Internal Revenue
bulletin

Bulletin No. 1997–34
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HIGHLIGHTS OF THIS ISSUE

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

INCOME TAX

Rev. Rul. 97–33, page 4.

Fringe benefits aircraft valuation formula. For purposes of section 1.61–21(g) of the regulations, relating to the rule for valuing non-commercial flights on employer-provided aircraft, the Standard Industry Fare Level, cents-per-mile rates and terminal charges in effect for the second half of 1997 are set forth.

Rev. Rul. 97–34, page 4.

Low-income housing credit; satisfactory bond; "bond factor" amounts for the period July through September 1997. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period July through September 1997.

EMPLOYEE PLANS

T.D. 8727, page 5.

Final and temporary regulations under section 401 of the Code relate to the remedial amendment period during which a sponsor of a qualified retirement plan or an employer maintaining a qualified retirement plan can make retroactive amendments to the plan to eliminate certain qualification defects for the entire period.

Announcement 97–81, page 12.

Form 5310, Application for Determination for Terminating Plan; Form 6088, Distributable Benefits From Employee Benefit Pension Plans; and Form 5310A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities—Notice of Qualified Separate Lines of Business, have been revised as of June 1997.

EXEMPT ORGANIZATIONS

T.D. 8726, page 7.

Final regulations under section 501(c)(5) of the Code clarify requirements an organization must meet in order to be exempt from tax.

Announcement 97–83, page 13.

A list is provided of organizations that no longer qualify as organizations for which contributions are deductible under section 170 of the Code.

Announcement 97–84, page 13.

A list is provided of organizations now classified as private foundations.

EXCISE TAX

Announcement 97–78, page 11.

This announces the excise tax changes made by the Taxpayer Relief Act of 1997 that affect Form 720, Quarterly Federal Excise Tax Return, for the 3rd quarter.

ADMINISTRATIVE

Notice 97–46, page 10.

T.D. 8145, 1987–2 C.B. 47, relating to the allocation of interest expense among a taxpayer's expenditures, is corrected.

Rev. Proc. 97–32A, page 10.

Reproduction of forms: Forms 1096, 1098, 1099 series, 5498, and W–2G. This addendum to Rev. Proc. 97–32, 1997–27 I.R.B. 9, allows for the location of the policyholder's name and address, and the location of the insured's name and address to be reversed on Copy C, Form 1099–LTC. Rev. Proc. 97–32 modified and amplified.

Announcement 97–80, page 12.

An updated edition of Publication 1544, Reporting Cash Payments of over $10,000 (revised August 1997), is now available.

Announcement 97–82, page 12.

T.D. 8718, 1997–22 I.R.B. 4, relating to arbitrage and related restrictions applicable to tax-exempt bonds issued by state and local governments, is corrected.

Finding Lists begin on page 16.

Department of the Treasury
Internal Revenue Service

Mission of the Service

The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost; serve the public by continually improving the quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency, and fairness.

Statement of Principles of Internal Revenue Tax Administration

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he or she is "protecting the revenue." The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

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 and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents of a permanent nature are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

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 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.

With the exception of the Notice of Proposed Rulemaking and the disbarment and suspension list included in this part, none of these announcements are consolidated in the Cumulative Bulletins.

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

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

Section 42.—Low-Income Housing Credit

Low-income housing credit; satisfactory bond; "bond factor" amounts for the period July through September 1997. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period July through September 1997.

Rev. Rul. 97–34

In Rev. Rul. 90–60, 1990–2 C.B. 3, the Internal Revenue Service provided guidance to taxpayers concerning the general methodology used by the Treasury Department in computing the bond factor amounts used in calculating the amount of bond considered satisfactory by the Secretary under § 42(j)(6) of the Internal Revenue Code. It further announced that the Secretary would publish in the Internal Revenue Bulletin a table of "bond factor" amounts for dispositions occurring during each calendar month.

This revenue ruling provides in Table 1 the bond factor amounts for calculating the amount of bond considered satisfactory under § 42(j)(6) for dispositions of qualified low-income buildings or interests therein during the period July through September 1997.

TABLE 1
REV. RUL. 97–34
MONTHLY BOND FACTOR AMOUNTS FOR DISPOSITIONS EXPRESSED
AS A PERCENTAGE OF TOTAL CREDITS

	CALENDAR YEAR BUILDING PLACED IN SERVICE OR, IF SECTION 42(f)(1) ELECTION WAS MADE, THE SUCCEEDING CALENDAR YEAR										
MONTH OF DISPOSITION	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
JUL '97	78.33	80.65	83.19	86.15	89.61	93.54	97.58	101.48	105.30	109.33	112.52
AUG '97	78.11	80.43	82.96	85.92	89.36	93.27	97.30	101.18	105.01	109.06	112.52
SEP '97	77.90	80.21	82.74	85.68	89.12	93.01	97.03	100.90	104.73	108.81	112.52

For a list of bond factor amounts applicable to dispositions occurring during other calendar years, see the following revenue rulings: Rev. Rul. 90-60, 1990–2 C.B. 3, for dispositions occurring during calendar years 1987, 1988, and 1989; Rev. Rul. 90–88, 1990–2 C.B. 7, for dispositions occurring during calendar year 1990; Rev. Rul. 91–67, 1991–2 C.B. 13, for dispositions occurring during calendar year 1991; Rev. Rul. 92–101, 1992–2 C.B. 9, for dispositions occurring during calendar year 1992; Rev. Rul 93–83, 1993–2 C.B. 6, for dispositions occurring during calendar year 1993; Rev. Rul. 94–71, 1994–2 C.B. 4, for dispositions occurring during calendar year 1994; Rev. Rul. 95–83, 1995–2 C.B. 8, for dispositions occurring during calendar year 1995; Rev. Rul. 96–16, 1996–1 C.B. 3, for dispositions occurring during the period January through March 1996; Rev. Rul. 96–33, 1996–27 I.R.B. 4, for dispositions occurring during the period April through June 1996; Rev. Rul. 96–45, 1996–39 I.R.B. 5, for dispositions occurring during the period July through September 1996; Rev. Rul. 96–59, 1996–50 I.R.B. 4, for dispositions occurring during the period October through December 1996; Rev. Rul. 97–16, 1997–13 I.R.B. 4, for dispositions occurring during the period January through March 1997; and Rev. Rul. 97–25, 1997–23 I.R.B. 4, for dispositions occurring during the period April through June 1997.

DRAFTING INFORMATION

The principal author of this revenue ruling is Jack Malgeri of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling, contact Mr. Malgeri at (202) 622-3040 (not a toll-free call).

Section 61.—Gross Income Defined

26 CFR 1.61–21: Taxation of fringe benefits.

Fringe benefits aircraft valuation formula. For purposes of section 1.61–21(g) of the regulations, relating to the rule for valuing non-commercial flights on employer-provided aircraft, the Standard Industry Fare Level, cents-per-mile rates and terminal charges in effect for the second half of 1997 are set forth.

Rev. Rul. 97–33

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 charges and SIFL mileage rates:

Period During Which the Flight Is Taken	*Terminal Charge*	*SIFL Mileage Rates*
7/1/97-12/31/97	$31.72	Up to 500 miles = $.1735 per mile
		501-1500 miles = $.1323 per mile
		Over 1500 miles = $.1272 per mile

DRAFTING INFORMATION

The principal author of this revenue ruling is Felicia A. Daniels of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this revenue ruling contact, Ms. Daniels on (202) 622-6050 (not a toll-free call).

Section 401.—Qualified Pension, Profit-Sharing, and Stock Bonus Plans

26 CFR 1.401(b)–1: Certain retroactive changes in plan.

T.D. 8727

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1

Remedial Amendment Period

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the remedial amendment period, during which a sponsor of a qualified retirement plan or an employer that maintains a qualified retirement plan can make retroactive amendments to the plan to eliminate certain qualification defects for the entire period. These final and temporary regulations clarify the scope of the Commissioner's authority to provide relief from plan disqualification under the regulations, to enable the Commissioner to provide appropriate relief for plan amendments relating to changes to the plan qualification rules made in the Small Business Job Protection Act of 1996 and the Uruguay Round Agreements Act of 1994. These final and temporary regulations affect sponsors of qualified retirement plans, and employers that maintain qualified retirement plans. The text of the temporary regulations also serves as the text of the proposed regulations set forth in REG.–106043–97.

DATES: These regulations are effective August 1, 1997.

FOR FURTHER INFORMATION CONTACT: Linda S. F. Marshall, (202) 622-6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 401(b). The temporary regulations provide guidance to clarify the scope of the Commissioner's authority to provide relief from plan disqualification under section 401(b) and the regulations. This guidance will enable the Commissioner to provide appropriate relief concerning the timing of plan amendments relating to changes to the plan qualification rules made in the Small Business Job Protection Act of 1996, Pub. L. No. 104–188, and the Uruguay Round Agreements Act of 1994, Pub. L. No. 103–465, as well as for other plan amendments that may be needed as a result of future changes to the Internal Revenue Code.

Explanation of Provisions

Section 401(b) provides that a plan is considered to satisfy the qualification requirements of section 401(a) for the period beginning with the date on which it was put into effect, or for the period beginning with the earlier of the date on which any amendment that caused the plan to fail to satisfy those requirements was adopted or put into effect, and ending with the time prescribed by law for filing the employer's return for the taxable year in which that plan or amendment was adopted (including extensions) or such later time as the Secretary may designate. The relief provided under section 401(b) applies only if all provisions of the plan needed to satisfy the qualification requirements are in effect by the end of the specified period and have been made effective for all purposes for the entire period.

Section 1.401(b)–1(b) lists the plan provisions that may be amended retroactively pursuant to rules of section 401(b). These plan provisions, termed "disqualifying provisions," include the plan provisions listed in section 401(b), as well as plan provisions that result in failure of a plan to satisfy the qualification requirements of the Code by reason of a change in those requirements effected by the legislation listed in §1.401(b)–1(b)(2)(i) and (ii). Under §1.401(b)–1(b)(2)(ii), a disqualifying provision also includes a plan provision that is integral to a qualification requirement changed by specified legislation. Section 1.401(b)-1(b)(2)(iii), as in effect prior to amendment by the final regulations, provided that a disqualifying provision includes a plan provision that results in failure of the plan to satisfy the Code's qualification requirements by reason of a change in those requirements effected by amendments to the Code, that is designated by the Commissioner, at the Commissioner's discretion, as a disqualifying provision.

Former §1.401(b)–1(c), which has been redesignated §1.401(b)–1(d) under the final regulations, provides rules for determining the period for which the relief provided under section 401(b) applies (the "remedial amendment period"). Former §1.401(b)–1(c)(1) defines the beginning of the remedial amendment period for the disqualifying provisions listed in §1.401(b)–1(b)(1) and §1.401(b)–1(b)(2)-(i) and (ii).

The temporary regulations make certain changes to clarify the scope of the Commissioner's authority to provide relief from plan disqualification under section 401(b). These changes are needed to clarify the rules relating to the plan provisions that may be designated by the Commissioner as disqualifying provisions based on amendments to the plan qualification requirements of the Internal Revenue Code. Section 1.401(b)–1T(b)(3) provides that a disqualifying provision includes a plan provision designated by the Commissioner, at the Commissioner's discretion, as a disqualifying provision that either (1) results in the failure of the plan to satisfy the qualification requirements of the Code by reason of a change in those requirements; or (2) is integral to a qualification requirement of the Code that has been changed. Section 1.401(b)–1T(c)(2) provides the Commissioner with explicit authority to impose limits and provide additional rules regarding the amendments that may be made with respect to disqualifying provisions during the remedial amendment period. Section 1.401(b)–1T(d)(1)(iv) and (v) provide conforming rules regarding the beginning of the remedial amendment period for disqualifying provisions described in §1.401(b)–1T(b)(3).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Linda S. F. Marshall, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

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 adding one entry for §1.401(b)–1 to read in part as follows:

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

§1.401(b)–1 also issued under 26 U.S.C. 401(b). * * *

§1.401(b)–1 [Amended]

Par. 2. Section 1.401(b)–1 is amended as follows:

1. Paragraphs (c), (d) and (e) are redesignated as paragraphs (d), (e) and (f), respectively.

2. Following newly redesignated paragraph (d)(2)(iv), the two undesignated paragraphs are designated as paragraphs (d)(3) and (d)(4), respectively.

Par. 3. In the list below, for each section indicated in the left column, remove the language in the middle column, and add the language in the right column.

SECTION	REMOVE	ADD
1.401(b)–1 (a), first sentence	(c), (d) and (e)	(d), (e) and (f)
1.401(b)–1 (b)(1)	effective or	effective.
1.401(b)–1 (d)(1)(ii)	earlier), or	earlier),
1.401(b)–1 (d)(1)(iii)	such provision.	such provision, or
1.401(b)–1 (d)(2) introductory text	paragraph (d)	paragraph (e)
1.401(b)–1 (d)(3)	(c)(2)(i), (c)(2)(ii), and (c)(2)(iii)	(d)(2)(i), (d)(2)(ii) and (d)(2)(iii)
1.401(b)–1 (d)(4)	(c)(2)	(d)(2)
1.401(b)–1 (d)(4)	(c)(2)(i)	(d)(2)(i)
1.401(b)–1 (e)(1)(ii)(C), third sentence	paragraph (d)(1)	paragraph (e)(1)
1.401(b)–1 (e)(2)(ii)(C), third sentence	paragraph (d)(2)	paragraph (e)(2)
1.401(b)–1 (e)(3) introductory text	this paragraph (d)	this paragraph (e)
1.401(b)–1 (e)(3) introductory text	which paragraph (d)(1) or (2)	which paragraph (e)(1) or (2)
1.401(b)–1 (e)(3) introductory text	in paragraph (d)(1) or (2)	in paragraph (e)(1) or (2)
1.401(b)–1 (e)(4)	paragraph (d)(3)	paragraph (e)(3)
1.401(b)–1 (e)(4)	paragraph (c)	paragraph (d)
1.401(b)–1 (e)(5) introductory text	subdivisions (i), (ii) and (iii) of this subparagraph	paragraphs (e)(5)(i), (ii) and (iii) of this section
1.401(b)–1 (e)(5) introductory text	paragraph (c)	paragraph (d)
1.401(b)–1 (e)(5)(iii)	paragraph (d)(5)(ii)	paragraph (e)(5)(ii)

Par. 4. Section 1.401(b)–1 is further amended as follows:

1. Paragraph (b)(2)(iii) is removed.

2. Paragraphs (b)(3), (c) and (d)(1)(iv) are added.

The additions read as follows:

§1.401(b)–1 Certain retroactive changes in plan.

* * * * *

(b) * * *

(3) A plan provision described in §1.401(b)–1T(b)(3).

(c) *Special rules applicable to disqualifying provisions.* For special rules applicable to disqualifying provisions, see §1.401(b)–1T(c).

(d) * * *

(1) * * *

(iv) In the case of a disqualifying provision described in §1.401(b)–1T(b)(3), the date described in §1.401(b)–1T(d)(1)(iv) or (v), whichever applies to the disqualifying provision.

Par. 5. Section 1.401(b)–1T is added to read as follows:

§1.401(b)–1T Certain retroactive changes in plan (temporary).

(a) [Reserved]. For further information, see §1.401(b)–1(a).

(b) *Disqualifying provisions.* For purposes of §1.401(b)–1, with respect to a plan described in §1.401(b)–1(a), the term "disqualifying provision" means:

(1) and (2) [Reserved]. For further information, see §1.401(b)–1(b)(1) and (2).

(3) A plan provision designated by the Commissioner, at the Commissioner's discretion, as a disqualifying provision that either—

(i) Results in the failure of the plan to satisfy the qualification requirements of the Code by reason of a change in those requirements; or

(ii) Is integral to a qualification requirement of the Code that has been changed.

(c) *Special rules applicable to disqualifying provisions*—(1) *Absence of plan provision.* For purposes of paragraph (b)(3) of this section and §1.401(b)–1(b)(2), a disqualifying provision includes the absence from a plan of a provision required by, or, if applicable, integral to the applicable change to the qualification requirements of the Internal Revenue Code, if the plan was in effect on the date the change became effective with respect to the plan.

(2) *Method of designating of disqualifying provisions.* The Commissioner may designate a plan provision as a disqualifying provision pursuant to paragraph (b)(3) of this section only in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d)(2)(ii)(b) of this chapter.

(3) *Authority to impose limitations.* In the case of a provision that has been designated as a disqualifying provision by the Commissioner pursuant to paragraph (b)(3) of this section, the Commissioner may impose limits and provide additional rules regarding the amendments that may be made with respect to that disqualifying provision during the remedial amendment period. The Commissioner may impose these limits and provide these additional rules only in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d)(2)(ii)(b) of this chapter.

(d) *Remedial amendment period.* (1) The remedial amendment period with respect to a disqualifying provision begins:

(i) through (iii) [Reserved]. For further information, see §1.401(b)–1(d)(1)(i) through (iii).

(iv) In the case of a disqualifying provision described in paragraph (b)(3)(i) of this section, the date on which the change effected by an amendment to the Internal Revenue Code became effective with respect to the plan, or

(v) In the case of a disqualifying provision described in paragraph (b)(3)(ii) of this section, the first day on which the plan was operated in accordance with such provision, as amended, unless another time is specified by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See §601.601(d)(2)(ii)(b) of this chapter.

(2) [Reserved]

Michael P. Dolan,
Acting Commissioner of Internal Revenue.

Approved July 22, 1997.

(Filed by the Office of the Federal Register on July 31, 1997, 8:45 a.m., and published in the issue of the Federal Register for August 1, 1997, 62 F.R. 41272)

Section 501.—Exemption From Tax on Corporations, Certain Trusts, Etc.

26 CFR 1.501(c)(5)–1: Labor, agricultural, and horticultural organizations.

T.D. 8726

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1

Requirements for Tax Exempt Section 501(c)(5) Organizations

AGENCY: Internal Revenue Service (IRS), Treasury.
ACTION: Final Regulations.

SUMMARY: This document contains final regulations clarifying certain requirements of section 501(c)(5). The requirements are clarified to provide needed guidance to organizations on the requirements an organization must meet in order to be exempt from tax as an organization described in section 501(c)(5).

DATES: These regulations are effective on December 21, 1995.

FOR FURTHER INFORMATION CONTACT: Robin Ehrenberg, (202) 622-6080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 21, 1995, the IRS published in the **Federal Register** (60 F.R. 66228 [EE–53–95, 1996–1 C.B. 766]) a notice of proposed rulemaking under section 501(c)(5). The proposed regulations clarified that organizations whose principal activity is administering retirement plans are not section 501(c)(5) organizations.

A public hearing was held on June 5, 1996. Written comments were received. After consideration of all of the comments, the proposed regulations under section 501(c)(5) are adopted as revised by this Treasury Decision. The comments and revisions are discussed below.

Explanation of Revisions and Summary of Comments

Section 501(c)(5) describes certain

labor, agricultural and horticultural organizations. Section 401(a) sets forth the requirements for exemption for qualified employee benefit pension trusts. Section 501(a) exempts from federal income taxes organizations described in section 401(a) or section 501(c). Thus, section 401(a) and section 501(c)(5) should be read as enactments of Congress *in pari materia,* taken together as one consistent body of law. *Pacific Co. v. Johnson*, 285 U.S. 480, 495 (1932).

The Treasury and IRS believe that section 501(c)(5) should be interpreted in a manner consistent with the Employee Retirement Income Security Act of 1974, Pub. L. No. 93–406, 88 Stat. 829 (1974) (ERISA), as amended. ERISA was enacted as a "comprehensive and reticulated statute" to regulate retirement plans and trusts, "the product of a decade of Congressional study of the Nation's private employee benefit system." *Mertens v. Hewitt Assoc.*, 508 U.S. 248, 251 (1993), citing *Nachman v. PBGC*, 446 U.S. 359, 361 (1980). Congress intended that pension trusts satisfy the comprehensive requirements of section 401(a), as amended by ERISA, in order to be tax exempt. See S. Rep. No. 383, 93d Cong., 1st Sess. at 33, *reprinted in* 1974–3 C.B. (Supp.) 112; H. Rep. No. 807, 93d Cong., 1st Sess. at 33, *reprinted in* 1974–3 C.B. (Supp) 236, 266.

Accordingly, Treasury and the IRS continue to believe that an organization whose principal purpose is managing employer-sponsored retirement plans is not an exempt labor organization described in section 501(c)(5). (However, an employer-sponsored pension trust may nevertheless qualify for exemption under section 501(a) if it meets the requirements of section 401(a).) *Morganbesser v. United States*, 984 F.2d 560 (2d Cir. 1993), nonacq. 1995–2 C.B. 2.; *In re Morganbesser,* AOD CC-1995-016 (Dec. 26, 1995).

Consistent with ERISA and interpreting section 401(a) and section 501(c)(5) as part of a consistent whole, these regulations provide a general rule that an organization is not described in section 501(c)(5) if its principal activity is to receive, hold, invest, disburse or otherwise manage funds associated with savings or investment plans or programs, including pension or other retirement savings plans or programs. However, to the extent that ERISA provides special rules for certain types of retirement savings plans, it is appropriate to take those rules into account in interpreting provisions of the Code relating to such plans, including section 501(c)(5).

As noted by one commentator, ERISA excepts certain dues-financed plans from Parts 2 and 3 of Title I of ERISA (vesting, funding and certain other qualification requirements). Those pension trusts sponsored by labor organizations for their members, which accept no employer contributions, do not qualify for exemption under section 401(a) because they are not maintained by an employer. Section 401(a), Rev. Rul. 80–306, 1980–2 C.B. 131. Accordingly, the regulations provide that an organization (including a pension trust) may qualify as an organization described in section 501(c)(5) if it meets all of the following requirements:

(1) the organization is established and maintained by another labor organization described in section 501(c)(5) (determined without reference to the tests in Treas. Reg. § 1.501(c)(5)–1(b)(2));

(2) the organization is not directly or indirectly established or maintained in whole or in part by any employer or by any government (or any agency, instrumentality or controlled entity thereof);

(3) the organization is funded by membership dues paid to the labor organization establishing and maintaining the organization and earnings thereon; and

(4) after September 2, 1974 (the date of enactment of ERISA, 88 Stat. 829), the organization's governing documents have not permitted or provided for nor did the organization accept, any contribution from any employer or from any government (or any agency, instrumentality or controlled entity thereof). Treas. Reg. § 1.501(c)(5)–1(b)(2).

Treas. Reg. § 1.892-2T(c) governs the tax status of a pension trust that is wholly owned and controlled by a foreign sovereign.

Scope

These regulations solely address the tax exempt status of organizations under section 501(c)(5) whose principal activity is to receive, hold, invest, disburse, or otherwise manage funds associated with savings or investment plans or programs. Other Code sections and tax principles apply to the tax exempt status of these organizations and the tax consequences of these arrangements to employers and participants in these arrangements.

One commentator requested that the IRS clarify that the regulations do not apply to health and welfare benefits not specifically mentioned in the regulations, such as retiree health benefits, death benefits, and group legal services. The regulations address only savings or investment plans or programs, (including pension or other retirement savings plans or programs) and do not address other types of benefits. Cf. Rev. Rul. 62–17, 1962–1 C.B. 87.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the notice of proposed rulemaking preceding the regulations was issued prior to March 29, 1996, the Regulatory Flexibility Act, (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Robin Ehrenberg, Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.501(c)(5)-1 is amended by:

1. Redesignating paragraph (b) as paragraph (c).

2. Adding a new paragraph (b).

The addition reads as follows:

§ 1.501(c)(5)-1 Labor, agricultural, and horticultural organizations.

* * * * *

(b)(1) *General rule.* An organization is not a organization described in section 501(c)(5) if the principal activity of the organization is to receive, hold, invest, disburse or otherwise manage funds associated with savings or investment plans or programs, including pension or other retirement savings plans or programs.

(2) *Exception.* Paragraph (b)(1) of this section shall not apply to an organization which—

(i) Is established and maintained by another labor organization described in section 501(c)(5), (determined without regard to this paragraph (b)(2));

(ii) Is not directly or indirectly established or maintained in whole or in part by one or more—

(A) Employers;

(B) Governments or agencies or instrumentalities thereof; or

(C) Government controlled entities;

(iii) Is funded by membership dues from members of the labor organization described in this paragraph (b)(2) and earnings thereon; and

(iv) Has not at any time after September 2, 1974 (the date of enactment of the Employee Retirement Income Security Act of 1974, Pub. L. 93–406, 88 Stat. 829) provided for, permitted or accepted employer contributions.

(3) *Example.* The principles of this paragraph (b) are illustrated by the following example:

Example. Trust A is organized in accordance with a collective bargaining agreement between labor union K and multiple employers. Trust A forms part of a plan that is established and maintained pursuant to the agreement and which covers employees of the signatory employers who are members of K. Representatives of both the employers and K serve as trustees. A receives contributions from the employers who are subject to the agreement. Retirement benefits paid to K's members as specified in the agreement are funded exclusively by the employers' contributions and accumulated earnings. A also provides information to union members about their retirement benefits and assists them with administrative tasks associated with the benefits. Most of A's activities are devoted to these functions. From time to time, A also participates in the renegotiation of the collective bargaining agreement. A's principal activity is to receive, hold, invest, disburse, or otherwise manage funds associated with a retirement savings plan. In addition, A does not satisfy all the requirements of the exception described in paragraph (b)(2) of this section. (For example, A accepts contributions from employers). Therefore, A is not a labor organization described in section 501(c)(5).

* * * * *

Acting Commissioner of
Internal Revenue
Assistant Secretary of the Treasury

(Filed by the Office of the Federal Register on July 28, 1997, 8:45 a.m., and published in the issue of the Federal Register for July 29, 1997, 62 F.R. 40447)

Part III. Administrative, Procedural, and Miscellaneous

Income Tax; Allocation of Interest Expense Among Expenditures; Correction

Notice 97–46

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to temporary regulations (T.D. 8145), which were published in the Federal Register on Thursday, July 2, 1987 (52 F.R. 24996) relating to the allocation of interest expense among a taxpayer's expenditures.

EFFECTIVE DATE: July 2, 1987.

FOR FURTHER INFORMATION CONTACT: John Fischer, (202) 622-4950, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction are under section 163 of the Internal Revenue Code.

Need for Correction

As published, temporary regulations (T.D. 8145 [1987–2 C.B. 47]) contains an error which may prove to be misleading and is in need of clarification.

* * * * *

Correcting Amendment to Regulations

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

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

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

§ 1.163-8T [Corrected]

Par. 2. In § 1.163-8T, paragraph (e) immediately following *Example (2)*. in paragraph (c)(2)(iii) is redesignated as paragraph (c)(3)(i) to read as follows:

§ 1.163-8T Allocation of interest expense among expenditures (temporary).

* * * * *

(c) * * *

(3) *Allocation of debt; proceeds not disbursed to borrower—(i) Third-party financing.* * * *

* * * * *

Cynthia E. Grigsby,
Chief, Regulations Unit
Assistant Chief Counsel (Corporate).

(Filed by the Office of the Federal Register on July 25, 1997, 8:45 a.m., and published in the issue of the Federal Register for July 28, 1997, 62 F.R. 40269)

Rev. Proc. 97–32A

This revenue procedure modifies and amplifies Part A., Sections 3.02 and 7.03 (2) of Rev. Proc. 97–32, 1997–27 I.R.B. 9, which provides the Rules and Specifications for Private Printing of Forms 1096, 1098, 1099 Series, 5498 and W–2G. Please add the following sentence at the end of those sections, "Note: On Copy C, Form 1099–LTC, you may reverse the location of the policyholder's name, street address, city, state, and ZIP code with the location of the insured's name, street address, city, state, and ZIP code for ease in mailing."

Effect On Other Documents

Rev. Proc. 97–32 is modified and amplified.

Part IV. Items of General Interest

Changes to Excise Taxes

Announcement 97–78

Purpose

To announce excise tax changes made by the Taxpayer Relief Act of 1997 (P.L. 105-34) that take effect during August of 1997. These changes affect:

- The tax on the use of international air travel facilities
- Deposits of certain air transportation taxes
- Vaccine taxes

Taxpayers need to follow the procedures in this announcement to report these taxes on the Form 720 for the 3rd quarter. The Form 720 for the 4th quarter will reflect these changes and others that take effect later.

Note: *A separate announcement will be released at a later date to cover changes made by the Act that take effect on October 1, 1997, or later.*

Use of international air travel facilities, IRS No. 27

Rate. The rate is increased to $12.00 per person for the use of international air travel facilities. This tax applies to arrivals as well as departures. For domestic flight segments that begin or end in Alaska or Hawaii there is no change; the tax remains at $6.00 and applies only to departures.

Effective date. Tax is imposed at the new rate for amounts paid after August 12, 1997, for transportation that begins after September 30, 1997.

How to report. Report the total of both the $6 and the $12 rate for the quarter on the line for **IRS No. 27.**

Delayed deposits

Any deposit of taxes for **IRS No. 26,** transportation of persons by air, and **IRS No. 27,** use of international air travel facilities, that would otherwise be due after August 14, 1997, and before October 1, 1997, is due October 10, 1997.

Vaccine taxes

Rate. A uniform tax on **all** taxable vaccines is imposed at $.75 per dose. The tax liability at the new rate is reported under **IRS No. 97.**

Effective date. The changes to vaccine taxes are effective for sales after August 5, 1997.

Taxable vaccines. After August 5, 1997, the vaccine is taxable if it:

- Contains diphtheria toxoid;
- Contains tetanus toxoid;
- Contains pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens;
- Contains polio virus;
- Is against measles;
- Is against mumps;
- Is against rubella;
- Is any HIB vaccine;
- Is against hepatitis B; or
- Is against chicken pox.

Combination vaccines. If any taxable vaccine is combined with one or more additional taxable vaccines, then the amount of tax imposed is the sum of the amounts for the vaccines included in the combination.

How to report. For sales after June 30, 1997, and before August 6, 1997, report the vaccine tax liability under **IRS Nos. 81, 82, 83,** and **84.** For sales after August 5, 1997, report your vaccine tax liability on a separate sheet and attach it to Form 720 for the 3rd quarter. Include the following information on the sheet:

- The words “VACCINE TAX” across the top of the sheet;
- Your name (as shown on the return) and employer identification number (EIN);
- **IRS No. 97**; and
- The amount of tax.

On Form 720, include the tax liability for **IRS No. 97** in the total line for Part I taxes on page 2.

Availability of Publication 1544, Reporting Cash Payments of Over $10,000 (Revised Aug. 1997)

Announcement 97–80

Publication 1544, recently updated, is now available from the Internal Revenue Service. This publication is also available in Spanish as Publication 1544SP.

The publication is for persons who may receive large cash payments in the course of their business. Generally, any person in a trade or business who receives more than $10,000 in cash in a single transaction or in related transactions must file Form 8300, Report of Cash Payments Over $10,000 Received in a Trade or Business.

You can get a copy of Publication 1544 (or Publication 1544SP) by calling 1-800-829-3676. You can also write to the IRS Forms Distribution Center nearest you.

If you have access to a personal computer and modem, you can also get the publication electronically. You can get the publication at:

1) World Wide Web - www.irs.ustreas.gov,

2) FTP - ftp.irs.ustreas.gov, and

3) Direct Dial (by Modem) - IRIS at FEDWORLD - (703)321-8020.

Revision of Forms 5310, 5310A, and 6088

Announcement 97–81

Form 5310, Application for Determination for Terminating Plan; Form 6088, Distributable Benefits From Employee Pension Benefit Plans; and Form 5310A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities—Notice of Qualified Separate Lines of Business have been revised. The new revision date for all forms is June 1997 (Rev. 6/97).

Form 6088 and information only copies of Forms 5310 and 5310A will available through IRS electronic information services by July 25, 1997 at the following addresses:

Modem: 703-321-8020 (modem settings are N,8,1)

Internet: http://www.irs.ustreas.gov

However, except for Form 6088, these forms are printed in special ink suitable for use with optical reading equipment. Therefore, copies downloaded from the bulletin board are for information only and are not acceptable for submission to Covington or Brooklyn. The official versions will be available by the end of August by calling 1-800-TAX-FORM.

Except for the revision date, no significant changes have been made to Form 5310 and Form 6088. Therefore, the current revision (Rev. 1/96) may continue to be used until the form is next revised. Persons having approval to computer generate this form may continue to use existing programs. Alternatively, the revision date may be changed from 1/96 to 6/97 without requesting reapproval, if no other changes are made to the OCR data sheet. The original SAN approval number must be transferred to the revised OCR data sheet.

Significant changes have been made to Form 5310A. Therefore, the 6/97 revision must be used for submissions after January 1, 1998. All Form 5310A submissions must now be filed with the IRS at P.O. Box 192, Covington, KY 41012-0192. Persons having approval to computer generate this form must update their programs to incorporate the changes made to this application. The revised OCR data sheet must be resubmitted for reapproval to: EP OCR Coordinator, CP:E:EP:FC, Room 2232, 1111 Constitution Ave., Washington, DC 20224.

As stated in Announcement 96-54, 1996-23 IRB 12, persons using IRS software to computer generate Form 5307 may continue to do so until further notice. Form 5307 produced by IRS software has a 5/93 revision date and the approval number “SAN 50000”.

Arbitrage Restrictions on Tax-Exempt Bonds; Correction

Announcement 97–82

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (T.D. 8718) which were published in the **Federal Register** on Friday, May 9, 1997 (62 F.R. 25502 [1997–22 I.R.B. 4]). The final regulations relate to arbitrage and related restrictions applicable to tax-exempt bonds issued by State and local governments.

DATES: This correction is effective May 9, 1997.

FOR FURTHER INFORMATION CONTACT: David White, (202) 622-3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 148 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (T.D. 8718) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (T.D. 8718) which are the subject of F.R. Doc. 97–12062 is corrected as follows:

1. On page 25505, column 3, in the pre-

amble, under the paragraph heading "*F. Effective Dates*", line 2, the language "effective for bonds issued on or after" is corrected to read "effective for bonds sold on or after".

2. On page 25505, column 3, in the preamble, under the paragraph heading "*F. Effective Dates*", the last line, the language "issued before July 8, 1997." is corrected to read "sold before July 8, 1997."

Cynthia E. Grigsby,
Chief, Regulations Unit
Assistant Chief Counsel (Corporate)

(Filed by the Office of the Federal Register on July 25, 1997, 8:45 a.m., and published in the issue of the Federal Register for July 28, 1997, 62 F.R. 40270)

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

Announcement 97–83

The name of an organization that no longer qualifies as an organization described in section 170(c)(2) of the Internal Revenue Code of 1986 is listed below.

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

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on August 25, 1997, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is $1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

The Fern Leigh Equine Research Foundation
Staunton, VA

Jack and Jill Day Care Center
Chicago, IL

Foundations Status of Certain Organizations

Announcement 97–84

The following organizations have failed to establish or have been unable to maintain their status as public charities or as operating foundations. Accordingly, grantors and contributors may not, after this date, rely on previous rulings or designations in the Cumulative List of Organizations (Publication 78), or on the presumption arising from the filing of notices under section 508(b) of the Code. This listing does *not* indicate that the organizations have lost their status as organizations described in section 501(c)(3), eligible to receive deductible contributions.

Former Public Charities. The following organizations (which have been treated as organizations that are not private foundations described in section 509(a) of the Code) are now classified as private foundations:

African Awareness Expos, Inc., Aurora, CO
African Children Fund, Columbus, OH
Associates of Chicago Urban Day School, Chicago, IL
Bahamian American Cultural Society, New York, NY
Ben Rose Softball League, Inc., New Bedford, MA
Beth Meir Yehuda Foundation, Inc., Brooklyn, NY
Bird Island Trust Inc., Boynton Beach, FL
Bishop Cheverus Society, Inc., Boston, MA
Booker T. Anderson Scholarship Fund, Lower Hills, MA
BPD Inc., Kapaa, HI
Bridge Homes, Inc., New York, NY
Bronx Residents Against Grafitti, Bronx, NY
Broomstones Curling Foundation, Framingham, MA
Chaim Foundation, Chicago, IL
Citizens Against Pollution Northwest, Inc., Torrington, CT
Clowns on Rounds, Inc., Albany, NY
Connecticut Youth Theatre, Inc., Tolland, CT
Constantin Brancust International Foundation, Inc., New York, NY
Council for Equal Rights in Adoption, Inc., New York, NY
District 26 Foundation for Education, Flushing, NY
Divers Environmental Survey, Inc., Billerica, MA
East Longmeadow Athletic Booster Club, East Longmeadow, MA
East New York Partnership Housing Development Fund Company, Inc., New Rochelle, NY
Edgartown Patrolmens Association, Inc., Edgartown, MA
Ellen Gilman Sylvia Solomon Scholarship Fund, Inc., Chestnut Ridge, NY
Falmouth Youth Initiatives, North Falmouth, MA
Feminist Network of Western Maine, Farmington, ME
F.G.P., Inc., Warwick, RI
Foundation for Chinese Humanistic Studies, Honolulu, HI
Franklin Housing Alliance, Inc., Greenfield, MA
Friends and Alumni of the Mendon Upton Regional School District, Mendon, MA
Friends of Maine's Natural Areas, Inc., Augusta, ME
Friends of the Playgound of Shelton, Shelton, CT
Friends of the Rochester Senior Center, Inc., Rochester, MA
Friends of the Society for Coptic Archaeology, Inc., New York, NY
Friends of Westborough State Hospital, Inc., Westborough, MA
Good Shephards Christmas, Inc., Needham, MA
Greenwich Citizens Committee, Inc., Greenwich, NY
Guard & Reserve Family Relief Fund, East Hebron, NH
Hartford Late Night, Inc., Hartford, CT

Health Care Professional Association, Inc., Brooklyn, NY
Hearn Historical and Preservation Society, Inc., New York, NY
Heritage Initiative for Responsible Economic Development-Hired, Bar Harbor, ME
Hope Community House, Inc., Morganville, NJ
Imani House, Brooklyn, NY
Information Consolidation Bureau, Inc., Boston, MA
Insight Mediation Center, Inc., Newbury, MA
Institution of Housing and Community Development, Maywood, IL
International Center for Jewish Christian Understanding, Inc., New York, NY
International Student Education Fund, New York, NY
King Spike Theatre, Inc., New York, NY
Kollel Zichron Brocha, Brooklyn, NY
Kurdistan Forum, Inc., New York, NY
La Candelaria East Harlem Community Center, Inc., New York, NY
Language & Learning Intervention in a Family Environment, Inc., Dobbs Ferry, NY
La Primera Orquesta De Cuatro De Connecticut, Inc., Hartford, CT
Lifelearn Center for Lifelong Learning, San Anselmo, CA
Loon Preservation Committee, Laconia, NH
Loradore Institute, Bronx, NY
Louis Latimer Garden Community Center, Flushing, NY
Maine Paramedic Association, Waterville, ME
The Matlovich Society, Portland, ME
Maywood Renaissance Center Inc., Maywood, IL
Mission Metro New York, Inc., Saddlebrook, NJ
Nassau Placement Network, Inc., Valley Stream, NY
National Center to Save Our Schools, Westbury, NY
National Committee for the Rights of the Child, Durham, NC
Neighbor Care, Dover, MA
New Century Conservation Trust, Inc., Brunswick, ME
New England Microfocus Users Group, Inc., Boston, MA
New York State Science Education Leadership Association, Clinton Corners, NY
Prototype Housing, Inc., New York, NY
Public Compound-7, Inc., New York, NY
Restore Olmsteds Waterway Coalition, Brookline, MA
Rhino Realty, Inc., Boston, MA
Rhode Island Childrens Advocacy Center, Providence, RI
Rhode Island Securities Awareness Corporation, Inc., Providence, RI
Right Side Up, Divide, CO
River Side Peers Assisting Peers, Inc., Port Jervis, NY
Robertson Scientific Research, Inc., Tulsa, OK
Roots of Evangelism, Mt. Vernon, NY
Roots Revisited, Inc., Brooklyn, NY
Safety at Sea Institute, Newport, RI
Salisbury Historical Society, Inc., Salisbury, MA
Santa Claus Anonymous, Inc., Cambridge, MA
Saratoga Teen and Recreation Foundation, Inc., Saratoga Springs, NY
Save American Manufacturing Foundation, Inc., Tonawanda, NY
Save Our Schwarzmanns Mill, Inc., Burlington, CT
Schuyler Village Day Care, Inc., Schuylerville, NY
Seed & Harvest Ministries, Inc., Flagler, CO
Shadagee Hill, Inc., Holland, NY
Sikh Education Foundation of North America, Pittsford, NY
Toras Olam, Brooklyn, NY
Ysleta Education Foundation, El Paso, TX

If an organization listed above submits information that warrants the renewal of its classification as a public charity or as a private operating foundation, the Internal Revenue Service will issue a ruling or determination letter with the revised classification as to foundation status. Grantors and contributors may thereafter rely upon such ruling or determination letter as provided in section 1.509(a)–7 of the Income Tax Regulations. It is not the practice of the Service to announce such revised classification of foundation status in the Internal Revenue Bulletin.

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 law 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 the 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 Contribution 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.—Statements of Procedral Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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97–32, 1997–33 I.R.B. *4*

Treasury Decisions:

8722, 1997–29 I.R.B. *4*
8723, 1997–30 I.R.B. *4*

[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 1997–1 through 1997–26 will be found in Internal Revenue Bulletin 1997–27, dated July 7, 1997.

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

Bulletins 1997–27 through 1997–33

*Denotes entry since last publication

Revenue Procedures:

96–36
Superseded by
97–34, 1997–30 I.R.B. *14*

96–42
Superseded by
97–27, 1997–27 I.R.B. *9*

Revenue Rulings:

89–42
Supplemented by
97–31, 1997–32 I.R.B. *4*

[1] A cumulative finding list for previously published items mentioned in Internal Revenue Bulletins 1997–1 through 1997–26 will be found in Internal Revenue Bulletin 1997–27, dated July 7, 1997.

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