Internal Revenue
bulletin

Bulletin No. 1999–30
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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

T.D. 8827, page 120.

This document removes regulations under section 954 of the Code relating to the treatment under subpart F of certain payments involving branches of a controlled foreign corporation (CFC) that are treated as separate entities for foreign tax purposes or partnerships in which CFCs are partners.

T.D. 8828, page 120.

Final regulations under section 6302 of the Code relate to the deposit of Federal taxes by electronic funds transfer (EFT).

REG–113909–98, page 125.

New proposed regulations under section 954 of the Code relate to the treatment under subpart F of certain transactions involving hybrid branches. The notice of proposed rulemaking (REG–104537–97, 1998–16 I.R.B. 21) and the notice of proposed rulemaking by cross-reference to temporary regulations (T.D. 8767, 1998–16 I.R.B. 4) are withdrawn. A public hearing is scheduled for December 1, 1999.

EXEMPT ORGANIZATIONS

Announcement 99–72, page 132.

Horizon Alliance, Inc., of San Diego, CA, no longer qualifies as an organization to which contributions are deductible under section 170 of the Code.

EMPLOYMENT TAX

T.D. 8828, page 120.

Final regulations under section 6302 of the Code relate to the deposit of Federal taxes by electronic funds transfer (EFT).

EXCISE TAX

T.D. 8828, page 120.

Final regulations under section 6302 of the Code relate to the deposit of Federal taxes by electronic funds transfer (EFT).

ADMINISTRATIVE

Notice 99–37, page 124.

Information reporting; Hope Credit; Lifetime Learning Credit; qualified student loan interest. Eligible educational institutions and certain persons who receive payments of student loan interest are informed that they will be required to report the same information under section 6050S of the Code for the year 2000 as required for the years 1998 and 1999. Notices 97–73, 98–7, 98–46, 98–54, and 98–59 modified.

Announcement 99–73, page 133.

This document contains corrections to T.D. 8742, 1998–5 I.R.B. 4, final regulations relating to procedures for requesting an extension of time to make certain elections under the Internal Revenue Code.

Announcement 99–74, page 133.

This document contains corrections to T.D. 8476, 1993–2 C.B. 13, final regulations relating to the arbitrage and related restrictions applicable to tax-exempt bonds issued by States and local governments.

Announcement 99–75, page 134.

This document contains corrections to T.D. 8793, 1999–7 I.R.B. 15, temporary regulations relating to the payment of taxes by credit card and debit card.

Finding Lists begin on page ii.

Department of the Treasury
Internal Revenue Service

Mission of the Service

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax 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 and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents 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.
This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

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 semiannual basis, and are published in the first Bulletin of the succeeding 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 954.—Foreign Base Company Income

26 CFR 1.954–1: Foreign base company income.

T.D. 8827

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 1 and 301

Removal of Regulations Providing Guidance Under Subpart F Relating to Partnerships and Branches

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Removal of temporary and final regulations.

SUMMARY: This document removes regulations relating to the treatment under subpart F of certain payments involving branches of a controlled foreign corporation (CFC) that are treated as separate entities for foreign tax purposes or partnerships in which CFCs are partners, as published in the **Federal Register** on March 26, 1998. Removal of the temporary regulations will allow Congress and the Treasury the opportunity to consider in greater depth the issues pertaining to hybrid transactions.

EFFECTIVE DATES: These regulations are removed effective March 23, 1998.

FOR FURTHER INFORMATION CONTACT: Valerie Mark, (202) 622-3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1998 (63 F.R. 14669, March 26, 1998), the IRS issued proposed regulations (REG–104537–97, 1998–16 I.R.B. 21) relating to the treatment under subpart F of certain partnership and hybrid branch transactions. The provisions of the proposed regulations concerning hybrid branch transactions were also issued as temporary regulations (T.D. 8767, 1998–16 I.R.B. 4 [63 F.R. 14613, March 26, 1998]). Congress and taxpayers raised concerns about the proposed and temporary regulations relating to hybrid branch transactions. Accordingly, as announced in Notice 98–35 (1998–27 I.R.B. 35), the IRS has decided to withdraw the proposed regulations (see REG–113909–98 withdrawing proposed regulations and setting out new proposed regulations on page 125) and remove the temporary regulations. Removal of the temporary regulations will allow Congress and the Treasury the opportunity to consider in greater depth the issues pertaining to hybrid transactions.

Drafting Information

The principal author of these regulations is Valerie Mark, of the Office of the Associate Chief Counsel (International). Other personnel from the IRS and Treasury Department also participated in the development of these regulations.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for 26 CFR part 1 continues to read in part as follows:

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

§1.904–5 [Amended]

Par. 2. In §1.904–5, paragraph (o) is amended by removing the last sentence.

§1.904–5T [Removed]

Par. 3. §1.904-5T is removed.

§1.954–1 [Amended]

Par. 4. Section 1.954–1 is amended by removing paragraph (c)(1)(iv).

§1.954–1T [Removed]

Par. 5. Section 1.954–1T is removed.

§1.954–2T [Removed]

Par. 7. Section 1.954–2T is removed.

§1.954–9T [Removed]

Par. 9. Section 1.954-9T is removed.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 10. The authority citation for 26 CFR part 301 continues to read in part as follows:

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

§301.7701–3 [Amended]

Par. 11. In §301.7701–3, the last sentence in paragraph (f)(1) is removed.

§301.7701–3T [Removed]

Par. 12. Section 301.7701–3T is removed.

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved June 29, 1999.

Donald C. Lubick,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on July 9, 1999, 11:25 a.m., and published in the issue of the Federal Register for July 13, 1999, 64 F.R. 37677)

Section 6302.—Mode or Time of Collection

26 CFR 1.6302–4: Use of financial institutions in connection with income taxes; voluntary payments by electronic funds transfer.

T.D. 8828

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 1, 20, 25, 31, and 40

Electronic Funds Transfer of Federal Deposits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the deposit of Federal taxes by electronic funds transfer (EFT). The final regulations affect certain taxpayers required to make deposits

of Federal taxes. For calendar years beginning after 1999, the final regulations provide rules under which certain taxpayers must make deposits by EFT.

DATES: *Effective Date:* These regulations are effective July 13, 1999.

Applicability Date: For dates of applicability, see §31.6302–1(h)(2).

FOR FURTHER INFORMATION CONTACT: Vincent Surabian, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1), the Estate Tax Regulations (26 CFR part 20), the Gift Tax Regulations (26 CFR part 25), the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR part 31), and the Excise Tax Procedural Regulations (26 CFR part 40). On March 23, 1999, a notice of proposed rulemaking (REG–100729–98, 1999–14 I.R.B. 9) was published in the **Federal Register** (64 F.R. 13940). A public hearing originally scheduled in the notice of proposed rulemaking for May 11, 1999, was canceled as there were no requests to speak. Three written comments were received. After consideration of all comments, the proposed regulations are adopted by this Treasury decision.

Explanation of Provisions

Section 6302(h) requires that, beginning in fiscal year 1999, 94 percent of employment taxes and 94 percent of other depository taxes be collected by EFT. The IRS and Treasury Department previously concluded that the deposit threshold had to be set at $50,000 to satisfy this statutory requirement. More recent experience suggests, however, that the statutory requirement can be satisfied even if the threshold is set at a substantially higher level. Moreover, an increase in the threshold would allow small businesses to make the transition to the EFT system at their own pace as they adopt electronic funds transfer in their other business operations. Accordingly, the final regulations increase the deposit threshold to $200,000 in aggregate Federal tax deposits during a calendar year.

The new $200,000 aggregate deposits threshold will be applied initially to 1998 deposits, and taxpayers that exceed the threshold in 1998 will be required to deposit by EFT beginning in 2000. Taxpayers that first exceed the threshold in 1999 or a subsequent year will similarly be required to deposit by EFT beginning in the second succeeding calendar year. A taxpayer that exceeds the threshold will not be permitted to resume making paper coupon deposits if its deposits fall below $200,000 in a subsequent year. Although a similar rule applies under the current regulations, taxpayers that are currently required to deposit by EFT will be given a fresh start and will not be required to use EFT unless they exceed the $200,000 threshold in 1998 or a subsequent calendar year.

The final regulations also expand the types of nondepository tax payments for which voluntary payment by EFT is allowed to include nondepository payments of Federal income, estate and gift, employment, and various specified excise taxes.

Public Comments

Two commentators on the proposed regulations opposed the increase in the threshold to $200,000. They were concerned that financial institutions and the Federal government would have to continue to process large volumes of checks and paper coupons. In addition, they stated that the increase in threshold does not seem justified since the requirement to deposit by EFT does not require an investment by the taxpayer in new technology and greater use of EFT payment methods will contribute to the maintenance of a secure and efficient payment system. The two commentators conclude that the Federal government should continue to use penalty waivers until taxpayers become adept at using the system of depositing by EFT efficiently and accurately. The two commentators did, however, agree with the use of an aggregate deposits test to determine whether a taxpayer is required to deposit by EFT.

As stated in the notice of proposed rulemaking, the IRS and Treasury Department are confident that most taxpayers currently required to deposit by EFT have come to appreciate the simplicity and convenience of the EFT system and will continue to deposit by EFT on a voluntary basis. Despite the increase in the threshold, the continued participation of these taxpayers, coupled with continuing efforts to encourage voluntary enrollment, should ensure the Congressionally-mandated 94 percent of collections by EFT. A lower threshold would, as the commentators suggest, result in even greater use of the EFT system. The IRS and Treasury Department have concluded, however, that the $200,000 threshold appropriately balances concerns relating to small businesses against the benefit of reduced paper transactions.

A third comment suggested removal of the rule in 31 CFR part 203 prohibiting banks from charging fees for processing paper coupon deposits. The regulations in 31 CFR part 203 are issued by the Financial Management Service (FMS) of the Treasury Department, rather than by the Internal Revenue Service. FMS has received similar comments and announced, in the preamble of the 1998 regulations revising 31 CFR part 203 (63 F.R. 5643), that it intends to issue a notice of proposed rulemaking on removing this prohibition.

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 these regulations do not impose a collection of information requirement 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, the notice of proposed rulemaking that preceded 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 Vincent Surabian, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel

from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, 25, 31, and 40 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by revising the entry for §1.6302–4 to read in part as follows:

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

Section 1.6302–4 also issued under 26 U.S.C. 6302(a), (c), and (h). * * *

Par. 2. Section 1.6302–4 is revised to read as follows:

§1.6302–4 Use of financial institutions in connection with income taxes; voluntary payments by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax imposed by subtitle A of the Internal Revenue Code, including any payment of estimated tax. Such payment must be made in accordance with procedures prescribed by the Commissioner.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 3. The authority citation for part 20 is amended by adding an entry in numerical order to read in part as follows:

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

Section 20.6302–1 also issued under 26 U.S.C. 6302(a) and (h). * * *

Par. 4. Section 20.6302–1 is added to read as follows:

§20.6302–1 Voluntary payments of estate taxes by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax to which this part 20 applies. Such payment must be made in accordance with procedures prescribed by the Commissioner.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 5. The authority citation for part 25 is amended by adding an entry in numerical order to read in part as follows:

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

Section 25.6302–1 also issued under 26 U.S.C. 6302(a) and (h). * * *

Par. 6. Section 25.6302–1 is added to read as follows:

§25.6302–1 Voluntary payments of gift taxes by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax to which this part 25 applies. Such payment must be made in accordance with procedures prescribed by the Commissioner.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 7. The authority citation for part 31 continues to read in part as follows:

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

Par. 8. Section 31.6302–1 is amended as follows:

1. The heading for paragraph (h)(2) is revised.
2. A heading is added for paragraph (h)(2)(i).
3. New paragraph (h)(2)(i)(C) is added.
4. Paragraph (h)(2)(ii) is revised
5. Paragraph (h)(2)(iii) is added.
6. Paragraph (m) is redesignated as paragraph (n).
7. Paragraph (k) is redesignated as new paragraph (m).
8. Paragraph (j) is redesignated as new paragraph (k).
9. New paragraph (j) is added.

The additions and revisions read as follows:

§31.6302–1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.

* * * * *

(h) * * *

(2) *Applicability of requirement*—(i) *Deposits for return periods beginning before January 1, 2000.* (A) * * *

(C) This paragraph (h)(2)(i) applies only to deposits required to be made for return periods beginning before January 1, 2000. Thus, a taxpayer, including a taxpayer that is required under this paragraph (h)(2)(i) to make deposits by electronic funds transfer beginning in 1999 or an earlier year, is not required to use electronic funds transfer to make deposits for return periods beginning after December 31, 1999, unless deposits by electronic funds transfer are required under paragraph (h)(2)(ii) of this section.

(ii) *Deposits for return periods beginning after December 31, 1999.* Unless exempted under paragraph (h)(5) of this section, a taxpayer that deposits more than $200,000 of taxes described in paragraph (h)(3) of this section during a calendar year beginning after December 31, 1997, must use electronic funds transfer (as defined in paragraph (h)(4) of this section) to make all deposits of those taxes that are required to be made for return periods beginning after December 31 of the following year and must continue to deposit by electronic funds transfer in all succeeding years. Thus, a taxpayer that exceeds the $200,000 deposit threshold during calendar year 1998 is required to make deposits for return periods beginning in or after calendar year 2000 by electronic funds transfer.

(iii) *Voluntary deposits.* A taxpayer that is not required by this section to use electronic funds transfer to make a deposit of taxes described in paragraph (h)(3) of this section may voluntarily make the deposit by electronic funds transfer, but remains subject to the rules of paragraph (i) of this section, pertaining to deposits by Federal tax deposit (FTD) coupon, in making deposits other than by electronic funds transfer.

* * * * *

(j) *Voluntary payments by electronic funds transfer.* Any person may voluntarily remit by electronic funds transfer any payment of tax imposed by subtitle C of the Internal Revenue Code. Such payment must be made in accordance with procedures prescribed by the Commissioner.

* * * * *

PART 40—EXCISE TAX PROCEDURAL REGULATIONS

Par. 9. The authority citation for part 40 is amended by adding an entry in numerical order to read in part as follows:

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

Section 40.6302(a)–1 also issued under 26 U.S.C. 6302(a) and (h). * * *

Par. 10. Section 40.6302(a)–1 is added to read as follows:

§40.6302(a)–1 Voluntary payments of excise taxes by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax to which this part 40 applies. Such payment must be made in accordance with procedures prescribed by the Commissioner.

Charles O. Rossotti,
Commissioner of Internal Revenue.

Approved July 2, 1999.

Donald C. Lubick,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on July 12, 1999, 8:45 a.m., and published in the issue of the Federal Register for July, 13, 1999, 64 F.R. 37675)

Part III. Administrative, Procedural, and Miscellaneous

Returns Relating to Payments of Qualified Tuition and Related Expenses; and Returns Relating to Payments of Interest on Education Loans

Notice 99–37

PURPOSE

This notice announces that eligible educational institutions and certain persons who receive payments of student loan interest will be required to report the same information under § 6050S of the Internal Revenue Code for the year 2000 as required for the years 1998 and 1999.

BACKGROUND

Section 6050S requires eligible educational institutions to file information returns with the Internal Revenue Service to assist taxpayers and the Service in determining the Hope Scholarship Credit and the Lifetime Learning Credit that taxpayers may claim under § 25A. Section 6050S also requires the institutions to furnish a corresponding statement to each individual named on the information return showing the information that is reported to the Service. The specific information reporting requirements applicable to eligible educational institutions for the years 1998 and 1999 are described in Notice 97–73, 1997–2 C.B. 335 (as modified by Notice 98–46, 1998–36 I.R.B. 21, and Notice 98–59, 1998–49 I.R.B. 16).

In addition, § 6050S requires certain persons who receive payments of interest on one or more qualified education loans, as defined in § 221(e)(1), ("payees") to file information returns with the Service to assist taxpayers and the Service in determining the amount of student loan interest that taxpayers may deduct under § 221. Section 6050S also requires payees to furnish a corresponding statement to each individual named on the information return showing the information that is reported to the Service. The specific information reporting requirements applicable to payees for the years 1998 and 1999 are described in Notice 98–7, 1998–3 I.R.B. 54 (as modified by Notice 98–54, 1998–46 I.R.B. 25).

The legislative history of recent amendments to § 6050S reflects that Congress intended that no additional reporting (i.e., beyond the reporting currently required in Notice 97–73) would be required of educational institutions until final regulations are issued under § 6050S. In addition, Congress intended that the final regulations would have an effective date that gives institutions sufficient time to implement additional required reporting. *See* H.R. Conf. Rep. No. 599, 105th Cong., 2d Sess., at 321–322 (1998).

DISCUSSION

The Treasury Department and the Service expect to issue proposed regulations under § 6050S this year. (See the Office of Tax Policy and Internal Revenue Service 1999 Priority Guidance Plan.) Final regulations under § 6050S, however, will not be issued before 2000. Consistent with the intent of Congress that the current reporting requirements remain in effect until regulations are finalized, the information reporting requirements under § 6050S for the year 2000 will be the same as the reporting requirements described in Notice 97–73 (as modified) and Notice 98–7 (as modified).

Accordingly, for the year 2000, eligible educational institutions will be required to file Forms 1098-T, Tuition Payments Statement, that include the same information required by Notice 97–73 (as modified). Similarly, for the year 2000, payees will be required to file Forms 1098-E, Student Loan Interest Statement, that include the same information required by Notice 98–7 (as modified). Forms 1098-T and Forms 1098-E for the year 2000 must be filed with the Service by February 28, 2001, if filed on paper or by magnetic media, or by April 2, 2001, if filed electronically. A statement containing the same information as reported on any Form 1098-T or Form 1098-E filed with the Service must be furnished to the individual named on the information return by January 31, 2001.

Consistent with Notice 97–73 (as modified) and Notice 98–7 (as modified) and § 6050S, no penalties will be imposed under § 6721 or § 6722 prior to the issuance of final regulations for any failure to file correct information returns or to furnish correct statements required under § 6050S for the year 2000. Even after final regulations are issued, no penalties will be imposed under § 6721 or § 6722 for failure to file correct information returns or to furnish correct statements for the year 2000 if the institution or payee made a good faith effort to file information returns and furnish statements in accordance with this notice.

EFFECT ON OTHER DOCUMENTS

Notice 97–73, Notice 98–7, Notice 98–46, Notice 98–54, and Notice 98–59 are modified.

DRAFTING INFORMATION

The principal author of this notice is Donna Welch of the Office of the Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice contact her on (202) 622-4910 (not a toll-free call).

Part IV. Items of General Interest

Notice of Proposed Rulemaking; Notice of Public Hearing; and Withdrawal

Withdrawal of Guidance Under Subpart F Relating to Partnerships and Branches; and Issuance of New Guidance Under Subpart F Relating to Certain Hybrid Transactions

REG–113909–98

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document withdraws the notice of proposed rulemaking and notice of proposed rulemaking by cross-reference to temporary regulations that was published in the **Federal Register** on March 26, 1998, providing guidance under subpart F relating to partnerships and branches. This document contains new proposed regulations relating to the treatment under subpart F of certain transactions involving hybrid branches. These regulations are necessary to provide guidance on transactions relating to such entities. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments, and outlines of oral comments to be discussed at the public hearing scheduled for December 1, 1999, must be received by November 10, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–113909–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–113909–98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/regslist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Valerie Mark, (202) 622-3840; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita Van Dyke (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1998 (63 F.R. 14669, March 26, 1998), the IRS issued proposed regulations (REG–104537–97, 1998–16 I.R.B. 21) relating to the treatment under subpart F of certain partnership and hybrid branch transactions. The provisions of the proposed regulations relating to hybrid branch transactions were also issued as temporary regulations (T.D. 8767, 1998–16 I.R.B. 4 [63 F.R. 14613, March 26, 1998]). Certain members of Congress and taxpayers raised concerns about the proposed and temporary regulations relating to hybrid branch transactions. On June 19, 1998, the Treasury announced in Notice 98–35 (1998–27 I.R.B. 35) that the temporary regulations would be removed and that the proposed regulations relating to hybrid transactions would be re-proposed with new dates of applicability to give Congress the opportunity to consider in greater depth the issues raised by hybrid transactions.

As provided in Notice 98–35, these proposed regulations substantially restate the regulations relating to hybrid transactions issued in March of 1998. These proposed regulations, however, contain certain clarifications requested by taxpayers. Further, as described in greater detail below, unlike the effective date rules announced in Notice 98–35, these regulations are proposed to be effective only for payments made in taxable years commencing after the date that is five years after the date of finalization of these regulations. The permanent grandfather relief described in Notice 98–35 remains unchanged.

These proposed regulations represent the IRS and Treasury's views of how current law should be enforced. Treasury is currently undertaking a comprehensive study of subpart F. These proposed regulations will not control the results of the study. For example, an objective analysis of the policies and goals of subpart F may lead to the conclusion that subpart F should be significantly restructured.

To the extent, however, that Congress does not restructure subpart F in a manner that would alter the rules enforced by these regulations, Treasury and the IRS believe that these regulations will be necessary to preserve the integrity of the current statutory scheme. The use of hybrid arrangements, which is greatly facilitated by the "check-the-box" entity classification regulations (§§301.7701–1 through 301.7701–3), would otherwise give rise to the following inconsistency: if sales income is shifted from one CFC to a related CFC in a different jurisdiction, subpart F income may arise; if sales income is shifted from one CFC to its branch in a different jurisdiction, subpart F income may arise; if income is shifted through interest payments from one CFC to a related CFC in a different jurisdiction, subpart F income may arise; however, if income is shifted through interest payments from one CFC to its hybrid branch in a different jurisdiction, subpart F income will not arise. This final result does not seem an appropriate policy outcome within the framework of current subpart F, and is almost certainly inconsistent with the Congressional intent underlying the rules being interpreted here.

Treasury anticipates that taxpayers will comment both on the appropriateness of these proposed regulations under current law, and on the contents of its subpart F study, including any conclusions that the study might draw about potential changes to subpart F. To allow proper time to consider all these issues, Treasury and the IRS have significantly modified and liberalized the effective date rules set forth in Notice 98–35. New regulations regarding the treatment of a controlled foreign corporation's distributive share of partnership income will be proposed at a later date.

Explanation of Provisions

I. *In General*

In these proposed regulations, Treasury and the IRS set forth a framework for dealing with issues arising under subpart F (sections 951 through 964) that relate to the use of certain entities that are regarded as fiscally transparent for purposes of U.S. tax law.

II. *Hybrid Branches*

Treasury and the IRS understand that certain taxpayers are using arrangements involving hybrid branches to circumvent the purposes of subpart F. These arrangements generally involve the use of deductible payments to reduce the taxable income of a CFC under foreign law, thereby reducing that CFC's foreign tax and, also under foreign law, the corresponding creation in another entity of low-taxed, passive income of the type to which subpart F was intended to apply. Because of the structure of these arrangements, however, taxpayers take the position that this income is not taxed under subpart F. Treasury and the IRS have concluded that use of these hybrid branch arrangements is contrary to the policies and rules of subpart F.

Under these proposed regulations, hybrid branch payments, as defined in the regulations, between a CFC and its hybrid branch, or between hybrid branches of the CFC may give rise to subpart F income. When certain conditions are present, the non-subpart F income of the CFC, in the amount of the hybrid branch payment, is recharacterized as subpart F income of the CFC. Those conditions include that: the hybrid branch payment reduces the foreign tax of the payor; the hybrid branch payment would have been foreign personal holding company income if made between separate CFCs; and there is a disparity between the effective rate of tax on the payment in the hands of the payee and the hypothetical rate of tax that would have applied if the payment had been taxed in the hands of the payor.

The proposed regulations would make clear that the CFC and the hybrid branch, or the hybrid branches, are treated as separate corporations only to recharacterize non-subpart F income as subpart F income in the amount of the hybrid branch payment, and to apply the tax disparity rule of §1.954–9(a)(5)(iv). For all other purposes (e.g., for purposes of the earnings and profits limitation of section 952), a CFC and its hybrid branch, or hybrid branches, would not be treated as separate corporations.

The proposed regulations would provide that the amount recharacterized as subpart F income is the gross amount of the hybrid branch payment limited by the amount of the CFC's earnings and profits attributable to non-subpart F income. This amount is the excess of current earnings and profits over subpart F income, determined after the application of the rules of sections 954(b) and 952(c) and before the application of these proposed regulations. To the extent that the full amount required to be recharacterized under this provision cannot be recharacterized because it exceeds earnings and profits attributable to non- subpart F income, there is no requirement to carry such amounts back or forward to another year.

The proposed regulations would provide that, under certain circumstances, the recharacterization rules will also apply to a CFC's proportionate share of any hybrid branch payment made between a partnership in which the CFC is a partner and a hybrid branch of the partnership, or between hybrid branches of such a partnership. When the partnership is treated as fiscally transparent by the CFC's taxing jurisdiction, the recharacterization rules are applied by treating the hybrid branch payment as if it had been made directly between the CFC and the hybrid branch, or as though the hybrid branches of the partnership had been hybrid branches of the CFC, as applicable. If the partnership is treated as a separate entity by the CFC's taxing jurisdiction, the recharacterization rules are applied to the partnership as if it were a CFC.

The proposed regulations would provide that income will not be recharacterized unless there is a disparity between the effective rate at which the hybrid branch payment is taxed to the payee and a hypothetical tax rate that measures the tax savings to the payor from the deductible payment. This provision is similar to the rule in §1.954–3(b), and adopts the same percentage tests as contained in that provision. The regulations also provide a special high tax exception applicable to the hybrid branch payment that is similar to the one contained in section 954(b)(4).

For purposes of determining the amount of taxes deemed paid under section 960, the amount of non-subpart F income recharacterized as subpart F income is treated as attributable to income in separate foreign tax credit baskets in proportion to the ratio of non-subpart F income in each basket to the total amount of non-subpart F income of the CFC for the taxable year.

III. *Related Provisions*

These proposed regulations would provide rules, contained in §1.954–1(c)(1)-(i)(B), to prevent expenses, including related person interest expense that would normally be allocable under section 954(b)(5) to subpart F income of a CFC, from being allocated to a payment from which the expense arises. The allocation limit applies: (i) to the extent such payment is included in the subpart F income of the CFC; (ii) if the expense arises from any payment between the CFC and a hybrid partnership in which the CFC is a partner; and (iii) if the payment reduces foreign tax and there is a significant disparity in tax rates between the payor and payee jurisdictions.

These proposed regulations also would address the application of the related person exceptions to the foreign personal holding company income rules in the context of partnership distributive shares and transactions involving hybrid branches. Under section 954(c)(3), foreign personal holding company income does not include certain interest, dividends, rents and royalties received from related corporations. These exceptions apply, in the case of interest and dividends, when the related corporate payor is organized in the country in which the CFC is organized and uses a substantial part of its assets in a trade or business in that country and, in the case of rents and royalties, when the rent or royalty payment is made for the use or privilege of using property within the CFC's country of incorporation.

Under these proposed regulations, if the partnership receives an item of income that reduces the foreign income tax of the payor, the related person exceptions of section 954(c)(3) would apply to ex-

clude the income from the foreign personal holding company income of the CFC partner only where: the exception would have applied if the CFC earned the income directly (testing relatedness and country of incorporation at the CFC partner level); and either the partnership is organized and operates in the CFC's country of incorporation, the partnership is treated as fiscally transparent in the CFC's countries of incorporation and operation, or there is no significant disparity between the effective rate of tax imposed on the income and the rate of tax that would be imposed on the income if earned directly by the CFC partner.

In addition, these proposed regulations contain rules that would apply the related person exceptions to certain payments involving hybrid branches. These rules would apply to payments by a CFC to a hybrid branch of a related CFC. Under these rules, the related person exceptions would apply to exclude the payments from the foreign personal holding company income of the recipient CFC only if the payment would have qualified for the exception if the hybrid branch had been a separate CFC incorporated in the jurisdiction in which the payment is subject to tax (other than a withholding tax).

IV. *Request for Comments*

Comments on policy issues that relate to subpart F and deferral, generally, including comments on legislative modifications to the current rules, and comments solicited on the broad policy issues mentioned in Notice 98–35, can be submitted in response to the study mentioned above. Treasury and the IRS invite comments on the appropriateness of these regulations under the current subpart F rules.

Proposed Effective Date

These proposed regulations will not be finalized before July 1, 2000. It is proposed that, when finalized, these regulations would be effective only for payments made in taxable years of a controlled foreign corporation commencing after the date that is five years after the date of finalization of these regulations. These regulations would not, however, apply to any payments made under hybrid arrangements entered into before June 19, 1998. This exception is permanent so long as the arrangement is not substantially modified on or after June 19, 1998. An illustrative list of events that would and would not constitute "substantial modification" of an arrangement is included in these regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedures 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, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Request for Comments

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury specifically request comments on the clarity of these proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 1, 1999, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW, Washington DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and an outline of topics to be discussed and time to be devoted to each topic (signed original and eight (8) copies) by November 10, 1999.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Valerie Mark, of the Office of the Associate Chief Counsel (International). Other personnel from the IRS and Treasury Department also participated in the development of these regulations.

* * * * *

Withdrawal of Notice of Proposed Rulemaking and Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking amending 26 CFR Parts 1 and 301 that was published in the **Federal Register** on March 26, 1998, 63 F.R. 14669 (REG–104537–97), is withdrawn. In addition, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for 26 CFR part 1 continues to read in part as follows:

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

Par. 2. In §1.904–5, paragraph (k)(1) is revised to read as follows:

§1.904–5 Look-through rules as applied to controlled foreign corporations and other entities.

* * * * *

(k) *Ordering rules*—(1) *In general.* Income received or accrued by a related person to which the look-through rules apply is characterized before amounts included from, or paid or distributed by, that person and received or accrued by a re-

lated person. For purposes of determining the character of income received or accrued by a person from a related person if the payor or another related person also receives or accrues income from the recipient and the look-through rules apply to the income in all cases, the rules of paragraph (k)(2) of this section apply. Notwithstanding any other provision of this section, the principles of §1.954–1(c)(1)(i) will apply to any expense subject to §1.954–1(c)(1)(i).

* * * * *

Par. 3. Section 1.954–0 (b) is amended as follows:

1. The entry for §1.954–1(c)(1)(i) is revised.

2. Entries for §1.954–1(c)(1)(i)(A) through (c)(1)(i)(E) are added.

3. An entry for §1.954–2(a)(5) is added.

4. An entry for §1.954–2(a)(6) is added.

The revision and additions read as follows:

§954–0 Introduction.

* * * * *

(b) * * *

§1.954–1 Foreign base company income

* * * * *

(c) * * *
(1) * * *
(i) Deductions.
(A) Deductions against gross foreign base company income.
(B) Special rule for deductible payments to certain non-fiscally transparent entities.
(C) Limitations.
(D) Example.
(E) Effective date.

* * * * *

§1.954–2 Foreign personal holding company income.

(a) * * *
(5) Special rules applicable to distributive share of partnership income.
(i) Application of related person exceptions where payment reduces foreign tax of payor.
(ii) Certain other exceptions applicable to foreign personal holding company income. [Reserved]
(iii) Effective date.
(6) Special rules applicable to exceptions from foreign personal holding company income treatment in circumstances involving hybrid branches.
(i) In general.
(ii) Exception where no tax reduction or tax disparity.
(iii) Effective date.

* * * * *

Par. 4. Section 1.954–1 is amended as follows:

1. Paragraphs (c)(1)(i) heading and introductory text and (c)(1)(i)(A) through (c)(1)(i)(D) are redesignated as paragraphs (c)(1)(i)(A) heading and introductory text and (c)(1)(i)(A)(1) through (c)(1)(i)(A)(4), respectively.

2. A heading for paragraph (c)(1)(i) is added.

3. Paragraphs (c)(1)(i)(B) through (c)(1))(i)(E) are added.

The additions read as follows:

§1.954–1 Foreign base company income.

* * * * *

(c) * * *

(1) * * *

(i) *Deductions*—(A) *Deductions against gross foreign base company income.* * * *

(B) *Special rule for deductible payments to certain non-fiscally transparent entities.* Notwithstanding any other provision of this section, except as provided in paragraph (c)(1)(i)(C) of this section, an expense (including a distributive share of any expense) that would otherwise be allocable under section 954(b)(5) against the subpart F income of a controlled foreign corporation shall not be allocated against subpart F income of the controlled foreign corporation resulting from the payment giving rise to the expense if—

(*1*) Such expense arises from a payment between the controlled foreign corporation and a partnership in which the controlled foreign corporation is a partner and the partnership is not regarded as fiscally transparent, as defined in §1.954–9(a)(7), by any country in which the controlled foreign corporation does business or has substantial assets; and

(*2*) The payment from which the expense arises would have reduced foreign tax, under §1.954–9(a)(3), and would have fallen within the tax disparity rule of §1.954–9(a)(5)(iv), if those provisions had been applicable to the payment.

(C) *Limitations.* Paragraph (c)(1)(i)(B) of this section shall not apply to the extent that the controlled foreign corporation partner has no income against which to allocate the expense, other than its distributive share of a payment described in paragraph (c)(1)(i)(B) of this section. Similarly, to the extent an expense described in paragraph (c)(1)(i)(B) of this section exceeds the controlled foreign corporation partner's distributive share of the payment from which the expense arises, such excess amount of the expense may reduce subpart F income (other than such payment) to which it is properly allocable or apportionable under section 954(b)(5).

(D) *Example.* The following example illustrates the application of paragraphs (c)(1)(i)(B) and (C) of this section:

Example. CFC, a controlled foreign corporation in Country A, is a 70 percent partner in partnership P, located in Country B. Country A's tax laws do not classify P as a fiscally transparent entity. The rate of tax in country B is 15 percent of the tax rate in country A. P loans $100 to CFC at a market rate of interest. In year 1, CFC pays P $10 of interest on the loan. The interest payment would have caused the recharacterization rules of §1.954–9 to apply if the payment were made between the entities described in §1.954–9(a)(2). CFC's distributive share of P's interest income is $7, which is foreign personal holding company income to CFC under section 954(c). Under paragraph (c)(1)(i)(B) of this section, $7 of the $10 interest expense may not be allocated against any of CFC's subpart F income. However, to the extent the remaining $3 of interest expense is properly allocable to subpart F income of CFC other than its distributive share of P's interest income, this expense may offset such other subpart F income.

(E) *Effective date.* Paragraph (c)(1)(i)-(B), (C) and (D) of this section shall be applicable for all payments made or accrued in taxable years commencing after [date that is 5 years after publication of the final regulations in the federal register], under hybrid arrangements, unless such payments are made pursuant to an arrangement that would qualify for permanent relief under §1.954–9(c)(2) if made between a controlled foreign corporation and its hybrid branch, in which case the relief afforded under that section shall also be afforded under this section.

* * * * *

Par. 5. In §1.954–2, paragraphs (a)(5) and (a)(6) are added to read as follows:

§1.954–2 Foreign personal holding company income.

(a) * * *

(5) *Special rules applicable to distributive share of partnership income*—(i) *Application of related person exceptions where payment reduces foreign tax of payor.* If a partnership receives an item of income that reduced the foreign income tax of the payor (determined under the principles of §1.954–9(a)(3)), to determine the extent to which a controlled foreign corporation's distributive share of such item of income is foreign personal holding company income, the exceptions contained in section 954(c)(3) shall apply only if—

(A)(*1*) Any such exception would have applied to exclude the income from foreign personal holding company income if the controlled foreign corporation had earned the income directly (determined by testing, with reference to such controlled foreign corporation, whether an entity is a related person, within the meaning of section 954(d)(3), or is organized under the laws of, or uses property in, the foreign country in which the controlled foreign corporation is created or organized); and

(*2*) The distributive share of such income is not in respect of a payment made by the controlled foreign corporation to the partnership; and

(B)(*1*) The partnership is created or organized, and uses a substantial part of its assets in a trade or business in the country under the laws of which the controlled foreign corporation is created or organized (determined under the principles of paragraph (b)(4) of this section);

(*2*) The partnership is regarded as fiscally transparent, as defined in §1.954–9(a)(7), by all countries under the laws of which the controlled foreign corporation is created or organized or has substantial assets; or

(*3*) The income is taxed in the year when earned at an effective rate of tax (determined under the principles of §1.954–1(d)(2)) that is not less than 90 percent of, and not more than five percentage points less than, the effective rate of tax that would have applied to such income under the laws of the country in which the controlled foreign corporation is created or organized if such income were earned directly by the controlled foreign corporation partner from local sources.

(ii) *Certain other exceptions applicable to foreign personal holding company income.* [Reserved].

(iii) *Effective date.* Paragraph (a)(5)(i) of this section shall apply to all amounts paid or accrued in taxable years commencing after [date that is 5 years after publication of the final regulations in the federal register], under hybrid arrangements, unless such payments are made pursuant to an arrangement which would qualify for permanent relief under §1.954–9(c)(2) if made between a controlled foreign corporation and its hybrid branch, in which case the relief afforded under that section shall also be afforded under this section.

(6) *Special rules applicable to exceptions from foreign personal holding company income treatment in circumstances involving hybrid branches*—(i) *In general.* In the case of a payment between a controlled foreign corporation (or its hybrid branch, as defined in §1.954–9(a)(6)) and the hybrid branch of a related controlled foreign corporation, the exceptions contained in section 954(c)(3) shall apply only if the payment would have qualified for the exception if the payor were a separate controlled foreign corporation created or organized in the jurisdiction where foreign tax is reduced and the payee were a separate controlled foreign corporation created or organized under the laws of the jurisdiction in which the payment is subject to tax (other than a withholding tax).

(ii) *Exception where no tax reduction or tax disparity.* Paragraph (a)(6)(i) of this section shall not apply unless the payment would have reduced foreign tax, under §1.954–9(a)(3), and fallen within the tax disparity rule of §1.954–9(a)(5)(iv) if those provisions had been applicable to the payment.

(iii) *Effective date.* The rules of this section shall apply to all amounts paid or accrued in taxable years commencing after [date that is 5 years after publication of the final regulations in the federal register], under hybrid arrangements, unless such payments are made pursuant to an arrangement which would qualify for permanent relief under §1.954–9(c)(2) if made between a controlled foreign corporation and its hybrid branch, in which case the relief afforded under that section shall also be afforded under this section.

Par. 6. Section 1.954–9 is added to read as follows:

§1.954–9 Hybrid branches.

(a) *Subpart F income arising from certain payments involving hybrid branches*—(1) *Payment causing foreign tax reduction gives rise to additional subpart F income.* The non-subpart F income of a controlled foreign corporation will be recharacterized as subpart F income, to the extent provided in paragraph (a)(5) of this section, if—

(i) A hybrid branch payment, as defined in paragraph (a)(6) of this section, is made between the entities described in paragraph (a)(2) of this section;

(ii) The hybrid branch payment reduces foreign tax, as determined under paragraph (a)(3) of this section; and

(iii) The hybrid branch payment is treated as falling within a category of foreign personal holding company income under the rules of paragraph (a)(4) of this section.

(2) *Hybrid branch payment between certain entities*—(i) *In general.* Paragraph (a)(1) of this section shall apply to hybrid branch payments between—

(A) A controlled foreign corporation and its hybrid branch;

(B) Hybrid branches of a controlled foreign corporation;

(C) A partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other partnerships) and a hybrid branch of the partnership; or

(D) Hybrid branches of a partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other partnerships).

(ii) *Hybrid branch payment involving partnership*—(A) *Fiscally transparent partnership.* To the extent of the controlled foreign corporation's proportionate share of a hybrid branch payment, the rules of paragraphs (a)(3), (4) and (5) of this section shall be applied by treating the hybrid branch payment between the partnership and the hybrid branch as if it were made directly between the controlled foreign corporation and the hybrid branch, or as if the hybrid branches of the

partnership were hybrid branches of the controlled foreign corporation, if the hybrid branch payment is made between—

(*1*) A fiscally transparent partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other fiscally transparent partnerships) and the partnership's hybrid branch; or

(*2*) Hybrid branches of a fiscally transparent partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other fiscally transparent partnerships).

(B) *Non-fiscally transparent partnership.* To the extent of the controlled foreign corporation's proportionate share of a hybrid branch payment, the rules of paragraphs (a)(3) and (4) and (a)(5)(iv) of this section shall be applied to the non-fiscally transparent partnership as if it were the controlled foreign corporation, if the hybrid branch payment is made between—

(*1*) A non-fiscally transparent partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other partnerships) and the partnership's hybrid branch; or

(*2*) Hybrid branches of a non-fiscally transparent partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other partnerships).

(C) *Examples.* The following examples illustrate the application of this paragraph (a)(2)(ii):

Example 1. CFC, a controlled foreign corporation in Country A, is a 90 percent partner in partnership P, which is treated as fiscally transparent under the laws of Country A. P has a hybrid branch, BR, in Country B. P makes an interest payment of $100 to BR. Under Country A law, CFC's 90 percent share of the payment reduces CFC's Country A income tax. Under paragraph (a)(2)(ii)(A) of this section, the recharacterization rules of this section are applied by treating the payment as if made by CFC to BR. Ninety dollars of CFC's non-subpart F income, to the extent available, and subject to the earnings and profits and tax rate limitations of paragraph (a)(5) of this section, is recharacterized as subpart F income.

Example 2. CFC, a controlled foreign corporation in Country A, is a 90 percent partner in partnership P, which is treated as fiscally transparent under the laws of Country A. P has two branches in Country B, BR1 and BR2. BR1 is treated as fiscally transparent under the laws of Country A. BR2 is a hybrid branch. BR1 makes an interest payment of $100 to BR2. Under paragraph (a)(2)(ii)(A) of this section, the payment by BR1, the fiscally transparent branch, is treated as a payment by P, and the deemed payment by P, a fiscally transparent partnership, is treated as made by CFC. Under Country A law, CFC's 90 percent share of BR1's payment reduces CFC's Country A income tax. Ninety dollars of CFC's non-subpart F income, to the extent available, and subject to the earnings and profits and tax rate limitations of paragraph (a)(5) of this section, is recharacterized as subpart F income.

(3) *Application when payment reduces foreign tax.* For purposes of paragraph (a)(1) of this section, a hybrid branch payment reduces foreign tax when the foreign tax imposed on the income of the payor, or any person that is a related person with respect to the payor (as determined under the principles of section 954(d)(3)), is less than the foreign tax that would have been imposed on such income had the hybrid branch payment not been made, or the hybrid branch payment creates or increases a loss or deficit or other tax attribute which may be carried back or forward to reduce the foreign income tax of the payor or any owner in another year (determined by taking into account any refund of such tax made to the payor, payee or any other person).

(4) *Hybrid branch payment that is included within a category of foreign personal holding company income*—(i) *In general.* For purposes of paragraph (a)(1) of this section, whether the hybrid branch payment is treated as income included within a category of foreign personal holding company income is determined by treating a hybrid branch that is either the payor or recipient of the hybrid branch payment as a separate wholly-owned subsidiary corporation of the controlled foreign corporation that is incorporated in the jurisdiction under the laws of which such hybrid branch is created, organized for foreign law purposes, or has substantial assets. Thus, the hybrid branch payment will be treated as included within a category of foreign personal holding company income if, taking into account any specific exceptions for that category, the payment would be included within a category of foreign personal holding company income if the branch or branches were treated as separately incorporated for U.S. tax purposes.

(ii) *Extent to which controlled foreign corporation and hybrid branches treated as separate entities.* For purposes of this section, other than the determination under paragraph (a)(4)(i) of this section, a controlled foreign corporation and its hybrid branch, a partnership and its hybrid branch, or hybrid branches shall not be treated as separate entities. Thus, for example, if a controlled foreign corporation, including all of its hybrid branches, has an overall deficit in earnings and profits to which section 952(c) applies, the limitation of such section on the amount includible in the subpart F income of such corporation will apply. Similarly, for purposes of applying the *de minimis* and full inclusion rules of section 954(b)(3), a controlled foreign corporation and its hybrid branch, or hybrid branches shall not be treated as separate corporations. Further, a hybrid branch payment that would reduce foreign personal holding company income under section 954(b)(5) if made between two separate entities will not create an expense if made between a controlled foreign corporation and its hybrid branch, a partnership and its hybrid branch, or hybrid branches.

(5) *Recharacterization of income attributable to current earnings and profits as subpart F income*—(i) *General rule.* Non-subpart F income of a controlled foreign corporation in an amount equal to the excess of earnings and profits of the controlled foreign corporation for the taxable year over subpart F income, as defined in section 952(a), will be recharacterized as subpart F income under paragraph (a)(1) of this section only to the extent provided under paragraphs (a)(5)(ii) through (vi) of this section.

(ii) *Subpart F income.* For purposes of determining the excess of current earnings and profits over subpart F income under paragraph (a)(1) of this section, the amount of subpart F income is determined before the application of the rules of this section but after the application of the rules of sections 952(c) and 954(b). Further, such amount is determined by treating the controlled foreign corporation and all of its hybrid branches as a single corporation.

(iii) *Recharacterization limited to gross amount of hybrid branch payment*—(A) *In general.* The amount recharacterized as subpart F income under paragraph (a)(1) of this section is limited to the amount of the hybrid branch payment.

(B) *Exception for duplicative payments.* [Reserved].

(iv) *Tax disparity rule*—(A) *In general.* Paragraph (a)(1) of this section will apply only if the hybrid branch payment falls within the tax disparity rule. The hybrid branch payment falls within the tax disparity rule if it is taxed in the year when earned at an effective rate of tax that is less than 90 percent of, and at least 5 percentage points less than, the hypothetical effective rate of tax imposed on the hybrid branch payment, as determined under paragraph (a)(5)(iv)(B) of this section.

(B) *Hypothetical effective rate of tax*—(*1*) *In general.* The hypothetical effective rate of tax imposed on the hybrid branch payment is—

(*i*) For the taxable year of the payor in which the hybrid branch payment is made, the amount of income taxes that would have been paid or accrued by the payor if the hybrid branch payment had not been made, less the amount of income taxes paid or accrued by the payor; divided by

(*ii*) The amount of the hybrid branch payment.

(*2*) *Hypothetical effective rate of tax when hybrid branch payment causes or increases loss or deficit.* If the hybrid branch payment causes or increases a loss or deficit of the payor for foreign tax purposes, and such loss or deficit can be carried forward or back, the hypothetical effective rate of tax imposed on the hybrid branch payment is the effective rate of tax that would be imposed on the taxable income of the payor for the year in which the payment is made if the payor's taxable income were equal to the amount of the hybrid branch payment.

(C) *Examples.* The application of this paragraph (a)(5)(iv) is illustrated by the following examples:

Example 1. In 2006, CFC organized in Country A had net income of $60 from manufacturing for Country A tax purposes. It also had a branch (BR) in Country B. BR is a hybrid entity under paragraph (a)(1) of this section. CFC made a payment of $40 to BR, which was a hybrid branch payment under paragraph (a)(6) of this section, and was treated by CFC as a deductible payment for Country A tax purposes. CFC paid $30 of Country A taxes in 2006. It would have paid $50 of Country A taxes without the deductible payment. Country A did not impose any withholding tax on the $40 payment to BR. Country B also did not impose a tax on the $40 received by BR. Therefore, the effective rate of tax on that payment is 0%. Furthermore, the hypothetical effective rate of tax on the $40 hybrid branch payment is 50% ($50-$30/$40). The effective rate of tax (0%) is less than 90% of, and more than 5 percentage points less than, this hypothetical rate of tax of 50%. As a result, the $40 hybrid branch payment falls within the tax disparity rule of this paragraph (a)(5)(iv).

Example 2. Assume the same facts as in *Example 1,* except that CFC has a loss of $100 for the year for Country A tax purposes. Under Country A law, CFC can carry the loss forward for use in subsequent years. CFC paid no Country A taxes in 2006. The rate of tax in Country A is graduated from 20% to 50%. If the $40 hybrid branch payment were the only item of taxable income of CFC, Country A would have imposed tax at an effective rate of 30%. The effective rate of tax (0%) is less than 90% of, and more than 5 percentage points less than, the hypothetical effective rate of tax (30%) imposed on the hybrid branch payment. As a result, the $40 hybrid branch payment falls within the tax disparity rule of this paragraph (a)(5)(iv).

Example 3. Assume the same facts as in *Example 1,* except that Country B imposes tax on the $40 hybrid payment to BR at an effective rate of 50%. The effective rate of 50% is equal to the hypothetical effective rate of tax. As a result, the hybrid branch payment does not fall within the tax disparity rule of this paragraph (a)(5)(iv) and, thus, the recharacterization rules of paragraph (a)(1) of this section do not apply. See also the special high tax exception of paragraph (a)(5)(v) of this section.

(v) *Special high tax exception*—(A) *In general.* Paragraph (a)(1) of this section shall not apply if the non-subpart F income that would be recharacterized as subpart F income under this section was subject to foreign income taxes imposed by a foreign country or countries at an effective rate that is greater than 90 percent of the maximum rate of tax specified in section 11 for the taxable year of the controlled foreign corporation.

(B) *Effective rate of tax.* The effective rate of tax imposed on the non-subpart F income that would be recharacterized as subpart F income under this section is determined under the principles of §1.954–1(d)(2) and (3). See paragraph (b) of this section for the application of section 960 to amounts recharacterized as subpart F income under this section.

(vi) *No carryback or carryforward of amounts in excess of current year earnings and profits limitation.* To the extent that some or all of the amount required to be recharacterized under this section is not recharacterized as subpart F income because the hybrid branch payment exceeds the amount that can be recharacterized, as determined under paragraph (a)(5)(i) of this section, this excess shall not be carried back or forward to another year.

(6) *Definitions for this section.* For purposes of this section:

(i) *Arrangement* shall mean any agreement to pay interest, rents, royalties or similar amounts. It shall also include the declaration and payment of a dividend (but not an agreement or undertaking to pay future, unspecified dividends). An arrangement shall not, however, include the mere formation or acquisition (or similar event) of a hybrid branch that is intended to become a party to an arrangement.

(ii) *Entity* means any person that is treated by the United States or any jurisdiction as other than an individual.

(iii) *Hybrid branch* means an entity that—

(A) Is disregarded as an entity separate from its owner for federal tax purposes and is owned (including ownership through branches) by either a controlled foreign corporation or a partnership in which a controlled foreign corporation is a partner (either directly or indirectly through one or more branches or partnerships);

(B) Is treated as fiscally transparent by the United States; and

(C) Is treated as non-fiscally transparent by the country in which the payor entity, any owner of a fiscally-transparent payor entity, the controlled foreign corporation, or any intermediary partnership is created, organized or has substantial assets.

(iv) *Hybrid branch payment* means the gross amount of any payment (including any accrual) which, under the tax laws of any foreign jurisdiction to which the payor is subject, is regarded as a payment between two separate entities but which, under U.S. income tax principles, is not income to the recipient because it is between two parts of a single entity.

(7) *Fiscally transparent and non-fiscally transparent.* For purposes of this section an entity shall be treated as fiscally transparent with respect to an interest holder of the entity, if such interest holder is required, under the laws of any jurisdiction to which it is subject, to take into account separately, on a current basis, such interest holder's share of all items which, if separately taken into account by such interest holder, would result in an income tax liability for the interest holder in such jurisdiction different from that which would result if the interest holder did not take the share of such items into account separately. A non-fiscally trans-

parent entity is an entity that is not fiscally transparent under this paragraph (a)(7).

(b) *Application of section 960.* For purposes of determining the amount of taxes deemed paid under section 960, the amount of non-subpart F income recharacterized as subpart F income under this section shall be treated as attributable to income in separate categories, as defined in §1.904–5(a)(1), in proportion to the ratio of non-subpart F income in each such category to the total amount of non-subpart F income of the controlled foreign corporation for the taxable year.

(c) *Effective dates*—(1) *In general.* This section shall be applicable for all amounts paid or accrued in taxable years commencing after [date that is 5 years after publication of the final regulations in the federal register], under hybrid arrangements, except as otherwise provided.

(2) *Permanent Relief*—(i) *In general.* This section shall not apply to any payments made under hybrid arrangements entered into before June 19, 1998. This exception shall be permanent so long as the arrangement is not substantially modified, within the meaning of paragraph (c)(2)(ii) of this section, on or after June 19, 1998.

(ii) *Substantial modification*—(A) *In general.* Substantial modification of a hybrid arrangement includes—

(*1*) The expansion of the hybrid arrangement (other than de minimis expansion);

(*2*) A more than 50% change in the U.S. ownership (direct or indirect) of any entity that is a party to the hybrid arrangement, other than—

(*i*) A transfer of ownership of such party within a controlled group determined under section 1563(a), without regard to section 1563(a)(4); or

(*ii*) A change in ownership of the entire controlled group (determined under section 1563(a), without regard to section 1563(a)(4)) of which such party is a member;

(*3*) Any measure taken by a party to the arrangement (or any related party) that materially increases the tax benefit of the hybrid arrangement, regardless of whether such measure alters the legal relationship between the parties to the arrangement. For example, in the case of a hybrid branch payment determined with reference to a percentage of sales, a growth in the amount of the hybrid branch payment (and, thus, the tax benefit) caused by a growth of sales will not, in general, be a substantial modification. However, in the case of a significant sales growth resulting from a transfer of assets by a related party, that transfer would be a measure which materially increased the benefit of the arrangement, and that arrangement would be deemed to have been substantially modified.

(B) *Transactions not treated as substantial modification.* Substantial modification of a hybrid arrangement does not include—

(*1*) The daily reissuance of a demand loan by operation of law;

(*2*) The renewal of a loan, license or rental agreement on the same terms and conditions if—

(*i*) The renewal occurs pursuant to the terms of the agreement and without more than a de minimis amount of action of any party thereto;

(*ii*) As contemplated by the original agreement, the same parties agree to renew the agreement without modification; or

(*iii*) The renewal occurs solely by reason of a subsequent drawdown under a grandfathered master credit facility agreement;

(*3*) The renewal of a loan, license, or rental agreement by the same parties on terms which do not increase the tax benefit of the arrangement (other than a de minimis increase);

(*4*) The making of payments under a license agreement in respect of copyrights or patents (or know-how associated with such copyrights or patents), not in existence at the time the agreement was entered into, but only where the development of such property was anticipated by the agreement, and such property is substantially derived from (or otherwise incorporates substantial features of) copyrights and patents (or know-how associated with such copyrights or patents) in existence at the time of, and covered under, the original agreement;

(*5*) A final transfer pricing adjustment made by the taxation authorities of the jurisdiction in which the tax reduction occurs, so long as such adjustment would not have been a substantial valuation misstatement (as defined in section 6662(e)(1)(B)) if the adjustment had been made by the Internal Revenue Service; or

(*6*) A *de minimis* periodic adjustment by the parties to the arrangement made annually (or more frequently) to conform the payments to the requirements of section 482.

Charles O. Rossotti,
Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on July 9, 1999, 11:25 a.m., and published in the issue of the Federal Register for July 13, 1999, 64 F.R. 37727)

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

Announcement 99–72

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 (Date) 1999, 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 hus-

band and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Horizon Alliance, Inc.
San Diego, CA

Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time To Make Elections; Correction

Announcement 99–73

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (T.D. 8742, 1998–5 I.R.B. 4), which were published in the **Federal Register** on Wednesday, December 31, 1997 (62 F.R. 68167), providing the procedures for requesting an extension of time to make certain elections under the Internal Revenue Code.

DATES: This correction is effective December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Cheryl Lynn Oseekey (202) 622-4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Sections 301.9100–2 and 301.9100–3 of the Procedure and Administration Regulations are the subject of these corrections. These regulations require information to be collected from taxpayers seeking to obtain from the Commissioner extensions of time to make certain elections.

Need for Correction

As published, final regulations (T.D. 8742) contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, 26 CFR part 602 is corrected by making the following correcting amendment:

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Paragraph 1. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 2. In §602.101, paragraph (b) is amended by removing the entry for §301.9100–1 from the table and adding entries for §§301.9100–2 and 301.9100–3 to the table in numerical order to read as follows:

§602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
301.9100–2	1545–1488
301.9100–3	1545–1488
* * * * *	

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

(Filed by the Office of the Federal Register on July 12, 1999, 8:45 a.m., and published in the issue of the Federal Register for July 13, 1999, 64 F.R. 37678)

Arbitrage Restrictions on Tax-Exempt Bonds; Correction

Announcement 99–74

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (T.D. 8476, 1993–2 C.B. 13) which were published in the **Federal Register** on Friday, June 18, 1993 (58 F.R. 33510), relating to the arbitrage and related restrictions applicable to tax-exempt bonds issued by States and local governments. DATES: This correction is effective December 30, 1998.

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. 8476) contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

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

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 1.148–11 is amended by adding paragraphs (b)(4), (h) and (i) to read as follows:

§1.148–11 Effective dates.

* * * * *

(b) * * *

(4) *No elective retroactive application for safe harbor for establishing fair market value for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow.* The provisions of §§1.148–5(d)(6)(iii) (relating to the safe harbor for establishing fair market value of guaranteed investment contracts and yield restricted defeasance escrow investments) and 1.148–5(e)-(2)(iv) (relating to a special rule for yield restricted defeasance escrow investments) may not be applied to any bond sold before December 30, 1998.

* * * * *

(h) *Safe harbor for establishing fair market value for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow.* The provisions of §1.148–5(d)(6)(iii) are applicable to bonds sold on or after March 1, 1999. Issuers may apply these provisions to bonds sold on or after December 30, 1998, and before March 1, 1999.

(i) *Special rule for investments purchased for a yield restricted defeasance escrow.* The provisions of §1.148–5(e)-(2)(iv) are applicable to bonds sold on or after March 1, 1999. Issuers may apply these provisions to bonds sold on or after December 30, 1998, and before March 1, 1999.

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

(Filed by the Office of the Federal Register on July 8, 1999, 8:45 a.m., and published in the issue of the Federal Register for July 9, 1999, 64 F.R. 37037)

Payment by Credit Card and Debit Card; Correction

Announcement 99–75

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to temporary regulations (T.D. 8793, 1999–7 I.R.B. 15) that were published in the **Federal Register** on Tuesday, December 15, 1998 (63 F.R. 68995) relating to the payment of taxes by credit card and debit card.

DATES: This correction is effective January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mitchel S. Hyman, (202) 622-3620 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are subject to this correction are under section 6311 of the Internal Revenue Code.

Need for correction

As published, the temporary regulations (T.D. 8793) contain an error that may prove to be misleading and are in need of clarification.

* * * * *

Correction of Publication

Accordingly, 26 CFR Part 301 is corrected by making the following correcting amendment:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

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

Par. 2. Section 301.6311–2T (c) (2) is amended by revising the first sentence to read as follows:

§301.6311–2T Payment by credit card and debit card (temporary).

* * * * *

(c) * * *

(2) Liability of financial institutions. If a taxpayer has tendered a payment of internal revenue taxes by credit card or debit card, and the credit card or debit card transaction has been guaranteed expressly by a financial institution, and the United States is not duly paid, the United States shall have a lien for the guaranteed amount of the transaction upon all the assets of the institution making such guarantee. * * *

* * * * *

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

(Filed by the Office of the Federal Register on July 6, 1999, 8:45 a.m., and published in the issue of the Federal Register for July 7, 1999, 64 F.R. 36569)

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.

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 1999–1 through 1999–26 will be found in Internal Revenue Bulletin 1999–27, dated July 6, 1999.

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[1] A cumulative finding list for previously published items mentioned in Internal Revenue Bulletins 1999–1 through 1999–26 will be found in Internal Revenue Bulletin 1999–27, dated July 6, 1999.

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