$1,452,905
UNION	NJ	$755,386	$967,246	$1,169,117	$1,452,905
WARREN	NJ	$367,629	$470,636	$568,858	$706,990
CATRON	NM	$395,996	$506,945	$612,765	$761,553
LOS ALAMOS	NM	$425,497	$544,685	$658,447	$818,286

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
SANTA FE	NM	$375,572	$480,799	$581,142	$722,234
CARSON CITY	NV	$356,283	$456,083	$551,296	$685,136
CLARK	NV	$340,397	$435,758	$526,728	$654,599
DOUGLAS	NV	$453,863	$580,994	$702,304	$872,799
STOREY	NV	$431,170	$551,986	$667,179	$829,188
WASHOE	NV	$431,170	$551,986	$667,179	$829,188
BRONX	NY	$755,386	$967,246	$1,169,117	$1,452,905
DUTCHESS	NY	$351,744	$450,262	$544,290	$676,404
KINGS	NY	$755,386	$967,246	$1,169,117	$1,452,905
NASSAU	NY	$755,386	$967,246	$1,169,117	$1,452,905
NEW YORK	NY	$755,386	$967,246	$1,169,117	$1,452,905
ORANGE	NY	$351,744	$450,262	$544,290	$676,404
PUTNAM	NY	$755,386	$967,246	$1,169,117	$1,452,905
QUEENS	NY	$755,386	$967,246	$1,169,117	$1,452,905
RICHMOND	NY	$755,386	$967,246	$1,169,117	$1,452,905
ROCKLAND	NY	$755,386	$967,246	$1,169,117	$1,452,905
SUFFOLK	NY	$755,386	$967,246	$1,169,117	$1,452,905
WESTCHESTER	NY	$755,386	$967,246	$1,169,117	$1,452,905
DELAWARE	OH	$368,764	$472,067	$570,634	$709,161
FAIRFIELD	OH	$368,764	$472,067	$570,634	$709,161
FRANKLIN	OH	$368,764	$472,067	$570,634	$709,161
HOCKING	OH	$368,764	$472,067	$570,634	$709,161
LICKING	OH	$368,764	$472,067	$570,634	$709,161
MADISON	OH	$368,764	$472,067	$570,634	$709,161
MORROW	OH	$368,764	$472,067	$570,634	$709,161
PERRY	OH	$368,764	$472,067	$570,634	$709,161
PICKAWAY	OH	$368,764	$472,067	$570,634	$709,161
UNION	OH	$368,764	$472,067	$570,634	$709,161
BENTON	OR	$397,130	$508,376	$614,541	$763,723
CLACKAMAS	OR	$484,499	$620,214	$749,713	$931,751
CLATSOP	OR	$340,397	$435,758	$526,728	$654,599
COLUMBIA	OR	$484,499	$620,214	$749,713	$931,751
DESCHUTES	OR	$425,497	$544,685	$658,447	$818,286
HOOD RIVER	OR	$470,883	$602,799	$728,648	$905,556
JACKSON	OR	$329,051	$421,254	$509,165	$632,794
MARION	OR	$338,128	$432,847	$523,225	$650,258
MULTNOMAH	OR	$484,499	$620,214	$749,713	$931,751
POLK	OR	$338,128	$432,847	$523,225	$650,258
WASHINGTON	OR	$484,499	$620,214	$749,713	$931,751
YAMHILL	OR	$484,499	$620,214	$749,713	$931,751

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
BUCKS	PA	$402,804	$515,628	$623,322	$774,626
CARBON	PA	$367,629	$470,636	$568,858	$706,990
CHESTER	PA	$402,804	$515,628	$623,322	$774,626
DELAWARE	PA	$402,804	$515,628	$623,322	$774,626
LEHIGH	PA	$367,629	$470,636	$568,858	$706,990
MONTGOMERY	PA	$402,804	$515,628	$623,322	$774,626
NORTHAMPTON	PA	$367,629	$470,636	$568,858	$706,990
PHILADELPHIA	PA	$402,804	$515,628	$623,322	$774,626
PIKE	PA	$755,386	$967,246	$1,169,117	$1,452,905
BRISTOL	RI	$453,863	$580,994	$702,304	$872,799
KENT	RI	$453,863	$580,994	$702,304	$872,799
NEWPORT	RI	$453,863	$580,994	$702,304	$872,799
PROVIDENCE	RI	$453,863	$580,994	$702,304	$872,799
WASHINGTON	RI	$453,863	$580,994	$702,304	$872,799
BEAUFORT	SC	$346,071	$443,010	$535,509	$665,501
BERKELEY	SC	$385,784	$493,872	$596,978	$741,869
CHARLESTON	SC	$385,784	$493,872	$596,978	$741,869
DORCHESTER	SC	$385,784	$493,872	$596,978	$741,869
JASPER	SC	$346,071	$443,010	$535,509	$665,501
CANNON	TN	$555,982	$711,776	$860,367	$1,069,193
CHEATHAM	TN	$555,982	$711,776	$860,367	$1,069,193
DAVIDSON	TN	$555,982	$711,776	$860,367	$1,069,193
DICKSON	TN	$555,982	$711,776	$860,367	$1,069,193
MACON	TN	$555,982	$711,776	$860,367	$1,069,193
MAURY	TN	$555,982	$711,776	$860,367	$1,069,193
ROBERTSON	TN	$555,982	$711,776	$860,367	$1,069,193
RUTHERFORD	TN	$555,982	$711,776	$860,367	$1,069,193
SMITH	TN	$555,982	$711,776	$860,367	$1,069,193
SUMNER	TN	$555,982	$711,776	$860,367	$1,069,193
TROUSDALE	TN	$555,982	$711,776	$860,367	$1,069,193
WILLIAMSON	TN	$555,982	$711,776	$860,367	$1,069,193
WILSON	TN	$555,982	$711,776	$860,367	$1,069,193
ATASCOSA	TX	$388,053	$496,783	$600,481	$746,260
BANDERA	TX	$388,053	$496,783	$600,481	$746,260
BASTROP	TX	$399,400	$511,287	$618,043	$768,065
BEXAR	TX	$388,053	$496,783	$600,481	$746,260
CALDWELL	TX	$399,400	$511,287	$618,043	$768,065
COLLIN	TX	$399,400	$511,287	$618,043	$768,065
COMAL	TX	$388,053	$496,783	$600,481	$746,260
DALLAS	TX	$399,400	$511,287	$618,043	$768,065
DENTON	TX	$399,400	$511,287	$618,043	$768,065

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
ELLIS	TX	$399,400	$511,287	$618,043	$768,065
GUADALUPE	TX	$388,053	$496,783	$600,481	$746,260
HAYS	TX	$399,400	$511,287	$618,043	$768,065
HUNT	TX	$399,400	$511,287	$618,043	$768,065
JOHNSON	TX	$399,400	$511,287	$618,043	$768,065
KAUFMAN	TX	$399,400	$511,287	$618,043	$768,065
KENDALL	TX	$388,053	$496,783	$600,481	$746,260
MARTIN	TX	$336,993	$431,417	$521,449	$648,038
MEDINA	TX	$388,053	$496,783	$600,481	$746,260
MIDLAND	TX	$336,993	$431,417	$521,449	$648,038
PARKER	TX	$399,400	$511,287	$618,043	$768,065
ROCKWALL	TX	$399,400	$511,287	$618,043	$768,065
TARRANT	TX	$399,400	$511,287	$618,043	$768,065
TRAVIS	TX	$399,400	$511,287	$618,043	$768,065
WILLIAMSON	TX	$399,400	$511,287	$618,043	$768,065
WILSON	TX	$388,053	$496,783	$600,481	$746,260
WISE	TX	$399,400	$511,287	$618,043	$768,065
BOX ELDER	UT	$637,678	$816,362	$986,758	$1,226,318
DAVIS	UT	$637,678	$816,362	$986,758	$1,226,318
JUAB	UT	$395,996	$506,945	$612,765	$761,553
MORGAN	UT	$637,678	$816,362	$986,758	$1,226,318
RICH	UT	$369,898	$473,547	$572,410	$711,332
SALT LAKE	UT	$410,746	$525,840	$635,606	$789,919
SUMMIT	UT	$755,386	$967,246	$1,169,117	$1,452,905
TOOELE	UT	$410,746	$525,840	$635,606	$789,919
UTAH	UT	$395,996	$506,945	$612,765	$761,553
WASATCH	UT	$755,386	$967,246	$1,169,117	$1,452,905
WASHINGTON	UT	$372,168	$476,408	$575,913	$715,722
WEBER	UT	$637,678	$816,362	$986,758	$1,226,318
ALBEMARLE	VA	$431,170	$551,986	$667,179	$829,188
ALEXANDRIA CITY	VA	$755,386	$967,246	$1,169,117	$1,452,905
AMELIA	VA	$528,751	$676,897	$818,187	$1,016,851
ARLINGTON	VA	$755,386	$967,246	$1,169,117	$1,452,905
CHARLES CITY	VA	$528,751	$676,897	$818,187	$1,016,851
CHARLOTTESVILLE	VA	$431,170	$551,986	$667,179	$829,188
CHESAPEAKE CITY	VA	$452,728	$579,563	$700,577	$870,628
CHESTERFIELD	VA	$528,751	$676,897	$818,187	$1,016,851
CLARKE	VA	$755,386	$967,246	$1,169,117	$1,452,905
COLONIAL HEIGHT	VA	$528,751	$676,897	$818,187	$1,016,851
CULPEPER	VA	$755,386	$967,246	$1,169,117	$1,452,905
DINWIDDIE	VA	$528,751	$676,897	$818,187	$1,016,851
FAIRFAX	VA	$755,386	$967,246	$1,169,117	$1,452,905

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
FAIRFAX CITY	VA	$755,386	$967,246	$1,169,117	$1,452,905
FALLS CHURCH CI	VA	$755,386	$967,246	$1,169,117	$1,452,905
FAUQUIER	VA	$755,386	$967,246	$1,169,117	$1,452,905
FLUVANNA	VA	$431,170	$551,986	$667,179	$829,188
FRANKLIN CITY	VA	$452,728	$579,563	$700,577	$870,628
FREDERICKSBURG	VA	$755,386	$967,246	$1,169,117	$1,452,905
GLOUCESTER	VA	$452,728	$579,563	$700,577	$870,628
GOOCHLAND	VA	$528,751	$676,897	$818,187	$1,016,851
GREENE	VA	$431,170	$551,986	$667,179	$829,188
HAMPTON CITY	VA	$452,728	$579,563	$700,577	$870,628
HANOVER	VA	$528,751	$676,897	$818,187	$1,016,851
HENRICO	VA	$528,751	$676,897	$818,187	$1,016,851
HOPEWELL CITY	VA	$528,751	$676,897	$818,187	$1,016,851
ISLE OF WIGHT	VA	$452,728	$579,563	$700,577	$870,628
JAMES CITY	VA	$452,728	$579,563	$700,577	$870,628
KING AND QUEEN	VA	$528,751	$676,897	$818,187	$1,016,851
KING GEORGE	VA	$346,071	$443,010	$535,509	$665,501
KING WILLIAM	VA	$528,751	$676,897	$818,187	$1,016,851
LANCASTER	VA	$436,843	$559,238	$675,960	$840,091
LEXINGTON CITY	VA	$349,475	$447,401	$540,788	$672,063
LOUDOUN	VA	$755,386	$967,246	$1,169,117	$1,452,905
MADISON	VA	$755,386	$967,246	$1,169,117	$1,452,905
MANASSAS CITY	VA	$755,386	$967,246	$1,169,117	$1,452,905
MANASSAS PARK C	VA	$755,386	$967,246	$1,169,117	$1,452,905
MATHEWS	VA	$452,728	$579,563	$700,577	$870,628
NELSON	VA	$431,170	$551,986	$667,179	$829,188
NEW KENT	VA	$528,751	$676,897	$818,187	$1,016,851
NEWPORT NEWS CI	VA	$452,728	$579,563	$700,577	$870,628
NORFOLK CITY	VA	$452,728	$579,563	$700,577	$870,628
PETERSBURG CITY	VA	$528,751	$676,897	$818,187	$1,016,851
POQUOSON CITY	VA	$452,728	$579,563	$700,577	$870,628
PORTSMOUTH CITY	VA	$452,728	$579,563	$700,577	$870,628
POWHATAN	VA	$528,751	$676,897	$818,187	$1,016,851
PRINCE GEORGE	VA	$528,751	$676,897	$818,187	$1,016,851
PRINCE WILLIAM	VA	$755,386	$967,246	$1,169,117	$1,452,905
RAPPAHANNOCK	VA	$755,386	$967,246	$1,169,117	$1,452,905
RICHMOND CITY	VA	$528,751	$676,897	$818,187	$1,016,851
SOUTHAMPTON	VA	$452,728	$579,563	$700,577	$870,628
SPOTSYLVANIA	VA	$755,386	$967,246	$1,169,117	$1,452,905
STAFFORD	VA	$755,386	$967,246	$1,169,117	$1,452,905
SUFFOLK CITY	VA	$452,728	$579,563	$700,577	$870,628
SUSSEX	VA	$528,751	$676,897	$818,187	$1,016,851
VIRGINIA BEACH	VA	$452,728	$579,563	$700,577	$870,628

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
WARREN	VA	$755,386	$967,246	$1,169,117	$1,452,905
WILLIAMSBURG CI	VA	$452,728	$579,563	$700,577	$870,628
YORK	VA	$452,728	$579,563	$700,577	$870,628
CHITTENDEN	VT	$363,091	$464,815	$561,853	$698,259
FRANKLIN	VT	$363,091	$464,815	$561,853	$698,259
GRAND ISLE	VT	$363,091	$464,815	$561,853	$698,259
CHELAN	WA	$340,397	$435,758	$526,728	$654,599
CLALLAM	WA	$378,976	$485,140	$586,421	$728,796
CLARK	WA	$484,499	$620,214	$749,713	$931,751
DOUGLAS	WA	$340,397	$435,758	$526,728	$654,599
ISLAND	WA	$388,053	$496,783	$600,481	$746,260
JEFFERSON	WA	$347,205	$444,490	$537,285	$667,721
KING	WA	$731,854	$936,931	$1,132,487	$1,407,420
KITSAP	WA	$390,322	$499,693	$603,983	$750,601
PIERCE	WA	$731,854	$936,931	$1,132,487	$1,407,420
SAN JUAN	WA	$491,307	$628,946	$760,270	$944,825
SKAGIT	WA	$368,764	$472,067	$570,634	$709,161
SKAMANIA	WA	$484,499	$620,214	$749,713	$931,751
SNOHOMISH	WA	$731,854	$936,931	$1,132,487	$1,407,420
THURSTON	WA	$365,360	$467,726	$565,356	$702,600
WHATCOM	WA	$406,208	$520,019	$628,551	$781,187
COLUMBIA	WI	$329,051	$421,254	$509,165	$632,794
DANE	WI	$329,051	$421,254	$509,165	$632,794
GREEN	WI	$329,051	$421,254	$509,165	$632,794
IOWA	WI	$329,051	$421,254	$509,165	$632,794
KENOSHA	WI	$363,091	$464,815	$561,853	$698,259
MILWAUKEE	WI	$334,724	$428,506	$517,947	$643,696
OZAUKEE	WI	$334,724	$428,506	$517,947	$643,696
PIERCE	WI	$377,841	$483,710	$584,694	$726,625
ST. CROIX	WI	$377,841	$483,710	$584,694	$726,625
WASHINGTON	WI	$334,724	$428,506	$517,947	$643,696
WAUKESHA	WI	$334,724	$428,506	$517,947	$643,696
JEFFERSON	WV	$755,386	$967,246	$1,169,117	$1,452,905
TETON	WY	$755,386	$967,246	$1,169,117	$1,452,905
GUAM	GU	$555,982	$711,776	$860,367	$1,069,193
NORTHERN ISLAND	MP	$517,404	$662,344	$800,624	$994,996
ROTA	MP	$405,073	$518,539	$626,824	$778,967
SAIPAN	MP	$521,943	$668,165	$807,679	$1,003,728
TINIAN	MP	$525,347	$672,556	$812,958	$1,010,289

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
FLATHEAD	MT	$339,263	$434,327	$525,001	$652,428
GALLATIN	MT	$432,305	$553,417	$668,955	$831,359
MISSOULA	MT	$346,071	$443,010	$535,509	$665,501
PARK	MT	$332,455	$425,595	$514,444	$639,355
AGUAS BUENAS	PR	$380,110	$486,620	$588,197	$730,966
AIBONITO	PR	$380,110	$486,620	$588,197	$730,966
BARCELONETA	PR	$380,110	$486,620	$588,197	$730,966
BARRANQUITAS	PR	$380,110	$486,620	$588,197	$730,966
BAYAMON	PR	$380,110	$486,620	$588,197	$730,966
CAGUAS	PR	$380,110	$486,620	$588,197	$730,966
CANOVANAS	PR	$380,110	$486,620	$588,197	$730,966
CAROLINA	PR	$380,110	$486,620	$588,197	$730,966
CATANO	PR	$380,110	$486,620	$588,197	$730,966
CAYEY	PR	$380,110	$486,620	$588,197	$730,966
CAYEY	PR	$380,110	$486,620	$588,197	$730,966
CEIBA	PR	$380,110	$486,620	$588,197	$730,966
CIALES	PR	$380,110	$486,620	$588,197	$730,966
CIDRA	PR	$380,110	$486,620	$588,197	$730,966
COMERIO	PR	$380,110	$486,620	$588,197	$730,966
COROZAL	PR	$380,110	$486,620	$588,197	$730,966
DORADO	PR	$380,110	$486,620	$588,197	$730,966
FAJARDO	PR	$380,110	$486,620	$588,197	$730,966
FLORIDA	PR	$380,110	$486,620	$588,197	$730,966
GUAYNABO	PR	$380,110	$486,620	$588,197	$730,966
GURABO	PR	$380,110	$486,620	$588,197	$730,966
HUMACAO	PR	$380,110	$486,620	$588,197	$730,966
JUNCOS	PR	$380,110	$486,620	$588,197	$730,966
LAS PIEDRAS	PR	$380,110	$486,620	$588,197	$730,966
LOIZA	PR	$380,110	$486,620	$588,197	$730,966
LUQUILLO	PR	$380,110	$486,620	$588,197	$730,966
MANATI	PR	$380,110	$486,620	$588,197	$730,966
MAUNABO	PR	$380,110	$486,620	$588,197	$730,966
MOROVIS	PR	$380,110	$486,620	$588,197	$730,966
NAGUABO	PR	$380,110	$486,620	$588,197	$730,966
NARANJITO	PR	$380,110	$486,620	$588,197	$730,966
OROCOVIS	PR	$380,110	$486,620	$588,197	$730,966
RIO GRANDE	PR	$380,110	$486,620	$588,197	$730,966
SAN JUAN	PR	$380,110	$486,620	$588,197	$730,966
SAN LORENZO	PR	$380,110	$486,620	$588,197	$730,966
TOA ALTA	PR	$380,110	$486,620	$588,197	$730,966
TOA BAJA	PR	$380,110	$486,620	$588,197	$730,966

2020 Average Area Purchase Prices for Mortgage Revenue Bonds					
County Name	State	One-Unit Limit	Two-Unit Limit	Three-Unit Limit	Four-Unit Limit
TRUJILLO ALTO	PR	$380,110	$486,620	$588,197	$730,966
VEGA ALTA	PR	$380,110	$486,620	$588,197	$730,966
VEGA BAJA	PR	$380,110	$486,620	$588,197	$730,966
YABUCOA	PR	$380,110	$486,620	$588,197	$730,966
ST. JOHN ISLAND	VI	$614,985	$787,305	$951,633	$1,182,659
ST. THOMAS ISLAND	VI	$440,247	$563,580	$681,239	$846,652
All other areas - 2695 counties (floor):		$327,334	$419,133	$506,600	$629,587

.02 The nationwide average purchase price (for use in the housing cost/income ratio for new and existing residences) is $308,400.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2019-14 is obsolete except as provided in section 6 of this revenue procedure.

SECTION 6. EFFECTIVE DATES

.01 Issuers may rely on this revenue procedure to determine average area purchase price safe harbors for commitments to provide financing or issue mortgage credit certificates that are made, or (if the purchase precedes the commitment) for residences that are purchased, in the period that begins on March 24, 2020, and ends on the date as of which the safe harbors contained in section 4.01 of this revenue procedure are rendered obsolete by a new revenue procedure.

.02 Notwithstanding section 5 of this revenue procedure, issuers may continue to rely on the average area purchase price safe harbors contained in Rev. Proc. 2019-14, with respect to bonds sold, or for mortgage credit certificates issued with respect to bond authority exchanged, before April 23, 2020, if the commitments to provide financing or issue mortgage credit certificates are made on or before May 23, 2020.

.03 Except as provided in section 6.04, issuers must use the nationwide average purchase price limitation contained in this revenue procedure for commitments to provide financing or issue mortgage credit certificates that are made, or (if the purchase precedes the commitment) for residences that are purchased, in the period that begins on March 24, 2020, and ends on the date when the nationwide average purchase price limitation is rendered obsolete by a new revenue procedure.

.04 Notwithstanding sections 5 and 6.03 of this revenue procedure, issuers may continue to rely on the nationwide average purchase price set forth in Rev. Proc. 2019-14 with respect to bonds sold, or for mortgage credit certificates issued with respect to bond authority exchanged, before April 23, 2020, if the commitments to provide financing or issue mortgage credit certificates are made on or before May 23, 2020.

SECTION 7. PAPERWORK REDUCTION ACT

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

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

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

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

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

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

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

SECTION 8. DRAFTING INFORMATION

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

Part IV

Announcement and Report Concerning Advance Pricing Agreements

Announcement 2020-2

March 25, 2020

This Announcement is issued pursuant to § 521(b) of Pub. L. 106-170, the Ticket to Work and Work Incentives Improvement Act of 1999, which requires the Secretary of the Treasury to report annually to the public concerning advance pricing agreements (APAs) and the Advance Pricing and Mutual Agreement Program (APMA Program), formerly known as the Advance Pricing Agreement Program (APA Program). The first report covered calendar years 1991 through 1999. Subsequent reports covered each calendar year 2000 through 2018 separately. This twenty-first report describes the experience, structure, and activities of the APMA Program during calendar year 2019. It does not provide guidance regarding the application of the arm's length standard.

Part I of this report includes information on the structure, composition, and operation of the APMA Program; Part II presents statistical data; and Part III includes general descriptions of various elements of the APAs executed in 2019, including types of transactions covered, transfer pricing methods used, and completion time.

John C. C. Hughes
Director, Advance Pricing and Mutual Agreement Program

Part I. The APMA Program – Structure, Composition, and Operation
[Pub. L. 106-170 § 521(b)(2)(A)]

In February 2012, the former APA Program was moved from the Office of Chief Counsel to the Office of Transfer Pricing Operations[1] within the Large Business and International Division of the IRS and combined with the U.S. Competent Authority staff responsible for transfer pricing cases, thereby forming the APMA Program.

In September 2018, APMA restructured its management and realigned its teams. As of December 31, 2019, the APMA Program comprised 52 team leaders, 16 economists, 6 managers and 3 assistant directors. Each assistant director oversees 2 managers who lead teams comprised of both team leaders and economists. The APMA Program's main office is in Washington, DC, and it also has offices in northern California (San Francisco and San Jose), southern California (Los Angeles and Laguna Niguel), Chicago, and New York.

On August 31, 2015, new revenue procedures governing requests under the mutual agreement procedure (MAP) and APA applications were published in 2015-35 I.R.B. on pages 236 and 263, respectively. Revenue Procedure (Rev. Proc.) 2015-41 provides guidance and instructions on filing APA requests as well as guidance and information on the administration of APAs. Rev. Proc. 2015-41 updates and supersedes Rev. Proc. 2006-9, 2006-1 C.B. 278, as modified by Rev. Proc. 2008-31, 2008-1 C.B. 1133, which is also superseded. Rev. Proc. 2015-40 provides procedures and guidance on requesting assistance from the U.S. Competent Authority where the taxpayer believes that the actions of the United States or a treaty country result or will result in the taxpayer being subject to taxation not in accordance with the applicable U.S. tax treaty. Rev. Proc. 2015-40 updates and supersedes Rev. Proc. 2006-54, 2006-2 C.B. 1035.

The 2009 and 2015 Model APAs appear in this report as Appendix 1 and Appendix 2, respectively. The 2015 Model APA was finalized in May 2018. The new model does not contain any major revisions from the draft revision that was released for public comment in the fall of 2017. A list of primary APMA contacts is available at https://www.irs.gov/businesses/corporations/apma-contacts.

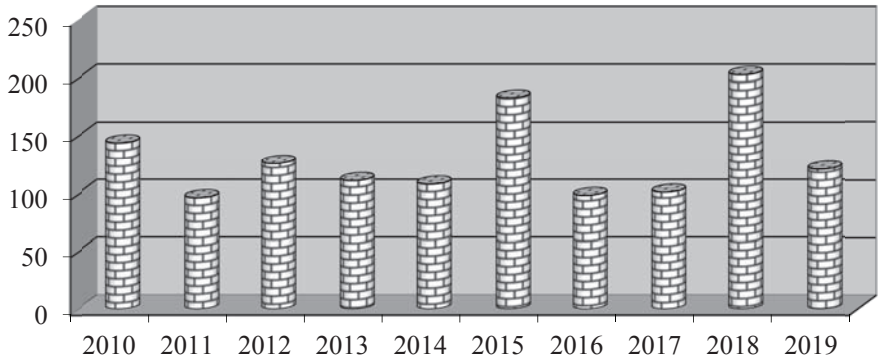
[1] In 2017, Transfer Pricing Operations became Treaty & Transfer Pricing Operations (TTPO).

Part II. APMA Program Statistical Data
[Pub. L. 106-170 § 521(b)(2)(C)(i-viii)]

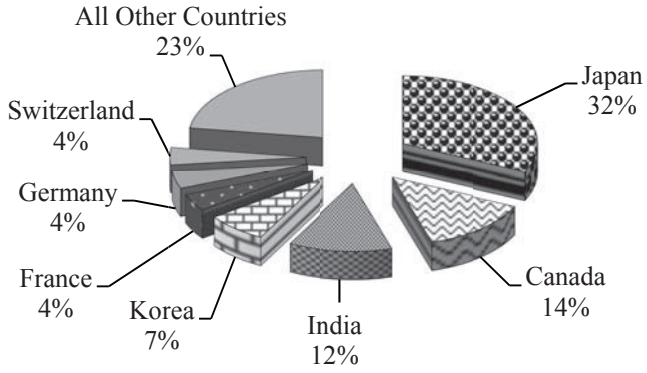
Table 1: APA Applications Filed
§ 521(b)(2)(C)(i)

	Unilateral	Bilateral	Multilateral	Total
Filed 1991-1999[2]				401
Filed 2000-2018	605	1,525	18	2,148
Filed in 2019	17	96	8	121
Total Filed 1991-2019				**2,670**

Applications Filed
2010-2019



Bilateral APAs
Filed by Country 2019



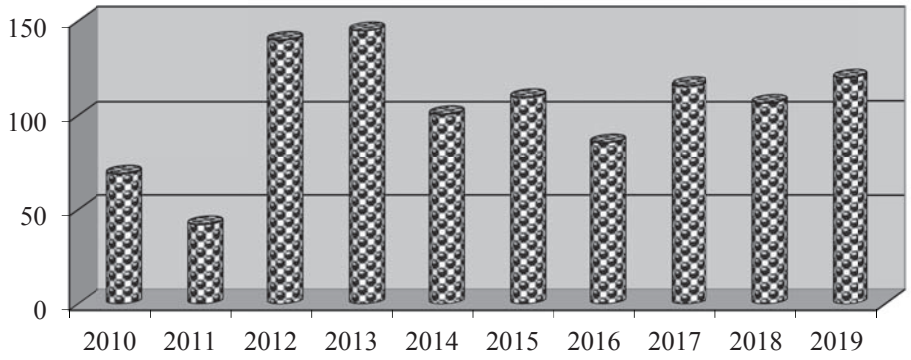
The charts above illustrate the number of complete applications filed per year and the bilateral requests received in 2019 by foreign country. As of December 31, 2019, APMA had also received 29 user fee filings that were not yet accompanied by substantially complete APA applications, in addition to the 122 complete APA applications.

[2] The first APA Statutory Report, which compiled APA data from 1991-1999, did not report the cumulative number of applications for those years by submission type, so the cumulative totals cannot be reported in that manner.

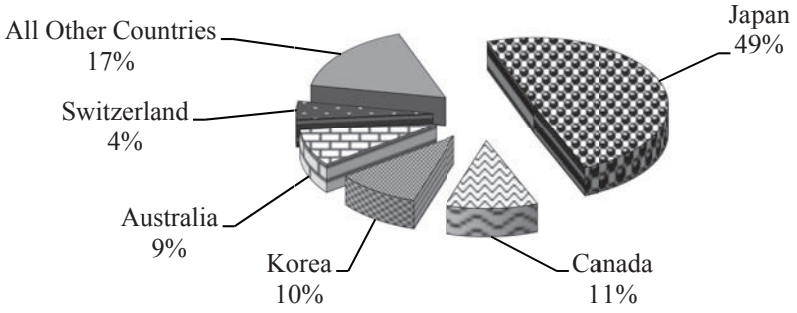
Table 2: Executed and Pending APAs
§ 521(b)(2)(C)(ii-vi)

	Unilateral	Bilateral	Multilateral	**Total**
Total Executed 1991-2018	614	1,189	17	1,820
Total Executed in 2019	29	91	0	120
Total Executed 1991-2019	**643**	**1,280**	**17**	**1,940**
Total Pending as of 12/31/2019	**46**	**386**	**22**	**454**
Renewals Executed in 2019[3]	*20*	*48*	*0*	*68*
Renewals Pending[4]	*28*	*158*	*8*	*194*

APAs Executed
2010-2019



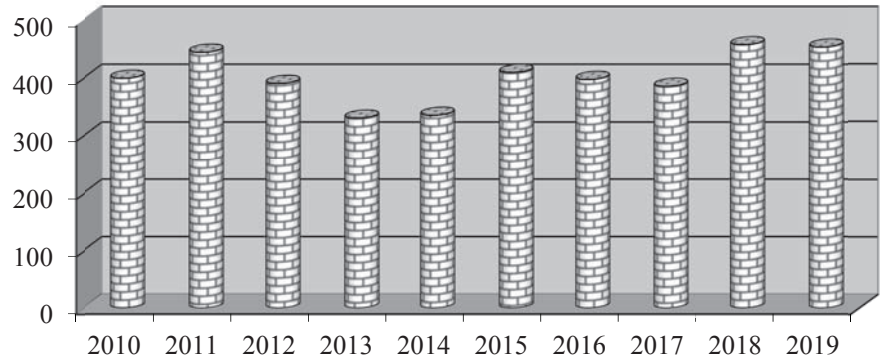
Bilateral APAs
Executed by Country 2019



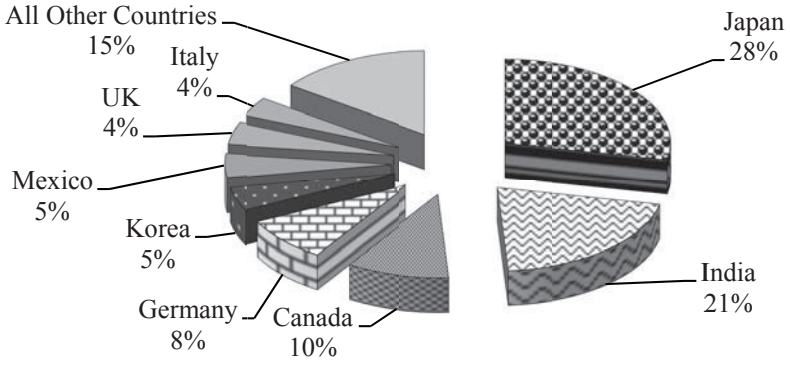
Consistent with prior years, roughly 40 percent of the APAs executed in 2019 were new APAs (*i.e.*, not a renewal of a prior APA). The charts above illustrate the total number of APAs executed per year and the countries involved in the executed bilateral APAs.

[3] The number of renewals executed is included in the total number of APAs executed during the year.
[4] The number of renewals still pending as of year-end is also included in the total number of pending APAs.

Pending APAs
2010-2019



Bilateral APAs
Pending by Country 2019



As the top chart illustrates, the number of pending requests decreased slightly relative to December 31, 2018. As of December 31, 2019, approximately half of the pending bilateral APA requests involved either Japan or India.

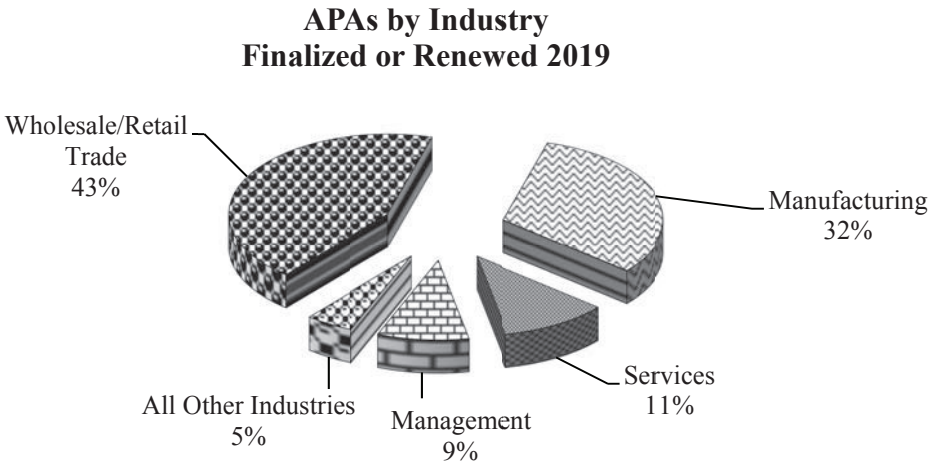
Table 3: APAs Revoked or Cancelled and Applications Withdrawn
§ 521(b)(2)(C)(vii)

	Unilateral	Bilateral	Multilateral	**Total**
Revoked or Cancelled in 2019	0	0	0	0
Total Revoked or Cancelled 1991-2019[5]				**11**
Applications Withdrawn in 2019[6]	1	11	0	12
Total Applications Withdrawn 1991-2019[7]				**265**

[5] The first APA Statutory Report, which compiled APA data from 1991-1999, did not report the cumulative number of applications for those years by submission type, so the cumulative totals cannot be reported in that manner.
[6] This number does not include bilateral cases where APMA was unable to reach a mutual agreement with the treaty partner(s) involved.
[7] The first APA Statutory Report, which compiled APA data from 1991-1999, did not report the cumulative number of applications for those years by submission type, so the cumulative totals cannot be reported in that manner.

Table 4: APAs Executed[8] by Industry
§ 521(b)(2)(C)(viii)

Industry	
Wholesale/Retail Trade	52
Manufacturing	38
Services	13
Management	11
All Other Industries	6



[8] APAs executed include APAs that were renewed.

Table 4a: Wholesale/Retail Trade APAs Executed in 2019

Wholesale/Retail Trade	
Merchant Wholesalers, Durable Goods	33
Merchant Wholesalers, Nondurable Goods	9
General Merchandise Stores	4
All Other Wholesalers	6

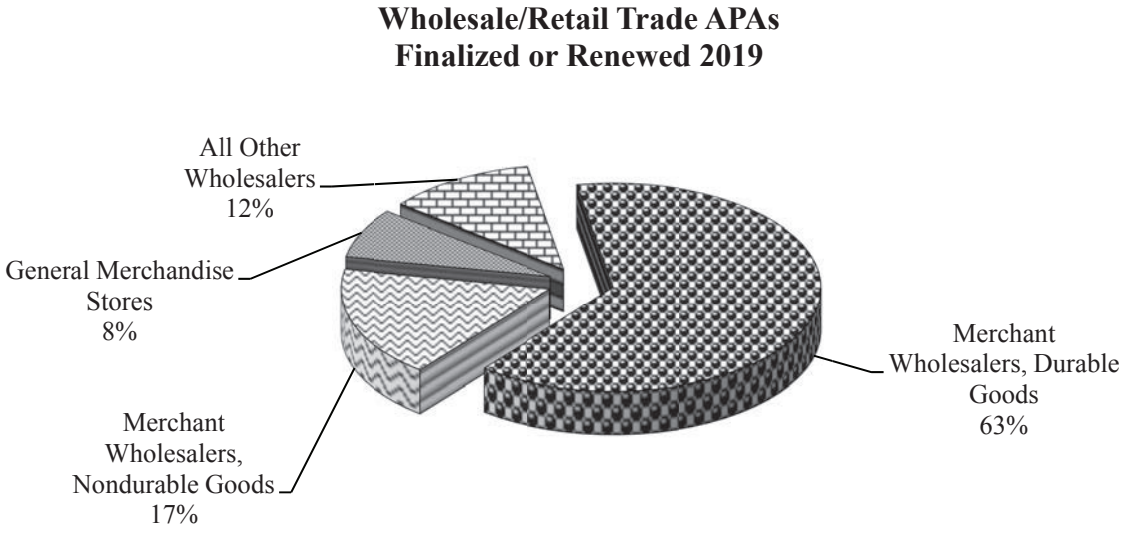


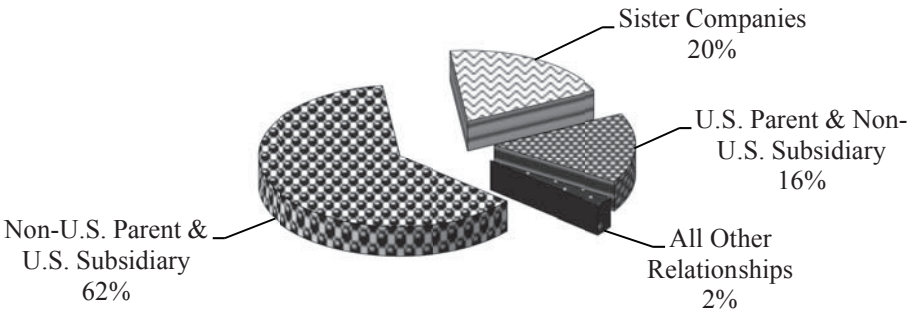
Table 4b: Manufacturing APAs Executed in 2019

Manufacturing	
Transportation Equipment Manufacturing	16
Computer and Electronic Product Manufacturing	5
Chemical Manufacturing	4
All Other Types of Manufacturing	13

Part III. General Descriptions of APAs Executed in 2019
[Pub. L. 106-170 § 521(b)(2)(D) and (E)]

Nature of the Relationships
§ 521(b)(2)(D)(i)

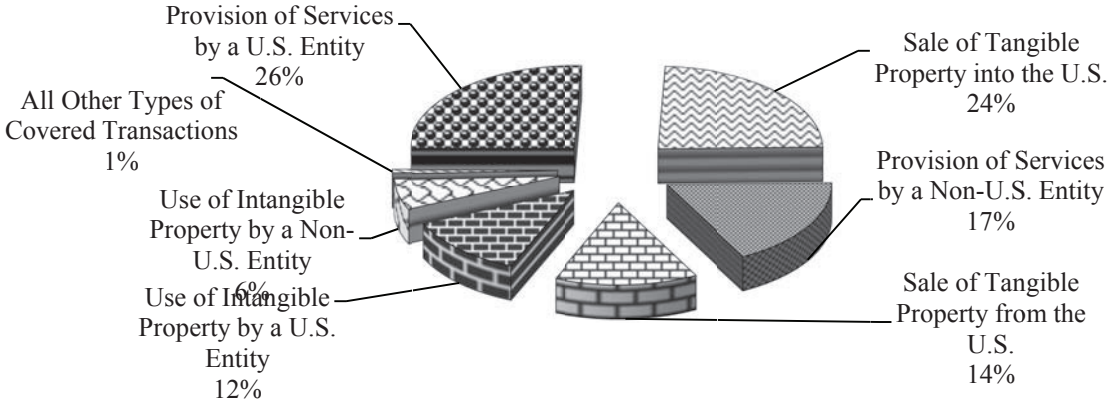
Relationships between Controlled Parties in 2019



As in prior years, more than half of the APAs executed in 2019 involved transactions between non-U.S. parents and U.S. subsidiaries.

Covered Transactions, Functions and Risks, and Tested Parties
§ 521(b)(2)(D)(ii-iii)

Types of Covered Transactions in 2019

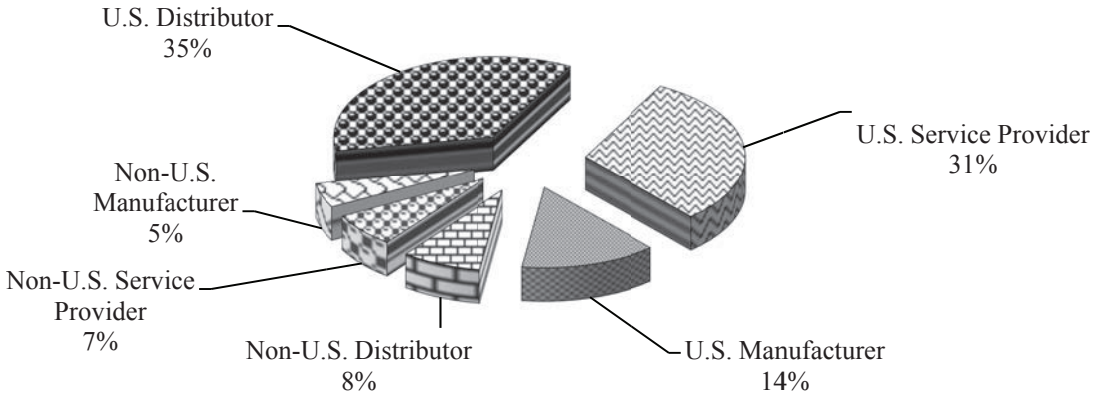


Although most of the transactions[9] covered in APAs executed in 2019 involve the sale of tangible goods or the provision of services, almost 20% covered the use of intangible property, which can be among the most challenging transactions in APMA's inventory. The IRS continues to seek opportunities to work with taxpayers and treaty partners to provide prospective certainty, wherever appropriate, for transactions involving the use of intangible property.

[9] APAs often cover more than one type of transaction.

In the majority of APAs, the covered transactions involve numerous business functions and risks. For instance, with respect to functions, APAs involving manufactured products typically involve a controlled group that conducts research and development (R&D), engages in product design and engineering, manufactures the product, markets and distributes the product, and performs support functions such as legal, finance, and human resources. Regarding risks, the controlled group may assume a variety of risks, including market risks, R&D risks, financial risks, credit and collection risks, product liability risks, and general business risks. In the APA evaluation process, a significant amount of time and effort is devoted to understanding how the functions and risks are allocated amongst the controlled group of companies that are party to the covered transactions. For methods requiring selection of a tested party, the tested party that is chosen generally will be the least complex of the controlled taxpayers.

Types of Tested Parties in 2019



Consistent with prior years, approximately 80 percent of the tested parties in 2019[10] were U.S. distributors, U.S. manufacturers, or U.S. service providers.

Transfer Pricing Methods Used
§ 521(b)(2)(D)(iv)

Consistent with prior years, in 2019, the primary transfer pricing method (TPM) used for both the sale of tangible property and the use of intangible property was the comparable profits method/transactional net margin method (CPM/TNMM). The CPM/TNMM was used for 81 percent of transfers of tangible and intangible property while all other methods combined accounted for the other 19 percent of such transactions.

For covered transfers of tangible and intangible property that used the CPM/TNMM, the operating margin (OM) continues to be the most common profit level indicator (PLI) used to benchmark results. It was used 64 percent of the time. Other PLIs, such as the Berry Ratio and mark up on total cost, made up the other 36 percent. As used here, OM means the ratio of operating profits to sales,[11] and "Berry Ratio" means the ratio of gross profit to operating expenses.[12] Most services transactions (82 percent) also used the CPM/TNMM with the OM and mark up on total costs being the most common PLIs (used 65 percent of the time).[13]

Sources of Comparables, Comparables Selection Criteria, and Nature of Adjustments to Comparables or Tested Party Data
§ 521(b)(2)(D)(v-vii)

For the APAs executed in 2019 that involved CPM/TNMM with a North American tested party, the most widely used data source for comparables was Standard and Poor's Compustat/Capital IQ database. Different sources were used in other cases (*e.g.*, where the tested party was not a U.S. or Canadian entity or where transaction-based methods were applied). The other more commonly used databases are listed in the table below.

[10] Not all APAs executed in 2019 involved a tested party.
[11] *See* Treas. Reg. § 1.482-5(b)(4)(ii)(A).
[12] *See* Treas. Reg. § 1.482-5(b)(4)(ii)(B).
[13] In 2019, the majority of the APAs that covered services transactions also included tangible/intangible transactions, which were not tested under a separate PLI.

Table 5: Sources of Comparable Data

Avention (formerly known as OneSource)	Mergent
Bloomberg	Orbis
Disclosure	Recap
Global Vantage	RoyaltySource
ktMINE	RoyaltyStat
LoanConnector	Worldscope

In making comparability adjustments, the standard balance sheet adjustments identified in Treas. Reg. §§ 1.482-1(d) and 1.482-5(c), including adjustments for differing amounts of payables, receivables, and inventory, were made in most cases. Where appropriate, adjustments for different accounting practices were made to convert from LIFO to FIFO inventory accounting, and a small number of cases also involved the accounting reclassification of expenses, e.g., from COGS to operating expenses.

Ranges, Goals, and Adjustment Mechanisms
§ 521(b)(2)(D)(viii-ix)

Most transactions covered in APAs target an interquartile range as described in Treas. Reg. § 1.482-1(e)(2)(iii)(C). Where the transaction involves a royalty payment for the use of intangible property, both specific royalty rates and ranges have been used. Where the covered transaction is the payment of a royalty based solely on external royalty agreements, a secondary method, e.g., a test of the post-royalty operating margin or cost-plus mark-up, has been used. The testing periods of the APAs executed in 2019 were either: (1) a single year, (2) the term of the APA only, or (3) the term of the APA plus rollback years.

APAs executed in 2019 included several mechanisms for making adjustments to tested party results when the results fall outside the range or do not match the point required by the APA. The following are examples of the mechanisms used: an adjustment bringing the tested party's results to the closer edge of the range applied to the results of a single year; an adjustment to the closer edge of the range applied to the results over the APA term; an adjustment to the specified point or royalty rate; or an adjustment to the median of the range for a single year.

Critical Assumptions
§ 521(b)(2)(D)(v)

The model APAs used by the IRS (included as Appendix 1 and Appendix 2 of this report) include standard critical assumptions that there will be no material changes to the taxpayer's business or to its tax or financial accounting practices during the APA term. A few bilateral cases have also included critical assumptions tied either to the taxpayer's profitability in a certain year or over the term of the APA, or to the amount of non-covered transactions as a percentage of the taxpayer's revenue. Pursuant to § 7.06(3) of Rev. Proc. 2015-41, APMA will cancel an APA in the event of a failure of a critical assumption unless the parties agree to revise the APA.

Term Lengths of APAs Executed in 2019
§ 521(b)(2)(D)(x)

Table 6: Term Lengths of APAs Executed in 2019

Term Length (years)	Number of APAs
1	1
2	2
3	3
4	11
5	53
6	15
7	13
8	7
9	5
10	2
11	5
13	2
15	1
Average	6

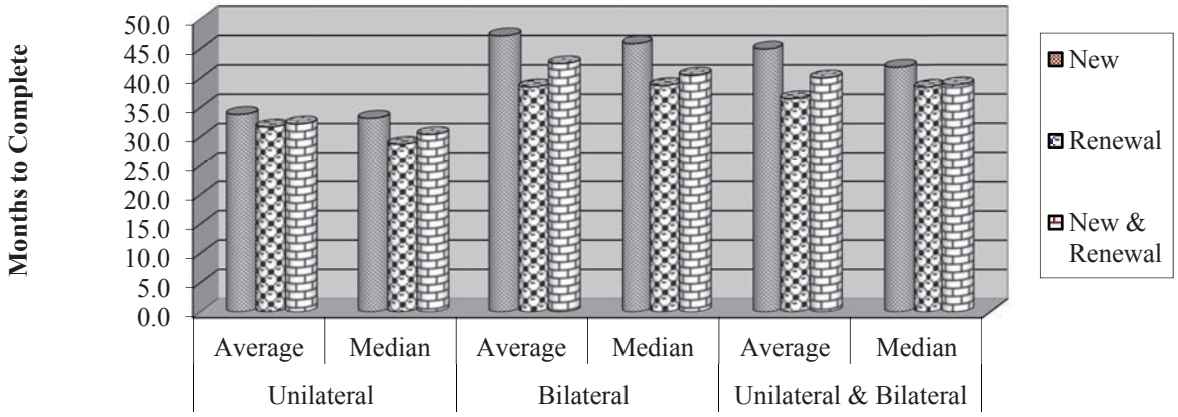
As described in § 3.03(1) of Rev. Proc. 2015-41, taxpayers should request an APA term that would cover at least five prospective years and may also request that the APA be "rolled back" to cover one or more earlier taxable years, although the appropriate APA term is decided on a case-by-case basis. Of the APAs executed in 2019, 25 percent included rollback years. A substantial number of those APAs with terms of greater than five years were submitted as a request for a five-year term, and the additional years were agreed to between the taxpayer and the IRS (or, in the case of a bilateral APA, between the IRS and the foreign government upon the taxpayer's request) to ensure a reasonable amount of prospectivity in the APA term.

Amount of Time Taken to Complete New and Renewal APAs
§ 521(b)(2)(E)

Table 7: Months to Complete New and Renewal APAs Executed in 2019

	Unilateral		Bilateral		**Unilateral & Bilateral**	
	Average	Median	Average	Median	**Average**	**Median**
New	33.8	33.2	47.2	45.9	**45.0**	**41.9**
Renewal	31.7	28.7	38.5	38.7	**36.5**	**38.4**
New & Renewal	**32.2**	**30.4**	**42.5**	**40.5**	**40.0**	**38.8**

Months to Complete New and Renewal APAs Executed in 2019



The median time required to complete an APA in 2019 decreased to 38.8 months (from 40.2 months in 2018).

Efforts to Ensure Compliance with APAs
§ 521(b)(2)(F)

As described in § 7.02(1) of Rev. Proc. 2015-41, taxpayers are required to file annual reports to demonstrate compliance with the terms and conditions of their APAs. The filing and review of these annual reports are critical parts of the APA process. Through annual report review, the APMA Program monitors taxpayer compliance with APAs on a contemporaneous basis. Annual report review also provides current information on the success or problems associated with the various TPMs adopted in the APA process.

Nature of Documentation Required in Annual Report
§ 521(b)(2)(D)(xi)

APAs require taxpayers to file timely and complete annual reports describing their operations and demonstrating compliance with the APAs' terms and conditions. Not every annual report will include each of the items listed in the following table[14]; they are required where the facts demonstrate a need for such documentation.

[14] The source of this list is the 2009 Model APA and requirements remain largely unchanged in the 2015 Model APA.

1.	Statement regarding all material differences between Taxpayer's business operations during APA year and description of Taxpayer's business operations contained in Taxpayer's APA request. If there are no material differences, a statement to that effect.
2.	Statement concerning all material changes in Taxpayer's accounting methods and classifications, and methods of estimation, from those described or used in Taxpayer's request for the APA. If there has been no material change in accounting methods and classifications or methods of estimation, a statement to that effect.
3.	Any change to the taxpayer notice information.
4.	Description of any failure to meet critical assumptions. If there has been none, a statement to that effect.
5.	Statement identifying whether or not any material information submitted while the APA request was pending is discovered to be false, incorrect, or incomplete.
6	The amount, reason for, and financial analysis of any compensating adjustment, for the APA year, including but not limited to: the amounts paid or received by each affected entity; the character (such as capital or ordinary expense) and country source of the funds transferred, and the specific line item(s) of any affected U.S. tax return; and any change to any entity classification for federal income tax purposes of any member of Taxpayer's group that is relevant to the APA.
7.	The amounts, description, reason for, and financial analysis of any book-tax difference relevant to the TPM for the APA year, as reflected on Schedule M-1 or Schedule M-3 of the U.S. return for the APA year.
8.	Statement regarding whether Taxpayer contemplates requesting, or has requested, to renew, modify, or cancel the APA.
9.	Financial statements and any necessary account detail to show compliance with the TPM, with a copy of the opinion from an independent certified public accountant or other documentation required by paragraph 5(f) of the APA.
10.	Financial analysis demonstrating Taxpayer's compliance with TPM.
11.	Organizational chart.
12.	A copy of the APA and any amendment.
13.	A penalty of perjury statement.

Approaches for Sharing of Currency or Other Risks
§ 521(b)(2)(D)(xii)

In appropriate cases, APAs may provide specific approaches for dealing with risks, including currency risk, such as adjustment mechanisms and/or critical assumptions.

APPENDIX 1– Model APA (based on Rev. Proc. 2006-9)

ADVANCE PRICING AGREEMENT

between

[*Insert Taxpayer's Name*]

and

THE INTERNAL REVENUE SERVICE

PARTIES

The Parties to this Advance Pricing Agreement (APA) are the Internal Revenue Service (IRS) and [*Insert Taxpayer's Name*], EIN _____.

RECITALS

[*Insert Taxpayer Name*] is the common parent of an affiliated group filing consolidated U.S. tax returns (collectively referred to as "Taxpayer"), and is entering into this APA on behalf of itself and other members of its consolidated group.

Taxpayer's principal place of business is [*City, State*]. [*Insert general description of taxpayer and other relevant parties*].

This APA contains the Parties' agreement on the best method for determining arm's-length prices of the Covered Transactions under I.R.C. section 482, the Treasury Regulations thereunder, and any applicable tax treaties.

{If renewal, add} [Taxpayer and IRS previously entered into an APA covering taxable years ending _____ to _____, executed on _____.]

AGREEMENT

The Parties agree as follows:

1. *Covered Transactions.* This APA applies to the Covered Transactions, as defined in Appendix A.
2. *Transfer Pricing Method.* Appendix A sets forth the Transfer Pricing Method (TPM) for the Covered Transactions.
3. *Term*. This APA applies to the APA Term, as defined in Appendix A.
4. *Operation.*
   a. Revenue Procedure 2006-9 governs the interpretation, legal effect, and administration of this APA.
   b. Nonfactual oral and written representations, within the meaning of sections 10.04 and 10.05 of Revenue Procedure 2006-9 (including any proposals to use particular TPMs), made in conjunction with the APA Request constitute statements made in compromise negotiations within the meaning of Rule 408 of the Federal Rules of Evidence.
5. *Compliance.*
   a. Taxpayer must report its taxable income in an amount that is consistent with Appendix A and all other requirements of this APA on its timely filed U.S. Return. However, if Taxpayer's timely filed U.S. Return for any taxable year covered by this APA (APA Year) is filed prior to, or no later than 60 days after, the effective date of this APA, then Taxpayer must report its taxable income for that APA Year in an amount that is consistent with Appendix A and all other requirements of this APA either on the original U.S. Return or on an amended U.S. Return filed no later than 120 days after the effective date of this APA, or through such other means as may be specified herein.
   b. {*Use or edit the following when U.S. Group or Foreign Group contains more than one member.}* [This APA addresses the arm's-length nature of prices charged or received in the aggregate between Taxpayer and Foreign Participants with respect to the Covered Transactions. Except as explicitly provided, this APA does not address and does not bind the IRS with respect to prices charged or received, or the relative amounts of income or loss realized, by particular legal entities that are members of U.S. Group or that are members of Foreign Group.]
   c. For each APA Year, if Taxpayer complies with the terms and conditions of this APA, then the IRS will not make or propose any allocation or adjustment under I.R.C. section 482 to the amounts charged in the aggregate between Taxpayer and Foreign Participant[s] with respect to the Covered Transactions.
   d. If Taxpayer does not comply with the terms and conditions of this APA, then the IRS may:

i. enforce the terms and conditions of this APA and make or propose allocations or adjustments under I.R.C. section 482 consistent with this APA;
ii. cancel or revoke this APA under section 11.06 of Revenue Procedure 2006-9; or
iii. revise this APA, if the Parties agree.

e. Taxpayer must timely file an Annual Report (an original and four copies) for each APA Year in accordance with Appendix C and section 11.01 of Revenue Procedure 2006-9. Taxpayer must file the Annual Report for all APA Years through the APA Year ending [insert year] by [insert date]. Taxpayer must file the Annual Report for each subsequent APA Year by [insert month and day] immediately following the close of that APA Year. (If any date falls on a weekend or holiday, the Annual Report shall be due on the next date that is not a weekend or holiday.) The IRS may request additional information reasonably necessary to clarify or complete the Annual Report. Taxpayer will provide such requested information within 30 days. Additional time may be allowed for good cause.

f. The IRS will determine whether Taxpayer has complied with this APA based on Taxpayer's U.S. Returns, the Financial Statements, and other APA Records, for the APA Term and any other year necessary to verify compliance. For Taxpayer to comply with this APA, *{use the following or an alternative}* an independent certified public accountant must render an opinion that Taxpayer's Financial Statements present fairly, in all material respects, Taxpayer's financial position under U.S. GAAP.

g. In accordance with section 11.04 of Revenue Procedure 2006-9, Taxpayer will (1) maintain the APA Records, and (2) make them available to the IRS in connection with an examination under section 11.03. Compliance with this subparagraph constitutes compliance with the record-maintenance provisions of I.R.C. sections 6038A and 6038C for the Covered Transactions for any taxable year during the APA Term.

h. The True Taxable Income within the meaning of Treasury Regulations sections 1.482-1(a)(1) and (i)(9) of a member of an affiliated group filing a U.S. consolidated return will be determined under the I.R.C. section 1502 Treasury Regulations.

i. *{Optional for US Parent Signatories}* To the extent that Taxpayer's compliance with this APA depends on certain acts of Foreign Group members, Taxpayer will ensure that each Foreign Group member will perform such acts.

6. *Critical Assumptions.* This APA's critical assumptions, within the meaning of Revenue Procedure 2006-9, section 4.05, appear in Appendix B. If any critical assumption has not been met, then Revenue Procedure 2006-9, section 11.06, governs.
7. *Disclosure.* This APA, and any background information related to this APA or the APA Request, are: (1) considered "return information" under I.R.C. section 6103(b)(2)(C); and (2) not subject to public inspection as a "written determination" under I.R.C. section 6110(b)(1). Section 521(b) of Pub. L. 106-170 provides that the Secretary of the Treasury must prepare a report for public disclosure that includes certain specifically designated information concerning all APAs, including this APA, in a form that does not reveal taxpayers' identities, trade secrets, and proprietary or confidential business or financial information.
8. *Disputes.* If a dispute arises concerning the interpretation of this APA, the Parties will seek a resolution by the Director of the Advance Pricing and Mutual Agreement Program, to the extent reasonably practicable, before seeking alternative remedies.
9. *Materiality.* In this APA the terms "material" and "materially" will be interpreted consistently with the definition of "material facts" in Revenue Procedure 2006-9, section 11.06(4).
10. *Section Captions.* This APA's section captions, which appear in *italics*, are for convenience and reference only. The captions do not affect in any way the interpretation or application of this APA.
11. *Terms and Definitions*. Unless otherwise specified, terms in the plural include the singular and vice versa. Appendix D contains definitions for capitalized terms not elsewhere defined in this APA.
12. *Entire Agreement and Severability.* This APA is the complete statement of the Parties' agreement. The Parties will sever, delete, or reform any invalid or unenforceable provision in this APA to approximate the Parties' intent as nearly as possible.
13. *Successor in Interest.* This APA binds, and inures to the benefit of, any successor in interest to Taxpayer.
14. *Notice.* Any notices required by this APA or Revenue Procedure 2006-9 must be in writing. Taxpayer will send notices to the IRS at the address and in the manner set forth in Revenue Procedure 2006-9, section 4.11. The IRS will send notices to:

Taxpayer Corporation Attn: Jane Doe, Sr. Vice President (Taxes) 1000 Any Road Any City, USA 10000 (phone: _____)

15. *Effective Date and Counterparts.* This APA is effective starting on the date, or later date of the dates, upon which all Parties execute this APA. The Parties may execute this APA in counterparts, with each counterpart constituting an original.

WITNESS,

The Parties have executed this APA on the dates below.

[Taxpayer Name in all caps]

By: _____ Date: _____, 201___
Jane Doe
Sr. Vice President (Taxes)

IRS
By: _____ Date: _____, 201___
John C. C. Hughes
Director, Advance Pricing and Mutual
Agreement Program

APPENDIX A
COVERED TRANSACTIONS AND TRANSFER PRICING METHOD (TPM)

1. **Covered Transactions.**
   [*Define the Covered Transactions.*]
2. **APA Term.**
   This APA applies to Taxpayer's taxable years ending _____ through _____ (APA Term).
3. **TPM.**
   {*Note: If appropriate, adapt language from the following examples.*}
   [The Tested Party is _____.]

• CUP Method

The TPM is the comparable uncontrolled price (CUP) method. The Arm's Length Range of the price charged for _____ is between _____ and _____ per unit.

• CUT Method

The TPM is the CUT Method. The Arm's Length Range of the royalty charged for the license of _____is between ____% and ___ % of [Taxpayer's, Foreign Participants', or other specified party's] Net Sales Revenue. [Insert definition of net sales revenue or other royalty base.]

• Resale Price Method (RPM)

The TPM is the resale price method (RPM). The Tested Party's Gross Margin for any APA Year is defined as follows: the Tested Party's gross profit divided by its sales revenue (as those terms are defined in Treasury Regulations sections 1.482-5(d)(1) and (2)) for that APA Year. The Arm's Length Range is between ____% and ___ %, and the Median of the Arm's Length Range is ___%.

• Cost Plus Method

The TPM is the cost plus method. The Tested Party's Cost Plus Markup is defined as follows for any APA Year: the Tested Party's ratio of gross profit to production costs (as those terms are defined in Treasury Regulations sections 1.482-3(d)(1) and (2)) for that APA Year. The Arm's Length Range is between ___% and ___%, and the Median of the Arm's Length Range is ___%.

• CPM with Berry Ratio PLI

The TPM is the comparable profits method (CPM). The profit level indicator is a Berry Ratio. The Tested Party's Berry Ratio is defined as follows for any APA Year: the Tested Party's gross profit divided by its operating expenses (as those terms are defined in Treasury Regulations sections 1.482-5(d)(2) and (3)) for that APA Year. The Arm's Length Range is between ____ and ___, and the Median of the Arm's Length Range is ___.

• CPM using an Operating Margin PLI

The TPM is the comparable profits method (CPM). The profit level indicator is an operating margin. The Tested Party's Operating Margin is defined as follows for any APA Year: the Tested Party's operating profit divided by its sales revenue (as those terms are defined in Treasury Regulations section 1.482-5(d)(1) and (4)) for that APA Year. The Arm's Length Range is between ____% and ___ %, and the Median of the Arm's Length Range is ___%.

• CPM using a Three-year Rolling Average Operating Margin PLI

The TPM is the comparable profits method (CPM). The profit level indicator is an operating margin. The Tested Party's Three-Year Rolling Average operating margin is defined as follows for any APA Year: the sum of the Tested Party's operating profit (within the meaning of Treasury Regulation section 1.482-5(d)(4) for that APA Year and the two preceding years, divided by the sum of its sales revenue (within the meaning of Treasury Regulation section 1.482-5(d)(1)) for that APA Year and the two preceding years. The Arm's Length Range is between ____% and ____%, and the Median of the Arm's Length Range is ___%.

• Residual Profit Split Method

The TPM is the residual profit split method. [I*nsert description of routine profit level determinations and residual profit-split mechanism*].

[*Insert additional provisions as needed.*]

4. Application of TPM.

For any APA Year, if the results of Taxpayer's actual transactions produce a [price per unit, royalty rate for the Covered Transactions] [or] [Gross Margin, Cost Plus Markup, Berry Ratio, Operating Margin, Three-Year Rolling Average Operating Margin for the Tested Party] within the Arm's Length Range, then the amounts reported on Taxpayer's U.S. Return must clearly reflect such results.

For any APA year, if the results of Taxpayer's actual transactions produce a [price per unit, royalty rate] [or] [Gross Margin, Cost Plus Markup, Berry Ratio, Operating Margin, Three-Year Rolling Average Operating Margin for the Tested Party] outside the Arm's Length Range, then amounts reported on Taxpayer's U.S. Return must clearly reflect an adjustment that brings the [price per unit, royalty rate] [or] [Tested Party's Gross Margin, Cost Plus Markup, Berry Ratio, Operating Margin, Three-Year Rolling Average Operating Margin] to the Median.

For purposes of this Appendix A, the "results of Taxpayer's actual transactions" means the results reflected in Taxpayer's and Tested Party's books and records as computed under U.S. GAAP [*insert another relevant accounting standard if applicable*], with the following adjustments:

(a) [The fair value of stock-based compensation as disclosed in the Tested Party's audited financial statements shall be treated as an operating expense]; and
(b) To the extent that the results in any prior APA Year are relevant (for example, to compute a multi-year average), such results shall be adjusted to reflect the amount of any adjustment made for that prior APA Year under this Appendix A.

5. APA Revenue Procedure Treatment

If Taxpayer makes an adjustment under paragraph 4 of this Appendix A (a "primary adjustment"), Taxpayer and its related foreign entity may elect APA Revenue Procedure Treatment in accordance with section 11.02(3) of Revenue Procedure 2006-9 and avoid the possible adverse tax consequences of a secondary adjustment that would otherwise follow the primary adjustment.

[*Insert additional provisions as needed.*]

APPENDIX B
CRITICAL ASSUMPTIONS

This APA's critical assumptions are:

1. The business activities, functions performed, risks assumed, assets employed, and financial and tax accounting methods and classifications [and methods of estimation] of Taxpayer in relation to the Covered Transactions will remain materially the same as described or used in Taxpayer's APA Request. A mere change in business results will not be a material change.

[*Insert additional provisions as needed.*]

APPENDIX C
APA RECORDS AND ANNUAL REPORT

APA RECORDS

The APA Records will consist of all documents listed below for inclusion in the Annual Report, as well as all documents, notes, work papers, records, or other writings that support the information provided in such documents.

ANNUAL REPORT

The Annual Report (and each of the four copies required by paragraph 5(e) of this APA) will include:

1. Two copies of a properly completed APA Annual Report Summary in the form of Appendix E to this APA, one copy of the form bound with, and one copy provided separately from, the rest of the Annual Report.
2. A table of contents, organized as follows:
3. Statements that fully identify, describe, analyze, and explain:
    a. All material differences between the U.S. Group's business operations (including functions, risks assumed, markets, contractual terms, economic conditions, property, services, and assets employed) during the APA Year from the business operations described in the APA Request. If there have been no material differences, the Annual Report will include a statement to that effect.
    b. All material differences between the U.S. Group's accounting methods and classifications, and methods of estimation used during the APA Year, from those described or used in the APA Request. If any change was made to conform to changes in U.S. GAAP (or other relevant accounting standards) Taxpayer will specifically identify the change. If there has been no material change in accounting methods and classifications or methods of estimation, the Annual Report will include a statement to that effect.
    c. Any change to the Taxpayer notice information in paragraph 14 of this APA.
    d. Any failure to meet any critical assumption. If there has been no failure, the Annual Report will include a statement to that effect.
    e. Whether or not material information submitted while the APA Request was pending is discovered to be false, incorrect, or incomplete.
    f. Any change to any entity classification for federal income tax purposes (including any change that causes an entity to be disregarded for federal income tax purposes) of any Worldwide Group member that is a party to the Covered Transactions or is otherwise relevant to the TPM.
    g. The amount, reason for, and financial analysis of (1) any primary adjustments made under Appendix A for the APA Year; and (2) any (*a*) secondary adjustments that follow such primary adjustments or (*b*) accounts receivable that Taxpayer establishes, in lieu of secondary adjustments, by electing APA Revenue Procedure Treatment pursuant to paragraph 5 of Appendix A and Revenue Procedure 2006-9, section 11.02(3), for the APA Year, including but not limited to:
        i. the amounts due or owed, and paid or received by each affected entity;
        ii. the character (such as capital, ordinary, income, expense) and country source of the funds transferred, and the specific affected line item(s) of any affected U.S. Return;
        iii. the date(s) and means by which the payments are or will be made; and
        iv. whether or not APA Revenue Procedure Treatment was elected pursuant to paragraph 5 of Appendix A and Revenue Procedure 2006-9, section 11.02(3).
    h. The amounts, description, reason for, and financial analysis of any book-tax difference relevant to the TPM for the APA Year, as reflected on Schedule M-1 or Schedule M-3 of the U.S. Return for the APA Year.
    i. Whether Taxpayer contemplates requesting, or has requested, to renew, modify, or cancel the APA.
4. The Financial Statements, and any necessary account detail to show compliance with the TPM, including consolidating financial statements, segmented financial data, records from the general ledger, or similar information if the assets, liabilities, income, or expenses relevant to showing compliance with the TPM are a subset of the assets, liabilities, income, or expenses presented in the Financial Statements.
5. *{Use the following or the alternative prescribed by paragraph 5(f) of this APA:}* A copy of the independent certified public accountant's opinion required by paragraph 5(f) of this APA.

6. A financial analysis that reflects Taxpayer's TPM calculations for the APA Year. The calculations must reconcile with and reference the information required under item 4 above in sufficient account detail to allow the IRS to determine whether Taxpayer has complied with the TPM.
7. An organizational chart for the Worldwide Group, revised annually to reflect all ownership or structural changes of entities that are parties to the Covered Transactions or are otherwise relevant to the TPM.
8. A copy of the APA and any amendment.
9. A penalty of perjury statement, executed in accordance with Revenue Procedure 2006-9, section 11.01(6) and (7).

APPENDIX D
DEFINITIONS

The following definitions control for all purposes of this APA. The definitions appear alphabetically below:

Term	Definition
Annual Report	A report within the meaning of Revenue Procedure 2006-9, section 11.01.
APA	This Advance Pricing Agreement, which is an "advance pricing agreement" within the meaning of Revenue Procedure 2006-9, section 2.04.
APA Records	The records specified in Appendix C.
APA Request	Taxpayer's request for this APA dated _____, including any amendments or supplemental or additional information thereto.
APA Year	This term is defined in paragraph 5(a) of this APA.
Covered Transaction(s)	This term is defined in Appendix A.
Financial Statements	Financial statements prepared in accordance with U.S. GAAP and stated in U.S. dollars.
Foreign Group	Worldwide Group members that are not U.S. persons.
Foreign Participants	[name the foreign entities involved in Covered Transactions].
I.R.C.	The Internal Revenue Code of 1986, 26 U.S.C., as amended.
Pub. L. 106-170	The Ticket to Work and Work Incentives Improvement Act of 1999.
Revenue Procedure 2006-9	Rev. Proc. 2006-9, 2006-1 C.B. 278.
Transfer Pricing Method (TPM)	A transfer pricing method within the meaning of Treasury Regulation section 1.482-1(b) and Revenue Procedure 2006-9, section 2.04.
U.S. GAAP	U.S. generally-accepted accounting principles.
U.S. Group	Worldwide Group members that are U.S. persons.
U.S. Return	For each taxable year, the "returns with respect to income taxes under subtitle A" that Taxpayer must "make" in accordance with I.R.C. section 6012. {*Or substitute for partnership:* For each taxable year, the "return" that Taxpayer must "make" in accordance with I.R.C. section 6031.}
Worldwide Group	Taxpayer and all organizations, trades, businesses, entities, or branches (whether or not incorporated, organized in the United States, or affiliated) owned or controlled directly or indirectly by the same interests.

APPENDIX E
APA ANNUAL REPORT SUMMARY FORM

The APA Annual Report Summary on the next page is a required APA Record. The APA Team Leader supplies some of the information requested on the form. Taxpayer is to supply the remaining information requested by the form and submit the form as part of its Annual Report.

APA Annual Report SUMMARY	**Department of the Treasury--Internal Revenue Service** **Large Business and International Division** **Treaty and Transfer Pricing Operations** **Advance Pricing and Mutual Agreement Program**	APA No. _____ Team Leader _____ Economist _____ Intl Examiner _____

APA Information	Taxpayer Name: _____ Taxpayer EIN:_____ NAICS:_____ APA Term: Taxable years ending _____ to _____ Original APA [ ] Renewal APA [ ] Annual Report due dates: _____, 201__ for all APA Years through APA Year ending in 200__; for each APA Year thereafter, on _____ [month and day] immediately following the close of the APA Year Principal foreign country(ies) involved in covered transaction(s): _____ _____ Type of APA: [ ] unilateral [ ] bilateral with _____ Tested party is [ ] US [ ] foreign [ ] both Approximate dollar volume of covered transactions (on an annual basis) involving tangible goods and services: [ ] N/A [ ] <$50 million [ ] $50-100 million [ ] $100-250 million [ ] $250-500 million [ ] >$500 million APA tests on (check all that apply): [ ] annual basis [ ] multi-year basis [ ] term basis APA provides (check all that apply) a: [ ] range [ ] point [ ] floor only [ ] ceiling only [ ] other_____ APA provides for adjustment (check all that apply) to: [ ] nearest edge [ ] median [ ] other point

APA Annual Report Information (to be completed by the Taxpayer)	APA date executed: _____, 201__ This APA Annual Report Summary is for APA Year(s) ending in 200__ and was filed on _____, 201__ Check here [ ] if Annual Report was filed after original due date but in accordance with extension. Has this APA been amended or changed? [ ] yes [ ] no Effective Date: _____ Has Taxpayer complied with all APA terms and conditions? [ ] yes [ ] no Were all the critical assumptions met? [ ] yes [ ] no Has a Primary Compensating Adjustment been made in any APA Year covered by this Annual Report? [ ] yes [ ] no If yes, which year(s): 200___ Have any necessary Secondary Compensating Adjustments been made? [ ] yes [ ] no Did Taxpayer elect APA Revenue Procedure treatment? [ ] yes [ ] no Any change to the entity classification of a party to the APA? [ ] yes [ ] no Taxpayer notice information contained in the APA remains unchanged? [ ] yes [ ] no Taxpayer's current US principal place of business: (City, State) _____

APA Annual Report Checklist of Key Contents (to be completed by the Taxpayer)	Financial analysis reflecting TPM calculations	[ ] yes [ ] no
	Financial statements showing compliance with TPM(s)	[ ] yes [ ] no
	Schedule M-1 or M-3 book-tax differences	[ ] yes [ ] no
	Current organizational chart of relevant portion of world-wide group	[ ] yes [ ] no
	Attach copy of APA	[ ] yes [ ] no
	Other APA records and documents included:	

Contact Information	Authorized Representative	Phone Number	Affiliation and Address

APPENDIX 2– Model APA (based on Rev. Proc. 2015-41)

TEMPLATE FOR ADVANCE PRICING AGREEMENT

UNDER REVENUE PROCEDURE 2015-41

The Advance Pricing and Mutual Agreement Program ("APMA") of the Internal Revenue Service ("IRS") is providing this template for use in drafting advance pricing agreements ("APAs") issued under IRS Revenue Procedure 2015-41, 2015-35 I.R.B. 263 ("Rev. Proc. 2015-41"). This template is designed to systematize how taxpayers propose terms for their APAs and standardize language used in executed APAs. It will improve efficiency in the APA process and enhance consistency in the administration of the APA program.

Rev. Proc. 2015-41 requires that taxpayers include as part of a complete APA request a draft APA and a "redline" comparison of the proposed draft APA against the current model APA. *See* section 2.03, exhibit 15, of the Appendix to Rev. Proc. 2015-41. This template serves as the model APA. A taxpayer is required to produce the "redline" comparison by following the instructions below to edit this template with tracked changes. The draft APA and "redline" comparison are then to be included in Word format in the complete APA request. (Before editing the template with tracked changes, a taxpayer should remove this introduction and the instructions below from the Microsoft Word file.)

The assigned APMA team will review the APA's terms proposed in the draft APA. If the APMA team accepts the proposed terms in light of its review of the taxpayer's complete APA request and other information obtained during the APA process, then the text of the draft APA, edited as needed to fill in any information not available at the time of the APA Request, will be adopted as the text of a finally executed APA. If the APMA team does not accept the proposed terms, it will discuss modifications to the draft APA with the taxpayer during the APA process. For bilateral and multilateral APAs, the terms of the executed APA will of necessity be consistent with the terms of the underlying mutual agreement between the United States and one or more treaty partners.

GENERAL INSTRUCTIONS

The template is designed to minimize editing by using an options-based format for selecting from terms presented in certain sections of the model APA. The options presented are those which APMA considers standard and which it has accepted in final APAs. These options are not binding on APMA, however. APMA reserves the right to modify the option selections, the specific option language used, or any other terms before executing an APA with the taxpayer.

Options are indicated by square brackets ("[]"). An "x" should be inserted between the brackets to indicate the selected option ("[x]"). Options that are not selected should not be deleted, but instead should be left in the text of the draft APA. The options to which APMA and the taxpayer ultimately agree for the final APA will be indicated by the presence or absence of an "x". The term associated with the "x" will be given operative effect in the executed APA.

Certain options are flagged with an asterisk after the square brackets ("[]*"). To facilitate the APMA team's subsequent review of the draft APA, the asterisks should not be deleted. Taxpayers that select flagged options are required to specifically provide justification for the selection in the APA request. *See* section 1.02, Part 5, of the Appendix to Rev. Proc. 2015-41.

The template contains placeholder phrases consisting of a hashtag followed by one or more words in block capital letters (e.g., "#COUNTRY"). Generally, the taxpayer should replace a placeholder phrase with appropriate text, subject to the following conventions:

- If a placeholder phrase occurs within an option that the taxpayer has rejected, the taxpayer should change the hashtag to a caret (e.g., change "#COUNTRY" to "^COUNTRY") but otherwise leave the phrase intact.[15] The caret indicates that the Taxpayer has rejected this option. For example, for a bilateral APA with Japan, the lines on the first page just below the title would read:

  [x] Bilateral with Japan
  [] Multilateral with ^COUNTRIES
  [] Unilateral
- The placeholder phrase "#CURRENCY" should be replaced, for example, with "U.S. dollars," "Euros," or "Japanese yen."
- The placeholder phrase "#DATE" should be replaced with a date in the format of "December 31, 2020."

The APA Term will be expressed as dates certain, e.g., "January 1, 2017 to December 31, 2022, inclusive", rather than as particular tax years.

[15] As a result, almost all occurrences of the hashtag in the template will be replaced with a caret or other text in the taxpayer's draft APA. The few remaining occurrences of the hashtag will mark a placeholder phrase that cannot yet be replaced with appropriate text (see, for example, the placeholder phrase in paragraph 6(e) for a date that cannot be determined until the APA nears execution). Searching the draft APA for the hashtag will locate all placeholder phrases that still need replacement.

Taxpayers may need to draft custom text for situations or options not included in the template. For example, a taxpayer may propose additional critical assumptions to address specific regulatory contingencies or conditions the taxpayer is expected to face during the term of the APA. As another example, the provision titled "Limitation on Assistance" at the end of the Recitals might be modified based on an understanding reached in the prefiling stage of the APA process. In some cases, a particular critical assumption might facilitate reaching an agreement on an APA. Taxpayers that include custom text are required to specifically provide justification for the inclusion in the APA request, just as selecting an option with an asterisk requires justification. Any custom text must also be evident in the "redline" comparison of the proposed draft APA.

INSTRUCTIONS ON TABLES

The template contains certain tables that the taxpayer should edit. Entries in the tables will not contain hashtags, but taxpayers nevertheless should fill in the information and add additional rows to the tables if needed. Taxpayers also should fill in the "APA Information" in the table in Appendix D, to the extent available or proposed.

INSTRUCTIONS ON APPENDIX A

Appendix A of this template contains the description of the APA's covered issue(s) and covered method(s). Taxpayers should note the following points in completing Appendix A:

- The template includes just one covered issue with one corresponding covered method. If there is more than one covered Issue proposed for the APA, the taxpayer should add additional covered issues in Appendix A, section 3, *with* tracked changes.
- If there is more than one covered method, the taxpayer should first replicate the template's entire text for Covered Method 1 in Appendix A, section 4, *without* tracked changes, to provide template text for each additional covered method, and then edit the text for each covered method *with* tracked changes.
- Normally, each covered issue will have its own corresponding covered method. However, in some cases, a covered method may apply at once to more than one covered issue. For example, covered issues may be proposed to be aggregated and tested by a single covered method. In such cases, the heading for that covered method could read, for example, "Covered Method for Covered Issues 1-3".
- Any interaction between different covered methods should be adequately explained in the text, and in an appropriate manner. For example, an explanation might be provided in an introduction at the start of section 4 of Appendix A, preceding the description of the respective covered methods.

Appendix A uses the term "Tested Party." When applied in the context of methods that consider, or test, data from only one party to a transaction, this term is similar in concept to the term "tested party" as discussed in the OECD Guidelines at paragraphs 3.18 and 3.19, and as defined in the U.S. Treasury Regulations section 1.482-5(b)(2). However, some methods consider, or test, data from both parties to a transaction, where there is no singular "tested" party. Even in applying such methods, however, it is typically the case that one particular party's results are formally tested for compliance with the method. For purposes of this template, in such circumstances, the party whose results are formally tested in applying any particular method is the "Tested Party", even if that party is not strictly a "tested party" as discussed in the OECD Guidelines paragraphs 3.18 and 3.19, or as defined in the U.S. Treasury Regulations section 1.482-5(b)(2).

ADVANCE PRICING AGREEMENT

between
#SIGNATORY
and
THE INTERNAL REVENUE SERVICE

[] Bilateral with #COUNTRY
[] Multilateral with #COUNTRIES
[] Unilateral
Term: #DATE to #DATE, inclusive
[] This APA is commonly referred to as #APA NAME.

PARTIES

The Parties to this APA are the Internal Revenue Service ("IRS") and #NAME OF EACH NON-IRS SIGNATORY, WITH EIN.

[] #SIGNATORY will be referred to as "U.S. Taxpayer."

[] #SIGNATORY is the common parent of an affiliated group filing consolidated U.S. tax returns and is entering into this APA on behalf of both itself and the following members of its consolidated group: #MEMBERS OF GROUP. All members of this consolidated group will be referred to collectively as "U.S. Taxpayer."

RECITALS

[] This APA is a renewal of one or more prior APAs, which are listed below in reverse chronological order:

Party(ies)	Execution Date	Term

Key:

- ***Party(ies)***: The signatory(ies) to the prior APA, other than the IRS, with each signatory's taxpayer identification number;
- ***Execution Date***: The date, or the later of the dates, on which the prior APA was executed;
- ***Term***: The term of the prior APA.

[] This is a bilateral APA within the meaning of Rev. Proc. 2015-41 and implements the terms of a mutual agreement reached between the United States and #COUNTRY.

[] This is a multilateral APA within the meaning of Rev. Proc. 2015-41 and implements the terms of a mutual agreement reached among the United States, #COUNTRIES.

[] This APA is a unilateral APA within the meaning of Rev. Proc. 2015-41 and is not based on any mutual agreement.

The Parties to this APA are defined in the "Parties" section above. Regarding the Party(ies) to this APA other than the IRS:

[] No such Party has an immediate parent or owner that is not a U.S. entity.

[] One or more such Parties has an immediate parent or owner that is not a U.S. entity, as follows:

Party	Parent's or Owner's Identifying Information	Parent's or Owner's Contact Information

Key:

- ***Party***: Name of the Party having an immediate parent or owner that is not a U.S. entity;
- ***Parent's or Owner's Identifying Information***: Name of the immediate parent or owner of such Party, and the taxpayer identification number of that parent or owner for income tax purposes in its country of residence;

- ***Parent's or Owner's Contact Information***: The immediate parent's or owner's address and phone number.

The term "Worldwide Group" is defined below in paragraph 12 of this APA. The ultimate parent entity or owner of Worldwide Group is:

#ENTITY NAME, ADDRESS, AND PHONE

U.S. Taxpayer's principal place of business is #CITY, #STATE. #BRIEF DESCRIPTION OF U.S. TAXPAYER AND NON-U.S. TAXPAYER (DEFINED IN SECTION 1 OF APPENDIX A), AND SPECIFICALLY OF EACH COVERED ENTITY (DEFINED IN SECTION 1 OF APPENDIX A).

This APA contains the Parties' agreement on the Covered Method(s) for resolving the Covered Issue(s) under Code section 482 and any other Code sections that are identified in Appendix A to this APA, the U.S. Treasury Regulations thereunder, and (if applicable):

[] The income tax convention(s) between the United States and #COUNTRY(IES).

This APA shall not limit the authority of the IRS to (1) verify compliance with this APA as to the Covered Issue(s), or (2) audit issues other than Covered Issue(s), including issues that arise under Code section 482 and any other Code sections identified in Appendix A to this APA, and the U.S. Treasury Regulations thereunder.

LIMITATION ON ASSISTANCE

The Covered Issue(s) may relate to one or more countries which (i) have an income tax convention with the United States, but (ii) are not a party to a mutual agreement whose terms are implemented by this APA. U.S. Taxpayer acknowledges that the IRS may decline to provide competent authority assistance concerning taxation by such country(ies) that relates to the Covered Issue(s). See section 2.02(4)(d) of Rev. Proc. 2015-41.

AGREEMENT

The Parties agree as follows:

1. *Covered Entities.* This APA's Covered Entities are defined in Appendix A.
2. *Covered Issue(s).* This APA applies to the Covered Issue(s), as defined in Appendix A.
3. Covered *Method(s).* Appendix A sets forth the Covered Method(s) for the Covered Issue(s).
4. *Term*. This APA applies to the APA Term, as defined in Appendix A.
5. *Operation.*
    a. Rev. Proc. 2015-41 governs the interpretation, legal effect, and administration of this APA.
    b. The APMA program provides a voluntary process whereby the IRS and taxpayers may resolve transfer pricing issues and issues for which transfer pricing principles may be relevant in a principled and cooperative manner on a prospective basis. As such, the APA process (as defined in Rev. Proc. 2015-41) is an alternative to dispute resolution that benefits both taxpayers and the IRS and that is intended to promote and encourage open communication. Accordingly, the IRS and U.S. Taxpayer agree that neither party will attempt to use nonfactual oral or written representations, within the meaning of sections 6.04 and 6.05 of IRS Revenue Procedure 2015-41 (including any proposals to use particular Covered Method(s)), made in conjunction with the APA Request in any judicial or administrative proceeding. The IRS and U.S. Taxpayer also agree that factual representations made in conjunction with the APA Request may be used in judicial and administrative proceedings.
6. *Compliance.*
    a. U.S. Taxpayer must report its taxable income in an amount that is consistent with Appendix A and all other requirements of this APA. U.S. Taxpayer must so report its taxable income in the following manner:

i. For any APA Tax Year for which U.S. Taxpayer timely files its original U.S. return prior to, or no later than 60 days after, the U.S. Effective Date, U.S. Taxpayer must so report its taxable income for that APA Tax Year in one of the following ways:

A. on such original U.S. return;

B. on an amended U.S. return submitted no later than 120 days after the U.S. Effective Date;

C. through a means proposed by U.S. Taxpayer and accepted by the applicable IRS practice area no later than 120 days after the U.S. Effective Date (or by such other deadline as is agreed between U.S. Taxpayer and the applicable IRS practice area); or

D. if applicable:

[]* no later than 120 days after the U.S. Effective Date through the following means: #DESCRIPTION OF MEANS.

ii. For all other APA Tax Years, U.S. Taxpayer must so report its taxable income on its timely filed original U.S. return.

iii. The provisions of paragraphs 6(a)(i) and 6(a)(ii) are modified by this paragraph 6(a)(iii). If a Covered Method includes a term test (including the case of an annual test with a supplemental term test) or a subterm test, as described in section 4 of Appendix A, then the APA Covered Year as of which the term test or subterm test applies would change in the event of an Early Termination. Specifically, while in the absence of an Early Termination a term test would apply as of the last APA Covered Year, in the event of an Early Termination the term test would apply as of an earlier APA Covered Year. Similarly, while in the absence of an Early Termination a subterm test would apply as of the last APA Covered Year in the subterm, in the event of an Early Termination the subterm test might apply as of an earlier APA Covered Year. In these situations, the Early Termination might not be established in time for U.S. Taxpayer to know to apply the term test or subterm test as of the earlier APA Covered Year in reporting taxable income as required under paragraphs 6(a)(i) and 6(a)(ii) for the APA Tax Year corresponding to that earlier APA Covered Year. In such cases, U.S. Taxpayer may need to correct its reporting for that APA Tax Year. Specifically, U.S. Taxpayer will need to correct its income reporting for that APA Tax Year if the application of the term test or subterm test in that earlier APA Covered Year changes the existence or amount of an APA Primary Adjustment for the Covered Method for that APA Tax Year. In such cases:

A) The resulting incorrectness in the prior reporting for that APA Tax Year is excused; and

B) U.S. Taxpayer must correct such prior reporting through a means listed in paragraph 6(a)(i) within 120 days of the Early Termination being established.

b. For each Covered Issue, if any, that involves determination of pricing and/or income allocation[16] under Code section 482 (or Code section 367(d)) as modified by any applicable income tax convention, this APA addresses the pricing and/or income allocation between U.S. Taxpayer and Non-U.S. Taxpayer in the aggregate. Except as explicitly provided, this APA does not address and does not bind the IRS with respect to pricing or income allocation (1) among particular legal entities that are members of U.S. Taxpayer, or (2) among particular legal entities that are members of Non-U.S. Taxpayer. In addition, this APA does not address pricing or income allocation between an entity that is not a Covered Entity, and any entity.

c. For each APA Tax Year, if U.S. Taxpayer complies with the terms and conditions of this APA, then, provided that this APA remains effective for that APA Tax Year for a particular Covered Issue, the IRS will not make or propose any allocation or adjustment that is inconsistent with the application under this APA of the applicable Covered Method to that Covered Issue.

d. If U.S. Taxpayer does not comply with the terms and conditions of this APA, then the IRS may:

i. enforce the terms and conditions of this APA and make or propose allocations or adjustments based on the application of the Covered Method(s) to the Covered Issue(s) as provided in this APA;

ii. cancel or revoke this APA under section 7.06 of Rev. Proc. 2015-41; or

iii. revise this APA, if the Parties agree.

e. U.S. Taxpayer must timely file an Annual Report for each APA Tax Year in accordance with this paragraph 6(e), Appendix C to this APA, and section 7.02 of Rev. Proc. 2015-41. Annual Reports for multiple APA Tax Years may be combined, provided that all required information for each APA Tax Year is clearly presented. For each Annual Report, U.S. Taxpayer must submit an original printed version containing a signed original "penalties of perjury" declaration, one printed copy of the contents of the original printed version, and an electronic copy of the contents of the original printed version. Any exhibits in the printed version must be tabbed, and the electronic copy is subject to the same requirements, as to medium and format, that are specified for APA requests in section 2 of the Appendix to Rev. Proc. 2015-41. Upon request, U.S. Taxpayer must provide additional copies of the printed version, at addresses specified by the IRS. U.S. Taxpayer must file the Annual Report for each APA Tax Year by the later of (i) #DATE CERTAIN, NORMALLY APPROXIMATELY 90 DAYS AFTER THE U.S. EFFECTIVE DATE, and (ii) the fifteenth day of the twelfth month following the close of the APA Tax Year. The IRS may by notice request additional information reasonably necessary to clarify or complete the Annual Report. (See paragraph 16, and section 3(c) of Appendix C, regarding notices.) U.S. Taxpayer will provide such

[16] As used in this APA, "income allocation" includes allocation of loss.

requested information within 30 days from the date of the notice unless a later date is specified in the notice. Additional time may be allowed for good cause in the discretion of the Director of the Advance Pricing and Mutual Agreement Program.

f. The IRS will determine whether U.S. Taxpayer has complied with this APA based on U.S. Taxpayer's U.S. returns, the Financial Statements and additional statements required under this paragraph 6(f), and other APA Records, for all APA Tax Years and any other tax year necessary to verify compliance. The Financial Statements and additional statements required for a particular tax year are:

[] For every U.S. Covered Entity, the Financial Statements together with the additional statements specified in paragraph 6(f)(i); and for every Non-U.S. Covered Entity, the Financial Statements together with the additional statements specified in paragraph 6(f)(ii).

[]* For every U.S. Covered Entity, the Financial Statements together with the additional statements specified in paragraph 6(f)(i).

[]* For every Non-U.S. Covered Entity, the Financial Statements together with the additional statements specified in paragraph 6(f)(ii).

i. For each U.S. Covered Entity, the additional statements consist of the following statement(s):

[] An audit opinion for that U.S. Covered Entity's Financial Statements, as defined in paragraph 6(f)(iii).

[]* One or more of the following, as indicated:

[] An accountant's report for that U.S. Covered Entity's Financial Statements, as defined in paragraph 6(f)(iii).

[] A self-certification for that U.S. Covered Entity's Financial Statements, as defined in paragraph 6(f)(iii).

[] A self-certification for that U.S. Covered Entity's Financial Statements, together with a tying certification for that entity's Financial Statements, as defined in paragraph 6(f)(iii).

[] #OTHER MEANS OF VERIFYING THE RELIABILITY OF THE U.S. COVERED ENTITY'S FINANCIAL STATEMENTS.

ii. For each Non-U.S. Covered Entity, the additional statements consist of the following statement(s):

[] An audit opinion for that Non-U.S. Covered Entity's Financial Statements, as defined in paragraph 6(f)(iii).

[]* One or more of the following, as indicated:

[] An accountant's report for that Non-U.S. Covered Entity's Financial Statements, as defined in paragraph 6(f)(iii).

[] A self-certification for that Non-U.S. Covered Entity's Financial Statements, as defined in paragraph 6(f)(iii).

[] A self-certification for that Non-U.S. Covered Entity's Financial Statements, together with a tying certification for that Covered Entity's Financial Statements, as defined in paragraph 6(f)(iii).

[] #OTHER MEANS OF VERIFYING THE RELIABILITY OF THE NON-U.S. COVERED ENTITY'S FINANCIAL STATEMENTS.

iii. With reference to the Financial Statements for a particular Covered Entity for a particular tax year, certain terms used in paragraphs 6(f)(i) and 6(f)(ii) are defined as follows:

A. An audit opinion is an opinion of an independent certified public or chartered accountant who audited the Financial Statements.

B. An accountant's report is a report of an independent certified public or chartered accountant who is associated with the Financial Statements.

C. A self-certification is an attestation, as defined in paragraph 6(f)(iii)(E), that the Financial Statements have been prepared according to the Applicable Accounting Standard.

D. A tying certification consists of the following:

(1) An attestation, as defined in paragraph 6(f)(iii)(E), that the Financial Statements can be reconciled to the consolidated Financial Statements for that entity's direct or indirect parent according to workpapers provided with the attestation;

(2) The workpapers referred to in paragraph 6(f)(iii)(D)(1), which must demonstrate the consolidation of the Covered Entity's Financial Statements into the Financial Statements of the parent referred to in paragraph 6(f)(iii)(D)(1);

(3) The Financial Statements of the parent referred to in paragraph 6(f)(iii)(D)(1); and

(4) An audit opinion (as defined in paragraph 6(f)(iii)(A)) for the Financial Statements of the parent referred to in paragraph 6(f)(iii)(D)(1).

E. An attestation is an affirmation by an officer of the Covered Entity in the following form:

I, *[Officer's Name and Title]*, of *[Name of Covered Entity]* affirm under penalties of perjury that the facts stated below are true. I either have adequate first-hand knowledge to make this affirmation or have gained adequate knowledge to make this affirmation through diligent consultation(s) with one or more individuals who have first-hand knowledge.

[Facts attested to.]

[Signature]

g. In accordance with section 7.04 of Rev. Proc. 2015-41, U.S. Taxpayer will (1) maintain the APA Records, and (2) make them available to the IRS in connection with an examination under section 7.03 of Rev. Proc. 2015-41. Compliance with this subparagraph constitutes compliance with the record-maintenance provisions of Code sections 6038A and 6038C for the Covered Issue(s) for any APA Covered Year.

h. The "true taxable income" within the meaning of U.S. Treasury Regulations sections 1.482-1(a)(1) and (i)(9) of a member of an affiliated group filing a U.S. consolidated return will be determined under the U.S. Treasury Regulations under Code section 1502.

i. To the extent that U.S. Taxpayer's compliance with this APA depends on certain acts of other members of Worldwide Group, U.S. Taxpayer will ensure that such other members will perform such acts.

7. *Critical Assumptions.* The Critical Assumptions, which are this APA's critical assumptions as defined in Rev. Proc. 2015-41, appear in Appendix B. If any Critical Assumption has not been met, then Rev. Proc. 2015-41, section 7.06, governs, as modified by Appendix B to this APA.

8. *Disclosure.* This APA, and any background information related to this APA or the APA Request, are: (1) considered "return information" under Code section 6103(b)(2)(C); and (2) not subject to public inspection as a "written determination" under Code section 6110(b)(1). Section 521(b) of Pub. L. 106-170 provides that the Secretary of the Treasury must prepare a report for public disclosure that includes certain specifically designated information concerning all APAs, including this APA, in a form that does not reveal taxpayers' identities, trade secrets, and proprietary or confidential business or financial information.

9. *Disputes.* If a dispute arises concerning the interpretation or application of this APA, the Parties will seek a resolution by the Director, Treaty and Transfer Pricing Operations, to the extent reasonably practicable, before seeking alternative remedies.

10. *Materiality.* In this APA the terms "material" and "materially" will be interpreted in a manner consistent with the description of "material facts" in Rev. Proc. 2015-41, section 7.06(4).

11. *Paragraph Captions.* This APA's paragraph captions, which appear in italic type, are for convenience and reference only. The captions do not affect in any way the interpretation or application of this APA.

12. *Terms and Definitions*.

a. Unless otherwise specified, terms in the plural include the singular and vice versa.

b. Appendix A contains definitions for certain terms used in this APA's body and appendices.

c. Certain terms used in this APA's body and appendices are defined as follows:

Term	Definition
Annual Report	A report within the meaning of Rev. Proc. 2015-41, section 7.02.
Advance Pricing Agreement, or "APA"	An "advance pricing agreement" within the meaning of Rev. Proc. 2015-41, section 2.02. Unless context indicates otherwise, "this APA" or "the APA" denotes the particular APA that is executed below.
APA Records	(Defined in Appendix C.)
APA Request	U.S. Taxpayer's request for this APA, which was dated #DATE, including any amendments or supplemental or additional information thereto (including but not limited to any responses to due diligence questions).
Critical Assumptions	(Defined in paragraph 7.)

Term	Definition
Financial Statements	Balance sheet, income statement, statement of cash flow, and explanatory notes, prepared in accordance with the Applicable Accounting Standard as defined in section 7 of Appendix A.
Non-U.S. Group	In any APA Tax Year, Worldwide Group members that are not U.S. persons.
Parties	(Defined in the Recitals near the start of this APA.)
Pub. L. 106-170	The Ticket to Work and Work Incentives Improvement Act of 1999.
U.S. Effective Date	(Defined in paragraph 17 and in section 7 of Appendix A. Those definitions are intended to have the same meaning. In case of conflict, the definition in paragraph 17 controls.)
U.S. Group	In any APA Tax Year, Worldwide Group members that are U.S. persons.
Worldwide Group	In any APA Tax Year, U.S. Taxpayer and all organizations, trades, businesses, entities, or branches (whether or not incorporated, organized in the United States, or affiliated) owned or controlled directly or indirectly by the same interests.

13. *Deadline References.* If a deadline under this APA falls on a Saturday, Sunday, or a legal holiday in the District of Columbia, the deadline is extended to the next succeeding day that is not a Saturday, Sunday, or legal holiday in the District of Columbia.

14. *Entire Agreement and Severability.* This APA is the complete statement of the Parties' agreement. The Parties will sever, delete, or reform any invalid or unenforceable provision in this APA to approximate the Parties' intent as nearly as possible.

15. *Successor in Interest.* This APA binds, and inures to the benefit of, any successor in interest to U.S. Taxpayer.

16. *Notice.* Any notices required by this APA or Rev. Proc. 2015-41 must be in writing. U.S. Taxpayer will send notices to the IRS at:

Commissioner, Large Business and International Division
Internal Revenue Service
1111 Constitution Avenue, NW
SE:LB:TTPO:APMA:NCA534-01
Washington, DC 20224
(Attention: APMA)

The IRS will send notices to:

#NAME AND ADDRESS
(phone: #PHONE)

The IRS also will send notices to, if applicable:

[] #REPRESENTATIVE'S NAME AND ADDRESS
(phone: #PHONE)

provided that a valid IRS Form 2848 "Power of Attorney and Declaration of Representative" for that person was included in the most recent Annual Report (or, if no Annual Report has been filed, was included in the APA Request).

17. *U.S. Effective Date and Counterparts.* This APA is effective starting on the date, or later date of the dates, upon which all Parties execute this APA ("U.S. Effective Date"). The Parties may execute this APA in counterparts, with each counterpart constituting an original.

WITNESS,

The Parties have executed this APA on the dates below.

#SIGNATORY NAME IN BOLD FACE BLOCK CAPITAL LETTERS

By: _____Date: _____, 20____
#NAME
#TITLE

INTERNAL REVENUE SERVICE

By: _____Date: _____, 20____
John C. C. Hughes
Director, Advance Pricing and Mutual Agreement Program

APPENDIX A

COVERED ENTITIES, TERM, COVERED ISSUE(S), COVERED METHOD(S), INCOME REPORTING, CONFORMING ADJUSTMENTS AND REPATRITION OF FUNDS, CERTAIN SUBSEQUENT ADJUSTMENTS, AND DEFINITIONS

Section 1 of this Appendix lists the Covered Entities. Section 2 defines the APA Term, APA Tax Years, and APA Covered Years. Section 3 describes the Covered Issue(s). Section 4 describes the Covered Method applicable to each Covered Issue.

Section 5 describes the application of the Covered Method(s) to income reporting and the possible need for an APA Primary Adjustment under one or more Covered Methods. Section 6 addresses conforming adjustments and repatriation of funds following APA Primary Adjustments.

Section 7 provides definitions that apply both to this Appendix and to the APA as a whole. The definitions table is based on a standard, inclusive model, and thus may include terms not used in this APA.

1. Covered Entities

The U.S. Covered Entity(ies) are:

#LIST OF EACH U.S. ENTITY INVOLVED IN ONE OR MORE COVERED ISSUE(S), AND ALSO (LISTED FIRST) ANY CONSOLIDATED RETURN PARENT FOR ANY SUCH ENTITY. FOR EACH ENTITY, NAME, ADDRESS, PHONE, AND EIN.

The term "U.S. Taxpayer" includes collectively all U.S. Covered Entities and any other entities that are in a consolidated return group with a U.S. Covered Entity.

The Non-U.S. Covered Entity(ies) are:

LIST OF EACH NON-U.S. ENTITY INVOLVED IN ONE OR MORE COVERED ISSUE(S), AND ALSO (LISTED FIRST) ANY COMMON TAX REPORTING PARENT FOR ANY SUCH ENTITY. FOR EACH ENTITY, NAME, ADDRESS, AND PHONE.

The term "Non-U.S. Taxpayer" includes collectively all Non-U.S. Covered Entities and any other entities that are in a common tax reporting group with a Non-U.S. Covered Entity.

The term "Covered Entities" includes both the U.S. Covered Entities and the Non-U.S. Covered Entities.

2. APA Term, APA Tax Years, and APA Covered Years

The APA applies to the period from #DATE to #DATE, inclusive (the "APA Term").

[] The APA Term does not include a Rollback.

[] The APA Term includes a Rollback, which covers from #DATE to #DATE, inclusive (the "Rollback Period").

A tax year of U.S. Taxpayer that is wholly or partly contained in the APA Term is called an "APA Tax Year." For a particular APA Tax Year, the portion of such APA Tax Year that is contained in the APA Term is called an "APA Covered Year." Such APA Tax Year and APA Covered Year are said to "correspond" to each other or to be "corresponding."

3. Covered Issue(s)

The Covered Issue(s) are as described below.

***Covered Issue 1*:**

#DESCRIPTION OF COVERED ISSUE.

4. Covered Method(s)

Each Covered Method applies to one or more Covered Issues. A Covered Method and the Covered Issue(s) to which the Covered Method applies are said to "correspond," or to be "corresponding".

The Covered Methods are summarized in the following table and are described in detail below. In case of conflict with this table, the detailed descriptions of the Covered Methods below, and the descriptions in section 3 above of the Covered Issues, control.

Covered Method Number	Applies to Covered Issues Number(s)	Summary Description of Corresponding Covered Issues	Type of Method; Results Tested	Point or Range	Testing Frequency and Periods
1					

This Appendix A uses the term "Tested Party." When applied in the context of methods that consider, or test, data from only one party to a transaction, this term is similar in concept to the term "tested party" as discussed in the OECD Guidelines paragraphs 3.18 and 3.19, and as defined in the U.S. Treasury Regulations section 1.482-5(b)(2). However, some methods consider, or test, data from both parties to a transaction, where there is no singular "tested" party. Even in applying such methods, however, it is typically the case that one particular party's results are formally tested for compliance with the method. For purposes of this template, in such circumstances, the party whose results are formally tested in applying any particular method is the "Tested Party", even if that party is not strictly a "tested party" as discussed in the OECD Guidelines paragraphs 3.18 and 3.19, or as defined in the U.S. Treasury Regulations section 1.482-5(b)(2).

***Covered Method for Covered Issue 1*:**

a. Tested Party

The Tested Party is #TESTED PARTY.

b. Financial Results Tested (Type of Method)

[] The Covered Method is an implementation of the comparable uncontrolled price method under the OECD Guidelines and of the comparable uncontrolled price method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are:

  [] per unit price paid, defined as the total amount paid for #DESCRIPTION OF GOODS divided by the number of #DESCRIPTION OF A UNIT OF GOODS purchased.

  [] per unit price received, defined as the total amount received for #DESCRIPTION OF GOODS divided by the number of #DESCRIPTION OF A UNIT OF GOODS sold.

[] The Covered Method is an implementation of the comparable uncontrolled price method under the OECD Guidelines and of the comparable uncontrolled services price method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are:

  [] per unit price paid, defined as the total amount paid for #DESCRIPTION OF SERVICES divided by the number of #DESCRIPTION OF A UNIT OF SERVICES received.

  [] per unit price received, defined as the total amount received for #DESCRIPTION OF SERVICES divided by the number of #DESCRIPTION OF A UNIT OF SERVICES provided.

[] The Covered Method is an implementation of the comparable uncontrolled price method under the OECD Guidelines and of the comparable uncontrolled transaction method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are the royalty paid for the license of #DESCRIPTION OF LICENSED INTANGIBLE PROPERTY divided by the Tested Party's:

  [] sales revenue from sales of #DESCRIPTION OF GOODS/SERVICES.

  [] #OTHER ROYALTY BASE.

[] The Covered Method is an implementation of the comparable uncontrolled price method under the OECD Guidelines and of the acquisition price method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are described in subsection (c) below.

[] The Covered Method is an implementation of the comparable uncontrolled price method under the OECD Guidelines and of the market capitalization method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are described in subsection (c) below.

[] The Covered Method is an implementation of the resale price method under the OECD Guidelines and of the resale price method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are the gross profit margin from the sale of #DESCRIPTION OF GOODS.

[] The Covered Method is an implementation of the resale price method under the OECD Guidelines and of the gross services margin method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are the gross services margin from the provision of #DESCRIPTION OF SERVICES.

[] The Covered Method is an implementation of the cost plus method under the OECD Guidelines and of the cost plus method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are the gross profit markup.

[] The Covered Method is an implementation of the cost plus method under the OECD Guidelines and of the cost of services plus method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are the gross services profit markup from the provision of #DESCRIPTION OF SERVICES.

[] The Covered Method is based on the principles of the low value-adding intra-group services approach under the OECD Guidelines and of the services cost method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are the markup on total costs for providing #DESCRIPTION OF SERVICES.

[] The Covered Method is an implementation of the transactional net margin method under the OECD Guidelines and of the comparable profits method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested, as reflected in its net profit indicator (per OECD Guidelines) or profit level indicator (per U.S. Treasury Regulations), are its:

  [] operating margin.

  [] markup on total costs.

  [] Berry ratio.

  [] return on operating assets.

  [] return on invested capital.

  []* #OTHER NET PROFIT INDICATOR OR PROFIT LEVEL INDICATOR, WITH DEFINITION.

[] The Covered Method is an implementation of the profit split (residual analysis) method under the OECD Guidelines and of the residual profit split method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are described in subsection (c) below.

[] The Covered Method is an implementation of the profit split (contribution analysis) method under the OECD Guidelines and of the comparable profit split method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are described in subsection (c) below.

[] The Covered Method is an implementation of an income based valuation technique as referenced in paragraph 6.153 of the OECD Guidelines and of the income method under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are described in subsection (c) below.

[] The Covered Method is an implementation of (i) a sharing of the cost of current contributions in proportion to overall expected benefits, within a cost contribution arrangement under the OECD Guidelines, and (ii) a sharing of intangible development costs in proportion to reasonably anticipated benefits, within a cost sharing arrangement under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are described in subsection (c) below.

[] The Covered Method is a method that is not specified under the OECD Guidelines and not specified under the U.S. Treasury Regulations. The Tested Party's financial results to be tested are described in subsection (c) below.

Such financial results are determined according to the Applicable Accounting Standard, with the proviso that in determining such results, accounting principles and conventions that are generally accepted in the trade or industry must be used.

Such financial results are tested against a point or range as described below. The test is carried out with a frequency, and for certain time periods, as described below. If and when these financial results do not satisfy the test, they must be adjusted as described in section 5 of this Appendix A.

c. Testing of Financial Results Against a Point or Range

The Tested Party's financial results are tested as follows:

[] The financial results must equal #X.

[] The financial results must be within an Arm's Length Range.

  [] The Arm's Length Range is from #X to #Y inclusive.

[] This Arm's Length Range has an associated Median value of #Z.

[] This Arm's Length Range has no associated Median value.

[] Two Arm's Length Ranges apply. The first is from #W to #X inclusive and applies to the annual test described in subsection (d) below. The second is from #Y to #Z inclusive and applies to the term test described in subsection (d) below.

[] The first Arm's Length Range has an associated Median value of #P, and the second Arm's Length Range has an associated Median value of #Q.

[] These Arm's Length Ranges have no associated Median value.

[] Two Arm's Length Ranges apply. The first is from #W to #X inclusive and applies to the subterm test described in subsection (d) below. The second is from #Y to #Z inclusive and applies to the annual test described in subsection (d) below.

[] The first Arm's Length Range has an associated Median value of #P, and the second Arm's Length Range has an associated Median value of #Q.

[] These Arm's Length Ranges have no associated Median value.

[] Two Arm's Length Ranges apply. The first is from #W to #X inclusive and applies to the test for the first subterm described in subsection (d) below. The second is from #Y to #Z inclusive and applies to the test for the second subterm described in subsection (d) below.

[] The first Arm's Length Range has an associated Median value of #P, and the second Arm's Length Range has an associated Median value of #Q.

[] These Arm's Length Ranges have no associated Median value.

[] #OTHER DESCRIPTION, FOR EXAMPLE THE EVALUATION AND TESTING MECHANICS FOR A PROFIT SPLIT, AN INCOME METHOD, AN UNSPECIFIED METHOD, OR A SHARING OF COSTS UNDER A COST CONTRIBUTION ARRANGMENT/COST SHARING ARRANGEMENT.

d. Testing Frequency and Testing Periods

The Tested Party's financial results are tested as of certain APA Covered Years, and for certain time periods, as follows:

[] The results are tested annually, meaning that they are tested as of each APA Covered Year, for a period consisting of that APA Covered Year.

[] There is no additional term test.

[] There is an additional term test. For this test, the results are tested as of the Last Effective APA Covered Year, for the period consisting of the Last Effective APA Covered Year and all prior APA Covered Years.

The application of the annual test and the application of the additional term test are coordinated as described in section 5 of this Appendix A.

[]* The results are tested on a term basis, meaning that they are tested only once, as of the Last Effective APA Covered Year, for a period consisting of the Last Effective APA Covered Year and all prior APA Covered Years.

[]* The results are tested on the basis of two subterms. For this purpose, the APA Term is divided into two subterms. The first subterm consists of all APA Covered Years ending on or before #DATE, and the second subterm consists of all other APA Covered Years. For each subterm, the results are tested as of the Last Effective APA Subterm Covered Year, for a period consisting of the Last Effective APA Subterm Covered Year and all prior APA Covered Years in the subterm.

[]* The results are tested on a subterm basis for all APA Covered Years ending on or before #DATE (the "subterm"), and are tested annually for each other APA Covered Year, as follows:

The results are tested as of the Last Effective APA Subterm Covered Year, for a period consisting of the Last Effective APA Subterm Covered Year and all prior APA Covered Years in the subterm.

The results are tested as of each APA Covered Year that is not in the subterm, for a period consisting of that APA Covered Year.

[]* The results are tested on a cumulative basis, meaning that (except as provided in the following sentence) they are not tested as of the first APA Covered Year but they are tested as of each other particular APA Covered Year for a period consisting of such particular APA Covered Year and all prior APA Covered Years. However, if the Last Effective APA Covered Year is

the first APA Covered Year, then the results are tested as of the first APA Covered Year, for a period consisting of such APA Covered Year.

[]* The results are tested on a three-year rolling average basis, meaning that the results are tested as of each APA Covered Year, for a period consisting of the APA Tax Year corresponding to the APA Covered Year (but excluding any portion of that APA Tax Year that is after the APA Term), and the Tested Party's two preceding tax years.

e. Other Provisions

The Tested Party's financial results, to be tested as described above, are for:

[] The Tested Party as a whole.

[] Only a segment of the Tested Party's activity. #DETAILED DESCRIPTION OF THE SEGMENT AND OF THE ALLOCATION AND APPORTIONMENT METHODS USED, INCLUDING ANY APPLICABLE FORMULAS AND DEFINITIONS OF QUANTITIES USED IN THOSE FORMULAS. THIS DESCRIPTION SHOULD BE DETAILED ENOUGH TO ENABLE A STRAIGHTFORWARD VERIFICATION OF COMPLIANCE BY THE IRS EXAMINATION TEAM.

When the Tested Party's financial results are tested as of a given APA Covered Year, those results shall reflect, to the extent relevant, any APA Primary Adjustment for this Covered Method made under section 5 of this Appendix A for the APA Tax Year corresponding to any prior APA Covered Year.

For this Covered Method, if applicable:

[]* For APA Covered Years ending on or before #DATE, it is agreed that this Covered Method, yields financial results as shown below, and that any APA Primary Adjustments under section 5 of this Appendix A are as shown below. #TEXT AND/OR TABLES SHOWING THE FINANCIAL RESULTS, THE TESTING OF THOSE FINANCIAL RESULTS UNDER THE COVERED METHOD, AND ANY RESULTING APA PRIMARY ADJUSTMENTS.

For this Covered Method, if applicable:

[] This Covered Method addresses the pricing for a transfer of intangible property (which does not constitute a platform contribution transaction as defined in U.S. Treasury Regulations section 1.482-7(b)(1)(ii)) within the meaning of U.S. Treasury Regulations section 1.482-4. That pricing will not be subject to periodic adjustments by the IRS, during or after the APA Term, under U.S. Treasury Regulations section 1.482-4(f)(2) or (6).

[] This Covered Method addresses the pricing for a platform contribution transaction ("PCT"). That PCT will not be treated as a Trigger PCT within the meaning of U.S. Treasury Regulations section 1.482-7(i)(6)(i) for purposes of making periodic adjustments, during or after the APA Term, under U.S. Treasury Regulations section 1.482-7(i)(6).

5. Application of Covered Method(s) to Income Reporting

For each APA Tax Year, and for each Covered Method and corresponding Covered Issue(s), the amounts reported by U.S. Taxpayer and Non-U.S. Taxpayer for income tax purposes under the laws of the United States and #COUNTRY(IES) must clearly reflect the Tested Party's actual transactions, allocations, and/or recordkeeping, as applicable, that relate to such Covered Issue(s), adjusted as necessary to conform with section 4 of this Appendix A. Accordingly, for each particular APA Tax Year and corresponding APA Covered Year, and for each such Covered Method:

i. If the Tested Party's financial results are tested as of such APA Covered Year and do not conform with section 4 of this Appendix A, then the tax reporting for such APA Tax Year must clearly reflect an adjustment that brings such results into conformance (an "APA Primary Adjustment"). If section 4 of this Appendix A specifies conformance to an Arm's Length Range, then the adjustment shall be to:

   [] the Median.

   []* the near edge of the Arm's Length Range.

   []* the Median for Covered Issues #SPECIFY WHICH ONES, and the near edge of the Arm's Length Range for Covered Issues #SPECIFY WHICH ONES.

ii. If an adjustment is not required under paragraph (i) above, then the tax reporting must clearly reflect the Tested Party's financial results, with no adjustment. In this case there is no APA Primary Adjustment.

iii. If both an annual test and an additional term test apply under such Covered Method, and such APA Covered Year is the Last Effective APA Covered Year, so that as of such APA Covered Year the Tested Party's financial results are tested under both the annual test and the term test, then paragraphs (i) and (ii) above are modified by this paragraph (iii), which coordinates

the application of both tests. As explained in more detail below, the annual test is applied first, followed by the term test. Specifically, the need for and amount of any APA Primary Adjustment for such APA Covered Year will be determined as follows:

A. First apply paragraphs (i) and (ii) above under the assumption that only the annual test applies. Any required adjustment will be referred to as the "annual adjustment" rather than an "APA Primary Adjustment." If there is no required adjustment, the annual adjustment is considered to be zero.

B. Next, apply paragraphs (i) and (ii) above to the Tested Party's financial results as adjusted by any nonzero annual adjustment, under the assumption that only the term test applies to those results. Any required adjustment under this application of paragraphs (i) and (ii) will be referred to as the "term adjustment" rather than an "APA Primary Adjustment." If there is no such required adjustment, the term adjustment is considered to be zero.

C. Add the annual adjustment and term adjustment, taking account of the magnitude and (if nonzero) direction of each. If this sum is zero, there is no APA Primary Adjustment for such APA Covered Year. If this sum is nonzero, this sum gives the magnitude and direction of the APA Primary Adjustment for such APA Covered Year. Any APA Primary Adjustment, or the lack of an APA Primary Adjustment, must be clearly reflected in the tax reporting for such APA Tax Year (see paragraphs (i) and (ii) above).

iv. If this APA is unilateral and such APA Covered Year is within the Rollback Period, then:

[] Paragraphs (i)-(iii) above notwithstanding, an APA Primary Adjustment will not be made if that APA Primary Adjustment would decrease the income of U.S. Taxpayer for such APA Tax Year.

[]* Paragraphs (i)-(iii) above apply without modification.

If indicated, the above provisions on APA Primary Adjustments are modified as follows:

[]* Any APA Primary Adjustment that would be made under the above provisions for an APA Tax Year ending before #DATE will instead be made for the APA Tax Year ending #THE SAME DATE (the "Telescoping Year"). For each particular Covered Method, all APA Primary Adjustments that are made for the Telescoping Year (including any APA Primary Adjustments that are moved to the Telescoping Year as just described, as well as any APA Primary Adjustment originally made for the Telescoping Year) are netted.

[] The foregoing provision applies without modification.

[] The foregoing provision applies with the following modification. An APA Primary Adjustment that is thus moved from a particular APA Tax Year (the "Original Year") to the Telescoping Year shall be increased in amount to reflect the time value of money. That increase will consist of multiplication by a factor that is an annual rate raised to a power. The annual rate is 1.#XY. The power is the quotient of (i) the average of the number of months by which the end of the Telescoping Year is later than the end of the Original Year, and the number of months by which the start of the Telescoping Year is later than the start of the Original Year (with any fractions of months rounded to whole months), (ii) divided by twelve.

For U.S. tax purposes, the generally applicable Code rules will apply with respect to APA Primary Adjustments, except as otherwise provided in Rev. Proc. 2015-41 or in this APA.

6.Conforming Adjustments and Repatriation of Funds

The provisions in this section 6 apply to "Repatriable Issues," which are Covered Issues that concern transactions between associated enterprises that fall under Article 9 of the OECD Model Tax Convention. Such transactions correspond to transactions that under U.S. law are subject to application of Code section 482, as modified by any applicable treaty provision.

If the application of a Covered Method to a Repatriable Issue requires an APA Primary Adjustment under section 5 of this Appendix A for a given APA Tax Year, then for U.S. tax purposes there generally must be a corresponding conforming adjustment as specified in U.S. Treasury Regulations section 1.482-1(g)(3) as amplified by Rev. Proc. 99-32 or any successor revenue procedure. However, for this purpose, all APA Primary Adjustments for such APA Tax Year arising from the application of a Covered Method to a Repatriable Issue are first netted to yield a net APA Primary Adjustment for such APA Tax Year. Only if the net APA Primary Adjustment is nonzero is a conforming adjustment required.

For each APA Tax Year with a nonzero net APA Primary Adjustment, for U.S. tax purposes the conforming adjustment will be accomplished in the following steps:

i. The conforming adjustment will be accomplished between #U.S. ENTITY and #NON-U.S. ENTITY, which will be referred to here as "U.S. Entity" and "Non-U.S. Entity", respectively. An intercompany payable will be established between U.S.

Entity and Non-U.S. Entity in the amount and direction of the net APA Primary Adjustment, as of the last day of such APA Tax Year. This payable will be denominated in #CURRENCY. The payable will be treated as indebtedness for all U.S. federal tax purposes; provided, however, that the payable will not be treated as indebtedness for purposes of Code section 956 if the payable is satisfied within 90 days of the close of the APA Tax Year with respect to which it is established.

ii. [] The intercompany payable will bear interest at an arm's length rate.

[] Such arm's length rate is not specified in this APA and will be determined under applicable legal principles.

[] Such arm's length rate is determined as follows. #DESCRIPTION OF ARM'S LENGTH RATE (FOR EXAMPLE, FOR A U.S. DOLLAR PAYABLE, A CERTAIN APPLICABLE FEDERAL RATE UNDER U.S. TREASURY REGULATIONS SECTION 1.482-2(a)(2)(iii)(C)).

[] This APA is bilateral or multilateral. As agreed between the United States and #COUNTRY(IES), the intercompany payable will not bear interest.

iii. The intercompany payable must be satisfied, in a manner permitted under Rev. Proc. 99-32 or any successor revenue procedure, within 90 days of the later of (1) the date for timely filing (with extensions) of the U.S. return for such APA Tax Year, and (2) the APA's U.S. Effective Date. If any amount of the intercompany payable is not otherwise so satisfied within that 90-day period, such amount, on the last day of such period, will be deemed (1) to be paid between U.S. Entity and Non-U.S. Entity in satisfaction of the payable, and (2) to be paid (directly or indirectly, as specified below) between U.S. Entity and Non-U.S. Entity in the opposite direction (that is, from the deemed recipient of the intercompany payable to the deemed payor of the intercompany payable). These two deemed payments on the same day will cancel and thus yield no net cash flow between these two entities. The second of these deemed payments will be referred to as the "reverse payment." The reverse payment will be deemed to be as follows:

A. If the net APA Primary Adjustment increases U.S. income:

[] The reverse payment will be deemed to be a contribution to capital from U.S. Entity to Non-U.S. Entity, either directly, or indirectly through the corporate chain, as the case may be.

[] The reverse payment will be deemed to be a distribution from U.S. Entity to Non-U.S. Entity, either directly, or indirectly through the corporate chain, as the case may be.

[] The reverse payment will be deemed to be a distribution from U.S. Entity to #COMMON PARENT, either directly, or indirectly through the corporate chain, as the case may be, followed by a contribution by #COMMON PARENT to non-U.S. Entity, either directly or indirectly through the corporate chain, as the case may be.

B. If the net APA Primary Adjustment decreases U.S. income:

[] The reverse payment will be deemed to be a contribution to capital from non-U.S. Entity to U.S. Entity, either directly, or indirectly through the corporate chain, as the case may be.

[] The reverse payment will be deemed to be a distribution from non-U.S. Entity to U.S. Entity, either directly, or indirectly through the corporate chain, as the case may be.

[] The reverse payment will be deemed to be a distribution from non-U.S. Entity to #COMMON PARENT, either directly, or indirectly through the corporate chain, as the case may be, followed by a contribution by #COMMON PARENT to U.S. Entity, either directly, or indirectly through the corporate chain, as the case may be.

This situation is generally described in paragraph 4.66 of the OECD Guidelines, and in U.S. Treasury Regulations section 1.482-1(g) and Rev. Proc. 99-32.

In this APA, if applicable:

[]* For the APA Tax Year(s) ending on or before #DATE, it is agreed that the net APA Primary Adjustment(s), if any, from the application of the Covered Methods are as follows: #FOR EACH SUCH APA TAX YEAR, DESCRIPTION OF WHETHER THERE IS A NET APA PRIMARY ADJUSTMENT, AND IF SO THE AMOUNT AND DIRECTION. IF THERE IS MORE THAN ONE COVERED METHOD FOR A REPATRIABLE ISSUE, ALSO PROVIDE A TABLE SHOWING THE DERIVATION, FOR EACH SUCH APA TAX YEAR, OF THE NET APA PRIMARY ADJUSTMENT FROM THE APA PRIMARY ADJUSTMENT (OR LACK OF ONE) FOR EACH SUCH COVERED METHOD. #FOR ANY SUCH NET APA PRIMARY ADJUSTMENTS, DESCRIPTION OF THE MEANS BY WHICH THE CONFORMING ADJUSTMENT HAS BEEN OR WILL BE SATISFIED, WITH APPLICABLE DATES.

7. Definitions

The definitions in the table below apply to this APA.

The defined terms in this table include certain measures of profitability (e.g., operating profit, operating margin). Most of these measures are ultimately defined in terms of sales revenue, operating expenses, and operating assets (defined terms), and cogs and non-interest-bearing liabilities (undefined terms). The definitions of sales revenue, operating expenses, and operating assets contain a limitation to the relevant business activity. Similarly, each use of the terms "cogs" and "non-interest-bearing liabilities" is accompanied by a limitation to the relevant business activity. Therefore, the measures of profitability based on these five terms all are defined with a limitation to the relevant business activity. (Certain other measures of profitability in this table relate to the provision of services and are defined with reference to those services. Therefore, those measures as well contain a limitation to the relevant business activity.)

Term	Definition
Arm's Length Range	With respect to a particular Covered Method, a numerical range that defines the values for which certain financial results of the Tested Party are considered to satisfy the arm's length standard. (This term may be referenced in section 4 of this Appendix A.)
APA Primary Adjustment	(Defined in section 5 of this Appendix A.)
APA Covered Year	(Defined in section 2 of this Appendix A.)
APA Term	(Defined in section 2 of this Appendix A.)
APA Tax Year	(Defined in section 2 of this Appendix A.)
Applicable Accounting Standard	The Applicable Accounting Standard is #CHOOSE FROM U.S. GAAP, IFRS, ETC. for U.S. Taxpayer and #CHOOSE FROM U.S. GAAP, IFRS, ETC. for Non-U.S. Taxpayer.
Berry ratio	The ratio of gross profit to operating expenses.
Code	The U.S. Internal Revenue Code of 1986, title 26 of the United States Code, as amended.
correspond, corresponding	(With regard to APA Covered Years and APA Tax Years, defined in section 2 of this Appendix A; with regard to Covered Issues and Covered Methods, defined in section 4 of this Appendix A.)
Covered Entity(ies)	(Defined in section 1 of this Appendix A.)
Covered Issue(s)	(Defined in section 3 of this Appendix A.)
Covered Method	A method used to resolve one or more Covered Issues, as described in section 4 of this Appendix A. (In some cases, this method may be a "transfer pricing method" within the meaning of chapter II of the OECD Guidelines and U.S. Treasury Regulations section 1.482-1(b).)
Critical Assumption fails, failure of a Critical Assumption	A Critical assumption "fails" when the Critical Assumption has not been met. This situation is referred to as the "failure" of the Critical Assumption.
Early Termination	A termination of this APA's effectiveness, either in its entirely or only as applied to certain Covered Issues, before the end of the APA Term. Such a termination could result from one or more of the following circumstances: (i) a Critical Assumption failure, (ii) a violation of the terms and conditions of this APA, (iii) a cancellation of the APA under Rev. Proc. 2015-41, and (iv) an amendment of the APA. If an Early Termination so terminates this APA's effectiveness as applied to a particular Covered Issue, the Early Termination is said to "apply" to or for that Covered Issue. Any such termination of effectiveness would occur as of the end of an APA Tax Year (see Rev. Proc. 2015-41, section 7.06). Because such end of an APA Tax Year is before the end of the APA Term, such end of an APA Tax Year is also the end of the corresponding APA Covered Year (see the definitions of APA Tax Year and APA Covered Year in section 2 of this Appendix A). Thus, an Early Termination always would occur as of the end of an APA Covered Year. That fact is assumed in the definitions in this table of Last Effective APA Covered Year and Last Effective APA Subterm Covered Year.
Gross profit	Sales revenue, less cost of goods sold for the relevant business activity.
Gross profit margin	gross profit, divided by sales revenue
Gross profit markup	gross profit, divided by cost of goods sold for the relevant business activity

Term	Definition
Gross services margin	In connection with a provision of services, the ratio of gross services profit to the price paid for the services in an uncontrolled transaction. For this purpose, gross services profit equals the amount of such price that is retained by the Tested Party.
Gross services profit markup	In connection with a provision of services, gross services profit, divided by transactional costs. For this purpose, gross services profit equals sales revenue less transactional costs. Also, for this purpose, transactional costs equal costs directly attributable to providing the services. Such costs would include, for example, all compensation attributable to employees directly involved in the performance of such services, and costs of materials and supplies consumed or made available in rendering the services.
IFRS	International Financial Reporting Standards.
Invested capital	Operating assets, less non-interest-bearing liabilities used in the relevant business activity.
IRS	The Internal Revenue Service, an agency of the U.S. government.
IFRS	International Financial Reporting Standards.
Last Effective APA Covered Year	For a particular Covered Method, the last APA Covered Year for which this APA remains effective as to the Covered Issue(s) corresponding to that Covered Method. The Last Effective APA Covered Year will be the last APA Covered Year unless an Early Termination applies to such Covered Issue(s). *See also* the definition in this table of Early Termination.
Last Effective APA Subterm Covered Year	For a particular Covered Method, and with reference to a particular set of APA Covered Years that is defined as a subterm, the last APA Covered Year in the subterm for which this APA remains effective as to the Covered Issue(s) corresponding to that Covered Method. The Last Effective APA Subterm Covered Year will be the last APA Covered Year in the subterm unless an Early Termination applies to such Covered Issue(s) and renders the APA ineffective as to such Covered Issue(s) before the end of the subterm. *See also* the definition in this table of Early Termination.
Markup on total costs	The ratio of operating profit to total costs.
Median	With respect to a particular Arm's Length Range, the median of a set of observations of market data from which that Arm's Length Range was determined.
Non-U.S. Taxpayer	(Defined in section 1 of this Appendix A.)
Non-U.S. Covered Entity(ies)	(Defined in section 1 of this Appendix A.)
OECD Guidelines	Organisation for Economic Co-operation and Development, *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (July 2017).
OECD PE Report	Organisation for Economic Co-operation and Development, *2010 Report on Attribution of Profit to Permanent Establishments* (July 22, 2010).
Operating assets	The value of all assets used in the relevant business activity, including fixed assets and current assets (such as accounts receivable and inventories). The following items are excluded from operating assets: cash, cash equivalents, short-term investments, deferred tax assets, tax refunds, intangibles, investments in subsidiaries, portfolio investments.
Operating expenses	All expenses (including depreciation) not included in cost of goods sold except for interest expense, domestic and foreign income taxes, amortization of intangibles, and any other expenses not related to the operation of the relevant business activity. Operating expenses normally include, for example, expenses associated with advertising, promotion, sales, marketing, warehousing and distribution, administration, and a reasonable allowance for depreciation. For U.S. Taxpayer, foreign income taxes are defined in U.S. Treasury Regulations section 1.902-1(a)(7).
Operating margin	The ratio of operating profit to sales revenue.
Operating profit	Sales revenue, less cost of goods sold for the relevant business activity, less operating expenses.
Rev. Proc. 99-32	A revenue procedure issued by the IRS that is cited as Rev. Proc. 99-32, 1999-2 C.B. 296.
Rev. Proc. 2015-41	A revenue procedure issued by the IRS that is cited as Rev. Proc. 2015-41, 2015-35 I.R.B 263.
Repatriable Issue	(Defined in section 6 of this Appendix A.)

Term	Definition
Relevant Financial Data	With respect to a particular Covered Method, the financial results of the Tested Party that are tested, together with any other financial data (of the Tested Party or any other party) that are considered in determining compliance with the Covered Method.
Return on invested capital	(Defined in the same way as "return on operating assets," but with "operating assets" replaced by "invested capital" wherever it occurs in the definition.)
Return on operating assets	With respect to a particular Covered Method, the Tested Party for that Covered Method, and a testing period used in that Covered Method, the operating profit over the testing period divided by the time-weighted average operating assets over the testing period. For this purpose, the time-weighted average operating assets over the testing period is the sum, over all APA Covered Years in the testing period, of the following product: (i) the simple average of the operating asset levels at the start and end of the APA Tax Year corresponding to such APA Covered Year, multiplied by (ii) the ratio of the number of calendar days in the APA Covered Year, to 365. For example, suppose that (i) the testing period consists of two consecutive APA Covered Years, the first with 183 calendar days and the second with 366 calendar days, (ii) the total operating profit over those two years is exactly 3.4, and (iii) the operating assets levels are exactly 10 at the start of the APA tax year corresponding to the first APA Covered Year, 16 at the end of the APA Tax Year corresponding to the first APA Covered Year (which is also the start of the APA Tax Year corresponding to the second APA Covered Year), and 22 at the end of the APA Tax Year corresponding to the second APA Covered Year. Then the time-weighted average operating assets over the testing period is [(10+16)/2]*(183/365) + [(16+22)/2]*(366/365) = 25.5699. The return on operating assets is then 3.4/25.5699 = 13.30%.
Rollback Period	(This term, if applicable, is defined in section 2 of this Appendix A.)
Sales revenue	Total receipts from sale of goods and provision of services, less returns and allowances, for the relevant business activity.
Tax year	A standard or irregular year that is used for tax reporting purposes. For U.S. Taxpayer, a tax year is a "taxable year," as defined in Code section 441.
Tested Party	(Defined in section 4 of this Appendix A with regard to a particular Covered Method.)
Testing period	The time period over which financial results are tested (see section 4 of Appendix A to this APA).
Total costs	Cost of goods sold for the relevant business activity, plus operating expenses.
U.S. Treasury Regulations	Tax regulations issued by the U.S. Treasury Department, found at title 26 of the Code of Federal Regulations.
U.S. Covered Entity(ies)	(Defined in section 1 of this Appendix A.)
U.S. Effective Date	The date, or later date of the dates, upon which the APA is executed by the IRS and by or on behalf of each U.S. Covered Entity.
U.S. GAAP	U.S. generally accepted accounting principles.
U.S. return	Any of the "Returns with respect to income taxes under subtitle A" required by Code section 6012, and any "return" for a partnership required by Code section 6031.
U.S. Taxpayer	(Defined in section 1 of this Appendix A.)

APPENDIX B
CRITICAL ASSUMPTIONS

The Critical Assumptions are:

1. The Covered Entities' business activities, functions performed, risks assumed, assets employed, contractual terms, markets, and economic conditions faced in relation to the Covered Issue(s) will remain materially the same as described in the APA Request. For this purpose, a mere change in business results will not be a material change.

2. The Covered Entities' financial accounting methods and classifications and methods of estimation in relation to the Covered Issue(s) and Covered Method(s) will remain materially the same as described or used in the APA Request.

If indicated, the effect of a critical assumption failure may be limited as follows:

[] The failure of Critical Assumptions #XXX listed above will affect the effectiveness of this APA only as to Covered Issues #YYY listed in Appendix A. Thus, as to the other Covered Issues, the APA will remain in force (except to the extent some other condition affects the APA's effectiveness as to those Covered Issues).

The Covered Entities will not cause a critical assumption to fail for the purpose of rendering the APA ineffective, unless they have an independent business justification (unrelated to rendering the APA ineffective) for the action that causes the critical assumption to fail. If one or more Covered Entities do cause a critical assumption to fail for the purpose of rendering the APA ineffective, and without such independent business justification, then the Covered Entities will not withhold consent to an amendment to this APA to the effect that this APA will continue in force without regard to such failure. In this case, if a Covered Entity refuses to sign such an amendment, such an amendment may be executed without such signature and will then have the same force and effect as if the amendment had such signature.

APPENDIX C
APA RECORDS AND ANNUAL REPORT

APA RECORDS

The APA Records will consist of all documents listed below for inclusion in the Annual Report, as well as all documents, notes, work papers, records, or other writings that support the information provided in such documents.

ANNUAL REPORT

An Annual Report must be submitted for each APA Tax Year in accordance with paragraph 6(e) of the APA and section 7.02 of Rev. Proc. 2015-41.

For each APA Tax Year, the Annual Report (and each copy or version as required by paragraph 6(e) of the APA) will include:

1. Two copies of a properly completed APA Annual Report Summary in the form of Appendix D to this APA, one copy of the form bound with, and one copy provided separately from, the rest of the Annual Report. (The electronic version of the Annual Report need have only one copy of this item.)
2. A table of contents, organized according to the additional required items listed below.
3. For such APA Tax Year and the corresponding APA Covered Year, statements that fully identify, describe, analyze, and explain:
    a. All material differences between the Covered Entities' business activities, functions performed, risks assumed, assets employed, contractual terms, markets, and economic conditions faced in relation to the Covered Issues during such APA Covered Year from those same items described in the APA Request. If there have been no such material differences, the Annual Report will include a statement to that effect.
    b. All material differences between Covered Entities' financial accounting methods and classifications and methods of estimation in relation to the Covered Issues and Covered Methods used during such APA Covered Year, from those described or used in the APA Request. If any change was made to conform to changes in the Applicable Accounting Standard, U.S. Taxpayer will specifically identify the change. If there have been no such material differences, the Annual Report will include a statement to that effect.
    c. Regarding notices under paragraph 16 of the APA:
        i. A current statement of how the IRS should provide such notices to U.S. Taxpayer (and, if applicable, to U.S. Taxpayer's representative).
        ii. A copy of any such notices that were submitted by U.S. Taxpayer to the IRS after the last Annual Report was submitted (or, if there was no prior Annual Report, after the APA was executed). If there were no such notices, the Annual Report will include a statement to that effect.
    d. Any failure of any Critical Assumption. If there has been no such failure, the Annual Report will include a statement to that effect.
    e. Whether or not material information submitted while the APA Request was pending is discovered to be false, incorrect, or incomplete, and if so a correction or completion of that information, as applicable.
    f. Any change to any entity classification for federal income tax purposes (including any change that causes an entity to be disregarded for federal income tax purposes) of any Worldwide Group member that is a Covered Entity or is otherwise relevant to the Covered Issue(s) or Covered Method(s).
    g. The following regarding any APA Primary Adjustments made for such APA Tax Year under Appendix A to this APA:
        i. The amounts of any APA Primary Adjustments;
        ii. The circumstances that led to such APA Primary Adjustments being necessary;
        iii. A calculation of the net APA Primary Adjustment as defined in Appendix A to this APA; and
        iv. A complete description of the means by which the conforming adjustment (see section 6 of Appendix A to this APA) is accomplished, including:

A. a description of any accounts payable established, including the entities involved and when the payables are established;

B. a description of any amounts paid or deemed paid (including amounts paid or deemed paid in satisfaction of an intercompany payable established as described in section 6 of Appendix A to this APA, and including any deemed reverse payments as described in section 6 of Appendix A to this APA), that specifies the entities involved, when the amounts are paid or deemed paid, and by what means any amounts are actually paid; and

C. the character (such as capital, ordinary, income, expense, dividend, contribution to capital) and country source of any payments and deemed payments, and the specific affected line item(s) of any affected U.S. return;

h. A detailed numerical explanation of how the result of the application of the Covered Methods is reflected on the U.S. return, with reference to particular line items on the U.S. return. This explanation shall include the amounts, description, reason for, and financial analysis of any book-tax differences, as reflected on Schedule M-1 or Schedule M-3 of the U.S. return for such APA Tax Year, that (i) are relevant to an APA Primary Adjustment, (ii) otherwise are relevant to the book and tax treatment of any income or expense item that is part of the Relevant Financial Data for, or is determined by, any Covered Method for such APA Tax Year, or (iii) otherwise are relevant to the APA. U.S. Taxpayer shall not simply attach a copy of the pertinent schedule. Rather, U.S. Taxpayer shall specifically identify the relevant items from that schedule and shall describe in appropriate detail the nature of those items, how they arose, and how they are accounted for.

i. Whether or not U.S. Taxpayer contemplates requesting, or has requested, to renew, modify, or cancel the APA.

4. The Financial Statements and additional statements required under paragraph 6(f) of the APA, for such APA Tax Year and for any other tax year whose financial data are relevant to compliance with the APA for such APA Tax Year;

5. A financial analysis that includes U.S. Taxpayer's calculations to apply the Covered Method(s) to the Covered Issue(s) for such APA Covered Year and supports those calculations with additional material that ties those calculations to the Financial Statements. The intent of this requirement is that the analysis submitted should provide a clear, complete, detailed, and self-contained means by which the IRS can verify compliance with the Covered Method(s). This requirement is further explained as follows:

   a. The additional material must support every numerical input to U.S. Taxpayer's calculations.

   b. The additional material could include, for example, consolidating financial statements, segmented financial data, and records from the general ledger.

   c. Where segmented data are used, U.S. Taxpayer must specify in detail how it accomplished the segmentation, including how it made allocations and apportionments, including (i) the definition and calculation of any apportionment keys used, and (ii) the calculations applying such keys. The inputs used for those various calculations must be tied to the Financial Statements.

   d. The additional material must be annotated sufficiently to let the IRS easily trace U.S. Taxpayer's entire calculations to objective, verifiable sources of data.

   e. Where needed for clarity, terms must be defined.

6. The financial results pertinent to the Covered Method(s), for such APA Covered Year and all prior years, entered along with data concerning the Covered Method(s) in an electronic results template available by contacting APMA.

7. [] An organizational chart for Worldwide Group, revised annually to reflect all ownership or structural changes of the Covered Entities and any other entities that are relevant to the Covered Issue(s) or are otherwise relevant to the Covered Method(s).

   []* An organizational chart for a part of Worldwide Group that includes all Covered Entities and includes any other entities relevant to the Covered Issue(s) or Covered Method(s), revised annually to reflect all ownership or structural changes of entities that are involved in the Covered Issue(s) or are otherwise relevant to the Covered Issue(s) or Covered Method(s).

8. A valid IRS Form 2848 "Power of Attorney and Declaration of Representative" for any representative to receive notices under paragraph 16 of this APA.

9. A copy of the APA and any amendment.

10. A penalty of perjury statement, executed in accordance with Rev. Proc. 2015-41, sections 7.02(8) and (9).

APPENDIX D
APA ANNUAL REPORT SUMMARY FORM

The APA Annual Report Summary on the next page is a required APA Record. APMA supplies some of the information requested on the form. U.S. Taxpayer is to supply the remaining information requested by the form and submit the form as part of its Annual Report.

Internal Revenue Service	APMA Case No.
Large Business and International Division	Reviewer
Treaty & Transfer Pricing Operations	Team Leader
Advance Pricing Mutual Agreement Program	Economist
	Other APA Team Members

APA Information	
U.S. Taxpayer's Name	
U.S. Taxpayer's EIN	
U.S. Taxpayer's NAICS	
Unilateral/Bilateral/Multilateral	
Original or Renewal	
APA Common Name, if any	
APA Request Filing Date	
Date APA Executed	
APA Term (date-to-date, inclusive)	
Foreign Countr(y)ies Involved	
Annual Report Due Dates for years ending on or before [date]:	
Annual Report Due Dates for other years: [last month of tax year] 15 following close of year	
Covered Methods Summary Description	
(e.g., CPM, operating margin 2%-5%)	
Taxpayer's Principal Representative	

APA Annual Report Information:	
Year(s) covered by this Annual Report	
Issues for APMA's special attention (or "None")	
Taxpayer Notice Person	Name
If necessary, include a current Form 2848 for the Notice Person	Title
	Address
	City/State/Zip
	Phone/Fax
	Email
Current Representative, if any	Name
Include a current Form 2848 for the representative	Title
	Address
	City/State/Zip
	Phone/Fax
	Email
Date Annual Report Filed (to be filled in by APMA):	

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2020-3

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, appraisers, and unenrolled/unlicensed return preparers (individuals who are not enrolled to practice and are not licensed as attorneys or certified public accountants). Licensed or enrolled practitioners are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Subtitle A, Part 10, and which are released as Treasury Department Circular No. 230. The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations. Unenrolled/unlicensed return preparers are subject to Revenue Procedure 81-38 and superseding guidance in Revenue Procedure 2014-42, which govern a preparer's eligibility to represent taxpayers before the IRS in examinations of tax returns the preparer both prepared for the taxpayer **and** signed as the preparer. Additionally, unenrolled/unlicensed return preparers who voluntarily participate in the Annual Filing Season Program under Revenue Procedure 2014-42 agree to be subject to the duties and restrictions in Circular 230, including the restrictions on incompetent or disreputable conduct.

The disciplinary sanctions to be imposed for violation of the applicable standards are:

Disbarred from practice before the IRS—An individual who is disbarred is not eligible to practice before the IRS as defined at 31 C.F.R. § 10.2(a)(4) for a minimum period of five (5) years.

Suspended from practice before the IRS—An individual who is suspended is not eligible to practice before the IRS as defined at 31 C.F.R. § 10.2(a)(4) during the term of the suspension.

Censured in practice before the IRS—Censure is a public reprimand. Unlike disbarment or suspension, censure does not affect an individual's eligibility to practice before the IRS, but OPR may subject the individual's future practice rights to conditions designed to promote high standards of conduct.

Monetary penalty—A monetary penalty may be imposed on an individual who engages in conduct subject to sanction, or on an employer, firm, or entity if the individual was acting on its behalf and it knew, or reasonably should have known, of the individual's conduct.

Disqualification of appraiser—An appraiser who is disqualified is barred from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or the IRS.

Ineligible for limited practice—An unenrolled/unlicensed return preparer who fails to comply with the requirements in Revenue Procedure 81-38 or to comply with Circular 230 as required by Revenue Procedure 2014-42 may be determined ineligible to engage in limited practice as a representative of any taxpayer.

Under the regulations, individuals subject to Circular 230 may not assist, or accept assistance from, individuals who are suspended or disbarred with respect to matters constituting practice (*i.e.*, representation) before the IRS, and they may not aid or abet suspended or disbarred individuals to practice before the IRS.

Disciplinary sanctions are described in these terms:

Disbarred by decision, Suspended by decision, Censured by decision, Monetary penalty imposed by decision, and Disqualified after hearing—An administrative law judge (ALJ) issued a decision imposing one of these sanctions after the ALJ either (1) granted the government's summary judgment motion or (2) conducted an evidentiary hearing upon OPR's complaint alleging violation of the regulations. After 30 days from the issuance of the decision, in the absence of an appeal, the ALJ's decision becomes the final agency decision.

Disbarred by default decision, Suspended by default decision, Censured by default decision, Monetary penalty imposed by default decision, and Disqualified by default decision—An ALJ, after finding that no answer to OPR's complaint was filed, granted OPR's motion for a default judgment and issued a decision imposing one of these sanctions.

Disbarment by decision on appeal, Suspended by decision on appeal, Censured by decision on appeal, Monetary penalty imposed by decision on appeal, and Disqualified by decision on appeal—The decision of the ALJ was appealed to the agency appeal authority, acting as the delegate of the Secretary of the Treasury, and the appeal authority issued a decision imposing one of these sanctions.

Disbarred by consent, Suspended by consent, Censured by consent, Monetary penalty imposed by consent, and Disqualified by consent—In lieu of a disciplinary proceeding being instituted or continued, an individual offered a consent to one of these sanctions and OPR accepted the offer. Typically, an offer of consent will provide for: suspension for an indefinite term; conditions that the individual must observe during the suspension; and the individual's opportunity, after a stated number of months, to file with OPR a petition for reinstatement affirming compliance with the terms of the consent and affirming current fitness and eligibility to practice (*i.e.*, an active professional license or active enrollment status, with no intervening violations of the regulations).

Suspended indefinitely by decision in expedited proceeding, Suspended indefinitely by default decision in expedited proceeding, Suspended by consent in expedited proceeding—OPR instituted an expedited proceeding for suspension (based on certain limited grounds, including loss of a professional license for cause, and criminal convictions).

Determined ineligible for limited practice—There has been a final determination that an unenrolled/unlicensed return preparer is not eligible for limited representation of any taxpayer because the preparer violated standards of conduct or failed to comply with any of the requirements to act as a representative.

A practitioner who has been disbarred or suspended under 31 C.F.R. § 10.60, or suspended under § 10.82, or a disqualified appraiser may petition for reinstatement before the IRS after the expiration of 5 years following such disbarment, suspension, or disqualification (or immediately

following the expiration of the suspension or disqualification period if shorter than 5 years). Reinstatement will not be granted unless the IRS is satisfied that the petitioner is not likely to engage thereafter in conduct contrary to Circular 230, and that granting such reinstatement would not be contrary to the public interest.

Reinstatement decisions are published at the individual's request, and described in these terms:

Reinstated to practice before the IRS—The individual's petition for reinstatement has been granted. The agent, and eligible to practice before the IRS, or in the case of an appraiser, the individual is no longer disqualified.

Reinstated to engage in limited practice before the IRS—The individual's petition for reinstatement has been granted. The individual is an unenrolled/unlicensed return preparer and eligible to engage in limited practice before the IRS, subject to requirements the IRS has prescribed for limited practice by tax return preparers.

OPR has authority to disclose the grounds for disciplinary sanctions in these situations: (1) an ALJ or the Secretary's delegate on appeal has issued a final decision; (2) the individual has settled a disciplinary case by signing OPR's "consent to sanction" agreement admitting to one or more violations of the regulations and consenting to the disclosure of the admitted violations (for example, failure to file Federal income tax returns, lack of due diligence, conflict of interest, etc.); (3) OPR has issued a decision in an expedited proceeding for indefinite suspension; or (4) OPR has made a final determination (including any decision on appeal) that an unenrolled/unlicensed return preparer is ineligible to represent any taxpayer before the IRS.

Announcements of disciplinary sanctions appear in the Internal Revenue Bulletin at the earliest practicable date. The sanctions announced below are alphabetized first by state and second by the last names of the sanctioned individuals.

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
California				
Pasadena	Campbell, Marshall	CPA/ Enrolled Agent	Disbarred by Decision on Appeal	Indefinite from July 16, 2018
Porter Ranch	Chotani, Masood A.	CPA		Reinstated to practice before the IRS, effective November 05, 2019
Fair Oaks	Kauffman, Darryl Lynn	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 30, 2019
Rolling Hills Estate	Keyser, Joel D.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from December 13, 2019
District of Columbia (DC)				
	Anthony, Jr., Warner H., see North Carolina			

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Florida				
Bradenton	Avalle, Dawn M.	Enrolled Agent	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 26, 2019
Holmes Beach	Morse, Daniel W.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 09, 2019
Miami	Sierra, Jimmy	Enrolled Agent	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 20, 2019
Dover	Smith, John M.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 09, 2019
Louisiana				
	Anthony, Jr., Warner H. See North Carolina			
Maine				
South Paris	White, Jeffrey P.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 18, 2019
Massachusetts				
Gloucester	Fraser, Karen J.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from December 13, 2019
Ipswich	Mauser, Timothy M.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from December 13, 2019

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
Michigan				
Holland	Palmer, Jeffrey J.	Attorney	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 22, 2019
Minnesota				
Minneapolis	Nora, Wendy A.	Attorney	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 19, 2019
Mississippi				
Hattiesburg	Nicholson, Jr., Carl L.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 26, 2019
New Jersey				
Egg Harbor Township	Foust, Chris A.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from November 26, 2019
New York				
Staten Island	Shin, Tom H.	CPA	Suspended by decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 09, 2019
Rockville Center	Bronner, Ira H.	Enrolled Agent	Suspended by consent under 31 C.F.R. §§ 10.51(a)(1-3)	Indefinite from October 30, 2019
Great Neck	McCoy, William L.	Enrolled Agent	Disbarred by Decision on Appeal by Appellate Authority 31 C.F.R §10.51(a); and a $10,000 monetary penalty	September 7, 2017

City & State	Name	Professional Designation	Disciplinary Sanction	Effective Date(s)
North Carolina				
Greensboro	Anthony, Jr., Warner H.	Attorney	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from October 16, 2019
Fairview	James, Perry A.	CPA	Suspended by default decision in expedited proceeding under 31 C.F.R. § 10.82(b)	Indefinite from September 24, 2019
Oklahoma				
Oklahoma City	Sanger, Brett D.	Attorney		Reinstated to practice before the IRS, effective May 16, 2019
Pennsylvania				
	Morse, Daniel W., see Florida			
Wisconsin				
	Nora, Wendy A., see Minnesota			
	Morse, Daniel W., see Florida			

Definition of Terms

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

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

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

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

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

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

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

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

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

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

Abbreviations

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

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

Numerical Finding List[1]

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[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 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.

Internal Revenue Service
Washington, DC 20224

INTERNAL REVENUE BULLETIN

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

We Welcome Comments About the Internal Revenue Bulletin

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